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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, SECOND SESSION

SENATE—*Friday, June 12, 1992*

(Legislative day of Thursday, March 26, 1992)

The Senate met at 11:32 a.m. on the expiration of the recess, and was called to order by the Honorable GEORGE J. MITCHELL, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

O Lord, thou hast searched me, and known me. Thou knowest my downsitting and mine uprising, thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways.—Psalm 139:1-3.

Eternal God, as the Senate recesses and the Senators disperse to their homes, their States, their scattered responsibilities, may they go in the confidence that You are with them; that You are before them and behind them; over, under, and around them. For those who journey, grant them safe passage. Help them take time for their families and for their own personal rest and restoration. Make them conscious of Your constant love and care.

In His name who is incarnate love. Amen.

APPOINTMENT OF ACTING PRESIDING PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 12, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal has been approved to date and the time for both leaders reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

EXTENSION OF TIME FOR MORNING BUSINESS UNTIL 12:15 P.M.

Mr. MITCHELL. Mr. President, under the previous order there was now to be a period for morning business to extend until 12 noon.

I now ask unanimous consent that period for morning business be extended until 12:15 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. I yield the floor.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

MEASURING QUALITY IN MEDICAL CARE

Mr. DURENBERGER. Mr. President, if someone asked you which is the best hospital in this city, do you think you could answer that question with confidence? I might ask, Mr. President, the same question about your home State or your hometown in your home State.

Suppose I were visiting in your home and I was suddenly and seriously ill; could you really do me a favor and refer me to the best hospital in your community, the State of Nebraska, and the city of Omaha? Could you really do any better with your doctors?

Suppose my problem was a crippling pain in a joint muscle, like arthritis. Who is the best rheumatologist in your hometown—I guess that is what they call them—or the best neurologist—that is for a muscle or nervous system ailment—or the best otolaryngologist—what used to be called an eye, ear, nose, and throat doctor, but they took out the "eye" and gave them to the ophthalmologists, and now it is ear, nose, and throat.

I could ask you to recommend a gastroenterologist for my heartburn and a cardiologist for my heart. But I doubt you would know who are the best. Or how reliable are their critical support specialists in radiology, anesthesiology, and pathology.

Yes, Mr. President, we are spending $821 billion this year to get the best medical care all that money has to offer us. And we do not know who does what best.

So how can we reward the best with our business? If we cannot tell a Kirby Puckett—to use the best in baseball—from a player like Bob Uecker, how will we know where to go, which games to watch? Or—in most cases—what to pay for a ticket.

Kirby Puckett will end up getting $6 million a year and a player like Uecker a lot less. But that is not how medical care needs to work. Quality does not have to cost more.

We do not have to spend $6 million a year on the best cardiologist in America. We simply need to send her or him—and their colleagues—all our business.

A winning baseball team draws the fans even at $15 or $20 a ticket. A loser does not. You get some entertainment value out of both. Sure, you get a good game at many; even some of the losers. But the best always consistently get your business at an appropriate and affordable price. Winners sell out the stadium because we can judge what we want, and we want the best, and we will decide who is the best and what we are going to pay them.

But, not so in medicine. And that is the heart of why we have a nearly 1

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

trillion a year problem. People have no way of determining how to get value for their health care dollar.

So, now you ask me, Mr. President, how do I answer the questions—if you asked? The fact of the matter is, I really cannot. But we are beginning to learn how, and to learn why. It is important to answer the "who is the best" questions.

We call it medical service values assessment. It is a science or art in its infancy. But crude measures are increasingly available to all of us. The Health Care Financing Administration [HCFA] released its Medicare hospital information report just last Wednesday. HCFA cautions that its report is "not intended as a direct measure of quality of care," but it is best used to generate questions from consumers rather than make judgments on the quality of care.

Other agencies in Government, including the Agency for Health Care Policy and Research that we created 4 years ago, the majority leader had a major stake in that—is coming to grips with these same questions. Even the joint committee on accreditation of hospitals is giving us some useful information.

Mr. President, the current issue of U.S. News & World Report, the June 15 issue—and I picked it up in an airport newsstand—is entitled "America's Best Hospitals." It has made us more aware of what we need to know and what we do not know with their third annual survey of America's best hospitals. U.S. News & World Report interviewed doctors by regions of the country and came up with a "best" list as some doctors see it. I obviously, rejoice in seeing my home State pride and joy—the Mayo Clinic—right at the top. No matter how you measure quality, whether through HCFA's analysis of Medicare data or by interviewing doctors, Mayo always ranks on top.

But, Mr. President, I know I have other best hospitals in my State of Minnesota. If the survey were not regional, I would see the University of Minnesota on that list. I would see several of my outstanding community hospitals. But I am not sure which ones.

I see many friends that I visit around the country—at Johns Hopkins, in Baltimore, MD; Anderson, in Houston—places like that. I see them on the list. They are among the best, and I congratulate them. But there are many more. And how do we know them? And, more important, how do we make our medical buyers, that is our health insurers, our HMO's, our employers, Medicare and Medicaid, send us only to those hospitals and those doctors who do better for a price that we can all afford?

That is the Mayo Clinic's greatest contribution. It has shown us that quality need not cost more. Because Mayo does it right the first time. Let me say that again. Mayo does it right the first time. Its costs are 20 percent below the national average. I daresay, if we sent all of our business to the Mayo Clinic, they could be 40 percent below the national average. You really can get higher quality for less.

Physicians for whom I have a great deal of respect tell me time and time again that if America ran a hospital and a doctor system in which the best practices were rewarded with all of our medical purchases, the prices we pay could be reduced by 35 percent nationwide. That is a challenge that every institution and most medical staff and medical clinics should support.

I applaud this year's "best." I challenge them all.

Mr. President, I ask unanimous consent to have printed in the RECORD a portion of the June 15, 1992, U.S. News & World Report article referred to.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICA'S BEST HOSPITALS

There's no way out: Your doctor says you have to be hospitalized, and a second opinion confirms it. But where's the best place to go? Community hospitals are fine places for having babies and for routine medical matters such as removing tonsils or setting fractures. And many hometown hospitals are going to extraordinary lengths to draw patients, offering cozy amenities that round off those hard-edge hospital corners.

But community hospitals are "primary care" facilities—the first link in the health-care system—and are not equipped to tackle complicated or unusual cases. For a serious problem, say experts, a larger center or major tertiary institution that delivers top-notch specialty care is the place to go, even if you have to travel to get there.

To get the strongest consensus about sources of the best care in the specialties of most concern. *U.S. News* has for the third year surveyed leading U.S. physicians. More than 1,000 doctors identified the nation's top hospitals in 16 specialties—including, for the first time, hospital-based geriatrics programs. Displayed on Page 62 in a "best of the best" list of those hospitals that scored high in three or more of the 16 specialties is included.

This special guide to hospital care appears just days before the federal government releases more than 50 volumes of quality-of-care computations for nearly 6,000 U.S. hospitals. The government's findings this year, however, are—like its four previous efforts—minimally helpful. Prepared by the Health Care Financing Administration, the agency that oversees the Medicare program, the state-by-state report lists the predicted and actual death rates for Medicare recipients in each hospital for nine surgical procedures and eight medical conditions.

But many outstanding institutions treat extremely ill patients, who are more likely to die despite the best care, and government researchers still have not figured out how to factor that in. And pure random variance explains most of the "excess" deaths. Asked in the *U.S. News* survey whether they find the HCFA report helpful in deciding where to admit or refer patients, 68 percent of physicians responded that it is not at all useful, and an additional 17 percent said they do not know what to make of the data.

THE QUALITY MOVEMENT

Nevertheless, the quest for genuine quality-of-care measures has become a full-fledged movement. The American Hospital Association estimates that more than 30 states now have state-mandated health data commissions that collect quality-related information. The twin goals are to help hospitals improve their performance and to point consumers to centers where they are more likely to get the best care. In Pennsylvania, for instance, the state's Health Care Cost Containment Council is collecting information on hospital charges and patient outcomes—not only to clue patients in but also to help corporations identify centers that efficiently spend their health-care dollars.

The Maryland Hospital Association's Quality Indicator Project provides an insightful checklist now used by more than 600 medical centers in 46 states. In consists of 10 yardsticks that hospitals—and ultimately consumers—can use to help measure quality. Many are actually signs of a bad hospital, including such factors as the number of times patients have to return unexpectedly to operating rooms and cardiac-care units. Emergency rooms have separate standards, such as the number of patients who have to wait more than six hours for care.

While the information garnered is still too raw to help consumers much, the checklist seems to be pointing medical centers toward problem areas. Last year, for example, Beth Israel Medical Center in New York picked up a higher than expected rate of unplanned re-admissions after in-and-out surgery. Beth Israel's quality-assurance specialists believe that some of the patients might have had bad reactions to anesthesia or have needed more extensive surgery.

The findings from the Maryland-based project will be published at some point in a form—perhaps as quarterly reports—that will let consumers select one hospital over another. But figures on individual hospitals are proprietary for now. And while hospitals can release the information if they want to, they cannot use the findings for marketing purposes—to compare themselves with other institutions, say, as many doubtless would in today's fierce competition for patients.

Among the quality-care indexes in the offing, some of the potentially most enlightening are being devised by the Joint Commission on Accreditation of Healthcare Organizations, the nonprofit group that accredits hospitals, nursing homes and other clinical facilities. Although possible indicators of quality care are still being judged, the JCAHO has just released a series of brochures suggesting questions patients can ask to scout out quality care. Brochures focusing on hospitals, long-term care, home care, ambulatory care and mental health services are available free to anyone who sends a self-addressed, stamped envelope to "Helping You Choose" Brochures, Customer Service Center, Joint Commission, 1 Renaissance Boulevard, Oakbrook Terrace, IL 60181.

Independent teams of physicians and medical statisticians, too, want to sniff out the factors that identify quality of care, good or bad. Dozens of groups are looking at specific conditions like prostate enlargement and cataracts and identifying treatments that helped patients the most. A startlingly simple concept, the findings are leading to medical guidelines for managing disease. Recently, an American Cancer Society research team reported in the *Journal of the American Medical Association* that they had identified five indicators of high-quality breast cancer care, including treatment with radiation therapy after breast-conserving lumpectomy in order to minimize the chances that tumors will recur. A separate investigation by a Seattle team found that many centers do not offer radiation therapy, especially to patients over 50.

NURSING COUNTS

Some physicians deride checklists and guidelines as mindless "cookbook" medicine, but specialized groups like the American College of Cardiology are pumping out new guidelines almost every other month. And the Agency for Health Care Policy and Research, a fledgling federal body, and the Rand Corp., a policy think tank, have a wide array of guidelines in the works.

Meanwhile, the *U.S. News* survey reveals what doctors think matters in hospitals around the country right now. The vast majority of doctors ranked quality of nursing care second, behind only the quality of the medical staff (physicians on the hospital payroll) as the chief predictor of capable hospital care—and ahead of state-of-the-art technology, research capabilities and the quality of teaching in institutions affiliated with medical schools, all of which might seem to represent solid-gold indicators.

Apparently not. Indeed, geriatricians think the nursing staff is *the* most important factor. AIDS specialists rank discharge planning as the third most important indicator of quality, behind medical and nursing staff—higher than in any other specialty. Gynecologists rated ancillary services—a category that sweeps in everyone who provides indirect care, from social workers to radiologists—just behind medical staff. Ophthalmologists think high-tech services are second most important.

To date, the *U.S. News* survey stands as the sole broad assessment of hospital care. Efforts are underway to add objective measures to the rankings. Even now, though, when you need the best care possible, this is the guide that can best help you find it.

THE BEST OF THE BEST

The following hospitals appear on at least three of the 16 specialty lists in the U.S. News survey:

Johns Hopkins Hospital: 13 specialties.

Mayo Clinic: 12 specialties.

Massachusetts General Hospital: 11 specialties.

UCLA Medical Center: 9 specialties.

Cleveland Clinic: 5 specialties.

Duke University Medical Center: 4 specialties.

Memorial Sloan-Kettering Cancer Center: 4 specialties.

University of Texas (M.D. Anderson Cancer Center): 4 specialties.

Stanford University Hospital: 3 specialties.

University of California, San Francisco Medical Center: 3 specialties.

THE HAPPIER THE PATIENTS, THE FEWER THE EMPTY BEDS

(By Steven Findlay)

Hospitals have become hardball marketers over the past decade, hawking themselves in print and television ads as slick as any for cars or fast food. Last year, America's 6,000 hospitals spent $863 million on advertising, up from $500 million in 1986, to fill their beds with that prized commodity, the patient with full insurance coverage. They have offered birthing rooms, gourmet food and VIP suites.

But a third of their beds, on average, were still empty in 1990, up from 25 percent in 1980. Now hospitals are taking a step that would be laughably obvious in most other businesses: They are asking patients how satisfied they are and what they care about.

Since 1989, for example, the salaries of top administrators at the 11 hospitals in Texas, Louisiana and California owned and operated by the Sisters of Charity, a Houston-based Catholic group, have been tied directly to patient satisfaction. Between 200 and 300 patients per month at each hospital receive a form that asks 60 questions, such as "Was your room kept clean?" and "Did the nurses explain things to you sufficiently?"

Invariably, the respondents stress caring nurses, so Sisters of Charity is putting new emphasis on training nurses to be emotionally supportive. As for hospitals' notoriously bland cuisine, the group has no plans to go upscale. "We found that most people didn't care about it," says Peggy Scott, a spokesperson for Sisters of Charity. "No gourmet chefs for us."

The concerns of Sisters of Charity's patients are far from unique. In a recent national survey of some 140,000 patients discharged from 225 hospitals, Press, Ganey Associates Inc., a health-research firm in South Bend, Ind., found that the following five factors best relate to patients' satisfaction:

Concern for privacy.

How well family is kept informed.

Sensitivity to the inconvenience of hospitalization.

Cheerfulness of surroundings.

Attitude of nurses when called.

Tracking the weight given to nursing generally, other factors that ranked high included nurses' promptness when called and their attentiveness to patients' special needs. The attitude displayed by technicians and admissions clerks was also important.

And it is clear that patients dislike being kept in the dark. Those surveyed said they would be more inclined to recommend a hospital to relatives or friends if doctors and nurses took the trouble to explain why procedures and tests were being done. Overall, the 225 hospitals in the sample did best in nurses' attitudes and competence and scored lowest on general ambience and length of waits to get tests like X-rays. Not surprisingly, patients saw small and medium-sized hospitals as more hospitable than large ones.

Hospital chief executives say they hear the message. "The central focus used to be making sure our doctors were happy," says Robert Condry, director of Loyola University's Foster G. McGaw Hospital outside Chicago. "Now it's trying to meet patients' needs and making the hospitals a warmer place to be." Anyone who has done hospital time would find the change welcome.

MAYO MINUS SNOW

Treatment at the vaunted Mayo Clinic, Cleveland Clinic or M. D. Anderson Cancer Center no longer requires a trek to Minnesota or Ohio or Texas. Chasing shifting demographics, these institutions have opened up shop in the Sun Belt, in well-off cities near plenty of potential patients. Mayo launched its first satellite clinic in Jacksonville, Fla., in 1986 and established a second in Scottsdale, Ariz., a year later. In 1988, the Cleveland Clinic opened a Fort Lauderdale facility. And last year M. D. Anderson joined with a local medical center to open the Orlando Cancer Center.

All have thrived. Mayo says its surveys show that patients like its two new locales as much as the headquarters in Rochester, Minn. And all the satellites have added doctors and office space since opening; the Mayo centers, for example, have gone from a couple of dozen physicians to more than 120 doctors in each new site. That's peanuts compared with the 1,000 in Minnesota but plenty to afford the open consultation between doctors that is the main advantage of clinic-style medicine.

Patients who live nearby like the convenience. Byron Goss Jr., who has terminal cancer, says it would be tough to fly to M. D. Anderson in Houston or to drive several hours to a university center every three months to have specialists perform a delicate procedure to slow the growth of his liver tumor. He makes a 30-minute trip to Orlando instead. "Cancer disrupts your life," says Goss, 48. "Travel would disrupt it so much more." He and others praise the doctors' and nurses' skills, thorough history taking and the feeling that the doctors—who work on salary rather than for fees—don't see them as cash cows.

The clinics have gone to great lengths to reproduce what they offer at their home bases, right down to the fish tanks that grace the waiting rooms of M. D. Anderson's Houston and Orlando centers. Every month, an M. D. Anderson physician comes to Florida for a week to meet with Orlando confreres, and all Orlando doctors spend at least one week a year in Houston. Ninety percent of the physicians at the Jacksonville Mayo Clinic took at least part of their training in Minnesota, and a third of the Fort Lauderdale Cleveland Clinic's doctors moved down from Ohio. All three home bases maintain computer linkups to their satellites so that doctors can send X-rays and other data back and forth for consultation. And patients can enroll in most of the research tests that the mother bases offer. Kids in Orlando, though, have it one up on their Houston counterparts—they can choose between Nintendo and Sega video games in the pediatric department. Houston has only Nintendo.

FULL COURSE

Although they have almost everything the back-home doctors do, some big-ticket items are absent. Mayo, for example, has a gamma knife—a multimillion-dollar gamma-ray generator that can destroy diseased tissue deep within the brain without surgery—only in Minnesota. The Fort Lauderdale Cleveland Clinic sends cancer patients to a local facility for radiation therapy. Orlando Cancer Center doctors still consider sending patients with really rare conditions back to Houston. On the other hand, some procedures may be available only in Orlando, such as experimental radioactive implants for brain tumors.

The prospect of big-name clinics and hospitals coming in and trolling for patients doesn't necessarily thrill the local medical community. Fort Lauderdale-area doctors fought an ultimately unsuccessful battle to keep the Cleveland Clinic out, running a full-page newspaper ad and denying hospital privileges to clinic surgeons. Connecticut oncologists last month succeeded in persuading New York City's Memorial Sloan-Kettering Cancer Center to cancel plans for a clinic in Danbury. From a patient's perspective, however, these big-name clinics make very desirable neighbors—or at least alternatives to Minnesota or Ohio or Texas.

Mr. DURENBERGER. Mr. President, do I still have time remaining?

The ACTING PRESIDENT pro tempore. The Senator still has the floor.

AID TO NICARAGUA

Mr. DURENBERGER. Mr. President, I was fortunate enough last week to be asked to go to Managua, Nicaragua, to represent some of the people in this body at a meeting of the Presidents of the five countries of Central America plus Panama, with Prime Minister George Price, of Belize.

I intend sometime next week to further elaborate on what I observed on that visit, what I learned on that visit. But I did learn that a couple of very critical issues face the people of Nicaragua at the present time.

I must say, as one who has been going there since 1971, who has been dealing with the politics of that country in particular from this body for the last 13 or 14 years, that the stabilization program which this country and this body have had a lot to do with—like $580 million worth of a stabilization program—has been amazingly successful. It would be a shame to see it slip.

But, as a practical matter, there are a couple of concerns that Americans have expressed via certain Members of this body, and other Members, that deserve attention. It would be a shame to see cuts in that aid take place; a shame to see what is currently a fragile economy potentially collapse. And it is an issue that needs to be dealt with thoughtfully by Members of this body and the other body, and by the administration. I hope that it is dealt with.

Mr. President, I will ask unanimous consent, just to lay a foundation for my comments next week, that a copy of a letter addressed to the Honorable Antonio Lacayo, who is the Minister of the Presidency of the Republic of Nicaragua, from a number of our colleagues on the House side, dated May 12; plus a letter to the Administrator of the Agency for International Development from our hospitalized colleague, JESSE HELMS, dated May 27; and a letter dated May 31, 1992, in response to those letters, from Minister Lacayo, which highlights the efforts that have been made by the Government, highlights some of the progress being made on property claims resolution and on police professionals, and also highlights the desperate need that country has right now for help in securing or buying up all of the remaining arms that had been placed in the hands of civilians between the election and the inauguration of President Chamorro. It was something I witnessed—or participated in, that is—the burning of about 36,000 of these weapons.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 12, 1992.

Hon. ANTONIO LACAYO,
Minister of the Presidency, Republic of Nicaragua, Managua, Nicaragua.

DEAR MINISTER LACAYO: We write as Members of Congress with a deep and long-standing concern about your country. We share a common interest in the future of democracy in Nicaragua.

There is a great deal of respect in the U.S. for the tremendous accomplishments of the Chamorro government: the reduction of the armed forces, the permanent end of the civil war, economic reforms including privatization of many entities, and, most important, the restoration of basic freedoms completely absent under the Sandinista regime. As strong supporters of the United Nicaraguan Opposition from its creation, we look upon these accomplishments with respect and with pride.

We are concerned, however, about a number of troubling issues which we believe threaten the future of democracy in Nicaragua. We are particularly concerned over the continued lack of meaningful reform in the national police and in the leadership of the Armed Forces. We know of no other case where a nation's security apparatus is under the de facto control of an opposition political party. The abuses of the security forces include lack of protection for democratic labor unions, little or no action on extrajudicial murders such as those of Enrique Bermudez and Jean Paul Genie, and numerous abuses of authority—especially in areas where contra support was strong. These issues have been well-documented by numerous objective observers such as the State Department's human rights report and the Inter-American Human Rights Commission.

Our concern is that further political, social, and economic development in Nicaragua will continue to be stymied by an undemocratic police force unless the reform issue is addressed with the same forthright spirit your government has addressed restoring basic liberties and economic growth.

We are also concerned about the issue of property rights, which are the foundation of any free market system and a critical measure of a country's investment climate. It is our understanding that many property claims stemming from the Sandinista era remain unresolved. In addition, we are troubled by the continued lack of action to address the blatant confiscation undertaken by Sandinista authorities during the 1990 transition period. We understand that many legal and constitutional issues are raised by efforts to address this issue. Nonetheless, we urge you in the strongest possible terms to commit your government to an equitable and speedy resolution of the property issue.

No one understands better than we the need for reconciliation in Nicaragua; we have great admiration for your efforts to bring all Nicaraguans together in a democratic society. We also understand, however, that the immediate transition period is over and that new policies and personnel are needed to consolidate and strengthen democracy in Nicaragua. Competing demands for U.S. assistance will inevitably place pressure on funds for Nicaragua. While we have no doubt that there will be continued need for U.S. aid, it is imperative that the reform process move ahead in order to create the climate necessary for additional public and private investment in Nicaragua.

We applaud the progress of the Chamorro government in bringing peace, security and freedom to Nicaragua. As friends of your country, we will continue to support you in advancing these goals. Our intention is not to interfere in the internal politics of Nicaragua. We are motivated by a genuine desire to further institutionalize democracy in your country. We thank you for your consideration of our concerns and look forward to hearing from you in the future.

Sincerely,

Robert J. Lagomarsino, William S. Broomfield, John Rhodes, Bob Stump, Jim Bunning, Porter J. Goss, Dan Burton, Bill Emerson, Jon Kyl, Tom Bliley.

Cass Ballenger, Bob Walker, Bill McCollum, Dana Rohrabacher, Bob Livingston, Bob Dornan, David Dreier, John Kasich, Tom Lewis, Jerry Solomon, Steve Gunderson, Chris Cox, Amo Houghton, Duncan Hunter.

COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 27, 1992.

Hon. RONALD ROSKINS,
Administrator, Agency for International Development, Washington, DC.

DEAR RON: Earlier today I asked my staff director, Admiral Bud Nance, to convey my opposition to Congressional Notification #294, project number 524-0325 regarding the obligation of $100,000,000 for Nicaragua. Admiral Nance informs me that he just spoke with your Deputy, Mark Edelman.

On several previous occasions I have expressed my concerns about the Chamorro Government's failure to reverse the Sandinista policies of the past. It is well known that the Chamorro Government has not privatized corporations and other businesses that were seized and nationalized by the Communist Sandinistas. Also, the illegally confiscated private property of more than five thousand Nicaraguan citizens still remains in the hands of the Government. It has come to my attention that Government forces have begun to destroy some of these properties, and that the Chamorro Government continues to confiscate private property.

Of utmost importance to the American taxpayer is the fact that more than 200 American citizens have had their property confiscated and not returned. This makes a mockery of the notification's assertion that "in most respects, the Government of Nicaragua's reform efforts, undertaken in 1991, were spectacularly successful."

Furthermore, Administration witnesses have testified before the Foreign Relations Committee that the Communist Sandinistas continue to control every security, military, intelligence, and law enforcement agency in the country. These agencies have been used to assassinate dozens of former freedom fighters.

Given the fiscal crisis facing this country, and the absence of any base of support for foreign economic assistance among the American people, you and I must work to scrutinize every cent that is spent on these programs. I do not believe that the American taxpayers would support funding for a government that refuses to respect the sanctity of private property for their own and American citizens.

Until I am convinced that there is significant reform in the Chamorro Government I will be compelled to object to the disbursement of these funds.

Sincerely,

JESSE HELMS.

REPUBLIC OF NICARAGUA,
MINISTRO DE LA PRESIDENCIA,
May 31, 1992.

Hon. ROBERT J. LAGOMARSINO,
Hon. WILLIAM S. BROOMFIELD,
Hon. JOHN RHODES,
Hon. BOB STUMP,
Hon. JIM BUNNING,
Hon. CASS BALLENGER,
Hon. BOB WALKER,
Hon. BILL MCCOLLUM,
Hon. PORTER J. GOSS,
Hon. DAN BURTON,
Hon. BILL EMERSON,
Hon. JON KYL,
Hon. TOM BLILEY,
Hon. JOHN KASICH,
Hon. TOM LEWIS,
Hon. JERRY SOLOMON,
Hon. DANA ROHRABACHER,
Hon. BOB LIVINGSTON,
Hon. BOB DORNAN,
Hon. DAVID DREIER,
Hon. STEVE GUNDERSON,
Hon. CHRIS COX,
Hon. AMO HOUGHTON,
Hon. DUNCAN HUNTER,
Members of Congress,
Washington, DC.

DEAR FRIENDS MEMBERS OF CONGRESS: Let me first thank you all for your special interest in the establishment of democracy and economic development in Nicaragua, and for the respect you have for the accomplishments of the Chamorro Government in just two years, as it is reflected in your letter of May 12.

Let me also assure you all that we share your concerns about a number of issues that could impair our common goals in this country, and that we accept your advice with real affection because we know they come from real friends of Nicaragua whose motivations are clean and sincere.

Precisely because we feel that way, your letter has forced me to meditate for several days and to devote this Sunday May 31st, to print on paper my honest reflections. It is my only intention to share with you numerous thoughts about Nicaragua, what we are trying to achieve, the way we are doing it, and why.

We all knew it was not going to be easy. To defeat the FSLN in an electroal process sounded more like utopia than anything else. Never in history had pro-soviet or marxist ruling parties been defeated by the ballot. And in Nicaragua we had never experienced a true change of government as a result of votes. Our history had been quite the opposite.

In "The Capitals of Spanish America", written in 1888 by William Eleroy Curtis, late Commissioner from the United States to the Governments of Central and South America, it says about Nicaragua:

"There is no spot of equal area upon the globe in which so much human blood has been wasted in civil war, or so much wanton destruction committed. Nature has blessed it with wonderful resources, and a few years of peace and industry would make the country prosperous beyond comparison; but so much attention has been paid to politics that little is left for anything else. Scarcely a year has passed without a revolution, and during its sixty-five years of independence the Republic has known more than five times as many rulers as it had during the three centuries it was under the dominion of Spain. It was seldom a question of principle or policy that brought the inhabitants to war, but usually the intrigue of some ambitious man".

That history of war and violence, revolutions and coups, that had been going on for decades in 1888, continued with Zelaya in 1893, the U.S. Marines in 1912, Sandino in 1927, Somoza in 1936, the Sandinistas in 1979, and almost the Contras during the 80's.

It was not until President Arias presented his Peace Plan in 1987 and until President Bush became President of the United States in 1989 and Secretary Baker pushed in Congress for a bipartisan agreement on Nicaragua, that we began talking about free elections, supervised by the U.N. and the O.A.S. that made real opportunity available for people like Violeta Chamorro.

You all know what happened afterwards. With the valiant help of people like you and many other democrats in the world, the Nicaraguan people voted on February 25, 1990, in a way very few expected. Everybody voted, and the results were accepted by everybody. We had achieved a new Nicaragua, free and democratic, as democrats had fought for. We had taken the first step towards "the formation of a government of national reconciliation, based on the unity of the nation and oriented towards common well-being, and service to the country, above any political interests", as was stated in the UNO governmental platform.

But let us be honest and accept that all of those who were interested in nothing more than changing the sandinista army with the contra army, and Daniel Ortega with someone like Anastasio Somoza, ended up frustrated when they saw no military victory or defeat, and no substitution of one imposed-by-arms President by another imposed-by-arms President.

Democracy could have never been achieved by war, coups, revolutions or counterrevolutions in Nicaragua, as our 168 years of independence had proven so well. But those who have believed in such alternatives, will continue to depict as "co-government" every effort geared to run the country in a new way.

The task of ending 168 years of "civil war and wanton destruction" is not going to be an easy one, and textbook recipes do not exist. But it is even more difficult when, at the same time, President Chamorro has to move her country away from extreme poverty and from an inefficient centralized economy, and from years of confrontation that virtually divided our country in two.

We are, of course, concerned about property claims stemming from the Sandinista era, because the sooner we revise these cases and proceed to restitution or compensation, the better for the economy. It should be crystal clear, though, that as stated in the UNO governmental platform, "the peasants will be guaranteed legitimate ownership of the land they have in possession in virtue of the Sandinista agrarian reform, and shall be granted property titles, without detriment of the right to compensation of the affected owners." In spite of this, we have returned to legitimate owners thousands of acres of cotton, coffee, banana and cattle land that our government inherited as state farms, as well as many industries such as Coca Cola Bottling, Eskimo Dairy, La Perfecta Dairy, Record Plastics, Chipirul Candies, Luna Mattresses, Fogelsa Freezers, San Martin Slaughterhouse and Amerrisque Slaughterhouse, etc. We have only 17 cases of property claims made by U.S. citizens duly documented through our Foreign Ministry, which are currently pending of resolution. Our Ambassador in Washington will provide you with further details on these matters.

We are, of course, also concerned about the lack of proper training of our National Police, where one third of their men and women have been already hired after inauguration day but have no police school at all, and the other two thirds were educated in the middle of the war years, with a heavy dosis of partisan propaganda. It should be also clear, though, that our situation is not the one in El Salvador, where an AID sponsored opinion poll reflected a very high unfavourable opinion of their police force. In Nicaragua, recent polls show that our National Police enjoys a 64–24 favourable-unfavourable opinion, even among UNO sympathizers, which has to be taken very seriously into consideration. Nevertheless, an example of our commitment with this endeavor was the recent appointment of a civilian as head of the Immigration Department, which had been in the hands of the military since 1940.

Property claims resolution and police professionalization are, of course, important issues to Nicaragua, its people and the government, and this will be done. But in the first two years of the Chamorro Government, priorities were others: to stop the war, and to eliminate hyperinflation. And we did stop the war, demobilized the contras, reduced the army by 75 percent, and went from 55,000 percent inflation in our first year of government, to less than zero inflation in our second year.

Now, as we begin our third year, we have new priorities: to begin growing in terms of GNP (after eight years of decline) and to strengthen the rule of law (after 168 years of no rule of law). And it is clear that in order to be successful, we will have to accelerate the professionalization of our police forces and the resolution of property claims, so as to create a good business climate and to attract private and foreign investment. As a former executive and entrepreneur associated with foreign investors, I know how much benefit private foreign investment brings to the economy.

This will in turn generate the badly needed job opportunities that former contras and ex-army officers are looking for, and will no doubt reduce the possibilities of a "social explosion" in Nicaraguan.

You can be sure that nobody in Nicaragua wants a social explosion, the way we have seen it lately in Venezuela, Colombia, Los Angeles, or Thailand, or the kind of coups we have seen in Haiti or Peru; but unemployment and empty stomachs are ill advisors.

Despite the fact that we are flooded with arms (supplied by the Soviet and the U.S. governments in the past decade), we don't want to kill each other anymore. The whole episode of "revueltos" last month, was totally resolved with only one Nicaraguan killed, which nobody wanted killed, and in the past two weeks the Police and the Army, under instructions from President Chamorro, have been dislodging "revueltos" elements from 47 farms, including the ones belonging to Mr. Ramiro Gurdian, President of COSEP, and will continue to do so until the rightful owners enjoy their full property rights.

Having been able to collect from civilians (and destroy) 36,000 war arms in the last four months (the equivalent to 2,160,000 in a country of your size in population), proves that nobody wants explosions in Nicaragua.

Be sure it is not true that our "nation's security apparatus is under the de facto control of an opposition political party", as your letter says, neither the army nor the police. That would be similar to affirm that the Spanish army, policy or security apparatus were under the control of franquismo just because many of their leaders continue to be from the Franco era after 17 years of democratic government.

You can also be sure that there is no such thing as "lack of protection for democratic labor unions" as you also believe. Labor unions grouped in the CPT, backed by the AFL–CIO, have grown in number and strength in the last two years, and sometimes their clashes with the Sandinista FNT labor unions are the result of the speed with which they are trying to regain the terrain lost to the FNT in the last decade.

A government with the armed forces and police firmly in the hands of the nondemocratic opposition, with widespread disorder, economic chaos, selective assassination and with US aid financing Sandinista organizations in an increasing manner, as Jeane Kirkpatrick published in her May 12 article in The Washington Post, could have never achieved "the reduction of the armed forces, the permanent end of the civil war, economic reforms including privatization of many entities, and the restoration of basic freedoms", as your letter affirms, and still enjoy the 75–18 favourable-unfavourable opinion that its President, Doña Violeta, has in the last opinion poll, exactly two years after her inauguration.

We will continue to need US aid for many years. Please keep in mind the war lasted many bad years, and "civil war and wanton destruction" was going on even before Mr. Curtis visited us last century. Because we need your help, and because you are motivated by a genuine desire to further institutionalize democracy in Nicaragua, we will address your concerns, that are also ours.

We ask you to address one of our concerns that has not been addressed so far: we need world and U.S. support to buy all arms still in the hands of civilians, estimated at an additional 30,000 (the equivalent to 1,800,000 in a country of your size in population); and we need to avoid delays in the disbursement of previously approved economic aid. Our economic stabilization program has no room for political warfare and could very well collapse if delays materialize. Democratic progress, in that case, would be utopia.

With best regards,

ANTONIO LACAYO,
Minister of the Presidency,
Republic of Nicaragua.

JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

Mr. DURENBERGER. Mr. President, few Minnesotans will forget the anguish they felt 3 years ago when Jacob Wetterling was abducted at gunpoint near his home in the peaceful farming community of St. Joseph, MN. I have often marked Jacob's disappearance here on the Senate floor. Despite a national effort to find him, despite the prayers, and the exhaustive efforts of people throughout Minnesota and the Nation, Jacob remains among the hundreds of abducted children nationwide who have not been found.

And now, Mr. President, another Minnesota child has been taken from her family. Five-year-old Corrine Erstad was abducted on June 1. Mona Williams last saw her daughter when Corrine went to play at a park less than 100 feet from her home in Inver Grove Heights, a suburb of the Twin Cities.

Child abductions—whether by stranger or family acquaintance—haunt parents and make the world a frightening place for those who should be living lives of carefree adventure.

We need not be defenseless in the face of these crimes. The experts tell us that the key to finding abducted children lies in a quick and thorough response. Fifteen States have passed legislation in recent years that could greatly raise the odds that an abductor will be brought to justice.

However, these efforts are not enough, Mr. President. Because we lack national legislation, those who prey on children can often foil our efforts by simply moving to another State. Congress must continue to work for a national policy that will close loopholes through which convicted predators can slip into our communities and abduct our children.

As amended to the crime bill conference report, the Jacob Wetterling Crimes Against Children Registration Act seeks to establish Federal laws for registering those convicted of crimes against children.

This act is simple and cost effective. Anyone convicted of a number of crimes against minors would be required to register their current address with local law enforcement officials for a 10-year period following their release from prison. Upon moving, registered persons would be required to forward their new address within 10 days. Each year, a nonforwardable verification form would be sent to the offender's last registered address. Failure to return the form within 10 days would constitute a violation of the law unless the offender could offer a valid explanation.

Convictions that would trigger the registration requirement include the kidnaping or false imprisonment of a minor, criminal sexual conduct toward a minor, solicitation of minors to engage in sexual conduct, the use of minors in a sexual performance, or the solicitation of minors to practice prostitution.

The Crimes Against Children Registration Act may require some of us to choose between two interests. On one hand, we must protect children from sexual abuse and exploitation. On the other hand, there are those whose priority is in protecting convicted child sex offenders from the inconvenience of registering their addresses once a year.

For this Senator, there are no competing issues to debate. If a national registration requirement for convicted child sex offenders will assist law enforcement authorities in one criminal apprehension, or if it will deter a single kidnaping, I believe it is worth implementing. Certainly the many parents and law enforcement officials I have spoken with would agree.

Mr. President, I cannot bring this issue before the Congress without noting the efforts of Jacob Wetterling's friends and family. Jacob's friends now number in the millions across the Nation and the world. They daily pray for his return, they keep the hope alive.

And while their son Jacob has become a national symbol for our lost children, Patty and Jerry Wetterling have become symbols of hope. They have brought national attention to the problem of child exploitation through the Jacob Wetterling Foundation, an organization for preventing and responding to stranger abductions. A 24-hour hotline—800–325–HOPE—has been established to generate leads in such cases, and a $200,000 reward has been offered for information leading to Jacob's safe return.

I urge Congress and the President to pass this legislation. Armed with the information the Jacob Wetterling Act would provide, law enforcement officials could act decisively in the critical hours following child abductions. And those they serve could rest a bit easier knowing their communities are protected from those who prey on children.

IN REMEMBRANCE OF HENRY M. HARREN

Mr. DURENBERGER. Mr. President, I rise today to note the passing of a dear friend to myself and to many Minnesotans. Henry Harren was born in Albany, a small town neighboring my birthplace in central Minnesota.

At 12, Henry began working at his father's newspaper, the Albany Enterprise. For the rest of his life, Henry chronicled the unfolding history of his community, and in doing so tied the lives of his readers together.

Henry Harren's contribution extended well beyond the township line. He distinguished himself many times during World War II, earning five battle stars during the Normandy invasion, and fighting in Belgium and Germany.

After the war, Henry traveled the country, working at community newspapers in Texas and New Mexico. In 1950, he returned to Albany to become publisher of the Enterprise, and, 4 years later in 1954, he started another newspaper in nearby St. Joseph.

That year he also won a seat in the Minnesota Senate, thereby joining the distinguished ranks of small town journalists turned legislators. He represented the residents of Albany and Stearns County, including my family, for 16 years, serving during that time as head of the civil administration committee and as chairman of the Minnesota Outdoor Recreation Resources Commission. Two years after he left public office in 1970, Henry sold his newspapers and went to work for the Minnesota Historical Society.

Mr. President, Henry Harren was bright, farsighted, and faithful to his constituents. He embodied the best of small town Minnesota, and he will be missed.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

THE BALANCED BUDGET AMENDMENT

Mr. HEFLIN. Mr. President, I rise to make my fifth speech in behalf of the constitutional amendment to balance the budget in the past 3 weeks. I have attempted to direct the attention of the Senate to this most important constitutional amendment proposal.

I was disappointed when the House failed to pass by the necessary two-thirds vote the proposal requiring a constitutional amendment to balance the budget. Our leader here in the Senate, Senator SIMON, took the floor last evening and said we would delay the fight until next year. I respect his decision. He has given great leadership to this movement in the Senate, and I believe that we could have passed this proposal in the Senate with the necessary two-thirds vote.

However, since the House had declined to give the two-thirds vote to this proposal, nothing would have been accomplished this year.

I worked with Senator SIMON, Senator THURMOND, Senator DECONCINI, and others, relative to this proposal over a period of time. In fact, I was one of the first Senators to introduce such a proposal when I first came to the Senate. The first bill that I introduced when I came to the Senate was a constitutional amendment requiring a balanced budget.

At the beginning of each Congress, the first bill that I introduced has been a proposal for a constitutional amendment requiring a balanced budget.

For 14 years I have given this proposal my highest priority. We have worked out a number of provisions that I have supported all along, one including the ability of the Congress to waive the requirement of a balanced budget when there is undeclared war.

The provision that we now have in the bill would allow such a waiver to occur in the event that was an imminent and serious threat to national security. If it was first declared to be such an imminent and serious threat to national security by a joint resolution passed by a full majority of both the House and the Senate, and signed by the President, then the Congress could proceed toward waiving the requirement of a balanced budget in the event of undeclared war.

We have had five declared wars in the history of this Nation, and well over 200 conflicts that were undeclared. Every undeclared war does not have to have a waiver. This is a very difficult method of acquiring a waiver that is presently in the bill.

Former Senator Denton and I worked several times on this specific matter. Ultimately, we had a floor fight. We lost that provision by just a few votes a number of years ago.

Also, I have worked hard for the requirement that the national debt limit has to be waived by a three-fifths vote. There have been previous efforts in the Senate to pass just such a provision. Several years ago, when it first came to the Senate, we obtained 69 votes, more than the necessary two-thirds. But the House of Representatives failed to come close to the required two-thirds vote.

Another time, the amendment was brought up and the Senate gave it 66 votes, one short of the required 67 votes that would have been necessary for passage.

I think the attention that has been given to this matter and the leadership that Senator SIMON has shown have been beneficial. Work on this proposed amendment has forced the Senate to focus on the trend that we are following relative to deficit spending and the need for fiscal responsibility. As Douglas MacArthur said, "I shall return." There is little doubt, this proposal will return again and, in my judgment, it will eventually be adopted. In the meantime, I think that the issue of deficit spending is on the minds of the American people, and the attention that has been given should motivate us to legislatively do everything we can to reduce deficit spending.

I think this is going to be a motivation that will help us in our efforts to reduce deficit spending. But I believe that the attention of the American public has been directed and spotlighted on the need for a constitutional amendment and that such an amendment will eventually be adopted.

TRIBUTE TO JOE DAWSON

Mr. HEFLIN. Mr. President, I address the U.S. Senate today to pay tribute to the life of Joe Mathes Scott Dawson, a great citizen of my State who passed away on May 19, 1992, following over 60 years of law practice in Scottsboro, AL. Joe was a leader among lawyers in Alabama for those six decades, and he was a leader in church and community affairs as well. Joe had a joyfulness about life that was striking, and he approached all that he did with a positive optimism that was contagious.

Joe M. Dawson was an outstanding and highly productive citizen who will be greatly missed in Scottsboro, in Jackson County, and throughout north Alabama and our entire State.

What follows is a biography of Joe Dawson which was made available as part of the tribute to him at his funeral at the First United Methodist Church of Scottsboro, AL, on May 21, 1992.

Joseph Mathes Scott Dawson died May 19, 1992. He was born May 30, 1908, in Mentone, AL. He was the son of Henry Washington Dawson and Ruby Scott Dawson. The oldest of five children, he is survived by his brothers, Dr. C. Paul Dawson of Scottsboro, AL; J. Clyde Dawson of Chattanooga, TN; and a sister, Bessie Mae Biddle of Fort Payne, AL. Another brother, Henry A. Dawson, is deceased.

Mr. Dawson's family moved to Fort Payne, AL, when he was a child. He grew up there and graduated from Fort Payne High School. He received his LL.B. degree from the Chattanooga College of Law in 1930, and an LL.M. degree from Cumberland University, then located in Lebanon, TN, in 1931.

Mr. Dawson began the practice of law in June 1931 with his uncle, Charles J. Scott, in Fort Payne, AL. They formed the firm of Scott & Dawson. In 1935, Mr. Dawson moved to Scottsboro, AL, to open a branch of the firm. He was later joined by Lawrence E. Brown and the firm became Brown, Scott & Dawson. After the death of Mr. Brown, James S. McGinty joined the firm and it became Dawson & McGinty, as it remains today.

Mr. Dawson served on the board of directors of the First National Bank in Scottsboro until his death. He was past president of the local Civitan Club. He served for many years as a member of the board of trustees—formerly the board of stewards—of the First United Methodist Church in Scottsboro. He taught a Sunday school class and served in many other capacities as a church official. He also served as a member of the board of the United Methodist Children's Home in Selma, AL. He was a member of the board of the Jackson County Hospital at the time the hospital was built.

Mr. Dawson was a member of the American Bar Association, the Alabama Bar Association, and the Jackson County Bar Association, of which he was a past president. He was admitted to practice in the Supreme Court of the United States and other Federal courts.

Mr. Dawson married Mary Frances Ailey, of Chattanooga, TN, on October 13, 1934. Mrs. Dawson died on November 14, 1991. They are survived by one daughter, Jean Dawson Stockburger, who is a practicing attorney in Little Rock, AR, with the firm of Mitchell, Williams, Selig, Gates & Woodyard, and three grandchildren: John Scott Stockburger, age 28; Mary Staci Stockburger, age 26; and Christopher Sean Stockburger, age 21.

I conclude this tribute to Joe Mathes Scott Dawson, who was a friend of mine and whom I personally will miss each time I go to Scottsboro, with a moving eulogy rendered at the funeral by Judge Robert L. Hodges Scottsboro.

EULOGY TO JOE DAWSON BY JUDGE ROBERT L. HODGES—MAY 21, 1992

I was asked by his family a year ago to say a few words at a ceremony which was planned to be in one of our courtrooms last summer to commemorate the milestone of his 60th year in the practice of law. For several reasons, including the illness of Mary, his wife, we never had that ceremony. And so I stand this afternoon to say a few words in another kind of ceremony, one that neither he nor I contemplated we would be doing together.

He lived over 30 years beyond the tenure of my life on this Earth. He has been a member of the legal profession over 32 years longer than I, and when I graduated from law school, he had been practicing law longer than I had been alive.

When one we know so well passes away, there are vignettes of his life which pass through the chambers of our memories. These are the ones which have come to me.

When I was a teenager, he met me each Sunday morning at the door of the old church on Scott Street with a smile and an inquiry into my Sunday school attendance or my last football game. He was one of the concrete images in this community and in this church in the memories I have of my youth. I began our acquaintance by calling him "Mister Joe" and in all of these years, even until my last conversation with him some weeks ago, that never changed.

Stored in his mind, and sprinkled often in his conversations with me in later years were hundreds of people who passed his way in this county and who have long since left us—colorful pioneers in the history of this community. He had a phenomenal memory, until his very last illness, of all of them, and their families and businesses and their tragedies and their successes, and he found in those memories of his the humor and the folly and the sadness and the frailty that is the stuff of human existence. If you listened carefully to the tales he told with delight, of some of the colorful characters who built this community and this county, you could almost hear Shakespeare's Puck making his famous critique of humanity, except that Mister Joe seemed to include himself in it, and seemed to be saying, "Lord, what fools we mortals be!" That ability to laugh at himself, something many of us in humanity have lost, was an enduring quality I admired.

As a husband, he was without equal in his devotion to his wife. I have images of him, this past winter, in the room down the hall from where my wife was hospitalized, day after day feeding Mary her meals, and catching her up to date on the news in the paper, and making her comfortable and escorting me and other visitors into Mary's room to greet her and boost her spirits, and then driving home each night to be at work the next morning.

As a father, he was without parallel in pride. I had many visits and phone calls from him each time Jean or one or his grandchildren had visited or called or there was news of any of them accomplishing something. The bumper sticker which says, "Let me tell you about my grandkids" surely was made originally for him.

He made sure people in the nursing home got to church on Sunday in his old blue Plymouth, and that old car sticks in my mind, always spotless and shining, as so typical of him. I know not if he had a love affair with that old car, but the care he took of it and the use he made of it was a sort of defiant gesture of his, I think, that his values, of a past generation, could still travel with the yuppiest of us.

His working hours are legend in the legal community. There was no doubt in my mind that he would leave this life arguing a case in my courtroom, and I always suspected, in these later years, that such was his plan. For what devotion he had to a client's cause. Someone once said, "Right or wrong, my country." Mister Joe had a corollary: "Right or wrong, my client." The art of advocacy to him was an adventure of the sort some lawyers never find, and the very last time he appeared in my courtroom in an adversarial proceeding, he still had that spark of humor and that glint in his eye that indicated to me, from where I sat, that he was off on some uproarious frolick the young whippersnapper on the other side would never be able to comprehend.

What do you say, those of us who labor in the halls where justice is sought; what do we say when one who has labored among us leaves after more than 60 years of such labor?

I hark back to a special moment for me, almost 10 years ago now, when I first walked into a courtroom wearing a black robe where he was sitting as a lawyer in the case. He stood, a man many years my senior, generations of experience removed from me, a contemporary of my parents. He stood, and he said, with a smile on his face, "Good morning, your honor." And something passed, unspoken, between us that I have never forgotten. It had nothing to do with our respective ages or experience or station in life. It had everything to do with something both of us respected, and both of us had dedicated our lives to. It had to do with our mutual respect of the law and of those of us within its profession who are charged with the high and awesome task of seeking justice for the very least of those in our society. What passed between us at that moment I feel again this afternoon, and so I stand for him this time, and the "your honor" this time goes to him. And to his family and friends and his fellow lawyers, I quote words from Harper Lee's "To Kill a Mockingbird":

A young girl watched from her seat in the courtroom as her father, Atticus Finch, a small town southern lawyer who had lost a noble and unpopular cause, was leaving the courtroom: "I looked around," she said. "They were standing. All around us and in the balcony on the opposite wall, (they) were getting to their feet. Reverend Sykes' voice was as distant as Judge Taylor's. 'Miss Jean Louise, Miss Jean Louise, stand up. Your Father's passin'.'"

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

HOMOSEXUALS SERVING IN THE MILITARY

Mr. METZENBAUM. Mr. President, I rise today to address myself to the issue of homosexuals serving in the military—to the Pentagon's continued outdated and absurd prohibition of gay men and lesbians serving in the military.

It is—pure and simple—official Government-sanctioned discrimination.

It is discrimination against a distinct group of individuals who repeatedly and throughout history have shown that they are every bit as capable, hardworking, brave, and patriotic as their heterosexual counterparts.

The fact is, the performance of homosexuals in the military has been superb.

How do I know?

Because every time the military forces one of them out, their service record becomes part of the investigative effort to get rid of them. In every case I have ever seen, the records of these individuals have been above average.

Just last week, the Washington Post reported another case. The Navy is kicking out a "25-year-old navigator-bombardier who finished first in his highly competitive flight training classes and received top honors."

Why? Did he do anything wrong? Did he sexually assault or harass somebody?

No. He merely admitted he was gay. It does not matter that he was the best in his class.

Forget the fact that the U.S. taxpayers paid $2 million to train him to be a bombardier.

All that matters to the Pentagon is that the man is gay—which the Pentagon says is bad for morale.

The argument used to be that you could not have homosexuals in the military because they were vulnerable to blackmail. Of course that was never true. Nobody could ever think of an instance when a homosexual had been blackmailed into betraying his or her country. That was just plain hogwash.

But now the Pentagon has this new excuse for harassing homosexuals.

The Pentagon claims homosexuals are bad for morale—that they represent a discipline problem—that they cannot control themselves.

The Pentagon has no proof to back up its prejudice and baseless fears.

In fact, the Pentagon has proof, which it has suppressed, that the fitness records of homosexuals are as good, if not better, than the average heterosexual.

One of the studies went so far as to recommend that the ban on homosexuals serving in the military be overturned. The Pentagon buried the report and tried to have it rewritten.

Defense Secretary Cheney said the other day that "a gay lifestyle is incompatible with military service."

What is he talking about? There are tens of thousands of homosexuals in the military right now excelling in their jobs every day.

They are the pilots, the ship's gunners, the mechanics. Gay people are a significant part of the population. They are a significant part of the military and every other Government agency.

They do their jobs just like everybody else.

The other day, one of Cheney's spokespersons said homosexuals in the military would adversely affect order and the public's acceptance of the Armed Forces.

How do they make those claims?

The fact is, a Penn and Schoen 1991 public opinion poll showed that 8 in 10

Americans believe that homosexuals should not be discharged from the military solely because of their sexual orientation.

Mr. President, I do not believe the taxpayers realize how much it costs to hunt for gays, investigate them, and bust them out of the service.

It costs tens of millions of dollars every year.

According to the General Accounting Office, the cost of discharging a homosexual, together with the lost cost of training those individuals over the 10-year period between 1974 and 1984 was $176 million.

Let us be frank, Mr. President.

This is a political year.

And this is a political issue for the administration.

This administration is too afraid of the far right to change its antigay policies—even though it knows they are wrong.

This administration pays constant homage to a group of small, narrow-minded people who insist that everyone must look, think, and live his or her life as they do.

It is the same mindset that resulted in the exclusion of millions of black Americans, and millions of women and other minorities from serving their country in the military for so many years.

In the 1940's, conservatives used all the same arguments—they said that admitting black Americans into the military would be bad for morale—that whites would not serve alongside blacks.

That was baloney; pure baloney. President Truman knew it was not true. He integrated the military, and our Armed Forces took the lead in welcoming minorities and promoting equal opportunity ever since—save for one small exception—homosexuals.

So let us not obfuscate the issue by talking about discipline and morale.

Nothing is better for morale than a military that knows how to get the job done. What is important when the bullets are flying is whether the soldier or sailor or officer is brave, smart, and well trained. Heroes come from every race, gender, and sexual orientation.

Mr. President there are bills pending in both the House and Senate to end the Pentagon's discrimination against gay men and lesbians.

It is time we enacted them. And it is time the President recognized the fact that his administration's policy of exclusion is just senseless. It is a waste of the taxpayers' money.

And finally, Mr. President, it is just downright mean and it is cruel.

COMMENDING PROF. MEADE EMORY, DUKE UNIVERSITY LAW SCHOOL

Mr. ADAMS. Mr. President, I rise today to call the attention of the U.S. Senate to the commencement speech delivered by Prof. Meade Emory on May 17, 1992, at the Duke University Law School. Professor Emory was given the Distinguished Teacher Award this year by the students at the Duke University Law School. That award has been given annually by the Duke Bar Association since 1985 to recognize outstanding classroom contributions by members of the law school faculty.

A particularly noteworthy aspect of Professor Emory's award is the fact that he has spent most of his distinguished professional career in the private sector, representing individual clients with tax problems. While most law students consider the subject of tax law to be a dry and lugubrious undertaking, Meade Emory succeeds in both challenging his students to learn the subject and to consider its impact on the lives of low- and moderate-income citizens in our society.

Dean Paul Haagen of the Duke Law School stated:

> In his two years here Meade Emory has brought a liveliness to his classroom, a love of learning with a strong grounding in the practical application of the tax laws that has excited our students and enriched their knowledge of the tax code. Students believed tax law would be uninteresting, but in the hands of Emory it can be great fun.

I am pleased to note that when Prof. Meade Emory is not inspiring law students to consider the public interest implications of their future careers, he makes his home in Seattle, WA, an active member of the legal community, generous with his free time in civic and political affairs. Meade Emory is a longtime personal friend who richly deserves the recognition his teaching has earned at the Duke Law School this year. I ask unanimous consent that Professor Emory's commencement address be printed in the RECORD following these remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMENCEMENT SPEECH BY PROF. MEADE EMORY

On this joyous day let me congratulate you on your exquisite timing. Only those that follow you will not be able to whisk into a gated lot but will have, instead, a ¼ mile book-laden trudge to class. Only those that follow will have the tranquility of their study interrupted by the gnawing pounding of a jack-hammer. If timing is everything you are off to a great start.

I do not need tell you that the law practice world you enter today is almost a caricature of its former self. You know this and this knowledge must make this a bittersweet day. No matter how cynical you may have become about law school, the "rigors" of student life, where free choice and intellectual diversity reign, may seem like a refuge to the horrors that many of you have conjured up. The private practice monsters you have dreamt about—the intense time commitment demanded by a high billable hour expectation, the resultant lack of time for personal nurturing and development, the sometimes vicious striving for new business (and too frequently newer associates are expected to show their mettle here just as brilliantly as in the library or at the wordprocessor), the win-lose game model that encourages adversarial and impersonal conduct that is nothing short of Ramboesque—are certainly real. As one who has one foot in this netherworld, I can tell you that all of these beasts are alive and kicking.

The practice of law in many sectors has become more like a trade than a profession, with an emphasis on money and profit rather than on service and justice. Reading the weekly law newspapers that trumpet obscene numbers for profits per partner, the conclusion seems inescapable that money is the chief measure of success. The sense of "family" and stability that marked law firms for years (certainly for a good part of my life) has been replaced by an atmosphere lacking in any kind of bonding tradition. Able lawyers, especially those with the coveted "book of business," are regularly in play in the market place. Faced with the pressure of large firm practice, many associates express their frustration and disillusionment by leaving, sensing that the power is vested in senior partners who reap benefit, largely economic, by preserving the status quo.

Some of the disappointment which young lawyers feel upon entering this milieu may be attributable to the fact that they don't know what to expect. Professor Alex Johnson at Virginia, in his article: "Think Like a Lawyer, Work Like a Machine," concludes that a root cause of this lack of preparation is the failure of law schools to educate their students about the nature of law firm practice. I tend to think, rather, that you do know what you are in for. Even though summer clerkships are somewhat idyllic, if your eyes were open you got more than a general idea of the level of work expected. What you don't know is what you need to know about yourselves—what are you willing to do, and not willing to do when the rewards are chiefly financial. Young lawyers often come to the conclusion that the people they work for, and the type of work they do, were unexpected and leave to seek other alternatives.

Law schools could do more. As the law school agenda has evolved over the last decade there is a disunity between the specialities required in practice and the post-graduate academic center approach of the 2nd and 3rd year law school curriculum which focuses more on interdisciplinary, law related studies and theories of law. This gap heightens the surprise which you may experience. It would be positive if law schools were to do more than they now do to inform their students of the change which the profession has undergone. It would allow academic lawyers to maintain contact with the practicing bar and thus allow them to be in a better position to educate students on the realities of practice so that they can make more informed career choices. Looked at from my point of view, with my practitioner hat on, greater information about the realities of practice reduces the possibility of higher costs in the form of an investment in training lawyers who leave after a year or two. From your point of view, you would have an opportunity to make a choice grounded on what you have concluded is the best choice (and not to simply climb, unknowingly, up someone else's success ladder that may not be at all right for you). More communication between those in law practice and those in the academy might, *just might*, over time, infuse the profession with the notion that money is not the only gauge of successful lawyering and that the ideals of justice and equality are more worthy than raw profitability.

The picture that I paint may be too gloomy. Change may well be blowing in the wind. You are entering the law profession at a time when, because of the convergence of many forces, law firms may be sitting up and listing. Significant change has been wrought in America by the persistent demand of younger people who desired a society, or simply a way of doing things, that was different from that experienced by their parents or a prior generation. Some things are now done better. In the practice world, the unfortunately named "mommy track," thought unobtainable a few years ago, came about because talented child-bearing and child-rearing women would not accept a choice that meant no utilization of their hard won education in law. On examination, though, this arrangement may represent nothing more than the reduction of a mother's workload from the super achievement level normally required of an aspiring associate to a 9-to-6 job in return for markedly lower compensation and a foregone chance of partnership. Billable hour levels have almost everything to do with what the quality of your life will be; there is a universe of difference between a requirement of 1700 hours and 2100 hours. (I am talking about real hours—not the billing practices followed in John Grisham's The Firm—"If the client's name crosses your mind while you're driving to work, stick it for an hour.") The difference, frankly, is whether you are going to have your week-ends and evenings to yourself and for activities outside your work. I sense, at least in my part of the country, even in large offices, a recognition that a somewhat lower time commitment will still allow the work to be done and at a sufficient level of profitability. Without a doubt, this recognition was prompted by a community wide demand from the assembled associate group. As remote as a sabbatical may now seem to you, their implementation was part of a profession-wide realization that the practice, over the long-term, had to be more humane and less pressurized. Also, the willingness of law offices to craft new arrangements (for example, as a contract partner), in lieu of the up or out system of yesteryear, is no doubt a welcome harbinger as it permits tailoring a professional role that is more individually suited.

Be aware, though, that not all institutions are enlightened. The game will have to be played according to the rules established by the current incumbents of power. One writer states:

"Law firms are caricatures of the worst ecclesiastical bureaucracies. They are hierarchical and corruptly stratified by class, race and sex. Beginning lawyers earn more than the most experienced and competent who are not ordained lawyers. Partners are bishops in ermine, associates are acolytes in linen, a few women have entered the sanctuary, and everybody else stands outside to contribute."

As someone from that world, I can read that and candidly tell you that it is largely true. I know, though, that there is unrest which cannot be ignored. Many of us, in what I prefer to call the long afternoon of life rather than its early evening, look back across the landscape of our accomplishments with less than total peace. There will likely be sufficient material gain and professional tribute but often, at which should be the height of accomplishment, the personal elements of one's life can lie in a state of disrepair, even wreckage. In no small part this can be attributed—I know it is true in my case—to rampant workaholism and a failure to balance one's life. As jealous a mistress as the law is, and it is truly suspicious of activity outside its ken, do not forsake those interests and loves which flowered, at an earlier time, unprompted by economic or other outside forces. If English was your undergraduate major, you no doubt cherish a love of literature that the law, in all its majesty, should not be allowed to dry up. In my part of the country, the out-of-doors is a constant lure and many is the time I have cursed an absent associate, even partner, who chose skiing over the relative quiet of a Saturday in the office. That I may not do so now is perhaps revealed by the fact that my current favorite associate is a rare book collector with whom I would rather talk about his recent antiquarian find than the intricacies of a net operating loss carryover issue (although I am the first to admit that that is a luxury in which we can not often indulge). Although I determined long ago that I would not live my life within the four corners of the Internal Revenue Code I am not sure I have been, to my regret, successful in that respect. Now, I tend to agree with Professor Ginsburg at Georgetown when he says: "Basic tax, as everyone knows, is the only genuinely funny subject in law school. It is an appreciation of human greed three morning hours each week."

Some, though, will find the change in the law firm landscape too halting and timid. There is no state or federal rule which requires you to participate in the intensely competitive law firm arena. Participation in this "tournament of promotion," the current socio-economic description of the bizarre world which many of you will enter, offers the opportunity for great financial reward, professional prestige and maybe even intellectual challenge. Unwatched, however, a participant jousting in this tournament may endure a decline in the quality of personal and family life that is simply not worth whatever benefits it bestows. If this turns out to be the case, all is by no means lost. The wonder of our profession is the usability of its skills in oh so many contexts. Along the continuum, myriad options are available in which the credential you receive today, and the hardwon skills you have acquired, can be used to formulate for yourselves legitimate, productive and healthy expectations for your legal careers. Although the uncertainty of the present law marketplace is not without trauma, that very characteristic, which provides a flexibility in which no decisions are irrevocable, may be turned to advantage. Every place in your professional life, if you want it to be, can be of an interim nature. While it has been the pattern of those in my generation to survive 2 or 3 decades with the same law firm, I have always been happy I did not make that choice. Late professional life can create a world that is "weary, stale, flat and unprofitable"—unprofitable to the soul if not to the pocketbook. I pursued, instead, a mix of practice, government and public service and teaching. Different, but each had the law as a central thread. In my city of Seattle there is a woman lawyer who makes a good living putting on seminars for "Lawyers in Transition,"—lawyers who seek alternatives to the law. My point is that there are a sufficient number of ways in which to reside in the many roomed house of the law that you need not leave it to obtain professional satisfaction. Joining a small firm or, after some experience, starting your own firm have to be viewed as attractive possibilities. In Seattle I regularly see small firms upsetting the balance of power at unexpected times and places.

Whatever room of the house you choose to live in you will always have to ask: "How should I live my life as a lawyer?" It has been said: "There is not a single path but at least three main ways. You may choose to do well and nothing more. You may have a try at doing well and doing good. You may find a way to do good; and for you that will be more than enough." Some come to law school to learn to do good and leave knowing only how to do well. Generally, they work hard to preserve power, increase wealth and deify the established order. These people do well and not much more. The gains that they achieve tend to rust and fail to provide solace in mid and late life. The law firm ethos—more lawyers, a larger stable to clients and more billable hours—has become the measure of worth even in law school as law students collect "fly-backs" like merit badges and schools measure their standing by the number of graduates employed by prestigious law firms.

A central question as you move from these gothic surroundings to world realities is whether it is possible to do good while still doing well. Several years ago, Duncan Kennedy, the left-liberal professor at Harvard Law School, caused a storm when he published a piece in the Harvard Law Bulletin on changing the corporate law firm from within. Most concluded that his suggestions for militant, even radical, behavior to drag the firm to a higher ideal (including, as I recall, the suggestion that associates struggle to set a new political tone for the office by refusing to laugh at jokes) was unrealistic. The letters that followed the article, however, while recognizing the need for significant improvement in the environment, asserted that it is simply not true that it is necessary to abandon one's morality or ideology to succeed in the smelter of large firm practice. In lieu of grousing about the firm for which you work, and the work you may be doing, direct your own life in the law, adhering to standards in which you believe. You should never have to surrender control over the type of lawyer you will become. Duncan Kennedy is correct when he suggests that if you, and your peers, stand for something, even in your beginning life as an associate, you will be able to make things different when you own the place.

Instilled in our profession is that which blooms from the fact—let the naysayers mouth what they will—that is a profession. Leonard Janofsky, a past president of the ABA, said: "Of course we have a right to earn a living, a right to charge a fee, and even a right to advertise our services. But before any right we have an obligation." No lawyer who opts to serve the public interest, first says to him or herself, "I must do this to justify my exclusive franchise." Rather, a sense of public responsibility is almost an instinctive by-product of our whole education and training. When overhead consumes two-thirds of a firm's gross income how much free time can be devoted to pro bono and civic work? It is obvious that the single minded pursuit of income or client service could consume every waking hour. But there is something about our profession which calls upon us to lead. When I look across the civic landscape in Seattle there is hardly a single endeavor in which lawyers are not in the forefront—this is true whether it is leading the challenge for community calm following the Rodney King verdict, working to keep major league baseball in town, covering the freeway with park space, assuring that loan amounts will be available to black-owned businesses, or activism on behalf of the community's homeless. The more cynical will conclude that this civic work is simply self-aggrandizement, a way of putting oneself or one's firm in the public eye. This is partly true, but the resultant benefit to the community cannot be denied.

Even the most cynical will not question your motive, though, in bringing to bear your talents on behalf of the disadvantaged, those for whom the availability of legal services is inverse to their need. Most offices provide some encouragement for work pro bono publico. If yours does not takes a stand and insist that it do so. Clinton Bamberger, the first head of the Legal Services Corporation, himself an emigre from a corporate law firm, notes that "[a]rguing for and advising people, especially poor people, is more strenuous, more difficult, more demanding, and more compensating than any other kind of lawyering." It is emotional and you cannot stand apart from it. There is not much support for you. Some of the law has not been made (you may have to make it) and what there is, is hard to find. As a tax lawyer, I know that every whisper emanating from the IRS is printed in dozens of places; I contribute to that flood by publishing a newsletter analyzing the hundreds of private letter rulings which that agency issues to requesting taxpayers. However, you will have to make your own collection of the welfare regulations and interpretations, keep them current and prepare an index. While the wind will blow against you, the profit for the spirit will be great and you will be involved in the best of what we do—not to use the law to protect the power of wealth and class but to use the law to create power. Several years ago I lead a 2-year struggle by a communitarian religious organization in Alaska to obtain classification as a tax-exempt church from a bitterly resistant IRS. That result will always be a highspot, made so not by the fact that they paid a fee, but because it was an instance in which one could do good while doing well. I continue to be amazed at the unreasonable positions the IRS sometimes takes regarding lower and middle income taxpayers, who, being unrepresented, and justifiably fearing the agency's wrath, capitulate. Before I "shuffle off this mortal coil" I intend to create a clinic that will permit such taxpayers to obtain the same treatment under that byzantine statue that represented taxpayers do.

In the very best sense you are chosen people. You have a special right and a responsibility. Never forget that you are in control of your own life and that you can live that life, both "on and off the court" as they say, in a way in which you can feel proud about who you are and what you do. Always remember that "time's winged chariot hurries near." Choose wisely—you'll be proud you did.

RELIEF FOR KURDS IN NORTHERN IRAQ

Mr. REID. Mr. President, yesterday, the Senate agreed to House Concurrent Resolution 299—a concurrent resolution originally submitted in the House by Representative JAMES BILBRAY. The resolution asks Turkey to continue beyond June 1992 the agreement that permits the stationing of United States forces in southern Turkey; it states that the United Nations presence in northern Iraq should be extended; it states that the United States and the United Nations should attach a high priority to persuading Iraq to lift its boycott of northern Iraq; and it states that the United States should support the sovereignty of all the states in the area.

The United States encouraged the uprising of the Kurds, and then forgot about them—left them to Saddam Hussein's butchery. Millions of Kurds—mostly women and children—have been forced to flee their homes because of threats from the Iraqi Army. They have experienced much suffering, much hunger. Saddam Hussein has used gas attacks against the Kurds, and he has massacred entire villages.

If the United States and United Nations move out of the region, we can expect wholesale slaughter of the Kurds.

Through the United Nations and Operation Provide Comfort, we have been able to keep the wolves from the door. But time is running out. Soon, deadlines will expire, and the United States needs to act. This is not a call for money, nor a call for military intervention. This is a call for leadership.

Recently, the Kurds expressed their desire for democracy by holding free elections free of violence or fraud. The United States must keep its promises to these freedom-loving people. That is why the adoption of House Concurrent Resolution 299 yesterday was so important. Representative BILBRAY is to be praised for his efforts to remind the administration of its promises and to send a message of support to an embattled culture. It is the least we can do.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

ENFORCEMENT OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS CALLING FOR CESSATION OF HOSTILITIES IN THE FORMER TERRITORY OF YUGOSLAVIA

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 479, Senator Resolution 306 regarding Yugoslavia. This has been cleared on both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 306) relating to the enforcement of United Nations Security Council resolutions calling for the cessation of hostilities in the former territory of Yugoslavia.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with an amendment, as follows:

On page 3, line 9, strike the word "concurrent."

Mr. LEVIN. Mr. President, as I indicated this resolution has been cleared on both sides. It is cosponsored by Senators MITCHELL and DOLE.

As the crisis in the former Republics of Yugoslavia has escalated, the world has been horrified at the atrocities and the suffering of innocent noncombatants. Cease-fires are being violated with impunity, repression is succeeding, and chaos reigns.

Well over 1 million people have been displaced, thousands have died, humanitarian relief is being denied to innocent civilians, tens of thousands face starvation, and internationally recognized standards of decency and conduct are being ignored repeatedly and flagrantly.

The Serbian Orthodox Church itself openly denounced the Milosevic regime, breaking almost 50 years of silent submission to Communist power. In an unprecedented condemnation, the Bishop's Assembly of the Serbian Orthodox Church last month called for the replacement of the current regime of the Government of National Salvation and National Unity.

The resolutions of the United Nations have been ignored. On April 7, the Security Council unanimously passed Resolution 752, which demands that all parties in Bosnia stop the fighting immediately and that all forms of interference from outside of Bosnia cease. The U.N. resolution also demanded that the Yugoslav Peoples Army and elements of the Peoples Army must either be withdrawn or disbanded and disarmed under international monitoring.

Mr. President, that resolution was ignored, and so the United Nations passed another resolution on May 30, Resolution 757, which reaffirmed the prior resolution and instituted sanctions against Serbia and Montenegro. Those sanctions include a ban on all trade with the Republics of Serbia and Montenegro. They also sever international air travel, suspend cultural and scientific exchanges and exclude those two Republics from international athletic competition.

So the question now arises whether the United Nations should act to enforce its resolutions. It has long been a dream of international organizations and the peoples of the world that an international organization would have the ability to act to enforce its resolutions. The United States has a veto on the Security Council, so the United Nations in no event can act without our concurrence and our approval.

But we have a rare opportunity that we have not had in 50 years to get united international action to enforce U.N. resolutions. The reason it is a new opportunity is that the Soviet Union has disintegrated, the Soviet Union which used to say "no, no, no," and "veto, veto, veto," to all the world's efforts to bring peace during this 50-year period. Until the collapse of the Soviet Union, the Security Council could not proceed because of that veto.

But under chapter III of the U.N. charter, the Security Council can create a military force for the purpose of maintaining international peace and stability. Until now, the United Nations has only authorized ad hoc coalitions to defeat international aggression in Korea and Iraq. But under the charter the United Nations can create a form—if all the members of the Security Council approve—which is comprised of units of those countries that voluntarily send such forces to the United Nations for use to deter aggression, to stop hostilities or to carry out humanitarian missions.

The resolution which is before us, which is cosponsored by Senators MITCHELL and DOLE, asks the President to urge the United Nations to prepare a plan to enforce its resolutions. The exact words of this resolve clause are that the Senate "calls upon the President of the United States to urge the U.N. Security Council to direct the Secretary General of the United Nations to provide a plan and budget for such intervention as may be necessary to enforce the Security Council resolutions seeking cessation of hostilities in the former Republics of Yugoslavia." Such a plan is essential before the United Nations could vote to act to enforce its resolutions because we do not know what resources would be required without such a plan. Just the adoption of that plan would be a strong signal to the Serbian forces of the serious intent of the United Nations to enforce its resolutions.

My own belief is that it is going to require a credible threat of international force to stop the aggression that we see going on in Yugoslavia. And I am talking about a force for which chapter VII provides, not after a cease-fire is in place but to enforce the resolutions of the United Nations to bring peace and cessation of hostilities to the area.

It is difficult enough to achieve a cease-fire, but we do not know that a cease-fire is going to be achieved. One after another cease-fire has been broken. The United Nations is doing extremely important, useful work in trying to achieve a cease-fire, and preparing to insert a force if and when that cease-fire is achieved.

But what the United Nations has authority to do under chapter VII is to enforce militarily its resolutions to bring about a cessation of hostilities, whether or not parties themselves work out a cease-fire.

The only way the United Nations can determine whether to intervene, in a rational way, is to determine what resources would be necessary in order to intervene successfully.

The U.N. special envoy, Cyrus Vance, said recently that the United Nations does not have the resources to enforce its resolutions, and that is sadly true right now. But I do not think we can let it stop there, nor can the United Nations. The United Nations should determine what resources it would take, so it will know the costs of acting to enforce its resolutions, and then weigh that against the cost of not acting.

Our resolution Senate Resolution 306 was approved yesterday by the Foreign Relations Committee and it is now cleared for Senate passage. The United States cannot be the policeman of the world. What we can do is prod the international community to move toward enforcement of its own resolutions. World War I began in Sarajevo, and the conflagration going on there again can easily spread to surrounding areas, first to Kosova and Macedonia, and then beyond.

Time is short and this resolution is an important step in determining what it would take to give teeth to the U.N. Security Council resolutions. That is what they have to have, teeth. Without teeth they will merely be paper resolutions, and they will continue to be ignored until more and more of Europe, and then the world, becomes involved.

Mr. President, this resolution was cleared yesterday evening on both sides. I do not believe that there is anyone else who wishes to speak on the resolution at this time.

The PRESIDING OFFICER (Mr. KOHL). Is there further debate on the resolution?

If there is no objection, the committee amendment to the resolution is agreed to.

The question is on agreeing to the resolution, as amended.

The resolution as amended, was agreed to.

The preamble was agreed to.

The resolution (S. Res. 306), with its preamble, is as follows:

S. RES. 306

Whereas continuing hostilities in the former republics of Yugoslavia are killing thousands of noncombatants, displacing hundreds of thousands of civilians, and causing massive destruction and starvation;

Whereas there is a threat of ever-widening conflict in the republics of the former nation of Yugoslavia, which conflict could extend to other nations in the region;

Whereas resolutions of the United Nations Security Council denouncing the hostilities in the former republics of Yugoslavia, and demanding that they cease, have not been heeded;

Whereas the United Nations Security Council, under Chapter VII of the Charter of the United Nations, has adopted Resolution 757, imposing sanctions on the Yugoslav government, and requesting that the Secretary General work to create a security zone to assure unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina;

Whereas the United Nations Security Council may, under Chapter VII of the United Nations Charter, make plans for the application of armed force to maintain or restore international peace and security, and the United States and other permanent members of the Security Council may veto resolutions of the Security Council;

Whereas officials of the United Nations and the United States have not determined what resources would be required to enforce a cessation of hostilities and bring peace to the former republics of Yugoslavia and, specifically, to enforce Resolution 757;

Whereas knowledge of the resources and military forces needed for such a task would enable the United States and other nations to make an informed judgment about how to take such action;

Whereas the process of devising a plan and budget for such action could, in itself, signal greater resolve at the United Nations to take action; and

Whereas the United States cannot and should not be the world's policeman, but is the one nation with the moral authority and military strength to provide leadership at the United Nations for stronger international coalition efforts to enforce peace: Now, therefore, be it

Resolved, That the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and budget for such intervention as may be necessary to enforce the Security Council resolutions seeking cessation of hostilities in the former republics of Yugoslavia.

SEC. 2. The Secretary of the Senate shall transmit this resolution to the President.

Mr. LEVIN. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank the Chair. I thank the majority leader and the Republican leader for the effort they put into this legislation. They and their staffs have been extraordinarily helpful.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

THE YEAR OF THE WOMAN

Mr. SYMMS. Mr. President, 1992 has been declared the "Year of the Woman." You cannot miss that banner declaration these days, whether it is in some newspaper headline, a splashy feature on a news network, or on some TV talk show.

Women are running for the U.S. Senate, we are told in one breathless report after another; that it is a major breakthrough with history in the making.

But let us ask ourselves. Who is declaring 1992 the "Year of the Woman"? You guessed it. The Democrat candidates, their media allies, and the liberal women's groups.

Let us ask another question: Where were all these cheerleaders in 1990 when the Republican Party fielded an impressive lineup of women candidates, including six well-qualified women running for the U.S. Senate, two of which happen to now be members of the President's administration, one a member of the Cabinet, and one the head of the SBA?

You did not hear anything in 1990 about that being the "Year of the Woman," and the reason is very simple. It is a good question, and do we know the answer? The media decided in 1990 that the Republican women were not the right women. They were not politically correct. They did not suit the political correctness of the American news rooms in general. They were too independent. They did not march in lockstep with every issue on the liberal agenda.

So instead of all the free publicity the Democratic candidates are reaping these days, the Republican women got nothing but a free cold shoulder.

Mr. President, a man who we all know very well and love and admire here in this body, Senate Republican leader BOB DOLE, has blown the whistle on this shameful double standard. In an excellent opinion piece in the Washington Post, Senator DOLE is right on the money when he says:

> Republican women—whether they are pro-choice or whatever—never seem to merit the support of the groups that say they are so dedicated to electing more women to office, women who could have been already on the job, making a difference on Capitol Hill. * * * It seems obvious that most of the self-styled women's groups are more interested in agendas than gender."

The same is true for the media.

Mr. President, I ask unanimous consent that at the end of my remarks, a copy of Senator DOLE's tell-it-like-it-is Washington Post editorial be included in the official RECORD; and I hope some of the cheerleaders finally figure out that 1990 was also the "Year of the Woman"—and it could have been a real history maker had the media given it half the hype that it is showering on the liberal women candidates this year.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. SYMMS. Mr. President, just an aside, in my home State of Idaho we are very proud to have a woman candidate running for the First Congressional District, Rachel Gilbert. She does not fit the mold of most of the liberal agenda of the women's groups in the country, but she fits the mold of the loggers, the miners, the farmers, the mainstream small businessmen, and she is doing very well as a candidate who has just gotten off the ground.

So I hope 1992 will see a broad range of various different women share in some of this limelight that we thus far have heard about by the cheerleaders in the media.

Mr. President, I thank the Chair for the time. I yield the floor.

EXHIBIT 1

[From the Washington Post, May 31, 1992]

IS AMERICA IGNORING GOP WOMEN?

(By Bob Dole)

As a proud resident of the only state in America with a woman U.S. senator, a woman U.S. representative and a woman governor, I fully understand that neither gender has a monopoly on any political office.

Unfortunately, when it comes to U.S. Senate elections, it appears that one party's women candidates do have a monopoly on the media's attention, as we are seeing again this year in the wide national coverage of women candidates in Pennsylvania and Illinois.

Despite a long record of nominating qualified, dynamic and distinguished women to run for the Senate, the Republican Party's female candidates have never enjoyed the unrelenting media and interest-group cheerleading we hear these days for women Democratic candidates. Apparently, the key to being taken seriously—to being declared a force for "change"—by the media and the so-called women's groups is a liberal agenda, not the female gender.

Now, don't get me wrong. I'm all for more women in government, and I have no problem with the Democrats nominating women candidates. Throughout my career in public service, I've worked with highly talented women—in the House, in the Senate and on the highest levels of my staff, including my longtime chief of staff and her fellow staff experts on health care, disabilities, nutrition, arms control, budget and tax policy. I also happen to be married to someone who knows a lot about being a woman in public service.

Across the nation, Americans are being deluged with television and newspaper stories proclaiming that 1992 will be a "breakthrough" year for women candidates. A recent editorial in a major newspaper raved about Democratic women candidates, declaring that "the fallout from the [Clarence] Thomas hearings has produced viable female Senate candidates in a half-dozen states. That's welcome evidence of progress." Like nearly every story on women candidates, the editorial ignores the fact that well-qualified women were running for the Senate long before anyone ever heard of Anita Hill. And why should "welcome progress" be defined by the number of women candidates from the Democratic Party?

Where was all the media cheerleading in 1990, a banner year for women candidates, when a half-dozen Republican women—well-qualified women with serious messages—were running hard for the Senate? These top-flight candidates included Sen. Nancy Kassebaum of Kansas; U.S. Reps. Lynn Martin of Illinois, Pat Saiki of Hawaii and Claudine Schneider of Rhode Island; a New Jersey state official, Christine Whitman; and a prosecutor from Delaware, Jane Brady—not exactly an unseasoned lot of public servants.

How many stories did you see in 1990 pointing out that these six outstanding women were running for the Senate as Republicans, while the Democrats were fielding only two women candidates? Instead of rave editorials and "breakthrough" stories, the media turned on its censorship machine, keeping America in the dark about the historic field of women candidates taking on the status quo. Kassebaum was reelected, but when all five women challengers were defeated by their male opponents there was no editorial out-cry that the old boy network had prevailed again. (Let me add that two of these talented women now serve in the Bush administration—Lynn Martin as secretary of labor and Pat Saiki as head of the Small Business Administration.)

And when Republicans, long before the Thomas-Hill hearings, introduced comprehensive women's-rights legislation—including the first-ever monetary remedies for sexual harassment in the workplace, specific provisions to fight violence against women and the first proposal dealing with corporate discrimination against women—the media gave the plan nothing but the cold shoulder. Regrettably for America's working women, women's rights and Republicans simply don't mix in our nation's newsrooms.

Let's face the facts. Democratic U.S. Senate nominees Carol Moseley Braun and Lynn Yeakel are fast becoming household names. But when was the last time you saw a story on Charlene Haar, another so-called "outsider" who happens to be the Republican U.S. Senate candidate in South Dakota? Notwithstanding a fine opponent, did the Republican former mayor of Charlotte, Sue Myrick, get the same kind of free national hype before North Carolina's Senate primary that we saw in Pennsylvania on the Democratic side?

How many stories have you seen pointing out that since 1980, Republicans have nominated more women to run for the Senate than have the Democrats? Have you ever heard that women have been the Republican U.S. Senate nominee in New Jersey three out of the four most recent elections? Or that despite being outspent by nearly $9 million, Christine Whitman came within three points of unseating an incumbent Garden State senator in 1990? If she had gotten half the media attention Lynn Yeakel has, Christine Whitman might very well be sitting in the Senate today.

Unfortunately, it seems that the media and a few special interest groups have decided that Republican women are not "politically correct." Whether they meet some groups' self-proclaimed litmus tests or not, qualified Republican women—whether they are pro-choice or whatever—never seem to merit the support of the groups that say they are so dedicated to electing more women to office, women who could have been already on the job, making a difference on Capitol Hill.

In fact, time and time again, the so-called liberal women's organizations such as the National Women's Political Caucus have done everything possible to defeat talented Republican candidates. There are many fine women's organizations in America, some of which supported these candidates, but it seems obvious that most of the self-styled women's groups are more interested in agendas than gender.

So the next time you hear criticism of the "98 percent male" Senate, or statements that we need "more women" in the Senate, ask yourself whose fault that really is. The female candidates have been there. Regrettably, the votes, the attention and the political will have not.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

WORKPLACE FAIRNESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 55, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the bill.

MODIFICATION TO COMMITTEE SUBSTITUTE TO S. 55

Mr. MITCHELL. Mr. President, on behalf of the Committee on Labor and Human Resources, and at the request of the Chairman, I send to the desk a modification of the committee substitute.

I advise the Chair and my colleagues that the majority of the members of the Committee on Labor and Human Resources have authorized me to present and make this modification.

The PRESIDING OFFICER. The amendment is so modified.

The modification to committee substitute to S. 55 is as follows:

MODIFICATION TO COMMITTEE SUBSTITUTE TO S. 55

(Purpose: To amend the National Labor Relations Act to protect employees against discrimination based on participation in labor disputes)

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph;

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.

"(iii) (A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a fact-finding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

"(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to fact-finding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a fact-finding board of the kind provided for in Section 1207(b) of Title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in fact-finding and interest arbitration all selected within ten calendar days in the manner provided for in Section 1207(c)(1) of that title. The fact-finding board shall conduct a hearing of the kind required by Section 1207(c)(2) of Title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to fact-finding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under Section 185 of Title 29, United States Code that:

"(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to fact-finding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the fact-finding board issues its report, provided that if the fact-finding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

"(ii) during this time period, there shall be no strike or lockout over any issue submitted to the fact-finding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

"(C) Within seven calendar days after a fact-finding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the fact-finding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the fact-finding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the fact-finding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the fact finding recommendations are for a lesser duration.

"(D) If, within seven calendar days after a fact-finding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the fact-finding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the fact-finding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a fact-finding report issues if the labor organization fails to serve written notice of an acceptance of the fact-finding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.

"(3) The provision of subsection (1) and (2) shall not apply:

"(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20 day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

"(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 9a(e)) selects the final offer submitted by the carrier.".

The PRESIDING OFFICER. The pending question is on the committee substitute, as modified.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the committee substitute for S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes:

George Mitchell, Howard M. Metzenbaum, Paul Wellstone, Claiborne Pell, Paul Simon, Alan Cranston, Bill Bradley, Harris Wofford, Daniel P. Moynihan, Tom Daschle, Daniel K. Inouye, Barbara A. Mikulski, John F. Kerry, Al Gore, Carl Levin, Max Baucus.

Mr. HEFLIN. Mr. President, the filibuster continues against the striker replacement bill. I support cloture with the hope that this proposed legislation be considered and enacted in a compromise approach. It is my hope that the special interests of management and labor be subordinated to what is best for our Nation.

Senator PACKWOOD has introduced an amendment which appears to be a good compromise approach as well as an effort to substantially reduce strikes in the future. If we can get down to business about producing a striker replacement bill which is in the best interest of the American public, I think adjustments and refinements can be made to the Packwood amendment which could settle this issue in a manner that brings fairness to both labor and management and doesn't give an advantage to one over the other.

The Packwood amendment provides that before a strike takes place that the Federal Mediation and Conciliation Service can be brought in to arbitrate a labor-management dispute on economic issues. This amendment provides that if labor refuses to accept the arbitration decision and strikes then management has the right to hire striker replacement workers on a permanent basis. In the event management refuses to accept the arbitration decision then labor has the right to strike and management cannot hire striker replacement workers on a permanent basis.

The compromise sought by the Packwood amendment in no way affects the right of management to hire striker replacements on a temporary basis.

I believe this compromise amendment is not only a good solution to the striker replacement worker dispute but is a substantial step forward toward reducing strikes in the future. America's best interest is served when we have fewer strikes.

Recently, history reflects there is a growing trend to hire permanent workers to take the place of previous permanent labor that was employed before a strike. This trend or even the threat to replace former permanent workers can have a harmful effect on collective-bargaining. The vast majority of the American people believe in the concept of collective bargaining and I feel that it is in the interest of the American public that the collective-bargaining process remain strong.

I am convinced that the vast majority of the American people believe strikes should not be conducted except as a last-ditch effort to reach a collective-bargaining agreement. The Packwood amendment adds further safeguard procedures against unwarranted and frivolous strikes. However, the right to strike to obtain reasonable wages and good working conditions is essential to achieving a collective-bargaining agreement under certain circumstances. If the right to strike is nullified by the right on the part of management to fire on a permanent basis then the present balance in collective bargaining between labor and management is tilted substantially in favor of management. The Packwood amendment is a good compromise and produces a level playing field in the collective-bargaining game as well as creating a substantial deterrent against unwarranted and frivolous strikes.

I am convinced that a compromise is in the best interest of the American public and, therefore, support cloture so that the Packwood compromise concept can be carefully considered and perhaps refined.

ORDERS FOR MONDAY, JUNE 15, 1992, AND TUESDAY, JUNE 16, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the committee substitute amendment to S. 55 occur at 2:15 p.m., on Tuesday, June 16; that the live quorum pursuant to rule XXII be waived; and that Senators may file first-degree amendments until 2:15 p.m. on Monday, June 15, and may file second-degree amendments until 12:30 p.m. on Tuesday, June 16; I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. on Tuesday, June 16, for the two party luncheon conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, accordingly, there will be no rollcall votes today and there will be no rollcall votes on Monday. The next vote will occur at 2:15 p.m. on Tuesday on the motion to invoke cloture on the committee substitute amendment to S. 55, which I have just filed.

The measure remains before the Senate and is open to debate today for any Senator who wishes to address that subject.

We will be in session Monday afternoon during which time there may be further debate on the measure if any Senators choose to do so at that time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised by the managers and by the Senator from Kansas here in behalf of the minority on this matter that there are no Senators known at this time who wish to offer amendments to S. 55, the committee substitute to S. 55 which is now pending, and that there are no Senators who are here wishing to debate that bill at this time.

I want to make certain that there was ample opportunity for debate on that bill, and for Senators to offer amendments who wish to do so. But I am advised on both sides that there are no Senators who either wish to amend or debate that bill.

MORNING BUSINESS

Mr. MITCHELL. Accordingly, I now ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

PRESIDENT BUSH AND THE SUMMIT IN RIO

Mr. KERRY. Mr. President, earlier in the week I returned with a number of my colleagues from Rio de Janeiro, where we attended as members of the Senate delegation, the U.N. Conference on the Environment and Development, which is better known as the Earth summit.

As the Chair well knows, the U.S. Senate is responsible for advising and consenting to any treaties signed by a President, and it has been a practice in recent years for Members of the Senate in arms control and other areas—and a custom for the Senate, certainly in recent times and particularly with respect to arms control—to have Senate delegations observing the ongoing process as the treaty emerges.

I think it has been particularly helpful in allowing the Senate to have a much better sense of what the product at the end may be, but also to feed into the process. During the course of the time that we were in Rio we met with EPA Administrator Reilly on a number of occasions. We had occasion to meet with Maurice Strong, who is the Secretary General of the conference for the United Nations; with a number of ambassadors from important countries that are dealing with similar issues on the environment as we are.

I want to report back to my colleagues that it was both a fascinating and a very frustrating experience. It was fascinating because of the extraordinary number and the variety and the profound importance of the subjects under discussion, and because of the number of nations and cultures and perspectives that were represented in those discussions; and because of the progress that I do believe will result from just the fact that the summit in Rio is taking place. I think sometimes we get so close to events that we find it hard to really focus on the historical importance of those events.

But I believe that the very fact that 120 or so heads of state are getting together in one place at one time to discuss the future health and stability of the global environment is a monumental achievement, and it ought to give hope to even the most cynical and the most pessimistic that these serious issues are not going to be ignored.

I personally regret that, until the last couple of days, the subject of population control and world growth in population was not at the center of this conference, as I think it really ought to have been. There are a lot of reasons for that. One of them, obviously, is the influence of certain religions, certain churches, on the willingness of people in political life to deal with that issue in the way that we ought to.

I personally feel, as a Catholic, that I wish we could separate that which is religious belief, personal belief, from the political dialog, if you will, or at least that we would not have a veto imposed by one institution or a small group of institutions over the body politic of the world. It seems to me that it is possible for us to share beliefs and to pursue those beliefs, while at the same time allowing certain kinds of political issues to be able to play themselves out in a way that is not directly confrontational or inimicable to those deeply held religious beliefs.

I think it is vital for us to begin to think hard about the direction this planet is taking in terms of population growth. You cannot talk about sustainable development. You cannot talk about democracy emerging in some of these countries, where you have 2 or 3 million people in one slum, for example, in Rio de Janeiro, piled on top of each other, incapable of pursuing the fundamentals of life without taking the population explosion into account. And you can't talk about U.S. leadership on the environment without understanding that all of those people are looking to the United States which is 5 or 6 percent of the world's population, but consuming 20 to 25 percent of the world's energy, and looking at the total industrial world which, altogether, consumes some 75 percent of the world energy, and wondering whether they will ever have the opportunity to develop themselves without totally exhausting our planet's ability to sustain life.

There was, despite the very fascinating side of this conference, a very frustrating side, and that was really the role that we played as a country, or did not play, as the case may be, and I regret that. It was a source of frustration as I met with thoughtful people from other countries—the Ambassador from India; the Ambassador from our neighbor, Mexico; the Ambassador of Japan; and a host of other people who are part of the global forum—all of whom looked at us quizzically as representatives of our country and said, "What are you folks doing? Why are you a problem here? Why is it that the country that we admire so, which has shown such leadership, is perceived here in Rio as being a stumbling block?"

I felt a sense of sorrow that what should have been really a moment of triumph and leadership and respect for the United States has turned into something of an international fiasco. It is my personal belief that with strong leadership, we could have trumpeted the environmental record of the United States, which although not entirely what I would like it to be, is still, since the Stockholm conference of 1972, one of the best environmental records in the world. That is a fact. But you would not know it on the basis of the way we have behaved in Rio.

With stronger leadership we could have become deeply and aggressively engaged in negotiations at a high level and succeeded in having our legitimate concerns about funding and intellectual property rights respected, we could have helped forge a strategy for building a consensus around those issues, step-by-step, as well as in the areas of global climate change, biodiversity, forest management, and ocean pollution. Instead, we were viewed as really unwilling to play.

I think President Bush has raised legitimate issues about the funding mechanism, and he has raised legitimate issues about intellectual property. It is important for us in this country to understand precisely how those rights will play out with respect to development in terms of future drugs and future products which may come out of the rain forests. We should be clear about it, and the U.S. Senate should not be forced to sign a treaty that is not clear about those matters.

What I regret is that the possible legitimacy of the President's position on several issues was lost by virtue of the fact that everybody within the community knew and understood that we had chosen basically not to play. There were a series of meetings called the Prepcom, and those took place in New York, Nairobi, Washington, all of which led up to the meeting in Rio. Because we were so recalcitrant in our participation in those meetings, most of the world community had divined that we did not want this to happen, that we were not truly participants. As a consequence of that, we created our own box in which we now find ourselves in Rio.

It is unfortunate. It is also unnecessary. We could have helped the Rio summit to accomplish great things. Instead, the summit will accomplish good things, but it will do so with too little help from the United States and with far too little credit going to the United States.

I think the fact that the administration chose to play it out this way is regrettable, both diplomatically and substantively, and I think unfortunately, probably, they will reap some of the downside of that politically. But I certainly hope that during the course of today, in about an hour or 2 hours, the President will address the plenary, and I hope that in the course of this weekend, the President will undertake to turn things around in a way that will reassure the world community about America's very real commitment to international cooperation on environmental matters.

But I say, Mr. President, that words alone in a speech today will not do that. Policies and attitudes must change. Unfortunately, some of the President's advisers appeared to have persuaded him to adopt a somewhat ideological view of the Rio summit. Under that view, there is essentially no real reason to try to reach agreements with other countries, because it is deemed under that view that those interests are inherently different and hostile to our own. Under that view, less developed nations are thought to be interested only in making demands on the United States; Europe and Japan are interested only in competitive advantage; and every environmental commitment requires an economic sacrifice that we cannot afford. That is the view. And that is the view that, in a sense, has been held out to most of us in this country.

Clearly, there are those in the administration—and I think it is important to note this—at EPA, at CEQ, and in the Department of State, who do not share that view. They may not support every single proposal put forward by other countries, but they are diligent, capable, skilled negotiators, thoughtful people, who are ready to seek compromise and who I think want to make every effort to make the summit and other international negotiations successful.

Unfortunately, this sensible middle-ground position has not prevailed, and the result has been a needless public relations setback for the United States. The responsibility for the administration's failure, as it has been deemed to be thus far in Rio, I think ultimately, obviously, lies with the President, because he chooses who to listen to. But I think if you look at the record, it is clear that we had a false distinction made between environmental progress and jobs. I want to take a moment to talk about that.

Again and again in the course of the last few weeks the President has said, "I am not going to sign something that costs us jobs. I am not going to engage in a process that loses jobs for American citizens." Well, I applaud the President for being concerned about jobs for American citizens.

But to equate the loss of jobs with the embracing of environmental policies is not only unimaginative, it is flatout, 100-percent wrong. And it is wrong in a way that is potentially very damaging to the United States.

I say this, Mr. President, because environmentally friendly and sustainable technologies include some of the most exciting and growth-oriented industries in the world today. It is a $200-billion-a-year business and it is headed for $300 billion by the end of this decade.

Let me say that again: Within the next 8 years, this $200-billion-a-year business will become a $300-billion-a-year business, and it is an area where the United States began with a 40-percent share and an enormous capacity to expand. But the President, for some reason, does not seem willing to embrace this.

And I can assure you that when I was down in Rio, it just leapt out at me, the degree to which the Japanese and the Germans and all of the Europeans have accepted this.

Mr. President, there were 700 accredited Japanese business representatives at this conference. There were some 30 or so from the United States, half of whom, incidentally, I think came from my State, Massachusetts. They were there on their own, trying to hold what is now 40 percent of the share of the world's market held by the United States. There were 700 Japanese entities down there saying "We are going to be the world's leader in this effort," because MITI and the Japanese Government have made a conscious decision that these are the jobs of the future.

You do not see the Japanese or the Germans or the European Economic Community whining and bellyaching about environmental agreements. Eight years ago I traveled to Germany when I was Lieutenant Governor of Massachusetts and responsible for the National Governors Association policy on acid rain. I found a country where the equivalent of our Associated Industries of Massachusetts had voluntarily adopted a policy in order to save their forests, that they were going to retrofit every single business in the nation with scrubbers. They were going to do it without a tax break, without loans and grants, solely by going to the private credit market. And they did it.

I asked the head of this industry effort, who was indeed the CEO of a big company, I said to him, "Why are you doing this? How can you afford to do this?" And his answer to me 8 years ago was, "We can't afford not to do it."

We continued for years after that to hear people in this country arguing about the science on which these people had already made a conscious decision to make this kind of change. Now again and again in Rio, I heard country after country talk to us about their acknowledgment that we have to change the way we are doing these kinds of things. You see these countries out there working to enhance their reputation on the environment, to increase their share of the market for environmentally related goods, to create the kind of jobs that are going to sustain us in the long run, the kind of high value-added job that raises people's standard of living and is actually the kind of jobs which we need more of in the United States.

I was truly shocked to see the level of commitment from these other countries compared to our own; 700 Japanese, 30 or so from our companies.

Do you know how many people are in the traveling party of the President of the United States for a 1-day visit? I understand there are about 600—600 Secret Service, members of the delegation, hangers-on, all kinds of people cramming into all kinds of hotels at the last minute compared to this prolonged commitment from Japan. I just think that is an extraordinary statement about our level of commitment and understanding of what is happening in the world.

And there is not one issue on which it is not happening, whether it is the question of deforestation, desertification in Africa, the whole issue of ocean pollution, the question of overfishing, which we are currently engaged in, the extraordinary depleting of resources around the world as a consequence of our current energy policies.

We are one of the few nations in the world that subsidizes energy use the way we do, but we continue to do it.

What became very clear to me in Rio was that most of these other countries have advanced their thinking and their courage to a point where they are willing to embrace new lifestyles. Now when we talk about new lifestyles in this country, we tend to let Americans think that means we are going to diminish their current standard of living. A new lifestyle does not have to diminish your standard of living at all.

If you decide that you are going to switch from incandescent light bulbs to fluorescent light bulbs that have a 30-year span of life, you have not changed your capacity to read or to light your house. You have not changed your quality of life. If anything, you have improved your quality of life because you will have done so in a way that leaves a better environmental legacy for your children and grandchildren.

We are not posing those kinds of choices to Americans, Mr. President. We are scared to. And that came home to me in spades in the course of the discussions that we had in Rio, that we need to begin to talk sense to the American people about how we are making choices in the marketplace and how we are leading our lives.

In my own State of Massachusetts, company after company is aware of this potential for new products and for new technologies that will make efficient use of our natural resources and that will clean up past environmental mistakes or that safeguard the health and safety of our workers and our communities. I just ask people to think about that.

I mean here we are in a country with all kinds of work safety problems, a country that has to clean up countless messes that we have made from nuclear technology, from hazardous wastes. Would it not be easier to develop technologies that do not make that mess in the first place?

For years in this country we defined a threat to ourselves in the context of the cold war and the Soviet Union. It was legitimate. We decided that in order to safeguard our future, we had to put many billions of dollars into weapons to defend ourselves. And so we designed a lot of weapons. Some of them just sat in the ground, not a big spinoff in terms of the economy. That was because we defined the threat.

We took the money, put it out there and said, we need somebody to design a missile. So somebody designed a missile and a company named Raytheon in Massachusetts, or EE&G or Boeing or McDonnell Douglas, or whoever put a lot of people to work and made a lot of money.

Because the Federal Government defined the threat and held out this pot of gold, and the technology—the entrepreneurial spirit of America—followed the pot of gold. It will not work any differently with respect to the environment.

If we will define the threat, which is air that we cannot breathe adequately that gives us lung cancer, if we will define the threat as food that is not nutritional, if we will define the threat as the destruction of forests because we need wood to build houses, or whatever, or they remove it for cattle, because we are going to eat more meat—surely we can begin to think of ways that will attract the entrepreneurial spirit to the creation of a whole new set of products that are environmentally friendly and which meet that threat.

And in doing so, Mr. President, we can put millions of people to work, create the next generation of green millionaires and billionaires, and change our lifestyles, if you will.

Those are the kinds of choices that a President of the United States ought to be talking about in the context of Rio; about how we are going to be the leader of the world in what is our greatest asset, our human resources, by putting them to work and defining these new technologies.

It amazes me to hear the President define his opposition to combating global climate change on economic grounds, when the administration's own studies indicate that we can maintain the emissions of CO_2 at 1990 levels without any net loss of jobs; and, according to an EPA Commission study, the Clean Air Act amendments of 1990, which will help reduce CO_2 and other greenhouse gas emissions, could generate $50 billion in new business, in new revenues, in this country.

The 1990 Clean Air Act regulations, which they are still seeking to get out from under, will create $50 billion of new revenues in this country.

So we should have learned long ago that delaying necessary environmental protection measures is disastrous economic policy. It is disastrous not just because it slows the development of new environmental technologies but because it adds immeasurably, ultimately, to the cost and difficulty of choices that simply cannot be avoided.

How much wiser it would have been if we had acted before, rather than after, acid rain had poisoned lakes and damaged forests throughout the Northeast. How much cheaper it would have been if we had taken the time to design nuclear weapons plants that did not leak radioactive and other toxic materials into the surrounding land and water. How much easier it would have been, 10 or 20 years ago, to carry out timber policies in the Northwest that would have provided both for jobs and for habitat critical to the endangered species.

A great deal of the world community has come to understand what I believe the majority of the American people understand, and that is that the President is not offering us a choice between economic and environmental well-being, but between doing what is necessary now or waiting to do it at greater cost and at greater hardship later. It is a choice between embracing the future or clinging to the past; a choice between responsibility and retreat.

Whatever the President may or may not do during his visit to Brazil, the message from the Rio summit is real, and it will not go away. The world is changing, and old habits have to change with it.

The natural limits of our environment must inevitably affect the way we live in America next year and in the next century. And those changes are going to alter our lifestyles, although, as I said earlier, they need not diminish at all our standard of living.

But the days of endless, mindless consumption have to be challenged. Our reliance on fossil-based fuels has to be challenged. The ticking time bomb of population growth has to be confronted. New technologies and whole new industries have to arise out of the need for conservation, recycling, clean production, and the use of renewable fuels.

I do not believe the American people fear those changes, I think they welcome them. And I think they understand far better than the President what it will mean for our children and our grandchildren if we continue blithely along, as we have in the past. I think they understand far better than the President's more extreme advisers what the real message, the deeper message of Rio is all about.

For long after the headlines about petty maneuvering and leaked memos have become part of history, we are going to be looking back to Rio as a source of inspiration, and a basis for understanding that our lives are becoming less and less insulated by national borders; that we have more in common with the people of the world, of other countries, than we may have thought. And we better care deeply about even the poorest and most desperate among them, because on their fate ultimately hangs our own.

We are joined together in a set of environmental choices that link us inextricably. We can either decide to face those choices responsibly now, or we can have them forced upon us, or on the next generation. I hope, indeed, that will not be our legacy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

THE RIO SUMMIT

Mrs. KASSEBAUM. Mr. President, first I would like to say I found the comments of the Senator from Massachusetts very thoughtful and very interesting; much I would agree with. I would only say, however, I think one comment he made is so very true. There was an opportunity for us at this Rio summit to tell the important story of what we have done in this country on environment. Our clean air and clear water legislation and our endangered species legislation has really been, I think, pioneering—in the legislative arena, anyway—regarding environmental questions.

I am not sure that, at the Rio summit, there would have even been an opportunity to be heard, necessarily, in a thoughtful manner. It seems to me from what I have read—and it was interesting to hear, because obviously Senator KERRY was there—that it was not designed, necessarily, unfortunately, to be one in which there could have been a thoughtful opportunity to explore in a more constructive manner some of the desires and needs that I think obviously he spoke to in a very eloquent way.

But I just suggest that President Bush has cared about and has wanted to see a strong environmental record. There are ways, certainly, we can work on it to improve that. And part of it is to lay out a road map that shows how it can be done in a constructive and positive way; one that can continue to serve as a guideline for other nations as they struggle to find their opportunity in the environmental field. And it must be done in those countries.

But I found it very thoughtful. I only would suggest that sometimes it is the setting and environment itself of a conference of that magnitude that does not lend itself to thoughtful discussion.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of S. 2845 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Republican leader is recognized.

PUBLIC TV'S GAY AND LESBIAN VARIETY SHOW: MORE QUALITY PROGRAMMING?

Mr. DOLE. Mr. President, 1 week ago the Senate voted to give the Corporation for Public Broadcasting an extremely generous 50-percent increase for the years 1994 through 1996.

The bottom line for the American taxpayers comes to $1.1 billion. That is a lot of money—even for public TV and radio.

I opposed that 50-percent increase on the grounds that it was excessive, that the public broadcasting system was no longer accountable to the taxpayers, and that it has refused to broaden its programming horizons beyond far out liberal themes.

But "Oh no! no! no!" the big public broadcasting apologists cried, "We need the taxpayers' money to maintain 'quality programming,' the kind of quality you just cannot find anywhere else."

This week, after the $1.1 billion authorization passed the Senate with all kinds of fanfare, we finally found out what some of that money is paying for.

It is to help fund new shows, new shows such as "In the Life," a 1-hour "variety show" for gays and lesbians.

According to USA Today, it is like an "Ed Sullivan Show" for gays. And it is coming to your living rooms on June 22.

It is reportedly scheduled for regular programming, too, up to 12 shows per month beginning in the fall.

Mr. President, is this the kind of programming taxpayers and public TV contributors have in mind? I do not think so.

Is this what they had in mind when they sent in their moneys? Is this what the taxpayers had in mind when they gave their hard-earned dollars to PBS?

Is this the entertainment Americans cannot live without?

Is this the kind of "programming imperative" that all those public broadcasting defenders were boasting about for the past few months in their editorials, columns, speeches, and interviews?

It seems that the broadcasting apologists are hiding behind "Big Bird, Mister Rogers, and Masterpiece Theater," laying down their quality smokescreen while they shovel out funding for gay and lesbian variety shows, all those doom and gloom reports about what is wrong with America, and all the other liberal cheerleading we see on public television.

Somehow, while the public broadcasting establishment was in its all-out quality lobbying for $1.1 billion, we did not hear one word, not one word, about "In the Life"—this new program. I wonder why?

Mr. President, the good news is, there will come a day when all this will end; when the people find out that they have been played for a sucker; when the American taxpayer says, "enough is enough!"

Then we will end all the doubletalk about quality programming. And then, perhaps, the taxpayers will finally get their money's worth.

BALANCED BUDGET AMENDMENT

Mr. DOLE. Mr. President, yesterday, unfortunately, the House rejected by a very narrow margin, by nine votes, a balanced budget amendment. I think the irony of it is that 12 Democratic Members, who cosponsored the balanced budget amendment, because of the heavy pressure—extreme pressure brought on them by the Democratic leadership and because of the opposition to the balanced budget amendment by Democratic leaders in the Senate and Democratic leaders in the House—they got 12 Democrats who cosponsored and told the people back home, "We are for a balanced budget amendment," to change their positions. Had these 12 Members of Congress, who are on some kind of honor roll, I guess, stuck with their guns, we would have had a balanced budget amendment coming to the Senate.

I think it is regrettable that the Democratic leadership on both sides, the Senate and the House, have been waging an all-out assault on a bill that the overwhelming majority of Americans want to see made a part of the Constitution, about 77 percent, the last time I checked. Then we had this unholy alliance of organized labor and the Chamber of Commerce. The Chamber of Commerce at the national level is totally ineffective, in any event. Labor is fairly effective. So they went out to defeat the amendment. I do not think the Chamber of Commerce got any votes, but maybe organized labor did.

So we had these special-interest people across the country calling us on the Senate side and the House side, jamming our telephones saying what a terrible thing it would be to have a balanced budget amendment.

Who is it going to be terrible for? Our grandchildren? Our children? Or some other generation that has to pick up the tab for our excesses? Maybe it is not perfect. Maybe it would not have worked. I think it would have. In my view, we take an oath to support the Constitution around here. If this were part of the Constitution and we did not follow our oath and did not support spending restraint, then I think the voters would have another reason—they do not need many more—to make changes in the Congress and to make certain somebody who said one thing and voted another way was not returned to either the House or the Senate.

The next Congress is going to be a whole new and different ballgame. There will be a lot of new faces, a lot of new Members, and if they do not pledge themselves to some special-interest group before they arrive, there will still be opportunities next year. But why wait until next year? Why not bring up the balanced budget amendment in the Senate? Why should we not go on record, every Republican and Democrat go on record, send it back to the House and I think, by that time, this honor roll of the courageous 12 who said one thing and did another might have second thoughts.

So I hope we can schedule the balanced budget amendment at the earliest possible time in the Senate. There is no reason we should not. This is a very important issue. Seventy-seven percent of the American people say, let us give it a shot. And the vote, as close as it was, nine votes—not many votes—is another reason we ought to vote on it, send it back to the House, and I think by that time there will be at least nine Members or more who are willing to support a balanced budget amendment if we can pass it in the Senate. That is a big "if" because the leadership on the other side is opposed to it. But let us bring it up. Let all Members, Republicans, Democrats alike, make their speeches, cast their votes and see how it comes out. It seems to me this is no time to stop, no time to call it off just because the House fell a few votes short the first time around.

So it is my hope that we can have this scheduled, if not early this month, early next month on the Senate side. And we can demonstrate to the American people that we believe in fiscal responsibility, that we cannot predict precisely what will happen if the balanced budget amendment is passed but we believe, at least two-thirds of us believe, that it would bring about the fiscal discipline we need, all of us need. So I hope that the leadership will take a look at possibly scheduling it at the very earliest time.

SALUTE TO MARY ARNOLD

Mr. DOLE. Mr. President, in this political year of disagreements, there is one thing on which every Member of this body can agree—be they Republican or Democrat, conservative or liberal.

That is the fact that both sides of the aisle are fortunate to have such an outstanding floor staff. And for the past 9 years, one of the superstars of the Republican Cloakroom, has been Mary Arnold.

Over the past years, Mary somehow managed to juggle her Senate schedule with Georgetown Law School. I am proud to say that Mary received her law degree last month.

There are those who might say that the last thing Washington, DC, needs is another attorney.

But I am here to say that the legal profession will be well served by having an attorney of such dedication and commitment.

The law profession's gain, however, is the Senate's loss. Mary is leaving the Cloakroom for a position with Black, Manafort, & Stone here in Washington.

I know this body joins me in telling Mary that she leaves with our congratulations, our best wishes, and our hope that she will stay in touch.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

BALANCED BUDGET AMENDMENT

Mr. DECONCINI. Mr. President, I join the minority leader, partly, in expressing my regrets that the balanced budget amendment did not pass. I am always sorry to see Democrats not vote for it. I think 150 did vote for it, if I am not mistaken. I think that indicates there is bipartisan support for this.

I also must say in reflection I am not so upset with Democratic leadership as I am with Republican leadership. Here we have a President of this country who has seen and approved budget agreements year after year, the worst deficit situation for history to see, and now he comes forward and makes this great political pitch in order to get a balanced budget amendment.

I think what happened is that his credibility is so weak in this country on the deficit, after submitting a budget request this year that is going to end up being $400 billion in deficit, that people could not give a lot of credibility to that effort by the President of the United States. We have to have a President who is talking about reducing the deficit, not adding to it, if he wants support of the balanced budget amendment in trying to pass it.

ILLEGAL DRUGS AND VIOLENT CRIME

Mr. DECONCINI. Mr. President, as the Presidential campaign heats up, I am concerned that one very critical issue is being ignored by the three candidates, their political handlers, and the media, our country's battle against illegal drugs and violent crime. I am certainly not trying to downplay the absolute needs of the American economy or getting help to our inner cities or the importance of addressing reforms in health care and education or the deficit reduction or the balanced budget amendment. I am worried, however, that because the issues of drugs and crime do not sit at the very top of the political polls they will be a lower priority and literally may not be discussed at all.

As a Senator who has devoted a great deal of my time and energy in developing and formulating antidrug, anticrime legislation, it does not surprise me that President Bush is satisfied to keep this issue on the back burner. I will admit that George Bush's track record has been an improvement over Ronald Reagan's 8 years. However, it would be nearly impossible not to improve on the Reagan years.

In 1986 and 1988 the Congress, fighting the strong objections of the Reagan White House each step of the way, was able to draft and approve comprehensive antidrug legislation, to create a drug czar, the director of drug programming for this country. These antidrug measures provided billions of dollars in resources and personnel. They brought tough new criminal penalties to the fight. Most importantly, they sent a message to the Reagan administration that if it was not going to propose something, slogans and a lot of words were not going to be enough, that we needed to wage war against the drug cartels and the drug dealers in this country and to do something about treatment and education as well.

The Reagan administration could see the writing on the wall and agreed to it, and we did enact some very tough legislation.

The fight is not over, nor has the war really begun. George Bush has adopted a different approach to fighting the cancer that has stricken this country. He has chosen to play politics with it. President Bush has appointed a seasoned political veteran with little or no professional experience to draft and direct the national drug strategy. At every opportunity these political appointees are either blaming Congress for policy failures or manipulating facts and data in hopes of fooling the American public that drug use is down, or that now it is safe for mothers to let their children venture outdoors; that the war is being won and we are defeating this awful enemy and scourge to our country.

Let me briefly list some of the accomplishments of the Reagan-Bush years. Between 1985 and 1990, the violent crime rate in cities of 250,000 or more increased 35 percent. From 1985 to 1990, suburban robberies, rapes, and aggravated assaults all went up at least 20 percent.

Two years ago White House officials declared that the National Institute of Drug Abuse household surveys would be one of their principal yardsticks for measuring progress in the war on drugs, and they set a 50-percent drop in habitual cocaine use as one of their goals. The 1991 household survey has now been released and it shows weekly cocaine use with a sharp rise, up 29 percent. In the first two quarters of 1991, cocaine-related emergency room visits dramatically increased, up 31 percent; heroin emergency room visits also jumped up 26 percent from the year before.

The administration, which brought us Willie Horton, chose to hand out sweetheart plea bargains to some of the most notorious drug kingpins during the trial of Manuel Noriega so they could get a conviction. I am glad Mr. Noriega was convicted, but I tell you, I hate to see some of these international drug cartel people who we have custody of now, who are serving time, one of them 135 years plus life imprisonment, whatever that amounts to, being given a plea bargain because they testified against Manuel Noriega. That is what the Justice Department has done. That is what this administration has done.

But the most difficult policy decision to understand in the administration's war on drugs and crime is the President's threatened veto of the 1991 crime bill. This piece of legislation, which Mr. Bush refers to as "procriminal," is supported by every major law enforcement organization in America including the Fraternal Order of Police, the National Sheriffs Association, the National Association of Chiefs of Police, just to name a few. Administrators, supervisors, the line officers who fight this war support this crime bill.

This antidrug and crime bill provides the largest ever expansion of the Federal death penalty, over 50 new Federal death penalties. It also includes new efforts to combat gang violence, new penalties for terrorist acts, and increases the existing penalties for repeat drug offenders, assaults, manslaughter, crimes against the elderly.

It also devotes substantial resources to training, and to prisons, to rehabilitation programs, and to education to attempt to persuade this country's generations which are to come, and existing generations, that drugs do kill.

This week the Washington Post published an article entitled "Perot Champion—Unorthodox War on Drugs." After reading the article, I had trouble understanding why unorthodox was included in that headline. I guess it was a bit unorthodox for Ross Perot as a private citizen to actually show an interest as far back as 1979 in the drug abuse problems in Texas.

I guess you would call it unorthodox for a CEO of a major corporation to put business aside for a year to concentrate full-time on his duties as chairman of the Texan War on Drugs Task Force. Perhaps you could term unorthodox Perot's decision to spend millions of dollars of his own hard-earned money before taxes to get the Texas program off the ground and funded when he was having trouble getting the legislature to do so. Finally they came around to see it as he was presenting it.

That is not unorthodox. That is commitment. That is the kind of commitment we need from this President and all candidates who are running for President to talk about the war on drugs that is really not a war, but to talk about the problem facing this country and to offer what they will do if they are elected.

Finally I am not surprised that organizations like the ACLU would be critical of Mr. Perot's efforts to toughen drug laws in Texas, to seize the assets of drug dealers, and to institute a drug testing program at his company, EDS. This Senator does not term those efforts by Mr. Perot unorthodox. I view them as genuine commitments by someone who takes the drug issue seriously and has the courage to take the full action needed, and hopefully is not the only candidate that will do so.

Mr. President, as my colleagues are aware, the strong desire in Congress to wage an effective war on drugs has brought with it some truly innovative and creative ideas, as well as some that you might term crazy. I know many of my colleagues voted against the policy of giving U.S. military pilots the authority to fire on suspected smuggling aircraft. I personally cannot think of anything crazier than the policy of legalizing cocaine, as has been advocated by some.

But that is what our Congress is all about. Everybody can speak their piece. But there have been some constructive things offered by Congress in that crime bill and other proposals that the administration has failed to even come back on with an alternative.

I am sure Ross Perot has probably suggested some methods, which I may not have, with drug traffickers and drug dealers that he would reconsider if he were President or maybe veto if in fact it passed.

On the issue of illegal drugs and violent crimes many of us have let our emotions get away from ourselves as well. But at least he is talking about the issue. I compliment him for it, and I suspect we will see more talk about it and concrete proposals.

The bottom line is we are not winning the war on drugs. We really do not have a war on drugs. In fact, we are not even waging a war yet.

George Bush deserves credit for his success in the Persian Gulf war against Saddam Hussein. If George Bush would take as much interest in waging an effective battle against illegal drugs and violent crime as he did in waging war against Iraq, the results would maybe not be so grim in this country.

We did not win that war either in Iraq. Saddam Hussein is still rambling around building an army, but at least we mobilized this country in the international forces as never mobilized before and literally physically forced him out of Kuwait.

I do not know that you could win a drug war where you eliminated all drugs, but I believe if we organized and mobilized as we did against the Iraqi Army in this country alone, we would get drugs out of this country, or at least the people who are selling them.

On the issue of drugs and crime, Ross Perot appears to be in step with what many of us have been attempting to accomplish for many, many years. Maybe Ross Perot is a leadership change we need to get serious about mounting a war on drugs to really get to it.

I am sure that many will agree we cannot do any worse.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

SENATOR BOB DOLE

Mr. THURMOND. Mr. President, one aspect of life in our Nation's Capital which is as reliable as hot weather in July is the fact that public debate—like debate in this Chamber—often gets rather confusing. Complex issues viewed through the lens of politics sometimes seem about as clear as the Potomac, and news coverage of events in Washington frequently does little to help our constituents understand the facts.

During my 38 years in the Senate, I have especially come to value the ability to cut through all the hoopla and get straight to the heart of an issue. Mr. President, I am sure that my colleagues on both sides of the aisle agree with me that there is no one better at doing that than our distinguished Republican leader, Senator BOB DOLE.

Along with a brilliant mind, keen wit, and political savvy for which he is renowned, Senator DOLE also possesses an enormous amount of clear-eyed common sense. Like a fresh prairie breeze cutting through the muggy haze of a Washington summer day, Senator DOLE's ability to cut through nonsense and distinguish the facts is always welcome.

I recently had the pleasure of reading an article by Senator DOLE in the Washington Post about Republican women running for the Senate. The article points out some important facts about the media's seeming refusal to acknowledge these candidates, and it is vintage BOB DOLE—accurate, informative, and to the point. I request unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 31, 1992]

IS AMERICA IGNORING GOP WOMEN?

(By Bob Dole)

As a proud resident of the only state in America with a woman U.S. senator, a woman U.S. representative and a woman governor, I fully understand that neither gender has a monopoly on any political office.

Unfortunately, when it comes to U.S. Senate elections, it appears that one party's women candidates do have a monopoly on the media's attention, as we are seeing again this year in the wide national coverage of women candidates in Pennsylvania and Illinois.

Despite a long record of nominating qualified, dynamic and distinguished women to run for the Senate, the Republican Party's female candidates have never enjoyed the unrelenting media and interest-group cheerleading we hear these days for women Democratic candidates. Apparently, the key to being taken seriously—to being declared a force for "change"—by the media and the so-called women's groups is a liberal agenda, not the female gender.

Now, don't get me wrong. I'm all for more women in government, and I have no problem with the Democrats nominating women candidates. Throughout my career in public service, I've worked with highly talented women—in the House, in the Senate and on the highest levels of my staff, including my longtime chief of staff and her fellow staff experts on health care, disabilities, nutrition, arms control, budget and tax policy. I also happen to be married to someone who knows a lot about being a woman in public service.

Across the nation, Americans are being deluged with television and newspaper stories proclaiming that 1992 will be a "breakthrough" year for women candidates. A recent editorial in a major newspaper raved about Democratic women candidates, declaring that "the fallout from the [Clarence] Thomas hearings has produced viable female Senate candidates in a half-dozen states. That's welcome evidence of progress." Like nearly every story on women candidates, the editorial ignores the fact that well-qualified women were running for the Senate long before anyone ever heard of Anita Hill. And why should "welcome progress" be defined by the number of women candidates from the Democratic Party?

Where was all the media cheerleading in 1990, a banner year for women candidates, when a half-dozen *Republican* women—well-qualified women with serious messages—were running hard for the Senate? These top-flight candidates included Sen. Nancy Kassebaum of Kansas; U.S. Reps. Lynn Martin of Illinois, Pat Saiki of Hawaii and Claudine Schneider of Rhode Island; a New Jersey state official, Christine Whitman; and a prosecutor from Delaware, Jane Brady—not exactly an unseasoned lot of public servants.

How many stories did you see in 1990 pointing out that these six outstanding women were running for the Senate as Republicans, while the Democrats were fielding only two women candidates? Instead of rave editorials and "break-through" stories, the media turned on its censorship machine, keeping America in the dark about this historic field of women candidates taking on the status quo. Kassebaum was re-elected, but when all five women challengers were defeated by their male opponents there was no editorial outcry that the old boy network had prevailed again. (Let me add that two of these talented women now serve in the Bush administration—Lynn Martin as secretary of Labor and Pat Saiki as head of the Small Business Administration.)

And when Republicans, long before the Thomas-Hill hearings, introduced comprehensive women's-rights legislation—including the first-ever monetary remedies for sexual harassment in the workplace, specific provisions to fight violence against women and the first proposal dealing with corporate discrimination against women—the media gave the plan nothing but the cold shoulder. Regrettably for America's working women, women's rights and Republicans simply don't mix in our nation's newsrooms.

Let's face the facts. Democratic U.S. Senate nominees Carol Moseley Braun and Lynn Yeakel are fast becoming household names. But when was the last time you saw a story on Charlene Haar, another so-called "outsider" who happens to be the Republican U.S. Senate candidate in South Dakota? Notwithstanding a fine opponent, did the Republican former mayor of Charlotte, Sue Myrick, get the same kind of free national hype before North Carolina's Senate primary that we saw in Pennsylvania on the Democratic side?

How many stories have you seen pointing out that since 1980, Republicans have nominated more women to run for the Senate than have the Democrats? Have you ever heard that women have been the Republican U.S. Senate nominee in New Jersey three out of the four most recent elections? Or that despite being outspent by nearly $9 million, Christine Whitman came within three points of unseating an incumbent Garden State senator in 1990? If she had gotten half the media attention Lynn Yeakel has, Christine Whitman might very well be sitting in the Senate today.

Unfortunately, it seems that the media and a few special interest groups have decided that Republican women are not "politically correct." Whether they meet some groups' self-proclaimed litmus tests or not, qualified Republican women—women whether they are pro-choice or whatever—never seem to merit the support of the groups that say they are so dedicated to electing more women to office, women who could have been already on the job, making a difference on Capitol Hill.

In fact, time and time again, the so-called liberal women's organizations such as the National Women's Political Caucus have done everything possible to defeat talented Republican candidates. There are many fine women's organizations in America, some of which supported these candidates, but it seems obvious that most of the self-styled women's groups are more interested in agendas than gender.

So the next time you hear criticism of the "98 percent male" Senate or statements that we need "more women" in the Senate, ask yourself whose fault that really is. The female candidates have been there. Regrettably, the votes, the attention and the political will have not.

TRIBUTE TO DAN HOLDHUSEN

Mr. DASCHLE. Mr. President, I wish to pay tribute to Dan Holdhusen of Sioux Falls, SD, who will be resigning his position as general manager of the Missouri Basin Municipal Power Agency later this month to take a post with the Good Samaritan Society.

The Missouri Basin Municipal Power Agency is a joint action agency that serves 58 municipal electric utilities in South Dakota, North Dakota, Iowa, and Minnesota. Missouri Basin provides supplemental power, joint financing, training, and education programs, joint purchasing, regional and national representation and a variety of other services to its members. Through cooperative action, the agency helps provide reliable electric service to more than 200,000 consumers in the Upper Midwest.

Dan first joined Missouri Basin in June 1977 as the manager of finance and accounting. He was named assistant general manager in 1982, and was appointed general manager in 1987 upon the retirement of Russell Dau. During this 15-year period, Dan played an integral role in the agency's achievements and successes. Under Dan's leadership, Missouri Basin established a strategic planning process that has guided the agency toward the 21st century. The agency is currently embarking on several important steps in that process: a demand-side management program, the TreePower planting program, and extension of member contracts.

Dan took great steps to expand the public affairs efforts of the agency and its members. He has served on several committees and task forces of the American Public Power Association, served for 2 years as president of the Mid-West Electric Consumers Association, and represented the agency on the Missouri Basin power project's management committee and the midcontinent area power pool. Dan's service on these boards and committees has earned him the respect of his colleagues in the electric utility industry.

The electric consumers of Missouri Basin's member utilities have a lot to thank Dan for: quality service, competitive rates, effective leadership, and honorable representation.

Mr. President, I join the people of South Dakota and the members and board of Missouri Basin in extending our best wishes to Dan, his wife Joan, and their two children, as Dan begins a new and exciting challenge with the Good Samaritan Society, a Sioux Falls-based not-for-profit organization. While Dan will be missed, we are pleased to know that others will benefit from his intelligence, integrity, and ingenuity.

BALANCED BUDGET AMENDMENT

Mr. SIMON. Mr. President, we have concluded the debate on the balanced budget constitutional amendment for 1992. Nonetheless, the deficit remains the most urgent economic problem facing the Nation. I submit for the RECORD two columns I have written for Illinois newspapers which outline some of my thoughts on this subject.

There being no objection, the articles are ordered to be printed in the RECORD, as follows:

WHY WE NEED A BALANCED BUDGET AMENDMENT

(By U.S. Senator Paul Simon)

One of the arguments against having a balanced budget amendment in the Constitution—requiring that income match spending unless there is a 60 percent vote of Congress to have a deficit—is that it will hurt social programs.

The fact that I have spent my legislative career fighting for education and health care and other needed social programs I hope would at least cause some to pause enough in their passionate rhetoric to listen, and examine. I would not be sponsoring the constitutional amendment if it would hurt investments we need to build a stronger, better nation.

There are many flaws in the opponents' approach, but let me mention just two:

1. In the past 10 years after adjusting for inflation, these are the spending figures in the federal budget: non-defense discretionary (mostly domestic programs) down 12 percent; defense, up 36 percent; entitlements (such as Social Security and Medicare) up 51 percent; gross interest, up 105 percent. The interest growth—by far the biggest—is squeezing out our ability to respond with social programs. In the next federal budget, gross interest for the first time will become the top spending item. In the next 10 years, interest will be much worse unless it is somehow capped, and the only conceivable way to cap it is with a constitutional amendment. If it is not capped, social programs will suffer even more. Along with the country.

2. In the past 12 years, the amount spent for interest rose by a total of $1.461 trillion. If 12 years ago we had had a constitutional amendment and had not spent the money on interest, would spending on social programs have dropped 12 percent? I doubt it. Would we have spent so much on fancy and frivolous weapons systems? I doubt it. Would the 1981 tax bill have passed? Clearly, it could not have, and the result would be a fairer tax system today, lower interest rates and saving millions of jobs in this country that we have lost. The average income for a family would be higher.

Nothing is more important to most working and out-of-work Americans than jobs that pay well. But studies show conclusively that the federal government deficit has been responsible for one-third to one-half of the trade imbalance, that we have lost much of our industrial base because of the budget deficit. On top of that, long-term interest rates have discouraged not only industrial investment but also home construction, and that has aggravated both employment and housing problems. Shouldn't these factors be weighed by those who promote a special agenda?

The absorption of so much of the world's savings for our deficit also has particularly hurt the poorer nations, which have to pay higher interest rates to borrow (just as our citizens do). And when poorer nations suffer, their people struggle harder for basics and they are less able to purchase products made in the United States.

One of the nation's greatest weaknesses is our failure to do long-term thinking. It is true of the governmental sector and also of the private sector.

Including, unfortunately, some in the private sector who speak for causes in which I believe strongly. In this case, their opposition to a balanced budget amendment will harm the causes they advocate, if they succeed.

SOBERING NEW DEFICIT REPORT CHARTS FOUR ROADS TO OUR FUTURE

(By U.S. Senator Paul Simon)

If you think the balanced budget amendment now before Congress has nothing to do with your future, take a look at the recent report published by the General Accounting Office about where we are, and where we're headed on four different possible courses, to the year 2020:

Road one: Follow the present path of drift and more huge deficits. They suggest, first, that it is not likely to happen, that the economy will face a crisis before 2020, but at best we would maintain about the present level of income, $23,875 per person, but continue to slip behind other nations.

Road two: They call this the "muddle through" road, in which we make some sacrifices and cut the deficit rate about in half from where it is now. It would raise our per capital income to $30,374.

Road three: Balance the budget within nine years. Per capita income: $32,555.

Road four: Balance the budget in nine years and four years later build a slight surplus of about two percent in the budget. The result will be per capital income of $33,353.

Which road should we follow? The answer should be obvious.

During the first 175 years of our nation's history, we balanced the budget 60 percent of the time, and when we had deficits they were only small deficits. The last 25 years we have balanced the budget only once—four percent of the time—piling up huge deficits in the meantime.

We are the first generation of Americans to live high—on our children. We've used a national credit card, sending them the bill and harming their future. The deficit has already cost the nation between 2.5 and 3.5 million jobs, particularly in the manufacturing sector. Our fiscal foolishness has sent jobs to other nations.

In 1986 the average manufacturing wage in the United States was higher than in any other country. Today eleven nations have higher average manufacturing wages.

One of the ironies is that some of the people who will be hurt the worst by our failure to face our problems have been persuaded that we should not do so.

Former Social Security Commissioner Dorcas Hardy has written that Social Security retirement should be in good shape well into the next century—except for one thing: the huge federal debt. That is the only real threat to it.

But some people have persuaded a few of the senior citizen groups to oppose the balanced budget amendment, the very amendment that will do the most to protect their future. Don't ask me to explain that one!

The GAO report says that if we continue to let interest mushroom in the budget, discretionary non-defense spending (such as education, health and agriculture) will experience a drop of approximately one-third over the next decades—optimistically. That assumes that there is no increase in interest rates, but if we continue on our borrowing binge, there is no way interest rates will not rise, and these programs in which I believe strongly will suffer even more.

This year we are spending $4 for each $3 we take in. Yes, it's nice—until the bills come in. And they're already coming in, and it's going to get worse and worse until we stop this nonsense.

We need a constitutional amendment similar to one Thomas Jefferson advocated, limiting the ability of the federal government to borrow.

We owe it to future generations.

EXECUTIVE SESSION

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, and 638; and I further ask unanimous consent that the Senate proceed to their immediate consideration; that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Marc Allen Baas, of Florida, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Lauralee M. Peters, of Virginia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Hume Alexander Horan, of the District of Columbia, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Donald K. Petterson, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Sudan.

Dennis P. Barrett, of Washington, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

Richard Goodwin Capen, Jr., of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Roger A. McGuire, of Ohio, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

William Lacy Swing, of North Carolina, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Reginald Bartholomew, of the District of Columbia, a career member of the Senior Foreign Service, Class of Career Minister, to be the United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Adrian A. Basora, of New Hampshire, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech and Slovak Federal Republic.

Peter Barry Teeley, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Peter Jon de Vos, of Florida, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Robert E. Gribbin III, of Alabama, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

William Henry Gerald FitzGerald, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Pamela J. Turner, of the District of Columbia, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1995. (Reappointment.)

EXECUTIVE OFFICE OF THE PRESIDENT

Kay Coles James, of Virginia, to be Associate Director for National Drug Control Policy.

WILLIAM HENRY GERALD FITZGERALD TO BE UNITED STATES AMBASSADOR TO IRELAND

Mr. WARNER. Mr. President, I strongly recommend the confirmation of Mr. William Henry Gerald FitzGerald to serve as U.S. Ambassador to Ireland. Mr. FitzGerald is currently president of the FitzGerald Corp. and is vice chairman of the African Development Foundation.

Mr. FitzGerald has an impressive record of public service, beginning in 1957 when he began 4 years of service at the State Department as Deputy Director for Management at the International Cooperation Administration. He also served four times as U.S. delegate, political committee, to the Atlantic Treaty Assembly. Bill FitzGerald also has vast private sector experience, including serving in senior positions at a number of large national and international businesses. He is also a member and adviser to many highly respected foreign policy related organizations.

Mr. FitzGerald received his bachelor of science degree from the U.S. Naval Academy. Following graduation, he served two tours in the U.S. Navy.

Mr. President, I am confident Bill FitzGerald has the experience necessary to effectively serve as U.S. Ambassador to the Republic of Ireland. Thank you for allowing me the opportunity to come before the Senate to endorse his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

THE 107TH MERIDIAN BOUNDARY DISPUTE

Mr. DECONCINI. Mr. President, I ask unanimous consent that S. 2833, a bill to resolve the 107th meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States, introduced on Thursday, June 11, by Senators BAUCUS and BURNS be sequentially referred to the Committee on Energy and Natural Resources, if and when it is reported by the Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVEYANCE OF CERTAIN LANDS IN LIVINGSTON PARISH, LA

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 468, S. 1439, regarding a land conveyance in Livingston Parish, LA, that the committee amendment be agreed to and the bill, as amended, be read a third time, passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1439), as amended, was passed, as follows:

S. 1439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds and declares that—

(1) there is a history of adverse claims and title confusion relating to certain lands in Livingston Parish, Louisiana, arising from

private land claims predating the Louisiana Purchase;

(2) numerous parties have in good faith placed valuable improvements upon such lands in the belief that they owned such lands; and

(3) the public interest will be best served by clarifying the uncertainty of title by conveying the interest of the United States in such lands to those affected parties.

SEC. 2. CONVEYANCE OF LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the reservation in subsection (b), the United States hereby grants all right, title, and interest of the United States in and to certain lands in Livingston Parish, Louisiana, as described in section 3, to those parties who, as of the date of enactment of this Act, would be recognized as holders of a right, title, or interest to any portion of such lands under the laws of the State of Louisiana, but for the interest of the United States in such lands.

(b) RESERVATION OF MINERAL RIGHTS.—The United States hereby excepts and reserves from the provisions of subsection (a) of this section, all minerals underlying such lands, along with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary of the Interior may prescribe.

SEC. 3. DESCRIPTION OF LANDS TO BE CONVEYED.

The lands to be conveyed pursuant to this Act are those lands located in section 37, township 5 south, range 4 east, St. Helena Meridian, in Livingston Parish, Louisiana.

THE UNEMPLOYMENT COMPENSATION BILL

Mr. DECONCINI. Mr. President, I ask unanimous consent that on Friday, June 12, the Senate Finance Committee be permitted to file until 4 p.m., H.R. 5260, the unemployment compensation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRADEMARK REMEDY CLARIFICATION ACT

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 462, S. 759, relating to certain trademark laws.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 759) to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2372

(Purpose: To make technical amendments)

Mr. DECONCINI. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2372.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike lines 7 and 8 and insert in lieu thereof the following:

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end thereof:

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2372) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trademark Remedy Clarification Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.

(a) LIABILITY AND REMEDIES.—Section 32(1) of the Act (15 U.S.C. 1114(1)) is amended by adding at the end thereof the following:

"As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employer of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.—The Act is amended by inserting after section 39 (15 U.S.C. 1121) the following new section:

"SEC. 40. (a) Any State, instrumentality of a State or any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity for any violation under this Act.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any person other than a State, instrumentality of a State, or officer or employee of a State or instrumentality of a State acting in his or her official capacity. Such remedies include injunctive relief under section 34, actual damages, profits, costs and attorney's fees under section 35, destruction of infringing articles under section 36, the remedies provided for under sections 32, 37, 38, 42 and 43, and for any other remedies provided under this Act.".

(c) FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTIONS FORBIDDEN.—Section 43(a) of the Act (15 U.S.C. 1125(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end thereof:

"(2) As used in this subsection, the term 'any person' includes any State, instrumentality of a State or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(d) DEFINITION.—Section 45 of the Act (15 U.S.C. 1127) is amended by inserting after the fourth undesignated paragraph the following:

"The term 'person' also includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that on the table.

The motion to lay on the table was agreed to.

PATENT AND PLANT VARIETY PROTECTION REMEDY CLARIFICATION ACT

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 461, S. 758, relating to certain patents, that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 758) was deemed read the third time and passed, as follows:

S. 758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Plant Variety Protection Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PATENTS.

(a) LIABILITY AND REMEDIES.—(1) Section 271 of title 35, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'whoever' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 296. Liability of States, instrumentalities of States, and State officials for infringement of patents

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of a patent under section 271, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item;

"Sec. 296. Liability of States, instrumentalities of States, and State officials for infringement of patents.".

SEC. 3. LIABILITY OF THE STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

(a) INFRINGEMENT OF PLANT VARIETY PROTECTION.—Section 111 of the Plant Variety Protection Act (7 U.S.C. 2541) is amended—

(1) by inserting "(a)" before "Except as otherwise provided"; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in this section, the term 'perform without authority' includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.—Chapter 12 of the Plant Variety Protection Act (7 U.S.C. 2561 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 130 LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

"(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 111, or for any other violation under this title.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are avialable for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 124, and attorney fees under section 125.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOOD LUCK TO MARY ARNOLD

Mr. SIMPSON. Mr. President, Reverend Halverson, our beloved Senate Chaplain, frequently refers to our "Senate family," and to all of us who work in this fascinating place, we know that these are more than just mere words that roll easily off of the tongue. It is very real, and it captures the way the people who work here truly think of each other and the Senate. We have superb people who assist us and staff us in our work. Despite so many of the frustrations that we have to deal with here, I have not yet met anyone who has left this place who did not experience a certain level of sadness, similar to the sadness one experiences when saying good-bye to one's own family. The quality of the personal relationships which are developed among the people who work in every conceivable job here is what makes this place so very unique—and yes, indeed, even a family.

So it is with some level of regret, but with an even greater level of admiration and pride, that I have for this very special lady—that I note that Mary Arnold, a very important member of our Senate family, has now graduated from Georgetown University Law School, and has accepted a position with an outstanding private sector government relations firm—Black, Manafort, Stone & Kelly. Our loss will in every sense be that firm's gain.

I have known Mary Arnold for nearly 10 years. We know her as a cheerful person in the Cloakroom, and she referred to herself as Cloakroom Mary from time to time, with great, good humor. She is a very bright lady who has consistently demonstrated a very high level of performance in her job in the Republican Cloakroom. Despite receiving hundreds of staff and Senator inquiries during the course of her workday, she somehow always managed to maintain a friendly and cheerful disposition. I frankly do not know how she, or any of the other Cloakroom staff, do their jobs so patiently and so well. But they do—on both sides of the aisle. Mary has been professionally helpful to me in many ways during her tenure here. She will be deeply missed by me and my colleagues. We have all equally enjoyed working closely with her.

Mary is a very unique lady who maintained a full-time job in the Cloakroom and also attended Georgetown University Law School. It is that level of ambition and ability that, I am confident, will enable her to succeed in every single endeavor she may attempt. I am pleased that she has accepted a position in the Washington area, and I am thus certain that we will continue to hear her in these corridors, albeit in a much different capacity, certainly.

In closing, I want to take this opportunity to commend this fine lady and thank her for the outstanding service that she has rendered to the U.S. Senate. My wife, Ann, and I congratulate her again on her fine record and service to the U.S. Senate, and wish her the very best in life and in this exciting new professional opportunity. God bless her.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY SPEECH ON EXECUTIVE PAY

Mr. LEVIN. Mr. President, earlier this week, John Robson, Deputy Secretary of the Treasury, gave an address to the Industrial Biotechnology Association. Robson is a former pharmaceutical company executive and former director of a prominent biotechnology firm. He spoke on issues related to executive pay. Given his sentiments, I only hope he was not speaking for the Treasury Department. Robson warned that efforts to improve the information provided to stockholders about their own CEO's pay "better be extremely careful," because trying to put pay data "in neat little box scores and charts * * * just ain't that simple."

Well, that is the point. Executive pay is not simple at all. Today, company pay disclosures go on for pages and pages of legal jargon about stock options, performance shares, performance units, supplemental pension plans, and more. It is so complex that even compensation experts need hours to figure out an executive's total pay from a corporation's annual proxy statement.

Mr. Robson cautions the SEC against requiring a simple chart for these annual corporate proxy statements that adds up all the types of pay and provides a bottom line total for each executive. But that is exactly what stockholders and investors need.

Mr. Robson and I agree that the real watchdogs on executive pay should be the stockholders. But I believe that unless we give them the tools they need, they cannot do the job.

Mr. Robson also states that he "strongly opposes" actions to include stock option compensation in a company's books as an expense, a very important reform which I have introduced in Senate bill 1198. Stock options, which today provide a hefty chunk of pay for corporate executives, are the only type of compensation which a company can deduct as an expense on its tax return, but which it does not have to include in its books as an expense.

Companies can also claim these options as a research expense to increase their R&D tax credit. That means Mr. Robson is defending a system which allows companies to treat stock options as an expense when it comes to tax deductions and tax credits, but not when it comes to the profit and loss statement.

In arguing against recognizing the expense, Mr. Robson says first that there is no consensus on when companies should include a charge to their earnings. What he leaves out is the fact that there is a consensus on the more basic issue, that some charge should be made at some point. For example, the Financial Standards Accounting Board—the leading organization of accounting professionals, which determines what are generally accepted accounting principles—has voted repeatedly and unanimously that stock options have a value and a cost and ought to show up on a company's books as an expense.

Mr. Robson's counterargument is that using his words, even if the "technocrats" are right, no one is being hurt by the status quo.

Well, Mr. Robson is wrong. Stockholders are hurt, investors are hurt, and the country is hurt by distorted accounting that inflates company earnings, hides compensation costs, and encourages runaway executive pay that damages our competitiveness.

Mr. Robson's performance as a apologist for complex pay disclosures and off-the-books accounting, and his obvious disdain for technocrats who insist on straightforward bookkeeping, is all the more disturbing because it is coming from one of the top officials in the Treasury Department.

Vice President QUAYLE, among others, has recognized the disconnect between executive pay and performance and has called for reform. I think it is beyond dispute that the Federal Government is part of the problem. Confusing pay disclosures and inaccurate stock option accounting lead the list of Government failures in this area.

I do not believe that the Federal Government should set pay in the private sector. But some of us are calling for the Federal Government to clean up its act. Mr. Robson is not helping.

COMPLIMENTS TO SENATOR BYRD

Mr. LEVIN. Mr. President, I see the President pro tempore is on the floor. While he is here, I want to tell him what a masterful job he has done relative to the budget, the proposed budget amendment to the Constitution. That amendment was and is a mistake.

The effort that was mounted against it and would be mounted against it if it is going to be offered at a later point, that effort against it has been led by my friend from West Virginia, Senator BYRD. He is the best qualified person in the U.S. Senate to lead the effort against the constitutional amendment on the balanced budget.

It is an amendment which is misguided, which would distort the Constitution, which would not accomplish the job that it seeks to accomplish and, in fact, would create a giant loophole which would allow us to duck doing what we should do during the years of its ratification, and then, if and when it is ratified, in fact not do the job that it purports to do even if it ever became part of the Constitution.

The Senator from West Virginia is a great defender of the Constitution. He is fiscally responsible and wants to do the job here and get it done by responsible leadership here, now, in the legislative body, and not just duck our responsibility by considering an amendment which, again, if it were adopted, would not accomplish the job.

So I want to congratulate him on his effort. And let me tell him that if, in fact, it is resumed, he will have a lot of people who will continue to work with him to defeat this misguided effort to distort our Constitution.

I now yield the floor and thank the Chair.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my friend from Michigan, Senator LEVIN, for his good words. He is one of the most thoughtful Members of this body. I have watched him for years as he has worked in the committees and on the floor. He probes for details. He gets into every nook and cranny of an issue. He is a levelheaded, solid, bright, able, effective, conscientious Senator.

Those words coming from him mean a great deal to me, and I thank him very much.

THE CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. BYRD. Mr. President, while I am on my feet, I also want to thank Senator SIMON for the fine spirit in which he acknowledged the futility of going forward with the constitutional amendment to balance the budget, in light, especially, of the vote that occurred yesterday in the House. Senator SIMON fought a good fight on behalf of his amendment.

He, too, is a very intelligent Senator. He approached this matter as he approaches all issues. He approached it with great enthusiasm. He went from office to office and talked one-on-one and personally with many, many Senators on both sides of the aisle to try to get support for his constitutional amendment to balance the budget. He believed in what he was doing. He sincerely believes, I am sure, that the answer to the fiscal problems facing our country today is a balanced budget in the Constitution.

There are others in the body who, I am sure, are just as dedicated, just as sincere, in their support of a balanced budget amendment to the Constitution. That would have been the easy way to go, of course, politically.

So, I compliment Senator SIMON on his good nature, his unfailing equanimity, his ready smile, and his great heart.

I also compliment those Senators who had the courage to avoid the line of least resistance had the matter been taken up in this Senate. I compliment those in the other body who had the courage to stand against a tidal wave of demagogic passion and emotion that was about to sweep over the House of Representatives.

Mr. President, I have been on this Hill now for 40 years. I am in my 40th year. I served in the other body and I know a little something about it; not as much as I would like to. But that body is very close to the people—the Members run every 2 years—and it touches the grassroots, it is near the soil, it is near the forest and can see the trees.

It took strong leadership in the House and it took a great deal of courage to stand against the demagoguery that is being expressed at both ends of Pennsylvania Avenue with respect to the efficacy of a constitutional amendment to balance the budget—as a way to go, that is easy, and which will force us, if I may put those two words in quotation marks, "force us" to do our duty, "force us" to take action to balance the budget.

Mr. President, I think the other body is to be complimented. I have seen both Houses in times like these when matters were before the bodies; I have seen men and women of courage take a stand that was not popular, take a stand that was not calculated to get them votes back home in the near term.

Many times when I was minority leader of the Senate, I told my colleagues—and the distinguished Presiding Officer, the senior Senator from Montana [Mr. BAUCUS], who is in the Chair today, was in those conferences when I was in the minority leader and we met in room S-211, the LBJ Room—he will recall many times I said to my colleagues, "Vote for what you think is right today. You will not win because we are in the minority. We will lose. But go in there and offer your amendment. You will lose. But do not think just in terms of today. Also think in terms of 6 months from today or a year from today or 18 months from today. How will it look then when you look back on it, not so much how it looks today but how it will look a year from today?"

And it is that way with the many difficult issues that we have to come to grips with. How will it look a year away? Now will it look 10 years away? How will it look to our children and grandchildren? What will they think of us?

Those perspectives, perhaps, are more important because they are more lasting and more eternal. So I have to compliment those in the other body who were willing to take a tough stand. And there were a few of them who were willing to change their minds.

Emerson said:

> A foolish consistency is the hobgoblin of little minds, admired by little statesmen and philosophers and divines.

It took courage for members to change their minds. That is a pretty tough thing to do. But only the foolish and the dead never change their minds.

Mr. President, we all want to balance the budget. There is not a Senator in this body who opposed the balanced budget amendment who does not also want a balanced budget. But he also realizes that the balanced budget amendment is but a "quick fix," and will not bring about a balanced budget.

We also realize that there are times when we must have an unbalanced budget. In a time of recession, we have to have an unbalanced budget. There are other times—in times of military conflict—when we have to have an unbalanced budget. Disasters sweep over the land, unforeseen, God-made, that will put out of kilter the outlays as against the receipts. There are all kinds of such unforeseen problems.

I want to see our fiscal house in order just as much as does any individual on the other side of the aisle or on this side of the aisle, or any President. I want to see a balanced budget. But, Mr. President, the groundwork has not been laid for that yet. We have not had a national debate. The American people have not been informed of the choices they would face. All they have heard is: "Give us a balanced budget amendment. The States balance their budgets. Here we are, almost $4 trillion in debt. What we need is a balanced budget amendment so we will balance our budget at the Federal level."

Well, that is pure demagoguery, Mr. President. Somebody ought to tell the people that the States would have a difficult time, indeed, if it were not for the billions of dollars that flow through the Federal pipeline directly from Washington to the State capitols all around this country.

Last year, 1991, $151 billion in Federal moneys went to the States. This year, fiscal year 1992, it is estimated—the fiscal year is not out yet; just estimated—that $182 billion will flow from the Federal Government to the State governments. Next year, the estimate is, I believe, that $199 billion will flow to the States.

Mr. President, the Governors and State legislators are kidding us when they say to us, "You ought to have a balanced budget amendment in the Constitution so you can balance your budget like we do ours." Of course, there are lots of gimmicks at the State level, as I have said, as well. The States have two budgets, as I said the other day: An operating budget and a capital budget.

But aside with that for the moment. Let there be a balanced budget amendment added to the Federal Constitution and the Congress will be forced to stop funding a lot of the programs that the Federal Government now funds. And the Federal Government will have to raise taxes. Then where will the States be? Instead of $182 billion flowing through that direct pipeline from Washington to the State capitols—as will be the case this year—that money will be cut off. We will have to say to the States: "Look, you will have to shift for yourselves on these programs from now on; we can no longer fund them at the Federal level. That's your problem now. Moreover, we are going to have to raise taxes at the Federal level, now that we have this new amendment in the Constitution. We have to raise taxes. That is going to undercut your tax base at the State level."

I know about these Governors. They come to Washington. They are good men, and they are faithful to their responsibilities. They try to do a good job for their States. But they come to Washington wanting money for State programs. So do the State legislators.

Mr. President, this is the kind of debate we ought to have. The American people are entitled to be informed about the shallow shibboleths from the White House which run, "Well, the States balance their budgets; 49 of the States either have constitutional or statutory requirements that they balance their budgets. That is what I need. Give me a constitutional amendment. Then maybe the Congress will do something. Then we can get together with Congress and balance the budget."

The American people need to be reminded that a pipeline runs across the Alleghenies, and south and north, and in all directions all over this country, across the rivers, the prairies, and the Rockies, through which these Federal funds flow to help the State governments to balance their budgets.

So this is the kind of groundwork that needs to be laid. The American people need to know about the pain that is involved, choices they will have to make.

I have heard Senators say: "Seventy-seven percent of the American people say they want a balanced-budget amendment to the Constitution. Why should we not give the people what they want? The American people want it; 77 percent—77 percent of the American people say they want a constitutional amendment to balance the budget. And why do we not give it to them?"

Mr. President, 77 percent of the American people are not saying that they want an amendment. Seventy-seven percent of the American people are saying they are concerned about the fiscal situation that confronts this country. The polls ask, do you favor a balanced-budget amendment? The people say, "Yes."

But we do not ask the questions in those polls: "Would you like to have your taxes raised? Would you like to have Social Security payments cut? Would you want to see veterans' pensions, veterans' compensation and other entitlements cut? Do you want military spending cut?" In each of these questions, the 77 percent would shrivel, Mr. President.

Do you want a balanced-budget amendment to the Constitution? Yes. Count me as one.

How about increasing your taxes? Well, I do not know about that. No, I do not want our taxes raised.

Well, you folks in the States that have big defense contracts, do you want to see a cut in military spending? That might mean fewer jobs. Well, I would have to think about that.

Now, 77 percent say they want a balanced budget amendment added to the Constitution. How about cutting Social Security? No. No. We can't have that, they would answer.

The press and the politicians need to understand that while 77 percent of the

American people may answer "Yes" to the pollster's questions whether they want a balanced budget amendment to the Constitution, that is not the long and the short of it. Give them their choices. What are your choices? What are you ready to sacrifice? Do you favor a tax increase? Should Social Security be cut back? Where are you prepared to give?

Mr. President, Marius was one of the great Roman generals, and it had been prophesied that he would be made consul seven times. He, indeed, became consul seven times. He only lived a few days after he was made consul the seventh time. But upon one occasion, he put himself under the surgeon's knife. He had wens, or benign tumors, on his legs. He was advised that he should have an operation. He forthwith put himself in the hands of the surgeon and under the surgeon's knife. There was no anesthesia in those days. Marius experienced excruciating pain from the operation on one of his legs.

Plutarch says that Marius never winced. There was no noticeable change in his facial expression as the surgeon used the knife. But after the surgeon had completed his work on one of Marius' legs and turned to the other, Marius said, no thanks, "The pain is not worth the cure."

And so it is with these polls. Seventy-seven percent of the American people say they want a balanced budget amendment; yet, here is this intransigent minority, a little handful of Senators, frustrating the American people who want a balanced budget amendment added to the Constitution. But, Mr. President, we are not asking the American people, What are your choices? Is the pain going to be worth the cure?

Mr. President, we do not need a balanced budget amendment to the Constitution. I am not saying the Constitution should never be amended in some particular. The Constitution, in article V, provides for its own amending. Jefferson said the people have a right to change their Constitution, to change their form of government. The process for its own amending was written into the Constitution by our framers.

But that is not what we should do here. We must not amend the Constitution in a way that could destroy the checks and balances and separation of powers, which are the very pillars on which this representative democracy rests.

Why doesn't the President simply send up a plan? He has the bully, bully pulpit. Let him send up a plan that indicates how the surgery will be performed, that lets us know and lets the American people know what the pain will be before the matter is subjected to the political surgeon's knife.

Let the President say where the pain will be. How much of an increase in taxes will we have to have? And what taxes? How much of a cut in entitlements, and where will the cuts be made? How much of a cut in military spending is the President willing to make beyond the $50 billion that he has indicated he is willing to make over a 5-year period, $50 billion in budget authority and $27 billion in outlays? Why not also cut foreign aid? A constitutional amendment to balance the budget would spare President Bush all political pain for the next 4 years, if he is reelected, after which, he could retire to Maine and sit in the old rocking chair or ride around in his speedboat or play golf. This is no criticism of that. Some people like to play golf, some like to play tennis, some like to watch TV, some like to booze it up and get drunk and go sleep it off and have a carryover headache the next morning. Some of us like to do other things, read history, whatever. But the President should send us up a plan, stop talking about a constitutional amendment to balance the budget, and spell out the details. If the President is going to beat the Congress over the head when it raises taxes, then Congress is not going to raise taxes to balance the budget unless we have him on board. He has to walk the plank with us, and then we do not clobber each other. The balanced budget amendment had its day in the other body and was shot down. Mr. Bush made that amendment an article of faith at the White House. That is gone now, blown out of the water. Now, the President should send us a plan.

He is the only individual in this country who is elected to lead; 535 Members cannot lead. I might try to lead, but there are 99 other Members of this body who also want to lead. He is the only individual who can lead; he was elected to lead; he was elected to be the President of the United States. If the President will lead, we will follow. If it involves pain, it must be pain across the board. The budget cannot be balanced entirely on the backs of the recipients of entitlements and mandatory programs. It cannot be balanced entirely by an increase in taxes. It cannot be balanced entirely through cuts in military spending. It is going to take some of all. But we need the President, and we need to lock arm in arm when we go out into the Rose Garden, and the President says, "Ladies and gentlemen, there is a lot of pain involved here, but we are walking this plank together. These Members of Congress—the Republican leadership, the Democratic leadership—and I, the big boy, bully bully pulpit, the man in the Oval Office, are all in this together. I am not going to clobber them; they are not going to clobber me. We are doing this for you, the American people, for your children and our children. This is for the future, this is for the country. We are forgetting about the Republican Party. We are forgetting about the Democratic Party. I have a plan; this is it."

Now, if the President would send up that kind of plan and stop offering snake oil cures, but offer a plan that involves sacrifice and pain and is evenly balanced across the board, that is equally shared, certainly by some cuts in entitlements, foreign aid spending cuts, military spending cuts, and also some tax increases to balance the budget, then the American people would understand. This would not be a gimmick. They would understand that this involves pain.

But the balanced budget amendment involves no pain on its surface. It does not cost the taxpayers one thin dime. It does not cut one copper penny, one of the old Indian head pennies. It does not cut one out of any program—it is painless, orderless, tasteless, easy to swallow.

Mr. President, I thank my colleagues who were willing to take a stand against the balanced budget amendment to the Constitution, and I again congratulate Senator SIMON. I hope, if this matter ever comes up in the Senate again, he will suffer a change of heart on this matter. He will have time in the meantime to think it over and contemplate. We are all in the same boat together; he and I and our colleagues are all in it together when it comes to wanting to get these budget deficits down and under control. We have to do it. What is the approach? That is the question, and the President of the United States can lead the way.

(Mr. WELLSTONE assumed the chair.)

THE 777TH ANNIVERSARY OF THE SIGNING OF THE MAGNA CARTA

Mr. BYRD. Mr. President, June 15, may I point out, is the 777th anniversary of the signing of the Magna Carta. Seven hundred and seventy-seven years ago, in the year 1215 and June 15, King John put his name on the dotted line and signed the Magna Carta, the great charter of English liberty from which many of our own liberties, many of the clauses, phrases, and sentences in our own Constitution flow. So when we speak of our Constitution, our Constitution is not just 200 years old.

Wendell Phillips said, "All that is valuable in the United States Constitution is one thousand years old." Wendell Phillips had read his English history. That is what we are talking about tampering with here. We are talking about changing a system of government that was the dream of Montesquieu, and was the work of the constitutional framers. We are talking about a Constitution that had its roots far back into the misty centuries of English history.

Seven hundred and seventy-seven years ago the barons, in the meadow by the Thames River at Runnymede, with their swords in their hands, standing behind King John said, "Do it!" And he did it. He signed the Magna Carta, the great charter of English liberty. We Americans owe much to the Anglo-Saxons and the Normans, the people of the British Isles, which was the motherland of many of our ancestors. Many of our liberties go back in straight lines to the great charters, the Petition of Rights, the English Bill of Rights, the Coronation Charter, the Magna Carta, various other documents and statutes and precedents that are embedded in the dusty pages of English history.

So let us remember on this weekend the Magna Carta. Let us also remember that the vote in the House of Representatives yesterday was but another thread in the fabric of history and that we own so very much to those English barons who were willing to pledge their own lives and their fortunes and their sacred honor when they took King John to the table, placed a pen in his hand and said, "Sign it! Do it!" And King John did it. The Magna Carta was reaffirmed in 1216, the very next year, and many times it has since been reaffirmed throughout the long and tortuous course of English history.

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of January 3, 1991, the Secretary of the Senate, on June 11, 1992, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolutions:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes;

H.J. Res. 442. Joint resolution to designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques"; and

H.J. Res. 445. Joint resolution designating June 1992 as "National Scleroderma Awareness Month."

MESSAGES FROM THE HOUSE

At 11:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3614. An act amending the Land Remote-Sensing Commercialization Act of 1984 to secure United States leadership in land remote-sensing by providing date continuity for the Landsat program and by establishing a new national landsat policy, and for other purposes;

H.R. 4342. An act to amend title 38, United States Code, to expand job assistance program for Vietnam era veterans, and for other purposes;

H.R. 4368. An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces, and for other purposes;

H.R. 5006. An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year to the Armed Forces, and for other purposes;

H.R. 5260. An act to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes; and

H.J. Res. 320. Joint resolution authorizing the Government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 232. A concurrent resolution calling on the leaders of the independent states of the former Soviet Union to take steps to implement all commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

The message further announced that pursuant to section 303(c) of Public Law 101-549, the minority leader appoints Dr. Virginia V. Weldon of St. Louis, MO, as a member from private life of the Risk Assessment and Management Commission on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3614. An act amending the Land Remote-Sensing Commercialization Act of 1984 to secure United States leadership in land remote-sensing by providing date continuity for the Landsat program and by establishing a new national landsat policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4342. An act to amend title 38, United States Code, to expand job assistance program for Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4368. An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5006. An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; to the Committee on Armed Services.

H.R. 5260. An act to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes; to the Committee on Finance.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 232. A concurrent resolution calling on the leaders of the independent states of the former Soviet Union to take steps to implement all commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3413. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on security assistance program allocations for fiscal year 1992; to the Committee on Appropriations.

EC-3414. A communication from the Secretary of Transportation, transmitting, pursuant to law, the biennial report on the performance and condition of public mass transportation systems in the United States dated June 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC-3415. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a pay-as-you-go status report; to the Committee on the Budget.

EC-3416. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on H.R. 4990, an act rescinding certain budget authority; to the Committee on the Budget.

EC-3417. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the second and third annual reports of the Federal States of Micronesia on the receipt and expenditure of funds made available under the Compact of Free Association; to the Committee on Energy and Natural Resources.

EC-3418. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3419. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on human rights activities in Ethiopia for the period January 14–April 15, 1992; to the Committee on Foreign Relations.

EC-3420. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to June 4, 1992; to the Committee on Foreign Relations.

EC-3421. A communication from the Chairman of the Production Credit Association Retirement Plan, transmitting, pursuant to law, the annual pension report of the First South Production Credit Association for the plan year ended December 31, 1991; to the Committee on Governmental Affairs.

EC-3422. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Aeronautics and Space Administration, for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3423. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-222 adopted by the Council on June 2, 1992; to the Committee on Governmental Affairs.

EC-3424. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Panama Canal Commission, for the period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3425. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office for the month of April 1992; to the Committee on Governmental Affairs.

EC-3426. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Receipts and Disbursements of the Office of the Public Service Commission's Agency Trust Fund"; to the Committee on Governmental Affairs.

EC-3427. A communication from the Inspector General of the Office of Personnel Management, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Office of Personnel Management, for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3428. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of Council Resolution 9-262, a request for legal admission of Haitian refugees into the United States; to the Committee on Governmental Affairs.

EC-3429. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to improve the administration of bankruptcy estates, and for other purposes; to the Committee on Governmental Affairs.

EC-3430. A communication from the Director of the Federal Bureau of Prisons, transmitting, pursuant to law, the annual report of the Board of Directors of Federal Prison Industries, Inc. for fiscal year 1991; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GLENN:

S. 2844. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM:

S. 2845. A bill to require annual appropriations for all direct spending, including entitlement programs and excepting Social Security, and biannual authorizations for direct spending authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that when one Committee reports, the other Committee have thirty days to report or be discharged.

By Ms. MIKULSKI:

S. 2846. A bill to amend the Office of Federal Procurement Policy Act to provide for the participation of historically Black colleges and universities in federally funded research and development activities; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GLENN:

S. 2844. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Commerce, Science, and Transportation.

REMOVAL OF IMPEDIMENTS TO LICENSING OF A CERTAIN VESSEL

• Mr. GLENN. Mr. President, today I am introducing a bill that will grant coastwise privileges to barge MM 262, a barge owned by Standard Lafarge Corp.

This barge was built, registered, operated, and refitted in the United States. In 1991, it was sold to a Canadian subsidary of Lafarge. The barge was never documented or registered in Canada. Foreign ownership of the vessel prohibits the reregistration of the barge in the United States without the passage of this bill.

Lafarge is a U.S. corporation with extensive cement and aggregate operations on the Great Lakes. Lafarge has attempted on several occasions to hire a carrier for their cargo, but without success. Lafarge has immediate need for the barge, and seeks reregistration in the United States.

Tugs to pull the unmanned barge MM 262 would be chartered from U.S. Great Lakes Companies, adding to employment opportunities on the lakes. The barge would haul only proprietary cargo.

In closing, I urge that this request is given favorable consideration.•

By Mrs. KASSEBAUM:

S. 2845. A bill to require annual appropriations for all direct spending, including entitlement programs and excepting Social Security, and biannual authorizations for direct spending authority; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

DIRECT SPENDING AND ENTITLEMENT PROGRAM ACCOUNTABILITY ACT

Mrs. KASSEBAUM. Mr. President, I am here to speak on a matter regarding our own economy, and how our own budget shapes much of what we are able to do. There has been a lot of debate in the course of the past 2 weeks about whether we should adopt a constitutional amendment to balance the budget. There have been many of us who have questioned whether a constitutional amendment to balance the budget really accomplished the fiscal responsibility that was necessary and that, as a matter of fact, it could be an illusion and take away from us the responsibility that ultimately only we have, in the House and the Senate, and in the executive branch as well, to present and adopt and follow a sound and sensible fiscal policy.

This year the Federal Government will spend approximately $365 billion more than it will take in in revenue. It is a new record for deficit spending, and we are all very aware of that.

Public concern, of course, has grown increasingly, as it periodically has over the last 10 or 12 years, when all of a sudden we realize the deficit is growing and we do not seem to be able to do much about it.

Many people in this Chamber, as well as elsewhere, have believed the constitutional amendment was the solution. I think there is now an opportunity for us to show that we can take some concrete action that will, indeed, help us reach the goal.

We can do a lot of talking about the goals. We can do a lot of talking about a constitutional amendment. But if we are not really willing to take some of the necessary steps to help us get there, then I believe we have failed.

Given this background, I think it is clear at the very least Congress needs to reevaluate the way it spends taxpayers' money. In today's environment, all Federal spending programs should be carefully examined to determine if they are serving the purpose for which they were intended. If they are, fine. If they are not, then the programs should be revamped or eliminated.

With a stagnant deficit, we can no longer afford to spend money on programs, no matter how well intentioned, which are ineffective or unproductive.

Mr. President, the entitlement programs or the mandatory spending for these entitlement programs now account for approximately 50 percent of the Federal budget. Since entitlements are not subject to the annual appropriations process, these programs often receive minimal review by the Congress, and more and more we are trying to move more and more spending initiatives to entitlement programs by which you are automatically funded if you meet the necessary requirements, particularly income or age levels. In fact, because of the politically sensitive nature of many of these programs, most Members are even reluctant to question their operations.

If we are truly going to address our financial problems, Mr. President, I suggest we cannot continue to throw money blindly at these entitlement programs. Perhaps blindly is not the best word to use, because, clearly, if we are a recipient and a participant of this mandatory spending, we would regard it as very important, and much of it is.

The legislation I am introducing today, Mr. President, would require that all entitlement programs, except for Social Security, be subject to the appropriation process beginning in 1994. It would not be automatic, mandatory spending. It would revert back to the yearly appropriations process, which I argue would give us a better opportunity to more thoroughly review the programs, decide when, as a matter of fact, we may need to spend more and when we may need to spend less.

In addition, this legislation would require that these programs be reauthorized every 2 years. They would no longer be automatic entitlement and mandatory spending provisions.

Enactment of this legislation would force Congress periodically to evaluate each entitlement program to determine its value to a financially strapped nation. Programs which work can and should be continued and perhaps even expanded. However, programs that are not functioning as they were intended at the time they were initiated should not continue without modification. At a time when our Government is forced to borrow money just to pay its bills, I think we owe it to the American taxpayer to make sure Government spending programs are operating efficiently, and there is no way, Mr. President, I think we can do that on our entitlement programs unless we are willing to subject them to the authorization and appropriations process. In my opinion, the best way to make that determination on the effectiveness of those operations is to subject them to that scrutiny.

I realize, Mr. President, there is not going to be a growing list of enthusiastic cosponsors of this legislation, but I think if we are serious about what we need to do in a thoughtful fashion, to show that we can govern, to show that we are willing to genuinely undertake a sound and sensible fiscal policy, then it seems to me this is one way to get started.

Mr. DOLE. Mr. President, I thank my colleague from Kansas for a very fine statement, her typical courageous approach to a problem.

By Ms. MIKULSKI:

S. 2846. A bill to amend the Office of Federal Procurement Policy Act to provide for the participation of historically black colleges and universities in federally funded research and development activities; to the Committee on Governmental Affairs.

PARTICIPATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES IN FEDERALLY FUNDED RESEARCH AND DEVELOPMENT ACTIVITIES

• Ms. MIKULSKI. Mr. President, today I am introducing legislation that I believe is very important to this country's research and development activities.

This legislation is designed to include the participation of historically black colleges and universities and nonprofit organizations in Federal research and development activities. These colleges have not benefited from such federally connected activity.

This bill requires that not less than five historically black colleges and universities [HBCU] be designated as federally funded research and development centers [FFRDC's]. This legislation will cost the Federal Government nothing to enact. It simply affords HBCU's the opportunity to contribute to America's research and development projects.

FFRDC's provide specialized research to the Government on a continuous basis in such areas as health, science, and defense. Most agree that HBCU's have not participated in the Federal procurement policy system the way they should. Yet, HBCU's have a great deal to contribute to our national goal of increasing America's knowledge and competitiveness in these areas.

In my own State of Maryland, the historically black colleges and universities are doing great things. As part of the space grant program, Morgan State University, in Baltimore, MD, is able to use its own expertise to provide space research to NASA as part of the NASA grant consortia. Morgan State has done an outstanding job through its involvement in the space grant. It has increased research opportunities for faculty and enhanced curriculum and course development in the areas of science and space technology. Because this program has been so successful, NASA will funnel its future needs for space research and information through Morgan State.

That's not all, Mr. President. At the University of Maryland Eastern Shore, they are working on a variety of research and development projects from textile testing of parachutes for NASA to a toxicology study on one type of diesel fuel for the National Institutes of Environmental Health Sciences, to studies done for USDA on the effects on insecticides polluting Chesapeake Bay and the molting of the blue crab. These are just examples of the great contributions historically black colleges and universities can make to our society.

To establish HBCU's as FFRDC's would allow these institutions to continue to make important contributions to society, and also to share equitably in the Federal resources available for scientific and technical research.

This legislation is not only important to this country's overall development, but it also provides an invaluable opportunity for students to work as research assistants for faculty members on Federal research projects. Students will have the opportunity to gain work experience inside and outside of the classroom because they will have the opportunity to monitor experiments out in the field and for data collection. And finally, this exposure will fuel student interest in research and development and stimulate academic growth.

This bill not only ensures the participation of these important institutions, but it also provides for the development of future scholars as the students who attend these colleges and universities receive advanced higher level of learning.

I hope you will join me in cosponsoring this legislation to ensure that HBCU's are included as part of our national effort to achieve excellence in research and development.•

ADDITIONAL COSPONSORS

S. 709

At the request of Mr. HATCH, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 709, a bill to amend the Internal Revenue Code to allow a deduction for qualified adoption expenses, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1476

At the request of Mr. DANFORTH, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1476, a bill to recognize the organization known as the Shepherd's Centers of America, Incorporated.

S. 2735

At the request of Mr. JOHNSTON, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2735, a bill to establish a national research program to improve the production and marketing of sweetpotatoes and increase the consumption and use of sweetpotatoes by domestic and foreign consumers.

S. 2736

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2736, a bill to prohibit the Secretary of Health and Human Services from taking any action with respect to certain alleged violations of the requirements of title IV of the Social Security Act.

S. 2794

At the request of Mr. DOLE, the name of the Senator from Wyoming [Mr.

WALLOP] was added as a cosponsor of S. 2794, a bill to relieve the regulatory burden on depository institutions, particularly on small depository institutions, and for other purposes.

SENATE JOINT RESOLUTION 312

At the request of Mr. GORTON, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 312, a joint resolution proposing an amendment to the Constitution to provide for a runoff election for the offices of the President and Vice President of the United States if no candidate receives a majority of the electoral college.

SENATE RESOLUTION 306

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Resolution 306, a resolution relating to the enforcement of United Nations Security Council resolutions calling for the cessation of hostilities in the former territory of Yugoslavia.

AMENDMENTS SUBMITTED

TRADEMARK REMEDY CLARIFICATION ACT

DECONCINI AMENDMENT NO. 2372

Mr. DECONCINI proposed an amendment to the bill (S. 759) to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained against a private entity, as follows:

On page 4, strike lines 7 and 8 and insert in lieu thereof the following:

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end thereof:

ADDITIONAL STATEMENTS

THE DROUGHT IN SOUTHERN AFRICA

• Mr. LEAHY. Mr. President, southern Africa today is battling with the most severe drought in recent history. Food shortages are in the millions of tons, and the means to get emergency food and medicines to the needy are inadequate. The question is no longer whether people will starve, but how many. For a country like Mozambique which for a decade has been engulfed in a civil war that has devastated its own agriculture production, this drought is a disaster on top of a catastrophe.

But my purpose is not to dwell on the tragedy of yet another famine. Suffice it to say that there is enough food in the world to prevent hunger—it is rather a matter of getting it to the hungry. We must do all we can to help these countries survive this disaster.

Rather, my purpose is to mention a bright side to this otherwise gloomy picture. Lately, the Agency for International Development has been the focus of severe criticism by Congress and the press. I have been very critical myself of persistent management and accountability problems at AID. However, the public also needs to know when AID is doing its job well, and its response to the southern Africa drought is one example.

When asked to describe AID's response to the drought in Mozambique, the head of that country's emergency relief effort said AID's contribution had been outstanding and fantastic. That is pretty high praise for what could only be described as a huge and complex effort to reach millions of people facing starvation in a country where much of the transport infrastructure has been destroyed by war. AID saw the drought coming and got its emergency relief program started early. Thousands of people who would have died were saved.

The drought is far from over and far more needs to be done throughout the southern Africa region to avert a famine that still threatens the lives of millions. As chairman of both the Foreign Operations Subcommittee and the Agriculture Committee I will do all I can to help AID get food and other relief supplies to the people who need it.

Many people disagree about the goals of our foreign aid program in the post-cold-war era. But I believe there is one thing we all agree on—that the United States has a moral responsibility to help prevent famine, whether in Africa, Asia or anywhere else. I commend AID for its efforts.•

THE CRISIS IN THE BALKANS

• Mr. KERRY. Mr. President, yesterday morning, the Senate Foreign Relations Committee, on which I serve, approved a resolution sponsored by the junior Senator from Michigan, Senator LEVIN, urging the Secretary General of the United Nations to prepare to take the steps that might be necessary to bring peace to the former Republics of Yugoslavia.

It was not a vote to authorize military intervention; but it was a vote to serve warning that multilateral military intervention, undertaken strictly for peacemaking purposes, can no longer be ruled out.

Unlike natural disasters, the tragedy unfolding today in Bosnia-Hercegovina is strictly manmade. It is a product of hate and aggression on the part primarily of Serbian leaders, and of past timidity and confusion on the part of international observers. It has provided an early, and thus far, immensely disappointing test of world peacekeeping capabilities following the conclusion of the cold war. It is also in the process of establishing a dangerous precedent regarding the use of force to settle both internal and international ethnic disputes.

Throughout the past year, Serbian President Slobodan Milosevic has repeatedly misled former United States Secretary of State Cyrus Vance and others engaged in international peacekeeping missions to the region. Over and over again, the world has been assured of Serbia's peaceful desires, of its interest in ceasefires, and of its benign intentions first toward Slovenia, then Croatia, and now Bosnia-Hercegovina. Each time, President Milosevic has lied, and each time, innocent civilians have died as a result of those lies. It is for these reasons that the weekly, sometimes almost daily announcements of temporary truces and ceasefires no longer provide a firm grounds for optimism or hope.

The fact is that President Milosevic and Bosnian Serb leader Radovan Karadzic have been perpetrating large-scale cold-blooded murder in Bosnia-Hercegovina and calling it self-defense. They have conjured up the myth that Bosnian Serbs are being persecuted in that Republic and that they are somehow defending Western civilization from a potential tidal wave of Islamic fundamentalism. In fact, they are carving up the one Republic in former Yugoslavia where a real commitment to interethnic cooperation had previously existed. And the sad reality is that the instances of brutality that have been directed against Serbs in this Republic—and there have been some—appear to have come as a reaction to Serbian aggression, and simply cannot be considered its cause.

I hope the entire world understands that Serbia's present leaders do not reflect the Serbian people, as a whole, nor do they do justice to the legitimate concerns raised by Serbians about interethnic violence in the past. President Milosevic and his allies have, through their deception and aggression, forfeited any claim to trust from former friends and adversaries alike. My strongest hope is that the steady erosion in domestic support for President Milosevic, which we have seen in the actions of the church and the Socialist Party of Yugoslavia in recent weeks, will grow stronger with each passing day.

The resolution approved yesterday by the Foreign Relations Committee recognizes the fact that both the United States, and the international community as a whole, have a responsibility to resist and oppose the forces in Belgrade. To date, we have been patient. We have relied on diplomacy. We have applied economic and political pressure. We have denounced the killing and the violence. But those steps have not yet proven sufficient. Clearly, military intervention of any sort remains a last resort. Other options must continue to be explored. But we cannot stand on the sidelines indefinitely. We cannot pretend it does not matter. After all, the illusion that what happens in Sarajevo is irrelevant to what happens in the outside world should have been shattered 78 years ago.

It is an unfortunate reality that the Bush administration's reaction to events in Yugoslavia over the past year has been indecisive and generally ineffectual. The State Department was slow to recognize that Yugoslavia's breakup into separate Republics was an inevitable consequence of the end of Communist rule. The administration was slow to lend diplomatic support to Slovenian and Croatian claims for independence. And the United States has been inconsistent and confused in responding more recently to the brutal violence in Bosnia-Hercegovina. One day, we seem about to take the lead in mobilizing international opposition to the aggression; the next day we talk as if there is no hope for a solution and little point in trying to bring one about.

It is my hope, from this day forward, that there will be a determined and effective and united international response to events in Bosnia-Hercegovina and elsewhere in the Balkans. We should continue, as I have said, to look upon a military response as a last resort, but we should begin now to prepare for the possibility that a multilateral military intervention for humanitarian and peacemaking purposes will prove unavoidable. There is simply too much at stake for the United States or the United Nations to continue its passive role. The humanitarian stakes alone, the simple fact that thousands of innocent, peace-loving people are at risk for no good reason, requires that no effective option be ruled out.

We here in the United States should remember that we, perhaps more than any other country, have a stake in a stable and peaceful world order. If Serbia emerges from the current fighting with all its goals achieved, the precedent for future Serbias in other countries and other contexts will have been set. The United States is not all-powerful and we cannot police the world; but we remain by far the strongest military force on Earth and we have a capacity to influence international diplomatic and economic policy that is without equal. Even barring the possibility of direct American military intervention, there is a great deal we can do.

First, I hope the President will speak out personally on this issue. It is not enough for second- or third-tier officials at the State Department to express concern about the violence. The level of killing and the magnitude of suffering have long since reached the point where Presidential involvement is urgently required.

Second, the President should continue making full use of the United Nations, the CSCE, world financial institutions and the international business community to put pressure on Serbia to change its ways. It is not enough to talk about the limitations of economic embargoes; the point is to try our best. The United Nations can make it plain, through a Security Council resolution, that the world will never accept, nor allow Serbia to profit from, the fruits of international aggression. The Serbian business community should understand that it will never have normal relations with the outside world as long as the present policies are pursued. And Serbian leaders should be warned that those who commit war crimes are liable to be prosecuted as war criminals, and that their official status may provide no long-term protection from personal accountability and punishment.

Finally, the President should work through the United Nations, in accordance with the Senate resolution, to develop a strategy and means for possible international humanitarian intervention in Bosnia-Hercegovina. The goal of such an intervention should not necessarily be to confront Serbian military forces or to impose a ceasefire. A less ambitious, but still important, goal would be simply to see that the International Red Cross and other humanitarian agencies are allowed to function, in accordance with international law, and that basic supplies are made available to people. The urgency of this goal has been underlined daily within the last 2 weeks as Red Cross and other emergency vehicles have come under fire while attempting to transport food and medicine to little children.

Mr. President, the difficulty of bringing peace to an area as far away and as ordinarily remote from American concerns as the Balkans does not absolve us from the need to act, nor does it eliminate our capacity to influence events. It is a cliche of history that all it takes for evil to prosper is for good men and women to do nothing. We have no guarantee that a more vigorous and aggressive policy toward Serbia and Bosnia-Hercegovina will succeed, but can be sure that the past policy of timidity and inaction will fail. The time has come to do more; to do all we can; and to press our allies and friends to join with us in an effort to stop the killing and start the healing in Bosnia and throughout the region.•

ORDERS FOR MONDAY, JUNE 15, 1992

Mr. BYRD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday, June 15; that following the prayer, the Journal of proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later in the day; provided further that there then be a period for morning business not to extend beyond 2:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JUNE 15, 1992

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until 2 p.m. on Monday, June 15.

The motion was agreed to, and the Senate, at 2:08 p.m., recessed until Monday, June 15, 1992, at 2 p.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 12, 1992:

EXECUTIVE OFFICE OF THE PRESIDENT

Kay Coles James, of Virginia, to be Associate Director for National Drug Control Policy.

DEPARTMENT OF STATE

Marc Allen Baas, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Lauralee M. Peters, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Hume Alexander Horan, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Donald K. Petterson, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Sudan.

Dennis P. Barrett, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

Richard Goodwin Capen, Jr., of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Roger A. McGuire, of Ohio, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

William Lacy Swing, of North Carolina a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Reginald Bartholomew, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be the United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Adrian A. Basora, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech and Slovak Federal Republic.

Peter Barry Teeley, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Peter Jon de Vos, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Robert E. Gribbin III, of Alabama, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

William Henry Gerald FitzGerald, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Pamela J. Turner, of the District of Columbia, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1995.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, June 15, 1992*

The House met at 12 noon.

Rev. Jerry Smith, Riverside Avenue Christian Church, Jacksonville, FL, offered the following prayer

Eternal God, whose power sets worlds in order and sustains them; we pray for our Nation and its leaders. In these times pregnant with unlimited possibilities and also fraught with titanic dangers, we ask for wisdom for Members of the House of Representatives. May the welfare of the Nation be above political preference. Make them constructive leaders wisely shaping the policies of our Nation. Use them as Your instruments to fashion a nation where peace and justice prevail. Bless and strengthen each Member of this body in the deliberations of the day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Wyoming [Mr. THOMAS] will please come forward and lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution and concurrent resolution of the House of the following titles:

H.J. Res. 470. Joint resolution to designate the month of September 1992 as "National Spina Bifida Awareness Month"; and

H. Con. Res. 299. Concurrent resolution expressing the sense of the Congress regarding the Kurds in northern Iraq.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 758. An act to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity;

S. 759. An act to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; and

S. 1439. An act to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA.

REV. JERRY SMITH

(Mr. BENNETT asked and was given permission to address the House for 1 minute.)

Mr. BENNETT. Mr. Speaker, the fine theologian who gave the prayer today is the preacher in my hometown church, the Riverside Christian Church. He is a man who speaks eloquently to me and my family every Sunday and has conducted leadership activity within his church and denomination and also in the city of Jacksonville, FL, which I represent.

He, Jerry Smith, has been on the boards of the National Christian Church organizations. He has a wonderful wife, Eleanor. He is a dedicated man to all things that are good in our time.

The man who founded our church, Alexander Campbell, once addressed Congress years ago and spoke eloquently in those days. So has Jerry today.

Mr. Speaker, we have heard eloquence today from Rev. Jerry Smith, a true brother and a true leader for all things that are good.

THE GOLDEN EGG

(Mr. GOSS asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, 20 years ago Congress laid a golden egg for former Speakers of this House, in the form of hundreds of thousands of dollars of unique postemployment privileges. But the American people are telling us now that they perceive this kind of egg as more rotten than golden. Currently, the taxpayers are financing more than $500,000 each year to keep three former Speakers in official business. True, they do need some time to conclude official duties. But how long does it take, 1 year, 2 years, 10 years, 20 years? The existing law permits the former Speaker to determine when he or she has completed the official duties. The problem is we have three former Speakers retired collectively 25 years who have not yet made such a decision. My bill, H.R. 3561, already cosponsored by more than 50 of our colleagues on both sides of the aisle and included in the minority reform package, simply places a reasonable 3-year limit on this privilege.

We all know it is time to clean house—let us junk this overgenerous perk for former Speakers and put it out with the rest of the trash.

AN URBAN AGENDA IS NEEDED TO HELP AMERICA'S CITIES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, Saturday in the company of Rev. Lewis Coleman, who organized the venture, State Representative Porter Hatcher, and Louisville Alderman Bill Wilson, I spent the better part of the day touring inner-city and urban neighborhoods of my city of Louisville, KY.

During our visit, we talked to business people, to ministers, to community organizers, and to just plain passers-by.

We saw the desolation of the cities, we saw the beauty of those same cities.

My impressions, Mr. Speaker, are several. One of the impressions is that the spirit of the people is indomitable. Hope does spring eternal. If we give the people of the inner cities the tools, they will not only refurbish the physical city but the human resources of those cities as well.

Another impression: We need, and never have more needed, Mr. Speaker, a broad-based urban recovery policy.

I also would leave a final impression, Mr. Speaker. If we save America's cities, we save America, which means that the problem of America's cities is not of just those who live there but of all suburban dwellers and rural dwellers as well.

Mr. Speaker, I can think of no more pressing task than to save America's cities. I can also think of very few more promising ventures than to save America's cities.

BUDGET PROBLEMS UNRESOLVED, REAL WORK LIES AHEAD

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, it will be a major mistake if

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

we believe that financial responsibility and balanced budget problems were resolved here on the floor last week. Indeed, the real battles have yet to begin.

The Democratic leadership managed to kill the balanced budget amendment by arguing that it is not needed—that, in fact, all we need is the will to make hard choices.

Well, Mr. Speaker, I have only been here for 3 years, but I have not seen any evidence of a willingness to make hard choices come from the same folks who insist that constitutional discipline is not needed. On the contrary, the Democrats have controlled the House for more than 30 years and only once in 30 years has there been a balanced budget.

That record would not cause much hope that continuing to do the same thing—no need for change—will bring about any different results.

Day after day on this floor I have heard Members—the Members that say we do not need any change—talk about financial responsibility in the morning and promote programs in the afternoon with increases of 12 to 15 percent over last year—and behave as if there is no connection between the two. You cannot have it both ways.

The proof of the pudding will come soon, during the appropriations bills. The budget proposal—for which the chairman said we do not need any help—already increases the deficit.

There will no doubt be another effort to place some constitutional discipline on spending after the next election. In the meantime, let us make those hard decisions the opponents talked about—not just to create an election issue by attacking the President's program—but truly seek to eliminate the deficit in 5 years.

THE PASSING OF HON. MARTIN B. McKNEALLY

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, it is my sad duty to call to the attention of the House the passing of a former colleague.

Martin B. McKneally, of Newburgh, NY, served in the 91st Congress, 1969 to 1971. He brought to the Congress a sincere and abiding patriotism, which was underscored by his distinguished Army service during World War II, rising to the rank of major, and which he eloquently articulated during his tenure first as New York State commander, and subsequently as national commander, of the American Legion.

Martin McKneally brought to the Congress a respect for our legal system which he learned at Holy Cross College and Fordham Law School, and which he maintained throughout his private law practice during the time he served as legal counsel to the Lincoln Center for the Performing Arts and the 1964–65 New York World's Fair.

Martin McKneally brought to Congress an appreciation for education, manifested in his presidency of the Newburgh Board of Education during a period of unprecedented growth.

It is ironic that Congressman McKneally passed away after a lengthy illness at Castle Point Veterans Hospital—the existence of which owes much to his diligence.

I invite my colleagues to join in extending our condolences to Congressman McKneally's sisters: Dorothy Leavy, Katherine Curry, and Elizabeth Aufferdou; to his nephews and nieces; and to his many friends and admirers. Martin McKneally was an outstanding American.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 16, 1992.

□ 1210

INTERNATIONAL PEACEKEEPING ACT OF 1992

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4548) to authorize contributions to United Nations peacekeeping activities, as amended.

The Clerk read as follows:

H.R. 4548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Peacekeeping Act of 1992".

SEC. 2. UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) Fiscal Year 1992.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated $350,000,000 for fiscal year 1992 for the Department of State for assessed and voluntary contributions of the United States to United Nations peacekeeping activities. Authorizations of appropriations under this subsection shall remain available until October 1, 1994.

(b) Fiscal Year 1993.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated $366,069,000 for fiscal year 1993 for the Department of State for assessed contributions of the United States to United Nations peacekeeping activities.

(c) Contributions to International Organizations.—In addition to such amounts as are authorized to be appropriated in section 102(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, there are authorized to be appropriated $53,814,000 for fiscal year 1993 for "Contributions to International Organizations".

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I say consume.

Mr. Speaker, this legislation authorizes the President's fiscal year 1992 and 1993 requests for contributions to international peacekeeping activities. This authorization is needed to fund outstanding assessments for the U.N. mission for the Western Sahara—Minurso—and the U.N. Iraq-Kuwait observer mission [UNIKOM] as well as costs related to peacekeeping missions in Cambodia [UNTAC] and Yugoslavia [UNPROFOR]. In each case, these peacekeeping operations were initiated or supported by the United States in the U.N. Security Council.

In 1988, the United Nations had only five peacekeeping missions in the field, with no new forces being deployed since 1978. Today, that number has more than doubled. While international peacekeeping may not be the solution to every conflict, and the United Nations resisted peacekeeping missions where regional solutions may be found, it is clear that U.N. peacekeeping has become an important foreign policy and national security tool.

The Congress has already approved part of the President's fiscal year 1992 request, appropriating $270 million of the $350 million included in this legislation. The fiscal year 1993 request is still pending but vital to the success of peacekeeping missions; $350 million to assist the peace process in Cambodia, Angola, El Salvador, and Yugoslavia is a small price to pay for peace and stability.

The United States may stand as the only remaining superpower, but we are mindful that the international community, through the United Nations holds responsibility for creating an environment for peace. This request recognizes that peacemaking and peacekeeping are not the burden of the United States alone. We should embrace and support the burden-sharing approach of U.N. operations that can build and maintain peace around the world. The cost of this policy to the American people is less than one-half of 1 percent of the defense budget. This is indeed a modest legislative proposal to help keep the peace in the wake of the huge expenditures of the cold war.

The final provision of the bill adjusts the fiscal year 1993 authorization for U.S. assessed contributions for the regular U.N. budget at the request of the executive branch pursuant to its revised estimate.

Mr. Speaker, I urge the Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, America and its allies won the cold war. But we have yet to win the peace. Instead, we are in a period of transition and instability on the way to a new world order.

It cost the United States trillions of dollars to win the cold war, and it will cost us some more to secure the peace for ourselves and the generations that follow. Aside from meeting other domestic and foreign needs, we will have to reinforce international institutions. The legislation before us today would help meet the additional costs of international peacekeeping.

H.R. 4548 is not a foreign aid bill. Instead, this bill provides the necessary authorization so that our country can meet its treaty obligations and pay our assessed share of the costs for peacekeeping around the world.

These funds will help meet the costs of keeping the United Nations Blue Helmet peacekeepers in Cambodia, the Golan Heights between Israel and Syria, Lebanon, the Iraq-Kuwait border, El Salvador, Angola, and the Western Sahara. U.N. peacekeepers are vitally needed in these areas to help provide stability until lasting peace arrangements are made.

In its current form, H.R. 4548 is not loaded with bells and whistles. It is a clean bill that simply meets the administration's authorization request of $350 million in fiscal year 1992 and $366 million in fiscal year 1993. It also authorizes $54 million in fiscal year 1993 for the contributions to international organizations account to cover fluctuations in international currency values.

Mr. Speaker, I wish to commend Congressman FASCELL, the chairman of the House Committee on Foreign Affairs, for his leadership in bringing this bill to the floor in a timely manner. The administration supports its passage. I urge my colleagues to give it their support.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the senior member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to express my support for this measure, H.R. 4548, and I commend the gentleman from California [Mr. BERMAN], the outstanding chairman of our House Foreign Affairs International Operations Subcommittee, the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, as well as the distinguished ranking Republican of our committee, the gentleman from Michigan [Mr. BROOMFIELD].

This peacekeeping authorization resolution provides a supplemental authorization of $350 million for fiscal year 1992 for assessed and voluntary contributions to the United Nations for peacekeeping operations and provides that this authorization will remain available until 1994. This is intended to meet costs for the following critically important peacekeeping operations:

Iraq and Kuwait: $13.431 million; Western Sahara: $34.605 million; Angola: $13.391 million; El Salvador: $12.021 million; and Cambodia: $12.319 million.

In addition to those amounts, the administration anticipates core costs for the Cambodian operation above and beyond the costs of the advance mission indicated previously. The operation in the former Yugoslavia, where 14,000 Blue Helmets will be stationed, may be the largest effort ever undertaken.

Section 2(b) of this bill provides a supplemental authorization for fiscal year 1993 of $366,069,000 to meet the requirements of the Cambodian, Yugoslavian, and Salvadoran operations. The authorization is consistent with the administration request, including a technical correction to an error in the preceding year's request.

Mr. Speaker, in so many places throughout the world, the war may be over, but the peace has yet to be been won. Accordingly, Mr. Speaker, I urge our colleagues to fully authorize these funds so that these critically important U.N. peacekeeping operations may continue and be effective.

Mr. BERMAN. Mr. Speaker, the bill which is before the House today, H.R. 4585, responds to the President's request for a reallocation of international affairs funding. The bill authorizes no appropriations in excess of Budget Enforcement Act or budget resolution ceilings.

The peacekeeping operations which this authorization would make possible are of the utmost importance to the foreign policy of the United States. Having won the cold war, we ought to ensure that our victory produces a just and lasting peace. The great part of the funds authorized will be used for the U.N. Transitional Authority in Cambodia [UNTAC]. The people of that country have suffered unimaginably, and anything that the community of nations can do to bring peace to Cambodia is well worth the effort. In fact, the U.N. plan for Cambodia offers that country's only hope for political consolidation without further civil war.

In the case of Yugoslavia, where a significant portion of the balance of the funds will be used, the consequences of continued civil war and suffering can only undermine whatever gains might have been made by the demise of communism.

Many of the conflicts which this money will help pacify were often prolonged and compounded by the play of superpower rivalries. The end of those rivalries has presented both a rare opportunity and the necessity to help bring peace and respite to the peoples of countries like Cambodia, Yugoslavia, Angola, and El Salvador, who have suffered so greatly. Failure to do so will only compound the threat to international stability, and hence to our national security. Our taxpayers have invested hundreds of billions of dollars in our cold war victory; it is incumbent on us to protect their investment with payment of what amounts to a comparatively small insurance premium.

It is also important to emphasize what peacekeeping is not: It is not foreign aid, nor a contribution to the regular U.N. budget, but rather payment for services. The money is paid to the United Nations either as a pass-through directly to countries which contribute troops to peacekeeping forces, to offset a share of the costs of maintaining those troops, or directly to the United Nations for its peacekeeping costs. Neither would funding fiscal year 1993 peacekeeping needs represent, in and of itself, an increase in international affairs spending, since military assistance is being cut more than correspondingly.

Peacekeeping needs and obligations are evolving rapidly. This legislation provides a modest and necessary response to the President's minimal request. I urge my colleagues to support it.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 4548, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mr. ROE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 331) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The Clerk read as follows:

H. CON. RES. 331

Resolved by the House of Representatives (the Senate concurring), That the Greater Washington Soap Box Derby Association ("Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol grounds on July 11, 1992, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate. Such event shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event. For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment, as may be required for the event. The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from California [Mr. PACKARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I welcome the opportunity to speak today on House Concurrent Resolution 331. This resolution would authorize the Greater Washington Soup Box Derby races to be run on the Capitol Grounds on Saturday, July 11, 1992. The All-American Soap Box Derby, and its local affiliate, the Greater Washington Soap Box Derby Association, sponsor this exciting event for the youth of the Greater Washington area.

The races and the preparations for them provide important benefits to youth. These benefits include teaching basic skills in mechanics and aerodynamics as well as pride in workmanship and the joy of competition.

The soap box derby races would take place on the Capitol Grounds and would be free of admission charge.

The association, as the sponsor, would assume all responsibility for expenses and any liability related to the event. The association also would make the necessary arrangements for the races with the approval of the Architect of the Capitol and the Capitol Police Board.

I urge our colleagues to pass this resolution and I reserve the balance of my time.

Mr. PACKARD. Mr. speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 331, which will allow the Greater Washington Soap Box Derby Association to use the Capitol Grounds for their annual soap box derby on July 11. The event itself will occur on Constitution Avenue, which I understand has an ideal slope for the run. Although this event has occurred annually for the past 51 years, this is only the second time that Constitution Avenue has been used for the derby.

Not only will this event be fun for the 40 to 60 expected participants from around the Greater Washington area, but it will teach the young participants the basics of mechanics and aerodynamics as they design and build their soap boxes for the derby. Winners on July 11 will advance to the national derby in Akron, OH.

It is not often that the U.S. Congress has the opportunity to contribute to the time honored art of soap box derbies. I strongly encourage my colleagues to support this bill so that the Greater Washington Soap Box Derby run can use Constitution Avenue.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I want to thank Representative ROE, chairman of the House Public Works Committee, and the ranking minority member, Representative HAMMERSCHMIDT, as well as Representative GUS SAVAGE, chairman of the Subcommittee on Public Work Buildings and Grounds for their strong support and assistance in expediting consideration of this measure, today.

Each was instrumental in helping to inaugurate this event on the Capitol Grounds last year. The soap box derby is a tradition that highlights and celebrates family values.

Authorizing the running of the regional soap box derby race in the shadow of the Nation's Capitol is an important symbol and statement—family, and more importantly, a family's responsibility to nurture and participate in the raising of our children is the foundation upon which our Nation's future rests.

This resolution simply authorizes the use of Constitution Avenue NE., between Delaware and Third, for Greater Washington Soap Box Derby competition—part of the All-American Soap Box Derby—on July 11.

The Architect of the Capitol and the Sergeant at Arms, as is the usual practice, will negotiate a licensing agreement with the local derby association to assure that there will be complete compliance with rules and regulations governing the uses of Capitol Grounds. This year's race will mark the 54th derby.

The local competition offers girls and boys, aged 9 to 16, an invaluable opportunity to develop and practice both sportsmanship and engineering skills. Although the derby focuses attention on the young people, it is actually a family event.

It is entirely appropriate that this event, the derby's Washington region competition which attracts young people from the District of Columbia, northern Virginia, suburban Maryland, and Baltimore, be held near the center of this community.

Young people deserve, and we owe them every opportunity to not only participate in these kinds of activities, but to see others participating in them. As Ken Tomasello, the director of the Metropolitan Washington Soap Box Derby Association has said to me.

> In short, while it (the derby) doesn't keep kids "off the street," it does give them a drug free activity "on the street."

This resolution supports just that kind of effort right here in our back yard. These kids and those who will be watching them will have a street that is safe, and which provides them with the visibility that this kind of event deserves.

Again, I want to thank the chairman and ranking minority member for their help, as well as Speaker FOLEY for his interest in this project.

I urge my colleagues to support the resolution.

Mr. PACKARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 331).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Concurrent Resolution 331.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1220

AUTHORIZING ADDITIONAL APPROPRIATIONS FOR PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Mr. ABERCROMBIE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4999) to authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, as amended.

The Clerk read as follows: to authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House.

H.R. 4999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION.

Section 17(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 885(a)) is amended by adding at the end the following new sentence: "There are further authorized to be appropriated for operating and administrative expenses of the

Corporation $2,686,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.".

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Hawaii [Mr. ABERCROMBIE] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Hawaii [Mr. ABERCROMBIE].

GENERAL LEAVE

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks in the RECORD on the bill presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation we have before us now, H.R. 4999 with an amendment, authorizes $2,686,000 for fiscal year 1993, and as such sums as may be necessary for fiscal year 1994 for the Pennsylvania Avenue Development Corporation.

PADC is a Federal agency established in 1972 and dedicated to the revitalization of Pennsylvania Avenue between the White House and the Capitol. Under its auspices, private developers have constructed or are in the process of developing significant projects, including the Willard Hotel, National Place, 1001 Pennsylvania Avenue, and the Evening Star Building. With appropriations from Congress, PADC has undertaken a program of extensive public improvements that includes landscaping, lighting, new sidewalk and roadway paving, street furniture, and the restoration of landmark structures.

The final stages of completion of the Pennsylvania Avenue development plan will be later-than-expected in part to the recent difficulty in the availability of financing for new private development projects caused by the nationwide problems in the real estate and banking sectors.

On May 13, the Committee on Interior and Insular Affairs discharged the Subcommittee on Energy and the Environment of further consideration of the bill and ordered the bill favorably reported to the House by voice vote. I urge the adoption of this bill by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this bill; the minority and the administration rise in support of this authorization.

The Pennsylvania Avenue Development Corporation has been an effort to revitalize Pennsylvania Avenue, and I think a very successful one. As we look out there now, we see the Willard Hotel, National Place, Evening Star Building, Sears House, Liberty Place, and so on. It has been a very successful partnership.

As a matter of fact, I am told it is one of the few in which the Federal Government actually has received some benefit financially from the effort.

This authorization, of course, is not to purchase or to develop but merely for the administrative function of the Development Corporation. I rise in support of it.

Mr. Speaker, I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON Mr. Speaker, first I wish to thank the gentleman from Pennsylvania, Chairman KOSTMAYER, for his quick grasp and understanding of the legitimate concerns raised by the District of Columbia and indirectly by the Committee on Public Works and Transportation concerning the PADC's current and future role in the District of Columbia.

I very much appreciate the opportunity the gentleman from Pennsylvania, Chairman KOSTMAYER, afforded me to participate in hearings before the Subcommittee on Energy and the Environment this year and last year.

Considering that the PADC has played such an unusually important role in the development of Pennsylvania Avenue for the last 20 years, President John F. Kennedy committed to developing this corridor, recognizing its importance as the road most traveled by international and national dignitaries and Americans alike when they visit Washington, DC.

I support this reauthorization because the PADC has important projects that are essential to the development of a major business section of the District of Columbia and Pennsylvania Avenue, which remain to be completed. Moreover, the PADC will continue to play a role in the development of the International Cultural and Trade Center, the ICTC, the largest Federal complex in this region since the Pentagon.

Thanks to the efforts of the gentleman from New Jersey, Chairman ROBERT ROE, chairman of the Committee on Public Works and Transportation, which has jurisdiction over the ICTC, and Senator PATRICK MOYNIHAN, who has been the leader in carrying out the development of Pennsylvania Avenue, using for the ICTC world-renowned architects, a project authorized by Congress, this development, this project will not be converted to use as a regular Federal office building. The ICTC, now under construction, will be used to promote trade with countries around the world.

Considering the substantial investment Congress has made in this project, preserving its use to promote vital U.S. economic interests was essential to preserving the appropriation, the very substantial appropriation for its intended use.

In an effort to ensure that the Subcommittee on Energy and the Environment can continue to exercise oversight over the activities of the PADC, especially its continuing responsibility for the ICTC, I am pleased that the Committee is recommending that it be authorized for only 2 years at this time.

I am also grateful to the gentleman from Pennsylvania, Chairman KOSTMAYER, for his assurance that the committee will work to fashion an equitable permanent arrangement for maintaining the project on the avenue, one that includes a partnership role for the District of Columbia.

I particularly appreciate the chairman's willingness to examine whether the PADC is, in fact, the best and most cost-efficient successor entity. PADC as done commendable work for the last 20 years. I believe the Congress must continue to review its progress as we approach the final stages of the development of Pennsylvania Avenue. We must do all we can to protect one of America's great investments.

Mr. Speaker, first, I want to thank Chairman PETER KOSTMAYER for his quick grasp and concerned understanding of the legitimate issues raised by the District of Columbia and indirectly by the Public Works Committee concerning the PADC's current and future role in the District of Columbia.

I very much appreciate the opportunity that Chairman PETER KOSTMAYER afforded me to participate in hearings before the Subcommittee on Energy and the Environment this year and last year considering that the PADC has played such an unusually important role in the development of Pennsylvania Avenue for the last 20 years. President John F. Kennedy committed to developing this corridor, recognizing its importance as the road most traveled in Washington, DC by national and international dignitaries and tourists alike.

I support this reauthorization because the PADC has to complete work on important and essential development projects. Moreover, the PADC will continue to play a role in the development of the International Cultural and Trade Center [ICTC], the largest Federal complex in this region since the Pentagon.

Thanks to the efforts of Chairman ROBERT ROE, of the House Public Works Committee which has jurisdiction over this matter, and Senator PATRICK MOYNIHAN, who has been the leader in carrying out President Kennedy's dream, the monumental structure designed by world renowned architects and authorized by Congress will not be converted to use as a regular Federal office building. The ICTC, now under construction, will be used to promote trade with countries all around the world. Considering the substantial investment Congress has made in this project, preserving its use to promote vital US economic interests is essential to preserving the appropriation for its intended use.

In an effort to ensure that the Subcommittee on Energy and Environment can continue to exercise oversight over the activities of the PADC, especially its continuing responsibilities for the ICTC, I am pleased that the committee is recommending that it be authorized for only 2 years at this time.

I also am grateful to Chairman KOSTMAYER for his assurance that the committee will work to fashion an equitable permanent arrangement for maintaining the projects on the Avenue. I particularly appreciate the chairman's willingness to examine whether the PADC is in fact the best and most cost efficient successor entity.

PADC has done commendable work for the last 20 years, and I believe the Congress must continue to review its progress as we approach the final stages of the development of Pennsylvania Avenue. We must do all we can to protect one of America's great investments.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Hawaii [Mr. ABERCROMBIE] that the House suspend the rules and pass the bill, H.R. 4999, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1230

ANNOUNCEMENT OF RETIREMENT OF HON. FRANK HORTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HORTON] is recognized for 5 minutes.

Mr. HORTON. Mr. Speaker, in October 1942, I served as company commander of E Company, 60th Infantry, 9th Division. We combat loaded and sailed from Hampton Roads, VA, to participate in Operation Torch, the invasion of North Africa. My company was part of the 60th Regimental Combat Team of Sub-Task Force Goalpost under the command of MG Lucian K. Truscott, Jr. The task force commander of the Allied Forces was Gen. George S. Patton.

On November 8 of that year—1942—I led my company as one of the two assault companies that landed at Green Beach, Mehdia, Port-Lyuatey, French Morocco. On November 8, 1992—this year—will be 50 years since that landing in North Africa. Of that 50 years, I have served 30 in the U.S. House of Representatives. I have had the privilege of representing the 36th Congressional District of New York, for 10 years from 1963 to 1972, and the 34th Congressional District for 10 years from 1973 to 1982. For that 20 years, my district included about 60 percent of the city of Rochester and Monroe County and all of Wayne County. In 1983, after a redistricting process that resulted in five fewer congressional seats for New York State, and for the past 10 years, I have represented the 29th Congressional District which includes 80,000 people in the city of Rochester, the towns of Brighton, Penfield, and Webster in Monroe County, all of Wayne, Seneca, Cayuga, and Oswego Counties, and eight towns in Oneida County.

I never would have dreamed in 1942 that 30 of my next 50 years would be spent as a Representative in the Congress of the United States of America. Indeed, ours is a glorious country and I have been blessed for the opportunity to serve it on behalf of the citizens who elected me to the office I now hold for 15 consecutive times.

I have served with four minority leaders during my tenure in the House, and with five Speakers and seven Presidents. Over these years, I participated in the great debate and votes on the Civil Rights Act and legislation to end discrimination, on Vietnam, and on issues from education to the environment.

From my position of primary legislative responsibility—ranking minority member of the House Government Operations Committee—I feel I have accomplished much. I coauthored legislation creating inspectors general in each of our major departments and agencies; legislation centralizing and coordinating the clearance of paperwork burdens imposed on the public; legislation bringing competition, fairness, and integrity to the Federal Government's annual $200 billion procurement process; legislation creating a chief financial officer of the United States and putting in place a financial management structure to ensure that an accurate and timely accounting of taxpayer dollars occurs. There are others, too, but these are the ones in which I take the most pride.

And on the subject of personal pride, it has been my great honor to serve as the chairman of New York's bipartisan congressional delegation. I know of no other delegation—ever—where a member of the minority party was selected to chair its affairs. I thank my colleagues from New York. Together we have accomplished much for our State, and I know all of us share the pride I feel not only for our accomplishments, but for the bipartisan approach we take in addressing our State's pressing problems.

My service on the Post Office and Civil Service Committee, too, has been most rewarding. The United States benefits from the finest postal system in the world and the people who work for the system, the postal workers, letter carriers, postmasters, and others are dedicated, hardworking men and women who rarely receive the appreciation they deserve. I truly have benefited from the knowledge and friendships I have gained from my service on this committee.

I enjoyed my service on the Procurement Commission in the early 1970's, my chairmanship of the Commission on Federal Paperwork, my long tenure as founder and cochairman of the Northeast-Midwest Congressional Coalition, and my continuing service as a member of both the North Atlantic Assembly and the United States-Canada Interparliamentary Group.

I must mention one other legislative initiative of which I am proud. Nearly 17 years ago, as a result of a suggestion made to me by Ms. Jeanie Jew of Washington, DC, and my administrative assistant Ruby Moy, I introduced the first legislation to observe Asian/Pacific-American Heritage Week. I was joined in that effort by Congressman MINETA of California, Senator INOUYE of Hawaii, and Senator Matsunaga of Hawaii. The original legislation is now a regular observance. It has been expanded from 1 week to Asian/Pacific-American Heritage Month. It continues to give all Americans the opportunity to celebrate the many contributions of Asian/Pacific-Americans.

Mr. Speaker, it is rare that a person can look back over 30 years of service and say in all honesty that he awoke each morning and looked forward to going to work. I consider myself blessed, however, to be among those rare individuals. I have enjoyed every moment of the past 30 years of service in this Congress.

The current redistricting plan now being advanced for our State has caused me to reassess my options. After 30 years of service in the Congress, I am opting to enjoy a different type of challenge.

If I were to compile a list of those who had helped me in my career, those who have worked with me in Congress or in my congressional district or on my staff, those who have come and gone and those who are with me now, those who in some way touched my life and enriched it these past 30 years, the list would contain hundreds of names, and I would not begin to recite them now for fear of excluding someone. But I want to emphasize that I remember each and every one of them, and I shall never forget them and their contribution. That said, however, I do want to acknowledge and thank three key members of my current staff whose service has been very important to the success I have enjoyed. They are my administrative assistant Ruby Moy, my district representative Dolores Rose, and my Government Operations Committee staff director Don Upson.

Most importantly, I want to thank my wife Nancy for her many sacrifices and support over the years.

There is one more "thank you" I must make. This one sits at the top of my list. To the thousands of people who went to the ballot box so many times, and who felt it was in their interest for me to serve on their behalf in Congress, you have my lifelong and heartfelt appreciation. You are responsible for the 30-year honor and privilege I have had to serve you in the House of Representatives and I thank you. It has been very gratifying over these years to have had your support. I care deeply about you, your problems and your hopes and dreams for your families and for this great country of ours. I loved my districts and my people and I was thrilled to serve them. It is not easy to say goodbye.

Mr. Speaker, colleagues and friends on both sides of the aisle, I will not seek reelection to the 103d Congress this fall. It has been a high honor and great privilege to serve in this, the greatest parliamentary body in the history of the world. I have indeed been blessed.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is with a great deal of sadness and with a great deal of remorse that we hear the gentleman's statement today. It came as a great shock to many of his good friends in the Congress. We know how he has served with distinction over the past 30 years in the many districts he has served in that period, the 29th, 34th, 36th in Rochester, and served well. I know his constituents are going to regret his decision.

As the dean of our New York congressional delegation and chairman of our delegation, we have often looked to him for leadership and guidance in very important issues affecting our State. He has served our State well in that capacity.

As the ranking member on the Committee on Government Operations, we know the important measures that the gentleman has helped to guide through the Congress. There, too, we are going to miss his level-headed guidance as he has addressed those issues in the past.

□ 1240

And also as a senior member on our House Post Office and Civil Service Committee you have given me a great deal of guidance in my capacity as ranking member in the many trials and tribulations confronting that committee.

I had, as you may recall, a very wonderful occasion to be able to join with you as you exhibited a great deal of pride on your son's graduation at Annapolis many years ago, and FRANK often spoke of the many things that his son was doing for our Nation. So not only was your military service a proud record, but so is your son's military service for our naval forces a proud record.

All I can say, FRANK, is that we wish you and Nancy good health in the years ahead, and may you enjoy your retirement. You are going to be sorely missed in this body.

Mr. HORTON. I thank you very much. You have been a close personal friend of mine over these years, and I have enjoyed serving with you on the Post Office and Civil Service Committee, and you have been a very valuable member of the New York delegation, and I thank you for your kind personal remarks.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am glad to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Well, FRANK, I too want to add my sadness to your decision to retire. I had to make that same decision a few weeks ago myself.

Mr. HORTON. I know you did.

Mr. BROOMFIELD. There is life after your service in Congress. But I for one know that you are probably one of the hardest working Members that I have known in the 36 years that I have served here. Very few Members have gone home just about every weekend during their tenure here, but you have.

I will always remember you not only for your work here in the Congress, but your work on the Foreign Affairs Committee, because many times you have worked with my committee in going on different trips to foreign countries where you made great contributions and so forth. It is going to be a great loss not only for your district and for the country, but probably here in the Congress when they are going to need people of your stature and stability to keep things moving in the right direction.

But nevertheless, any way I just wanted to add my congratulations and best wishes to you and Nancy. You have been a great friend of mine. Obviously, that friendship will continue, but I want to wish you the very best on your retirement.

Mr. HORTON. Thank you very much. I appreciate that. I want to thank the ranking minority member of the Committee on Foreign Affairs, BILL BROOMFIELD, for his beautiful remarks. He has been a close personal friend of mine, and we are going to miss you around here too.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am very happy to yield to the distinguished gentleman from Florida, chairman of the Foreign Affairs Committee. I did not see you over there, DANTE.

Mr. FASCELL. It is pretty hard. I am close to the ground. When I came here a long time ago, FRANK, I was as tall and as handsome as you are, except I have been beaten down a little bit. I am glad to see you are still in good humor.

This is the first day of a new career for you, FRANK, you and Nancy. And from the Democratic side I want to wish you well, and also to extend my commendations to you for a job well done in the Congress of the United States, not only on behalf of your own constituents, but on behalf of the country.

We have worked together on so many things, FRANK. I do not know how it will be if we do not get a chance, but maybe we can get an opportunity now that both of us are leaving the Congress to work on something else.

I do not think people realize or appreciate fully on the outside what kind of effect a Member like yourself makes in this body, FRANK. You fight when it is necessary. You believe what you believe. But the very essence of democracy has always been the fact that the parties can work together. And whether it is on the Government Operations Committee, or on the North Atlantic Assembly or any other group, you have been the kind of person who not only sees the issue, but is able and willing to work out in a gentlemanly fashion the kind of legislative body that it ought to be. In the history books of this country you will go down as one of the greats, because it does not take any strength or any brains to be on opposite ends of an issue and stay there forever. What it takes in our system is the courage, the ability, the creativity and the initiative to bring opposite poles together so that we can make progress in this country for the benefit of the people of this country.

You have been truly an outstanding public servant in every sense of the world. You have had a magnificent career. All of us here and all of the people who supported you, your family, your friends, your constituents are very proud of you, and I am very pleased to be able to join in saying to you, FRANK HORTON, thank you very much for everything you have done.

Mr. HORTON. DANTE, I want to thank you from the bottom of my heart. I do not think anybody has ever expressed better what this institution is about than you just did. Working with chairmen, ranking members, members of the committee, this is the way to get legislation through, and this is to the benefit of the people. Thank you.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Speaker, I am sure the most important and touching comments will come from your friends that have served with you for 30 years. But I want to take just a second as a relative newcomer to this body, having served on the committee with you as ranking member for only 3 years, but I want to tell you how much we appreciate your taking time with your experience and with your leadership to help Members who come here newly, and to take them under your wing and give them some guidance. And you do that, and you do it very well, and I appreciate it very much.

Mr. HORTON. Thank you very much.

The SPEAKER pro tempore (Mr. MAZZOLI). Before the gentleman's time has expired, the Chair would like to say a few words to the gentleman.

Mr. HORTON. I was just going to thank the Speaker for being very generous with my 5 minutes.

The SPEAKER pro tempore. The Chair would just say that we are operating with an elastic time clock here.

But the Chair would observe for his own part and on the part of the Members of the House that the gentleman has indeed served his constituency very well, and he will be very sorely missed in this body.

Mr. HORTON. I thank the Speaker very much, and I yield back the balance of my time.

THE CHALLENGES FACING AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 60 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, the last gentleman in the well, a Republican, just announced that after many, many years, nearly four decades of public service he was leaving the U.S. Congress. I do not know FRANK HORTON very well. I do not serve on a committee with him. Our offices are not adjacent to each other. I do not walk back and forth to vote with FRANK HORTON, so I do not know him very well. I know him to speak to him. I know his reputation. And as I sat here listening to Congressman HORTON from New York today it occurred to me that he and so many others like him, Congressman FASCELL who spoke, Congressman BROOMFIELD who spoke, and others represent the way this institution is supposed to be. A lot of good people who work very hard to try and solve problems in this country and try and make decisions about what is right in this country.

Contrast that with those who try to bring disrespect on this institution, those who wear bags over their heads, those who call incumbents corrupt incumbents.

□ 1250

You know, it saddens me to see those who want to tear down institutions, because the institution of the U.S. House is by and large made up of people like the gentleman from New York [Mr. HORTON] and like the gentleman from Florida [Mr. FASCELL], people who are not show horses, who are not here for the publicity. They work hard. They work long hours, travel weekends, put in decades of public service. Why? Because they care about their obligation to serve this country's interest. They are what I think is the best about public service in this country and they are the rule, not the exception in this House of Representatives, on both sides of the political aisle.

I think that the American people should know once again, even as all of us here understand the sour mood that is prevalent in this country, that people like the gentleman from New York [Mr. HORTON] and others represent the backbone of the U.S. Congress, good people, honest people, people trying to do the right thing for this country.

I came here 12 years ago because I thought, and I still think, there is a need to pitch in to try to make a difference in this country. We have plenty of challenges. We have a lot of problems. It seems to me an obligation for all of us to pitch in and try to do what we can to move this country ahead.

This will also be my last year in this institution. I will either at the beginning of next year be in the U.S. Senate on the other side of the Capitol or I will be outside of the U.S. Congress doing something else. In any event, like most people, I feel that we have to begin confronting in this country a series of challenges, for if we do not begin in a real way to confront them this country is going to lose its way.

I would like to talk about a couple of those things today that represent the challenges we must confront. All of us watched on television the rioting in the streets of Los Angeles, looting, burning, rioting, killing, here in what we considered to be a civilized country. We saw people beaten. We know some 50 to 60 people were killed. There was property damage, burning, looting. It was an extraordinary thing, a painful thing for the American people to watch.

So all the spotlights began shining on the same spot. The press, like drawn by a magnet, converged in Los Angeles, and we know more about the riots in Los Angeles than we probably need or want to know. That is because that riot occurred all at once, all the burning, all the looting, all the killing, all at once.

Here in this town in Washington, DC, in New York, in Detroit, in Chicago, we have the slow motion riots going on every day, every week, all year. In this town, in Washington, DC, there will be probably 600 or 700 murders this year. People living two blocks from this building have bars on their windows. It makes you wonder who the real prisoners are. Why do people living close to the U.S. Capitol have bars on their windows? They fear. They fear for the crime wave that has taken over the streets of this country in our large cities.

All the spotlights are not on the same spot. On Thursday before I left for North Dakota, on Friday morning for the weekend, there were four murders in Washington, DC. That was not so unusual. There were a lot of murders in a lot of our cities last Thursday, but it is not reported as a front-page headline because it is a slow motion riot playing out all year, every week, and it holds prisoner those people in all those neighborhoods who are victims of that kind of crime. The crime stems from a whole series of problems, people without hope, people without help, people without jobs, people without training, people without opportunity.

We have got lots of problems and we have to deal with the problems of opportunity and helplessness and hopelessness that exists in much of our country, and we also have to deal with the crime, and in some respects they are interrelated.

I was thinking about it this weekend as I was doing some work in North Dakota and told several groups of meeting with a young fellow last Thursday in my office here in Washington, DC. The contrast of that meeting to the sour mood in the country was kind of interesting. This was a North Dakotan I met with. He was a young man from Jamestown, ND, who came to my office for a visit. He had been an astronaut on the most recent shuttle mission. His name was Rick Heeb, good looking, young guy, graduate of the Jamestown School System, went on to do a lot of other things, became an astronaut, went up in the last shuttle mission.

As most of us remember, and as Rick told me last Thursday again, that last shuttle mission was a difficult one. They were going to take the Intelsat, a 9,000-pound very expensive satellite that did not work, and bring it into their shuttle and fix it.

So they went out and the first day they tried and failed and the entire world saw them fail. The second day of that shuttle mission, they went back out with a new plan and tried to bring that satellite into some control, and they failed once again.

Then they decided, after waiting a day, that they would try a new plan, something they had never tried before. Three people went out and walked in space for 6 hours, traveling 16, 17,000 miles an hour in orbit, trying with those three to manhandle a 9,000-pound satellite in weightlessness, under very unusual circumstances, attempting to do something none of them had ever practiced before, and they did it, at least with me watching from my couch in my living room, and I expect many of you watched from your living rooms. It is kind of interesting to see the circumstances in which people are flying out in space doing that kind of work, which is experimental work, and we are sitting in the living room watching it with kind of an excited mood.

You know, they did it. They succeeded, and the message from Rick Heeb, the message from that shuttle crew and the message virtually from that space program is that there is never dishonor in failing to try to do something. They tried 2 days and failed in front of the people of the world.

There is always dishonor in failing to try, and they did not fail to try. They went back out the third day and they tried and they succeeded.

It seems to me that lesson in American in genuity ought to be a lesson we ought to start applying to everything else we do in this country.

The fact is, the reason people are so sour in this country is not because of just one issue. Most people feel this country is not winning. It is losing. Most people understand that just as a hundred years ago power shifted from England to the United States. Nobody loaded the economic power on a boat and waved as it left the dock in England, but England was the preeminent economic world power, and it shifted and that power became an American power. We became the preeminent world economic power.

A century later, it is shifting again. Most people know it. You do not see it. Nobody puts a bill of lading on it. Nobody is shipping it out. It is just happening. Our jobs our shifting. Our opportunity is shifting. Our opportunity is shifting from this country to the Pacific rim, from this country to Europe.

There is a knot of fear in the stomach of the American people who wonder, "What kind of a job will my kids have? What kind of opportunity will we have in the future? What kind of America will we see 10, 20 and 30 years from now, with that kind of power shifting going on?"

They further wonder what can we do about it. When will somebody stand up and finally decide to do something to put this country back on track?

One of the reasons that we have had such chaos, in my judgment, and one of the reasons for this economic shift of power is because we do not operate as a team. We do not have any economic strategy. We just do not. We have not had any leadership from the White House. We have not had effective leadership, in my judgment, here and I am talking about both sides of the aisle. We have not been able to develop our own leadership, and we certainly have not had good leadership, in my judgment, from President Reagan and President Bush. They have said, "Hands off. Things will be fine. Let the market system develop."

We are the only industrial country in the world trying to compete in international economics with no national economic plan, none.

We are going to send a bunch of kids to the Olympics in Barcelona in about 1½ months. Those kids are going to be our finest young Americans. They are going to run off to Spain with our blessing. They are going to wear red, white, and blue uniforms, and like me, you will sit on the edge of that couch again and watch them compete in the Olympics and have an enormous sense of pride when one of them wins a medal and they raise that American flag and play the "Star Spangled Banner," because we understand they are part of our side. It is our team. It is a spirit of national pride in what they do.

Would it not be interesting if in the other competition that is going on in the world, one that is far more important than the Olympics, and yes, I support the Olympics, but there is another far more important competition going on, would it not be interesting if we fielded a team in that competition? If we said there is a plan, there is a coach, there is a uniform, there is a common obligation and we are attempting to reach a common goal, and that is this country is determined to win in international competition, win the new jobs, and win the new opportunities in the future and win in the contest for economic growth?

□ 1300

I think that is something that must become a part of what our political process and what our national will develops in the next year and 2 years and 5 years if this country is going to have a bright economic future.

We had some testimony recently from the chief economist of the Deutsche Bank in Japan before the United States Congress, and here is what he said. He said by 1997 Japan will assume the rank of the largest manufacturing power in the world. And then he said just after the year 2000 Japan will assume the mantle of the world's leader.

Further, he said that Japan invests $440 billion a year more than the United States in new plant and equipment; $440 billion more in a year is invested in new plant and equipment in Japan than in the United States.

What does that mean? It means they have newer plant and equipment and it means they have more productive equipment, it means that they are able to compete more effectively in the building of a product at a better price, and it means they are beating us in the international marketplace. That is what it means. Why are they able to invest that much more than we are? It is because we are spending tomorrow's inheritance today. We are spending money that we do not have, creating enormous deficits. Yes, especially Federal debt, but also in the private sector.

My grandmother once asked me, "Do you ever hear anybody talk about saving up to buy something anymore?" You do not. That used to be a virtue that was important in this country. But there is no savings in the public sector. All there are in the public sector are crippling, choking deficits; and in the private sector our entire motif is to ask people to buy things they do not need with money they do not have and make payments later, get the product now and get a rebate a month from now.

Well, that does not work. You cannot develop total savings with that kind of mindset. And we cannot compete. We cannot increase productivity because savings equals investment and investment equals productivity and that equals jobs and an economic future. We cannot do that if all of us in this body, in the U.S. Government, in the private sector, continue this mindless race toward more debt.

What kind of a strategy do we need to employ to win, then? Well, what does this country need? First of all, I am somebody who does not believe it is inevitable that we are going to lose. I do not believe anybody in the world is going to—that is destined inevitably to beat this country in economic competition if the rules are fair and if we mind our business and decide we are going to behave as a team and compete as a team to make "made in the U.S.A." a symbol of value and quality again and decide we are going to amass the amount of savings necessary to meet the investment needs, to provide the plant and equipment so we can compete against anybody in the world.

First of all and foremost, we need a President, any President—I do not care whether it is a Republican, a Democrat, or a Texan President, whoever that might be—who says, "We've got a plan. This is our national economic strategy, and here is what we are going to do to win."

Second, even if you have a plan, if you do not control the crippling debt—and we must in this body and at the White House—if you do not control the cripping debt, you cannot win.

We must do whatever it takes to bring this debt under control.

We had a vote last week on a constitutional amendment to balance the budget. Frankly, I do not know whether that would have solved the problem. Constitutions cannot balance the budget, people have to; Presidents have to and Congresses have to.

I voted for it simply because I have concluded over these years there is no leadership in the White House, there is no will in this Congress to confront the White House on deficits in an effective way, and I am willing to go for almost anything that is proposed on this floor that has a chance of dealing with this kind of deficit problem.

We have got to have a national economic strategy, No. 1; and, No. 2, we must, it seems to me, put an end to what I consider irresponsible and dangerous fiscal policies that are producing choking and crippling deficits for this country.

In order to compete effectively, assuming we get things in order in our country—and I think we can—we must then have a trade policy that insists that we be treated fairly.

Some while ago someone did a study on what was coming into the country and what was going out. On the east coast ports, New York and New Jersey ports, I believe, they said the No. 1 and No. 2 imports were electronic goods and motor vehicles and the No. 1 and No. 2 exports from our country was represented by scrap metal and used paper.

Now, that is a country in decline. That is a country that is going to lose in trade competition. You cannot be bringing in finished manufactured goods and sending out used paper and scrap metal and win an economic competition.

My concern about our trade policy for now well over a decade is that we have got a bunch of people running our trade policy in this country that are shrinking violets every time they talk to somebody in another country and say to them, "We want you to open your markets to us," and the other country says, "Well, we will do that, but we will not do it right away. We will have a 5-year plan." And at the end of 5 years there has been no progress, so we have another 5-year plan.

The fact is we are a sponge for everything everybody produces around the world. It comes into our markets to be sold here, a product of jobs in other countries; but when it comes time for us to manufacture and send out goods overseas, those same countries say, "No, we don't want them in our country. We don't want American cars in Korea. We don't want American cars in Japan. You can't send corned beef to Japan. We don't want rice in Japan. We don't want this in Europe."

Well, the fact is if you are going to have an open market, and I think we should, my suggestion is not that we should close markets to other countries, but if we are going to have an open market for goods produced around the world so our consumers have a choice for those goods, we ought to expect that every single country that sends goods into this market treat us exactly the same as we treat them.

We ought to have a fair trade policy, one that says we insist and demand that trade be fair. We will use a mirror, look in the mirror, and if you let our goods into your country, you come to America and understand your goods are going to come to America with no problem. But if you close your borders to American-produced goods, do not expect to sell your goods in Chicago or Pittsburgh or New York.

Mr. Speaker, it is time for us to stand up and start supporting American producers and American workers and pry open foreign markets and do it effectively.

We have had a trade policy that has been, in my judgment, fundamentally unfair to this country. We have had people who run the trade policy who do not and are not willing to stand up for the economic interests of this country. I want our trade negotiators to put on an American jersey and say, "I am interested in protecting the economic interests of America."

I am not a protectionist in the sense I want to keep things out of this country, but I want to protect our interests by insisting that other countries let our goods in.

I come from a rural State. Part of economic development of this country, it seems to me, is promoting economic health in rural America. Our farm program simply has not worked for a long, long time. We have more and more people leaving the farms. Main streets in our small towns are boarding up and our kids are leaving the States because they cannot find work.

Next week, President Bush will propose, and the Congress will probably accept, something called enterprise zones for Los Angeles and other cities, responding once again to the symptom—the symptom in this case was rioting and burning and looting. There has been no rioting or burning or looting in the smalltown streets of rural America, but in my home county they have lost 20 percent of their population in the last decade. If you are out of work in my home county, you are in deep trouble because you are not going to find another job.

So what do they do? They get in their cars and drive, they leave.

So they do not show up as an unemployment statistic in my home county or my home State; they show up as out-migration, people who simply have left.

We have lost 50,000 people in North Dakota in the past 6 or 8 years who simply got in their car and left the State because they could not find work.

When and if enterprise zones come to this floor, I intend to try to amend it to include rural development investment zones, which is the flip side of the identical problem that we have in urban centers.

They have joblessness, we have out-migration. It is exactly the same problem except the flip side of the same coin.

There is no reason to believe that we ought to persuade investment in new opportunity in impoverished urban areas without promoting the same kind of opportunities and the same kind of incentives in impoverished rural areas in this country.

Another effort to deal with this country's economic problems is the need to have an energy policy that works. The House of Representatives has just enacted an energy bill which I think moves in the right direction. But I would like to see us go further.

I would like to see this country develop what is called an oil import fee, or a floor price on oil, to diminish the amount of oil we have coming in, diminish the amount of imported oil. You know, if we are willing to send kids to die in the Persian Gulf for oil, why ought we not be willing to drill for oil here in this country?

□ 1310

An oil import fee would reduce our dependence on foreign oil, reduce our trade deficits, and promote greater exploration of not only oil but a greater development of alternative resources and alternative energy resources in this country.

In the area of defense policy, which relates to all the things I talked about, we need radical change. Part of these deficits we have come as a result of President Reagan's saying we can double defense spending as a product of the cold war and we do not have to pay for it, that "You can go from $150 billion to $300 billion in defense spending, and don't worry about it."

Mr. Laffer, the favorite economist of the moment down at the White House in the early eighties, had developed a curve which says that if we reduce taxes, we could actually collect a lot more and it will all work out well. Well, it did not work out well. We doubled defense spending, and the Laffer curve was a laugh in that we ended up choking on debt in this country.

What should we do when the cold war is over? We ought to be able to reduce defense spending in the right way and, while we reduce it and move people out of the service with force reductions, we need conversion because we cannot just move somebody out without finding opportunities and providing training and jobs for those people as well.

But sometimes things never seem to change. Let me give an example. In my home State they are now proposing an antiballistic missile system in at least a quarter of my State, the northeast quarter, where it is proposed to be built. A lot of people are excited about it. It will produce new jobs in an area that does need new jobs.

In this ARM system, the first site would be in North Dakota. They are talking about deployment in 1996. Some say that has to slip now.

There would be a hundred interceptor missiles poised to intercept incoming intercontinental ballistic missiles with nuclear warheads. It will cost $8 billion to $12 billion just for the first site to be located in North Dakota.

I represent all of North Dakota here in the House of Representatives. I have a lot of constituents who would very much like to see that kind of spending in our State. But the fact is I think it is nuts. Who is the enemy? The cold war is over. Who on Earth are we going to build an antiballistic missile system to protect us from?

There is much more likelihood of a nuclear bomb being stored in the trunk of a Yugo car someplace or in the hold of a rusty tanker at a dock in New York City as a threat to this country's national security than there is that some tinhorn dictator halfway around the world is going to develop an intercontinental ballistic missile loaded with a nuclear device and ship it over the poles toward this country. It just makes no sense to me to be pursuing these kinds of major weapons programs when we have the kind of deficits we have.

Why does it get pursued? Because these programs develop a life of their own and they are very hard to stop. But the fact is that we have got to start thinking differently in this country. We have got to stop thinking about—how does it benefit me, the selfish "me"?

We ought to start asking just two questions on everything, not just of defense but on all spending. The first is: Do we need this? And the second is: Can we afford this? And if the answer to either is "no," then we ought not to spend the money under any conditions. We are in desperate enough trouble that we have to have affirmative answers to those questions on all of these issues.

There has been a great deal of discussion recently about welfare, particularly as a result of the Los Angeles riots, and I would like to mention welfare reform as it relates to this country's problems. Almost two-thirds of the welfare payments in this country goes to kids under 16 years of age and for the benefit of young kids. Obviously no one is suggesting that we tell an 8-year-old, "Get a job." That does not work. Most of us understand that there is a need to lend a helping hand to those who have trouble, those who run into problems. In this country we hold out a hand and say, "Let me help you."

But I happen to believe that those who say there has become an institutional kind of dependency on welfare are correct, and that is not the intention of a welfare program, to have generation after generation of people on welfare. Welfare is indeed a helping hand, and I believe that we ought to have a system of public works jobs that says to those who are able-bodied and in trouble and do not have a job, "Here is a job for you. In exchange for that payment, here is an opportunity." It is a better sense of self-worth for them to do something in exchange for that helping hand when they need a helping hand. I am talking about those who are able-bodied, without young children. I think we ought to say that that job ought to embody some training so that it becomes a step up and out from a welfare roll to a payroll. I think we do need some change in those areas, and I believe Congress ought to address the problem. We have begun to address it in the Ways and Means Committee of the House with some pilot programs, but we can I think, do more, and we should do much, much more.

I began discussing the issue of crime just briefly, and I want to mention that we can do a much more effective job, I think, in the area of crime if we understand that a small number of the criminals in this country are participating in the broad range of violent crime. The statistics, depending on who you listen to, suggest that about 8 percent of the criminals commit two-thirds of all the violent crime in America, and most of those criminals are in and out of jail, in and out of jail, back and forth, and it is simply a revolving door. I believe very strongly that we should have mandated sentences for repeat felony offenders who commit violent offenses. We ought to commit someone like that to jail for a long, long period.

Our problem is that it costs a great deal to build enough jails to hold them. One of the things I believe we can do is take some of the abandoned military installations—we have begun preparations to close over a hundred of them; some of them are 10 or 15 miles outside cities and have pretty decent security—and turn those into minimum security systems and take out of our major prisons some of the younger criminals who are not violent criminals, have not committed violent acts, put them in minimum security institutions, and open those cells for violent criminals so we can put them in and keep them in those cells.

But much more than that, we need to begin confronting the basic question: Why is this country the murder capital of the world? Why is there so much crime? Why do we need in this country more jail cells for more hard-core criminals than any other country in the world?

It relates to a lot of questions, all of which we have to begin asking ourselves. I do not have the answers necessarily, but I think that crime is the inevitable result of a number of things. When you have a situation as we have in this country where so much of its wealth and income goes to so few of its people and then so many of its people are living in poverty—and that is getting worse; the disparity is growing, not shrinking—that, I think, does relate to the question: How do people feel about their future? Do they feel they have a future that has some opportunity, or do they feel they are helpless and hopeless? I think we have to provide a growing economy that provides an opportunity for people and job training for those who have not had sufficient training so they can step up and out into some opportunity. Those are the kinds of things we have to readdress even as we confront the issues of crime in this country.

I began today talking about Mr. HORTON, who said that he was retiring. I mentioned that there is a sour note in this country, and there are people who attempt to bring disrespect to these institutions. This country is a country that in many things expects things that cannot happen. There are not easy answers. There is not going to be an easy solution to the issues of crime, rural development, budget deficits, the environment, education, health care, and all of the other vexing problems we face. There is not going to be an easy solution.

In politics, when someone comes along and says, "I've got this the easy solution. We can enact this by noon without breaking a sweat, and that will make everything just right," we are a country that is a country of fast food and easy credit and Jiffy Lube, and we think, "Boy, that's great. We can do these things quickly and easily, with no pain."

It just does not work that way. The real efforts to solve real problems in this country are going to start finally with real leadership coming from a President who is engaged on domestic issues, who cares about domestic issues, and cares about how we can fix problems in this country, and a Congress that is not so interested in partisanship but interested in engaging with the President to solve real problems. The American people's sour note, I think and I hope, can be converted to the right kind of effort.

I do not know Ross Perot, but Ross Perot is in my judgment an outgrowth of people's dissatisfaction with the President, with Congress, with Republicans, and with Democrats.

☐ 1320

I do not have the foggiest idea what Ross Perot stands for. I do not have any notion whether he can fix even one problem in this Government. I just do not know. I know that every time I see him he is entertaining, engaging. Somebody calls him about a problem, he says we will fix it. There are 100 ways to fix it, we will just fix it. Every problem, it doesn't matter, we will fix it.

Well, heck, if it is that easy, we ought to just hire him. He can do it in July. We don't need to wait until November or January. But I know the reason that he shows in the polls as someone the American people are interested in at this moment is because they do not care so much about politics, they do not care about who is in the White House, who is in Congress. They do not care about the Republican Party or the Democratic Party.

What they care about is they fear this country is losing, losing its grip, losing ground, losing jobs, losing opportunity. And they want someone somewhere to stand up somehow and say it is not inevitable that happen.

This country does not have to be a second-class economic competitor. We have got the resources, we have got the will, we have got the capability, and we can develop the leadership to win. But we have drifted for a long, long time and the American people are sick of it.

We came through a decade of the 1980's that I think will be viewed in history books as one of the sickest, most disgusting decades of greed that we have had in this country.

When I started reading history books it was the gay nineties, the roaring twenties, the excesses. I think the eighties are going to be viewed by a lot of people as a time of shame for a lot of people who participated in corporate looting, in economic cannibalism, and in efforts that destroyed part of this country's future.

When we had people who decided their life's work was to engage in a casino like lottery on Wall Street, in investment banking activities that was to attempt to buy companies in a hostile way, take them apart and destroy them and sell their parts and loot them, make short-term profits by taking apart 100-year-old corporations, it injured this country severely.

The S&L's got right in bed with all those speculators. I have said before the hood ornament, the crowning hood ornament on all of this was that we at the end of the 1980's, as American taxpayers, ended up owing junk bonds in the Taj Mahal Casino. Can you imagine that?

Let me tell you how that worked. Donald Trump, the go-go guy, he builds the biggest casino in the world in Atlantic City. He issues junk bonds.

Well, the junk bonds are bought by these little S&L's that took off like Roman candles because they were able to do all kinds of things because regulators were not watching here in Washington, DC.

The S&L buys the junk bonds. The S&L goes broke. Guess who ends up with junk bonds in the Taj Mahal? The U.S. Government. The U.S. taxpayers.

We have leveraged buyouts, hostile takeovers, junk bonds. We had Michael Milken, Drexel Burnham, which is bankrupt, Michael Milken is in jail, S&L's that were carriers of these junk bonds going belly up, hand over fist.

I finally on this floor offered an amendment that finally got passed and is now law that prohibits an S&L from buying a junk bond and requires all S&L's to divest all junk bonds that now have. But the barn is pretty well burned with respect to S&L's. We went through a decade in which we had all of this speculative activity going on by people who were making megabucks. Michael Milken was making $100,000 an hour. Megabucks they were making, not to enhance America's future, not to build a bigger economic pie, not to move this country forward, but to get rich for themselves.

This country, in my judgment, will succeed and survive and prevail in international economic competition when we decide that our mission is to expand the economic pie, to produce new jobs, real new wealth.

You cannot do it with investment bankers trying to buy and sell each other. That is just a fight over the old pie, to see who gets their slice enlarged. The issue is who is going to create a bigger economic pie.

Economic policies that come from a White House with a Republican, a Democrat, or an Independent that says we have a national economic strategy, it is going to enlist the assistance and the commitment of people all across this country, and nobody is going to be left out, rich and poor, young and old, you can all contribute, and that strategy is going to try to move this country ahead, to compete effectively around the world. And it is going to have components of fair trade, it is going to have components of a good education system, because all the genesis of progress begins with a good education system. If you are second class in education, you are not going to be first class in economic competition.

But that kind of leadership, that brings us all together and decides that we are a team, we have got a national commitment to succeed, and there is not anything that is going to hold us back, when we do that, I think this country will have a better future.

My hope is that despite everything you hear from everybody about how awful things are politically, my hope is that this election this year is the catalyst by which the Americans choose among the competition of ideas finally about what is the menu of things they think are necessary to move this country ahead. What is the key that unlocks it. What is missing. What can we do to fix it.

If the American people confronts this election with that spirit, with the spirit of understanding, that we can always make a difference to change things in this country, then I think you will see in the next several years a rejuvenated America, a country with a completely different spirit, a reaffirmation of the notion that this country is a winner.

When I grew up in a town of 300 people, every day that I went to school I knew without asking this country was the biggest, the best, the most, first, No. 1. I just knew it.

Well, it is not that way. We have got tough competitors these days and things have changed radically. And if the spirit changes from within in this country, with good leadership, I think, Mr. Speaker, that this country can have a better future. If I was not convinced that tomorrow is going to be better than today, that this country's future is going to be better than its past, I would not have the energy to do this job.

But I am so convinced of that that I believe with the cooperation of this Congress and the President and the White House and the American people, our better days are still ahead of us.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. THOMAS of Wyoming) to revise and extend his remarks and include extraneous material:)

Mr. HORTON, for 5 minutes, today.

(The following Member (at the request of Mr. ABERCROMBIE) to revise and extend his remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORGAN of North Dakota, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. CRANE.
Mr. WALSH.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. VENTO.
Mr. LAUGHLIN.
Mr. HOYER.
Mr. TORRES.
Mr. BONIOR.
Mr. ORTIZ.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 758. An act to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary;

S. 759. An act to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary; and

S. 1439. An act to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. DORGAN of North Dakota. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 26 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 16, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3745. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of June 1, 1992, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 102–344); to the Committee on Appropriations and ordered to be printed.

3746. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Algeria, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3747. A letter from the Co-Chairman, National Commission on Severely Distressed Public Housing, transmitting their preliminary report and proposed national action plain; to the Committee on Banking, Finance and Urban Affairs.

3748. A letter from the Secretary of Education, transmitting final regulations—Foreign Periodicals Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3749. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to improve enforcement of the Employee Retirement Income Security Act of 1974, by adding requirements with respect to multiple employer welfare arrangements; to the Committee on Education and Labor.

3750. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination and certification that the Government of Ethiopia meets the criteria set out in section 8 of the Horn of Africa Recovery and Food Security Act, pursuant to 22 U.S.C. 2151 note; to the Committee on Foreign Affairs.

3751. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(f); to the Committee on Foreign Affairs.

3752. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the review and evaluation of policies and procedures for the provision of housing benefits to U.S. personnel assigned to the United States Mission to the United Nations, pursuant to Public Law 102–138, section 174(b); to the Committee on Foreign Affairs.

3753. A letter from the Chairman, National Commission on Libraries and Information Services, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the White House Conference on Library and Information Services, pursuant to 31 U.S.C. 1517(b); to the Committee on Government Operations.

3754. A letter from the Deputy Executive Director, Reserve Officers Association, transmitting the Association's financial audit for the period ending March 31, 1992, pursuant to 36 U.S.C. 1101(41), 1103; to the Committee on the Judiciary.

3755. A letter from the Chairman, Physician Payment Review Commission, transmitting reports entitled "Monitoring Access of Medicare Beneficiaries" and "Monitoring the Financial Liability of Medicare Beneficiaries"; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4999. A bill to authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House (Rept. 102–562). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2660. A bill entitled, "Authorization of appropriations for the United States Holocaust Memorial Council"; with amendments (Rept. 102–563, Pt. I). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5055. A bill to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes; with an amendment (Rept. 102–564). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4310. A bill to reauthorize and improve the national marine sanctuaries program, and to establish the Coastal and Ocean Sanctuary Foundation; with an amendment (Rept. 102–565). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KOSTMAYER:

H.R. 5394. A bill to direct the Secretary of Veterans Affairs to sell the real property known as Pershing Hall, located in Paris, France; to the Committee on Veteran's Affairs.

By Mr. ORTON:

H.R. 5395. A bill to exchange lands within the State of Utah, between the United States and the State of Utah; to the Committee on Interior and Insular Affairs.

By Ms. SNOWE (for herself, Mr. MURPHY, Mr. HORTON, Mr. WILSON, Mr. EMERSON, Mr. HOPKINS, Mr. HUCKABY, Mr. TOWNS, Mr. PASTOR, Mr. SCHIFF, Mr. APPLEGATE, Mr. POSHARD, Mr. MURTHA, Mrs. MINK, Mr. BOUCHER, Mr. JOHNSON of South Dakota, Mr. LEWIS of Florida, Mr. HUGHES, Mr. HANCOCK, Mr. MARTIN, Mr. LANCASTER, Mrs. LLOYD, Mr. HUTTO, Mr. WHEAT, Mrs. JOHNSON of Connecticut, Mr. MACHTLEY, and Mr. FROST):

H.R. 5396. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies to the recipient's surviving spouse, subject to a reduction of 50 percent in the last monthly payment if the recipient dies during the first 15 days of such month; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself, Mr. JONES of North Carolina, and Mr. FIELDS):

H.R. 5397. A bill to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. CONDIT introduced a bill (H.R. 5398) to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange, and for other purposes; which was referred to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 371: Mr. CRANE and Mr. CARPER.

H.R. 3253: Ms. SLAUGHTER.

H.R. 3545: Mr. MCCLOSKEY.

H.R. 3971: Mr. WILLIAMS.

H.R. 4438: Mr. MINETA, Mr. OBERSTAR, Mr. NOWAK, Mr. RAHALL, Mr. APPLEGATE, Mr. DE LUGO, Mr. SAVAGE, Mr. BORSKI, Mr. KOLTER, Mr. VALENTINE, Mr. LIPINSKI, Mr. TRAFICANT, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. HAYES of Louisiana, Mr. CLEMENT, Mr. PAYNE of Virginia, Mr. COSTELLO, Mr. PALLONE, Mr. JONES of Georgia, Mr. PARKER, Mr. LAUGHLIN, Mr. GEREN of Texas, Mr. SANGMEISTER, Mr. POSHARD, Mr. SWETT, Mr. BREWSTER, Mr. CRAMER, Ms. DELAURO, Ms. HORN, Mrs. COLLINS of Michigan, Mr. PETERSON of Florida, Ms. NORTON, Mr. BLACKWELL, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. CLINGER, Mr. PETRI, Mr. PACKARD, Mr. BOEHLERT, Mrs. BENTLEY, Mr. INHOFE, Mr. BALLENGER, Mr. EMERSON, Mr. DUNCAN, Mr. HANCOCK, Mr. COX of California, Ms. MOLINARI, Mr. HOBSON, Mr. RIGGS, Mr. TAYLOR of North Carolina, Mr. NICHOLS, Mr. ZELIFF, Mr. EWING, and Mr. GILLMOR.

H.R. 4528: Mr. SCHUMER, Mr. FLAKE, Mr. WHEAT, Ms. WATERS, Mr. TORRES, and Mr. AUCOIN.

H.R. 4599: Mr. HAYES of Louisiana.

H.R. 5166: Mr. BATEMAN.

H.R. 5240: Mr. JONES of North Carolina, Mr. RAVENEL, Mr. BRYANT, Mr. FEIGHAN, Mr. LEHMAN of Florida, Mr. HAMMERSCHMIDT, Mr. HYDE, Mrs. COLLINS of Michigan, Mr. YATES, and Mr. IRELAND.

H.J. Res. 240: Mrs. PATTERSON and Mrs. VUCANOVICH.

H.J. Res. 391: Mr. CRAMER, Mr. MOLLOHAN, Mr. GILLMOR, Mr. ORTIZ, and Mr. SISISKY.

H.J. Res. 399: Mr. ENGEL, Mr. ROSE, Mrs. UNSOELD, Mr. HORTON, Mr. SCHIFF, Mr. POSHARD, Ms. SNOWE, Mr. BOEHLERT, Mr. ROEMER, Mr. CARDIN, Mr. STALLINGS, Mr. COLORADO, Mr. WHEAT, Mr. MOORHEAD, Mr. CALLAHAN, Mr. EMERSON, Mr. APPLEGATE, Mr. CHAPMAN, Mr. GINGRICH, Mr. MCDADE, Mr. ANDERSON, Mr. OBERSTAR, Mr. HAMILTON, Mr. LEWIS of Georgia, Mr. SPENCE, Mr. COUGHLIN, Mr. CARR, Mr. THOMAS of California, Mr. FISH, Mr. HAYES of Illinois, Mr. GORDON, Mr. BORSKI, Mr. OXLEY, Mrs. LLOYD, Ms. LONG, Mr. JEFFERSON, Mr. CAMP, Ms. OAKAR, Ms. KAPTUR, Mrs. COLLINS of Michigan, Mr. RAHALL, Mr. AUCOIN, Mr. ESPY, and Mr. VOLKMER.

H.J. Res. 478: Mr. FROST, Mr. OWENS of Utah, Mr. KASICH, Mr. ANDERSON, Mr. ATKINS, and Mr. ORTIZ.

H. Con. Res. 92: Mr. GINGRICH, Mr. GILLMOR, Mrs. PATTERSON, Mr. YOUNG of Alaska, Mr. BOEHNER, Mr. SARPALIUS, Mr. SANDERS, Mr. PICKETT, Mr. VALENTINE, Mr. BEVILL, Mr. HAYES of Illinois, Mr. ANDERSON, Mr. LAFALCE, Mr. WOLPE, Mr. HARRIS, Mr. CLEMENT, and Mr. SAWYER.

H. Con. Res. 316: Mr. GALLO, Mr. GINGRICH, Mr. KYL, Mr. GEJDENSON, Mr. HYDE, Mrs. MEYERS of Kansas, Mr. DORNAN California, Mr. DURBIN, and Mr. ATKINS.

H. Con. Res. 328: Mr. SCHEUER, Mr. HAYES of Illinois, Mr. HALL of Ohio, Mr. PETERSON of Florida, Mr. VENTO, Mr. BILBRAY, Mr. ROYBAL, Mr. RHODES, Mr. WALSH, Mr. LIPINSKI, Mr. RANGEL, Mr. TRAFICANT, Mr. ESPY, Mr. TOWNS, Mr. SAVAGE, Mr. RAVENEL, Mr. PAYNE of Virginia, Mr. MAZZOLI, Mr. SERRANO, and Mr. JONES of North Carolina.

AMENDMENTS

Under clause 6 of rule XXII, proposed amendments were submitted as follows:

H.R. 4996

By Mr. MILLER of Washington:

—Page 67, lines 24 and 25, strike "$650,000,000" and insert "$100,000,000", and strike "$700,000,000" and insert "$100,000,000".

SENATE—*Monday, June 15, 1992*

(Legislative day of Thursday, March 26, 1992)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"We the people of the United States, in order to form a more perfect union * * *."

Almighty God, infinite, eternal, omniscent, and unchanging, we give You thanks that in the thinking of our Founding Fathers, the people were sovereign. That they conceived government in three parts: Executive, legislative, and judicial, because they knew that human nature was fallible, and could be deceived, overcome, and misled by power; therefore in a fundamental sense, government could not be trusted. Hence a system of checks and balances, dividing power, and providing that decisions would rest with a majority.

Thank you God of truth, that in their wisdom they also realized that without elected representation, people could gravitate to anarchy and chaos, and be vulnerable to tyranny. Assuming the potential of evil in human nature, they also believed that people were capable of reasonable and righteous judgment. We pray therefore, God of our fathers, that in this year of strange political maneuvering, politicians and the press will not treat the people as though they are mindless, subject to manipulation by clever rhetoric, and subtle campaign tricks.

Gracious God, forbid that this election year should be relegated to deceptive, manipulative public relations schemes. In the name of the righteous one, Jesus, who is truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. ROBB). The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 15, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal has been approved, and that the time for the two leaders has been reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, today the period for morning business is extended until 2:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

At 2:30 today the Senate will resume consideration of S. 55, the striker replacement bill, with the modified committee substitute pending.

As a reminder to Senators, a cloture motion was filed on Friday on the committee substitute, and a vote on that cloture motion will occur tomorrow, Tuesday, at 2:15 p.m. Any Senators who wish to file first-degree amendments to the committee substitute must do so by 2:15 p.m. today.

There will be no rollcall votes today. For those Members who wish to debate the provisions of the bill, the bill will be open for debate throughout the day.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROPOSED CONSTITUTIONAL AMENDMENT PROVIDING FOR A RUNOFF ELECTION FOR PRESIDENT AND VICE PRESIDENT

Mr. GORTON. Mr. President, on Thursday last, together with several of my colleagues, I introduced a joint resolution to amend the Constitution of the United States by striking the 12th amendment and assuring that the election of the Presidency of the United States would be conducted by the people of the United States acting through their States rather than by the House of Representatives.

At this point, as everyone in the country is well aware, we are in the midst of an almost unprecedented Presidential campaign, a campaign in which there are three very serious candidates for the Presidency, each of whom, if the election were held today, and people voted in the way in which they answer pollsters would receive a substantial number of votes in the electoral college. Almost certainly that number of electoral votes would be sufficient so as to prevent any of those three candidates from receiving the majority of the vote in the electoral college, a majority which at the present time is 270 electoral votes.

Under those circumstances, of course, this body would elect a Vice President of the United States in a relatively simple transaction, able to vote only on the top two candidates in electoral votes with each Senator having one vote.

The situation with respect to the Presidency, however, is much more complicated and extraordinarily troubling. The Members of the House would be directed to choose among the three top candidates for President but, rather than each of the 435 Representatives having a single vote, each State would have a single vote with a majority of the membership in 26 States; that is to say, a majority of the 50 States being required to elect the President. Thus, Vermont and California would have one vote each, Vermont's cast by its single Representative, California by a majority of its 52 Representatives, with the very real chance that large States like California would be unable to find a majority for any candidate and therefore would be deprived entirely of their vote.

It has been the opinion of this Senator for some time that the duty imposed on Members of Congress under those circumstances would be an awesome one, a duty which transcends political party. It has been the opinion of this Senator that he would feel morally and ethically bound to vote for the candidate for Vice President who had received the largest number of popular votes in the country as a whole, and it is the belief of this Senator that House Members should probably consider themselves so bound as well.

There are, of course, many ways in which House Members could vote. They could vote their party. They could vote for the person who carries the most votes in their districts, in their States, or in the country as a whole, with variations relating to the electoral vote rather than the popular vote. The disaster which would befall this Nation, however, should we elect a President who had not even received a plurality of the popular vote, is something that this Senator does not like to contemplate.

And while this Senator believes that after 2 months of intense attention to this proposition, from a deadlocked November election until a January meeting of the Congress of the United States, would very likely result in the election of the candidate who had finished first, I believe that it behooves us at this point to change the system to assure that proposition.

As a consequence, the constitutional amendment, which I have introduced with a number of my colleagues, would say that if there is no majority in the electoral college in the November election, then 3 weeks later there would be a runoff election in which only the top two candidates in the electoral college would appear on the ballot. That would, except for the remote possibility of a 269-to-269 tie in the electoral college, mean that we would ultimately have a President who had the mandate of a majority vote across the United States of America.

We would avoid the politics of an election in the House. We would be able to concentrate on a President who at least began his or her career with a true mandate from the people of the United States.

It is very difficult to imagine, Mr. President, that we can actually pass and have ratified a constitutional amendment of this scope between now and the date of the November election. I believe that it is important to discuss the issue and pass such a constitutional amendment in any event because it is likely the situation with which we find ourselves faced this year is going to repeat itself in future years as party structures seem to weaken.

In addition, Mr. President, I think it very important that we consider this kind of constitutional amendment in the Congress and give States at least the opportunity to ratify it.

I was, for example, over the weekend informed of a conversation between a friend and a Governor of a State, not my own, who said if it looked like the election were going to go to the House of Representatives, he would call a special session of his legislature for the weekend before the general election in order to pass such a constitutional amendment, because he regarded with such horror an election of the President by the House of Representatives.

That encourages me to press forward. I hope the Committee on the Judiciary will hold hearings on this proposal as well as the proposal of the distinguished Senator from Arkansas [Mr. PRYOR] because we are faced with the potential, very real potential, of a constitutional crisis. And I believe it behooves us now when we do not know what the result is going to be to deal promptly and wisely, in such a fashion that we have at least done what we can do to prevent that crisis from taking place.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RETIREMENT OF FREDERICK C. PIERCE, CHIEF U.S. PROBATION OFFICER, DISTRICT OF NEVADA

Mr. BRYAN. Mr. President, I rise today to recognize one of Nevada's dedicated citizens on the event of his retirement. On June 30, 1992, chief U.S. probation officer for the District of Nevada, Frederick C. Pierce, will retire after 31 years of Federal service.

Chief Pierce has watched the District of Nevada, Las Vegas, grow tremendously. When he first arrived in Las Vegas in 1967, he was part of a staff of only two probation officers. Today, upon his retirement, the district now has offices in Las Vegas and Reno. Additionally, the district has sworn in 34 officers and 21 support staff; the majority of this growth was during Chief Pierce's tenure. This undoubtedly exemplifies the tenacity and loyalty he has had for his job, Nevada, and the United States.

Chief Pierce attended the University of Southern California on a football scholarship where he majored in public administration and criminal Justice. He played in the 1955 Rose Bowl loss to Ohio State. After graduating from USC he served 6 months active duty with the Army Reserves and then transferred to the Air Force Reserves. In 1958, Chief Pierce became a California parole officer and then a police officer with the Pasadena Police Department. He was appointed a U.S. parole officer in Los Angeles in 1961 and transferred to the District of Nevada in 1967.

The State of Nevada will miss Fred Pierce and his commitment to justice. However, he has left us with a legacy of dedication and diligence that the probation office will surely build upon in the years to come.

On June 19, friends, family, and colleagues will be joining together to bid Chief Pierce farewell and thank him for his service. I am disheartened that I will be unable to attend, but I would like to extend him my best wishes and many thanks for his service to the State of Nevada.

THE WOMEN AGAINST RAPE ORGANIZATION

Mr. LAUTENBERG. Mr. President, I rise today to commend Women Against Rape [WAR] for their invaluable service to the residents of southern New Jersey. The State of New Jersey has just completed Rape Prevention Month, and I would like to take this opportunity to acknowledge WAR's efforts to raise public awareness of violence against women.

WAR's counselors provide assistance to victim of rape by escorting them through grand jury and trial proceedings and also by guiding victims through medical and police procedures. The compassionate volunteers provide hands to hold and shoulders to lean on throughout this traumatic experience. Last year, WAR's 24-hour hot line responded to 726 crisis calls from first time clients and provided immediate crisis intervention services. Their weekly group meetings and private counseling services have touched the lives of victims that would have no where else to turn for help.

Another special service that WAR provides is in the area of crime prevention and rape awareness workshops. In 1991, WAR went to schools and civic organizations in southern New Jersey and educated close to 7,000 people on rape and violence. Through education, WAR has been able to combat the physical and emotional scars of rape and prevent people from becoming victims.

Mr. President, the volunteers of the Women Against Rape organization should be applauded for their commitment to others in need of emotional support. I thank the organization for their good work and extend my best wishes to them in the future.

SISTER SOULJAH'S STATEMENT CHALLENGED

Mr. BYRD. Mr. President, as so often happens, much of the political rhetoric emanating from this year's Presidential campaign is predictable and unspecific, and often aimed at the parties' choirs and amen corners.

However, this past weekend, Arkansas Gov. Bill Clinton spoke at a luncheon of the National Rainbow Coalition here in Washington. Among his comments, governor Clinton directly responded to remarks reported by the

Washington Post in a recent interview with Sister Souljah, a currently popular—popular in some quarters, of course—"rap" singer.

According to the Post's article on the interview, and reconfirmed by the taped record of Sister Souljah's interview remarks, the singer said:

> If black people kill black people every day, why not have a week and kill white people? So if you're a gang member and you would normally be killing somebody, why not kill a white person?

Mr. President, why advocate killing anyone, white or black?

In response, Governor Clinton told the luncheon audience, recalling that Sister Souljah had appeared on a panel before the Rainbow group on Friday evening.

> You had a rap singer here last night named Sister Souljah. * * * Her comments before and after Los Angeles were filled with a kind of hatred that you do not honor today or tonight. * * * If you took the words "white" and "black" and reversed them, you might think David Duke was giving that speech.

I want to congratulate Governor Clinton for his courage in speaking the minds of millions of people in this country—black, white, brown, yellow, and other. Dr. Martin Luther King, Jr., proclaimed in ringing words in this very city that he had a dream of a day when people would judge one another by the content of their character instead of the color of their skins.

That, Mr. President, has become the hope of men and women of good will and of all races. That is the hope of our future as Americans. We have become an increasingly multiracial society and we can no longer afford the luxury of race-baiters, regardless of whether they are black or white or whether they are women or men.

In a society composed of people of so many backgrounds and so many varying values, there is no room for calls to random murder and mayhem against other people, particularly based on the color of their skins. American society has problems, and we must solve those problems. But we have come too far for responsible leaders of this society to remain silent in the face of reckless calls for murder and mayhem. Are not the quavering words of Rodney King a wiser counsel for this society: "Please, can't we get along?"

Again, I commend Governor Clinton for his rebuke of such blatantly inflammatory rhetoric and for reminding the country that no race has a monopoly on racist provocation and demagoguery. I hope that he and other Presidential candidates will take the same high road and pursue rhetoric and themes that will further unite us as Americans instead of Balkanizing us into mutually hostile ethnic enclaves.

A SALUTE TO WISCONSIN'S 32D INFANTRY BRIGADE

Mr. KASTEN. Mr. President, I rise today to salute Wisconsin's 32d Infantry Brigade—the Mighty Red Arrow—as it commences its annual training for 1992.

Early this year, the Secretary of Defense proposed eliminating the 32d Infantry Brigade. I disagreed with that proposal, and this year's training exercise will demonstrate how effective and efficient the 32d Infantry Brigade really is.

The story behind the 32d Infantry Brigade is truly an impressive one. Units that are now part of the 32d have served with distinction in the Civil War and World Wars I and II. Today, the 32d Infantry Brigade is composed of members stationed in some 35 Wisconsin communities.

All Wisconsinites are proud of the great accomplishments of the Mighty Red Arrow, and I join them in looking forward to its future successes.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,942,237,897,639.51, as of the close of business on Thursday, June 11, 1992.

On a per capita basis, every man, woman, and child owes $15,347.87—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

CONFIRMATION OF REGINALD BARTHOLOMEW AS UNITED STATES PERMANENT REPRESENTATIVE ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. WARNER. Mr. President, I rise today to congratulate Mr. Reginald Bartholomew on his June 12, 1992, Senate confirmation as the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary. Mr. Bartholomew is currently serving as Under Secretary of State for Coordinating Security Assistance Programs.

Mr. Bartholomew has an impressive record of government service, beginning in 1968 at the Department of Defense. He has served with distinction at the Department of Defense, National Security Council and the Department of State. Prior to entering government service, Mr. Bartholomew served as a university lecturer in the areas of social sciences and government.

Reginald Bartholomew received his bachelor of arts degree from Dartmouth College in 1958. He then attended graduate school at the University of Chicago, where he received his masters degree in 1960. During the course of his Government service, Mr. Bartholomew has received a number of awards and honors, including the Presidential Distinguished Service Award in 1990. He is also a member of the International Institute for Strategic Studies and the Council on Foreign Relations.

Mr. President, I am confident that Reginald Bartholomew has the experience necessary to serve his new post effectively and I again congratulate him on his recent confirmation.

AN EARTH SUMMIT TRIBUTE

Mr. DURENBERGER. Mr. President, on June 12, 1978, a child was born who has had a great impact on how children and adults around the world understand and work for protection of our environment.

Clinton Hill, of Osseo, MN, was the inspiration for an international campaign known as Kids for Saving Earth. Clinton died of a brain tumor this past year. With the help of his mother Tessa, his father William, and his sister Karina, the club has grown and flourished worldwide with more than 600,000 international members.

This movement, begun by the dream of a young boy and carried out by his family and friends, has brought to light the words from Scripture, "a little child shall lead them."

These bold and ambitious young people, thinking not only of themselves but of their children in the future and the health of us all, have begun Earth-saving projects and programs right in their own backyards. From letters to leaders around the world to recycling projects around the block, Kids for Saving Earth have taken it upon themselves to be responsible for making our planet a better place to live.

As we recognize Clinton Hill's birthday, I want to salute and thank each and every young person who has shown the rest of us just how important it is to do our part every day for the future of the earth.

And today, I would like to pay a tribute to many folks in Minnesota, including the Target Co., who are sponsoring Kids for Saving Earth. Through their generosity, the dream of a worldwide Earth-saving network of kids is a reality.

Mr. President, I ask unanimous consent that a number of letters written by Minnesota children be printed at this point in the RECORD. These children demonstrate the awareness that this campaign is building in our young people today.

There being no objection, the letters was ordered to be printed in the RECORD, as follows:

HEIDI STEINKE

My name is Heidi Steinke, and I am an eighth grade student, here, at Maple Grove Junior High School, and I am concerned about the environment and especially about acid rain.

I was in Kids for Saving Earth [KSE] for about a year or so, but I don't have much time for it now. I was one of the first, original 20 KSE kids!

Our environment means a lot to me, and I want to see improvements. I want to know that my grandchildren will grow up and live as happily as I have been able to, in a clean environment.

I know that you have some say in what happens here in Minnesota, and I am just interested in what you as a Senator, and Minnesota as a State is doing to clean up and prevent pollution to the environment.

TAYA BRODIN

My name is Taya Brodin. I am 14 years old. I'm in the eighth grade at Maple Grove Junior High. I am involved in many activities outside of school such as traveling, basketball for 7½ years now. Now, softball and swimming. I also enjoy knee boarding.

I have been involved in KSE since the first meeting. I was good friends with Clinton Hill. He started it shortly after he died of leukemia. Since then I have been very active in everything that I can do to help in my community.

JILL MILLER

My name is Jill Miller. I am involved in a lot of athletic activities. I have been in traveling soccer for 8 years and just started traveling basketball at the beginning of eighth grade. I like water skiing, downhill skiing, and figure skating.

I have been involved in KSE for 2 years. What interested me was that I wanted to help clean our world up. I am at the point now that I realize that if we don't start reducing and recycling, our world could end very soon. I hope to get other people involved in the KSE program so we can make this world a better place.

KSE got started by a kid named Clinton Hill. It started in January 1990. Right away it started off by speaking in New York at the Youth Forum. Since then there has been clubs started all over the world. For my school we have gotten speakers to come out to our school and talk about environmental issues. We've had meetings to start new people in KSE.

CHRISTINE TAAFFE

My name is Christine Taaffe, I am an eighth grader at Maple Grove Junior High, and am interested in your views about the environment. The reason I am interested is because we have to start cleaning up our Earth immediately, and we need everyone's help, especially yours because you are so influential in the community.

I have been involved with Kids for Saving Earth, which is a big help in saving the Earth. But mostly I try to be Earth-conscious all the time. I like to spread the word so everyone can do something, and I read many things about our planet.

I feel very honored that you would come to our school to talk about something so vital to our well-being, and I hope I can help you spread the word about this important topic.

WILLIAM JACE BRENDLE

My name is William Jace Brendle. I'm 13 and I go to Maple Grove Junior High. My hobbies are hunting, fishing, skiing, camping, and golfing, and that is why I am interested in the environment, because I am out in it so much. It really gets me when I am out on a hike or out on the water and I look down and I see a candy wrapper and a beer can.

I am not in Kids for Saving Earth. But, I am a Boy Scout. My troop does many things to help and clean up our environment. I am greatly interested in hearing your opinions and ideas on cleaning up our environment. Thank you for your time.

TRIBUTE TO COMDR. THEODORE L. (TED) BUCK

Mr. SPECTER. Mr. President, Theodore L. Buck will soon be completing his year-long tour as commander of the Disabled American Veterans. This position is the climax of a long and distinguished career with the organization. For nearly half a century Ted Buck has been dedicated to advancing the cause of disabled veterans. His tireless efforts are a credit to his organization and to this Nation.

Ted Buck served with honor for the American cause in World War II. He has shown the same commitment as a veteran and has continued on to serve in every line office in Pennsylvania.

He has served in the department for 11 years, on the trust fund for 3 years and as a line officer for 8 years. He has also been the deputy representative at the Aspinwall Veterans' Administration Hospital for 7 years.

During the past year, Ted has visited every Veterans' Administration Hospital in Pennsylvania. Further, he has actively pursued all State and Federal legislation pertaining to veterans. His further action in the service of his cause includes his service on the Americanism Council and his work with the Pennsylvania Veterans Commission.

Ted Buck has been an effective leader and has achieved much in his role as commander. As the leader of the Disabled American Veterans, he instructed his line officers to visit all of the organizations chapters. This action compounded with his other efforts has successfully retained chapters in the organization.

Ted is married and has 6 daughters, 11 grandchildren, and 1 great-granddaughter.

Ted Buck has served the Disabled American Veterans in an outstanding manner. I would like to join the State of Pennsylvania and his many colleagues in extending my recognition of his exemplary efforts before the U.S. Senate.

TRIBUTE TO COMDR. CAROL McNEAL

Mr. SPECTER. Mr. President, Carol McNeal will be completing her year-long tour as the commander of the Pennsylvania Disabled American Veterans. During Carol's years serving disabled veterans, she has held every post in the organization and has shown extraordinary concern for disabled veterans of Pennsylvania and their families. In nearly a decade of service, she has served with honor and distinction, showing great dedication to her cause.

Carol joined the Disabled American Veterans in 1984, when she started auxiliary unit No. 57 to coincide with chapter No. 57, which her husband commanded. She commanded unit No. 57 for 6 years.

She then moved on to the position of treasurer of district No. 6, and held the office for 2 years before becoming the district No. 6 commander for the next 2 years.

Carol McNeal began her work on the statewide level as the junior activities chairman. Since that time she has held every line office in the State of Pennsylvania.

Presently, her positions include: Adjutant of McKeesport unit No. 52, national senior vice commander, Barbara Maldet's personal page, alternate national executive committeewoman for Pennsylvania, the Marine Corps League Auxiliary, and honorary member of the Navy Mother's Club.

In her dedication to the cause, she has visited every Veterans' Administration hospital in Pennsylvania in the past year. This extraordinary undertaking is typical of her exemplary efforts to further the causes of disabled veterans and their families.

Carol McNeal is married to William McNeal, the State deputy inspector general, and has 2 sons and 2 daughters, as well as 11 grandchildren. One of her daughters, Tammy Adams, is the unit commander of district No. 6, and her sister, Donna Sellers, was the commander of district No. 6 and is now Carol's State sergeant at arms. Carol McNeal's tradition of excellent service is being carried on by her family.

The State of Pennsylvania and the Disabled American Veterans are proud of Carol McNeal. At this time, I take great pleasure in extending my recognition of her efforts before the U.S. Senate.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is now closed.

WORKPLACE FAIRNESS ACT

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of S. 55, which the clerk will report.

The bill clerk read as follows:

A bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the bill.

Pending: Committee amendment in the nature of a substitute, as modified.

The ACTING PRESIDENT pro tempore. The pending question is the committee substitute, as modified, to S. 55. The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, as the author of this legislation, I have tried my best to explain to my colleagues—especially those who are undecided and those who are opposed—why America, our country, needs this legislation. But I would say to my colleagues, do not take my word for it. Consider the views expressed around the rest of the country. You will find that support for this legislation reaches across the broadest spectrum of American society.

First, and most importantly, the American public overwhelmingly supports a ban on the hiring of permanent replacements. In a Roper Organization poll conducted in April of this year, 72 percent—nearly three-quarters of the 1,009 individuals contacted in a telephone survey—supported a ban on the hiring of permanent replacements. Only 14 percent said workers should not have the right to strike without fear of losing their jobs.

Similar results were obtained in a November 1991 poll of 778 randomly selected registered voters who said they planned to vote in the 1992 Presidential election. The poll, conducted by Fingerhut/Granados Research Co., found that only 12 percent of those surveyed identified themselves as union members, but 73 percent believed that a company should not be allowed to hire permanent replacements for striking workers.

Finally, in two separate polls of 1,000 adult Americans conducted by Penn & Schoen in 1990, respondents supported a ban on the hiring of permanent replacements by a margin of more than 2 to 1. Even wealthy, conservative Republicans expressed roughly 60 percent support for a ban on permanent replacements.

State and local governments, and Government officials, have also recognized the need to address the inequity of the Mackay doctrine. Even though there are serious questions about whether State laws are preempted by the NLRA, many States have felt compelled to act.

Wisconsin and Minnesota have already banned the hiring of permanent replacements. Louisiana, Oklahoma, New Jersey, and Hawaii enacted laws which restrict employers' ability to hire striker replacements.

The Rhode Island House of Representatives passed a bill the week before last with overwhelming bipartisan support to ban permanent replacements. The Delaware Legislature passed a bill last year to ban permanent replacements for the first 6 months of a strike, but Delaware's Republican Governor vetoed the measure.

Other State legislatures are currently considering various bills to address the plight of workers who have been permanently replaced. Such legislation has been introduced in Illinois, Indiana, Maine, Montana, New York, Oregon, Pennsylvania, and West Virginia. In addition, the California State Assembly and Senate passed a resolution endorsing the legislation as reported by the committee.

Local governments also have been getting into the act. For example, in 1990 the city of Boston enacted an ordinance to ban the hiring of permanent replacements. And the bill has been endorsed by dozens of local government officials, including the mayors of New York, Los Angeles, Philadelphia, and Birmingham, and the Cleveland, OH, City Council.

Mr. President, the public opinion polls, as well as the breadth of responses from State and local governments and Government officials, confirm that all Americans will benefit from this legislation. But I would specifically like to note the endorsements of many female and minority leaders and their organizations.

Union membership has long been one of the most effective means for women and minorities to improve their earnings. At the same time, because female, black, and Hispanic workers often hold low-skilled and semiskilled jobs, they are especially vulnerable to being permanently replaced for exercising their legal right to strike.

Let me cite two examples. Hispanic-Americans made up a large percentage of the 1,200 union members at Phelps Dodge that were permanently replaced when they went on strike to protest a 50-percent pay cut—a 50-percent pay cut—in the company's copper smelters and mines in Arizona, New Mexico, and Texas. The company was demanding a 50-percent cut in wages. Could anything be more unbelievable in a civilized society?

Imagine how you would feel if your employer told you your pay would be slashed in half. And these are workers who even before the 50-percent pay cut were barely making ends meet. Cutting their wages in half had a devastating impact on their ability to find affordable housing, to feed their families, to provide for their children. And forget about buying a house, or sending your children to college, or setting something aside for your retirement.

No one can criticize these Hispanic workers for exercising their right to engage in a lawful strike in an effort to protect their wages against such a drastic cut. But for exercising that right, they lost their jobs.

Similarly, after financier Carl Icahn took over TWA and demanded wage cuts and benefit reductions, 6,000 flight attendants—mostly women—were permanently replaced for exercising their right to strike. So much for that great savior of companies, so much for the LBO artist, so much for that man who claims he has been able to do so much for American industry, Mr. Carl Icahn.

So it comes as no surprise that this legislation has been endorsed by so many women leaders and minority leaders, as well as their organizations. Those endorsing the bill include the heads of the National Organization for Women, the NAACP, the Puerto Rican and Mexican Legal Defense and Education Funds, the Older Women's League, the National Council of Negro Women, the National Urban League, 9 to 5 [the National Association of Working Women], the Southern Christian Leadership Conference, and the Women's, Black, and Hispanic Leadership Committees for Workplace Fairness.

Some of the most noted labor law scholars in this country also have recognized the need to ban the hiring of permanent replacements. A number of these leading academics, in a letter to the Members of this body, wrote that the Mackay doctrine is "inconsistent" with "the basic concepts of our labor relations system," and "should be overturned."

Recognition of the problem of permanent replacements even comes from inside the Bush administration. Bernard Delury, head of the Federal Mediation and Conciliation Service, has concluded that the use of permanent replacements "makes the collective bargaining process more difficult." The FMCS is the Federal agency charged with mediating labor-management disputes—who should know better than they?

Mr. Delury has stated that where parties reach agreement on wages and benefits, the issue of permanent replacements is often left on the table. Delury also stated that banning permanent replacements would not lead to a significant increase in strikes.

Let me repeat that. Mr. Delury, head of the FCMS, stated that banning permanent replacements would not lead to a significant increase in strikes.

Support for S. 55 also comes from editorial boards and newspaper columnists around the country. The Pittsburgh Post-Gazette called for a ban on permanent replacements to eliminate the absurd dichotomy in current labor law.

In the Arkansas Gazette, Doug Smith wrote that—

> The problem is that the balance of power has become an imbalance of power, because companies more and more are continuing to operate during a strike by permanently replacing striking workers.

And Aaron Bernstein wrote in Business Week that—

> An honest look at permanent replacements leads to one view: Take away strikers' jobs, and you take away their right to strike.

Columnist Jon Talton of the New Mexican offered an eloquent explanation as to why we should not strip unions of their principal economic weapon:

> Every working American owes such basics as sick pay and the 8-hour day to labor unions. Executives who revel in union-busting are hardly building the framework for employee trust and involvement that is so essential to productivity. * * * Society, too, is hurt. * * * Unions are an indispensable counterweight that helps keep everybody honest in free-market capitalism. If unions are hurting, so is the free market.

The religious community also has endorsed this legislation. For example, Bishop Frank Rodimer of the U.S. Catholic Conference told the Labor and Human Resources Committee that—

> The right to strike without fear of reprisal is a fundamental right in a democratic society. The continued weakening of unions is a serious threat to our social fabric. We have to decide whether we will be a country where workers' rights are dependent on the good will of employers, or whether we will be a country where the dignity of work and the rights of workers are protected by the law of the land.

The Religious Committee for Workplace Fairness, comprised of religious leaders from across the country, has stated that—

> It is imperative for this Nation to restore the balance between labor and management [and to] ban the permanent replacement of workers involved in a legitimate strike. * * * The question of permanent replacement workers is one that unions should not address alone. It is a question for all people who would keep eternal vigilance on matters of freedom and justice.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I have listened with a great deal of interest to the distinguished Senator from Ohio. The Senate's consideration, or should I say reconsideration, or should I say reconsideration of reconsideration of, S. 55 has become embarrassing. In fact, it would almost be laughable if the consequences were not so serious. Apparently now there was yet another substitution made in the bill the Senate is now considering, or reconsidering, or whatever it may be. The substitution was deemed to be a "committee modification."

Mr. President, I ask for the yeas and nays on the substitute.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

At the moment there is not a sufficient second.

Mr. HATCH. Then I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Is the quorum call dispensed with, I ask the Chair?

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator has the floor.

Mr. HATCH. Mr. President, let me clarify the record for my colleagues who care about the procedures of the Senate. The Labor and Human Resources Committee did not meet Friday. If it did, then they obviously forgot to inform the members of the committee, certainly the minority members of the committee. None of us were informed, so I can say with assurance that the Labor Committee did not meet Friday.

I realize that the minority on the Senate Labor Committee is often considered an inconvenience by the majority. But the last time I checked, all of the names were still on the committee letterhead. I believe we were entitled to be informed about meetings or actions taken in the name of the committee, and I can assure my colleagues that agreeing to this so-called committee modification is not one of them. The so-called committee modification is nothing more than the latest version of S. 55 to be used in their legislative shell game.

I realize that when it comes to labor legislation, most notions of senatorial courtesy get tossed out the window, and I recognize that it obviously becomes political hardball at its zenith; that the proponents will utilize every trick in the book and that the majority on the Labor Committee is in a position to do whatever they want. There is no question about it.

I recognize that they view the committee process to be a bit of a joke, something to use when it is to your advantage and something to toss aside when it gets in your way.

Committees do serve a purpose, Mr. President. They stand for the proposition that sometimes ideas that sound good on their face do not stand up under scrutiny. Committees allow us to make sure that there is a difference between sound legislation and other flaky ideas or theories. Hearings and markups help us to understand a bill, study the bill's ramifications, and of course learn of the potential consequences of any particular bill. That is why we have committees, so we can all look at these things and be a little bit more sure of what is going to happen, inform our colleagues so they know there has been a reasonable consideration of what has been done and of course go from there.

Then when we have done all the committee work, we generally bring it to the floor. And the Labor Committee can bring any liberal bill they want to the floor. There is no question about it. That is why it is astounding to me that they do not use the committee process on these labor bills. As a matter of fact, that is the last thing they care about, because they can do anything they want to on the floor.

So why not do what is right and let the committee process work? Why not have the normal consideration of these blockbuster bills like this one is— like this committee modification is—which would change the whole labor-management relations approach in this country, an approach that has been used for 50-plus years.

No, they did not do that. It is certainly not the case when it comes to labor legislation demanded by the AFL–CIO. Here the opposite of due deliberation is true. Whenever possible, hide the legislation. Constantly keep switching the language so no one knows what they are voting on. It does not make any difference anyway; their people are going to vote for it if organized labor wants it, no matter what it says. But there are some of us who really do think it is important to know what is in these bills, especially these labor bills that might upset the delicate balance between management and labor, something that has worked well in this country for years.

The attitude of the Labor Committee is, make sure that committee reports are invalid by the time we are ready to vote; invoke cloture; and cut off all amendments before anyone has a chance to read the legislation. Keep confusion at a maximum level. That is the way it is done on the Labor and Human Resources Committee. Having served on the Committee on Labor and Human Resources for 16 years, I understand that is how the proponents like to operate when it comes to labor legislation. I only hope that other Members of the body understand that is what has happened on every major labor bill since I have been here.

I hope they appreciate what happens when rules and senatorial courtesy are held in such contempt. This modus operandi is a grave disservice to all Members of this body. I personally hope they are sufficient numbers of Members in this body that have the courage to stand up to this single most powerful special-interest group in Washington and say that this is not the way that we should do business in what is supposed to be the world's greatest deliberative body. If ideas have merit, they should not make a mockery of the legislative process to have them considered. If ideas are truly fair, truly equitable, and truly effective, they will stand up to public scrutiny and open review. If this bill is all that the authors of it claim it to be, then they should welcome the free, open, and unrestricted debate.

Perhaps the most telling commentary on this new legislation comes not from its authors or critics; it comes from the majority leader and the majority whip. During the filing of amendments last week, they were faced with an amendment on our side which would have made this body, the Senate of the United States of America, subject to the very provisions of this legislation as well as the rest of the National Labor Relations Act. Faced with that possibility that we might possibly apply to ourselves the same laws we apply to everybody else, and, of course, faced with the inherent confusion with the possible consequences of this legislation, they filed an amendment which would have delayed application of the legislation to this Chamber for at least a year while the special task force studies the issue.

Is not that just the way the U.S. Senate should do this? After all, it says that we are more important than the people out there who have to live with the laws that we pass. Why should we have to impose those types of laws on ourselves? Will not that be terrible for the U.S. Senate to have to live according to the laws that everybody has to live with? Would it not be terrible if we had to abide by the same things that others have to? Why, we are different. For some reason we should not have to do this. What we need is at least a year's delay, while everybody else has to comply with these onerous burdens under this bill and under this committee modification, while a special task force study is issued.

That is what we call burying the obligation. We just bury the obligation of the U.S. Senate to be the same as the people we impose these burdens on. After all, they are just the people out there. "We the people" does not quite mean as much when it comes to the U.S. Senate. Why, we the Senators, according to that side and according to those who support this bill and according to that amendment, we the Senators do not have to apply the same things to ourselves that we do to others.

I think that is wrong. I think that is wrong. In other words, the majority leader and the majority whip are ready to offer an amendment to delay imposition of the legislation on themselves and the rest of this body for at least a year so that it can be studied. Just look at the irony of that. So it can be studied, to see if we Members of the U.S. Senate should be treated the same way that the people out there are.

Of course, when it comes to the rest of America, when it comes to the millions of men and women who have risked their savings and their families' security to create businesses and jobs that comprise our economy, when it comes to the vast majority of working men and women who do not belong to unions—when it comes to the rest of America, a few days is more than enough time. It is as much time as it takes to pass it off the floor of the Senate. That is good enough for them. But we will have a year to study for the U.S. Senate. A few days is ample time to write, study, and pass legislation that will affect every workingman and woman in this country for the rest of their lives. That is, a few days after the committee process has been undone, ignoring the whole committee process, not going through the hearings and the consideration of this bill that we do on other bills. After all, this is labor legislation. The AFL-CIO wants this. Therefore, it must be good.

It does not make any difference how it is written or how it affects everybody. We will just pass it here because the votes are always here—and they always are—except for the fact that there is a right of extended educational dialog, which makes us have to think about this for at least a few days.

The attitude of the majority—that a few days is ample time to write, study, and pass legislation that will directly affect every working man and woman in this country for the rest of their lives—is wrong. But when it comes to the U.S. Senate, they say we should wait at least a year so we can study this legislation.

Mr. President, the problem facing us today is whether to revoke cloture on the legislation numbered S. 55—now, we cannot really call it the underlying legislation anymore, because it is different now—whether or not to invoke cloture on the legislation numbered S. 55. The only trouble is that no one knows for sure what is in this legislation on which we are being asked to invoke cloture.

I assumed that this new bill was probably the so-called Packwood compromise, and amendment that first surfaced in the CONGRESSIONAL RECORD on Thursday. I was wrong. So then I presumed it was one of the amendments that was filed on Thursday. I was wrong again. The new bill that we will be voting on in less than 24 hours was available to the public only today. While it is similar to earlier versions in some respects, it is completely different in others. The committee hearing, the committee debate, the committee report are all invalid. Keep in mind, this is after the House of Representatives, the other body, passed this bill. That is what we are considering. The committee hearings, the committee debate, the committee report, all of which were important for understanding of legislation, are now all invalid.

We have no record whatsoever on this new legislation, not any, not any. From what I can tell—and I am assuming that the sponsors have not replaced the legislation yet again, and I do not believe they have a year although I expect anything on labor legislation—the latest Packwood-Metzenbaum solution still overturns the Mackay doctrine. The Mackay Supreme Court decision is a decision that stands for the proposition that, just as employees can go out on strike, employers have a consequent leveler; they can continue operating by replacing, even permanently, the striking workers. That is why strikes have not become in recent years—in fact, since 1938—the devastating destruction of the economy that they will become if this bill passes.

This so-called compromise does not only overturn the Mackay decision. The Packwood solution completely overhauls all of our collective bargaining in the United States. It overturns significant portions of the National Labor Relations Act and, I might add, the Railway Labor Act, laws that I have taken a particular interest in through the years—both of them. It wipes out more than 50 years of Supreme Court precedents and Supreme Court decisions, and it would insert the Federal Government into virtually every wage-setting decision in the United States. This "itty-bitty" amendment that nobody has seen until Friday, this compromise, this committee modification—committee modification. There was no committee action. Mr. President, we are being asked to junk all of these laws and all of these decisions for a proposal that no one in this Chamber really understands, for a proposal that the sponsor admits has never been tried before in the history of the United States.

On Thursday, last Thursday, Senator PACKWOOD described his proposal as "quasi-compelled mediation." What in the world does that mean?

The honest truth is that nobody in this Chamber, including Senator PACKWOOD, who is not here right now, has any idea of how this proposal will work. We have no idea whether it will result in fewer or more strikes. My bet is a lot more.

We have no idea if it will generate labor peace or labor unrest. My bet is, a lot more labor unrest.

We have no idea if it will be inflationary. My bet is that it is going to be inflationary.

I think we can pretty well rely on my bets here, because I never bet unless it is a sure thing. In fact, I do not even bet then, but I would bet here.

We have no idea what impact it will be on small business. I think I do. It is going to be devastating. You can bet the farm on it.

We are being asked to take a gamble. We are being asked to risk the economy on a theory. The answer to this request should be simple. The answer should be no, we are not going to do that.

We are not going to bet this whole country on a theory that even Senator

PACKWOOD cannot explain. The Packwood substitute, which is now described as a committee modification, has been described by some in the media as a last minute "concession" by organized labor limiting its ability to strike. That is wrong.

The latest substitute—and again I am assuming it has not been changed again—actually gives the AFL–CIO a new weapon in addition to the right to strike.

They do not just want the right to strike. They want more than that now. They want the right to send the dispute into arbitration whenever organized labor chooses, and then the right to pick and choose whether it would rather accept the decision of the arbitrator or strike. All choices, of course, are in the sole province of organized labor.

The Packwood solution is most obvious in its inequity. Not only would it destroy the existing balance in Federal labor law, it offers to create a new form of collective bargaining that provides unions with more rights than employers. It offers to upset this delicate balance and dump on the employers.

For example, a union can request arbitration at any time. If the employer refuses the request, it loses the right to permanently replace striking employees for the duration of the labor dispute.

Mr. METZENBAUM. Will my colleague yield for a question?

Mr. HATCH. I would like to finish.

Mr. METZENBAUM. Just for a question.

Does my colleague recognize that there is nothing in the Packwood-Metzenbaum proposal that provides for arbitration? Arbitration is a final binding decision by the arbitrator that the parties must accept. And there is nothing in the Packwood-Metzenbaum proposal that provides for anything other than a recommendation as to what the result should be. Neither party would be bound, which is the case with arbitration. Is the Senator aware of that?

Mr. HATCH. I appreciate the question. I would be glad to use Senator PACKWOOD's terminology: "Quasi-compelled mediation." Technically, it may not be arbitration. Then I will use the term "quasi-compelled mediation." This bill does provide for fact finding recommendations that an employer rejects only at the employer's peril.

Mr. METZENBAUM. Or the union rejects at its peril. And if the union rejects it, then the employer may bring in striker replacements.

Mr. HATCH. I am going to get into that now, I promise the Senator, because the fact of the matter is that the union has a lot of options that the employer does not have if the union rejects. I have just mentioned one. That is, to go back over it again, the union can request arbitration at any time, or "quasi-compelled mediation", if you want to call it that. But it is really arbitration. If the employer refuses, it loses its right to permanently replace striking employees for the duration of the labor dispute. The union can go out on strike, and the employer has no weapon to fight against the strike. It is over.

In other words, an employer either caves in to the strike and loses, or the employer fights the strike and loses, because it has no more weapons to use. One would assume that the proposal to allow the unions to request this quasi-compelled mediation, or arbitration, at any time is a balanced proposal. But no. If management refuses what really is compelled arbitration, then the management loses its only real option, or offsetting right, and that is the right to permanently replace striking employees.

Keep in mind here that management does not want to hire permanent replacements. There is no real need to worry about that, because certainly less than 3 or 4 percent of all of the striking workers have been permanently replaced. It is a very minor percentage. No management wants to go through the process of having all of the animosity and all of the obligation of retraining and so forth. So management probably is not going to permanently replace in most cases, if they have a reasonable set of demands. If they do not, it is their only option.

One would assume that the proposal, to be balanced, would also say that since the unions can request arbitration, and if management refuses to arbitrate or go through quasi-compelled mediation, then management loses its right to permanently hire and replace strikers.

But if the union refuses, why will we not let management request arbitration or this quasi-compelled mediation, call it what you want? And if the union refuses, then the union should lose its right to strike. If you are going to be fair, let us make it work both ways. If we are going to move into compulsory arbitration, which is what this amounts to in the end, practically, or a quasi-compelled mediation, call it what you will, then why not make it to both ways?

If the union requests arbitration and management refuses, management loses its right to permanently hire.

If the management requests arbitration and the union refuses, then the union loses its right to strike.

Hey, I would not like that. I do not think most management people would. But at least it would be fair and provide balance. Where is that balance here?

I thought we were talking about a delicate balance in labor relations that can keep this country from going down the drain. But the proposal contains no such language. It says that only the union can request arbitration, as if there is only one side to this equation.

Is that fair? An employer may not request arbitration? This is workplace fairness? Only the union can? If the union does, and management refuses, it loses its greatest weapon to fight back.

Management cannot request this, but if it could, then the union should lose its right to strike if it refuse. Would that not be fair?

It is not written that way. Only the union has that right and only management loses its only bargaining tool.

Second, if after the factfinding panel issued its recommendations—that is after they set up the factfinding panel, that has 45 days to issue its recommendations—if after that the employer rejects them and the union accepts, the employer's decision is final. It cannot be revoked. And the employer is banned from that point on from hiring Mackay replacement workers when the union goes out on strike.

So the union has all the power. What employer is going to reject the recommendations? They are going to have to take whatever the arbitrator says, or compelled mediation panel, whatever you want to call it.

What happens if both parties reject the recommendations? The answer is that in a glaring one-sided loophole in the Packwood proposal, the union can come back at any time and accept. The union can. That is, of course, what it will always do. Why? Because the recommendations will not apply anyway, since the employer who cannot change its mind, has previously rejected them. What applies now is the ban on permanent replacements contained in S. 55.

Third, there is no limit on the number of times a union can strike under this proposal, no limit whatsoever. Talk about one-sided, talk about a disruption in labor-management relations law, talk about unfairness, talk about stacking the deck, talk about a one-way street, talk about dumping on business.

A union could keep its options open by going out on strike without serving notice. If the employer then stated it was going to hire permanent replacements, or the union suspects it may, the union would simply make an unconditional offer to return to work, shutting off the employer's right to hire replacements. Once all the strikers were back on the job, the union could then file the requisite notice. Everything stacked on the side of the union.

Fourth, there is no provision in this bill covering who is going to pay for all these procedures; who is going to pay for all this disruption in labor-management relations. We have thousands of these situations every year.

Under the Postal Service labor dispute procedures upon which this proposal is allegedly modeled, both sides split the costs. Now, that is not the case here. The bill is silent on this point. So who is going to pay for it?

And it can be a whopping amount of money.

Of course, under the Postal Service labor dispute procedures, there is one other very, very important difference. Postal workers are not allowed to strike. If you are going to model it after the Postal Service, why do you not take away the right to strike here also.

Well, the unions would never agree to that because that is an important element of their rights. And I would uphold their right to do that. But if they have a right to strike, then management has to have a right to permanently replace them. This is hardly ever used, but when it is, it becomes an effective tool on the part of management.

It is a tough tool. It may mean the loss of a business anyway. It is a very, very serious decision to make. Keep in mind, if you are going to use the Postal Service model, typically they are not allowed to strike. Why should these people be allowed to strike once there is a request for arbitration?

I can only assume the authors of the proposal were willing to follow the Postal Service model only so far.

Fifth, most employers would be forced to accept the arbitration board's recommendations, even if they represent only a crude outline of an agreement. Now, why is that? Because under the new rules, set up by this committee modification, the employer will never be able to do any better at the bargaining table. Never.

The union, on the other hand, can appraise the recommendations. If it likes them, the union can accept them or, at the very least, be assured of being able to strike without having to face permanent replacement under the Mackay doctrine.

If the union does not like the recommendations, it can reject them and look to see what the employer will do before having to decide on its next move. If the employer decides to use permanent replacements, it can immediately come back and put its people back into the work force. Once the union has done that, there is nothing to stop it from striking again.

Sixth, a union is always in the position to be able to cut off an employer's right to hire Mackay replacements. Nothing in this committee modification or this proposal provides an employer with the comparable ability to cut off the union's right to strike. Nothing. Nothing.

There is no equality. There is no balance. There is no quid pro quo.

The Packwood-Metzenbaum solution, to the degree that it can be identified, is based on several suspect presumptions. For example, a 1987 National Academy of Arbitrator's Report contained the following conclusion:

> * * *the quality and significance of arbitrators' work is declining. . . . Arbitrators too often base their rulings on principles taken, not from the parties' agreements, problems or needs, but from some treatise on arbitration or from published awards dealing with other parties, other agreements and other problems. Theoretical principles are too often imposed on the parties, without regard to the considerations of practicability or justice. Collective bargaining realities become obscured and play an insufficient role in the reasoning process. Self-restraint is often ignored and awards attempt to decide far more than need be decided.

This observation raises another, serious problem, and that is cost. In the 1970's, many States enacted compulsory arbitration laws that were meant to prevent strikes by public sector unions. Many of these same States found out the hard way the economic consequences of this approach.

For many who have experienced it, binding arbitration may be more aptly called "binding incompetence." Many local officials have stated that they now see less harm in weathering a strike than in submitting to binding arbitration. The Seattle Post Intelligencer reported on March 7, 1976:

> Mayor Wes Uhlman said yesterday he'd rather go through a strike by public employees than wind up with a binding agreement made by an 'irresponsible' arbitrator whose decision could bankrupt the city.

The January 27, 1986 Chicago Tribune quoted Detroit Mayor Coleman Young—certainly no conservative Republican—as blaming Michigan's compulsory arbitration law as responsible for much of the financial difficulties facing his city. Further, the cost to the taxpayers was substantial.

Mayor Young estimated that Detroit's costs because of compulsory arbitration were $50 million-a-year higher 10 years after enactment of the law than they would have been under the old collective bargaining system.

The Tribune article stated that since 1969, according to officials of the Michigan Municipal League, no police contract had been settled in Detroit or any other large city in that State without going to compulsory arbitration. Compulsory arbitration meant higher costs to the taxpayer and inevitably, poorer public services.

The February 7, 1981 National Journal reported:

> The mayor said he will urge the state legislature to repeal Michigan's compulsory arbitration law, a statute, ironically that he co-sponsored in 1969. "We know that compulsory arbitration has been a failure," he said. "Slowly, inexorably, compulsory arbitration destroys sensible fiscal management," and the arbitration awards, he added, "have caused more damage to the public service in Detroit than the strikes they were designed to prevent".

Now, it might come as a surprise to the authors of the Packwood-Metzenbaum proposal, but the authors of our Federal labor statutes had once considered arbitration or compulsory mediation, or quasi-compelled mediation, to use Senator PACKWOOD's words. They rejected it. Keep that in mind. The authors of the Federal labor statutes had once considered arbitration and they flat out rejected it.

During the debate of the National Labor Relations Act on the floor of the Senate in 1935, Senator Wagner specifically refuted the notion of compulsory arbitration:

> One method of approach to the problem of industrial peace would be for the Government to invoke compulsory arbitration, or to dictate the terms of settlement whenever a controversy arises. Where this procedure has been tried in European nations it has met with only questionable success. In any event, it is so alien to our American traditions of individual enterprise that it would provoke extreme resentment and constant discord.
>
> It is clear that in this country peace must be based upon reason rather than force. We have cherished always the ideal of employers and workers meeting together with friendly and open minds in order that they may exchange views and arrive at solutions based not upon compulsion but upon mutual concessions and mutual benefit. This may be termed the method of conference, of give and take, of free cooperation. 79 Cong. Rec. 7573 (1935) reprinted in 2 NLRB, Legislative History of the National Labor Relations Act, 1935, at 2341 (1935).

If this passes, so much for Senator Wagner's ideas. By the way, Senator Wagner is the author of the Wagner Act, one of our hallmarks of Federal labor law, much of which will be modified by this committee modification, I think, to the detriment of both management and labor.

I do not think there is any question about it. I am amazed that to gain an advantage over management, this special interest group would resort to this type of committee modification. I am amazed.

But if they do, why not be fair? If unions have a right to request arbitration, businesses ought to have a right to request arbitration. If they accept it and business does not accept it, then under this bill, business loses the right to permanent replacements.

But if business accepts it and they do not, then they ought to lose the right to strike. Would that not be fair if that is what you want to do, if you want to go to compulsory arbitration? I think I have made a good case against that—or quasi-compelled mediation. You can call it that, if you want to, if Senator METZENBAUM feels I am being too technical here, or he is being too technical; call it quasi-compelled mediation. But it amounts to two words, compulsory arbitration.

In 1947, 1 year after one of the greatest waves of strikes in American labor history, Senator Robert Taft made the following statement in Congress in defense of the Labor Management Relations Act. That is called the Taft-Hartley Act, one of the basic labor laws of our country. He said this:

> [T]he solution of our labor problems must rest on a free economy and on free collective

> bargaining. The bill is certainly based upon that proposition. That means that we recognize freedom to strike when the question involved is the improvement of wages, hours and working conditions, when a contract has expired and neither side is bound by a contract. We recognize that right in spite of the inconvenience, and in some cases perhaps danger, to the people of the United States which may result from the exercise of such right* * *.
>
> But if we impose compulsory arbitration, or if we give the Government power to fix wages at which men must work for another year or for two years to come, I do not see how in the end we can escape a collective economy. If we give the Government power to fix wages, I do not see how we can take from the Government the power to fix prices; and if the Government fixes wages and prices, we soon reach the point where all industry is under Government control, and finally there is a complete socialization of our economy.

One government official wrote that the imposition of binding arbitration makes collective bargaining irrelevant. This official wrote:

> [Binding arbitration] has taken the responsibility of determining the financial future of the city or town * * * from the local officials and given that responsibility to an unelected arbitrator who may not even live in this community. I do not believe that this broad delegation of local fiscal powers is consistent with any reasonable notion of home rule.

Who wrote that statement? Maybe I should read that again, because it is such a good statement.

> [Binding arbitration] has taken the responsibility of determining the financial future of the city or town * * * from the local officials and given that responsibility to an unelected arbitrator who may not even live in this community. I do not believe that this broad delegation of local fiscal powers is consistent with any reasonable notion of home rule.

Who wrote that statement? Try Michael Dukakis. Try Michael Dukakis, former Governor of the State of Massachusetts and former Democratic candidate for President of the United States of America.

If he, a leading Democrat, recognizes this, and Mayor Coleman Young, a leading Democrat—both of whom I have a great deal of respect for—recognize compulsory arbitration does not work, why in the world can the U.S. Senate not recognize that? Or maybe we can get around it just because it is called quasi-compelled mediation. Give me a break.

We are going to the very system that almost everybody admits leads only to chaos and despair, all because the unions want to get an advantage over management.

Well, another flaw in the Packwood solution is the envisioned role of the Federal Government. I am talking about the Packwood-Metzenbaum bill; this committee modification. Maybe it is the Metzenbaum modification; I do not know. But it was Senator PACKWOOD who raised it on the floor. I am not sure, because we never had a committee hearing on it; we never heard any testimony by either of these Senators. We never talked to them about it; we never knew about it. We had no idea, as a matter of fact, until today. Or I should say last Friday, maybe, after we had all gone from town to our home States.

Another flaw that has to be raised is the envisioned role in this amendment of the Federal Government. To date, since these labor laws were passed in the thirties, and in 1947, the Federal Government has served as a referee—a mere referee—allowing the parties to negotiate between and among themselves. Both sides up to date have had economic weapons. The Federal Government does not involve itself with the substance of the dispute. That is the way it has worked for the last 54 years. Rather, the Federal Government's role is to protect the process of collective bargaining. It does not interfere with it; it protects it under the law.

Under the Packwood-Metzenbaum proposal, this would no longer be the case. In perhaps the ultimate gesture towards big government, the Federal Government would no longer serve as a referee, it would serve as a judge. It would set wage rates and working conditions. That is what the Federal Government would do. That is what they are going to do here. They are going to bring the Federal Government in to interfere with what has been a free and open relationship between management and labor. It is going to set wage rates and working conditions under this proposal.

My goodness gracious. While the rest of the world is running away from this type of law, we are running towards it. I can hardly believe it.

In fact, for the first time perhaps in history, the Packwood-Metzenbaum solution actually includes in the statute a specific term of a labor agreement, specifying under this Packwood-Metzenbaum modification that any agreement cannot be longer than 2 years.

Has Congress now decided that it has problems with contracts of 3 years' duration? Maybe about what they last today, 3 years. Now it is 2 years, if this bill passes. I suppose this is so unions can strike more often, so they can assert their economic leverage more often—especially if management's leverage, the ability to hire permanent replacements, is done away with, which this bill does.

Moreover, under the Packwood-Metzenbaum proposal, the parties would no longer be under a duty or obligation to bargain in good faith, or to bargain to an impasse. In fact, they would no longer bargain with each other, as they have done for the last 54 years. Instead, all the unions would do is petition the Federal Government to appoint a factfinding board. All communications between the parties would then be through the Federal Government. The parties would be insulated from one another.

If I was to pick one item which, alone, would require that we repudiate this bill, it would be that. This alone stands as a complete repudiation of the heart and soul of collective bargaining as we have known it over the last 54 years, in the greatest country in the world, with the greatest labor rights in toto in the world, in a system that has worked for 54 years, with neither side having an advantage over the other. Or should I say "a significant advantage," because there are matters where certainly unions have a greater advantage. Even under current law, if management hires permanent striker replacements and begins its business again, for every job that comes open the union workers have a right to take that job first. That is an advantage that we stack in favor of the unions; rightly so. I do not have any problem with that. It is not equality, but it is a reasonable advantage.

If you stop and think about it, removing the parties from having to deal with each other, as this bill will do, in practicality is really a very, very bad idea. It would repudiate the very heart and soul of the collective bargaining process that has served this Nation so well over the last 54 years.

Finally, for the first time in the history of this country, nonunion employers can be forced to bargain with a union. This is the first time in the history of the country. Under the Packwood-Metzenbaum solution, a union can gain bargaining rights based solely on a bare majority of signed authorization cards, an inherently unreliable indicator of employee sentiment. There would be no need for a secret-ballot election to determine whether the union should represent those employees or not.

Once the union has those signed cards it can claim to represent the employees and file a request for a factfinding panel, forcing the employer to bargain with the union, even though it has not earned that right and even though there has not been a secret-ballot election. This is unprecedented in our labor laws.

See, this is not an itty-bitty modification, this is not an itty-bitty bill, or change, this is not a thing to right a wrong or injustice. This is a major, wholesale revision of the labor laws of our country done at the last minute, the last day, without any committee hearings, without any committee testimony, without any committee consideration, without a committee markup, without even telling the House of Representatives that already passed their version of S. 55. I hate to say it, but that is the height of arrogance.

The Packwood-Metzenbaum solution, this committee modification, is also silent on what would happen if the employer has already demanded a formal representation election to be conducted by the National Labor Relations Board. Nobody knows what is going to happen. This bill does not say. What would happen if the union filed such a request before the election takes place? What would happen? In fact, the Packwood-Metzenbaum solution has so many loopholes, it appears that a union could lose the election and still be permitted to file a request for a factfinding panel under this bill. It is pitiful. This is not the way to write laws. This is pitiful legislation. This is workplace fairness? Give me a break.

Mr. President, this is not the way to write legislation, especially legislation that will have an impact on every working man and woman in the United States.

The Packwood-Metzenbaum solution calls for a complete overhaul of the collective bargaining system of our country. I caution my brothers and sisters on the other side, be careful what you are doing here. What seems to be an advantage for a special interest that is very supportive of you may turn out to be a great disadvantage to the country. It may turn out, in the end, to be a great disadvantage to that special interest and those people you think you are representing by bringing this brand new set of ideas to the floor that have such absolute, long-term economic consequences.

Not only does this bill interfere with the union's right to strike, it gives unions new economic weapons, the power to force employers into arbitration. The power to force employers into arbitration or, if Senator METZENBAUM likes it better, quasi-compelled mediation. It is one and the same, in my book.

The Packwood-Metzenbaum solution is a one-way bill giving unions a variety of new rights and protections but affording employers nothing comparable. Instead, it destroys the current delicate balance in our Federal labor laws and replaces it with a procedure which is unknown except perhaps to the authors of this proposal, and, I submit, they do not know the full consequences either.

Tomorrow when we are asked to invoke cloture on legislation titled S. 55, there is only one way to vote in my book. If you believe that this body should understand what we are doing before we impose a solution on the whole country and uproot labor-management relations and labor laws of the whole country, if you believe the rules and procedures of the Senate ought to mean something, if you believe we ought not overturn 50 years of Federal statutes, Supreme Court, and other judicial decisions and legal precedent on a whim, if you believe that now is not the time to be gambling with our economy, if you believe we do not have to destroy the very collective bargaining system that we all believe in in order to help unions, then you should join us and help us and vote against cloture.

Mr. President, I am not kidding. This committee modification has sweeping implications, all kinds of loopholes. It is not fair, it upsets this delicate balance, hurts the economy of this country, drives the parties apart instead of bringing them together to negotiate their differences. And, ultimately, it is going to mean chaos in this country, all because of a last-minute scheme that our committees never considered, never thought about before, never held hearings on, never had a markup on, never discussed with each other. I think that is not the way to do legislation. It is not in the best interest of our country to support this, and I hope our colleagues will vote against cloture because, if we do not, and this thing passes, we are all going to be sorry as the country faces problems that it never conceived possible before, as we move to a position of much less preeminence in the world than we are today.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. HATCH. I have not yielded the floor yet, Mr. President.

Mr. METZENBAUM. I am sorry.

Mr. HATCH. I do have a few questions I would like to ask my esteemed colleague from Ohio on this amendment that I want to get some answers to.

When Senator PACKWOOD appeared last Thursday and he described this proposal or, in essence, this proposal, he began as follows: "You have reached an impasse"—he is talking about the system—"you have reached an impasse. You cannot reach a contract, so the union says, 'We would like to have a mediation panel.' They have to say this 7 days before they go on strike."

There are several things I do not understand about this description in the proposal itself.

First, is it not correct that the committee modification, substitute, whatever you want to call it, itself says that the request be made not "7 days" but "at least 7 days" before a strike?

Mr. METZENBAUM. I think that is correct. I think that is the language.

Mr. HATCH. Is it not correct then to be able to assume that might mean 7 days, 7 weeks, or 7 months?

Mr. METZENBAUM. I think "at least 7 days" certainly means that.

Mr. HATCH. It could be 7 days or 7 months.

Mr. METZENBAUM. It could be at least 7 days; that is correct. I think we both understand the English language.

Mr. HATCH. Or it could be much more.

Mr. METZENBAUM. I do not think it would be inappropriate. I think the union early on would be trying to avoid the need to have a strike.

Mr. HATCH. I have to say I do not have any problem stopping strikes before they happen either. My question goes to how one-sided the proposal is.

Mr. METZENBAUM. I do not see anything one-sided about that at all because employers are not threatening to go on strike, so I do not see how you can have it two-sided. Are you suggesting in some way that the employer indicate that it is thinking of going on strike?

Mr. HATCH. No. I am suggesting the employer ought to have a right to request a factfinding panel.

Mr. METZENBAUM. Would that make the Senator from Utah find this agreeable?

Mr. HATCH. No, it would not, but it would be more fair. Let me say this, my question goes to how one-sided the proposal is and how easily it can be manipulated by the union side to avoid losing anything in the process.

Mr. METZENBAUM. Let me say to my colleague from Utah, I am willing to stand here to answer his questions, but I am not willing to stand here and answer his questions with all of the prefatory invective that he suggested. If you just ask me the questions, I will answer them.

Mr. HATCH. I do not think it is invective to describe how I feel. I want you to describe how you feel.

We have established that a union can seek factfinding at any time prior to 7 days before it plans to strike. I cannot find anything in this proposal that would require that a union's request for this outside party to write the contract be preceded by a bargaining impasse by the parties. I cannot even find where it has a precondition that the parties have engaged in any collective bargaining at all.

If you disagree with that statement, would you mind directing me to the precise language in the committee modification that would rebut what I just said or that imposes any such preconditions?

Mr. METZENBAUM. I think what you are suggesting is that somehow the union would rush in and think this is such a great idea to have this mediation. Let us face it, unions representing workers would prefer to negotiate with the employer to come to an agreement. By no stretch of the imagination could the National Association of Manufacturers, or the U.S. Chamber of Commerce, or the Business Roundtable, or anybody else think that any union would suggest that some outsiders come in to mediate a labor dispute before the union had a chance to sit down with the employer to negotiate.

So I think if you want to be unrealistic, or to fictionalize some concept that just is not realistic, I think you can. I came out of a law practice and out of an earlier career where I understand the feelings of working people, and I was also an employer.

Mr. HATCH. I did, too.

Mr. METZENBAUM. I had many people working for me, over 4,500. I simply understood that employers and workers want to try to work out their differences. Neither side is anxious to have a strike.

Mr. HATCH. My question is not that. My question is, Is it in the bill as a precondition?

Mr. METZENBAUM. I do not think there is any precondition in the bill. The Senator from Utah obviously reads English very well. He knows it is not in the bill.

Mr. HATCH. Let me say this. It is not in the bill.

Mr. METZENBAUM. Pardon.?

Mr. HATCH. It is not in the bill, any precondition?

Mr. METZENBAUM. There is no reason for it to be in the bill.

Mr. HATCH. I think the Senator assumes quite a bit because, first, the request for factfinding, as we have already covered it, can be lodged long before any threat to strike or any strike takes place.

Second, I am not aware that the law protects unions from striking only once an impasse is reached.

Third, while there is a statutory requirement elsewhere in the National Labor Relations Act that both sides bargain in good faith, it is not at all clear that the proposal, as written here, kicks in only after any unfair labor practice issues have been decided.

Mr. METZENBAUM. We are not suggesting there has to be an unfair labor practice. That is not the implication of this legislation. There does not have to be an unfair labor practice at all. It just may be that the union feels an employer is being unfair. That is not an unfair labor practice.

Mr. HATCH. This is a good dialog, and I think it is important for us to go over this a little bit so I understand it a little better. Senator PACKWOOD in his statement last Thursday indicated surprise that the unions were agreeable to the suggestion now——

Mr. METZENBAUM. That is right, he did, because this is a major move——

Mr. HATCH. It is a major change.

Mr. METZENBAUM. For the unions to be willing to submit disputes to mediation and factfinding. That is a major move away from a traditional position, and a great concession. I am surprised that employers are not here jumping on the bandwagon and saying this is a great way to avoid many strikes in this country.

Mr. HATCH. I am not surprised at that. I am surprised that they would move toward this in light of the comments of Mayor Young and others that I have quoted here, including former Governor Dukakis. But Senator PACKWOOD indicated surprise that the unions were agreeable to the suggestion because, he said, "of what an anathema it is to organized labor to in any way consider any limitation or any legal impediment on their right to strike, and in this case, they are risking a lot and putting the power of a strike in a much less powerful position than it otherwise would because they are going to be an opprobrium of the law against them if they turn down this panel's recommendation."

I have to tell the Senator I am really puzzled by his statement there because, first, when you say that the unions are risking a lot because they are putting the power of a strike in a much less powerful position than it would otherwise be, I assume the Senator means than it would otherwise be in S. 55, if it were to be passed in its original form. And I assume this because I cannot see how the unions have, in this proposal, given up any power that they have under current law. Am I correct on that?

Mr. METZENBAUM. They certainly have given something up.

Mr. HATCH. What have they given up?

Mr. METZENBAUM. They have indicated a willingness to have a third party come in and indicate publicly what the situation is. And once that has been done, if the union does not accept it and the employer does, then the employer is in a position to bring in striker replacements. And that would be a legal right. Never before has there been any such proposal made by the unions of this country.

Mr. HATCH. That is all current law.

Mr. METZENBAUM. Certainly, employers can do that, and that is the reason we are here. Let me point out to my colleague from Utah, the proposal that has been made has been approved by a majority of the Members of this Senate, and all we are doing today is arguing as to whether or not we are going to be able to cut off debate. But 55 out of 100 Members have indicated that they think this is a proper road to go, and what we are talking about now, the real issue before this body is whether we cut off debate.

Now, the Senator from Ohio has used the procedure of extended debate on more than one occasion, but I believe this is the kind of situation where the bill really is good for the country. The bill moves the country forward as far as labor peace is concerned, because when you have a strike it contributes nothing to the economy. It means a cessation of work. It means a cessation of production.

Fifty-five Members of this body said, let us vote on this issue. We think that the proposal is a fair one, to provide for a factfinding body to come in, a balanced body.

I was quite aghast when I heard my colleague and friend from Utah say last week that somehow there is some bias in favor of the union in having somebody from the Federal Mediation and Conciliation Service appoint the third party, one from the union and one from management and one appointed by the FMCS.

Mr. HATCH. I want to point out to the——

Mr. METZENBAUM. I want to say that nobody, none of those people who oppose this bill, the groups I mentioned before, the Chamber of Commerce, the NAM and the Business Roundtable, none of them would come forward and say that they believed that those appointments were biased, criticizing the integrity of an arm of this Government that is well respected both by management and labor.

Mr. HATCH. Of course, that is not what I said, nor does the bill say that.

By the way, the 55 members who voted last week had no idea what in the world was going to be in this committee modification, which is different from the Packwood modification.

Mr. METZENBAUM. The difference is minutia. One portion of it covers a detail that the Senator seemed concerned about.

Mr. HATCH. Even so, nobody knows to this day what the implications are of the modification.

Mr. METZENBAUM. Please let me finish. The differences we are talking about—and the Senator from Utah would suggest there were major differences—the differences we are talking about have to do with the point that the Senator raised, which was that somehow there was some possibility the original bill and the Packwood bill had different parameters as to how far they would go. And though we did not feel it was necessary to provide any clarification, we made that clarification in order to accommodate my colleague from Utah, and then we provided for certain adjustments with respect to the Railway Labor Act so there could not be any misunderstanding. But other than that, there were no changes made.

Mr. HATCH. When Senator PACKWOOD described his proposal last Thursday, he said that the unions would appoint one of the mediators, management would appoint the other, and the two would appoint the third. Now, under the new modification it appears that the Federal Mediation Service will appoint the third. I have no problem with that. But under this proposal, as modified, unions retain all the rights they have ever had——

Mr. METZENBAUM. If the two still cannot agree. If the two agree, that is fine.

Mr. HATCH. I understand.

Mr. METZENBAUM. They make the appointment. If the two cannot agree on the third, then the appointment is made.

Mr. HATCH. I understand. However, under this proposal, the unions retain all the rights they have ever had and they get a lot more. The more is that, first of all, the union has the right to request the factfinding board. Management does not. That is a right that they have that management does not have.

As I understand it, if an employer does not accept a contract that some outside party has written for it, meaning the factfinding board, and employer loses its longstanding right to defend itself against a strike by hiring Mackay replacements to continue operating. I think the Senator would agree with that.

Mr. METZENBAUM. I am sorry, I did not hear the Senator.

Mr. HATCH. If the employer, first of all, accepts that the unions request to the factfinding board, then the factfinding board comes up with a contract or the agreement.

Mr. METZENBAUM. No, no, no. No, no. The panel comes up with a proposal to the parties as to what the solution should be.

Mr. HATCH. Right.

Mr. METZENBAUM. At that point neither party is compelled to accept.

Mr. HATCH. The Senator is way ahead of me. The union requests the factfinding board. Then, within 45 days, the factfinding board comes up with a proposal.

Mr. METZENBAUM. Right.

Mr. HATCH. For the union and management to accept or reject. Management does not have the same commensurate right to request the factfinding board, or does it?

Mr. METZENBAUM. The proposal is addressed to situations in which a union seeks to gain a right not afforded by current law: the right to strike without exposing the strikers to the threat of permanent replacement.

Mr. HATCH. Where is it, in S. 55?

Mr. METZENBAUM. To secure that right—let me finish—the proposal imposes a set of obligations upon the union, the first of which is an obligation to initiate conciliation procedures. If the union fails to do so, the union forfeits the rights that would be provided by S. 55.

No like provision is made for employers to initiate conciliation because no like consequences are imposed. Unless the union meets its obligations, the employer automatically retains all of his or her existing rights under current law, including the right to permanently replace strikers—and this is true regardless of his or her actions or inactions. Of course, an employer is always free, as is true today, to propose to the union a voluntary method of peaceful resolution of a dispute, including a factfinding process if the employer sees such a proposal as being in his interests. And the union is free to accept the proposal if the union sees it to be in its interest.

Mr. HATCH. The Senator makes my point, and that is the union has the right to request a factfinding board, but management does not. Once they request that board, then the board has 45 days to come up with a proposal.

Mr. METZENBAUM. If management agrees to establish the board, that is correct.

Mr. HATCH. Yes, but if management does not agree to the——

Mr. METZENBAUM. If management does not agree to submit to the factfinding board, it cannot use permanent striker replacements.

Mr. HATCH. Management loses its right under current law. What have the unions lost at that point?

Mr. METZENBAUM. They have not lost anything.

Mr. HATCH. That is right. Management loses a most cherished right.

Mr. METZENBAUM. If the union does not accept the factfinding board's recommendation.

Mr. HATCH. You are getting way ahead of me. The union has a right to request the factfinding board; management does not. Right?

Mr. METZENBAUM. Right.

Mr. HATCH. Right there is an inequity.

Mr. METZENBAUM. When the union requests it, and the employer agrees, the union loses its right to strike.

Mr. HATCH. Let us do it step by step. The union has a right to request the factfinding board; management does not. If the union requests it, the factfinding board has 45 days in which to come up with a proposal agreement. At that point, management has not had really any rights up to that point other than to reject the factfinding board to begin with. But, if it rejects it, it loses its 54-year-old right to hire permanent replacements. Is that right?

Mr. METZENBAUM. To hire permanent replacements if the union goes on strike.

Mr. HATCH. Sure. If the union goes on strike.

Let us assume now that management does not reject even the appointment of a board. There are 45 days in which to come up with this proposal. The board comes up with this proposal. If management and labor cannot agree, then the Federal Mediation Service has to appoint a third person on the board. Somehow or other they get the three-person board, and it comes up with the agreement; then let us go to the union first. If the union rejects the agreement, what do they lose?

Mr. METZENBAUM. If the union rejects the agreement, then the employer has the right to hire permanent striker replacements.

Mr. HATCH. They do not lose anything because management has that right now.

Mr. METZENBAUM. They also lose the support of public opinion.

Mr. HATCH. No, no.

Mr. METZENBAUM. Yes, yes. Do not tell me no, no.

Mr. HATCH. That may be right, but that is current law.

Mr. METZENBAUM. Sure. But the fact is, there is a difference.

Mr. HATCH. No.

Mr. METZENBAUM. Once you have this procedure in place and the union refuses to accept it, then you do have the force of public opinion. Right now you do not always have the public on your side.

Mr. HATCH. I agree. But the fact of the matter is the union has not lost any right to strike. If the union rejects, management may not lose its right to hire permanent replacement. So it is current law.

Mr. METZENBAUM. That is correct.

Mr. HATCH. Let us say management rejects the agreement because it is something they cannot live with. Let us say it is a pattern of agreement made with some other company that they cannot live with. Management says we cannot live with it. We have to reject it. At that point what does the union lose?

Mr. METZENBAUM. At that point what does the union lose? Why should the union lose anything when the management rejects the panel's proposal? What kind of absurdity is that?

Mr. HATCH. Wait. Let me rephrase the question.

Mr. METZENBAUM. The management refused it, what does the union lose? In your opinion, the union ought to lose every time it moves.

Mr. HATCH. No. That is not my opinion. I happen to have been raised in the labor movement.

Mr. METZENBAUM. Maybe so, but you have grown up since then, and in your maturity you have not been on the side of labor in a long time.

Mr. HATCH. Yes, I have.

Mr. BYRD. Mr. President, I ask that the Senator address the other Senator through the Chair and in the third person.

Mr. HATCH. I will address the distinguished Senator from Ohio through the Chair. I asked the Senator.

I am not trying to figure out who loses. What I really want to figure out is what the equities are. The unions do not lose anything.

What does management lose if management rejects the offer? Management loses its right to hire permanent replacements. First of all, the union is the only one that can request the factfinding board to be set up; management cannot. When they come up with this proposal, if the unions reject it, current law applies, management can then hire permanent replacements. If management rejects it, current law is changed. Management loses the right to hire permanent replacements. I think you have to say that the unions have not lost anything up to now. I am not suggesting they should, but management definitely has lost a 54-year-old right.

Let me go a little bit further. If both sides say no to the agreement, or to the recommendations of the factfinding panel, is there anything that would stop the union from coming back the next day and accepting the report?

Let me make it a little more clear. If both of them say no to the factfinding board's recommendations or suggestions, both of them say no, then I presume the unions have a right to strike at that point. If both of them say no, I suggest the unions have a right to strike which is current law, and management has a right to permanently rehire which is current law under this committee modification.

Is that right?

Mr. METZENBAUM. If both reject the recommendations.

Mr. HATCH. If both reject.

Mr. METZENBAUM. Mr. President, as I understand the question, if both say no, the union has a right at a later point to say yes, and management has a right to say yes. They can change their mind.

Mr. HATCH. That is not my point.

Let us go step by step. If both reject, then current law continues to apply. In other words, the unions have a right to strike, management has a right to hire permanent replacements, but is there anything that stops the unions from coming back the next day and accepting the report of the board or the recommendations of the board?

Mr. METZENBAUM. Is there anything——

Mr. HATCH. Let us say they both reject it, the union has a right to strike, management has a right to hire permanent replacements. OK. Let us say 3 days expired up to that—or a week or 2 weeks, I do not care, one day.

Does the union have a right to come back and accept the recommendations of the board, and change its mind?

Mr. METZENBAUM. Mr. President, the response is that the union has a right to accept at a later date but if in the interim the employer has hired permanent replacements, those replacements remain in their jobs.

Mr. HATCH. I understand. But let us do it step by step.

Mr. METZENBAUM. That is quite a loss.

Mr. HATCH. If they both reject, current law applies, unions can strike, management can hire permanent replacements. Let us say it is a week later. Certainly, they may not be hiring permanent replacements. But let us say management indicates they are going to hire permanent replacements and the union realizes it, can they immediately accept the factfinding board's recommendation?

Mr. METZENBAUM. The answer is yes.

Mr. HATCH. Once they do and management is still in the position of rejecting it, then management loses the right to hire permanent replacements, right?

Mr. METZENBAUM. The answer is yes.

Mr. HATCH. That is right. The employer itself cannot come back.

Mr. METZENBAUM. Why do you not take the corollary: if the employer decides to accept at a later point, and the union refuses, then the employer has the right to bring in permanent replacements if the union decides to strike.

Mr. HATCH. The point I am making is if both of them reject, if the union goes on strike, management has a right to hire permanent replacements. But if management then indicates it is going to hire permanent replacements, the union is going to accept—to come back and accept—because that cuts out management's right to hire permanent replacements.

Mr. METZENBAUM. The fact is that such permanent replacements, if brought in by that time, will indeed be permanent.

Mr. HATCH. Not in a week's time.

Mr. METZENBAUM. I want to say to my colleague from Utah that I went up and conducted a hearing in New York in connection with the New York Daily News strike, and before the strike had even occurred the striker replacements were there on the premises ready to go to work and the company brought them in that very same night.

So when you say they will not bring them in during a week's time, it is contrary to fact. Because what employers are doing now is hiring these very special outfits that bring in not only the legal team but the group of striker replacements for you. In the Daily News situation, they brought them in from out of State. So the whole practice of bringing in striker replacements is a very artful, new form used by some zealous employers anxious to break their unions.

Mr. HATCH. Under current law that may be the case that there are a small number of employers who might use this right.

But look, the true answer here is, under this proposal—the committee modification—unions get a total ban on Mackay replacements if management rejects the recommendations, just like under S. 55, the underlying bill, unless one of two things happens: First, the union refuses to use the factfinding procedure completely—but note that the proposal allows them to keep changing their minds any time they want. So management would never be able to hire permanent replacements. Or, second, if the union rejects the board's recommendations, when an employer accepts them.

If either of these things happen, what does the union lose? Nothing. Not any rights of protection it has under current law. It just does not get S. 55 in its original form. That is all. It can immediately cut off management hiring permanent replacements the minute it accepts the board's recommendations. That is my point.

Let me ask the Senator another question. It has been suggested by some that your proposal is modeled on the postal Reorganization Act, sometimes known as the PRA. Now, as we have all figured out by now, it is dissimilar to the Postal Reorganization Act, in the most fundamental of ways, because unions in the postal service do not have the right to strike. Unlike the Packwood-Metzenbaum proposal, the Postal service has true interest arbitration with both parties—not just management giving up its economic weapons.

As to the proposal you are arguing for here today, I notice that the committee modification references two sections of the Postal Reorganization Act. That would be in your bill at page 4, line 21 and page 5, line 1, if you care to look at it.

Mr. METZENBAUM. If the Senator will wait a minute.

Mr. HATCH. I am not trying to put you on the spot. I want to understand this. It is very complex, and anybody that looks at it knows that this is—we can go over some of this tomorrow, if the Senator prefers. Will we have time on the bill tomorrow?

Mr. METZENBAUM. I am not sure about that.

Mr. HATCH. My understanding was that today is the only day. That is why I need to go over this. Let me go over this question, and we will see where we go from here. I notice that the distinguished Senator from West Virginia is here, and he would like to speak. I do not particularly want to hold him up from speaking.

Let me just ask this one last question. Since those two sections describe two different panels and two different selection procedures, can you tell me what has been agreed to in this modification. For instance, staying with the Postal Service a bit longer, it appears to me you may have omitted one citation, and that is the PRA section 1207(c)(3). Do you have that?

Mr. METZENBAUM. I see a reference to 1207(b).

Mr. HATCH. This deals with how all of this is paid for. Your proposal was silent on who pays. Is it that the taxpayers pay for this type of a collective bargaining approach? Do the parties share the cost, or does one party have to pay for everything? I wonder who that party is, who is going to have to pay for all of this. If the parties share the costs, then do you not think this could be a substantial burden on, say, a financially strapped small business?

Mr. METZENBAUM. I am not in a position to answer that question. But if it would make this measure agreeable to the Senator from Utah, the Senator from Ohio would have no difficulty in accepting a provision providing that the expenses would be divided.

Mr. HATCH. It certainly would be good to clarify that. Either the Federal Government pay, or they pay coequally.

Mr. METZENBAUM. From experience in the area of labor arbitration and mediation—and this is not arbitration—in most cases where parties are in dispute and a third party comes in, the parties share the cost.

Mr. HATCH. One of my problems, I tell the distinguished Senator from Ohio, is that under this proposal, the union loses nothing, there is no risk. Our system is built on a system of risks and benefits. The unions can use their offensive weapon of striking, and it is a powerful offensive weapon. Nobody wants to undergo a strike. Most unions do not want to strike, either. It is not good for anybody. But it is a powerful weapon, if they have to use it. I will stand up for their right to do that.

On the other hand, if the businessman says, "I cannot take a strike, and I am going to use permanent replacements, if you do strike," right now there is a standoff there, where the union has to weigh this and say, "well, if we strike, we might lose our jobs," and management has to weigh, "If they strike, we might lose our business. If we hire permanent employees, we might have all kinds of animosity, and we might face a lot of things to cause us difficulty," In an industrial State like Ohio or New York, a continual picket line in front of a business that hired permanent replacements generally means a lot less business for that business.

So there are two sides to it, and both of them have pluses and minuses in the current relationship. Both have effective offensive weapons. Neither is bereft. Under this proposal, the union does not lose anything whether it uses this process or whether it does not use this process at all. The employer, on the other hand, loses his right to Mackay replacements if he rejects this process. That is a tremendous loss to one side of the equation.

Management, furthermore, cannot change its mind. Under this bill, once management makes the decision to reject the recommendations of the factfinding board, management is done; it loses its right to hire permanent replacements. But the union can change its mind any time it wants and come right back in if it is striking once management indicates it is going to go ahead with permanent replacements. The union then can change its mind, come back in and force management not to do so.

There are a lot of things like this that really bother me about this particular bill. I will have other questions tomorrow.

This committee modification is not an equal modification. It is not fair to the one side of the collective bargaining equation. I have to tell you, those who think this is a good idea, those who vote for cloture, are going to have to live with this, if it passes and becomes law. I have to tell you that you are going to have problems the rest of your political careers, because every day that this one-sided approach receives its one-sided end, everybody in the business world is going to go berserk.

That is what is wrong with legislating at the last minute like this without committee hearings or consideration by anybody, and with having a whole new bill that completely disrupts the total collective bargaining process of this country and many Supreme Court decisions in labor law. So this is important stuff. I feel deeply about it.

I am not trying to put anybody on the spot or to blame the unions for wanting what I consider to be an unfair advantage over management. I could not blame management if they wanted an unfair advantage over unions. They are never going to get that as long as I am here. I do not think unions ought to be getting unfair advantage over management either. That is why I am discussing this matter, trying to point out the defects of this bill. I think we have pointed them out pretty clearly.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to respond to my colleague from Utah, who talks about the fact that the union does not lose anything under the Packwood-Metzenbaum proposal.

Let me make it clear. Unions do not like to go on strike. Unions do not find that to be a gratifying experience. It means that the salaries or the wages of the workers are no longer being paid, and that every day that they are on strike, it is costing them. It is a problem, but they go on strike because they have a fundamental difference with management.

My colleague from Utah would make it appear that when the union goes on strike and the employer brings in striker replacements, that is the way it should be. But that is not the way it should be, and that is not the way it was from 1938 to 1980. And this country prospered. This country's corporations did well. Businesses made money.

You look at the economic growth of this country between 1938 and 1980, and it was wonderful. In the last few years, employers have been using permanent striker replacements and employers have not been doing that wonderfully, because the economy has been going down under the leadership of this President.

So it was under Reagan and Bush that you brought in this new concept. It had been there from 1938 to 1980, but nobody used it. And then along came Ronald Reagan. And Ronald Reagan came in, and almost the first thing he did was to break the strike of the air traffic controllers.

Now, it was all right for him to be opposed to the strike. But he would not let those workers—many of whom had been working for the Government and doing good work, and protecting the lives of all of us for so many years as air traffic controllers—he would not let them come back to work. And so the employers of this country said: If the President and the Vice President can follow this kind of a policy, then we may as well do it, too.

And so they started this new concept of bringing in permanent striker replacements. It did not contribute to the economy. You cannot show me, hardly, an example of a company that is doing better since they tried to bring in striker replacements. It did not contribute to the economy. You cannot show men, hardly, an example of a company that is doing better since they tried to bring in striker replacements. Eastern Airlines, they are not doing any better; they are dead. Phelps Dodge, I am not exactly sure how they are doing. The New York Daily News certainly is not doing better. They tried to bring in permanent striker replacements.

Across the country you will find some instances where employers may have busted their unions and brought in permanent striker replacements. But I bet dollars to doughnuts that their profit-and-loss sheets are not that good, because the new employees do not have the same love and dedication to the company that employers who worked there 10 and 20 and 30 years had.

So, what we are trying to do here today is to change the current law, because, there is no secret about it, the current law is unfair to working people who are organized into labor unions. We are changing it because the current law is bad. Yet, the Senator from Utah would totally ignore the fact that it is bad. What he is saying is that there is no imbalance now. But there is an imbalance now, and we are trying to correct it.

So, what has occurred? The Labor Committee, of which he is a member, sent to this floor the bill that is known as S. 55, and then it appeared that there were some who felt some changes should be made to provide some balance. So Senator PACKWOOD proposed the balance, and I agreed, as the manager of the bill, to accept the Packwood proposal.

Now, the Senator from Utah would totally mislead this body by consistently, not once, not twice, but 10 and 15 and 20 times, talking about the fact that this is compulsory arbitration.

I know what the difference between arbitration and mediation is, and so does the Senator from Utah. But somebody is putting words in his mouth. Because he knows that arbitration is where two people sit down and—whether they are in business and it is a commercial transaction or whether it is a labor union and management—the two agree to submit the matter to a third party for decision; that is arbitration. But there is nothing in this proposal that provides for a final, definitive resolution of the differences. All we have is a recommendation by this mediation panel composed of three people, one appointed by management, one appointed by labor, and if the two of them agree upon the third, fine, then there is a three-person panel, and, if they cannot agree, then the third is appointed by the Federal Mediation and Conciliation Service.

He talks about this, and the Senator from Oregon had called it "quasi-compelled mediation." I have tremendous respect for my colleague from Oregon, but I have to disagree with even that definition. It is not that at all. It is mediation that the parties have a right to go to if they want to, and they do not have to. And if the employer does not go, then the employer loses its right to bring in permanent striker replacements. And if the union does not agree to go to mediation, then the union loses its ability to keep the employer from bring in permanent striker replacements.

I have heard my colleague from Utah turn black into white and white into black. He is a very solicitous speaker. One would conclude from his remarks that there is an element of balance. But there is no element of balance. There is no arbitration. You cannot call something arbitration that is mediation. Arbitration is final and determinative; mediation is a recommendation.

My colleague has great creativity, he has great imaginativeness, and, in this instance, he has great ability to rewrite the English language. But you cannot make black white and white black in this situation.

He talks about sort of an Alice in Wonderland kind of approach. But no matter how many times he chants "compulsory arbitration" or even "quasi-compelled mediation" you cannot obscure the real facts. And the real facts are what has been stated over and over again. The employees have the right to ask for the mediation. The employer has the right to say no. If they both agree, it goes to mediation. Each side appoints one person to the mediation panel and those two agree upon the third. If they cannot agree, there is a Federal Mediation and Conciliation Service [FMCS] that appoints the third.

But even then, nobody has to accept the recommendations of the mediation panel. If the employer does not accept them, then the employer loses the right to bring in permanent striker replacements. If the union does not agree to the recommendations, then the union loses the ability to strike without permanent striker replacements being brought in.

Is that a change in the law? Yes, it is a change in the law. It is a change brought about because of Ronald Reagan's actions, and George Bush's conformity with those actions. And too many American employers were the leveraged buyout artists, the fast buck artists who took over companies and then came in and just wanted to know "how can we make more?" Not necessarily more for the stockholders but, in too many instances, more to pay off the debts they incurred in order to take over the company.

Sure, each side has some risks if they resort to factfinding. But neither side has to participate in that factfinding, and neither side has to accept a single recommendation.

No matter how many times he talks about it being "quasi-compelled mediation," which, it is fair to say, was the term used by my colleague from Oregon, the many times he used the phrase "compulsory arbitration," which is the language of the Senator from Utah, it just is not that. Under this proposal the decision to utilize the dispute reconciliation machinery is voluntary to the parties, and no factfinding procedures would occur unless both parties agree to use the proposed machinery.

Moreover, once the factfinding process is completed, the factfinding board's recommendations will only have effect if they are accepted by both sides. This is not compulsory arbitration. This is only a mechanism to facilitate and encourage agreement by providing for a fair dispute resolution, and by providing incentives for the parties to use that mechanism.

Let me talk about where we are on this matter. A majority of this body wants to pass S. 55, but a minority of this body wants to keep talking about it, and talking and talking and talking. So, under our rules—and I have used those same rules before myself—we need to get 60 Senators—not 51 Members of this body—to move forward with this legislation.

I challenge my colleague from Utah. If his position is so right, then call off the filibuster, eliminate the need for cloture, let us go to a vote, up or down, on the proposal, and he will find that a majority of this body wants to enact this proposal because they think it is fair.

But the unfairness of what is occurring at the moment is that a minority of this body is using the rules of the Senate. I said before, I have used those same rules myself but I have tried to use them in those instances in which I felt it was a pro bono publico matter. I do not find anything pro bono publico in this resort to a filibuster in connection with this matter because, if S. 55 passes, there will be a lesser number of strikes in this country. There will be more negotiations. There will be more mediation. There will be a greater element of fairness between management and labor, and we will go back to where we were before 1980.

Yes, I think this economy cannot afford to have strikes at the present time. I think this economy is under assault. I think this economy is having difficulties. Some would try to say, yes, but what about what the other countries are doing throughout the world, how they are competing with us? I will tell you how they are competing. They are competing by permitting employees to go on strike without the right of employers to bring in permanent strikebreakers. What we are talking about here is use of employers to bring in permanent strikebreakers, a right that employers do not have in most of the major nations of this world that compete with us. They do not. They have never even heard of this subject in Japan, for example, and they may not use permanent replacements in France and Germany and Italy and other parts of the world. In these and many other countries, there are limitations with respect to the right to bring in permanent strikebreakers, or a prohibition entirely.

I say to my colleague from Utah, he speaks well. He makes good sense. But let us agree that we are going to just go to a vote, up or down, on this proposal. If his side is correct, then he will prevail. But it is my opinion that he does not have a majority of this body who agree with him, and the majority of this body already has indicated that they agree with the Senator from Ohio. It is fair to point out that some Senators may have voted to cut off debate but do not intend to vote for the bill itself. But let us let the Senate vote. Let us forget all about this talk, talk, talk, which is what a filibuster is all about, and let us go to a vote, up or down, on S. 55. I say we will prevail. I say the majority of this body will want to pass this measure. The House has already passed the measure. We will send it to the President. And if the President wants to be the one to veto it, then let him go through that procedure himself and we probably do not have the votes to override the veto.

But I believe then the workers of this country and the people of this country will understand the reality of the situation. That is that Congress, by majority vote both in the House and the Senate, wanted to change the rules that presently exist between management and labor, and the President of the United States was taking the same position as President Reagan had taken, and that is that it is the right thing to do to bring in permanent strikebreakers when a strike occurs.

Let us face it. I spoke about it earlier. An overwhelming majority of people in this country, in every poll taken, say they do not approve of the use of bringing in permanent strikebreakers. And that includes people of every economic class. It is true that those organizations, other than the business organizations of this country, those who represent some of the corporations of this country, other than that, the church groups, the religious groups, the working people, human rights and civil rights groups have indicated their support for S. 55.

Let us go to a vote while we can get the rules changed so that instead of voting on cloture tomorrow at 2:15, we will vote up or down on S. 55. If you think your arguments are so good, then you will prevail, but if my arguments are good and the rights of labor need to be protected on the floor of the U.S. Senate by passage of S. 55, then my side will prevail. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, let us be honest about it. I have had a number of Senators on your side mention to me that this is the worst bill they have seen on labor in years. But they are going to vote with you because it is in their political interest to do so. There are some who are not voting with you on your side, not very many. But—let me finish.

Mr. METZENBAUM. Will you yield to a question?

Mr. HATCH. Let me finish. I do not think there are very many people who understand this bill, but those who do and really are concerned about labor-management relations in this country know this is a special interest piece of legislation that the President is going to veto. It is a cheap vote to vote for it.

So it is really a glaring statement to say that we have the votes because we have the good ideas. The good ideas are not on the proponents' side of this matter. In fact, I think before you change the whole collective bargaining process in this country, you ought to think it through rather than bring out a committee modification at the last minute that completely changes collective bargaining in this country.

It is the same on almost all of these overreaches by organized labor that I have been familiar with over the last 16 years. People vote for them because they feel politically they have to. They know they are a problem. I understand that to a degree, except it gets old. It also denotes a cheap vote because they know if you somehow or another invoke cloture then the President has to veto it, and that veto will be sustained. We pointed that out on the first day.

Why take the time of the U.S. Senate, especially since the Senator from Ohio is so concerned about the economy? If you are so concerned about the economy on that side of the floor, you control the floor. Why are we not doing something about the economy rather than trying to change the whole collective bargaining process of this country in one fell swoop with something that has not had 1 day of hearings? Why are we wasting time on the floor of the Senate on something like that, that does not have a chance of going through no matter what you do? Why give encouragement to this type of legislation?

It is a shame to do this at this time when we have a $400 billion deficit; to have the floor tied up for 1 solid week when we only have so many days in a Presidential election year. Most people would have to conclude it is for political reasons that this is brought forth. Perhaps in the eyes of sincere people in the labor movement this is, even though they are going to lose this year, one way to gain some ground in the elections by saying that somehow or another they were stymied in getting what they believed to be a fair set of rules on labor law.

I do not see how they can say that. I do not know how they can believe that. I do not know how anybody who looks at this can believe it is a fair bill, because it certainly is not.

With regard to compulsory arbitration, I am not sure I talked in terms of compulsory arbitration except to point out Mayor Coleman Young's condemnation of compulsory arbitration, former Governor Dukakis' condemnation of compulsory arbitration, and to indicate this quasi-compelled mediation approach as it was described by the principal sponsor of it—that is what he called it—is an unfair approach because it is all slanted to one side of this delicate balance between management and labor.

I get a little tired of having it said, because I point out the difficulties in labor legislation, that I am antilabor. I was raised in the labor movement, paid the price that most people in the Congress never did of working with my hands for 10 years in the building construction trades unions, in learning a trade and being darn proud of that to this very day; darn proud of my tradesman father who taught me his trade; I have to tell you, darn proud that I knew what I was doing when doing that trade. I was proud to pay my union dues, and I would be the first to say that we need a union movement and a strong one in this country. But we do not need one that takes unfair advantage.

Yes, there is extended dialog, but only because the majority leader has chosen to go to cloture votes right from the start. The fact is a bill like this would take a week anyway, if you debated it and allowed amendments to the bill. Most people do not want amendments to the bill because they know the amendments are going to be tough amendments, they are going to be tough political votes. I do not want them either; I do not want to put my colleagues through that. The best way to not put colleagues through a bunch of tough rollcall votes is to vote no on cloture and let us end this matter so we can get about the country's business, doing something about the economic difficultues of this country rather than trying to put over labor law changes that are sweeping in nature, without any thought-process behind them.

By the way, on this compulsory arbitration, I am not somebody who does not understand it. Compulsory arbitration, of course, does away with the right to strike. There is no question about that. This would not involve compulsory arbitration, but it would be a quasi-compelled mediation on one side, and one side only. It is a hybrid that nobody can explain because there are so many loopholes in this proposal. The pending business before the Senate is no longer a bill that any Member of the Senate is familiar with, except perhaps Senator PACKWOOD, Senator MITCHELL, Senator METZENBAUM and myself, and we cannot explain it completely because it is such a sweeping change.

The pending bill has been completely replaced by this so-called committee modification that empowers a labor union—but not an employer—to send a labor dispute into this quasi-compelled mediation approach that Senator PACKWOOD has talked about. The Packwood-Metzenbaum-Mitchell substitute that Senator PACKWOOD talked about has been described in the media by some as a last minute concession by organized labor which would limit its ability to strike. That is not correct. There is no way that is correct.

The substitute gives labor a new weapon in addition to the right to strike. That is the right to send a dispute into this quasi-compelled mediation whenever it chooses. It has the sole right to do that. Management does not have that right whenever it chooses. If the company does not accept a factfinder's recommendations as a final agreement and the union does, the company loses its right to hire permanent replacements, the only correlative right it has to offset the right to strike, the only real effective offset to that particular approach.

Further, once a union invokes the quasi-compelled mediation proceeding, the employer's right to hire replacement workers is suspended. Once they accept, it is suspended. The employer loses its relative right while there is no limit on the union or how many times the union can invoke this quasi-compelled mediation. No limit. They can do it any time they turn around.

I will note the lack of equities. Only the union can invoke quasi-compelled mediation, not the employer. The employer does not have any right to do that. If the employer rejects the arbitrator's recommendations and the union accepts them, that decision is final, and the replacement ban goes into effect, whereas the union can change its mind any time it wants to and accept the recommendations which it previously had rejected, or it can seek even a new quasi-compelled mediation proceeding.

Talk about slanting everything in favor of one side. That is what this does. It is worse than the original S. 55. And it does not take any brains to figure that out.

This year's Caterpillar strike illustrates why organized labor would benefit greatly under this substitute. Let me just talk about that for a minute.

The UAW, the United Auto Workers, struck the employer for 5 months. That is after the employer lost $400 million the year before. So the employer is in economic distress anyway.

Now it suffered a 5-month strike and the union refused to sign any offer that did not exactly replicate its contract with John Deere. That is called patterned bargaining. After 5 months of having counteroffers rejected by the union, the company threw up its hands and said, "We cannot continue. We are going to go down unless we can hire permanent replacements. So we are going to do that. But we do not want to," they said. "We want you to come back. We will do all of these things including give you a guaranteed 6 years' full pay if you lose your job within a 6-year period." That is pretty big terms. The average wage is $40,000 a year for blue-collar workers in that business.

So the company threw its hands in the air and said, "We are going to have to hire replacement workers." They got 30,000 calls, I heard, for those jobs. That is how good those jobs are.

Well, the union realized that management meant business and they returned to work under the company's last offer.

Now, under the Packwood-Mitchell-Metzenbaum approach, the union would return to work, but it could then invoke the compulsory or quasi-compelled mediation and mediators would be required to recommend a contract that would produce, according to this amendment, "a prompt, peaceful, and just settlement."

That settlement, accordingly, would likely be much higher than Caterpillar would feel that it could afford if it was the Caterpillar situation under this bill. Caterpillar's choices would then be: One, to accept the findings of the factfinding board; or two to reject the findings, have its right to hire replacement workers extinguished, and then watch the union go back on strike until the company accepted either the union's demands or the factfinding board's recommendations.

What is fair about that? How can that possibly be fair? In other words, organized labor really loses absolutely nothing. They risk nothing on this process under the Packwood-Mitchell-Metzenbaum approach.

On the contrary, this substitute amendment gives the unions much more control over the bargaining process and the power to produce higher wage settlements than under present law. It is a lot worse than S. 55.

I am prepared to finish for today, but there is one part of it that I think needs to be brought up, and that is the issue of unresolved issues in the dispute.

Now, this factfinding board will issue its findings and recommendations as to all unresolved issues.

In other words, the union can throw anything out it wants to as an unresolved issue. And it should be noted that these issues could include so-called permissive subjects of bargaining. These are items that are generally thrown out before they get a bargaining agreement. These are bargaining subjects which the parties may be prohibited under current law from using as economic weapons, that is, a strike or a lockout by either side to force the other party to agree.

For example, a union cannot strike a mine operator to force its trade association to bargain on its behalf, nor, significantly, can a union strike force an employer to agree to a binding procedure for renewing a collective bargaining agreement. Yet the Packwood-Metzenbaum substitute would require the arbitration panel to resolve these issues, something that would never ordinarily be part of the collective bargaining process. And guess who is going to win on those issues? That is an important thing, and it is only one of many that I intend to bring out again tomorrow.

The fact is this is a one-sided proposal that basically gets rid of the one thing that brings this delicate matter into balance: the right of management to permanently hire or replace. It turns everything in favor of the unions.

Now, with regard to the PATCO strike, I get a little upset by having that continually thrown in the face of anybody who argues against this committee substitute or modification.

First of all, the PATCO strikers broke the law. Like the Postal Service workers, they had no right to strike. But they struck. They went out in defiance of the law and, frankly, as much as I would like to have seen some of them get their jobs back, the administration did the right thing. It made it clear that the Federal Government is not going to tolerate breaches of the law like that, breaches of the law that cause the safety violations and the safety problems that the PATCO strikers caused. They broke the law. They had to face the law when they broke it.

In this proposal we are talking about rights in the nonpublic sector for unions to strike. PATCO did not have the right to strike, and therefore the administration fired them. They did not permanently replace them under a permanent replacement Mackay approach. They fired them, as they should have done.

PATCO thought that because of the specific nature of their jobs and the difficulties of replacing them, nobody could do so, and it was difficult for a while and it did put some airports in jeopardy. It did make it less safe in the airways.

But there is another important principle here, and that is the Federal Government cannot be shut down by public sector workers. There is a very important reason for that. As a general rule, public sector workers are protected in their jobs and generally are paid pretty well; most do a wonderful job, but for those protections and that civil service right, or set of rights, they give up their right to strike.

So do not keep acting like it was a tremendously wrongful thing the Government did under the Reagan administration to fire them and to hire replacements.

Many people would argue it was the right thing to do because they broke the law.

Now, I may have personally hired a number of them back and brought them back because of the needs of society. But nobody should weep for those who break the law.

So do not keep throwing that up to us. We are talking about a different situation. We are talking about private sector unions in collective bargaining relationships with their private sector managers and in a balance of power between private parties that needs to be delicately balanced so that neither gets control over the other. I do not want the unions to lose their right to strike, but I also do not want management to lose its right to fight back if they have to.

There is one other aspect of this that I think is very important, and that is the laws are slanted to a degree in favor of the trade unions, and that is as it should be; they need to organize in many of these large businesses in order to have equity, in order to be protected. I have fought for the right for them to organize. I fought for their rights to strike. I fought for their rights to have collective bargaining rights and protections under the law, but I have also fought against excesses in legislation year after year after year and I get a little tired of being told that I am antiunion when I am one of the few who came up through the union movement and who understands it fully and completely.

I think here is an importance in having a delicate balance. This legislation upsets that balance. It puts the power to one side rather than the other in an unfair way, in a convoluted piece of legislation that overrules 54 years of collective bargaining rules and regulations, laws and Supreme Court decisions which have worked well for our society, all because 3 percent of strikers in 1989 were in a permanent replacement situation.

It is a negligible statistic but it is important because it does say that if you are going to strike, it is a wonderful, awesome power, but you might have to face being replaced if you do. That generally is why we do not have too many, do not have a huge number of strikes in our society today. It is because there are balancing risks that make both sides think twice before they get too ridiculous against the other side. This is important.

Mr. President, I think it is important for people to read this bill, realize the loopholes, and realize how bad it really is. I hope that our colleagues will, and I really believe that if this was a secret ballot we would win it up and down. I do not think there is any question about it. But it is not a secret ballot. It is overlaid with political ramifications in a political year, a highly political-laden year.

But am I going to malign my friends who do not believe in this approach. There are some in this body who really believe that this is a way the collective bargaining ought to go. I cannot find fault with that. I believe that people who are sincere about things have an edge over others who are not. But I also know there are many who have voted for cloture last Thursday who know that this is a bad bill, who know the Packwood modification is a bad bill and who, in a secret ballot, would vote against this bill up and down. I believe a majority would if it was a secret ballot.

It is not a secret ballot. I am glad that it is not. But do not let the politics of this Presidential year, this extremely politically laden year, lead anybody to believe that just because you have 55 votes, people really believe in this type of legislation. They do not. I am prepared to say you really have 57 because I believe that Senators WIRTH and GORE will vote on your side. I think you are counting on it. They are cosponsors of the original underlying bill, as I understand it. I have no doubt there will be at least that many and maybe more who will vote for it.

But again, if it was a secret ballot, I think we would win it up and down.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, my colleague from Utah talks about this as being special interest legislation. My colleague from Utah makes a very interesting point: that he has fought for unions, has recognized the right of laboring people to work together, band together in unions, and he has fought for them over a period of many years.

I admit my eyesight is not so good, but I must say that in 17 years that I have been here I have never seen an instance in which my colleague from Utah has been that supportive of the rights of organized labor. He has consistently been the leading advocate, and rightfully so, and understandably so, for the business community.

So when he says that he has fought for organized labor in the past, been a member of the labor union, and worked with his hands, that is well and good. But the fact is this is an issue that is at this very moment breaking the backs of organized labor and destroying the American labor movement.

My colleague would call the people who are in labor unions "special interest" people. That is the term he uses. But in this case, the special interest people are 16 million working Americans who are union members, and these are people who work with their hands every day. They go to work early in the morning, they come home at night, they have families, their children go to school, they go to public schools, private schools, parochial schools, whatever the case may be. They are the referees and the umpires and the coaches in little leagues; they are the people who are the bulwark of the community.

They live in modest homes. They do not live in mansions. They are very decent, fine, human beings, and they have been members of labor unions for a good many years, and they thought that through the labor union there would be some equity, that they could bargain with their employers. But now some employers, too many in this country, have made up their minds that they can break their unions, bust their unions.

Too many of those employers who are inclined to do that are not the old guard companies. I really have not heard of General Motors talking about bringing in striker replacements. I have not heard of AT&T bringing in striker replacements. I have not heard of a number of other major American corporations talk about bringing in striker replacements. In too many instances we find it is the new management, the highflying leveraged buy-out artists who come in and immediately try to figure out how they can bust the union.

My colleague says that he is concerned about those working people. Well, concern is best evidenced by actions, not by words. Not only are working people involved in this legislation, concerned about busting the unions, but those who are concerned about civil rights, those who are in the churches, in the synagogues, have comes out publicly in support of this legislation because they recognize what it means to America to bust the organized labor movement in this country.

That is the real issue before us. Do you want an organized labor movement? Do you want people to be able to join a union? Or do you think we ought to turn the clock backward and go to the point where it is every man or woman for himself or herself?

Hundreds of State and local government leaders have indicated their support of this legislation. Some States, as I previously mentioned, have already passed legislation trying to deal with this very issue.

The special interest that is involved here is the national interest, not the special interest of any particular group of people. On the other side, who is opposing it? Do you know any major church group in this country, Catholic, Protestant, Jewish, Muslim, any group that opposes this bill? No. Indeed, a considerable number, a substantial number, are supporting this legislation.

But the business community, led around by corporate lobbyists with their big PAC dollars, have made every single effort to defeat this legislation. Yet a majority of the Members of this body are prepared to vote for it. My colleague suggests that it is because of their political interest that they are voting for it. I would say to my colleague, oh, yes, that is probably true. But who is to suggest that his or her position at this moment is not by reason of his or her political interest, or to suggest that any other Member of this body does not have a political interest?

One of the great things about the American political system, with all of its faults, is that a democracy to a very substantial extent works. So if some Members of this body see fit to vote for it, on both sides of the aisle, because they think a substantial block of their constituency supports the legislation, that is fine. That is the American way. I do not know why my colleague from Utah would be opposed to that system.

My colleague has made some very persuasive arguments. He probably has used twice as much time as I have this afternoon. He may well have persuaded a number of the Members of this body to change their view, and it is for that reason that I would suggest that we not play these games with a cloture vote as to whether we will cut off debate.

Why do we not agree, he and I, that we get unanimous consent, get leadership on both sides to agree, that we will just vote on this measure as modified by the Packwood amendment—and he has attacked some of the provisions of that amendment—that we will agree to vote up or down on the bill as it stands before us? Because I believe that 51 Members of this body will vote for it. If we only get 49, we lose. But I do not see any reason why we have to get 60. And his arguments have been so wonderfully persuasive that I think he and I ought to come to an agreement as the managers of the bill, he and I, I for the bill, he against it, let us come to an agreement, let us be reasonable men, let us come to an agreement that we will vote on the bill up or down. If I win, the bill is in. That is the proposal we send back to the House. And if he wins, then it is all over. Or does he insist that we have to get 60 votes in order to really move forward with this legislation?

So I ask my colleague, will he be willing to enter into a unanimous-consent agreement that we vote up or down on the measure, including the Packwood-Metzenbaum amendment, or does he insist we go to the cloture vote?

Mr. HATCH. Mr. President, to answer that question, there are sometimes issues that come to the floor that are so important that we provide for this very, very special rule of protection to the minority that allows for extended educational dialog. And frankly, this is that important.

Before I will permit a complete change, an overhaul, really, in the wrong direction of the labor laws of this country that have stood this country in such good stead for the last 54 years, I think that it is incumbent upon the proponents of this legislation—especially since they have brought this committee modification that no one has ever seen before last Thursday and which is different today than it was last Thursday—to have hearings, complete consideration by the committee of jurisdiction, of which I am the ranking member, and to stop this insane practice of every time we do a labor bill. When they find they cannot pass it the way they want to pass it, or get it through the way they want to get it through, then they start modifying it and changing it in drastic ways right here on the floor.

I am not saying you cannot do that; but we have a right to stand up and say we are not going to tolerate that. It is the wrong way to legislate. And we are not just talking about some minor modification of the labor laws; we are talking about a modification here that will completely change the collective bargaining labor laws of this country. That is pretty important.

I just hope that our colleagues on both sides of the aisle realize the importance of this issue, because we are not standing here fighting over something that is trivial. This is very, very important.

Again, I commend those who feel strongly that this is the right way to go. I do not think there are many, deep down, that understand this legislation who feel that way. But there are a few. I cannot find fault with that. What I find fault with—and by the way, I feel sincerely and strongly, not politically, for the arguments that I have been talking about—is that I have noticed that throughout this debate, my colleague from Ohio seems to attack me personally. I am not attacking him personally. He knows that I have stood up against labor law excesses since I have been here. But I have also stood on the side of labor in a wide variety of legislation.

To mention one that comes up, there is the Polygraph Protection Act, the so-called Kennedy-Hatch or Hatch-Kennedy bill that protects organized labor. I could go into others, but I suggest that there are a lot of other bills that we have worked on to protect organized labor. There are bills that may protect them economically because they are fiscally sound, like the balanced budget amendment that would help the labor people, who work their guts out day after day and pay all the taxes, and in the end find we are spending $400 billion into deficit every year.

I think that may be more important than some of these major changes upsetting the delicate balance in the National Labor Relations Act.

So I can match the Senator from Ohio point for point, bill for bill, and fight for fight. But I am not going to attack him personally. I think he is a marvelous Senator with whom I happen to disagree.

The other day, I think the distinguished Senator suggested that I was hypocritical because I have taken PAC money in the past. Well, almost everybody in this body has. And political action committees are made up of individual contributors, many of whom are workers in these various places. It is the only way they can participate in the system.

Be that as it may, I have stood ready to do away with PAC's; while his party, arguing for campaign finance reform, has argued for PAC's, and to reduce them from $5,000 to $2,500. I do not blame him for that. But he should not blame me. I think most people who know me know I stand up for the things I believe in, and I do not play political games around here. Look at child care, when I stood up against my party, the President, and everybody else. I can name a lot more, if you would like me to.

When we debate these matters, let us debate them on the merits. I do not think we have to attack each other personally. I have a great affection for my friend from Ohio. He is my neighbor in the Russell Building. He is a formidable opponent, one of the strongest people in the Senate He believes in what he is doing. I would not suggest he does not.

I believe in what I am doing, and I think most people would say I stand up for what I believe in all the time, win or lose. I think most will say I lose graciously when I do; and naturally, I have to most of the time, because this body has been controlled by a philosophy quite different from mine for most of my 16 years here. We came to the Senate together; I intend to always be his friend.

Let me tell you something. This is serious stuff. It is not a question of politics. It is not a question of trying to pour it on the unions or on management. It is a question of what is right for this country and for the collective bargaining system of this country. It is a question of whether or not we are going to continue down a road toward collectivism in this country, or whether we are going to continue to provide for a vibrant, free market system, such as it is, that gives both sides a chance in collective bargaining relationships and both sides balanced right to try to make their case.

I believe our laws have worked. I believe this will gum up the laws. I believe it is slanted. I think I have made a case that it is slanted to one side, when the unions only can request the factfinding board; when only the unions, if they reject the factfinding board, can then come back later and cut off the right to permanently hire. Those are advantages they do not currently have.

The only chance that management has now is that management can offset the right to strike by saying: "Look there is a point where we are going to permanently hire people and replace you if you continue to stay out, because our business will not survive if you do."

This is fair. It is fair, and it has worked. And I think it is overblown to say that PATCO—a very different strike by Federal employees, who broke the law because they did not have a right to strike—applies to this particular matter.

I care for my colleague from Ohio. We are going to be friends until the day both of us die, I hope. Certainly, I am going to be his friend. I respect him. He is one of the more articulate and intelligent people in this body. He stands up for what he believes, and he cares deeply in what he believes, as does my colleague in the chair right now. I respect that. I above all people, respect that. I hope the Senator will show the same deference and respect to me.

That is the way I am. I am opposing him on this issue because I believe I am right. If I did not believe it, I would not stand up on this floor and oppose him. I am going to do the best I can to defeat this legislation, within the rules. And I think if we do defeat it, it will be in the best interest of the country, and I think in the best interest of my fellow union members.

As one who has held a union card, I think I may be in a better position, in some ways, to talk about these matters than those who have not had union cards, even though they may be very sincere and intelligent.

I yield the floor.

Mr. METZENBAUM. Mr. President, I will respond to my friend and colleague, because he is a friend. His office is just across from mine. We meet socially, and we know each other well.

I want to say without any reservation that if any of my comments appear to be personal attack, I certainly did not mean them that way, and I would apologize for doing so.

The Senator points out that, in a burst of enthusiasm the other day, I suggested that his action in accepting PAC money, while condemning others who had received PAC money from labor groups, was hypocritical. I think that was an overabundance of enthusiasm on my part, and I withdraw the statement and expunge it from the RECORD.

It is a fact that in recent years this body has passed some good laws by modifying Labor Committee substitutes. The Civil Rights Act of 1991 is one of them. The Older Workers Benefit Protection Act is another one.

The Senator from Utah supported both of those pieces of legislation, and helped pass them, once majority support was clear. I think that when he joins with us—there is no secret about it—it is much simpler to get legislation passed in this body.

He is respected by his colleagues on both sides of the aisle. I think this is such a fine piece of legislation that I hope he will see fit to join us now, and I think we could pass it and then we could go home and live happily ever after.

But since he is not willing to do that, I want to come back and just ask him for a yes or no answer. Would he be willing to agree to have an up or down vote on this pending proposal and vitiate the need for a cloture vote?

Mr. HATCH. Well, the cloture vote is already set by unanimous consent. We could vitiate it, but I do believe that is, under the rules, the way to pursue this matter, because I really believe, if this were a secret ballot, there is no question this bill would be defeated on its face.

Mr. METZENBAUM. Do I understand that to be a "no"?

Mr. HATCH. The answer is "No."

Mr. METZENBAUM. Mr. President, I have nothing further to say. I think my colleague from Utah has nothing further. I see no one on the floor.

MORNING BUSINESS

Mr. METZENBAUM. Therefore, Mr. President, I ask unanimous consent that the Senate proceed to morning business

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

Under the authority of the order of the Senate of January 3, 1991, the following enrolled bill and joint resolutions were signed on June 12, 1992, during the recess of the Senate, by the President pro tempore [Mr. BYRD]:

S. 756. An act to amend title 17, United States Code, to copyright renewal provisions, and for other purposes;

H.J. Res. 442. Joint resolution to designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques"; and

H.J. Res. 445. Joint resolution designating June 1992 as "National Scleroderma Awareness Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Commitee on Finance, with an amendment in the nature of a substitute:

H.R. 5260. A bill to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

Mr. BENTSEN. Mr. President, on behalf of the Committee on Finance I have today reported the bill H.R. 5260, the Unemployment Compensation Amendments of 1992. I ask unanimous consent that a summary of the bill, as reported, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992 (H.R. 5260) AS REPORTED BY THE COMMITTEE ON FINANCE, JUNE 11, 1992

PART I—BENEFIT PROVISIONS (Titles I–IV)

I. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION (EUC) PROGRAM

Present Law

The Emergency Unemployment Compensation (EUC) program, first enacted in November 1991 and amended most recently on February 7, 1992, currently provides 33 weeks of emergency unemployment benefits to long-term unemployed workers who live in States that qualify as "high unemployment" States. Workers in all other States may receive up to 26 weeks of emergency benefits. These benefits are payable to individuals who have exhausted their regular State benefits (generally 26 weeks).

In order to qualify for 33 weeks of benefits, a State must have either (1) a total unemployment rate (TUR) of 9 percent or higher for the period consisting of the most recent 6-month calendar period for which data are published, or (2) an adjusted insured unemployment rate (AIUR) of 5 percent or higher for the most recent 13 week period. In determining the adjusted rate of insured unemployment, the Secretary is directed to take into account individuals who have exhausted their rights to regular compensation during the most recent 3 calendar months for which data are available.

Number of Weeks of Benefits for States as of May 31

26 Weeks: Alabama, Arizona, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Virginia, Wisconsin, Wyoming.

33 Weeks: Alaska, Arkansas, California, Connecticut, Idaho, Maine, Massachusetts, Michigan, Montana, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, West Virginia.

Benefits are fully Federally-funded out of the Extended Unemployment Compensation Account, except for benefits for employees of non-profit and governmental entities, which are paid out of general revenues.

Individuals who become eligible for emergency benefits after June 13 will qualify for up to 20 weeks of benefits in "high unemployment" States, and 13 weeks of benefits in all other States. Those who exhaust their regular State benefits after July 4 will not be eligible for any weeks of emergency benefits.

Explanation of Provision

The schedule of benefits enacted on February 17 (33 weeks for workers in high unemployment States and 26 weeks in all others) will be continued for so long as the seasonally-adjusted national unemployment rate remains at 7 percent or higher. However, if for two consecutive months the national unemployment rate falls below 7 percent, the number of weeks of benefits will be reduced to 15 and 10. The number of weeks of benefits will be further reduced (to 13 and 7 weeks) if, for two consecutive months the national unemployment rate falls below 6.8 percent.

The EUC program would expire on March 6, 1993. Workers who exhaust regular State benefits after that date would be ineligible for EUC benefits. Individuals who began receiving EUC benefits on or before that date would be entitled to the full number of weeks of benefits for which they were found eligible.

The new EUC benefits would be paid out of general revenues.

II. OPTIONAL EXTENDED BENEFITS (EB) TRIGGER

Present Law

Under present law, unemployed workers are paid up to 26 weeks of regular unemployment benefits financed by State unemployment taxes on employers. In States with high unemployment, the extended benefits (EB) program pays up to 13 weeks of additional benefits to workers who have exhausted their regular State benefits. The EB program is a joint Federal-State program, half of which is financed by Federal unemployment taxes on employers and half by State taxes.

The EB program is activated in a State when: (1) the State's insured unemployment rate (IUR) has averaged at least 5 percent for 13 consecutive weeks, and (2) that rate is at least 120 percent of the State's average insured unemployment rate for the corresponding 13-week period in both of the 2 preceding years. At their option, States may apply an alternative trigger mechanism. Under the alternative, extended benefits may be paid if a State's insured unemployment rate is at least 6 percent, even though the rate is less than 120 percent of the rate in the preceding 2 years.

Explanation of Provision

Effective March, 1993, States would have the option of using an additional alternative trigger. Under this option, EB benefits would be paid when: (1) the State's seasonally adjusted total unemployment rate (TUR) for the most recent 3 months is at least 6.5 percent and, (2) that rate is at least 110 percent of the State's average TUR for the corresponding 3-month period in either of the 2 preceding years.

III. OTHER PROVISIONS

A. Extension of Benefits for Railroad Workers

Present Law

Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under the regular State unemployment compensation programs. Under current law, railroad employees with less than 10 years of service in the railroad industry are not eligible for any extended benefits due to a statutory flaw in the trigger mechanism. However, the unemployment legislation enacted previously to provide emergency unemployment benefits to other workers also provided additional weeks of extended benefits for qualifying railroad workers (P.L. 102-164, P.L. 102-182, and P.L. 102-244). These special benefits for railroad workers expire July 4, 1992.

Explanation of Provision

The period during which qualifying railroad workers may qualify for benefits would be extended to March 6, 1993. This provision is being included at the request of the Committee on Labor and Human Resources.

B. Modify Work Search Rules for Areas of High Unemployment

Present Law

Federal rules enacted in 1980 require "systematic and sustained" work search by individuals who are receiving EB benefits. These same rules apply to recipients of EUC benefits. The Committee has heard testimony that these rules, as interpreted by the courts, frequently require workers to make repeated contacts with employers each week, even in areas where unemployment is very high and there are very few employers.

Explanation of Provision

The Governor of a State would be allowed to waive the Federal work search rules (and apply State rules instead) in an area that the Governor designates as an area of exceptionally high unemployment. The Secretary of Labor would be authorized to issue regulations providing guidelines for determining the circumstances under which waives could be granted. The provision would be effective upon enactment and would apply to both the EUC and EB programs.

C. Modify EUC and EB Eligibility Criteria

Present Law

In determining whether a worker is eligible for benefits under the emergency unemployment compensation program, a State must follow the eligibility rules that apply to the permanent extended benefits (EB) program. The EB statute provides that an individual may not be eligible for extended benefits unless, in the base period used to determine the individual's eligibility for regular State benefits, the individual meets one of the following three requirements: (1) had 20 weeks of full-time insured employment; (2) had covered earnings which exceed 40 times the individual's most recent weekly benefit amount; or (3) had covered earnings exceeding 1½ times the individual's insured wages in the calendar quarter in which the individual's insured wages were the highest. The State is required to provide by law which one of the three foregoing methods of measuring employment and earnings will be used for determining eligibility of all claimants.

Explanation of Provision

In determining EUC and EB benefits, States may use all of the three eligibility criteria that are specified in the Federal EB statute, rather than being required to choose one of three. The provision is effective upon enactment.

D. Continued Eligibility for EUC

Present law

Under current law, a worker who qualifies for regular State benefits is automatically ineligible for EUC benefits. This has resulted in a perceived "penalty" for some long-term unemployed workers who, after exhausting their regular State benefits, have tried to "do the right thing" by taking part-time or temporary jobs to tide them over until they find a permanent job. As a result of this limited employment, they may establish a new benefit year and qualify once again for regular State benefits, thus losing their eligibility for EUC benefits. EUC benefits, because they are generally paid on the basis of more sustained work history, are likely to be significantly higher than the State benefits for which these workers are newly eligible.

Explanation of Provision

If an individual exhausted his rights to regular benefits for any benefit year, the individual's eligibility for EUC benefits with respect to that benefit year would be determined without regard to any rights to regular compensation for a subsequent benefit year, so long as the individual did not file a claim for regular compensation for such subsequent benefit year. The provision is effective upon enactment.

E. Clarify that States May Operate Short-Time Compensation Programs

Present Law

Legislation in 1982 specifically authorized States to operate short-time compensation programs under which they are allowed to pay pro rata benefits to individuals who are working less than full time because their employer has a plan that provides for a reduction in work hours for employees rather than making temporary layoffs. A number of States have elected to operate such programs. However, the authorization has expired, and these programs are operating without specific statutory authority.

Explanation of Provision

Effective upon enactment, the provision would give States permanent authority to operate short-term compensation programs under which they may pay pro rata benefits to individuals who are working less than full time because their employer has a plan approved by the State agency that provides for a reduction in work hours for employees rather than temporary layoffs.

F. Provide Information About EITC Eligibility

Present Law

State agencies send Form 1099-G to all unemployment compensation beneficiaries, informing them of the amount of benefits they have been paid for purposes of filing Federal income tax returns. However, an OMB Circular requires that if the agencies include any other information with the 1099-G mailings, they must share the cost of postage, even if the additional information does not add to the total postage cost. This has created a disincentive for States to include enclosures with these mailings.

Explanation of Provision

Effective upon enactment, States would be allowed to include information on the earned income tax credit (EITC) in their Form 1099-G mailings at no cost as long as the additional information does not increase the postage costs of the mailing.

G. Provide Information About Taxation of Benefits

Present Law

Unemployment compensation benefits are taxable income for purposes of Federal income tax law. However, there is no provision for income tax withholding from these benefits, and individuals are sometimes unaware of their tax liability.

Explanation of Provision

Effective October 1, 1992, State agencies would be required to provide information to recipients about taxation of benefits and make information forms available for filing estimated taxes.

PART II—REVENUE PROVISIONS (TITLE V)

Subtitle A. Alternative Taxable Years

1. Taxable Year Election for Partnerships, S Corporations, and Personal Service Corporations (secs. 501-504 of the bill and secs. 280H, 444, and 7519 of the Code)

Present Law

In general

A partnership is generally required for Federal income tax purposes to use the taxable year that is used by a majority of its partners. An S corporation is generally required for Federal income tax purposes to use the calendar year as its taxable year. A personal service corporation also is generally required for Federal income tax purposes to use the calender year as its taxable year.[1]

A partnership, S corporation, or personal service corporation, however, may elect to use a taxable year other than the required taxable year. In the case of a partnership, S corporation, or personal service corporation that is adopting a taxable year or changing a taxable year, the taxable year that may be elected generally may not result in a deferral period of more than three months. For this purpose, the deferral period generally is the number of months between (1) the beginning of the taxable year of the partnership, S corporation, or personal service corporation, and (2) the close of the first required taxable year that ends within such year.

A partnership, S corporation, or personal service corporation is required to obtain the

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Footnotes at end of article.

approval of the Internal Revenue Service in order to change to a taxable year other than the required taxable year. A partnership, S corporation, or personal service corporation that terminates an election to use a taxable year other than the required taxable year may not make an election for any subsequent taxable year.

An election may not be made by a partnership, S corporation, or personal service corporation that is part of a tiered structure other than a tiered structure that is comprised of one or more partnerships or S corporations, all of which have the same taxable year. An electing partnership, S corporation, or personal service corporation that becomes part of a proscribed tiered structure is considered to have terminated its election.

Required payment for electing partnerships and S corporations

A partnership or S corporation that elects a taxable year other than the required taxable year is required to make a payment to the Internal Revenue Service (a "required payment") that is designed to compensate the Federal government for the deferral of tax that results from the use of a taxable year other than the required taxable year. The amount of the required payment for any taxable year for which an election is in effect (an "applicable election year") equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code plus 1 percentage point multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance. The net required payment balance is the aggregate amount of required payments less refunds of required payments for all preceding taxable years for which an election was in effect.

The required payment is due on May 15 of the calendar year that follows the calendar year in which the applicable election year began. The required payment is required to be refunded by the Internal Revenue Service if certain conditions are satisfied. No interest is to be paid by the Internal Revenue Service with respect to a refund of a required payment.

Minimum distribution requirement for electing personal service corporations

A personal service corporation that elects a taxable year other than the required taxable year is required to satisfy a minimum distribution requirement that applies to applicable amounts paid by the personal service corporation.[2] If the minimum distribution requirement is not satisfied for any taxable year for which a taxable year election is in effect, the deduction otherwise allowed for applicable amounts paid or incurred during such taxable year is limited to the applicable amounts paid during the deferral period of the taxable year multiplied by a ratio, the numerator of which is the number of months in the taxable year and the denominator of which is the number of months in the deferral period of the taxable year.

The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid or incurred during the deferral period of the taxable year equal or exceed the lesser of (1) the applicable amounts paid during the preceding taxable year multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is the number of months in the taxable year, or (2) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

A net operating loss carryback is not allowed to or from a taxable year of a personal service corporation for which a taxable year election is in effect.

Reasons for Change

The committee believes that the limitations on the taxable years that may be elected by partnerships, S corporations, and personal service corporations have resulted in an excessive burden on tax return preparers due to the concentration of workload during a limited portion of the year. In order to more evenly spread this workload throughout the year, the committee believes that a partnership, S corporation, or personal service corporation should be allowed to elect any taxable year, provided that the tax benefit from the deferral of income that is available through the use of a taxable year other than the required taxable year is eliminated through other means.

Explanation of Provision

In general

The bill allows a partnership, S corporation, or personal service corporation to elect any taxable year without regard to the length of the deferral period of the taxable year elected. If a partnership, S corporation, or personal service corporation, however, has annual reports or statements that (1) ascertain the income, profit, or loss of the entity, and (2) are used for credit purposes or are provided to the partners, shareholders, or other proprietors of the entity, then the entity may only elect a taxable year that covers the same period as such annual reports or statements.

The bill also repeals the provision of present law that prohibits a partnership, S corporation, or personal service corporation from electing a taxable year other than the required taxable year if an earlier taxable year election has been terminated. The bill continues to require a partnership, S corporation, or personal service corporation to obtain the approval of the Internal Revenue Service in order to change a taxable year (including, unlike present law, a change to the required taxable year).

The committee anticipates that the Internal Revenue Service will provide a procedure by which a partnership, S corporation, or personal service corporation may expeditiously obtain the approval of the Internal Revenue Service in order to change a taxable year (for example, by timely filing a form with the Internal Revenue Service). The committee anticipates that this "automatic consent" procedure will only apply to a partnership, S corporation, or personal service corporation that has not changed its taxable year within the past 6 calendar years, except that the 6-year limitation will not apply to any partnership, S Corporation, or personal service corporation that has changed its taxable year in order to comply with the taxable year requirements contained in the Tax Reform Act of 1986.

The committee also anticipates that the "automatic consent" procedure will require any net operating loss of a personal service corporation that arises in a short period required to effect a change in taxable year to be deducted ratably over a 6-year period beginning with the first taxable year after the short period. In addition, the committee anticipates that the "automatic consent" procedure will require any excess of deductions over income of a partnership or S corporation that arises in a short period required to effect a change in taxable year to be take into account by the partners or shareholders over a 6-year period beginning with the taxable year of the partners or shareholders that includes the last day of the first taxable year of the partnership or S corporation that occurs after the short period.

The bill also provides that a taxable year election is to remain in effect until the partnership, S corporation, or personal service corporation terminates its election and changes to the required taxable year.[3] A change from a taxable year that is not a required taxable year to another taxable year that is not a required taxable year is not treated as a termination of the taxable year election unless the taxable year is allowable by reason of a business purpose.

The bill provides that a partnership, S corporation, or personal service corporation is not to be considered part of a tiered structure solely because a trust the beneficiaries of which use the calendar year owns an interest in the partnership, S corporation, or personal service corporation. Consequently, an election of a taxable year other than the required taxable year may be made by a partnership, S corporation, or personal service corporation with respect to which a trust owns an interest if all of the beneficiaries of the trust use the calendar year and the partnership, S corporation, or personal service corporation is not otherwise considered to be part of a proscribed tiered structure.

Required payment for electing partnerships and S corporations

The bill increases the amount of the required payment that must be made by a partnership or S corporation that elects a taxable year other than the required taxable year (including any partnership or S corporation that has an election in effect on the date of enactment of the bill). Under the bill, the amount of the required payment for any applicable election year equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code as of the close of the first required taxable year ending within the applicable election year plus 2 percentage points, multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance.

In addition, the bill requires an additional required payment for any new applicable election year of a partnership or S corporation. For this purpose, a new applicable election year is defined as any applicable election year that either (1) immediately follows a taxable year for which a taxable year election was not in effect, or (2) covers a different period than the preceding taxable year by reason of a change in the taxable year elected. If, however, the applicable election year described in the preceding sentence is a short taxable year that does not include the last day of a required taxable year, then the new applicable election year is the taxable year immediately following the short taxable year.

In the case of a new applicable election year that does not result from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the amount of the required payment for such applicable election year (determined without regard to the additional required payment). In the case of a new applicable election year that results from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the excess (if any) of (1) the amount of the required payment for such applicable election year (determined without regard to the additional required payment), over (2) the amount of the required payment for such applicable election year (determined without regard to the additional required payment) determined by using the deferral ratio and the deferral period that applied to the taxable year that was used prior to the change.[4]

The additional required payment is required to be made on or before September 15 of the calendar year in which the new applicable election year begins. A partnership or S corporation that fails to make the additional required payment by the due date of such payment is treated as having terminated the taxable year election and changed to the required taxable year.

In determining the net base year income of a partnership or S corporation for purposes of the required payment (including the additional required payment), the base year is defined as the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation that precedes the applicable election year.[5] In addition, in the case of a new applicable election year, the net income for the base year is to be increased by the excess (if any) of (1) the applicable payments taken into account in determining net income for the base year, over (2) 120 percent of the average amount of applicable payments made during the 3 taxable years immediately preceding the base year.[6]

The bill also requires interest to be paid by the Internal Revenue Service with respect to a refund of a required payment but only for the period that begins on the date that the refund is payable and that ends on the date of the payment of the refund.

Minimum distribution requirement for electing personal service corporations

The bill modifies the minimum distribution requirement that must be satisfied by a personal service corporation that elects a taxable year other than the required taxable year (including a personal service corporation that has an election in effect on the date of enactment of the bill). The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of (1) 110 percent of the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks)[7] multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is 12, or (2) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

The bill also permits a personal service corporation to carry back a net operating loss from a taxable year for which a taxable year election was in effect to a taxable year for which a taxable year election was in effect.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

Subtitle B. Pension Distributions

1. Rollover and Withholding on Nonperiodic Pension Distributions (secs. 511–513 of the bill and secs. 402 and 3405 of the Code)

Present Law

Distributions from tax-qualified pension plans (secs. 401(a)), qualified annuity plans (sec. 403(a)), and tax-sheltered annuities (sec. 403(b)) generally are includable in gross income in the year paid or distributed under the rules relating to the taxation of annuities. A total or partial distribution of the balance to the credit of an employee under a qualified plan, a qualified annuity plan, or a tax-sheltered annuity may, under certain circumstances, be rolled over tax free to another plan or annuity or to an individual retirement arrangement (IRA). A rollover of a partial distribution is permitted if (1) the distribution equals at least 50 percent of the balance of the credit of the employee, (2) the distribution is not one of a series of periodic payments, (3) the distribution is made on account of death, disability, or separation from service, and (4) the employee elects rollover treatment. For purposes of the rule denying rollover treatment in the case of certain periodic payments, nonperiodic payments made before, with, or after the commencement of the periodic payments are not treated as part of the stream of periodic payments.

Minimum required distributions and after-tax employee contributions may not be rolled over. The rollover must be made within 60 days of the date of distribution.

Income tax withholding on pension distributions is required unless the payee elects not to have withholding apply. If no election is made, tax is withheld from nonperiodic payments at a 10-percent rate, unless the payments are part of a qualified total distribution, in which case tables published by the Internal Revenue Service are used to determined the withholding rate. A qualified total distribution generally is a payment within one year of the entire interest in a plan.

Reasons for Change

The complexity of the present-law rollover rules create needless problems for individual taxpayers. For example, the restrictions on rollovers lead to inadvertent failures to satisfy the rollover requirements. Liberalization of the rollover rules will increase the flexibility of taxpayers in determining the time of the income inclusion of pension distributions and will encourage taxpayers to use pension distributions to provide retirement income.

A significant source of lost pension benefits is preretirement cashouts of pension savings in lump-sum distributions. The bill facilities the preservation of retirement benefits for retirement purposes by requiring plans to transfer eligible rollover distributions directly to an IRA or another qualified plan. Withholding ensures that taxpayers will be able to satisfy their tax liabilities.

Explanation of Provision

Under the bill, any part of the taxable portion of a distribution from a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) can be rolled over tax free to an IRA or another qualified plan or annuity, unless the distribution is one of a series of substantially equal payments made (1) over the life (or life expectancy) of the participant or the joint lives (or joint life expectancies) of the participant and his or her beneficiary, or (2) over a specified period of 10 years of more. For purposes of the rule denying rollover treatment in the case of certain periodic payments, a single-sum payment that is not substantially equal to the periodic payments that is made before, with, or after the commencement of the periodic payments is not treated as part of the series of periodic payments. For example, if an employee receives 30 percent of his or her accrued benefit in the form of a single-sum distribution upon retirement with the balance payment in annuity form, the amount of the single-sum distribution could be rolled over under the bill.

As under present law, special 5- and 10-year forward income averaging is not available if part of a lump-sum distribution is rolled over. Similarly, if a distribution that is not a lump-sum distribution is rolled over, averaging is not available with respect to a subsequent lump-sum distribution from the plan.

Under the bill, a qualified retirement or annuity plan must permit participants to elect to have any distribution that is eligible for rollover treatment transferred directly to an eligible transferee plan specified by the participant. An eligible transferee plan is an IRA, a qualified annuity plan, or a qualified defined contribution retirement plan. Transfers to a qualified defined benefit plan are not permitted. As under present law, a transfer cannot be made to another qualified plan unless the terms of the transferee plan permit the acceptance of such transfer. Amounts transferred to an eligible transferee plan are includable in income when distributed from the transferee plan in accordance with the rules applicable to that plan. Before making an eligible rollover distribution, the plan administrator is required to provide a written explanation of the direct transfer option. Similar rules apply to eligible rollover distributions from tax-sheltered annuities.

Withholding is imposed at a rate of 20 percent on any distribution that is eligible to be rolled over but that is not transferred directly to an eligible transferee plan. Payees cannot elect to forgo withholding with respect to such distributions.

The bill provides that plan amendments required under the bill do not have to be made before the first plan year beginning on or after January 1, 1994, if the plan is operated in accordance with the bill and the amendment applies retroactively.

Effective Date

The provision is effective for distributions after December 31, 1992.

Subtitle C. Other Provisions

1. Modify Estimated Tax Payment Rules for Large Corporations (sec. 521 of the bill and sec. 6655 of the Code)

Present Law

A Corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning in 1993, 1994, 1995, and 1996, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 95 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 95 percent of the tax liability attributable to such annualized income.

For taxable years beginning in 1992, the 95-percent requirement is a 93-percent requirement; the 95-percent requirement becomes a 90-percent requirement for taxable years beginning in 1997 and thereafter (P.L. 102–244, Feb. 7, 1992).

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of the tax liability shown on its return for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Reasons for Change

The committee believes that it is appropriate to require a large corporation to base its estimated tax payments on amounts that more closely approximate its ultimate tax liability for the year.

Explanation of Provision

For taxable years beginning after June 30, 1992, and before 1997, the bill requires a large corporation to base its estimated tax payments on 96 percent (rather than 93 or 95 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. For taxable years beginning after 1996, the bill requires a large corporation to base its estimated tax payments on 91 percent (rather than 90 percent) of its current year tax liability.

The bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

Effective Date

The provision is effective for taxable years beginning after June 30, 1992.

2. Mark-to-Market Accounting Method for Dealers in Securities (sec. 522 of the bill and new sec. 475 of the Code)

Present Law

A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of securities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market value of the securities; or (3) the market value of the securities.

If the inventory of securities is determined based on cost, unrealized gains and losses with respect to the securities are not taken into account for Federal income tax purposes. If the inventory of securities is determined based on the lower of cost or market value, unrealized losses (but not unrealized gains) with respect to the securities are taken into account for Federal income tax purposes. If the inventory of securities is determined based on market value, both unrealized gains and losses with respect to the securities are taken into account for Federal income tax purposes.

For financial accounting purposes, the inventory of securities generally is determined based on market value.

Reasons for Change

Inventories of securities generally are easily valued at year end, and, in fact, are currently valued at market by securities dealers in determining their income for financial statement purposes and in adjusting their inventory using the lower of cost or market method for Federal income tax purposes. The committee believes that the cost method and the lower of cost or market method generally understate the income of securities dealers and that the market method most clearly reflects the income of securities dealers.

Explanation of Provision

In general

The bill provides two general rules (the "mark-to-market rules") that apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer is required to be included in inventory at its fair market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year is treated as sold by the dealer for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account by the dealer in determining gross income for that taxable year.[8]

If gain or loss is taken into account with respect to a security be reason of the second mark-to-market rule, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the security, or as a result of the application of the mark-to-market rules, is to be appropriately adjusted to reflect such gain or loss. In addition, the bill authorizes the Treasury Department to promulgate regulations that provide for the application of the second mark-to-market rule at times other than the close of a taxable year or the last business day of a taxable year.

The mark-to-market rules described above apply only for purposes of determining the amount of gain or loss that is taken into account by a dealer in securities for any taxable year. Thus, for example, the mark-to-market rules do not apply in determining the character of any gain or loss and do not begin a new holding period for any security.[9] As a further example, the mark-to-market rules do not apply in determining whether gain or loss is recognized by any other taxpayer that may be a party to a contract with a dealer in securities.

Definitions

A dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

A security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract (but not any other notional principal contract such as a notional principal contract that is based on the price of oil, wheat, or other commodity); and (5) any evidence of an interest in, or any derivative financial instrument in, a security described in (1) through (4) above or any currency, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph. A security, however, is not to include a contract to which section 1256(a) of the Code applies.

A hedge is defined as any position that reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position that is reasonably expected to become a hedge within 60 days after the acquisition of the position.

Exceptions to the mark-to-market rules

Notwithstanding the definition of security, the mark-to-market rules generally do not apply to: (1) any security that is held for investment;[10] (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of a trade or business of the dealer but only if the evidence of indebtedness is not held for sale; (3) any security that is acquired by a floor specialist[11] in connection with the specialist's duties as a specialist on an exchange but only if the security is one in which the specialist is registered with the exchange; (4) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules (*i.e.*, any security that is a hedge with respect to (a) security held for investment, (b) an evidence of indebtedness described in (2), or (c) a security of a floor specialist described in (3)); and (5) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer.[12]

The exceptions to the mark-to-market rules for certain hedges do not apply to any security that is held by a taxpayer in its capacity as a dealer in securities, except as otherwise provided in regulations to be promulgated by the Treasury Department. Thus, except as otherwise provided in regulations to be promulgated by the Treasury Department, the exceptions to the mark-to-market rules for certain hedges do not apply to (1) any security that is held for sale in the ordinary course of a trade or business, or (2) any security that is entered into with customers in the ordinary course of a trade or business.

In addition, the exceptions to the mark-to-market rules do not apply unless before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations),[13] the security is clearly identified in the dealer's records as being described in one of the exceptions listed above.[14]

It is anticipated that the identification rules with respect to hedges will be applied in such a manner as to minimize the imposition of additional accounting burdens on dealers in securities. For example, it is understood that certain dealers in securities use accounting systems which treat certain transactions entered into between separate business units as if such transactions were entered into with unrelated third parties. It is anticipated that for purposes of the mark-to-market rules, such an accounting system generally will provide an adequate identification of hedges with third parties.

In addition to clearly identifying a security as qualifying for one of the exceptions to the mark-to-market rules listed above, a dealer must continue to hold the security in a capacity that qualifies the security for one of the exceptions listed above. If at any time after the close of the day on which the security was acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is not held in a capacity that qualifies the security for one of the exceptions listed above, then the mark-to-market rules are to apply to any changes in value of such security that occur after the security no longer qualifies for an exception.[15]

Improper identification

The bill provides that if (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules are to apply to any such security or position, except that loss is to be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

Other rules

The bill provides that the uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles do not apply to any security to which the mark-to-market rules apply.

In addition, the bill provides that (1) the mark-to-market rules do not apply to any section 988 transaction (generally, a foreign currency transaction) that is part of a section 988 hedging transaction, and (2) the determination of whether a transaction is a section 988 transaction is to be made without regard to whether the transaction would otherwise be marked-to-market under the bill.

The bill also authorizes the Treasury Department to promulgate regulations which provide for the treatment of a hedge that reduce a dealer's risk of interest rate or price changes or currency fluctuations with respect to securities that are subject to the mark-to-market rules as well as with respect to securities, positions, rights to income, or liabilities that are not subject to the mark-to-market rules. It is anticipated that the Treasury regulations will allow taxpayers to treat any such hedge as not subject to the mark-to-market rules provided that such treatment is consistently followed from year to year.

Finally, the bill authorizes the Treasury Department to promulgate such regulations as may be necessary or appropriate to carry out the provisions of the bill, including rules to prevent the use of year-end transfers related persons, or other arrangements to avoid the provisions of the bill.

Effective Date

The provision applies to taxable years ending on or after December 31, 1992. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change.

The net amount of the section 481(a) adjustment is to be taken into account ratably over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992.

The excess (if any) of (1) the net amount of the section 481(a) adjustment for the first taxable year ending on or after December 31, 1992, over (2) the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992, is to be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

The principles of section 8.03(1) and (2) of Rev. Proc. 92-20, 1992-12 I.R.B. 10, are to apply to the section 481(a) adjustment. It is anticipated that section 8.03(1) of Rev. Proc. 92-20 will be applied by taking into account all securities of a dealer that are subject to the mark-to-market rules (including those securities that are not inventory in the hands of the dealer). In addition, it is anticipated that net operating losses will be allowed to offset the section 481(a) adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the section 481(a) adjustment, and, for purposes of determining liability for estimated taxes, the section 481(a) adjustment will be taken into account ratably throughout the taxable year in question.

In determining the amount of the section 481(a) adjustment for taxable years beginning before the date of enactment of the mark-to-market rules, the identification requirements are to be applied in a reasonable manner. It is anticipated that any security that was identified as being held for investment under section 1236(a) of the Code as of the last day of the taxable year preceding the taxable year of change is to be treated as held for investment for purposes of the mark-to-market rules. It is also anticipated that any other security that was held as of the last day of the taxable year preceding the taxable year of change is to be treated as properly identified if the dealer's records as of such date support such identification.[16]

Finally, no addition to tax is to be made under section 6654 or 6665 of the Code for any underpayment of estimated tax that is due before the date of enactment of the mark-to-market rules to the extent that the underpayment is attributable to the enactment of the mark-to-market rules. The amount of the first required payment of estimated tax that is due on or after the date of enactment of the mark-to-market rules is to be increased by the amount of estimated tax that was not previously paid by reason of the preceding sentence.

3. Tax treatment of certain FSLIC financial assistance (sec. 523 of the bill and secs. 165, 166, 585, and 593 of the Code).

Present Law and Background

A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). In the case of a taxpayer on the specific charge-off method of accounting for bad debts, a deduction is allowable for the debt only to the extent that the debt becomes worthless and the taxpayer does not have a reasonable prospect of being reimbursed for the loss. If the taxpayer accounts for bad debts on the reserve method, the worthless portion of a debt is charged against the taxpayer's reserve for bad debts, potentially increasing the taxpayer's deduction for an addition to this reserve.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC)[17], and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by FIRREA, but still apply to transactions that occurred before May 10, 1989.

Prior to the enactment of FIRREA, the FSLIC entered into a number of assistance agreements in which it agreed to provide loss protection to acquirers of troubled thrift institutions by compensating them for the difference between the book value and sales proceeds of "covered assets." "Covered assets" typically are assets that were classified as nonperforming or troubled at the time of the assisted transaction but could include other assets as well. Many of these covered assets are also subject to yield maintenance guarantees, under which the FSLIC guaranteed the acquirer a minimum return or yield on the value of the assets. The assistance agreements also generally grant the FSLIC the right to purchase covered assets. In addition, many of the assistance agreements permit the FSLIC to order assisted institutions to write down the value of covered assets on their books to fair market value in exchange for a payment in the amount of the write-down.

Under most assistance agreements, one or more Special Reserve Accounts are established and maintained to account for the amount of FSLIC assistance owed by the FSLIC to the acquired entity. The assistance agreements generally specify the precise circumstances under which amounts with respect to covered assets are debited to an account. Under the assistance agreements, these debit entries generally are made subject to prior FSLIC direction or approval. When amounts are so debited, the FSLIC generally becomes obligated to pay the debited balance in the account to the acquirer at such times and subject to such offsets as are specified in the assistance agreement.

In September 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of FIRREA, issued a report to Congress and the Oversight Board of the RTC on certain FSLIC-assisted transactions (the "1988/89 FSLIC transactions"). The report recommended further study of the covered loss and other tax issues relating to these transactions. A March 4, 1991 Treasury Department report ("Treasury report") on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance. The Treasury report states that the Treasury view is expected to be challenged in the courts and recommended that Congress enact clarifying legislation disallowing these deductions.[18]

Reasons for Change

Allowing tax deductions for losses on covered assets that are compensated for by FSLIC assistance gives thrift institutions a perverse incentive to minimize the value of these assets when sold. The FSLIC, and not the institution, bears the economic burden corresponding to any reduction in value because it is required to reimburse the thrift institution for the loss. However, the tax benefit to the thrift institution and its affiliates increases as tax losses are enhanced. The thrift institution, therefore, has an incentive to minimize the value of covered assets in order to maximize its claimed tax loss and the attendant tax savings.

It is desirable to clarify, as of the date of the Treasury Report, that FSLIC assistance with respect to certain losses is taken into account as compensation for purposes of the loss and bad debt deduction provisions of the Code.

Explanation of Provision

General rule

Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset shall be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt shall be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts. For this purpose, FSLIC assistance means any assistance or right to assistance with respect to a domestic building and loan association (as defined in section 7701(a)(19) of the Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).[19]

Thus, if a taxpayer disposes of an asset entitled to FSLIC assistance, no deduction is allowed under section 165 of the Code for a loss (if any) on the disposition of the asset to the extent the assistance agreement contemplates a right to receive FSLIC assistance with respect to the loss. Similarly, if a loan held by a taxpayer constitutes an asset entitled to FSLIC assistance, the thrift institution shall not charge off any amount of the loan covered by the assistance agreement against the bad debt reserve and no charge-off will be taken into account in computing an addition to the reserve under the experience method, to the extent the assistance agreement contemplates a right to receive FSLIC assistance on a write-down of such asset under the agreement or on a disposition. The institution also shall not be allowed to deduct such amount of the loan under the specific charge-off method.[20]

It is intended that the right to FSLIC assistance for purposes of this provision is to be determined by reference to the gross amount of FSLIC assistance that is contemplated by the assistance agreement with respect to the sale or other disposition, or write-down, without taking into account any offsets that might reduce the net amount FSLIC is obligated to pay under the agreement. For example, under an assistance agreement an institution's right to be reimbursed for a loss on the disposition or write-down of an asset may be reflected as a debit to a Special Reserve Account, while certain other items that will reduce the ultimate amount of assistance to be paid may be reflected as credits to the account. In such a case, the gross amount of FSLIC assistance contemplated by the agreement is the amount represented by the debit, without regard to any offset.

Financial assistance to which the FIRREA amendments apply

The provision does not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference

No inference is intended as to prior law or as to the treatment of any item to which this provision does not apply.

Effective Date

In general

The provision applies to financial assistance credited on or after March 4, 1991, with respect to (1) assets disposed of and charge-offs made in taxable years ending on or after March 4, 1991; and (2) assets disposed of and charge-offs made in taxable years ending before March 4, 1991, but only for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991.

For this purpose, financial assistance generally is considered to be credited when the taxpayer makes an approved debit entry to a Special Reserve Account required to be maintained under the assistance agreement to reflect the asset disposition or write-down. An amount will also be considered to be credited prior to March 4, 1991 if the asset was sold, with prior FSLCI approval, before that date.

An amount is not deemed to be credited for purposes of the provision merely because the FSLIC has approved a management or business plan or similar plan with respect to an asset or group of assets, or has otherwise generally approved a value with respect to an asset.

As an example of the application of the effective date provision, assume that a thrift institution is subject to a FSLIC assistance agreement that, through the use of a Special Reserve Account, operates to compensate the institution for the difference between the book and fair market values of certain covered assets upon their disposition or write-down. Further assume that on February 1, 1991 the thrift institution wrote down a covered asset that has a book value and tax basis of $100 to $60, the asset's fair market value. With FSLIC approval, the institution debited the Special Reserve Account prior to March 4, 1991, to reflect the write-down of $40, and properly submitted to the FSLIC a summary of the account that reflected that debit, along with other debits for the quarter ended March 31, 1991. The provision would not apply to a loss claimed by the thrift institution with respect to the write-down of the covered asset on February 1, 1991. The same result would apply if the institution had sold the asset for $60 on February 1 with prior FSLIC approval. In the sale case, the provision would not apply even if there were no debit to the Special Reserve Account prior to March 4, 1991, so long as the FSLIC approved the amount of the reimbursable loss for purposes of providing assistance under the agreement.

Application to certain net operating losses

The provision applies to the determination of any net operating loss [21] carried into a taxable year ending on or after March 4, 1991, to the extent that the net operating loss is attributable to a loss or charge-off for which the taxpayer had a right to FSLIC assistance which had not been credited before March 4, 1991.

For example, assume a calendar year thrift institution is a party to a FSLIC assistance agreement that compensates the institution for the amount that covered loans are written down or charged off pursuant to the agreement. The agreement provides that the institution must receive the prior approval of the FSLIC to write down a loan for purposes of this compensation. Further assume that the institution uses the experience method to account for bad debts for tax purposes, and that in 1990 it charged off $100 with respect to a covered loan. Assume that this charge-off initially reduced the taxpayer's bad debt reserve balance by $100 and allowed the taxpayer to increase its addition to its reserve by $100 to bring the reserve to an appropriate balance. The taxpayer deducted this amount and utilized $20 for the year ended in 1990 (i.e., the last taxable year of the taxpayer ending before March 4, 1991). This produced a net operating loss of $80 for the remainder. The net operating loss is carried forward to 1991 (a taxable year of the taxpayer ending on or after March 4, 1991). Assume that the taxpayer did not debit the Special Reserve Account prior to March 4, 1991. The net operating loss carried to 1991 would be redetermined taking into account the provision. Applying the provision to 1990 would result in disallowing the charge-off of the $100 loan against the experience method reserve, in effect disallowing the $100 addition to the reserve. In such case, the taxpayer would continue to owe no tax for 1990, but the $80 net operating loss would be disallowed. However, the taxpayer's tax liability for 1990 would be redetermined under the provision.

As a further example, assume that the net operating loss described in the example directly above were carried back to, and absorbed in, an earlier year ending prior to March 4, 1991 (rather than being carried forward). In that case, the provision would not apply to reduce the net operating loss carryback.

FOOTNOTES

[1] For this purpose, a personal service corporation is defined as a C corporation the principal activity of which is the performance of services if (1) the services are substantially performed by employee-owners, and (2) more than 10 percent of the stock of the corporation is owned by employee-owners.

[2] The term "applicable amount" generally is defined as any amount paid to an employee-owner that is includable in the gross income of the employee-owner other than any dividend paid by the personal service corporation or any gain from the sale or exchange of property by the employee-owner to the personal service corporation.

[3] As under present law, a taxable year election is also terminated if: (1) the entity becomes part of a proscribed tiered structure; or (2) a partnership or S corporation willfully fails to comply with the required payment rules describe below. In addition, the bill authorizes the Treasury Department to issue regulations which provide for the termination of a taxable year election if the entity does not comply with the annual financial statement requirement described above.

[4] In the case of a new applicable election year that results from a change in the taxable year elected, an additional required payment is required only if the deferral period of the new applicable election year exceeds the deferral period of the former applicable election year.

[5] The Treasury Department is authorized to promulgate regulations that provide for the application of the required payment rules if there is no taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation that precedes the applicable election year. The committee anticipates that these regulations will annualize the results of any short taxable year that is used as the base year.

[6] In the event that there are not 3 taxable years immediately preceding the base year, the provision is to apply based on the number of taxable years immediately preceding the base year.

[7] The Treasury Department is authorized to promulgate regulations that provide for the application of the minimum distribution requirement if there is no preceding taxable year of 12 months (or 52–53 weeks) of the personal service corporation. The committee anticipates that these regulations will annualize the results of any short year that is taken into account for purposes of these rules.

[8] For purposes of this provision, a security is treated as sold to a person that is not related to the dealer even if the security is a contract between the dealer and a related person. Thus, for example, sections 267 and 707(b) of the Code are not to apply to any loss that is required to be taken into account under this provision.

[9] For purposes of determining whether capital gain or loss that is recognized by reason of the mark-to-market rules is short-term or long-term, the holding period is treated as ending on the date that the security is treated as sold under the mark-to-market rules. Thus, for example, if, on August 1, 1992, a calendar year securities dealer acquires a security which is a capital asset subject to the mark-to-market rules, the amount of any gain or loss recognized on December 31, 1992, by reason of the mark-to-market rules would be short-term gain or loss. If such security continues to be held on December 31, 1993, the amount of gain or loss recognized by reason of the mark-to-market rules would be long-term gain or loss.

[10] To the extent provided in regulations to be promulgated by the Treasury Department, the exception to the mark-to-market rules for a security that is held for investment is not to apply to any notional principal contract or any derivative financial instrument that is held by a dealer in such securities.

[11] A floor specialist is defined as a person who (1) is a member of a national securities exchange, (2) is registered as a specialist with the exchange, and (3)

meets the requirements for specialists established by the Securities and Exchange Commission.

[12] For purposes of the mark-to-market rules, debt issued by a taxpayer is not a security in the hands of such taxpayer.

[13] It is anticipated that the Treasury regulations will permit a floor specialist to identify a security as qualifying for an exception before the close of the seventh business day following the day that the security is acquired (see sec. 1236(d)). In addition, it is anticipated that the Treasury regulations will permit a dealer that originates evidences of indebtedness in the ordinary course of a trade or business to identify such evidences of indebtedness as not held for sale based on the accounting practices of the dealer but in no event later than the date that is 60 days after the date that any such evidence of indebtedness is originated. Further, it is anticipated that the Treasury regulations will permit a dealer that enters into commitments to acquire mortgages to identify such commitments as being held for investment if the dealer acquires the mortgages and holds the mortgages as investments. It is anticipated that this identification of commitments to acquire mortgages will occur within a reasonable period after the acquisition of the mortgages but in no event later than the date that is 30 days after the date that the mortgages are acquired.

[14] A security is to be treated as clearly identified in a dealer's records as being described in one of the exceptions listed above if all of securities of the taxpayers that are not so described are clearly identified in the dealer's records as not being described in such exception.

For example, assume that, in the ordinary course of its trade or business, a bank originates loans that are sold if the loans satisfy certain conditions. In addition, assume that (1) the bank determines whether a loan satisfies the conditions within 30 days after the loan is made, and (2) if a loan satisfies the conditions for sale, the bank records the loan in a separate account on the date that the determination is made. For purposes of the bill, the bank is a dealer in securities with respect to the loans that it holds for sale. In addition, by identifying these loans as held for sale, the bank is considered to have identified all other loans as not held for sale. Consequently, the loans that are not held for sale are not subject to the mark-to-market rules.

[15] Any gain or loss that is attributable to the period that the security was not subject to the mark-to-market rules generally is to be taken into account at the time that the security is actually sold (rather than treated as sold by reason of the mark-to-market rules).

[16] In addition, it is anticipated that in order for any security that is held on the date of enactment of the mark-to-market rules, the security must be identified as being described in one of the exceptions within a reasonable period after the date of enactment but in no event later than the date that is 30 days after the date of enactment.

[17] Until it was abolished by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), FSLIC insured the deposits of its member savings and loan associations and was responsible for insolvent member institutions. FIRREA abolished FSLIC and established the FSLIC Resolution Fund (FRF) to assume all of the assets and liabilities of FSLIC (other than those expressly assumed or transferred to the Resolution Trust Corporation (RTC)). FRF is administered by the Federal Deposit Insurance Corporation (FDIC). The term "FSLIC" is used hereafter to refer to FSLIC and any successor to FSLIC.

[18] Department of the Treasury, *Report on Tax Issues Relating to the 1988/89 Federal Savings and Loan Insurance Corporation Assisted Transactions*, March, 1991 at pp. 16–17.

[19] FSLIC assistance for purposes of the provision does not include "net worth assistance". "Net worth assistance" is generally computed at the time of an acquisition, without targeting loss coverage to ultimate dispositions or write-downs with respect to particular assets.

[20] It is expected that, for purposes of the adjusted current earnings adjustment of the corporate alternative minimum tax, there will not be any net positive adjustment to the extent that FSLIC assistance is taken into account as compensation for a loss or in determining worthlessness and there is, therefore, no deductible loss or bad debt charge-off.

[21] For purposes of determining any alternative minimum tax net operating loss carryover to periods ending on or after March 4, 1991 it is expected that the principles described in the preceding footnote will apply.

UNEMPLOYMENT COMPENSATION BENEFITS—COSTS

	Fiscal Year—						
	1992	1993	1994	1995	1996	1997	Total
EUC:							
Benefits	870	2,720	0	0	0	0	3,590
Work Search	20	70	0	0	0	0	90
Eligibility criteria	45	145	0	0	0	0	190
Continued benefits	5	20	0	0	0	0	25
Railroad workers	....	2	0	0	0	0	2
Administration	30	0	0	0	0	0	30
Extended benefits:							
Optional trigger	0	620	405	230	70	70	1,395
Work search	0	15	10	5	2	2	34
Eligibility criteria	0	35	25	10	5	5	80
Basic program:							
Allow short-time compensation	0	0	0	0	0	0	0
Information on EITC eligibility	0	0	0	0	0	0	0
Information on taxation of benefits	0	....	....	....	....	....	....
Total	970	3,627	440	245	77	77	5,436

ESTIMATED REVENUE EFFECTS OF UNEMPLOYMENT BILL

[Fiscal Years 1992–97, in billions of dollars]

Item and Effective Date	1992	1993	1994	1995	1996	1997	1992–97
Unemployment compensation bill: Unemployment compensation proposal[1]	−0.970	−3.627	−0.440	−0.245	−0.077	−0.077	−5.436
Revenue-raising provisions:							
1. Taxable years of partnerships, etc., tyba Dec. 31, 1991	0.129	0.310	−0.092	−0.192	0.003	0.001	0.160
2. Rollover and withholding on nonperiodic pension distributions, Jan. 1, 1993	....	2.143	0.001	0.001	0.001	0.001	2.147
3. Increase corporate estimated tax to 96 percent (2)	....	0.799	−0.174	0.016	0.016	0.048	0.706
4. Mark-to-market for securities dealers,[3] tybo/a Dec. 12, 1992	0.118	0.354	0.482	0.492	0.502	0.512	2.460
Subtotal: Revenue-raising provisions	0.247	3.606	0.217	0.317	0.522	0.562	5.473
Net subtotals	−0.723	−0.021	−0.223	0.072	0.445	0.485	0.037
Prohibit double dipping by thrifts receiving Federal financial assistance,[4] Mar. 3, 1991	0.227	0.115	0.080	0.083	0.004	−0.088	0.421
Grand totals	−0.496	0.094	−0.143	0.155	0.449	0.397	0.458

[1] Estimates for proposal not supplied by Joint Committee on Taxation staff.

[2] Increase rate from 93 percent to 96 percent for taxable years beginning after June 30, 1992; Increase rate from 95 percent to 96 percent for taxable years beginning after Dec. 31, 1992. For taxable years beginning after Dec. 31, 1996, Increase rate from 90 percent to 91 percent.

[3] Estimates for this provision assume rules are implemented to prevent abuse of spread amount.

[4] It is the opinion of CBO that this amount should not appear on a pay-as-you-go scorecard.

Note.—Details may not add to totals due to rounding. Legend for "Effective" column: tyba = taxable years beginning after; tybo/a = taxable years ending on or after.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SEYMOUR:

S. 2847. A bill to authorize a land exchange involving the Cleveland National Forest, California, and a corresponding boundary adjustment for the forest, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN:

S. 2848. A bill to authorize the conveyance of certain lands located at Williams Air Force Base, Arizona; to the Committee on Armed Services.

By Mr. MITCHELL (for Mr. KERRY (for himself and Mr. KENNEDY)):

S. 2849. A bill to restore the groundfish resources off the coast of New England, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SEYMOUR:

S. 2847. A bill to authorize a land exchange involving the Cleveland National Forest, CA, and a corresponding boundary adjustment for the forest, and for other purposes; to the Committee on Energy and Natural Resources.

CLEVELAND NATIONAL FOREST LAND EXCHANGE ACT

• Mr. SEYMOUR. Mr. President. I rise today to introduce legislation that will solve a boundary dispute between the Cleveland National Forest and the Lost Valley Scout Reservation in southern California.

The Lost Valley Scout Reservation, located in a remote area of northern San Diego County and bordered by the Cleveland National Forest, is the principal summer camp for the 80,000 scouts served annually by the Orange County Council of the Boy Scouts of America. The Boy Scouts acquired this property in 1956 through deeds based on an 1880 survey. In the ensuing years, buildings were built on the property in accordance with survey work believed to be accurate at the time.

In 1987, however, the U.S. Forest Service had a portion of the forest/camp boundary surveyed and found that some of the Boy Scout buildings are located on Forest Service land. Additionally, the Scouts had leased easement rights on an additional parcel of Forest Service property for roads and utility lines. This easement area lies between two activity centers and is heavily impacted by Scout use.

Since the discovery of the boundary error, the U.S. Forest Service district ranger and his staff have worked with the Orange County Council, BSA, to find a solution to the problem. It became apparent through these negotiations that it would be difficult to facilitate an administrative exchange, and it was determined that legislation was needed to authorize a fair exchange of property.

The legislation I am introducing authorizes changing the boundaries of the Cleveland National Forest to accommodate a land swap between the Boy Scouts and the Forest Service. Specifically, the Orange County Council of the Boy Scouts will receive title to a 43-acre parcel that contains scout buildings and easement areas. In exchange, the Forest Service will receive a 94-acre tract of unused forest property currently owned by the Scouts. This proposed solution is considered fair and equitable by the Forest Service and the Boy Scouts. The Orange County Council, BSA, has agreed to have surveys prepared and monuments placed to document the proposed boundaries in compliance with U.S. Forest Service standards.

With this proposed exchange, the Boy Scouts and the Forest Service have reached a fair and neighborly solution to the boundary encroachment problem. I am pleased to note that identical legislation is being introduced in the House of Representatives by Congressman DUNCAN HUNTER, who represents the Cleveland National Forest and Congressman CHRIS COX who represents the Orange County Council of the Boy Scouts. I urge my colleagues to support swift passage of this legislation.•

By Mr. McCAIN:

S. 2848. A bill to authorize the conveyance of certain lands located at Williams Air Force Base, AZ; to the Committee on Armed Services.

CONVEYANCE OF CERTAIN LANDS AT WILLIAMS AIR FORCE BASE

• Mr. McCAIN. Mr. President, following up on a proposal I made in early May in testimony before the Senate Armed Services Subcommittee on Readiness, I am introducing legislation today to authorize a land exchange involving Williams Air Force Base and Arizona State trust lands currently leased by the Department of Defense. It is legislation crucial to the timely disposal and reuse of Williams Air Force Base, and to providing our Nation with effective training and test and evaluation facilities.

This legislation will permit the Federal Government to gain title to 81,121 acres at the Goldwater Gunnery Range, 133 acres at Davis-Monthan AFB, 1,537 acres at Fort Huachuca and 7,563 acres at Yuma Test Station. These are lands which DOD currently leases at a cost of $400,000 a year. In exchange, the State of Arizona will gain land at Williams AFB equal in value to the land acquired by DOD.

My colleagues will note that this language differs from the language that I earlier developed and which was recently incorporated into the House version of the Defense authorization bill in two important respects.

First, after consultation with the Arizona State Land Commission, I have removed language which would make the exchange mandatory. I believe it is important to leave the State's options open in the case it decides not to go through with the land transfer.

Second, the language I am introducing today includes in the transfer roughly 75,000 acres to which the Federal Government owns surface rights, but not mineral rights and includes the mineral rights at Goldwater Gunnery Range. The Air Force currently leases these rights and has expressed an interest in gaining full title. It makes a great deal of sense that the Air Force not have to negotiate at a later date for the subsurface rights at Goldwater. As well, the State will gain that much more value with which to acquire land at Williams.

I am pleased to report that the Air Force has approved in principle the idea of the land exchange. It has also reviewed the legislation and I believe the bill in its current form addresses all of its possible concerns with the transfer.

Although the terms remain to be worked out between State and the Air Force, under consideration for the swap are 600 acres at Williams which have been targeted by the Reuse Advisory Board as an ideal site for a commercial aircraft facility. It is estimated that this land is roughly equal to the trust lands in question.

There are several points I would like to make to put this legislation in context.

First, depending on developments at Williams, the State can decide to acquire portions of Williams other than the 600 acres I previously mentioned. Part of the current reuse plan includes commercial use. The possibility of a commercial aircraft facility locating at Williams has been widely discussed. However, there is nothing in my legislation which interferes with the work of the board or ties them to acquiring any specific parcel of land. There are a great many proposals being discussed for reuse of Williams. My legislation is designed only to authorize this land exchange as a permissible option for base disposal. The final decision of whether to enter into an exchange agreement and the formulation of the terms of such an agreement should remain with the administration and the State of Arizona.

Second, the timely cleanup of Williams continues to be the key to efficient reuse and remains one of my primary concerns. Nothing in this new legislation would interfere with the cleanup or obviate environmental protection, remediation, and restoration laws. It is my hope, however, that consistent with DOD and EPA legal opinion, the land authorized for the swap will be transferred once cleanup is completed on the parcel or parcels under consideration.

Third, I have included a provision which would preserve the State's ability to acquire lands at Williams under the favorable terms outlined in the Defense Base Closure and Realignment Act of 1990. If identified for public use, States can receive surplus property from the Federal Government at up to a 100-percent discount. Given the board's decision to use part of the base for educational/research purposes, these are favorable terms I do not wish to preclude.

Everyone benefits with this legislation. DOD is authorized to acquire land in exchange for properties at Williams. Because of the decision last year to close Williams, these are lands it needs to dispose of anyway. DOD also obtains lands which potentially can provide the services with valuable range space necessary to fulfill its long-term needs.

The State wins because it gains the title to land which it might otherwise have to purchase.

The communities surrounding Williams will benefit the most. They will be one step further in adjusting to life without Williams. The State will gain title to lands which can immediately and specifically be considered in attracting industry to the east valley.

Timeliness of the transfer of Williams remains the key to a painless adjustment in the east valley. It is my hope that this legislation will help us get the process well underway.

I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, WILLIAMS AIR FORCE BASE, ARIZONA.

(a) IN GENERAL.—(1) The United States may acquire by condemnation or otherwise—

(A) all right, title, and interest of the State of Arizona (including any mineral rights) in and to the trust lands of the State of Arizona described in paragraph (2); and

(B) any mineral right or interest of the State of Arizona in and to the trust lands of the State of Arizona described in paragraph (3).

(2) The trust lands referred to in paragraph (1)(A) are as follows:

(A) A parcel consisting of approximately 81,121 acres located in the Goldwater Aerial Gunnery Range, Yuma County and Maricopa County, Arizona, and used by the Air Force for activities relating to aerial gunnery and bombing practice.

(B) A parcel consisting of approximately 7,563 acres located in the Yuma Test Station, Yuma County, Arizona, and used by the Army for activities relating to field artillery testing.

(C) A parcel consisting of approximately 1,537 acres located in the Fort Huachuca East Range, Cochise County, Arizona, and used by the Army for activities relating to field training exercises.

(D) A parcel consisting of approximately 133 acres located in Davis-Monthan Air Force Base, Tucson, Arizona.

(3) The trust lands referred to in paragraph (1)(B) are as follows:

(A) A parcel consisting of approximately 50,355 acres located in the Goldwater Aerial Gunnery Range, Arizona.

(B) A parcel consisting of approximately 12,781 acres located in the Yuma Test Station, Arizona.

(C) A parcel consisting of approximately 12,905 acres located in the Fort Huachuca East Range, Arizona.

(b) CONSIDERATION.—As consideration for the acquisition by the United States of Arizona trust lands under paragraph (1)(A) of subsection (a) and any mineral rights under paragraph (1)(B) of that subsection, the Secretary of the Air Force shall convey to the State of Arizona all right, title, and interest of the United States in and to a parcel of real property located at Williams Air Force Base, Arizona, together with any improvements thereon, that is approximately equal in fair market value to the fair market value of the property and mineral rights acquired under that subsection.

(c) CONDITIONS.—The Secretary of the Air Force may make the conveyance described in subsection (b) only if—

(1) the fair market value of the real property and mineral rights acquired by the United States under subsection (a) is at least equal to the fair market value of the property conveyed by the Secretary of the Air Force under subsection (b); and

(2) the conveyance of the Secretary of the Air Force to the State of Arizona under subsection (b) is accepted as full consideration for the conveyance of property and mineral rights to the United States under subsection (a) and terminates all right, title, and interest of all parties other than the United States in and to the property and mineral rights conveyed to the United States under subsection (a); and

(3) the Secretary of the Air Force has complied with all environmental protection, remediation, and restoration laws that are applicable to the disposal of Williams Air Force Base, Arizona.

(d) LIMITATION ON CONVEYANCE AUTHORITY.—The conveyance of real property described in subsection (b) may not be made until adequate prior opportunity has been provided for the disposition of such property under the provisions of law to which the disposition of excess and surplus property is subject under section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687), except the requirement of disposition by public advertising.

(e) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary of the Air Force shall determine the fair market value of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the mineral rights to be acquired pursuant to subsection (a)(1)(B), and the parcel of real property to be conveyed pursuant to subsection (b). Such determinations shall be final.

(f) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the parcels of real property referred to in subsection (a)(1)(B), and the parcels of real property conveyed pursuant to subsection (b) shall be determined by surveys that are satisfactory to the Secretary of the Air Force. The cost of such surveys shall be borne by the State of Arizona.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require any additional terms and conditions in connection with the conveyance and acquisitions under this section that the Secretary determines appropriate to protect the interests of the United States.•

By Mr. MITCHELL (for Mr. KERRY, for himself, and Mr. KENNEDY):

S. 2849. A bill to restore the groundfish resources off the coast of New England, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NEW ENGLAND GROUNDFISH RESTORATION ACT

• Mr. KERRY. Mr. President, I am today introducing legislation to help the hard-pressed New England fishing industry rebuild depleted groundfish stocks.

The goal of the bill is to help restore cod, haddock, and flounder to past levels of abundance and thereby generate thousands of jobs and billions of dollars in revenues for New England's fishermen and coastal communities. Because of the disastrous condition of those stocks today, this is a process that may ultimately take a decade or more. The new bill is designed to minimize short-term harm to the industry while the rebuilding process is underway.

If enacted, the bill would require the New England Regional Fisheries Management Council to develop a plan by December 15 for rebuilding principal New England groundfish stocks over the next 7 to 10 years. A fisheries reinvestment program is created to enable some fishermen to switch to more abundant, but less-utilized fish species during the rebuilding process. The bill also includes provisions to strengthen fisheries enforcement and to encourage negotiations with Canada to conserve shared-fisheries stocks.

The legislation has been made necessary by the well-documented decline in the major commercial groundfish species in New England waters over the past decade. The years of revival following enactment of the Magnuson Fisheries Conservation and Management Act—Magnuson Act—in 1975 have given way to too many years of too many boats chasing too few fish. The result is a serious depletion of cod and flounder stocks and the virtual destruction of haddock. Annual commercial landings of groundfish have declined from 750,000 metric tons in 1965 to roughly 175,000 today, despite the existence of a larger and far more sophisticated New England fishing fleet. For centuries, Georges Bank has provided fishermen from Nova Scotia to Point Judith with some of the richest fishing grounds in the world; but today, the bank is ruled by dogfish and skate.

Under the circumstances, it is essential that all of us who are concerned about the fate of the commercial fishing industry focus our attention not so much on how we got to where we are, but in how we get back to where we need to go. The New England fishing industry is a billion dollar contributor to our economy; it is the economic heart and soul of coastal communities like Gloucester and New Bedford; and it stands as a symbol of our identity as a maritime nation. We all have a stake in seeing it survive and prosper once again.

If we are to achieve that goal, we must plan not simply to maintain the status quo, but to rebuild the stocks that have been depleted. We must have a plan to reduce fishing effort that the majority of the industry will understand and support; a plan that is enforceable; that is based on the best science available; and that will produce measurable progress and results.

If all this were easy to do it would have been done long ago. The fact is that fisheries management is one of the toughest jobs there is. It depends on scientific information which is almost always incomplete. It is based on projected impacts that are almost always subject to challenge. It must pick from a variety of management options that are almost always unproven. And it must devise methods for regulating fishing effort that will almost always be perceived, at least by some, as unfair.

All of these difficulties are illustrated by the current controversy over the proper approach to managing the fishery. Last June, the Conservation Law Foundation [CLF] and the Massachusetts Audubon Society filed suit against the Department of Commerce for failure to prevent overfishing as required by the Magnuson Act. In August, the suit was settled by a consent decree between the plaintiffs and the National Marine Fisheries Service. The decree required a rebuilding program to eliminate the overfished condition of cod and yellowtail flounder stocks within 5 years and of haddock stocks within 10 years. It also required that a groundfish plan capable of achieving these goals be drafted by the council by March 1, 1992, and made final by September 1.

In response, the council proposed a new amendment No. 5 to the New England Groundfish Management plan. The amendment, which relies on a wide variety of measures to reduce fishing effort and protect young and undersized fish, has been criticized by commercial fishermen from Maine to Rhode Island and beyond; 500 fishermen showed up at a hearing in the New Bedford area to protest; 450 showed up in Gloucester. Hundreds more in Maine and Rhode Island. Those are not unusual numbers; they are unbelievable numbers. Fisherman after fisherman told the council that the proposed amendment was unworkable, overly bureaucratic, and that it would put them out of business.

The question for Congress at this point is whether legislative action is needed to give the council and the industry time beyond the September 1 date in the consent decree to develop a workable plan for rebuilding the fisheries. At a hearing before the national ocean policy study on June 3, industry representatives argued that more time was essential. The CLF, on the other hand, urged that Congress do nothing that would ease the pressure on all parties to design and implement a strong conservation plan.

The legal picture was altered again on June 11, when the U.S. Court of Appeals for the first circuit found in favor of seven commercial fishing groups that were refused the right to intervene in the CLF litigation and subsequent consent decree. The decision vacates the ruling denying intervention and returns the matter to district court.

The New England Groundfish Restoration Act is based on several premises. First, that rebuilding the groundfish stocks is absolutely essential to the future of the commercial fishing industry in New England and that prolonged delays or ineffective management plans cannot be tolerated.

Second, that the responsibility for developing a management plan should remain with the council. For all its faults, the council system set out in the Magnuson Act remains the best method for melding the often competing concerns of science, law enforcement, and industry.

And third, the timetable set out in last August's consent decree is unrealistically short. As the furor over proposed amendment No. 5 has demonstrated, developing an effective and enforceable groundfish rebuilding plan will not be easy. The New England Groundfish Restoration Act extends until December 15 the deadline for developing a draft plan and extends from 5 until 7 years the target for ending overfishing for cod and yellowtail flounder. The target for haddock, as in the consent decree, remains at 10 years.

By overturning the consent decree, the bill allows the council an added measure of flexibility, but it does not, in any way, relieve it or the industry of the need to act and act soon. Fishermen know better than anyone how important it is that the bread and butter fisheries of Georges Bank be restored to health. Industry representatives from throughout the region have been working hard in recent weeks to identify the best and fairest means of reducing fishing effort, and improving fisheries management. Differences of philosophy, geography, and interest continue to separate various segments of the industry on key questions. But the determination to work things out and get the fishery back on track is universal. The New England Groundfish Restoration Act will give the industry an opportunity to fire its best shot.

The New England Groundfish Restoration Act includes a new section 9, not included in the House or Representatives version of the bill, establishing a Fisheries Reinvestment Fund. This section was developed in response to testimony received by the national ocean policy study from the Cape Ann Vessel Association of Gloucester. The fund, authorized at $5 million per year, would be available for research and development projects directed at rebuilding, revitalizing, and diversifying fisheries resources in the United States. Eligible projects include efforts to develop and marketfish and fish products from underutilized species, to improve the processing and use of fish waste; and to restore overfished stocks through spawning or hatchery programs.

Other major provisions of the bill include those that would strengthen fisheries enforcement through cooperative agreements with State enforcement agents, the creation of a Coast Guard enforcement working group, and mandatory sanctions for certain regulatory violations. Section 5 encourages the Secretary of State to seek cooperative groundfish management policies with Canada. Section 7 establishes a research program for developing fishing gear that would enhance conservation efforts for New England groundfish and explore the possibility of groundfish hatcheries and shore-based production facilities.

I hope and expect that favorable action on this bill will be taken by the Senate Commerce Committee and that similar legislation, sponsored by Democrat GERRY STUDDS, will move forward in the House of Representatives.

Given the uncertain legal situation, and the ongoing discussions involving the council and industry about the components of a fisheries rebuilding program, the need for legislative action could diminish. If we take no action now, however, we may lose the option of acting at all. I do not want the New England fishing industry dependent on our ability to introduce and approve legislation during the hectic final days of this Congress. Instead, I believe we should move ahead with the legislation while continuing to monitor events in New England closely and with the understanding that modifications in the bill may be required to accommodate changing circumstances. In addition, I stand ready at any time to discuss—with fishing industry representatives and others—any proposals they may have for improving the proposed bill.

I want to thank Representatives GERRY STUDDS and NICK MAVROULES and my colleague, TED KENNEDY, for their role in developing this legislation.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New England Groundfish Restoration Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) ensure the timely recovery of depressed stocks of New England groundfish, the long-term stability of major New England groundfish stocks, and the consequent long-term viability of the New England fishing industry;

(2) meet the objectives of the Magnuson Fishery Conservation and Management Act by requiring implementation of conservation and management measures to eliminate overfishing and achieve optimum yields from the multispecies fishery in the northwest Atlantic Ocean;

(3) establish clear lines of accountability between the New England Fishery Management Council and the Secretary of Commerce in developing a program to rebuild stocks of cod and yellowtail flounder within 7 years and stocks of haddock within 10 years;

(4) encourage the full enforcement of New England fishery management plans by authorizing the reimbursement of appropriate State agencies for expenses incurred in enforcing those plans;

(5) encourage negotiations with the Government of Canada for the purpose of improving the conservation of transboundary stocks of groundfish in the northwest Atlantic Ocean;

(6) redirect surplus fishing effort in the New England groundfish fishery through the development of commercial fisheries and markets for currently underutilized species of fish of the northwest Atlantic Ocean;

(7) require research into conservation gear engineering and technology in order to develop more selective fishing gear for New England groundfish; and

(8) require research into New England groundfish hatcheries and other shorebased fish production facilities.

SEC. 3. NEW ENGLAND GROUNDFISH RESTORATION PROGRAM.

(a) IN GENERAL.—Section 312 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857 note) is amended to read as follows:

"SEC. 312. NEW ENGLAND GROUNDFISH RESTORATION PROGRAM.

"(a) AMENDMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

"(1) PREPARATION BY COUNCIL.—

"(A) IN GENERAL.—Not later than December 15, 1992, or such later date as the Secretary determines is appropriate for effective conservation and management, the New England Fishery Management Council (hereafter in this section referred to as the 'Council') shall prepare and submit to the Secretary an amendment to the Northeast Multispecies Fishery Management Plan that establishes conservation and management measures for New England groundfish designed to reduce fishing mortality to the extent necessary to eliminate overfishing and achieve optimum yield of cod and yellowtail flounder stocks not later than 7 years after the effective date of the amendment, and of haddock stocks not later than 10 years after that effective date.

"(B) RECOMMENDATION FOR SCHEDULE OF CIVIL PENALTIES.—The Council shall submit to the Secretary with an amendment submitted under this paragraph a recommendation for a schedule of civil penalties for purposes of subsection (b), including a list of violations for which fishing permit sanctions shall be proposed under section 308(g).

"(C) REVIEW BY SECRETARY.—The Secretary shall give the review of an amendment submitted under this paragraph such priority consideration as may be necessary to ensure that, if approved, it will be implemented as soon as possible.

"(2) PREPARATION BY SECRETARY.—

"(A) IN GENERAL.—If the Council does not submit to the Secretary an amendment to the Plan in accordance with paragraph (1), the Secretary shall make a determination under section 304(c)(1)(A) that the Council failed to act within a reasonable period of time, and not later than 3 months after making such determination, the Secretary shall prepare such an amendment and issue such regulations as necessary to implement the amendment.

"(B) PROCEDURE.—In preparing an amendment under this subsection, the Secretary shall—

"(i) comply with the procedures established under section 304(c) for the preparation of amendments to fishery management plans by the Secretary;

"(ii) conduct public hearings on the amendment; and

"(iii) consult with representatives of the commercial and recreational fishing industries.

"(3) CONTENTS OF THE AMENDMENT.—

"(A) AUTHORITY TO SUSPEND FISHING UPON COUNCIL REQUEST.—In addition to meeting the requirements of section 303(a), the amendment prepared under this subsection shall provide for the immediate suspension of fishing, within 5 days after receipt of a request from the Council, in—

"(i) areas where New England groundfish are spawning; and

"(ii) areas where there are high concentrations of undersized New England groundfish.

"(B) NOTIFICATION REQUIREMENTS.—If the amendment prepared under this subsection establishes a moratorium on the issuance of new permits authorizing participation in the New England groundfish fishery, such amendment shall—

"(i) include a list of vessels that are eligible to participate in the fishery;

"(ii) require the Council to notify each owner of a vessel that is authorized to participate in the fishery in 1992 and whose participation may be precluded by such moratorium; and

"(iii) provide for an appeal process, including an opportunity for a hearing.

"(b) SCHEDULE OF CIVIL PENALTIES.—

"(1) IN GENERAL.—Simultaneously with the issuance of regulations implementing a Plan amendment prepared under this section, the Secretary shall issue a schedule of civil penalties which shall apply under section 308 for violations of this Act relating to the New England groundfish fishery.

"(2) CONTENT.—A schedule issued by the Secretary under paragraph (1) shall—

"(A) be based on the recommendation submitted by the Council under subsection (a)(1)(B); and

"(B) specify violations of the Act for which permit sanctions under section 308(g) shall be proposed.

"(3) EXPLANATION OF FAILURE TO ADOPT RECOMMENDATION OF COUNCIL.—The Secretary shall publish in the Federal Register a statement explaining why any part of the recommendation submitted by the Council under subsection (a)(1)(B) is not included in the schedule issued under this subsection.

"(c) STATE CONSERVATION AND MANAGEMENT MEASURES.—The Secretary—

"(1) shall, not later than 1 year after the effective date of the regulations implementing any amendment to the Plan prepared under this section, review the actions taken by each State represented on the Council to implement the amendment in the waters of such State (other than internal waters); and

"(2) may regulate fishing within the boundaries of such State only if the Secretary complies with section 306(b).

"(1) NEW ENGLAND GROUNDFISH.—The term 'New England groundfish' means any member of a species of cod, flounder, haddock, pollock, hake, or other fish managed under the Plan.

"(2) OVERFISHING.—The term 'overfishing' has the meaning the term has in the Plan (as amended pursuant to subsection (a)).

"(3) PLAN.—The term 'Plan' means the Northeast Multispecies Fishery Management Plan approved by the Secretary in accordance with this Act, as in effect on the date of the enactment of the New England Groundfish Restoration Act.".

(b) RELATED MATTERS.—Section 305(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(e)) is amended—

(1) by striking "subsection (c) or" and in serting in lieu thereof "subsection (a),"; and

(2) by inserting ", or section 312," immediately after "section 304 (a) and (b)".

(c) EFFECT OF AMENDMENTS ON EXISTING ACTIONS.—Except as may be required pursuant to the amendments made by this section—

(1) the New England Fishery Management Council shall not be required to approve under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) a rebuilding program for New England groundfish;

(2) the Secretary of Commerce shall not be required to take any action under that Act to prepare a program for the rebuilding of cod, yellowtail flounder, and haddock stocks in the northwest Atlantic Ocean; and

(3) the New England Fishery Management Council and the Secretary of Commerce shall not be required to perform any other act pursuant to their functions under that Act,

based upon any failure, before the date of the enactment of this Act, of the New England Fishery Management Council or the Secretary of Commerce to perform their functions under that Act.

(d) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by striking the item relating to section 312 and inserting in lieu thereof the following:

"Sec. 312. New England groundfish restoration program.".

SEC. 4. ENFORCEMENT.

Section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

"(1) ENFORCEMENT AGREEMENTS.—Not later than 12 months after the date of enactment of the New England Groundfish Restoration Act, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

"(2) REIMBURSEMENT.—An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

"(3) COAST GUARD ENFORCEMENT WORKING GROUP.—

"(A) ESTABLISHMENT.—The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

"(B) MEMBERSHIP.—The working group shall consist of members selected by the Commander, and shall include—

"(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

"(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

"(iii) other individuals the Commander considers appropriate.

"(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

"(D) MEETINGS.—The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

"(4) USE OF FINES AND PENALTIES.—Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.".

SEC. 5. UNITED STATES-CANADA FISHERY MANAGEMENT AGREEMENT.

(a) NEGOTIATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, is authorized and encouraged to initiate negotiations with the Government of Canada for the purpose of entering into an international fishery agreement with Canada for the conservation and management of fisheries of mutual concern in the northwest Atlantic Ocean, with particular emphasis on transboundary stocks of groundfish and ensuring the success of New England groundfish restoration efforts pursuant to this Act.

(b) CONTENTS OF AGREEMENT.—An agreement entered into pursuant to this section shall—

(1) provide for timely and periodic exchanges of scientific information relating to the conservation and management of fisheries stocks of mutual concern;

(2) provide for routine meetings between the officials of the United States and Canada responsible for the conservation and management of fisheries;

(3) establish procedures for the identification of conservation and management measures that would be mutually beneficial; and

(4) identify procedures for the implementation within each country of conservation and management measures identified as mutually beneficial.

(c) CONSULTATION COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of State, in consultation with the Secretary of Commerce, shall establish a consultative committee to assist in the development and implementation of a fishery agreement pursuant to this section.

(2) MEMBERSHIP.—The membership of the Committee shall include representatives from the New England Fishery Management Council, the States represented on that Council, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries.

(d) APPLICATION OF EXISTING LAW.—An agreement entered into pursuant to this section shall be subject to section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823).

(e) LETTER.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the effective date of an agreement entered into pursuant to this section, the Secretary of State shall transmit to the Congress a letter describing activities of the Secretary under this section.

SEC. 6. DEVELOPMENT OF FISHERIES FOR UNDERUTILIZED SPECIES OF NORTHWEST ATLANTIC OCEAN.

(a) PROGRAM.—Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

"SEC. 314. DEVELOPMENT OF FISHERIES FOR UNDERUTILIZED SPECIES OF NORTHWEST ATLANTIC OCEAN.

"(a) PROGRAM.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the New England Groundfish Restoration Act, the Secretary shall establish a program for the purpose of—

"(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

"(B) developing alternative fishing opportunities for participants in the New England groundfish fishery; and

"(C) providing technical support and assistance to United States fishermen and fish processors to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable.

"(2) ACTIVITIES UNDER PROGRAM.—As part of a program under this section the Secretary may, subject to the availability of appropriations, award contracts, grants, and other financial assistance to—

"(A) persons who own or operate fishing vessels permitted under this Act to participate in the New England groundfish fishery, for activities which promote the purposes described in paragraph (1);

"(B) United States fish processors, for activities which make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable for United States fishermen; and

"(C) citizens of the United States for the administration and management of the program.

"(3) CONDITION FOR PARTICIPATION.—As a condition of receiving any contract, grant, or other financial assistance under a program under this subsection, the Secretary shall require a person who owns or operates any fishing vessel permitted under this Act to participate in the New England groundfish fishery to temporarily surrender that permit to the Secretary during the duration of the contract, grant, or other assistance.

"(b) FISHERIES RESEARCH AND DEVELOPMENT PROJECTS.—The Secretary shall use amounts available to the Secretary under section 9 or the New England Groundfish Restoration Act or section 2 of the Act of August 11, 1939 (15 U.S.C. 713c-3; commonly referred to as the 'Saltonstall-Kennedy Act'), to fund grants for projects that promote development of fisheries for underutilized species of the northwest Atlantic Ocean.

"(c) ASSISTANCE OF OTHER AGENCIES.—The Secretary shall actively seek the assistance of other Federal agencies in the development of fisheries for underutilized species of the northwest Atlantic Ocean, including assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359).

"(d) MANAGEMENT PLANS FOR UNDERUTILIZED SPECIES.—The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

"(e) UNDERUTILIZED SPECIES DEFINED.—For purposes of this section, the term 'underutilized species of the northwest Atlantic Ocean' means any fish species of the northwest Atlantic Ocean that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the item relating to section 313 the following new item:

"Sec. 314. Development of fisheries for underutilized species of northwest Atlantic Ocean.".

SEC. 7. NEW ENGLAND GROUNDFISH FISHERIES RESEARCH.

(a) AMENDMENT TO NATIONAL FISHERIES RESEARCH PLAN.—Section 304(e)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)(1)) is amended in the first sentence by inserting immediately after "publication" the following: ", and specifically for the restoration of stocks of New England groundfish (as that term is defined in section 312)".

(b) NEW ENGLAND FISHERIES RESEARCH PROGRAM.—Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by adding at the end the following:

"(4) Within 9 months of the date of enactment of the New England Groundfish Restoration Act, the Secretary shall establish a research program at the Northeast Fisheries and Science Center of the National Marine Fisheries Service. The program shall include—

"(A) research into conservation gear engineering and technology in order to develop more selective fishing gear for New England groundfish;

"(B) research into New England groundfish hatcheries and other shore-based fish production facilities; and

"(C) other appropriate activities.".

SEC. 8. REQUIREMENT TO PROVIDE LEGAL ADVICE.

Section 302(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(f)) is amended by adding at the end the following:

"(8) Not later than 30 days after receiving the request, the Secretary (acting through the General Counsel of the National Oceanic and Atmospheric Administration) shall provide a detailed response to any written request from a Council for legal advice regarding whether a management measure or other regulation is consistent with this Act.".

SEC. 9. FISHERIES REINVESTMENT FUND.

(a) ESTABLISHMENT OF THE FUND.—There is established in the Treasury of the United States a Fisheries Reinvestment Fund (hereafter in this section referred to as the "Fund"). The Fund shall be available, without fiscal year limitation, for research and development projects directed at rebuilding, revitalizing, and diversifying fisheries upon which coastal communities depend to meet social and economic needs.

(b) DEPOSITS AND INVESTMENTS.—(1) There shall be deposited in the Fund—

(A) moneys provided to the Fund under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b); commonly referred to as the "Saltonstall-Kennedy Act");

(B) payments made pursuant to this subsection; and

(C) receipts from interest-bearing accounts or investments made under this subsection.

(2) Any person may make voluntary payments to the Fund to assist in carrying out the purposes of this section.

(3) Sums in the Fund that are not currently needed for the purpose of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guaranteed by, the United States.

(c) ELIGIBLE PROJECTS.—In selecting projects for funding under this section, priority shall be given to those projects that increase the effectiveness of a program to rebuild a stock of fish that has been subject to overfishing or address economic, social, or ecological issues relating to implementing such a program. Eligible projects may include efforts to—

(1) develop and market new underutilized species products;

(2) improved processing and utilization of fish waste; and

(3) restore overfished stocks through aquaculture or hatchery programs.

(d) ADVISORY PANEL.—(1) There is established an advisory panel of seven members (hereafter referred to in this section as the "Panel"). The Panel shall be appointed by the Secretary and shall consist of—

(A) four members representing the commercial fishing and seafood processing industry; and

(B) three members who represent qualified academic organizations, such as participants in the National Sea Grant College Program.

(2) The Secretary shall designate a chairman of the Panel from among its members.

(3) The Panel shall develop priorities for the program and review and make recommendations regarding projects to be selected for funding.

(e) GRANTS.—The Secretary shall make grants from the Fund to support projects under this section, under the terms and conditions provided in section 2(c) of the Act of August 11, 1939 (15 U.S.C. 713c–3(c); commonly referred to as the "Saltonstall-Kennedy Act").

(f) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—(1) Section 2(b)(1) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)); commonly referred to as the "Saltonstall-Kennedy Act//), is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) the provision of moneys, subject to paragraph (3), to carry out the purposes of the Fisheries Reinvestment Fund established under section 10 of the New England Groundfish Restoration Act.".

(2) Section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)), is amended by adding at the end the following new paragraph:

"(3) There are authorized to be transferred from the fund established under paragraph (1) to the Fisheries Reinvestment Fund referred to in paragraph (1)(C) $5,000,000 in each of the fiscal years 1993 through 1997.".

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section establishes the short title of the bill as the "New England Groundfish Restoration Act."

SECTION 2. PURPOSES

This section describes the purposes of the bill, which are to: (1) ensure the recovery and long-term stability of the New England groundfish fishery; (2) develop a stock rebuilding program and reestablish clear lines of accountability between the New England Regional Fishery Management Council (Council) and the Secretary of Commerce (Secretary); (3) encourage more effective fishery enforcement; (4) improve international conservation of transboundary groundfish stocks; (5) redirect current fishing effort onto underutilized species of fish; and (6) require research into conservation-oriented gear development and restocking programs.

SECTION 3. NEW ENGLAND GROUNDFISH RESTORATION PROGRAM

Section 3 amends the Magnuson Fishery Conservation and Management Act (Magnuson Act) to add a new section 312 providing for restoration of New England groundfish stocks. Subsection (a) would set a December 15, 1992, deadline (unless modified by the Secretary) for Council preparation of an amendment to the Fishery Management Plan for the Northeast Multispecies Fishery (Groundfish Plan). The amendment would be subject to review by the Secretary and would contain a stock rebuilding plan to eliminate overfishing and achieve the optimum yield of cod and yellowtail flounder within 7 years and of haddock within 10 years. The Council also would be required to recommend a penalty schedule, including permit sanctions, for violations.

Failure by the Council to submit a rebuilding plan would trigger preparation of an amendment by the Secretary, to be completed within three months. In preparing such an amendment, the Secretary would be required to comply with the existing Magnuson Act procedures, conduct public hearings, and consult with the fishing industry.

The Groundfish Plan amendment would be required to provide for immediate suspension of fishing in spawning and small fish areas. If a moratorium is called for, the amendment also would have to provide for notification of affected fishermen and a Council appeal process. Review by the Secretary of state actions to implement the amendment in state waters would be required within one year. Finally, new section 312 of the Magnuson Act would include definitions for "New England groundfish", "overfishing", and the "Plan".

In addition, this section of the bill would override the consent decree between the Conservation Law Foundation and the Secretary. Neither the Council nor the Secretary would be required to develop a program to rebuild New England groundfish stocks except as provided for in this section.

SECTION 4. ENFORCEMENT

This section amends section 311 of the Magnuson Act to require the Secretary, if requested by a New England governor, to enter into a cooperative federal-state agreement to enforce the Groundfish Plan. A state with such an agreement would be eligible for reimbursement of costs incurred in the detection and prosecution of violations. This section also requires the Coast Guard to establish an informal fisheries enforcement working group, comprised of fishing industry representatives, in order to improve overall compliance with fisheries regulations. Lastly, this section would require that the fines collected for violations of the Groundfish Plan be used by the Secretary to enforce it.

SECTION 5. UNITED STATES-CANADA FISHERY MANAGEMENT AGREEMENT

Under this section, Secretary of State, in consultation with the Secretary, is authorized and encouraged to initiate negotiations with Canada. The goal of such negotiations would be a bilateral agreement for the conservation and management of fisheries of mutual concern, particularly transboundary groundfish stocks. The agreement would provide for a timely and periodic exchange of scientific and management information, and would establish procedures to identify and implement regulatory measures that would benefit joint management efforts. This section also would establish a consultative committee consisting of representatives from the Council, states, the Atlantic States Marine Fishery Commission, and the fishing industry to assist the Secretary of State in developing the agreement. Any agreement reached under this section would be subject to the requirements governing international fishing agreements found in section 302 of the Magnuson Act. Finally, the Secretary of State would be required to transmit each year a letter to Congress on activities pursued under this section.

SECTION 6. DEVELOPMENT OF FISHERIES FOR UNDERUTILIZED SPECIES OF NORTHWEST ATLANTIC OCEAN

This section adds a new section 314 to the Magnuson Act, mandating that the Secretary initiate an aggressive program for the development of fisheries for underutilized species of the northwest Atlantic. The program would provide for: (1) promotion of commercial fisheries and markets for underutilized species; (2) development of alternative fishing opportunities for new England groundfish fishermen; and (3) technical support and assistance to U.S. fishermen and processors to make participation in a fishery for underutilized species economically viable. Under the program, the Secretary would be authorized to provide financial assistance to fishermen and processors for related activities. While participating in the program, groundfish permit holders would be required to surrender temporarily their permits to the Secretary. Funding for the program would be available from the Saltonstall-Kennedy fund and the Fisheries Reinvestment Fund established under section 9 of the legislation. In addition, the Secretary would be required to work with other federal agencies to make underutilized species eligible for programs such as the Department of Agriculture's Food for Peace. Finally, this section directs the Council to develop a management plan for any underutilized species that is not already covered under such a plan.

SECTION 7. NEW ENGLAND GROUNDFISH FISHERIES RESEARCH

This section amends section 304(e) of the Magnuson Act to require the Secretary to consider the restoration of New England groundfish stocks in developing a strategic plan for fisheries research. This section also mandates research on methods to conserve and rebuild groundfish stocks, including conservation gear engineering and hatchery and aquaculture production.

SECTION 8. REQUIREMENT TO PROVIDE LEGAL ADVICE

This section amends section 302 of the Magnuson Act to require the General Counsel of the National Oceanic and Atmospheric Administration to provide timely legal advice to a regional fishery management council when requested in writing to do so.

SECTION 9. FISHERIES REINVESTMENT FUND

This section would establish, in the Treasury of the United States, a Fisheries Reinvestment Fund (Fund) for research and development projects directed at rebuilding, revitalizing, and diversifying fisheries upon which coastal communities depend to meet social and economic needs. Deposits to the Fund would come from transfers from the Saltonstall-Kennedy fund, voluntary payments, and receipts from Fund interest-bearing accounts or investments. The Fund would be used to support projects that increase the effectiveness of a program to rebuild a stock of fish which has been subject to overfishing or address economic, social, or ecological issues related to the implementation of such a program. Program priorities and funding recommendations would be developed by a seven-member panel comprised of four members representing the commercial fishing and processing industry and three members representing academic organizations. Grants from the Fund would be made to support projects under the terms and conditions of the Saltonstall-Kennedy Act. This section also would amend the Saltonstall-Kennedy Act to authorize the annual transfer of $5,000,000 for fiscal years 1993–1997 to the Fund.•

• Mr. KENNEDY. Mr. President, I rise to voice my support for the New England Groundfish Restoration Act that is being introduced today. I commend my colleague from Massachusetts, Senator KERRY, and the chairman of the Commerce Committee and the National Ocean Policy Study Subcommittee, Senator HOLLINGS, for crafting this bill that I am pleased to cosponsor. I also want to commend Congressman

GERRY STUDDS for his leadership in drawing congressional attention to this pressing issue.

The depletion of groundfish stocks is a serious problem that threatens one of the most essential industries in New England. The volume of groundfish landings, which averaged 750,000 metric tons in 1965, has fallen sharply to an annual average of 176,000 metric tons today. We must take steps to reverse this trend and protect the long-term viability of these resources. The issue is an economic as well as an environmental imperative. The future of the industry and the large number of families who depend on it for their livelihood requires wise management of the cod, flounder, and haddock stocks that are commercially valuable, and that have been the mainstay of the industry for more than three centuries.

We must also pursue these needed longrun conservation goals in a way that does not cause undue burdens on members of the fishing community in the shortrun. Whatever steps are taken must be arrived at fairly, and must be necessary to protect their long-term interests as well.

This is not an easy balance to strike, but I believe this legislation will help spur the needed changes and do so in a way that minimizes shortterm shocks to members of the fishing community.

I am particularly pleased that the chief sponsors of the bill agreed to include a new fisheries reinvestment fund, to be funded primarily through an annual $5 million transfer from the Saltonstall-Kennedy industry grant program. This new fund will provide grants to assist the fishing industry in pursuing new growth, such as developing additional uses for fish byproducts and improved techniques for fish hatcheries, and building the market for underutilized species, which are in abundant supply and which prey on groundfish.

Just as defense cutbacks present an opportunity for economic conversion to meet unmet civilian needs and encourage growth in new industries as we move into the 21st century, the decline in groundfish stocks opens the door to vigorous pursuit of new technologies and products associated with the marine resources that we are working to protect. The Federal Government should be an active partner in helping to promote these developments.

I urge my colleagues in the Senate to support this important bill to restore and revitalize the depleted groundfish resources that are so important to our region, and to help the fishing industry expand into additional promising areas of endeavor.●

ADDITIONAL COSPONSORS

S. 781

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 2060

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2060, a bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2376

At the request of Mr. PRESSLER, the names of the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Kansas [Mr. DOLE], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 2376, a bill to state the policy of the United States regarding United States relations with the governments of the former Federal People's Republic of Yugoslavia, and for other purposes.

S. 2624

At the request of Mr. GLENN, the names of the Senator from Maine [Mr. MITCHELL], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2646

At the request of Mr. LUGAR, the names of the Senator from Nebraska [Mr. EXON], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 2646, a bill to amend the Rural Electrification Act of 1936 to provide eligible rural electric borrowers with the means to secure necessary financing from private sources, and for other purposes.

S. 2763

At the request of Mr. ROTH, the names of the Senator from Utah [Mr. HATCH], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2763, a bill to establish the Mike Mansfield Fellowship Program for intensive training in the Japanese language, government, politics, and economy.

S. 2785

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2785, a bill to make a technical amendment to the False Claims Act.

S. 2826

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2832

At the request of Mr. BOND, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2832, a bill to require that all Federal printing be performed using cost-competitive inks whose pigment vehicles are made entirely from soybean oil, and for other purposes.

SENATE JOINT RESOLUTION 288

At the request of Mr. LIEBERMAN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 288, a joint resolution designating the week beginning July 26, 1992, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 294

At the request of Mr. LAUTENBERG, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 294, a joint resolution to designate the week of October 18, 1992 as "National Radon Action Week."

SENATE JOINT RESOLUTION 301

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 301, a joint resolution designating July 2, 1992, as "National Literacy Day."

SENATE JOINT RESOLUTION 309

At the request of Mr. CRANSTON, the names of the Senator from Louisiana

[Mr. BREAUX], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 309, a joint resolution designating the week beginning November 8, 1992, as "National Women Veterans Recognition Week."

AMENDMENTS SUBMITTED

WORKPLACE FAIRNESS ACT

BUMPERS AMENDMENT NOS. 2373 THROUGH 2376

(Ordered to lie on the table.)

Mr. BUMPERS submitted four amendments intended to be proposed by him to the bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, as follows:

AMENDMENT NO. 2373

At the appropriate place, insert the following:

"(i) except for employers employing an average of fewer than 500 employees during the preceding three years, to promise, to threaten, or take other action—

AMENDMENT NO. 2374

At page 2, line 10, strike all through page 2, line 11, and insert in lieu thereof the following:

"(i) except for employers employing an average of fewer than 500 employees during the preceding three years, to promise, to threaten, or take other action—

AMENDMENT NO. 2375

At the appropriate place, insert the following:

"Nothing in this section shall apply to businesses employing an average of 500 or fewer employees during the preceding three years."

AMENDMENT NO. 2376

At the appropriate place, insert the following:

"Nothing in paragraph 6 of section 8(a) of the National Labor Relations Act shall apply to businesses employing an average of 500 or fewer employees during the preceding three years."

KENNEDY AMENDMENT NOS. 2377 THROUGH 2379

(Ordered to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2377

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2378

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2379

In the language proposed to be stricken, strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

METZENBAUM AMENDMENT NOS. 2380 THROUGH 2388

(Ordered to lie on the table.)

Mr. METZENBAUM submitted nine amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2380

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2381

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2382

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2383

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2384

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2385

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2386

In the language proposed to be stricken, strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2387

In the language proposed to be stricken, strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2388

In the language proposed to be stricken, strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 43 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 43 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 43 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

DOLE AMENDMENT NOS. 2389 AND 2390

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2389

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of law, the amendments made by this Act shall become effective on the date on which the House of Representatives and the Senate adopt a Concurrent Resolution that provides employees of such House and Senate with same rights to organize, bargain collectively and strike as employees in the private sector have under the National Labor Relations Act, except that the appropriate United States district courts, rather than the National Labor Relations Board, shall be the applicable forum for adjudicating unfair labor practice cases and representation proceedings.".

AMENDMENT NO. 2390

On page 3, line 15, strike the first period and all that follows through the end of the bill and insert the following:

except that this paragraph shall not apply—

"(I) in the case of a labor organization that has emerged in threats of violence, acts of violence, harassment, or intimidation, in connection with the labor dispute involved, against the employer, against any of its agents, against any employees, or against an employer's property;

"(II) to a labor dispute that costs the State, city, county, or other political subdivision of the State in which the dispute occurs more than $50,000 in additional wages and overtime expenses for law enforcement or other employees of that State, city, county, or political subdivision; or

"(III) in the case that any employee, under the terms of the employer's last contract offer, would be paid in wages and benefits an amount that exceeds 150 percent of the per capita personal income of persons employed within the State in which that employee is employed.

HATCH AMENDMENT NOS. 2391 THROUGH 2403

(Ordered to lie on the table.)

Mr. HATCH submitted 13 amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2391

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of law, the amendments made by this Act shall become effective on the date on which the House of Representatives and the Senate adopt a Concurrent Resolution that provides employees of such House and Senate with same rights to organize, bargain collectively and strike as employees in the private sector have under the National Labor Relations Act, except that the appropriate United States district courts, rather than the National Labor Relations Board, shall be the applicable forum for adjudicating unfair labor practice cases and representation proceedings.".

AMENDMENT NO. 2392

At the appropriate place, insert the following new section:

"SEC. . APPLICATION OF DEMONSTRATION.

(a) The provisions of this Act shall apply only to labor disputes occurring in the following states: Alabama, Connecticut, Georgia, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, and West Virginia.

(b) Not later than three years after the effective date of this Act, the Secretary of Labor shall convene a task force to study the impact of extending the applicability of this Act to employees covered by the National Labor Relations Act in all states.

(c) The Secretary shall ensure balanced representation on the task force among representatives of organized labor, employers or employer organizations, and employees. The Secretary shall also include experts from relevant academic disciplines and professions.

(d) The Secretary shall report to Congress no later than four years after the effective date of this Act."

AMENDMENT NO. 2393

At the appropriate place, insert the following new section:

"SEC. . LEGISLATIVE TASK FORCE STUDY.

(a) The provisions of this Act shall apply only after the provisions of subsections (c) and (d) of this section have been met.

(b) LEADERSHIP TASK FORCE.—The Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall establish a leadership task force to examine the feasibility of applying this Act to employees covered under the National Labor Relations Act in all the States. The task force shall be composed of—

(1) three members of the Senate, of which—

(A) one member shall be appointed by the President Pro Tempore of the Senate;

(B) one member shall be appointed by the Majority Leader of the Senate; and

(C) one member shall be appointed by the Minority Leader of the Senate; and

(2) three members of the House of Representatives, of which—

(A) one member shall be appointed by the Speaker of the House of Representatives;

(B) one member shall be appointed by the Majority Leader of the House of Representatives; and

(C) one member shall be appointed by the Minority Leader of the House of Representatives.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the leadership task force established under subsection (1) shall prepare and submit to the Congress a report concerning the examination conducted under such subsection. Such a report shall contain the results of such examination and a determination by the leadership task force.

(d) EFFECT OF DETERMINATION.—If in the report submitted under subsection (1), the leadership task force determines that it is feasible to apply this Act to all States, the Congress shall take all appropriate action to implement such determination.

(e) RELATION TO OTHER PROVISIONS.—Notwithstanding any other provisions of this

Act, the requirements of this section shall supersede any other requirements in this Act with respect to the date on which the provisions of this Act become effective, and this Act shall only become effective in selected states listed above on the date of enactment until such time as the other provisions of this section have been satisfied.

AMENDMENT NO. 2394

At the appropriate place, insert the following new section:

"SEC. . The provisions of this act shall not apply (1) in the case of a labor organization that has engaged in acts of violence, threats of violence, harassment or intimidation in connection with the labor dispute involved, against the employer, against any of its agents, against any employees, or against an employer's or an employee's property; or (2) to a labor dispute that costs the state, city, county, or other political subdivision of the state in which such subdivision incurs more than $100,000 in additional wage and overtime expenses for law enforcement or other employees of that state, city, county, or political subdivision, and the labor organization involved shall be liable for such expenses; or (3) in the case that any employee who, under the terms of the employer's last contract offer, would be paid in wages and benefits an amount that exceeds 150 percent of the per capita personal income of persons within the state in which that employee is employed."

AMENDMENT NO. 2395

"On page 2, line 18, following the comma, strike all through the word 'recognized' on page 2, line 21."

AMENDMENT NO. 2396

Beginning on page 4, line 5, strike all through page 7, line 16, and insert the following:

"organization or the employer, at least seven calendar days before engaging in any such strike and after the employer and the labor organization have bargained in good faith but have bargained to an impasse, and any existing collective bargaining agreement between the employer and the labor organization has expired, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the labor organization does not accept the employer's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall not apply for the duration of the labor dispute and the labor organization may not strike for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report, provided that if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization's serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer: *Provided further*, That if neither the labor organization nor the employer serves such written notice during the seven-day period and the employer thereafter serves such written notice upon the labor organization, the provisions of subsections (i) and (ii) shall not apply with respect to any actions taken by the employer on or after the date the labor organization receives the employer's offer and the labor organization may not strike for the duration of the labor dispute.

SEC. . Notwithstanding any other provision of this Act, the provisions of subsections (i) and (ii) shall not apply to any strike by a labor organization unless said labor organization has been certified as the exclusive bargaining representative of the employees in a secret ballot election."

AMENDMENT NO. 2397

At the appropriate place add the following:

"The provisions of sections (i) and (ii) shall not apply and a strike by a labor organization shall become illegal if the strike disrupts essential supplies and services."

AMENDMENT NO. 2398

Beginning on page 4, line 5, strike all through the period on page 4, line 18, and insert the following:

"organization or the employer, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Reconciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the labor organization does not accept the employer's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall not apply for the duration of the labor dispute and the labor organization may not strike for the duration of the labor dispute."

AMENDMENT NO. 2399

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply to any employee who, under the terms of the employer's last contract offer, would be paid wages and benefits in an amount that exceeds 150 percent of the per capita personal income of persons within the state in which that employee is employed."

AMENDMENT NO. 2400

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply if the labor organization involved has been convicted of violating any criminal laws of the United States, or State, district or territory, or has committed within the prior six-month period an act of violence or threatened to commit an act of violence against the employer, against any of the employer's agents or employees, or against property."

AMENDMENT No. 2401

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply if the labor organization involved has, prior to the commencement of the labor dispute, threatened to prohibited an employer from continuing to operate during a labor dispute or has engaged in conduct, other than authorizing striking employees to withhold their services, that is aimed at interfering with an employer's ability to continue to operate during a labor dispute."

AMENDMENT No. 2402

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply in the case of a labor organization that has engaged in acts of violence, threats of violence, harassment, or initimidation in connection with the labor dispute involved against the employer, against any of the employer's agents or employees, or against their property."

AMENDMENT No. 2403

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply to a labor dispute that costs the State, city, county, or other political subdivision of the State in which the labor dispute occurs more than $100,000 in additional wages and overtime expenses for law enforcement or other employees of that State, city, or political subdivision. The labor organization involved shall be liable for any such expenses."

BINGAMAN AMENDMENT NO. 2404

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 55, supra, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) for a period of 1 year following the commencement of a strike, to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally returned to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by these subsections over those employees' wages, hours or other terms and conditions of employment unless the labor organization, at least 7 calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within 7 calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within 10 calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code, that:

(i) The parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issue its report, provided that if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional 7 calendar days,

(ii) During this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within 7 calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the 7-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of 2 years unless the fact-finding recommendations are for a lesser duration.

(D) If, within 7 calendar days after a factfinding board submits its report and recommendations, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection A. The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the 7-day period; provided that if neither the labor organization nor the employer serves such written notice during the 7-day period and the labor organization thereafter serves written notice of such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

(b) No carrier, or officer or agent of the carrier, for a period of one year following the commencement of a strike, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

"(3) The provision of subsections (1) and (2) shall not apply:

"(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendation; *provided* that if both the labor organization and the carrier fail to accept the emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice with the National Mediation Board and the carrier, the provisions of subsection (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That, if both the labor organization and carrier accept the recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization. Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

"(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 9a(e) selects the final offer submitted by the carrier,".

BINGAMAN AMENDMENT NO. 2405

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 55, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) for a period of 1 year following the commencement of a strike, to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally returned to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by these subsections over those employees' wages, hours or other terms and conditions of employment unless the labor organization, at least 7 calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within 7 calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within 10 calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code, that:

(i) The parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issue its report, provided that if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional 7 calendar days.

(ii) During this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within 7 calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the 7-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of 2 years unless the fact-finding recommendations are for a lesser duration.

(D) If, within 7 calendar days after a factfinding board submits its report and recommendations, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection A. The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the 7-day period; provided that if neither the labor organization nor the employer serves such written notice during the 7-day period and the labor organization thereafter serves written notice of such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

(b) No carrier, or officer or agent of the carrier, for a period of one year following the commencement of a strike, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) an (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".

"(3) The provision of subsections (1) and (2) shall not apply:

"(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendation; *provided* that if both the labor organization and the carrier fail to accept the emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice with the National Mediation Board and the carrier, the provisions of subsection

(1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That, if both the labor organization and carrier accept the recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization. Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

"(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 9a(e) selects the final offer submitted by the carrier,".

PACKWOOD AMENDMENTS NOS. 2406 THROUGH 2410

(Ordered to lie on the table.)

Mr. PACKWOOD submitted five amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2406

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 44 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 44 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 44 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2407

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2408

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

Amendment No. 2409

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

AMENDMENT NO. 2410

In the language proposed to be stricken, strike all after the first word and insert in lieu thereof the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute."

(iii)(A) The provisions of subsections (i) and (ii) shall not apply to a strike by a labor organization covered by those subsections over the striking employees' wages, hours or other terms and conditions of employment, unless the labor organization, at least seven calendar days before engaging in any such strike, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of sections (i) and (ii) shall apply for the duration of the labor dispute. If the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report: *Provided*, That if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer.

SEC. 2 PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth"; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right to privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or as unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.". (3) The provisions of subsections (1) and (2) shall not apply:

(A) to a strike which commences after an Emergency Board appointed pursuant to section 10 of this Act (45 U.S.C. section 160) issues a report as provided for in section 10 of this Act, unless, in written notices filed with the National Mediation Board within 20 days after the Emergency Board issues its report, the labor organization accepts and the carrier does not accept the Emergency Board's recommendations; provided that if both the labor organization and the carrier fail to accept the Emergency Board's recommendations within such 20-day period, and the labor organization thereafter files a written notice of acceptance with the National Mediation Board and the carrier, the provisions of subsections (1) and (2) shall apply with respect to any actions taken by the carrier on or after the date the carrier receives the labor organization's notice: *Provided further*, That if both the labor organization and the carrier accept the recommendations of the Emergency Board, those recommendations as to all unresolved issues shall be deemed to be an agreement between the carrier and the labor organization; Should the parties be unable to agree on reducing the agreement to writing, either party may request the Emergency Board to supplement its initial report with the necessary contractual language.

(B) to a strike which commences after an Emergency Board appointed pursuant to section 9A(e) of this Act (45 U.S.C. section 159a(e)) selects the final offer submitted by the carrier.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a Markup on Tuesday, June 16, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building on S. 2481, the Indian Health Care Amendments Act; S. 1752, the Tribal Courts Act of 1992; S. 2684, the Jicarilla Apache Tribe Water Rights Settlement Act; S. 2507, the Ak-Chin Water Use Amendments Act of 1992, and for other purposes.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, June 18, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2044, the Native American Languages Act of 1991.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Friday, June 19, 1992, beginning at 9:30 a.m., in 485 Russell Senate office Building on S. 2833, the Crow Settlement Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, June 24, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on the National Indian Policy Center legislation.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

CHOICE IN EDUCATION

• Mr. SYMMS. Mr. President, education has become one of the top issues of debate during the 102d Congress, as it should. Young people today are this country's future and it is our responsibility to see they are prepared. Not only has Congress recognized the need for change, but many of the States are taking the initiative to implement their own improvements. Across the Nation, America 2000 schools and communities are being established in conjunction with the President's education proposal. Further, the president of Yale University has announced his plan to resign and establish new for-profit schools nationwide.

In view of this awareness and the movement toward improvement, I want to bring to the attention of my colleagues an essay from a Council for American Private Education [CAPE] newsletter, "'Private' Schools and the 'Public' Good," written by Greg D. Kubiak. The essay makes some strong points on the subject of choice between public and private schools and I would urge my colleagues in the Senate to read it.

Mr. President, I ask that it be inserted in the RECORD, following my remarks.

The essay follows:

"PRIVATE" SCHOOLS AND THE "PUBLIC" GOOD

(By Greg D. Kubiak)

An important discussion to stem from the debate over school reform and educational choice has been the definition, or redefinition, of "public" schools. The issue took new form when the Bush Administration said any school serving the public should be considered a "public" school. It did so even before introducing its 1993 budget calling for choice scholarships to low- and middle-income families for use at "any accredited elementary or secondary school, public or private."

In arguing for federal support of public schools only, choice opponents hope to keep private schools in a box—as though the public is only served by schools run by the government. The threat of such isolation is—not simply a stifled debate of proactive educational opportunity—that private schools could be relegated to a subordinated status with exclusion from current education programs and initiatives. Thus, the private school community has been pushed to clarify its role as serving the public good.

$27 BILLION A YEAR

Private schools, which give parents a choice in education, teach students who perform better on national tests and graduate at a higher rate than their public school counterparts. Perhaps more importantly to taxpayers, private schools save all of us an aggregate of some $27 billion (that's Billion!) a year based on the average cost of educating a student in public schools. That alone is a public service. When was the last time an element of the private sector made such a contribution to the taxpayers, with no string attached? One thing should be clear; that private schools, regardless of their individual missions and motivation, serve the public by helping contribute to an educated citizenry.

Protectors of public education and purists of church/state separation will nobly pat the back of private schools for this philanthropic contribution to society. However, they are quick to dispel any discussion of the government even indirectly subsidizing this private activity. Despite the recognized contribution of the 25,000 private schools which are educating 5.2 million students, and the compulsory school attendance laws of every state, the choice opponents are unable to see the logical link between public service and taxpayer support.

The federal government has long promoted policies that affect private entities which strive to serve the public good. Since the income tax law passed in 1917, the tax code has been used to encourage contributions to private charities which minister to public needs. Arguing in support of a charitable deduction, one U.S. Senator referred to a Washington Post editorial of August 25, 1917 which stated, "This country cannot abandon or impoverish the great structure of private charity and education that has been one of the most notable achievements of American civilization. Therefore with every additional dollar the Government finds it necessary to take in taxation it becomes increasingly necessary to . . . leave untaxed that part of every citizen's income which he may give voluntarily to the public good."

Not only have groups like the Salvation Army and the Nature Conservancy grown and been able to address social problems and concerns, but churches have likewise been the beneficiaries of an American tax code that rewards taxpayers for their financial contributions to such entities. Further, these same groups enjoy a tax-exempt status.

If we are so concerned about the separation of church and state with respect to public policy, why do we dare divert tax dollars to religious organizations by these two methods? I have yet to hear the opponents of educational choice carry out their Constitutional crys of concern by arguing that our tax code should not support religion through the charitable contribution deduction and exempt status provision. As we all know, the balances in the Constitution also guarantee the free exercise of religion among other choices and freedoms.

So the question narrows. Have private schools engaged in a 350 year experiment to "establish" religion with state support, or are they a publicly beneficial means of "free exercise" of educational choice?

CHOICE: AMERICAN STANDARD

The critical issue is not simply whether private schools serve the public good, but whether they are accountable to more than just the parents who choose them. To say that private schools are not publicly accountable is naive. Schools affiliated with CAPE member associations are non-profit, subscribe to policies of non-discrimination, and are subject to strict standards and regulations which vary from state to state. These regulations range from registration with the state education departments to de facto teacher certification. All are subject to health and safety standards which are policed by both state and federal agencies.

While some private schools exist out of the mainstream of American education, surely some definitions of accountability can be outlined, similar to those of CAPE schools.

Government supported choice in education exists for higher education with Pell Grants as it does for pre-kindergarten, child care with child care certificates. Despite the independent or religious affiliation of the providers, the national government has seen fit to support the free choice of those eligible for such aid. Yet, during the debate over giving such choice to low-income elementary and secondary school parents, our public school counterparts have drawn a firm line—or rather a circle. They have tried to distinguish between financial support to low-income parents for child care and college, etching out the middle twelve years of formal education as off-limits for support for educational choice.

Freedom of choice has always been an American standard. Taxpayer support of those choices is not as easy a call. But when the public good is a result of those private decisions, government policy has fallen on the side of promoting and encouraging those choices.

When a federal worker has $25 a month deducted from her paycheck to support a children's hospital, the government lets her deduct the annual payment from her taxable income on the 1040 form. When returning war veterans received educational grants under the GI Bill, no one said they couldn't go to Notre Dame or Texas Christian University because those were religiously affiliated schools. These choices involve government support of a private activity that results in a public good.

THE SOCIAL AGENDA

The desperately tragic events surrounding the Rodney King verdict and the Los Angeles riots have predictably seen some people looking for short term answers and opportunities. Social scientists, journalists and politicians will no doubt debate the social agenda from criminal justice to civil rights to welfare reform throughout this political season. Part of the discussion will likely involve the need for improvement in education as the foundation on which economic, social, and racial peace can be rebuilt in our inner-cities.

If education is part of the answer to deep-seeded ills of society, then all of education which serves the public should be part of the debate. No single program or area of the domestic political agenda can heal the festering wounds of racial prejudice, disrespect of law, or economic inequity. But an educational system sensitive to the individual needs of every child can begin the recovery and rebirth of a nation used to boasting of its diversity. Children caught in the cycle of poverty and neglect can only perpetuate the despair in our inner-cities if established leaders settle for status quo solutions. Words from a Wisconsin Supreme Court decision in March upholding the Milwaukee inner-city, school choice program, give some guidance to policymakers. One judge in the majority wrote: "The Wisconsin legislature, attuned and attentive to the appalling and seemingly insurmountable problems confronting socioeconomically deprived children, has attempted to throw a life preserver to those Milwaukee children caught in the cruel riptide of a school system floundering upon the shoals of poverty, status quo thinking, and despair."

The decline of American competitiveness, mediocrity of national student tests, and violence and hopelessness in our city streets will need more than a single life preserver. But if we are serious about the future opportunities for our children, the debate on education must be serious, bold, and inclusive. Serving the public good deserves no less.●

AN ARCHSTONE OF ANGLO-AMERICAN LIBERTIES

Mr. BYRD. Mr. President, in the year 1215, the frustrations of the Anglo-Norman subjects of King John of England reached the overflow point.

As William, Duke of Normandy, had with regard to England prior to 1066, the Angevin kings of England—in particular, Henry II, Richard I, and John—entertained certain dreams of primacy in France. To further their French interests, the Angevins had exploited their English subjects without respect to ancient prerogatives, contracts, and understandings lodged deeply in their memories.

Though the English barons had sought repeatedly to negotiate their differences with King John, a definitive, satisfactory, and concilliatory understanding between the King and the peers of the realm had eluded the negotiators. Thus, in a decisive and pragmatic move, the barons renounced their fealty to King John, seized London, and forced John to agree to the terms of the document that we call Magna Carta, which document bears the date June 15, 1215—exactly 777 years ago today.

In recent decades, revisionist historians have sought to minimize the significance of Magna Carta, rightly pointing out that it was a contract primarily between a nearly absolute monarch and almost absolute vassals in which the average subject of the Crown had little or no part.

But, in truth, Magna Carta represents a vital step forward in codifying the rights of all English subjects and a lasting and influential blow to the notion of limitless divine right kingship and arbitrary autocracy. If not the keystone, Magna Carta is a prominent archstone in the vaulting superstructure of Anglo-American liberties, laws, and constitutional precedent. Again and again—back to King John's concessions at Runnymede—the guardians of Anglo-Saxon, Anglo-Norman, and Anglo-American common and codified law have been able to point against the claims of would-be despots, hereditary or elected.

As if to prove the significance of Magna Carta by their own failures, feudal barons in Germany, France, Hungary, and Spain exacted similar contracts from their monarchs in the 13th and 14th centuries, but these agreements fell irresistibly before expanding monarchical power and the exigencies of power politics, national emergency, and history.

But Magna Carta enjoyed periodical reconfirmations from time to time by succeeding English kings, and eventually evolved into an understanding that was held to extend to all free subjects of the British Crown. Thus was born and nurtured in the Anglo-American tradition, legal and constitutional concepts and precepts that became models and paradigms for nations and cultures worldwide.

Today, then, Mr. President, is an anniversary of which every American should take note and for which every American should feel genuine gratitude. On this day—June 15—in 1215—on the meadow beside the banks of the Thames River—our English forbears screwed their courage to the sticking point and forced a tyrant to accept limitations of power that reverberate to this day in some of the freedoms and guarantees that most Americans take for granted. For that reason, I take pride in hailing this, the 777th Anniversary of Magna Carta.

Mr. President, the Charter is now a shriveled parchment in the British Museum. It contains 63 provisions, and many of them are not of lasting importance.

Three of the most important are these: "No freeman shall be arrested, imprisoned, outlawed or deprived of property, except by judgment of his equals or the law of the land."

"The law of the land." Those words are equivalent to our own words in the Constitution of the United States, "due process of law."

"Justice shall not be sold, delayed or denied to any freeman."

And this one, "No taxes, except the customary ones, shall be levied except with the consent of a council of prelates and greater barons."

King John soon tried to violate his promises. But the Charter provided for a committee of nobleman to make sure that the King followed his promises. The next 37 kings of England, who came after John, agreed to follow the provisions of the Charter. Sometimes the kings had the support of the people in disregarding the Charter, as when the barons used the document as a mask to hide their feudal privileges, when they were attacked by the King. But during the time of the Stuart dynasty, which began in the year 1603, the Magna Charta took on its present meaning. The power of the barons had been broken by royal absolutism, and the Charter stood as a guarantee against oppression by the king.

The Charter was drawn up mainly to give more rights and privileges to the great barons. But the Charter is still an outstanding landmark in the history of human liberty. It took away the absolute power of the king over his subjects and guaranteed certain rights to every freeman.

It was an admission by the king that he was below the law.

In 1946 the British House of Lords took action to change the spelling of the word "Charta," which had been spelled C-h-a-r-t-a. The letter "H" which had appeared in the spelling since the time of the Middle Ages, was dropped, and the word was officially changed to "Carta" C-a-r-t-a, its earlier spelling.

Mr. President, in the book titled "A Documentary History of England, Volume 1" by J.J. Bagley and P.B. Rowley, is set forth the Magna Carta, and its 63 clauses.

Mr. President, I ask unanimous consent that these 63 clauses of the Magna Carta, as they appear in the text of the book to which title I have already alluded, appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

6. MAGNA CARTA, 1215

John, by the grace of God king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, sends greeting to the archbishops, bishops, abbots, earls, barons, justices, foresters, sheriffs, reeves, ministers, and all other officials and his loyal subjects.

Know that we have made the grants and concessions which follow, in the sight of God and for the salvation of our soul and the souls of all our ancestors and heirs, in honour of God and to enhance the prestige of Holy Church, and for the better ordering of our kingdom. We have been advised by our reverend fathers, Stephen archbishop of Canterbury, primate of all England and cardinal of the Holy Roman Church, Henry archbishop of Dublin, William bishop of London, Peter bishop of Winchester, Jocelin bishop of Bath and Glastonbury, Hugh bishop of Lincoln, Walter bishop of Worcester, William bishop of Coventry, and Benedict bishop of Rochester; master Pandulph subdeacon and member of the household of the lord Pope; brother Aylmer master of the Knights Templar in England; and the noblemen, William Marshal earl of Pembroke, William earl of Salisbury, William earl of Warenne, William earl of Arundel, Alan of Galloway constable of Scotland, Warin fitz Gerald, Peter fitz Herbert, Hubert de Burgh seneschal of Poitou, Hugh de Neville, Matthew fitz Herbert, Thomas Basset, Alan Basset, Philip d'Aubigny, Robert de Ropsley, John Marshal, John fitz Hugh; and others of our faithful subjects.

(1) In the first place, we have given to God, and by this our present charter have confirmed for ourselves and our heirs for ever, that the English Church shall have its freedom and shall enjoy full and undisturbed possession of all its rights and privileges. We desire that this grant be honoured; and that we are sincere in this is shown by our action before the outbreak of hostilities between us and our barons, when without prompting or hidden intent, we granted to the English Church that freedom of appointments which is counted as the greatest and most necessary of its privileges, confirming our grant by charter and obtaining its further confirmation by the lord pope Innocent III. We will ourselves observe this freedom of the church, and we desire that it shall be similarly observed in all good faith by our heirs for ever.

To all free men of our kingdom we have granted for ourselves and our heirs for ever all the rights set down below, to have and hold for themselves and their heirs from us and our heirs.

(2) If any of our earls or barons, or any other of our tenants in chief, holding directly from the crown in return for knight service, dies and leaves an heir of full age from whom a relief is due, the heir shall succeed to his inheritance on payment of the accustomed relief, namely £100 from the heir or heirs of an earl for the whole estate of the earl; £100 from the heir or heirs of a baron, for the whole baronial estate; 100s.at most from the heir or heirs of a knight for the whole knight's fee, with lesser amounts from those who owe less, according to the established custom of the individual fees.

(3) But if the heir of any such earl, baron, or other tenant in chief is under age and therefore a ward, he shall succeed to his inheritance when he comes of age without payment of any relief or fine.

(4) The guardian of the estate of an heir who is under age shall only take from it reasonable rents, customary dues, and labour

services, without destruction of wastage of men or property. In cases where we ourself have entrusted the guardianship of any such estate to the sheriff or other person answerable to us for its revenues, and the guardian has made destruction or wastage of his trust, we will exact compensation from him and the estate shall be entrusted to two men of legal standing and discernment of that same fee, who shall be answerable to us or to our nominee for the estate revenues. Similarly, if we have given to anyone or sold him the guardianship of any such estate and he makes destruction or wastage of it, the guardianship shall be taken from him and transferred to two men of legal standing and discernment of that same fee, answerable to us as in the former case.

(5) But for so long as the guardian has the estate in his keeping, he shall maintain the buildings, parks, game preserves, ponds, mills, and other appurtenances of the estate out of the estate revenues. And he shall restore to the heir upon his majority the whole of his estate stocked with ploughs and such other agricultural equipment as the time of year demands and the estate revenues can reasonably support.

(6) Heirs may be given in marriage by their guardians, but the marriage must be a suitable one socially, and before it is contracted notice shall be given to the near blood relations of the heir.

(7) Upon the death of her husband a widow shall receive her marriage portion and her inheritance forthwith and without difficulty; and she shall pay nothing to receive her dowry or marriage portion, or to succeed to the property which she and her husband owned on the day of his death.[1] She may remain in her husband's house for forty days after his death and within that time her dowry shall be assigned to her.

(8) No widow shall be forced to remarry for so long as she wishes to live without a husband, but she shall give security that she will not remarry without our consent if she is our tenant, or without the consent of the lord whose tenant she is, if she holds from another.

(9) Neither we nor our bailiffs will seize any land or distrain upon the rents for any debt so long as the chattels of the debtor are sufficient in value to satisfy the debt, nor shall distraint be made upon the debtor's sureties if he can satisfy the debt himself. But if the debtor has defaulted in payment and has not the means to discharge the debt, then the sureties shall answer for it. They may, if they so wish, take the debtor's lands and revenues into their possession until they have recovered the amount of the debt paid by them on his behalf, unless the debtor proves that he has discharged his obligations towards them.

*(10) If anyone has borrowed money from the Jews, whether the amount is great or small, and dies before the debt is repaid, no interest shall accrue on the outstanding capital of the debt during the minority of the heir, no matter whose tenant he is; and if such a debt passes into our hands we will take only the principal amount specified in the bond.

*(11) The window of a man who dies owing a debt to the Jews shall receive her dowry in full and make no payment from it on account of the debt. Any children of the dead man who are under age shall have necessary provision made for them appropriate to the nature of their father's holding, and the balance of the estate shall then be applied in discharge of the debt, but the feudal incidents shall be reserved. Debts owing to others than Jews shall be treated in the same manner.

*(12) Scutage and aids shall only be levied in our kingdom by common counsel of our kingdom, unless occasioned by the need to ransom our own person, to make our eldest son a knight, or to give our eldest daughter once in marriage; the amounts of aid on these occasions shall be reasonable. Aids from the city of London shall be treated similarly.

(13) The city of London shall retain all its ancient privileges and traditional trading rights by land and water. We also desire and grant that all other cities, boroughs, towns, and ports shall retain all their privileges and traditional trading rights.

*(14) To obtain common counsel of the kingdom for the assessment of an aid—for other purposes than the three specified above—and scutage, we will send individual letters of summons to the archbishops, bishops, abbots, earls, and chief barons, and general summonses through our sheriffs and other officials to all our tenants in chief, calling them to meet together on a given date—which shall be not less than forty days after the issue of the summons—and in a given place; and in all the letters we will set down the business of the assembly. When summonses have been issued in this manner, items of business on the appointed day shall be decided by the advice of those present, notwithstanding the absence of some of those who were summoned.

*(15) In future we will not allow anyone to levy an aid from his free tenants except for the purpose of ransoming his person, making his eldest son a knight, or giving his eldest daughter once in marriage; aids levied for such purposes shall be within reason.

(16) No one shall be compelled to render more service for a knight's fee or other free holding of land than is properly due from it.

(17) Common pleas shall not be heard in the various places where, from time to time, our royal court is established, but in some fixed place.

(18) Inquests of *Novel Disseisin*, *Mort d' Ancestor*, and *Darrein Presentment* shall be conducted only in the courts of the counties where the cases arise, and in the following manner. We, or our justiciar if we are out of the kingdom, will send two justices to each county four times a year, and they together with four knights of the county, elected by the county, shall conduct the said assizes in the county court on the same day and in the same place as the meeting of the county court.

*(19) But if the assizes cannot be taken on the day when the county court meets, then as many knights and freeholders as are needed for decisions to be given in proper form on the number of cases outstanding shall remain behind after the meeting of the county court.

(20) An offender who is liable for punishment at our hands shall be fined in proportion to the seriousness, or otherwise, of his offence; but fines shall not be imposed which are so heavy as to cause a freeholder to lose his holding, or a merchant to lose his stock-in-trade, or a villain to lose the means of earning his living. Fines shall only be imposed upon these categories of persons following the attestation of charges against them by sworn juries of local men of proved honesty.

(21) Earls and barons shall only be fined by judgment of their equals, according to the measure of their offense.

(22) Any fine imposed upon a clerk in holy orders in respect of his lay property shall be assessed on the foregoing principles, without taking the value of his ecclesiastical benefice into account.

(23) No town or individual shall be forced to build bridges at river-banks except those who are under a customary and legal obligation to do so.

(24) No sheriff, constable, coroner, or other of our officials shall hear cases which are the prerogative of the royal courts.

*(25) Each county, hundred, wapentake, and riding shall be assessed at the old farm without any increase, our own demesne manors excepted.

(26) If any one of our lay tenants dies, the sheriff or our bailiff, on production of the royal letters patent of summons for a debt which the dead man owed us, may make an attachment and inventory of such of the dead man's chattels found on the lay holding as are agreed by men of legal standing to represent the amount of the debt; and none of these goods shall then be removed until the debt which was clearly owing to us has been discharged. The rest of the dead man's property shall be left for the executors to dispose of in accordance with the terms of his will. But if the dead man owed us nothing, then all his chattels shall be disposed of according to his wishes, saving to his wife and children their reasonable shares.

*(27) If a freeman dies intestate his chattels shall be distributed by his near blood relations and friends under the supervision of the church, but the rights of anyone to whom the deceased owed a debt shall be safeguarded.

(28) No constable or any other of our officials shall take corn or other goods from anyone without immediate payment in money, unless the vendor is agreeable to a deferred payment.

(29) No constable shall force a knight to pay money in lieu of castle guard duty if the knight is prepared to discharge this duty in person or if, being unable to attend himself for some good reason, he is willing to send a suitable man in his place. A knight shall be exempt from guard duty for such periods as he is engaged on military service, under our leadership or at our command.

(30) No sheriff, royal official, or any other person shall commandeer horses or carts for transport work from a freeman without his consent.

(31) Neither we nor our officials will take wood for castles or other of our works without the owner's consent.

(32) We will not retain possession of the estates of a convicted felon for longer than a year and a day, after which time the estates shall be returned to the man's overlords.

(33) For the future all fish-weirs shall be removed from the Thames and the Medway and throughout England, except along the sea-coast.

(34) The writ called *Praecipe* shall not in future be issued to anyone in respect of any disputed holding of land, where the effect might be to deprive a freeman of his right to the hearing of his case in a local court.

(35) There shall be standard measures of wine, beer, and corn—the London quarter—throughout the whole of our kingdom, and a standard width of dyed, russet, and halberject [better quality? worn under the

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[1] This phrase, here translated literally, may relate to joint property of the husband and wife, or to property inherited by the wife and held for her by the husband; on another reading, however, it could refer to the widow's inheritance of the estate, where there were no other heirs, or to the widow's entitlement from her husband's estate, traditionally a third.

hauberk?] cloth—two ells within the selvedges; and there shall be standard weights also.

(36) In future no payment shall be given or accepted for the issue of a writ of inquisition of life or limbs; the writ shall be granted free, and not denied.

(37) If anyone holds land from us in return for the payment of a fee-farm rent, socage, or a burgage rent, and at the same time holds land from someone else in return for knight service, we shall not be entitled to the guardianship of his heir or of the estate which he holds from another's fee merely by reason of the fee-farm rent, socage, or burgage rent which he pays us. Nor shall we have the guardianship of the estate from which the fee-farm rent, socage, or burgage rent issues unless, in the case of a fee-farm rent, the estate is also charged with providing us with knight service. Similarly, we shall not be entitled to the guardianship of a man's heir and of an estate which he holds from someone else merely because he is also a tenant of ours in petty sergeanty in return for a payment of knives, arrows, and the like.

(38) In future no official shall bring anyone to trial on his own unsupported statement without producing trustworthy witnesses to the alleged offence.

(39) No freeman shall be arrested, imprisoned, dispossessed, outlawed, exiled, or in any way deprived of his standing, nor shall we proceed against him by force or send others against him, except by the lawful judgment of his equals and according to the law of the land.

(40) To no one will we sell, refuse, or delay the operation of right or justice.

(41) All merchants shall have free and undisturbed passage to and from England, and shall be safe and unmolested during their stay and in their travels by land and water throughout the country. No burdensome or extraordinary taxation shall be levied upon them, but they shall buy and sell freely on payment only of the proper and anciently established dues. These provisions, however, shall not apply in wartime to nationals of a country at war with us. All such foreign nationals found trading in our lands at the outbreak of war shall be interned, but without loss of life or property until we or our justiciar have ascertained the treatment accorded to such of our own merchants as the outbreak of war has surprised in enemy country; and if we find that our merchants are safe with the enemy, their merchants shall be safe with us.

*(42) In future anyone may leave our kingdom and return, safe and secure by land and water, saving his allegiance to us, except in wartime when temporary restrictions may be imposed for the common good of the realm. This provision does not apply to persons imprisoned or outlawed by due process of law; or to nationals of a country at war with us; or to foreign merchants, who shall be treated in accordance with the provisions of the last section.

(43) If a man dies holding land from an estate which has been escheated to the crown as, for example, from the honours of Wallingford, Nottingham, Boulogne, Lancaster, or any other baronial estate escheated to us, his heir shall not pay us any other relief or perform any other service than he would have paid or performed for the baron, had the baron still held the estate. And we will hold the estate in exactly the same manner as the baron held it.

*(44) Men who are not resident in a royal forest shall not henceforth be brought before our justices of the forest by writs of general summons, unless they are to appear as defendants or as sureties for a person or persons bound over on bail for a forest offence.

*(45) We will only appoint as justices, constables, sheriffs, or other officials such men as are well versed in the law of the kingdom and intend to uphold it.

(46) All barons who have founders' rights in respect of abbeys, as evidenced by charters from kings of England or ancient title, shall have guardianship of them, as is their right, whenever there is a vacancy.

*(47) All forests created in our reign shall be immediately disafforested, and similarly river-banks which we have reserved for our sport during our reign shall be again thrown open.

*(48) All oppressive practices relating to forests, warrens, and river-banks, and the malpractices of foresters, warreners, the sheriffs, and their officers, and river-bank keepers shall, in every county, be the subject of immediate inquiry by twelve sworn knights of the same county, elected by the worthy men of the county; and within forty days of such inquiry, all abuses shall be stamped out, never more to be renewed, by the agency of the said knights; provided always that we, or our justiciar if we are out of England, have been previously informed.[1]

*(49) We will immediately return all hostages and bonds surrendered to us by Englishmen as security for the peace and their faithful service.

*(50) We will utterly discharge from their offices—and they shall not hold office again in England—the relatives of Gerard de Anthee, namely: Engelard de Cigiogńe, Peter, Guy and Andrew de Chanceaux, Guy de Cigogńe, Geoffrey de Martigny and his brothers, and Philip Marc, his brothers and his nephew Geoffrey, and all their following.

*(51) As soon as peace is restored, we will expel from the kingdom all foreign knights, crossbowmen, sergeants, and mercenaries who have come with horses and weapons to the harm of the realm.

*(52) If anyone, without legal judgment of his equals, has been dispossessed or deprived by us of lands, castles, privileges, or rights, we will straightway restore these to him, and in the case of any dispute arising thereof, it shall be decided by the twenty-five barons mentioned below in the clause relating to the keeping of the peace. But with regard to anything of which a man was dispossessed or deprived without legal judgment of his equals by our father, King Henry, or our brother, King Richard, and which we now hold or others hold under our guarantee of title, we will be allowed the full period [three years] of immunity from legal proceedings which is customary for crusaders, except in cases where a suit had already been entered or an inquiry instituted at our command before we undertook to make our crusade. But as soon as we return from our pilgrimage or immediately if we abandon it, we will see that full justice is done.

*(53) We shall be allowed a similar period of immunity, and the same provisions for the implementation of justice shall apply[1] in respect of the disafforestation or retention[1] of forests made by our father, Henry, our brother, in Richard; in respect also of the guardianship of dead men's estates in other lords' fees, which we have hitherto held by reason of other land held from us by the deceased in return for knight service; and in respect of abbeys founded on other lords' fees in which the lords of the fees claim to have rights. Immediately on our return from our pilgrimage or upon our abandonment of it, we will see that full justice is done on complaints arising about these matters.

(54) No one shall be arrested or imprisoned on the appeal of a woman for the death of anyone except her husband.

*(55) Any fines levised by us unjustly and against the law of the land, and any unjust and illegal amercements shall be remitted in their entirety, or judgment shall be delivered therein by the twenty-five barons mentioned below in the clause relating to the keeping of the peace, or by the majority of them and of the said Stephen, archbishop of Canterbury, if he can be present, and of such others as he may wish to bring with him for this purpose: but if the archbishop cannot be present, the business shall proceed without him. Provided always that if a case is set down for hearing, and any of these twenty-five barons have been involved in a similar dispute themselves, they shall be removed from the bench when the case is heard, and others shall be elected and sworn in their place by the rest of the twenty-five, to serve for this one occasion.

*(56) Any Welshman whom we may have dispossessed or deprived of lands, privileges, or anything else without legal judgment of his equals, in England or Wales, shall have immediate restitution made to him, and should a dispute arise it shall be decided in the March by the judgment of his equals; for English holdings, according to English law; for Welsh holdings, according to Welsh law; and for holdings in the March, according to the law of the March. The Welch will do the same with us and ours.

*(57) But regarding anything of which a Welshman was disposed or deprived without legal judgment of his equals by our father, King Henry, or our brother, King Richard, and which we now hold or others hold under our guarantee of title, we will be allowed the full period of immunity customary for crusaders, except in cases where a suit had already been entered or an inquiry had been instituted at our command before we undertook to make our crusade. But as soon as we return from our pilgrimage, or immediately if we abandon it, we will see that full justice is done according to the laws of the Welsh and of the said religions.

*(58) We will at once return the son of Llewelyn and all the Welsh hostages and bonds delivered to us as security for the peace.

*(59) We will act towards Alexander, King of the Scots, regarding the return of his sisters and other hostages, and the restoration of his privileges and rights, in the same way as towards our other English barons, except as is otherwise provided in the formal agreements which we hold from his father, William, formerly King of the Scots; this will be according to the judgment of his equals in our court.

(60) All the aforesaid customs and rights which we have granted to be maintained in our kingdom in the dealings between us and our people shall be similarly observed by all men of our kingdom, both clergy and laymen, in their dealings with their own people.

*(61) Whereas we have made all the aforesaid grants out of reverence for God, for the better ordering of our kingdom and for the more effective healing of the strife between us and our barons, and desire that our grant

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[1] *by the agency of . . . informed.* This passage is not incorporated into the text of the charter in BM. Cotton MS. Augustus II, 106, but there appears as a footnote.

[1] *and the same provisions . . . apply*, and *or retention*, appear as footnotes in BM. Cotton MS. Augustus II, 106, and are not incorporated into the text.

shall remain firm and unshaken in its entirety forever, we do therefore secure and safeguard it by the following provision, namely:

The barons shall elect any twenty-five barons of the kingdom whom they please, and they in their turn shall exert themselves to the full extent of their powers in preserving and upholding, and causing to be upheld, the peaceful settlement and grant of rights which we have made to them and have confirmed by this our present charter; and in the pursuance of these objects, they shall apply the following procedure. If we, the justiciar, our officials or any of our ministers offend against anyone in any respect, or break any of the provisions of the peace or of this guarantee, and the offence is made known to four of the said twenty-five barons, they shall come to us, or to the justiciar if we are out of the kingdom, and laying the cause of the complaint before us, require that we remedy it without delay. And if we, or the justiciar in our absence abroad, have not remedied the complaint within forty days after it was first presented to us, or to him, they shall refer the matter to the rest of the twenty-five barons, and these twenty-five with the commonalty of the whole kingdom shall then distrain and bring pressure to bear upon us in every way open to them, namely, by seizure of our castles, estates, and possessions and by any other means in their power until the complaint has been remedied to their satisfaction, saving only our own person and the persons of our queen and our children. And once satisfaction has been obtained they will stand towards us exactly as they did before.

Anyone in the land shall be free to swear his obedience to the commands of the said twenty-five barons in furtherance of all these aims, and to swear that he will join with them to the full extent of his power in bringing pressure to bear upon us. We publicly and freely give permission to take the oath to anyone who so wishes, and we will at no time prevent anyone from taking it: but rather will we compel those of our subjects who are unwilling of themselves to pledge their support to the barons by this oath of distraint and pressure against us to take the oath by our command.

If any one of the twenty-five barons dies or leaves the country or is in any other way prevented from carrying out his aforesaid duties, the rest of the twenty-five shall choose another in his place, whomever they think best, and he will be sworn, in the same way as the others.

If all the twenty-five barons are present at a meeting and fail to agree on any of the matters which are entrusted to them for action, or if some of those summoned have refused or are unable to attend, any decision taken or instruction issued by the majority of those present shall be held to be as fixed and binding as if all twenty-five had agreed to it.

The twenty-five barons shall swear to observe all the aforesaid provisions faithfully, and they shall use all means in their power to obtain a similar observance from others.

We will not, directly or indirectly, procure from anyone a release of any kind the effect of which would be to cancel or reduce any of the rights and privileges granted by this charter: and if, notwithstanding this provision, such a release is obtained, it shall be considered null and void, and we will never, directly or indirectly, make use of it.[1]

*(62) We have granted full and universal pardon and forgiveness for all feelings of ill-will, resentment, and rancour which have arisen between us and our clerical and lay subjects since the outbreak of hostilities. We have further granted our full forgiveness to all clerics and lay persons for all offences which they have committed in pursuance of the said hostilities between Easter in the sixteenth year of our reign and the restoration of peace, and we have pardoned them to the full extent of our personal concern. We have further caused them to be issued with letters patent under the seals of the lord Stephen archbishop of Canterbury, the lord Henry archbishop of Dublin, the other bishops who were previously mentioned, and master Pandulph, formally attesting the sanction contained in the last clause and the concessions granted by this charter.

*(63) It is accordingly our wish and stern command that the English Church shall have its freedom, and that men in our kingdom shall enjoy full and competent possession of all the aforesaid rights, grants, and privileges in their entirety, in peace and freedom and without disturbance for themselves and their heirs from ourself and our heirs, in every particular and in all places in perpetuity, exactly as is aforesaid.

Both we and the barons have sworn to observe all the foregoing provisions faithfully and without deceit, as witness the before-mentioned persons and many others.

Given by our hand in the meadow called Runnymede between Windsor and Staines on the 15th day of June in the seventeenth year of our reign.

Mr. BYRD. Mr. President, we will never again see the 777th anniversary of the great Charter, so I count it a privilege in my own time to have had the good fortune to be serving in the U.S. Senate at the time of this anniversary to which I have had the honor of calling the attention of the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. BYRD. Mr. President, on behalf of the distinguished majority leader I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Tuesday, June 16; that following the prayer, the Journal of Proceedings be deemed approved to date and the time for the two leaders be reserved for their use later in the day; provided further that there then be a period for morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; ordered further that immediately following the Prayer and the Chair's announcement, Senator BROWN or his designee be recognized for up to 45 minutes; Senators DIXON, ROTH, and GORE for up to 5 minutes each; that at 11:30 p.m., the Senate resume consideration of S. 55, with the time from 11:30 a.m. to 12:30 p.m., for debate on the motion to invoke cloture on the modified committee substitute to S. 55, with the time equally divided and controlled between Senators METZENBAUM and HATCH; and that upon the conclusion of their remarks at that time the Senator from West Virginia [Mr. BYRD] be recognized to speak and that upon the conclusion of his remarks the Senate then stand in recess for the usual two party conferences until the hour of 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I ask in accordance with the previous order that the Senate stand in recess.

Thereupon, the Senate, at 5:39 p.m., recessed until Tuesday, June 16, 1992, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1992:

DEPARTMENT OF COMMERCE

JOSE ANTONIO VILLAMIL, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS, VICE MICHAEL RUCKER DARBY, RESIGNED.

DEPARTMENT OF DEFENSE

ROBERT S. SILBERMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE G. KIM WINCUP.

NATIONAL MEDIATION BOARD

JOSHUA M. JAVITS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1995 (REAPPOINTMENT).

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[1] This clause is particularly directed against possible attempts to circumvent the charter by appeals to the papal authority.

EXTENSIONS OF REMARKS

BEYOND MURPHY BROWN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. CRANE. Mr. Speaker, in the context of the ongoing debate over the root cause of the riots in Los Angeles, I would like to bring to the attention of my colleagues remarks made by the Vice President to the Commonwealth Club of California. The Vice President summarizes the importance of the family structure in our society and how the deterioration of that structure is to be blamed, in part, for the catastrophic events that took place last month in California. We must not let the liberal uproar over the Murphy Brown comment taint and distort the ultimate meaning of the Vice President's message: Traditional American family values are vital to this Nation's prosperity. It is from these values that we achieve our sense of worth, our stability, and ultimately our morals that guide us to greater achievement for ourselves and for future generations. I urge my colleagues to read the Vice President's insightful remarks on the inner-city dilemma and what we need to do as a nation to remedy the problems imminently facing our country.

REMARKS BY VICE PRESIDENT DAN QUAYLE

As you may know, I've just returned from a week-long trip to Japan. I was there to commemorate the 20th anniversary of the reversion of Okinawa to Japan by the United States, an act that has made a lasting impression on the Japanese.

While I was there, Japan announced its commitment to join with the United States in assisting Eastern and Central Europe with a 400 million dollar aid package. We also announced a manufacturing technology initiative that will allow American engineers to gain experience working in Japanese businesses.

Japan and the United States are allies and partners. Though we have our differences, especially in the area of trade, our two countries—with 40 percent of the world's GNP—are committed to a global partnership in behalf of peace and economic growth.

But in the midst of all of these discussions of international affairs, I was asked many times in Japan about the recent events in Los Angles. From the perspective of many Japanese, the ethnic diversity of our culture is a weakness compared to their homogeneous society. I begged to differ with my hosts. I explained that our diversity is our strength. And I explained that the immigrants who come to our shores have made, and continue to make, vast contributions to our culture and our economy.

It is wrong to imply that the Los Angeles riots were an inevitable outcome of our diversified society. But the question that I tried to answer in Japan is one that needs answering here: What happened? Why? And how do we prevent it in the future?

One response has been predictable: Instead of denouncing wrongdoing, some have shown tolerance for rioters; some have enjoyed saying "I told you so;" and some have simply made excuses for what happened. All of this has been accompanied by pleas for more money.

I'll readily accept that we need to understand what happened. But I reject the idea we should tolerate or excuse it.

When I have been asked during these last weeks who caused the riots and the killing in L.A., my answer has been direct and simple: Who is to blame for the riots? The rioters are to blame. Who is blame for the killings? The killers are to blame. Yes, I can understand how people were shocked and outraged by the verdict in the Rodney King trial. But there is simply no excuse for the mayhem that followed. To apologize or in any way to excuse what happened is wrong. It is a betrayal of all those people equally outraged and equally disadvantaged who did not loot and did not riot—and who were in many cases victims of the rioters. No matter how much you may disagree with the verdict, the riots were wrong. And if we as a society don't condemn what is wrong, how can we teach our children what is right?

But after condemning the riots, we do need to try to understand the underlying situation.

In a nutshell: I believe the lawless social anarchy which we saw is directly related to the breakdown of family structure, personal responsibility and social order in too many areas of our society. For the poor the situation is compounded by a welfare ethos that impedes individuals efforts to move ahead in society, and hampers their ability to take advantage of the opportunities America offers.

If we don't succeed in addressing these fundamental problems, and in restoring basic values, any attempt to fix what's broken will fail. But one reason I believe we won't fail is that we have come so far in the last 25 years.

There is no question that this country has had a terrible problem with race and racism. The evil of slavery has left a long legacy. But we have faced racism squarely, and we have made progress in the past quarter century. The landmark civil rights bills of the 1960's removed legal barriers to allow full participation by blacks in the economic, social and political life of the nation. By any measure the America of 1992 is more egalitarian, more integrated, and offers more opportunities to black Americans—and all other minority group members—than the America of 1964. There is more to be done. But I think that all of us can be proud of our progress.

And let's be specific about one aspect of this progress: This country now has a black middle class that barely existed a quarter century ago. Since 1967 the median income of black two parent families has risen by 60 percent in real terms. The number of black college graduates has skyrocketed. Black men and women have achieved political power—black mayors head 48 of our largest cities, including Los Angeles. These are achievements.

But as we all know, there is another side to that bright landscape. During this period of progress, we have also developed a culture of poverty—some call it an underclass—that is far more violent and harder to escape than it was a generation ago.

The poor you always have with you, Scripture tells us. And in America we have always had poor people. But in this dynamic, prosperous nation, poverty has traditionally been a stage through which people pass on their way to joining the great middle class. And if one generation didn't get very far up the ladder—their ambitious, better-educated children would.

But the underclass seems to be a new phenomenon. It is a group whose members are dependent on welfare for very long stretches, and whose men are often drawn into lives of crime. There is far too little upward mobility, because the underclass is disconnected from the rules of American society. And these problems have, unfortunately, been particularly acute for Black Americans.

Let me share with you a few statistics on the difference between black poverty in particular in the 1960's and now.

In 1967 68 percent of black families were headed by married couples. In 1991, only 48 percent of black families were headed by both a husband and wife.

In 1965 the illegitimacy rate among black families was 28 percent. In 1989, 65 percent—two thirds—of all black children were born to never-married mothers.

In 1951 9.2 percent of black youth between 16–19 were unemployed. In 1965, it was 23 percent. In 1980 it was 35 percent. By 1989, the number had declined slightly, but was still 32 percent.

The leading cause of death of young black males today is homicide.

It would be overly simplistic to blame this social breakdown on the programs of the Great Society alone. It would be absolutely wrong to blame it on the growth and success most Americans enjoyed during the 1980's. Rather, we are in large measure reaping the whirlwind of decades of changes in social mores.

I was born in 1947, so I'm considered one of those "Baby Bommers" we keep reading about. But let's look at one unfortunate legacy of the "Boomer" generation. When we were young, it was fashionable to declare war against traditional values. Indulgence and self-gratification seemed to have no consequences. Many of our generation glamorized casual sex and drug use, evaded responsibility and trashed authority. Today the "Boomers" are middle-aged and middle class. The responsibility of having families has helped many recover traditional values. And, of course, the great majority of those in the middle class survived the turbulent legacy of the 60's and 70's. But many of the poor, with less to fall back on, did not.

The intergenerational poverty that troubles us so much today is predominantly a poverty of values. Our inner cities are filled with children having children; with people who have not been able to take advantage of educational opportunities; with people who are dependent on drugs or the narcotic of welfare. To be sure, many people in the ghettos struggle very hard against these tides—and sometimes win. But too many feel they have no hope and nothing to lose. This pov-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

erty is, again, fundamentally a poverty of values.

Unless we change the basic rules of society in our inner cities, we cannot expect anything else to change. We will simply get more of what we saw three weeks ago. New thinking, new ideas, new strategies are needed.

For the government, transforming underclass culture means that our policies and programs must create a different incentive system. Our policies must be premised on, and must reinforce, values such as; family, hard work, integrity and personal responsibility.

I think we can all agree that government's first obligation is to maintain order. We are a nation of laws, not looting. It has become clear that the riots were fueled by the vicious gangs that terrorize the inner cities. We are committed to breaking those gangs and restoring law and order. As James Q. Wilson has written, "Programs of economic restructuring will not work so long as gangs control the streets."

Some people say "law and order," are code words. Well, they are code words. Code words for safety, getting control of the streets, and freedom from fear. And let's not forget that, in 1990, 84 percent of the crimes committed by blacks were committed against blacks.

We are for law and order. If a single mother raising her children in the ghetto has to worry about drive-by shootings, drug deals, or whether her children will join gangs and die violently, her difficult task becomes impossible. We're for law and order because we can't expect children to learn in dangerous schools, we're for law and order because if property isn't protected, who will build businesses?

As one step on behalf of law and order—and on behalf of opportunity as well—the President has initiated the "Weed and Seed" program—to "weed out" criminals and "seed" neighborhoods with programs that address root causes of crime. And we have encouraged community-based policing, which gets the police on the street so they interact with citizens.

Safety is absolutely necessary. But it's not sufficient. Our urban strategy is to empower the poor by giving them control over their lives. To do that, our urban agenda includes:

Fully funding the Home-ownership and Opportunity for People Everywhere program. HOPE—as we call it—will help public housing residents become home-owners. Subsidizing housing all too often merely made rich investors richer. Home ownership will give the poor a stake in their neighborhoods, and a chance to build equity.

Creating enterprise zones by slashing taxes in targeted areas, including a zero capital gains tax, to spur entrepreneurship, economic development, and job creation in inner cities.

Instituting our education strategy, America 2000, to raise academic standards and to give the poor the same choices about how and where to educate their children as that of rich people.

Promoting welfare reform to remove the penalties for marriage, create incentives for saving, and give communities greater control over how the programs are administered.

These programs are empowerment programs. They are based on the same principles as the Job Training Partnership Act, which aimed to help disadvantaged young people and dislocated workers to develop their skills to give them an opportunity to get ahead. Empowering the poor will strengthen families. And right now, the failure of our families is hurting America deeply. When families fail, society fails. The anarchy and lack of structure in our inner cities are testament to how quickly civilization falls apart when the family foundation cracks. Children need love and discipline. They need mothers and fathers. A welfare check is not a husband. The state is not a father. It is from parents that children learn how to behave in society; it is from parents above all that children come to understand values and themselves as men and women, mothers and fathers.

And for those concerned about children growing up in poverty, we should know this: marriage is probably the best anti-poverty program of all. Among families headed by married couples today, there is a poverty rate of 5.7 percent. But 33.4 percent of families headed by a single mother are in poverty today.

Nature abhors a vacuum. Where there are no mature, responsible men around to teach boys how to be good men, gangs serve in their place. In fact, gangs have become a surrogate family for much of a generation of inner-city boys. I recently visited with some former gang members in Albuquerque, New Mexico. In a private meeting, they told me why they had joined gangs. These teenage boys said that gangs gave them a sense of security. They made them feel wanted, and useful. They got support from their friends. And, they said. "It was like having a family." "Like family"—unfortunately, that says it all.

The system perpetuates itself as these young men father children whom they have no intention of caring for, by women whose welfare checks, support them. Teenage girls, mired in the same hopelessness, lack sufficient motive to say no to this trap.

Answer to our problems won't be easy.

We can start by dismantling a welfare system that encourages dependency and subsidizes broken families. We can attach conditions—such as school attendance, or work—to welfare. We can limit the time a recipient gets benefits. We can stop penalizing marriage for welfare mothers. We can enforce child support payments.

Ultimately, however, marriage is a moral issue that requires cultural consensus, and in the use of social sanctions. Bearing babies irresponsibly is, simply, wrong. Failing to support children one has fathered is wrong. We must be unequivocal about this.

It doesn't help matters when prime time TV has Murphy Brown—a character who supposedly epitomizes today's intelligent, highly paid, professional woman—mocking the importance of fathers, by bearing a child alone, and calling it just another "lifestyle choice."

I know it is not fashionable to talk about moral values, but we need to do it. Even though our cultural leaders in Hollwood, network TV, the national newspapers routinely jeer at them, I think that most of us in this room know that some things are good, and other things are wrong. Now it's time to make the discussion public.

It's time to talk again about family, hard work, integrity and personal responsibility. We cannot be embarrassed out of our belief that two parents, married to each other, are better in most cases for children than one. That honest work is better than hand-outs—or crime. That we are our brothers' keepers. That it's worth making an effort, even when the rewards aren't immediate.

So I think the time has come to renew our public commitment to our Judeo-Christian values—in our churches and synagogues, our civic organizations and our schools. We are, as our children recite each morning, "one nation under God." That's a useful framework for acknowledging a duty and an authority higher than our own pleasures and personal ambitions.

If we lived more thoroughly by these values, we would live in a better society. For the poor, renewing these values will give people the strength to help themselves by acquiring the tools to achieve self-sufficiency, a good education, job training, and property. Then they will move from permanent dependence to dignified independence.

Shelby Steele, in his great book, "The Content of Our Character," writes, "Personal responsibility is the brick and mortar of power. The responsible person knows that the quality of his life is something that he will have to make inside the limits of his fate . . . The quality of his life will pretty much reflect his efforts."

I believe that the Bush Administration's empowerment agenda will help the poor gain that power, by creating opportunity, and letting people make the choices that free citizens must make.

Though our hearts have been pained by the events in Los Angeles, we should take this tragedy as an opportunity for self-examination and progress. So let the national debate roar on. I, for one, will join it. The president will lead it. The American people will participate in it. And as a result, we will become an even stronger nation.

MARGARET ARMENTROUT: AFTER 30 YEARS OF SERVICE TO EDUCATION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. HOYER. Mr. Speaker, it is with pleasure that I recognize the outstanding accomplishments of Margaret Armentrout. She is an exemplary individual who has dedicated her life to the education and guidance of the youth of St. Mary's County, MD. Now, after 30 years, it is Ms. Armentrout's time to receive recognition and praise for her commitment to children.

In 1962, Ms. Armentrout began her teaching career at the old Leonardtown School, where she remained for 3 years. She then moved onto Chopticon High School, where she provided thousands of students with the skills necessary to survive both inside and outside the job arena. As the recruiter and sponsor of the Future Business Leaders of America Club, Ms. Armentrout has helped shape the personal development of her students, as well as their vocational and technical development.

Ms. Armentrout has encouraged students to set attainable goals, and work hard in obtaining them. She has also required that they be prompt, organized, and meticulous when carrying out assigned projects. In turn, her guidance has fostered responsibility, independence, and maturity within her pupils—traits which are beneficial outside of the classroom as well.

While making the students more competent individuals and, overall, more marketable to employers, Ms. Armentrout has given them something more; she has given them self-esteem and self-respect. Ms. Armentrout has advocated self-control and respect for others—both of peers and faculty members. By caring for and respecting the students, and by teaching them to do the same, Ms. Armentrout has gained the respect and admiration of the faculty, the student, and their families.

Mr. Speaker, it is with great pleasure that I recognize the contributions of Ms. Margaret Armentrout. Ms. Armentrout will be remembered as a good teacher whose warmth and dedication has not only taught children educational skills but life skills as well.

BILL MAILLIARD, FRIEND AND FORMER MEMBER, PASSES AWAY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. BROOMFIELD. Mr. Speaker, I was saddened to learn that Bill Mailliard, a friend and former Member, died suddenly on Wednesday, his 75th birthday, while traveling to California for a birthday celebration.

Bill was my predecessor as ranking Republican on the Foreign Affairs Committee. He was a much-decorated veteran of World War II, a man of wide experience in Government, and had the great respect of those of us who served with him.

He retired from the House in 1974 to become Ambassador to the Organization of American States, but he never lost his love of this great institution, and in fact served as president of the Association of Former Members of Congress.

I ask that his obituary, which appeared in last Friday's Washington Post, be printed in the RECORD.

[From the Washington Post, June 12, 1992]

WILLIAM MAILLIARD DIES; CALIFORNIA REPRESENTATIVE

William S. Mailliard, a California Republican who represented the San Francisco area in Congress for 21 years, died at Reston Hospital Center after a heart attack June 10, his 75th birthday.

A resident of Washington, he was stricken at Dulles International Airport en route to his family ranch in Mendocino County for a birthday celebration.

Mr. Mailliard served in the House of Representatives from 1953 until 1974, when he resigned to become ambassador to the Organization of American States, where he served until 1977. In Congress, he was the ranking Republican on the House Foreign Affairs Committee and a senior member of the Merchant Marine and Fisheries Committee.

He was born in Marin County, Calif., and graduated from Yale University. He served in the Navy during World War II. His naval service included duty as assistant naval attache at the U.S. Embassy in London and on the staff of the seventh amphibious force in the Pacific. He was awarded a Silver Star, the Legion of Merit and a Bronze Star. After the war, he served in the reserves and became a rear admiral.

Before his election to Congress, Mr. Mailliard was a California banker, an aide to California Gov. Earl Warren (R) and executive director of the California Academy of Sciences.

He was a former president of the United States Association of Former Members of Congress.

His marriage to Elizabeth Whinney ended in divorce.

Survivors include his wife, Millicent F. Mailliard of Washington; four children from his first marriage, William S. Mailliard Jr. of Petaluma, Calif., Antoinette Mailliard of San Francisco, Ward Mailliard of Watsonville, Calif., and Kristina Mailliard of Santa Rosa, Calif.; three children by his second marriage, Julia Ward Mailliard of Washington, Josephine Mailliard Fleming of Arlington and V. Leigh Mailliard of Rowayton, Conn.; and six grandchildren.

CONFLICT OF CULTURES: EUROPEAN VERSUS INDIAN II

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of Percy Bigmouth, a member of the Lipan Apache tribe, as published in a book entitled "Native American Testimony." The article recounts early meetings between Indian tribes and new settlers from other continents. The editorial comment which precedes the article is provided also.

BEFORE THEY GOT THICK

This tale of the Lipan Apache reads like a southwestern version of the story of the Plymouth Colony legend: Native Americans help white pioneers survive by bringing them gifts of pumpkin and corn seeds and showing them how to plant them. Related by Percy Bigmouth in 1935, it describes events that probably took place in the early nineteenth century when his ancestors were living near the Texas-Louisiana border. During the Indian wars in the Southwest (1845–56), when official policy in Texas called for the brutal extermination of all Indians, the Lipan hid in Mexico. Eventually they made their home with their kinsmen, the Mescalero Apache, in New Mexico.

My Grandmother used to tell this story; she told it to my mother. It is about the time when they lived near the gulf. She says that they lived at a place called "Beside the Smooth Water." They used to camp there on the sand. Sometimes a big wave would come up and then they would pick up many seashells. Sometimes they used to find water turtles. They used to find fish too and gather them and eat them.

One time they had a big wave. It was very bad. They thought the ocean was going to come right up. It came up a long way. Living things from the water covered the bank, were washed up. Then, when the sun came out and it was hot all these things began to swell and smelled bad.

One day they looked over the big water. Then someone saw a little black dot over on the water. He came back and told that he had seen that strange thing. Others came out. They sat there and looked. It was getting larger. They waited. Pretty soon it came up. It was a boat.* * * People were coming out. They looked at those people coming out. They saw that the people had blue eyes and were white. They thought these people might live in the water all the time.

They held a council that night. They were undecided whether they should let them live or kill them.

One leader said, "Well, they have a shape just like ours. The difference is that they have light skin and hair."

Another said, "Let's not kill them. They may be a help to us some day. Let's let them go and see what they'll do."

So the next day they watched them. "What shall we call them?" they asked. . . .

Some still wanted to kill them. Others said no. So they decided to let them alone.

The Lipan went away. After a year they said, "Let's go back and see them."

They did so. Only a few were left. Many had starved to death. Some said, "Let's kill them now; they are only a few." But others said, "No, let us be like brothers to them."

It was spring. The Lipan gave them some pumpkin seed and seed corn and told them how to use it. The people took it and after that they got along all right. They raised a little corn and some pumpkins. They started a new life. Later on the Lipan left for a while. When they returned, the white people were getting along very well. The Lipan gave them venison. They were getting along very well. After that, they began to get thick.

PERCY BIGMOUTH,
Lipan Apache.

HUMANITARIAN ASSISTANCE TO AFGHANISTAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence with the White House regarding United States support for reconstruction and relief efforts in the war-torn country of Afghanistan.

The situation in Afghanistan, and particularly in the capital city, Kabul, took a turn for the worse in April with the fall of President Najibullah and the outbreak of fighting in and around Kabul between groups seeking to replace his government. On April 10, 1992 I joined my colleagues, Mr. FASCELL, Mr. SOLARZ, and Mr. BERMAN, in a letter to President Bush urging the immediate initiation of an emergency operation to provide humanitarian assistance to the people of Afghanistan. This letter and the response from National Security Advisor Brent Scowcroft, and Mr. Nicholas Calio, Assistant to the President for Legislative Affairs, follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, April 30, 1992.

President GEORGE BUSH,
The White House, 1600 Pennsylvania Avenue, Washington, DC.

DEAR MR. PRESIDENT: This is to urge you to immediately initiate an emergency operation to provide humanitarian assistance to the people of Afghanistan. The relevant agencies of the United States government, and of the United Nations system, appear to be waiting until the situation in Afghanistan becomes a little clearer. While a longer term relief strategy must indeed depend on such clarity, we believe that an immediate response is required for emergency needs that have already become apparent.

Of particular concern are the need for food, blankets and tents for civilians who have fled very recently from the fighting in and around Kabul, and the need to re-establish a food distribution system for the people who remain in Kabul. Prompt relief will not only prevent suffering, but will also discourage further large-scale movements of civilians, which could further destabilize the security situation. On the other hand, an initiative to assist civilians as close as possible to their homes will minimize additional expenses for humanitarian or refugee relief in the future. It is therefore in our long-term self-interest to address the problem now.

We are aware of significant concerns about the logistical obstacles to an emergency aid operation, and of concerns about the security of relief operations. The information we have received suggests that conditions at present and in the foreseeable future are hospitable to a modest relief effort. Assuming that this information is correct, we believe that private voluntary agencies could play a leading role in transporting supplies overland to the Kabul-Jalalabad area.

In view of the time that it will take to transport supplies overland, we believe that it may be necessary to initiate an airlift of emergency supplies. We would like to request that the Administration undertake an immediate assessment of both the immediate humanitarian needs in Afghanistan, and of the possible need for an airlift.

Thank you for your prompt attention to this.

Sincerely,

DANTE B. FASCELL,
Chairman.
HOWARD L. BERMAN,
Chairman, Subcommittee on International Operations.
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.
STEPHEN J. SOLARZ,
Chairman, Subcommittee on Asian and Pacific Affairs.

THE WHITE HOUSE,
Washington, June 9, 1992.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Washington, DC.

DEAR LEE: I am glad to respond to the letter from you and your three colleagues to the President of April 30, 1992 concerning aid to Afghanistan by noting that we fully share your belief that it is time to turn to reconstruction and relief in that country after the last decade of war. We are supplying food and medicines as emergency relief to the Afghan people. We have allocated and begun delivery of 10,000 tons of wheat for Kabul, which is part of 30,000 metric tons allocated for the entire country. We have also committed over $1 million for medical supplies and we are continuing our $50 million cross-border aid program to improve health, agriculture and education in Afghanistan.

We are also seeking to encourage other countries with an interest in stability in central Asia to assist in reconstruction. Finally, we are in close contact with the United Nations Coordinator for Humanitarian and Economic Assistance Programs Relating to Afghanistan (UNOCA) which is developing a comprehensive assessment of the country's needs and requirements.

The United States is proud of the role it has played in assisting the Afghan people in repelling aggression and defeating communism. We fully intend to assist the Afghan people in restoring their country to a peaceful and prosperous future.

Sincerely,

BRENT SCOWCROFT.

THE WHITE HOUSE,
Washington, DC, May 4, 1992.

Hon. LEE H. HAMILTON,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN HAMILTON: Thank you for your recent letter to the President, cosigned by three of your colleagues on the Committee on Foreign Affairs, expressing support for initiating an emergency operation to provide humanitarian assistance to the people of Afghanistan.

We appreciate being advised of your concern that prompt assistance is needed. I have shared your comments with President Bush. In addition, I have provided copies of your letter to the President's national security and foreign policy advisors for their review.

Thank you again for writing.

With best regards,

Sincerely,

NICHOLAS E. CALIO,
Assistant to the President for Legislative Affairs.

WINNING ESSAY OF CORINA ZAPPIA

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. BROOKS. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues an essay written by Corina Zappia of Beaumont, TX, in my congressional district. Corina's essay on "Development and Environment: What Can the United Nations Do?" won second prize in the 1992 national high school essay contest on the United Nations. Corina recently graduated from Monsignor Kelly High School in Beaumont, which has twice received the Department of Education's blue ribbon schools exemplary award. The text of her essay follows:

DEVELOPMENT AND ENVIRONMENT: WHAT CAN THE UNITED NATIONS DO?

(By Corina Zappia)

At night the well-lit chemical plants in my hometown resemble illuminated, mystical cities. During the day, however, the sunlight exposes their true identity—columns of majestic illusion are now shown to be dirty smokestacks emitting clouds of pollutants at a scary rate. The ugly presence of the plants is further dirtied by the increasing growth rate of cancer in the region. Unfortunately, these plants serve the area as the main source of employment. Closing down these plants or even cutting production rates would result in terminating job positions, further devastating the already disastrous economic state of the region.

The U.N. Conference on Environment and Development must produce solutions to the difficult problems like these of industrialized nations, and also those of developing countries in order to achieve an equal balance between environment and development. However, problems cannot be solved without a restructuring of priorities and budgets for governments, industries, and individuals. Failure to do so in the past has led to the present destruction of the rainforests, increased greenhouse effect, and the decrease in biological diversity.

Global warming is an immediate issue at hand, because of its drastic, fatal effects. A decline in precipitation will occur, leading to crop failure and expanding deserts in some areas; in other areas excessive rain will result in flooding and erosion. Sea level will rise, causing further flooding, particularly of coastal wetlands, which serve as a habitat for much of today's wildlife. Thirty percent of the world's population resides in a 31 mile area bordering the oceans and seas. Climates suitable for biological diversity will be affected deeply by the greenhouse effect—plants must adapt quickly and migrate impossible distances, or become extinct. The farming industry will be hit hard.

Greenhouse gases also have an adverse effect on the depletion of the ozone layer—just one CFC molecule can destroy 100,000 ozone molecules. Scientists estimate that a 1% decrease in ozone levels could lead to a 3% increase in certain types of skin cancers; aquatic life and food crops would also be affected.

The U.N. has taken significant steps to combat these problems. One such is the Montreal Protocol, which currently requires nations ratifying it to half CFC, halon, and carbon tetrachloride production by year 2000 and methyl chloroform by 2005; developing countries have 10 years to comply. Many U.N. agencies, including UNEP and UNESCO, have formed the Task Force on Climate to investigate the full effects of climate change on the environment. The UNEP has also joined with industry to form the International Environment Bureau as an information link between industry and government. The UNDP has instituted addressing global warming on their list of objectives, as well. Possible actions in the future for the U.N. and individual governments should include a set date for significant reduction of greenhouse gases for all member states (a revision of the Montreal Protocol, more or less), and an altered plan for developing countries (with a fund to help them achieve their goals).

The production of greenhouse gases are also the root of much of the pollution of the skies and sea, especially acid raid, which is primarily caused by the burning of fossil fuels. It causes acidification of waters (toxification of aquatic life), damage to tree foliage and important monuments, and degradation of soil quality. Every day 25,000 people die from water-related diseases because they have no clean water to use. Contaminated water from lakes and rivers also flows into the oceans. Stringent controls and accelerated clean-up schedules on sources of water pollution, prohibiting the export of wastes to other nations, and taxation on emissions of sulfur oxides, nitrogen oxides, and pesticides (forcing farmers to look to Integrated Pest Management to keep the bugs away) must be enforced The UNDP is currently providing technology to companies in developing countries that would produce less pollution, and, with other agencies, is trying to prevent the death of the Black Sea.

The creation of energy policies that promote energy efficiency and the research and use of alternative fuel sources would effectively address the problems of global warming, ozone depletion, and pollution to an extent, since most of this is spawned from unwise energy use. At present, however, little money is spent regarding safe alternatives to excessive fossil fuel consumption. In 1989, the leading industrial country spent only 7% of its 7.3 billion dollar energy funds on renewable technologies; most went to nuclear and fossil fuels. Lately, hydrogen stored solar power has become an extremely attractive option, in comparison to unsafe nuclear energy and ecologically destructive hydroelectric projects. Hydrogen is an almost completely clean burning gas, can be transported any distance with virtually no energy loss, is more easily stored than electricity, is produced without pollution and can be combined with natural gas in a 1:10 ratio. Furthermore, all the world's major population centers are within reach of sun-rich areas. Another great option is energy efficiency. Energy efficiency improvements worldwide could make a 3 billion ton difference in annual carbon emissions—possibly resulting in a .5-1.5 decrease in global temperatures by year 2075. In order to attain a safe, energy efficient future, governments must levy carbon taxes on fossil fuels; fuel taxes in the past have led to a decreased rate of gasoline consumption in many countries. Policies must be aimed at improving vehicle fuel-efficiency for upcoming cars, encourage a shift toward mass transit and the substitution of domestic energy sources.

The drastic increase in population has led to an expansion of inhabited and farmed areas, assisting in the rapid destruction of the tropical rainforests and biological diversity, the decay of the quality of land and water resources, and an increased greenhouse effect. In 1987, world population totaled approximately 5 billion. If birthrates do not decline at a much quicker rate, world population will triple before it stabilizes—many scientists believe global life support systems will give out before this occurs. Surprisingly, population growth is one of the easier problems to control, because the solutions are affordable, well-tested, and increasingly in demand. For just 16 dollars a couple per year (10 billion dollars total), contraceptive devices can be provided for anyone by the end of the century. If during the decade the share of fertile couples practicing family planning is increased to 75%, most population growth will terminate in 2050, where population would stand at 9 billion. New projects created by the UN and member states should include a greater support of the population fund set up by the UN, as well as incentives such as educational savings accounts and higher tax deductions for couples who limit their family size by abstinence.

Poverty plays a rather important role in the decay of the environment. Plummeting export prices and international debt often forces the poverty-stricken to resort to ecologically damaging methods to attain incomes to support their large families. Approximately 1.2 billion people live in absolute poverty (23.4% of the population), at least 200 million more than in 1980. Great strides have been made by the UNDP to combat this problem. Past projects have included finding alternative income sources for fishermen in the Philippines, lending 1.5 million to research in India for solar power projects, and forming the Global Environmental Facility, which works toward providing safe, technical, scientific, and financial support to lower income countries. New undertakings should include quenching the need for redistribution of farmland, empowerment of locals to control the resources, extension of credit, clean water supplies and adequate health care. Funding should come from military budgets—in 1988, countries spent 1 trillion dollars on military spending alone.

Many of the poor in Third World countries turn to logging, cattle ranching and farming in rainforest-rich areas, which proves to be only a little lucrative for short periods of time. These actions, along with commercial logging, cause serious effects. Mass deforestation accounts for a frightening amount of carbon dioxide emissions; less trees are left to soak up carbon dioxide emissions from other sources, greater rates of flooding occur, resulting in pollution of main water sources and loss of abundant amounts of wildlife living there. Two-fifths of the world's original rainforests have been wiped out, and the remaining is disappearing at an alarming rate—an acre every half a second. Also alarming is the rapid disappearance in biological diversity—at present rate of extinction, 20–50% of all known species exiting today will be lost by year 2000. The UNEP has invested 31 million dollars in 28 forestry-related projects in South America, 1.2 m. for a reforestation project in Thailand to promote good land use. Other U.N. agencies have worked with non-governmental organizations (NGOs) to produce the 1980 World Conservation Strategy and the 1975 Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, much more still needs to be one. More strictly controlled wetland and tropical forest reserves must be set aside for endangered species indigenous to that particular areas, extractive reserves set up to illustrate the importance of rainforests, education of locals on the importance of preservation and the dangers of poaching and assistance in developing alternative income projects must be given; some governments must place strict restraints on commercial logging and others, bans on rainforest lumber. Wildlife commerce should be monitored more efficiently.

The U.N. spends 20 billion dollars a year on development, a great deal of this used to improve the conditions of lower income countries which normally lead to exhaustion of resources and further destruction of the environment. Almost 25% of the 468 approved projects of the UNDP are environmentally linked. The most important element needed to be brought to UNCED is not a report on things done in the past, but a total willingness to re-prioritize desires in order to accommodate for the problems of the future, by far a harder objective to obtain. Nations must support the attempts of those around them, for what affects one nation will affect the other—ozone depleting chemicals used in North America have increased the danger of skin cancer in Australia.

The U.N. must set up new policies, priorities, and projects in all areas. NGOs should be allowed to attend more conventions where they could add to the reports on particular topics—especially NGOs formed from native tribes, who carry a great, unmatched knowledge of the importance of rainforests and the toils of poverty. Proposals from UNCED should be carried out and enforced by a large body which would decide on specific programs to implement the proposals, and would also root out and terminate development projects which have proven to be more harmful than helpful. Judgments on a country's efforts should be done by scientists, economic experts, and health officials to guarantee nonpolitical decisions. An international court would ensure that member states are held accountable for their actions and be required to restore and replace resources. Funding for these ideas would come from private grants and member states, who would be required to contribute a yearly amount based on their economic prosperity and past damage to the environment. This fund would also cover the building of U.N. scientific research and inventory centers located throughout the world that would deal with the common problems found in most countries.

Governments would focus on individuals and industries particular to their nation. Recycling should be promoted by fining residents who don't comply with curbside recycling programs, starting citywide compost heaps for lawn clippings, requiring places to use a certain percentage of recyclables, and taxing companies manufacturing products who packaging materials are virgin and excessive. Companies should be required to list the effects of their products on their labels and receive lower tax rates if they meet research and development criteria. Green taxes should be intermixed with lower income taxes, but still be enough to elicit a noticeable change in consumption habits for both industry and the individual. Governments must include factors such as damage to environment, literacy rate, infant mortality, and other indicators in the Gross National Product.

NGOs should work with governments and the U.N. in all their endeavors. They should combine forces in an effort to bring environmental education to the curricula of schools and universities and increase literacy rates. NGOs should increase environmental awareness in the individual through symposia, lectures, workshops, nature outings, and by further publicizing recent laws passed. More advanced, larger NGOs should start internship and exchange programs with organizations of a smaller nature—both groups can learn more this way.

More important than the need for certain laws to be passed, however, is the need for a change in priorities of the individual. Without the physical backing it needs, any proposals of the government, U.N., and industry can fall apart, no matter how great they are. Individuals must utilize their position as consumer, boycotting products harmful to the environment. They should practice family planning and consider adoption as a way to expand family size. Consumption in industrialized countries must drop significantly. "Conservation and recycling" must become the motto in every household, and Junior should be given a city bus pass instead of a car for his sixteenth birthday. People should take more concern in new laws passed, and write letters urging their government to pass bills that would improve the environmental status of their country.

Repairing the damage done to the environment will not be an easy task, and will take a bite out of every budget—the U.N. estimates the minimum cost to stop desertification is about 4.5 billion dollars, and hundreds of billions must be spent to slow global warming. Prompt action must be taken, for our planet as we know it can only survive so much longer under such ecologically exhausting conditions. By the end of this century, a third of the earth's once fertile land will be useless. A million species could completely disappear from the surface of the earth—the greatest loss of life in history. The policies formed at the UNCED must "more than issue a challenge . . . inspire(s) the belief that this challenge can be met."

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CONGRATULATING WOLFE PUBLICATIONS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. HORTON. Mr. Speaker, I rise to commend Wolfe Publications on being awarded first prize for general excellence by Suburban Newspapers of America, a key national competition. The award was bestowed upon the Brighton-Pittsford Post, but reflects the excellence of all nine Wolfe Newspapers, including: the Brockport Post, East Rochester Post-Herald, the Greece Post, the Henrietta Post, Irondequoit Press, Penfield Post-Republican, the Webster Post, and the Perinton-Fariport Post.

The Brighton-Pittsford Post was singled out in the class A competition, which drew 74 entries in a membership generally recognized as the blue-ribbon group of the country's leading community and suburban newspapers. Overall the group includes more than 400 newspapers.

In selecting the winner of this year's competition, Suburban Newspapers of America graded three editions of each newspaper from 1991 on three elements: editorial content, advertising style, and typographical design. Points were awarded for quality of news writing and coverage, feature writing, sports writing, photography, lifestyle pages, editorial pages, and editing.

Started in 1956 with the purchase of the Brighton-Pittsford Post, the Penfield Republican, and the East Rochester Herald, Wolfe Community Newspapers has become an institution in the communities that its papers serve. Under the direction of editor and publisher, Andrew Wolfe, and his son, managing editor John Wolfe, the papers have grown in quality and in circulation. Gross circulation is now more than 45,000. In 1956, it was 1,250.

Wolfe Newspapers operates a 20,000-square foot printing plant in Fishers, NY, and has offices in Webster, Irondequoit, Greece, Brockport, and in the Phoenix Building Pittsford. It employs more than 80 full-time employees and many additional parttime. Their combined service records total more than 1,000 years.

I commend Wolfe Newspapers for the outstanding job that they do covering their communities. And I want to congratulate them for being publicly recognized as being the best in the Nation—something those of us in the Rochester area have known for many years.

INTRODUCTION OF SOCIAL SECURITY LEGISLATION

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Ms. SNOWE. Mr. Speaker, today I am pleased to introduce legislation which would prorate the Social Security check in the month of a beneficiary's death. I believe this legislation will take a very important step toward providing protection to the spouses of those beneficiaries who have recently passed away.

Currently, when a Social Security beneficiary dies, his or her last monthly benefit check must be returned to the Social Security Administration. This provision often causes serious problems for the surviving spouse because he or she is unable to financially subsidize the expenses accrued by the late beneficiary in their last month of life. This provision seems particularly problematic when a beneficiary dies late in the month.

Does current law assume that a beneficiary has not incurred expenses during his or her last month of life? The simple answer is "Yes." However, the financial situation the surviving spouse often faces is not so simple. It often entails having to return money that has already been spent.

The current law creates problems given that the surviving spouse incurs expenses for the late beneficiary up until the date of death. Legislation to change this law is necessary because many spouses find themselves faced with additional financial burdens during these emotionally trying times which could potentially be relieved if these benefits were pro-rated.

My bill would correct the current inequity while saving on both cost and administrative hassle. This bill would allow the spouse of the beneficiary who dies in the first 15 days of the month to receive one-half of his or her spouse's regular benefits, and the spouse of the beneficiary who dies in the latter half of the month to receive the full monthly benefit.

Mr. Speaker, it is not often enough that Congress can take an action as simple as this that will have such a direct and positive impact on Social Security beneficiaries. Certainly this is a bill that is both sensible and necessary. I believe this is a fair and simple way to deal with an unfair situation. I hope that I will have the full support of my colleagues.

DR. KAROL THOMPSON: LEADERSHIP IN TEACHING

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. HOYER. Mr. Speaker, I rise today to recognize the accomplishments of one of Prince Georges' finest educators. Teachers across the Nation work every day to improve America's future believing that America's future depends on the stability of its infrastructure; Dr. Karol Thompson, a teacher in the Prince Georges County school system for 30 years has recognized that the best investment in America is in its human infrastructure—the leaders of tomorrow.

The measure of leadership will depend on the quality of preparation and education of our youth to assume this challenge, and Suitland High School has been fortunate to have in its hands a master teacher who has devoted her time and energy to preparing hundreds of young people for the challenge of tomorrow's leadership.

Dr. Karol Thompson has taught art at Suitland High School, most of those years in the same classroom, until she spearheaded the effort to create the Suitland Center for the Arts and became its chairperson. Her students represent a spectrum of achievement that has surpassed, year after year, other counties in Maryland, as well as the Washington Metropolitan Area. In 1988, Karol was one of a handful of teachers honored by the Washington Post Agnes Meyer Outstanding Teacher Award. Her accomplishments are many, from personal academic achievement to participation at every level in the county and State art fields, to shepherding her students onto the best art schools in the country.

Karol has instilled in her students a desire for excellence and has provided the tools for them to reach for and realize their individual goals. She has nurtured, cajoled, challenged, demanded, and dared her students to be the best. Even the most reluctant student has "come to consciousness." Because of Karol's efforts, Suitland's art graduates have received millions of dollars in scholarships during her tenure, and Suitland High School has been recognized as a leader in the arts by the staggering number of art awards its students have received and by the quality of its art students.

This is America's best investment in the future—in our students and in our educators—to create the leaders who will take us into the 21st century with intelligence, compassion, and care.

We celebrate Karol's career, her master teaching, and the difference she has made in the lives of thousands of students at Suitland High School. Her work is an inspiration to us all—to reach beyond our perceived limits, and to soar.

TRIBUTE TO VICTOR M. FRANCO

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. TORRES. Mr. Speaker, today I rise to ask my colleagues to recognize my dear friend, Victor M. Franco, manager of public relations, Miller Brewing Co., Irwindale, CA. On June 18, 1992, Victor will be given the 1992 Jimmy Stewart Good Turn Award by the Los Angeles Area Council, Boy Scouts of America. The award is being presented to Victor in recognition for his years of service to the greater Los Angeles community.

A native of Mexico, at age 7, Victor and his family moved to Compton, where he attended local schools. After earning his associate of arts degree from Compton College, he attended the University of California, Los Angeles. Eventually, he graduated with a bachelor's degree from California State University, Los Angeles. Victor, and his beautiful wife, Gisselle, are expecting their first child, Noel, next month.

Prior to working for Miller Brewing Co., Victor served as manager of protocol for the 1984 Los Angeles Olympic Organizing Committee. His responsibilities included coordinating and overseeing the visits for foreign dignitaries and delegations to the Olympic games. He also served as the public information officer for the East Los Angeles Regional Center, an agency which serves the developmentally disabled.

Victor serves on numerous civic, community, and professional boards of directors including Salesian Boys and Girls Club, Latin Business Association, East Los Angeles Retarded Citizens Association, Asian Pacific Counseling Center, and the Business Advisory Board of the NAACP. He is also a member of the National Public Relations Association, California Chicano News Media Association, and the Association of Mexican-American Educators.

Additionally, Victor serves on the advisory boards to the USC Presidents Circle-School of Social Work, California State University, Dominguez Hills, and Lifesavers Inc. Lifesavers is an organization that helps leukemia victims find matching bone marrow donors. Recently, the Los Angeles Boy Scout Council appointed Victor to serve as chair of its Hispanic Initiative, a program directed to outreach and recruit Hispanics for membership in the scouting program.

Earlier this year, Victor helped create and launch Miller's newest scholarship program, "Tools for Success." Under the program, graduating students from Los Angeles Trade and Technical College receive the tools they will need to practice their chosen trade. This program not only recognizes the academic achievements of the students, but also helps them jump start their careers.

Victor has dedicated his life to serving others. His contributions to the betterment of our communities are legend. He has received a myriad of awards for his tireless support of civic and business organizations. I know that communities and organizations throughout the Los Angeles Basin can, and often do, count on Victor for his assistance. He is a true community asset and humanitarian.

Mr. Speaker, I ask my colleagues to join me in saluting a fine individual, avid golfer and friend, Victor M. Franco, for his outstanding record of public service to the people of the greater Los Angeles area and to wish him, Gisselle, and the future Noel the best in their future endeavors.

TRIBUTE TO DALLAS LODGE NO. 396, FREE AND ACCEPTED MASONS OF EASTON, PA, ON ITS 125TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to Dallas Lodge No. 396, Free and Accepted Masons of Easton, PA, as its members celebrate their 125th anniversary and its legacy of service and fellowship to the city of Easton and our entire Lehigh Valley community.

Dallas Lodge No. 396 was officially instituted on July 9, 1867 with 15 charter members. According to Harold Kist, a member of Dallas Lodge No. 396, it was the antimasonic feeling brought on by the Morgan Affair in the 1830's and the unstable atmosphere, created by the devastation of the Civil War, that encouraged 15 members of Easton Lodge No. 152 to undertake the task of establishing a new lodge.

The task was completed after Right Worshipful Grand Master Brother George Sweeney and a delegation of the officers of the Grand Lodge of Pennsylvania traveled from Philadelphia to Easton to consecrate Dallas Lodge No. 396. Whereupon, they conducted the ritual and ceremony of installing its first officers and appointed James L. Mingle as their first Worshipful Master.

The lodge was named in honor of George M. Dallas who served as Vice President of the United States under President James Polk. George Dallas was a prominent Pennsylvanian who was also the Right Worshipful Grand Master of the Grand Lodge Freemasons of Pennsylvania in 1834.

The membership of the Dallas Lodge consists of many prominent men from a wide range of professional backgrounds such as merchants, lawyers, physicians, teachers, judges, manufacturers, civil servants, craftsmen, and tradesmen. Many businesses and buildings in the Easton community bear the names of Dallas lodgemembers. One of the most celebrated members of Dallas lodge was William W. Cottingham, who was at one time the superintendent of the Easton area schools. His name blesses such buildings in the Easton community as the Cottingham School on Northampton Street and Cottingham Stadium on 12th Street.

The site of the Dallas lodge meetings has changed over the years from its origins at the northeast corner of South Third and Ferry Streets, which is now a parking garage, to its present sight at 629 Pierce Street. But their dedication and commitment to their fellow citizens in their community has not changed. Through their kind spirit and generosity, they have supported such organizations as the Pennsylvania Foundation of Drug and Alcohol Abuse Among Children, the Masonic Home in Elizabethtown, and the local emergency fund in the Lehigh Valley community.

Mr. Speaker, I am proud to represent the fine members of Dallas Lodge No. 396 in Congress. They continue to embody the spirit and philosophy of Freemasonry that has encouraged its members to rise and meet the needs and challenges of the Lehigh Valley community and our great Nation. I ask you and my colleagues to join me in congratulating Worshipful Master A. Richard Smith and the members of Dallas Lodge No. 396, Free and Accepted Masons on their 125th anniversary. As a brother Mason, I thank them for their many contributions to the Easton community and to the people of the Lehigh Valley, and I wish them many more years of fellowship and prosperity.

HONORING JOSEPH HALFON

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. GILMAN. Mr. Speaker, permit me to take this opportunity to pay tribute to an outstanding resident of our 22d Congressional District of New York, Mr. Joseph Halfon of the town of Ramapo.

Joe Halfon has been appointed by the President to the United States Commission for the Preservation of America's Heritage Abroad. Accordingly, the administration is about to learn what we in the Hudson Valley region of New York have long known—if you have a job to do, count on Joe to get it done; if you have a difficult task to perform, Joe will accomplish it; if it is impossible, Joe will take a little longer but it will be achieved.

Joe Halfon personifies the adage that it is a busy person who accomplishes the most. His entire life has been a tribute to community service. Joe is a member of the Spring Valley Rotary and serves as the scholarship chairman for that group. He is a member of the Athelstane Lodge of Masons, of the Ramapo Lodge of the Knights of Pythias, and is a member of the D.O.K.K., the charity group for the Knights.

Joe Halfon is a past member of the Board of Directors of the Association for Retarded

Children. He is past commissioner of the Boy Scouts, the Spring Valley Little League, and the Heart Fund. Joe has worked with Jerry Lewis on the famous Labor Day Telethons to benefit Muscular Dystrophy. He was a fundraiser for the Jeri Finesilver Cancer Foundation at Northshore Hospital, was a member of the Metropolitan Opera Guild, a member of the Rockland County Natural Beauty Environmental Committee, and a member of the Linguanti Lodge of the Sons of Italy.

Joe Halfon has been as immense help to my office in many ways, perhaps most notably as a member of our 22d Congressional District Environmental Committee. Joe is the kind of American who recognizes the need to preserve our environment for future generations, while recognizing that realistic, controlled growth is not only necessary but is inevitable.

In 1989, Joe Halfon was appointed recruiting operations supervisor of district office No. 2223 of the Bureau of the Census. As Census coordinator for our region, Joe conducted himself in a thoroughly professional manner. I have often stated that the problems with the 1990 Census which plagued other regions of our Nation were virtually nonexistent in our Hudson Valley due to Joe's hard work and diligence.

Joe Halfon has been married for over 32 years to the lovely Rhoda Lee. Their three grown sons, Neil, Bruce, and Michael, are proud of the outstanding example which Joe and Rhoda have established for them.

Mr. Speaker, the President could not have made a better selection for the U.S. Commission for the Preservation of America's Heritage Abroad. Joe Halfon will bring his professionalism and dedication to this position. Our Hodson Valley region is proud of this truly outstanding citizen.

TRIBUTE TO OLIVA C. POWELL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. BLACKWELL. Mr. Speaker, I rise to honor one of my most venerable constituents, Oliva C. Powell. Mrs. Powell was born on this day in 1892, and today celebrates her 100th birthday.

Mr. Speaker, in her 100 years, Mrs. Powell has seen enormous changes in her country. When she was born on a farm in North Carolina, she lived in a growing nation of farms, shops, and a new idea called industrialism. People got around on foot or by horse-and-carriage, and Henry Ford was still puzzling over ways to make automobiles accessible to the average American. Slavery had only recently been abolished; many minorities and women were denied their constitutional right to vote. Benjamin Harrison was President of the United States.

Since then, Mrs. Powell has seen the growth of the United States into a world power and a technological leader. She has seen cars become a standard mode of travel, of the invention of airplanes, of rockets, of computers. She has lived through over a dozen Presidents, six wars, and one depression. She has seen an increase in rights for minorities and women. But through it all, Oliva Powell has remained a steadfast, hard-working, loving woman. She worked on a farm from a young age until her retirement. She married the late Norman Cooper, and together they had 10 children, as well as 3 others whom they adopted and raised as their own. Her family knows her as a strong woman, a faithful Christian, and a wonderful mother and grandmother. It was because of the strength of people like Mrs. Powell that our Nation has flourished over the past century, and I ask my colleagues to join in congratulating Oliva Powell on the occasion of her 100th birthday.

TRIBUTE TO HURON LODGE NO. 6641

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. BONIOR. Mr. Speaker, I would like to congratulate Huron Lodge No. 6641 of the Brotherhood of Railway Carmen Division of the Transportation Communications International Union on its 75th anniversary celebration June 13. Huron Lodge 6641 has been an integral part of the labor movement and a deeply committed friend of railway carmen.

It all started back in 1917, in a small room with 16 people attending the first meeting. Since then, Huron Lodge No. 6641 has grown to represent more than 243 active and retired carmen.

In many ways, Huron Lodge No. 6641 has come to symbolize our dedication to fairness and justice in the workplace and our society. At a time when our country is struggling to preserve its industrial base, Huron Lodge No. 6641 has remained a strong voice in the labor movement.

Mr. Speaker, on this special occasion, I ask that my colleagues join me in saluting the membership of Huron Lodge 6641 for their many years of service and dedication to the labor community in Michigan.

TRIBUTE TO LUPE GUTIERREZ, SR.

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. LAUGHLIN. Mr. Speaker, it gives me great pleasure to call the attention of this body to Mr. Lupe Gutierrez, Sr., a resident of Port Lavaca on the Texas coastline.

Mr. Gutierrez is being honored on Saturday by his friends and the members of the American G.I. Forum for his outstanding commitment to the youth and the veterans of the community.

For the last 20 years, under Mr. Gutierrez' leadership, the American G.I. Forum has provided thousands of dollars toward educating our youth. For the last 10 years the G.I. Forum has granted more than 20 scholarships per year to local students. These scholarships are available to the recipient as long as the student continues their education. Mr. Gutierrez is a strong believer in the G.I. Forum's motto: "Education is our freedom and freedom should be everybody's business."

A veteran of the Korean conflict, Mr. Gutierrez has been a member of the G.I. Forum for 37 years. He served as local chairman for 14 years; as State vice-chairman; and is currently State chairman of the G.I. Forum. In 1989 Mr. Gutierrez was selected as the American G.I. Forum's Man of the Year. For the past 8 years Mr. Gutierrez has served on the National Advisory Board of the Veterans Outreach Program. His commitment to veterans is exemplary.

The dedication Mr. Gutierrez has shown to his community, from the youth to the elderly, is nothing short of a perfect example of community involvement and caring.

TRIBUTE TO THE STINGERETTE TWIRLERS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to commend the Stingerette Twirlers of Corpus Christi, TX, under the direction of Mrs. Nancy Eisenhower.

The National Festival of the States Association selected the Stingerette Twirlers to represent the State of Texas at the 1992 "Musical Salute to the Discovery of America" commemorating the 500th anniversary of the encounter of America by Christopher Columbus.

These young women have worked very hard for the past few years to achieve and maintain State and national championship titles. Their hard work and efforts have led them to this great accomplishment.

I ask my colleagues to join me in extending congratulations to the Stingerette Twirlers of Corpus Christi, TX, for their achievement in being selected to represent Texas in this important national event.

I urge my colleagues to attend the performances of these talented young women at one of the following locations: the Jefferson Memorial, the Lincoln Monument, and at the U.S. Soldiers and Airmen's Retirement Home.

TRIBUTE TO MR. DONALD C. NEWTON

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. WALSH. Mr. Speaker, I rise today to honor a gentleman, businessman, civic leader, and strong supporter of good government, Mr. Donald C. Newton, on the occasion of his 50th anniversary of service to his clients of the Connecticut Mutual Life Insurance Co.

Don Newton will be honored this week by the Syracuse Association of Life Underwriters. His accomplishments in the life insurance business are legion. The respect he has earned as a leader in commerce and in humanity are enviable. I want my colleagues to know how impressive Don Newton's record is.

He graduated from Syracuse University, where he earned bachelor's and master's degrees in 1930. He began his insurance career in 1932 and received his chartered life underwriter's designation in 1939.

As I suggested, he has been honored by the life insurance industry many times, including the Exceptional Life Insurance in Force Award for having $35 million or more of life insurance in force and $750,000 or more in annual premiums in force among his clients.

Don Newton has qualified for National Quality awards since 1945. He has been a life and qualifying member of the National Million Dollar Round Table for 24 years. He has supported numerous civic groups. He helped to create and served as president of the Child and Family Service of Syracuse and Onondaga County. He has held office in the Hiscock Legal Aid Society, Boy Scouts, Girls Scouts, American Red Cross, Danforth United Church, Council of Social Agencies, and more. He has been a United Way volunteer for more than 25 years.

Mr. Newton is an esteemed member of our Central New York community. He is the kind of person to whom I point with pride as an example of how pitching in and using a problemsolving approach best addresses most community concerns.

I join Mr. Newton's partners Sal Bellavia and Robert Waters and those friends, colleagues and family who meet to salute him this week for his service to the people.

MCKESSON DRUG CO.'S ANNUAL TRADE SHOW

HON. BILL BREWSTER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. BREWSTER. Mr. Speaker, I rise today to welcome over 4,000 drugstore pharmacists, owners, and managers from all over the country who will be in Washington from June 21 through June 28 to attend the McKesson Drug Co.'s annual trade show. An additional 450 manufacturers and pharmaceuticals and health and beauty care items will also attend the trade show, which is the largest of its kind in the country.

Working on the front lines of our Nation's health care delivery system, pharmacists, and drugstore owners are in daily contact with thousands of Americans. The confidence our citizens have in them is demonstrated in the results of a recent poll in which pharmacists were identified, for the third consecutive year, as the most respected American professionals.

Featuring the theme "Celebrate America," the 17th annual trade show will include a vast array of products displayed on the trade show floor, continuing education classes, various events which will be addressed by Members of Congress and the administration, and two large congressional receptions.

Mr. Speaker, I am proud to be a registered pharmacist and to see so many of my peers prepare to gather in Washington for participation in the McKesson trade show. I am pleased that McKesson chose to bring its trade show to Washington and wish all participants a week of education and enjoyment in the Nation's capital.

THE 52D ANNIVERSARY OF LITHUANIA'S LOSS OF INDEPENDENCE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 15, 1992

Mr. LEWIS of Florida. Mr. Speaker, today marks the 52d anniversary of Lithuania's loss of independence at the hands of the Soviet Union.

On June 15, 1940, after threats from the Soviet Government, the Red army stormed through Lithuania's borders and declared the Baltic States' legitimate government powerless. They ensured the people of Lithuania they would remain an independent country, yet introduced the Communist Party as the ruling government entity, stifling any promise of political freedom.

The Soviet Union subsequently accused the Lithuanian Government of kidnaping two Soviet soldiers. The Soviet's then moved into the country and squelched all hope of independence.

A constituent of mine, Mr. Paul Labanauskas, was a Lithuanian Navy commander during the turmoil preceding the Soviet takeover. Mr. Labanauskas recalls leaving Lithuania 2 hours before the Soviet Army moved in. His ship, *Prezidentas Smetona,* was left with no home port. He was able to escape 34 days later on a sailboat.

Now, 52 years later, Lithuania, Estonia and Latvia are still recovering from the devastating coup led by the Soviet Red army. In typical Baltic fashion, however, these brave people continue to dream of true freedom and independence.

Even after the Soviet Union's dissolution, Russian troops continued to remind the Lithuanian people how tenuous is their hold on freedom. Russian troops remain in Baltic territory, creating insecurity for their independence.

Just recently, a Libyan submarine, purchased from Moscow, was reportedly found in a Russian-controlled factory in Latvia. This action surely circumvents United Nation sanctions agreed upon by both Russia and Latvia.

The United States never recognized the Soviet annexation of the Baltic States, we should not now ignore the presence of Russian troops on Baltic soil.

As Americans, having struggled to attain the personal and political freedom in the early years of this country's existence, we must support the continued courage of the Lithuanian people, and all people of the Baltic States, by restricting economic assistance to Russia until their troops are out of the Baltic countries.

Independence is the cornerstone of this freedom and we cannot, in good faith, forget the past 52 years when independence was never realized by these three Baltic States.

As we commemorate this anniversary, we must remember that the cause of freedom is a neverending struggle. The people of Lithuania and the other Baltic States know this all to well. As Americans we sometimes need to be reminded. To be reminded, one must look no further than Lithuania.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 16, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 17

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1866, to promote community based economic development and to provide assistance for community development corporations, S. 2141, to revise the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, S. 2060, to revise and authorize funds through fiscal year 1994 for the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, S. 25, to protect the reproductive rights of women by providing that a State may not restrict the right of a woman to choose to terminate a pregnancy, and to consider pending nominations.

SD-430

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee

To hold hearings to examine telecommunications technology as related to the field of education.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Finance

To resume hearings to examine comprehensive health care reform, focusing on proposals for instituting universal coverage through public health insurance programs.

SD-215

Rules and Administration
Business meeting, to mark up pending calendar business.
SR-301

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the government of the District of Columbia.
SD-138

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the current condition of the thrift industry and the outlook for its future.
SD-538

Small Business
Business meeting, to mark up H.R. 4111, to revise the Small Business Act to provide additional loan assistance to small businesses.
SR-428A

2:00 p.m.
Armed Services
To resume hearings on S. 2629, to authorize funds for fiscal year 1993 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1993, focusing on the bomber "roadmap" and related bomber programs, and on the Tri-Service Standoff Attack Missile (TSSAM).
SR-222

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings to examine proposals for reform in the maritime industry intended to spur employment and activity.
SR-253

Energy and Natural Resources
To hold hearings on the nominations of Jerry Jay Langdon, of Texas, and William C. Liedtke III, of Oklahoma, each to be a Member of the Federal Energy Regulatory Commission, Department of Energy.
SD-366

2:15 p.m.
Foreign Relations
To hold hearings on the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (Treaty Doc. 102-30).
SD-419

JUNE 18

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine State regulation of natural gas production.
SD-366

Finance
To continue hearings to examine comprehensive health care reform, focusing on proposals for tax-incentive based health care reform.
SD-215

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine international aspects of Asian organized crime.
SD-342

Select on Indian Affairs
To hold hearings on S. 2044, to assist Native Americans in assuring the survival and continuing vitality of their languages.
SR-485

Special on Aging
To hold hearings to examine the health benefits of art and dance to the nation's elderly and disabled population.
SH-216

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Fish and Wildlife Service, Department of the Interior.
S-128, Capitol

Banking, Housing, and Urban Affairs
Business meeting, to mark up proposed legislation providing for national affordable housing, and authorizing funds for the Export-Import Bank.
SD-538

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on the U.S. and Foreign Commercial Service, Department of Commerce.
SR-253

Judiciary
To hold hearings on the nominations of Norman H. Stahl, of New Hampshire, to be United States Circuit Judge for the First Circuit, Thomas K. Moore, to be a Judge of the District Court of the Virgin Islands, Eduardo C. Robreno, to be United States District Judge for the Eastern District of Pennsylvania, and Gordon J. Quist, to be United States District Judge for the Western District of Michigan.
SD-628

2:30 p.m.
Armed Services
To hold hearings to examine security issues in the Pacific region.
SR-222

Judiciary
To hold hearings to examine competition policy and how it impacts on the global economy, focusing on antitrust law.
SD-226

JUNE 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on the proposed Crow Settlement Act.
SR-485

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine the U.S. Fish and Wildlife Service's administration of the National Wildlife Refuge System, and on S. 1862, to improve the administration, management, and compatibility process of the National Wildlife Refuge System.
SD-406

JUNE 23

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the National Telecommunications Information Administration, Department of Commerce.
SR-253

10:00 a.m.
Foreign Relations
To hold hearings on the Treaty Between the U.S. and USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20).
SD-419

2:30 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 225, to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, S. 1925, to remove a restriction from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, S. 2563, to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in New Jersey, S. 2006, to establish the Fox River National Heritage Corridor in Wisconsin, H.R. 2181, to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by Ohio, H.R. 2444, to revise the boundaries of the George Washington Birthplace National Monument, and H.R. 3519, to authorize the establishment of the Steamtown National Historic Site.
SD-366

JUNE 24

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation relating to the National Indian Policy Center.
SR-485

Select on POW/MIA Affairs
To hold hearings to examine the Department of Defense's accounting process for Americans missing in Southeast Asia.
SH-216

10:00 a.m.
Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

JUNE 25

9:30 a.m.
Select on POW/MIA Affairs
To continue hearings to examine the Department of Defense's accounting process for Americans missing in Southeast Asia.
SH-216

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1879, to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, S. 1990, to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington, S. 2392, to establish a right-of-way corridor for electric power transmission lines in the Sunrise Mountain in the State of Nevada, S. 2397, to expand the boundaries of the Yucca House National Monument in Colorado, to authorize the acquisition of certain

lands with the boundaries, S. 2606, to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands, and S. 2749, to grant a right of use and occupancy of certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange.

SD-366

JUNE 30

10:00 a.m.

Veterans' Affairs

To hold hearings to examine the needs of women veterans who were sexually abused during service.

SD-G50

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

SR-236

JULY 1

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on mobile communications.

SR-253

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 1096, to authorize funds for fiscal years 1992 through 1995 for programs, functions, and activities of the Bureau of Land Management, Department of the Interior.

SD-366

JULY 2

9:30 a.m.

Select on Indian Affairs

To hold oversight hearings on fractionated heirships, Indian probate, oil and gas royalty management, land consolidation demonstration programs.

SR-485

10:00 a.m.

Veterans' Affairs

To hold hearings on S. 2028, to revise title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs.

SR-418

JULY 22

9:30 a.m.

Rules and Administration

To hold hearings on S. 2748, to authorize the Library of Congress to provide certain information products and services.

SR-301

AUGUST 4

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 2746, to extend the purposes of the Overseas Private Investment Corporation to include American Indian Tribes and Alaska Natives.

SR-485

CANCELLATIONS

JUNE 18

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 2232, to require manufacturers of new automobiles to affix a label containing certain consumer information on each automobile manufactured after a specified year.

SR-253

SENATE—*Tuesday, June 16, 1992*

(Legislative day of Thursday, March 26, 1992)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint.*—Isaiah 40:31.

Eternal God, perfect in love and mercy, we thank You for this wonderful word from Isaiah for those who serve the Lord. Nobody works harder than Senators, for longer hours, under greater pressure. The problems of millions of constituents, cities, counties, States, regions, and multitudes of special interests, not to mention the world, come to focus on the United States Senate. And they are expected to do something about it.

Grant to Your servants a sense of Your presence, Your infinite love, Your inexhaustible sufficiency for all things. For the one who is especially burdened at this time, lift that burden and infuse all with Your peace and Your unlimited grace. Cover this place with Your love, gracious God.

We pray in His name who is Love incarnate, the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 16, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Colorado is recognized to speak for up to 45 minutes.

Mr. BROWN. Mr. President, I yield 5 minutes to the distinguished Senator from Maine.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I thank my colleague for yielding.

S. 55, THE WORKPLACE FAIRNESS ACT

Mr. COHEN. Mr. President, I rise today in consideration of S. 55 as amended and the question of whether or not workers should have the right to strike without the threat of being permanently replaced.

The current law states that both management and labor must bargain in good faith, and is based on the assumptions that there is a relative balance of economic power held by each side and that each has something important to gain by pursuing a negotiated settlement and something important to lose if negotiations collapse.

I have listened carefully for many months as both sides have debated this controversial topic and considered whether or not this balance has been disrupted.

Labor has proposed that without this legislation the survival of collective bargaining is in doubt. Labor also believes that more and more employers are turning to the threat of early use of permanent replacement workers as a way to force the unions into signing a contract. If this is the case, then the balance that has been maintained for so many years would appear to be in jeopardy. But business argues that the current law poses an equal risk to both sides by allowing workers the right to strike and, under certain circumstances, management's ability to hire permanent replacements. Management also argues that in today's high-technology workplace, it is very difficult to find qualified replacement workers and, therefore, the decision to hire replacements is the employer's last resort.

I am disturbed by this situation and the unwillingness of both sides to find an acceptable alternative to the status quo. This mutual intransigence is unfortunately not a new situation. It is one which, in fact, has left a bitter scar on my own State's town of Jay. Five years ago, after the United Paperworkers International Union and the management of International Paper could not come to a contract agreement, a strike ensued and the company began hiring replacement workers. Of the approximately 1,200 workers who were replaced, only about 300 have been able to return to work as positions have opened up within the mill. Jay is a town whose spirit has been damaged and will remain so for decades to come.

The General Accounting Office's 1991 study on the trends of strikes showed that the number of strikes in the United States declined about 53 percent in the 1980's compared with the 1970's. In the years 1985 and 1989, permanent replacements were hired in 17 percent of all strikes and GAO estimates this amounted to about 4 percent of all striking workers being permanently replaced in each of these years. The impact of these statistics can be viewed from both sides. It can be argued that they indicate that the threat of permanent replacement workers has increasingly forced labor to accept otherwise unacceptable agreements or that management and labor are more willing to compromise due to the economic threat to both sides.

Labor contends that its right to strike is of bedrock importance and will be preserved by the passage of S. 55 as modified. Management sees passage of the bill as undercutting a process that currently provides neutrality.

We are not in the economic times of the past, when labor unions felt strong and confident, and businesses had customers waiting at the door. We are in a time when unemployment is high and union enrollment is decreasing. Businesses are closing their doors due to an increasing influx of foreign products and the inability to compete in overseas markets.

Mr. President, we find ourselves in this debate today because labor and management seem unable to address the long-term consequences of our present system for dealing with disputes. At a time when the country is suffering from deep economic strife, work stoppages like the one in Jay, ME, or the highly publicized Caterpillar strike in Illinois serve only to leave us in this quagmire. We need to work together to pull ourselves out, instead

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of placing the wedge deeper in the crevice of this current debate.

I would contend that both sides need to review their positions if we are determined to revive our ability to compete and succeed in an ever evolving world economy.

In view of the intransigence of both sides and the prospect of continued damage to the American people and our economy, I seriously considered offering an amendment to require the use of binding arbitration in certain circumstances.

In my study of this issue, I found that neither labor nor management wants to be forced to come to the table to accept a resolution offered by a third party. Yet, ironically, the Senate stands today as a third party considering the imposition of a solution to a major issue in labor management relations—the use of permanent replacement workers.

The Senator from Oregon has proposed an amendment that seeks to bridge the gap that continues to exist between labor and management, and I believe he deserves our sincere commendation for his efforts.

But the amendment, as I understand it does not quite achieve the neutrality—or the symmetry—that I believe is necessary.

It may be, as the Senator from Utah maintains, that the very existence of a mediation panel would only encourage both parties to adopt extreme positions in their negotiations with the thought that a mediation panel would, in striking a balance, draw an equidistant line that would provide each side with a benefit neither could have achieved at the bargaining table. If this should prove to be the case, then the legislation would not facilitate fair bargaining, but legitimize what would otherwise be labeled unfair tactics.

It seems to me that management, as well as labor, should be allowed to call for the mediation panel to resolve disputes in order to avoid a strike—a modification that the sponsors of this amendment could easily correct.

But there is a further question of symmetry posed by the amendment offered by the Senator from Oregon.

If labor invites the mediation panel to resolve the dispute and then disagrees with the recommendation, it can then resort to a strike—during which time management can hire permanent replacement workers.

Assuming management can, in fact, find permanent workers and begins doing so, labor can at a later time accept the panel's recommendation, and permanent replacements may not be hired from that point forward.

But if business rejects the panel's recommendation in the first instance, it cannot hire permanent replacements under any circumstances.

Labor in my judgment, would then be in a position to seek a mediated solution, strike and call management's hand. If management proceeds to hire replacement workers, then the union could accept the mediator's proposal and return to work. Management on the other hand must take it and not leave it.

I am not prepared to offer a modification to accept the imbalance at this time, but I believe that further consideration must be given to finding a better solution to the challenge of establishing a more cooperative and harmonious relationship between labor and management. This would include allowing either party to initiate a request for a mediation panel and both parties to be bound by the findings and recommendations of that panel.

For the time being, I am not prepared to invoke cloture.

But If I become persuaded that management is indeed resorting to a permanent worker replacement strategy in order to undercut the legitimate collective-bargaining rights of labor, then I will not hesitate to vote to change the law in the future.

I want to emphasize that management should not construe today's vote as a license to engage in unfair practices or take advantage of the law by resorting to permanent replacements as a first resort rather than the last.

At the end of the strike at Caterpillar earlier this year, I was dismayed that the initial reaction on the part of management was that it was not going to rehire many of the workers who had decided to strike. Fortunately, that position was quickly reversed, but it revealed an arrogance that if allowed to go unchecked will ensure the passage of some form of S. 55 in the future.

Mr. BROWN. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

The ACTING PRESDIENT pro tempore. The Senator from Illinois is recognized.

CONGRATULATING THE NBA CHAMPION CHICAGO BULLS

Mr. DIXON. Mr. President, I send a resolution to the desk congratulating the NBA champion Chicago Bulls and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 315) to congratulate the Chicago Bulls on winning the 1992 National Basketball Association Champion.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DIXON. Mr. President, when I made this statement last year on the floor of the Senate, a lot of the English teachers in my State dropped me notes to say we are disappointed that a senior U.S. Senator from Illinois could not use better grammar. But I want to say it again, Mr. President: How 'bout them Bulls, Mr. President? How 'bout them Bulls?

For the second consecutive year, I have the distinguished honor of representing the great State of Illinois and the great city of Chicago in expressing our deep sense of pride in the National Basketball Association champions, our own Chicago Bulls.

It is, indeed, a tremendous accomplishment to capture the title of NBA champion in any given year, but capturing a second consecutive championship places the Chicago Bulls among the basketball elite; only three other teams—the Boston Celtics, the Lakers in both Minneapolis and Los Angeles, and the Detroit Pistons—have won back-to-back titles in NBA history.

Michael Jordan was once again named most valuable player both for the regular season and for the playoffs, becoming the first player in NBA history to win both titles in consecutive years. It was fitting, however, that in the final game of the series it was the supporting cast—Stacey King, Bobby Hansen, Scott Williams, and B.J. Armstrong—who came off the bench at the beginning of the fourth quarter and all but erased a 15-point deficit, the largest deficit from which any team had rallied in the final quarter of an NBA finals game.

Consistent play from Scottie Pippen, Horace Grant, Bill Cartwright, John Paxson, and Cliff Levingston thrilled us on the court, and the coaching of Phil Jackson and his entire staff provided a sense of excitement and pride throughout the season.

Mr. President, on behalf of myself, my colleague, Senator SIMON, Chicagoans, Illinoisans, and Bulls fans everywhere, I strongly urge my colleagues to act quickly on this resolution congratulating the Bulls for winning the NBA championship.

Mr. President, with apologies to every grammar teacher in America, I say one more time: How 'bout them Bulls?

THE CHICAGO BULLS ARE WORLD CHAMPIONS, AGAIN

Mr. SIMON. Mr. President, I am pleased to join my colleague, the senior Senator from Illinois [Mr. DIXON] in praising the success of a second consecutive NBA championship for our unparalleled basketball team, the Chicago Bulls. My comments today are not only those of a Senator, but also of a basketball fan.

The Chicago Bulls overcame what appeared to be an insurmountable lead of 17 points at the beginning of the fourth quarter in game six to defeat the Portland Trail Blazers to win their second NBA title.

To be sure, Michael Jordan, at his best, is the most spectacular basketball player in history. He scored 33 points in Sunday's contest to win his second consecutive NBA finals MVP Award.

A key difference about this Bulls team is that it was not just the "king," Michael Jordan, but also his "court" that mustered this dramatic rally to overcome an exceptionally gifted Trail Blazers club. Stacey King, Bobby Hansen, B.J. Armstrong, and others did win, the team way.

Portland has a good team, I say to my friend, the senior Senator from Oregon [Mr. HATFIELD]. The fine play of superstar Clyde Drexler, truly one of the game's premier players, was a highlight of the series. Another highlight was the performance of a former Chicagoan, Trail Blazers center Kevin Duckworth, the former standout for Eastern Illinois University, who was at times dominating with his play under the basket.

But this Chicago Bulls club is truly a great team. Together these 12 athletes will go down as one of the greatest teams of all time. To an exclusive book with chapters headed the Celtics and the Lakers, now is added a new chapter: the Bulls.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 315

Whereas the Bulls posted a 67–15 record in the regular season, the best in franchise history, and one of the best ever in the NBA;

Whereas Phil Jackson and the entire coaching staff again implemented a quick smothering defense and an explosive triple-post offense to enable the Bulls to successfully defend their 1991 NBA championship;

Whereas, for the second consecutive year, Michael Jordan, showing his tremendous offensive and defensive basketball ability, was named both NBA regular season and playoff most valuable player, an honor that no other NBA player has ever received;

Whereas Scottie Pippen led an aggressive Bulls offense, demonstrating the athleticism and all around basketball skills that led to his being named to the Olympic team;

Whereas the quickness, rebounding and shot blocking skills of Horace Grant often keyed the aggressive play of Chicago's front line;

Whereas the veteran guile of center Bill Cartwright led to frustration for many of the all-star caliber centers that he faced;

Whereas sharp shooting guard John Paxon again displayed the clutch outside touch that has made the Bulls offense so diverse;

Whereas Scott Williams, B.J. Armstrong, Bobby Hansen and Stacey King came off the bench in game six of the NBA finals to aggressively key the crucial fourth quarter rally that enabled the Bulls to overcome a 15 point deficit;

Whereas Cliff Levingston, Will Perdue and Craig Hodges provided valuable contributions throughout the playoffs, both on and off the court, at times providing the spark the Bulls needed to gain control of a particular game; and

Whereas the Bulls once again utilized a total team effort to become only the fourth team in NBA history to win back-to-back NBA championships: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls for winning the 1992 National Basketball Association championship.

Mr. DIXON. I thank my distinguished colleague for his kindness and consideration in yielding me that time to extol the virtues of a grand basketball club.

Mr. BROWN. Mr. President, I would like at this time to yield 5 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arizona is recognized.

POW'S IN RUSSIA

Mr. McCAIN. Thank you, Mr. President. I appreciate the courtesy of my friend from Colorado, and I do not think I will take 5 minutes.

I just want to make a brief statement concerning the very startling news this morning concerning the statement by President Yeltsin of Russia that American prisoners may be held still in Russia that were captured during the Vietnam war.

Mr. President, clearly this issue has to be pursued with vigor. If it is, indeed, as I have been assured many times, the top United States national priority, then we really have no choice but to suspend efforts to pass an aid package through this body until every American held captive in Russia is brought home.

I also suggest that any movements toward normalization with Vietnam be suspended until such time as this issue is resolved, because there is no way that American POW's could have been transported from Vietnam to Russia, then the Soviet Union, without the assistance of the Vietnamese Government. Our highest priority is Americans that are still listed as missing in action. Now, after years of denial, the elected President of Russia has stated that there are Americans from the Vietnam war that were held prisoner somewhere in Russia.

Mr. President, those men should be brought home immediately. There should be no action on any aid package to Russia until those men are brought home or this issue is resolved. I do not know the circumstances upon which President Yeltsin made the statement, nor do I know any particular details other than what was carried in the media. If our highest priority is the resolution of the missing in action/prisoner of war issue, we should exercise that highest priority and devote all our energies and efforts to resolving that.

I thank my friend from Colorado for his indulgence and for taking time out from his very important message.

I yield the remainder of the time.

Mr. BROWN. Mr. President, I only wish my distinguished colleague from Illinois would show some enthusiasm in his reaction to the Bulls' achievement. Of course, it pales in comparison to anything the Broncos might do in Denver, but we can understand his approach.

THE DEFICIT

Mr. BROWN. Mr. President, the number one problem facing this Nation is the deficit. It overshadows and swallows up every issue that we debate on this floor.

I must say, this Congress is the most irresponsible Congress in the Nation's history. And the proof, if there was any question about it, is in this simple chart. A gross Federal debt in 1950, which was $256 billion, is estimated to explode to over $4 trillion by the end of this fiscal year.

It almost tripled in the 1970's, more than tripled in the 1980's, and in the 1990's has risen by almost as much as the entire deficit up through the middle part of the 1970's.

The simple facts are these: This Nation is on a course to disaster. National savings have been consumed over these years by much of the national deficit. In the 1960's, only 2 percent of net national savings were consumed by the Government deficit. That rose to 19 percent in the 1970's and exploded to 48 percent in the 1980's. The General Accounting Office [GAO] estimates that it will be 58 percent in the 1990's—58 percent of all the savings in the entire Nation consumed in public debt, leaving almost nothing for reinvestment in our country.

The truth is, that 58 percent, which is an estimate, far underestimates the problem. I believe by the end of the decade you will have more than 100 percent of all private savings in the Nation consumed by Government deficits. The problem is not getting better. Mr. President, the problem is getting much worse.

In net international investments, where the Nation once led the world—we were the greatest creditor in the history of mankind—we are now the greatest debtor. In 1980, we had a $400 billion surplus in net international investments. It is now a $400 billion deficit. The General Accounting Office in its report issued this month, on the long-term damage to the economy, indicates that the deficit could explode to over 20.6 percent of the GNP by the year 2020. Mr. President, I do not believe those figures. If no action is taken, it will be much worse than what the GAO has estimated.

GAO's report also indicates one other thing, and I believe it is on this that the Chamber ought to focus. Every day I hear Senators come to the floor and talk about how there bill, their action, will help this Nation. The facts are simple. If we do nothing with regard to the budget, that is, if we continue current law—although we have never had a year when we have done that because we have always added to the deficit and added to spending and added to programs if we go without changes in current law to the year 2020, we will have a per capita income of 40 percent less than what we would have had if we would balance the budget by 2001 and have a 2-percent surplus from then on. That is an enormous difference in the per capita income of Americans.

Now, what can we do about it? Six Senators in this Chamber challenged the Presidential candidates to debate the issue, to come forward on national television and take an hour to tell the American people what they will do about the number one issue that faces the entire Nation.

Let me read you the answer that one of them gave. This is Ross Perot from Texas:

> Last night six Senators were on television saying we've got to have a balanced budget and that we need to have all three candidates explain how they are going to control the debt and balance the budget. And I think that is wonderful. But I have just one more suggestion. I think we ought to have the House and the Senate get an hour—no, give them two hours, one hour on how they got us into this mess and the next hour on how they are going to get us out.

Mr. President, I accept that challenge. Ross Perot is right to ask the House and the Senate to come forward and explain how we got the Nation into this mess and how we can get it out.

I accept that challenge. That is precisely what I intend to do this morning. I plan to talk about how this Nation, the greatest country in the history of mankind, came to have this kind of irresponsible deficit and also how we can change it. But I also hope that all three Presidential candidates will not dodge from the most important issue that faces our country. I hope that they will, in a straightforward and frank manner, tell the American people what they intend to do about it. And if they intend to do nothing, if they intend to let this Nation slip into a third world economy, let them stand up and answer to the problems with regard to that as well.

How did we get into this mess? I suppose the problem is multifaceted. But one of the starting points I believe is the 1974 Congressional Budget Act, and specifically one of the concepts adopted in that act is called the current services baseline. What it does is allow Congress to misrepresent its budgets. The example which I think illustrates it best is if someone goes into an automobile showroom, looks at a $50,000 Mercedes and decides not to buy it. Under our budget system it might be scored as a $50,000 savings. But the truth is we do not compare apples to apples in the way we do our budgets. We compare what we have done this year with what we might have done, and that is just utter nonsense.

What is the answer? The answer is a zero-based budget, to compare this year with last year, to compare next year with this year, not some hypothetical figures, but the real figures. Lack of honesty in budgeting is the first reason we got into this deficit situation.

Secondly, the 1974 act made it illegal for the President not to spend money. Specifically, this Congress passed a law that made it illegal for a President not to spend money on a project even though it is a waste. Even though it is not needed, the President, by law, is forced to spend that money.

A rescission procedure was established, one that does not work very well, one that does not give a clear vote on waste. But this Nation in 1974 forced the executive branch to spend money that was not needed. It was clearly wasteful.

Thirdly, we got into this mess with phony estimates. There are no clean hands in this, Mr. President. Both Democrats and Republicans are guilty of it. Both the Office of Management and Budget [OMB] and the Congressional Budget Office [CBO] over the years have hoodwinked American taxpayers with phony estimates for the next year. They have held out to taxpayers that we were going to do something about the deficit and wasteful spending when the truth was ridiculous assumptions and estimates that deliberately misstated the problem.

The fourth area I think that got us into this mess is the way we cast votes in this Chamber. There is no substitute for voting against waste. We have these outrageous deficits because the Members of this body, on a regular basis, vote to overspend the budget. Every penny that is spent is spent by the Congress. We are in this mess, we are in a $4-trillion debacle, because the Members of the House and Senate of the United States have voted to put us there.

Fifth, I think we are here because of special interest politics. There is no question that people lobby for their interests. This single-issue voter concept has helped put us in a mess where every voter suffers.

Sixth, Mr. President, I believe the press of the United States has been asleep—not all of them, but most of them. The National Taxpayers Union [NTU] ratings, which indicate how Members vote on spending, largely go unpublished, unnoticed, unreported. The single-most important voting report simply is not covered. The National Taxpayers Union issues this rating every year. Yet very few papers carry it, and often television and radio simply ignore it. But the (NTU) rating reports on how Members vote on spending matters. Unfortunately, the press, which is the vanguard of our liberty, has been asleep as well in my letting the facts get out.

Seventh, innovative budget gimmicks have added to the problem. Reserve funds, delayed obligations are new tools that we have added to the budget in the last few years. They have allowed us to overspend the budget once again. It is a dodge. It is a way around the rules. It is a way to hide deficit spending, and it is part of the irresponsibility that has brought us to this catastrophe.

Recognizing the problem is part of curing it. Those seven factors are part of it, not all of it, but they are a start. Recognizing them and changing them is the key.

How do we get out of this mess? Here is a simple formula, not easy, but straightforward.

First, you reform the budget process. Use honest numbers, go to a zero-based budget, a budget that compares this year's spending with last year's spending. When we talk about increases, talk truthfully. How much are you increasing or decreasing the budget? Sack the current services baseline concept, and go to zero-based budgeting so you have honest numbers.

Second, use honest estimates. In the Senate Budget Committee, I offered an amendment, to the FY 93 Budget Resolution which would change the estimates that were used in the budget document that we adopted this very year. It would use the more cautious realistic numbers. By using the more realistic numbers in every year's budget, we get a clearer idea of what is available for discretionary spending, and a clearer idea of what is going to happen with entitlement programs.

So the second reform is fairly easy. Simply adopt honest estimates. Sounds simple, does'nt it, and yet, it is what this Chamber has failed to do.

Third, do not overspend the budget once it is established. I served a term in the Colorado Legislature. No Democrat, no Republican, voted to overspend the budget. Or, if they did, it was a very unusual year. People understood that once you set up a budget, you stand by it. How would you handle emergencies? You go back through your budget and eliminate those things that are of a lower priority, you take money out of the low-priority programs, and pay for the emergencies.

Disaster assistance for the Los Angeles riots could have been funded by a fiscally responsible and sound Congress that would have done it by cutting money from other programs. What did this Congress do? This Congress simply votes more money. It is the way we got into this mess. So the third cure is to stay with a budget once we adopt it. If we had done that, we would have saved $20 billion on the average, every year for the last decade; $20 billion a year, built into the base, over a decade. We would have taken care of much of the current deficit.

Fourth, we need to change the rescission process. We need to make it clear that rescissions sent up by the President in areas identified as waste, identified as not needing to be spent, are entitled to a quick, responsive vote, and that they become effective unless we vote them down, not only effective if we vote for them as under current law.

Fifth, we need a balanced budget amendment to the Constitution. I know Members of this body have come to the floor and said that we need to leave this in the hands of Congress. Mr. President, that is how we got into this disaster. We left it in the hands of Members of Congress who cannot face up to the problem. We need a balanced budget amendment that puts some responsibility into the process. It works for almost every State in the Nation, and it will work for Congress. Is it tough? You bet it is. But we are not going to save our country from a third world disaster unless we do.

Last, Mr. President, there is one old-fashioned answer. That is, we need to cut waste. There is no substitute for voting against nonsense and waste. We also need to do some tough things that are unpleasant, but must be done if we are going to put our country back on track. I want to go through, just quickly, some specific proposals which amount to approximately $170 billion in savings over 5 years. My hope is that the Presidential candidates will set forth, in precise detail, how they intend to balance the budget.

Proposal number one: I believe we ought to limit the increases in the mandatory programs, except for those that cannot be limited, like interest, and earned retirement programs such as Social Security which should be left alone. They are earned retirements that are our obligations. For other mandatory programs that are not earned, we ought to say there is a limit to how fast they are going to grow. Let them grow at inflation plus growth and 2 percent.

If we do that, we will save $92 billion over the next 5 years. That is not a figure pulled out of the air. That is an estimate from the official budget agencies CBO.

That $92 billion is real. It is a dramatic reduction without penalizing anyone giving full cost of living. You must look at those mandatory spending programs and begin to put some controls on runaway such spending.

Second, eliminate Federal payments to those with an adjusted income above $120,000 a year. This is a net income; it is not a gross income. It does allow the subtraction of business expenses. But it would eliminate Federal subsidies—we are talking subsidies, not earned benefits—to those with incomes above $120,000 a year. We save $53 billion over 5 years.

OK, is that so tough that this Chamber cannot do it? Are we so tied to subsidizing people that we cannot face up to that modest measure, when $53 billion would be saved?

I would like to see us look at some programs. These are simply an example. There are others. But take a look at the rice program, or the honey program, or the cotton program, or the dairy subsidies. I know they are sacred cows, and that is not just a play on words. They are sacred cows because people have PAC's, and because they donate, and because they help people who run for office.

But those programs are nonsense, and everybody in this Chamber knows it. Do Chinese bees work for more than American bees? These programs are an insult. They not only raise the price of products like milk and honey and rice to the American consumer—to the men and women who work to make this country grow—they cost the taxpayers a fortune.

Incidentally, Mr. President, these programs are so absurd that they do not even benefit the producers, in the longrun. I know they lobby for them. I know the associations are convinced they are great programs. But the facts are these: Nonsubsidized agriculture has a higher return on investment than the one-third of agriculture that is subsidized. These programs are examples of programs where everybody associated with them loses. The consumer loses, the taxpayers loses, and ultimately, the producer loses.

If we cannot eliminate nonsense like that, we do not deserve a job in this Chamber. Ending such modest programs alone would save $9 billion over 5 years. My guess is much more than that, with more realistic estimates.

I think we ought to eliminate the Tobacco Loan Program. I know there are Members of this Chamber that think it is appropriate to subsidize the production of tobacco, but it is nonsense. What in the world is this Nation doing loaning $1 billion of Federal money at a subsidized rate to tobacco producers, when at the same time, we have a program to urge people not to use their product? That is $1 billion in savings.

I believe we ought to reduce Congress. This Congress has a staff that is nine times larger than the staff of any country in the world. By simply reducing the cost of Congress by 50 percent, we would save $5 billion over the next 5 years, and we would still have a staff that is 4½ times the size of any other country.

Mr. President, I want to acknowledge the comments of the distinguished Senator from Arizona. He has served his country honorably and well in one of the most outstanding military careers of anyone in Congress. His family is perhaps the single most distinguished military family in the history of our Nation. His own service as a prisoner of war for almost 7 long years in North Vietnam qualifies him to speak on that subject perhaps more than anyone in this Congress. I, for one, am deeply grateful for his leadership in the effort to see that the POW's are not forgotten, and that they do, indeed, return home. I think his call is one that will have the strong backing of every citizen of this country.

I believe that the 50-percent reduction in Congress, which would save $16 billion over 5 years, will not only save this Nation a great deal of money, but will dramatically set the stage for further economies throughout the Federal Government. Using Congress as an example in eliminating unnecessary spending, we will find that the people of this country and the other government agencies will be willing to do their part. It has been this Congress' abuse of the spending privilege that has helped foster a climate that has led to this obscene national debt.

One other area that I think ought to be trimmed is Amtrak subsidies. Amtrak operates well on the east coast. There are many runs where it operates profitably. But that subsidy also goes for many runs of Amtrak where few passengers ride. When the crew outnumbers the passengers, it has to tell you that that run simply does not make much sense.

How do we save money on Amtrak? We ask them to eliminate those runs which pay for less than 40 percent of the cost of running on that track. By simply limiting tracks and runs that have very light usage, Amtrak will be able to concentrate on the portion of its service that is needed and is profitable. That saves $2.5 billion over 5 years and still maintains the runs where people use Amtrak on a significant level.

We could pass the porkbusters bill (S. 2265) which saves $1.5 billion. I introduced the porkbusters bill in February of this year. The measure simply eliminates funding for those items that have not been authorized, had a hearing, and were not awarded on a competitive basis. These 640 projects have not been considered in the established budget process.

Some of these projects appeared when the appropriation conferences got together and is added in things that were not examined according to the budget process. We ought to say no. We ought to ask that all projects adhere to the proper procedure to make sure the public's money is spent properly. That would save $1.5 billion this year, and my guess is additional amounts in the future.

I believe we ought to allow the Corporation for Public Broadcasting to sell advertising on at least half of their programs. If we allow 50 percent of their programing to sell advertising, we will save over $1 billion over the next 5 years. That is not onerous. That is not difficult. It is simply a matter of giving them the opportunity to sell ads like every other television station and radio and broadcasting facility.

One of the most important things we ought to do is eliminate funding for international organizations which are designed to increase the costs to American consumers. I know that must sound hard to believe, but this Nation pays membership dues and participates in a variety of international organizations whose stated purpose is to increase the price of commodities to American consumers. These are primarily items we import, although not exclusively.

As the distinguished occupant of the chair well knows, Hawaii is a coffee producer, and it is no surprise to him that much of our coffee is imported. The International Coffee Association's stated purpose is to increase the price of coffee to American consumers.

There are a variety of other organizations we belong to, such as the jute organization, the rubber organization, tropical timber organization and others. Eliminating these memberships will save us $16 million over 5 years. But more importantly, it will probably save American consumers tens of billions of dollars.

Those are just domestic proposals. We ought to save money in foreign aid. I think it is no secret to the American people that we not only give a little over $3 billion to $3.75 billion a year to Israel, but $2.5 billion to Egypt.

Mr. President, I hope Israel survives, and I think our efforts to help Israel are appropriate. Others may prefer Egypt and other Arab countries, but I will be doggone if I understand why we ought to finance both sides. Who really believes it makes sense to buy arms for Egypt to counter the arms we bought for Israel, which were bought to counter the arms we bought for Egypt in the first place. It is nonsense to support both sides. We ought to have the courage and the gumption to pick a side. If we just pick a side, we will save a couple of billion dollars. We can do that same thing in a variety of other areas in foreign aid.

We can save money on defense as well. Building the *Seawolf* submarine for a threat that no longer exists is just plain stupid and a waste of money. I daresay that most of the Members of this Chamber, if you talk to them in private, would say, yes, we do not need the *Seawolf* submarine. It is a pork barrel project. And they would say there is a lot more where that came from. I do not mean just in Connecticut. I mean throughout this Nation and throughout the Defense Department. We need to look through the defense budget just as vigorously as we have done with all other domestic spending.

Mr. President, this Nation, if it is going to survive, must have a Congress and a President that care more about the Nation, its good, and its taxpayers than they do about the next election. Frankly, if they care about the taxpayers, the next election will take care of itself.

I hope every person who runs for President, all three Presidential candidates, will answer the following questions before the campaign is over:

One, will you, as President, propose a balanced budget for the next fiscal year? We ought to know whether they intend to do that.

Two, do you favor the Stenholm-Craig balanced budget amendment to the Constitution?

Three, where would you cut the Federal budget? I have outlined specifics where I think the budget ought to be cut. I hope each Presidential candidate will outline specifically where they would cut it.

Four, do you support a constitutional amendment for a line-item veto as 43 of our States have for their Governors?

Five, do you favor a zero-based budget rather than a current services budget? In other words, do you favor honest budgeting and honest comparisons?

Six, will you veto any bill that contains spending in excess of the budget? Mr. President, that would have saved us $20 billion a year every year for the last decade. That is an average figure, but that would amount up to an enormous sum.

Seven, if the law allowed you to do so, would you propose a 25 percent or more cut in the legislative branch of Government? As Members of this Chamber know, it is now illegal for the President to make his own recommendation for the spending by this legislative body. Congress passed that law. Forces the President to mouth the recommendation that legislative leaders propose. I think we deserve to know whether or not the Presidential candidate will propose cuts in spending for Congress.

Eight, do you favor a cut in the White House budget of 25 percent or more? In other words, are willing the presidential candidates to set an example?

Nine, would you support or propose limiting the growth of mandatory programs as I have outlined here?

Ten, do you favor Federal subsidies for those with net incomes above $100,000 a year? We ought to know where candidates stand on that issue.

And, eleven should the U.S. Government subsidize programs that work at cross purposes? Let us be specific here. Do they favor both the federally funded tobacco loan program and a federally funded program to urge people not to use the product? Do they favor buying arms for both Egypt and Israel, or should we pick a side?

Those 11 questions are basic. But I think we have a right to know where the candidates for President stand. One candidate declined our invitation to submit a budget when the budget resolution was being marked up. Another candidate talked about $400 billion in spending cuts without breaking a sweat. And when you look at them, none of them stand the test of authenticity. Another candidate is "on the fence" as to whether or not to be on the program to answer the questions about the budget.

I believe all three of these candidates should step forward, let the American people know where they stand and answer the questions that are so vital. The deficit is the number one question that faces us in this election year.

Mr. President, I close with a quote from the great historian, Gibbon. In discussing the Athenians and the demise of the democracy, here is what Gibbon said:

> In the end, more than they wanted freedom, they wanted security. When the Athenians finally wanted not to give to society, but for society to give to them: when the freedom they wished for most was the freedom from responsibility, then Athens ceased to be free.

Mr. President, unless we the Congress and the President face this problem with the budget and the deficit, this democracy, the greatest Nation on the face of the Earth, will fall, just as others have fallen. I believe the issue for this election is the budget, and our willingness to face up to the problem.

I yield back, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee is recognized to speak up to 5 minutes.

Mr. GORE. Thank you, Mr. President.

THE EARTH SUMMIT

Mr. GORE. Mr. President, I returned yesterday from the Earth summit in Rio de Janeiro. The delegation which represented the U.S. Senate there was headed, also was vice chaired by Senator JOHN CHAFEE of Rhode Island. Although most of the delegation returned some days earlier, the Senator from Colorado, Senator WIRTH, and I remained until the conclusion of the conference.

I will have, along with Senator CHAFEE and the entire delegation, a formal report to the Senate at a later time following an opportunity for the members of the delegation to reflect on the final documents signed at Rio and following a discussion among ourselves about the language of that report. So this morning, Mr. President, I give only a brief interim and summary report on the status of the agreements that were finalized during the Earth summit.

First of all, the treaty which received the most attention, the Climate Change Convention, was signed by over 150 nations in Rio de Janeiro.

There are no binding commitments in the Climate Convention to actually reduce the CO_2 emissions, but there is a process of reporting on emissions and a process for developing action plans related to greenhouse gas emissions. And it is likely, because of the initiative of our country, that the first action plans will be prepared and be made publicly available by January 1, 1993.

The first meeting of the conference of parties under the Climate Convention is called for 6 months after the convention comes into effect. But that is in itself an undetermined date because under the provisions of the treaty it will not formally come into effect until 50 countries have duly ratified the treaty pursuant to their respective national laws. Some have estimated that that process could be as long as 4 years. I would hope that that will not be the case, and I am pleased that the administration has indicated its intention to quickly submit this convention to the U.S. Senate for ratification proceedings. I know that Senator PELL, the distinguished chairman of our Foreign Relations Committee, has already had informal discussions with the administration on this matter.

Now, the second treaty that received a good deal of attention was the Biodiversity Treaty. This was, of course, not signed by the United States. It was signed by every other—virtually every other nation in Rio. I believe every other nation, more than 150. It calls for action plans to preserve and protect biodiversity, and also calls for efforts to facilitate technology transfer.

As a brief aside, Mr. President, I personally believe that the two provisions which caused difficulty for President Bush could have been fairly easily resolved if the negotiation atmosphere had not been poisoned by the insistence on the part of the President that the first treaty on climate change not be so watered down as to be deprived of any commitments. Now that the Earth summit is over, I would hope that there will be a lower profile and quieter process by which those two provisions are handled. Having talked off the record with most of the interested parties, it is my personal assessment that it will be possible to resolve those two provisions and enable the Bush administration to sign that treaty. But only if they pay careful attention to it and attend to it quickly.

Third, there was a statement of principles on forests. This statement calls for sustainable forest management practices, but unfortunately it completely fails to define what those practices involve.

Due to opposition led by Malaysia, this document does not call for a convention on forests. And again, Mr. President, the reason in my judgment why it was impossible to reach an agreement that had sustainable practices spelled out and that called for a convention at the end of the process begun here, was that the negotiating atmosphere had been poisoned by the earlier controversy on climate change.

Now, fourth, there was a statement of principles on finances. Three sources of funding for Agenda 21 were identified; overseas development assistance funds; the World Bank's International Development Assistance, or IDA; and Global Environment Facility, which is the joint creation of the World Bank and the United Nations as an environment program and the U.N. Development Program.

With regard to ODA, the language calls for countries to reaffirm their commitment to 0.7 percent of GNP. Because of the world "reaffirm" this technically does not apply to the United States, does not apply to some other countries, Japan, for example, because there was never an initial affirmation which could be reaffirmed.

While the Europeans had no problems with this language, there was controversy as to when the goal should be reached. Developing countries were pushing for the year 2000, the Europeans were pushing for the language such as "as soon as possible."

Now, with regard to IDA, the controversy was over first language calling for the IDA to be replenished in real terms. This would mean essentially that approximately $17.5 billion would be made available worldwide in the IDA account. And the language also called for a so-called Earth increment. Our delegation objected to this language partly on grounds that this is the province of the legislative branch of Government. The resolution was that the IDA would be replenished with special consideration for the recommendations of the President of the World Bank. Preston apparently recommended real term replenishment plus additional increment such as the Earth increment.

With regard to GEF, the Global Environment Facility, there was an agreement that a restructured GEF would be the mechanism for funding global environmental expenditures under the language reached at Rio. I will provide at a later date the final version that was arrived at Rio.

Next, there was a Rio declaration. Many of our colleagues will remember that there was intended to be an Earth charter at Rio. This was not agreed to by the Bush administration and a lower profile declaration was agreed to. Although many countries had reservations to particular provisions, objections were withheld and the declaration was adopted as it was produced in the final preparatory negotiating session in New York. Although I want to note for my colleague that it was agreed to at least in part because it was understood that the document is temporary, and, as suggested by Canadian Prime Minister Mulroney, it should be supplanted by an Earth charter by 1995.

I have already made some reference to Agenda 21, but I would like to elaborate just briefly on this. There were some 115 program agreed to, including items on protection of the atmosphere by combating climate change, ozone depletion, and transboundary air pollution.

There was language on protection of the quality and supply of fresh water resources; protection of the oceans and other seas; protection and management of land resources, including a commitment to combat deforestation, desertification, and drought; provisions relating to environmentally sound waste management; to improvement of the environment of the poor in both urban and rural areas; and protection of human health and improving the quality of life.

None of the provisions of the Agenda 21 are binding, but they were generally regarded by all the nations at the Earth summit as providing a blueprint for the future path of cooperation between north and south in addressing the global environmental problems.

Finally, Mr. President, one provision which I think has probably received too little attention is that the Earth summit agreed to create a sustainable development commission within the United Nations. It will be a subsidiary of and report to the Economic and Social Council, often called ECOSOC. It will oversee implementation of Agenda 21 and make progress toward sustainable development. It has been analogized to the Human Rights Commission, in that this body will, when it is formally established at the fall meeting of the United Nations, be empowered to have hearings, to have public proceedings, and receive evidence about the behavior and policies of countries around the world in order to assess whether and to what extent they are consistent with the agreements reached at in Rio de Janeiro.

Mr. President, in conclusion, let me again say that the delegation will have a formal report at a later time that will go into much greater detail. My own impressions are at this moment that this meeting was a tremendous success for the world community, in that a very powerful learning process took place for people of all nations around the world and their leaders. I believe deeply that the substantive policy and program changes necessary to protect the Earth's environment will come more easily after the Earth summit than before the Earth summit.

There is a danger, however, and that is that people will have the impression that substantive changes were made there when precious few were actually concluded. Most of the success was psychological and symbolic. That is not to discount the importance of what was achieved there. It is rather to underscore the urgent necessity to make use of this success in accelerating the changes in policy now so urgently needed.

Finally, Mr. President, it was a source of some disappointment, I believe, to our country that the approach taken by the Bush administration at the Earth summit was not, in my opinion, consistent with what the American people would like to see when it comes to our Nation's role in providing leadership to the world as we confront the global ecological crisis. Other nations affirmed quite positively their view that this task of saving the Earth's environment is rapidly becoming the central organizing principle in the post-cold-war world. If we intend to lead that environmental revolution we must be willing to act more boldly and with more vision than the Bush administration was willing to put on display at Rio.

Mr. President, I want to congratulate all my colleagues in the delegation for the outstanding participation at the Earth summit and the many meetings and discussions that were held there. Again, I will elaborate on them and on the Earth summit itself in a later, more lengthy and more formal report to the Senate. I yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized until up to 11:30.

THE EARTH SUMMIT

Mr. WIRTH. Mr. President, I wish to comment as well on this remarkable gathering of the world's nations and the world's people on the future of the globe that just occurred in Rio de Janeiro—the United Nations Conference on Environment and Development.

But first I want to commend the distinguished Senator from Tennessee, the leader of our delegation, for a job which he did gracefully, carefully, with enormous attention to detail, and represented us in the U.S. Senate very well. We had a good delegation that went for, I believe, 4 days. The Senator from Tennessee and I were fortunate to be able to stay for the following week. But I think that this delegation and the commitment by the Senate to the UNCED is reflected in the commitment of the Senator from Tennessee. I want to thank him for his very good work in chairing our delegation and leading us as carefully and as well as he did.

The new world order has been much discussed, Mr. President. The new world order—what does that mean? I think each of us puts that in his or her personal terms, and let me put it in mine.

Thirty-one years ago I was a private in the U.S. Army. In the summer and fall of 1961, the Berlin Wall went up and we believed that we were close to going to war with the Soviet Union. There was a high level of alert by the forces of NATO and the Warsaw Pact on the other side as the wall went up, and we believed we were going to be shipped off immediately to the inter-German border. That was the formative experience that all of us had growing up in my generation.

Thirty years later in 1991, my children were at a Pink Floyd concert sitting on the top of the Berlin Wall with young people from all over the world who were there celebrating the collapse of the wall, and their own future together. The Earth summit just completed in Rio is in fact the highway coming away from the end of the cold war. It is the road to my children's future, and that of their generation.

We are about to redefine together as nations a new common cause, Mr. President, a new common cause for us as a people in the United States; a new common cause for us as allies with the Europeans and the Japanese, the developed and fortunate countries of this world—a common cause between north and south, a common cause between rich and poor. That common cause is what we are finding on the road from Rio. It is an enormously important turning point for us, a remarkable challenge for us in the United States—a set of issues that can redefine us as a people. It has the opportunity to bring us once again together, it has the opportunity to once again define the leadership of this country as a democracy to whom the rest of the world is looking.

The outlines of this new world order are rapidly becoming familiar. It was remarkable, in Rio de Janeiro, to hear the nations of the Earth talking about things that I know were largely unfamiliar to them and their leadership as recently as 5 years ago and certainly 10 years ago—to have Prime Ministers from Africa talking eloquently about global climate change; to have Presidents of republics in Southeast Asia talking about biodiversity, forestry, and our mutual commitments and our mutual problems in these areas; to have leaders of emerging democracies in South America talk about the need to develop new forms of foreign aid, new kinds of partnerships, and new, exciting and very creative ways with which we can bring business and the environment together. It was remarkable to have the Japanese play a role behind the senses in support of our approach in the United States of America, very much a silent partner but a very important one, recognizing as they do that the world has changed and their national security and ours are not going to be defined anymore as much by military, by B-2 bombers, and by all the rest that has characterized our own history for the bulk of my lifetime.

This was a remarkable time and it will go down, I think, as one of the great watersheds, one of the great times when not only did governments and peoples come together, not only did governments and peoples come to understand these issues, but also in which the press and the public were exposed in enormous intensity, educated, brought up to speed on this set of issues that is going to redefine our history and our future.

As this new era unfolds, the opportunities for us in the United States are legion. We must be reminded, just as we look back at our own personal history in the cold war, we must be reminded of our history in this country and what we did the last time of a great watershed. In that period from 1945 to 1950, we were a country exhausted by war as well. We were a country in which people wanted to bring the troops home. We were a country in which people were saying it is time for us to turn our attention inwardly.

Many were saying: "We have run up a huge debt on the war. We have had a major commitment of American resources. It is now time to bring those commitments home." We could have done that in the period following the Second World War. We could have turned inward selfishly. We could have turned our backs on our responsibilities to the rest of the world and that policy, had we done so, would have been disastrous. It would have been disastrous in terms of the then-emerging confrontation between democracy and communism. It would have been disastrous in terms of confrontation between East and West. It would have been disastrous in terms of our ultimate success of rebuilding Europe, rebuilding Japan, rebuilding the continent, rebuilding Asia.

We did not turn our backs at that point as a country. We came up and faced a challenge that unquestionably was very unpopular. I am sure on this very Senate floor there were many Senators who stood up and said we cannot afford to do this. I am sure there were many Senators who said my constituents do not want to do this; they want to bring our troops home. Our constituents do not want to fund the Marshall plan, they would rather put those resources here at home. I could imagine what those speeches were like and it would be interesting to go back and review that record.

But there were at that time individuals who banded together and understood that we had a broad set of responsibilities in the United States—the John McCloys, the Dean Achesons, the Robert Tuckers, the George Marshalls, the George Kennans, the James Forrestals, the Chip Bohlens, the Henry Stinsons, giants of our time and giants of American history and American commitment and American leadership—pointing out that even at difficult times we in the United States can and must lead.

We have to ask ourselves, I believe, the parallel between then and now—is that parallel valid? Of course it is.

They were leading. They forged their own common cause for the United States and the world after the Second World War, after that one huge watershed.

We are at another major watershed now. The cold war is over and a new world order is out there. The question is, are we going to be able to summon the resources of leadership? Are we going to be able to summon the political will? Are we going to be able to band together with other nations, as we did before, to help to lead this fragile planet and this fragile world? Is this administration going to recognize that the talk of a new world order must become a reality?

Unhappily, so far, we have not seen a particularly brilliant performance. The administration unhappily has not banded together with us in common cause. The administration has not expressed to the American people this enormous challenge that we face for the future on specific issues—from global climate change and the treaty setting targets and timetables on biodiversity, the treaty that everybody else in the world signed at the convention; on forestry and our commitment to do something right here at home; on providing the resources to lead the rest of the world—on all of these issues our leadership, if it was there at all, was timid. I do not believe that history will treat this time and this administration very kindly in the way in which they have responded so far.

In some ways we in the United States in Rio got a bad rap. I discussed that with our leadership from the administration, with the press, and with the rest of the world. In fact we have a 20-year commitment on environmental issues and have a good, solid base from which to depart. Unfortunately, I am afraid this administration did not use that base as the jumping off point as effectively as they could have. Let us hope that Rio catalyzed them and might help bring them to a greater sense of urgency and a greater sense of awareness. There are some hopeful signs out there. We are signing the global climate change convention. The President has changed his discussion and no longer do we hear the rhetoric of the choice between jobs and the environment. It is a much more constructive approach now.

There are signs that there is some change and we all have to work together to push that change and to try to, again, define and find this common cause.

Finally, what are the specific items that we must do? There are many of them and let me tick them off quickly.

First, it is imperative we pass the energy bill. That is now going to conference. It is imperative we pass that in the strongest form we possibly can. We should take the strongest measures from the Senate bill, the strongest measures from the House bill, get them together and put that on the President's desk for signature. He will sign that bill. That is a very important statement of commitment by the United States of America to pursuing new paths for producing and using energy.

Second, we must ratify the climate convention as rapidly as possible and we can do that. I know Senator PELL is going to begin very quickly on hearings. Let us hope that treaty comes to the floor and comes to the floor very quickly.

Third, the G-7 agenda in Munich, in July, must include a high priority for concerns about the environment and the globe and our financial commitment to Agenda 21, the action plan developed in Rio.

Fourth, we must begin preparations for the 1994 U.N. Conference on Population and Development. That was another striking thing about this conference. Even the Holy See, even the Vatican, Mr. President, was talking about population as an issue—not the top of their list, but they were talking about it. Everybody understands that this issue of population must be addressed by us. There is going to be a major 1994 conference on population. We must begin aggressive preparations for that. And along that line I plan to reintroduce—and I hope I will get support from my colleagues—the comprehensive population bill. I am going to reintroduce that and see if we can again get some more momentum going within this body on the population issue.

We must continue the administration's beginning efforts on forestry. They are very, very important ones to do, the beginning of the administration's efforts on forestry. The administration started a couple of years ago challenging us on 10 forests on the issue of below-cost timber sales. It seems to me we ought to challenge back, challenge the rest of the world and eliminate the below-cost timber sales overall and I think we have opportunities to start moving on that agenda this summer.

It is important we begin to understand that we have to internalize costs. We have to understand that we can no longer assume that it is costless for us, that our whole balance sheet can assume absolutely free pollution, can assume the absolute free destruction of our natural resources and not include that destruction on the negative side of the balance sheet; this whole question of internalizing costs and beginning to look at pollution taxes must start now.

It is imperative, Mr. President, we understand how to internalize and that we must internalize these costs and that presents us a challenge as well here, to see if we can start to look at our own base of taxation which is backward in many ways. We in the United States tax productivity. We tax labor. We tax capital. We do not tax consumption. We do not tax pollution. We ought to do that. And we ought to look at the possibility of substituting one for the other.

If we are interested in growth, if we are interested in looking at an economy of the 21st century, what we ought to be doing is reward means of production, and not reward means of pollution and consumption. We are doing the opposite. We ought to turn it around. We ought to be serious about the global environmental facility being set up at the World Bank to follow up on Rio and think imaginatively about different windows for foreign aid. There are a whole variety of ways we can weave together financial incentives and loans to encourage a partnership for sustainable development.

These are some of the challenges that we face and some of the things that we can do in this body.

Senator GORE and I and others will be following up on putting together an agenda, not only a report, but an agenda for follow up in the U.S. Senate.

Let me say a final word if I might, in the short time remaining to me. I want to pay tribute to our negotiators, our career servants in the State Department who had such a good, well-informed, careful and professional approach to these negotiations. The brief that they were carrying was very difficult. They were not given very many cards by the administration, but what they were given they played very well. We should be proud of them.

In addition, Mr. President, we should be proud of the NGO's, the nongovernmental organizations, who did such a good job.

I thank the distinguished Senator from Ohio.

INTRODUCING THE FORT HUACHUCA 50

Mr. DECONCINI. Mr. President, I would like to bring to the attention of my colleagues this afternoon the formation of a group of concerned Arizonans who represent the best in American know-how and perseverance. I am referring to the creation of the Fort Huachuca 50 in Sierra Vista, AZ.

This group has been formed to protect the interests of the Greater Sierra Vista Community, as well as that of the U.S. Army, through preservation of the missions of historic Fort Huachuca. It is modeled upon the successful efforts of a similar organization in Tucson known as the "D-M 50" which supports Davis-Monthan Air Force Base. This is a very wise and realistic move as the defense budget is reduced and our overall force structure is brought down.

Arizonans have considerable pride in the military units based in our State. They serve their country well, and Fort Huachuca units are no exception.

They value the role the military plays in the economy and as a good citizen in our communities.

Sierra Vista and Tucson learned an invaluable, albeit painful, lesson at the expense of the metropolitan Phoenix area when the Williams Air Force Base was closed under the BRAC legislation of 1988 and enough was not done in the community base to stop this, as well as other problems revolving around the jet corridor and other runways planned at the municipal airport in Phoenix

Willie, as it is affectionately known, had been part of the Greater Phoenix community for more than five decades. No one expected that this superb pilot training base—with perfect flying weather—would ever be closed. Had there been such a thing, perhaps we would have been in a much better position, not only as a delegation, but as a community to keep that base from closing. As a result, a proactive defense of the base was never considered necessary.

But now that the base closing process has mandated that every base be reviewed for closure or realignment again in 1993 and in 1995, the concerned citizens of Sierra Vista have refused to become complacent. They realize that while they escaped disaster in 1991, all bets are off from here on out.

The first round of base closings and realignments in 1988 had the information systems command known as ISC, leaving Arizona and consolidating at Fort Devens in Massachusetts and the intelligence school consolidating at Fort Huachuca.

In this effort, however, the Base Closing Commission made some significant errors and this was brought out through an effort by citizens, dedicated community leaders headed by Harold Vangilder, Sierra Vista Mayor Richard Archer, and my dear friend, Marion Bauhs, among others in the community who would not let this happen and brought it to our attention where we had hearings and we went to the Secretary and made a case to reverse that. They spent countless hours poring through many documents and doing the research necessary to disprove the Commission's cost-savings analysis. They spent their own resources to come to Washington and present their findings to the Defense Department and the relevant congressional committees.

To his considerable credit, Army Secretary Michael Stone reviewed these findings and concurred that the realignment did not make good business sense and would end up costing the taxpayers a considerable amount of money. In the next round of base closings in 1991, he convinced Secretary Cheney to maintain the ISC at Fort Huachuca.

While the initial efforts to preserve Fort Huachuca's vital missions in Arizona were the result of a handful of committed individuals, these same individuals now form the core of the Fort Huachuca 50. Working together, these community leaders will educate the local citizenry about the importance of Fort Huachuca to their every day lives, including their economic well-being. At the same time, they will actively promote Sierra Vista to the Army as a great place to live and a great place to grow—for both the fort's current missions and as a home for new missions.

The Huachuca 50 is comprised of local business, education, and other leaders from all aspects of the greater Sierra Vista community who are dedicated to the betterment of Fort Huachuca and Sierra Vista. They have pledged the time, effort, and dollars necessary to achieve their goal—the enhancement of Fort Huachuca for their State and their Nation's military.

I commend my friends and all of the people of Sierra Vista for their commitment to the fort and their community. Their patriotism is an inspiration to all of us in Arizona. I also want to thank the commanders at the fort, the ISC, the intelligence school and the Army garrison for their continued willingness to work with the local officials to improve and strengthen the already strong working relationship between Fort Huachuca and Sierra Vista. They well know how welcome and valued they are in southern Arizona.

TRIBUTE TO DR. CHARLES E. GOLDEN, SPARTA, TN

Mr. SASSER. Mr. President, I rise today to honor and salute Dr. Charles E. Golden of Sparta, TN, who has made a lifelong commitment to elementary, secondary, and higher education in the Upper Cumberland Region of Tennessee.

In addition to earning masters and doctorate degrees from George Peabody College in Nashville and from American University in Washington, Dr. Golden served 9 years as a public school supervisor, principal, and administrator, and 14 years as the superintendent of Sparta City Schools. Under his leadership, Sparta was one of the first school districts in Tennessee to consolidate the city and county school systems, and he oversaw the desegregation of Sparta's public schools.

Dr. Golden also served 23 years at Tennessee Technological University, where he will retire as interim dean for the division of extended services at the end of this month. During his tenure, the division of extended services, which provides off-campus higher education opportunities, has expanded from 12 classes to about 120, and the program now serves 20 counties in the Upper Cumberland Region.

Dr. Golden's feats in the classroom alone warrant significant praise; however, his commitment to education did not stop there. Dr. Golden played an enormous role in education leadership and support. He has coauthored 3 books and has published more than 25 articles on education. He has chaired and directed many leadership and training conferences in this field. Moreover, he served on many statewide and national education policy boards and was named Outstanding Educator of the Year in 1980 by the Tennessee Alliance for Continuing Higher Education.

During his 45-year career as an educator, Dr. Golden has used all the resources available to improve the quality of teaching and school administration, and he has fought vigorously to ensure that public education provides equal opportunities for each and every child, regardless of his or her background.

Mr. President, I join my fellow Tennesseans and all Americans in paying tribute to Dr. Charles E. Golden and in expressing our sincere gratitude for his leadership and undying efforts to enrich the moral fiber of all individuals and to create a better educated citizenry in Sparta and throughout Tennessee.

TRIBUTE TO THE CARPENTERS OF THE CITY AND COUNTY OF PHILADELPHIA

Mr. SPECTER. Mr. President, on Saturday, June 20, 1992, the Carpenters' Company of the city and county of Philadelphia will be celebrating the 216th anniversary of Pennsylvania's statehood at Carpenters' Hall in Independence National Historic Park. The Carpenters' Company, the owner of Carpenters' Hall, is a small group of master builders who have taken the responsibility to keep this historic building open to the public for the past 135 years. Founded in 1724, the Carpenters' Company of the city and county of Philadelphia is the oldest existing trade guild in the United States. Its origins can be traced back to medieval Europe. Since 1976, the company has hosted the Pennsylvania birthday party, an annual celebration of this historical event. Ten years ago, the Pennsylvania State Legislature officially recognized Carpenters' Hall as the birthplace of the Commonwealth of Pennsylvania.

The company is committed to the education and preservation of Carpenters' Hall as a symbol of our Nation's independence and rich historical tradition.

Mr. President, some of our country's famous forefathers, including George Washington and John Adams, are only some of the famous people who have attended meetings at Carpenters' Hall. In 1774, the First Continental Congress met at Carpenters' Hall, where the seeds of America's independence movement were sown.

Carpenters' Hall was also the site of the Provincial Conference which was held from June 18 to June 25, 1776. The events that transpired during that historical conference enabled Pennsylvanians to sever their ties with Great Britain and support the cause for national independence. It is at Carpenters' Hall that delegates were selected to the Constitutional Convention which would form a new Government to be truly representative of the citizens of our great Nation.

Not only has Carpenters' Hall served as a first home for some of the country's oldest organizations such as Franklin's Library Company but also has provided a meeting place for Philadelphia's business, political, academic, and scientific communities.

Therefore, Mr. President, I think it is fitting for the U.S. Senate to take note of the 216th anniversary of this historical event and I wish every success to the celebration in Philadelphia.

BUSH AND ISRAEL

Mr. DOLE. Mr. President, I want to bring to the Senate's attention an excellent op-ed which appeared in the Washington Post last week. It is an analysis of relations between the Bush administration and Israel, done by one of this country's most astute observers of the Middle East, Prof. Dan Pipes, of the Foreign Policy Research Institute.

Professor Pipes' central thesis is simple and compelling. The atmospherics surround United States-Israeli relations under President Bush are lousy—and that is unfortunate; but the substance is solid—and that is the important thing.

As I and others have done here on the floor of the Senate, Professor Pipes outlines the record of unparalleled accomplishment the Bush administration has achieved in advancing common United States-Israeli interests. It is time, Professor Pipes says, for "Israel's supporters * * * to wean themselves from emotionalism and recognize a positive record for what it is."

The op-ed's title sums up its substance: "This Administration Is Good for Israel." Professor Pipes makes a compelling case for that thesis, and I urge all Senators to read his excellent piece.

Mr. President, I ask unanimous consent that the full text of the op-ed be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THIS ADMINISTRATION IS GOOD FOR ISRAEL

(By Daniel Pipes)

Israel's supporters have had it with George Bush. Pointing to a sequence of hostile acts—his awful remarks at a press conference last Sept. 12, Secretary of State Baker's alleged vulgarisms, the sleazy leak about arms transfers to China, the State Department's incredible endorsement of a Palestinian high of return—Americans who care about Israel overwhelmingly agree that Bush is bad for Israel. But a cool assessment of the record shows that they are wrong.

For starters, Bush and Baker closed down the dialogue with the PLO. They expanded the peace process from just Israel and the Palestinians to include no fewer than 11 Arab states.

More: Baker spent months getting the Arabs to accept a peace process on Israeli terms. Its points of reference contain nothing about land for peace or Jerusalem. Palestinians do not comprise a separate delegation. The process excludes the PLO, Palestinian expatriates and Jerusalem residents. Europeans and the United Nations have no real role, nor does the U.S. government get directly involved unless invited by all parties.

The American-sponsored peace process virtually eliminates the prospect of war, at least in the short term. As a result of this and other Bush administration efforts—most notably Operation Desert Storm, which destroyed Iraq's offensive capabilities—Israel faces the smallest threat of war in its 44-year history. Further, Bush achieved what Ronald Reagan never attempted—he got the United Nations to rescind its 1975 "Zionism is racism" resolution. His administration played a critical role in springing Ethiopian and Syrian Jews. However cool the Bush words toward Israel, the acts are warm.

Of course, there's one cool act: the denial of a $10 billion loan guarantee for Israeli housing. But this issue, which so badly riled U.S.-Israel relations, needs to be seen in perspective:

The administration supports an unconditional $3 billion a year in aid to Israel, much the largest per capita aid to any country. Last year it backed a $400 million supplement for housing purposes and $650 million in cash for damages suffered during the gulf war.

Washington did not refuse to make the loan guarantee, but made it conditional on a cessation of new settlement activities in the West Bank; the Shamir government chose to reject these terms. In the end, Israelis rejected American terms, and not the reverse.

Doing without the loan guarantee may serve Israel's long-term interests. The country needs growth, not aid. Dependence on handouts stymies growth by allowing politicians to defer hard decisions. Not getting the loan guarantees compels the Israeli government to get serious about privatization; major corporations—the telephone exchange, chemical manufacturer and shipping line—are on the block.

Making sure Israel survives has always been the central issue in U.S.-Israel relations; from this perspective, loan guarantees appear peripheral. It hardly compares to U.S.-Israel tensions of years past (Eisenhower forcing Israel out of Sinai, Ford denying delivery of fighter planes and Carter ignoring Egyptian treaty violations).

Looked at as a whole, the U.S.-Israel relationship of international politics. American politicians who reiterate their understanding of Israel's plight quickly get known as friends of Israel. Secretary of State George Shultz, for example, clearly established his concern for Israel's long-term security. Most memorably, he once asked a large audience of Israel's supporters if the PLO was qualified to enter negotiations with Israel. "No," it boomed back. Shultz answered: "Hell, no! Let's try that on for size. answered: PLO." "Hell no!" the crowd echoed. Not surprisingly, Shultz won the permanent affection of Israel's supporters.

By way of contrast, James Baker never goes beyond the tight-lipped delivery of pro forma statements about Israel. His demeanor types him as indifferent or hostile to the Jewish state.

Stressing a politician's style so heavily has the strange effect of rendering his actions relatively unimportant. In December 1988 when George Shultz took the step friends of Israel most dreaded—opening official U.S. relations with the PLO—the raised hardly a word of protest. His pro-Israel bona fides, in other words, won him enormous freedom of action. Contrarily, the politician who fails to establish a rapport can do nothing right. Baker's turgid approach to Israel and Bush's tin ear condemn them to a purgatory in which they get credit for nothing they do for Israel—even closing the dialogue with the PLO.

In an unusual acknowledgement of the emotional basis of U.S.-Israel ties, George Bush recently observed: "I have come to believe that the measure of a good relationship is not the ability to agree, but rather the ability to disagree on specifics without placing fundamentals at risk. We do this all the time with Britain; we should manage to do it with Israel," He is right; the time has come to go beyond tone and style and look objectively at facts. If the Bush administration needs to understand the critical role of feelings in U.S.-Israel relations, Israel's supporters need to wean themselves from emotionalism and recognize a positive record for what it is.

WEINBERGER INDICTMENT

Mr. DOLE. Mr. President, for the past 5½ years, Mr. Walsh has wasted a fortune in taxpayer dollars in a desperate attempt to validate his witch hunt.

And what have the American taxpayers received for their money?

Nothing, except a bill from Mr. Walsh for $30 or $50 million.

Yes, Mr. Walsh's crowd browbeat a few people into guilty pleas, threatening to ruin them financially if they did not rollover. But, when it comes to major cases, Mr. Walsh's batting average is zero.

And with the indictment of Mr. Weinberger, his credibility is now at zero percent, as well. Everyone in this town knows that Mr. Weinberger was one of the Reagan administration's most vocal opponents of Iran-Contra, and that he played no role in its advancement.

Still, Mr. Walsh and his highly paid assassins saw Mr. Weinberger as a way to get at their ultimate target—President Reagan. They threatened Mr. Weinberger that unless he testified that President Reagan violated the law, they would see that he was indicted.

To his credit, Mr. Weinberger refused to buckle under to this blackmail.

Mr. President, many States have laws which stipulate that if someone brings a frivolous law suit, then they have to pay the court costs of all parties involved. When it comes to the Walsh investigation, frivolous sounds just about right. So perhaps it's high time for the taxpayers to hand him a bill for a change. It is time to close down, Mr. Walsh.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore".

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,942,688,708,531.55, as of the close of business on Friday, June 12, 1992.

On a per capita basis, every man, woman and child owes $15,349.62—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

WORKPLACE FAIRNESS ACT

The PRESIDING OFFICER. The Senate will resume consideration of S. 55, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The hour between now and 12:30 p.m. shall be equally divided and controlled by the Senator from Utah [Mr. HATCH] and the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I would like to take a moment to discuss the administration's response to the Packwood amendment which is now part of the committee substitute, and on which we seek to invoke cloture this afternoon. The Secretary of Labor, in a letter to the minority leader, wrote that if the bill as amended were sent to the President, his senior advisers would recommend that he veto it.

That is the way to go, Mr. President. You have been there all the time, great friend of labor.

The labor movement expressed support for the Packwood amendment, in the spirit of legislative compromise. Its change in position was hailed as a dramatic shift toward a more cooperative, less confrontational system of collective bargaining. The proposal reflects labor's willingness to reexamine old principles in light of a changing world economy.

Did the President say, "This modification addresses my concerns, and I will now sign the bill?" No. Did he say, "This represents a substantial concession on the part of the labor movement and merits careful consideration?" No. Did he make any form of a counterproposal? No. Instead, the President's team renewed its veto threat. Vetoing progressive legislation in the interest of the people of this country is, after all, the President's favorite pastime when he is not traveling abroad.

When Congress passed the minimum wage bill to protect our Nation's poorest workers, a bill that simply made up what the minimum wage had lost due to inflation, he vetoed it.

When Congress tried to help the millions of newly unemployed workers by passing unemployment compensation legislation, he vetoed it, not once but twice. And then he used the procedure to try to come back on board as if he came up with a new idea when we finally passed it the third time it came up.

When a bill that restored civil rights protections won 65 percent support in both Houses of Congress, he vetoed it. What did he care that almost two-thirds of the Members of each body supported it?

When Congress tried to give working families a break by providing even the most minimal family and medical leave protections, George Bush vetoed the bill. And the President opposes legislation to provide women the same remedies as men for intentional employment discrimination. He has also threatened to veto a bill to improve workplace health and safety, and he has vetoed or threatened to veto many other proworker bills besides these.

What kind of a President, what kind of compassion, what goes on in this man's head that causes him to be so hostile to the concerns of the ordinary working people? It is true he comes from a different background, but we have had other Presidents who came from different backgrounds, and maybe the best example is Franklin Delano Roosevelt, who still had great compassion for ordinary people in this country. This President shows no compassion.

So the latest veto threat is really no surprise. We knew it was coming before he ever made it because, at every turn in his administration, the President has joined with big business to obliterate the most basic rights of America's working men and women.

What kind of a man is this? Does he really think the American people want to live in a society where workers have no right to a safe workplace, to a minimum wage, or to take unpaid leave to take care of a sick family member, or to bargain collectively?

It is, of course, possible that the President will change his mind if the bill should reach his desk, and I certainly hope that he does reconsider his position. But regardless of whether the President turns his back yet again on American workers, we in this body cannot; we should not.

Let us keep in mind that the vote that we will next take is simply whether or not we will close off debate on the bill, simply whether or not we will quit talking and go to the substance of the legislation. This bill is of fundamental importance, not just to every working man and woman in this country, but to all of America, because this bill has to do with whether or not there is going to be an organized labor movement in this country.

If you want to bust the American labor movement, go ahead and vote against the cloture motion, because the reality is that if employers can use strike breakers to come in and break up strikes and the employees lose any effective way to do anything in order to fight for their position, then you have effectively broken the American labor movement in this country. And when you do, it will not only be organized workers who will pay, it will be all Americans. Because we can look back on the history of this country and we can see time and time and time again how organized labor came to the Congress of the United States, came to the President of the United States seeking decent legislative proposals that helped bring about a progressive movement throughout America—not just for working people, but for all Americans. I do not care whether it was Social Security or Medicare or Medicaid, whether it was occupational safety legislation, whether it had to do with minimum wage legislation, whether it had to do with a whole host of legislative proposals—had there not been an organized labor movement in this country, the laws would not be on the books today.

So when you vote today on the very simple issue of whether or not we ought to stop talking about this issue and get down to voting on it, you are talking about whether you believe that labor has a right to join together and whether or not there shall be or will be in the future an organized labor movement in this country.

I urge my colleagues to support the cloture motion. More important, I urge them to support the passage of this legislation.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, it is not quite as disastrous as the Senator from Ohio is indicating. We have for 54 years had a very strong labor movement in this country. The reason the labor movement has lost a percentage of the members of the work force is not because employers have an offsetting right to a strike. That is not the reason. There are a number of reasons for that, some of which are the union's fault, some of which are not; some of which have come as a result of enlightened management that is treating employees better through the years.

So to indicate that unless they can take away the rights of employers to hire permanent replacements, that the union movement is gone and that we are busting the movement and hurting the movement, that flies in the face of 54 years of effective collective bargaining relationships, and 54 years of effective laws, slanted somewhat in favor of the unions, as I agree they should be, that have worked very well for unions.

Whenever a union strikes, that is an awesome weapon. Most unions do not want to strike. But I have to tell you, no business wants to hire permanent replacements. The only time you get into permanent replacements is really when the union strikes and is unreasonable in its demands, intractable, and the only chance to keep the business alive, basically, is to hire permanent replacements.

Now, who, in the interest of fairness and equity, would deny the employer that right except for a handful of people who are really pushing this particular bill? If this were a secret ballot today, this bill would go down. But there are a lot of various forces that come to play in these types of issues.

What is wrong with the Packwood-Metzenbaum amendment? No. 1, the Packwood-Metzenbaum amendment still overturns the Supreme Court's 1938 Mackay doctrine, a 54-year-old law that has worked very well, that keeps the balance of power equal, or at least relatively equal. That is a decision which stands for the proposition that, just as employees can go out on strike, employers can continue to operate by replacing—even permanently, if they will—striking workers. It has very seldom been used in the history of our labor/management relations, but it is a right, that sometimes can result in resolving problems.

Under this longstanding precedent of the Mackay doctrine, the availability of economic weapons on both sides has been an essential element in the collective bargaining process. It has provided the strongest possible inducement for both groups to negotiate in good faith and to resolve their difficulties through compromise. It has been a very effective tool, very seldom used.

But when you have a unreasonable strike and unreasonable demands, then what else can the employer do other than say: I do not want to let my business go down the drain. If you do not come back with these reasonable terms and conditions I have offered you, then I am going to have to hire new people.

It makes sense. Take away that freedom, and you have taken away all of the arsenal of the employer to save his or her business.

No. 2, however, in spite of their desire to overturn this longstanding precedent, the Packwood-Metzenbaum modification does not just overturn the Mackay doctrine, a principle which has stood for more than 50 years, more than a half-century. It would completely overhaul the collective bargaining processes of the United States.

The proposal overturns significant portions of the National Labor Relations Act. It eliminates more than 50 years of legal precedent and Supreme Court decisions, and inserts the Federal Government potentially into every wage-setting decision in the United States.

No. 3, the proposal advocated by the Senator from Ohio would replace collective bargaining as we know it today with a new form of arbitration. This has been described as "quasi-compelled mediation."

Now, what on Earth does that mean? Is this a tried and tested approach, with proven benefits? Certainly not. Does anyone absolutely know how this really works? Not on your life. We are asked to risk economic jobs and our collective baing system on a proposal that has been in public view, as a practical matter, for exactly 2 days—throw the whole system out for something that has never had a day of hearings.

There have been no hearings; this has never had any real, effective consideration by the appropriate committee, the Committee on Labor and Human Resources; this has really not had much debate. And except for the brief colloquyloquy between Senator METZENBAUM and myself yesterday, there has not been much analysis or discussion of this particular committee compromise.

I daresay that there are many more questions that need to be asked, but we clearly will not be able to do so in the few minutes reserved to us today.

No. 4, as I understand it, this proposal basically says that unless the employer first agrees to turn all unresolved issues over to a factfinding panel created under the auspices of the Federal Government, including those issues over which it may currently have no legal bargaining obligation, it loses the right to replace strikers with permanent replacements, no matter what the duration, the cost, or economic consequences of the strike.

No. 5, there are glaring inequities in the entire proposal that essentially leave unions with all of their rights and options under current law, plus a whole new set of alternatives to use at their discretion, plus unprecedented control of the bargaining process.

In contrast, the employer has no control over the process; little to gain and everything to lose.

No. 6, this is not compulsory arbitration, as proponents have been quick to point out. Under compulsory arbitration, both the union and the employer give up something. The something for the union is the right to strike. In this one-sided hybrid called quasi-compelled mediation, no such balance is provided. Unions still retain the power to strike, and they also gain a new power that employers do not have under the new proposal, and that is the power to invoke arbitration or quasi-compelled mediation, whichever you want to call it.

The proposal is completely one-sided in all respects. In arbitration, typically, both sides are bound by the result. That is not the case in this proposal. The union can walk away from this result without losing anything. Moreover, it retains the ability to keep coming back for a second and third, or further tries.

Does management have any of these options? Not on your life. They are not going to be fair and give management these options. Management loses significant rights under the current law if it rejects the result. Can the employer try again, or change its mind, as the union is permitted to do under this proposal? Not on your life. The employer is not given that kind of consideration, but the union is.

Is this quasi-mediation; is this arbitration? One thing it is not is workplace fairness, the title of the bill. This is a very different and a much more complex—and in many ways, much worse—proposal than that which was reported by the Labor and Human Resources Committee almost a year ago.

It is important that we have this extended educational dialog. I would like to return to a point raised by Senator METZENBAUM during yesterday's debate. He pointed out that this bill was being promoted by its sponsors on behalf of 16 million working men and women who are members of labor unions. I can appreciate that, just as I can appreciate the work product and craftsmanship of 16 million American workers.

Let me emphasize for the record that I have never bought into that line about the inferiority and laziness of American workers. That is as patently unfair as it is false.

But let me also point out, Mr. President, that the opponents of this bill are not just thinking about management concerns. As a matter of fact, Mr. President, 85 percent of the American labor force, or about 85 million workers, do not belong to labor unions. That is a very familiar statistic.

But we are not concerned about statistics here. We are concerned, primarily, with the economic opportunity and financial security of all American workers, whether or not they belong to unions.

I think it is time we spent a few minutes discussing how people are really going to be affected by this bill.

I urge my colleagues to listen for a moment to the experience of a man who sent me a copy of a letter he wrote to another of our colleagues:

> We don't need any legislation that stifles business initiative and the formation of jobs. It seems like Paul Tsongas is the only Democrat who understands the relationship between jobs and business. In my career I've been a member of three unions and placed on strike once. * * * Most of my friends on the picket line preferred to be at work but the union had coerced us into a strike—for terms we thought were ridiculous from the start. * * * Please reconsider your position and vote for jobs—not strikes. * * *

. Have we forgotten that replacement workers are workers too? Have we forgotten that they risked crossing the picket line because they needed the job?

Now, Mr. President, what about the rest of the economy that is affected by a prolonged labor dispute? And, make no mistake, labor disputes will be prolonged under the latest version of S. 55.

For example, companies who supply parts or services to other companies in the midst of a labor dispute cannot depend on consistent orders—perhaps, if there is a strike, there will be no orders at all. That means potential layoffs even in companies not involved in the labor dispute.

Just 3 days ago, the majority leader came to the floor and substituted a committee modification for the text of S. 55 as reported by the Labor and Human Resources Committee.

I simply note again for the record that this so-called committee modification is nothing more than the bill's sponsors' idea of bait and switch. The committee never discussed this modification; and, the minority was never even informed of any committee action on a modification.

Furthermore, this so-called modification should be no one's idea of a compromise—especially if you believe in the collective bargaining process.

The latest version of S. 55—something that should more rightly be called the Packwood-Metzenbaum modification—is actually quite clever. It allows the unwary reader to think that unions give up the right to strike in exchange for the recommendations of a factfinding panel. Not so.

The Packwood-Metzenbaum modification would effectively place employers into a no-win situation. If the employer does not agree to the factfinding procedure or to the decision of the panel, he or she automatically forfeits the right to hire replacements under the Mackay doctrine.

Why would any employer not agree to the procedure or the recommendations? Answer: First, he or she simply cannot afford any wages or benefits over his or her last offer; or second, he or she does not want a federally sanctioned entity to decide the terms of his or her labor contract; or third, all of the above.

In fact, under the Packwood-Metzenbaum modification, the parties would no longer likely bargain with each other. Instead, they would petition the Federal Government. All communications between the parties would be through the Federal Government.

It seems to me, Mr. President, that this stands as a complete repudiation of the principles of collective bargaining.

One cannot help but find it ironic that in order to correct the obvious flaws in S. 55, which addressed one vitally important issue that arises during a strike, the proponents have decided to redo all of collective bargaining. It is a little like saying that in order to catch a fish, you first need to drain the lake. That is ridiculous.

The bottom line here, Mr. President, is that this bill, S. 55 in the original, or S. 55 as modified, throws out over 50 years of labor law without any regard for workers and their families whether they are union members or not.

Mr. President, as I pointed out yesterday, this whole process would be laughable if the consequences were not so serious.

In just a short while, we will be voting to invoke cloture on the grandly mistitled "Workplace Fairness Act."

If you believe that this body should understand the ramifications of this legislation before we impose it on the entire country;

If you believe that the rules and procedures of the Senate ought to mean something;

If you believe that we should not overturn 50 years of Federal statutes, Supreme Court, and other judicial precedent;

If you believe that we should not gamble with peoples' jobs and the economy;

If you believe that we do not have to destroy collective bargaining in order to help unions; then you should join us and vote against cloture because a vote against cloture is a vote for the workers and the opportunity of business to continue to go forward, and I think it is a tremendous vote for the collective bargaining process that has served us so well over the last 54 years.

Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER (Mr. KERRY). Who yields time?

Who yields time?

If neither side yields time, time will be charged equally to both sides.

Mr. METZENBAUM. Mr. President, under article I, section 8 of the Constitution, this body is empowered "to make all laws which shall be necessary and proper * * * to provide for * * * the general welfare of the United States." This is our solemn responsibility as Members of this body. It is the reason we were elected by the citizens of our respective States.

Two years ago, I introduced the Workplace Fairness Act to address the increasing problem of permanent replacements. At stake here, as I have said before, is nothing less than the future of the American labor movement. This is an issue of the utmost importance to the welfare of this country.

Over the last 2 years, there have been six hearings—three in the Senate and three in the House of Representatives—to address this terrible problem. The Labor and Human Resources Committee carefully considered the bill and reported it out a year ago. There has been ample time for Senators and their staffs to familiarize themselves with the issue and to consider all views.

Last Tuesday, 7 days ago, the Workplace Fairness Act was called up on the floor for consideration by the full Senate. On Wednesday, Senator PACKWOOD offered his amendment, to provide for an alternative approach to the permanent replacement problem by encouraging peaceful and cooperative labor relations without forcing settlements on unions or employers. It did not provide for mandatory or compulsory arbitration. It provided for mediation and for an independent panel's recommendations, which both parties could accept, or one or the other could accept, or both could reject.

Yes, this was an important modification. But that is the way the legislative process works. Changes on the floor are not heresy. Nor are they the least bit unusual.

And compromise is a key to any successful legislative effort. No one should be attacked for being willing to compromise.

The proposed modification was debated Wednesday, Thursday, Friday, and yesterday, with ample time for Senators to speak on the bill or to offer additional amendments.

In short, no one can argue at this point that we have not considered this bill carefully enough or long enough. It is time that we, as a body, voted on whether the bill should become a law. I am very proud to say, Mr. President, as I stand here at this moment, I believe that a majority of this body would vote for the bill, were they given the opportunity.

But the issue is not whether or not they vote for the bill. The issue is whether or not we will invoke cloture to cut off debate. And that means we need 60 votes instead of a majority of the Senate, which is 51.

I say this to my colleagues who voted against cloture last week: You have made your point. As a majority, you exercised your right to express opposition to the bill by preventing the conclusion of debate. But it is time now to let the Senate do its job. It is time now to let the Senate consider this legislation on the merits and take a vote on the merits.

As I said, I believe the majority of the Senate would vote for the bill. But if the bill were defeated. I would accept that result. We owe the American people at least an up-or-down vote on the merits of the legislation. We were elected to this body to make laws to provide for the general welfare, and that is our solemn responsibility. If a minority of this body sees fit to continue to prevent us from discharging that responsibility, they have done a grave disservice to all American workers, not just those who are in unions, but all American workers. Yes, they have done a disservice to the Nation as a whole.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no Senator yields time, time will be charged equally between the sides.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I am wondering if the Senator would yield 7 minutes.

Mr. HARKIN. Mr. President, I yield 7 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have heard over the course of the last several days of debate a relentless drumbeat of opposition to the very notion that there might be something wrong with a labor relations system that allows tens of thousands of workers every year to lose their jobs because they exercise their legal right to strike.

We have all read the headlines and heard the grim figures: 30,000 machinists, pilots, and flight attendants permanently replaced at Eastern Airlines; 9,000 Greyhound workers replaced in a matter of weeks; 2,300 longtime employees of the International Paper suddenly jobless in Jay, ME; 1,200 permanently replaced at Magic Chef in Cleveland, TN—the list goes on and on, in community after community, major cities and rural areas, large firms and small.

We have all heard, too, the wrenching personal stories of replaced workers—workers with 10, 20, 30 years of time on the job who have been discarded like so much disposable waste, who have lost a lifetime of savings, who have seen their family lives disintegrate, who live in communities ripped apart by strife between strikers and replacements.

Yet again and again, opponents of this legislation have taken the floor to insist that there is no problem, that the existing set of legal rules represents a perfect delicate balance between the rights of labor and management that must not be disturbed. Their view seems to be that there is no alternative to a system which allows workers to be used up and thrown away—that the human costs imposed by a system which allows striking workers to be permanently replaced are not only tolerable, but somehow necessary and inevitable.

I reject the notion that fairness in the workplace is incompatible with the demands of a successful, productive economy. That is why I have supported a ban on the permanent replacement of striking workers, and that is why I am prepared today to support the compromise offered by the Senator from Oregon.

At hearings held in the Labor and Human Resources Committee in the last Congress and in this Congress, we heard extensive testimony on the devastating effect that the hiring of permanent replacements can have on workers, their families, and their communities. Eminent experts in labor relations testified to the inherent contradiction between provisions of the Federal labor statutes that protect workers from being fired or disciplined for exercising their right to strike, and the doctrine that holds that employers nevertheless can permanently replace workers who exercise that right.

We heard testimony on studies which have shown that the use of permanent replacements prolongs and escalates strikes.

Following those hearings, the committee reported out a bill to prohibit the use of permanent replacements in economic strikes. The bill was approved with the support of a majority of the committee's members, and I believe that a majority of the Members of this body are also prepared to support such a ban.

We have not, however, been able to get a vote on the bill as reported by the committee. Instead, a minority of Senators has chosen to engage in a filibuster to try to prevent that bill from coming to a vote.

In an effort to address objections raised by opponents of the committee-reported bill, so that we can invoke cloture and get to a vote on this important legislation, the Senator from Oregon has proposed a compromise that would establish a narrower, qualified prohibition on the hiring of permanent replacements that turns on the willingness of the parties to an economic dispute to resolve that dispute peacefully, without resort to economic weapons.

Both sides to this debate have expressed an interest in minimizing the economic disruption that is a necessary part of any strike or lockout, both for workers and employers. This is a sensible compromise that serves that end. It deserves support on both sides of the aisle.

It has been suggested by the Senator from Utah that the willingness of the supporters of the original committee bill to accept and endorse Senator PACKWOOD's compromise is an admission that the original bill—and indeed the entire attempt to limit employers' use of permanent replacement—is flawed. That contention is absurd.

Compromise is an integral part of the legislative process, and every Member of this body has on countless occasions agreed to proposals that entailed some modification of their original positions.

The basic question is whether employers should continue to have the unilateral right to permanently replace employees who have chosen to go on strike. Both the bill that was reported by the committee and the bill as modified by the Packwood compromise recognize the inherent unfairness of the current legal rule that gives employers that unilateral right.

The Packwood compromise is carefully crafted to address the key concern expressed by opponents of the original bill—the concern that if an absolute ban on the use of permanent replacements is imposed, employers will have no adequate defense in circumstances where a union insists on pressing an unreasonable bargaining demand.

The point has been made many times in this debate that employees do not lightly engage in strikes, that the prospect of going without wages is a serious deterrent to lengthy strikes, and that employees' bargaining demands necessarily tend to be tempered by their interest in the long-term financial health of the company to which they expect to return once their contract dispute is settled. But the Packwood proposal completely disposes of the objection that these factors alone are not sufficient to protect the employer from an intransigent union.

Under the compromise, an employer's ability to hire permanent replacements is limited only in those circumstances where the union is willing to submit all issues in dispute to a separate factfinding panel empowered to conduct a hearing on the issues and make recommendations for voluntary resolution of the dispute. This procedure serves as an effective check on the reasonableness of the union's bargaining demands, and encourages rational bargaining.

Supporters of justice in the workplace have gone the extra mile to achieve a fair result. I urge the Senate as a whole to vote to end the filibuster and pass this legislation. The increasingly aggressive resort by business to the use of permanent replacements in recent years is part and parcel of the take-no-prisoners, law-of-the-jungle ethic that gave the eighties its character as the decade of greed. Let us put that era behind us and deal with this issue responsibly.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. The Senator from Iowa has 2 minutes and 40 seconds.

Mr. HARKIN. Mr. President, I yield myself such time as I may consume.

Mr. President, I had not intended to speak again on the issue of S. 55, the striker replacement bill, but circumstances find me here taking the floor on behalf of Senator METZENBAUM who had to fulfill another obligation. I would like to take this opportunity to bring this down to the human terms. For me this issue is not something that exists in the abstract—as just some kind of a policy question. This is very personal to me, and I am going to take the time of the Senate to reiterate why I feel so strongly about this bill.

It has to do with someone who is very close to me; in it has to do with my brother. I told this story before, but it is a story of such power that it deserves being heard again.

My brother worked for a small manufacturing plant in Des Moines, IA, for 23 years. For the first 10 years he worked there, he did not miss 1 day of work and was not late once. In fact, the owner of the plant, Mr. Delavan, had a Christmas party and gave him a gold watch with his name on it.

In all my brother worked at the plant for 23 years. In 23 years he missed 5 days of work in 23 years, and received all kinds of awards for productivity. During all those years my brother was a member of the United Auto Workers, which had organized the plant. And all those 23 years there was not one strike, not one labor dispute, because the owner of the plant—Mr. Delavan—dealt in good faith with the workers, signed the contracts that they moved ahead together.

But Mr. Delavan got old and sold the plant to a group of investors. They had no connection with the workers, and they determined that the best way that they could increase profits was to get rid of all their workers, the people that worked there and hire new men and women and pay them less.

But first, the new workers had to confront the union at the plant. So they then set about to break the union. Once the investors took over this company, they kept having labor disputes—year after year. Finally, they the workers refused to sign the contract, and went out on strike. In return, the owners brought in the so-called replacement workers, or as I like to call them "scabs." They brought them in and busted the union. In fact, one of the investors bragged, "You want to see how to bust a union? Come to Des Moines, and we will show you how."

Mr. President, I ask unanimous consent that I can have about another 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN. I thank the President, and the Senator from Utah.

So they brought in strikebreakers and broke them. I said one investor openly bragged: "You want to see how to break a union? Come to Des Monies, and we will show you how."

They did break the union. People who worked there like my brother, for 20, 25 years, people with families, homes, with kids in college, all of a sudden were thrown out of the company to which they devoted their lives.

I daresay if Mr. Delavan owned the company that situation never would have happened, because it never had happened in 23 years. But these investors came in with no connection with the workers, threw them out hired replacement workers and busted the union.

And I know the Senator from Utah knows about my brother because I have spoken to him before. My brother happens to be disabled. He is totally deaf.

That was a good thing about Mr. Delavan. He hired a lot of disabled people to work in his plant, gave them the pride and dignity to work. Those with disabilities, in fact, turned out to be some of the best workers he ever hired. I remember my brother said to me after this was over: "You know, I feel like a piece of machinery they used up and threw me out on the trash heap."

This treatment did not just affect my brother and his fellow workers. It affected a lot of other people they knew who now asked themselves: Why bust your rear end for a company? Why go to work every day? Why be on time every day? Why never miss work? Why get all kinds of rewards for productivity if after a certain period of time management can come, bust your union, throw you out, and treat you like a piece of machinery?

This treatment destroys the dignity and the worth of individuals and destroys their productivity. That is why I say S. 55 is not just in the best interests of workers or organized labor. It is in the best interests of our whole industrial sector of America. It is in the best interest of our overall economic productivity. I have seen it personally. I saw in my own State, in my own family what this means. I resolved then if I could ever be a part of anything that would change this process I would. That's why I feel so strongly that the Senate must act now, invoke cloture, and pass this bill.

It is time that we return dignity and worth to our working people in this country. That is what this bill is about. A human being is not a piece of machinery. A human being is not someone you can use up and dispose of and throw out on the trash heap of life. That is what they did to my brother. That is what they did to his coworkers, and I tell you they have not been the same since. And it affected a lot of their friends, and it contributes to undermining the ethic of why work so hard, why be so productive, if this is what management can do to you?

I see the strikers replacement bill in very human terms. I see it in terms of what it means for productivity for this country. You get the best productivity and best work out of people who feel they have a stake in it, who feel they are going to be treated fairly and decently and another point, Mr. President, not all strikes are labor fed. The one my brother was involved in certainly was not. As I said, for 23 years the union never had a strike, or any labor dispute.

I will tell you to this very day I have never yet met one labor person who wanted to go on strike. I never met one person that would rather be on strike than at work. For one thing workers on strike do not get paid as much. I never met one person—they all wanted to be working, but they want to be treated decently and fairly and they want to be treated as part of an organization and company that they have a stake in. That is what this bill is about.

So, I hope that with this compromise, which I was not so much in favor of initially, we will get the necessary votes to invoke cloture and pass this bill.

Mr. President, about a month ago I read a little piece in the newspaper that said that the Chinese Communist government passed a new decree outlawing labor unions, saying no labor union can be organized unless it was first cleared with the Communist Party because it wants to be able to control them.

So here is the last vestige of communism in the world, a dictatorial Communist society, saying: No, they do not want free labor unions because they know what will happen if they get free labor unions. Here we are in America going down the same path destroying labor unions all over this country.

But those companies that are on a high wage, high growth, high skilled path like in Germany where their workers make half as much as our workers on average, 144 percent of what we make here in this country, they have organized labor, and they do in France, they do in Italy, they do in England, all over the world, but not here.

Finally, Mr. President, let me just say that what this bill is about is not about organized labor versus business. It is about the worth and dignity of human beings, whether we will treat them as pieces of machinery or whether we will treat them as human beings, and whether we will get the most productivity out of them by recognizing their worth and dignity.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 6 minutes remaining.

Mr. HATCH. Mr. President, I appreciate the comments of my good friend and colleague from Iowa. He and I stood side by side together here as we passed the Americans with Disabilities Act to help his brother and my brother-in-law who I carried to the Los Angeles temple, who at the time had polio and was a quadriplegic. I have to say that I understand how he feels.

But this is not about that issue. This is about two very strong competing rights. If you take the right to strike away from the workers, they are dead. I think you would find that management would rise up again and it would hurt this society. But then again, if you take that competing equivalent right to permanently replace to save the management's business, the employer's business, then the employer is dead.

That is why these are two rights that are very, very important. They are coequal rights. I have to say I think the right to strike is a more powerful right and a more powerful weapon. And I will fight to make sure every worker in this country has that right if they want to, through organized labor if they want to. It is a very powerful right.

The right to permanently rehire is a very powerful right, as well. But it is very seldom used. It is only used in a relatively few number of cases and only affects, according to the GAO, the General Accounting Office, between 3 and 4 percent of the workers in any given year, and then probably does not affect them too deleteriously.

So these two rights are very important. It is right to keep labor strong with a right to strike. But it is coequally right to keep the employer with an offsetting strength so that you have that delicate balance so neither side gets one up on the other, and that both have to come to the table because both of them are at risk if they choose one of these rights, choose to utilize them. And when both are at risk, there is more likelihood they will get together and resolve their difficulties through the collective bargaining process that we have developed, the hallmark of the world, over the last 50 years and more.

Now the problem with this is, No. 1, this overturns 54 years of collective bargaining law. It overturns the Mackay doctrine, which has worked very, very well to prevent widespread strikes and widespread hiring of permanent replacements.

No. 2, it overhauls the collective bargaining process. It replaces a lot of it, if not all of it, with new theories that nobody knows anything about, that may or may not work, and certainly will not work in fairness to the employer.

No. 3, it is filled with inequities. It is stacked in favor of organized labor rather than keeping this coequal set of rights.

No. 4, the employer under this approach, under S. 55 as it was, but this approach which is even worse, the employer would have no control over the process, no options whatsoever.

No. 5, it leads to what Senator PACKWOOD referred to as quasi-compelled mediation, something nobody understands, nobody knows anything about. or how it will work.

No. 6, the union at any time can walk away from the process without loss and still has the right to strike. Management, if it rejects that factfinding board's decision, management loses its coequal right. If the union walks away and management does not and management decides to exercise its right to permanently rehire, all the union has to do is immediately come back in and say, "Well, we accept the quasi-compelled mediation board's recommendation." They lose absolutely nothing. There is nothing at risk for the union, and they can come back again and again. Management cannot, the employer, no matter how up against the wall the employer might be.

So the employer does not have anywhere near the right that the unions would have. The union can change its mind. The employer cannot. It is that simple. Replacement workers are also workers, too. Sometimes replacement workers are workers who are union members who are sick of the strike, who want to work, who think their union is holding out too strongly or too much. Let us keep that in mind. Replacement workers are workers too.

I might add, sometimes they are union workers who just disagree with the strike of their union.

Now there are many questions that arise here, a lot of issues that are unresolved. Nobody knows how this quasi-compelled mediation is going to go. Nobody who really understands the collective bargaining process would fail to understand that this completely throws that process out of the window for a new found set of theories that really may or may not work, and that is without any committee hearings on this matter, on this so-called committee substitute, that is without any committee markup, that is without—I ask unanimous consent that I be granted 3 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. What is the request?

Mr. HATCH. That I be granted 3 more minutes.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. HATCH. So there were no committee hearings, no committee markup, no consideration before we got to the floor. We have only heard about this for 2 days—last Friday and yesterday. Well, I guess 3 days if you count today. We have had an hour on it today.

And by the way, this throws out 54 years or more of collective bargaining rules, regulations, statutory enactments, Supreme Court decisions, and lower court decisions, all of which have worked I think, by and large, pretty well for organized labor and for both sides. because both sides are treated equally.

Mr. President, this is not some inconsequential, itty-bitty change in the labor laws. This is a massive overhaul or revamping of the labor laws.

I hope our colleagues understand this because if they do, they should vote against cloture, because it is the only way to stop this type of legislating from happening and this type of legislation that could cause such a dislocation in our society from occurring.

Mr. President, I may have a few minutes left, but I yield back the remainder of my time. I know the distinguished Senator from West Virginia was supposed to have the floor at 12:30.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia, the President pro tempore, is recognized.

ARE THE DARK AGES RETURNING?

Mr. BYRD. Mr. President, conventional history books date the end of the Western Roman Empire in the year 476 A.D.

In 476, the last bona fide Italian emperor to rule in Rome, Romulus Augustus—or "Augustulus," as he was derisively called—was deposed by the German Odoacer, or Odovacar, who declared himself the ruler of Rome.

At one time, conventional historians likewise dated 476 as the beginning of the popularly styled "Dark Ages" of Western Civilization.

As any observer of sunsets will agree, "darkness" is a relative term, often determined by the eye of the beholder.

In truth, the decline of the Western Roman Empire, the decay of Classical Greek and Roman culture in Western Europe, and the dawn of the Dark Ages in Europe began long before 476. Moreover, perceptive scholars, historians, theologians, and public officials had been decrying the eclipse of civilization and culture in Western Europe for decades before 476.

In short, the "darkness" was so long in developing that few people noticed the difference until it was too late.

Indeed, even as the first shadows of this darkness extended over the Empire, the mighty Roman legions had advanced their eagles from the banks of the Euphrates and the Nile in the east and south to the western ocean in Spain, and from the firths and the mountains of Caledonia to beyond the Rhine and the Danube in the north. Through the misty centuries, there had been some crushing defeats, as at Lake Trasimeno and Cannae by Hannibal in 217 and 216 B.C., respectively.

In A.D. 9, Quintilius Varus and his three Roman legions had been wiped out by Arminius and his Teutonic barbarians in the glens and marshes of Teutoberg Forest, and Augustus would often beat his head against the wall and exclaim, "Quintilius Varus, give me back my legions."

Portentious as the defeat of Teutoberg Forest was, a worse blow was to follow centuries later.

In 378, a barbarian army of Visigoths decisively defeated a massed Roman army in a fixed battle at Adrianople and killed the Roman emperor, Valens.

Vast and admirably organized as the Roman fabric appeared in the provinces and on the frontiers, prior to Adrianople, rottenness attacked the core of Roman society. The free middle classes of Italy had almost wholly disappeared. Adulation was now the chief function of an obsequious Senate. The people were treated to free bread and circuses, and a rustic yeomanry no longer made up the backbone of the Roman legions. Paid barbarians had become the protectors of Rome. Rome's enemies were no longer on the outside; they were within her bosom.

Long before 476, the Roman legions had made their final withdrawal from Britain, never to return.

Long before 476, the Visigoths established a kingdom of their own in Spain, and the Vandals seized the province of Africa.

And long before 476, Attila's Hunnish hordes traveled at will through Rome's frontier provinces and invaded Italy.

Even more telling than these military and political signs of decay were the alarms of scholars and social critics.

Scholars and writers despaired of the barbarization of the Latin language. Furthermore, the old classics of the Ancient Greek and Roman Golden Ages—Virgil, Cicero, Sallust, Ovid, Homer, the Greek tragedians, Horace, Petronius, and the rest—had fallen into disuse. In the chaos of barbarian sack and rising civil disorder in city after city, whole libraries were put to the torch and thousands of books and scrolls were lost to mankind forever.

As disorder grew, patriotism itself waned. Rather than to assume the leadership of their communities, the sons and scions of even the most aristocratic families often fled into the wilderness and mountain vastness in search of peace and to escape the danger of Gothic spear and Hunnish torture.

With passing decades, the great urban centers of Western Europe shrank and fell into rubble as their populations fled before plunderers and rapine hordes from Central Asia.

The mighty works of Roman engineering—the aqueducts, the highways, the bridges, the city walls, the amphitheaters, the public baths, the arenas, the administrative buildings and villas—fell into disrepair, some to become the lairs of wild animals and nests for hawks and crows and bats.

For the most part, the cultural lamps of Western Europe went out and were not relit until the Gothic flowering of the twelfth century and the later Classical Renaissance.

Mr. President, I do not propose here that we today have fallen into a new Dark Age in America.

But I will suggest that we are verging dangerously close to a cultural twilight in our own civilization, and unless men and women of conscience and good will strike back at the impinging shadows evident all around us, a new Dark Age we shall find ourselves in, indeed.

With regard to violence alone, contemplate the murder statistics in just the District of Columbia.

Last year—1991—in the barely 69 square miles—if we include water and land—69 square miles surrounding this Capitol Building, nearly 489 men, women, and children were murdered.

Several other cities have no cause to find comfort.

Last year, homicides accounted for roughly 1,000 deaths in Los Angeles, and more than 2,080 in New York City.

Only a few months ago, a young, bright, accomplished, dedicated Senate staff member was murdered within blocks of the Capitol dome—within steps of his own residence—shot in the head by a killer when the young Senate staff member assumed that he could walk three blocks for a cup of coffee at a convenience store nearby.

Throughout this city and in the surrounding jurisdictions in Virginia and Maryland, thousands of law-abiding, honest, hard-working, and tax-paying men and women are afraid to leave their homes at night for fear that some random, senseless violence will end their lives as it did that young Senate staffer's or the young woman who was shot by a total stranger from a passing automobile last year on I-295 outside town, because as the accused slayer is alleged to have remarked, "he felt like bustin' someone."

Chillingly, the most recent victimization projection of the Justice Department's National Crime Survey estimates that: On the basis of past statistics and current trends, 8 of every 10 Americans over 12 years of age living today can expect to be the target of a violent crime at some point in their lives; 4 of every 10 Americans will be injured in the course of a robbery or an assault; and one of every 12 American women will be a rape victim at some point in their lives.

Unfortunately, such violence is not limited to the streets.

Look at what is happening in our public schools.

At one time, a school was held by many as second only to a church in the reverence and honor due it. At one time, a school was a symbol of all that was best in our culture and society—the altar before which our Nation's sacred principles were learned, and at which the civilizing virtues of centuries of human achievement and struggle nourished new generations of children and youth.

Now, to our bitter remorse, the punks and thugs have invaded even the schools.

Increasingly, thoughtful Americans are alarmed by the rising rate of violence in our schools, and the growing number of gun-related incidents being reported there.

A recent report from the Federal Centers for Disease Control in Atlanta, entitled "1990 Youth Risk Behavior Study," revealed that, at some time during the preceding year, 1 in 20 youths in grades 9-12 carried a firearm—usually a handgun—for self-protection or to use in a fight.

Unfortunately, throughout the country, news reports of disturbed youngsters who use guns at school to take out their grievances against others are becoming more common.

However, as alarming as the violence perpetrated by students on one another is perhaps the dilemma now faced by teachers in our schools.

According to a U.S. Department of Education survey, titled "Teacher Survey on Safe, Disciplined, and Drug-Free Schools," taken during the 1990-91 school year and recently released, 51 percent of the teachers surveyed had been victims of verbal abuse at some time during their teaching careers. Of those surveyed, 19 percent reported verbal abuse at some time during the preceding 4 weeks. Threats of physical injury—including death threats—had been suffered by 16 percent of the surveyed teachers during their careers, with 8 percent reporting such threats in the preceding 12 months, and 7 percent reporting physical attacks by students at some point in their careers.

Finally, 2 percent of the surveyed teachers reported that they had been physically assaulted by students in the prior 12 months.

At one time, formal education was reserved only for the children of the wealthy. Understandably, the extension of schooling by church parishes and congregations to even the poor was greeted as a supreme act of charity to surrounding communities.

In the antebellum South where, in some States, laws had made the education of slaves a criminal offense, the attainment of an education by freed slaves was a primary goal for thousands after emancipation.

Likewise, semi- and totally-illiterate immigrants coming from Europe had sacrificed nearly all that they had in order to ensure that their children had access to an education.

How secure is the future of any society or culture in which countless numbers of its school-aged children hold learning itself in contempt, perform with nonchalant mediocrity on standardized tests, physically and verbally abuse and assault those professional men and women who are in the schools to teach, and vandalize the very property that the community has set aside for the task of educating the young?

Indeed, how far is such a society from the burning of its classic books and the final abandonment of a widely educated citizenry?

Unfortunately, the violence, philistinism, barbarity, and disintegration that we witness daily in our schools and nightly on the streets of many of our major cities, mirror problems in our wider society.

Since nearly the earliest years of colonial settlement, this country has been a heterogeneous stew. At various times, that mixture of peoples from many lands has coalesced in lesser and greater degrees of harmony. In no small measure, tempering the rate of flow of new immigrants, on the one hand, and a popular consensus that the learning of English and the absorption of minimal quantities of Western European and classic American culture and values, on the other hand, provided the United States with a modicum of overall interethnic stability.

Currently, however, masses of immigrants, legal and illegal, are flooding into our borders. At the same time, strident voices are attacking the foundational premises of our society and culture, labeling all cultural values as relative, and labeling Europe-based culture and society as irredeemably racist and oppressive by nature.

Some even question the inherent value of the use of English, demanding recognition for a cacophony of languages as equally valuable for government, education, and public discourse.

Anyone really wanting a quick insight into the decline of cultured, reasoned discourse in our country today, or wanting to witness the state of culture itself, need only flip from one channel to the next on the television remote control.

With no apology, obscenity and profanity can often be heard in the dialog of prime time television programs.

A glance at the MTV or other rock video channels will turn up performers who have become millionaires many times over by singing suggestive, even lewd, lyrics. Androgynous rock performers tantalize the young listeners with continued invitations to unreserved sexual exploration with no regard to the consequences of such behavior in this area of HIV infections and AIDS.

And how will posterity judge a civilization in which block after block of its largest cities lies in abandoned rubble or stands in vacant-eyed tenement buildings—a civilization whose bridges are crumbling and rusting, whose public schools are defaced with vulgar graffiti, whose curbsides are cluttered with broken beer bottles and fast-food containers, and many of whose neighborhood streets are nightly abandoned to illegal drug sales and purchases while law-abiding men, women, and children cower inside their homes in fear for their lives until the dawn returns?

A Hans Christian Andersen story recounts the scheme of two rogues who sold an emperor a suit of special cloth that would be invisible to anyone not fit for his office or too stupid to see special cloth. Thus, the emperor went about naked with everybody oohing and aahing over his beautiful suit until a small child blurted out what everybody knew but were too timid, too intimidated, or too self-interested to declare: "The emperor has no clothes!"

The time has come in our country to copy that child's courage and to cry out the truth about the moral and physical decay from which this, the democratic leader of the world, is suffering.

Mr. President, the time is long past for clear-thinking, concerned, and decent Americans to take back our streets, our schools, our culture, and our country from those who are bent on the untrammeled pursuit of violence, disregard for law, indiscipline, disorder, and destruction of the very conditions that make civilized life possible. The time is long past for civic-minded and patriotic men and women to enter the lists of local government, of their boards of education, and of civic clubs and committees dedicated to building our country up instead of allowing it to decay from neglect or to be dismantled by forces and interests bent only on destruction or self-aggrandizement and personal fortune with no regard to public well-being and the future. The time is long past for church-going citizens to tell the entertainment industry that enough is enough—that millions of Americans from all backgrounds and groups are tired of the pollution of our airways with profanity, with lewd music, with drugs, while villains who are portrayed as heroes, and with the celebration of evil, violence, lawlessness, and debauchery as the ideals of our society and the norms for human behavior.

We face a spiritual problem—a problem of lost faith in the eternal values on which this country was built; a problem of adult men and women unwilling to solve their own conflicts without resorting to the numbness of drug abuse; a problem of family life disrupted by an unwillingness of parents to rear their children for self-disciplined, constructive lives, and of children more interested in being "cool" and "hip" than in growing up to become responsible adults; a problem of people who think patriotism and civic-mindedness are square and out of date; a problem of too many people of too little moral courage to care about reversing the decline of neighborhoods and whole communities.

"Blessed is the nation whose God is the Lord," saith the Scriptures. Mr. President, at root, America is turning away from the God of our fathers. It is turning to other gods. Junk television and junk movies peddle profanity and violence, sexual promiscuity and adultery, lawlessness, Godlessness, and blasphemy, as the norms. Anything goes, and first amendment freedoms of press and speech are invoked as cover for it all. I think of Abraham Lincoln's lament:

> We have been the recipient of the choicest bounties of heaven. We have been preserved these many years, in peace and prosperity. We have grown in numbers, wealth, and power, as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace, and multiplied and enriched and strengthened us, and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us!

Mr. President, what would Lincoln say today?

He would say that America has forgotten God. He has been taken out of our public schools, and he is well on his way out of many of our churches. I have read with astonishment news accounts of debates in certain denominational church groups over whether their ordained ministers should perform a ceremony uniting in marriage two persons of the same sex. I am not a minister or priest. I am not a rabbi. I am not a Biblical scholar. But no one needs a degree from any school of divinity to know that this is impious irreverence toward the institution of holy matrimony. Common sense is enough to tell us that much. If we need further guidance, we need only to go to the first chapter of Genesis wherein we are told that—

> God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, be fruitful, and multiply, and replenish the earth; * * *

A monoclinous, or homophilic, couple cannot be fruitful and multiply.

Mr. President, the decline of America has set in, and its fall will come in due time if the moral and spiritual decline is not arrested and reversed. Materialism is on the throne, and we worship daily at its altar. There must be a recrudescence of the spirit if we are to save the flesh.

Once there was Egypt and Egypt fell.

Once there was Ur and Ur fell.

Once there was Assyria and Assyria fell.

Once there was Babylon and Babylon fell.

Once there was Persia and Persia fell.

Once there was Greece and Greece fell.

Once there was Rome and Rome fell.

Once there was America * * *.

We are in a position to finish that sentence. We will be the authors and poets who conclude that line. God grant to our forefathers and to our posterity that we have the courage to complete that line rightly.

Mr. President, I yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:07 p.m., recessed until 2:15 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

WORKPLACE FAIRNESS ACT

The Senate continued with the consideration of the bill.

Mr. GORE. Mr. President, the Senate today must break the logjam that has stalled the striker replacement legislation and left American workers vulnerable to the threat that they will lose their jobs if they exercise their right to strike or to negotiate contracts. As a strong supporter and original cosponsor of S. 55, I rise today to state clearly my intention to vote for cloture to allow action on this measure to proceed.

Many people, both inside and outside the Senate, have worked hard to move this bill forward. I want to personally acknowledge the efforts of Senator KENNEDY, the chairman of the Labor and Human Resources Committee; of Senator METZENBAUM, the chairman of the Labor Subcommittee; and of the majority leader, Senator MITCHELL. I am especially grateful for the decision to conduct a second cloture vote this week so that I could cast my vote and again make my strong support of this measure clear. Last week's vote was unexpected when I left to serve as chairman of the Senate delegation to the Earth summit in Brazil, and I regret being unable to cast my vote then, though my intentions to vote for cloture and in support of this bill were made clear to all involved.

Workers in a union shop must be able to negotiate in good faith with their employers without the fear of losing their jobs permanently while they negotiate. For American workers, this legislation represents protection of a basic right and of a sense of fair play; a recognition that workers who exercise their right to negotiate or to strike are doing just that—exercising a right, not anticipating that it will cost them their jobs.

I urge my colleagues to vote with me for cloture to allow this critical legislation to move forward and to send a clear and important message to American workers, who need the critical protection it would provide.

Mr. RIEGLE. Mr. President, I am an original cosponsor of workplace fairness legislation, which is important to the future of and preserving collective bargaining. This legislation is procompetitive and pro-U.S. worker.

S. 55 is an adequate response to the findings of a 1991 General Accounting Office report revealing that since 1985, employers have sued or threatened to use permanent replacements in one out of every three strikes in this country. In addition, this legislation is necessary for putting the U.S. workers on a par with those workers of every other country in the world, including our major trading partners, as far as permanent replacements [PR's] are concerned. The United States is virtually alone in allowing PR's into our work force. Japan, Germany, and France, some our fiercest competitors, do not allow permanent replacements, which dispels accusations about an anticompetitive effect of the legislation.

However, even though S. 55 prevents the hiring of permanent replacements, this legislation still protects the right of employers to hire temporary replacements in the event of a strike. Thus, management is not hindered from continuing business operations during a strike and can utilize temporary replacement workers to assist with such efforts until the strike is over.

The workplace fairness bill will also help maintain fair working conditions and wages for American workers—and reinforce these cornerstones of our Federal labor laws. Although employers may not fire strikers, the Supreme Court, in a 1938 decision, said employers may permanently replace such strikers. In the 1980's when some 12,000 striking air traffic controllers were fired we began to see employers exercising the right to hire permanent replacement workers. We have Ronald Reagan to thank for this Presidential practice, followed by Frank Lorenzo, Greyhound, and more recently Caterpillar and Kroger stores in Michigan.

In my State of Michigan, Kroger has hired 7,000 replacements. In response to this unfortunate situation, the Michigan delegation recently sent a letter to the presidents of United Food and Commercial Workers [UFCW] local unions and the president of Kroger Co. in Michigan urging them to return to the bargaining table to reach settlement and to resolve the strike. Our letter reiterated support for collective bargaining. Accordingly, we hope that some settlement will be reached soon, so that Michigan workers who have seen their future economic security jeopardized by exercising their right to strike can once again be restored to their jobs.

S. 55 is a guarantee for American workers—an assurance that they will not be penalized striking to improve conditions that adversely affect them and their families, while protecting the rights of businesses to continue operating during a strike. Our workers and their families deserve nothing less than the assurances provided under S. 55, the Workplace Fairness Act.

Mr. KOHL. Mr. President, in the short time that I have been in the Senate, few issues have invoked such emotion and obdurate opinion as has the legislation before us.

It is both understandable and unfortunate. Understandable because of the economics for both employer and employee. Unfortunate because of the economics for both employer and employee—and the Nation.

Opponents of S. 55 argue that the inability to permanently replace striking workers will have a devastating impact on business. They claim they won't be able to attract replacement workers without the promise of a permanent job. They say that S. 55 strikes at the very heart of U.S. competitiveness by limiting industry's ability to provide goods and services at affordable prices. They argue that S. 55 reverses 50 years of labor practice and law. And they argue that it tips the balance of management-labor relations.

Proponents of S. 55 argue that the increased use of permanent replacement workers will have a devastating impact on the right to strike. They claim they won't be able to negotiate reasonable wage increases and benefits. They say that S. 55 is vital to protect the rights of organized workers and to maintain a competitive wage and productivity level. They argue that prior to 1980, the use of permanent replacement workers was extremely rare. And they argue that the practice of using permanent replacement workers tips the balance of labor-management relations.

I have listened carefully to the concerns and requests of both sides. Business, for whom I have a natural inclination, strongly urged me to oppose this bill. Labor, with whom I have worked well over the years, strongly urged me to cosponsor the bill. I did not cosponsor the legislation. Substantively, it is difficult to know the precise consequences of this legislation. Politically, it is unlikely that the two sides can be brought together on this issue. It is, paradoxically, a reflection of the all-too-frequent impasse between American management and labor in an increasingly competitive global economy.

In making my decision, I ultimately relied on my substantial experience as a businessman. In my years with Kohl's, I negotiated numerous labor contracts. Regardless of how resistant I may have been to labor's demands, I always understood that the workers were negotiating on behalf of themselves and their families. On some occasions, I stood firm. On other occasions, I reluctantly gave way to demands. On all occasions, I believe, both sides made concessions. We reached an agreement and went back to our business. That was the process.

What struck me with the argument that S. 55 overturned 50 years of labor practice was this: Not once during all of my years of negotiating contracts did I even consider the possibility that our employees wouldn't have their jobs if they chose to strike. Not once did it occur to me that permanently replacing them was an acceptable option. And yet today, it is an increasingly frequent practice to advertise for permanent replacement workers before the expiration of a labor contract.

The key to collective bargaining, Mr. President is balance and good-faith negotiation. I needed my employees to provide goods and services at competitive prices. And they needed their jobs at Kohl's to provide for their families.

That is the balance, Mr. President, that needs to be restored. In the end, American workers will be paid for what they produce. And employers will profit from both the level and quality of that productivity. What has been missing in too many instances since the PATCO decision is both the balance and the sense of partnership: the understanding that American management and labor are indeed part of the same team in this competitive global market. That each is dependent on the other for gain and profit.

The Packwood amendment is a commendable effort to foster that partnership. It seeks to strengthen the collective bargaining process in this post-PATCO era. It restores the incentive for management and labor to resolve their differences.

Like many of my colleagues, I have hoped for a compromise on this matter. I have hoped that business would stop boycotting this bill, and return to the table to work out differences. I have been told by both labor and business that there is no room for compromise on this matter. Perhaps it has not been agreed to by all sides, but the proposal before us that would utilize a third-party arbitrator is a significant contribution to the debate. I support the Packwood amendment and urge my colleagues to vote for the motion to invoke cloture.

Mr. DURENBERGER. Mr. President, as we reach the end of the Senate's consideration of S. 55 for this year, we are confronted with an unfortunate moment. S 55, like so many pieces of legislation this year, is stalemated. And like so many other urgent national issues, the rights of working people will receive only lip service this year.

Why, we must ask. Because parties on both sides seem more interested in finding an issue than in working out a solution.

Mr. President, the condition of working people in this country is serious. They have been hit with a series of body blows over the last decade. Their jobs have been destabilized by a rash of takeovers, factory closings, and bankruptcies. Their industries have been restructured as a result of deregulation and in some cases reregulation. Their paychecks have been undermined by steadily rising health insurance costs while their health care coverage has been falling. And their job security has been challenged by intensified foreign competition from subsidized products from overseas.

Here are some examples from my own State of Minnesota. Murphy Motor Freight, a long-established Twin Cities company, had 291 Minnesota employees who lost their jobs after motor carrier deregulation in the 1980's. Those workers thought they had stable employment, but their hopes and dreams were shattered after stiff competition forced their company into bankruptcy. Another long-established company, Glendenning Motorways, folded during the eighties as well. That bankruptcy resulted in 325 Minnesota job casualties. And the list goes on and on.

During the recent recession, major Minnesota corporations were forced to lay off workers. For example, I know that Quebecor Printing laid off 224 people last year. My office helped those workers obtain dislocated worker assistance under the Job Training Partnershp Act to help ease the blow, but I know those workers feel shell-shocked.

Mr. President, Minnesotans are feeling the impact of domestic and foreign economic competition, flat wages, and high health care costs. All of these factors together have meant a lower standard of living for working families and have strained the relationship between labor and management. Those are the forces that gave birth to S. 55, and they legitimately call out for solution. And the most unfortunate part of the debate over this bill is that the root causes of S. 55 were never discussed.

As disappointing as it is that we failed to reach a common agreement on solutions to these underlying concerns, it is even more disappointing that we failed to try.

This legislation sailed through the Labor Committee over 10 months ago. For the next 300 days, despite repeated predictions of stalemate and calls for a bipartisan solution, nothing happened. And then in the 11th hour before a cloture vote, a compromise was rolled out, a measure that was nearly as controversial and sweeping as the original bill. Predictably, it was not embraced by moderates of either party, and the Senate failed to invoke cloture yet again. So obviously this bill would not be able to withstand, in either House of Congress, the expected Presidential veto of this bill.

Mr. President, the issue here is what can we do to restore our deteriorating industrial base, the flat or decreasing standard of living, and increasing health care costs. Any changes to our collective bargaining system must be made with an understanding that our declining standard of living is the ultimate problem.

Within that framework, we must make the collective bargaining process work better. Times have changed in the 50 years since the foundations of our current labor law were laid. But the only options available to Senators on this floor were the status quo or a radical change in the collective bargaining system.

Each side of this debate has been able to "wave the bloody shirt," and recite examples of how this employer or that union acted irresponsibly. But no bill can deal with every situation or wipe out all injustices.

If we are going to stick with the collective bargaining process, let us address its worst malfunction: the length of time it requires to adjudicate unfair labor practice claims by the NLRB.

If we are going to replace the collective bargaining process, which in most cases reaches an agreement between workers and employers, let's not try to do so at the 11th hour without benefit of hearings or bipartisan consultation.

For my part, I will continue to work toward a solution to the problems that face our working men and women today. I will continue to work to enact legislation to control health care costs. I will continue to work for sound trade legislation which provide high quality American jobs.

But, Mr. President, as the Senate moves on to its next appointed stalemate, I only wish the seriousness of our resolve to find an answer to the main issue of this bill matched the seriousness of the problem faced by working families.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the committee substitute for S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes:

George Mitchell, Howard M. Metzenbaum, Paul Wellstone, Claiborne Pell, Paul Simon, Alan Cranston, Bill Bradley, Harris Wofford, Daniel P. Moynihan, Tom Daschle, Daniel K. Inouye, Barbara A. Mikulski, John F. Kerry, Al Gore, Carl Levin, Max Baucus.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is: Is it the sense of the Senate that debate on the modified amendment in the nature of a substitute for S. 55 to amend the National Labor Relations Act and the Railway Labor Act shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Burdick
Byrd
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wirth
Wofford

NAYS—42

Bond
Boren
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hollings
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Pryor
Roth
Rudman
Sanford
Seymour
Simpson
Smith
Symms
Thurmond
Wallop
Warner

NOT VOTING—1

Helms

The PRESIDING OFFICER. On rollcall No. 121, the cloture motion, the yeas are 57, the nays are 42, three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. EXON. Mr. President, S. 55 obviously, it would appear to this Senator, is dead for at least this session of Congress.

I supported both cloture motions on S. 55 because I, frankly, believe that it is time that we begin to do something about the pendulum that has been swinging to the right and then to the left, and now back to the right, with regard to worker's rights in America. I am not sure that S. 55 was the only way it could have been handled.

I had suggested during the consideration of S. 55 that we try to work out some kind of a compromise because what I saw, Mr. President, was what I have seen all too frequently in the Congress these days, clashes, excellent debate, but in the end nothing getting done.

Once again, even if S. 55 had had cloture invoked, if S. 55 had passed the Congress of the United States thereafter, it was clear the President was going to veto it. Therefore, I must suggest, in all candor, Mr. President, there was much ado about nothing with regard to S. 55; it was doomed from the first time it was introduced. A lot of time, a lot of effort, a lot of talent on both sides of the issue—and there were two sides to this issue—were expended for no good other than the sake of argument and discussion.

All too often we find ourselves today as a Congress in gridlock, gridlock among ourselves, especially in gridlock with the Chief Executive Officer of this land. I suppose that is as it should be because I respect the fact that the President no only has the right to do what he thinks is best but he has a duty to do what he thinks is best for the United States of America. I only lament the fact that once again we seem to be losing the glue that has held us together, and that is the art of compromise. In the final analysis, it came down to S. 55 or nothing.

I also want to salute the two managers of that bill, the distinguished Senator from Ohio and the distinguished Senator from Utah. I thought they did an admirable job. They are two very admirable people who felt very strongly pro and con on the bill.

I only wish, Mr. President, we could learn from our mistakes of the past. Maybe we could return to some kind of compromise or comity in this body when we come up with matters such as S. 55. Certainly, I happen to feel that something should be done in that area. There was a determined effort to now say, because the courts have held as they have, that gives us fairness in the workplace. I do not believe there is fairness in the workplace today, although, I believe most of the businesses, the companies and the corporations, in the United States today fully intend, notwithstanding what we have or have not done, to treat their workers fairly.

There remains the fact, though, that that does not cover all of the workers of the United States. I believe what we should have tried to put into effect was some type of phase-in program to allow the businesses not to hire permanent replacement workers immediately upon the calling of a strike but allowed them over a reasonable period of time to hire a small percentage of replacement workers, if necessary. It seems to me that some procedure such as that could well handle the concerns of both the working people of America, the labor unions of America that represent many of them, and the corporations and business people as well.

What I am saying, Mr. President, is that, once again, unfortunately, the art of compromise left us, vanished from us on a matter which I think should have been addressed. Maybe we will have a chance to look into it again in the new Congress starting next year.

I thank the Chair, and I yield the floor.

Mr. BIDEN. Mr. President, I supported cloture on S. 55 because of the need to establish a more productive relationship between labor and management in this country.

In recent years, the increased threat and use of permanent replacement workers for striking employees has only inflamed the difficult negotiations between workers and management. And more than the workers are losers in these situations—we all lose as our Nation's companies find themselves unable to make the transition to a new world economy.

It is clear that the use of permanent replacement workers has dangerously skewed the balance in labor-management conflicts. None of the companies in our major industrial competitors need the threat of permanent replacements to manage relations with their organized workers, and neither do we. The 1938 Mackay doctrine, cited as the basis of the right to hire permanent replacement workers, is widely regarded as legally and logically insupportable in light of the clear intent of the National Labor Relations Act. It was largely ignored for 4½ decades.

In recent years however, the increased threat of permanent replacement workers has poisoned the atmosphere of legitimate labor relations. The use of the replacement workers has not been used universally, but it has been used enough to get the message across. In fact, according to a study by the General Accounting Office, permanent replacement workers are used or threatened to be used in one out of three strikes.

As even those in the business press have observed, from the Journal of Commerce to Business Week, permanent replacements render useless the legally established right to strike, and unnecessarily deepen and prolong disagreements between management and labor. A study of this approach found that strikes were longer when replacement workers were hired. By restoring the original intent of the Wagner Act, S. 55 restores a measure of trust and good faith to the bargaining process.

And I hope everyone understands that a strike is far from a simple or pleasant option for labor unions. Strikes are economically and emotionally wrenching for union members. I raise this point because so many of the opponents of S. 55 would have us believe that a strike is a painless operation. It would be difficult to be further from the truth. It is only used when all else has been tried but the workers feel they are not being fairly treated.

Too frequently we have lost sight of the shared goals of business and labor—healthy firms and a growing economy that provide good jobs at a decent wage. Passage of S. 55 will benefit both labor and management—removing an illogical and unnecessary impediment to the negotiating process.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, it is now clear that we do not have the necessary 60 votes to invoke cloture and proceed to a vote on the merits of the workplace fairness bill. I accept the fact that we have lost this round in the fight.

And I congratulate my colleague from Utah, Senator HATCH. He has represented his side well. And he has used the Senate rules, which is fair, to prevent a vote on final passage.

But this battle is not over yet. As long as workers continue to lose their jobs because of this unjust and cruel striker replacement rule, we will continue to fight to change the law.

I want to thank the majority leader for bringing this measure to the floor, and for his flexibility in permitting the bill's cosponsors to seek a compromise that might bring us additional votes.

I would also like to thank the chairman of the Committee on Labor and Human Resources, Senator KENNEDY, for his invaluable help in moving the bill through the committee and lending his strong support on the floor.

Senator PACKWOOD also deserves substantial praise for his efforts to bridge the gap between the supporters and the opponents of this measure.

Finally, I would like to thank the many staff, both majority and minority, who worked on this bill. They include Sharon Prost and Chad Westover of Senator HATCH's staff, Chris Miske of Senator PACKWOOD's staff, Sarah Fox of Senator KENNEDY's staff, and Gary Slaiman, Greg Watchman, Jenni Weinreb, and Robin Mahler of my staff.

Last but not least, I would like to thank Jim Brudney, who is leaving the U.S. Senate. He has served on our Labor Subcommittee staff since 1985 and has headed up that staff. His major accomplishments are many.

I wish to compliment him publicly for all that he has done for workers in this country. Without Jim Brudney there probably would not have been a plant-closing law or the Older Workers Benefit Protection Act. He has made substantial contributions on minimum wage, and civil rights, and worker safety, and other labor legislation.

He is, indeed, a committed young man. He has fought hard. He has worked over the weekends. He has worked late at night. He has given of himself. And now, when he soon leaves my staff to take a position as a professor at Ohio State University, I wish him well and thank him for all of his past endeavors and hope that his future endeavors will be equally successful.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I yield to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Chair, and I thank the majority leader.

I only want to take perhaps a minute and compliment my good friend from Ohio. He really does believe in what he does on this floor. I admire this. I do too.

I really believe that what has happened here today is the most important thing that has happened in a long time. But I know that he feels otherwise, and I compliment him for it. He is a formidable foe, a formidable Senator, who I think makes a difference in this body.

I have to also say that the staff on the majority side is a very, very good staff. They do a wonderful job within their particular beliefs.

But on my side, I have to compliment Sharon Prost, who is my chief labor counsel, and who I think understands these issues as well, if not better, than anybody who has ever served the U.S. Senate; and Chad Westover, who has worked very hard; as well as other members of my staff. Both of them have done an excellent job and both of them have assisted me to be able to at least explain our side in the best possible manner.

I appreciate the feelings that have been expressed on both sides of this issue. I really believe this is in the best interest of the country. And I really believe that many of my union brothers that I was raised with and union leaders have real skepticism as to whether this was the right way to go. They do not want to throw out years of collective bargaining rules and regulations and statutes and court cases for something that nobody understands and has never been tested before. I believe you will find that they will breathe a sigh of relief as well.

So, again, I compliment my colleague from Ohio and the others who have fought so valiantly.

I thank my fellow colleagues who have voted against cloture, because I think they have done the country a great service.

UNANIMOUS-CONSENT REQUEST—S. 1985

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 458, S. 1985, a bill to establish a commission to review the Bankruptcy Code and to amend the Bankruptcy Code.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I do not wish to object. We are checking on this side. Until we are completed with that check, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. In light of the objection, it is my intention, as I previously discussed with the Republican leader, to have a brief adjournment to put us in position to move to proceed to the bankruptcy bill, and if we cannot get consent to proceed to it, then we will have to, of course, file cloture on that motion to proceed. And we will do that during the day today, following enough time to determine whether or not we can get consent to go to it.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes, certainly.

Mr. DOLE. We would like to obviate any necessity for cloture being filed. As I indicated to the majority leader, we are checking on it. I was not aware of it until he mentioned it on the floor. We hope to have some report in the next 10 or 15 minutes.

Mr. MITCHELL. Mr. President, I certainly will withhold filing of cloture until that time. I would like to proceed with the process that enables me to make the motion to proceed to the bill, and then we will be on that debatable motion pending further conversation between the Republican leader and myself.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 30 seconds, and that when the Senate reconvenes, the Journal of proceedings be deemed approved to date; the call of the calendar be waived; no motions or resolutions come over under the rule; and the morning hour be deemed to have expired following the second reading of bills and joint resolutions.

Mr. EXON. Reserving the right to object, and I shall not object, I just want a clarification of the matter from the leader. At least this Senator would like to make a statement with regard to the failure to invoke cloture on S. 55.

Would it be possible for the Senator to yield to me for 3 minutes, following the unanimous-consent agreement?

Mr. DECONCINI. I am going to have to object, because I have been waiting to put a statement in the RECORD. So any yielding would have to be mutually worked out.

Mr. MITCHELL. Mr. President, I assure both my colleagues there will be no problem in both of them being accommodated. This process will take no more than a minute and is legislatively necessary to permit me then to move to proceed to the next bill.

The Repubublican leader has indicated he is not yet in a position to give consent to proceed to that. Once I make the motion to proceed, I will then yield the floor, and the Senators can do as they wish. That will be open to debate.

If we can get consent before the end of the day, we will do that and then be on the bankruptcy bill. If we cannot get consent to proceed to it under the rules, I will then file a cloture motion to terminate debate on it, which will ripen under the rules on Thursday.

I renew my request, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ADJOURNMENT FOR 30 SECONDS

The PRESIDING OFFICER. The Senate stands in adjournment and will reconvene subject to the unanimous-consent agreement. The Senate will stand adjourned for 30 seconds.

Thereupon, the Senate, at 2:43:36 p.m. on Tuesday, June 16, 1992, adjourned until 2:44 p.m. the same day.

AFTER ADJOURNMENT

TUESDAY, JUNE 16, 1992

The Senate met at 2:44 p.m., pursuant to adjournment, and was called to order by the Presiding Officer [Mr. ADAMS].

BILL READ FOR SECOND TIME AND PLACED ON CALENDAR—H.R. 2039

The PRESIDING OFFICER. Pursuant to rule XIV, the clerk will read the bill, H.R. 2039, for the second time.

The bill clerk read as follows:

A bill (H.R. 2039) to authorize appropriations for the Legal Services Corporation, and for other purposes.

Mr. DOLE. Mr. President, I object to further consideration.

The PRESIDING OFFICER. The bill will be presented and placed on the calendar pursuant to rule XIV.

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 458, S. 1985, a bill to establish a Commission to review the Bankruptcy Code, and to amend the Bankruptcy Code.

Mr. BROWN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction S. 2852 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAUTHORIZE HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS THIS YEAR

Mr. BOND. Mr. President, as we discuss enterprise zones and other remedies for the problems facing America's cities, I would like to draw the Senate's attention to an opportunity that we should not let slip by before adjournment. We need to reauthorize housing and community development programs this year, and we should look at this as a chance to take some constructive steps to improve existing housing programs and enact some new initiatives.

Discussions have been held over the past week between the administration and Banking Committee members over the housing bill reauthorization. Few agreements have been reached. Frankly, the negotiations are stalled. We all know how short the legislative year is this year, leaving no time for a protracted partisan battle over the housing bill. If we do not reach bipartisan agreements on major issues, the bill will die this year.

In the wake of the L.A. riots, there has been a lot of talk about the problems facing urban America. If the Congress and the administration want action, we are going to have to work together, find areas of agreement, and make compromises. I believe that is what people expect of us and why they are so frustrated by the gridlock. The Congress and the President have proven that they can block each other's initiatives. It is time now to prove that we can work together and get the job done. On this housing legislation, which will benefit urban areas as well as rural areas, there is a basis for bipartisan agreement.

The administration has put forward some constructive new initiatives such as vouchers for homeownership and safe havens for the homeless. The Banking Committee draft bill includes these plus some committee initiatives such as provisions to reduce lead paint hazards and to solve problems with the mixing of the elderly and disabled in elderly public housing. There is a terrible problem in my State—particularly at the Blumeyer housing project in St. Louis—with elderly residents being threatened by unsafe living conditions and disabled residents having inadequate housing choices. These problems should be addressed this year, and solutions should not be allowed to fade away in a haze of partisan bickering.

There are a few important problems with the committee's housing bill as it currently stands. The bill undoes the agreement we reached in 1990 on the HOME Program which required a different percentage match from States and cities depending on whether the cities and States were using the money for tenant assistance, rehabilitation, or new construction of housing. In 1990, the administration was willing to agree to the HOME Program if there were a higher match for new construction to give local jurisdictions an incentive for rehabilitation and tenant assistance. The match was waived entirely by the 1991 appropriations bill, so jurisdictions have never actually paid the match required by law.

The draft bill before the committee eliminates the tiered match and substitutes a flat 25-percent match. This is a real mistake and jeopardizes any chance to get a housing bill through this year. It is just not right to undo a compromise before it has even had a chance to go into effect. If we had some real life experience that the tiered match was undermining efforts to provide housing assistance through HOME, I would feel differently, but we do not. This provision should be dropped.

Another area in the bill which needs additional work is the public housing reform section. Secretary Kemp's proposal to let residents of troubled public housing choose new management for their development make a lot of sense, as does his proposal to let nonprofits, resident management corporation, or cities and States rehabilitate and takeover public housing which is more than 50 percent vacant. The point of these proposals is to give tenants more choices and to create new structures where old structures have failed. These provisions fit well with the public housing reforms already in the bill which are aimed at revitalizing distressed public housing and improving its management.

I have additional amendments to the bill, but the purpose of this statement is not to go through every little gripe I have, but rather to outline two of my priorities and to encourage my colleagues to work constructively to improve the bill. We need a housing reauthorization this year, not posturing or gridlock.

One final point. I urge our colleague working on the supplemental appropriations for youth employment to move, and move now. In my State, the city of Kansas City vitally needs funds for summer youth employment. The mayor and other leaders have said that money does no good if it comes in July.

If we are going to provide some meaningful jobs for the youth in our cities, we have to do it now, not next month. I urge my colleagues to move forward and get the vitally needed summer youth funds moving.

I thank the Chair.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Is there further debate on the motion? If not, the question is on agreeing to the motion.

The motion was agreed to.

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1985) to establish a commission to review the bankruptcy code, to amend the bankruptcy code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. FINDINGS.

Congress finds that—

(1) there was a record number of Federal bankruptcy filings for the calendar year of 1991;

(2) the smooth and efficient operation of the bankruptcy system is vital to the continued growth and vitality of our Nation's economy;

(3) debtors that file for bankruptcy are entitled and deserve full and complete information regarding the effects and consequences of filing for bankruptcy;

(4) creditors of a debtor that files for bankruptcy deserve and need full and timely information regarding the circumstances of a debtor's bankruptcy filing; and

(5) individual debtors, creditors, the bankruptcy system, and the national economy may be generally better served by the successful completion of a reorganization of debts under chapter 13 or a liquidation of debts under chapter 7 of the Bankruptcy Code, depending upon the circumstances of each particular case; however, it is vital to the efficient operation of the bankruptcy system that each debtor consider and understand the consequences of both options.

TITLE I—BANKRUPTCY REVIEW COMMISSION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 102. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 103. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 108; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 104. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) Two members of the Senate, 1 from each of the 2 major political parties, appointed by the President pro tempore of the Senate.

(3) Two members of the House of Representatives, 1 from each of the 2 major political parties, appointed by the Speaker of the House of Representatives.

(4) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 105. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 107. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 108. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 109. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 108.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE II—COMMERCIAL AND CREDIT MATTERS

SEC. 201. DEFINITION OF PERSON FOR PURPOSES OF SECTION 1102.

Section 101(42) of title 11, United States Code, as redesignated by section 501, is amended to read as follows:

"(42) 'person' includes an individual, a partnership, and a corporation, but does not include a governmental unit, except that a governmental unit is a person for purposes of section 1102 to the extent that it—

"(A) acquires an asset from a person as a result of operation of a loan guarantee agreement;

"(B) is a receiver or liquidating agent of a person;

"(C) is a guarantor of pension benefits of the debtor or an affiliate of the debtor; or

"(D) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan as defined in section 457(b) of the Internal Revenue Code of 1986.

SEC. 202. ANTI-ALIENATION.

(a) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by section 503, is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by adding "or" at the end of paragraph (17); and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or 457 or a governmental plan under 414(d) of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the case of a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(b) Exceptions to Discharge.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(c) Property of the Estate.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or a governmental plan under 414(d), or 457 of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.".

(d) Plan Contents.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).".

(e) Plan Confirmation.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

SEC. 203. CASH COLLATERAL.

Section 363(a) of title 11, United States Code, is amended by adding at the end the following new sentence: "If the cash collateral includes an interest in rents or leases, in real property, held by a creditor and duly recorded in the public records, such interest shall be deemed perfected for purposes of this title upon the filing of a petition under section 301 or 302, or upon the entry of an order for relief under section 303.".

SEC. 204. PREFERENCES.

Section 550(a)(1) of title 11, United States Code, is amended by striking "; or" and inserting ", if the transfer is avoided as to the initial transferee or other entity from whom the trustee seeks recovery; or".

SEC. 205. SMALL BUSINESS CHAPTER.

(a) Definition.—Section 101 of title 11, United States Code, as amended by section 501, is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), and (62) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), and (63); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $1,500,000.".

(b) Who May Be a Debtor Under Chapter 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10.".

(c) Temporary Chapter Applicable to Small Businesses.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1001. Definitions for this chapter.
"1002. Commencement of action.
"1003. Trustee.
"1004. Rights and powers of debtor.
"1005. Removal of debtor as debtor-in-possession.
"1006. Property of the estate.
"1007. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) Election by Debtor.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) Conversion.—

"(1) Chapter 11 to this chapter.—Upon the motion of a party in interest, and after notice and hearing, the court may designate a debtor against whom an order for relief has been entered in a case under chapter 11 as a small business and order that the case be converted to a case under this chapter.

"(2) This chapter to title 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"§ 1003. Trustee

"(a) Person To Serve.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

"(b) Duties.—The trustee shall—

"(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

"(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on

a request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) the operation of the business activity of the person by the debtor;

"(C) the filing of a plan and the approval of a disclosure statement;

"(D) confirmation of a plan;

"(E) modification of a plan after confirmation; or

"(F) the sale of property of the estate;

"(4) ensure that the debtor timely files a plan and disclosure statement;

"(5) ensure that the debtor commences making timely payments required by a confirmed plan;

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7); and

"(7) investigate the financial affairs of the debtor.

"§ 1004. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers,. and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under this chapter, including operating the debtor's business activities.

"§ 1005. Removal of debtor as debtor-in-possession

"(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1006. Property of the estate

"(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) POSSESSION.—Except as provided in section 1007 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1007. Conversion or dismissal

"(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

"(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—

"(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) CAUSE.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) REQUIRED CONTENTS.—Notwithstanding any otherwise applicable nonbankruptcy law, a plan shall—

"(1) designate, subject to section 1122, classes of claims, other than claims of a kind described in section 507(a)(7), and classes of interests;

"(2) specify any class of claims or interests that is not impaired under the plan;

"(3) specify the treatment of any class of claims or interests that is impaired under the plan;

"(4) provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of a particular claim or interest;

"(5) provide adequate means for the plan's implementation, such as—

"(A) retention by the debtor of all or any part of the property of the estate;

"(B) transfer of all or any part of the property of the estate to 1 or more entities, whether organized before or after the confirmation of such plan;

"(C) merger or consolidation of the debtor with 1 or more persons;

"(D) sale of all or any part of the property of the estate, either subject to or free of any lien, or the distribution of all or any part of the property of the estate among persons having an interest in the property of the estate;

"(E) satisfaction or modification of liens;

"(F) cancellation or modification of indentures and similar instruments;

"(G) curing or waiving of defaults;

"(H) extension of a maturity date or a change in an interest rate or other term of outstanding securities;

"(I) amendment of the debtor's charter; or

"(J) issuance of securities of the debtor or of an entity described in subparagraph (B) or (C)—

"(i) in exchange for cash, property, existing securities, or claims or interests in property; or

"(ii) for any other appropriate purpose;

"(6) provide for the inclusion in the charter of the debtor, if the debtor is a corporation, or of a corporation described in paragraph (5) (B) or (C), of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing the preferred class in the event of default in the payment of dividends; and

"(7) contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee under the plan and any successor to an officer, director, or trustee.

"(b) ADDITIONAL CONTENTS.—Subject to subsection (a), a plan may—

"(1) impair or leave unimpaired any class of claims, secured or unsecured, or of interests;

"(2) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or unexpired lease of the debtor not previously rejected under that section;

"(3) provide for—

"(A) settlement or adjustment of any claim or interest belonging to the debtor or to the estate; or

"(B) retention and enforcement by the debtor, the trustee, or a representative of the estate appointed for such purpose, of any such claim or interest;

"(4) provide for the sale of all or substantially all of the property of the estate and the distribution of the proceeds of the sale among holders of claims or interests; and

"(5) include any other appropriate provision not inconsistent with this title.

"§ 1023. Postpetition disclosure and solicitation

"In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive—

"(i) if the class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; or

"(ii) if the class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period not to exceed 6 years after the date of assessment of the claim, of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—

"(1) IN GENERAL.—If all of the applicable requirements of subsection (a) other than paragraph (5) are met with respect to the plan, or if an objection to confirmation is filed by any party in interest, the court, on request of the debtor, shall confirm the plan notwithstanding the requirements of that paragraph or notwithstanding the objection if the plan does not discriminate unfairly, and is equitable and fair, with respect to each class of claims or interest that is impaired under the plan.

"(2) CRITERIA FOR DETERMINATION.—(A) A plan shall be considered to be equitable and fair with respect to a class of unsecured creditors if the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such other period as the court may approve not to exceed 5 years, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.

"(B) Confirmation of a plan shall not be denied solely because the interest of a debtor or class of interests will be preserved under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the plan or in the order confirming the plan, the confirmation of a plan—

"(A) discharges the debtor from any debt that arose before the date of confirmation and any debt of a kind described in section 502 (g), (h), or (i), whether or not—

"(i) a proof of claim based on a debt is filed or deemed to be filed under section 501;

"(ii) such claim is allowed under section 502; or

"(iii) the holder of such claim has accepted the plan; and

"(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.

"(2) DEBTS EXCEPTED UNDER SECTION 523.—The confirmation of a plan does not discharge a debtor from a debt excepted from discharge under section 523.

"(3) NONDISCHARGE IN CERTAIN CIRCUMSTANCES.—The confirmation of a plan does not discharge a debtor if—

"(A) the plan provides for the liquidation of all or substantially all of the property of the estate;

"(B) the debtor does not engage in business after consummation of the plan; or

"(C) the debtor would be denied a discharge under section 727(a) if the case were a case under chapter 7.

"§ 1029. Modification of plan after confirmation

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"§ 1030. Revocation of order of confirmation

"(a) REVOCATION FOR FRAUD.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) DISPOSITION OF CASE AFTER REVOCATION.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses .... 1001".

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(ii) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(ii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10" after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,"; and

(C) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, $600.".

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 301 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3118) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 206. SUPPLEMENTAL PERMANENT INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(A)(i), except such legal action as is expressly allowed by the injunction or plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met, after entry of an injunction under paragraph (1) any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection in respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to be funded in whole or in part by the securities of one or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(II) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(III) is to use its assets or income to pay claims and demands; and

"(ii) the court finds that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands; and

"(IV) as part of the process of seeking approval of the plan of reorganization, a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that is a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making such loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) is not intended to—

"(i) imply that such an entity would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance; or

"(iii) relieve any debtor of its obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A) Subject to subparagraph (B), an injunction issued under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(B) With respect to a demand that is made subsequent to the confirmation of a plan against any debtor or trust that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by an injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B) the payment of which demand, by a trust described in paragraph (2)(A)(i), is provided for by the plan.

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection governs any injunction of the nature described in paragraph (1)(B) entered before or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

SEC. 207. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association" the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) and (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),".

SEC. 208. PRE-MERGER NOTIFICATION.

Section 363(b)(2) of title 11, United States Code, is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification on behalf of the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b)(1) of that section, the required waiting period shall end on the tenth day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

"(ii) by the court, after notice and hearing.".

SEC. 209. STATUS CONFERENCE.

Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, the court, on its own motion or on the motion of any party in interest, may hold a status conference regarding any case under this chapter, after notice to creditors and other parties in interest. At such a conference or any subsequent status conference set by the court, the court may issue an order prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including orders that—

"(1) set a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

"(2) set a date by which the debtor, or trustee if one has been appointed, shall confirm a plan;

"(3) set the date by which a party in interest other than a debtor may file a plan;

"(4) fix the notice to be provided regarding the hearing on approval of the disclosure statement;

"(5) provide that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan;

"(6) direct the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court; and

"(7) set the date by which the debtor must accept or reject an executory contract.".

SEC. 210. AIRPORT LEASES.

(a) Executory Contracts and Unexpired Leases.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use of possession of an airport terminal, aircraft gate, or related facility within 60 days after the date of the order for relief, or within such additional time as the court sets under subparagraph (B) during such 60-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B) The court may enter an order extending beyond 120 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract; the existence of competing demands for the use of the airport terminals, gates, or related facilities; the size and complexity of the case; and air carrier competition at the airport. The burden of proof for establishing cause for an extension under this subparagraph shall be with the trustee. Any order entered under this subparagraph shall be without prejudice to the rights of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.".

(b) Application of Amendment.—The amendment made by subsection (a) shall apply in all proceedings commenced on or after January 1, 1992. In a proceeding commenced on or after January 1, 1992, that is pending on the date of enactment of this Act, the 120-day period provided in section 365(d)(5)(A) of title 11, United States Code, as added by subsection (a), shall commence on the date of enactment of this Act.

SEC. 211. SINGLE ASSET REAL ESTATE.

(a) Definition.—Section 101 of title 11, United States Code, as amended by section 205(a), is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), (62), and (63) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), (63), and (64); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'single asset real estate' means real property, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto;".

(b) Automatic Stay.—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against real property under subsection (a), if the property is single asset real estate, and the debtor has not, within 90 days after the filing of a petition under section 301 or section 302 of this title, or the entry of an order for relief under section 303 of this title, filed a plan of reorganization which has a reasonable possibility of being confirmed within a reasonable period of time, or the debtor has commenced payment to the holder of a claim secured by such real property of interest on a monthly basis at a current fair market rate on the value of the creditor's secured interest in such property. The court may extend such 90-day period only for cause and only if an order granting such an extension is entered within such 90-day period,"; and

(2) by adding at the end the following new subsection:

"(i) Upon request of a party in interest in a case under this title in which the property of the estate is single asset real estate, the court, with or without a hearing, shall grant such limited relief from a stay provided under subsections (a)(1), (a)(3), and (a)(4) of this section, as is necessary to allow such party in interest to proceed during the pendency of the case under this title with a foreclosure proceeding, whether judicial or nonjudicial, which had been commenced before a petition was filed under this title, up to but not including the point of sale of such real property.".

SEC. 212. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.".

TITLE III—INDIVIDUAL DEBTORS

SEC. 301. BANKRUPTCY PETITION PREPARERS.

Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) Definition.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) Signing of Documents.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) Furnishing of Identifying Number.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of

each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d) Furnishing of Copy to the Debtor.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e) Authorization to Execute Documents.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor unless—

"(1) the debtor has first given the preparer written authorization to execute the document; or

"(2) the preparer is otherwise authorized by law to execute the document.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f) Punitive Damages.—If a bankruptcy case or related proceeding is dismissed because of the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, the court, on its own motion or on motion of the debtor, shall order the bankruptcy petition preparer to pay to the debtor—

"(1) the greater of—

"(A) $2,000; or

"(B) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(2) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(g) Criminal Penalty.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard this title or the bankruptcy rules, the bankruptcy petition preparer shall be fined $5,000.

"(h) Injunctive Relief.—

"(1) In general.—A debtor for whom a bankruptcy petition preparer has prepared as document for filing, the United States trustee in the district in which the bankruptcy petition preparer resides or has a principal place of business, or the United States trustee in the district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) Conduct.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) Attorney's fee.—The court shall award to a debtor who brings a successful action under this subsection reasonable attorney's fees and costs of the action.

"(h) Unauthorized Practice of Law.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

SEC. 302. WHO MAY BE A DEBTOR.

Section 109(e) of title 11, United States Code, is amended to read as follows:

"(e)(1) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of less than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13.

"(2) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of more than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13 if there is no objection raised on the record by any creditor prior to the date that is 10 days after the date on which the meeting of creditors pursuant to section 341 is concluded, and no order of confirmation shall be entered prior to the date by which such an objection is required to be made.".

SEC. 303. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521;

"(6) the potential penalties and fines for committing fraud or other abuses of this title; and

"(7) the consequences of substantial abuse under section 707(b).".

SEC. 304. AUTOMATIC STAY.

Section 362(e) of title 11, United States Code, is amended by adding at the end the following new sentence: "In no event shall the final hearing on a request under subsection (d) be concluded later than 60 days after the filing of the request, except upon a finding of good cause by the court.".

SEC. 305. EXEMPTIONS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings.".

SEC. 306. EFFECT OF DISCHARGE.

Section 524(d) of title 11, United States Code, is amended—

(1) by striking "(d) In" and inserting "(d)(1) In";

(2) by striking "(1) inform" and inserting "(A) inform";

(3) by striking "(A) that" and inserting "(i) that";

(4) by striking "(B) of" and inserting "(ii) of";

(5) by striking "(i) an" and inserting "(I) an";

(6) by striking "(ii) a" and inserting "(II) a";

(7) by striking "(2) determine" and inserting "(B) determine";

(8) in the third sentence of paragraph (1), as designated by paragraph (1) of this section, by striking "If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then" and inserting "Prior to granting a discharge, if the debtor desires to make an agreement of the kind specified in subsection (c)(6),"; and

(9) by adding at the end the following new paragraph:

"(2) If a debtor fails to attend a hearing under paragraph (1) concerning a reaffirmation agreement—

"(A) the hearing shall be rescheduled;

"(B) the court shall cause the debtor to be given written notice that failure to attend the rescheduled hearing will cause the reaffirmation agreement to be deemed void; and

"(C) if the debtor fails to attend the rescheduled hearing, a discharge shall be granted without further delay.".

SEC. 307. PREFERENCES.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "property" and inserting "property, or with respect to which the creditor has taken all necessary steps to perfect under State law and the failure to perfect within 20 days is due solely to the operations of a governmental unit;".

SEC. 308. SUBSTANTIAL ABUSE.

Section 707 of title 11, United States Code, is amended—

(1) by adding at the end the following new subsection:

"(c)(1) Nothing in this section prohibits a party in interest from providing information concerning the debtor's assets, liabilities, or financial affairs to the United States Trustee.

"(2) The United States trustee shall provide the debtor with—

"(A) notice that a party in interest has provided the United States trustee with information pursuant to subsection (c)(1), including the identities of all sources of information provided;

"(B) a copy of all documents presented to the United States trustee pursuant to subsection (c)(1); and

"(C) an opportunity to respond to the issues raised by a party in interest pursuant to subsection (c)(1)."; and

(2) in subsection (b) by inserting after the first sentence the following new sentence: "The court shall find that a petition constitutes a substantial abuse of this chapter if the petition was

filed in bad faith or if the debtor, without substantial hardship, has the ability to pay the debtor's debts as they become due.''.

SEC. 309. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.''.

SEC. 310. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking ''claims;'' and inserting ''claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;''.

SEC. 311. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting ''as soon as practicable.''.

SEC. 312. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''or'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim.''; and

(2) by adding at the end the following new subsection:

''(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.''.

SEC. 313. PLAN CONTENTS.

Section 1322 of title 11, United States Code, as amended by section 202(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

''(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

''(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

''(B) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).''.

TITLE IV—MISCELLANEOUS

SEC. 401. DELAY OF REPEAL OF CHAPTER 12 (FAMILY FARMERS).

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended by striking ''October 1, 1993'' and inserting ''October 1, 1995''.

SEC. 402. DOLLAR ADJUSTMENTS.

(a) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''$5,000'' and inserting ''$10,000''; and

(2) in paragraph (2) by striking ''$5,000'' and inserting ''$10,000''.

(b) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking ''$2,000'' and inserting ''$4,000'';

(2) in paragraph (4)(B)(i) by striking ''$2,000'' and inserting ''$4,000''; and

(3) in paragraph (6) by striking ''$900'' and inserting ''$1,800''.

(c) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''$7,500'' and inserting ''$15,000'';

(2) in paragraph (2) by striking ''$1,200'' and inserting ''$2,400'';

(3) in paragraph (3)—

(A) by striking ''$200'' and inserting ''$400''; and

(B) by striking ''$4,000'' and inserting ''$8,000'';

(4) in paragraph (4) by striking ''$500'' and inserting ''$1,000'';

(5) in paragraph (5)—

(A) by striking ''$400'' and inserting ''$800''; and

(B) by striking ''$3,750'' and inserting ''$7,500'';

(6) in paragraph (6) by striking ''$750'' and inserting ''$1,500'';

(7) in paragraph (8) by striking ''$4,000'' and inserting ''$8,000''; and

(8) in paragraph (11)(D) by striking ''$7,500'' and inserting ''$15,000''.

(d) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking ''$5,000,000'' and inserting ''$10,000,000''.

SEC. 403. TRUSTEE COMPENSATION.

Section 326(a) of title 11, United States Code, is amended to read as follows:

''(a) In a case under chapter 7 or chapter 11, the court may allow reasonable compensation under section 330 for the trustee's services, payable after the trustee renders such services, computed as a percentage of all monies disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor for the debtor's exemptions, but including holders of secured claims, as follows:

''(1) In a case in which such moneys do not exceed $1,000,000, reasonable compensation may be 25 percent of the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, and 5 percent of any amount in excess of $50,000.

''(2) In a case in which such moneys exceed $1,000,000, reasonable compensation, in addition to that prescribed in paragraph (1), may be 3 percent of the excess of those moneys over $1,000,000, but the court may allow additional compensation to the trustee for exceptional services not to exceed 25 percent of the compensation otherwise due.''.

SEC. 404. TAX PROVISIONS.

(a) SPECIAL TAX PROVISIONS.—Section 346 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(k) A trustee or debtor in possession shall establish and maintain a separate bank account for post-petition taxes that are required to be withheld or collected from third parties, and shall also make deposit of such taxes therein when withheld or collected and remit such taxes to a governmental unit at the time and in the manner required under Federal, State, or local government law, unless ordered by the court to do otherwise.''.

(b) AUTOMATIC STAY.—Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

''(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;''.

(c) CONVERSION OR DISMISSAL OF CHAPTER 11 CASE.—Section 1112(b) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of the order for relief under this chapter.''.

(d) CONFIRMATION OF PLAN.—Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking ''such claim, of a value'' and inserting ''such claim, or, if a claim has not been assessed, after the date of confirmation of the claim, of a value''.

(e) CONVERSION OR DISMISSAL OF CHAPTER 12 CASE.—(1) Section 1208(c) of title 11, United States Code, is amended—

(A) by striking ''or'' at the end of paragraph (8);

(B) by striking a period at the end of paragraph (9) and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(10) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by the laws applicable to such taxes subsequent to the date of the order for relief under this chapter.''.

(2) Section 1307(c) of title 11, United States Code, is amended—

(A) by striking ''or'' at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of order for relief under this chapter.''.

SEC. 405. CREDITOR COMMITTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(7) the actual, necessary expenses incurred by a committee representing creditors or equity security holders appointed under section 1102 in the performance of its powers and duties under that section.''.

SEC. 406. JUDICIAL CONFERENCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 407. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ", by certified or registered mail," after "complaint"; and

(2) by inserting ", by certified or registered mail," after "copy".

SEC. 408. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the results achieved through the services were beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds available for distribution to creditors.

"(B) In calculating the time spent on and the hourly rates for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable number of hours commensurate with the complexity of the problem addressed; and

"(ii) whether the requested hourly rates are reasonable based on the customary rate charged by experienced practitioners in nonbankruptcy cases.

"(3) The court shall not allow compensation for duplicative services or services that are not reasonably likely to benefit the debtor's estate.

"(4)(A) If the court awarded interim fee compensation pursuant to section 331, the court shall take into account the interim fee compensation in awarding final fee compensation.

"(B) If the court determines that interim fee compensation was awarded in an amount that exceeded the reasonable value of services rendered, the court may order the return of the excess to the trustee or other entity that paid it.

SEC. 409. TRUSTEE DUTIES.

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly except when circumstances warrant different treatment), applications for compensation and reimbursement filed under section 330 of title 11; and

"(ii) filing with the court comments with respect to such an application and, when the United States Trustee deems it to be appropriate, objections to any such application.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 15;

(2) in section 101—

(A) by striking paragraph (39);

(B) by redesignating paragraphs (40) through (51) as paragraphs (41) through (52), respectively;

(C) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39), respectively;

(D) by inserting after paragraph (35) the following paragraph:

"(36) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; and

"(F) mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law;";

(E) in paragraph (39) (as redesignated by subparagraph (C)) by striking "and" after the semicolon;

(F) by inserting after paragraph (39) (as redesignated by subparagraph (C)) the following paragraph:

"(40) 'mask work' has the meaning given it in section 901(a)(2) of title 17;";

(G) by redesignating paragraphs (52) and (53) (as designated before the date of enactment of this Act) as paragraphs (54) and (55), respectively;

(H) by inserting after paragraph (52) (as redesignated by subparagraph (B)) the following paragraph:

"(53) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;"; and

(I) by striking both paragraphs (54), both paragraphs (55), both paragraphs (56), and both paragraphs (57) (as designated before the date of enactment of this Act) and inserting the following:

"(56) 'stockbroker' means a person—

"(A) with respect to which there is a customer, as defined in section 741(2) of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;

"(57) 'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing);

"(B) any combination of the foregoing; or

"(C) a master agreement for any of the foregoing together with all supplements;

"(58) 'swap participant' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor;

"(59) 'timeshare interest' means that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan;

"(60) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years;

"(61) 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary of involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption; and

"(62) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.";

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302";

(4) in section 346 (a) and (g)(1)(C) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(5) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(6) in section 349(a) by striking "109(f)" and inserting "109(g)";

(7) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraphs (12) and (13) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(D) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17), striking "or" at the end of paragraph (16), as redesignated by this subparagraph, and adding "or" at the end of paragraph (17), as redesignated by this subparagraph;

(8) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(9) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(10) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307"; and

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to";

(11) in section 507(d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(12) in section 522(d)(10)(E)(iii) by striking "408, or 409 Internal Revenue Code of 1954" and inserting "section 401(b), 403(b), 408, or 409" of the Internal Revenue Code of 1986";

(13) in section 523(a) by striking "1141., 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),";

(14) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) by inserting "and" at the end of subsection (d)(1)(B)(ii);

(15) in section 542(e) by striking "to to" and inserting "to";

(16) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(17) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(18) in section 553—

(A) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in subsection (b)(1) by striking "362(b)(14),," and inserting "362(b)(14),";

(19) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(20) in section 724(d) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(21) in section 726(b) by striking "section 1112 1208" and inserting "section 1112, 1208,";

(22) in section 743 by striking "clerk" and all that follows through "Commission" and inserting "clerk shall give the notice required by section 342 to SIPC and to the Commission";

(23) in section 745(c) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(24) in section 1104(c) by striking "then the United States trustee, after consultation with parties in interest shall" and inserting "the United States trustee, after consultation with parties in interest, shall";

(25) in section 1110(a) by striking "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), or vessels of the United States, as defined in subsection (B)(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4))" and inserting "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301), or documented vessels, as defined in section 30101(1) of title 46, United States Code";

(26) in section 1129(a)—

(A) by striking the semicolon at the end of paragraph (4) and inserting a period; and

(B) in paragraph (12) by striking "section 1930," and inserting "section 1930 of title 28,";

(27) in section 1226(b)(2)—

(A) by striking "section 1202(d) of this title" and inserting "section 586(b) of title 28"; and

(B) by striking "section 1202(e) of this title" and inserting "section 586(e) of title 28";

(28) in section 1302(b) by striking "and" at the end of paragraph (3); and

(29) in section 1328(a)(2) by striking "of" and all that follows through the semicolon and inserting "of the kind described in section 523(a) (5), (8), or (9);".

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

Mr. HEFLIN. Mr. President, today I rise to discuss with my colleagues legislation which I introduced last November to significantly reform the bankruptcy system. This legislation, S. 1985, is a result of a bipartisan effort with the ranking member of the Subcommittee on Courts and Administrative Practice, Senator CHARLES GRASSLEY of Iowa.

We have worked diligently on this legislation since its introduction to craft a package of amendments to the Bankruptcy Code which we believe are important and necessary.

This Nation is facing a record number of bankruptcy court filings from both individuals and corporations. There were approximately 940,000 filings, almost a million filings during the 1991 calendar year, and the administrative office of courts only expects this number to rise.

I noticed in today's Washington Post the headline "Bankruptcy Filings Up 9.5 Percent." This is an Associated Press article. "Americans filed a record number of applications for bankruptcy protection during the first quarter of the year, the American Bankruptcy Institute said yesterday."

In my home State of Alabama, in the northern district of Alabama, the number of filings have risen from 10,223 in 1986 to approximately 22,000 filings for the current calendar year. Overall, the number of bankruptcy filings has nearly tripled in little over a decade.

This growth in filings is a result of a number of social and economic factors which are unrelated to the code. The purpose of our Nation's bankruptcy laws is to try to put Humpty Dumpty back together again.

This legislation is a measured response which seeks to address issues which have become highlighted in the bankruptcy system over the last several years. The Judiciary Committee has worked in a consensus-building fashion in an effort to enact legislation to respond to the call for reform that has arisen and are highlighted by this significant increase in filings.

This bill was developed out of a series of hearings conducted last spring and summer. During those hearings the subcommittee heard from nearly 40 witnesses over 5 public meetings of the subcommittee and received numerous additional statements and communications from those participating in making suggestions to the subcommittee.

This legislation was introduced and designed to address a number of important bankruptcy issues which were identified during the course of those hearings. Subsequently, the Judiciary Committee improved and modified this bill to address additional substantive issues and to ensure that the bill's provisions are technically correct and workable as a result of the time, attention, and hard work of the committee. I am pleased to note that this bill was favorably reported out of committee by a 14-to-0 vote.

Admittedly, this bill appears to be lengthy and complex, and it is. The bill contains five titles, which cut across the Bankruptcy Code and addresses many important issues.

The first title of the bill establishes a new National Bankruptcy Review Commission. This Commission would be similar to the Burdick Commission of the early 1970's that resulted in the current Bankruptcy Code. It should be noted that this Commission is designed to review and not to rewrite the entire Bankruptcy Code. Its purpose is to allow further thoughtful study of the functions and balances which are currently built into the Bankruptcy Code and to provide Congress with recommendations to address areas in which the Bankruptcy Code may be improved and modernized. For example, areas which need and deserve the review of a Bankruptcy Commission are how environmental liabilities should be treated under the code, how ERISA and the tax reform legislation of 1986 work within the confines of the code, the problems of international insolvency, and whether the judicial process can be improved to speed and clarify the entire bankruptcy process.

Title 2 of the bill addresses commercial and credit issues in bankruptcy. This title contains a number of important proposals.

Section 201, makes clarifications regarding the parties who may sit on creditor committees during a chapter 11 bankruptcy. This section would allow the Pension Benefit Guarantee Corporation and State pension funds to be eligible for membership on these creditor committees. This modification reflects the policy that some governmental entities, but not all, should be allowed to participate on these committees when the interest being protected by such entities is not strictly the Government's interest, but the interests of pensioner's assets.

Section 202 contains amendments designed to enhance the protections given pension plans in bankruptcy and resolve what is known as the antialienation problem. This problem arises when a bankruptcy judge orders an ERISA qualified plan to make a disbursement to an individual who has filed for bankruptcy in order to pay that individual debtor's creditors. Such an involuntary disbursement is in violation of ERISA law and may lead to the disqualification of an ERISA plan. However, if the disbursement is not made, a company risks facing the contempt authority of the bankruptcy court. This section seeks to address this issue by providing stability and protection of pension plans.

Section 203. This section clarifies the status of cash collateral in bankruptcy. In some States, where an interest in rents has been perfected by recording, some court's find this fact satisfactory for perfecting under the Bankruptcy Code. As a result, some creditors who believed they had fully secured interests have been caught short, even when proper notice has been given through the recording of the interest. It should be noted that this amendment is restricted to the Bankruptcy Code, that no right to or priority in rents or leases is conferred by this section, and that this section in no way preempts State law on these questions regarding perfection of security interests.

Section 204. This section seeks to overturn the Deprizio line of opinions begun in *Levit* v. *Ingersoll—in re V.N. Deprizio Construction Co.*—874 F.2d 1186, 7th cir. 1989. This case turned upon issues involving guarantees and who may be considered an "insider" for purposes of the Bankruptcy Code. The specific language of this section has received a great deal of attention in order to narrowly but clearly overrule this series of opinions. We believe that we have accomplished this task. The specific language contained in the substitute bill which is before the Senate is different from that which was reported by the committee. We believe that we have improved upon that language which is reflected in this bill, and that it accomplishes its task of returning the understanding of the status of the law to that which predated the Deprizio opinion.

Section 205. This section is one of the major features of this legislation and calls for a proposal to aid small business bankruptcies by creating a pilot program in which small businesses could file for a reorganization without having to use the cumbersome features of a chapter 11 bankruptcy. This legislation conceives of the proposed small business bankruptcy chapter to be tested in eight judicial districts for a period of 3 years. I believe that such an approach balances the concerns of substantially rewriting the Bankruptcy Code without enough experience and information, with the need for congressional action to address the problems faced by small businesses when they are forced to face a bankruptcy. I believe that this is a thoughtful, balanced, and measured method of addressing problems found in the Bankruptcy Code.

Section 206. This section has been the subject of considerable attention. The section provides that, under certain circumstances, a court may issue a supplemental permanent injunction barring certain types of claims against a reorganized debtor and channeling those claims to a trust funded by the securities of, and future payments by, the debtor. This section would only be in effect where a super-majority of affected claimants vote to approve a reorganization plan which creates a trust mechanism for future claimants. This section makes clear that the debtor's obligations under the plan or reorganization are in no way diminished. However, it provides certainty that the trust mechanism is irrevocable except upon appeal. This section seeks to parallel that which has occurred in the Manville Corp.'s bankruptcy, and signal congressional approval of such a trust mechanism in some very limited cases.

Section 207. This section would prohibit small business investment companies from being able to file for bankruptcy. These companies often operate similar to small banks who make loans to small businesses, and the current Bankruptcy Code prohibits both banks and insurance companies from filing for bankruptcy because alternative administrative schemes already exists to handle these types of financially troubled institutions. Small business investment companies have full rights under procedures set out by the Small Business Administration to reorganize and liquidate, and therefore, allowing them the ability to file for bankruptcy is duplicative. By taking this very simple step, the Congressional Budget Office believes that there would be a decrease of outlays of $51 million for fiscal year 1992.

Sections 208 and 209. These sections are important clarifications to the Bankruptcy Code in order to signal how the bankruptcy should operate in a chapter 11 case. Section 208 clarifies the relationship between bankruptcy proceedings and the procedures established under section 7a of the Clayton Act for reviewing proposed transactions by Federal antitrust authorities, while section 209 provides the explicit authority for the bankruptcy courts to manage their cases and dockets. While courts may not go beyond the bounds of the Bankruptcy Code, I believe that this section is desirable for giving an explicit expression of authorization which is already being exercised by some courts.

Section 210. This section is designed to expedite the decisions by air carriers who file for bankruptcy to determine whether to accept or reject their airport gate leases. This section strikes a balance between protecting the debtor airline's ability to make a business decision in a timely fashion with protecting individual airports and the flying public by giving them some assurance that airport gates will be utilized to their fullest extent. In the past, some courts have been lax in requiring airlines to make these decisions, and as a result, substantial harm has occurred. By creating a lengthy period in which the airline may make these decisions, and then through shifting the burden of proving that substantial harm is not arising from the continued indecision to accept or reject these leases, I believe the committee has acted properly and thoughtfully in addressing this issue.

Section 211. This section was added on to the committee reported bill at the suggestion of my colleague, Senator GRASSLEY. This section would create a statutory definition of "single-asset real estate" that is limited to the investment property of a debtor who has filed for bankruptcy. In such situations, this section would expedite the relief from automatic stay in cases involving single-asset real estate where realistic plans of reorganization are not forthcoming. This section would further allow foreclosure proceedings, which were commenced prior to the filing for bankruptcy, to continue up to, but not including, the point of sale in order to ensure the prompt sale of property if relief from the automatic stay provisions of the Code are granted by the bankruptcy court.

Section 212. This section is the final section which was added to the bill prior to the full committee consideration. This section was suggested and authorized by Senator METZENBAUM, and makes clear that retiree health benefits generally are to be paid in a manner similar to other administrative expenses during the pendency of a chapter 11 reorganization. It is important to note that this plan does not modify what can be agreed upon pursuant to a plan or reorganization but simply enhances the protection and payment of retiree health benefits.

The third title of this bankruptcy bill addresses the application of the Code when individual debtors are involved in the bankruptcy system. This title seeks to substantially aid the bankruptcy process and its relationship to individual debtors. In my opinion, it is the most important part of this legislation. Rather than following the current trend of going into straight bankruptcies under chapter 7, this title seeks to increase and encourage the use of chapter 13 bankruptcies, in which wage earners reorganize their debts and are given the opportunity overtime to pay creditors the money owed.

The bill provides for important procedures by which debtors who file for straight bankruptcy can learn that they have other alternatives, including filing under chapter 13 of the Bankruptcy Code and their ability to transfer their filing under chapter 7 to a chapter 13 case. In my opinion, this title is drafted with the clear view of encouraging the use of chapter 13 bankruptcies.

During the course of our hearings, it became very apparent that chapter 13 is often the best overall process for debtors, creditors, and the national economy. Numerous bankruptcy judges have indicated that most individuals want to pay their debts in a manner similar to the program offered under chapter 13 of the Code. Unfortunately, the use of this chapter is not widespread throughout the country, and many people are simply not informed that this option is available when they seek the Bankruptcy Codes protection. This title contains many provisions that take into account these concerns.

Section 301. This section makes an important contribution to this bill, and the language contained in the current version is substantially different from that which was in the bill as introduced. However, both the previous language and the more sophisticated current version seek to address the growing problem of bankruptcy preparers who abuse the system in the course of preparing documents for debtors to file in bankruptcy court. This section establishes important procedures to police the wrongdoing by such preparers. This section is substantially patterned after the current law involving tax preparers and their obligations to those whom they aid in filing tax forms. This section provides criminal and injunctive penalties for those violating its provisions. Further, it explicitly recognizes that this section should not be construed to provide authority for conduct which is not otherwise prohibited by law, such as the practice of law.

Section 302. This section raises the threshold dollar limitations for those persons eligible to file for chapter 13 bankruptcies from $350,000 to $1 million. This section also removes the current distinctions involving secured versus unsecured debt. I understand that in many cases persons who would otherwise deserve and desire the ability to file under chapter 13 have been prohibited due to this dollar limitation. In adopting this section, I believe Congress will recognize the desirability of chapter 13 and provide for its greater use by those in the bankruptcy system.

Section 303. This section, I believe, is again a crucial element to this bankruptcy bill. This section seeks to ensure that debtors are fully knowledgeable of the bankruptcy process and some of its most important features. As I previously noted, many debtors desire to pay off their debts; however, some attorneys have simply never fully explained the benefits of this chapter to their clients, and as a result, an uniformed debtor is only left with the option of filing a chapter 7 bankruptcy. By requiring the U.S. trustee or his designee to discern an understanding by the debtors of their options and obligations in bankruptcy, the entire bankruptcy system is better served.

Section 304. This section provides an amendment to the automatic stay provisions currently found in the Bankruptcy Code. This section provides that, except upon a finding of good cause, final hearings on a motion for relief from the automatic stay must take place within 60 days of the filing of the motion. I understand and appreciate the crucial timing issues involved with the orderly administration of a bankruptcy case, however, the prompt action by a bankruptcy court is necessary in order to protect the rights of all parties in bankruptcy, and thereby enhances the entire bankruptcy process. Therefore, I believe this section is important and meritorious.

Section 305. I believe that this section is a modest amendment to the Bankruptcy Code to create a Federal definition, for purposes of the exemptions section of the Bankruptcy Code, that is in line with other Federal law. The definitions of antiques and household goods contained in this section follow a 1985 Federal Trade Commission rule on credit practices, and therefore aid in streamlining credit practices through parallel provisions of Federal law. Finally, it should be noted that this section does not have the force of law in the overwhelming majoring of States who have determined to establish their own exemption provisions.

Section 306. This section is designed to accomplish two tasks by clarifying issues of reaffirmation of a debt by a debtor. First, this section provides that if a debtor is represented by counsel, it is not necessary for that debtor to appear before the court to reaffirm a debt. Second, in cases where a debtor is not represented by counsel, this section assures that the hearing before the Bankruptcy Court takes place prior to the discharge being granted to the debtor. I believe that both of these clarifications are needed and are long overdue.

Section 307. This section is another clarification and modernization of the Bankruptcy Code. This section alters the current 10-day time provision to 20 days for a creditor to perfect a security interest after a debtor has filed for bankruptcy. By extending this time provision, this section simply protects the rights of creditors who may be abiding by State law which provides for a lengthier time to perfect, and thereby prejudicing the rights that the creditor may have in bankruptcy. This section further acknowledges the problem outlined in *in re Tressler*, 771 F.2d 791 (3rd. cir 1985), in which the operations of a governmental unit may prejudice a creditor by failing to take timely action in the perfection of a security interest. I believe this section is a good example of why this bankruptcy legislation is needed in order to improve and modernize our current bankruptcy laws.

Section 308. This is a section over which there has been considerable debate and discussion. This section seeks to first recognize the ability of parties to bring to the attention of the U.S. Trustee Office information about a debtor in bankruptcy. Second, this section seeks to provide congressional guidance regarding questions involving substantial abuse under section 707 of the Bankruptcy Code. I believe that this section simply outlines two noninclusive standards for the Bankruptcy Courts to determine whether substantial abuse has occurred.

Section 309. This section is a minor improvement and codification of current practices in many courts by simply mandating that bankruptcy clerks give notice to all creditors when an order for conversion or dismissal occurs in a chapter 13 bankruptcy.

Section 310. I believe that the section is one of the most important provisions of this bill. This section would protect the mortgage-backed securities market, and address the issue of cramdowns in chapter 13 bankruptcies. In a cramdown, an individual debtor bifurcates a secured claim against real estate into two components or claims: a secured component—measured by the fair market value of the real estate—and an unsecured component—measured by the excess of secured debt over the fair market value of the real estate. This section would completely protect the entire claim in cases of first mortgages on residential real estate that is the debtor's primary residence. The section would generally protect junior security interests except in circumstances where the security interest was undersecured at the time of contracting, and only could be subject to a cramdown to the extent that it remains undersecured at the time of the bankruptcy. By inference, this section does acknowledge a court's ability to bifurcate residential real estate under section 1322 by the operations of section 506 of the Bankruptcy Code. By protecting these important interests, the mortgage marketplace is protected, stability of this marketplace enhanced, and the refore, the consuming public who are currently faced with uncertainty regarding residential real estate is served.

Sections 311, 312 and 313. These sections provide further refinement regarding the operations of chapter 13. Section 311 simply directs courts and trustees to begin making payments to creditor as soon as practicable. Such distributions should be made in a timely fashion, However, each case will be dependent upon the circumstances of an individual case. Section 312 is simply another means provided for under the code to ensure that creditors are able to received moneys legitimately owed to them by parties who can pay. This section provides another avenue of relief from the automatic stay in order for a creditor to be able to go against a comaker or guarantor of a debt. Section 313 clarifies that Federal bankruptcy rights provided in sections 1322 and 1325 preempt conflicting State laws. It's intention is to overturn cases such as *In re Roach*, 824 F.2d 1370 (3rd Cir. 1987) and *In re Perry*, 945 F.2d 61 (3rd Cir. 1991), in order to allow debtors to use their preemptive Federal bankruptcy rights to save their homes from foreclosure.

The fourth title of this bill contains miscellaneous provisions to update the Bankruptcy Code. Included in this title are changes in monetary figures to adjust for inflation, provisions to address compensation questions, provisions to address service of process questions, and reforms to clarify tax issues in the Bankruptcy Code. This title also extends the life of chapter 12, the family farmer bankruptcy chapter, for 2 years in order to ensure that Congress is able to act in a timely fashion to review the provisions and even the need for this chapter. This chapter also mandates the judicial conference to report to Congress regarding its efforts to modernize and computerize the entire bankruptcy system.

Finally, this title in sections 408 and 409 seeks to add to the body of law regarding attorney fees in bankruptcy. These sections have been adopted at the suggestion of Senator METZENBAUM who has been at the forefront of this question. These sections have been subject to improvements and modifications from the initial sections adopted by the committee in order to meet a number of constructive criticisms by both the public and the Department of Justice.

The final title of this legislation is a technical title which seeks to correct a number of minor problems which have arisen since the Bankruptcy Code was enacted in 1978.

During the course of this speech, I have restricted my comments to many of the provisions contained in the bill that was reported out of the Judiciary Committee on a unanimous vote. I expect that I will have further comments on these and other sections of the bill as debate on this measure continues.

I conclude these remarks by stating the obvious: I believe that this a very good bill. I know that this bill will not be all things for all people. We have done our best to legislate in some important areas of the code, and still be able to craft a piece of legislation that is thoughtful and coherent. Some issues which are not addressed in the current bill will be the subject of further attention. These efforts are designed to ensure equity and fairness in our Nation's bankruptcy laws.

I believe that the bill passed by the committee is a good and thoughtful piece of craftsmanship. I know that it is not a perfect bill, and that if I alone were able to pass legislation, this bill would look different than it does today, however, that is not the world in which we live. Therefore, compromises have been struck, agreements have been reached, and suggestions have been accepted in order to pull together a wide range of interests and put them behind this bill.

I urge my colleagues to join with Senator GRASSLEY and me in supporting this legislation and seeing that this important bankruptcy reform legislation is enacted into law.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I am very pleased to join Senator HEFLIN in support of S. 1985, the omnibus bankruptcy reform bill, and I thank him for his leadership while in a very difficult position as chairman of a subcommittee trying to put together a consensus package. It is not very easy to do that. I think that he has tried to accommodate as much as he could and to leave the really difficult things to the study of the blue ribbon task force commission. I do believe we have put together a consensus package here. He is to be complimented for his hard work to do that.

Of course, as the chairman has stated, the need for this bill is urgent. This year, more than one million bankruptcy petitions will be filed.

Just yesterday, as Senator HEFLIN mentioned, the Administrative Office of the U.S. Courts reported that first quarter bankruptcy filings rose 9.5 percent over the same period last year. In some of the most populous States, the increase in filings was staggering: New York filings were up 25 percent, Florida's rose by 21 percent, and California reported a 20-percent increase.

To put this matter in perspective, our Federal courts hear about 250,000 civil cases and about 50,000 criminal cases every year. Thus, of the 1.3 million cases in the Federal courts, about 75 percent are bankruptcy cases. Indeed, one in 10 Americans can now expect to file for bankruptcy at some point in their lives.

That is not a percentage that I am happy to relate. I hope it is a percentage that will decline, not just as a result of the economic improvement of the country, but because an improvement in the ethical and moral situation in this country, would make Americans not as willing, even though legally permissible, to file for bankruptcy.

Additionally, apart from escalating individual petitions, seemingly every day, the popular press reports on another corporation that has filed for bankruptcy.

In this recessionary economy, bankruptcy has assumed a level of importance and prominence that it has never had before. We can regret the fact that economic necessity has brought this result. Nonetheless, we must respond to this reality.

The fact is that no other area of Federal law has so many unresolved fundamental questions as bankruptcy. What is the relationship between the bankruptcy laws and environmental laws? How about the interaction of ERISA and bankruptcy laws? There are even significant constitutional questions about the operation of our bankruptcy system. The increasing globalization of the world economy raises uncertainties about the code as well.

Another concern is the status of local governments in bankruptcy.

For instance, the popular press reported that one of the reasons that Olympia & York, the largest private real estate owner in New York City, might have been considering a bankruptcy filing was the possibility of eliminating its obligation to pay city real estate taxes.

Beside these reasons for revising the Bankruptcy Code, we should bear in mind that the code has not changed much since its implementation.

Numerous proposals have been offered to make the code operate more effectively and fairly. Circumstances require that they be considered.

In a recent speech before the American Bankruptcy Institute, Chief Justice Rehnquist recognized the increasing importance of bankruptcy even in the hallowed halls of the Supreme Court. Two years ago, the Court decided three bankruptcy cases. Last year, it decided five bankruptcy cases.

This year, the Court will decide nine bankruptcy cases. The percentage of the total docket represented by bankruptcy cases has increased from 2 to 8 percent in just 2 years. This development reflects both the increasing number of bankruptcy filings and the many unresolved issues in bankruptcy that require resolution, and require that resolution by the highest court in the land.

The Chief Justice also stressed the need for reform of the Bankruptcy Code.

For instance, it is vital that the costs of all litigation be reduced, but nowhere more so than in bankruptcy. These fees, in Chief Justice Rehnquist's words, "have become a potent subject for controversy when combined with the increasing criticism that lawyers' and experts' fees often swallow up large portions of an estate's assets, leaving little behind for creditors. * * * This is an area of the law in which I think the arguments are strongest for reducing transactional costs if it is humanly possible to do so—an area where transactional costs demonstrably and directly diminish the amount available to pay legitimate claims." Thus, the Chief Justice himself asks us here in the Congress, with assistance from the experts in this field, to undertake efforts to reform the bankruptcy laws.

S. 1985 responds to these concerns in two ways.

First, it establishes a National Bankruptcy Review Commission. This commission, to be composed of bankruptcy experts, will review the operation of the code and report to Congress ways of making our Nation's Bankruptcy Code more effective. I would stress that the Commission is designed to review the code, not overhaul it. We on the Judiciary Committee are generally satisfied with the code and we are not interested in proposals that start from scratch.

What we are interested in is a careful examination of the code and suggestions for how Congress can best exercise its constitutional power under article I, section 8, "to establish * * * uniform laws on the subject of bankruptcies throughout the United States." And that has been a mandate for the Congress since the writing of our Constitution.

Second, recognizing the pressing need for bankruptcy reform, the bill contains several provisions that the committee felt should be enacted now.

These are the consensus provisions I previously referred to that our good chairman has done such a fine job of bringing out of committee to this floor. These represent changes in the code commanding and, at this point in the session, demanding consensus.

There is no need to wait 2 years for the Review Commission to report that these changes should be made. Additionally, there is no need for the Commission to spend its valuable time examining these issues when there are others on which expert opinion will be more valuable.

These consensus changes derive from a series of hearings that the Courts Subcommittee held last spring and summer. As Senator HEFLIN stated, at these hearings, the subcommittee heard from dozens of witnesses on various proposals.

One of the provisions of the bill will extend chapter 12 for 2 additional years. Chapter 12 is a chapter that recognizes the unique status of family farmers in the business of agriculture, who are frequently asset rich and yet income poor. Chapter 12 is currently set to expire next year. Chapter 12 has worked well, and the committee wanted to insure that it had sufficient time to evaluate chapter 12 without fear that it would expire before it could be extended.

Additionally, the bill creates a pilot program for a new small business bankruptcy chapter, chapter 10. The witnesses before the subcommittee supported the notion that chapter 11 often does not work well for small business cases.

This is also somewhat true of our adoption in 1986 of the chapter 12 provision. Simply put, chapter 11 did not always work well for family farmers.

Likewise, chapter 10, which is based on the successful system of handling small business bankruptcies in one judicial district, is a response to these witnesses' comments.

The bill also addresses the concerns raised in the hearings regarding the seventh circuit's decision in *Levit* v. *Ingersoll Rand Financial Corp. (In re V.N. Deprizio Construction Co.)*, 874 F.2d 1186 (7th Cir. 1989). We believe that Deprizio should be overturned by amending section 550 of the code in a narrowly crafted way.

Section 204 of the bill does not change the trustee's preference avoidance power. Rather, it clarifies the trustee's remedies in the event that a transfer is preferential. If a debtor acts in such a way as to affect the Bankruptcy Code's pro rata distribution rule, the trustee will have available a remedy against the party actually preferred, and not against innocent parties.

Although this change is to a fairly technical and complex section of the code, the change provided in section 204 has important practical effects. For instance, a lender may lend money to an interrelated corporate group and be paid back by one of these corporate entities. Under Deprizio, the lender could face a 1-year preference period, even though it lent to a corporate group because of the existence of a guarantee against the other corporate groups. We believe that a lender should not face a conclusive presumption that an outsider is tainted as an insider by virtue of a guarantee. Notwithstanding the existence of a guarantee, the lender should not have to worry about the possibility of a preference period longer than 90 days.

Mr. President, we have come a long way in bankruptcy law over the years. At one time, debtors were imprisoned. Indeed, the first performance of Handel's "Messiah," was a charity benefit for debtors. Today, we recognize that debtors would like to use bankruptcy law to pay back their debts. The bill will encourage debtors to file a chapter 13 petition, rather than a chapter 7 liquidation, in order to enter into wage earner plans.

In shorts, S. 1985 will set forth the framework for bankruptcy reform, a legislative initiative that is vitally needed. It will create a Commission to review the code, as well as making necessary changes that should not wait for Commission action.

This bill will not encourage the filing of bankruptcy petitions. But it will make positive changes in the operation of our bankruptcy laws to deal with the enormous number of petitions that are filed each year. Equally and perhaps more important, it will set the stage for a comprehensive review of the code, from which will hopefully develop important and valuable ideas for future changes to improve the operation of the bankruptcy laws to make the code reflect the realities of the changes in the economy that took place in the 1980's and 1990's. Indeed, the code must reflect the changes that have occurred not only in the domestic economy, but also in the world economy.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. KOHL. Mr. President, I rise to speak to three amendments that have been accepted by the managers of S. 1985, the Omnibus Bankruptcy Reform Act, as part of the modification to the committee substitute.

The first of the three amendments I am offering helps the Nation's air and rail industries access affordable financing for essential equipment. This amendment would resolve ambiguities in the current law and is supported by all sectors of the air and rail equipment financing industries, including airlines, railroads, manufacturers, and financing parties.

Congress enacted sections 1110 and 1168 of the Bankruptcy Code to ensure affordable capital for the transportation industry by protecting those who finance air, shipping, and rail equipment. Recent airline bankruptcies have produced continuing uncertainty as to the availability of sections 1110 and 1168. Lenders and lessors seek assurance that the protection of these sections will apply to their transactions. Because this assurance does not exist, financing costs have increased to compensate for additional risk. These increased costs adversely affect not only the airlines and railroads, but also the manufacturers of air and rail equipment, and ultimately the passengers and businesses that rely on our Nation's airlines and railroads.

The uncertainty surrounding sections 1110 and 1168 has had an immediate and ongoing impact on the air and rail industries at a time when they are in severe need of affordable capital. For example, the airport Noise and Capacity Act of 1990 effectively mandates that airlines fully update their fleets by the turn of the century. At a recent hearing before the Aviation Subcommittee of the House Committee on Commerce, Science and Transportation, a representative of Standard & Poor's testified that the credit ratings for the airline industry has declined significantly and that in order to promote healthy airlines, Congress must clarify the scope and effect of section 1110. Consequently, just as the airlines are being required to make substantial new capital investments in their fleets, the lack of clarity in section 1110 is causing an increase in the cost of capital. Similarly, Standard & Poor's also announced that it has lowered the credit ratings of some of the railroads to reflect the same ambiguities that exist in section 1168. As a result, the cost of capital to railroads has also increased. Everyone agrees that this is a real and immediate problem. And without the clarifications in this amendment, the problem will continue to drive up capital costs for the transportation industry.

The modifications to sections 1110 and 1168 reflect the realities of modern financing. This amendment would delete the phrase "purchase money equipment" and clarify that the protection of section 1110 and 1168 applies to all forms of security interest financing, regardless of whether obtained at the time the equipment is acquired. This change would apply only to new equipment placed in service after the date of enactment of S. 1985.

Once this rule is fully phased in, the distinction between leases and loans would no longer be relevant for purposes of these sections. During the time before this rule is phased in, this amendment would provide lessors greater assurance that their leases are protected by sections 1110 and 1168 by providing a safe harbor definition of the term "lease" for equipment first placed in service prior to the effective date.

Finally, Mr. President, because of the unique nature of the type of equipment we are discussing—multimillion-dollar aircraft and railroad cars—this amendment also would clarify that costs and expenses attributed to maintenance and return obligations on equipment covered by sections 1110 and 1168 are administrative expenses of the estate under section 503(b)(1)(A) of the Bankruptcy Code.

It should be emphasized again that all parties involved in these industries agree that clarification of sections 1110 and 1168 is urgently needed. Furthermore, all agree that this amendment would resolve many of the ambiguities in the law, yet would not upset the delicate balance of fairness and equity between the air and rail industries, the equipment manufacturers and the parties financing the equipment.

Mr. President, the second of the three amendments that have been accepted concerns the treatment of unexpired equipment leases under section 365 of the Bankruptcy Code. This amendment would require equipment lessees, who find themselves in a chapter 11 bankruptcy, to continue making rental payments during the period between filing the bankruptcy petition and the time when they decide to continue the lease or reject the lease. This amendment does not force the lessee to decide, it simply requires that if they continue use of the equipment while making a decision, they must continue to pay rent.

Equipment leasing represents the second largest source of investment capital for business, industry, and agriculture in the United States. The volume of equipment leasing for 1991 is estimated at $143.7 billion.

Equipment leasing differs from lending and real estate leasing in that equipment leases generally have longer terms, and they generally involve depreciating assets which decline in monetary value during the term of the lease. Depreciation of an asset makes maintenance and repair of the asset during possession by the lessee a key factor in ensuring the value of the equipment at the expiration of the lease period.

Often, prior to the filing of a bankruptcy petition, a nonconsumer equipment lessee will have used the leased equipment for many months without making any rental payments. After the lessor initiates actions to recover the equipment, the lessee files for chapter 11 reorganization and continues to use the equipment.

Under section 365(a) the lessee has the right, subject to court approval, to assume or reject an unexpired lease of equipment. If the lessee assumes the lease, the lessee must *cure* prior defaults and provide adequate assurance of future performance.

The problem is this: under the existing system there is no definite time period fixed for assuming or rejecting an equipment lease. Therefore, the lessee can choose to delay assuming or rejecting a lease while continuing to use the leased equipment rent-free. In contrast, under section 365(d)(4), the landlord of nonresidential real property can seek a court order to have a lease rejected and the property returned if the lessee fails to assume a lease within 60 days after filing a petition, or within such time as the court allows.

The proposed amendment would require payment of rentals during the period between filing of the petition and the point in time when the lessee decides to assume or reject the lease. Additionally, by amending section 365(d)(3), equipment lessees will be required to perform all obligations of the lease, including repair and maintenance of the equipment, which is vital to maintaining the long-term value of the equipment. At the present time nonresidential real property lessees must perform such obligations during the period prior to assumption or rejection under section 365(d)(3).

The third amendment addresses a problem threatening the value of real estate lease agreements. After a recent Third Circuit Court opinion, it is unclear whether or not the sale of a real estate lease by a chapter 11 tenant is permanent or not. This amendment would clarify that a valid, good faith sale of a lease by a tenant in bankruptcy would not be affected by a later court order, unless a party challenging the sale obtains a court order halting the sale during the appeal. This clarification will go a long way in eliminating lease purchasers' fears that their purchase might be revoked long after a bankruptcy court approval, and after they have invested their time and money relying on that approval.

In the 1990 Third Circuit opinion of *In re Joshua Slocum, Ltd.*, 922 F.2d. 1081, the court considered the finality of orders in section 365 lease assignments. In Slocum the court held that a landlord's appeal of a bankruptcy court's order, authorizing a chapter 11 tenant's assignment of a real estate lease to a good faith assignee for value, was not subject to mootness and could be reversed on appeal. This ruling came in spite of the parties having consummated the assignment and the good faith assignee having taken possession of the premises almost 2 years prior to the Third Circuit's opinion, The Third Circuit refused to interpret mootness principles currently embodied in sections 363(m) and 364(e) to reach a similar result in connection with the appeal of consummated lease assignments under section 365.

In order to prevent what could be significant finality problems if other courts adopt the *Slocum* ruling, this amendment amends section 365 to include a provision similar to that contained in sections 363(m) and 364(e).

Mr. President, I would like to discuss one other section of the bill—section 201—which would allow State pension funds and the Pension Benefit Guaranty Corporation [PBGC] to sit on creditor committees in chapter 11 reorganizations. Under present law the U.S. Trustee appoints committees of unsecured claim holders. Ordinarily, the creditor and equity holders committee are composed of persons or institutions holding the seven largest claims of the kind represented by that committee. So, for example, an equity security holders' committee would be composed of those persons holding the seven largest amounts of equity securities. These committees have a broad range of powers to ensure their interests are protected in reorganization.

Under present law, State pension funds and the PBGC are precluded from participating as voting members of these committees. The unique interests of retirement funds, as long-term investors, are not represented by other creditor and equity holder committee members, who may have different goals or shorter investment horizons. These interests are thus put at an unintended fiscal disadvantage. Section 201 would allow State pension funds and the PBGC to serve on these committees, as long as they meet all the other appropriate criteria. It would not give them any special treatment; rather it would simply lift an unintended burden from their shoulders.

Mr. President, I ask unanimous consent that supporting information explaining these provisions in greater detail be printed in the RECORD following my remarks.

Thee being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT

At the appropriate place, insert the following:

SEC. . PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365(d)(3) of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.".

FINALITY OF ORDERS IN SECTION 365 LEASE ASSIGNMENTS

(Alan R. Gordon, Jeffrey C. Hampton, Wendy J. Wasserman, Philadelphia, PA)

A potential obstacle to addressing the merits of an appeal authorizing a debtor's or trustee's assumption and assignment of a lease is the doctrine of mootness. At present, it is unclear whether a party obtaining an assignment of a leasehold interest under section 365 of the Bankruptcy Code (the "Code") should rely on such assignment to proceed to occupy the leasehold and incur substantial expenses thereby when, absent a stay, the order authorizing such assignment is subject to appeal by the landlord. Unlike Code sections 363(m) and 364(e), which explicitly deal with the issue of the necessity of obtaining a stay pending appeal, section 365 pertaining to lease assignments does not address the issue. There is a dearth of case law in this area, and the few cases that have decided the mootness question are split.

THE LEADING CASES

In *In re Joshua Slocum, Ltd.*,[1] a shopping center landlord leased space for a period of ten years to Joshua Slocum, Ltd. ("Slocum"), a retailer. The lease contained a percentage rent clause as well as an average sales clause, which provided that either party could terminate the lease if, after six years, Slocum's average yearly sales were below a certain level. Slocum filed a Chapter 11 petition in 1988, and shortly thereafter (and only a few months prior to the expiration of the sixth year of the lease) the chapter 11 trustee sought authority from the bankruptcy court to assume and assign the lease to another retailer pursuant to section 365 of the Code.[2] Because the trustee sought to assign the lease without the average sales clause,[3] the landlord objected to and opposed the assignment.

In 1989, the bankruptcy court entered an order authorizing the trustee to assume and assign the lease without the burdensome average sales clause.[4] Upon approval by the bankruptcy court of the assignment of the lease without the average sales clause, the new tenant began occupancy of the space. The landlord timely appealed the bankruptcy court's order to the District Court for the Eastern District of Pennsylvania, and the trustee filed a motion to dismiss the landlord's appeal on mootness grounds because the landlord failed to obtain a stay pending appeal. The district court, although denying the motion to dismiss, affirmed the bankruptcy court's order without opinion. In 1990, the landlord appealed the district court's order to the Third Circuit Court of Appeals.

Before addressing the merits of the appeal, the Third Circuit considered the threshold issue of whether the court had appellate jurisdiction. The trustee argued that the appeal should be dismissed as moot due to the landlord's failure to obtain a stay pending appeal. The trustee argued that the principles of finality embodied in section 363(m) of the Code should be applied to lease assignments under section 365 and that such assignments, if made to good faith assignees, should not be subject to invalidation on appeal.

The *Slocum* court concluded that the appeal was not moot because the landlord was not obliged to obtain a stay pending appeal. The court stated that only two provisions of the Code, sections 363(m) and 364(e),[5] "specifically require" a party to obtain a stay pending appeal. According to the majority, there is no such requirement in section 365, and section 363(m) does not apply to assignments of leases. The court refused to interpret the mootness principles embodied in sections 363(m) and 364(e) in such a way that would effectively create a third situation in which parties are required to seek a stay. The court then vacated the district court's judgment and reinstated the average sales clause provision of the lease.

The court stated that the scope of review on appeal was limited to determining whether the bankruptcy court had authority to exercise the average sales clause from the lease. According to the court, the assignment of the lease itself was not the action at issue on appeal. However, the court stated that it would probably have agreed with the "well-reasoned analysis" of Judge Sloviter in her dissenting opinion, in which she concluded that the appeal should have been dismissed as moot, if the action from which the landlord appealed was the assignment of the lease.[6]

In a dissenting opinion, Judge Sloviter considered the appeal moot because to hold otherwise would require the court to overturn a transaction "that has long since been consummated involving a non-party, good-faith purchaser."[7] According to Judge Sloviter, the majority's decision "will undermine the finality of bankruptcy lease assignments, which may lower the value of debtors' estates and thereby reduce the amount available to satisfy creditors."[8] Moreover, Judge Sloviter believed that the same policy concerns that apply under section 363(m) to sales or leases of property are equally applicable to lease assignments.[9] Judge Sloviter also expressed the view that under general principles of law, "when a stay is not obtained, the prevailing party may treat the judgment of the district court as final."[10]

This general mootness principle is a longstanding judicial doctrine that developed from the general rule of law that the occurrence of events that prevents an appellate court from granting effective relief renders an appeal moot, and from the particular need for finality in orders regarding stays in bankruptcy. These general principles have been broadly applied to various bankruptcy orders other than asset sales, such as confirmation orders and foreclosure sales, and Judge Sloviter believed that they should apply as well to lease assignments. To do otherwise would produce a chilling effect and would "send a signal to future purchasers of assets from debtors' estates that their purchases may be revoked long after they receive approval by the bankruptcy court and after they have placed substantial reliance on the finality of that approval."[11] The resulting uncertainty would have the effect of lowering the value of debtors' estates.

Other circuits have found that the general mootness principles embodied in section 363(m) asset sales should not be strictly construed to apply only to transactions "falling within a narrow definition of the term 'sale' and not to leases or options of interests in property."[12] The Fifth Circuit has held that the policy of affording the finality to bankruptcy court judgments upon which innocent third parties rely is triggered "not only when property is sold to a third party but also when a lease or option is granted to a third party in reliance on an order of a bankruptcy court."[13]

The First Circuit has held that the policy of encouraging finality in bankruptcy sales by protecting good faith purchasers is "not strictly limited to [section] 363," and the fact that section 365 does not explicitly contain the same finality provision as section 363 did not prevent the court from applying the same principles. In *In re Stadium Management Corp.*,[14] the bankruptcy court approved the trustee's motion to sell the debtor's stadium pursuant to section 363(b) and to assume and assign the debtor's lease for the land beneath the stadium pursuant to section 365. The assumption and assignment of the lease was a condition of the asset sale. The First Circuit held that the appeal from the assignment and assumption of the lease was moot because appellants did not seek a stay pending appeal.[15]

In a recent case, decided after *Slocum*, the District Court of Delaware (a court within the Third Circuit which, presumably, is bound by the *Slocum* decision) held that an appeal from an order authorizing a trustee to assume and assign executory contracts under section 365 was moot in the absence of a stay pending appeal.[16] In *In re Delaware & Hudson Ry.*, the sale of the debtor's rail assets was expressly contingent on the bankruptcy court's authorization of the assumption and assignment of various contracts which the debtor had with the New York Department of Transportation. The court stated that although *Slocum* rejected the First Circuit's approach in *In re Stadium Management Corp.* of stretching section 363(m) to moot an appeal of an assumption and assignment under section 365, *Slocum* indicated that general mootness principles *may* apply to moot the appeal of a section 365 order.[17] The court found that *Slocum* "suggests, although it does not expressly hold, that where . . . a party appeals an assumption and assignment, consummation of the assignment moots the appeal in the absence of a stay."[18] The "well-established rules of justiciability" and the "particular need for finality in bankruptcy" invoked by Judge Sloviter led the Delaware court to conclude that the appeal with respect to the propriety of the assumption and assignment of the contracts was moot.

POLICY ARGUMENTS SUPPORTING FINALITY

Lease assignments under section 365 should be treated in the same manner as the sale of assets under section 363(m). Unless a stay is obtained pending appeal from an order authorizing a lease assignment, such appeal should be dismissed as moot. If an order authorizing a lease assignment can be modified or overturned on appeal, purchasers of assets from the debtor's estate would fear that their purchases could be revoked long after bankruptcy court approval and after substantial reliance on that approval. The resulting unpredictability would have the effect of lowering the value of the debtor's estate because it would chill bidding and result in discounted offers. Such an effect is contrary to the Bankruptcy Code's scheme of rehabilitation and maximization of the value of the debtor's estate. Moreover, in Chapter

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Footnotes at end of article.

11 cases, the possibility of modification or reversal on appeal would hinder the debtor's ability to formulate a meaningful plan of reorganization and stall the reorganization process by delaying the debtor's ability to make decisions as to which leases to assume and which to reject.

Another reason for treating asset sales and lease assignments identically is that, in actuality, the assignment of a lease is akin to the sale of an asset. When one assigns a lease to another, one is effectively selling that person a leasehold interest, an asset that oftentimes is reflected at substantial values on balance sheets.

Regardless, however, of the similarity (or dissimilarity) of asset sales and lease assignments, and notwithstanding the absence of a specific Code provision that necessitates a party's obtaining a stay pending appeal to preserve its position, general mootness principles should apply to moot the appeal. For instance, in the context of a post-petition foreclosure sale, once the property has been sold, a court is powerless to rescind the sale on appeal.[19] The policy behind this result is to provide finality to orders of the bankruptcy court and to protect the integrity of the judicial sale procedure upon which good faith purchasers rely.[20] Likewise, in the area of confirmation of reorganization plans, in determining the mootness issue, a court may consider the virtues of finality, the passage of time, whether the plan has been implemented or substantially consummated, whether there has been such a comprehensive change in circumstances as to render it inequitable to consider the merits of the appeal, whether relief granted could implicate or have an adverse effect on non-party creditors, and whether relief will affect the reemergency of the debtor as a revitalized entity.[21] Generally, once the plan has been substantially consummated, courts will dismiss an appeal as moot unless a stay was obtained pending appeal because to hold otherwise would require the undoing of financial transactions involving third parties and would jeopardize the plan.[22]

A simplistic approach to this issue might be to require a landlord to obtain a stay in order to prosecute an appeal. After all, if one fails to obtain a stay, has one in effect waived the right to object to mootness? The practical problem, however, is that courts oftentimes impose bond requirements that are so enormous[23] as to make it impossible for many parties, particularly small and medium-sized landlords, to be able to obtain a stay. Thus, the financial burden imposed by the court from which an appeal is sought to be taken may make it virtually impossible for a landlord to obtain appellate review.

In light of the bankruptcy mootness principle embodied in section 363(m) and the general mootness principles utilized in other cases, *Slocum* may be viewed simply as an aberration. If one takes the majority at its word, however, then general mootness principles will apply to consummated lease *assignments*, but not to the appellate review of lower court orders which rescind or modify certain terms in the assigned lease. The distinction may well be without a difference, however, because by putting the average sales clause back in the lease, the *Slocum* court "will undeniably have the effect of fundamentally changing the terms of the assignment and thereby effectively rescinding it."[24] The excision of the clause was an integral part of the authorization, and the assignee's payment of $77,000 to the trustee for the right to obtain the leasehold interest was expressly predicated on its receiving the right to utilize the store for at least the remaining four years of the lease. The loss of this expectation can only have the effect of discouraging other potential assignees from making bids, thereby depressing the value of estates and inhibiting the rehabilitation process of debtors.

FOOTNOTES

[1] 922 F.2d 1081 (3d Cir. 1990).

[2] 11 U.S.C. §365.

[3] The average sales clause permitted either party to the lease to terminate the lease if, after six years, average annual sales were not at least $711,245. In light of Slocum's poor sales through the date of assignment, the new tenant would have been required to generate approximately $400,000 in sales in a few months in order to avoid the possibility of the landlord terminating the lease. Both parties "agreed that accomplishing such a volume of sales in this time-frame would be a difficult proposition for any new store." *Slocum*, 922 F.2d at 1094 (Sloviter, J., dissenting).

[4] *In re Joshua Slocum, Ltd.*, 99 B.R. 250 (Bankr. E.D. Pa. 1989). In holding the average sales clause unenforceable, the bankruptcy court concluded that the space being leased was not a "shopping center" within the meaning of section 365(b)(3) of the Code and that the average sales clause was a cleverly disguised anti-assignment clause which could be excised under section 365(f) upon assignment.

[5] Section 363(m) provides:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

Section 364(e) provides:

The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

[6] *Slocum*, 922 F.2d at 1086 n.2. In response to the court's assertion that the assignment of the lease was not the action appealed from, Judge Sloviter stated that the excision of the average sales clause was an integral part of the bankruptcy court's authorization of the lease assignment and hence could not be divorced from it. *Id.* at 1094 (Sloviter, J., dissenting).

[7] *Id.* at 1093 (Sloviter, J., dissenting). Judge Sloviter stated that the "majority cites no cases, and I have found none, in which a consummated sale of assignment to a non-party purchaser has been vitiated on appeal." *Id.* at 1095.

[8] *Id.* at 1093.

[9] *Id.* at 1096 (citing cases in other circuits that have used section 363(m) to hold that the appeal from an assignment of a lease will be moot unless the appellant has sought a stay pending appeal). *See In re Stadium Management Corp.*, 895 F.2d 845 (1st Cir. 1990); *In re Exennium*, 715 F.2d 1401 (9th Cir. 1983); *American Grain Ass'n v. Lee-Vac, Ltd.*, 630 F.2d 245 (5th Cir. 1980).

[10] *Slocum*, 922 F.2d at 1095 (Sloviter, J., dissenting) (citing *In re Highway Truck Drivers*, 888 F.2d 293, 298 (3d Cir. 1989) (stating that "in addition to those situations covered under [§§363(m) and 364(e)], a myriad of circumstances can occur that would necessitate the grant of a stay pending appeal in order to preserve a party's position"); *In re Kahihikolo*, 807 F.2d 1540 (11th Cir. 1987); *American Grain Ass'n v. Lee-Vac, Ltd.*, 630 F.2d 245 (5th Cir. 1980)).

[11] *Id.* at 1096.

[12] *American Grain Ass'n v. Lee-Vac, Ltd.*, 630 F.2d 245, 248 (5th Cir. 1980).

[13] *Id.*

[14] 895 F.2d 845, 848–49 (1st Cir. 1990).

[15] In *Slocum*, Judge Sloviter cited *Stadium Management* as support for the proposition that even though section 363(m) does not apply to the assumption of leases, some circuits have used that section to hold that the assignment of a lease pursuant to section 365 is moot as well, absent a stay pending appeal. However, she did not agree with that approach and would not "stretch the language of section 363(m) so far." Rather, general mootness principles should be used to moot the appeal.

[16] *In re Delaware & Hudson Ry.*, 129 B.R. 388 (D. Del. 1991).

[17] *Id.* at 394.

[18] *Id.* at 395. *See supra* note 6 and accompanying text.

[19] *See, e.g., In re Onouli-Kona Land Co.*, 846 F.2d 1170 (9th Cir. 1988); *In re Kahihikolo*, 807 F.2d 1540 (11th Cir. 1987); *Algeran, Inc. v. Advance Ross Corp.*, 759 F.2d 1421 (9th Cir. 1985).

[20] *In re Kahihikolo*, 807 F.2d at 1542.

[21] *See In re Block Shim Dev. Co.*, 939 F.2d 289 (5th Cir. 1991); *Miami Center Ltd. Partnership v. Bank of New York*, 838 F.2d 1547 (11th Cir. 1988); *Central States, Southeast & Southwest Areas Pension Fund v. Central Transport, Inc.*, 841 F.2d 92 (4th Cir. 1988); *In re AOV Indus.*, 792 F.2d 1140 (D.C. Cir. 1986); *In re Roberts Farms, Inc.*, 652 F.2d 793 (9th Cir. 1981).

[22] *See, e.g., Block Shim*, 939 F.2d at 291; *Miami Center Ltd. Partnership*, 838 F.2d at 1555–57; *Central States*, 841 F.2d at 96.

[23] *See, e.g., In re Prime Motor Inns, Inc.*, No. 90–16604–BKC–AJC (Bankr. S.D. Fla. Aug. 30, 1991) ($100 million); *Texaco Inc. v. Pennzoil Co.*, 784 F.2d 1133 (2d Cir. 1986) ($1 billion).

[24] *Slocum*, 922 F.2d at 1094 (Sloviter, J., dissenting).

AMENDMENT

On page 122, between lines 8 and 9, insert the following:

SEC. 207. AIRCRAFT EQUIPMENT, VESSELS AND ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) Amendment of Section 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor of conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debt that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale conract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term "security interest" means a purchase-money equipment security interest.".

(c) Application of Amendments.—(1) The amendment of section 1110(a) and section 1168(a) of title 11, United States Code, made by subsections (a) and (b) shall not apply to bankruptcy proceedings commenced prior to the date of enactment of this Act.

(2) The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

On page 122, line 9, strike "207" and insert "208".

On page 122, line 16, strike "208" and insert "209".

On page 123, line 7, strike "209" and insert "210".

On page 124, line 13, strike "210" and insert "211".

On page 126, line 9, strike "211" and insert "212".

On page 128, line 14, strike "212" and insert "213".

On page 160, line 20 and all that follows through page 161, line 2.

On page 161, line 3 strike "(26)" and insert "(25)".

On page 161, line 8, strike "(27)" and insert "(26)".

On page 161, line 14, strike "(28)" and insert "(27)".

On page 161, line 16, strike "(29)" and insert "(28)".

DESCRIPTION OF THE SECTIONS OF THE AMENDMENT

(1) Deletes the phrase "purchase-money equipment" throughout section 1110. Section 1110 currently provides protection to purchase-money equipment security interests in, as well as leases and conditional sales of, aircraft equipment and vessels. Under the current language of section 1110, the only protected security interest are those obtained at the time the equipment is acquired. This application, however, is confusing in view of the fact that both acquisition and post acquisition leases are protected. The amendment deletes the phase "purchase-money equipment" throughout section 1110. This deletion would guarantee that all modes of debt financings and lease financings that involve a security interest, not only security interests obtained at the time the equipment is acquired, would receive section 1110 protection. This change would be phased-in so that only new equipment first placed in service after the date of enactment of the Act would be affected by the proposed amendment.

(2) Deletes the "purchase-money" requirement in section 1168 and restores historic equipment trust protection. Section 1168 provides parallel treatment to purchase-money equipment security interests in, and leases and conditional sales of, railroad equipment. The proposed amendment changes the phrase "purchase-money equipment security interest," which appears in three places in the existing section 1168, by deleting "purchase-money equipment" in the first two appearances of the section, but deleting only "purchase-money" the third time the phrase appears. The deletion of the phrase "purchase-money equipment" in the first two instances will enable the railroad industry to utilize a variety of financing vehicles and will continue to protect financing arrangements currently employed by the railroads. For example, a finance lease, which historically has been an integral part of a railroad equipment trust protected by section 1168 and section 77(j) of the Bankruptcy Act (section 1168's statutory predecessor), would continue to be covered by section 1168. In addition, the deletion of only the phrase "purchase-money" the third time the phrase appears is intended to emphasize that section 1168 is meant to cover financing of equipment and is not intended to extend to a general mortgage on all of the carrier's assets. Further, the deletion of the phrase "purchase-money equipment" in section 1168(a) continues the application of section 1168 to Philadelphia plan equipment trusts.

These changes to section 1168 would be phased-in to apply only to new equipment first placed in service, and equipment that is substantially rebuilt, after the date of enactment of the Act. Railroad equipment would be considered substantially rebuilt (i) when costs of rebuilding could be capitalized pursuant to the regulations and practices imposed by the Interstate Commerce Commission ("ICC") on all carriers by rail, (ii) such rebuilding would substantially extent the service life of the equipment under such regulations and practices, (iii) after such rebuilding the equipment would be recognized as rebuilt pursuant to applicable rules and regulations of the Association of American Railroads ("AAR") and, (iv) after such rebuilding, the equipment would conform to applicable rules and regulations of the Federal Railroad Association. Rebuilding would be distinguished from repairs, routine maintenance and major overhaul. The AAR has extensive rules and regulations regarding the scope and quality of work required for rebuilt equipment to be used in interchange service on any railroad within the United States. To the extent that equipment is covered by AAR rules and regulations, such rules and regulations, in conjunction with ICC requirements, would govern the standard of work and materials required to constitute rebuilding. Such rebuilding would have to be substantially in excess of the original manufacturer's recommended maintenance procedures to ensure normal service life.

(3) Clarifies that costs and expenses attributable to maintenance and return obligations are §503 expenses of the estate. Most financing agreements contain covenants requiring the borrower or the lessee, as the case may be, to maintain and return equipment in appropriate condition. If these covenants are breached, the financing party's residual interest in the equipment can be significantly impaired. The proposed amendment adds a new subsection to the end of

sections 1110 and 1168 to clarify that if an airline or railroad makes an agreement of the type specified in sections 1110(a)(1) or 1168(a)(1), administrative priority would be given to all expenses attributable to maintenance and return obligations under section 503.

(4) Provides a safe harbor definition of the term "lease". A substantial amount of litigation has focused on the nature and type of lease agreements that may be within the scope of sections 1110 and 1168. The result of this legislation has been to cloud the rights to such aircraft and railroad equipment for months while a court resolves the issue, thereby effectively nullifying the purpose of these sections. The proposed amendment adds a new subsection to the end of sections 1110 and 1168 to provide a safe harbor definition of the term "lease" for equipment first placed in service prior to the date of enactment. Under the amendment, a lease would receive section 1110 or section 1168 protection if the lessor and the debtor, as lessee, have expressed in the lease agreement, or a substantially contemporaneous writing, that such agreement is to be treated as a lease for Federal income tax purposes.

This definition would be nonexclusive in nature, and other agreements that would qualify as true leases for Federal income tax purposes (and subleases, under such true leases, to debtors) would also be covered under section 1110. The safe harbor definition is designed to provide certainty for those parties seeking assurance that their transaction falls within the scope of this section, and thus minimize needless litigation. The definition of "lease" and the distinction between section 1110's coverage of leases and secured loans would be inapplicable under the amendment with respect to equipment first placed in service after the effective date. In addition, to further minimize such litigation, an agreement which would otherwise be treated as a lease under this subsection would not fail to qualify for the benefits of this section because the agreement contains provisions: (1) permitting the debtor to subject the equipment to interchange agreements and pooling or other similar arrangements customary in the industry; or (2) permitting or requiring the debtor to return the equipment with substitute components, or substitute equivalent equipment in the event of a casualty or loss.

(5) Updates and modifies certain citations and references in section 1110. Section 1110's citation to the Ship Mortgage Act and reference to the Civil Aeronautics Board are outdated. The Ship Mortgage Act has been amended and recodified, and the Department of Transportation has assumed the Board's role as certifying authority for air carriers. The amendment updates the language of section 1110 to reflect these changes.

(6) Application of the Amendment. The amendment of sections 1110(a) and 1168(a) shall not apply to bankruptcy proceedings commenced prior to the date of enactment of the Act.

[From Air Transport World, December 1991]

Section 1110 Uncertainties Hurt Market

(By Perry Flint)

THE INDUSTRY SUFFERS

All Continental Airlines and Pan American World Airways wanted was a rent holiday on their leased aircraft while they reorganized under Chapter 11 of the U.S. bankruptcy code. But the way each went about getting one has reduced the entire U.S. airline industry's access to capital.

Today, a coalition that includes airlines, manufacturers, equipment lessors and financial institutions is lobbying the U.S. Congress to close loopholes in the bankruptcy code that allowed the two airlines to wriggle out of their obligations to their aircraft lessors. Without swift legislative action, warns AMR Corp. Treasurer Dan Garton, the industry could find itself paying hundreds of millions of dollars in higher finance charges, as lenders raise their rates to offset the higher risk that they see in certain lending transactions that previously had been considered relatively risk-free.

What Continental and Pan Am did was challenge, in court, the applicability to some aircraft financings of Section 1110 of the U.S. bankruptcy code (see accompanying article). In substance, Section 1110 eliminates the two major risks that aircraft lessors otherwise would face in an airline bankruptcy: Loss of control of their aircraft during the reorganization period and loss of the aircraft rental stream. It does this by giving airlines that are entering bankruptcy 60 days to return their leased aircraft to the lessor(s), or cure all pre- and post-bankruptcy defaults on the aircraft and continue to meet their lease obligations.

It would be difficult to underestimate the importance of Section 1110 in attracting new capital to the airline industry. Absent such protection, few lenders would have been as eager to enter into the sorts of complex secured aircraft financings that became popular toward the middle of the 1980s. At the same time, however, the industry's generally weak financial position throughout the past 10 years probably would have discouraged unsecured corporate lending on a scale sufficient to meet the industry's re-equipment needs. The same factor would have kept equity investment away. New capital simply would have dried up and the industry's ability to acquire new aircraft would have been reduced significantly.

Furthermore, the "safety net" afforded by Section 1110 translated into a lower overall cost of financing, making leasing highly competitive with traditional forms of airline financing.

Section 1110 also made it possible for airlines that were considered poor credit risks—Pan Am and Continental, for example—to acquire new aircraft through asset-based financing techniques. In asset-based financing, creditors look to the value of the asset being financed as primary security. Should an airline default on its aircraft payments, lenders rely on their ability to remarket the aircraft quickly as additional security. Section 1110's relatively fast return provisions provided the legal underpinning for an asset-based lending strategy.

Or at least, it used to. Now, after the recent series of partly successful court challenges, lessors are not so sure and as a result, they are less willing to go forward with secured financing in general. Said AMR's Garton before Congress: "There is continuing uncertainty in the marketplace as to whether section 1110 provides the protections intended; over the last several months, this uncertainty has raised the cost of financing for the equipment we have begun to acquire for the decade ahead and it does not appear that these increased costs will diminish in the foreseeable future."

VAGUE, INCONSISTENT STATUTE

The problem, as Garton and others see it, is that the statute is vague and inconsistent, thus leading itself to the sorts of legal tactics used by Continental and Pan Am. The solution proposed by the coalition involves persuading Congress to reword the statute so that it is clear that Section 1110 "is intended to protect all lease-financing agreements and all debt financing that involve a security interest [in the asset]," according to the coalition.

Furthermore, the coalition wants Congress to make clear that the statute applies to all aspects of an aircraft-lease agreement, not simply with those sections dealing with aircraft rent. "Most financing agreements contain maintenance and return covenants designed to ensure that the equipment will be maintained and returned in appropriate condition," the coalition noted, adding: "Recent experience indicates Section 1110 * * * do[es] not fully protect the financing party when returned equipment requires significant expenditures to be put in resale condition."

The coalition has appealed to the Senate Judiciary Committee to make the appropriate changes to Section 1110 at the first opportunity and is hopeful that the corrections can be made this year, according to Guy L. Clough, director-federal legislation for the Air Transport Association.

Nevertheless, Richard C. Giles, a lawyer currently involved in Section 1110 litigation, points out that the changes are "prospective," meaning that although they definitely will apply to future financing, what is not at all clearly is whether the changes will apply to the hundreds of aircraft financed and refinanced under the existing statute. Giles also points out that making the rule immune from legal challenge probably is impossible. "There are quite a few good, talented lawyers in this country," who will be able to find new loopholes in a rewritten statute. "I don't think we've heard the last of Section 1110," he told ATW.

Nor, says Giles, can new legislation resolve what he and others see as the biggest problem that lessors and secured lenders face in a Chapter 11 reorganization. That is the tendency of the bankruptcy court to take a pro-debtor stance against the interests of the creditors, even to the point of re-interpreting statutes such as Section 1110. This tendency will have to change in order to put teeth back into Section 1110 protection.

In the meantime, however, the industry as a whole is paying for the actions of a few. At a time when credit already is tight owing to a host of factors, many unrelated to the health of commercial aviation, the Section 1110 problem hurts even the most financially secure airlines, such as American, says Garton.

"At the bottom line, this uncertainty, this added risk factor, has done only one thing: To raise the cost of financing. Uncertainty is a risk and risk is a cost. Transactions are being priced higher because of this uncertainty. While the price adjustment may be perceived to be minor, a quarter to half a percentage point for every $1 billion of financing represents an additional $50–100 million cost over the lives of the equipment. Furthermore, for less-credit-worthy borrowers, it can mean the difference between deal and no deal." Garton told Congress.

To a legislature anxious to preserve competition by keeping plenty of airlines around, that sounds like the clarion call to action. The industry certainly hopes so.

[From Air Transport World, December 1991]

Section 1110 Uncertainties Hurt Market

(By Perry Flint)

WHILE LESSORS FUME

Imagine that you are an aircraft lessor with two airplanes—let's call them 727s—on lease to a major U.S. airline that goes Chapter 11, a not-infrequent occurrence over the last two years. Relax. As a lessor, you are protected. Under Section 1110 of the U.S. Bankruptcy Code, your client has just 60 days to return your jets or honor his obligations and continue to operate them. At the worst, he returns the jets after 60 days and you are out two months' rent, right?

Now imagine, if you will, that nine months after the bankruptcy filing—months spent battling your client's efforts to have your rights under Section 1110 invalidated and his obligations to you lumped in with all the other unsecured bankruptcy claims—the airline tells you to come get your aircraft. You arrive to find that each of your 727s is missing two engines. Of the other two, one is disassembled and in cartons. The airplanes are neither flyable nor remarketable.

Sound impossible? A clear violation of the lease agreement? Get a lawyer, buddy, and get in line. Because that's how the game is being played at more than one U.S. airline. The 727 situation is only one example of what Jordan Greene of Avmark Services has called "hardball." In a case of different airline, two 737s were returned minus all four engines.

Of course, it is no secret that bankrupt airlines have used the collapse of the used-jet market to wring huge concessions our of lessors, who would rather accepts a substantially reduced rental stream than try to remarket their jets in today's environment. These carries even have gotten lessors to pitch in new cabin interiors, paint jobs and avionics. That is because today is a buyer's market and if lessors want to play, they have to pay.

But certain bankrupt carriers also have taken advantage of vagaries in Section 1110 to ignore maintenance requirements, "borrow" engines for other airplanes and generally make life miserable for lessors who refuse to accept rent holidays and reductions, or whose aircraft simply no longer are wanted.

Lessors argue that Section 1110 is supposed to cover contractual obligations such as maintenance and return obligations, and by and large, the airline industry agrees. But it is not working out that way. Courts are allowing bankrupt airlines wide latitude to interpret Section 1110 to apply only to rent.

In numerous instances, airlines in Chapter 11 have "run out" the aircraft and engines—in violation of lease agreements—so that they are in need of thousands and perhaps hundreds of thousands of dollars in repairs when they are returned, according to Greene and others with whom ATW talked.

Commenting on a case in which he was involved, Greene told ATW: "The aircraft were supposed to be returned in half-live condition. They were returned in a basket."

To add insult to injury, some airlines have imposed "storage charges" on lessors, who, finding that their aircraft are legally and mechanically unflyable, have no choice but to park them with the airline until necessary maintenance can be done.

Said one involved in retrieving aircraft from a bankrupt airline: "When you know right from wrong * * * it is extremely frustrating."

Perhaps the lessors should consider themselves lucky. Had Continental and Pan Am had their way, few of them would have any Section 1110 protection. Both carriers unleashed a barrage of court challenges in hopes of a ruling that Section 1110 did not apply to a number of their leased and secured aircraft. In each case, the challenge took advantage of vagueness in the statute and the dearth of court decisions covering 1110.

For example, they argued that in cases in which they had created special financing subsidiaries to lease aircraft through to the airline, Section 1110 did not apply to the head lease agreement between the lessor and the special financing subsidiary, since Section 1110 was intended to help airlines finance new equipment and clearly, special financing subsidiaries are not airlines. This must have been especially galling to lessors, since one purpose of the special finance subsidiaries was to insulate the aircraft from an airline bankruptcy.

To rub salt into the wound, Pan Am convinced the court that having challenged its lease agreements and lost, it should not have to pay legal costs of the lessor, nor penalties, nor even interest on missed rent payments during the period of the challenge in order to comply with Section 1110. Such costs, Pan Am's lawyers argued successfully, could be settled only as unsecured claims against the estate through the bankruptcy court. Thus, there is a real incentive to challenge every lease agreement: Win and you don't have to pay rent; lose and you are simply back where you were before the challenge.

They also hammered at sale/leasebacks that did not involve new aircraft. Of course, the entire industry reaped huge profits through the sale/leaseback of airplanes and it was a key way in which financially troubled airlines stayed alive through much of the turbulent past decade. But Pan Am and Continental argued that since they owned the aircraft prior to the sale/leaseback, the aircraft did not deserve 1110 protection, which, they argued, was intended only to encourage acquisition of new aircraft. Both airlines eventually lost on this challenge but hit pay dirt on a related issue, one concerning so-called "true leases."

While refusing to accept the carriers' arguments that sale/leasebacks of existing equipment did not qualify for 1110 protection, the courts agreed that in order to qualify, the transaction must qualify as a "true lease." The problem is that no one really agrees on the definition of a "true lease." Thus, equipment lessors now face a situation in which they first must prove in court that they have a "true lease" before they can even begin the 60-day countdown period leading to the return of their aircraft or the resumption of lease payments.

Of course, lessors can seize their planes after the 60-day grace period expires if the airline defaults on its lease. But they had better hope that the court agrees that theirs was a "true lease" and subject to 1110. If they assume incorrectly, they leave themselves open to legal action on the part of the "wronged" airline.

The entire bankruptcy experience has been a real eye opener for a lot of equipment lessors and financial institutions that used to believe they were in partnership with the airline industry.

"I think that what has come out of this is perhaps a greater realization that dealing with an airline is like dealing with any other business. The feeling that you might have a little more trust dealing with an airline, you don't have that anymore," said a person involved with the recent Section 1110 challenges.

European financiers have been especially shaken by the pro-debtor position taken by U.S. bankruptcy courts, according to the same source. "My clients are much more troubled by the U.S. legal system," the person said. "They are more wary of doing business with airlines."

For Continental and Pan Am, the big question is whether their financiers will be willing to forgive and forget, should they emerge from Chapter 11 and come looking for new airplanes. The consensus so far: Don't bet on it.

COMPANIES AND ASSOCIATIONS SUPPORTING CLARIFICATION OF SECTIONS 1110 AND 1168 OF THE BANKRUPTCY CODE

AIR TRANSPORT ASSOCIATION

Members:
Alaska Airlines
Aloha Airlines
American Airlines
American Trans Air
Continental Airlines
Delta Air Lines
DHL Airways
Eastern Air Lines
Evergreen Air Lines
Federal Express
Hawaiian Airlines
Midway Airlines
Northwest Airlines
Pan American World Airways
Southwest Airlines
Trans World Airlines
Trump Shuttle
United Airlines
United Parcel Service
USAir
Associate Members:
Air Canada
Canadian Airlines International
American Express Bank, LTD

ASSOCIATION OF AMERICAN RAILROADS

Members:
Alton & Southern Railway
Amtrak
Atchison & Topeka & Santa Fe Railway Company
Bangor & Aroostook Railroad Company
Belt Railway Company of Chicago
Bessemer & Lake Erie Railroad Company
Birmingham Southern RR Company
The Lake Terminal RR Company
McKeesport Connecting Railway Company
Burlington Northern Railway Company
Cambria & Indiana RR Company
Canadian National
Canadian Pacific
Chicago & Illinois Midland Railway Company
CSX Transportation
Consolidated Rail Corporation
Denver & Rio Grande Western Railroad
Detroit & Mackinac Railway Company
Duluth, Missabe & Iron Range Railway Company
Elgin, Joliet & Eastern Railway
Fox River Valley Railroad
Grand Trunk Western Railroad
Green Bay & Western RR Company
Illinois Central Railroad
Kansas City Southern Railway
McCloud River RR Company
Manufacturers Railway Company
Norfolk Southern Corporation
Pittsburgh & Lake Erie RR Company
Peoria & Pekin Union Railway
Prescott & Northwestern RR Company
Richmond, Fredericksburg & Potomac RR Company
Soo Line Railroad Company
Texas Mexican Railway Company
Union Pacific Railroad Company
Union Railroad Company
Vermont Railway Inc.
Bank of Tokyo Financial Corporation
The Boeing Company

McDonnell Douglas Corporation
PLM International
Potomac Capital Investment Corporation
Progress Credit Corporation
Public Services Resources Corporation
United Technologies Corporation.

TESTIMONY OF PHILIP BAGGALEY, SENIOR VICE PRESIDENT, CORPORATE FINANCE, STANDARD & POOR'S RATINGS GROUP

(Before the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation, Washington, DC, September 11, 1991)

Thank you, Mr. Chairman and members of the Committee, for the opportunity to speak to you. I am Philip Baggaley, a Senior Vice President at Standard & Poor's Ratings Group. My primary responsibility is the analysis of airline creditworthiness.

Before I discuss the airline industry, I would like to highlight some key issues with regard to debt ratings. Standard & Poor's currently maintains debt ratings on some 10,000 companies, municipalities, and financial institutions in thirty countries, including all major U.S. airlines and several foreign airlines. My comments today focus on airlines we rate and our knowledge of the air transportation industry.

A Standard & Poor's rating expresses our opinion of an issuer's credit quality in the form of letter symbols. Ratings of 'AAA' through 'BBB-' are considered "investment grade," while those 'BB+' and below are regarded as "speculative grade." Standard & Poor's regularly publishes criteria and methodology showing our approach for each industry, including the airline industry. In addition, once a rating determination is made, Standard & Poor's publishes the rating and a rationale describing major factors leading to our conclusions.

At present, the average rating of U.S. airlines rated by Standard & Poor's is only 'B+', middle speculative grade. This has declined from 'BB', high speculative grade, five years ago. Six of the 14 rated U.S. airlines are in bankruptcy or otherwise in default on their debt.

We publish an annual review of the airline industry's credit quality. The most recent was published in June 1991, and I have included it with this testimony.

The most important trends in the airline industry today and over the next several years are:

1. Economic recovery should allow significant increases in revenues and profits by 1992, or 1993 at the latest;

2. Huge capital needs for fleet replacement and expansion will keep debt leverage relatively high for even the healthiest airlines; and

3. Continued consolidation will result from damage caused by the Persian Gulf war and recession, coupled with competitive advantages strong airlines enjoy.

The immediate causes of airline losses over the past year—high fuel prices, recession, and fear of terrorism—are abating. Unfortunately, the economic recovery is gradual at best. Price discounting to "jump start" traffic has persisted through the normally strong summer season, depressing revenue. This means that 1991, like 1990, will be a very poor year for airlines.

Nonetheless, when the economy does improve, surviving airlines will benefit substantially. In addition to the normal, cyclical upturn in traffic, certain airlines will gain passengers diverted from failing competitors. In the 1980s, airlines that merged or failed typically transferred aircraft and facilities to new owners. Today, both healthy and failing carriers actually are grounding some older capacity. This is not necessarily a bad thing in an industry which typically fills only 60% of its seats and has a fleet which averages eleven to twelve years old.

Increased revenues are necessary, because this industry has high and rising costs, and has never been particularly profitable. Most attention has been on fuel costs over the past year, but that is only part of the story. Although fuel prices rose sharply during 1990, their level was by no means unprecedented. Indeed, last year's average fuel prices of about 80 cents a gallon was no higher than in 1985, a profitable year for the industry, and was below prices of 1980–1984.

The sharp decline in oil prices during the late 1980s, plus a favorable economic climate, let airlines report healthy earnings and obscured an ominous rise in non-fuel operating and ownership costs. After a period of labor concessions during the mid-1980s, unions recaptured some lost ground in subsequent years. Pilots' contracts signed by Delta Air Lines, American Airlines, and United Air Lines in 1990 and 1991 boosted pay to a new plateau, despite the industry's heavy losses. United, for example, expects its new contract to add $775 million to labor expense over the next four years.

Travel agency commissions, landing fees, and maintenance costs also have risen rapidly. However, the most serious costs increase, in terms of the industry's financial wellbeing, is that of capital costs. This problem has three related aspects:

1. Airlines have less access to credit than in the past;

2. Capital expenditure funding requirements far exceed internal cash flow; and

3. The rapid addition of debt and lease financing to cover that funding gap will place a drag on credit quality, even if earnings improve.

For these reasons, Standard & Poor's downgraded even strong airlines like American and Delta, which are expected to survive the industry downturn and emerge with increased market share.

Easy access to liquidity—a key characteristic of the airline industry during the 1980s—has abruptly ended. Because the reasons are both cyclical and structural, an economic recovery that boosts profits will ease—but not undo—the tightening of credit. The cyclical causes are airlines' poor financial condition and a reduced appetite for tax shelter by equity investors in aircraft leases. Economic recovery should ease both of these constraints. However, long-term structural trends such as weakening aircraft prices, particularly for older narrowbodies, tighter bank capital requirements, and a general reevaluation of the airline industry's creditworthiness will continue to impede access to credit.

Legal challenges to Section 1110 of the Federal Bankruptcy Code, which give providers of aircraft financing special status, has put a chill on that market. Although appeals courts eventually ruled in favor of creditors on most points in the Continental Airlines Holdings and Pan Am bankruptcies, some legal uncertainties remain. Clarification of Section 1110 would help both creditors and airlines know where they stand. Indeed, the airlines hardest hit by the uncertainty are smaller or more highly leveraged carriers with no access to unsecured funding.

Even if airlines did not face tighter credit, the sheer scale of their demand for capital would strain existing sources. Standard & Poor's estimates that major U.S. airlines will generate internal cash flow of $20–30 billion over the 1991–1994 period if their collective net margin equals the 1986–1989 average of 2.0% (excluding Eastern Air Lines, now being liquidated). Note that this covers a period of relative industry prosperity and does not include last year's heavy loss.

Even so, internal cash flow falls well short of expected capital expenditures of $60–80 billion during the upcoming period. Equity issues cannot be expected to cover more than a small fraction of that amount, given the industry's earnings track record. Therefore, even the stronger airlines, accounting for the lion's share of forecast expenditures, face large debt and lease needs. Yet, the airlines are already highly leveraged. Figure 3 shows debt as a percentage of capital, adjusted for off-balance sheet leases, of Delta, American, and United. Leverage for comparably rates industrial companies is shown for comparison.

The likely outcome is that borrowing rates will not return to historically lower levels for investment grade airlines, and access to funding will remain a serious issue for weaker companies. This widens the competitive advantage of stronger airlines, but places a large absolute burden on all carriers.

The result of these trends—higher revenues and heavy capital needs—will be an airline industry that is more consolidated and profitable, but also more highly leveraged. The ongoing move toward consolidation raises the question of whether competition is being undermined and what impact fewer airlines will have on ticket prices. Although Standard & Poors' expects that prices will rise, three basic economic forces will work to limit the increase. First, several major airlines with national route networks will compete in all large markets. Second, discounts will be needed to attract price-sensitive vacation travelers, particularly when the economy is weak.

Finally the airlines' basic product, a seat on a particular flight, is perishable. Once the flight leaves, it's gone forever. Furthermore, the cost of serving that last passenger on board a particular flight is minimal. That creates tremendous temptation to find some way to lure more passengers on board through low fares, frequent flyer miles, toaster ovens, or whatever.

In any case, some ticket price increase is necessary to cover rising costs and capital needs. U.S. airlines cannot fund growth, improve fuel efficiency, and meet federally mandated noise requirements unless they earn higher returns. Neither American nor foreign investors are likely to put money into companies with weak earnings prospects.

The most serious danger to competition is not consolidation, but inadequate infrastructure. Planes can be moved around to meet demand; gates and runways cannot. Reregulation will not solve this problem. Indeed, the half of the air transportation system that is still regulated—airports and air traffic control—is where the bottleneck lies. Likewise, the worst uncompetitive pricing occurs on international routes, where capacity is limited by bilateral treaties.

Therefore, Standard & Poor's believes that the following would help promote healthy competition and healthy airlines:

1. Increased investment in air transportation infrastructure. This is a matter of economic development and international competitiveness, not just convenience.

2. Airlines need to earn sufficient returns to support growth and modernization. Again, this is increasingly a matter of developing

world class competitors in a global market. It is not inconsistent with proper antitrust policies and promoting competition. The United States is a big enough market to support many vigorous competitors.

3. Clarification of Section 1110 of the Bankruptcy Code, governing treatment of aircraft financing in Chapter 11, so that all parties know where they stand.

4. Continued push for greater liberalization in international air transportation. This can include cabotage in the future if the new opportunities granted are equivalent for both parties.

These measures recognize that the framework for an efficient air transportation system is in place. However, achieving that goal will require further investment.

Thank you for the opportunity to be here today. I will be happy to answer any questions.

AMENDMENT

At the appropriate place, insert the following:

SEC. . UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after "real property" the following: "and, in a case under chapter 11, under an unexpired lease of personal property".

EXCERPTS FROM STATEMENT OF ALLAN G. SWEIG, ATTORNEY, ALTHEIMER & GRAY, CHICAGO, IL, ON BEHALF OF THE AMERICAN ASSOCIATION OF EQUIPMENT LESSORS ON COMMERCIAL BANKRUPTCY ISSUES RELATING TO EQUIPMENT LEASING

(Before the Subcommittee on Courts and Administrative Practice, Senate Judiciary Committee, July 30, 1991)

Mr. Chairman and Members of the Subcommittee:

My name is Allan Sweig. I am a partner in the Chicago law firm of Altheimer & Gray, and I concentrate in the fields of bankruptcy, lending and leasing. I am a contributing editor to Collier's Bankruptcy Practice Guide. I also have taught in this field, as an adjunct professor at the Northwestern University Law School. I am a member of the Lawyers Committee of the American Association of Equipment Lessors (AAEL) and I have been asked by Mr. Michael Fleming, the President of AAEL, to present to this Subcommittee the AAEL's views concerning unfair and harmful burdens confronted by lessors primarily under Chapter 11 of the Bankruptcy Code.

By way of background, equipment leasing represents the second largest source of investment capital for business, industry and agriculture in the United States. According to the Department of Commerce, the volume of equipment leasing in this country was $132.9 billion in 1990, and is projected to be $143.7 billion in 1991. AAEL estimates that its members account for two-thirds of this volume. Equipment leasing is utilized by, and helps to fuel the economic growth and productivity of, virtually every segment of our society. Low cost item such as postage meters and personal computers, medium priced goods such as heavy tractors, trailers and printing presses, and very costly machinery such as specialized manufacturing equipment, aircraft, vessels, rail rolling stock and entire manufacturing, processing and distributing plants—these are all regularly provided through equipment leasing. Equipment leasing is one of the major methods by which American businesses and farmers acquire capital equipment and financing needed to succeed in today's highly competitive domestic and international markets.

AAEL is the major national trade association in this multi-billion dollar industry. AAEL has over 850 member companies, located in the United States and abroad, engaged in every aspect of equipment leasing. From its national perspective, we believe that AAEL is in a position to help the Subcommittee assess the serious adverse impacts of some of the present provisions of Chapter 11 of the Bankruptcy Code on the equipment leasing industry, lessees and the economy.

Equipment leasing differs from lending and from real estate leasing in important respects. Although lease transactions take many different forms, equipment leases generally have a longer term than loans or other credit transactions. And, unlike real estate, equipment leases generally involve depreciating assets which decline in monetary value during the term of the lease. At the conclusion of the equipment lease, the lessor is entitled to a return of the leased equipment for sale or re-lease by the lessor. The consummation of that sale or re-lease of the equipment is usually necessary for the lessor to realize a profit on the transaction. If the equipment is not properly maintained during the lease term, or if there are delays in returning the equipment to the lessor, then the residual value of the equipment, as well as the lessor's entire profit from the transaction, may be dissipated. Accordingly, the prompt payment of rentals, the prompt repair and maintenance of the leased equipment, and the prompt return of the equipment to the lessor at the conclusion of the lease term—there are all important matters for a leasing company. Since any significant delay as to these basic matters may be extremely hurtful, it is essential that equipment lessors receive timely determinations of their rights in a bankruptcy proceeding. Delays in these critical areas adversely impact both the cost and the availability of equipment leasing, thereby harming not only lessors but also the economy in general.

AAEL's concerns focus on the problems associated with lessors' inability to recover, or to be compensated fairly for, leased equipment that the lessee/debtor continues to use during reorganization under Chapter 11 of the Bankruptcy Code.

I. LESSOR'S INABILITY TO RECEIVE FAIR COMPENSATION OR RECOVER LEASED EQUIPMENT

A true lease is not a credit sale or a loan. True equipment leases do not transfer any ownership interest in the equipment to the lessees, whether by title or by financial interest. Equipment lessors expect and rely upon receiving regular, periodic rental payments from the lessee, and upon the lessor's ability to recover possession of the equipment promptly and inexpensively at the expiration of the lease term or if the lessee defaults. These understandable, minimal expectations and needs are regularly frustrated when equipment lessees seek protection from creditors under Chapter 11 of the Bankruptcy Code.

Often, prior to filing for bankruptcy relief, the nonconsumer, business equipment lessee may have used the leased equipment for many months without making any rental payments. After the lessor begins appropriate actions to recover its equipment, the lessee typically files a Chapter 11 reorganization petition seeking relief in bankruptcy and continues to use the lessor's equipment. Under the Bankruptcy Code, the lessee has the right, subject to the court's approval, to assume or reject an unexpired lease of equipment. 11 U.S.C. §365(a). If the lessee decides to assume the lease, the lessee must cure all prior defaults and provide adequate assurance of future performance under the lease, including payment of the rentals specified in the lease. 11 U.S.C. §365(b)(1).

The very serious problems under Chapter 11 begin with the fact that no definite time is fixed by present law during which the lessee (or the trustee if there is a trustee) must either assume or reject the equipment lease. 11 U.S.C. §365(d)(2). This is in sharp contrast to the situation of the landlord owner of non-residential real property, who will have its lease deemed rejected and the real property returned if the lessee fails to assume the lease within sixty days after filing the bankruptcy petition, or within such further time as the bankruptcy court may allow for cause shown. 11 U.S.C. §365(d)(4).

Moreover, no provision of the Bankruptcy Code requires the lessee to make timely rental payments to the lessor as a condition to the lessee's further retention and use of the leased equipment prior to the lessee's assumption or rejection of the lease. By contrast, a debtor may not use a secured lender's cash collateral without the lender's consent or a court order entered after due notice and hearing. 11 U.S.C. §3639(c)(2). If the secured lender's collateral is equipment, the secured lender is entitled to adequate protection payments to protect its interest in the equipment as a condition to the debtor's retention and use thereof. 11 U.S.C. §363(e). Similarly, the landlord of non-residential real property is entitled to be paid rent while the debtor decides whether to assume or to reject the lease of non-residential real property. 11 U.S.C. §365(d)(3).

No rule specifies whether the lessor shall be paid the rent specified in the lease, or a lower amount, or anything at all, for the lessee's use of the equipment during the period before the assumption or rejection of the lease.[1] Another unfortunate consequence of this situation is that the lessor may remain unpaid for substantial periods of time while the parties litigate what the amount of the rental payments should be.

No provision of the Bankruptcy Code expressly requires the lessee to repair and maintain the equipment in accordance with the lease contract, while the lessee decides whether to assume or to reject the lease. By contrast, a non-residential real property lessee must perform such obligations during the period prior to assumption or rejection. 11 U.S.C. §365(d)(3). Equipment lessors should get equal treatment on this matter. Most equipment leases provide that the lessee is responsible for the maintenance and repair of the leased equipment. At the expiration or termination of a lease, the lessor is entitled to a return of the leased equipment for sale or re-lease by the lessor, and leases generally provide that the equipment will be returned to the lessor in the same condition as received by the lessee, normal wear and tear excepted. For this reason, among others, the lessor has a vital interest in the proper maintenance and repair of the equipment in accordance with the lease contract so that the expected residual value of the equipment will not be dissipated during the bankruptcy case.

Finally, the equipment lessor has no clearly stated and unequivocal right to recover promptly its equipment from the debtor-lessee at the expiration of the lease, even where the lease expired before the lessee filed its bankruptcy case. By contrast, non-residential real property subject to an expired lease will not become part of the bankruptcy estate and the landlord will not be stayed from evicting the tenant after the bankruptcy filing. 11 U.S.C. §541(b)(2) and §362(b)(10). It is even possible that the equipment lessee might be able to go so far as to assume and assign an equipment lease which was terminated prior to the lessee's bankruptcy. By contrast, it is clear that the debtor cannot assume or assign a non-residential real property lease which was effectively terminated prior to bankruptcy. 11 U.S.C. §365(c)(3). However, Section 365(c)(3) applies only to non-residential real property leases, which might leave the unfortunate implication that the opposite result may pertain in respect of equipment leases.

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[1] See, for example, the difficulties reflected in decisions such as In re Mid Region Petroleum, Inc., 111 B.R. 968 (Bkrtcy. N.D. Okl. 1990); Matter of Thayn Farms, Inc., 117 B.R. 510 (Bkrtcy. D. Neb. 1988); Kinnan & Kinnan Partnership v. Agristor Leasing, 116 B.R. 162 (D. Neb. 1990); and In re ICS Cybernetics, Inc., 111 B.R. 32 (Bkrtcy. N.D. N.Y. 1989).

Because the rules guiding the bankruptcy courts in respect of equipment leases are so unclear and ambiguous, the equipment lessor is often left in limbo during reorganization cases. For a prolonged period of time, the lessor is both unpaid and unable to reclaim its equipment while the lessee uses the equipment. Often lessors suffer a substantial decline in the equipment's value as a result of the lessee's failure to repair and maintain the equipment during this period. This kind of decline in value arising out of failure to maintain can cause serious losses in addition to the losses caused by normal depreciation or even technological obsolescence of the equipment. Frequently, possibly because of a desire to promote business rehabilitation, the bankruptcy court fails for an extended period of time to enter any order directing the debtor-lessee either to pay for the use of the equipment or to return it to the lessor.

Such experiences in bankruptcy court frustrate equipment lessors and discredit the bankruptcy system and the federal courts. Worse, they raise the cost of equipment leases and inhibit capital growth.

To eliminate these problems, AAEL recommends that the Bankruptcy Code be amended to include express language to accomplish the following results:

(a) that the equipment lessee/debtor be required to pay rent at the lease rate, and to maintain and repair the leased equipment in accordance with the lease contract, and otherwise to perform the lessee's obligations after bankruptcy until the equipment lease is assumed or rejected;

CONCLUSION

In conclusion, AAEL believes that these proposals will make the Bankruptcy Code fairer and will reduce confusion and uncertainty in the commercial equipment leasing industry. As a result, equipment leasing ultimately would cost less and be more widely available, benefiting lessees as well as lessors and strengthening the economy in general.

There may be other problems of the Bankruptcy Code where it would be helpful if uncertainty or ambiguity were resolved by legislative clarification. But we have felt that it would be more useful to the Subcommittee if we concentrated on those areas which, on the basis of our industry experience, most clearly demand attention. Nevertheless, as other issues are raised in the course of the Subcommittee's deliberations, AAEL will be glad to address them and to be of such additional help to the Subcommittee as we can.

EXCERPTS FROM RESPONSE OF THE AMERICAN ASSOCIATION OF EQUIPMENT LESSORS TO THE SENATE JUDICIARY COMMITTEE, SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE, TO TWO FOLLOW-UP QUESTIONS TO AAEL'S TESTIMONY ON COMMERCIAL BANKRUPTCY ISSUES ON JULY 30, 1991

Question 1

The current Bankruptcy Code is silent on time limits imposed in Chapter 11 for the recovery of leased equipment. What are some of the problems which your membership has with this silence, and why do you advocate the necessity for a fixed time period for a debtor to accept or reject a lease?

AAEL's response to question 1

AAEL does not advocate an amendment to the Bankruptcy Code that would fix absolutely the time period for a debtor to accept or reject a lease. AAEL does propose that the bankrupt debtor be given a reasonable time within which to assume or reject its equipment leases and, if the debtor wants further time, it should demonstrate to the Bankruptcy Court that cause exists for such additional time.

It is the experience of our membership that prolonged and harmful delays have often occurred before the debtor ultimately decided to assume or reject a lease. It must be emphasized that the leased property is the property of the lessor, and, unlike other creditors who can insist on COD payments for new merchandise, the debtor can use the leased property and not pay for its post-petition use, simultaneously depriving the lessor of the opportunity to release or sell its property.

We offer a few examples provided by some of our members which indicate the type of problems of concern to equipment lessors and to which our proposed amendments are addressed:

1. California, 1990. The debtor was the lessee of approximately $800,000 in computer equipment. The lessor moved the Bankruptcy Court to compel the debtor to assume or reject the lease and to compel payment of administrative rent. The court refused to compel the payment of any administrative rent to the lessor, but, instead, ordered the debtor to assume or reject the lease within approximately two months. On the last day of this extended period available for the lessee to elect whether to assume or reject the lease, the lessee filed as motion to assume the lease. The lessor opposed the motion on the ground that the lessee did not have the resources to assume the lease. The lessee then rejected the lease. When the lessor obtained possession of the equipment, a number of parts were missing. In short, the lessor did not receive rental payments for about five months, and the equipment was not fully maintained while the lessee possessed the equipment. The lessor still has a $200,000 administrative claim against the debtor for unpaid rent.

2. Arizona, 1990. The debtor, a retail sales chain that leased computerized cash register equipment for its outlets, is in the fifteenth month of its bankruptcy. Although a motion to compel assumption or rejection of the lease has been filed, the lessee has not yet been required to assume or reject the lease. In the meantime, the lessor has had to pay $75,000 in prepetition property taxes because the debtor did not have the resources to make the tax payments as required by the lease. Yet, the lessor cannot repossess the property and resell or release it in order to offset its property tax expenses.

3. Texas, 1989. In another situation involving computer equipment, the debtor-lessee did not reject the lease until the seventh month after filing for bankruptcy protection. According to the lessor, the lessee was unwilling to reject the lease until then because it needed to use the equipment. At the time the lease was rejected the lessee owed about $500,000 in delinquent rental payments. The lessor received only $125,000 of this amount. Furthermore, the lessee did not maintain the equipment up to specifications, thereby reducing its residual value. Ironically, the lessor had found a willing buyer for the equipment soon after the beginning of the bankruptcy. Had the lease been terminated promptly, and the equipment returned, the lessor could have sold the equipment sooner, at an increased price, thereby mitigating the debtor's debt and reducing the lessor's losses with respect to the lease transaction.

4. Illinois, 1991. The debtor used the lessor's packaging equipment, valued at over $2 million, for more than three months without paying any post-petition rent or assuming or rejecting the lease. While acknowledging the unfairness of this to the lessor, the Bankruptcy Court, over the repeated objections of the lessor, authorized immediate payment of retainers to attorneys and accountants of the debtor and the unsecured creditors' committee and payment of prepetition wages and union dues, and has granted secured creditors super-priority administrative expense liens and claims superior to the unpaid administrative claims of the equipment lessor. The court refused to order the equipment leases rejected, despite the debtor's failure to honor its repeated promises to pay administrative rent.

5. California, 1989. In a situation involving the lease of a $60,000 printing press, the lessee avoided assuming or rejecting the lease for six months after commencement of the bankruptcy case. The lessee then announced that the equipment was missing.

6. New Hampshire, 1990. A lessee agreed to rent construction equipment for $18,000 a month. Despite the lessor's prompt filing for adequate protection and for assumption or rejection of the lease, the Bankruptcy Court did not rule on the motion until nine months after commencement of the bankruptcy case. The court awarded the lessor payments of $3,700 a month, only about one-fifth of the amount to be paid under the lease agreement. There was no ruling on the motion to compel assumption or rejection.

7. Florida, 1990. A lessee of hotel furniture and other equipment filed for bankruptcy. Despite a prompt filing for adequate protection and assumption or rejection of the lease, no ruling was issued on the claim until about five months later.

8. Michigan, 1990. In a bankruptcy involving the lease of automobile repair equipment, the Bankruptcy Court took one year to rule on a motion to compel payment of administrative rent.

9. One of our members, who leases "small ticket" items such as photocopy equipment, reports on its experiences with fourteen lessees who have filed for bankruptcy in the 2½ years between December 1988 and May 1991. All but three of the lessees have not yet decided to assume or reject the lease. Of the three which did decide, each rejected its lease. In these three instances where the lease was rejected, the shortest length of time between commencement of the bankruptcy and the rejection was six months. The other two took, respectively, 18 months and 22 months.

As these examples show, during this period before the lessee assumes or rejects a lease, it is critical that the lessee (i) pay the contract rent, (ii) perform proper maintenance in accord with the lease contract, and (iii) otherwise conform with the contract. The Bankruptcy Code now provides these basic rights for non-residential real property lessors, and equipment lessors are entitled to have the same rights.

Moreover, unlike real estate, equipment generally depreciates rapidly. If not maintained properly by the trustee or the debtor during the bankruptcy case, the value of the equipment will be reduced. In fact, a substantial part of that loss in value may be attributable to the lessee's use of the lessor's property after the filing of the bankruptcy case. In other words, during the bankruptcy case itself the lessor's property is being used in the lessee's business for the benefit of the lessee and the lessee's other creditors and at the expense of the lessor. As a matter of simple justice, the lessee should maintain the property in accordance with the lease,and should pay the lessor the contract rentals until the lessee decides whether it wishes to assume or reject the lease.

Also, as explained in our July 30 testimony, the prompt payment of contract rentals is very important to lessors. Yet the Bankruptcy Code does not even specify whether the lessee shall pay the full contract rent, some smaller amount, or anything at all prior to the assumption or rejection of the lease. As noted in the above examples, despite their requests for relief from the Bankruptcy Court, equipment lessors may not get paid anything for an extended period of time, or may not receive payment at a fair and reasonable amount.

Of course, lessors may make motions to compel the trustee in bankruptcy to decide whether to assume or reject the lease, and they also may make motions to compel the trustee to pay rentals and to maintain the property. But it takes a substantial amount of time to litigate and decide these motions, and they are expensive and burdensome to the lessor, to the bankruptcy estate, to the courts, and to the administration of the bankruptcy system. During the course of this litigation, the equipment continues to depreciate from use by the lessee. And, as the examples show, the lessor often receives less than fair rental compensation, if any rent is paid at all, for use of the equipment. This is in sharp contrast to real estate lessors, who are generally entitled to contract rentals during the administrative period.

The delays that equipment lessors experience, the lack of payment of fair rental value, and the depreciation of the property, defeat the Congressional purpose as evidenced through the plain meaning of the Bankruptcy Code. The Code allows a lessee to assume or reject an unexpired lease. But, in all too many cases, neither prompt assumption nor prompt rejection occurs. Instead, the equipment lessee uses property for a prolonged period, without assuming the lease and without paying contract rentals and without maintaining the equipment. In practical effect, the lessee is receiving all of the rights involved with an assumption of the lease but is not respecting any of the responsibilities provided in the Code for an assumption.

We therefore urge the Subcommittee to recommend enactment of our proposed amendments to preserve the integrity of the Code and of the underlying Congressional purpose and policy to prevent instances of unnecessary and unjust burdens on the lessor. The policy underlying the proposed amendment is sound and it is fair and it is advantageous to the nation. Lessees and the economy as a whole will benefit through reduced rentals and greater availability of equipment.

Mr. METZENBAUM. Mr. President, I rise to ask the Senator from Wisconsin to clarify several points of concern relating to his amendment. It is my understanding that this amendment clarifies sections 1110 and 1168 of the Bankruptcy Code and as such it applies to the financing of certain airline and railroad equipment. Is it correct that the references in this amendment to leases or agreements in no way weakens or abrogates collective bargaining agreements between the workers and management?

Mr. KOHL. The Senator from Ohio is correct. The language of the statutes clearly states that these provisions apply to financing agreements relating to specific machinery and equipment, and in no way weakens or abrogates collective bargaining agreements between the workers and management.

Mr. METZENBAUM. I would also like to ask the Senator from Wisconsin about a provision in his amendment pertaining to the bankruptcy trustee's obligations to maintain certain equipment covered under sections 1110 and 1168. I want to ensure that this provision does not create a new group of creditors who could deplete the cash reserves or otherwise curtail the ability to continue the day-to-day operations of a rail or air company that is reorganizing under our bankruptcy laws.

Mr. KOHL. Let me assure the Senator from Ohio this amendment comports fully with the generally accepted interpretation of current law. This amendment would simply clarify that if a trustee retains the use of the equipment under sections 1110 and 1168, the trustee has the obligation to maintain that equipment according to the terms of the contract. This is the intent of current law.

In addition, I would also like to emphasize that ensuring the proper maintenance of equipment that is going to be operated in the public domain during the restructuring period is of vital importance to the safety of that equipment and all who use it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. REID. Mr. President, what is the status of the Senate proceedings?

The PRESIDING OFFICER. The Senate is presently considering S. 1985.

Mr. REID. Mr. President, prior to coming to the Congress of the United States, I was an attorney practicing law. And during the practice, I had the opportunity to do some bankruptcy work. It was with interest that I recognized the work that has been done by the Judiciary Committee in bankruptcy these past many months. I not only practiced law and had some familiarity with the Bankruptcy Act, but also in my personal business dealings have had experience with the Bankruptcy Act and understand how it can be abused.

I would like to commend the Judiciary Committee and especially Senator HEFLIN who is the chairman of the subcommittee that has done such a responsible job in dealing with this excellent work in bankruptcy reform.

Mr. President, I would like to take a few minutes to explain a small section of the committee substitute having to do with single asset real estate.

The definition of single asset real estate has been revised to clarify that this asset is property constituting a single property or project. We commonly think of a single asset case as one of a debtor with a single apartment house or condo complex or a single piece of real estate.

However, this could include a debtor with many real estate properties, such as a real estate investment trust with 10 projects in many different States. The committee has clarified this language to avoid including a multi-project debtor with substantial amounts of unsecured debt that would more likely benefit from reorganization and thus need more time to file their plan. The committee has determined that unlike the single asset case in which a debtor should ordinarily be able to propose a plan within 90 days, they would follow the outline I just set forth.

Mr. President, further, the definition has been revised to clarify that the business conducted on this single asset real estate must be of a substantial nature to except it from this section.

This guards against a real estate developer who, for example, puts in a lawn mower repair shop in an apartment complex just before filing bankruptcy.

The automatic stay provision within the bill has been modified with respect to a single asset real estate purely for clarification.

Subsection 3 has been broke up into parts a and b. This presents the requirements for a lifting of the automatic stay on a single asset real estate in a clear and I believe more affirmative manner.

The last clarifying amendment to section 211 amends a provision that allows a foreclosure proceeding to ensure on a single asset real estate property while the debtor is in bankruptcy. The problem that generally occurs here is the debtor files for bankruptcy and an automatic stay goes into effect, affecting even a foreclosure action already pending at the time of filing for bankruptcy.

Mr. President, I might add that I received significant input and have had personal experience where people are foreclosing a piece of real estate and the foreclosure proceeding is going along according to law and somebody files a petition of bankruptcy and they get an automatic stay. The only purpose of that stay, the filing of that bankruptcy petition, is to stall, to stop a foreclosure from going forward. This amendment I am talking about relating to section 211 makes it more workable, make it so people are playing on a more equal playing field.

This amendment, in effect, will allow, upon the request of a secured creditor, a limited relief from the stay to continue the foreclosure procedure, but only up to the point of the sale. The result is that if the case fails and is dismissed, the lender will be able to complete the foreclosure process promptly.

For example, if a limited partnership owning an apartment house files for chapter 11 after the lender has commenced foreclosure, the court will routinely and promptly lift the automatic stay to permit the foreclosure to continue. If the debtor proposes and confirms a plan, all is well.

If not, and the case is dismissed, then the lender will be able to proceed promptly to complete the foreclosure. The debtor would not be able to hold up the foreclosure proceeding by forcing a hearing on the limited lifting of the stay, except, Mr. President, for a very good reason, or reasons.

This amendment, this change in the law, mandates that the order to continue the foreclosure proceeding shall not issue before 30 days have passed after the filing for bankruptcy to allow time for the debtor's benefit to prepare defenses to the foreclosure proceeding.

Further, the requirement that the creditor have more than a de minimis value protects debtors from abuse by a junior lienholder whose liens on the property may be valueless.

Mr. President, I again would like to express my appreciation to Senator HEFLIN and the majority and minority staffs for allowing me to have some input in this Judiciary Committee bill. I recognize that I am not a member of the committee, but the committee has been most open in its accepting those things that I have proposed that have been, in their estimation, good, and have been just as forthright in suggesting some of the proposals I made were not as good.

I believe that this legislation is good. I think the committee should move forward on it rapidly. I believe these suggestions that I have made and are encompassed within the bill provide both protections for the debtor procedurally while clarifying the rights of lenders as well.

I urge my colleagues to support this important legislation.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, previously during the debate on this bill, I discussed major portions of this legislation and why I believe so strongly that this legislation should be passed. At this time, I want to spend a moment to comment on the differences which may be found between what was reported out by the Senate Judiciary Committee and what is being considered by the full Senate today since we intend shortly to offer a manager's substitute for the bill. These changes can be found in both changes to existing sections of the bill, and in additional sections added to the bill which will be brought to the attention of the Senate.

During the course of the committee hearings and through the committee's consideration of this bill, a few of ongoing issues continue to reoccur which deserve consideration by the Senate. These issues can be found in the form of new sections to the bill which can be found in the committee substitute. Specifically, found in the committee substitute are five new sections of the bill.

The first three new sections have been worked on for a considerable period of time, and a great deal of time, attention, and credit go to Senator KOHL and his staff for aiding the managers in putting together these proposals. The first new section, section 213, is a proposal which was first made during the course of the committee hearings and involves the leasing of airplanes and railroad equipment. Generally, this section would modernize the current versions of sections 1110 and 1168 of the Bankruptcy Code. These sections provide for special treatment of certain types of leases involving airplanes, shipping vessels, and railroad rolling stock. This amendment would take effect over time as new equipment is placed in service to eliminate the distinction between purchase money security interests and other types of security interests. This section would also provide a clearer working definition of the term "lease" for purposes of these sections, and would clarify a trustee's obligations for maintenance and return of equipment. This proposal has gone through a considerable work and consideration by a wide range of interested parties. I am especially pleased that the compromise reflected in this proposal has been worked out, and am happy to have this section as part of this bill.

The next new section of the bill is section 214. This section was also part of the subcommittee's hearings last summer. This amendment is a clarification of current law regarding how equipment leases should be treated during the pendency of a chapter 11 bankruptcy proceeding. Currently, when a debtor files for bankruptcy, leases on personal property can either be accepted or rejected as part of the plan or reorganization. Current law provides that there are no time limits in which this decision to assume or reject must take place, however, before the decision does occur the bankruptcy debtor has the ability to use the leased equipment. This amendment simply clarifies the Bankruptcy Code to ensure that postpetition lease payments should be made on this equipment and that debtors are required to maintain equipment pursuant to any contractual obligation. This clarification is extremely important given the size and importance of the leasing industry in the United States. Again, I am pleased that the technical aspects of this proposal, which was previously before the committee, have been worked out and included in this substitute.

A final amendment has the support of Senator KOHL, and again falls into the issue of clarifying how leases should be treated under the Bankruptcy Code. The new section 215 would overrule the third circuit opinion of *In re Joshua Slocum, Ltd.*, 922 F2d. 1081 (1990). This opinion failed to take into consideration the issue of mootness and the assignment of leases in bankruptcy. If leases of a debtor are assigned to a third party outside of bankruptcy, mootness principles should apply to that assignment. Specifically, this section would ensure that the mootness principles embodies in sections 363(m) and 364(e), related to the sale and leasing of property and the ability to incur debt, are also applied to the assignment of leases under section 365 of the Bankruptcy Code. This clarification of the law will aid the business community by providing some certainty in the assignment of leases. I support this amendment and believe that it aids in the clarification of issues related to leases which have been before this committee since the hearings which took place last summer.

Another issue which was first brought to the committee prior to the committee's consideration of this bill, but was not included in the committee's final version relates to the issue of reclamation in bankruptcy. This issue has been highlighted and brought to my attention through the efforts of Senator LAUTENBERG, and I appreciate his interests and concerns in this area. This issue is found at section 216 of the substitute bill. This section conforms the Bankruptcy Code to what is already current practice in many courts.

This section allows for the consensual return of goods, which are in the possession of the debtor, to the seller-creditor. This section would allow the value of such returned goods to be offset against the value of any prepetition claim of such a creditor. This section provides for court approval for such an action, and further provides that such an action may only take place when it is in the best interests of the reorganizing company. This offset procedure will relieve the bankruptcy estate of the burden of keeping unwanted or unsalable goods, and relieve the estate of unnecessary liabilities. This return will be particularly valuable when the goods are of greater value to the seller of the goods than to the debtor-purchaser.

Although courts have allowed such return procedures, the Bankruptcy Code does not explicitly deal with this issue. Allowing the consensual return of goods would permit more efficient reorganizations of bankruptcy debtors, and other creditor's interests will be protected by requiring notice and hearing before a reclamation could take place. This section simply recognizes a business reality and is a section which I support.

The final new section of the substitute which was not in the committee reported bill is section 217. Again, this section was one of many issues which were before the subcommittee during hearings last summer, but which needed further refinement. This section deals with the issue of reimbursement of indenture trustees who participate in a bankruptcy proceeding. This amendment would improve current law by assuring indenture trustees, whose work benefits broad classes of debtholders, receive adequate compensation for their necessary expenses incurred during a bankruptcy.

Indenture trustees are required under section 315(c) of the Trust Indenture Act of 1939 to act in a fiduciary capacity on behalf of public bondholders in the event of a default such as occurs in a chapter 11 bankruptcy proceeding. Therefore, these trustees have a high statutory obligation to represent certain interests during the pendency of a bankruptcy. However, some courts have found since indenture trustees are acting on behalf of a defined class of debtholders rather than on behalf of the entire estate, they may be eligible for reimbursement, if at all, for only a small fraction of their expenses from the bankrupt estate.

I believe that indenture trustees are entitled to receive adequate compensation given their unique role in complex bankruptcies. Unlike other official participants who act on behalf of their own interests, indenture trustees must represent the interests of widely scattered public debtholders. Further, I, believe that the full and active participation of these trustees promotes reorganization and the debtor's ability to pay its debts.

This section ensures that trustees act economically and efficiently by requiring that they receive reasonable compensation only for necessary services. The use of the term "necessary" is intended to place limitations of the kinds of services that may be compensated by the estate as administrative expenses. This standard would exclude services that duplicate those of the official creditors' committee or any other official committee that is adequately representing the interest of bondholders. These duplication concerns were highlighted in the communications which I had with the Securities and Exchange Commission regarding this issue. It should be noted that the SEC supports this proposal, in its limited form, and I ask unanimous consent that the communications between myself and the Chairman of the SEC Richard Breeden, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE

Washington, DC, April 16, 1992.

Hon. RICHARD C. BREEDEN,

Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN BREEDEN: As you are aware, the Senate Judiciary Committee recently completed its mark-up of S. 1985, bankruptcy reform legislation. This bill, I believe, will provide much needed changes in current bankruptcy law and practice where there is consensus for immediate statutory change, and also creates a two-year National Bankruptcy Commission to consider more controversial matters as well as broad policy questions.

Over the past few weeks, I have been made aware by constituent banks of the difficulties faced by indenture trustees seeking fair compensation for the services they must perform in representing the interests of debt security holders during bankruptcy proceedings. As the Securities and Exchange Commission (SEC) is aware, indenture trustees are required under the Trust Indenture Act of 1939 to represent the interests of indenture security holders as a fiduciary during bankruptcy proceedings. I have been advised, however, that in recent years indenture trustees have been denied the ability to recoup their necessary fees and expenses incurred in connection with performing this investor protection function due to a technical problem in the wording of the Bankruptcy Code.

Some members of the Senate are sympathetic to rectifying this situation and may be considering the merits of amending S. 1985, when it is considered by the full Senate, to eliminate the requirement now contained in Section 503 of the Bankruptcy Code that indenture trustee must demonstrate a "substantial contribution" to the proceedings in order to receive reimbursement of fees and expenses incurred in protecting debt security holder interests. Advocates of such an amendment argue that it would serve both to assure full protection of the interests of debt security holders, and to allow indenture trustees to receive fair compensation for services performed in protecting those interests. S. 1985 already contains a similar technical charge in Section 405 to assure adequate compensation for participants in a Chapter 11 Creditor Committee.

Because the SEC is charged with protecting investors, I am interested in learning its views in regard to this matter. As S. 1985 may be considered by the full Senate in the near future, I would appreciate receiving a response to this inquiry as soon as possible.

Your prompt attention to this matter is greatly appreciated. Should your office wish to discuss this issue with my staff, please do not hesitate to contact Mr. Stephen Raby, my Administrative Assistant, who can be reached at 224-4124.

Sincerely,

HOWELL HEFLIN.

SECURITIES AND EXCHANGE COMMISSION,

Washington, DC, May 8, 1992.

Re proposed bankruptcy reform legislation (S. 1985).

Hon. HOWELL HEFLIN,

U.S. Senate, Washington, DC.

DEAR SENATOR HEFLIN: This letter is in response to your request of April 16 for the views of the Securities and Exchange Commission on the standard of compensation for an indenture trustee in Chapter 11 reorganization cases.

The Commission endorses the amendment to Section 503(b) of the Bankruptcy Code, proposed by representatives of the American Bankers Association and other interested parties, revising the standard for determining when an indenture trustee is entitled to compensation as an administrative expense from the bankruptcy estate. As you know, Section 503(b) requires an indenture trustee to demonstrate that it has made a "substantial contribution" in a reorganization case before it can be awarded compensation as an administrative expense from the bankruptcy estate. The proposed amendment would eliminate the "substantial contribution" requirement of current law, and would provide that indenture trustees receive reasonable compensation for "necessary" services rendered during a Chapter 11 reorganization. Copies of the proposed amendment that the Commission endorses and an insert for the legislative history, which the Commission staff assisted in drafting, are enclosed with this letter.

The Commission staff has worked closely with representatives of the American Bankers Association and other interested parties in connection with the proposed amendment. In the Commission's view, the proposed amendment, if enacted in its present form, would provide an effective solution to the problems raised concerning the compensation of indenture trustees in bankruptcy proceedings.

An amendment to current law is appropriate in light of several concerns. First, many bankruptcy courts have denied or substantially reduced the requests of indenture trustees for compensation as an administrative expense from the estate. These courts have read restrictively the statutory language requiring that an indenture trustee make a substantial contribution in order to preserve the assets of the estate.

Second, indenture trustees may not be fairly and reasonably compensated when they fail to recover their fees and expenses as an administrative expense from the bankruptcy estate. Indenture trustees are typically contractually entitled to compensation from the issuer for their reasonable fees and expenses in the event of a default. However, this right to compensation represents only a general unsecured claim against a Chapter 11 debtor—a claim that is often paid at substantially below par. In addition, although many trust indentures entitle trustees to a lien on distributions made to debenture holders to the extent of their reasonable fees, there may not be sufficient distributions to compensate fully the trustee.

Third, indenture trustees must represent the interests of the underlying bondholders in Chapter 11 proceedings, notwithstanding potential difficulties in obtaining compensation. Indenture trustees are required by Section 315(c) of the Trust Indenture Act of 1939 to act as fiduciaries for public bondholders in the event of a default.

Moreover, in the Commission's view, it is often particularly important in a bankruptcy proceeding that indenture trustee be actively involved. Unlike other unofficial participants such as individual shareholders and creditors, who act only to protect their own interests, indenture trustees represent the interests of widely scattered public debt holders. While the Bankruptcy Code contemplates that the official creditors' committee will protect the interests of all creditors, as practical matter official committees are typically controlled by bank and trade creditors, whose interests may differ from the interests of holders of public debt issued under indentures. Active participation by the indenture trustee on the official committee may be necessary to assure that the interests of public debt holders are represented in the reorganization process. To the extent the publicly held debt is subordinated, there is an even greater need for representation on the creditors' committee by an indenture trustee, since the committee ordinarily consists of the seven largest unsecured senior creditors, and bankruptcy courts are generally reluctant to appoint a separate official committee to represent subordinated debt.

In response to these concerns, the Commission proposed in a brief filed four years ago in the bankruptcy proceedings of the Baldwin-United Corporation that the district court adopt a broad reading of the term "substantial contribution" when determining whether an indenture trustee was entitled to compensation for its services under Section 503(b). A memorandum setting forth the Commission's proposal and analysis is also enclosed with this letter. The Commission urged that a broad reading was consistent with prior law and was appropriate given the important role indenture trustees play representing the interests of indenture security holders during bankruptcy proceedings. After the Commission filed its brief, the matter was settled and no decision was rendered by the district court.

The proposed amendment to Section 503(b), in the Commission's view, appropriately satisfies the concerns underlying the Commission's position in the Baldwin-United proceeding. As indicated, the proposal would eliminate the "substantial contribution" requirement of current law as the necessary predicate to indenture trustees' receiving compensation for their services. That standard has proven unworkable for indenture trustees given its imprecision and susceptibility to more than one interpretation. The proposal also meets the Commission's concern that indenture trustees act economically and efficiently by providing that indenture trustees receive reasonable compensation for "necessary" services rendered.

The use of the term "necessary" (added to the initial proposal at the Commission staff's request) is intended to place a limitation on the kinds of services that are compensable by the estate as an administrative expense. This proposed standard would exclude services that duplicate those of the official mandatory creditors' committee or other official committee that is adequately representing the interests of bondholders. It would include, however, compensation for monitoring bankruptcy proceedings and communicating with indenture security holders. Lastly, the amendment would apply the same interest for reimbursement of expenses.

The Commission supports the passage of this important legislation. If you or your staff have any questions concerning this letter, or would like a briefing on its contents, please contact me or Peter Kiernan, Legislative Counsel, at 202-272-2500.

Sincerely yours,

RICHARD C. BREEDEN,
Chairman.

Mr. HEFLIN. Mr. President, I believe that this section is an important addition to this bill, and am pleased that a successful resolution to the exact wording of the language has been achieved since the action of the full Judiciary Committee.

In addition, to the sections of the substitute bill which I have been describing, a number of additional changes to existing sections may be found in this proposal pending before the Senate. In addition to technical corrections, substantive concerns have been raised regarding various parts of this bill.

A key concern of many persons has been the workability of the small business chapter contained in section 205 of the bill. We have sought and received a wide range of comments regarding this proposal, and have sought to address constructive comments in making this proposal more functional. I would like to take a moment to highlight some of the changes to section 205 that are contained in the substitute.

First, the substitute raises the debt ceiling for eligibility for this section $1 to $2.5 million. This change was made to encompass a wide range of small businesses, and to increase the baseline information which may be gleaned from the operations of the pilot districts during the course of the 3-year program. A greater base of knowledge will aid Congress in evaluating this program and the conclusion of the 3-year period.

Second, the substitute gives more authority and larger responsibilities to the trustees who would be appointed to oversee chapter 10 proceedings. I believe that in order for this program to work, the trustees who will be appointed must be strong and active participants in the reorganization process.

Third, this substitute also clears up issues regarding compensation, and protects trustees who may be appointed to ensure that the court may award appropriate compensation for the amount of work that might be done in a particular case.

Fourth, a very important improvement of this proposal is the streamlining of the contents of plan and discharge of debtor sections. These sections have been reworked in order to make them substantially similar to the current provisions found in chapter 12 of the Bankruptcy Code. This should clarify many interpretation questions since a body of caselaw already exists regarding how various sections of chapter 12 should be interpreted. Further, possibly the most important feature of this streamlining is the change which takes place regarding when a discharge would occur. The previous proposal would allow for a discharge early during the bankruptcy proceeding. However, the proposal before the Senate alters this approach to protect creditors and does not allow discharges of debtors to take place until after the successful completion of the plan of reorganization.

Fifth, a final important modification found in the substitute provides that the trustee must deliver annual reports regarding the financial condition of the debtor to all the creditors. This report should aid creditor's ability to follow the debtor's reorganization and to enhance the creditors knowledge regarding the debtor's disposable income and protecting the creditors rights to that income under this chapter.

I believe that these constructive improvements go a long way towards making this proposed chapter an even more functional tool for small businesses to reorganize.

A final criticism has been leveled at this proposal by its critics in arguing that the proposed chapter may be unconstitutional. I want to state for the record that I disagree with that assessment and briefly describe why I argued against such a notion. First, recent history and current law argue against the notion that the bankruptcy laws must be uniform for all persons and all situations. For example, currently the Code allows for each of the 50 States to develop their own individual exemption provisions for debtors who file for personal bankruptcy. In addition, it should be noted that the U.S. Bankruptcy Trustee Program was begun as a pilot program before it was greatly expanded. However, that program still does not have nationwide uniformity since my State of Alabama and the State of North Carolina are still exempted from the oversight of the U.S. Trustee Program. In interpreting the uniformity issue the Supreme Court has ruled, "[T]he laws passed on the subject must, however, be uniform throughout the United States, but that uniformity is geographical and not personal, and we do not think that the provision of the act of 1898 as to exemptions is incompatible with the rule." *Hanover National Bank* v. *Moyses*, 186 U.S. 181, 188 (1902). This interpretation of the uniformity clause found in the Constitution, as it relates to bankruptcy, has clearly been found to center on issues of geographical uniformity. I believe that the proposed pilot programs can meet this test through its proper application, and therefore I believe that this proposed small business chapter is constitutional.

In addition to the alterations found in the small business chapter, section

205, changes to the committee bill can be found in other sections. A key section which has been altered is section 204 relating to the committee's attempts to overrule the DiPrizio line of opinions. This issue has consumed many hours of labor and study for Senator GRASSLEY and his staff and the new section found in the substitute bill is a clear and artful means to achieve this result. I applaud their efforts, and appreciate the hard work and dedication which have gone into the latest version of this section.

Additional improvements can be found in the substitute which is pending before the Senate. Improvements can be found in the drafting of section 301 of the bill regarding bankruptcy preparer penalties. This language has been worked upon by Senator METZENBAUM'S staff and the Justice Department to more clearly outline the circumstances and penalties associated with this section. Another improvement in this substitute can be found in the language of section 210 regarding airport gate leases. These improvements clarify the meaning of this section and lengthen the time from 120 to 180 days in which a bankrupt airline debtor does not have to make assumptions or rejections of airport gate leases, without the burden shifting to the bankrupt debtor to show that substantial harm is not arising from the ongoing tendency of such decisions. I believe that the compromise which was reached regarding this section is both wise and workable, and I especially appreciate the work done by Senators DANFORTH, HATCH, and SIMON on this section.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2424

Mr. HEFLIN. Mr. President, I send the new substitute amendment to the desk and ask unanimous consent that it be agreed to and that the committee substitute, as amended, will still be open to amendments in both the first and second degree.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment (No. 2424) was agreed to and appears in today's RECORD under "Amendments Submitted.")

Mr. HEFLIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The amendment has been agreed to by consent and is now amendable further.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 2425

(Purpose: To clarify the treatment of pension plan contributions)

Mr. GRAHAM. Mr. President, it is my intention to shortly send to the desk an amendment to the committee substitute.

Mr. President, the amendment which I am offering with Senator PACKWOOD of Oregon, relates to employee-sponsored pension plans which are assuming an increasingly important role in providing retirement income security.

In 1990, private pension benefit payments totaled $141 billion, or 30.9 percent of all retirement benefit payments made to retired workers and their families in America.

Clearly, corporate pension promises are critical in the retirement plans of many Americans.

Unfortunately, there has been a dramatic increase in the gap between the retirement promises corporations have made to their employees and the actual assets available for pension payments.

Furthermore, recent court decisions seek to undermine the law designed to ensure pension payments by allowing companies to use the bankruptcy process to dump pension liabilities on the Federal Government.

The courts' action may prove to be costly to the Federal Government and ultimately the individuals who depend on the Government to guarantee their pensions.

Recognizing the importance of pensions to individuals' retirement security, Congress passed the Employment Retirement Income Security Act in 1974 [ERISA].

This act set standards for employee pension plans and established an insurance program for qualifying plans under the auspices of the Pension Benefit Guaranty Corporation.

PBGC provides for the payment of basic benefits to plan retirees in the event of a plan's financial insolvency.

In some cases, PBGC forces the termination of a plan it believes will ultimately be seriously underfunded and which poses the risk of becoming a significant long-term liability for the Government.

In other cases, the PBGC receives responsibility to take over a plan because the courts have ruled that the corporation is free to stop making payments into the plan in order to avoid further financial losses during a period of reorganization.

It is this last instance to which our amendment addresses itself.

When a financially distressed company files for bankruptcy under chapter 13, it is protected from prepetition debts and must only make court-approved administrative costs while it develops and implements a plan for reorganization.

In a September decision, a New York Federal court ruled in favor of the LTV Corp. which aruged that pension contributions are prepetition obligations and, therefore, part of the body of debt from which they should be shielded from paying while in bankruptcy.

Although both the Tax Code and Employee Retirement Income Security Act assert that pension contributions should continue during a reorganization, the bankruptcy code does not.

That is why Senator PACKWOOD and I offered this clarifying amendment.

The Graham-Packwood amendment requires that contributions to certain employee pension benefit plans which become due during a period of reorganization must be paid unless—and this is an important exception—the court rules that such payment is not in the best interest of the estate.

Simply put, if a company has the resources to continue making contributions to its pension payment, it must do so.

If the company or its creditors can demonstrate that such payments will negatively effect the company's ability to reorganize, then the court can allow a delay in the payments until the company is back on its feet.

Should the company fail to reorganize, the plan would be terminated and responsibility turned over to PBGC.

The result of not making this clarification will be a continuing incentive for plan-sponsors to stop making payments as soon as they file for bankruptcy.

Nonpayments to plans can lead to underfunded plans which can lead to increased liability for the PBGC and, if not controlled, an underfunded Federal insurance program.

This was not Congress' intent when it created a pension insurance program.

The law was intended to ensure sound funding of pension plans, not encourage termination of pension plans.

Considerable debate currently surrounds the question of the PBGC's long-term solvency.

The short-term picture is good.

PBGC reports that single-employer defined benefit plans have $1.3 trillion in assets to back $900 billion in liabilities.

Approximately 85 percent of pension plans are currently fully funded on a termination basis.

However, there is the threat that a few seriously underfunded pension plans could add significantly to the PBGC's liability and jeopardize the fund's future solvency.

In the past fiscal year, two of the largest underfunded plan terminations in the PBGC's history occurred.

In October 1990, seven Eastern Air Lines' pension plans, which were underfunded by $700 million, were terminated.

In July and December of 1991, three of Pan American World Airway's plans were terminated with about $900 million in underfunding, creating further liability for PBGC.

While the balance sheets look good today at the PBGC, it is not in the best interest of retirees who depend on those pensions—or the Federal Government which has insured them—to continue on an uncertain course.

Mr. President, I am a cosponsor of legislation offered by Senator GRASSLEY of Iowa which makes much broader and more substantive changes in the law to ensure PBGC's ability to recoup funds for underfunded plans it inherits as a result of a liquidation.

That legislation, S. 2014, has several much needed provisions worthy of consideration in the Senate, and I am hopeful that the Judiciary Committee will review our proposal.

In the meantime, this clarification amendment is more narrowly focused so as to avoid the controverisal elements of the larger legislative proposal.

It is not my intention to bog down the bill before the Senate today which has broad bipartisan support.

But the Senate must take this opportunity to clarify Congress' intent with regard to contributions which become due to pension plans during reorganization.

I am hopeful the managers of the bill will accept this amendment, which I now send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] (for himself, Mr. PACKWOOD, and Mr. METZENBAUM) proposes an amendment numbered 2425.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . PENSION PLAN CONTRIBUTIONS.

(a) TREATMENT AS ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by section 405, is amended—

(1) by striking "and" at the end of paragraph (b);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) minimum funding contributions to an employee pension benefit plan for which the debtor is liable, which accrue on or after the date of commencement of the case, (regardless of the time such contribution comes due) under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).".

(b) PAYMENT OR POSTPONEMENT OF MINIMUM FUNDING CONTRIBUTIONS DUE PENSION PLANS.—(1) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1115. Contributions to certain employee pension benefit plans

"(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Except as provided in subsection (b), the debtor in possession, or the trustee if one has been appointed, shall make any minimum funding contributions for which the debtor is liable, which accrue on or after the date of commencement of the case, under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).

"(POSTPONEMENT OF CONTRIBUTIONS).—(1)(A) Subject to paragraph (2), the court may, on motion of any party and after notice and hearing, determine that the making of all or part of a minimum funding contribution required to be made by a debtor to a pension plan may be postponed until a date that is not later than—

"(i) the effective date of a plan of reorganization confirmed under section 1129; or

"(ii) if the case is converted to a case under chapter 7, the date on which a distribution of property is made under section 726.

"(B) In making a determination under subparagraph (A), the court shall take into account the requirements of the estate.

"(C) Interest shall accrue on the amount of a contribution that is postponed from the date on which the contribution became due to the date of payment at the rate specified in section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)).

"(2)(A) Before permitting payment of all or part of a contribution to be postponed, the court shall grant security to the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, for the amount of a contribution that is postponed, affording adequate protection in accordance with section 364(d)(1)(B).

"(B) If the debtor in possession or trustee fails to make a postponed contribution on the date on which it is to be made under an order issued under paragraph (1), the pension plan shall be permitted to foreclose on the security provided under subparagraph (A).

"(c) NOTICE.—The administrator of the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, shall be given notice of and may participate in any hearing seeking postponement of a contribution or foreclosure under this section.".

(2) The chapter analysis for chapter 11 of title 11, United States Code, is amended by inserting after the item for section 1114 the following new item:

"1115. Contributions to certain employee pension benefit plans."

"(c) CLARIFICATION OF EXISTING LAW.—The amendment of section 550 of title 11. United States Code, made by section 204 shall apply with respect to a transfer to a pension plan that is subject to the minimum funding requirements of section 412 of the Internal Revenue code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082) only if the transfer is the subject of a motion or proceeding seeking avoidance of the transfer that is filed on or after the date of passage of this Act in the Senate.

(2)(A) In making the amendments made by subsection (a) and (b), it is the purpose of Congress to clarify the meaning of the provisions that are amended as they existed prior to the date of enactment of this Act.

(B) The amendments made by subsections (a) and (b) shall not be applied so as to supersede or alter any agreement or understanding (or modifications thereto before or after enactment) regarding a debtor's minimum funding contributions entered into among a debtor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation prior to the date of enactment of this Act.

Mr. PACKWOOD. Mr. President, the amendment I am offering today is the first step in plugging holes in our private pension system. Overall, our private pension plan system is relatively healthy with $1.3 trillion in assets backing up $900 billion in benefit promises.

However, there are a large number of private pension plans that are underfunded. These are plans having pension promises that exceed the money set aside to pay them.

The Pension Benefit Guaranty Corporation—or PBGC—is the safety net for our private retirement system. Currently, the PBGC guarantees defined benefit pensions for 40 million employees and retirees. In recent years, the PBGC's liability for underfunded pensions has increased at an alarming rate. Today, the PBGC is paying pension benefits for almost 2,000 underfunded pension plans—creating a PBGC deficit of $2.5 billion. The PBGC estimates that its losses will continue to increase with a potential worse case scenario of $40 billion in losses.

If we learned anything from the savings and loan crisis, it is that we must make the tough decisions to limit the cost to the taxpayers of Government guarantees before they get out of hand. Employers should not make pension promises to their employees and then stick the Federal Government with the payment of those benefits.

The amendment that Senators GRAHAM and METZENBAUM and I are offering will be a good step toward preventing this from happening. Our amendment does the following:

First, requires employers, after they have filed for bankruptcy, to continue to contribute the minimum annual contribution required by the Internal Revenue Code and ERISA to fund their pension promises;

Second, gives post-petition minimum pension contributions the same priority status as wages and retiree health claims; and

Third, permits employers to delay making the minimum contributions until they emerge from bankruptcy if the employer guarantees to the bankruptcy court that the post-petition minimum funding contributions will be paid.

The last provision is designed to be prodebtor and procreditor because it permits a financially troubled company to get its financial house in order before requiring actual cash contributions to be paid to the pension plan.

It is important to note that these reforms, along with reforms already in the committee bill, are targeted to stop one of the biggest abuses of our private guaranty system—use of bankruptcy laws to evade current pension obligations and push them off on the Federal Government.

This amendment is needed because the PBGC, unlike other lenders, faces an unlimited credit risk—it cannot protect itself like other creditors by assessing the credit risk, charging a higher rate of interest, or refusing to lend. The PBGC has no ability to limit its liability, it is at the mercy of decisions made by the employer.

A financially weak Federal guaranty system harms not only the current employee and retirees of a financially troubled company, it also harms every working American who relies on the Federal promise that they will be paid at least the basic pension promised by their employer.

I urge my colleagues to accept this amendment.

Mr. GRAHAM. Mr. President, I ask unanimous consent that Senator GRASSLEY be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that that amendment be temporarily set aside in order that Senator DANFORTH might offer a sense-of-the-Senate resolution, and then we will return to the Graham amendment. In the meantime, perhaps we can talk about it and agree to accept that.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2426

Mr. DANFORTH. Mr. President, on behalf of myself, Senators GRAHAM, BOND, COHEN, CONRAD, DECONCINI, LEVIN, ROBB, and RUDMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] (for himself, Mr. GRAHAM, Mr. BOND, Mr. COHEN, Mr. CONRAD, Mr. DECONCINI, Mr. LEVIN, Mr. ROBB, and Mr. RUDMAN) proposes an amendment numbered 2426.

At the appropriate place, add the following:

The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans; and

(3) national interest in controlling the deficit takes precedence over partisan advantage;

The Senate finds that—

(1) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country are to be effectively and honestly addressed; and

(2) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice; and

The Senate finds that—

(1) the frequency and level of public comment on this issue by public officers and candidates, including those who hold and seek the office of the President, are so insignificant as to constitute irresponsibility;

(2) by and large, the candidates, Congress, and the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse;

(3) entitlement and interest spending are the fastest growing components of the Federal budget and are at an all-time high;

(4) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(5) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(6) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people:

It is the sense of the Senate that—

(1) public officials and candidates for public office to make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President to agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office to affirm their support for this statement of principles and to resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit if elected.

Mr. DANFORTH. Mr. President, first, I ask that Senator DURENBERGER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, let me first alert the Senate that it is the intention of the cosponsors of this amendment to ask for a rollcall vote. Therefore, we will be voting on it either today or tomorrow, depending on the desire of the managers and the majority leader.

I want to give the Senate some background as to the thrust of this amendment. Two weeks ago, six Senators—three Republicans and three Democrats—appeared on the television program "Nightline," hosted by Ted Koppel. The Senators were Senator GRAHAM, Senator LEVIN, Senator NUNN representing the Democrats, and Senators BROWN, DOMENICI, and myself representing the Republicans.

On that television program, we issued a challenge to the Presidential candidates. The challenge was that the three Presidential candidates subject themselves each to 1 hour on network television for the purpose of discussing the Federal budget deficit, and only the Federal budget deficit; that it not be a debate format, but that it be individual Presidential candidates being questioned for 1 hour on the subject of the budget deficit by two current Members of the Senate, who have announced their retirement from this body on the basis that we have not done a successful job of dealing with the budget deficit. Those Senators are Senator RUDMAN, a Republican, and Senator CONRAD, a Democrat, both on the Budget Committee, both very conversant with the budget issue.

The point of that program was that the budget deficit is the number one issue before our country now; that the way it is being handled by Congress and by the executive branch is totally irresponsible, and that the time has come to tell the American people the truth about the budget deficit.

Further, it was believed that none of the Presidential candidates are talking about it. We now have three likely nominees for the Presidency, and none of them are talking in any serious fashion about the budget deficit.

We believe that it is necessary for the American people to focus on the issue, and for the American people to be told the truth, so that when they go to the polls next November, they will be able to express, by their votes, their view on what we are supposed to do next. The 20-second sound bite is not going to do the job. The 30-second television commercial is not going to do the job. Nor is the standard debate format going to do the job. Any politician can dodge any issue for 2 or 3 minutes during a debate question, and then the questioner goes on to the next subject.

That is the way debates have been run, and that is why debates are not very informative, really, to the American public. The 20-second commercial is not going to do it. The short answer to a debate question is not going to do it. What we need is sustained questions by knowledgeable questioners, directed to each of the candidates for at least 1 hour. And ABC, on the spot, during that program, said, "We will offer 3 hours on ABC for the Presidential candidates if they accept this offer."

One of them accepted: Governor Clinton. I am told, although I have not seen the response of Mr. Perot, that there has been some form of response, but is has been described to me as "not comprehensible" as to exactly what it was. I do not think that the President has definitively answered the invitation as yet.

The following day in the Senate press gallery, another group of Senators, with some overlap, held a press conference, and we issued the text of this sense-of-the-Senate resolution as our manifesto about the problem of the budget deficit and about how it now stands and how it should stand in the Presidential campaign.

That group of Senators had been organized by Senator BOB GRAHAM, and it, too, consisted of Democrats and Republicans, and those Senators who were part of that press conference and who authored that declaration are the cosponsors of the resolution that is now before us.

Mr. President, one thing that we lack in public discourse in this country is sustained discussion on any subject at all. Issues tend to be boutique issues. They are here for a moment. They are temporary fads.

If we allow the budget deficit to be a mere boutique issue, then the candidates will do what they so desperately want to do, and that is dance around the budget deficit for yet another election.

It is because of that fear that some of us, Republicans and Democrats in the Senate, have taken it upon ourselves to be pains in the neck for the next 5 months, to keep on the question of the budget deficit until the candidates for the Presidency are shamed into talking about it and, furthermore, to hound this issue, harp on this issue, to the point where the media is shamed into covering it, because, just as candidates do not want to talk about the budget deficit, the media does not want to cover it. It is boring. The ratings go down. And I raised this issue with a couple of well-known media people before I raised it with Ted Koppel. They said, oh, nobody would watch such a program.

Whether people watch it or not, it is the media's obligation to cover it, not just to cover the latest scandal, not just to tell America what is happening within the British royal family, but to focus attention on the most serious issue that is before our country today, namely a $4 trillion national debt, a legacy of bankruptcy, which our generation is leaving for the generations that follow.

The point of this particular resolution is, frankly, to keep the issue alive, to indicate yet again what we indicated 2 weeks ago, and what we will be talking about over and over again for the next 5 months: the budget deficit, and the need to discuss the problem with the American people.

I do not know whether 100 Senators will end up voting for this on the theory that it is just a sense-of-the-Senate resolution. But I want to point out to the Senate that it is not intended to be just another sense-of-the-Senate resolution because of the color words and because of some of the conclusions that have been inserted in the amendment that is now before us. And I want to review these provisions with the Senate.

We say in this resolution that "it is the responsibility of candidates for President and for Congress to discuss the deficit." We say that "the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice."

We believe in the American people and we believe that if they are not flimflammed for yet another election they will decide what is right for their country and what is right for their children.

We say in this sense-of-the-Senate resolution that "the frequency and level of public comment on this issue by public officers and candidates, including those who hold and seek the office of the President, are"—and these are the words we use—"so insignificant as to constitute irresponsibility."

Now, that is a serious thing to vote on. That is a serious charge to make, and it is meant seriously. And we are going to vote on it because we claim that those who hold and seek the Office of President have made the issue of the budget deficit so insignificant as to constitute irresponsibility.

We say that "by and large, the candidates, Congress, and the media have"—and these are the words we use—"ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse."

This is what we are going to vote on. Granted, it is only language, it is only the sense of the Senate, but we are all going to make a record on whether or not we agree on this because there are people who run for public office, including people who run for the Presidency of the United States, who say to the American people that the problem with the budget is that there is waste in the budget and if we use businesslike practices and if we root out the waste in the budget then we will solve the budget problem; we will do it without anybody making any kind of real sacrifice because, as everybody knows, there is a pile of waste there somewhere or maybe a few piles of waste and if we have computers that work and we sit down with the right advisers, we can find all the waste, like the Grace Commission was supposed to do, and get rid of that, and we do not have to take any serious votes around here or make any serious decisions as a country, just get rid of the waste. And we say that approach ignores and trivializes the issue, that to suggest the budget deficit can be cured by solving the problem of waste ignores and trivializes the issue of the budget deficit.

Do you agree with that, I ask my colleagues, or do you not agree with that? Because if you believe that waste is the problem, if you believe that the golden fleece award is the solution, if you believe that all we have to do is to fix the problem of waste, then you should really vote against this resolution because you do not agree with it.

Then we say "the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending."

Now, I want to underscore that because this is a tough statement, and maybe everybody does not want to vote on this. Everybody who does vote on it, their opponents in the next election should be alerted: This is political dynamite; this is a statement that can be taken and put in the next 30-second commercial in the next campaign.

We say that "the existing reckless Federal fiscal policy cannot be addressed in any meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending."

It cannot be done, we say, without considering entitlements and taxes.

Now, Mr. President, I want to make this as clear as I can possibly make it. It is the position of the resolution that we are going to vote on that there is no possible way of dealing with the budget deficit in a responsible fashion without including consideration of entitlements and taxes.

It could be possible, I suppose, to deal with the budget deficit only by considering entitlements or only by considering taxes. But these are the big popular issues. This is what no candidate wants to talk about—entitlements and taxes.

And we say, in this resolution, you cannot do it without entitlements and taxes being part of the mix; without them being considered, it cannot be done.

So people say: Well, wait. We can fix waste; that will solve it. We say, no, it will not. People say: Well, the peace dividend, that will be enough. We say, no, it will not. As a matter of fact, any conceivable peace dividend that any halfway responsible person is considering will be used up twice over by the increased cost of health care to the Federal Government over the next 5 years.

If we are facing reality, we are either going to have to control entitlements—cap them somehow—or increase taxes, or some combination of the two. We are not going to get the job done without being either.

I would advise my colleagues to look at paragraph 5 in the findings of this resolution, because I say that it is the seeds of great political peril for anybody facing election.

Then we say: "To suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception. * * *" That is a pretty strong word to be voting on, to say that people who are just talking about waste or just talking about peace dividends or just talking about some way to resolve the budget deficit that does not call for some kind of sacrifice are enaged in deception; strong words. We mean it. We are going to be voting on it.

Then the resolution calls on: "public officials and candidates for public office to make proposals and engage in extensive and substantive discussion on reducing the deficit; the candidates for President to agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and it calls on "all candidates for office to affirm their support for this statement of principles and to resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit, if elected."

Mr. President, what is the solution to the present problem? We have the solution. This country is not doomed. This country does not have to go down the tubes. We are not doomed. We can fix this problem. And the people who are going to have to fix it are the American public at large, because we have certainly demonstrated around here that we are not going to volunteer for any solutions.

So it is time for the American public to be told the truth, so that at least they have the opportunity to vote on it. And the acid test question which will have to be asked of the three Presidential candidates, and which should be answered by them, is: Do you believe that we can deal responsibly with the Federal budget deficit without either capping entitlements or raising taxes, or a combination of the two? That is the question that has to be put repeatedly to the candidates. And then they answer the question, hopefully. And then the American people go to the polls and vote.

Now, how will they vote? I do not know. I know that I have confidence in the American people. I really believe they will do the right thing. I believe that they will follow a leader who tells the truth. I believe that they will follow a leader who says that we do have to make sacrifices; that it is not all going to be cutting waste; that it is not all going to be passing a balanced budget amendment to the Constitution; that there are real choices to be made, real sacrifices to be made; and that those sacrifices must include either entitlements or taxes or, I would suggest, a combination of the two.

I believe that is how the American people will resolve the issue. But I could be wrong. It may be that what has made us so timid around here proves to be the case: It may be that the American people will decide that any sacrifice is too great. It may be that the public will say any candidate who suggests controlling entitlements or raising taxes will be defeated. That may be the answer of the American people.

If so, at least it is an answer. At least it is not some false hope that has been extracted by deception from the public. It is a real answer that we do not want to make any sacrifices; that we want to pass the buck on to future generations.

If that is the answer, then our country will continue to decline. If that is the answer, we will become weaker and weaker and weaker. If that is the answer, our children and our grandchildren and generations to come will suffer the consequences of that decision. We will decide that we want to think for ourselves and of ourselves, and forget about America and forget about our kids. That may be at least a choice we make.

And if we make it, and people who have taken the opposite position lose the election, well, at least they go down with their flags flying; at least there is a little bit of pride in holding public office for a change. Maybe that is what we need—a little bit of pride.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I want to take this opportunity to commend my colleague from Missouri. Back in 1979, the first year that I entered the Senate, I participated in a group of weekly sessions called The Wednesday Group.

The Senator from Missouri has since that time participated each week with a group of us—20, 25 Senators—on the Republican side who get together each week to discuss matters on our minds. And it may range from the personal to the political, or indeed professional.

I recall one of those who made the greatest impression on me at that time was the Senator from Missouri. I recall him standing up at one time—we usually sit down to take the meals—but I recall him standing up, and with great passion announcing that the trouble with the Senate was that our lives were being consumed with detail, trivial detail.

Perhaps unbeknownst to him, he was paraphrasing Thoreau, who said:

> Our lives are, in fact, cluttered with detail. We must simplify, simplify.

But what the Senator said was that, rather than drawing bold strokes across the canvas of this country's agenda, we were something akin to a pointillist artist, putting every single dot on that canvas, filling it up, until finally some sort of pattern emerged; and that if we really wanted to measure up to the responsibilities that this job entails, we have to simplify our lives in the Senate and deal with bold issues, big issues, and not simply become ombudsmen or Willy Lomans, stuffing our bags every day and night and weekend, catching a plane to go home and coming back and beginning the process all over again, without having to accomplish very much, other than to make more work for ourselves, which will then repeat itself in an unending process.

Those words stayed with me. I wrote them down, in fact, printed them in a Journal that I kept that year. Here we are in 1992, and the Senator from Missouri, who has really taken the center stage on a number of major issues, is, once again, ringing the fire bells, alerting all of us as to the danger that we face.

I was interested to hear him say that Ted Koppel did not believe that anyone would have any interest in a program devoted to Presidential candidates discussing the deficit. Perhaps if they labeled it "Child Abuse," and called the program "An Hour Devoted to the Discussion of Child Abuse," perhaps we would have quite a viewing audience, because what we have been engaged in is nothing short of fiscal child abuse. What the Senator from Missouri has suggested is that we are abusing our children. We are beating them into the ground in the future, so that their futures will be bruised and battered and they will not enjoy the quality of life that we currently enjoy or have enjoyed in years past.

So, perhaps we ought to label this discussion an informational guide into the processes, the thoughts, the programs, the policies that the Presidential candidates will offer to the American people in dealing with what Senator DANFORTH rightly calls the most pressing issue in the country.

With respect to his suggestion that this is going to be difficult, I call my colleagues' attention to an article that appears in this week's time magazine. It is written by Stanley Cloud for Time. It has in bold print the caption "The Federal Deficit—Everybody knows how to stop the Niagara of red ink, but most politicians lack the courage to do it, including Bush, Clinton, and Perot."

One of the quotes indicates: "Bush hopes to deal with the deficit by blaming Congress, Clinton has yet to offer a persuasive plan, and Perot doesn't seem to have a clue, beyond comparing the deficit to 'a crazy aunt that we won't take out of the basement.'" Again, pretty harsh words coming from Mr. Cloud.

But the fact of the matter is that we have to start a debate not only at the Presidential level—and that is why I joined with Senator GRAHAM, of Florida, and Senator DANFORTH, of Missouri, and others to include Members of Congress as well. The Senator from Florida, during our press conference, talked about the need for the beginning of political honesty.

At that time I suggested it was also, hopefully, an end to political hypocrisy on our part as well. This is something that we tend to avoid time after time. Each year the President of the United States submits a budget, he makes a

State of the Union presentation, we all rush out into the arms of the press corps who say, What do you think? And invariably we will say, The President proposes but Congress disposes. We will decide exactly how to allocate the resources of this country. We are the ones who do the appropriations.

So now the time has come for us to stand up also, as well as the Presidential candidates, during an extended—not debate, not sound bite, not even call-in programs would be sufficient—but an extended opportunity to respond to, hopefully, penetrating questions, incisive and insightful questions posed by two of our colleagues or someone, perhaps, of comparable ability. We have an obligation to stand on the floor during the rest of this 5-month period and also explain to the American people what we would do.

Senator DANFORTH indicated that people may lose. Last week a moderate Republican who was running for a congressional seat in Maine announced that he would support something in the nature of what the Senator from Missouri and the Senator from Florida have offered—namely, everything being on the table, restrictions in the growth of entitlements, even higher taxes might be included. And he was defeated. He was defeated by another challenger in the primary.

It was interesting to see the reaction, because all of the political pundits, as such, the armchair analysts sitting at their computers, ridiculed the political gaff that he had made. How could he be so foolish, so stupid to have talked about entitlements at a time when he is in a political race? So they pointed to that as his fatal flaw—or one of his fatal flaws, there may have been others. So the press seems to focus upon the weakness rather than the strength of what he was trying to display.

Mr. President, I think undoubtedly a number of people in this Chamber who support this resolution and who, in fact, vote to sustain the contents of the resolution, not just by passing empty resolutions but by votes consistent with the resolution, are going to lose their seats. And that is, perhaps, as it should be. If the only goal of the captain were to save his ship, he would never leave port. We have to take some risks in this country and in this Congress and, particularly, right here in the Senate. Those of us who are joining in support of the resolution are going to be held accountable. And if our constituents feel they do not want to support us in the future, so be it, because too much of our time has been consumed with simply staying in office, going through whatever has to be done in order to reaffirm our positions, to make new friends, sustain old friends, make fewer enemies. And then the bill keeps going on and on.

I see the Senator from South Carolina is here. He has spoken on many occasions on this issue and offered a number of proposals that have not always been supported by many of his colleagues.

I see there is some anxiety on the part of my colleagues to want to conclude this debate. Perhaps others want to participate in it.

But I want to quote again from the Time Magazine article.

The article points out:

> The real question is whether Americans want their Federal Government to work better or, in effect, to go out of business. If they choose the former, those overdue bills from the eighties must be paid. If they favor the latter, they should stay on the present course.

Mr. President, if we stay on the present course, we are destined to bankrupt this country. We are destined to create a crisis that will afflict us for years to come. We have the opportunity and the obligation not only to point fingers at the Presidential candidates but to point fingers at ourselves and accept a coequal measure of the responsibility for resolving the deficit problem, not only by passing balanced budget amendments, but by actually voting to achieve the kind of reductions that are going to be necessary to rescue this country from fiscal bankruptcy.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me in a peripheral way join in the discussion. I was instigated to do so when I heard my distinguished colleague from Missouri who was concluding his remarks as I walked back into the office. The Senator from Missouri was talking about a lack of pride. I know the Senator from Missouri. I know he is dead serious. I wanted to join in those comments.

Now that I get to the floor, I understand there is a resolution urging the President and the candidates to all come and say what they are supposed to do about the deficit.

Let me not comment on that for a second. Let me make clear the pride I have brought to my service in public office and the dismay and the disdain and the disgust I have felt for the past 12 years. I want to go back for a minute. I could see this 12 years ago when we started with what President Bush called voodoo economics. I recognized where we were headed and on the floor some 10 years ago I recommended a budget freeze, and did it for each of the next 4 years. When that did not work, then I went with Gramm-Rudman-Hollings to cut across the board.

In the 1990 summit, four of the six sponsors of this resolution voted to repeal what they now ask for—namely a plan to eliminate the deficit, namely another Gramm-Rudman-Hollings. They agreed to abolish Gramm-Rudman-Hollings. They disabled it with that summit agreement. The summit agreement of year before last, 1990, did away with the meat of the coconut. I remember my friend Fritz Mondale said, "Where's the beef?" The beef was in the Gramm-Rudman-Hollings targets, and once you did away with the targets, and there were no cuts across the board, there were no sequesters for not meeting the targets. Instead, they talked about nebulous savings. Of course, you know the old joke about the woman who comes home with a new dress and her husband says, "That is a beautiful dress, how much was that?" "$149?" He says, "$149?" She said, "Yes, it was on the rack for $449. I saved 300 bucks."

We have been through that and now we have that going on in Government. We had a plan that was effective, was working until they veritably repealed it, and now they all run around in a circle asking for a plan.

Let us go to the distinguished Senator from Missouri saying, let us get real and let us start right here and not wait for candidates. I am not interested in waiting for the candidates to say what they are going to do—we have the responsibility. Like the distinguished former Senator from Connecticut, now Governor, said, it is just like the football team running up into the grandstand, saying we want a touchdown, we want a touchdown and all they have to do is get back down on the field and score the blooming thing.

Who is kidding whom? That is our problem in the U.S. Government. They talk about the anger and frustration. I have been angry and frustrated. That is why I joined in the constitutional amendment for a balanced budget because, as Jefferson said, a sound economy is first and foremost among our values, and public debt is the greatest danger of all. And paraphrasing President Roosevelt, the greatest thing we have to fear is fear itself; the greatest thing we have to fear is a lack of fear of deficits in this Government of ours.

We have been buying the vote with deficits. Everybody is talking about campaign financing. They say they oppose public financing of the campaigns, but that is all we have been doing. Those same people are for every program and then when it comes to pay for it, they say the Devil take the hindmost, let's just put it off budget. I've led the fight on that, too. What we need is an honest budget.

I have proposed freezes, I have supported rescissions, and I was an author of Gramm-Rudman-Hollings. What we really need is leadership from the President, not the statement he made in the State of the Union that we are going in the right direction.

I have been a Governor. I know good and well I would never have gotten our triple A credit rating by saying I am waiting for the legislature, in this case the Congress, to lead the way. It is not an easy stand but it is a stand to be taken by the Chief Executive. How in the world can we get anything going when the Chief Executive says it is not needed?

Just ahead of this time last year the President of the United States stood before the American public at a joint session of Congress and said, "We are headed in the right direction; we are reducing the deficit $500 billion in 5 years."

On the contrary, we are headed in the wrong direction, increasing the deficit $500 billion this year.

Sound fiscal policy is not a spectator sport. The President has to make up his mind. On that particular point 4 years ago, I had a session with the distinguished Director of the Office of Management and Budget, because I have an affection for him. I knew his father. I said to Dick Darman, the Director, Dick, we have to get ahold of ourselves and the President has to do it. He said, yes, the President says read my lips. I said we have to work our way out of that, and a good way to do that is to come to the Congress and say, look, I have the responsibility but you folks over there have to give me the authority. I need a line-item veto. We have to quit playing games and sending over an ultimatum in the form of a continuing resolution and saying sign it or shut down the Government.

So Mr. Darman talked to the President, and I have a good, pleasant note of thanks from President Bush, but he determined not to do it. I said at the time, this thing is going to get worse and worse. If you do not bite the bullet at the beginning of your term, by 1992 you will really need the Secret Service. Now we are in that kind of soup and it is like tying two cats by the tails and throwing them over the clothesline, everybody is clawing each other.

Why are we worried about what the Presidential candidates should do? I am worried like the Senator from Missouri about my responsibility in the Government. I asked to serve, they gave me the chance. Last November is when Representative NEWT GINGRICH was saying why wait until February to get a plan from the President. I agreed with him. I put a plan in the RECORD. I have one now. It proposes cuts in some places and freezes in others. And it stimulates the economy, both the private and the public sectors, without increasing taxes and without increasing the deficit.

But we have not been able to get President Bush's leadership on it, and you are not going to be able to get Congress together when the President is saying we do not need it.

But if the Senator from Missouri and others want to get real, and I think they do, I will join in and we will go to work. There is no use in starting like they did at the beginning of the year about entitlements. This is an election year and these entitlements—you can go right on down the list—are not going to be cut. There is no use in wasting each other's time. But if we can use an approach of spending cuts across the board of the bureaucracy, President Bush's defense cuts, freezing spending otherwise and take the billions saved and put them to work stimulating the economy, then we can get this country moving so that we can lay the foundation for moving to a balanced budget.

The best plan for industry in this country is to tackle the deficit head on. You can put in 15 bills around here trying to give industry a chance—jobs, jobs, jobs, and put in jobs bills. But there is no better tonic, no better way to create jobs than to get this economy back on the right track.

Back 2 years ago with the summit agreement—that was our undoing. It repealed the only plan that has worked—Gramm-Rudman-Hollings. It was working, it was requiring tough decisions.

But they did not want to admit to it. They did not want to conform with it. When they came and put in the mushy concept of savings and eliminated the hard targets, they did away with the plan. I am tired of hearing that expression, Gramm-Rudman-Hollings did not work. Nonsense. They know it was working. It was no sweetheart deal. On the contrary it was a real plan and that is why they got to gather and repealed it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

Mr. President, there is no guarantee that because a nation has lived a history of greatness, as has ours, such greatness is assured for the future.

At the beginning of this century, there was a country with tremendous assets. It was a country which had some of the most fertile land in the word. It was rich in natural resources. It has a growing, cultured, and educated population. It was a nation which at that point had one of the largest per capita gross national products in the world. It was a nation which many people thought would be a contender for world leadership in the 20th century.

Mr. President, it is a nation today which has fallen into the middle numbers of the nations of the world in terms of its per capita gross national product. It is a nation which has been through extreme economic trauma. It is a nation which has squandered much of its potential. It is a nation which today is attempting to regain the opportunities which were seen for it 100 years ago. That nation is Argentina.

I find in the experience of that nation a very instructive lesson for the United States of America, that just because we have experienced greatness and today stand as the unrivaled military power in the world and the world's largest economy is no assurance our grandchildren will live in a similar America.

Mr. President, I would like to share a family's history of what we have done to this Nation.

My father was born in 1885. To that year, having fought a great Civil War, having fought wars of independence, starting the process of developing the great empire of this continent, we had developed in almost 100 years of nationhood a national debt of $1.6 billion.

I was born in 1936. In that intervening 51 years we fought a world war. We were in the midst of our Nation's greatest economic depression. In 1936, the national debt of the United States was $33.6 billion.

In 1963, my first child was born. When Gwen came into this world, we had fought the Second World War. We were at the beginning of our great efforts at the exploration of space. America had become a world superpower, and we had developed a national debt of $310.3 billion.

In 1990, my first grandchild was born Sarah Logan. When Sarah came into this world, the national debt was $3.2 trillion. Let me contrast it. When her mother was born, it was $310 billion. When Sarah was born, it was $3.2 trillion.

When Sarah's first cousin, my second grandchild, was born in January of this year, the national debt was $4 trillion. That is what has happened to this Nation over four generations of one American family.

Mr. President, I believe those statistics are a path to Argentina. I also believe there is a way to divert from that path, and it is not a new, it is not an innovative, it is not a novel solution. It is a solution as old as the Founders of this country. It is a solution which has been restated by the great leaders of our country.

One of those great leaders was a citizen of Senator DANFORTH'S State, Harry Truman. Harry Truman believed in the philosophy that if you tell the American people the truth, they will make the right decision.

I believe we are at that point today; that we need to tell the American people the truth, and that they will make the right decision—1992 is a year that should be thought of as a referendum for the people of America of our collective national future; that it should be the time national political candidates, the Congress, the Senate, and particularly the President of the United States, deal with the American people with honesty, with a statement of the clear alternatives which are available to us, with a call for a fair, shared sacrifice in terms of dealing with the national budget deficit. I believe that if they do so, Mr. President, they will receive from the American people a mandate for responsible action.

Mr. President, I believe part of that honesty is going to be that there will be no simple answers, no painless solutions. In the resolution which I strongly support today, Mr. President, this statement appears:

> The existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes as well as reducing defense and domestic spending.

Mr. President, there are those who would lead us to believe there may be simple solutions. I was on a radio talk show in Tampa, FL, recently and a caller asked: "Could we not solve the Federal budget deficit by eliminating foreign aid, striking that from our expenditures?"

Were it true. Mr. President, the fact is that foreign aid represents about 1 percent of our total Federal expenditures. If we were to strike it in totality, we would still have a budget deficit in excess of $380 billion. That is the extent of the problem we face.

But this is not all just pain and suffering. The American people understand that there are some very rewarding benefits of dealing in a constructive, shared-sacrificed manner with the Federal budget deficit. If we can bring this deficit under control, we will get the benefits of a stronger and more sustained economy, the jobs that will be created by the increased confidence that we will have, the ability as a Nation to do some of the great things in our generation which have characterized the growth of America over the past 200 years.

Those are all of the opportunities which lie on the other side of dealing with this fundamental domestic priority of restraining the Federal budget deficit's growth and moving as rapidly as possible toward a balanced Federal budget.

Mr. President, I for one believe that there are some very simple elements in this complex plan. Those are the reduction of Federal spending, defense and domestic, increasing revenues, controlling health care cost—when we talk about entitlements, the fundamental factor driving the increase in entitlement costs to the Federal Government is the increasing cost of health care—and, finally, strategies which will encourage strong economic growth.

Those are, I believe, the elements which should be presented to the American people in specific detail by candidates for office at all levels.

I am particularly pleased that the American Broadcasting Corp. has agreed to provide 1 hour for each of the Presidential candidates on this single subject of what their leadership would be on reducing the Federal budget deficit. I am pleased that two of our colleagues, Senator RUDMAN and Senator CONRAD, will be the questioners, will be those probing behind the cliches for the in-depth analysis and options the American people are seeking.

I realize this is risky. It is always a risk to place your faith in the American people. They may choose, as Senator DANFORTH suggested, to continue the current policy. It has certainly been a joyful period as we have taken out our credit card, have enjoyed the feast, and said: "Let our grandchildren pay for it."

Maybe that is what the American people would like to do for the indefinite future or at least until such time as finally we face that ultimate collapse. I do not believe that we are on the road to Argentina, Mr. President. I believe that this generation of Americans, as our parents and grandparents, are prepared to adopt a program of fair shared sacrifice in order to meet our generation's responsibilities.

This resolution will give them that opportunity. It will call upon the candidate for the President of the United States to state what their proposals will be to lead this Nation and then to give the American people the chance to make an informed, definitive choice. I believe that our Government of, by, and for the people will be ready in this generation as it has in the past to meet its obligations and to prepare us for a future of responsibility and continued expansion of opportunities and prosperity.

Thank you, Mr. President.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2426, AS MODIFIED

Mr. DANFORTH. Mr. President, because there were some minor flaws in the amendment that was sent to the desk, really dealing with the flow of the amendment, and not with anything of substance at all, I send a modification of the amendment to the desk. I ask that it be considered in lieu of the——

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, add the following:

The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans;

(3) the national interest in controlling the deficit takes precedence over partisan advantage;

(4) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country are to be effectively and honestly addressed;

(5) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice;

(6) the frequency and level of public comment on this issue by public officers and candidates, including those who hold and seek the office of the President, are so insignificant as to constitute irresponsibility;

(7) by and large, the candidates, Congress, and the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse;

(8) entitlement and interest spending are the fastest growing components of the Federal budget and are at an all-time high;

(9) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(10) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(11) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people:

It is the sense of the Senate that—

(1) public officials and candidates for public office should make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office should affirm their support for this statement of principles and should resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit if elected.

Mr. DANFORTH. Mr. President, it is my understanding that leadership has taken the position that this is an issue that will be voted on tomorrow, probably tomorrow afternoon, because of Mr. Yeltsin's presence. I think that is good because it will then be printed in the RECORD and all Senators will have ample time to consider it.

They will have opportunities to offer amendments to this resolution, or to vote against it or to figure out reasons why they should vote for it or against it in the intervening hours.

So I welcome the opportunity to put this over. I would simply say to Members of the Senate that if you do not want to criticize the likely Presidential nominee of your party, I would suggest voting against this amendment because the amendment is very sharply critical and is intended to be very critical of the three likely nominees on how they have handled or failed to handle the issue of the budget deficit.

I would say to Members of the Senate that if you believe that the way to address the budget deficit is by cutting out waste, fraud, and abuse, that is your answer to your constituents, and you think that is a sufficient answer, then you really should give very serious consideration between now and tomorrow afternoon as to how to handle this because this amendment flatly says that the budget deficit is not going to be addressed in any satisfactory way by cutting out waste, fraud, and abuse.

If you do not accept the premise that we are either going to have to increase taxes or control entitlement programs in order to deal with the budget deficit, then you should vote against this amendment.

I believe that many candidates for public office have been going to their constituents saying all we have to do is pass the balanced budget amendment, and I have supported that concept myself. I believe that people have gone to their constituents and said all we have to do is cut out waste, fraud, and abuse and everybody is for cutting out waste, fraud, and abuse. But I think people have said that that is all we have to do.

What this resolution says—and will put Senators on record as saying—is that we are not going to get the job done without including either or, taxes or control of entitlement programs. It is just not going to be possible, mathematically not possible, unless we do one of those two things or a combination of the two.

So I welcome the postponement of this vote, and the modification has been sent to the desk, and all Senators are on notice. It will be printed in the RECORD. All the interest groups are welcome to look at it. All the organizations that say do not cut my group, all of them will have the opportunity to look at this, and then to weigh-in tomorrow. Maybe they will.

Then we will vote on it tomorrow and decide where we go from here.

I would simply say in closing that this is not the first time that this issue has been raised on the floor of the Senate, and it sure is not the last time because between now and the election there are going to be Senators on both sides of this aisle who are going to continue to harass the Presidential nominees on the question of the budget deficit, and say to the Presidential nominees why do you not tell it to us straight? Maybe if we do enough harassment and enough hounding, they will do just that.

Mr. LEVIN. Mr. President, I am wondering if the Senator from Missouri understands there would be an additional period of debate on our resolution before the vote tomorrow? Has that been worked out?

Mr. DANFORTH. Yes. That is my understanding. I do not know how many Senators will want to use it, and maybe no Senator will want to use that period tomorrow. But I do want there to be an opportunity for people to think about it and to address it, and if they want to change it, if people want to come to the floor and say we do not have to deal with entitlements or we do not have to deal with taxes, let them offer their amendments. And if they do not want to offer their amendments, then vote for it one way or another.

Mr. LEVIN. I hope if we are not voting on this tonight—that is the decision of leadership—that there not be a vote on this resolution tonight, that prior to the vote on it tomorrow afternoon, that there be an opportunity for us to debate it because I happen to agree with my friend from Missouri.

This represents a commitment, not only on our part. We are asking the Presidential candidates to commit themselves to seriously address an issue, and it is not going to stop with the adoption of this resolution. This resolution will be thrust in front of the Presidential candidates regularly in this campaign until they agree to address in a serious and formal way the issues of this deficit.

My friend from Missouri has put his finger on a very important point. The language of this resolution is tough. Let no one vote for it misunderstanding what it says. It says that the existing reckless Federal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending.

So we have a very straightforward, tough agenda that we have committed ourselves to on a bipartisan basis. The adoption of this resolution tomorrow hopefully will force this issue in a Presidential campaign because without Presidential leadership, without this being an issue in the campaign, and without there being a mandate from the public to do this, it is not going to get done.

So I thank my friend from Missouri and our colleague from Florida.

APPROPRIATED FUNDS FOR THE MISSISSIPPI SIOUX INDIANS—VETO MESSAGE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the veto message on S. 2342 be considered as having been read and that it be printed in the RECORD and spread in full upon the Journal and laid aside, and that the majority leader, after consultation with the Republican leader, may turn to its consideration at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am returning herewith without my approval S. 2342. This bill would waive the 6-year statute of limitations, allowing three Sioux Indian tribes—the Sisseton-Wahpeton Sioux Tribe, the Devils Lake Sioux Tribe, and the Sisseton-Wahpeton Council of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation—to bring an otherwise time-barred challenge to the 1972 Mississippi Sioux Indian Judgment Fund Act.

The 1972 Act apportioned to each of the three Tribes, and to a then-undetermined class of Sioux Indians who are not members of those Tribes, a percentage share of the proceeds from a 1967 judgment against the United States. The judgment rested on a finding that the United States had not paid adequate compensation to the Tribes in the 1860's for lands ceded to the United States. The nonmember Indians are persons who are not now eligible for membership in any of the three Tribes, but who can trace their lineal ancestry to someone who was once a tribal member.

The Tribes were active participants in the administrative and legislative process leading to the 1972 Act, and they endorsed the Act and its distribution of the judgment. Nonetheless, in 1987, 15 years after enactment and 9 years after the statute of limitations had run, the Tribes sued the United States, challenging the Act's distribution to the nonmembers. The U.S. Court of Appeals for the Ninth Circuit affirmed a lower court's decision to dismiss the case, finding no excuse—legal, equitable, or otherwise—for the Tribes' failure to challenge the 1972 Act in a timely fashion, and the U.S. Supreme Court declined to review the Ninth Circuit's decision. *Sisseton-Wahpeton Sioux Tribe, et al.* v. *United States*, 895 F.2d 588 (9th Cir. 1990), *cert. denied*, ——— U.S. ———, 11 S. Ct. 75 (1990).

I find no extraordinary circumstances or equities to justify an exception to the long-standing policy of the executive branch, which my Administration fully embraces, against *ad hoc* statute of limitations waivers and similar special relief bills. Also, there must be some definite, limited time during which the Government must be prepared to defend itself, and some finality to the pronouncements of the courts, the Congress, and the agencies.

Moreover, a waiver for the Tribes in this case would mean the waste of the considerable judicial and litigation resources that were expended in bringing the case to final resolution, and would require additional litigation that would otherwise be avoided. Thus, enactment of this bill would be inconsistent with Executive Order No. 12778 of October 23, 1991, which embodies my resolve to eliminate unnecessary, wasteful litigation.

In addition, I am concerned that enactment of this bill would be unfair to other tribes, and would serve as a highly undesirable and potentially expensive precedent. Many other tribes were the recipients of settlement fund distributions, and many distributions, like the one challenged by the Tribes here, included payments to nonmember Indians. Some of those tribes doubtless are dissatisfied with the terms of their distribution, but they are barred from a challenge by the statute of limitations. Numerous other Indian claims, totaling hundreds of millions of dollars, have been dismissed on statute of limitations or other jurisdictional grounds. In both categories of cases, tribes could rightfully claim that for purposes of fair treatment, they, too, should be allowed by the Congress to litigate the merits of their claims.

I note that S. 2342 received little, if any, consideration by the House of Representatives prior to its passage by that body. Instead, the bill was discharged from committee without hearings and brought immediately to the House floor. Had there been a full review of this proposal, I am confident that the outcome would have been different.

For these reasons, I cannot approve S. 2342.

GEORGE BUSH.

THE WHITE HOUSE, *June 16, 1992.*

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I see that the Republican leader is on the floor. I heard the comment of the Senator from Michigan saying that if we are going to vote on this amendment this evening—which I assume is based upon a statement by the Senator from Missouri that we are not going to vote on this amendment this evening; that is the first I heard of it. I do not know why we cannot vote on this amendment this evening.

Mr. DANFORTH. Mr. President, I was asked by our Cloakroom—in fact, I was told by our Cloakroom there was a problem on this side in voting on it tonight, and I was asked whether I would agree to putting it off until tomorrow afternoon, and my response was, yes, I would agree to that; and then, on reflection, it seems to me that it is a good idea to vote on it tomorrow, to give Senators a chance to reflect on it. This is a serious matter—the budget deficit.

Obviously, the Presidential candidates do not want to talk about it. This is tough language in this particular resolution, and I think that Senators are going to be on the spot if they vote for it. They are going to be criticized by opponents in the election, because this talks about entitlements and about raising taxes.

So when I was asked by our Cloakroom whether I would agree to put it off until tomorrow, I said, sure, not only to accommodate the Senator who was not able to be here, but also for the sake of giving Senators the opportunity to reflect on it, so that they could not claim that somehow they were blindsided by something that they considered to be a minor matter.

Mr. MITCHELL. Well, Mr. President, I appreciate the Senator's consideration of the request of his Cloakroom. But I have the responsibility for managing the affairs of the Senate, and we cannot have 100 Senators deciding when a vote may or may not occur. I appreciate the importance of this Senator's amendment. He recognizes that it has nothing to do with the bill, and we are trying to pass this bill. Any Senator can offer an amendment at any time he or she wants, and any Senator can delay proceedings so as to make it not possible to get to a vote. But I request of the Senator the courtesy, henceforth, before making public announcements of when votes may or may not occur, and to at least do me the courtesy of notifying me or giving me some notice so that I have some awareness of what is occurring.

Mr. DANFORTH. Mr. President, may I ask the majority leader, does he believe that the Senator from Missouri was in any way discourteous to him?

Mr. MITCHELL. Not at all.

Mr. DANFORTH. What announcement does the majority leader think the Senator from Missouri made?

Mr. MITCHELL. The Senator from Missouri just indicated that he announced that the vote on his amendment would occur tomorrow.

Mr. DANFORTH. I did not say any such thing. I said the inquiry was made to me by my Cloakroom, would I agree that the vote take place tomorrow, not today, and my response to that was, yes, I would agree to that. It is not the business of the Senator from Missouri to take over the majority leader's vote, and I have never intended to do that. And the Senator from Missouri is hardly a Senator who stands on the floor of the Senate and tries to obstruct business, or tries to impede the work of the Senate, or of the majority leader.

When I am asked a question as to what my preference is for a vote and I say I am perfectly happy to accommodate anybody, and then further say if that is the position of the Senate, that we are going to be voting tomorrow afternoon, that was not my decision. But what I did say was I think that is a splendid idea if that is the view of the Senate, if people want to put off the vote. My understanding is that that was the leadership's view.

Mr. MITCHELL. Mr. President, I will say that I am the majority leader, and it was not my view. The first I heard about it was after the Senator from Missouri had stated it.

Mr. DANFORTH. Mr. President, I did not state that. I did not state that. I stated exactly what I have represented in the Senate.

Mr. MITCHELL. The record will speak for itself.

Mr. DANFORTH. I was approached by the Republican Cloakroom and asked what my view was about the scheduling of the vote. I said I did not have any problem with putting the vote off until tomorrow. That is my view.

Mr. COATS addressed the Chair.

Mr. MITCHELL. The record will speak for itself, Mr. President. I yield to the Senator from Indiana.

Mr. COATS. Mr. President, perhaps I can shed a little light on this. I, earlier today—actually yesterday, I contacted the Republican Cloakroom, indicating that the Indiana State Republican Convention was tomorrow, and I was designated to be the keynote speaker for that convention tomorrow morning. I indicated to the Cloakroom that if it was possible not to have votes until 3 o'clock, I would appreciate it. That is when I scheduled the very first plane back that I could.

I did not ask that the Senate adjust its schedule simply to accommodate this Senator from Indiana. I will be traveling to Indiana early tomorrow morning, and I will be back as soon as possible. I made a request that Senators from time to time make, that, if it is possible, a vote be scheduled after a certain reasonable time; and frequently we do not vote here until late in the afternoon or early evening, and that I would appreciate that if that could be accommodated. I appreciate the Senator from Missouri taking up that request and simply indicating that it would be his preference that the vote on this matter be after 3 o'clock.

Having said that, I simply want to say that I think whenever the will of the body is that the votes be scheduled, they ought to be scheduled. I have been one of those who complain that we do nothing all day and sit around at night and postpone all of our votes. I do not think the Senate should be held up to accommodate this Senator. I had to make a decision about my travel plans. If the vote fell after a certain time, fine; if it did not, I would accept the consequences.

Having said that, however, the Senator from Missouri has raised a very important amendment, and I, for one, as a Senator, do not feel this is something that I should, with no time to examine the amendment, to reflect on the amendment, rush down here and vote on the amendment, which has enormous consequences, both political and from a policy standpoint, without some adequate time to debate this.

I assume that many other Senators feel very much the same way. So if we are going to go forward with this amendment that has been offered, this Senator, for one, would like to speak on that amendment. I will stay here as late as necessary this evening to do it. Obviously, I cannot during the day tomorrow.

But I think the amendment the Senator has offered is a very, very significant amendment, and I think it would be wrong for us to simply rush this to a vote. Most Senators probably are not even aware at this particular point that this amendment is on the floor. If they are, they certainly are not aware of the details of the amendment.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I am prepared to vote right now on the amendment. It seems the Senator from Indiana wants time to focus on it.

I think the record will reflect that we tried to accommodate the majority leader today. We did get all the holds off the bill, to get it on the floor and move very quickly.

It was my hope we might have disposed of the entire bill by this time. There are a number of us who are supposed to be somewhere else in about 30 minutes.

In any event, as I understand, the majority leader would like to ask consent that we dispose of certain amendments that have been agreed to and that this vote occur at 10 o'clock in the morning. Is that my understanding?

Mr. MITCHELL. That was to be my request.

Originally, I had been advised that the staff and managers had reached an agreement, or were close to an agreement, on limiting and identifying the amendments to the bill in a way that would permit us to complete action on the bill. I do not know whether that is now going to be possible.

I understood that perhaps some objection had come up to that later, and if we can get an agreement to debate this bill and the Senator from Indiana would like to stay, I will stay in session here until midnight for anybody who wants to debate this bill.

Then I would like to have a vote on it, if we could, in the morning, and hopefully try to get this agreement to wrap up action on this bill tomorrow. I do not want to inconvenience the Senator from Indiana, or any other Senator.

Here is the situation: We had no votes on Monday; no votes prior to 2:15 on Tuesday. We were requested to have no votes after 6:30 on Tuesday; no votes until 3 o'clock on Wednesday; and then, of course, nobody wants to vote on Friday. And about 1 o'clock Thursday afternoon, we will get a large number of those who say there will be no votes after that time.

With 100 Senators, of course, it is impossible to accommodate everybody's requests and get anything done. So I tried to proceed in a way that will enable us to get this done, and I am grateful to the Republican leader for working it out so we can complete action on this bill. It is a bill that really should not require a lengthy period of time for the Senate's consideration.

I agree on the gravity of the subject matter of the amendment now pending. Obviously, that amendment could be offered to any bill at any time, with any amount of debate on it.

There just is not any way for the Senate to conduct any business and accommodate the schedules of every single Senator. And there is only one way that the schedule can be set, and that is by the majority leader in consultation with the Republican leader.

Mr. President, I yield the floor, and I will now see if we can work this out in a manner that is agreeable. I invite those Senators who want to debate this amendment to proceed to do so.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, a few minutes ago I had a colloquy with the majority leader on the subject of what, if anything, I had said that could be taken as an interference with the prerogatives of the majority leader. I now have a transcript of the RECORD, and I will simply read it in its relevant parts.

> Mr. DANFORTH. Mr. President, it is my understanding that leadership has taken the position that this is an issue that will be voted on tomorrow, probably tomorrow afternoon, because of Mr. Yeltsin's presence. I think that is good because it will then be printed in the RECORD and all Senators will have ample time to consider it.
>
> They will have opportunities to offer amendments to this resolution, or to vote against it or to figure out reasons why they should vote for it or against it in the intervening hours.
>
> So I welcome the opportunity to put this over.

Then I go on to talk more generally about the amendment. And then I further say:

> So I welcome the postponement of this vote, and the modification has been sent to the desk, and all Senators are on notice. It will be printed in the RECORD. All the interest groups are welcome to look at it. All the organizations that say do not cut my group, all of them will have the opportunity to look at this, and then to weigh-in tomorrow. Maybe they will.
>
> Then we will vote on it tomorrow and decide where we go from here.

And then Senator LEVIN was on the floor and the transcript continues:

> Mr. LEVIN. Mr. President, I am wondering if the Senator from Missouri understands there would be an additional period of debate on our resolution before the vote tomorrow? Has that been worked out?
>
> Mr. DANFORTH. Yes. That is my understanding. I do not know how many Senators will want to use it, and maybe no Senator will want to use that period tomorrow. But I do want there to be an opportunity for people to think about it and to address it, and if they want to change it, if people want to come to the floor and say we do not have to deal with entitlements or we do not have to deal with taxes, let them offer their amendments. And if they do not want to offer their amendments, then vote for it one way or another.
>
> Mr. LEVIN. I hope if we are not voting on this tonight—that is the decision of leadership—that there not be a vote on this resolution tonight, that prior to the vote on it tomorrow afternoon, that there be an opportunity for us to debate it because I happen to agree with my friend from Missouri.
>
> This represents a commitment, not only on our part.

I think, Mr. president, that that is a reading of the relevant portions of the RECORD and, as the majority leader pointed out, the RECORD speaks for itself.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 60 minutes remaining for debate on the bill and committee substitute, inclusive, with the time divided as follows: 20 minutes each for Senators HEFLIN, GRASSLEY, and METZENBAUM; that the pending Danforth amendment be temporarily laid aside; that the only amendments remaining in order to this bill be the following and considered in the order listed: A Graham-Packwood amendment, No. 2425, to which Senator GRAHAM will offer a modification, with 10 minutes equally divided; a Sanford amendment regarding section 206, with 40 minutes equally divided; a Sanford amendment regarding section 205, with 40 minutes equally divided; a Sanford amendment regarding chapter 11, with 40 minutes equally divided; and a Sanford amendment regarding section 1121 and section 1125 with 40 minutes equally divided; that all of the Sanford amendments be subject to relevant second-degree amendments, and Heflin amendments to strike section 206(g)(9) and to make a technical correction with 10 minutes equally divided; that upon disposition of these amendments, the Senate return to consideration of the Danforth amendment; that there be 1 hour for debate remaining on the amendment with the time equally divided and controlled between Senators DANFORTH and HEFLIN; that the Danforth amendment be subject to relevant second-degree amendments with the same time limitation on the second degree; that upon the conclusion or yielding back of time on the Danforth amendment and the second-degree amendment, if offered, the Senate proceed to vote on the amendment as amended, if amended; vote on the committee substitute amendment as amended, read the bill for the third time, and vote on final passage of the bill, with all of the above occurring without any intervening action or debate; that no motion to recommit be in order and that all time be controlled in the usual form; and further, that upon disposition of S. 1985, the Senate then proceed to the consideration of Calendar No. 464, S. 2733, the GSE bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, the unanimous-consent request as propounded by the majority leader is agreed to.

Mr. MITCHELL. Mr. President, I ask that the agreement just approved be modified so that my reference to the fourth Sanford amendment, which read "regarding section 1121 and section 1125" be changed to now read "regarding chapter 11."

The PRESIDING OFFICER. Without objection, the unanimous-consent agreement heretofore agreed to will be modified as outlined by the majority leader.

Mr. MITCHELL. Mr. President, for the information of Senators, in an effort to proceed on this matter and to accommodate the many conflicting schedule demands on Senators, it is now my intention that the Senate will return to consideration of this bill at 9:15 a.m.; that if the Senate is able to dispose of all of the amendments that are related to the bill—those are all amendments other than the Danforth amendment—prior to 10:40 a.m., at which time the Senate will be assembling to go to the House Chamber to participate in a joint meeting to hear an address by President Yeltsin. If that occurs, and that would obviously require that the managers would be able to work out with Senator SANFORD disposition of one or more of his amendments, but if that does occur and those amendments are completed, it is my intention that I would then ask consent to stack those votes to occur not earlier than 3:15 and to proceed to the debate on the Danforth amendment beginning at 2 p.m. and ending at either 3 or 4 should a second-degree amendment be offered and the additional hour be utilized.

Under the agreement as now obtained, the debate on the Danforth amendment would not occur until after the disposition of the other amendments. That may still be the case if we do not complete action on the other amendments in the morning. But if we do complete action on the other amendments in the morning, what I will then seek to do will be to have the debate on the Danforth amendment begin at 2 and end at 3 and then stack the votes on all of the other amendments and on that amendment to commence not earlier than 3:15. It may be later if some of these other amendments are not worked out in less time than provided in the agreement. But the votes will occur not earlier than 3:15 tomorrow, which will accommodate the schedule of the Senator from Indiana and other Senators.

Mr. GRAHAM addressed the Chair.

Mr. MITCHELL. Mr. President, will the Senator yield for a moment?

Mr. GRAHAM. Yes.

Mr. MITCHELL. I would also like to modify the agreement to make clear that any second-degree amendments to any Sanford amendment should have the same amount of time as the first-degree amendment involved.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The modification outlined by the majority leader to the unanimous-consent agreement is approved.

Mr. MITCHELL. Mr. President, this order provides that the amendments will be considered in the order listed, which means it is necessary that the Senators who wish to offer an amendment be present to offer their amendments. Otherwise, of course, the Senate will be unable to proceed with consideration of other matters.

I notice that the Senator from Florida is here. I will yield to him on that point.

Mr. GRAHAM. Mr. President, it is my hope that we can complete action on the amendment which I offered early this afternoon this evening. I would be offering a modification. I believe there is now the willingness to accept the amendment on both sides of the aisle and there would not be a vote.

Mr. MITCHELL. That is certainly agreeable to me, and I think that would be desirable and would permit us then, if that does occur, more likely to be able to proceed as I have just stated with respect to the schedule tomorrow.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Will the Senator yield so I can comment on the Senator's point of modification?

I have been informed that Senator HATCH has some interest in the amendment and modification thereof, and that should we agree to that modification, then he might lose the opportunity to be involved. I do not know exactly where Senator HATCH is or what the situation is, but I want to make sure that I accommodate him. I am the only one here who can do that at this point.

Mr. MITCHELL. Mr. President, might I inquire, if Senator HATCH has an interest in the amendment, if it is possible to ask him to come to the Senate floor and deal with it.

Mr. President, I will yield the floor now. That will be a matter for the managers.

The PRESIDING OFFICER. Who yields time? The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am now advised that Senator SANFORD is agreeable to deleting one of his four amendments. As last modified, the agreement provides for two amendments regarding chapter 11, and Senator SANFORD is agreeable to deleting one of those amendments. So I would ask that the fourth listed amendment which is redundant with respect to the third be deleted.

The PRESIDING OFFICER. Without objection—the Chair hears none—the modification is agreed to.

The text of the agreement, as modified, is as follows:

Ordered, That at 9:15 a.m. on Wednesday, June 17, 1992, the Senate resume consideration of S. 1985, the Omnibus Bankruptcy Reform Bill, and that there be 60 minutes remaining for debate on the bill and committee substitute inclusive, with the time divided as follows: 20 minutes each for Senators Heflin, Grassley, and Metzenbaum.

Ordered further, That the pending Danforth amendment be temporarily laid aside.

Ordered further, That the only amendments remaining in order to this bill be the following and considered in the order listed:

Sanford amendment regarding Sec. 206, with 40 minutes, equally divided;

Sanford amendment regarding Sec. 205, with 40 minutes, equally divided;

Sanford amendment regarding Chapter 11, with 40 minutes, equally divided; and

Heflin amendments to strike sec. 206(g)(9), and to make a technical correction, with 10 minutes, equally divided.

Ordered further, That all of the Sanford amendments be subject to relevant second degree amendments, and limited to the same amount of time as the first degree amendment.

Ordered further, That upon the disposition of these amendments, the Senate return to the consideration of the Danforth amendment, with 1 hour for debate remaining on the amendment, to be equally divided and controlled between Senators Danforth and Heflin.

Ordered further, That the Danforth amendment be subject to relevant second degree amendments, with the same time limitation on the second degree.

Ordered further, That upon the conclusion or yielding back of time on the Danforth amendment and the second degree amendment, if offered, the Senate proceed to vote on the amendment, as amended, if amended, vote on the committee substitute amendment, as amended, read the bill for the third time, and vote on final passage of the bill, with all of the above occurring without any intervening action or debate.

Ordered further, That no motion to recommit be in order.

Ordered further, That the agreement be in the usual form.

Ordered further, That any votes ordered with respect to the bill be stacked to occur at a time to be determined by the Majority Leader, after consultation with the Republican Leader.

Mr. MITCHELL. Then, Mr. President, if the Senators are able to proceed and dispose of one of the amendments this evening, it makes more possible the result which I described earlier.

So I hope that Senators will be available at 9:15 a.m. to begin considering and perhaps complete all of the amendments that are germane to the bill, other than the Danforth amendment, which I hope we will then debate between 2 and 3 tomorrow; and, if there is a second-degree amendment, between 3 and 4 tomorrow.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

MODIFICATION TO AMENDMENT NO. 2425

Mr. GRAHAM. Mr. President, I send a modification to the desk. Mr. President, I ask unanimous consent that the amendment which I have offered, which was temporarily laid aside for the purposes of consideration of Senator DANFORTH's amendment, now be the business of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The Graham amendment is the pending question.

Mr. GRAHAM. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

Insert at the end:

If any agreement or understanding referenced in the preceding sentence is set aside or not implemented because of the act or omission of the Pension Board and Guaranty Corporation, the law applicable to all matters in that proceeding shall be determined without regard to subsections (a) or (b).

Page 2, line 24 after the word "case" insert: "(regardless of the time such contribution comes due)".

Page 2, line 7, strike the word "become".

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield to myself such time as is required.

Mr. President, the modification which I have submitted modifies the amendment as previously discussed in this regard. It states that if there were any agreement or understanding which had been entered into prior to the adoption of this modification of the law, that previously entered into agreement or understanding will be controlled; that is, that the effect of the amendment to the bankruptcy law which is being proposed in the Graham-Packwood amendment would be prospective application and would not alter agreements or understanding which have been entered into prior to the effective date of this law.

I believe that with that modification the amendment is agreeable on both sides of the aisle. If that is the case, Mr. President, I would ask for the disposition of this amendment.

The PRESIDING OFFICER. There are 10 minutes equally divided. The Chair inquires if the Senators yield back their time.

Mr. GRAHAM. Mr. President, I would be prepared to yield back my time.

The PRESIDING OFFICER. The Senator from Florida indicated he has yielded back his time on the amendment.

Mr. GRASSLEY. Mr. President, we will yield back time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida [Mr. GRAHAM] as modified.

The amendment (No. 2425) as modified, was agreed to.

Mr. DANFORTH. Mr. President, section 210 of this legislation contains a provision dealing with the treatment of airport gate and related facilities leases held by carriers in bankruptcy. Under this legislation, bankrupt carriers must make a decision whether to affirm or reject such leases within 180 days. This provision prohibits bankruptcy courts giving endless lease extensions to carriers, to the detriment of air service to a community.

This problem first came to my attention at Kansas City in the summer of 1990, during the second Braniff bankruptcy. Braniff had declared bankruptcy in September 1989 and ceased operations in November 1989, leaving vacant 29 gates—about half the total number available—at Kansas City International Airport. For the next 8 months the gates remained unused, tied up in bankruptcy proceedings. Kansas City was unable to offer the gates to any other carrier and was frustrated in its attempts to attract another hub carrier.

If the situation in Kansas City was bad, the effect of TWA's bankruptcy on the gates at St. Louis's Lambert International Airport is a potential nightmare. Currently, TWA controls 80 percent of the leases at Lambert, held under long-term lease until the year 2005. If the Kansas City situation occurred in St. Louis, the city would literally be without air service.

The Missouri experience is not unique. In the Eastern bankruptcy, a bankruptcy court allowed gate lease extensions for nearly 2 years, affecting airports in Atlanta, New York, and Miami. Under section 210, both the Braniff and Eastern cases could not be repeated.

Some say that section 210 is too tough on a bankrupt airline, and that its passage would prevent an airline from being able to reorganize while under bankruptcy protection. Section 210, as currently drafted, clearly provides adequate protection for debtor airlines.

Last year I introduced the provision now in section 210 as part of S. 1628, the Airline Competition Enhancement Act of 1991. That bill required that carriers make a decision on gate leases within 60 days, period. In the pending measure, carriers now have up to 180 days to make a decision. Furthermore, if the bankruptcy court finds that there is no loss of air service to a community, the court may extend the period for leasing decisions.

In other words, if TWA is using its gates at St. Louis, this provision will not adversely affect the decisions it must make in the bankruptcy process. On the other hand, if TWA is hanging onto unused gates and related facilities, and the community and its airline passengers are suffering, TWA must either make good on its commitments to the leases or reject them. This certainty will allow St. Louis to plan for a replacement hub carrier, should TWA shut down or significantly reduce operations.

Finally, I note that TWA entered into bankruptcy on January 31, 1992. This legislation, at the earliest, is not likely to be enacted until October of this year. Under section 210, the 180 day clock for TWA does not begin until the date of enactment. This language gives TWA until the spring of 1993, well over a year after it entered bankruptcy, to make its decisions on airport-related leases.

Section 210 is an exception to the general principles guiding bankruptcy law. It is an exception, however, based on an overwhelming public interest in the use of scarce aviation resources. Air service to communities like St. Louis should not be held hostage to the vagaries of the bankruptcy process. This legislation restores a balance between this public interest and the needs of bankrupt airlines to reorganize.

My obvious preference is that there will be no need to make use of this provision. In the case of TWA, I hope that the airline will successfully reorganize and that air service in St. Louis will not be affected. St. Louis remains an attractive site for TWA's hubbing operations. Over 11 million passengers start or end their trips at Lambert each year and the community is actively seeking a Lambert expansion to increase capacity and reduce delays.

I would like to thank Senators HATCH, SIMON, BIDEN, and HEFLIN for their assistance and cooperation during negotiations on this language.

PROFESSIONAL FEES

Mr. DOLE. Mr. President, I wanted to emphasize my support for section 408 of this legislation as reported by the committee and as modified by the managers' amendment.

The committee hearing held on the issue of professional fees in bankruptcy cases indicated that there is a lot of abuse out there. Cases were found which showed forum shopping to locate cases in jurisdictions where fees are less carefully scrutinized by the court. If no nexus to such a jurisdiction existed, attempts would be made to artificially create a legally sufficient nexus to land in the desired courtroom before the desired judge. Not surprising, cases of overstaffing and overbilling were also found—and unfortunately, I suspect that all this is just the tip of the iceberg.

While there is no question that bankruptcy cases are some of the most complicated and litigious, the current state of affairs nonetheless leads many creditors caught up in the bankruptcy system to legitimately wonder who the system is working for. Indeed, what is the point of a bankruptcy system that enriches the professionals and leaves the creditors holding the bag.

Section 408 addresses this very important problem. Under existing law, there are few meaningful standards as to appropriate compensation. The latitude taken on this issue is great with some courts taking their responsibility very seriously and others rubber stamping the bill.

What this legislation does is to spell out in detail just what is meant by reasonable compensation and what standards a court must look at before it awards compensation for services.

Specifically, the bill will require the court, in considering the nature, extent and value of the services, to specifically evaluate the time spent, rates, necessity of work, and the value of the estate and the amount of funds available for distribution to all creditors. If the court finds that the tasks were not performed within a reasonable amount of time, if the court determines that the rate of compensation exceeds what is customary in the industry, or if the court finds that the work was duplicative or unnecessary in connection with the administration of the case, the compensation must be cut to an appropriate level.

The point of this section is that not only are courts being given a wakeup call that they need to watch the fees being charged in bankruptcy suits, but they are being given explicit statutory guidance as to what a reasonable level of compensation is.

While I am not so optimistic that this will eliminate all abuse, I am hopeful that it will mitigate most of the exploitation of the system that is going on. You can be sure that if the foregoing legislation does not do the trick, Congress will be back to make sure that fees for services are awarded fairly so that the bankruptcy professionals receive what they are reasonably entitled to and no more.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the calling of the quorum be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, with the qualification of the Senator heretofore noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the time involved with the calling of any quorum this evening not count against any of the time previously agreed to on any side and to any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HEFLIN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported today by the Committee on Commerce, Science, and Transportation: Gregory F. Chapados, to be Assistant Secretary of Commerce for Communications, and Information; Walter B. McCormick, Jr., to be general counsel of the Department of Transportation.

I further ask unanimous consent that the Senate proceed to their immediate consideration, that the nominees be confirmed en bloc, that any statement appear in the RECORD as if read, and that the motions to reconsider be laid on the table en bloc; further, that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF COMMERCE

Gregory F. Chapados, to be Assistant Secretary of Commerce for Communications and Information.

DEPARTMENT OF TRANSPORTATION

Walter B. McCormick, Jr., to be general counsel of the Department of Transportation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

HELSINKI HUMAN RIGHTS DAY

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 310, designating "Helsinki Human Rights Day," and that the Senate proceed to its immediate consideration; that the joint resolution be deemed considered read three times, passed, and that the motion to reconsider be laid upon the table; that the preamble be agreed to; and any statements regarding the joint resolution be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 310), was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution with its preamble is as follows:

S.J. RES. 310

Whereas August 1, 1992, is the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas the Helsinki accords were agreed to by the Governments of Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech and Slovak Federal Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States have recognized that the free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of State or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the participating States;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1992, the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other fifty-one Helsinki signatory States.

APPOINTMENT BY THE PRESIDENT OF THE SENATE

Mr. HEFLIN. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with the like committee on the part of the House of Representatives to escort His Excellency, Boris Yeltsin, President of the Russian Federation, into the House Chamber for the joint meeting tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 4548

Mr. HEFLIN. Mr. President, I ask unanimous consent that H.R. 4548, the International Peacekeeping Act of 1992, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ENERGY EFFICIENCY STANDARDS RELATIVE TO CERTAIN BUILDINGS—MESSAGE FROM THE PRESIDENT—PM 250

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I transmit herewith the annual report describing the activities of the Federal Government for fiscal year 1991 required by subtitle H, title V of the Energy Security Act (Public Law 96–264; 42 U.S.C. 8286, *et seq.*). These activities include the development of energy conservation and efficiency standards for new commercial and multifamily high-rise buildings and for new residential buildings.

GEORGE BUSH.

THE WHITE HOUSE, *June 16, 1992.*

VETO MESSAGE ON S. 2342—MESSAGE FROM THE PRESIDENT—PM 251

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was ordered printed as a Senate document:

To the Senate of the United States:

I am returning herewith without my approval S. 2342. This bill would waive the 6-year statute of limitations, allowing three Sioux Indian tribes—the Sisseton-Wahpeton Sioux Tribe, the Devils Lake Sioux Tribe, and the Sisseton-Wahpeton Council of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation—to bring an otherwise time-barred challenge to the 1972 Mississippi Sioux Indian Judgment Fund Act.

The 1972 Act apportioned to each of the three Tribes, and to a then-undetermined class of Sioux Indians who are not members of those Tribes, a percentage share of the proceeds from a 1967 judgment against the United States. The judgment rested on a finding that the United States had not paid adequate compensation to the Tribes in the 1860's for lands ceded to the United States. The nonmember Indians are persons who are not now eligible for membership in any of the three Tribes, but who can trace their lineal ancestry to someone who was once a tribal member.

The Tribes were active participants in the administrative and legislative process leading to the 1972 Act, and they endorsed the Act and its distribution of the judgment. Nonetheless, in 1987, 15 years after enactment and 9 years after the statute of limitations had run, the Tribes sued the United States, challenging the Act's distribution to the nonmembers. The U.S. Court of Appeals for the Ninth Circuit affirmed a lower court's decision to dismiss the case, finding no excuse—legal, equitable, or otherwise—for the Tribes' failure to challenge the 1972 Act in a timely fashion, and the U.S. Supreme Court declined to review the Ninth Circuit's decision. *Sisseton-Wahpeton Sioux Tribe, et al.* v. *United States*, 895 F.2d 588 (9th Cir. 1990), *cert. denied*, ——— U.S. ———, 11 S. Ct. 75 (1990).

I find no extroardinary circumstances or equities to justify an exception to the long-standing policy of the executive branch, which my Administration fully embraces, against *ad hoc* statute of limitations waivers and similar special relief bills. Also, there must be some definite, limited time during which the Government must be prepared to defend itself, and some finality to the pronouncements of the courts, the Congress, and the agencies.

Moreover, a waiver for the Tribes in this case would mean the waste of the considerable judicial and litigation resources that were expended in bringing the case to final resolution, and would require additional litigation that would otherwise be avoided. Thus, enactment of this bill would be inconsistent with Executive Order No. 12778 of October 23, 1991, which embodies my resolve to eliminate unnecessary, wasteful litigation.

In addition, I am concerned that enactment of this bill would be unfair to other tribes, and would serve as a highly undesirable and potentially expensive precedent. Many other tribes were the recipients of settlement fund distributions, and many distributions, like the one challenged by the Tribes here, included payments to nonmember Indians. Some of those tribes doubtless are dissatisfied with the terms of their distribution, but they are barred from a challenge by the statute of limitations. Numerous other Indian claims, totaling hundreds of millions of dollars, have been dismissed on statute of limitations or other jurisdictional grounds. In both categories of cases, tribes could rightfully claim that for purposes of fair treatment, they, too, should be allowed by the Congress to litigate the merits of their claims.

I note that S. 2342 received little, if any, consideration by the House of Representatives prior to its passage by that body. Instead, the bill was discharged from committee without hearings and brought immediately to the House floor. Had there been a full review of this proposal, I am confident that the outcome would have been different.

For these reasons, I cannot approve S. 2342.

GEORGE BUSH.

THE WHITE HOUSE, *June 16, 1992*.

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities; and

H.R. 4999. An act to authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House.

The message also announced that pursuant to section 403(A)(3) of Public Law 100–533, the Speaker appoints the following members, from private life, to the National Women's Business Council on the part of the House: Ms. Pastora San Juan Cafferty of Chicago, IL and Ms. Barbara L. Laughlin of Buffalo, NY.

The message further announced that pursuant to the provisions of section 8104 of Public Law 101–511, the Speaker appoints the following members, from private life, to the National Commission on Defense and National Security on the part of the House: Mr. Harold Brown of Washington, DC, Vice Chairman, Mr. William James Perry of Los Altos, CA, and Mr. Calvin A.H. Waller of Colorado Springs, CO.

ENROLLED BILL SIGNED

At 6:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2507. An act to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4999. An act to authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

H.R. 2039. An act to authorize appropriations for the Legal Services Corporation, and for other purposes.

The following bill was read the first and second time by unanimous consent and placed on the calendar:

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 16, 1992, he had presented to the President of the United States the following enrolled bill:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3431. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a certification on amounts authorized for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC–3432. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC–3433. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Department of the Treasury's 1992 report on intermarket coordination; to the Committee on Banking, Housing, and Urban Affairs.

EC–3434. A communication from the Acting Commandant of the United States Coast Guard, transmitting, pursuant to law, notice of the proposed time for submission of a report on infestation of waters of the United States, including the Great Lakes, by exotic species from the ballast water of vessels; to the Committee on Commerce, Science, and Transportation.

EC–3435. A communication from the Secretary of Energy, transmitting, pursuant to law, the Strategic Petroleum Reserve Quarterly Report for the period January 1 through March 31, 1992; to the Committee on Energy and Natural Resources.

EC–3436. A communication from the Director of the National Ocean Pollution Program, Department of Commerce, transmitting, pursuant to law, a report entitled "Review of Fiscal Year 1993 Agency Requests for Appropriations to Support Ocean Pollution Research, Development, and Monitoring Programs"; to the Committee on Environment and Public Works.

EC–3437. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, a report entitled "Fee Update and Medicare Volume Performance Standards for 1993"; to the Committee on Finance.

EC–3438. A communication from the President of the United States, transmitting, pursuant to law, notice of his intention to suspend Syria indefinitely as a designated beneficiary developing country for purposes of the Generalized System of Preferences; to the Committee on Finance.

EC–3439. A communication from the President of the United States, transmitting, pursuant to law, a proclamation that extends nondiscriminatory treatment to the products of Albania; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Karl A. Erb, of Virginia, to be an Associate Director of the Office of Science and Technology Policy;

Carl W. Vogt, of Maryland, to be a member of the National Transportation Safety Board for the term expiring December 31, 1996;

Carl W. Vogt, of Maryland, to be Chairman of the National Transportation Safety Board for a term of 2 years;

Gregory F. Chapados, of Alaska, to be Assistant Secretary of Commerce for Communications and Information;

Walter B. McCormick, Jr., of Missouri, to be General Counsel of the Department of Transportation;

The following officers of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral:

Fred S. Golove.

George R. Merrilees.

The following officer of the U.S. Coast Guard Reserve for appointment to the grade of rear admiral (lower half):

Robert E. Sloncen.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Gregory A. Penington.
Paul E. Versaw.
William C. Donnell.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably two nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORDS of March 12 and April 1, 1992, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN (for himself, Mr. STEVENS, Mr. RUDMAN, and Mr. DODD):

S. 2850. A bill to establish the Small Business Capital Access Program to enhance the availability of financing for small business concerns; to the Committee on Small Business.

By Mr. JOHNSTON (for himself, Mr. WALLOP, Mr. HEFLIN, Mr. HATFIELD, Mr. LIEBERMAN, Mr. PACKWOOD, Mr. BUMPERS, Mr. SEYMOUR, Mr. BINGAMAN, Mr. GORTON, Mr. CONRAD, Mr. MURKOWSKI, Mr. DOMENICI, Mr. BURNS, Mr. CRAIG, Mr. LAUTENBERG, Mr. AKAKA, and Mr. LUGAR):

S. 2851. A bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself and Mr. BIDEN):

S. 2852. A bill to establish the Professional Boxing Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself and Mr. COHEN):

S. 2853. A bill to authorize appropriations for the United States Office of Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2854. A bill to extend the existing suspension of duty on methyl and ethyl parathion and dimethoate; to the Committee on Finance.

S. 2855. A bill to suspend until January 1, 1995, the duty on Malathion; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. ROCKEFELLER, Mr. GLENN, and Mr. RIEGLE):

S. 2856. A bill to amend the provisions of the Omnibus Trade and Competitiveness Act of 1988 with respect to the enforcement of machine tool import arrangements; to the Committee on Finance.

By Mr. MACK:

S. 2857. A bill to amend the Internal Revenue Code of 1986 to extend the period of time to acquire a new residence for purposes of nonrecognition of gain on the sale of an old residence for members of the Armed Forces of the United States; to the Committee on Finance.

By Mr. HEFLIN:

S.J. Res. 313. A joint resolution to designate the period beginning February 1, 1993, and ending February 5, 1993, as "National Shoplifting Prevention Week"; to the Committee on the Judiciary.

By Mr. BURNS:

S.J. Res. 314. A joint resolution to designate the period beginning on August 16, 1992 and ending on August 22, 1992, as "National Convenience Store Appreciation Week"; to the Committee on the Judiciary.

By Mr. SEYMOUR (for himself and Mr. DODD):

S.J. Res. 315. A joint resolution to designate September 16, 1992, as "National Occupational Therapy Day"; to the Committee on the Judiciary.

By Mr. SIMON:

S.J. Res. 316. A joint resolution to designate the week of November 30 through December 6, 1992 as "National Education First Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself and Mr. DOLE) (by request):

S.J. Res. 317. A joint resolution approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the Republic of Albania; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON (for himself and Mr. SIMON):

S. Res. 315. A resolution to congratulate the Chicago Bulls on winning the 1992 National Basketball Association Championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself, Mr. STEVENS, Mr. RUDMAN, and Mr. DODD):

S. 2850. A bill to establish the Small Business Capital Access Program to enhance the availability of financing for small business concerns; to the Committee on Small Business.

SMALL BUSINESS ACCESS PROGRAM

• Mr. LIEBERMAN. Mr. President, I rise today to introduce the Small Business Capital Access Program, a bill designed to bridge the credit gap and make bank financing available to the countless number of small businesses and entrepreneurs presently unable to secure financing with conventional lending institutions. I am very pleased to be joined in this effort by Senators STEVENS, DODD, and RUDMAN.

Mr. President, small business capital accessibility has been an issue of rising concern for a number of years. The deregulation of the financial services industry in the early 1980's and, more recently, increasing concerns over the safety and soundness of banks and thrifts, in combination with the inherent risks associated with small business lending, has resulted in a crisis in available commercial credit for small firms. Furthermore, movement over the past number of years toward variable interest rates, shorter term financing, fees, and points has made the aggregate cost of small business financing greater and more unpredictable.

Alternative sources of funding such as public markets, venture capital firms, or institutional investors provide little relief to the small business. New securities or initial public offerings [IPO's], particularly for smaller and riskier issues, have had and will continue to have difficulty attracting investors, particularly in the present economic climate. On the other hand, venture capital firms remain focused on high-tech companies that offer prospects of relatively higher and faster returns on investment. This is complicated by the fact that venture capital—whether equity or debt—has been falling off significantly in recent years. Finally, institutional investors such as insurance companies or pension funds can provide financing to smaller firms, but because of complex capital and fiduciary obligations have never focused on developing the systems for evaluating credit risks or growth potential of individual smaller enterprises. Thus, the relative unavailability of both long term debt and equity capital has left many small businesses in a so-called "credit gap"—the unavailability of financing at any cost, or at costs or terms beyond a small firms ability to service.

There are a number of factors which have contributed to the present "credit gap." First, price deregulation, which removed ceilings from savings accounts and enabled financial institutions to pay market rates of interest, effectively raised returns to depositors and costs to borrowers. This result has dramatically increased the cost of money to smaller firms.

Second, smaller and newer businesses, by definition, provide a greater degree of risk for financial institutions. Banks routinely assess and cover against different degrees of risk in a variety of ways—by charging fees, increasing interest rates, or through portfolio diversification. This, in combination with recent concerns over "safety and soundness" stemming from bank and savings and loan failures, and the devaluation of collateral has resulted in small businesses increasingly finding themselves either unable to secure financing at any cost, or priced out of the market by high interest rates, short terms, and excessive demands for collateral.

As a result, capital accessibility has become increasingly problematic. Small firms are realizing that previously "bankable" loans, or loans which were considered "on the margin" are less and less likely to be approved by commercial financial institutions, particularly in the current banking environment. This is particularly alarming in light of recent surveys which show that commercial banks have been and remain the most important supplier of debt capital and financial services to the small business sector in the United States.

It is also important to note the new "risk-based" capital regulatory requirements, which are presently being phased in. These standards, which stem from a 1987 international agreement to standardize bank capital requirements, will require banks to maintain a minimum capital level of 8 percent of a bank's assets, adjusted for risk. In other words, small commercial and industrial loans will require a full 8 percent capital; assets secured by a first residential mortgage will require 4 percent capital; and government securities will not require any capital at all. Stated simply, these new standards will favor bank investments in government securities and home mortgages over commercial and small business lending. These standards will surely push the aggregate cost of small business lending upward, particularly in the current capital constrained banking environment.

Since small firms remain the primary creator of new jobs and new innovations in the United States, and since small firms remain the primary place for employee training, this credit crisis has profound implications over time for the economy, productivity growth, employment, personal income, and eventually our standard of living.

The U.S. Small Business Administration addresses part of this problem through the 7(a) loan guarantee program by providing guarantees of up to 90 percent of loans made to qualified small businesses by private lenders. While the loan-by-loan guarantee approach is generally regarded as very successful, and has proven to be an invaluable tool for lenders and borrowers alike, it is also clear that it has not filled the "credit gap" created by events of the past decade. The Small Business Capital Access Program described below is intended to augment, not replace, the S.B.A. 7(A) guarantee program or any other loan program administered by the government.

The Small Business Capital Access Program is a new and innovative market-based approach to small business lending. It will enable banks to extend credit to firms which have previously been unable to obtain commercial financing. It will do so with a minimum of regulatory oversight and without sacrificing safety, soundness, or conventional credit analysis. It will focus on small loans from a diverse assortment of companies. And, the program will accomplish all this with a negligible amount of government resources and with no hidden governmental liability.

The Small Business Capital Access Program is based on a portfolio insurance concept rather than the traditional loan-by-loan guarantee process. In other words, as opposed to current programs where government provides a guarantee for each individual loan, this program provides a reserve or guarantee on a portfolio of loans. This will enable banks to evaluate risk on a pooled or shared basis and apply an actuarial approach to small business credit analysis. The result will be banks making far more small business loans with far fewer Federal dollars.

In 1986, the State of Michigan implemented a similar program which has provided loans to approximately 950 firms, for a total of $48.5 million in financing, and has resulted in a leverage ratio—that is total government obligation to total lending—of more than 20:1.

The U.S. Small Business Administration would have oversight responsibility for the program, but specific programmatic implementation would be left to State government. This would enable participating States to tailor the program in response to particular credit needs and financial climates.

Here's how it works:

For each bank participating in the program, a special reserve fund would be established to cover future losses from a portfolio of loans which the bank makes under the program. The reserve fund would be owned and controlled by State government, but earmarked in each participant bank's name. Thus, each bank participating in the program would have its own separate earmarked loss reserve.

Payments would be made into a bank's earmarked reserve each time the bank makes a loan under the program. The borrower would make a premium payment of between 1½ to 3½ percent of the loan amount and the financial institution would match the payment. The Federal and State government would then, either directly or through a guarantee agreement, match the payment. Under this four part matching system, a bank could have anywhere from a 6-percent (1½ percent to 4) to a 14-percent (3½ percent to 4) loan loss reserve on the portfolio.

The bank would be allowed to recover the cost of its payment from the borrower through the pricing of the loan. Any up-front premiums or fees, in connection with the Capital Access Program, could be financed as part of the loan.

If a bank makes a portfolio of loans under the program, it might have a reserve equal to, for example, 10 percent of the total amount of that portfolio. In such a situation, the bank could sustain a loss rate of up to 10 percent on that portfolio and still be completely covered against loss. This gives the bank the ability to absorb a higher loss rate (perhaps 5, 6, or 7 percent) than it could tolerate on its conventional loans (usually 1 or 2 percent). Since this arrangement offers the bank a higher degree of coverage against loss than normally available, the institution may be able to offer more favorable interest rates and terms to small businesses.

The bank, however, must still be prudent in making loans under this program since it is completely at risk for any losses that exceed the coverage provided by the reserve. Because of this incentive for prudence, there will be little need for strict regulatory supervision. The bank would decide whether or not and under what terms and conditions to make a loan.

The limited need for regulatory oversight is a critical component in the implementation of this program. Unlike other government loan programs which require strict oversight due to the government's large "hidden liability" which is inherent in any guarantee program, the Capital Access Program has a limited government liability—at most, 3½ percent of a loan or a portfolio of loans.

Also worth noting is the program's built-in bias for small loans. Because this concept is based in insuring a portfolio of loans as opposed to one loan, there is a built-in incentive to build a large portfolio of diverse and smaller loans.

Thus, through this arrangement of shared or pooled risk, the Small Business Capital Access Program would enable banks that have been cutting back on commercial lending to extend credit to those small firms most affected by the credit gap. In other words, firms that are considered almost bankable but could not obtain financing because they are new, or due to insufficient collateral, debt level, sales level, or the like.

The Small Business Capital Access Program is a new and innovative market-based approach to small business lending. The program will add significant new lending to small businesses—America's main job-creating engine. It will do so with a minimum of regulatory oversight and at a fraction of the cost of other Federal programs. I want to thank Senator STEVENS for his partnership in preparing this proposal, and I hope we can pass this program prior to the end of this Congress.

Mr. President, I ask unanimous consent that a summary of the Small

Business Capital Access Program appear in the RECORD immediately following my remarks, as well as the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Capital Access Program".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns remain a thriving and vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to capital is a critical component of small business formation and success;

(3) small business concerns, which in many cases represent inherently higher degrees of risk in financial markets than do large businesses, are having an increasingly difficult time securing sufficient long-term debt financing;

(4) recent concerns over the "safety and soundness" of commercial financial institutions and changing capital standards have lead to a more conservative review of loan applications, particularly those from small business concerns;

(5) the start-up cycle for a small business concern is typically 5 to 7 years, yet only 12 percent of recent commercial loans were made for terms of 7 years or longer;

(6) price deregulation, which removed ceilings from savings accounts and enabled financial institutions to pay market rates of interest, effectively raised returns to depositors and costs to borrowers, resulting in increased costs of debt capital for smaller businesses;

(7) commercial banks are the most important supplier of debt capital and financial services to small business concerns in the United States, and according to surveys of small business financing, nearly all small business concerns use some financial services from commercial banks;

(8) the new risk-based capital requirements will have an unclear impact on the availability of capital financing for small business concerns;

(9) other sources of small business financing such as venture capital markets, public markets, or institutional investors (pension funds or insurance companies) are not viable alternatives for many small business concerns; and

(10) innovative developmental finance and small business lending programs at the State level have proven to be particularly effective in promoting the growth and development of small business concerns.

(b) PURPOSE.—It is the purpose of this Act to promote economic growth, create jobs, and spur innovation by enhancing the availability of financing for small business concerns, that might otherwise not be available.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator of the Small Business Administration, respectively;

(2) the term "appropriate Federal banking agency" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "Board" means the Small Business Capital Access Board established under section 4;

(4) the term "early loan" means a loan enrolled at a time when the aggregate dollar amount of previously enrolled loans in a particular reserve fund is less than $5,000,000;

(5) the term "enrolled loan" means a loan made to a small business concern by a participating financial institution located in a participating State and subsequently enrolled in the Program in accordance with section 7;

(6) the term "participating financial institution" means any Federal- or State-chartered commercial bank, savings association, mutual savings bank, or credit union that—

(A) has met all applicable requirements of the Administration and a participating State for participation in the Program;

(B) is actually participating in the Program; and

(C) has or is in the process of establishing a reserve fund in accordance with this Act;

(7) the term "participating State" means any State that has met the requirements of this Act and is designated for participation in the Program established under this Act;

(8) the term "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, except that such term shall not include—

(A) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate; or

(B) the ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase;

(9) the term "Program" means the Small Business Capital Access Program established under this Act;

(10) the term "reserve fund" means a fund, established by a participating State, in the name of a participating financial institution, for the purpose of—

(A) depositing all required premium charges, paid by the participating financial institution and the borrower;

(B) depositing contributions made by participating States and the Administration; and

(C) covering losses on enrolled loans by disbursing funds accumulated in the reserve fund in accordance with section 10; and

(11) the term "small business concern" has the same meaning as in section 3 of the Small Business Act.

SEC. 4. SMALL BUSINESS CAPITAL ACCESS BOARD.

(a) ESTABLISHMENT.—There is established within the Administration, a Small Business Capital Access Board which shall be chaired by the Administrator and shall consist of the following additional members, to be appointed by the Administrator:

(1) SMALL BUSINESS REPRESENTATIVES.—Two members shall be appointed from the private sector representing small business concerns.

(2) FINANCIAL SERVICES REPRESENTATIVES.—Two members shall be appointed from the private sector representing the financial services industry.

(3) STATE GOVERNMENT REPRESENTATIVES.—Two members representing State government shall be appointed.

(b) DUTIES.—The Board shall—

(1) designate States to participate in the Program, as provided in section 5; and

(2) prepare annual reports to the Congress that shall include—

(A) data on the number, types, amounts, and average amounts of loans made pursuant to the Program;

(B) an analysis of the types of firms financed as part of the Program;

(C) an analysis of the terms, fees, and interest rates of Program loans;

(D) the types and sizes of financial institutions participating in the Program; and

(E) an accounting of active reserve funds established as part of the Program in participating States, including the amounts and the number of covered loans.

(c) TERMS AND COMPENSATION.—

(1) IN GENERAL.—Each member of the Board referred to in subsection (a) shall be appointed for the life of the Board.

(2) VACANCIES.—Vacancies on the Board shall be filled in the same manner in which the original appointment was made.

(3) COMPENSATION AND EXPENSES.—Each member of the Board referred to in paragraphs (1) and (2) of subsection (a) shall be paid at a daily rate of basic pay payable for GS-18 of the General Schedule for each day during which such member is engaged in the duties of the Board. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 5. DESIGNATION OF STATES FOR PARTICIPATION.

(a) IN GENERAL.—The Board shall designate States to participate in the Program in accordance with this Act.

(b) STATE COMMITMENT REQUIRED.—A State that has fulfilled, or is in the process of fulfilling, the State commitments required under section 6 may be designated for participation in the Program.

SEC. 6. PROGRAM SPECIFICATIONS.

(a) FEDERAL CONTRIBUTIONS.—The Administration is authorized to contribute, on an immediate or deferred basis, not more than $8,000,000 for fiscal years 1993 through 1998 to each participating State, to be credited to the reserve funds established in connection with loans made to small business concerns by participating financial institutions under the Program.

(b) PARTICIPATION LIMITS.—In agreements to contribute to reserve funds made in accordance with the terms of the Program, such contributions by the Administration—

(1) shall be not less than 1.5 percent nor more than 3.5 percent of the amount of the loan; and

(2) shall match on a one-to-one basis the amounts contributed by the participating State.

(c) STATE COMMITMENTS.—

(1) STATUTORY AUTHORITY AND APPROPRIATIONS.—Not more than 12 months after the date on which a State is designated for participation in the Program under section 5(c), such State shall—

(A) establish all necessary statutory authority to carry out the Program;

(B) appropriate all necessary funds to cover immediate or deferred premiums required by the State on enrolled loans; and

(C) establish an administrative mechanism to carry out—

(i) the establishment, management, and accounting of reserve funds;

(ii) the enrollment of loans in accordance with section 7(c);

(iii) the payment of claims under this Act; and

(iv) the designation of participating financial institutions under this Act.

(2) TERMINATION OF PARTICIPATION.—A State that fails to meet the requirements of paragraph (1) within the 12-month period referred to in that paragraph shall forego participation in the Program, except that the Board may extend the 12-month period referred to in that paragraph by a majority vote for not more than 12 months, upon request of the State.

(3) REAPPLICATION FOR PARTICIPATION.—A State for which participation in the Program has been terminated under paragraph (2) may reapply to the Board for participation in the program at any time after the requirements of paragraph (1) have been met by the State.

(d) ESTABLISHMENT OF RESERVE FUNDS.—Each participating State shall establish reserve funds in the name of each participating financial institution for the purposes of—

(1) depositing all required premium charges to be paid by the participating financial institution and the borrower and accounting for immediate or deferred contributions made by participating States and the Administration; and

(2) disbursing funds accumulated in accordance with this Program to cover losses sustained by the participating financial institution in connection with loans made under the Program.

(e) ADDITIONAL REQUIREMENTS.—

(1) BORROWERS.—The Administration may only make contributions under this Act in connection with a loan made to a borrower—

(A) that is—

(i) a small business concern; and

(ii) a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, whether such entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the participating State; and

(B) that has its primary business location within the boundaries of a participating State.

(2) LOAN USE RESTRICTION.—A loan made under this Act may not be used to finance passive real estate ownership.

(3) WRITTEN ASSURANCES.—Prior to receiving a loan under this Act, each borrower shall sign a written representation to the participating financial institution that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established by a participating State.

SEC. 7. LOAN TERMS AND CONDITIONS.

(a) DESIGNATION OF FINANCIAL INSTITUTIONS.—A financial institution located in a participating State shall be considered a participating financial institution and may enroll loans in accordance with this Act if—

(1) the institution has agreed to all terms and conditions set forth in this Act and any terms and conditions set forth by the participating State;

(2) the appropriate Federal banking agency for the financial institution has approved the institution for participation in the Program, after consideration of the safety and soundness, the applicable capitalization requirements, and the overall financial health of the institution; and

(3) the participating State has agreed to establish, or has established, a reserve fund in the name of the institution.

(b) NEGOTIATED LOAN TERMS.—Loans made under the Program may be made with such interest rates, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower.

(c) ENROLLMENT OF LOANS.—

(1) PROCESS.—A participating financial institution shall file each loan made under the Program for enrollment—

(A) by notifying the Administration and the State administrative agency or office responsible for the reserve funds of—

(i) the disbursement of the loan;

(ii) the dollar amount of the loan enrolled;

(iii) the interest rate applicable to and the term of the loan; and

(iv) the amount of the agreed upon premium; and

(B) by transmitting the nonrefundable premium charges of the participating financial institution and the borrower as provided in section 8.

(2) SPECIFICATION OF PROGRAM COVERAGE AMOUNT.—When filing a loan for enrollment under this section, the participating financial institution may specify an amount to be covered under the Program that is less than the total amount of the loan.

(3) LINES OF CREDIT.—A loan may be made under this Act in the form of a line of credit, in which case the amount of the loan enrolled shall be considered to be the maximum amount that can be drawn against the line of credit.

(4) TIME LIMITATION.—The participating financial institution shall file the loan for enrollment not later than 10 days after the loan is made.

SEC. 8. REQUIRED PAYMENTS AND TRANSFERS TO THE RESERVE FUND.

(a) BORROWER AND LENDER PREMIUM PAYMENTS.—

(1) BORROWER PAYMENTS.—The premium charges payable to the reserve fund under this Act by the participating financial institution and the borrower in connection with a loan made under the Program shall be prescribed by the institution. The premium amount paid by the borrower shall be not less than 1.5 percent nor more than 3.5 percent of the amount of the loan, as agreed upon by the institution and the borrower.

(2) LENDER PAYMENTS.—The premium amount paid by the participating financial institution in connection with a loan made under the Program shall be equal to the premium amount paid by the borrower.

(3) RECOVERY OF COSTS.—The participating financial institution may recover from the borrower the cost of its payments to the fund through the financing of the loan upon the agreement of the institution and the borrower.

(b) REQUIRED FEDERAL AND STATE CONTRIBUTIONS.—The Administration and each participating State shall each deposit into the reserve fund, on an immediate or deferred basis, one-half of—

(1) an amount equal to 150 percent of the combined amounts paid into the reserve fund by the borrower and the participating financial institution for each enrolled loan, if the amount of any loan, plus the amount of loans previously enrolled under the Program from a participating financial institution is less than $2,000,000;

(2) an amount equal to the combined amounts paid into the reserve fund by the borrower and the participating financial institution for each enrolled loan if, prior to the enrollment of the loan, the amount of loans previously enrolled under the Program is not less than $2,000,000; or

(3) an amount equal to a percentage of the combined amount paid by the participating financial institution and the borrower, determined—

(A) by multiplying by 150 that portion of the loan which when added to the amount of all previously enrolled loans equals $2,000,000;

(B) by multiplying the balance of the loan by 100; and

(C) by adding together the products of such computations and dividing the sum by the total amount of the loan, if the amount of loans previously enrolled under the Program is less than $2,000,000 but the enrollment of a loan will cause the aggregate amount of all enrolled loans to exceed $2,000,000.

(c) MAXIMUM PAYMENT.—The combined amount to be deposited by the participating financial institution into any individual reserve fund over the 3-year period in connection with any single borrower or any group of borrowers among which a common enterprise exists, shall be not more than $150,000.

SEC. 9. OWNERSHIP, CONTROL, AND INVESTMENT OF RESERVE FUND.

(a) OWNERSHIP.—All payments to the reserve fund in a participating State shall be the exclusive property of and solely controlled by that State.

(b) WITHDRAWAL RESTRICTION.—The participating State may not withdraw amounts from the reserve fund except as specifically provided for in this Act.

(c) INVESTMENT AUTHORITY.—In the case of reserve fund payments that are not deposited by the participating State in an account held by the participating financial institution, such payments shall be invested or reinvested by the participating State—

(1) in direct obligations of the Federal Government or the participating State; or

(2) in obligations the principal and interest of which are unconditionally guaranteed by the Federal Government or the participating State.

(d) INCOME OF THE FUND.—

(1) IN GENERAL.—Interest or income earned on the funds credited to the reserve fund shall be deemed to be part of the reserve fund.

(2) WITHDRAWAL OF FUND INCOME.—A participating State may withdraw at any time from the reserve fund not more than 50 percent of all interest or other income that has been credited to the reserve fund, except that subsequent to the first such withdrawal, the participating State may not withdraw more than 50 percent of all interest or other income that has been credited to the reserve fund since the time of the last such withdrawal. Any withdrawal made under this paragraph may be made prior to paying any claim under section 8, and shall be used for the sole purposes of offsetting administrative costs associated with carrying out this Act.

SEC. 10. CLAIMS, DISBURSEMENTS, RECOVERY, AND SUBROGATION.

(a) CLAIMS.—

(1) IN GENERAL.—A participating financial institution that charges off all or part of an enrolled loan to the reserve fund may file a claim with the participating State—

(A) if the claim occurs contemporaneously with the action of the institution to charge off all or part of the loan; and

(B) if the charge off on an enrolled loan is made in a manner that is consistent with the institution's usual method for making such determinations on business loans that are not enrolled loans.

(2) CLAIM AMOUNTS.—The participating financial institution's claim may include, in addition to the amount of principal charged off plus accrued interest, an amount that represents its reasonable out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral, but only if proper documentation of such expenses if presented at the time of the claim.

(3) MULTIPLE CLAIMS.—If a participating financial institution files 2 or more claims

contemporaneously, and there are insufficient funds in the reserve fund at that time to cover the entire amount of such claims, the institution may designate the order of priority in which the claims shall be paid.

(b) DISBURSEMENTS.—

(1) IN GENERAL.—Each participating State shall disburse funds from the reserve fund in connection with claims made in accordance with this section.

(2) PARTIAL PAYMENT OF CLAIMS.—If there are insufficient funds in the reserve fund to cover the entire amount of a participating financial institution's claim, the participating State shall pay to the institution an amount equal to the current balance in the reserve fund, and—

(A) if the enrolled loan for which the claim has been filed is not an early loan, such payment shall be deemed to fully satisfy the claim and the institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim; or

(B) if the loan is an early loan, such partial payment shall not be deemed to satisfy the institution's claim, and at such time as the remaining balance of the claim is not greater than 75 percent of the balance in the reserve fund at that time, the participating State shall, upon the request of the institution, pay any remaining balance of the claim.

(c) RECOVERY.—If, subsequent to payment of a claim by the participating State, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any reasonable out-of-pocket expenses incurred in collection of such amount.

(d) ASSIGNMENT OF RIGHTS.—In any case in which the payment of a claim under this section has fully covered a participating financial institution's loss on an enrolled loan, the participating financial institution shall assign to the participating State and the Administration any right, title, or interest to any collateral, security, or other right of recovery in connection with a loan made under the Program.

SEC. 11. REGULATIONS.

The Administrator in consultation with the Board shall promulgate appropriate regulations to implement this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administration such sums as may be necessary to carry out this Act.

SUMMARY OF THE SMALL BUSINESS CAPITAL ACCESS PROGRAM

OVERVIEW

Small Business capital accessibility has been an issue of rising concern for a number of years. The deregulation of the financial services industry in the early 1980's and, more recently, increasing concerns over the "safety and soundness" of banks and thrifts, in combination with the inherent risks associated with small business lending, has resulted in a crisis in available commercial credit for small firms. Furthermore, movement over the past number of years towards variable interest rates, shorter term financing, fees, and points has made the aggregate cost of small business financing greater and more unpredictable.

Alternative sources of funding such as public markets, venture capital firms, or institutional investors provide little relief to the small business. New securities or initial public offerings (IPO's), particularly for smaller and riskier issues, have had and will continue to have difficulty attracting investors, particularly in the present economic climate. On the other hand, venture capital firms remain focused on high-tech companies that offer prospects of relatively higher and faster returns on investment. Finally, institutional investors such as insurance companies or pension funds can provide financing to smaller firms, but lack the systems for evaluating credit risks or growth potential of individual smaller enterprises. Thus, the relative unavailability of both long term debt and equity capital has left many small businesses in a so-called "credit gap"—the unavailability of financing at any cost, or at costs or terms beyond a small firm's ability to service.

There are a number of factors which have contributed to the present "credit gap." First, price deregulation, which removed ceilings from savings accounts and enabled financial institutions to pay market rates of interest, effectively raised returns to depositors and costs to borrowers. This result has dramatically increased the cost of money to smaller firms.

Second, smaller and newer businesses, by definition, provide a greater degree of risk for financial institutions. Banks routinely assess and cover against different degrees of risk in a variety of ways—by charging fees, increasing interest rates, or through portfolio diversification. This, in combination with recent concerns over "safety and soundness" and devaluation of collateral, has resulted in small businesses increasingly finding themselves either unable to secure financing at any cost, or priced out of the market by high interest rates, short terms, and excessive demands for collateral.

As a result, capital accessibility has increasingly become problematic. Small firms are realizing that previously "bankable" loans, or loans which were considered "on the margin" are less and less likely to be approved by commercial financial institutions, particularly in the current banking environment. This is particularly alarming in light of recent surveys which show that commercial banks have been and remain the most important supplier of debt capital and financial services to the small business sector in the United States.

It is also important to note that the new "risk based capital requirements", which will require banks to have a minimum capitalization of 8 percent of risk-weighted assets, will surely have an effect on small business lending. These regulations are scheduled to come into effect this year.

Since small firms remain the primary creator of new jobs in the United States, and since small firms remain the primary place for employee training, this crisis has profound implications for the economy, productivity growth, employment, personal income, and our standard of living.

The U.S. Small Business Administration addresses this problem by providing guarantees of up to 90 percent of loans made to qualified small businesses by private lenders. While the loan-by-loan guarantee approach is generally regarded as very successful, it is also clear that it has not filled the "credit gap" created by events of the past decade. The Small Business Capital Access Program described below is intended to augment, not replace, the S.B.A. 7(A) guarantee program or any other loan program administered by the government.

SMALL BUSINESS CAPITAL ACCESS PROGRAM DESCRIPTION

The Small Business Capital Access Program is based on a portfolio insurance concept rather than the traditional S.B.A. loan-by-loan guarantee process. In 1986, the State of Michigan implemented a similar program which has provided loans to approximately 950 firms, for a total of $48.5 million in financing, and has resulted in a leverage ratio of almost 20:1.

The U.S. Small Business Administration would have oversight responsibility for the program, but specific programmatic implementation would be left to state government. This would enable participating states to tailor the program in response to particular credit needs and financial climates.

For each bank participating in the program, a special reserve fund would be established to cover future losses from a portfolio of loans which the bank makes under the program. The reserve fund would be owned and controlled by State government, but earmarked in each participant bank's name. Thus each bank participating in the program would have its own separate earmarked loss reserve.

Payments would be made into a bank's earmarked reserve each time the bank makes a loan under the program. The borrower would make a premium payment of between 1½% to 3½% of the loan amount and the financial institution would match the payment. The federal and state government would then, either directly or through a guarantee agreement, match the payment. Under this four part matching system, a bank could have anywhere from a 6 percent (1½% * 4) to a 14 percent (3½% * 4) loan loss reserve on the portfolio.

The bank would be allowed to recover the cost of its payment from the borrower through the pricing of the loan such as by increasing the interest rate or charging a fee. Any up-front premiums or fees, in connection with the Capital Access Program, could be financed as part of the loan.

If a bank makes a portfolio of loans under the program, it might have a reserve equal to, for example, 10% of the total amount of that portfolio. In such a situation, the bank could sustain a loss rate of up to 10% on that portfolio and still be completely covered against loss. This gives the bank the ability to absorb a higher loss rate (perhaps 4, 5, or 6%) than it could tolerate on its conventional loans (usually 1%). Since this arrangement offers the bank a higher degree of coverage against loss than normally available, the institution would be able to offer more favorable interest rates and terms.

The bank, however, must still be prudent in making loans under this program since it is completely at risk for any losses that exceed the coverage provided by the reserve. Because of this incentive for prudence, there will be little need for strict regulatory supervision. The bank would decide whether or not and under what terms and conditions to make a loan.

The limited need for regulatory oversight is a critical component in the implementation of this program. Unlike the S.B.A. 7(a) program which requires strict oversight due to the government's large "hidden liability" which is inherent in any guarantee program, the Capital Access Program has a limited government liability—at most, 3½ percent of a loan or a portfolio of loans.

Also worth noting is the programs built in bias for small loans. Because this concept is based on insuring a portfolio of loans as opposed to one loan, there is a built in incentive to build a large portfolio of diverse and smaller loans.

Thus, through this arrangement of shared or pooled risk, the Small Business Capital Access Program would enable banks to extend credit to those small firms most affected by the "credit gap." In other words, firms that are considered "almost bankable" but could not obtain financing due to time of operation, insufficient collateral, excessive debt, decreasing sales or the like.

For further information, please contact Ken Glueck (Sen. Lieberman 4-9846) or Mark Mackie (Sen. Stevens 4-3004).•

• Mr. STEVENS. Mr. President, today I join Senator LIEBERMAN in introducing a bill to inject significant private capital into our Nation's small businesses.

Small business growth is critical to America's growth. Small businesses are America's main job-creation engine. Far more jobs have been created in the past decade by small businesses than by any other economic entity.

Unfortunately, small businesses don't always have the access to the capital they need. For example, small businesses generally cannot take advantage of equity or long-term debt market. Furthermore, many of them have trouble qualifying for conventional loans.

The Small Business Capital Access Act will encourage new private lending to small businesses. It will do so while reducing the costs, regulations, and governmental liability exposure which characterizes traditional Federal lending programs.

The Small Business Capital Access Program would permit financial institutions across the Nation to establish reserve funds to induce new small business lending. These reserve funds would enable lenders to extend more credit to small business than conventional lending now provides.

The proposal contemplates modest Federal and State contributions to these reserve funds. The Federal contributions would be limited to between 1.5 and 3.5 percent of any loan to cover possible losses.

These Federal contributions should be contrasted with current Federal small business lending programs which obligate the Federal Government to pay between 75 and 90 percent for every default.

This program will need far less Federal Government oversight, not only because the Federal liability exposure will be greatly reduced but also because States will be the primary regulators. Although the Small Business Administration would oversee the program, the bill allows a participating State to tailor a program to its particular small business credit needs.

This bill is based on a successful Michigan program started in 1986. Under it, the State spent $2 million to generate $48.5 million in financing for about 950 small businesses. This means that for every governmental dollar that was put into the program, small businesses were able to borrow $24. The Michigan program's default rate, estimated at 7.6 percent, is well below the Federal Governments guaranteed loan experience.

This bill is needed now. The areas in Los Angeles destroyed by the recent violence require new private capital. Other troubled inner cities desperately need the same thing. Such capital is important to rebuild blighted areas and provide jobs and experience to scores of underprivileged citizens.

The funding mechanism in this bill is an attractive way to accomplish this. With it, far less Government funds will generate far more small business financing than conventional Federal lending assistance.

I want to stress, however, that while this program is well suited to expand capital to the troubled inner cities, nothing in the bill limits it to such areas. It will also expand small business lending in rural and suburban areas.

I hope my colleagues will join Senator LIEBERMAN and me on this important proposal.•

• Mr. DODD. Mr. President, I am pleased to join with Senators LIEBERMAN, STEVENS, and RUDMAN as an original cosponsor of the Small Business Capital Access Program.

Small businesses are the engines of job creation and economic growth in our Nation, and bank credit is their life blood. Small businesses do not finance their operations through junk bonds; they rely on local banks to provide them with the money they need to survive and prosper.

Unfortunately, various factors have combined to create a credit crunch that far too many small businesses now face. For one, there are new requirements that banks beef up the amount of capital they hold in reserve to guard against losses, and this makes small business lending less attractive.

Added to that is the weakened condition of banks in many sections of the country. Small business people in Connecticut come face to face with the hard realities of the credit crunch every day, as they learn that their banks have no money to lend. For many small businesses, that is literally the kiss of death.

For more than 2 years now, Senator LIEBERMAN and I and many of our colleagues from New England have been working to find ways to address the credit crunch. We supported interstate banking as a way to bring in more banks with money to lend. We proposed open bank assistance and the Small Business Recovery Act as ways to strengthen small banks and enable them to reopen their credit windows. We have supported ways of making broader and more creative use of the Small Business Administration's Loan Guarantee Program.

There is still time to move on some of those initiatives. The administration has the authority under existing law to use open bank assistance to strengthen banks, and I would encourage it to use that power. I also hope we will move forward with the emergency supplemental appropriations bill, which includes money to fund $1 billion in additional SBA loan guarantees.

The legislation being introduced today is an important complement to those initiatives, however. It is an innovative and significant way of addressing one aspect of the credit crunch.

Under the Small Business Capital Access Program, borrowers, lenders, and State and Federal governments will each contribute equally to establish loan-loss reserves at banks. The reserves in turn will allow banks to make loans to borrowers who would not otherwise qualify for a loan.

The program is based upon a similar initiative begun in Michigan in 1986. Over the past 6 years, Michigan has made $48.5 million in loans to 950 companies under this program, which in turn has meant the creation of thousands of jobs.

I am confident that the program will have a similar record of success at the Federal level, and I know it would be a boon to local economies all across the country. I encourage my colleagues to join with me in supporting this bill and working for its enactment.•

By Mr. JOHNSTON (for himself, Mr. WALLOP, Mr. HEFLIN, Mr. HATFIELD, Mr. LIEBERMAN, Mr. PACKWOOD, Mr. BUMPERS, Mr. SEYMOUR, Mr. BINGAMAN, Mr. GORTON, Mr. CONRAD, Mr. MURKOWSKI, Mr. DOMENICI, Mr. BURNS, Mr. CRAIG, Mr. LAUTENBERG, Mr. AKAKA, and Mr. LUGAR):

S. 2851. A bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes; to the Committee on Energy and Natural Resources.

PACIFIC YEW ACT

• Mr. JOHNSTON. Mr. President, I am pleased to introduce legislation today which will improve the management of the Pacific yew—taxus brevifolia—which grows wild as a tree or shrub in some of the forests of the Western United States from central north California, north to the southeastern tip of Alaska. It is most abundant in the moist areas of Oregon, and has also been found in some areas of Idaho and Montana. The bark of this tree is the source of one of the most promising drugs used to treat ovarian cancer, taxol.

Ovarian cancer is the fourth most frequent cause of cancer mortality in women. About 1 in every 70 women will develop cancer of the ovary and 1 in 100 will die from this disease. An estimated 20,700 cases of ovarian cancer were diagnosed in 1991, and approximately 12,500 deaths were attributed to it last year.

Right now, there is no diagnostic method accurate enough to be used for routine screening in women who experience no symptoms. Because most women have no symptoms in the early stages of this form of cancer, most women have widespread disease by the time it is diagnosed. Only 39 percent of women diagnosed with ovarian cancer survive 5 years.

Taxol was first subject to clinical trials in 1993, and the results are very encouraging. Previously treated ovarian cancer patients have experienced a remission rate of about 30 to 35 percent. Indeed, many believe taxol may be effective in treating a number of other cancers including breast, lung, and colon cancer as well as childhood leukemias. Initial studies in women with advanced breast cancer, for example, have shown a response rate of about 50 percent. No one has been cured, but it is fair to say that many experts believe taxol may be one of the most important anticancer agents discovered in the last decade.

One of the major problems in taxol development is the difficulty faced in obtaining sufficient quantities of the drug. The sole current source of taxol for human use is the bark of the Pacific yew. Collecting the bark is a labor-intensive, time-consuming process. The slow-growing yew reaches a height of about 30 feet and a diameter of 8 to 10 inches and most commonly is found in old growth forests, scattered among the Douglas fir and other giants, in shady moist areas. Although not considered rare, except in a few locations the yew is also not a dominant species and can therefore be difficult to locate. It is believed that there are approximately 23 million yew dispersed across some 11.5 million acres of National Forest System lands and some 6.5 million yew scattered across 2.1 million acres of Bureau of Land Management lands. Once found, current harvesting technique requires that the tree be cut and the bark stripped from the tree. There is no clearcutting of the yew, given the scattered nature of its distribution, and the remaining stump often resprouts and produces another tree.

Progress is being made in increasing the number of yew available for use in the production and development of taxol. Significant efforts are now underway to propagate Pacific yew from branch-tip cuttings in nursery-like settings at the Coeur d'Alene, ID, Carson, WA, and Chico, CA Forest Service facilities as well as BLM's Horning Tree and Seed Orchard at Colton, OR. The long-term success of these efforts however has yet to be demonstrated. In addition, Bristol-Meyers-Squibb under contract with Weyerhauser has planted over 4 million yew trees with plans to plant an additional 10 million trees this year on various privately owned lands under nursery-like conditions. It is expected that these seedlings will grow into a 2- or 3-foot tree within 2 to 3 years, and will be available for processing into taxol at that time. Important research efforts are also being undertaken to try to extract taxol from other parts of the yew—such as yew needles and from other varieties of yew found outside the Pacific Northwest—and to produce taxol through cell cultures. I would also note that great strides have been made in trying to develop a synthetic version of taxol, a process which is very difficult because of the complexity of the molecule.

We all hope that the efforts underway to find alternate and renewable sources of taxol will have positive results very soon, but for the next 2 to 3 years according to the National Cancer Institute the only source we are likely to have is the bark of the Pacific yew. Moreover, because a product produced from needles or synthetically must meet good manufacturing practices to be approved for human use and an infrastructure for production and distribution put into place in the case of a synthetic, it is expected that we will continue to need bark from the Pacific yew for the next 4 or 5 years.

I would also point out that the demand for taxol is expected to increase significantly if the new drug application [NDA] that we anticipate, perhaps as soon as early next year. Therefore it is necessary that we make every effort to improve forestry management and assure that we do not waste this lifesaving resource.

This legislation will make sure that Pacific yew trees are fully harvested before commercial loggers enter Federal lands. Steps have been taken administratively to improve harvesting practices but more remains to be done. Since about 50 percent of the bark used to extract taxol comes from trees on Federal lands, this legislation is particularly important.

In addition, once the NDA is approved and taxol becomes available commercially, the bark must be sold. Currently, the bark is provided to the manufacturer—which was selected by a competitive process—through a cooperative research and development agreement [CRADA] as authorized by the Federal Technology Transfer Act. This bill will allow it to be sold, consistent with current requirements for commercial applications.

This bill also contains important provisions to help conserve the yew. It takes the bark of approximately three mature trees to supply enough taxol for one patient for 1 year, and we must make sure that we conserve this resource for future patients until alternative sources are available. Therefore, section 4 requires an inventory of the Pacific yew on Federal lands and section 5 requires research to be undertaken on the ecology of the yew, utilizing other parts of the tree to extract taxol, research on other yew species, and also provides for a propagation program in both agricultural and commercial settings.

I believe this bill will help us use this resource wisely by maximizing the availability of the yew bark while making sure that sufficient numbers of yew remain available for the future. It is critical that we do so if we are to meet the demands for taxol from many who have no other hope over the next 5 years.

I hope we can act very quickly on this measure, and I intend to do all that I can to see that we do.•

• Mr. WALLOP. Mr. President, I rise today with my colleague, Senator JOHNSTON, to introduce legislation that will provide for the management of an important tree species, the Pacific yew, where it occurs on Federal lands in order to ensure a steady supply of the cancer fighting chemical taxol, and to ensure the long-term conservation of the Pacific yew. Taxol is a drug found in the bark of the Pacific yew which has been used successfully in treating ovarian cancer in clinical trials and shows promise for the treatment of breast cancer as well as other types of cancer.

Over 12,000 women die from ovarian cancer and 44,500 from breast cancer each year. One of every nine women in the United States is expected to fall victim to breast cancer. Taxol is a hope for women the world over, yet very few are currently able to obtain the drug because of the cost and low extraction rate.

Yew is found in old growth forests along the Pacific coast, from southern Alaska to central California, and in the Rockies, from southeastern British Columbia to central Idaho and western Montana. In the past, the tree was thought to be trash and was often burned in slash piles after timber operations. The tree is extremely slow-growing, taking at least 10 to 15 years to grow to 1 inch in diameter.

The production of small quantities of taxol currently requires the bark from large numbers of Pacific yew. Up to 30 pounds of Pacific yew bark are needed to produce a gram of taxol. Each mature yew tree yields roughly 20 pounds of bark. On the average, treatment requires three mature trees per patient.

The discovery of taxol has precipitated a rash of poaching on Federal lands in the Pacific Northwest. Recent numbers show that more bark is stolen than is legally harvested from Bureau of Land Management forests and National Forest Service areas. Five Oregon men were indicted after being caught on Federal lands near two tons of illegally stripped yew bark. Federal patrol teams have been installed, but the problem is escalating and becoming uncontrollable. The poachers sell the bark for exorbitant prices making the subsequent sale of taxol extremely costly for the cancer patients.

This is precisely why conservation and enforced management of the yew is so desperately needed. Remaining yew resources must be carefully managed before the trees become endangered and supplies of the precious taxol are wasted.

Mr. President, the Pacific Yew Act will provide for efficient collection and utilization of those parts of the Pacific yew that can be used in the manufacture of taxol for the treatment of cancer. The act will provide for the sale of yew for the commercial production and subsequent sale of taxol at a reasonable cost to the victims of cancer. Further, the legislation ensures the long-term conservation of the Pacific yew. This is an interim measure that will prevent the wasting of the valuable resource while successful and affordable alternative methods of manufacturing the anticancer drug are being developed.

Mr. President, to those cancer patients who are waiting to try the drug taxol, to those who are hoping that this new cancer fighting chemical will save their lives, to those people and their families, this legislation is crucial. Senator JOHNSTON and I along with Senators HATFIELD, PACKWOOD, GORTON, SEYMOUR, BURNS, CRAIG, and MURKOWSKI strongly urge our colleagues to support this vital legislation. We will willingly work together with both sides of the aisle to see that it moves quickly through Congress.•

• Mr. PACKWOOD. Mr. President, I am pleased today to join with my colleagues in introducing the Pacific Yew Act, legislation to prescribe special management activities for both long-term conservation of the Pacific yew tree and a sustainable harvest for making taxol, the chemical compound derived from the yew bark. Taxol has shown great promise in treating ovarian cancer and also has potential for treating breast and lung cancers.

Taxol may be used next year on 10,000 to 12,000 women. Each year 12,000 women die of ovarian cancer and 44,500 women die of breast cancer in this country. Taxol signifies hope to thousands of women. The problem, Mr. President, is that taxol, found in the bark and needles of the Pacific yew tree, takes a lot of time to extract and is very expensive to collect. In fact, it takes the bark of three yew trees to make enough taxol to save one patient.

The bill we are introducing today would ensure that the yew trees located on National Forest and Bureau of Land Management lands are managed to provide for adequate quantities of taxol for cancer research and treatment. The act would also ensure the sale of yew from Federal lands and subsequent sale of taxol at a reasonable cost to cancer patients. Furthermore, the Pacific Yew Act would provide for the long-term conservation of the Pacific yew and prevent the wasting of yew resources. It strikes a balance between the careful and environmentally sound management of the Pacific yew species and its surrounding habitat and the availability of this resource for the production of taxol.

The Pacific Yew Act is noteworthy in a number of respects. I particularly applaud the requirement that whenever yew trees are harvested, they are cut using methods designed to allow for resprouting from the stump and replanted where necessary to maintain the species in the ecosystem. I have always supported efforts to help in the reforestation of Oregon forests. Given the high demand for the yew, we should also do everything we can to help in its regeneration. Another significant aspect of this bill is the requirement that the Secretaries of Agriculture and Interior reinitiate consultation should jeopardy be found. That is, if the Secretary foresees the need to harvest the yew in an area where a commercial timber sale is likely to jeopardize endangered or threatened species, the Secretary shall immediately reinitiate consultation to determine the effect harvesting the yew would have on those species. This means, Mr. President, that we may still be able to go in and harvest the yew in areas that are closed down because of the Endangered Species Act.

My top priority is to amend the Endangered Species Act to save jobs in Oregon. In the meantime, there are a lot of lifesaving Pacific yews that need to be free for use. While we are in the process of working on a resolution to Oregon's timber crisis, we must continue to keep the yew available to save lives.

We have all heard the evidence. The Pacific yew, which has been known to many over the years as a worthless tree, could not be more worthwhile to women around this country. The yew tree could save thousands of lives. Some are now calling it the tree of hope. Developing taxol from this tree of hope is a high priority right now for our medical researchers. We need to do what we can in Oregon to make sure they keep getting the precious bark and needles they need. For the thousands of women around this country suffering from cancer each year, what could be more important than that?

Mr. President, this bill represents the very best of public/private cooperation. It is a great example of government and industry working together for the benefit of the American public. I hope that the Senate will move quickly to adopt this bill so that many more will benefit from what is likely to be one of the most promising anticancer agents discovered in the last decade.•

• Mr. GORTON. Mr. President, the debate over old growth forests in the Pacific Northwest continues. Congress has yet to find a balanced solution. One issue, however, has emerged upon which most can agree: The Pacific yew tree is a valuable weapon in the fight against cancer and an abundant supply of its bark must be made available for the production of the cancer-fighting drug taxol.

Some have argued that the discovery of the important properties of taxol and the Pacific yew tree add urgency to the demand to lock up the forests of the Pacific Northwest. This argument lacks logic. When an important natural resource is discovered and its value to human beings is incalculable, the solution is not to lock up the source of that resource, throw away the key and walk away. The answer is management, careful and sensitive management that ensures a steady supply of the raw material. The discovery of the Pacific yew does not mandate preservation. It mandates wise management.

Taxol from the Pacific yew tree could be used to treat the 12,500 patients who die annually with ovarian cancer. Ask those women whether they would like to see the drug locked away forever in our forests.

In the early 1960's, the bark of the Pacific yew was collected, along with many other species, in an effort by the U.S. Department of Agriculture and the National Cancer Institute to test hundreds of thousands of species for their ability to fight cancer cells and tumors. In 1971, researchers isolated the active ingredient in the bark of the tree and labeled it taxol. In the late 1970's, the properties of taxol were studied in the lab where they illustrated the power of the drug in paralyzing the internal structure of cancer cells.

Clinical trials with taxol began in the 1980's. Of 40 women involved in the trial, 11 saw their tumors shrink by more than 50 percent. One patient saw her tumor disappear completely. This response rate of 30 percent was an unexpected success.

For years, the Pacific yew has been referred to as the "weed of the forest". In the process of harvesting Douglas fir and other softwood species of the Pacific Northwest, the Pacific yew was most commonly discarded and burned as slash. No one knew the Pacific yew had such promise in the medical world. Despite this, last year the U.S. Fish and Wildlife Service found that the Pacific yew is not at risk of becoming endangered at some time in the future and is not, therefore, a threatened species under the Endangered Species Act.

The petitioners had attempted to establish that the Pacific yew was in short supply, when in reality its supply is abundant. We simply needed a wake up call to realize the benefits for which the Pacific yew was worth managing.

The potential uses of taxol are obvious. Then why all the fuss?

The Pacific yew is a slow-growing tree that appears predominantly in old growth forests. In order to produce 1 pound of taxol, it takes a bit more than 5,000 yew trees. Fifty-five pounds of taxol is necessary to treat the 12,500 women who die annually of ovarian cancer. This means that 275,000 Pacific yew trees must be harvested annually in order to keep up with the clinical demand.

Obviously, the problem is not protecting and preserving the Pacific yew tree. The problem is ensuring an adequate supply of taxol and, therefore, of the Pacific yew tree. Unfortunately, the process of extracting taxol from the bark of trees is time consuming. Only 35 of the 55 pounds necessary to treat the ovarian cancer patients will be processed this year. The supplies must be increased.

"Biodiversity" is a popular buzzword used today. Its definition is not widely understood. I interpret biodiversity to mean the existence of a wide variety of genetic material in living organisms around the world. Advocates of biodiversity rarely explain the inherent value in this diversity of genetic material. My assessment is that this is because much of the value placed on biodiversity is esthetic; that is, humans simply desire to know that there exists a lot of species out there in the world.

Biodiversity also holds a certain potential direct value to human beings and their own survival and the Pacific yew tree illustrates this value. It is truly miraculous that this once discarded weed of the forest can have such potential for treating one of mankind's greatest medical enemies. And who knows how many other species hold the key to important medical secrets.

Unfortunately, the reaction among many is to call for the preservation of these valuable natural resources. Preservation will not ensure that the 12,500 dying ovarian cancer patients will get their treatment. Only through careful management and harvesting of this important resource can its full potential be realized. I fully expect that this call for preservation will be heard each time a naturally occurring drug is discovered and its only source is an inaccessible species of one kind or another. If the goal of biodiversity is to provide some benefit to mankind, the call for preservation must shift to a call for management.

The Pacific yew tree is not unlike any other important natural resource. True, it has the potential to save lives and for that reason, it should be managed even more intensively. But, in many respects, the Pacific yew tree is not unlike our national forests, our flowing rivers, or our mineral deposits. Those resources are critical for our housing needs, our power requirements and our needs for minerals. Just as in the case of the Pacific yew, when these natural resources are recognized as critical to our survival, we must manage them and harness their power. When a resource is important, it makes no sense to lock it up purely for our aesthetic enjoyment. We can gain that enjoyment while at the same time taking advantage of the benefits they provide.

Congress should take action now to ensure a steady supply of Pacific yew bark and of taxol to treat the thousands of suffering cancer patients who die each year. It must manage for both the planting and harvesting of the Pacific yew. Congress should also take action to ensure that we do not lock away precious resources in our national forests, on our powerful rivers and on our treasured public lands. I continue to believe that we can manage these resources in an ecologically sound manner, while serving the needs of human beings.

Today, I cosponsor the Pacific Yew Act. This legislation will ensure a steady supply of bark from the Pacific yew. It will ensure that our zeal to protect other endangered or threatened species does not lock away this powerful medical tool. I encourage my colleagues to support this legislation with the hope that the 12,500 patients with ovarian cancer might be successfully treated.•

• Mr. MURKOWSKI. Mr. President. I join in cosponsorship of this legislation which, if enacted, would provide for the sustainable harvest and long-term conservation of the Pacific yew tree. The potential benefits of this legislation to the people of our country cannot be measured. If we can, through this legislation, assure an ongoing supply at a reasonable cost of lifesaving drug taxol, we have the potential to save thousands of lives now lost to cancer.

We do not know the real potential of this drug at this time. We do know from clinical trials that taxol has been used successfully to treat ovarian cancer and that it shows promise in the treatment of other types of cancer, including breast cancer.

The story of the discovery and extraction of the naturally occurring medicine taxol found in the bark of an ordinary tree from the forests of southeastern Alaska and the Northwestern states is not lost on me. Among the natural treasures managed by our land management agencies, we have discovered this lifesaving chemical. Through sustained-yield harvest, and ongoing management we should be able to provide the world supply until science can provide synthetic material that does the same job. Our national forests will provide the buffer we need until privately managed lands can produce a steady supply from plantings specifically managed for taxol production.

Sustained-yield harvest and management would not be possible unless the forests were managed under multiple-use criteria. Locking up the only supply of this material in museum-like reserves is not our goal here. I for one want to see our national forests put to the highest possible use. Appropriate management guidelines must be implemented promptly in order to prevent any wasting of Pacific yew in current and future timber sales on Federal lands.

Mr. President, I want to congratulate Senator WALLOP and Senator JOHNSTON for their wisdom and humanity in introducing this bill. If through this action to ensure a steady supply of taxol we can help save even a single woman from death due to ovarian cancer, or if we can find a new way to treat breast and other cancers, the Senators' foresight will be rewarded. I hope this important legislation will gain a long, bipartisan list of cosponsors. I view it as a small ray of hope for the thousands who suffer the ravages of cancer. I urge prompt action on this measure.•

• Mr. CRAIG. Mr. President, I am very pleased to cosponsor the Pacific Yew Act being introduced today by Senators JOHNSTON and WALLOP. It is of utmost importance that we provide for the orderly development of this most important resource. Bark from the Pacific yew tree is used in the production of taxol which has been described as one of the most promising anticancer agents of the last decade.

Idaho shares a prominent role in this drama since the Pacific yew grows naturally in the forests of northern Idaho. Until recently the yew was little-used and attracted scant attention. Now, it is the subject of intense inventory and research. A thorough search for the yew is currently being conducted on the Idaho panhandle, Nez Perce and Clearwater National Forests in Idaho. By the end of summer, scientists will have defined the geographic range of the yew, and the amount of yew bark which can be made available will be known.

Some facts about Pacific yew are already known. It is not an endangered species. Yew regenerates readily from both stump and root sprouts in the wild. Geneticists at the Forest Service's Coeur D'Alene nursery have successfully regenerated yew seedlings and have plans to begin outplantings in the yew's natural environment.

The Nez Perce National Forest recently provided bark for clinical trials in the development of cancer treatments. The tests are being conducted by Bristol-Myers Squibb Co. through sponsorship of the National Cancer Institute.

I am proud that Idaho is participating in this all-out effort to find effective cancer treatments. The bill being introduced today will assure that Pacific yew will be made available in an orderly and efficient manner. It will require that the yew be given the highest priority in the planning and accomplishment of timber sales on Federal lands.

I strongly support the careful and coordinated approach to management of the critical Pacific yew resource which this bill will provide.•

• Mr. LAUTENBERG. Mr. President, I join today in introducing the Pacific Yew Act. This legislation which would increase the availability of taxol, a promising anticancer drug, by protecting its source, the Pacific yew tree.

Cancer is a disease which touches us all. We may be lucky enough to avoid getting cancer ourselves, but nearly every one of us has a loved one, a friend, or a colleague who has had to deal with battling this debilitating disease. Every year nearly 1 million Americans learn they have cancer. All of a sudden their lives are reduced to hope, percentages, and uncertainty.

I've faced cancer in my own family and know from personal experience the deep and lasting pain it can leave when it steals our loved ones from us. My State of New Jersey ranks fourth in cancer deaths nationwide. And the incidence of cancer is 13 percent greater in New Jersey than the national average. What a terrible waste of human potential. We must respond aggressively to this pressing public health concern.

Scientists say that taxol is the most promising cancer-fighting drug to be developed in the last 15 years. The story of taxol is an interesting one. In 1960, the National Cancer Institute created a natural products program and sought assistance from the U.S. Department of Agriculture to test everything and anything which might provide a cure for cancer.

Things were tested as potential cures that most of us ignore or take for granted: twigs, insects, moss, and fungi. Thousands of samples were collected and screened. Thousands. And only one proved to be a promising cure for cancer in human beings. One.

The promise is called taxol, an extract from the Pacific yew tree which grows in the old growth forests in the Pacific Northwest. The bark of the Pacific yew tree is the only known source of taxol. Yet, until recently, the yew tree was viewed as a mere nuisance in the way of harvesting valuable lumber. Now the yew is the "tree of hope" for cancer victims of today and tomorrow, many of whom would count hope as their most valuable possession.

The National Cancer Institute has been testing taxol on women who have refractory ovarian cancer for which no other treatment has proven effective. And the results of NCI's clinical trials are very encouraging. NCI has initiated studies on other types of cancer as well and reports that it appears likely that taxol may play a significant role in fighting breast and other types of cancer.

But the major problem with taxol is that there isn't enough of it. The only current source of taxol for clinical trials is the bark of the Pacific yew. It is difficult and time consuming to procure adequate quantities of the drug. To place this in perspective, Mr. President, 750,000 pounds of dried yew bark is required to get enough taxol for about 12,000 patients.

To help ensure rapid development, testing, and approval of taxol, the National Cancer Institute signed a cooperative research and development agreement with Bristol-Myers-Squibb Co. which is responsible, under the agreement, to develop and provide an adequate supply of the taxol to NCI for clinical trials. An important component of that agreement calls for Bristol-Myers-Squibb to research alternative sources for the drug. The company has invested considerable resources in developing alternative sources for the drug including extract from yew needles, plant tissue culture, genetic engineering, tree planting and total chemical synthesis. NCI estimates that within 5 years it will no longer be necessary to rely on yew bark as a source for taxol.

Mr. President, we need this legislation to ensure that Pacific yew trees on Federal lands are managed to allow for the collection of raw ingredients needed to manufacture taxol. I have read accounts of yew trees being left to rot and burn after a logging operation. We must treat these trees like the precious resource that they are. We cannot afford to let any more time elapse without increasing the protection of these trees of hope.

I hope this legislation moves quickly and easily toward final passage. I urge my colleagues to support this important legislation.•

By Mr. ROTH (for himself and Mr. BIDEN):

S. 2825. A bill to establish the Professional Boxing Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PROFESSIONAL BOXING CORPORATION ACT

• Mr. ROTH. Mr. President, today I am introducing on behalf of myself and Senator BIDEN the Professional Boxing Corporation Act of 1992—legislation which is long overdue. For too long, professional boxers have been denied effective protection of their health and safety. For too long, the millions of Americans who are loyal boxing fans have seen the sport beset with allegations of corruption and unfairness. For too long, professional boxing has been controlled by sanctioning bodies and promoters operating on a national and international basis, beyond the reach of existing State regulators. Despite all of these problems, for too long, professional boxing has not taken any meaningful steps to get its own house in order. The time has come for something to be done to protect the boxers and the fans. This legislation marks the first step along what I hope will be a brighter and safer road for the sport of boxing.

The need for this legislation was demonstrated to me recently in the case of a middleweight title fight involving Delaware's Dave Tiberi. Tiberi was an unknown underdog entering the fight, given little chance to dethrone champion James Toney. But, in a case of life imitating art, like something out of "Rocky," Tiberi rose to the occasion and appeared to many, including the announcers of this nationally televised bout, to pull off a dramatic upset. However, in a shocking split decision, Toney was declared the winner.

Responding to the calls and letters my office received from all around the country, I directed my staff to investigate this matter. We found that neither the State boxing authority nor the sanctioning body involved chose to investigate this match. Further, we found that regulations designed to protect the boxers and ensure fairness were not enforced in the Toney-Tiberi bout, thereby providing a good example of the need for Federal legislation.

This legislation establishes a nonprofit Government corporation to be known as the Professional Boxing Corporation. Except for an initial start-up loan, the PBC will be completely self-funding. It will cost the taxpayer nothing. This Corporation will not replace existing State boxing authorities—rather, it will work with them to develop and enforce uniform minimum standards for professional boxing to protect the boxers' safety and reduce corruption and unfairness.

Boxing is different than other sports—it does not have a central regulatory authority like the commissioner of baseball, nor is there any likelihood that such a body will ever be established in the absence of Federal legislation. Professional boxing has been governed by a patchwork system of local, State, and international groups with no unifying authority. This legislation provides that unifying authority.

I want to make it clear that the PBC will not micromanage professional boxing—that will be left to boxing itself, as it should be. For example, this legislation specifically prohibits the Corporation from ranking boxers or promoting fights.

However, the PBC will ensure that the boxing ring is square—to ensure that all participants play by the same rules or they don't play at all. The PBC will accomplish that goal by functioning primarily as a coordinating body, working with the State authorities to improve the sport.

I believe this legislation represents the best means by which we can restore fairness and balance to professional boxing and knockout many of the problems currently facing the sport. I urge my colleagues to join with me in passing this bill to protect the individual boxers and improve the credibility of the sport as a whole. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Boxing Corporation Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) professional boxing is beset with wide-ranging problems which are beyond the scope of the current system of State regulation to protect against;

(2) the rules governing professional boxing and the enforcement of such rules varies widely among States;

(3) boxing, unlike other professional sports, does not have an entity by which the sport can be successfully regulated, nor is there a prospect of meaningful self-regulation;

(4) the problems currently facing professional boxing can be characterized as exploitation of boxers, conflicts of interest, questionable judging, and corruption, including organized crime influence; and

(5) such problems endanger the health, safety and welfare of boxers and undermine the sport's credibility with the public.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a national organization which shall work with State boxing authorities to establish and enforce uniform rules and regulations for professional boxing in order to protect the health and safety of boxers and to ensure fairness in the sport.

SEC. 4. DEFINITIONS.

For purposes of this Act the term—

(1) "Board" means the Professional Boxing Advisory Board established under section 7;

(2) "boxing match" means a professional boxing match, or any part thereof, which is held within the United States and does not include an amateur boxing match;

(3) "Corporation" means the Professional Boxing Corporation established under section 5;

(4) "Executive Director" means the Executive Director of the Corporation;

(5) "Fund" means the Professional Boxing Corporation Trust Fund established under section 12;

(6) "promoter" means any person or business organization licensed under this Act to hold, give, or otherwise conduct any boxing match, program, or exhibition;

(7) "Secretary" means the Secretary of the Treasury;

(8) "State" means any State of the United States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(9) "State boxing authority" means a State agency with authority to regulate professional boxing.

SEC. 5. ESTABLISHMENT OF PROFESSIONAL BOXING CORPORATION.

There is established the Professional Boxing Corporation which shall be a Government corporation as defined under section 103 of title 5, United States Code. The Corporation shall maintain its principal office in Washington, District of Columbia.

SEC. 6. EXECUTIVE DIRECTOR OF THE CORPORATION.

(a) EXECUTIVE DIRECTOR.—The Corporation shall be administered by an Executive Director who shall be appointed by the President by and with the advice and consent of the Senate.

(b) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Executive Director of the Professional Boxing Corporation.".

SEC. 7. PROFESSIONAL BOXING ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a Professional Boxing Advisory Board. The members of the Board shall be appointed by the Executive Director. The Board shall consist of 5 members, of whom—

(1) one shall be an acting State athletic or boxing commissioner;

(2) one shall be a physician certified in neurosurgery;

(3) one shall be a representative of the United States Amateur Boxing Association; and

(4) two shall be persons with an interest in and knowledge of the sport of boxing.

(b) QUALIFICATIONS.—(1) Each member of the Board shall be a citizen of the United States and shall not, during his service as a member of the Board, be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing or have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match.

(2) Each member of the Board shall be an individual who, by reason of his business, professional, or other background, training, experience, or activities outside the business of professional boxing and its related activities, has a broad understanding of the relationship between professional boxing, both as a sport and as a business, and the public interest.

(c) CHAIRMAN.—The Executive Director shall appoint one of the members to serve as Chairman of the Board.

(d) PURPOSE AND FUNCTION.—

(1) The Board shall make recommendations to the Corporation to most effectively and efficiently carry out the provisions of this Act.

(2) The Board and the Executive Director shall contact each State boxing authority and request the establishment of a Congress of State Boxing Administrators who shall—

(A) advise the Board and the Corporation in all matters relating to the operation and administration of professional boxing;

(B) meet at least annually and be composed of one voting member from each State or local agency responsible for regulating professional boxing in such State or locality;

(C) establish from within the membership of the Congress of State Boxing Administrators—

(i) a committee relating to—

(I) rules;

(II) health and safety;

(III) appeals;

(IV) certification and licensing; and

(V) life insurance and health insurance benefits; and

(ii) any other committees considered necessary by such Congress;

(D) approve or disapprove recommendations to the full Congress made by such committees; and

(E) transmit approved recommendations of such Congress to the Board and the Corporation.

(e) INITIAL APPOINTMENTS.—Initial appointments under subsection (a) shall be made within 60 days after the effective date of this Act.

(f) TERMS.—Members of the Board shall be appointed to 5-year terms.

(g) COMPENSATION OF MEMBERS.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(h) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(i) STAFF AND SERVICES.—The Corporation shall provide all necessary staff and support services for the Board.

(j) SUCCESSORS.—If any member of the Board is unable to serve his full term of office or becomes unqualified to serve in such position, a new member shall be appointed to serve the remainder of such term of office in the same manner in which the original appointment was made.

(k) QUORUM.—Three members of the Board shall constitute a quorum.

(l) INITIAL MEETING.—The initial meeting of the Board shall be held within 90 days after the effective date of this Act.

SEC. 8. FUNCTIONS OF THE CORPORATION.

(a) ESTABLISHMENT OF NATIONAL REGISTRY AND LICENSING.—(1) The Corporation shall provide a unified national computer source for the collection, storage, and retrieval of information, which may include—

(A) a list of professional boxers;

(B) the medical records, won-loss records, size, weight, and business associates of such boxers; and

(C) information pertinent to the sport of boxing on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Corporation to have a professional role in boxing.

(2) The Corporation shall issue a license, either through State boxing authorities or through the manner determined most appropriate by the Corporation, on an annual renewable basis, to each boxer, boxing judge, and referee who meets Corporation minimum standards, and shall issue for licensed boxers an accurate record of their medical history, biographical information, and won-loss boxing record.

(3) The Corporation shall issue a certificate of registration, either through State

boxing authorities or through the manner determined most appropriate by the Corporation, at least every 3 years, to each boxing promoter, boxing matchmaker, boxing manager, trainer, physician, cut man, and other person determined by the Corporation to have a professional role in boxing, who meets Corporation minimum standards.

(b) LICENSE AND REGISTRATION FEES.—The Corporation may set and charge licensing and registration fees for all persons regulated under this Act. Fees paid by promoters may be derived from gross receipts from boxing matches. Such fees may be collected through State boxing authorities or through the manner determined most appropriate by the Corporation. All such fees shall be deposited in the General Treasury of the United States.

(c) ADDITIONAL FUNCTIONS.—In addition to the functions described under subsections (a) and (b), the Corporation shall—

(1) prescribe regulations requiring a copy of any contract for a boxing match to be filed with the Corporation not later than 30 days before such match for review by the Corporation;

(2) prescribe regulations of the sport of professional boxing to ensure the safety of participants;

(3) establish minimum standards and procedures for physical and mental examinations to be given boxers;

(4) establish minimum standards for the availability of medical services at professional boxing matches;

(5) encourage a life, accident, and health insurance fund for professional boxers and other members of the professional boxing community;

(6) research and establish minimum standards for the manufacturing and use of boxing equipment;

(7) conduct discussions and enter into agreements with foreign boxing entities on methods for applying minimum health and safety standards to foreign boxing events and foreign boxers, trainers, cut men, referees, judges, ringside physicians, and other professional boxing assistants;

(8) review State boxing authority regulations for professional boxing and provide assistance to such authorities in meeting the Corporation minimum standards and requirements;

(9) prescribe regulations for establishing standards for the making of contracts, agreements, arrangements, and understandings relating to boxing matches between boxers and promoters; and

(10) prescribe regulations prohibiting conflicts of interest relating to boxing matches.

(d) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—(1) The Corporation may suspend or revoke any license or registration made under this Act if the Corporation finds—

(A) such suspension or revocation is in the public interest; and

(B) there is reasonable grounds for belief that standards prescribed by the Corporation under this section are not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have been used in connection with such licensing or registration.

(2) Any suspension of a license or registration under this section shall be for a period of not less than 6 months.

(e) PROHIBITORY ORDERS.—(1) The Corporation may, after appropriate notice and opportunity for hearing, by order prohibit the holding of any proposed boxing match if it finds such prohibition is in the public interest and that—

(A) any contract, arrangement, or agreement with respect to such match does not conform to the regulations of the Corporation;

(B) such match, or any participant in such match, is not licensed or registered as provided under this Act; or

(C) there is reasonable grounds for belief that such match may be affected by bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, intimidation or violence.

(2)(A) At or after the time that notice of any proceeding under paragraph (1) is sent or ordered by the Corporation to be published, regardless of whether or not any person to be affected by such proceeding has received such notice, the Corporation may by order without notice or hearing summarily prohibit the holding of the boxing match in question pending final disposition of the proceeding by the Corporation, or for such shorter period as the Corporation considers appropriate. The Corporation shall make such an order if in its judgment such action is in the public interest and necessary to carry out the purposes of this Act.

(B) No liability shall attach to any person by virtue of a summary order issued under this subsection unless such person has actual notice thereof.

(f) INVESTIGATIONS AND INJUNCTIONS.—(1) The Corporation may, in its discretion, make such investigations as it considers necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Corporation may, in its discretion, publish information concerning any such violations, and investigate any facts, conditions, practices, or matters which it may determine necessary or proper to aid in the enforcement of the provisions of this Act, in the prescribing of rules and regulations under this Act, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

(2) For the purpose of any such investigation, or any other proceeding under this Act, any officer designated by the Corporation is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Corporation considers relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Corporation may file an action in any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. Such court may issue an order requiring such person to appear before the Corporation to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or in which he may be found. Any person who, without just cause, fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memorandums, and other records, if in his power so to do, in obedience to the subpoena of the Corporation, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than 1 year, or both.

(4) No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Corporation, or in obedience to the subpoena of the Corporation, or in any cause or proceeding instituted by the Corporation, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. No individual shall be prosecuted or subject to any penalty or forfeiture for, or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(5) If the Corporation determines that any person is engaged or about to engage in any acts or practices which constitute or shall constitute a violation of any provision of this Act, or of any rule or regulation thereunder, it may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

(6) Upon application of the Corporation the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Corporation.

(g) HEARINGS BY CORPORATION.—Hearings may be public and may be held before any officer of the Corporation and appropriate records thereof shall be kept.

SEC. 9. POWERS OF THE CORPORATION.

(a) IN GENERAL.—The Corporation may—

(1) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

(2) appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Corporation, and shall appoint such officers and employees in accordance with the civil service laws and fix such compensation in accordance with the provisions of title 5, United States Code;

(3) enter into contracts for temporary and intermittent services to carry out any function of the Corporation;

(4) publish a newspaper, magazine, or other publication consistent with corporate purposes;

(5) pay the travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, of the members of the Congress of State Boxing Administrators established under section 7(d)(2) while such members are away from their homes or regular places of business in performance of services for such Congress; and

(6) take any necessary and proper action to accomplish the purposes of this Act consistent with the provisions of this Act.

(b) PROHIBITIONS.—The Corporation may not—

(1) promote boxing events or rank professional boxers; or

(2) provide technical assistance to, or authorize the use of the name of the Corporation by, States which do not comply with requirements of the Corporation.

(c) USE OF NAME.—The Corporation shall have the exclusive right to use the name "Professional Boxing Corporation" and the acronyms "P.B.C." and "PBC", and any person who, without the permission of the Corporation, uses such name or any other exclusive name, trademark, emblem, symbol, or insignia of the Corporation for the purpose of inducing the sale of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Corporation for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1051 et seq., popularly known as the Trademark Act of 1946).

SEC. 10. NONINTERFERENCE WITH STATE BOXING AUTHORITIES.

(a) NONINTERFERENCE.—Nothing in this Act shall prohibit any agency established by or pursuant to the law of any State or political subdivision of any State from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or boxing matches to the extent not inconsistent with the provisions of this Act.

(b) MINIMUM STANDARDS.—Nothing in this Act shall prohibit any State boxing authority from enforcing State standards or requirements which exceed the minimum standards or requirements promulgated by regulation of the Corporation.

SEC. 11. ASSISTANCE FROM OTHER AGENCIES.

(a) IN GENERAL.—(1) Notwithstanding section 552a of title 5, United States Code, or any other provision of law, the Corporation may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality any information, suggestions, estimates, and statistics which shall assist the Corporation in carrying out the purposes of this Act, and each such department, agency, bureau, board, commission, office, independent establishment, or instrumentality shall furnish such information, suggestions, estimates, and statistics directly to the Corporation, upon request made by the Executive Director.

(2) Any information, including suggestions, estimates, and statistics, secured by the Corporation which, but for paragraph (1) of this subsection, could not be secured by the Corporation by reason of section 552a of title 5, United States Code, or any other provision of law shall be treated by the Corporation as confidential information.

(3) Except as provided in paragraph (4) of this subsection, no officer or employee of the Corporation may disclose to any person other than an officer or employee of the Corporation any information referred to in paragraph (2) of this subsection. Nothing in this subsection shall be construed to authorize the Corporation to withhold information from the Congress.

(4)(A) Any information referred to in paragraph (2) of this subsection may be disclosed in accordance with the prior written consent of the person with respect to whom such information is maintained, but only to such extent, under such circumstances, and for such other purposes as may be allowed under regulations which shall be prescribed by the Corporation.

(B) Whether or not the person, with respect to whom any information referred to in paragraph (2) of this subsection is maintained, gives his consent, such information may be disclosed if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against any prejudice to the person together with the effective administration and enforcement of the provisions of this Act. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any information is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(5)(A) Whoever violates any provision of this subsection may be assessed a civil penalty of not to exceed $1,000 for each violation. Such penalty shall be assessed by the court in a civil action brought by the Attorney General of the United States.

(B) The Corporation shall refer to the Attorney General the name of any person it has reasonable cause to believe has violated any provision of this subsection.

(b) DETAILS.—Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Corporation, upon the request of the Executive Director, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over such employee. While so detailed, such employee shall continue to receive the compensation provided pursuant to law for his regular employment and shall retain, without interruption, the rights and privileges of such employment.

SEC. 12. PROFESSIONAL BOXING CORPORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established the Professional Boxing Corporation Trust Fund in the Treasury of the United States, consisting of such amounts as are transferred to the Fund under subsection (b) of this section and any interest earned on investment of amounts in the Fund under subsection (e)(2) of this section.

(b) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN FEES.—(1) The Secretary shall transfer to the Fund an amount equal to the sum of the fees received in the Treasury under section 8 after the effective date of this Act.

(2) The amounts required to be transferred to the Fund under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) EXPENDITURE FROM FUND.—Amounts in the Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out the purposes of this Act.

(d) AUTHORITY TO BORROW.—(1) There are authorized to be appropriated to the Fund, as repayable advances, such sums as may be necessary to carry out the purposes of the Fund.

(2)(A) Advances made to the Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Fund.

(B) No advance shall be made to the Fund after the date occurring 5 years after the effective date of this Act, and all advances to such Fund shall be repaid on or before such date.

(C) Interest on advances made to the Fund shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(e) INVESTMENT OF FUND.—(1) It shall be the duty of the Secretary to invest such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, of the United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(2) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(3) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(f) OBLIGATIONS FROM FUND.—The Corporation is authorized to obligate such sums as are available in the Fund (including any amounts not obligated in previous fiscal years) for—

(1) the functions of the Corporation under section 6; and

(2) properly allocable administrative costs of the Federal Government for the activities related to such functions.

(g) REPORT TO CONGRESS.—It shall be the duty of the Secretary to hold the Fund, and (after consultation with the Corporation) to report to the Congress each year on the financial condition and the results of the operations of the Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

SEC. 13. AUDIT AND REPORT.

(a) AUDIT.—The Comptroller General shall conduct an annual audit of the finances of the Corporation, to be completed in time for inclusion in the report required by subsection (b).

(b) REPORT.—The Corporation shall submit a report to the Congress within 1 year after the effective date of this Act and annually thereafter. Such report shall detail the activities of the Corporation for the preceding year and shall include—

(1) a description of the State boxing authority in each State; and

(2) the results of the audit required under subsection (a).

SEC. 14. PETITION TO REPEAL BEFORE EFFECTIVE DATE.

(a) PETITION TO CONGRESS.—During the 1-year period preceding the effective date of this Act, a majority of the State boxing authorities from all States may submit a petition as described under subsection (b) to the Senate Governmental Affairs Committee and the House of Representatives Government Operations Committee. Such committees shall take all necessary actions to respond to such petition before the effective date of this Act.

(b) CONTENTS.—The petition submitted under subsection (a) shall include—

(1) a statement with supporting evidence that the provisions of this Act are unnecessary because the State authorities have established an organization to effectively carry out the purposes of this Act; and

(2) a request for the Congress to enact legislation to delay the effective date of this Act or repeal this Act.

SEC. 15. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act (except for section 14 which shall take effect on the date of enactment) shall be effective on and after 1 year after the date of the enactment of this Act.•

By Mr. LEVIN (for himself and Mr. COHEN):

S. 2853. A bill to authorize appropriations for the U.S. Office of Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

U.S. OFFICE OF SPECIAL COUNSEL AUTHORIZATION ACT

• Mr. LEVIN. Mr. President, today I am introducing a bill to reauthorize for an additional 2 years the Office of Special Counsel—the Government agency charged with protecting Federal employee whistle blowers. I am pleased that Senator COHEN, a long-time stalwart in the battle to protect whistleblower rights, has agreed to join me as an original cosponsor of this measure.

We all know that Federal employee whistleblowers save taxpayer dollars every day by helping to identify potential problems and wrongdoing at an early stage. These brave individuals deserve our respect and our thanks, but all too often they are threatened instead with on-the-job harassment, negative job ratings, unfavorable transfers, denial of promotions, and even dismissal.

Three years ago, Congress sought to address this problem by unanimously enacting the Whistleblower Protection Act of 1989, a landmark piece of legislation which offered whistleblowers substantial new job protections that were not previously available. I wrote and sponsored that legislation because of the compelling evidence that the existing system wasn't serving the interest of whistleblowers.

It is not enough, however, for Congress to enact new legislation. If whistleblowers are to be fully protected, the law must be faithfully implemented in the spirit in which it was written. Unfortunately, there is evidence that this has yet to be done. Although the record shows that the Office of Special Counsel has obtained corrective action for some 70 whistleblowers over the last 2 years, many more have been considerably less fortunate.

Just last month, for example, I received a letter from a whistleblower who was denied assistance by the Office of Special Counsel. The whistleblower then hired a private lawyer to bring his case to the Merit Systems Protection Board and prevailed on the merits. While this case shows the importance of the individual right of action created by the Whistleblower Protection Act, it also shows the failure of the Office of Special Counsel to act as an aggressive advocate of the interests of whistleblowers.

Overall, OSC obtained some form of corrective action in 68 of the 959 whistleblower cases brought to it in fiscal year 1990 and fiscal year 1991, but it has yet to litigate a single corrective action case on behalf of a whistleblower before the Merit Systems Protection Board. In fact, OSC recently informed us that it has only once made a formal determination under the statute that there were reasonable grounds to believe that a prohibited personnel practice had taken place. Numerous OSC investigations have remained open for more than a year without any such determination being made.

Mr. President, the congressional authorization of the Office of Special Counsel is scheduled to expire at the end of this fiscal year, and the administration has requested that we extend it for an additional 5 years. In light of the OSC's history, I believe that such a blanket reauthorization would be unwise. However, we do have a new Special Counsel, Kathleen Koch, who took office less than a year ago. Ms. Koch has indicated a strong personal commitment to the protection of whistleblowers and should be given a full opportunity to follow through on that commitment.

For this reason, the bill that we are introducing today would extend the authorization of the Office of Special Counsel, but only for 2 years. This reauthorization gives the Office of Special Counsel an opportunity to improve its operations and become more aggressive in its efforts to protect whistleblowers. At the same time, the short period of the reauthorization should keep the office on a short leash and put it on notice that improvements are expected. If OSC fails to become more aggressive in its efforts to protect whistleblowers, we will have to consider more significant changes to the statute 2 years from now.

In addition to reauthorizing the Office of Special Counsel, the bill would clarify several provisions of the Whistleblower Protection Act, to address issues raised at the hearing and ensure that the statute operates as intended. In particular, the bill would:

First, clarify the rules governing OSC disclosure of information about whistleblowers;

Second, require OSC to debrief, upon request, whistleblowers whose cases have been terminated;

Third, establish a fixed time limit for OSC to take action on whistleblower cases; and

Fourth, make several other minor changes to the act.

On the first point, section 1212(g) of the statute already prohibits the Office of Special Counsel from releasing any information about a whistleblower's case, except in accordance with the Privacy Act.

Despite this provision, however, many whistleblowers believe that OSC routinely releases information about whistleblowers to their employing agencies. While OSC denies any improper release of information, it also insists that section 1212(g) does not in any way restrict its ability to use information about whistleblowers during the course of an investigation in any way it pleases.

The Office of Special Counsel obviously needs to use information during investigations, and in some cases, use necessarily requires disclosure. In other cases, however, disclosure may be seriously detrimental to the interest of a whistleblower. OSC's insistence on absolute discretion to use information in any way it pleases has undermined confidence in the office, and may even subject some whistleblowers to needless harassment.

The draft bill would address this problem by clarifying the existing statutory provision on the release of information and requiring OSC to develop a policy addressing types of information that may, and may not, be disclosed to agency officials without the consent of the whistleblower. This approach would address the problem of OSC releasing confidential information without limiting the office's ability to conduct investigations.

On the second point, the statute currently requires OSC to provide a close-out letter to whistleblowers whose cases are terminated. Each such letter is statutorily required to include a summary of the relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the whistleblower's allegations.

However, many whistleblowers complain that OSC's close-out letters are perfunctory, and give little information about OSC's investigation or the facts of the case. Some have sought to remedy this problem by gaining access to the OSC's investigative files.

Giving whistleblowers a right of access to OSC investigative files may not be appropriate, because such files might contain confidential information about persons other than the whistleblower. Also, witnesses might be less candid with OSC investigators if they knew that OSC files would be open to the whistleblower. On the other hand, OSC is statutorily required to assist whistleblowers, and should not treat them the same way as any Federal agency would treat a routine FOIA request.

The draft bill would address this problem by requiring OSC to brief a whistleblower about the case, on the request of the whistleblower, after it terminates an investigation. The briefing would address whom OSC talked to and what OSC learned about the case. OSC would also be required to respond to reasonable questions about the case. This change would give whistleblowers greater access to OSC information without going to the extreme of opening OSC investigative files to individual whistleblowers.

On the third point, section 1214(b)(2)(A) of the statute states that if OSC finds reasonable grounds to believe that a prohibited personnel practice has occurred, it must notify the agency and give it an opportunity to correct the problem. Section 1214(b)(2)(B) then provides that if, after a reasonable period of time, the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

However, OSC has informed us that only one determination has ever been made under 1214(b)(2)(A). Instead of utilizing the statutory mechanism, OSC has chosen to pursue open-ended negotiations with the agency, leaving the whistleblower hanging. For this reason, OSC currently has 21 pending whistleblower investigations that have been open for an average of about a year and a half, but OSC has not made a reasonable grounds determination in a single case.

The draft bill would address this issue by establishing a fixed schedule for OSC to take action. In particular, OSC would be given 240 days to make a determination whether or not there was a reasonable basis to believe that a prohibited personnel practice has taken place. This period should be reasonable, in light of Ms. Koch's testimony that "120 days is * * * a reasonable amount of time to do a lengthy, very complicated investigation in a matter * * * outside of Washington requiring travel, requiring trips back and forth because we have to keep having to verify further information."

If OSC determined that there was a reasonable basis to believe that a prohibited personnel practice had taken place, the bill would give the agency 45 days to correct the problem before OSC initiated a case before the MSPB. Under this approach, individual whistleblowers would not be left hanging for months, or even years, while the agency is given more time to negotiate.

The other changes made by the bill would: First, conform the discovery standard in whistleblower cases to the standard in the Federal Rules of Civil Procedure; second, clarify that a prevailing whistleblower is entitled to attorneys' fees and any other reasonable costs incurred directly or indirectly by the whistleblower; third, clarify that an agency decision to ordering psychiatric testing or examination of employees is a personnel action, subject to review in a whistleblower case; and fourth, allow a Special Counsel to serve beyond the 5-year term, if necessary to prevent a vacancy in the office.

Mr. President, the successful operation of the Whistleblower Protection Act is dependent in large part on the agency primarily charged with enforcing that act—the Office of Special Counsel. This bill sends a message to the new Special Counsel and to the office as a whole that we take the protection of whistleblowers seriously, and that we expect and intend them to be aggressive in pursuing the vindication of whistleblower rights. I hope that my colleagues will join me in supporting this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992," and inserting in lieu thereof "1993 and 1994".

SEC. 2. OFFICE OF SPECIAL COUNSEL.

Chapter 12 of title 5, United States Code, is amended—

(1) in section 1211(b) by inserting after the first sentence "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.";

(2) in section 1212(g)(1) by striking out "provide" and inserting in lieu thereof "disclose";

(3) in section 1214(a)(2), by adding at the end thereof the following new subparagraph:

"(C) Upon the request of the person on whose allegation the investigation was initiated, the Special Counsel shall provide an oral briefing on the results of the investigation. Such oral briefing shall include—

"(i) a description of the investigation conducted by the Special Counsel;

"(ii) a discussion of the relevant facts ascertained by the Special Counsel;

"(iii) an explanation of the law applicable to the allegations; and

"(iv) the Special Counsel's response to any reasonable question of the person regarding any matter relating to such briefing, description, discussion, or explanation.";

(4) in section 1214(b)(2)—

(A) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(B) by inserting before subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) the following:

"(A) No later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken."; and

(C) by amending subparagraph (C) (as redesignated by subparagraph (A) of this paragraph) to read as follows:

"(C) If, within 45 days after receiving a report of the Special Counsel under subparagraph (B), the agency has not acted to correct the prohibited personnel practice, the Special Counsel shall petition the Board for corrective action.";

(5) in section 1221(d), by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence."; and

(6) in section 1221(g)—

(A) in paragraph (1), by striking out "and any other reasonable costs incurred" and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant."; and

(B) in paragraph (2), by striking out "and any other reasonable costs incurred," and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant,".

SEC. 3. PROHIBITED PERSONNEL PRACTICES.

Section 2302(a)(1)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon; and

(2) by redesignating clause (x) as clause (xi) and inserting before such clause the following:

"(x) a decision to order psychiatric testing or examination; and".

SEC. 4. IMPLEMENTATION.

No later than 6 months after the date of enactment of this Act, the Special Counsel shall implement section 1212(g) of title 5, United States Code, by issuing detailed guidelines regarding the disclosure of information during the course of Special Counsel investigations of alleged prohibited personnel practices described under section 2302(b)(8) of such title. Such guidelines shall, at a minimum, specify—

(1) categories of information that may not be disclosed to agency officials without the consent of the person alleging the prohibited personnel practice; and

(2) categories of information that may be disclosed to agency officials for the purpose of conducting an investigation, and the circumstances under which such information is likely to be disclosed.

SEC. 5. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after October 1, 1992.•

• Mr. COHEN. Mr. President, I am pleased to join with Senator LEVIN in introducing legislation to address serious concerns that we have with the Office of Special Counsel.

An important factor in our ability to discover waste, fraud and abuse in the Federal Government is the willingness of Federal employees to come forward to expose abuse, mismanagement and corruption. However, these dedicated employees often do so at substantial professional and personal risk. Just as experience has taught us that problems in Government programs often come to light only when Federal employees come forward to report it, experience has also taught us that too many times, workers who have blown the whistle have lost their jobs, had promising careers derailed, forfeited promotions, and paid other personal prices for exposing wasteful Government spending, illegal practices, or hazardous conditions.

In 1989, we offered these people a deal. We told them that in exchange for exposing waste and mismanagement in Federal agencies, the Federal Government would protect them from reprisals and harassment. We charged the Office of Special Counsel with the responsibility of protecting these individuals.

The mandate of the Office of Special Counsel is to act as an independent investigative and prosecutorial agency to protect employees, former employees, and applicants for employment from prohibited personnel practices, especially reprisal for whistleblowing. Regrettably, the Office of Special Counsel has not adequately met its responsibilities.

In too many cases, the Office of Special Counsel has compromised the trust of whistleblowers, kept whistleblowers in the dark regarding the status of their cases, and failed to reach timely determinations as to whether or not prohibited personnel practices took place. One case involving a constituent of mine has dragged on for 2½ years, and the Office of Special Counsel has yet to make a determination.

After receiving a complaint, the Office of Special Counsel will conduct an initial review and, in most cases, decide not to refer the case for investigation. Last year the office received 455 complaints alleging reprisal for whistleblowing and saw fit to investigate only 86 of these allegations. Equally disturbing is that in 1991, not a single case went before the Merit Systems Protection Board.

The failure of the office to further investigate cases of potential whistleblower reprisals and the low number of cases litigated before the Merit System Protection Board sends a clear message to potential whistleblowers. If they report waste, fraud, abuse or mismanagement, they are on their own. The statistics also send a dangerous message to those who try to silence whistleblowers—the odds are that you will get away with reprisals.

The Office of Special Counsel has testified that one of its objectives is to avoid costly litigation before the Merit Systems Protection Board. I shudder to think what the failure of the Office of Special Counsel to provide adequate protection to whistleblowers is potentially costing the Government and the public. Not only are Federal dollars at risk, but people are being placed at risk. If substandard inspections of nuclear facilities go undetected or if faulty tank engines are accepted by the military because employees are afraid to come forward for fear of reprisal, civilians and soldiers alike may be injured or killed.

The legislation we are introducing today is designed to make the Office of Special Counsel more responsive to whistleblowers. For example, the bill requires the office to establish clear guidelines as to what type of information it may and may not disclose to an agency without the consent of the whistleblower. In addition, the bill requires the Office of Special Counsel to conduct debriefings at the request of the whistleblower after it terminates an investigation, and will allow whistleblowers to recover costs they incur if they represent themselves.

Perhaps most importantly, the legislation will establish a timeframe of 240 days for the Office of Special Counsel to make a determination of whether or not there is a reasonable basis to conclude that a prohibited personnel practice has occurred. No such time limit has been imposed in the past, in large part, because of a concern that the office have sufficient time to conduct thorough investigations and, when appropriate, prepare cases to be prosecuted before the Merit Systems Protection Board. However, it is evident from the record that the Office of Special Counsel has failed to make timely decisions to pursue cases and needs to be compelled to expedite its review and investigation process.

In addition, this legislation will address one of the most disturbing aspects of whistleblower retaliation. It is not unheard of for an agency to attempt to undermine a whistleblower's credibility by ordering the individual to undergo psychiatric testing. This sounds like a horror story out of the former Soviet Union. Most of these alleged incidents have occurred within the U.S. military. The legislation will expand the definition of prohibited personnel practices to include a decision to order psychiatric testing.

This measure makes a number of very worthy reforms but it alone will not cure the problems with the Office of Special Counsel's handling of whistleblower cases. Many of the problems must be solved internally. The Office of Special Counsel must reaffirm its commitment to protecting the many dedicated Federal employees who make the very difficult decision of coming forward to reveal illegalities or abuse. In order to ensure continued oversight of the office, the legislation provides only a 2-year reauthorization, rather than the requested 5-year reauthorization.

In my view, this legislation will help to achieve two important goals. First, the bill will make needed reforms to better protect the efforts of good faith whistleblowers. Second, the legislation should prompt the Office of Special Counsel to reexamine its policies and practices. It is critical that whistleblowers feel they can come forward to expose cases of waste, fraud, abuse and mismanagement in Federal agencies knowing that, if there is retribution, their government will protect them and that justice will be done.•

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2854. A bill to extend the existing suspension of duty on methyl and ethyl parathion and dimethoate; to the Committee on Finance.

S. 2855. A bill to suspend until January 1, 1995, the duty on Malathion; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN ITEMS

• Mr. BRADLEY. Mr. President, I rise to introduce two pieces of legislation, one that will extend the duties on ethyl and methyl parathion and dimethoate and the other that will suspend the tariff duty on Malathion on behalf of Cheminova, Inc., a company of Wayne, NJ. Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 4402 and H.R. 4780, by Representative GUARINI and by Representative DORGAN.

Cheminova imports a diverse line of chemicals that are primarily tailored for crop protection. Dimethoate, ethyl and methyl parathion, and malathion are frequently utilized as part of a mixture containing other pesticides, making it possible for the continued use or expanding use of other pesticide ingredients. Importing these chemicals creates numerous American jobs for small pesticide manufacturers, formulators, and distributors.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Cheminova to import the chemicals at reasonable prices making its products more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY.

(a) IN GENERAL.—Heading 9902.29.89 of the Harmonized Tariff Schedule of the United States (relating to methyl and ethyl parathion and dimethoate) is amended by striking "12/31/92" and inserting "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 2855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MALATHION.

(A) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

"9902.31.12	0,0, Dimethylphosphorodithoate of diethyl mercaptosuccinate (Malathion) (provided for in subheading 2930.90.40)	Free	No change	No change	On on before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. ROCKEFELLER, Mr. GLENN, and Mr. RIEGLE):

S. 2856. A bill to amend the provisions of the Omnibus Trade and Competitiveness Act of 1988 with respect to the enforcement of machine tool import arrangements; to the Committee on Finance.

ENFORCEMENT OF MACHINE TOOL IMPORT ARRANGEMENTS

● Mr. D'AMATO. Mr. President, today I am introducing legislation which I hope our friends from Taiwan will take seriously. I am joined by my colleagues Senator KASTEN, Senator ROCKEFELLER, Senator GLENN, and Senator RIEGLE. This legislation unilaterally restricts the import of machine tools for the next 2 years based on the President's December 1991 decision.

This is certainly not the first time we have stated or taken action in support of the machine tool extension and I can assure you it won't be the last. The extension of the machine tool VRA is not only a national security issue but it is also a jobs issue to thousands of American workers.

We will continue to move this and other legislation forward until Taiwan signs a final machine tool agreement with the United States. It is my hope that this legislation becomes moot, but only Taiwan can make that happen.

For the first time, it appears that Taiwan is taking the United States machine tool negotiations seriously. I encourage them to stay in town, at the table, with the United States Trade Representative, until an agreement is reached. Only then can we all move forward and work together on other important matters.●

By Mr. MACK:

S. 2857. A bill to amend the Internal Revenue Code of 1986 to extend the period of time to acquire a new residence for purposes of nonrecognition of gain on the sale of an old residence for members of the Armed Forces of the United States; to the Committee on Finance.

TAX TREATMENT OF GAIN OF SALE OF RESIDENCE FOR MEMBERS OF THE ARMED FORCES

● Mr. MACK. Mr. President, some time ago, I was contacted by a member of our armed services who brought to my attention a peculiar oddity in the Tax Code. The Government, recognizing the sacrifices made by the men and women who serve in uniform, has provided a period for the nonrecognition of a gain on the sale of a residence. However, there are certain members of our armed services whose assignments effectively prohibit them from purchasing a residence within the time period allowed.

The current law provides an extension of time to acquire a replacement residence. This extension is either 4 years or 8 years for those returning from overseas or otherwise required to reside on base quarters at a remote base site.

While the intent of the law is clear, the application falls short of covering all members. The legislation I bring to the floor today corrects this oversight. My proposal allows for the nonrecognition of gain for 2 years from that time when the service member is no longer stationed outside of the United States or required to reside on base housing.

While only a small number of service men and women are unable to take advantage of the current nonrecognition period, it is nevertheless important to extend this nonrecognition period to all members of our Armed Forces. As they are prepared to make the ultimate sacrifice in the service of their country, we, the Congress, should ensure they are not adversely affected by loosely worded legislation.●

By Mr. BURNS:

S.J. Res. 314. Joint resolution to designate the period beginning on August 16, 1992, and ending on August 22, 1992, as "National Convenience Store Appreciation Week"; to the Committee on the Judiciary.

NATIONAL CONVENIENCE STORE APPRECIATION WEEK

● Mr. BURNS. Mr. President, I rise today to send to the desk a joint resolution which will designate the week of August 16, 1992, as "National Convenience Store Appreciation Week."

Mr. President, I don't think I need to tell you the impact convenience stores have had on our society and our economy, but let me give you some numbers to illustrate just how important they have become over the last 3 decades.

There are 71,000 convenience stores throughout the United States each with an average investment of approximately $800,000 per store. They are an integral part of these communities whether they are located in small towns and suburbs or the inner cities of America.

They provide employment to nearly half a million people from all walks of life—senior citizens, disabled individuals, ethnic and racial minorities, and students. Not only do they enable the public to quickly purchase a wide array of products but they are service-oriented as well. The industry channels at least $45 million each year to a host of charities to improve the quality of life for those who need assistance.

I think it is only fitting, at a time when the industry's representative, the National Association of Convenience Stores, is celebrating their 31st anniversary, that we give recognition to an industry which epitomizes the entrepreneurial spirit we have seen motivating small business throughout our Nation's history.

I would like to urge my colleagues to join me in recognizing these unique businessmen and women and cosponsor "National Convenience Store Appreciation Week."●

By Mr. SEYMOUR (for himself and Mr. DODD):

S.J. Res. 315. Joint resolution to designate September 16, 1992, as "National Occupational Therapy Day"; to the Committee on the Judiciary.

NATIONAL OCCUPATIONAL THERAPY DAY

● Mr. SEYMOUR. Mr. President, I rise today with my colleague from Connecticut, Senator DODD to introduce a joint resolution to recognize September 16, 1992 as "National Occupational Therapy Day."

During the 19th century, health professionals sought occupation, or physical activity as a treatment for patients with mental disorders. As a result, those patients given daily tasks to perform recovered at a more rapid pace than those patients who were not physically active. Due to its success, a group of health professionals gathered in Clifton Springs, NY in 1917 to form the Society for the Preservation of Occupational Therapy, which was to become as we know today, the American Occupational Therapy Association.

However, only a year after its inception, this professional association received its trial by fire, as the United States entered the First World War. As servicemen returned from the war with extensive mental exhaustion and physical injuries, the first occupational therapists were sent to rehabilitate these men as reconstruction aides who provided both mental and physical therapy services.

At the end of the Second World War, these reconstruction aides provided a range of professional services—assisting amputees with artificial limbs, and developing programs to help individuals with the lasting affects of arthritis, burns and severe nerve injuries. Without the dedication, encouragement, and understanding of these occupational therapists, those who experienced traumatic mental and physical injury would not lead healthy, productive futures.

By 1945, the Occupational Therapy Association had grown to over 3,000 active members with the support of 26 accredited schools throughout the Nation. Subsequently, the opportunity to combine science and medicine arose during the early 1960's with the development of prosthetics and the continuing development of rehabilitative services for those patients with severe spinal injuries and neurological disorders.

Today, occupational therapy practitioners treat more than 7.5 million children and adults annually in a variety of settings including hospitals, nursing facilities, outpatient rehabilitation facilities, psychiatric facilities, and community mental health centers across the Nation. These 45,000 dedicated members devote an enormous amount of time, energy, and caring to those in need of mental and physical assistance each year.

Mr. President, we stand in support of these individuals and commend them for their continued commitment. Recognizing "National Occupational Therapy Day" will help us acknowledge the National Occupational Therapy Association's 75th anniversary and the vital services they provide millions of Americans each year. Please join us in recognizing the efforts of occupational therapists across the country.●

By Mr. SIMON:

S.J. Res. 316. A joint resolution to designate the week of November 30 through December 6 as "National Education First Week"; to the Committee on the Judiciary.

NATIONAL EDUCATION FIRST WEEK

Mr. SIMON. Mr. President, I rise today to introduce a joint resolution to designate the week beginning November 30 through December 6 as National Education First Week. This resolution recognizes the importance of utilizing the media to raise public awareness of education. Such awareness is necessary in creating an atmosphere where education is valued as a top priority.

The economic success and democratic vitality of the United States depends on the Nation's ability to provide a world class education for all students. Unfortunately, the United States faces an unprecedented education crisis. Nearly one-third of all students in the United States today do not graduate from high school. Twenty-six million adults in the United States are functionally illiterate. The tragedy of inadequate education places great strains on the Nation's economic and social fabric as evidenced by data indicating that less than 70 percent of high school dropouts are in the labor force, 80 percent of the people in prison are high school dropouts, and four out of five high school dropouts use drugs on a regular basis.

Only a coordinated effort by all sectors of the country including business, government, media, labor, educators, and parents can adequately address the challenge. The media is a powerful tool to influence and arouse the public to a better understanding of the scope and severity of the education crisis. It can also stimulate students' interest in their own education. A media campaign, involving television, motion pictures, and music, can also raise awareness of possible grassroots and legislative solutions to the crisis.

The decision of the entertainment industry to promote Education First Week represents an important commitment to address a national problem. I am pleased to sponsor this joint resolution and I urge my colleagues to support it.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. THURMOND, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 405

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1578

At the request of Mr. THURMOND, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 2027

At the request of Mr. CHAFEE, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2027, a bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the Medicare program.

S. 2064

At the request of Mr. HATFIELD, the names of the Senator from Oklahoma [Mr. BOREN] the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 2064, a bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2116

At the request of Mr. RIEGLE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2116, a bill to improve the health of children by increasing access to childhood immunizations, and for other purposes.

S. 2230

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2230, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient education services under part B of the Medicare program for individuals with diabetes.

S. 2239

At the request of Mr. PRYOR, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 2489

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2489, a bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the National Quality Commitment Award with the objective of encouraging American universities to teach total quality management, to emphasize the importance of process manufacturing, and for other purposes.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2560, a bill to reclassify the cost of international peacekeeping activities from international affairs to national defense.

S. 2644

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2644, a bill to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for purposes of safety.

S. 2656

At the request of Mr. FORD, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2667

At the request of Mr. HEFLIN, the names of the Senator from Indiana [Mr. COATS] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2682

At the request of Mr. BUMPERS, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from New Jersey [Mr. BRADLEY], the Senator from Wisconsin [Mr. KOHL], the Senator from Alaska [Mr. STEVENS], the Senator from Georgia [Mr. NUNN], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2702

At the request of Mr. HOLLINGS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2702, a bill to authorize appropriations for fiscal year 1993 for the Coast Guard, and for other purposes.

S. 2794

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2794, a bill to relieve the regulatory burden on depository institutions, particularly on small depository institutions, and for other purposes.

S. 2804

At the request of Mrs. KASSEBAUM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2804, a bill to establish a program to provide technical assistance to employers and labor unions, in order to assist in preparing the workplace to employ women in apprenticeable occupations and other nontraditional occupations, and for other purposes.

S. 2832

At the request of Mr. BOND, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2832, a bill to require that all Federal printing be performed using cost-competitive inks whose pigment vehicles are made entirely from soybean oil, and for other purposes.

SENATE JOINT RESOLUTION 238

At the request of Mr. RIEGLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 238, a joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 288

At the request of Mr. LIEBERMAN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of Senate Joint Resolution 288, a joint resolution designating the week beginning July 26, 1992, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 295

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 295, a joint resolution designating September 10, 1992, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 312

At the request of Mr. GORTON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Joint Resolution 312, a joint resolution proposing an amendment to the Constitution to provide for a runoff election for the offices of the President and Vice President of the United States if no candidate receives a majority of the electoral college.

SENATE RESOLUTION 314

At the request of Mr. DECONCINI, the names of the Senator from Kansas [Mr. DOLE] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Resolution 314, a resolution concerning the provision of humanitarian aid to civilian populations in and around Sarajevo.

SENATE RESOLUTION 315—CONGRATULATING THE CHICAGO BULLS ON WINNING THE NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. DIXON (for himself and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas the Bulls posted a 67–15 record in the regular season, the best in franchise history, and one of the best ever in the NBA;

Whereas Phil Jackson and the entire coaching staff again implemented a quick, smothering defense and an explosive triple-post offense to enable the Bulls to successfully defend their 1991 NBA championship;

Whereas, for the second consecutive year, Michael Jordan, showing his tremendous offensive and defensive basketball ability, was named both NBA regular season and playoff most valuable player, an honor that no other NBA player has ever received;

Whereas Scottie Pippen led an aggressive Bulls offense, demonstrating the athleticism and all around basketball skills that led to his being named to the Olympic team;

Whereas the quickness, rebounding and shot blocking skills of Horace Grant often keyed the aggressive play of Chicago's front line;

Whereas the veteran guile of center Bill Cartwright led to frustration for many of the all-star caliber centers that he faced;

Whereas sharp shooting guard John Paxon again displayed the clutch outside touch that has made the Bulls offense so diverse;

Whereas Scott Williams, B.J. Armstrong, Bobby Hansen and Stacey King came off the bench in game six of the NBA finals to aggressively key the crucial fourth quarter rally that enabled the Bulls to overcome a 15 point deficit;

Whereas Cliff Levingston, Will Perdue and Craig Hodges provided valuable contributions throughout the playoffs, both on and off the court, at times providing the spark the Bulls needed to gain control of a particular game; and

Whereas the Bulls once again utilized a total team effort to become only the fourth team in NBA history to win back-to-back NBA championships: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls for winning the 1992 National Basketball Association championship.

AMENDMENTS SUBMITTED

WORKPLACE FAIRNESS ACT

GRAMM AMENDMENT NO. 2411

Mr. GRAMM submitted an amendment intended to be proposed by him to an amendment to the bill (S. 55) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, as follows:

(The text of amendment No. 2411 is identical to the text of amendment No. 1992 proposed by Mr. GRAMM and printed in the RECORD on June 10, 1992, on pages S 7812 through S 7875.)

HATCH AMENDMENTS NOS. 2412 THROUGH 2423

(Ordered to lie on the table.)

Mr. HATCH submitted 12 amendments intended to be proposed by him to the bill S. 55, supra, as follows:

AMENDMENT NO. 2412

On page 2 of the amendment, strike the words "or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized".

AMENDMENT NO. 2413

At the appropriate place add the following: "The provisions of section (i) and (ii) shall not apply and a strike by a labor organization shall become illegal if the strike disrupts essential supplies and services."

AMENDMENT NO. 2414

Beginning on page 4 with the words "organization, at least seven calendar days before engaging in any strike" strike all through the words "employer receives the labor organization's last offer." on page 7 and insert in lieu thereof the following:

organization or the employer, at least seven calendar days before engaging in any such strike and after the employer and the labor organization have bargained in good faith but have bargained to an impasse, and any existing collective bargaining agreement between the employer and the labor organization has expired, serves a written notice upon the employer stating the labor organization's willingness to submit all unresolved issues in the dispute to a factfinding board as set forth in subsection (B). A copy of the union's notice shall be mailed to the Federal Mediation and Conciliation Service.

(B) If the labor organization serves notice as provided in subsection (A), the employer shall respond within seven calendar days and shall mail a copy of its response to the Federal Mediation and Conciliation Service. If the employer does not accept the union's offer to submit the unresolved issues to factfinding, the provisions of section (i) and (ii) shall apply for the duration of the labor dispute. If the labor organization does not accept the employer's offer to submit the unresolved issues to factfinding, the provisions of section (i) and (ii) shall not apply for the duration of the labor dispute and the labor organization may not strike for the duration of the labor dispute. It the employer does accept that offer, the dispute shall be submitted to a factfinding board of the kind provided for in section 1207(b) of title 39 of the United States Code but constituted of one member representing the labor organization, one member representing the employer, and one neutral member experienced in factfinding and interest arbitration all selected within ten calendar days in the manner provided for in Section 1207(c)(1) of that title. The factfinding board shall conduct a hearing of the kind required by section 1207(c)(2) of title 39 and shall within 45 calendar days after its appointment issue a report of its findings and of its recommendations for settling the unresolved issues so as to achieve a prompt, peaceful and just settlement of the dispute. By agreeing to submit all unresolved issues to factfinding as provided in this section, the parties shall be deemed to have made an agreement, enforceable under section 185 of title 29, United States Code that:

(i) the parties' preexisting collective bargaining agreement, if any, or the existing wages, hours, and other terms and conditions of employment in effect at the time of the union's offer to submit the dispute to factfinding, shall be extended from the date of the union's offer to utilize those procedures until the earlier of 45 calendar days after the board is appointed or until the factfinding board issues its report, provided that if the factfinding report issues within 45 calendar days of the board's appointment, the collective bargaining agreement or preexisting employment conditions shall continue in effect for an additional seven calendar days;

(ii) during this time period, there shall be no strike or lockout over any issue submitted to the factfinding board or that is otherwise prohibited by the parties' preexisting collective bargaining agreement.

(C) Within seven calendar days after a factfinding board issues its report, the employer and the labor organization shall serve written notice on the Federal Mediation and Conciliation Service stating whether the party accepts the factfinding recommendations. At the conclusion of the seven-day period, the Federal Mediation and Conciliation Service shall notify the parties as to whether the labor organization and/or the employer has accepted the board's recommendations. If both the labor organization and the employer have so accepted, the factfinding recommendations as to all unresolved issues, and the parties' agreement on all issues that were resolved by agreement, shall be deemed to be a collective bargaining agreement between the employer and the labor organization enforceable pursuant to section 185 of this title. Should the parties be unable to reach agreement on reducing that contract to writing, either party may request the factfinding board to supplement its initial report with the necessary contractual language. The resulting agreement shall be deemed to have a duration of two years unless the factfinding recommendations are for a lesser duration.

(D) If, within seven calendar days after a factfinding board submits its report and recommendation, the labor organization serves written notice to the Federal Mediation and Conciliation Service of the labor organization acceptance of the recommendations of the factfinding board and the employer does not serve written notice of a like acceptance, the provisions of subsections (i) and (ii) shall apply from the earlier of the dates on which the factfinding report was issued or was due to be issued under subsection (A). The provisions of subsection (i) and (ii) shall not apply after a factfinding report issues if the labor organization fails to serve written notice of an acceptance of the factfinding recommendations during the seven-day period, provided that if neither the labor organization nor the employer serves such written notice during the seven-day period and the labor organization thereafter serves such written notice upon the employer, the provisions of subsections (i) and (ii) shall apply with respect to any actions taken by the employer on and after the date the employer receives the labor organization's offer; provided further, that if neither the labor organization nor the employer serves such written notice during the seven-day period and the employer thereafter serves such written notice upon the labor organization, the provisions of subsections (i) and (ii) shall not apply with respect to any actions taken by the employer on or after the date the labor organization receives the employer's offer and the labor organization may not strike for the duration of the labor dispute.

SEC. . Notwithstanding any other provision of this Act, the provisions of subsection (i) and (ii) shall not apply to any strike by a labor organization unless said labor organization has been certified as the exclusive bargaining representative of the employees in a secret ballot election.

AMENDMENT NO. 2415

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply if the labor organization involved has been convicted of violating any criminal laws of the United States, or State, district or territory, or has committed within the prior six-month period an act of violence or threatened to commit an act of violence against the employer, against any of the employer's agents or employees, or against property."

AMENDMENT NO. 2416

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply in the case of a labor organization that has engaged in acts of violence, threats of violence, harassment, or intimidation in connection with the labor dispute involved against the employer, against any of the employer's agents of employees, or against their property."

AMENDMENT NO. 2417

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply to a labor dispute that costs the state, city, county, or other political subdivision of the state in which the labor dispute occurs more than $100,000 in additional wages and overtime expenses for law enforcement or other employees of that state, city, county, or political subdivision. The labor organization involved shall be liable for any such expenses."

AMENDMENT NO. 2418

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply to any employee who, under the terms of the employer's last contract offer, would be paid wages and benefits in an amount that exceeds 150 percent of the per capita personal income of persons within the state in which that employee is employed."

AMENDMENT NO. 2419

At the appropriate place, insert the following:

"SEC. . The provisions of this Act shall not apply if the labor organization involved has, prior to the commencement of the labor dispute, threatened to prohibit an employer from continuing to operate during a labor dispute or has engaged in conduct, other than authorizing striking employees to withhold their services, that is aimed at interfering with an employer's ability to continue to operate during a labor dispute."

AMENDMENT NO. 2420

At the appropriate place, insert the following new section:

SEC. . EFFECTIVE DATE.

Notwithstanding any other provision of law, the amendments made by this act shall become effective on the date on which the House of Representatives and the Senate adopt a Concurrent Resolution that provides employees of such House and Senate with same rights to organize, bargain collectively and strike as employees in the private sector have under the National Labor Relations Act, except that the appropriate United States district courts, rather than the National Labor Relations Board, shall be the applicable forum for adjudicating unfair labor practice cases and representation proceedings.".

AMENDMENT NO. 2421

At the appropriate place, insert the following new section:

"SEC. . APPLICATION OF DEMONSTRATION.

"(a) The provisions of this Act shall apply only to labor disputes occurring in the following states: Alabama, Connecticut, Georgia, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, and West Virginia.

"(b) Not later than three years after the effective date of this Act, the Secretary of Labor shall convene a task force to study the impact of extending the applicability of this Act to employees covered by the National Labor Relations Act in all states.

"(c) The Secretary shall ensure balanced representation on the task force among representatives of organized labor, employers or employer organizations, and employees. The Secretary shall also include experts from relevant academic disciplines and professions.

"(d) The Secretary shall report to Congress no later than four years after the effective date of this Act.".

AMENDMENT NO. 2422

At the appropriate place, insert the following new section:

"SEC. . LEGISLATIVE TASK FORCE STUDY.

(a) The provisions of this Act shall apply only after the provisions of this section have been met.

(b) LEADERSHIP TASK FORCE.—The Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall establish a leadership task force to examine the feasibility of applying this Act to employees covered under the National Labor Relations Act in all the States. The task force shall be composed of—

(1) three members of the Senate, of which—

(A) one member shall be appointed by the President Pro Tempore of the Senate;

(B) one member shall be appointed by the Majority Leader of the Senate; and

(C) one member shall be appointed by the Minority Leader of the Senate; and

(2) three members of the House of Representatives, of which—

(A) one member shall be appointed by the Speaker of the House of Representatives;

(B) one member shall be appointed by the Majority Leader of the House of Representatives; and

(C) one member shall be appointed by the Minority Leader of the House of Representatives.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the leadership task force established under subsection (b) shall prepare and submit to the Congress a report concerning the examination conducted under such subsection. Such a report shall contain the results of such examination and a determination by the leadership task force.

(d) EFFECT OF DETERMINATION.—If in the report submitted under subsection (c) the leadership task force determines that it is feasible to apply this Act to all States, the Congress shall take all appropriate action to implement such determination.

(e) RELATION TO OTHER PROVISIONS.—Notwithstanding any other provisions of this Act, the requirements of this section shall supersede any other requirements in this Act with respect to the date on which the provisions of this Act become effective, and this Act shall only become effective in selected states listed above on the date of enactment until such time as the other provisions of this section have been satisfied.

AMENDMENT NO. 2423

At the appropriate place, insert the following new section:

"SEC. . The provisions of this Act shall not apply (1) in the case of a labor organization that has engaged in acts of violence, threats of violence, harassment or intimidation in connection with the labor dispute involved, against the employer, against any of its agents, against any employees, or against an employer's or an employee's property; or (2) to a labor dispute that costs the state, city, county, or other political subdivision of the state in which such subdivision incurs more than **$100,000** in additional wage and overtime expenses for law enforcement or other employees of that state, city, county, or political subdivision, and the labor organization involved shall be liable for such expenses; or (3) in the case that any employee who, under the terms of the employer's last contract offer, would be paid in wages and benefits an amount that exceeds 150 percent of the per capita personal income of persons within the state in which that employee is employed.".

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

HEFLIN AMENDMENT NO. 2424

Mr. HEFLIN proposed an amendment to the bill (S. 1985) to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes, as follows:

Strike the matter proposed to be inserted and insert the follow:

SECTION 1. FINDINGS.

Congress finds that—

(1) there was a record number of Federal bankruptcy filings for the calendar year of 1991;

(2) the smooth and efficient operation of the bankruptcy system is vital to the continued growth and vitality of our Nation's economy;

(3) debtors that file for bankruptcy are entitled and deserve full and complete information regarding the effects and consequences of filing for bankruptcy;

(4) creditors of a debtor that files for bankruptcy deserve and need full and timely information regarding the circumstances of a debtor's bankruptcy filing; and

(5) individual debtors, creditors, the bankruptcy system, and the national economy may be generally better served by the successful completion of a reorganization of debts under chapter 13 or a liquidation of debts under chapter 7 of the Bankruptcy Code, depending upon the circumstances of each particular case; however, it is vital to the efficient operation of the bankruptcy system that each debtor consider and understand the consequences of both options.

TITLE I—BANKRUPTCY REVIEW COMMISSION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 102. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 103. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 108; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 104. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) Two members of the Senate, 1 from each of the 2 major political parties, appointed by the President pro tempore of the Senate.

(3) Two members of the House of Representatives, 1 from each of the 2 major political parties, appointed by the Speaker of the House of Representatives.

(4) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 105. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay

payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 107. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 108. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 109. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 108.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE II—COMMERCIAL AND CREDIT MATTERS

SEC. 201. DEFINITION OF PERSON FOR PURPOSES OF SECTION 1102.

Section 101(42) of title 11, United States Code, as redesignated by section 501(7), is amended to read as follows:

"(42) 'person' includes an individual, a partnership, and a corporation, but does not include a governmental unit, except that a governmental unit is a person for purposes of section 1102 to the extent that it—

"(A) acquires an asset from a person as a result of operation of a loan guarantee agreement;

"(B) is a receiver or liquidating agent of a person;

"(C) is a guarantor of pension benefits of the debtor or an affiliate of the debtor; or

"(D) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan as defined in section 457(b) of the Internal Revenue Code of 1986."

SEC. 202. ANTI-ALIENATION.

(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(7), is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by adding "or" at the end of paragraph (17); and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or 457 or a governmental plan under 414(d) of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the case of a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(c) PROPERTY OF THE ESTATE.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or a governmental plan under 414(d), or 457 of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).".

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

SEC. 203. CASH COLLATERAL.

Section 363(a) of title 11, United States Code, is amended by adding at the end the following new sentence: "If the cash collateral includes an interest in rents or leases, in real property, held by a creditor and duly recorded in the public records, such interest shall be deemed perfected for purposes of this title upon the filing of a petition under section 301 or 302, or upon the entry of an order for relief under section 303.".

SEC. 204. PREFERENCES.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e) and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

"(1) all the elements of section 547(b) are satisfied as to the first transferee; and

"(2) the exceptions in section 547(c) do not protect the first transferee.".

SEC. 205. SMALL BUSINESS CHAPTER.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 501, is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), and (62) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), and (63); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10.".

(c) TEMPORARY CHAPTER APPLICABLE TO SMALL BUSINESSES.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1001. Definitions for this chapter.
"1002. Commencement of action.
"1003. Trustee.
"1004. Rights and powers of debtor.
"1005. Removal of debtor as debtor-in-possession.
"1006. Property of the estate.
"1007. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) ELECTION BY DEBTOR.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) CONVERSION.—

"(1) CHAPTER 11 TO THIS CHAPTER.—Upon the motion of a party in interest, and after notice and hearing, the court may designate a debtor against whom an order for relief has been entered in a case under chapter 11 as a small business and order that the case be converted to a case under this chapter.

"(2) THIS CHAPTER TO CHAPTER 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"(3) COMPENSATION OF TRUSTEE.—Prior to the court's conversion of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"§ 1003. Trustee

"(a) PERSON TO SERVE.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

"(b) DUTIES.—The trustee shall—

"(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

"(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) the operation of the business activity of the person by the debtor;

"(C) the filing of a plan and the approval of a disclosure statement;

"(D) confirmation of a plan;

"(E) modification of a plan after confirmation; or

"(F) the sale of property of the estate;

"(4) ensure that the debtor timely files a plan and disclosure statement;

"(5) ensure that the debtor commences making timely payments required by a confirmed plan;

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);

"(7) investigate the financial affairs of the debtor;

"(8) file and serve the report required by section 1029(d); and

"(9) file such motions as are appropriate under section 1029.

"§ 1004. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under this chapter, including operating the debtor's business activities.

"§ 1005. Removal of debtor as debtor-in-possession

"(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1006. Property of the estate

"(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) POSSESSION.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1007. Conversion or dismissal

"(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

"(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—

"(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) CAUSE.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"(d) COMPENSATION OF TRUSTEE.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) REQUIRED CONTENTS.—The plan shall—

"(1) provide for the submission of all or such portion future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

"(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

"(b) ADDITIONAL CONTENTS.—Subject to subsections (a) and (c), the plan may—

"(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;

"(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;

"(3) provide for the curing or waiving of any default;

"(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

"(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

"(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;

"(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;

"(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;

"(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);

"(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity; and

"(11) include any other appropriate provision not inconsistent with this title.

"(c) LIMITATION.—Except as provided in subsection (b)(5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

"§ 1023. Postpetition disclosure and solicitation

"(a) PLAN AND DISCLOSURE STATEMENT.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"(b) FORM.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive—

"(i) if the class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; or

"(ii) if the class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—

"(i) the date of termination of the plan; or

"(ii) the date that is 6 years after the date of assessment of the claim,

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) Persons Bound.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) Vesting of Property.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) Freedom of Property From Claims and Interests.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) Discharge of Debtor.—

"(1) On completion of payments.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of the kind specified in section 523(a).

"(2) When payments are not completed.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—

"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;

"(B) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed secured claim is not less than the amount that would have been paid on the claim if the estate of the debtor had been liquidated under chapter 7 on that date; and

"(C) modification of the plan under section 1029 is not practicable.

"(3) Effect.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b)(5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) Revocation.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) Termination of Services of Trustee.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

"§ 1029. Modification of plan after confirmation

"(a) In General.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) Applicability of Requirements.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) Limitation.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"(d) Report.—Not later than 60 days after each anniversary of the confirmation of the plan, the trustee shall file a report with the court, and serve a copy on all creditors requesting service of a copy of the report, setting forth—

"(1) the amount of distributions made to creditors during the preceding year;

"(2) a description of the debtor's compliance with the provisions of the plan during the preceding year;

"(3) a description of the debtor's disposable income in relation to the continued ability to comply with the terms of the confirmed plan; and

"(4) any modifications to the plan that are necessary to ensure the reorganization of the debtor and the payment to creditors of all disposal income.

"§ 1030. Revocation of order of confirmation

"(a) Revocation for Fraud.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) Disposition of Case After Revocation.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) Technical Amendments.—

(1) Table of chapters in title 11, United States code.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses .... 1001".

(2) Cross-references in title 11, United States code.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(ii) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(ii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10" after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) Bankruptcy rules.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases

filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,"; and

(C) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, $600.".

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 301 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3118) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 206. SUPPLEMENTAL PERMANENT INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal action as is expressly allowed by the injunction or plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met, after entry of an injunction under paragraph (1) any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to be funded in whole or in part by the securities of one or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(II) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(III) is to use its assets or income to pay claims and demands; and

"(ii) the court finds that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands; and

"(IV) as part of the process of seeking approval of the plan of reorganization, a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that is a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making such loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) is not intended to—

"(i) imply that such an entity would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance; or

"(iii) relieve any debtor of its obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A) Subject to subparagraph (B), an injunction issued under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(B) With respect to a demand that is made subsequent to the confirmation of a plan against any debtor or trust that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by an injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection governs any injunction of the nature described in paragraph (1)(B) entered before or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9)(A) In the event a claimant has obtained a judgment against other defendants in any action arising out of the same conduct or events that gave rise to the injunction issued under paragraph (1), such other defendants will be entitled to a setoff in accordance with appropriate setoff procedures in the amount of any full or partial payment to that claimant by a trust that is the subject of the injunction issued under paragraph (1).

"(B) In the event a claimant has obtained a judgment against other defendants in such actions but has not received any payment from a trust that is the subject of the injunction issued under paragraph (1), upon satisfaction of the judgment such other defendants shall be subrogated to the rights of the claimant with respect to any actual payment by the trust.

"(C) If the claimant is entitled to receive additional payments from such trust, after a previous partial payment has been made, such other defendants in any action described in subparagraph (A) shall—

"(i) after the claimant receives such payment be entitled to an additional setoff to the extent appropriate setoff procedures would allow in the amount of such payment; and

"(ii) upon satisfaction of the judgment, be subrogated to the rights of the claimant with respect to any future payment by the trust.

"(D) The court which confirms the plan of reorganization which gives rise to the injunction issued under paragraph (1) shall take all actions necessary to ensure that any claimant does not recover damages greater than the amount of the judgment against such other defendants.".

SEC. 207. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association" the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),".

SEC. 208. PRE-MERGER NOTIFICATION.

Section 363(b)(2) of title 11, United States Code, is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification on behalf of the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b)(1) of that section, the required waiting period shall end on the tenth day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

"(ii) by the court, after notice and hearing.".

SEC. 209. STATUS CONFERENCE.

Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, the court, on its own motion or on the motion of any party in interest, may hold a status conference regarding any case under this chapter, after notice to creditors and other parties in interest. At such a conference or any subsequent status conference set by the court, the court may issue an order, consistent with this title, prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including orders that—

"(1) set a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

"(2) set a date by which the debtor, or trustee if one has been appointed, shall confirm a plan;

"(3) set the date by which a party in interest other than a debtor may file a plan;

"(4) fix the notice to be provided regarding the hearing on approval of the disclosure statement;

"(5) provide that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan;

"(6) direct the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court; and

"(7) set the date by which the debtor must accept or reject an executory contract.".

SEC. 210. AIRPORT LEASES.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 180 days after the date of the order for relief, or within such additional time as the court sets under subparagraph (B) during such 180-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

"(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

"(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

"(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

"(III) the size and complexity of the case; and

"(IV) air carrier competition at the airport.

"(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

"(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply in all proceedings commenced on or after January 1, 1992. In a proceeding commenced on or after January 1, 1992, that is pending on the date of enactment of this Act, the 120-day period provided in section 365(d)(5)(A) of title 11, United States Code, as added by subsection (a), shall commence on the date of enactment of this Act.

SEC. 211. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 205(a), is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), (62), and (63) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), (63), and (64); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto;".

(b) AUTOMATIC STAY.—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate."; and

(2) by adding at the end the following new subsection:

"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

"(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court unusual circumstances requiring such a hearing.".

SEC. 212. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.".

SEC. 213. AIRCRAFT EQUIPMENT, VESSELS AND ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(c) APPLICATION OF AMENDMENTS.—(1) The amendment of section 1110(a) and section 1168(a) of title 11, United States Code, made by subsections (a) and (b) shall not apply to bankruptcy proceedings commenced prior to the date of enactment of this Act.

(2) The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 214. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after "real property" the following: "and, in a case under chapter 11, under an unexpired lease of personal property".

SEC. 215. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365(d)(3) of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.".

SEC. 216. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the value of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.".

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h)(2),".

SEC. 217. INDENTURE TRUSTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting after subparagraph (C) the following new subparagraph;

"(D) an indenture trustee;"; and

(C) in subparagraph (E), as redesignated by subparagraph (A), by striking "an indenture trustee,"; and

(2) in paragraph (5) by striking "for services rendered by an indenture trustee in making a substantial contribution in a case under chapter 9 or 11 of this title" and inserting "for necessary services".

SEC. 218. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) any interest in cash or cash equivalents (within the meaning of section 363(a)) that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor).".

TITLE III—INDIVIDUAL DEBTORS

SEC. 301. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—(1) Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) DEFINITION.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e) AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor unless—

"(A) the debtor has first given the preparer written authorization to execute the document; and

"(B) the preparer is otherwise authorized by law to execute the document.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f) DAMAGES.—If a bankruptcy case or related proceeding is dismissed because of the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(1) the debtor's actual damages;

"(2) the greater of—

"(A) $2,000; or

"(B) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(3) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(g) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared as document for filing, the United States trustee in the district in which the bankruptcy petition preparer resides or has a principal place of business, or the United States trustee in the district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) ATTORNEY'S FEE.—The court shall award to a debtor who brings a successful action under this subsection reasonable attorney's fees and costs of the action.

"(i) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(2) The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 9 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 156. Willful disregard of bankruptcy law or rule.

"(a) DEFINITIONS.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined $5,000.".

(2) The chapter analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following new item:

"156. Willful disregard of bankruptcy law or rule.".

(c) Section 152 of title 18, United States Code, is amended by—

(1) designating each of the presently unnumbered paragraphs as "(a)" through "(J)" respectively;

(2) inserting in the newly designated paragraph (a) "or the United States Trustee" after the words "or from creditors", and

(3) inserting in the newly designated paragraph (i) "or the United States Trustee" after the words "or other officer of the court".

(d) Section 153 of title 18, United States Code is amended by deleting the words "which came into his charge as trustee, custodian, marshal, or other officer of the court,", and by amending the catch line and the item in the table of sections to read

"§ 153. Embezzlement against estate".

(e) Section 154 of title 18, United States Code, is amended by—

(1) designating each of the presently unnumbered paragraphs as "(a)" through "(c)" respectively; and

(2) deleting the hyphen at the end of newly designated paragraph (b) and inserting in lieu thereof "; or"

(3) inserting a new paragraph (c) and redesignating paragraph (c) as paragraph (d):

"(c) Whoever being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by the United States trustee—"

(4) deleting in subsection (d) "$500" and inserting in lieu thereof "$5,000".

SEC. 302. WHO MAY BE A DEBTOR.

Section 109(e) of title 11, United States Code, is amended to read as follows:

"(e)(1) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of less than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13.

"(2) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of more than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13 if there is no objection raised on the record by any creditor prior to the date that is 10 days after the date on which the meeting of creditors pursuant to section 341 is concluded, and no order of confirmation shall be entered prior to the date by which such an objection is required to be made.".

SEC. 303. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521;

"(6) the potential penalties and fines for committing fraud or other abuses of this title; and

"(7) the consequences of substantial abuse under section 707(b).".

SEC. 304. AUTOMATIC STAY.

Section 362(e) of title 11, United States Code, is amended by adding at the end the following new sentence: "In no event shall the final hearing on a request under subsection (d) be concluded later than 60 days after the filing of the request, except upon a finding of good cause by the court.".

SEC. 305. EXEMPTIONS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings.".

SEC. 306. EFFECT OF DISCHARGE.

Section 524(d) of title 11, United States Code, is amended—

(1) by striking "(d) In" and inserting "(d)(1) In";

(2) by striking "(1) inform" and inserting "(A) inform";

(3) by striking "(A) that" and inserting "(i) that";

(4) by striking "(B) of" and inserting "(ii) of";

(5) by striking "(i) an" and inserting "(I) an";

(6) by striking "(ii) a" and inserting "(II) a";

(7) by striking "(2) determine" and inserting "(B) determine";

(8) in the third sentence of paragraph (1), as designated by paragraph (1) of this section, by striking "If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then" and inserting "Prior to granting a discharge, if the debtor desires to make an agreement of the kind specified in subsection (c)(6),"; and

(9) by adding at the end the following new paragraph:

"(2) If a debtor fails to attend a hearing under paragraph (1) concerning a reaffirmation agreement—

"(A) the hearing shall be rescheduled;

"(B) the court shall cause the debtor to be given written notice that failure to attend the rescheduled hearing will cause the reaffirmation agreement to be deemed void; and

"(C) if the debtor fails to attend the rescheduled hearing, a discharge shall be granted without further delay.".

SEC. 307. PREFERENCES.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "property" and inserting "property, or with respect to which the creditor has taken all necessary steps to perfect under State law and the failure to perfect within 20 days is due solely to the operations of a governmental unit;".

SEC. 308. SUBSTANTIAL ABUSE.

Section 707 of title 11, United States Code, is amended—

(1) by adding at the end the following new subsection:

"(c)(1) Nothing in this section prohibits a party in interest from providing information concerning the debtor's assets, liabilities, or financial affairs to the United States Trustee.

"(2) The United States trustee shall provide the debtor with—

"(A) notice that a party in interest has provided the United States trustee with information pursuant to subsection (c)(1), including the identities of all sources of information provided;

"(B) a copy of all documents presented to the United States trustee pursuant to subsection (c)(1); and

"(C) an opportunity to respond to the issues raised by a party in interest pursuant to subsection (c)(1)."; and

(2) in subsection (b) by inserting after the first sentence the following new sentence: "The court shall find that a petition constitutes a substantial abuse of this chapter if the petition was filed in bad faith or if the debtor, without substantial hardship, has the ability to pay the debtor's debts as they become due.".

SEC. 309. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.".

SEC. 310. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "claims;" and inserting "claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

SEC. 311. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 312. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim."; and

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.".

SEC. 313. PLAN CONTENTS.

Section 1322 of title 11, United States Code, as amended by section 202(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

"(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

"(B) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).".

TITLE IV—MISCELLANEOUS

SEC. 401. DELAY OF REPEAL OF CHAPTER 12 (FAMILY FARMERS).

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended by striking "October 1, 1993" and inserting "October 1, 1995".

SEC. 402. DOLLAR ADJUSTMENTS.

(a) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000"; and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(b) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "$2,000" and inserting "$4,000";

(2) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000"; and

(3) in paragraph (6) by striking "$900" and inserting "$1,800".

(c) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000";

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400";

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400"; and

(B) by striking "$4,000" and inserting "$8,000";

(4) in paragraph (4) by striking "$500" and inserting "$1,000";

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800"; and

(B) by striking "$3,750" and inserting "$7,500";

(6) in paragraph (6) by striking "$750" and inserting "$1,500";

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000"; and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(d) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 403. TRUSTEE COMPENSATION.

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a) In a case under chapter 7 or chapter 11, the court may allow reasonable compensation under section 330 for the trustee's services, payable after the trustee renders such services, computed as a percentage of all monies disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor for the debtor's exemptions, but including holders of secured claims, as follows:

"(1) In a case in which such moneys do not exceed $1,000,000, reasonable compensation may be 25 percent of the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, and 5 percent of any amount in excess of $50,000.

"(2) In a case in which such moneys exceed $1,000,000, reasonable compensation, in addition to that prescribed in paragraph (1), may be 3 percent of the excess of those moneys over $1,000,000, but the court may allow additional compensation to the trustee for exceptional services not to exceed 25 percent of the compensation otherwise due.".

SEC. 404. TAX PROVISIONS.

(a) SPECIAL TAX PROVISIONS.—Section 346 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(k) A trustee or debtor in possession shall establish and maintain a separate bank account for post-petition taxes that are required to be withheld or collected from third parties, and shall also make deposit of such taxes therein when withheld or collected and remit such taxes to a governmental unit at the time and in the manner required under Federal, State, or local government law, unless ordered by the court to do otherwise.".

(b) AUTOMATIC STAY.—Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;".

(c) CONVERSION OR DISMISSAL OF CHAPTER 11 CASE.—Section 1112(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(d) CONFIRMATION OF PLAN.—Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking "such claim, of a value" and inserting "such claim, or, if a claim has not been assessed, after the date of confirmation of the claim, of a value".

(e) CONVERSION OR DISMISSAL OF CHAPTER 12 CASE.—(1) Section 1208(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (8);

(B) by striking a period at the end of paragraph (9) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(10) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by the laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(2) Section 1307(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of order for relief under this chapter.".

SEC. 405. CREDITOR COMMITTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a committee representing creditors or equity security holders appointed under section 1102 in the performance of its powers and duties under that section.".

SEC. 406. JUDICIAL CONFERENCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 407. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ", by certified or registered mail," after "complaint"; and

(2) by inserting ", by certified or registered mail," after "copy".

SEC. 408. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.

"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and

"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.

"(3) The court shall not allow compensation for duplication of services or for services that are not either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.

"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.

"(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation, the court may order the return of the excess to the trustee or other entity that paid it.

(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications, shall be reasonable and based on the level of skill required.

SEC. 409. TRUSTEE DUTIES.

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly except when circumstances warrant different treatment), applications for compensation and reimbursement filed under section 330 of title 11; and

"(ii) filing with the court comments with respect to such an application and, when the United States Trustee deems it to be appropriate, objections to any such application.

SEC. 410. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 411. EFFECTIVE DATE.

Except as provided in sections 205(e)(2) and 210(b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 15;

(2) in section 101—

(A) by striking paragraph (39);

(B) by redesignating paragraphs (40) through (51) as paragraphs (41) through (52), respectively;

(C) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39), respectively;

(D) by inserting after paragraph (35) the following paragraph:

"(36) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; and

"(F) mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law;";

(E) in paragraph (39) (as redesignated by subparagraph (C)) by striking "and" after the semicolon;

(F) by inserting after paragraph (39) (as redesignated by subparagraph (C)) the following paragraph:

"(40) 'mask work' has the meaning given it in section 901(a)(2) of title 17;";

(G) by redesignating paragraphs (52) and (53) (as designated before the date of enactment of this Act) as paragraphs (54) and (55), respectively;

(H) by inserting after paragraph (52) (as redesignated by subparagraph (B)) the following paragraph:

"(53) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;"; and

(I) by striking both paragraphs (54), both paragraphs (55), both paragraphs (56), and both paragraphs (57) (as designated before the date of enactment of this Act) and inserting the following:

"(56) 'stockbroker' means a person—

"(A) with respect to which there is a customer, as defined in section 741(2) of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;

"(57) 'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing);

"(B) any combination of the foregoing; or

"(C) a master agreement for any of the foregoing together with all supplements;

"(58) 'swap participant' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor;

"(59) 'timeshare interest' means that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan;

"(60) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years;

"(61) 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary of involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption; and

"(62) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.";

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302";

(4) in section 346 (a) and (g)(1)(C) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(5) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(6) in section 349(a) by striking "109(f)" and inserting "109(g)";

(7) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraphs (12) and (13) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(D) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17), striking "or" at the end of paragraph (16), as redesignated by this subparagraph, and adding "or" at the end of paragraph (17), as redesignated by this subparagraph;

(8) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(9) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(10) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307"; and

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to";

(11) in section 507(d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(12) in section 522(d)(10)(E)(iii) by striking "408, or 409 Internal Revenue Code of 1954" and inserting "section 401(b), 403(b), 408, or 409" of the Internal Revenue Code of 1986";

(13) in section 523(a) by striking "1141., 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),";

(14) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) by inserting "and" at the end of subsection (d)(1)(B)(ii);

(15) in section 542(e) by striking "to to" and inserting "to";

(16) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(17) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(18) in section 553—

(A) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in subsection (b)(1) by striking "362(b)(14),," and inserting "362(b)(14),";

(19) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(20) in section 724(d) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(21) in section 726(b) by striking "section 1112 1208" and inserting "section 1112, 1208,";

(22) in section 743 by striking "clerk" and all that follows through "Commission" and inserting "clerk shall give the notice required by section 342 to SIPC and to the Commission";

(23) in section 745(c) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(24) in section 1104(c) by striking "then the United States trustee, after consultation with parties in interest shall" and inserting "the United States trustee, after consultation with parties in interest, shall";

(25) in section 1129(a)—

(A) by striking the semicolon at the end of paragraph (4) and inserting a period; and

(B) in paragraph (12) by striking "section 1930," and inserting "section 1930 of title 28,";

(26) in section 1226(b)(2)—

(A) by striking "section 1202(d) of this title" and inserting "section 586(b) of title 28"; and

(B) by striking "section 1202(e) of this title" and inserting "section 586(e) of title 28";

(27) in section 1302(b) by striking "and" at the end of paragraph (3); and

(28) in section 1328(a)(2) by striking "of" and all that follows through the semicolon and inserting "of the kind described in section 523(a) (5), (8), or (9);".

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

GRAHAM (AND OTHERS) AMENDMENT NO. 2425

Mr. GRAHAM (for himself, Mr. PACKWOOD, Mr. METZENBAUM, and Mr. GRASSLEY) proposed an amendment to the bill S. 1985, supra, as follows:

At the appropriate place, insert the following:

SEC. . PENSION PLAN CONTRIBUTIONS.

(a) TREATMENT AS ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by section 405, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) minimum funding contributions to an employee pension benefit plan for which the debtor is liable, which accrue on or after the date of commencement of the case, (regardless of the time such contribution comes due) under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).".

(b) PAYMENT OR POSTPONEMENT OF MINIMUM FUNDING CONTRIBUTIONS DUE PENSION PLANS.—(1) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1115. Contributions to certain employee pension benefit plans

"(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Except as provided in subsection (b), the debtor in possession, or the trustee if one has been appointed, shall make any minimum funding contributions for which the debtor is liable, which accrue on or after the date of commencement of the case, under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).

"(b) POSTPONEMENT OF CONTRIBUTIONS.—(1)(A) Subject to paragraph (2), the court may, on motion of any party and after notice and hearing, determine that the making of all or part of a minimum funding contribution required to be made by a debtor to a pension plan may be postponed until a date that is not later than—

"(i) the effective date of a plan of reorganization confirmed under section 1129; or

"(ii) if the case is converted to a case under chapter 7, the date on which a distribution of property is made under section 726.

"(B) In making a determination under subparagraph (A), the court shall take into account the requirements of the estate.

"(C) Interest shall accrue on the amount of a contribution that is postponed from the date on which the contribution became due to the date of payment at the rate specified in section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)).

"(2)(A) Before permitting payment of all or part of a contribution to be postponed, the court shall grant security to the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, for the amount of a contribution that is postponed, affording adequate protection in accordance with section 364(d)(1)(B).

"(B) If the debtor in possession or trustee fails to make a postponed contribution on the date on which it is to be made under an order issued under paragraph (1), the pension plan shall be permitted to foreclose on the security provided under subparagraph (A).

"(c) NOTICE.—The administrator of the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, shall be given notice of and may participate in any hearing seeking postponement of a contribution or foreclosure under this section.".

(2) The chapter analysis for chapter 11 of title 11, United States Code, is amended by inserting after the item for section 1114 the following new item:

"1115. Contributions to certain employee pension benefit plans.".

(c) CLARIFICATION OF EXISTING LAW.—(1) The amendment of section 550 of title 11, United States Code, made by section 204 shall apply with respect to a transfer to a pension plan that is subject to the minimum funding requirements of section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082) only if the transfer is the subject of a motion or proceeding seeking avoidance of the transfer that is filed on or after the date of passage of this Act in the Senate.

(2)(A) In making the amendments made by subsections (a) and (b), it is the purpose of Congress to clarify the meaning of the provisions that are amended as they existed prior to the date of enactment of this Act.

(B) The amendments made by subsections (a) and (b) shall not be applied so as to supersede or alter any agreement or understanding (or modifications thereto before or after enactment) regarding a debtor's minimum funding contributions entered into among a debtor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation prior to the date of enactment of this Act.

DANFORTH (AND OTHERS) AMENDMENT NO. 2426

Mr. DANFORTH (for himself, Mr. GRAHAM, Mr. BOND, Mr. COHEN, Mr. CONRAD, Mr. DECONCINI, Mr. LEVIN, Mr. ROBB, Mr. RUDMAN, and Mr. DURENBERGER) proposed an amendment to the bill S. 1985, supra, as follows:

At the appropriate place, add the following:

The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans; and

(3) national interest in controlling the deficit takes precedence over partisan advantage;

The Senate finds that—

(1) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country are to be effectively and honestly addressed; and

(2) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice; and

The Senate finds that—

(1) the frequency and level of public comment on this issue by public officers and candidates, including those who hold and seek the office of the President, are so insignificant as to constitute irresponsibility;

(2) by and large, the candidates, Congress, and the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse;

(3) entitlement and interest spending are the fastest growing components of the Federal budget and are at an all-time high;

(4) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(5) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(6) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people: It is the sense of the Senate that—

(1) public officials and candidates for public office to make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President to agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office to affirm their support for this statement of principles and to resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively addresses the Federal budget deficit if elected.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, June 24, 1992, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure that long-term conservation of the Pacific yew, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Tom Williams of the subcommittee staff at (202) 224–7145.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. KERRY. Mr. President, the Select Committee on POW/MIA Affairs, pursuant to our discussions in previous organizational meetings, is scheduling hearings on June 24 and 25 to focus on the accounting process of the Department of Defense in regard to Americans missing in Southeast Asia. The hearings will begin at 9:30 a.m., and will take place in room 216 of the Senate Hart Office Building. For additional information, please call 224–2306.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 16, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 2481, the Indian Health Care Amendments Act; S. 1752, the Tribal Courts Act of 1992; S. 2684, the Jicarilla Apache Tribe Water Rights Settlement Act; S. 2507, the Ak-Chin Water Use Amendments Act of 1992, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet on Tuesday, June 16, 1992, at 9:30 a.m., in open session, to receive testimony on the procedures for coordination and cooperation among the military services in meeting the equipment requirements of future conventional forces, in review of S. 2629, the Department of Defense authorization bill for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, June 16, 1992, at 2:30 p.m., in open session, to receive testimony on security issues in the European, Atlantic, and Pacific regions; and to consider the nominations of Adm. Paul D. Miller, USN, to be reappointed to the grade of admiral, and to be commander in chief, U.S. Atlantic Command; Lt. Gen. John M. Shalikashvili, USA, to be general, and to be commander in chief, U.S. European Command; Lt. Gen. Henry C. Stackpole III, USMC, to be reappointed to the grade of lieutenant general, and to be commanding general, Fleet Marine Force Pacific; and Maj. Gen. Barry R. McCaffrey, USA, to be lieutenant general, and to be Assistant to the Chairman of the Joint Chiefs of Staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 16, 1992, to receive testimony on the safety of Soviet-designed nuclear powerplants and on the technical and financial assistance being offered by Western nations to help improve the safety of these plants.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS

Mr. HEFLIN.. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, June 16, 1992, at 10 a.m. on S. 1805, a bill to amend title 17, United States Code, to clarify news reporting monitoring as a fair use exception to the exclusive rights of a copyright owner.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MRS. HILDEGARDE WEISS, 1992 LUTHERAN IMMIGRATION AND REFUGEE SERVICE'S AWARD WINNER

• Mr. SIMON. Mr. President, I rise to acknowledge the achievements of Mrs. Hildegarde Weiss, a constituent of mine from Berkeley, IL. I had the opportunity to meet Mrs. Weiss recently when she received the Salt of the Earth Award from the Lutheran Immigration and Refugee Service [LIRS] at its recent Washington, DC, conference. This award, also bestowed upon three others, was designed to recognize her for "exceptional commitment and countless deeds of love in ministry with uprooted people."

Mr. President, even before my service on the Subcommittee on Immigration and Refugee Affairs, I came to know and respect the important efforts and accomplishments of the Lutheran Immigration and Refugee Service. It is a cooperative agency of the Evangelical Lutheran Church in America, Latvian Evangelical Lutheran Church in America, and Lutheran Church-Missouri Synod. LIRS has provided invaluable assistance to refugees, asylumseekers, undocumented persons, and immigrants since 1939. Its work is of critical importance today. If our Nation is to continue to meet its historic commitment to aid those fleeing persecution, we need the resolve and forthrightness of the LIRS and other religious and voluntary organizations that aid refugees. LIRS' services include advocacy, resettlement in communities across the United States, placement of unaccompanied refugee children in foster homes, assistance with local asylum projects, and counseling in immigration. It is one of many very important volunteer organizations in this country helping refugees to settle quickly in local communities and to begin supporting themselves and their families.

Mrs. Weiss has worked with LIRS in Illinois for 17 years and has assisted in the resettlement of over 300 refugee families in our State. I commend her years of service and ask that the LIRS Bulletin statement recognizing Mrs. Weiss' achievements be included in the RECORD immediately following my remarks.

The bulletin reads:

LIRS RECOGNIZES EXCEPTIONAL SERVICE TO UPROOTED PEOPLE

HILDEGARDE WEISS

Offering care, love and ongoing friendship in abundance to approximately 300 resettled refugees is the task to which Hildegarde Weiss of Berkeley, Ill., has given herself without reservation since 1975. She reportedly never says no.

The same four helpers have shared in the task from the beginning: Weiss's sisters Renata and Alinda, with whom she lives; and a couple. Ray and Lucy Schilling of Maywood, Ill. All members of St. Paul Lutheran Church in Melrose Park, Ill., they initially handled the resettlement ministry under the congregation's Care Corps before setting out on their own.

"To God be the glory, great things he has done," says Hildegarde. "He has moved people from halfway around the world to come to the United States so that Americans can be compassionate and welcome strangers in their land. When we work for others, our efforts return to bless us."

Weiss and her associates are currently preparing a "big welcome" for the father, Maj. Tri Chanh Tran, in the very first Vietnamese family they helped resettle in Melrose Park. In January 1992 he was released from 17 years as a political prisoner. One of his daughters, Doris, is now studying to be a family practice doctor at Rush Medical School, Chicago; and another daughter, Alice is a nursing student at Triton College, River Grove, Ill. He also now has two grandsons.

Almost all the resettled refugees in Weiss' growing "extended family" remain in the area. They come together each year for a July picnic held in a nearby forest preserve and for a Christmas party at St. Paul Lutheran Church. Hildegarde's 75th birthday was July 28, 1991, and following the annual picnic the refugees surprised her with a party at a Chinese restaurant operated by one of the families.

Weiss graduated from Proviso Township High School, Maywood, in 1934 and worked as a secretary until her retirement in December 1991. Her employers included LIRS regional consultants with Lutheran Child and Family Services of Illinois; Concordia University, River Forest, Ill.; and Compassion International, a child-care sponsorship program.•

AUTHORIZATION OF THE ESTABLISHMENT OF A MEMORIAL TO MAHATMA GANDHI IN THE DISTRICT OF COLUMBIA

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 781, which authorizes the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

Mahatma Gandhi's life was a vast and varicolored mix of service, spirituality, indealism, politics, and nonviolent force. He saw no hope in military solutions to conflicts among governments and believed only in love and service as the way to peace in the community and in the heart. This lasting tribute will inspire all of those who view it to follow the philosophy of this great man.

I commend the efforts of the Indian American Forum and the Indian American community at large for their significant contributions to our society. This memorial is long overdue and I urge my colleagues to support this measure.•

PRICE INVERSIONS

• Mr. SIMON. Mr. President, I rise today to report on price inversions in the retail gasoline market. A price inversion occurs when a refiner charges wholesale customers more for gasoline or diesel fuel than they charge retail motorists at the pump. These price inversions are driving independent motor fuel marketers out of business.

Almost as injurious to small business marketers is the ongoing refiner practice of pricing fuel to consumers or retailers only a fraction of a cent above that charged wholesalers. Obviously, if the differential is not enough to cover the cost of the various functions necessarily performed by the wholesaler, then the wholesaler cannot survive. The same is also true regarding the necessity of an adequate differential between the price to dealers as compared to that charged consumers at refiner operated stations. These small businesses must also have some livable level of profit. We must do something to put a stop to these unfair practices.

I continue to hear from marketers about these problems. An Illinois constituent recently sent me a news story from Oil Express. This story reported that in Indian River Beach, FL, Coastal has been selling gasoline at a retail price of $1.049. However, the rack price to wholesalers was $1.064. This rack price includes taxes.

These kinds of situations continue to occur in Illinois as well. In Crystal Lake, IL, on June 9, 1992, a refiner was selling unleaded regular gasoline at $1.089 to refiner direct-operated outlets. The wholesale price, including taxes and freight, was $1.0891.

I intend to continue to report on these unfair practices until the House and Senate take action to correct these price inversions.•

HELPING PARENTS MAKE THE GRADE

• Mr. HATFIELD. Mr. President, recently some interesting results on a survey of high school students came to my attention and I am compelled to share them with my colleagues. Almost 1,400 11th and 12th-grade students were polled on the question of parental involvement with the study practices of today's youth. According to the Voices from the Classroom survey, most students value greatly parental involvement with their studies. Nine out of ten students surveyed considered it important that parents help their children with homework assignments. Eight out of ten believed that parents should set study rules for their children. Many students believed that, overall, parents should be much more involved with local schools.

Professionals in the field of education have long emphasized the importance of parental participation in the education of elementary and secondary school students. How refreshing it is to hear that students themselves appreciate parental involvement, that they appreciate it when parents emphasize the importance of studying and when parents take an interest in the accomplishments of their children at school.

It was with this understanding of the role of parents as coeducators that I sponsored Senate Concurrent Resolution 68 earlier this year to encourage parents to attend regularly the parent-teacher conferences held at schools. These conferences offer a chance for parents to hear directly from teachers the achievements of their child in school, and to hear from teachers the areas in which their child is demonstrating his or her own unique capabilities and accomplishments. It is also a time for parents to hear of areas in which their child might be experiencing difficulties. Conferences offer a chance for parents and teachers to work together with students to nip potential problems in the bud before they have seriously hindered the ability of a child to excel in school.

Clearly, Mr. President, attending conferences is not the responsibility of one parent alone. Part of my reasoning behind offering Senate Concurrent Resolution 68 was to encourage both parents to arrange their schedules in such a way as to allow time to attend school conferences. I believe that both parents should be familiar with their child's standing in school, should know the person who teaches their child math, should know what the classrooms, the cafeteria, and the library at school look like. Nothing encourages a child more than knowing that both parents care about his or her success in school. For parents, there are few better ways to demonstrate that interest than to participate in parent-teacher conferences.

In my office, we have a place a policy of allowing parents to arrange their schedules not only to attend the regularly scheduled conferences but also to set up additional conferences whenever they deem it necessary. Both the parents in my office and the teachers at their children's schools appreciate these efforts to make it easy for parents to become involved. Judging from the views expressed by students in the Voices from the Classroom poll, however, it seems that it is the students who appreciate this commitment most of all.•

TRYING TO FIGHT RACIAL PREJUDICE

• Mr. SIMON. Mr. President, over the past several months, I have been speaking out about hate crimes in the Senate RECORD. This week, I wish to direct your attention to a racially motivated attack on a family in my home State of Illinois.

Just months after buying a home in the almost all-white community of Berwyn, Clifton and Dolcy Campbell and their three children have packed up and moved out. The very day after they moved into their new home, someone hurled an egg-sized rock through a window on the back porch. Two nights later, someone doused the front porch with gasoline, set it on fire, and shattered the glass front door. The family received threatening phone calls and hate mail. Dolcy Campbell was even followed on her way to work.

Several Berwyn residents criticized the Campbells for moving into the neighborhood, saying that the family should have expected trouble in the town of 43,426 where there are only 51 blacks. These residents said that a black family should not realistically expect to be welcome in a town that in 1975, saw the suspension of the licenses of 17 real estate brokers and salespeople for allegedly steering blacks away—a town that in 1986, received explicit instructions from the U.S. Justice Department to recruit more black citizens for city jobs.

Mr. President, we can take pride in many positive things that are happening in our Nation, but when faced with situations such as this, we must ask ourselves: "What is wrong with America? How can we do better?"

In this case, in Berwyn, IL, thankfully there are people who are asking these questions. The Campbells were overwhelmed by the outpouring of support from Berwyn community residents who were outraged at these blatant acts of racial intolerance. Many Berwyn residents visited the Campbells, or sent flowers and messages of support. One 4-year-old girl sent smiley face stickers to the Campbell's children. A minister took in the children for a weekend. A neighbor invited the family to use his swimming pool. Others offered to contribute money. A psychotherapist offered her services for free. A concerned resident sent a note which simply said: "We care."

Unfortunately, despite these acts of generosity and kindness, the Campbells could not tolerate the hatred of a small minority of their neighbors. When Paul Campbell told his father that the constant pressure and the fishbowl atmosphere made him want to kill himself, the family decided it was necessary to move away from Berwyn.

Mr. President, it is obvious that the fight to desegregate housing is far from over. Last Friday, the Campbells were among a group of six people honored by the Leadership Council for Metropolitan Open Communities, a nonprofit Chicago group that supports fair housing. I would like to share with my colleagues the comments of Mr. Kale Williams, executive director of the leadership council, about the situation in Chicago:

Ninety days ago, fire and hatred threatened the Campbell family in Berwyn," he said. "We in Chicago must decide whether we are awake enough to respond," he said, "or whether we, as a people, will reach sleepily for the snooze bar and slumber until the next disturbance stirs us briefly again.•

TRIBUTE TO CYNTHIANA

• Mr. McCONNELL. Mr. President, I rise today to recognize Cynthiana, a small town hidden in the hilly farmland of northern Kentucky.

Cynthiana is a little off the beaten path, but well worth the extra effort it takes to get there. It is a short distance from two metropolitan cities, Cincinnati and Lexington. In Cynthiana, you are rewarded by the hospitality of the people who live there. They take great pride in welcoming guests to what they call "the best kept secret in the Bluegrass".

Despite the fact that Cynthiana is somewhat remote, it still enjoys healthy industrial businesses. Minnesota Mining & Manufacturing, or 3M, has based its entire Post-It note production for North America in Cynthiana. Cynthiana is also a regional center for burley tobacco and cattle production.

The people of Cynthiana live quiet lives, away from the problems of the city, but close enough to enjoy the benefits. They are content with their town the way it is. These Kentuckians represent America at its best, and for this reason I would like to recognize their wonderful town.

Mr. President, I would like the following article from the Louisville Courier-Journal to be printed in the CONGRESSIONAL RECORD.

The article follows:

CYNTHIANA

(By Jay Blanton)

For Harrison County's 175th anniversary in 1969, a time capsule was buried in Cynthiana. In 1976, another capsule containing a history of families, places and businesses was buried to celebrate the nation's 200th birthday.

Both will be opened sometime next century. But chances are people in historic Cynthiana won't have much trouble recognizing artifacts from the town's past. Things just won't have changed much. It's a fact that doesn't seem to bother anyone at all.

"I'd like for them to open it up and pull out a picture of Cynthiana in 1880 and find out that downtown is exactly the same," said Nancy Farmer, executive director of the Cynthiana-Harrison County Chamber of Commerce.

The historical ceremonies are but one sign of this town's love of history. Cynthiana is a Central Kentucky community with obvious pride in its past. You can see it in the historical markers that dot the town or in how old buildings that line Main Street and its environs have been maintained.

Oddly enough, though, few people know about Cynthiana. Part of the reason for the relative anonymity is that Cynthiana is hard to find.

The town is only 30 miles from Lexington and about 60 miles from Cincinnati. In that sense, Cynthiana is ideally located. A Cincinnati Reds game or University of Kentucky basketball game at Rupp Arena, symphonies and arts are within driving distance.

Cynthiana, Farmer says, is "the best kept secret in the Bluegrass. It's absolutely incredible."

That may be true. But to get to Cynthiana, you have to want to get there. No one just happens upon the Harrison County seat.

"It's not on the interstate, so people don't pass through it," she said. "It has to be a destination, actually."

In fact, there is no easy way to get to Cynthiana. Interstates 64 and 75, which provide easy access to much of Central Kentucky, come nowhere near Cynthiana—despite what some maps may suggest.

U.S. 62, normally the easiest way to get to Cynthiana from Lexington, is being rebuilt. What is normally a 15-mile drive from Georgetown, the Scott County seat, to Cynthiana is a winding, two-lane journey through hilly farmland on Ky. 32. It's a beautiful drive but hardly quick.

Those road repairs, though, will eventually put Cynthiana within six miles of Toyota's plant in Scott County. Unlike other Central Kentucky towns, Cynthiana has yet to receive any spinoff from the automaker, said Harrison County Judge-Executive Charles Swinford.

Despite its poor access to the interstate, Cynthiana has acquired a surprisingly diverse industrial base in recent years. For much of its history, Cynthiana's economic base has been agricultural. Today, there are 1,450 farms in the county, averaging 145 acres each. The town is still a regional center for burley production and sales. Cattle production also is important. The county is the eighth largest beef-producing county in the state.

Tobacco is an even larger crop. County Agriculture Extension Agent Gary Carter said the county produces 10 to 12 million pounds a year, bringing in between $18 to $20 million into the economy. Just as important are the five warehouse companies in Harrison County. The warehouses get tobacco from Pendleton, Grant, Robertson, Nicholas and Bourbon counties, as well as Harrison. About 24 million pounds was sold from those markets last year.

Carter said the biggest challenge facing agriculture in Harrison County is in the tobacco industry. "When you talk about the abolishment or elimination of the tobacco industry, you would be talking about (a) considerable amount of income." If something does happen to tobacco, Carter said, farmers will have to find an alternative.

Farmers are already having to find alternatives. Carter said that in recent years 70 to 80 percent of the farmers have had some kind of income from outside the farm.

"Either the wife has gone to work or the husband has taken a second job in the factory," he said.

In the last several years the economy has become more balanced; as much money now comes from industry as from agriculture, Swinford said.

"It's just a good blend, good mix," he said. "Many of our young people don't have to leave this area to go to other areas to find employment."

The town's unemployment is among the lowest in the state at 6.7 percent, according to February figures. And Cynthiana has grown into a regional business and health center for much of north-central Kentucky, with a 99-bed hospital and large shopping area south of town.

Russell Whalen, owner of Whalen Jewelers, said the town now has a 50- or 60-acre industrial park to bring in more industry. A Hampton Inn and golf course also are being planned for the south side of town, he said.

But the town has had its industrial setbacks. Jockey International, which makes men's knit underwear, announced recently that it would close its plant there by the end of the year. About 200 workers will be laid off.

Like many other Kentucky towns its size, Cynthiana also has a serious landfill problem, which means Cynthiana has a serious garbage problem. The state is closing the town's landfill at the end of June.

Another problem that plagued the town was its water supply. For years, the town had only one water line, from the South Licking River. The recent addition of a new line to the main Licking River should alleviate water problems and reassure any industry considering a Cynthiana location.

In at least one way, Cynthiana goes beyond being a regional center. Take time to look at the note stuck on your refrigerator or bulletin board. Chances are, it's from Cynthiana.

Minnesota Mining & Manufacturing, better known as 3M, makes all of its Post-It notes for North America at its plant in Cynthiana.

You might not recognize the name Post-It. But you'd know it when you see one. The small strips of paper with the adhesive on the back have become essential to people who need a way to leave a quick, easy-to-find message.

The company located a plant in Cynthiana in 1969, said Gary Whitenack, the plant manager. The Post-It note was introduced in the early 1980s, and in 1985 when the company decided to consolidate its manufacture, all of the Post-It work for North America was consolidated in Cynthiana.

Whitenack said Cynthiana is a central location for 3M's businesses, and the workers are excellent. There was a cooperative "team effort" among the workers in Cynthiana, he said.

That spirit of cooperation is often cited among people in Cynthiana.

Becky Barnes, news editor of The Cynthiana Democrat, said last year the people of the town wanted to get together to support the Desert Storm operation. A group put on a "Fabulous Fourth" program. Local talent, music and speakers gathered to entertain and support a cause people believed in.

"It just seems like anytime there's a good cause . . . someone is there to spearhead" it, Barnes said.

Bill Morris, president of First Federal Bank, said fund-raising has begun in the last year to house outreach programs for senior citizens, the mentally retarded and Head Start. "We're working on so many different things to better the community," he said.

But Morris says the real challenge facing Cynthiana is the complacency that can come when people are content with what they have.

"We've sorta been spoiled," Morris said. "We feel we've got the garden spot in the world right here in this community."

While Morris is one of those who believes that Cynthiana is a garden spot, he also contends that the town's economy hangs in a delicate balance.

"If we lost one or two factories," he said, the town "would be in dire economic straits."

Still, Morris said, "there's no way that you would ever get me out of Cynthiana . . . it's just a good community."

Whalen, the local jeweler, put it another way. In Cynthiana, he said, "you won't make a heck of a lot of money, but you can live a pretty good life."

It is certainly a slower life, Ky. 32, the alternate route that makes a trip to Cynthiana an adventure, is a good symbol. You have to drive slowly. It almost makes you take the time to take in the beauty around you.

It's a road that fairly well represents why people like it here.

People are willing to drive distances to Lexington, Winchester, Frankfort and Mount Sterling for work, said Swinford, the judge executive. "And they like to come back here to their quiet living."

Population (1990): Cynthiana, 6,497; Harrison County, 16,248.

Per capita income (1988): $11,769, or $1,061 below the state average.

Jobs (1989): Total Employment, 6,960; manufacturing, 2,000; wholesale and retail trade, 1,072; service, 716; state/local government, 537; contract construction, 137.

Big employers: Minnesota Mining & Manufacturing, adhesive-backed note paper, box sealing tape, 525; Grade Perm Cast Inc., gray iron castings, 260; Bundy Tubing, refrigeration coils, steel tubing, 236; Ladish Co., Kentucky division, forged steel fittings, stainless steel valves, 201.

Media: Newspaper—Cynthiana Democrat (weekly), Radio—WCYN-AM 1400, country; WCYN-FM 102.3, country.

Transportation: Road—Cynthiana is served by U.S. 27 and 62, and Ky. 36. Interstate 75 is 19 miles southwest of Cynthiana via U.S. 62. The junction of I-64 and the Mountain Parkway is 31 miles south via U.S. 27 and Ky. 627. Air—The Cynthiana-Harrison County Airport is 1.5 miles south of Cynthiana. Lexington's Bluegrass Airport is 38 miles southwest of Cynthiana, Rail—CSX Transportation provides main-line service.

Education: Harrison County Schools, 3,129; two nonpublic schools, St. Edwards Elementary and Faith Baptist Church Fundamental, have 82 students each.

Topography: Cynthiana, with its hilly farmland, is at the northern end of the Bluegrass.

FAMOUS FACTS AND FIGURES

Harrison County was named in honor of Benjamin Harrison, a state legislator from Bourbon County. The town of Cynthiana was established on land owned by Robert Harrison, who named the town in honor of daughters Cynthia and Anna.

Believe it or not, there was life for Kentucky basketball before Rick Pitino, and Cynthiana was a big part of it. Former University of Kentucky basketball coach Joe B. Hall is from Cynthiana. Hall led the Wildcats to the last of their five NCAA championships in 1978.

Depending on how you look at it, Cynthiana has done its part for television comedy. The family of Gary Sandy, who played the program director on the television sitcom, "WKRP in Cincinnati," is from Cynthiana. Lawrence Pressman, who plays a doctor on "Doogie Howser M.D." also is from Cynthiana.

The old log court house directly behind the Harrison County Courthouse is the oldest house in Cynthiana. Built in 1790, the house is where a young Henry Clay practiced law in 1806. The house also was home to the first city newspaper in 1817, The Guardian of Liberty. The paper had at least two notable people working for it: H.H. Kavanaugh later became a noted bishop, and Dudley Mann became a diplomat to France.

The Battle of Cynthiana was fought July 18, 1862. The Confederate raider John Hunt Morgan defeated Union troops and captured the town.•

WHAT IS BEST IN INDIANA AND AMERICA

• Mr. COATS. Mr. President, recently I received a number of letters from Miss Jennifer Hermann's first-grade class at Washington Township School in Valparaiso, IN. The letters dealt with the use of landfill space and the need to recycle reusable products.

These young Hoosiers reminded me both of the reassuring promise of thoughtful children and the urgency of giving States such as Indiana the authority to say "no" to out-of-State shipments of solid waste.

These enterprising children, under the guidance of their teacher, created their own landfill using an apple core, some lettuce, a glass jar, a paper napkin, and a styrofoam cup. They wrote me following the unearthing of these objects, which disclosed to them that while the manmade objects remained, the apple core and lettuce had decomposed into the Earth.

This object lesson was not lost on Miss Hermann's students. They wrote me to share with me some of the concerns this example of the need for recycling had given them.

"We dug up the trash we buried. We learned we should recycle, reuse, and reduce. The glass jar, the napkin, and styrofoam cup stayed the same," wrote a girl named Christi. Stephen L. said he was "surprised when I saw the apple core and lettuce were not there. Would you help our Earth, too?" "We learned that the glass jar, the styrofoam cup, and the paper napkin don't help the Earth," Matthew M. told me, and Brandon promised, "I will be good to our Earth."

The need to recycle is increasingly apparent as our landfill capacity lessens, particularly to those of us in Indiana who are tired of seeing other people's garbage pour across our borders. Last year alone, Indiana took in over 520 pounds of out-of-State trash for every man, woman, and child in the State.

Hoosiers are tired of seeing their State used as an interstate dumping ground, and that is why I have introduced legislation that would give States and communities the authority to refuse trash from other States. It is my hope that States like Indiana will have this authority soon.

Miss Herman and her colleagues Barbara Geiss and Lori Cox deserve praise for teaching their pupils about the value of our Earth and the importance of recycling early on. This kind of memorable learning experience is part of a true education, and the delightful children in Washington Township School illustrate vividly what is best in Indiana and America.•

A REVIEW OF THE F/A-18E/F PROGRAM

• Mr. D'AMATO. Mr. President, an audit of the F/A-18E/F Defense Acquisition Board [DAB] review by the Department of Defense Inspector General has revealed another episode of the cowboy policies of Pentagon lynching the acquisition process. The same people who drove the A-12, P-7, and T-45 to market, the Navy, the Office of Program Analysis and Evaluation, and the Office of the Under Secretary of Defense, Acquisition, have ridden roughshod over congressional language and DOD relation by buffaloing the F/A-18E/F through the DAB without the necessary documentation.

Was the DAB rigged? Central to the DAB's ability to make a meaningful judgment about alternative options to any procurement is the cost and operational effectiveness analysis. Contrary to requirements and practice, a COEA was not done for the F/A-18E/F review. Side-by-side comparisons of the F/A-18E/F and the AX, F-14D Quick Strike, Rafale, and other variants of the F/A-18 were squashed. Instead, the Navy used trade studies limited to a comparison of the F/A-18C/D and F/A-18E/F. It goes without saying that these trade studies were done by McDonnell Douglas, an author with no small interest in the outcome.

Cost data in another document, the integrated program summary, was badly flawed. Operations and support costs were grossly understated. The cost of extensive preplanned product improvements were ignored altogether. The result of this book cooking exercise is that we have no idea what the lifecycle costs of the F/A-18E/F really are. In turn, it is impossible to know if the F/A-18E/F is the most cost-effective option of those available.

The IG was also clear on a point I have long asserted: the significant and comprehensive changes envisioned for the F/A-18E/F qualify it as a new production, not a modification program as has long been alleged by the Navy.

Why the fuss? Because if the IG's timely report had not come out, Congress would have known nothing of this. For the last month, I have sought without success to lay claim to the documents associated with the F/A-18E/F DAB review. I understand the GAO and the committees have done no better. Apparently, Congress does not merit access to the materials justifying a program conservatively estimated at $85 billion. As the keeper of the public Treasury, we are just supposed to hold our noses and sign the check.

What is the coverup? If a program cannot withstand the most intense public scrutiny, then it does not deserve a nickel of taxpayer's funds. The F/A-18E/F has not weathered even the most cursory review. The DAB has been stampeded; Congress corralled. One can only wonder at what the Pentagon is hiding. Let me say this here and now, there is a new sheriff in town. Before we spend another penny on this program, I intend to ensure a complete and thorough review of the facts, all of the facts, associated with the F/A-18E/F. We are not talking a cost cap anymore, we are talking a program freeze.

Mr. President, I ask that the IG's report be printed in the RECORD.

The report follows:

[Audit Report, Office of the Inspector General, Department of Defense, June 5, 1992]

F/A-18 E/F PROGRAM AS A PART OF THE AUDIT OF THE EFFECTIVENESS OF THE DEFENSE ACQUISITION BOARD REVIEW PROCESS—FY 1992

The following acronyms are used in this report:

ASD (PA&E)—Assistant Secretary of Defense (Program Analysis and Evaluation).

ASN (RD&A)—Assistant Secretary of the Navy (Research, Development and Acquisition).

COEA—Cost and Operational Effectiveness Analysis.

DAB—Defense Acquisition Board.

DIA—Defense Intelligence Agency.

IPS—Integrated Program Summary.

O&S—Operations and Support.

RDT&E—Research, Development, Test, and Evaluation.

STAR—Systems Threat Analysis Report.

USD(A)—Under Secretary of Defense for Acquisition.

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, June 5, 1992.

Memorandum for: Under Secretary of Defense for Acquisition; Assistant Secretary of the Navy (Financial Management).

Subject: Audit Report on the F/A-18 E/F Program as a Part of the Audit of the Effectiveness of the Defense Acquisition Board Review Process—FY 1992 (Report No. 92-097).

We are providing this final report for your information and use. Formal comments on a draft of this report were not received from the Under Secretary of Defense for Acquisition. However, comments were received from the Assistant Secretary of the Navy (Research, Development and Acquisition) and were considered in preparing the final report. DoD Directive 7650.3 requires that all audit recommendations be resolved promptly. Therefore, all addressees must provide final comments on the unresolved recommendation by August 5, 1992. See the "Status of Recommendation" section at the end of the finding for the recommendation you must comment on and the specific requirements for your comments. The recommendation is subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment. We also ask that your comments indicate concurrence or nonconcurrence with the material internal control weakness highlighted in Part I.

We appreciate the courtesies extended to the audit staff. If you have any questions on this audit, please contact Mr. Russell A. Rau, Program Director, at (703) 693-0655 (DSN 223-0655) or Mr. Michael Welborn, Project Manager, at (703) 614-3459 (DSN 224-3459). The planned distribution of this report is listed in Appendix D.

ROBERT J. LIEBERMAN,
Assistant Inspector General
for Auditing.

[Office of the Inspector General, June 5, 1992]

F/A-18 E/F PROGRAM AS A PART OF THE AUDIT OF THE EFFECTIVENESS OF THE DEFENSE ACQUISITION BOARD REVIEW PROCESS—FY 1992

EXECUTIVE SUMMARY

Introduction. In 1987, the Navy initiated a study of alternative variations of the F/A-18 to continue its strike-fighter role into the late 1990's and beyond. The F/A-18 E/F Program was designed to upgrade the F/A-18 C/D Night Attack aircraft with increased mission range, payload flexibility, and aircraft carrier operational suitability. As of February 28, 1992, the Navy planned to acquire 1,000 E/F aircraft for about $5 billion in Research, Development, Test, and Evaluation funding, and about $49 billion in procurement funding (FY 1990 dollars) through FY 2015. On May 6, 1992, a Defense Acquisition Board (DAB) Milestone IV/II Review was held, allowing the F/A-18 E/F Program to enter into Engineering and Manufacturing Development.

Objective. The overall audit objective was to evaluate the DAB review process for the acquisition of F/A-18 E/F aircraft. Specifically, we assessed the adequacy of the information the Military Departments and the Defense agencies provided to the DAB in support of the major milestone and program reviews and assessed compliance with DoD acquisition policy and compliance with the intent of congressional direction.

Audit Results. The Navy had not performed a Cost and Operational Effectiveness Analysis (COEA) supporting the Milestone IV/II review to enter the Engineering and Manufacturing Development phase of the acquisition cycle. Without a COEA, viable alternatives to this new development program may not be adequately assessed with regard to their relative cost and operational effectiveness. The lack of a COEA supporting the Engineering and Manufacturing Development decision is contrary to the intent of congressional direction on the F/A-18 E/F Program and DoD regulations.

Internal Controls. The audit identified a material internal control weakness in that controls were not implemented to ensure that the Under Secretary of Defense for Acquisition [USD(A)] made a Milestone IV/II decision based on a formal and up-to-date COEA, in addition to other Defense Acquisition Board required documents. The internal control weakness is further discussed in Part I of the report.

Potential Benefits of Audit. Potential monetary benefits are not readily quantifiable (Appendix B).

Summary of Recommendation. We recommended that a formal COEA of the F/A-18 E/F and alternative programs be prepared and program cost estimates and affordability assessments be updated.

Management Comments. The USD(A) did not formally respond to the draft report; however, the Assistant Secretary of the Navy (Research, Development and Acquisition) [ASN(RD&A)] responded but did not concur with our finding and recommendation. The complete text of ASN (RD&A)'s comments are in Part IV of the report. We request that USD(A) provide comments and that ASN(RD&A) reconsider his position and provide additional comments to the final report by August 5, 1992.

PART I—INTRODUCTION

Background

In 1987, the Navy initiated a study of alternative variations of the F/A-18 to continue its strike-fighter role into the late 1990's and beyond. The F/A-18 E/F Program was designed to upgrade the F/A-18 C/D Night Attack aircraft with increased mission range, payload flexibility, and aircraft carrier operational suitability. The E version (like the A and C) will be a single seat aircraft, and the F version (like the B and D) will be a dual seat aircraft. As of February 28, 1992, the Navy planned to acquire 1,000 F/F aircraft for about $5 billion in Research, Development, Test, and Evaluation (RDT&E) funding and about $49 billion in procurement funding (FY 1990 dollars) through FY 2015. The total cost of the aircraft is unknown because of the planned incorporation of preplanned product improvements, which will be defined in the future.

The Navy plans to award sole source, cost-plus-incentive-fee/award fee contracts to McDonnell Aircraft Company and General Electric Aircraft Engine Company for the aircraft and engine respectively. The aircraft engine is a derivative of the terminated Navy A-12 aircraft engine. The Navy plans to award the contracts in the fourth quarter of FY 1992 as the result of a May 6, 1992, Defense Acquisition Board (DAB) Milestone IV/II Review that approved the Program entering into the Engineering and Manufacturing Development phase of the acquisition cycle. In FY 1992, Congress appropriated $250 million in RDT&E funds for the F/A-18 E/F Program. The Navy projected additional RDT&E funding of $4.4 billion for FYs 1993 through 1997 and $224 million for FYs 1998 through 2001 to develop the airframe and engine. OSD added $130 million to the projected Navy F/A-18 E/F RDT&E funding for FYs 1992 through 1997 in the President's Budget for FY 1993.

The Navy plans to use the F/A-18 E/F aircraft in the fleet air defense and light attack mission areas, while relying on a new aircraft designated as the AX Program for medium attack capability currently provided by A-6 aircraft.

Objective

The overall audit objective was to evaluate the DAB review process for the acquisition of F/A-18 E/F aircraft. Specifically, we assessed the adequacy of the information the Military Departments and the Defense agencies provided to the DAB in support of the Milestone IV/II Review of the F/A-18 E/F Program and assessed compliance with DoD acquisition policy. In addition, we evaluated the F/A-18 E/F Program's compliance with the intent of congressional direction provided in Senate Report No. 102-154, on the Department of Defense Appropriation Bill, 1992, September 20, 1991. We also reviewed applicable internal controls.

Scope

We performed this program audit in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD, and accordingly included such tests of internal controls as were deemed necessary. We performed the audit from December 2, 1991, through May 21, 1992, and reviewed Trade Studies, DAB-required documents, and other data dated from June 15, 1988, to May 12, 1992. We discussed issues related to the DAB review with OSD, Defense Intelligence Agency (DIA), and Navy personnel responsible for the preparation and/or review of DAB-required documents. A list of activities visited or contacted is in Appendix C.

Internal Controls

The audit identified a material internal control weakness as defined by Public Law 97–255, Office of Management and Budget Circular A–123, and DoD Directive 5010.38. The audit concluded that existing internal controls, if properly implemented, were adequate to prevent or detect the deficiency identified in this report. However, controls were not implemented to ensure that the Under Secretary of Defense for Acquisition [USD(A)] made a Milestone IV/II decision based on a formal and up-to-date Cost and Operational Effectiveness Analysis (COEA), in addition to other DAB-required documents. Further, the Navy did not comply with DoD policies and procedures for preparing a COEA. Implementation of the recommendation will correct this weakness.

Copies of the final report will be provided to the senior officials responsible for internal controls within OSD and the Department of the Navy.

Prior Audits and Other Reviews

There has been no prior audit coverage on the F/A–18 E/F aircraft relating to the DAB review process.

Other Matters of Interest

The Navy's January 8, 1992, F/A–18 Integrated Program Summary (IPS) stated that a formal COEA was not needed for the F/A–18 E/F Program. The Navy made this statement even though OSD had not decided whether to waive the requirement for a COEA. In addition, this statement directly conflicts with congressional direction. The Senate Appropriations Committee, as part of Report No. 102–154, questioned the need for the F/A–18 E/F Program based on its cost and utility. Specifically, the Committee considered it "prudent to moderate the proposed pace of the F/A–18 E/F Program to prevent premature commitment to a costly program which may not be necessary, and which may not deliver as advertised." The Committee directed OSD to provide the following information by April 15, 1992.

"An updated cost estimate for the program, including a full listing of all the upgrades contemplated for the F/A–E/F, the total cost, and costs between fiscal years 1992 and 1998 to develop, procure, and install each upgrade, the timetable for such acquisition and installation, and whether each upgrade project is fully funded in these years.

"An updated projection by the U.S. intelligence community validating in detail, by region, scenario, and potential adversary, and most likely and realistic air-to-air and surface-to-air threats the F/A–18 E/F would face in the years 1998–2010, and the specific validated threat capabilities which each particular F/A–18 E/F upgrade project is intended to counter.

"An independent assessment of the capabilities of each F/A–18 E/F upgrade to counter each specific threat.

"A new cost and operational effectiveness analysis by an independent organization in no way connected with the Navy, assessing the cost and operational effectiveness of the E/F with the F/A–18 C/D's configured as they are programmed to be by fiscal year 1996, and with the emerging designs for the AX.

"An independent assessment by the Air Force's civilian and military experts of the proposed survivability features of the E/F and their likely effectiveness against the expected threats and their resistance to countermeasures."

PART II—FINDING AND RECOMMENDATION

COST AND OPERATIONAL EFFECTIVENESS ANALYSIS

The Navy had not performed a COEA for the F/A–18 E/F and alternative programs in support of entry into Engineering and Manufacturing Development, as required by DoD regulations and congressional guidance. The Navy requested that the COEA requirement be waived because of the need to proceed promptly with the F/A–18 E/F Program and the extensive industry trade studies performed on the F/A–18 E/F aircraft. The Navy concluded that the F/A–18 is the best alternative for enhancing the fleet air capabilities until a follow-on program is fielded. Without a COEA, viable alternatives to this new development program, including the Navy AX program, may not be adequately assessed with regard to their relative cost and operational effectiveness before the F/A–18 E/F Program is developed.

DISCUSSION OF DETAILS

Background

A COEA evaluates the costs and benefits of alternative courses of action to meet recognized Defense needs and determines the total life-cycle costs and operational effectiveness of alternative programs and the associated program for acquiring each alternative. DoD Instruction 5000.2, "Defense Acquisition Management Policies and Procedures," part 4, section E, February 23, 1991, discusses the policies and procedures for developing COEAs to support milestone decision reviews.

Policies. DoD Instruction 5000.2 states that COEAs are intended to aid decisionmaking, facilitate communications, and document acquisition decisions by highlighting the advantages and disadvantages of the alternatives being considered. The COEAs also show the sensitivity of each alternative to possible changes in key assumptions (such as threat) or changes including selected performance capabilities. Further, a COEA provides early identification and discussion of reasonable alternatives among decisionmakers and all staff levels. Disagreements on key assumptions and variables must be explicitly identified. Additionally, a COEA must have thresholds that are the maximum cost or the minimum acceptable performance that can be tolerated in a program before other alternatives become more cost-effective.

Procedures. A COEA includes an analysis of the mission needs, threat, U.S. capabilities, interrelationships of systems, contribution of multirole systems, measures of effectiveness, cost of alternatives, and cost-effectiveness comparisons. The DoD Component Head responsible for the mission area in which a deficiency or opportunity is identified determines the independent analysis activity that will prepare the COEA. The Joint Staff should ensure that the full range of alternatives is considered, organizational and operational plans are developed, and joint Service issues are addressed.

The Assistant Secretary of Defense (Program Analysis and Evaluation) [ASD(PA&E)] assesses the adequacy of COEAs submitted in support of DAB reviews. The ASD(PA&E) will provide, as necessary, guidance tailored to the program under review to be included in the DAB review procedures memorandum from USD(A). In the DAB process, the COEA is required at Milestone I, Concept Demonstration Approval; Milestone II, Development Approval; Milestone III, Production Approval; and Milestone IV, Major Modification Approval. At Milestone IV, the analysis is an update to the previous analysis, if it is available. The elements of the updated analysis for the Milestone IV review will be specified by the milestone decision authority as part of the premilestone planning process.

Performance of a Cost and Operational Effectiveness Analysis

At the July 11, 1991, DAB planning meeting for the F/A–18 E/F, 10 Milestone II documents, one of which was a COEA, were requested to form the basis for a Milestone IV decision. In an August 30, 1991, memorandum, the Assistant Secretary of the Navy (Research, Development and Acquisition) [ASN(RD&A)] requested that the COEA be waived because a COEA was not required for a Milestone IV review and because the Secretary of Defense had already committed to the development and procurement of the F/A–18 E/F aircraft. This memorandum also recommended limiting the scope of the COEA to cost-effectiveness comparisons of the F/A–18 E/F aircraft to the F/A–18 C/D aircraft in Navy and Marine Corps roles. On September 27, 1991, the Chairman of the Conventional Systems Committee responded to the Navy, stating that a formal COEA might not be required. This response was made after the September 20, 1991, Senate report, which directed that a COEA be performed. The Chairman requested that the Navy submit to OSD the Trade Studies that had been done to justify the proposed modification. The ASD(PA&E) personnel reviewed the Trade Studies and, in a memorandum dated October 22, 1991, requested additional information concerning the cost and operational effectiveness of the F/A–18 E/F. The Navy responded to the request for additional information in several briefings that concluded on February 6, 1992.

The Navy's proposed substitution of the Trade Studies for the COEA will not adequately examine the cost and operational effectiveness issues of the proposed F/A–18 E/F Program. Specifically, the Trade Studies do not adequately cover threat, alternatives, cost, and relation to baseline cost estimates.

Threat. DoD 5000.2–M, part 8, section 2.b(2), states that a threat analysis determines those elements against which a given system might be used and the forces that could be used against the system. The threat should be analyzed to identify the condition that might exist when the new system is employed. Although the Trade Studies are not threat assessments, the threat that the system will face forms the basis for the proposed operational specifications in the Studies. The Trade Studies proposed by the Navy as a substitute for the COEA were developed between September 1987 and June 1988 by the Naval Air Systems Command, McDonnell Douglas Corporation, and the Center for Naval Analysis. The basis for the F/A–18 E/F Trade Studies was the Soviet Union at the height of the Cold War; however, the Trade Studies do not reflect the current world situation. For example, the Studies do not consider the impact of the disestablishment of the Soviet Union or the potential reductions of aircraft carrier battle groups. The DIA rejected the initial F/A–18 E/F System Threat Assessment Report (STAR) in October 1991 because the discussion of Soviet military organization, operation, and procurement did not reflect recent events. Subsequently, DIA made approximately 165 substantive changes to the STAR, reflecting the current world situation. Such changes may have a significant impact on the F/A-18 E/F operational requirements that have not been covered in the Trade Studies.

Alternatives. DoD 5000.2-M, part 8, paragraph 12, states that the scope of a COEA depends upon the acquisition stage to which the system has advanced, the milestone decision to be made, and the systems's dollar value. For example, a Milestone II decision includes total life-cycle costs expressed in both constant and current dollars. Additionally, life-cycle estimates can provide for all alternative design approaches. A Milestone IV decision should consider the costs and consequences of all alternatives including the current program. In either a Milestone II or a Milestone IV decision, alternatives must be examined in the COEA; however, from the beginning of the DAB process, all alternatives were not considered.

At the COEA meeting convened by the ASD(PA&E) on July 16, 1991, the ASD(PA&E) principal stated that there would be no side by side comparison of the F/A 18-E/F, F-14D, and AX. He also said that there was no readily competitive alternatives to an F/A-18 upgrade other than a new start or a foreign carrier aircraft. This statement conflicts with DoD 5000.2-M, part 8, which states that even for a Milestone IV decision, the COEA should consider the costs and consequences of all alternatives, including maintaining the current program. Additionally, such initial decision adversely affect the objectivity of the DAB process and may lead to inappropriate decisions. On August 30, 1991, the ASN (RD&A) requested a waiver from the requirements to provide a COEA for the F/A-18 E/F Program. The ASN(RD&A)'s rationale was that the F/A-18 E/F is an upgrade of an existing aircraft and that the Secretary of Defense had already committed to developing and procuring this aircraft. It is true that the F/A-18 E/F is an upgrade of the F/A-18 C/D model; however, the F/A-18 E/F will not be a modification of existing aircraft but rather new production. Additionally, the changes are significant and comprehensive. Significant changes to the F/A-18 E/F airframe are listed below.

The fuselage was increased by 4 feet and the wing area by 25 percent. These changes will enable the F/A-18 E to carry at least 3,600 pounds of additional internal fuel over the current F/A-18 C model in the strike-fighter role.

The fuselage structure, landing gear, and other structural and mechanical components will be modified to accommodate the increased gross weight. These modifications will also enable preplanned product improvement growth into the next century.

Two additional wing weapon stations will be added.

Flight control computers will be modified to incorporate new flight control laws and engine control functions.

The F/A-18 E/F will also have a new engine, which is a derivative of the current F/A-18 aircraft engine. Although the core of the new engine was partially developed under the Navy's A-12 Program, the new engine will still undergo a complete development and test program during the Engineering and Manufacturing phase of the F/A-18 E/F Program. Such significant changes essentially make the F/A-18 E/F a new aircraft. Although the Secretary of Defense may be committed to the development and procurement of the aircraft, it is the responsibility of the DAB process to validate the need for, and cost-effectiveness of, the Program.

Further, the ASN(RD&A), in his August 30, 1991, memorandum to the ASD(PA&E), made the following observations if the decision was made to require a COEA.

"If, however, we are going to do a F/A-18 E/F COEA and since there will be significant overlap in capability for many missions, it is essential that the AX COEA and analysis conducted in support of the F/A-18 E/F be consistent. Accordingly, additional alternatives such as the F-14D quickstrike and a Naval version of the Rafale should not be included in the F/A-18 E/F COEA. The F/A-18 E/F COEA should be limited only to cost effectiveness comparisons to the current baseline F/A-18 C/D in Navy and Marine Corps roles."

Limiting the COEA to the F/A-18 C/D baseline defeats the purpose of performing the COEA. The fact that many missions for the proposed AX and the F/A-18 E/F will overlap makes it essential that the AX and F/A-18 E/F be compared. Additionally, as reported in Senate Report No. 102-154, the Secretary of Defense stated that the AX is expected to possess a significant air-to-air and air-to-ground capability for offensive and defensive purposes. Based on the Secretary of Defense's statement and the designs expected to be proposed by some of the industry teams, the Senate Committee concluded that the AX could fulfill some of the air-to-air missions of the F/A-18 E/F.

In response to the September 27, 1991, memorandum from the Chairman of the Conventional Systems Committee, the Navy provided the requested Trade Studies. Our examination of the ASD(PA&E) request for additional information on the Trade Studies, dated October 22, 1991, indicated that there were 13 topics that the Trade Studies did not adequately address. Two of the thirteen topics dealt with alternatives. Specifically, the ASD(PA&E) wanted an examination of the French Rafale's potential to meet minimum requirements and a summary of "Carrier Airwing Study-2010" alternatives with an explanation for dropping the F-14D Quick Strike aircraft from further consideration.

Our examination of the Navy's presentation to the ASD(PA&E) revealed no mention of alternatives to the F/A-18 E/F. Specifically, the Navy did not consider the French Rafale or discuss the F-14D Quick Strike aircraft in its presentation.

Cost. A major factor in a COEA is the cost estimates for the program under consideration. By the Milestone II decision point, there is generally sufficient information to narrow cost estimate intervals to a point estimate to develop total life-cycle costs. Point estimates are bounded in the COEA by an uncertainty range derived by a cost uncertainty analysis. Additionally, the cost sensitivity of changes in certain parameters is determined through cost sensitivity analysis, which must be documented and reflected in the COEA.

Cost uncertainty analysis. DoD 5000.2-M, part 8, section 2.b(11)(d), states that cost uncertainty is inherent in cost estimates, particularly in the early stages of development, and requires that the estimates be prepared to offer a more realistic range of the true cost of a program using either statistical analysis or subjective expert opinion. Navy cost estimates failed to allow for potential unplanned system changes, technical problems, schedule shifts, and estimating errors. The core of the E/F Program is to provide the fuselage space and improved engine power to permit upgrades shortly after the basic configuration is fielded. The cost of developing and procuring these additional capabilities is not included in the estimates of $5 billion in RDT&E funding and the $49 billion in procurement funding. Therefore, the total cost of the E/F Program has not been presented by the Navy.

Cost sensitivity analysis. DoD 5000.2-M, part 8, section 2.b(11)(e), defines cost sensitivity as the degree to which changes in certain parameters cause changes in the system's cost. Each potential change should be tested independently, and each sensitivity analysis must be documented. The cost of preplanned improvements to the F/A-18 E/F after it is fielded have not been fully estimated. These improvements will be incorporated into the F/A-18 E/F as preplanned product improvements during the Production and Deployment phase. As of the time of the audit, these preplanned product improvements have not been defined, and the cost sensitivity impact will not be developed until some time in the future.

Congress is also questioning the cost sensitivity of the F/A-18 E/F aircraft as evidenced by the language in Senate Report No. 102-154, which states that the need for the E/F upgrade is hypothetical based on the Defense Secretary's projection and expected contract designs. Additionally, the report states that the more the AX is capable of air-to-air combat and supersonic speeds, the more F/A-18 C/Ds should be produced as an affordable alternative to the E/F.

Relation to baseline cost estimate. DoD 5000.2-M, part 8, section 2(11)(f), states that COEA costs must be based on a valid baseline cost estimate. The baseline cost estimate serves as the life-cycle cost estimate for the initial case in the analysis. If the baseline cost estimate is incomplete (or has not been validated) and time is a factor, the analysis may contain unvalidated estimates. However, this could result in last minute changes that would have to be accommodated later. The Navy has not estimated total life-cycle costs for the F/A-18 E/F Program, rather an incomplete estimate was provided in the IPS. Specifically, the Navy did not estimate total operations and support (O&S) cost requirements for the Program. The life-cycle cost presentation of O&S costs, estimated at $7.7 billion, is curtailed in FY 2015, which is the last year a production contract is proposed to be awarded but not the last year of O&S costs for the Program. However, the Navy Baseline Independent Cost Estimate shows estimated O&S costs of $30.7 billion through FY 2040. Therefore, the total life-cycle cost estimate of $61.6 billion (FY 1990 dollars) is understated by $23 billion ($30.7 billion minus $7.7 billion) in the IPS. Further, the Navy did not estimate O&S cost in then-year dollars in any of the DAB documents reviewed, thereby showing a lower projection for life-cycle costs. A footnote in the IPS stated that O&S costs were not in then-year dollars in order "To avoid miscalculation of O&S costs . . ." The revised O&S cost estimates provided in the final IPS do not comply with DoD 5000.2-M, part 4, section C, which states that O&S funding should be identified through the end of the system life-cycle and in both constant and then-year dollars.

In the draft of this report, we indicated that the draft IPS showed a constant level of O&S costs at $2.3 billion starting in FY 2011 although an additional 281 aircraft were planned for delivery in FYs 2011 through 2013. Also, O&S costs were not estimated beyond FY 2013, although an additional $26.7 billion (FY 1990 constant dollars) was estimated to be required to operate and support the program through FY 2030. The final IPS provided to the DAB contained similar deficiencies with regard to total O&S costs as discussed above and annual O&S costs as discussed below. Specifically, O&S costs were not shown in FY 1999 for the delivery of 12 aircraft; however, the draft IPS showed about $105.8 million (FY 1990 constant dollars) for the support of 12 aircraft delivered in FY 1999. The final IPS also showed that O&S costs remained fixed at about $82.4 million (FY 1990 constant dollars) from FYs 2000 through 2003, which would indicate that annual costs stabilized at that amount based on a constant level of 12 operational aircraft with no additional deliveries. However, the IPS shows that an additional 108 aircraft will be delivered in FYs 2000 through 2003 with no increase in the associated military personnel and operations and maintenance costs. It is not reasonable to assume that O&S costs will remain fixed when the aircraft inventory increases by 108 aircraft above the initial 12 deliveries. We therefore consider the Navy's use of the $61.6 billion (FY 1990 constant dollars) as the total life-cycle requirements to be understated because of the omission of O&S costs in FY 1999 and the potential understatement of O&S costs in FYs 2000 through 2003.

Another interrelated critical element of a COEA is the projected production rate. Generally, higher production rates result in lower total and per unit procurement costs because of such factors as production efficiency. The Navy proposes procurement of 12 aircraft per year starting in FY 1997 and ending in FY 2015 with peak production at 72 aircraft per year. Total production is 1,000 aircraft. These procurement quantities will require over $3.5 billion annually (FY 1990 constant dollars). However, the affordability assessment provided in the draft IPS did not compare these funding requirements to topline Defense Planning Guidance and long-range modernization and investment plans, as required in DoD 5000.2–M, part 4, section G. The comparison focused on the F/A–18 Program relative to the F/A–18 E/F Program, which does not answer the question of whether the Program is affordable. The final IPS presented for the May 6, 1992, DAB Milestone IV/II Review showed that the F/A–18 E/F Program would result in the Navy exceeding fiscal constraints on total available funding, and the USD(A) included provisions in the Acquisition Decision Memorandum (Appendix A) for the Navy to demonstrate full funding of the Program in the Navy 94–99 Program Objective Memorandum prior to awarding the Engineering and Manufacturing Development contracts. Therefore, we consider the affordability of these production rates and the impact of alternative production rates to be direct parts of the COEA and a matter that must be addressed by the Navy before the Engineering and Manufacturing Development contracts are awarded.

Cause for Not Performing a Cost and Operational Effectiveness Analysis

With the termination of the Navy A–12 and F–14D aircraft programs, the Navy has concluded that the F/A–18 is the best alternative for enhancing the fleet air capabilities until the fielding of follow-on programs. This conclusion has been reached without benefit of a COEA. However, a COEA performed by using the command is essential to assess alternative variations of the F/A–18 and the quantity of F/A–18 E/F aircraft required to fulfill mission requirements, in addition to alternative platforms and the baseline of existing fleet aircraft. Certain fundamental information concerning, for example, updated threat assessments and the number of aircraft carrier battle groups also directly affect the cost and operational effectiveness of various alternatives.

The Navy has concluded that a COEA is not required because the F/A–18 E/F is an upgrade of an existing program, rather than a new development program; and the Secretary of Defense had agreed to support the development and procurement of the F/A–18 E/F. A COEA focusing on the Navy attack mission areas that provides for a logical determination of the future composition of Naval airwings is considered essential before commencing either the F/A–18 E/F or AX Programs.

Effect of Not Performing a Cost and Operational Effectiveness Analysis

In our opinion, a COEA is required in support of the F/A–18 E/F Program entering Engineering and Manufacturing Development by Senate Report No. 102–154, DoD regulations, and sound program management. The objective of a COEA is focused on fulfilling mission needs, rather than supporting procurement of a particular systems platform. Therefore, performing a COEA of the composition of future carrier airwings before awarding major development contracts is an essential part of effective program management. We recognize that acquisition regulations provide the latitude to the milestone decision authority, in this capacity USD(A), to establish specific documentation requirements for each milestone or program review. However, we believe such authority should be used to provide the acquisition decisionmaker with the flexibility to execute programs when these unusual circumstances exist, rather than to bypass otherwise valid requirements for information and analyses necessary to make sound decisions. The F/A–18 E/F Program is a major new program start, entering Engineering and Manufacturing Development, and as such should be revised to comply with all of the associated rigors of the acquisition process. A complete assessment of alternatives has not been done, because no COEA has been prepared and the Navy Trade Studies were not intended to provide the level, quality, or extent of information contained in a COEA. In addition, the Trade Studies are dated and lack, as a minimum, the appearance of independence due to the substantial contractor participation and exclusion of alternatives that are not based on the F/A–18 aircraft. Also, the Trade Studies are deficient in that they do not address the current threat or the ability of all alternatives to counter it. A COEA is required in support of the alternative selected, as well as to establish the thresholds for the program as it proceeds through Engineering and Manufacturing Development. Cost estimates and affordability assessments supporting the performance of a COEA should be reaccomplished so as to comply with DoD regulations concerning their preparation.

RECOMMENDATION FOR CORRECTIVE ACTION

We recommend that the Under Secretary of Defense for Acquisition require a formal Cost and Operational Effectiveness Analysis on the F/A–18 E/F and alternative programs, before entering into an Engineering and Manufacturing Development contract, and revise supporting cost estimates and affordability assessments to comply with DoD 5000.2–M, part 4.

MANAGEMENT COMMENTS

We did not receive written comments to the draft report from USD(A). The Deputy Inspector General met with the USD(A) to discuss the audit results on May 4, 1992, prior to the May 6, 1992, DAB Milestone IV/II Review. Based on additional information provided at that meeting and subsequent to the meeting, we performed additional audit work to assess management actions associated with our audit finding and recommendation. Specifically, we evaluated the updated DAB documentation generated after our draft report was issued and we assessed the Acquisition Decision Memorandum, dated May 12, 1992, (Appendix A) resulting from the May 6, 1992, DAB as it relates to our audit finding and recommendation. We received comments from the ASN(RD&A), who nonconcurred with the recommendation and provided clarifying information and comments on the finding. Complete comments by the ASN(RD&A) are in Part IV of this report.

Regarding the recommendation, the ASN(RD&A) stated that the approach taken to fulfill COEA requirements was consistent with DoD Instruction 5000.2 for Milestone IV and OSD direction. Specifically, the ASN(RD&A) stated that all cost analyses required by DoD Instruction 5000.2 were furnished to OSD and that final cost estimate documentation was submitted on February 28, 1992. The ASN(RD&A) further noted that the report did not state that the program manager's estimate, the Navy Center for Cost Analysis' Independent Cost Estimate, and the OSD Cost Analysis Improvement Group's cost estimate are within 1 percent of each other. Finally, the ASN(RD&A) stated that the audit was conducted using draft documentation before the Navy responded to all OSD requests for information and before the acquisition review process had been completed. Of particular importance was the Navy's updated affordability assessments and the May 4, 1992, memorandum by the ASN(RD&A) to USD(A) addressing the cost-effectiveness of various alternatives to the F/A–18 E/F Program.

AUDIT RESPONSE TO MANAGEMENT COMMENTS

Comments by the ASN(RD&A) are not considered responsive because:

The Navy's position is not based on a valid COEA, as defined in DoD Instruction 5000.2, part 4, section E, but based instead on a literal interpretation of one segment of DoD Instruction 5000.2, part 4, section E, while ignoring the full scope of the Instruction as it relates to the performance of a COEA. The Navy states that a COEA may be required for Milestone IV; however, the program was slated for a combined Milestone IV/II review. The Navy chose to omit the COEA requirements of Milestone II which are more stringent than those of Milestone IV even though OSD called for such documentation. The resulting delay in performance of a COEA during deliberations on the need for the analysis precluded its completion prior to the scheduled DAB review. The USD(A) memorandum of September 27, 1991, states that for the F/A–18 E/F Milestone IV/II DAB review, the Conventional Systems Committee will review all of the topics routinely considered in preparation for a Milestone IV review, including Milestone II documentation, in accordance with DoD Instruction 5000 series documents and the Committee's standard operating procedures.

Milestone II documentation requirements include a COEA that establishes performance floor and ceiling cost objectives or acceptable bands for possible combinations of cost and performance; specifies cost and performance thresholds beyond which the validity of the COEA conclusions must be reaffirmed; shows the tradeoffs used to arrive at the objectives for Phase II, Engineering and Manufacturing Development; and examines the impact of program termination. Additionally, DoD Instruction 5000.2, part 3, states that a Milestone IV review should carefully consider the availability of other alternatives to address the deficiency, which includes the option of entering Phase 0, Concept Exploration and Definition.

The Navy's decision to request a waiver rather than to fulfill COEA requirements was not reasonable given the dollar magnitude of the Program and the ongoing controversy over the future of Naval aviation. Milestone II COEA requirements are applicable at the stage at which milestone decision authorities must rigorously assess the cost and operational effectiveness as well as the affordability of an Engineering and Manufacturing Development program, and establish a Development Baseline, whereas Milestone IV is Modification Approval, where the intent is to ensure that all reasonable alternatives are examined prior to committing to a major modification or upgrade of a system that is still being produced. Documentation requirements for Milestone IV decisions have more flexibility than for Milestone II decisions because upgrades or modifications do not necessarily result in new major Defense acquisition programs. However, if the Milestone IV does result in a new major Defense acquisition program, then the more complete documentation requirements are logical. The prudent approach would be to exercise the milestone with the more comprehensive requirements that would cover both milestones because Milestone II provides more information and also encompasses requirements of Milestone IV. The preceding rationale makes good business sense due to the considerable funding required to develop and procure the F/A-18 E/F, the mission it is to satisfy during its useful life, and the growing scarcity of Defense funding.

Our report did not question whether the cost estimates were in agreement but, rather, the appropriateness of not performing a COEA on a program that is entering development and will cost $4.9 billion and $49.1 billion, in FY 1990 dollars, for development and procurement, respectively. Additionally, by the time the program reaches a Milestone III decision point where a COEA is clearly required, it will have expended substantially all development funding without the benefit of an assessment of cost and operational effectiveness, and 42 aircraft will be on contract. While the cost estimates are close; the presentation in the IPS is still incomplete and can be misleading. Specifically, O&S costs are curtailed in FY 2015; therefore, the total FY 1990 dollar life-cycle requirement is understated by approximately $23 billion (FY 1990 dollars), which represents an additional 25 years of O&S costs through FY 2040. Also, O&S costs are not presented in then-year dollars; therefore, the total then-year dollar life-cycle requirement through FY 2015 is understated by an unspecified amount.

We used the latest information provided by OSD at the time to arrive at the finding. Final documentation lowers the procurement quantity from 1,456 to 1,000, extends procurement through FY 2015, and increases per average unit cost by approximately $5 million, but does not lessen the need for a COEA on the $54 billion program. The conditions at the date of the draft report remain the same except for those noted above. The Navy concludes that the F/A-18 E/F is the best alternative but has summarily dismissed all viable alternatives, including the Navy AX, by contending that no other alternatives exist. Given the cost of the program and the importance of the mission, it would be prudent for the Navy to perform a COEA. A COEA would ensure that all alternatives have been addressed so that the public and Government perceive the Navy as prudently expending acquisition funds based on the most comprehensive information available based on DoD Instruction 5000.2 rather than lesser studies not complying with the Instruction. A COEA at this point in the Program is also beneficial in that it provides the milestone decision authority the information with which to make a decision and approve or adjust the thresholds to be used to oversee program progress to the Milestone III Production and Development decision.

My request clarification of the USD(A) position in comments to the final audit report. In the F/A-18 E/F Acquisition Decision Memorandum, dated May 12, 1992, the USD(A) stated that he will review the letter contracts for Engineering and Manufacturing Development of the airframe and engines before their award. His approval decision for the letter contract award must be further supported by initial data in the comprehensive Navy AX COEA. This AX COEA will also address the F/A-18 C/D and F/A-18 E/F alternatives. The formal Navy AX COEA will be submitted for USD(A) review at least 30 days before definitization of the letter contracts. The USD(A)'s review of the Navy AX COEA prior to this approval of the Engineering and Manufacturing Development contracts may fulfill the intent of our recommendations concerning a COEA for the F/A-18 E/F, depending on the scope of the COEA performed. Specifically, if the AX COEA meets all the requirements established in the applicable acquisition instruction and manual, and establishes objectives, acceptable bands, and thresholds for the cost and performance of the F/A-13 E/F Program, then the intent of our recommendation in this area would be satisfied. However, the Acquisition Decision Memorandum goes on to state that a COEA is not required for a Milestone IV decision and sufficient information was available in the context of this decision to proceed with the Program. This point appears to contradict earlier decisions in the decision memorandum concerning the review of the AX COEA. Additionally, we do not contend that the acquisition directives provide the flexibility to waive COEA requirements at a Milestone IV review, but clearly require a COEA at Milestone II that supports a decision to proceed through Engineering and Manufacturing Development to a Milestone III Production and Deployment decision.

We also consider the Acquisition Decision Memorandum to potentially be responsive to our audit finding concerning cost estimates and affordability assessments because USD(A) directed the Navy to submit a fully funded F/A-18 E/F Program in the Navy Program Objectives Memorandum by June 1, 1992. Therefore, a resource allocation decision will be completed and the affordability of the Program assessed prior to entry into Engineering and Manufacturing Development. It is important to note that the revised affordability assessment in the updated IPS presented at the May 6, 1992, DAB showed that the cost of the F/A-18 E/F Program caused the Navy to exceed projected funding levels.

Our more detailed response to management comments by ASN(RD&A) on the factual content of the draft report is in Part IV of this report.

Status of recommendation

Number	1
Addressee	USD(A)
Response should cover:	
Concur/nonconcur	X
Proposed action	X
Completion date	X
Related issues[1]	IC

[1] IC equals material internal control weaknesses.

PART III—ADDITIONAL INFORMATION

Appendix A—F/A-18 E/F Acquisition Decision Memorandum.

Appendix B—Summary of Potential Benefits Resulting from Audit.

Appendix C—Activities Visited or Contacted.

Appendix D—Report Distribution.

APPENDIX A: F/A-18 E/F ACQUISITION DECISION MEMORANDUM

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, May 12, 1992.

Memorandum for: Secretary of the Navy.

Subject: F/A-18 E/F Acquisition Decision Memorandum.

On May 6, 1992, the Defense Acquisition Board (DAB) conducted a Milestone IV review of the F/A-18 E/F program. The Joint Requirements Oversight Council validated the performance section of the Acquisition Program Baseline (APB) and noted a need to field the F/A-18 E/F new capability in range and recovery payload as soon as prudently possible. The Conventional Systems Committee recommended: entry of the F/A-18 E/F into Engineering and Manufacturing Development (EMD); release of the Request for Proposal (RFP); and approval of the Navy's acquisition strategy, the APB (as modified), and the proposed exit criteria.

I approve Milestone IV for F/A-18 E/F and authorize entry into EMD subject to submission of a fully funded F/A-18 E/F program on or before June 1, 1992, in the Navy Program Objectives Memorandum (as was agreed to by the Navy Acquisition Executive at the DAB). The F/A-18 E/F Acquisition Strategy Report is approved and the RFPs may be released. I intend to review the letter contracts for EMD of the airframe and engines before award. My approval decision for the letter contract award must be further supported by initial data in the comprehensive A-X COEA to be submitted by the Navy which also addresses the F/A-18 C/D and F/A-18 E/F alternatives. Undue delays in definitization are not desirable. The letter contracts submitted for my review should include limitations on cost reimbursement that are more stringent than normal if timely definitization does not occur. The Navy will submit for review the formal A-X COEA, at least 30 days before definitization of the letter contracts. I approve the exit criteria for the EMD phase at TAB A.

I will require a DAB Milestone IIIA prior to the approval of low rate initial production (LRIP), tentatively scheduled for 1Q FY97, for the following LRIP quantities:

LRIP1 in FY97—quantity of 12 aircraft and 34 engines.

LRIP2 in FY98—quantity of 12 aircraft and 31 engines.

LRIP3 in FY99—quantity of 18 aircraft and 46 engines.

I have waived the requirements for live fire testing prescribed by 10 U.S.C. §2366, and submitted to Congress the requisite certification and report under that section. A COEA is not required in this case either by law or DoD Directive 5000.1/Instruction 5000.2. I have considered whether a COEA should nevertheless be prepared as a matter of policy in light of the financial magnitude of this development effort, but concluded that a COEA need not be prepared. Sufficient information in the context of this decision is already available to me. The Navy shall submit the revised, signed APB incorporating the changes agreed upon in preparation for the DAB within one week of the date of this memorandum. The Navy shall also provide a plan to address missile approach warning within 90 days of the date of this memorandum.

DON YOCKEY.

TAB A

Proposed long lead for first lrip lot exit criteria (1st qtr FY96)

(Validated by Engine Test and Engine/ Aircraft Design Analysis)

Exit criteria area:

Release AAC funding for LRIP–1.

Specific exit criteria (IPS page 11):

Fighter escort radius, (2) AIM–9+(2)AIM–120+fuel, ≥390 nm.

Interdiction radius, (2) 480 gal fuel tanks + C_L pylon+4 Mk83+2 AIM–9+FLIR/TINS, ≥380 nm, (3) 480 gal fuel tanks + C_L pylon+4 Mk83+2 AIM–9+FLIR/TINS ≥420 nm.

P.: 0.9M/10,000ft/1g, ≥600 fps.

Recovery WOD, (0)AIM–9+(2)480 gal tanks + FLIR/TINS + fuel for CLDGW, ≤19 kts.

Approach speed, (0)AIM–9+(2)480 gal tanks + FLIR/TINS + fuel for CLDGW, ≤154 kts.

E–1 aircraft empty weight, ≤31,950 lbs.

Demonstrate parts flow, system availability, major assembly, and actual schedule support E&MD aircraft delivery schedules.

Proposed MS III exit criteria

Exit criteria area:

MSIII approval.

Specific exit criteria (IPS page 10):

Delivery and acceptance of 12 LRIP–1 aircraft.

MFHBF 1.7 hrs (validated by analysis).

MMHFH 15 hrs (validated by analysis).

Demonstrate parts flow, system availability, major assembly and actual schedules support LRIP–II production schedule.

The following to be demonstrated in techeval:

Fighter escort radius (2)AIM–9+(2)AIM–120+fuel, ≥410 nm.

Interdiction radius (2) 480 gal tanks + C_L pylon+4 Mk83+2 AIM–9+FLIR/TIN + full gun, ≥390 nm, (3) 480 gal tanks+4 Mk83+2 AIM–9+FLIR/TINS + full gun, ≥430 nm.

P,: 0.9M/10,000ft/1g, ≥600 fps

Recovery WOD (0)AIM–9+(2) 480 gal tanks + FLIR/TINS + fuel to CLDGW, ≤15 kts.

Approach speed (0)AIM–9+(2) 480 gal tanks + FLIR/TINS + fuel to CLDGW, ≤150 kts.

Proposed NPR–IV exit criteria (1st qtr FY99)

Exit criteria area:

AAC funding for FRP and LRIP–3 full funding.

Specific exit criteria:

Complete first lifetime fatigue test.

Complete engine FPQ which includes ASMET simulating 2000 hr hot section life.

Demonstrate carrier suitability, launch WOD ≤33 kts, Approach speed ≤153 kts, Recovery WOD ≤18 kts.

Proposed MSIIIA (LRIP lot 1) exit criteria (1st qtr FY97)

Exit criteria area:

AAC funding for LRIP–2 and full funding for LRIP–1.

Specific exit criteria:

Demonstration of first flight of E–1, E–2, F–1, E–4 and E–5 test aircraft.

Proposed NPR–III exit criteria (1st qtr FY98)

Exit criteria area:

AAC funding for LRIP–3 and full funding for LRIP–2.

Specific exit criteria:

Deliver seven (7) flight test and three (3) ground test aircraft.

Demonstrate first major assembly of center and aft fuselage in LRIP–1 aircraft.

Completion of engine LPQ which includes ASMET simulation of 1000 hour hot section life.

Appendix B: Summary of Potential Benefits Resulting From Audit

Recommendation Reference: 1.

Description of Benefit: Economy and Efficiency. Prepare a formal COEA on the F/A–18 E/F and alternative programs before entering into an engineering and manufacturing development contract in accordance with DoD Instruction 5000.2, part 4, section E; and update supporting cost estimates and affordability assessments.

Type of Benefit: Undeterminable.

Appendix C: Activities Visited or Contacted

OFFICE OF THE SECRETARY OF DEFENSE

Under Secretary of Defense for Acquisition, Washington, DC.

Assistant Secretary of Defense (Program Analysis and Evaluation), Washington, DC.

Comptroller of the Department of Defense, Washington, DC.

Deputy Director, Tactical Warfare Programs, Office of the Director, Defense Research and Engineering, Washington, DC.

DEPARTMENT OF THE NAVY

Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC.

Assistant Secretary of the Navy (Financial Management), Washington, DC.

F/A–18 Program Office, Naval Air Systems Command, Arlington, VA.

DEFENSE AGENCIES

Defense Intelligence Agency, Washington, DC.

Appendix D: Report Distribution

OFFICE OF THE SECRETARY OF DEFENSE

Deputy Secretary of Defense.

Under Secretary of Defense for Acquisition.

Director, Defense Research and Engineering.

Assistant Secretary of Defense (Production and Logistics).

Assistant Secretary of Defense (Program Analysis and Evaluation).

Assistant Secretary of Defense (Public Affairs).

Director of Defense Procurement.

Comptroller of the Department of Defense.

Director, Operational Test and Evaluation.

DEPARTMENT OF THE NAVY

Secretary of the Navy.

Assistant Secretary of the Navy (Financial Management).

Assistant Secretary of the Navy (Research, Development and Acquisition).

Comptroller of the Navy.

Auditor General, Naval Audit Service.

DEFENSE AGENCY

Director, Defense Intelligence Agency.

NON-DOD FEDERAL ORGANIZATIONS

Office of Management and Budget.

U.S. General Accounting Office, NSIAD Technical Information Center.

CONGRESSIONAL COMMITTEES

Senate Subcommittee on Defense, Committee on Appropriations.

Senate Committee on Armed Services.

Senate Committee on Governmental Affairs.

Ranking Minority Member, Senate Committee on Armed Services.

House Committee on Appropriations.

House Subcommittee on Defense, Committee on Appropriations.

Ranking Minority Member, House Committee on Appropriations.

House Committee on Armed Services.

House Committee on Government Operations.

House Subcommittee on Legislation and National Security, Committee on Government Operations.

Part IV—Management Comments

Assistant Secretary of the Navy (Research, Development and Acquisition) Comments.

Audit Response to Assistant Secretary of the Navy (Research, Development and Acquisition) Comments.

Assistant Secretary of the Navy Management Comments

THE ASSISTANT SECRETARY OF THE
NAVY, RESEARCH, DEVELOPMENT
AND ACQUISITION,
Washington, DC, April 17, 1992.

Memorandum for: The Department of Defense Assistant Inspector General for Auditing.

Subj: AIG(A) Draft Audit Report on the F/A–18 Program as a Part of the Audit of the Effectiveness of the Defense Acquisition Board Review Process—FY 1992 (Project No. 1AE–0036.03)

Encl: (1) Department of the Navy (DON) comments

In response to your memorandum of 12 March 1992, we have reviewed the subject report. Detailed comments on the finding and recommendation are forwarded as enclosure (1).

The Navy does not concur with the recommendation.

GERALD A. CANN.

Department of the Navy Response

I. Finding A—cost and operational effectiveness analysis

A. Summary of the Finding:

The Navy had not performed a COEA for the F/A–18 E/F and alternative programs in support of entry into Engineering and Manufacturing Development, as required by DOD regulations and congressional guidance. The Navy requested that the COEA requirement be waived because the need to proceed promptly with the F/A–18E/F aircraft. The Navy concluded that the F/A–18 is the best alternative for enhancing fleet air capabilities until a follow-on program is fielded. Without a COEA, viable alternatives to this new development program, including the Navy AX program, may not be adequately assessed with regard to their relative cost and operational effectiveness before the F/A–18E/F Program is developed.

II. Navy comments on the finding

A. General Comments:

During the period from September 1990 to January 1991 a number of key decisions were made affecting naval aviation. The A–12 program was canceled; the NATF program was terminated as was the F–14 production and/or remanufacturing program. For affordability reasons the Navy plans to "neckdown" to the F/A–18E/F and the AX as the aircraft that will ultimately replace the F/A–18C/D, the A–6, and the F–14. The President's FY 1992/1993 budget, therefore, included funds for development of the F/A–18E/F.

The F/A–18E/F is a logical continuation of an upgrade strategy for the Navy's multirole strike fighter that began in 1982. The F/A–18F/F will capitalize on ten years of investment in F/A–18 upgrades and maintain ninety percent of the F/A–18 C/D night attack avionics and software. Maintenance, training and support infrastructure already in place provides a solid basis for deployment and operation of the F/A–18E/F. As a result the Navy can avoid many of the development and recurring costs that would otherwise be associated with a new development. The upgrade strategy allows the development to proceed on an incremental basis from a firm foundation. Since no technical leaps are required the overall risk is assessed as low to moderate. The aircraft can be developed, fully tested with very little concurrency, and be operational in time to offset declining inventories brought about by retirement of older aircraft. The growth capacity being designed into the F/A–18E/F will provide the Navy with a multi-role platform which can be upgraded in the future as threat and requirements dictate.

During preparation for the Defense Acquisition Board review, the Navy fully complied with DODI 5000.2, and OSD guidance. OSD agreed that the F/A–18 program would be reviewed at Milestone IV (Major Modification Approval) with plans to enter Phase II Engineering and Manufacturing Development.

In response to the COEA requirement Navy submitted engineering trade studies, effectiveness and cost analyses that were conducted from July 1987 to March 1992. These studies and analyses comply with the requirements of 5000.2, 5000.2M, and DOD guidance. The fact that F–14, NATF, and A–12 program decisions had already been made, narrowed the field of options to be considered to F/A–18 derivatives.

Because this audit was conducted in the middle of the DAB preparation process, the auditors reviewed draft documentation that did not reflect the complete review process, the incorporation of OSD recommendations, or the open exchange of ideas and comments between the Navy and OSD review officials. To accurately assess that effectiveness of the Defense Acquisition Board review process, which was the stated objective of this audit, the audit should consider the process from beginning to end. Reviewing only a partial process can result in incomplete, inaccurate, and misleading conclusions. For this reason the Navy recommends that this audit report not be published.

B. Specific comments:

Page 1, paragraph 1; page 17, paragraphs 1 and 2. "The total cost of the aircraft is unknown because . . ." "The cost of developing and procuring . . . is not included . . .", and "The cost of preplanned product improvements have not been fully estimated."

The report faults the Navy for not having included in its estimate the cost of preplanned product improvements (P^{3}I). However, while it is correct that the F/A–18E/F is being designed to allow for future growth should emergent requirements be defined, there are no unfulfilled requirements necessitating a P^{3}I program at this time. The F/A–18E/F configuration as currently defined, and without P^{3}I, fully meets the stated operational requirements. The Navy cost estimates reflect the complete cost to develop and procure the F/A–18E/F.

The allowance for growth is merely a prudent feature to include in an aircraft that will be in service beyond 2030. This will allow the Navy to take advantage of future technological improvements and/or to respond to future threats. The affordability of such improvements will have to be addressed as each one is defined/proposed.

Page 9, paragraph 2—DODI 5000.2 requirements for COEA misquoted.

The draft audit report does not accurately reflect the contents of DOD instruction 5000.2 concerning the requirements for a COEA to support a milestone IV review. In fact, DOD instruction 5000.2 provides flexibility concerning whether or not a COEA is required for a Milestone IV review and if one is done, what form it should take. The following is quoted directly from page 4–E–7 of DOD instruction 5000.2:

"At Milestone IV, Major Modification Approval, the milestone decision authority may elect to require a cost and operational effectiveness analysis. The essential elements of this analysis will be specified by the milestone decision authority as part of the pre-milestone planning process." (emphasis added).

It was with this flexibility in mind that the Navy, in ASN (RD&A) memorandum of 30 August 1991, recommended that a COEA not be required. That memorandum also included Navy recommendations as to content of a COEA if one were required.

The Navy's rationale for recommending that a COEA not be required was that all viable alternatives has been eliminated by decisions that led up to the President's FY 1992/1993 budget. The NATF progress has been terminated as had F–14D new production and/or remanufacture. For affordability reasons the Navy plans to "neckdown" to the F/A–18E/F and the AX as the aircraft that will ultimately replace the F/A–18C/D, the A–6, and the F–14.

Given that this was the case the Navy concluded that information presented to the DAB should focus on establishing the most cost effective configuration for the F/A–18E/F. OSD agreed with this approach as reflected in the major issues guidance memorandum of 27 September 1991. The Navy has provided to OSD the results of the configuration studies that have led to the current F/A–18E/F definition and has been fully responsive to the requests for additional information. The Navy has provided data in eight volumes and twenty-six briefings that represented studies, analysis, scale model testing and flight testing. A 6 March 1992 memorandum from deputy ASD (PA&E) to the Chairman of the Conventional Systems Committee (CSC) concluded "that the trade studies constitute sufficient rationale to support definition of the F/A–18E/F for Milestone IV." No issues/concerns relating to this subject were cited in the Subsequent CSC minutes of 8 April 1992.

Page 11, paragraph 2—Threat. The configuration selected is fully responsive to JROC validated requirements. The criticism in the DOD IG report appears to be that too much capability may have been designed into the F/A–18 E/F in the light of a clearly reduced threat, and that a proportionally smaller number of aircraft carriers might not require additional aircraft with improved capabilities.

A careful review of both the Hornet 2000 Report (the Navy study published in 1988) and System Threat Assessment Report (NAVMIC TA #037–92 January 1992) would reveal that both documents address almost identical threats, and that none of the capabilities currently designed into the F/A–18E/F baseline are based on projected adversary developments that collapsed with the former Soviet Union.

Page 13, paragraph 1. The program was purposely structured as an upgrade to the F/A–18 airframe to incorporate additional fuel for increased range, increased aircraft carrier recovery payload, increased weapon carriage flexibility, improved survivability and vulnerability. Avionics systems and software are about ninety percent common with the F/A–18 C/D night attack weapon system. Maintenance and support infrastructure, training, and concept of operations, are largely common with the 1066 F/A–18 aircraft delivered to US and foreign customers to date. The development cost is significantly less than a new start.

Page 19, paragraphs 1 and 2 ". . . life-cycle cost presentation . . ." The audit was conducted during the review process on draft documentation. On 28 February 1992 the Navy provided to OSD cost documentation that fully meets DODI 5000.2 requirements.

Page 20, paragraph 2 ". . . projected production rate." The audit was conducted during the review process on draft documentation. Navy has since provided to OSD cost documentation that fully meets DODI 5000.2 requirements and shows a peak production rate of seventy-two aircraft per year and a total procurement quantity of 1000 aircraft. The final documentation also presented an affordability analysis that compares the F/A–18E/F funding requirements to the overall Navy budget and long range modernization and investment plans.

III. OAIG (A) recommendation on the finding

1. OAIG(A) recommended that the Under Secretary of Defense for Acquisition require a formal Cost and Operational Effectiveness Analysis on the F/A–18E/F and alternate programs before entering into an engineering and manufacturing development contract in accordance with Senate report No. 102–154 and DODI 5000.2 part 4 section E. Revise supporting cost estimates and affordability estimates to comply with DOD Manual 5000.2M, part 4.

Navy comments.

Do not concur. The approach taken to fulfill COEA requirements for the F/A–18E/F Milestone IV review is consistent with the requirements of DOD instruction 5000.2 for Milestone IV and the direction Navy received from OSD. The Navy provided to OSD the results of configuration trade studies and cost analysis that spans the period from July 1987 to March 1992. Navy responded fully to OSD requests for information and data and provided briefings as requested.

The Navy has provided to OSD all cost analysis required by DODI 5000.2. Final cost estimate documentation was submitted to OSD on 28 February 1992. Because the draft findings were published before the review process was complete, the draft audit report does not contain the fact that the Program Manager's estimate, the Navy Center for Cost Analysis Independent Cost Estimate, and the OSD Cost Analysis Improvement Group cost estimate are within one percent of each other, and that the cost documentation provided to OSD meets DOD requirements.

The audit was conducted using draft documentation, before the Navy had responded to all OSD requests for information, and before the acquisition review process had been completed. The final documentation submitted to OSD on 28 February 1992, provides the affordability assessment required by DOD instruction 5000.2.

AUDIT RESPONSE TO ASSISTANT SECRETARY OF THE NAVY (RESEARCH, DEVELOPMENT AND ACQUISITION) COMMENTS

In the following paragraphs, we are responding to management comments by ASN(RD&A) on the factual content of the report.

NAVY COMMENTS ON THE FINDING

General comments.—The Navy stated that during preparation for the DAB review, it fully complied with DoD Instruction 5000.2 and OSD guidance. Further, the Navy indicated that OSD agreed that the F/A-18 Program would be reviewed at the Milestone IV with plans to enter Phase II. This is not accurate. OSD stated that it would have Milestone IV/II with Milestone II documentation for a Milestone IV review.

The Navy further stated that in response to COEA requirements, it submitted engineering trade studies and effectiveness and cost analyses. We do not agree that these document represent a COEA. On May 4, 1992, ASN(RD&A) submitted a memorandum to USD(A) summarizing the F/A-18 E/F cost effectiveness studies as conducted by the Navy. An ASD(PA&E) memorandum, dated May 5, 1992, which was a cover sheet to the ASN(RD&A) memorandum, stated that the purpose of ASN(RD&A) summary was to provide "cost-effectiveness rationale for the F/A-18 E/F that is consistent with that normally provided by a formal COEA." However, the memorandum indicated that these studies did not represent a formal COEA. Further, these documents did not comply with the congressional requirement for a COEA.

On May 6, 1992, a DAB Milestone IV/II review was conducted for the F/A-18 E/F. We reviewed the final documentation for the Independent Cost Estimate, the Program Life-Cycle Cost Estimate, the IPS, and the Acquisition Program Baseline, which were documents included in the DAB review to determine if these documents contained or referenced a formal COEA. None of the documents indicated that a COEA was performed to determine the total life-cycle costs and operational effectiveness of the F/A-18 E/F or alternative programs.

Specific comments.—Our response is structured to correspond with the main focus of the Navy's paragraphs.

Preplanned product improvement. The Navy stated that the report faults the Navy for not having included in its estimate the cost of preplanned product improvement. We believe that by not including an estimate of preplanned product improvement costs in the cost of the aircraft program, decisionmakers are not provided a valid estimate on which to base their decisions. As mentioned in our report, the Navy is planning aircraft upgrades shortly after the basic configuration is fielded, which could require significant additional funding. The need to include preplanned product improvement cost is even more relevant. Since the completion of our audit fieldwork, the unit cost of the aircraft increased even without the addition of preplanned product improvements. On February 28, 1992, the Acquisition Program Baseline document decreased the number of aircraft to be procured from 1,456 to 1,000, thereby increasing the unit cost of the aircraft from $44.3 million to $49.1 million (FY 1990 dollars).

Cost and Operational Effectiveness Analysis requirements. The Navy stated that the report does not accurately reflect the contents of DOD Instruction 5000.2 concerning the requirements for a COEA to support a Milestone IV review. Our comments to this statement are included in the "Audit Response to Management Comments" section on page 14 of this report.

Threat. The Navy states that a review of both the Navy Trade Study and the STAR would reveal that both documents addressed almost identical threats and that none of the capabilities currently designed into the F/A-18 E/F baseline are based on threats prior to the collapse of the former Soviet Union. Our review of the threat sections of the Navy Trade Studies and the STAR showed that these sections address the threat prior to the collapse of the former Soviet Union. The DIA made approximately 165 substantive changes to the STAR because it did not reflect current events. The Trade Studies were not examined by the DIA; therefore, no assurance is offered that the Studies reflect operational requirements to meet the specified threat. The report makes no contention that too much capability is designed into the system, rather that the system requirements should reflect the expected threat through its useful life based on assessments by the proper body.

Program structure. The Navy stated that the Program was purposely structured as an upgrade to the F/A-18 airframe and that development cost was significantly less than a new start. Our report noted the upgrade to the airframe; however, the proper means to show that the F/A-18 E/F development costs are less than a new start would be to include estimated preplanned product improvement costs. Additionally, a COEA should be prepared to assess program alternatives coupled with an affordability assessment of development and production costs, inclusive of production rates.

Life-cycle cost presentation. The Navy stated that the audit was conducted during the review process on draft documentation concerning life-cycle costs. Subsequent to the draft report, we reviewed final documentation and found that the final IPS presentation on life-cycle cost is still misleading. The document excludes up to 25 years of additional O&S costs and provides a total life-cycle cost figure that does not include O&S costs in then-year dollars. The inclusion of total O&S costs in the Navy's Independent Cost Estimate does not compensate for the faulty presentation or misinformed conclusions that could be reached by reviewing the IPS.

Projected production rate. The Navy again stated that the audit was conducted during the review process on draft documentation and subsequent documentation was provided to OSD. We reviewed the Acquisition Program Baseline, dated February 28, 1992, and the IPS, dated February 26, 1992, and made changes to the report updating the status of the program. Our report reflects that the procurement quantity reduction to 1,000 aircraft and a peak production of 72 aircraft per year could cost a much as $3.5 billion per year, based on increased average unit cost of $49.1 million per aircraft.

AUDIT TEAM MEMBERS

Donald E. Reed, Director, Acquisition Management Directorate, Russell A. Rau, Program Director, Michael Welborn, Project Manager, Patrick McHale, Team Leader, James Cochrane, Auditor, and Eric Lewis, Auditor.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. HEFLIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, June 17; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, and that there be a period for morning business not to extend beyond 9:15 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator PRYOR recognized for up to 10 minutes; and that at 9:15 a.m., the Senate then resume consideration of S. 1985 until 10:40 a.m., at which time the Senate then assemble as a body to proceed to the House of Representatives to hear an address by President Boris Yeltsin; and that the Senate then stand in recess until 2 p.m.; and further, that any votes ordered to occur relative to S. 1985 be stacked to occur at a time determined by the majority leader following consultation with the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. HEFLIN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:52 p.m., recessed until Wednesday, June 17, 1992, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 16, 1992:

DEPARTMENT OF STATE

RUTH A. DAVIS, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

CHARLES B. SALMON, JR., OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

JON M. HUNTSMAN, JR., OF UTAH, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SINGAPORE.

NICOLAS MIKLOS SALGO, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

IRVIN HICKS, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 16, 1992:

DEPARTMENT OF COMMERCE

GREGORY F. CHAPADOS, OF ALASKA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION.

DEPARTMENT OF TRANSPORTATION

WALTER B. MCCORMICK, JR., OF MISSOURI, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF TRANSPORTATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, June 16, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As our inquiry and our ingenuity push back the boundaries of knowledge and action, may we be reminded, O gracious God, of the essentials of living and the imperatives of justice. With so much to do and to accomplish, may we still know the fullness of human experience and the realities of faith and hope and love. Help us to see each other as being bound together with our mutual hopes and fears and being brought to fulfillment of life by Your redemptive grace. As common partners on the road of living, may we grow more fully in the solidarity and unity that is Your gift to us. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 276, nays 113, not voting 45, as follows:

[Roll No. 188]

YEAS—276

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Livingston
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Morrison
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Serrano
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spence
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Williams
Wilson
Wyden
Wylie
Yates
Yatron

NAYS—113

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Edwards (OK)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Machtley
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Paxon
Porter
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Saxton
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—45

Alexander
Anthony
Bonior
Boxer
Campbell (CO)
Conyers
Dickinson
Donnelly
Duncan
Gekas
Hefner
Hubbard
Jefferson
LaFalce
Levine (CA)
Lloyd
Lowery (CA)
Marlenee
Michel
Mollohan
Moran
Murtha
Perkins
Quillen
Rahall
Rangel
Ray
Santorum
Savage
Schaefer
Schumer
Smith (TX)
Solarz
Spratt
Synar
Thornton
Torricelli
Towns
Traxler
Unsoeld
Weldon
Whitten
Wise
Wolpe
Young (FL)

☐ 1230

Mr. BATEMAN changed his vote from "nay" to "yea."

Mr. EDWARDS of Texas changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentlewoman from Colorado [Mrs. SCHROEDER] please come forward and lead the House in the Pledge of Allegiance?

Mrs. SCHROEDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY DURING 5-MINUTE RULE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today on H.R. 4850 during House proceedings under the 5-minute rule. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4211

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4211.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPUBLICAN OPPOSITION TO MOTOR-VOTER SAID TO DISCOURAGE VOTER PARTICIPATION

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, as Maxwell Smart used to say: "Would you believe?"

Would you believe in this year of Perot politics, the Republican Party does not want to make it easier for people to vote?

That is true. The House is about to consider legislation called the motor-voter bill. This legislation will enable drivers who renew their licenses to register to vote at the same time.

It would make registration forms available from local government agencies. It says to the American people we think your right to vote is at least as important as your right to enjoy the privilege of right turn on red.

Mr. Speaker, this is where, democratically speaking, the rubber meets the road. Republicans want to drive down voter participation, while Democrats want to gun the engines of democracy.

Let us enact this motor voter registration bill—because in a democracy, "We the people," is a little like saying "leave the driving to us."

LEGISLATIVE BRANCH AND EXECUTIVE BRANCH SHOULD PROPOSE PLANS TO BALANCE BUDGET ON SAME DAY

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, last week I voted for the balanced budget amendment, not because I wanted to see an amendment to the U.S. Constitution as such, but because I felt that with our present national debt and the interest we pay each year out of our current budget, that we had to take some action. Up until now I have not seen any statute that works. However, those who said that we should still try to balance the budget through a statute carried the day.

Therefore, I suggest that it is incumbent upon them to now propose a statute with enforcement mechanisms that will lead us to a balanced budget. I would propose that one provision among many that should be in such a statute would be to require that both the President of the United States and the chairman of the Committee on the Budget in the House propose a balanced budget to the House of Representatives on the same day.

I think one reason why the huge deficit continues to mount is because of the divided Government. A White House controlled for many years by the Republicans and a House of Representatives controlled for many years by the Democrats has led each side to not want to go first to propose hard choices that have to be made. They both should act on the same day so we can make the tough decisions and bring our budget under control.

MOTOR-VOTER—POWER TO THE PEOPLE

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, it is a sad but all too real fact that the United States of America has the lowest voter turnout of all the democracies in the free world.

During the 1988 Presidential election, barely 50 percent of the voting age population went to the polls, an embarrassingly low figure.

Mr. Speaker, today we have an opportunity to directly improve these alarmingly low statistics, while redefining our commitment to a government elected by democratic participation.

S. 250, the National Voter Registration Act will simplify a ridiculously complex process, and will allow every eligible American the fundamental right to select their elected officials.

The only way to insure a more responsible, accountable, and effective Government is to put the power of the vote back into the hands of the people.

The American people are not interested in legislation aimed at reforming the complex internal operations of the House of Representatives. Nor do they want someone to dictate to them how many terms a Member of Congress can serve.

As far as I can tell, Americans like to make their own decisions, and I see no alternative to this fact other than to give them their strongest weapon—against what many perceive to be the wrongs of this Government, and that is the force of their vote.

The time has come for us to recognize our role as public servants—and do just that.

Serve the people by eliminating the worst Government bureaucracy of all, the one that keeps them from exercising the right that people die for around the world each and every day.

THE UNITED STATES VERSUS ALVAREZ-MACHAIN DECISION

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, late yesterday the Supreme Court issued its opinion in the case of United States versus Alvarez-Machain. The Court ruled that it is legal for the United States to abduct individuals in other countries in order to bring them to trial in the United States.

I rise today, not to discuss the merits of the decision, but to express my dismay that the result of the Supreme Court's opinion may be a lessening of the cooperative efforts between the United States and Mexico in countering illegal narcotics activity.

This would be a disaster for both countries. While Mexico continues to be the major transhipment point for illegal drugs, the Salinas administration has taken steps unprecedented in our two nations' histories to cooperate on this issue.

In recent years, Mexico has made record seizures of opium and marijuana. In addition, the Mexican Government in the last year has seized more than 50 metric tons of cocaine that was destined for your districts and our neighborhoods. Mexico is helping us win the war on drugs.

Our two nations have signed numerous counternarcotics agreements, our law enforcement agencies share intelligence and cooperate like never before, and even our respective military organizations are working together on combating illegal drugs. We cannot allow this newfound antinarcotics relationship to evaporate as a result of the Supreme Court's decision.

I will be introducing later today a sense-of-Congress resolution calling on the United States Government to do everything in its power to ensure that our antidrug effort with Mexico does not suffer as a result of the Supreme Court's action. I urge my colleagues to cosponsor this resolution.

THE HOUSE SHOULD PASS THE MOTOR-VOTER BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, let us today pass the motor-voter bill. Let us thereby strike a blow for better government, for better voter turnout, and for better voter registration.

Using my own home State of Kentucky as a case in point, it is estimated that some 800,000 Kentuckians are not now registered. Using the election results of just this May, only 17 percent of eligible Kentuckians went to the polls for the primaries.

Our bill, S. 250, will allow people to register when they apply for or renew vehicle licenses. It would set up a uniform national mail system for voter registration and allow people to register at public places like libraries and schools. We passed similar legislation in this body in 1990. The Senate just last month passed S. 250 by a very wide margin.

I believe, Mr. Speaker, that for whatever reason people may not vote, whether they are satisfied, as some say, or disillusioned, as others say, public policy should aim at 100 percent voter turnout. Motor-voter will help. Let us today pass motor-voter.

DEMOCRATS MUST ASSUME RESPONSIBILITY TO LEAD IN BALANCING THE BUDGET

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, we all know the old saying, "To the victors belong the spoils"; how true. And in the light of their defeat of the balanced budget amendment last week, I say to the Democrat majority, "To you now belongs the responsibility of revealing to this House the alternatives you spoke of for balancing our Nation's budget." I am not being facetious, I could not be more serious—so come on now, Mr. Speaker, Mr. Majority Leader, Mr. Budget Committee Chairman, offer us those hard choices of which you so eloquently spoke last Thursday. I am ready to make them.

□ 1240

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Members are reminded to direct their remarks to the Chair.

FOREIGN AID DEBT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Federal Reserve Bank in New York says foreign banks now control 45 percent of all commercial loans. They are squeezing out American banks. To boot, most of these loans were never even reported.

Now, think about it. While foreign banks were mortgaging America, all we have heard down here is that the Russians are coming, the Russians are coming. Well guess what, the Russians are here and they are asking for $12 billion. Now if that is not enough to stabilize your ruble, in order to give Boris Yeltsin $12 billion we will have to borrow it from Japan and Germany.

This really makes an awful lot of sense, doesn't it, folks?

ECONOMIC EARTHQUAKE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, 10 years ago we in the United States experienced our first $1 trillion national debt. Here we are 10 years later and the national debt is $4 trillion. The interest alone on the national debt is running over $300 billion a year, and this year we are going to have a deficit of $400 billion. These figures boggle the American people's mind.

Last week we had an amendment come before this body to try to get control of spending because we are threatening the future of these young people who are in the Gallery here today. The future generations of this country are at risk because we are spending more than we are taking in at a very rapid rate, and it is escalating every single day. It took us 200 years to get to $1 trillion, and 10 years to get to the $4 trillion. Spending is totally out of control.

We should have passed the constitutional amendment last week, Mr. Speaker, but we did not. I submit that every Member of this body ought to read this book. It is by a man named Larry Burkett. It is called "The Coming Economic Earthquake," and it ought to be required reading for every Member of this body, because if we do not get control of spending we are going to have an economic earthquake in this country that will be unheard of in the history of mankind.

WELCOME TO ALBANIAN PRESIDENT SALI BERISHA

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, today we here in the Congress have the great pleasure of welcoming to our Nation's Capitol His Excellency Sali Berisha, the first democratically elected President of Albania. The warm and enthusiastic welcome he receives here on Capitol Hill marks the high point in a dramatic turnabout in relations between the United States and Albania, and it is in large part due to the way in which he was chosen and the changes that have taken place in Albania over the past 2 years.

Two years ago, the United States and Albania had no diplomatic relations, and we had had no formal diplomatic ties since before World War II. There were no trade or economic relations between our two countries. Albania was the most isolated country in Europe. The misguided policies of Albania's Communist dictatorship led to the impoverishment and suppression of the long-suffering Albanian people.

Although Albania was the last of the Communist states of Europe to feel the winds of democratic change, those changes were felt. Albania's self-imposed isolation was ended, and last year diplomatic relations were established with the United States. The process of democratization continued and 2 months ago in historic free elections, Sali Berisha was elected President of Albania.

The son of peasants who studied medicine and became a cardiologist, President Berisha mastered English listening clandestinely to the BBC. His disdain for the authoritarian Communist government of Albania led him to participate in the democratic revolution that has swept his country since 1990.

As President Berisha becomes the first Albanian President to pay an official visit to Washington, DC, we extend to him and the Albanian people our heartfelt congratulations and best wishes for their decision to adopt a democratic political system and undertake free market economic reforms. The course ahead will not be easy, but there is no question that it is the right course for the Albanian people.

Mr. Speaker, it is important that we in the United States extend the hand of friendship and assistance to President Berisha and the Albanian people. Before long, we in the Congress will consider legislation extending most-favored-nation trade status for Albania. It is my intention to support that legislation, and I hope my colleagues will join me in that effort. The United States should also extend assistance to Albania, as a part of our effort to assist the countries of the former Soviet Union and the countries of Central and Eastern Europe. It is also important that our Nation support Albania's requests for assistance through international financial institutions such as the World Bank and the International Monetary Fund.

Mr. Speaker, it is with great pleasure and a sense of the historic important of this occasion, that I extend a friendly and sincere welcome to President Berisha and invite my colleagues in the Congress to join in welcoming him.

SUPPORT LEGISLATION TO FIX THE "NOTCH" IN SOCIAL SECURITY BENEFITS

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, last week a unique coalition met here in the District of Columbia to try and figure out how to resolve the issue on notch victims. As we all know in this Chamber notch victims were created because of legislation in 1977 which tried to create a new formula that would take care of people who were receiving more than anticipated.

Unfortunately, the anomaly which was created by Congress created victims, people who were born between 1917 and 1922.

H.R. 917 is a consensus bill here in the House and 288 cosponsors have signed it, yet the real anomaly is that only 34 have signed the discharge petition.

I would urge my colleagues to give us a vote. The senior citizens of this Nation who now number 12 million who are affected by this anomaly, the notch discrimination, are waiting for our votes. Let us give them relief, a vote, and not a legislative Kavorkian machine. I urge my colleagues to sign the discharge petition so that we will have at least a chance to vote.

DAN QUAYLE: THE MARGARET DUMONT OF THE BUSH ADMINISTRATION

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as Father's Day approaches, it is a good time to ask President George Bush and Vice President DAN QUAYLE where they stand on a very controversial issue: Fathers. That's right, fathers. A subject so taboo, the word can't even be mentioned in polite, Bush administration circles.

While the Vice President is a scold, a veritable Margaret Dumont, on the subject of single moms, he's absolutely silent on runaway fathers.

Millions of real fathers in the real world have abandoned their families. Not only do they refuse to pay child support, they resort to every imaginable subterfuge to avoid having to pay. One deadbeat dad even managed to find enough money to pay for a ringside seat with President Bush at a Republican fundraiser. Did the President object? No.

Vice President QUAYLE took careful aim at a television character, Murphy Brown, while ignoring the millions of real dads who have abandoned tens of millions of children across America.

I even offered to give the Vice President a forum. The Select Committee on Children, Youth, and Families, which I chair, invited the Vice President to testify on how the Federal Government can help fathers be better parents. So far, not a word.

Not surprisingly, most Americans think Murphy Brown makes a better dad than DAN QUAYLE.

MEXICO THREATENS TO HALT COOPERATION IN FIGHTING DRUG WAR

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, I am disturbed and distressed this morning by threats lodged by the Mexican Government to halt cooperation with the United States in fighting the drug war.

Last night the Mexican Government threatened to ban all activities by the United States DEA in Mexico to protest the United States Supreme Court decision allowing suspects to be abducted abroad to the United States for trial.

The Mexican Government is entering dangerous territory through this vindictive action that threatens to mortgage all that we have accomplished in fighting drugs between Mexico and the United States.

I have no alternative except to question Mexico's commitment to fighting the drug war and commitment to completing a very crucial North American Free-Trade Agreement.

Mexico's hope to attract increased foreign capital and gain greater access to the United States market for Mexican products through a NAFTA is in serious jeopardy.

We are on the verge of liberalizing trade with a country willing to sacrifice gains made in fighting the illegal drug trade.

This is a country responsible for: Over 50 percent of cocaine entering the United States; and 23 percent of the heroin consumed in the United States. There is nothing free about a North American Free-Trade Agreement when the price is the destruction of minds and bodies through drug abuse.

Our response to Mexico's threat must be clear and direct, no drug cooperation, no deal.

□ 1250

HEALTH CARE REFORM

(Mr. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Texas. Mr. Speaker we have been watching a parade of so-called health reform bills circulating through this House.

We have seen proposals that increase Government bureaucracy, increase the tax burden on Americans and still others that fail to address one of the most critical problems, the uninsured.

Mr. Speaker, we must reform our health care industry by improving the finest medical care system in the world, not tearing it apart. Every American should have the opportunity to be insured. You know, Americans really deserve a plan that improves access and contains costs, while encouraging a free market.

If this is the kind of plan you want to see, let me know. I am working on a bipartisan proposal that will do just that. America deserves the best—period.

THREE QUESTIONS FOR PRESIDENT BUSH AND MR. YELTSIN

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, there is a historic meeting going on now between President Bush and Boris Yeltsin.

If I were party to that meeting, I would have three questions I would ask, one to Mr. Yeltsin and two to Mr. Bush. I would ask Mr. Yeltsin, "If you even suspect that American servicemen are still being held prisoner in Russia, would it not stand to reason that you would investigate this before coming to the United States on a friendship visit?" And then I would ask Mr. Bush, "Since the Bush administration was so disgracefully slow in recognizing the independence of Lithuania, Latvia, and Estonia, should we not at least condition our $12 billion in Russian aid on the removal of the 100,000 Russian troops still forcefully occupying these Baltic States?" And, finally, I would ask the President why $12 billion to Russia is not a budget buster but $2 billion to solve problems here in the United States is criticized by the Bush administration as wasteful overspending that would force a veto.

QUESTION OF AMERICAN PRISONERS IN RUSSIA MUST BE ANSWERED IMMEDIATELY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, could I have the attention of the gentleman from Illinois [Mr. DURBIN]? I want to associate myself with all of his remarks.

Mr. Speaker, I want to read briefly from the front page of today's paper:

> Russian President Boris Yeltsin said yesterday U.S. prisoners from the Vietnam war were transferred to the Soviet Union and kept in labor camps, and some of them may still be alive. He said, "We can only surmise that some of them are alive. They were kept in labor camps."

My God, I do not even know why we are in session today. I think we ought to adjourn, and every one of us ought to find out in our districts if there are mothers and fathers left over from the 1950's, the 1960's, the 1970's who list young brave Air Force air crewmen and other services into this evil empire and this slave system over there.

I love Yeltsin for coming forward with this. I am telling you this was my subject. In 1953, I was on active duty. I was told there were air crewmen alive. No one has ever dissuaded me from that, and the system wore me down.

Mr. Speaker, we have got a hero in the Senate in BOB SMITH, and, by God, this country is a disgrace if we do not get to the bottom of this.

Mr. President, cancel every meeting with Mr. Yeltsin except on this subject. Get on an airplane, Mr. President. Mr. Speaker, tell him to. I am speaking through you to him by the rules. Get on an airplane, Mr. President, and go to the Soviet Union and get to the bottom of this truth, and maybe you will have a second term.

This is the greatest disgrace in my lifetime in the American system, and I am ashamed at myself that the system wore me down, after all of the expertise and 50 books that I read on this issue over 40 years of my adult life. What a disgrace.

We ought to adjourn right now and solve this ugly problem. Mothers and fathers, call me. Write to me. Write to your Congressman, too, if your son was lost as an air crewman, and let us solve this disgusting, horrendous blight on the honor of this country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded to address their remarks to the Chair.

CONGRATULATIONS TO RELIEF PITCHER JEFF REARDON

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, today, I rise to congratulate the pride of Dalton, MA, Boston Red Sox relief pitcher, Jeff Reardon, who made major league baseball history by setting the all-time record for saves Monday night. Jeff saves his 342d game by retiring the New York Yankees in the ninth inning of a 1–0 Red Sox victory at Fenway Park. While all Red Sox fans are very proud of Jeff's historic accomplishment, in addition to his family and friends, the people of his hometown of Dalton and all the people of western Massachusetts are extremely proud of him today.

In addition to his brilliant major league career which began with the Mets, then the Expos and the Twins, Jeff pitched for the University of Massachusetts in Amherst in the midseventies, where he struck out 240 in 240 innings to break the school record. To this day, Jeff is a very big supporter of UMass.

Jeff was also a baseball and soccer star at Wahconah Regional High School in Dalton.

Jeff signed as a free agent with the Red Sox in 1990 and set the team record for saves with 40 last year. In over 740 games, Jeff has given his all and we have been lucky to watch his brilliant career up close. Jeff's outstanding work ethic and sportsmanship is the kind of stuff we need more of in this country.

We are all certain that he is headed for the Hall of Fame.

Jeff's family, friends, and fans are all very proud of his accomplishments, and we are truly fortunate to have this professional play for us in New England.

We are all proud of you. Congratulations, Jeff.

BALANCED BUDGET AMENDMENT

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, my support for a balanced budget amendment was not shared by enough of my colleagues and now we face an angry electorate and a mounting budget deficit. I say to the ladies and gentlemen on the other side of the aisle, your leadership failed to pass the amendment while trivializing the budget crisis, and pandering to the 23-percent minority who opposed a constitutional amendment. The leaders of the Democrat Party, who decried our efforts to balance the budget by force of law, relied on the same arguments they used in 1990. It was then that they defeated similar legislation by verbalizing their beliefs that the budget could be balanced without amending the Constitution. They lied. The budget deficit is now $400 billion, nearly double what it was only 2 years ago.

A "no" vote for the balanced budget amendment is nothing more than a refusal to acknowledge that the Democratic Congress, of its own accord, is unable to handle the budget responsibly. It amounts to an admittance that the Democratic Congress is not ready to apply a system that works to the problem of the budget deficit. This Democratic Congress has repeatedly failed to balance the budget.

Mr. Speaker, all previous attempts have failed and time is running short. Those who defeated the initiative to balance the budget are solely responsible for discovering a better solution. They are the Members that will be held accountable by the voters this fall. To reprimand is not enough, only the ballot box will reveal the foolishness of their decision against a balanced budget.

CONGRESSIONAL RECOGNITION OF THE AMERICAN INDIAN

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, on March 2, 1992, the President signed Public Law 102–188, which designated 1992 as the "Year of the American Indian." This is the first recognition of American Indians, by way of a year designated in their honor. The Honorable ENI F.H. FALEOMAVAEGA introduced the law, and it was cosponsored by 226 Members of the House, and 54 Members of the Senate.

Another Public Law, 102–123, designates November 1991, and November 1992, as National American Indian Heritage Months. These designated months are a tribute to heritage of the original inhabitants of this continent.

And as the Nation commemorates the 500th anniversary of the arrival of Christopher Columbus, the Nation can also demonstrate that the discovered should be recognized along with the discoverer.

I have introduced House Concurrent Resolution 328, which authorizes the printing of a book entitled, "Year of the American Indian, 1992: Congressional Recognition and Appreciation." The book will be prepared under the direction of the Joint Committee on Printing, and will reflect the significant contributions and achievements of American Indians, to the Nation's culture and history.

I am seeking cosponsors of this resolution, and would like all Members to join me in authorizing the publication of this book, in tribute to the American Indian.

NORMALIZING RELATIONS WITH VIETNAM SHOULD AWAIT ANSWERS ON AMERICAN POW'S

(Mr. CAMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMP. Mr. Speaker, after 40 years of cold war, there is finally a Russian regime that appears dedicated to reforms and the truth. I assume many of us either watched President Yeltsin's comments last night, or at least read about them this morning. I am speaking of his comments regarding the possibility of American POW's from Vietnam still being alive in, of all places, the former Soviet Union.

Even the State Department admits that if President Yeltsin's statement is accurate, this is a major revelation.

There are those who believe we should lift the economic embargo against the Socialist Republic of Vietnam before the select committee in the other body has completed its work. Normalizing ties with Vietnam would be unfair to the people who served our Nation, and unfair to their families. We owe it to them to get the answers before we resume a relation ship with a nation that has never satisfactorily answered our questions about our missing service men and does not seem to believe in reform or the truth.

I am once again calling upon my colleagues to cosponsor and act upon House Concurrent Resolution 233, a resolution that calls upon the President not to normalize relations with the Socialist Republic of Vietnam until the Senate Select Committee on POW/MIA Affairs reports its findings.

QUESTIONS RAISED ABOUT GATT AND NAFTA

Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, congressional offices last week received a fact sheet on the interrelationship of the General Agreement on Tariffs and Trade [GATT] and the North American Free Trade Agreement [NAFTA].

This information has been supplied by the United Food and Commercial Workers International Union. I believe the American people should be made aware of the threats to our national sovereignty were we to go along with either of these agreements as they are currently being considered.

Among some of the points raised by the UFCW: first, the terms of the current GATT draft will result in elimination of all import control laws including the U.S. Meat Import Act.

Second, a GATT panel ruled, "GATT is part of federal law in the U.S. and as such is superior to GATT-inconsistent state law." If the panel report is adopted, the Federal Government would be obligated to ensure that the fifty states be in strict compliance with GATT.

The question of the future of federalism in our government must be discussed in light of these disclosures.

I will include a factsheet elsewhere in the RECORD.

□ 1300

"COP KILLER" SONG IS OUTRAGEOUS, A MARK OF SHAME FOR WARNER BROTHERS RECORDS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I yield to no one in defending freedom of expression. I have argued that by tolerating all political statements, even those as offensive as burning an American flag, we reaffirm our commitment to free speech.

But whenever individuals abuse society's tolerance with hateful and violent speech, they endanger this precious constitutional protection. So it is with a song by rap star Ice-T entitled "Cop Killer." No mere cry of outrage against the Rodney King verdict, this song urges murdering police officers. The few lyrics that may even be repeated here leave no ambiguity:

> I got my twelve gauge sawed off/I'm 'bout to dust some cops off * * * tonight we get even. I'm 'bout to kill me somethin' * * * die, pig, die!

And who is marketing this disgraceful incitement to violence? A fly-by-night distributor? No, it's Warner Brothers Records, a division of Time-Warner, one of America's largest media-entertainment corporations.

Mr. Speaker, all Americans should be repulsed by Ice-T's message. But they should be even more disgusted that, in its zeal for profit, Time-Warner has thrown ethics out the window to shamelessly market this call for hatred and violence.

ANNOUNCEMENT OF APPOINTMENT OF MEMBER TO SELECT COMMITTEE ON CHILDREN, YOUTH AND FAMILIES

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to the provisions of section 203 of House Resolution 51, 102d Congress, the chair announces the Speaker's appointment of the gentleman from Illinois [Mr. FAWELL] to the Select Committee on Children, Youth and Families to fill the existing vacancy thereon.

NATIONAL VOTER REGISTRATION ACT OF 1992

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 480 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 480

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered as having been read under the five-minute rule. No amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution. Said amendment shall be considered as having been read, shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a member opposed thereto. Said amendment shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit which may not contain instructions.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I make a point of order against the consideration of the resolution on grounds that it violates both House rule XI, clause 4(b) and House rule XLIII, and ask to be heard on my point of order.

The SPEAKER. The gentleman from New York [Mr. SOLOMON] is recognized on his point of order.

Mr. SOLOMON. Mr. Speaker, let me say at the outset that I regret that it is even necessary to raise this point of order. As you will recall, in January of last year I presented you, Mr. Speaker, with a 48-page paper documenting the precedents and history behind the rules which guarantee to the minority the right to offer a motion to recommit a bill of its choosing—including one with instructions.

Then last June we sat down in your office with the Republican leader, the majority leader, and the Rules Committee chairman, and myself, and it was agreed that the Rules Committee would further look into our complaints about being denied our right to offer recommittal instructions on certain bills.

The Rules Committee's Subcommittee on Rules of the House finally did hold a hearing on May 6 of this year, but no report has yet been issued as a result of that hearing and study.

As the Speaker well knows, the whole purpose of the Rules Committee study of this controversy was to attempt to reach some kind of accommodation between the majority and minority over the issue of restricting our right to recommit bills.

I am certain the Speaker did not have in mind that a hearing alone, without any subsequent effort to solve this problem, would suffice, and I know that. A hearing alone does not constitute a good-faith effort to reach accommodation.

Having said all that, Mr. Speaker, permit me once again to make the case for this point of order. The rule before us allows for one motion to recommit but goes on to say that the motion "may not contain instructions."

Mr. Speaker, again I have to repeat, clause 4(b) of House rule XI provides that the Rules Committee "shall not report any rule or order * * * which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

And clause 4 of rule XVI, at the relevant part, states that:

> After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order and the Speaker shall give preference in recognition to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, it can hardly be argued that by denying any instructions in a motion to recommit, the right of the minority Member entitled to offer that motion is being preserved or protected. When the rule issued by the majority's Committee on Rules dictates that the minority Member may only offer a straight motion to recommit, that Member is deprived of the right to offer a motion of his or her choosing.

Mr. Speaker, it must be remembered that before these two rules were adopted in 1909, the House already had a rule, dating back to 1880, allowing for a motion to recommit, with or without instructions, either before or after the previous question is ordered. That rule is rule XVII, clause 1 and is still a part of our rules today under which we are supposed to be operating here.

As the Speaker will recall from the paper I presented him in January 1991, in 1909 the new recommit rule was offered by a minority Member of this House, Democrat John Fitzgerald from my State of New York, specifically giving that motion to the minority. And at the same time, a rule was adopted, which we now call clause 4(b) of rule XI, to prevent the Rules Committee from ever denying the minority that right.

In offering those two rules changes, Representative Fitzgerald said, and I quote once again, and I hate to take the Speaker's time but it has to be said:

> Under our present practice, if a Member desires to move to recommit with instructions, the Speaker instead of recognizing a Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill.

In other words, Mr. Speaker, up to that point, the Speaker could recognize the majority manager to offer the motion to recommit and thereby prevent the minority from offering such a motion with instructions in the way of a final amendment.

And Fitzgerald went on to say, and again I quote:

> Under our practice, the motion to recommit might better be eliminated from the rules altogether.

In short, Mr. Speaker, the whole purpose for the new rule was to permit the minority to offer a motion to recommit with instructions if it so desired. On May 14, 1912, Speaker Champ Clark, another Democrat, and I used to be one, Mr. Speaker—I have researched all these Democrats.

Champ Clark, a Democrat from Missouri, upheld a point of order against a rule denying a motion to recommit by pointing to Jefferson's Manual in which Jefferson observed that rules are instituted in parliamentary bodies as a check against action of the majority and a shelter and protection to the minority.

Clark concluded on this point by ruling that, and I quote, "it was intended that the right to make the motion to recommit should be preserved inviolate."

□ 1310

On October 17, 1919, Speaker Gillett, a Republican from Massachusetts—we had Republicans from Massachusetts in those days—in overruling a point of order against a minority motion to recommit with instructions, said, and I quote:

> The fact is that a motion to recommit is intended to give the minority one chance to fully express their views so long as they are germane.

Please note, Mr. Speaker, the only condition on that motion was the germaneness rule as found in the standing rules of the House.

And he concluded:

> The whole purpose of this motion to recommit is to have a record vote upon the program of the minority. That is the main purpose of the motion to recommit.

Mr. Speaker, the recent body of rulings upholding the right of the Rules Committee to deny the minority that right to offer amendatory instructions in the motion to recommit is based on a 1934 ruling by Speaker Rainey, another Democrat from Illinois, in which he overruled a point of order against a special rule that prohibited amendments to one title of the bill during its consideration.

Speaker Rainey said that the special rule did not mention the motion to recommit which therefore could still be offered under the general rules of the House. And he went on to rely on the principle that one cannot do indirectly by way of a motion to recommit that which cannot be done directly by way of amendment. And since the special rule prohibited amendments to one title, the motion to recommit could not amend that title either.

In short, Mr. Speaker, he held that a special rule prohibiting certain amendments had the same status as the standing rules of the House, even though the special rule was more restrictive than the standing rules, and in, fact, was a departure from those standing rules.

Even a germane amendment could not be offered in the motion to recommit.

Mr. Speaker, I have long maintained that the ruling of Speaker Rainey was wrongly decided. On the one hand, he tried to claim that the right of the motion to recommit was preserved under the general rules. But he then turned around and said the general rules of the House had no standing when it came to an amendment in the motion to recommit—that the special rule from the Rules Committee had precedence.

Mr. Speaker, you cannot have it both ways. To the extent that the Rules Committee limits or denies the motion to recommit in a way that departs from the general rules of this House that we operate under, it is violating the prohibition on it as contained in clause 4(b) of Rules XI.

And I ask the Members to read the rules and see for yourselves.

To paraphrase Speaker Champ Clark, the motion is no longer inviolate as it was intended to be. And that is wrong. Instead, the right has been grossly violated.

Mr. Speaker, finally I will just point out that I am basing my point of order on House Rule XLII, which states, in part, and I quote:

> The Rules of parliamentary practice comprised in Jefferson's Manual * * * shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House * * *.

Mr. Speaker, I would maintain that in a case such as this, where there is ambiguity, Jefferson's Manual should be relied on as the final arbiter, just as Speaker Clark relied on it in his ruling in 1912 on this issue. And, to quote from section 1 of Jefferson's Manual, and I wish the Members would listen up because what we are trying to strive for here is fairness. It says:

> As it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents," the opponents being we, the minority, "the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceedings which have been adopted as they were found necessary from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check.

Mr. Speaker, that is terribly, terribly important.

Jefferson concluded on this point as follows:

> It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the Members. It is very material that order, decency, and regularity be preserved in a dignified public body.

I repeat, Mr. Speaker, in a dignified and fair body.

Mr. Speaker, I would submit that Jefferson's Manual, which is incorporated as part of the rules of the House, should be the final authority on this issue. And Jefferson's Manual clearly comes down on the side of minority rights which are protected under the standing rules of the House—the regular order of proceeding, which we defend every day.

Mr. Speaker, to permit a special rule such as this to take priority is to give way to the caprice of the Speaker's Committee on Rules or the captiousness of the majority Members in abusing, indeed denying, the only protection and weapon which we, the minority have, and that is the standing, not special, the standing rules of this House.

Mr. Speaker, I cannot make it any clearer. You are a fair man, a man respected by us; but you do represent all of us in this House, the majority and minority. And I know that you feel that way personally. And I would just hope for the good of this House and the future of this House and the future of your party, which may become a minority someday—we hope soon—I would hope that you would rule in my favor.

The SPEAKER. Does the gentleman from Missouri [Mr. WHEAT] desire to be heard on the point of order?

Mr. WHEAT. Mr. Speaker, I do wish to be heard on the point of order.

The SPEAKER. The Chair recognizes the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Speaker, the gentleman from New York makes the point of order that the rule limits the motion to recommit and therefore, according to the minority, the rule violates clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree. Rule XI prohibits the Rules Committee from reporting a rule that: "would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Clause 4 of rule XVI only addresses the simple motion to recommit. Nowhere are instructions mentioned.

Mr. Speaker, the Rules Committee may report a rule limiting the motion to recommit. So long as the rule allows a simple motion to recommit, it does not violate clause 4(b) of rule XI.

Mr. Speaker, this is a well-established parliamentary point. Speaker Rainey, on January 11, 1934, so ruled and was sustained on appeal.

The point was reaffirmed five times in the last 2 years: October 16, 1990; June 4, 1991; on November 25, 1991; February 26, 1992, and again 1 month ago, on May 7, 1992. Several times, the minority moved to appeal the ruling of the Chair. On each occasion the House voted to table the motion, sustaining the ruling.

Mr. Speaker, the precedents were strengthened by the votes of the House. The House consistently supported our interpretation of the rule. Absent an intervening change in the rule, the chair would be constrained, in my opinion, to heed this interpretation.

Finally, Mr. Speaker, the minority's position on the motion to recommit was seriously compromised, to my mind, by its support for House Resolution 450. House Resolution 450 was the rule providing for consideration of the balanced budget constitutional amendment.

House Resolution 450 severely restricted the motion to recommit with instructions. Yet every member of the minority voting on the rule—except two—voted "aye."

In summary, Mr. Speaker, the precedents are clear, consistent, and unequivocal.

Since 1934 there is not a single instance in which Speaker Rainey's interpretation was overturned. Not one rule limiting the motion to recommit was successfully challenged on a point of order.

Moreover, the House spoke several times in the last 2 years to reaffirm and strengthen this position. And finally, Mr. Speaker, the House overwhelmingly supported—just last week—a rule limiting the motion to recommit.

Search the RECORD and you will not find a single word of protest from the minority last week.

Mr. Speaker, I urge you not to sustain the point of order.

The SPEAKER. Does the gentleman from New York wish to be heard further on his point of order?

Mr. SOLOMON. Thank you, Mr. Speaker.

Mr. Speaker, let me just say it is the intent of Jefferson's Manual that the minority have its right to recommit with instructions. It is the rules of this House that we have that right, and, Mr. Speaker, you know, the Democratic Party enjoys, I believe, a 101-vote majority in this House.

□ 1320

If there is any fairness at all, Mr. Speaker, you would rule that we have this traditional right.

Mr. WALKER. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. The gentleman from Pennsylvania will be heard.

Mr. WALKER. Mr. Speaker, the gentleman from Missouri [Mr. WHEAT] cited as the principal evidence of the willingness of the House to abandon its minority right a series of votes that have taken place in recent years. Obviously, what we have there is the majority party muscling the minority party with its voting majority, and it has nothing to with the rules of the House or the kind of precedents that protect minority rights.

If in fact what we have decided is that the minority is always at the mercy of the majority's ability to change the rules, then the Chair, it seems to me, does rule against the gentleman from New York, and that would be a travesty. If what the Chair is concerned about doing is protecting the minority, as it is supposed to be protected under the rules, then the Chair, I think, has no other duty than to rule in favor of the point of order of the gentleman from New York, because it is clear in this particular instance that to rule against the point of order of the gentleman from New York is to really rule that the minority has no real position under the rules, and that any position the minority has under the rules is conveniently stripped by a majority vote of the majority party. That would be a travesty that goes against everything the House is supposed to stand for in debate, and I would hope that the Chair would rule in favor of the point of order raised by the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] for his remarks, and I insist on my point of order.

The SPEAKER. The gentleman from New York [Mr. SOLOMON] has made a point of order against consideration of House Resolution 480 and, based on arguments made previously by the gentleman from New York, has insisted that in denying the motion to recommit with instructions and providing authority only for a motion to recommit, the committee has violated House rules and a point of order should be sustained against the resolution.

Under the precedents of October 16, 1990, February 26, 1992, and May 7, 1992, all of which, as the gentleman correctly points out, stem from the precedent of January 11, 1934, the Chair is constrained to overrule the point of order.

Mr. SOLOMON. Mr. Speaker, I most respectfully appeal the ruling of the Chair.

Mr. WHEAT. Mr. Speaker, I move to lay on the table the appeal of the ruling of the Chair.

The SPEAKER. The question is on the motion to table offered by the gentleman from Missouri [Mr. WHEAT].

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WHEAT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 250, nays 158, not voting 26, as follows:

[Roll No. 189]

YEAS—250

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)

Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron

NAYS—158

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—26

Bonior
Conyers
Crane
Dickinson
Hefner
Hubbard
Jones (GA)
Levine (CA)
Lloyd
Lowery (CA)
Marlenee
McGrath
Mollohan
Ortiz
Perkins
Quillen
Ray
Savage
Sharp
Smith (TX)
Spratt
Thomas (CA)
Torricelli
Towns
Traxler
Wolpe

□ 1342

The Clerk announced the following pair:

On this vote:

Mr. Bonior for, with Mr. Quillen against.

Mr. PAXON changed his vote from "yea" to "nay."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 480 is a modified rule providing for the consideration of S. 250, the National Voter Registration Act of 1991. The rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on House Administration.

The resolution makes in order the amendment printed in the report accompanying the rule. The amendment is debatable for 1 hour and is not subject to amendment.

Finally, Mr. Speaker, the rule provides for one motion to recommit which may not contain instructions.

Mr. Speaker, the right to vote is a fundamental right belonging to all U.S. citizens, yet millions of Americans do not exercise that right—for various reasons.

Some of those reasons—apathy, lack of hope—do not have a legislative remedy, but some do. Today we have before us one remedy that Congress and the President can enact, the Voter Registration Act of 1991.

Each of us would like all eligible voters to participate fully in the electoral process. Faced with not achieving perfection we often hesitate to act on and accept the good. Let us not give in to such hesitancy but let us act swiftly, decisively and positively to approve S. 250 today.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule is a farce. Not only do I oppose the rule, I urge my colleagues to defeat the previous question so that we can consider S. 250 under a rule that reflects the spirit of this legislation—openness.

It is the height of irony that the Democrat leadership, in a half-hearted attempt to bring to the floor a bill to expand voting rights and democracy, does so under a tyrannical rule that denies those same basic principles to the Members of this institution. The rule does this in several ways, Mr. Speaker.

First, it is another closed rule. The Democrat leadership professes to want to give more people the opportunity to vote, yet the elected representatives they choose are not allowed to fully represent them.

Second, the rule circumvents the committee system by calling up a bill that has neither been reviewed nor approved by the committee of jurisdiction. It should be referred to the House Administration Committee and properly reported by that committee.

This is not the same bill that passed the House in 1990 and, even if it were, there are members who sit on the House Administration Committee today who were not on that committee in 1990.

BOB LIVINGSTON, the ranking Republican on the Subcommittee on Elections, for example, was not on the committee in 1990.

Third, the rule once again denies Republicans the historical right to offer a motion to recommit with instructions. Some on the other side argue that we should be grateful because the majority is allowing us to offer one substitute amendment. That argument ignores the fact that we have differences of opinion about how to reform our voter registration procedures.

The more limited the opportunity for minority members to offer amendments, the more important it becomes to have that recommittal motion with instructions. Also, as the gentleman from California, BILL THOMAS, has pointed out in the past, that recommittal motion with instructions offers probably the only hope that we will get a voter registration bill enacted into law this year, bipartisan or otherwise.

As the legislation stands now, it might more appropriately be called the National Voter Fraud Act.

There is no mandatory address verification program and other safeguards against fraud. American citizen or not, virtually anyone who can illegally obtain a driver's license can register to vote with little fear of getting caught.

In other words, S. 250 provides de facto voting rights to nonresidents; it provides cover to corrupt officials that pad the voter rolls with deceased and nonexistent individuals; and it usurps States rights to administer their constitutional authority to regulate their elections process.

Mr. Speaker, this is not a serious effort to reform State voter registration procedures. If it were, the legislation would have followed the normal legislative process, and it would not have been brought to the floor under the cover of an abusive and undemocratic rule.

I want to reiterate to my colleagues, if you sincerely want an effective voter registration bill, I urge you to vote to defeat the previous question and to support my amendment to bring up S. 250 under an open rule.

Mr. Speaker, I reserve the balance of my time.

□ 1350

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I have a number of speakers on this issue. I do want to clear up the matter of whether the minority's rights are being protected.

We have just been through a point of order and an appeal on the ruling of the Chair on the point of order and the motion to reconsider, which would have allowed, for all practical purposes, a substitute by the minority to this bill.

Mr. Speaker, I want to make it clear to my colleagues that this rule does allow the minority the right to offer a substitute to the bill, so there is the alternative that is being presented from the committee, from the majority, and then there is the right for the minority to offer a substitute, two competing philosophies on how best voter registration can be improved in this country.

Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I rise today in support of the rule providing for consideration of S. 250, the National Voter Registration Act. Today, as we bring to the floor the product of 4 years of hard work and dedication, particularly by the gentleman from Washington State, we mark a major step in reforming the voter registration process in this country.

Mr. Speaker, I have heard the criticisms of this rule and I want to dispel them. Four years ago the Subcommittee on Elections of the Committee on House Administration began a monumental effort to ease the ability of our citizens to register to vote. They held multiple hearings and received testimony from over 40 witnesses. Nearly 100 outside civic and civil rights groups contacted the Committee on House Administration. Countless meetings and endless negotiations were held to produce a bipartisan bill. The result was H.R. 2190, which passed the House with bipartisan support.

H.R. 2190 was stalled in the Senate until this year, when it passed as S. 250. S. 250 is nearly identical to 2190. It is the product of the same hearings, the same meetings, the same negotiations.

Mr. Speaker, when it came to time to consider S. 250, there was no reason to further delay this bill. The goal of this legislation is to create added opportunities for citizens to register, and that is too important to allow further delay. When barely one-third of eligible citizens voted in the last congressional elections, that says to me that immediate action is necessary, particularly when this bill has already passed the House once.

Nearly 90 percent of our citizens hold driver's licenses. All of them should be given the opportunity to register to vote as a routine matter. That is why I support this bill and this rule. I would urge my colleagues to do the same.

Mr. DREIER of California. Mr. Speaker, first I would like to express my great appreciation to my friend, the gentleman from Missouri [Mr. WHEAT] for the magnanimity that the majority is showing, but there are some serious questions that need to be addressed. That is why we hope we can have our recommital motion. That is why I am going to urge a no vote on the previous question.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. MICHEL], our revered Republican leader.

Mr. MICHEL. Mr. Speaker, I rise in opposition to this rule. It typifies all that has gone wrong in the House of Representatives under a decades-long Democratic Party domination.

The majority wants us to believe this Senate-passed bill is the same one that we passed in the 101st Congress. For that reason they have swiftly brought it to the floor without it ever being considered in the Committee on House Administration. "No hearings are needed," the majority has proclaimed. "We know the issues. There is no reason to rehash old arguments."

I happen to disagree. There is a need to reconsider old arguments and to make new proposals. After all, this is a new Congress. We on the minority side have a different ranking member on the subcommittee having jurisdiction. We would like the opportunity to reexamine the issues, to consult new data, and to consider different amendments, but the majority, in its haste to seize this issue for political purposes, deserted the democratic process of consultation, consideration, and debate, and they denied us the opportunity to offer improving amendments that are at the heart of any legislative process.

We wanted to offer an amendment to make the States' participation voluntary. The Committee on Rules denied us that chance. We wanted to offer an amendment to strengthen the fraud provisions of the bill. We were denied.

I just happened to have an offhand visit with our Governor at a health care subcommittee with the Governors, and we mentioned that this bill would be up on the floor this afternoon. He said:

> That is a bad one for us out in our home State of Illinois with respect to the way we handle voter registration and automobile registration in our State.

We wanted the House to consider several other amendments. All of them were denied. We wanted to provide matching Federal funding. That was denied.

The majority once again has offered us that same tired alternative, one substitute, take it or leave it, denying again that opportunity in this body to debate pro and con or refine amendments. It demeans the whole legislative process: no room for compromise, no room for negotiation, no room for bipartisanship, no room for amendment. As I said, I just do not think that serves the legislative process well.

Mr. Speaker, this is not a democratic process at work, it is legislative tyranny at its worst. I urge my colleagues to strike a blow for democracy by defeating this rule.

Mr. WHEAT. Mr. Speaker, I yield 6 minutes to the gentleman from Washington [Mr. SWIFT], the distinguished chairman of the Subcommittee on Elections of the Committee on House Administration.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is precisely the right rule for this legislation.

For all practical purposes, S. 250 is the same legislation as H.R. 2190 which the House enthusiastically passed 2 years ago. Its purposes are the same, its procedures are almost identical. There is nothing really new in S. 250 except for one very significant addition. S. 250 specifically reaches out to the disabled, the handicapped, and the elderly, to offer them an opportunity to register or bring their registrations up to date. That is something, I am sorry to say, we did not include in H.R. 2190 and I am delighted that the other body corrected this omission.

In all other respects this bill reflects the work of the House. My Elections Subcommittee held four hearings on this legislation in 1988 and 1989; we heard 42 witnesses—elections officials, voting experts, public interest groups, academics, Members of Congress. We heard from a broad and informed group. Our colleague JOHN CONYERS introduced preliminary legislation to get the ball rolling.

In addition to these executive hearings, my staff and I spent hundreds of hours listening to and working with a wide spectrum of interests to craft this bill. Part of this working group was the gentleman from California [Mr. THOMAS] who was the ranking member of the subcommittee, because I believed then, and I still believe, that the right of every eligible citizen to participate fully in our democratic process has nothing to do with partisan politics. Many sound concepts in this bill are the result of this bipartisan effort.

The result of 2 years of work was H.R. 2190. This House rewarded us by passing the bill on February 6, 1990. It went to the other body to be buried in a hostile, totally partisan filibuster.

At the beginning of this Congress there was enormous pressure to reintroduce H.R. 2190. But I had learned two things from my 1990 experience; first, there was no point in the House passing the bill again and then have the Republicans in the other body kill it through parliamentary tactics, and second, even after every conceivable effort was made, the Republican leadership in the House did and will continue to oppose this registration reform.

So, I believed that we should let the other body go first in this Congress. Well, they did. They finally broke through the filibuster and with the fine work of Senators FORD and HATFIELD, the Senate passed motor-voter on May 20. It was a great accomplishment—against stubborn partisan opposition.

So, it is back to us. Are we to start all over again, or are we to move ahead? I think the answer to all of us who are truly interested in reform is that we must grab this opportunity now. That means going ahead and passing S. 250 and sending the bill to the President for his signature. It is absolutely pointless to send S. 250 back to committee. Nothing would be gained and the bill would be lost, which is the purpose of those who propose recommittal.

Two years ago, the gentleman from Kansas [Mr. ROBERTS] stated that we were rushing the bill. He said that even though he knew we had spent 2 years putting it together. Now it is 2 years later. We can hardly be accused of rushing the bill.

The Office of Management and Budget objects because they say there is not sufficient justification for such a bill. Almost 40 percent of the eligible voters in this country not registered and OMB says that is insufficient justification.

It is appalling to me what tortured logic is used to oppose this legislation. Opponents say it is not needed, that it is of no concern that millions of Americans are shut out of the election process. They say that it will increase the chance of fraud. Increase it over what? This bill is far more antifraud than any present procedure. The fraud argument is absurd. An opponent in the Rules Committee suggested that somehow it would stimulate illegal aliens into trying to register. Are you kidding? What illegal aliens are going to risk perjury, especially since in most States that have photos on their driver's licenses they will have to have their picture taken which will confirm the act of perjury?

The fact is S. 250 does not register anyone. Let me repeat, S. 250 does not register a single soul. It allows eligible citizens, at their own behest, to register. The bill in no way supplants the traditional role of States and local election officials from administering the election process.

So I urge my colleagues to support this rule. It provides the opposition with their substitute, which incidently requires no easing of the restrictions on registration. It provides those of us who have supported this legislation for the past 4 years an opportunity to vote for final passage. It is a good rule, so let's pass it and get on to the debate on the substitute and the bill. This is an historic moment for this Congress. We are on the verge of passing, make no mistake about it, the most important election bill since Congress passed the Voting Rights Act itself.

□ 1400

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the hard-working ranking Republican on the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, in rising to oppose this rule along with my good friend from California, Mr. DREIER, let me just say that following consideration of this motor voter registration bill today we are scheduled to consider a resolution which is going to establish a joint committee to reform the Congress. I repeat "reform the Congress." And let me tell Members, if they want a good reason why we need such a joint committee to reform this Congress, they need look no further than this rule.

This rule is an outrage, if not unprecedented. What it amounts to is nothing less than running up a white flag on the ability of this House to do anything under normal procedures. We are about to capitulate to the other body, which is something that I detest. We might as well have a unicameral legislature around here.

Let there be no mistake about what this rule does. Let me just recount briefly why this is such an embarrassment and such a disgrace. We are being asked today to take up a bill passed by the other body and consider it in the Committee of the Whole right here with just one minority substitute. This is a bill that has never been referred to a committee of this House; a bill that has never been the subject of hearings in this House; a bill that has never had the benefit of a report from any committee of this House; a bill that is completely different from the one that was passed by this House in the last Congress 2 years ago; a bill that cannot be perfected by way of amendment from either the majority or the minority side of the aisle in this House. I have had Members from the majority side come to me and say they support an open rule because they want to offer amendments. Democrats are saying that.

This is a bill that is not even subject to a motion to recommit with instructions, and that is just a procedural objection, my friends.

On the basis of testimony received in the Rules Committee, there are all kinds of substantive flaws in this legislation that should be addressed by this deliberative body before it is sent to the President. Those substantive objections are ample evidence of why this legislation should be subjected to normal legislative procedure in the House.

That is why in the Rules Committee I offered a motion to postpone further consideration of this rule until the bill has been referred to the committee of jurisdiction and then properly reported back from it. Unfortunately, my friends, that motion was defeated on a party line vote, just as were several other motions to make in order some seven individual amendments that were presented to us by various Members from both sides of the aisle.

Mr. Speaker, let me conclude by saying this is not just a partisan dispute, although it is clear that the majority is trying to jam this bill down our throats. More importantly, this is a major institutional controversy that holds a dagger to the heart of our committee system.

Let me say to all of my friends over there in the majority, and let me warn you on the other side of the aisle, especially your committee chairmen, that if you buy off on this process today it may very well be your committee that gets bypassed tomorrow. If you believe in the committee process you will vote down the previous question and you will allow an open rule to permit this House to work its will.

Mr. Speaker, that is only fair.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me point out that the House did consider and act on a bill very similar to the bill we are considering today 2 years ago. Under the very capable direction of Chairman SWIFT and the gentleman from California [Mr. THOMAS] approving it, 289 to 132. Considerable time was spent by Members on both sides of the aisle to fashion a bipartisan bill and S. 250 is substantially like the bill, as we have heard from Chairman SWIFT, approved by the House in 1990.

The Senate started floor consideration of S. 250 in mid-1991 and had attempted cloture six times before it finally got to the point of final passage.

Mr. SOLOMON. Mr. Speaker, respectfully I ask the gentleman to yield.

Mr. WHEAT. I am happy to yield to my friend from New York.

Mr. SOLOMON. Mr. Speaker, I have the greatest respect for the gentleman. But the truth is, on our side of the aisle we are divided, we have differences of opinion. We would have liked that opportunity. On your side you have differences of opinion. You should at least give them the opportunity on your side to present both versions. That is all we want on our side. That is only fair to the membership, I say to the gentleman.

Mr. WHEAT. I thank the gentleman for his comments, and I know he is sincere about his wish to participate in fair and open debate on this. And we believe we are giving both sides the opportunity by presenting a bill that has been discussed in committee and the House of Representatives, that was approved by the House, that then went to the Senate, did not pass, and this is substantially the same bill that has come back from the Senate this year, and allowing the minority the opportunity to offer a substitute.

Mr. DREIER of California. Mr. Speaker, I yield 3½ minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the ranking member of the Subcommittee on Elections who was not there and has not had a chance to look at this bill up to this point.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for the time and I rise in opposition to the rule.

Mr. Speaker, the Democrats will have you believe that we are here to debate procedures for expanding voter registration to open up the democratic process. However, this bill and this rule are prime examples of how the Democrats abuse their majority status to muzzle Republican voters and subvert the democratic process.

I am the ranking Republican on the House Administration Subcommittee on Elections. However, I was never consulted by the majority on the development of S. 250. We have held no hearings on the bill, no consideration in the subcommittee, no consideration in the full committee, no negotiations, and no input from the Republicans. No wonder the American people are fed up with politics.

I find it extremely ironic that in the effort to increase voter participation, the majority gags the participation of the minority.

The Republicans are only allowed to offer one substitute, which sets up a partisan battle and guarantees that the bill will not be amended, but will be vetoed.

Since the bill skipped the committee process, I asked the Rules Committee to allow me to offer amendments which would improve the bill by reducing the opportunity for fraud. Striking the mail registration, same-day registration, and welfare registration which are required by the bill would lessen the opportunity for fraud. As usual, the Rules Committee, made up of nine Democrats and four Republicans, did not make my amendments in order.

I also asked the Rules Committee to allow an amendment to add the compromise address verification provisions from last year's bill, which were omitted from S. 250. Once again, my request was denied.

The intentions of this rule are obvious. Muzzle the Republicans, pass the most liberal bill possible to satisfy Democrat special interest activists, and criticize the President's certain veto. This procedure helps to explain the widespread affection for the U.S. Congress.

The American people demand action on improving the economy, preventing crime, reforming education, balancing the budget, and other pressing issues. Instead, they must witness this partisan charade designed to provoke a veto.

If we truly want to increase voter participation in the election process, we must give the American people a reason to believe that their vote counts. Engaging in political posturing to gain as many Presidential vetoes as possible solves no problems and drives the voters away from the polls. I do not understand how anyone benefits from your carefully designed strategy to promote gridlock.

You have a 100-vote majority on your side on the aisle. Why can't you allow amendments to address fraud? Why must you bypass the committee process? Why deny the minority our traditional right to recommit the bill with instructions? What are you afraid of?

Mr. Speaker, this rule is an insult to the voters that elect us to debate these issues. I urge my colleagues to defeat the previous question so that we may offer an open and fair rule. If that effort fails I urge you to oppose this oppressive rule.

□ 1410

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. MCEWEN], a hard-working member of the Committee on Rules.

Mr MCEWEN. Mr. Speaker, ostensibly the purpose of this legislation is because we believe in the democratic process, we believe people should participate in elections, that they should have their voices heard, that the elected representatives should respond to the instructions of the electorate.

The rules of the House that are written today and which-are confronting us at this moment say that the voters of the American electorate who have sent people here to voice their concerns are being deliberately excluded from debate. There is a provision that we have on our side of the aisle that we be allowed to be given a motion to recommit with instructions, which says that if we were given the right to be heard, here are the changes we would like to make.

There are those on the majority side of the aisle that said, "That is offensive to us, because you will highlight the truth and merit of your point. It will be embarrassing. Therefore, we will write the rule to prevent you from doing that."

Not only did they deny the subcommittee the right to consider the bill, not only did they deny the committee the right to hear the bill, but now they deny the Republicans the right to even make a suggestion.

Mr. Speaker, vote against this rule. It is as bad as a rule can be.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. ROBERTS], a hard-working member of the committee and the ranking member of the Subcommittee on Personnel and Police.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding me this time, my friend and colleague who originally started out in Kansas.

What the gentleman from Washington [Mr. SWIFT], the dean of good government and also good intentions that sometimes go awry, has said is this:

> Last session I crafted a bill, made some very tough concessions and thought I had a compromise, but since Republicans opposed what I brought down from Mount Swift on a table, why comity was shattered.

And what my colleague describes as being stubborn and being very partisan really involves the strong feeling on a great many Republicans' part that we have honest opposition. This is not 2190 revisited.

There are serious, serious differences in this bill, and I am going to place a summary of them in the RECORD, in regard to voter fraud, a very partisan attempt to limit the spectrum of voter registration locations, as opposed to libraries, marriage license offices, clerks' offices, and post offices etc.

All we asked for, other than several amendments that I was going to introduce, was a motion to recommit with instructions that really represented a bill that the gentleman from California [Mr. THOMAS] and the gentleman from Washington [Mr. SWIFT] worked on during the last session. We were denied.

More to the point, this bill, this whole procedure, represents what is wrong with the legislative process, why we are in gridlock in the Congress, why the American electorate has lost faith in this institution.

So it was for alleged campaign reform, so it is now for motor voter. This so called reform is now in a partisan ditch. The President is going to veto it. It is not going anywhere. They know that. If you want help to get this legislation and increased voter participation at the polls out of the ditch, let us know. We will go to work, but run through the subcommittee and the committee and the committee of jurisdiction.

In the meantime, this is a sad day for the House. It is a sad day for election reform and for minority rights.

It is difficult not to have a sense of frustration and anger with the handling of this rule and S. 250, the National Voter Registration Act.

While S. 250 embraces a worthy goal of attempting to increase voter registration, several very serious concerns regarding motor-voter including fraud and cost have continually been raised. Unfortunately, the majority has had a deaf and partisan ear.

What we are seeing today is an attempt by the majority to completely circumvent the legislative process. There have been no hearings before the committee and subcommittee of jurisdiction. No House hearings have been conducted on this legislation. No committee or subcommittee meetings have been held to review the legislation, its merits, and the concerns of fraud, cost, or effectiveness. In fact, as Mr. LIVINGSTON, the ranking member of the subcommittee, testified before the Rules Committee last week, he has not even had a single discussion with the subcommittee chairman, AL SWIFT, about the bill.

Instead, the minority has simply been handed a piece of legislation dramatically changed from a bill, H.R. 2190, that was considered by the 101st Congress and told that it will be brought to the floor within a week—no further discussion and no minority input. We cannot and should not tolerate such treatment.

Not only should we be concerned with the process that has been followed, but there are serious questions with this newly crafted version of motor-voter. I would have welcomed the opportunity to work to discuss and fix several problem areas within the bill. It is seriously flawed. However, despite serving on the committee of jurisdiction, I was not given that opportunity. Nor, am I given the opportunity in this rule to offer either of the two amendments I proposed to the Rules Committee last week.

My first amendment would have simply made the legislation voluntary for State governments. My second amendment would have allowed State election fraud statutes that are explicit to be retained, instead of being replaced by the limited fraud provisions contained in S. 250. Without at least retaining State election fraud provisions, voter registration will become voter fraud.

It is important to this debate to remember, this legislation is far different than a bill that was brought before the 101st Congress. It goes far beyond past voter registration efforts, introduces partisan politics into the American election process, and it is a step backward for all parties involved.

If enacted, S. 250 would force States to end current voter registration networks—that have cost State governments millions of dollars to implement—and replace them with a new Federal standard. No Federal funds would be made available to assist States with the costs—in 10 States alone the estimated cost of implementation is $87.5 million.

S. 250 mandates voter registration in State welfare and unemployment offices, raising concerns of coercion and fraud. And, it requires States to accept mail registration which limits a State's ability to verify voter identity and eligibility—allowing even more fraud.

Again, I would like to stress, as I did during previous consideration of national voter registration legislation, I stand ready to assist in the crafting of a bill that is fair, bipartisan, fiscally prudent, and sensitive to States' concerns. Unfortunately, this rule does not permit that process.

I urge my colleagues to oppose this rule and later S. 250. It is the wrong approach. S. 250 should be sent back to the House Administration Committee where it can be properly considered.

Mr. Speaker, more to the point, this rule, this bill, this whole procedure represents what is wrong with the legislative process, why we are in gridlock in the Congress, and why the American electorate has lost faith in this institution.

The sponsors of this partisan invitation to election fraud know full well this bill is going nowhere and crafted it so that it would be sure to invite our opposition and a Presidential veto. Then, just to make sure the goal of increasing honest voter registration, would become mired in partisan mud, the Democrat leadership bypassed the subcommittee, the committee, and denied any amendments and as a consequence, any debate on the legislation.

So it was for alleged campaign reform, so it is for motor-voter. When you decide to get out of the ditch and back on a road to greater voter participation, let us know. This so-called reform is in a partisan ditch. In the meantime, this is a sad day for the House, for election reform, and for minority rights.

KEY DIFFERENCES BETWEEN THE DEMOCRAT MOTOR-VOTER BILL (S. 250) AND H.R. 2190 (101ST CONGRESS)

S. 250	H.R. 2190
Requires only that each state "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists * * *" by reason of death, or change in residence. Use of the Post Office change of address system is optional. §§8(a)(4) & (c).	Required specific uniform and nondiscriminatory programs to assure that official voter registration lists are accurate. Required systematic review of residence addresses on voter registration lists by means of first class mailings or a Post Office change of address system. §106.
Requires states to designate as voter registration agencies all public assistance (welfare) offices, unemployment compensation offices, and offices engaged in providing disability services. Other state or local government agencies are optional. §7(a).	Required states to designate a wide spectrum of voter registration locations including public libraries, public schools, clerks' offices, marriage license bureaus, fishing and hunting license bureaus, revenue offices, post offices, and offices providing public assistance, unemployment compensation, and related services. §105(a).
The Act does not apply to states in which there is no voter registration requirement, or to states in which voters may register to vote at the polling place on election day. §4(b). Designed to encourage election day registration.	The Act applied to every state that the FEC determines has a voter registration requirement for elections to federal office. §102. Intended to promote accurate and current voter registration lists.
Requires the FEC to impose regulations on the states, and to develop a uniform mail voter registration form to be used by the states. §9.	Retained under state law the authority to establish special procedures to verify the registration status of an individual at the polls, and to administer voter registration laws in general. §§107, 108.
Provides reduced rate mail subsidy for registration purposes. §8(h). No funds are authorized for either the postal subsidy, or the increased FEC administrative costs.	Authorized $50,000,000 appropriation for FEC to provide support, through chief State election officials, for programs for assuring accurate and current official voter registration lists. §113(a).

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. THOMAS] to close our debate on this side.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, perhaps we need a couple of civics lessons here before we move on to the substance.

H.R. 2190 passed in the last Congress, I would tell the gentleman from Missouri; S. 250 passed in this Congress. If you find no significance between a piece of legislation passing in the last Congress and this Congress, you do not understand the Constitution.

When I first came in the 96th Congress, there were 214 rules coming out of the Committee on Rules. Not one rule limited the minority's right to recommit with instructions—not limiting, not excluding, not one limitation out of 214 rules.

In the last Congress, and clearly carrying over to this Congress of the 21 limiting measures, 16 of them were denying a motion to recommit with instructions, and that is out of only 104 rules.

Clearly, there is a trend. The trend is to deny the minority the historic right of recommitting with instructions.

I was very sorry to hear my friend, the gentleman from Washington, say that the only reason anyone would support a motion to recommit would be to kill the bill. I heard other Members on the Democrat side use my name as someone who put together a bipartisan package. Now, you cannot have it both ways.

I was in front of the Committee on Rules urging a motion to recommit with instructions. I was not out to kill the bill. I was out to improve the bill.

Why all the rush? If anyone takes time to read the bill, they will find out it does not go into effect until 1994. There is no ability to let a new subcommittee and new committee of this new Congress look at legislation the new subcommittee and the new committee has not seen. There is no deadline that forces us to a resolution or a conclusion today, except for the artificial one imposed by the majority.

I have heard several speakers say that for all practical purposes the bills are the same. If I was a cosponsor on a bipartisan measure, which H.R. 2190 was, and my friends had said this bill is substantially the same, why am I not for this bill? The answer is simple: They are not substantially identical. They are fundamentally different in areas that make this bill a flawed bill and in which, in my opinion, H.R. 2190 was not.

We are going to spend the better part of 2 hours talking about the specific differences in the bills. I think I can clearly demonstrate to you that there are far-reaching fundamental differences, for example, in terms such as "mandate" versus "option." I think that is fairly fundamental. Their bill mandates certain things that H.R. 2190 did not mandate.

But more importantly, I want to clear up the smokescreen. I want to make it perfectly clear to everybody that the failure of the majority to provide a motion to recommit with instructions is nothing more than pure partisanship.

□ 1420

The argument that this bill would die if there were a motion to recommit with instructions is simply not true.

Let us visit the mechanics of a motion to recommit with instructions. If that were made in order under the rule, I would provide conforming amendments to make S. 250 identical to H.R. 2190. You have already heard from this side of the aisle that H.R. 2190 was a bipartisan bill. It had support on both sides of the aisle. It passed the House with both Democrats and Republicans supporting it, but they do not want to provide a motion to recommit with instructions to make S. 250 identical to H.R. 2190.

Why? Their argument is that somewhere, somebody is going to filibuster against this bill. There is only one place in Congress that you can filibuster. That is in the other body.

If a motion to recommit with instructions were in this rule and it passed, the procedure would be that the bill would be reported immediately to the floor and we would vote on it. It would pass with bipartisan support. It would then be sent over to the other body. The other body could then vote yes or no in determining acceptance.

If the bills are virtually identical, why would any Democrat oppose the amended version of S. 250 back to H.R. 2190?

And if it is truly a bipartisan bill which passed the House with both Democrat and Republican support, why would not more Republicans over on the Senate side join in?

So when you try to present the logic that a motion to recommit with instructions somehow damages the chance of this bill, I am sorry, but you are carrying the water of particular factions who cannot stand this bill to be changed. There are factions on your side of the aisle that did not want the bipartisan agreement. They were successful in the other body in pulling out those provisions which made it bipartisan. You folks today, and I am sorry to say the gentleman from Washington is one of them, are carrying the water of these factions; which are purely partisan; which want an election eve issue; which want the President to veto this measure; and they are maximizing the chances for the President to veto this measure.

You are not interested in good law. If you were, you would have a motion to recommit with instructions.

You would give us the chance to go back to that bipartisan bill. All your arguments saying that you cannot give us that are phony, and you know it.

You want a partisan fight? You are going to get a partisan fight. You want a veto? You are going to get a veto.

I spent two years of my life trying to pass a good bill. I am sorry that you folks decided that political opportunism was more important than providing a solid, secure, bipartisan measure to expand the opportunity for people to register in the United States.

It is your fault that this measure is going to be vetoed, and no one else's. No matter what you say, no matter how you try to wiggle out of it, no matter how much you say a partisan confrontation between a partisan position on our side and a partisan position on your side is giving the American people a fair shot, no matter how much you talk about it, it is simply untrue.

Your opportunity to show true bipartisan workmanship was to provide a motion to recommit with instructions. You did not do it. Your cards are face up on the table. The is a pattern effort and everybody needs to know it.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I rise in strong support of S. 250, the National Voter Registration Act. S. 250 would significantly expand the opportunity for citizens to register to vote, and then participate in the electoral process of our Nation.

The right to vote is a fundamental right guaranteed under the Constitution. Yet, 70 million eligible Americans are currently not registered to vote.

In Tennessee, my home State where we do not have a motor-voter program, voter turnout decreased 35 percent from 1986 to 1990. However, States with motor-voter programs saw significant increases in voter turnout. The increases in voter turnout from 1986 to 1990 ranged between 9 and 26 percent in States which instituted effective motor-voter programs.

In light of the serious decline in voter turnout in Tennessee from 1986 to 1990, Secretary of State Bryant Millsaps has been a leader in efforts to improve voter turnout in the State, and throughout the Nation.

I am particularly pleased that S. 250 would ease the voter registration process so that all Americans—including those disabled while fighting for our country—can participate in an important right of citizenship—the right to vote. Why would we want to keep the barriers in place that prevent disabled Americans from voting in elections? I wouldn't.

S. 250 is not a partisan bill. This is not a political vote. This is a bill that ensures the vitality and stability of our democracy.

Somebody said Mr. Speaker, "why should it be harder to register to vote than to apply for a driver's license?" Well, the simple answer is it should not be. It should not be. I urge my colleagues to vote for S. 250.

Mr. WHEAT. Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. SWIFT], the chairman of the Subcommittee on Elections of the Committee on House Administration.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to clear up a couple of matters and then address the issue of bipartisanship.

An earlier speaker suggested that the agency provisions in this bill were somehow partisan. They are not, and let me explain what the rationale is in the legislation.

The bill does three things. It says you can register when you renew your driver's license. It says you can use postcard registration, and it says that in certain public agencies you can also be allowed to register.

The one that an earlier speaker objected to was the fact that in public assistance offices, unemployment offices, and the like, you would be able to register.

Now, stop and ask yourselves, who gets to register when they renew their driver's license? People who drive.

Who are the most likely people not to be able to take advantage of this major provision of the legislation, registering when you renew your driver's license? People too poor to own a car, the disabled who cannot drive, the elderly who no longer drive a car, and so in order to provide a means to those who would fall through the cracks left by the motor-voter provision, the bill would provide an extra opportunity to participate: Agencies where those people are most likely to show up were included in the legislation.

I have got to tell you that there is one reporter somewhere in Pennsylvania who keeps calling me up and saying, "Why do you support this legislation?"

And I tell him, and he says, "No, no, why do you support it as a Democrat?"

And I tell him, and he says, "Look, this is going to register a lot of Republicans. Do you know how many of those yuppies out there driving BMW's aren't registered to vote? You are going to register all those people."

The fact is this bill will. It is going to register a lot of Republicans and it is going to register a lot of Democrats and it is going to register a lot of independents who are not committed to either party, but when you take a look at the structure of this legislation and you look at it objectively, it is very hard to conclude that there is any partisan motivation whatsoever.

The other point that I would make with regard to the whole issue of partisanship is that this was a major bipartisan effort in the last Congress. A great deal of what is still in this bill was put there by hard, conscientious, honest work on the part of Republicans. Not everything they put in the bill, but most of what they put in the bill is still there, and yet when we came to the floor of the House the last time the opposition to the bill was no less than the minority leader himself.

When the bill passed anyway and went to the Senate, the filibusters were led by the Republicans.

And, when finally and at last they were able to overcome a filibuster so that a majority could rule in the Senate, it was sent over here. And what we have is a bill that was bipartisan to begin with, that is designed to register all Americans, not just Americans in one section or one age or one party. But it is a bill which has been assiduously opposed by Republicans in the other body and opposed in the form it passed this House, a form we have heard so much about being bipartisan, by the Republican leader.

We believe that a rule which says here is our bill and that gives the Republicans an opportunity to write their bill any way they want and then vote is a fair rule.

☐ 1430

I urge support of the rule and yield back the balance of my time.

Mr. DREIER of California. Mr. Speaker, may I inquire of the Chair how much time remains?

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] has 5 minutes remaining, and the gentleman from Missouri [Mr. WHEAT] has 12½ minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I might consume.

And I do so in order to ask of the distinguished chairman: Since we are trying to encourage voter participation—the gentleman from Tennessee spoke earlier about how we are trying to encourage voter participation—I wondered if the subcommittee had taken under advisement the prospect of registering young people at high schools because we want to get young people involved in the voting process. My friend has talked about the issue of drivers' licenses and other offices, and I wonder if that was taken into consideration.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

Mr. Speaker, if I can remember the eagerness with which I wanted my first driver's license at the moment I turned old enough to get one, I suspect that I would be renewing my license about the time I was 18 and, thus, would be automatically registered. The direct answer to the gentleman's question is we did not consider that specifically but there is nothing in this legislation that would prevent States from doing that.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time. I urge a "no" vote on the previous question and yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no additional requests for time, but I yield myself such time as I may consume to close debate.

Mr. Speaker, on a procedural basis, I would just like to remind my colleagues that the right to offer a substitute can accomplish the very same thing, legislatively, that a motion to recommit with instructions can. There is absolutely nothing that can be offered under a motion to recommit with instructions that could not be offered under the substitute.

Mr. Speaker, in closing, I would like to urge my colleagues to vote "yes" on House Resolution 480 and on the underlying bill. Passage of S. 250 will not cure all the ills of voter nonparticipation, but it will lower some of the barriers that confront Americans during the voting process.

Mr. Speaker, I yield back the balance of my time and move the previous question on the resolution.

The SPEAKER pro tempore. All time has expired.

The question is on ordering the previous question.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WHEAT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 163, not voting 15, as follows:

[Roll No. 190]

YEAS—256

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)

Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)

McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal

Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wyden
Yates
Yatron

NAYS—163

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan

Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James

Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell

Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer

Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)

Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Bonior
Hefner
Hubbard
Levine (CA)
Lowery (CA)

Marlenee
Quillen
Ray
Savage
Sharp

Traxler
Williams
Wilson
Wise
Wolpe

☐ 1454

The Clerk announced the following pair:

On this vote:

Mr. Bonior for, with Mr. Quillen against.

Mr. LANCASTER changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the resolution.

The question was taken; and the speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DREIER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 157, not voting 13, as follows.

[Roll No. 191]

AYES—264

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr

Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy

Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Hutto
Jacobs

Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella

Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer

Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron

NOES—157

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields

Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston

Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer

Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bonior
Hefner
Houghton
Hubbard
Kaptur
Levine (CA)
Marlenee
Quillen
Ray
Savage
Traxler
Volkmer
Wolpe

□ 1513

The clerk announced the following pair:

On this vote:

Mr. Bonior for, with Mr. Quillen against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 480 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 250.

□ 1513

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the Senate bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes, with Mr. McDERMOTT in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I yield 15 minutes to the gentleman from Michigan [Mr. CONYERS], and I ask unanimous consent that the gentleman from Michigan be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to acknowledge and thank the gentleman from Washington [Mr. SWIFT] for his long and arduous work in this regard on the bill that would move universal registration forward in this Nation. This might be called the "Al Swift Memorial Bill" because no one has worked harder and longer and with more dedication to the bipartisan conclusion that we have come to today. I am very pleased and grateful to the gentleman for sharing his time with me and allowing me to control this part of my time.

Mr. Chairman, the bill before the House is my piece of legislation that has now come over from the Senate. The time has finally come for us to move. It took a long time, Mr. Chairman. We have met and gone over this bill so many times. Many of the provisions that this Member would have fought for have been bargained out of the bill. Still it remains a good piece of legislation.

Some of the Members will fail to recognize that the idea of motor-voter is not exactly a brilliant new idea that has come across this Nation. There are some States that have had it for a number of years. We applaud that. We have all of the necessary restrictions that have been put in it before. Some of the Members on the other side of the aisle that were supporting me on a previous bill are not as eager as we move toward conclusion, but I am sure that can be explained.

We wanted funding, too, in this measure. I regret that it is not there, but it is a good opportunity to make an important statement to move voting, which is at an all-time low in this Nation, forward. I am very, very happy that this moment has come. It is a historic moment.

Let no one be deceived, this is a voter's rights bill. This bill is a civil rights measure. This bill goes toward the heart of democratizing the electoral privileges of our American citizens, so it is in that spirit that I very proudly begin the debate on S. 250, the National Voter Registration Act.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when H.R. 2190 passed this House in the last Congress my opening comments were:

> Let me rise in support of a piece of legislation which is less than its critics have claimed it to be, and frankly, more than some of its supporters believe it to be. It is a piece of legislation which, although comprehensive at the Federal level, provides a significant amount of individual decisionmaking for States in areas where clearly the States should have that kind of individual decisionmaking.

Those were my opening comments in support of H.R. 2190, a bill which passed this House with a significant number of Republican as well as Democrat votes.

H.R. 2190 was a compromise. As in most compromises, there were wins and there were losses on both sides. As in most compromises, there was an evenhanded handling of difficult areas of conflicts. H.R. 2190 provided an outreach program. A portion of it is known as motor-voter. That was mandated. There was also an extension to other agencies. There were no specific agencies mandated, but rather a general charge that we open up the opportunity for people to register.

The other part of the evenhanded compromise was the acknowledgment that if we are going to add more people to the rolls through this outreach program, there should be a nonpunitive method of voter verification. One of the growing difficulties in almost every precinct across the United States is the fact that Americans are very mobile. We move a lot. Aside from the difficulty in getting on the rolls is the virtual impossibility of removing people from the rolls.

□ 1520

And what we needed for an evenhanded bill, in my opinion, was an outreach program coupled with a voter verification program. H.R. 2190 provided that linkage, it provided additions to the rolls and nonpunitive removal from the rolls.

It is an interesting historical aside that in the committee, as we were discussing options for voter verification, ironically enough it was the gentleman from Washington who did not seem to be too disturbed about removing people for not voting. It was the gentleman from California who fought hard to make sure that people were not removed from the rolls simply because they did not vote. After all, there are a number of reasons why people would not vote, not the least of which would be the candidates offered to them. But the simple fact that people do not vote should not be a reason for removing them from the rolls.

So what was put in place was a procedure which guaranteed that people who had died or moved away would be removed from the rolls. Now, this is an unprecedented intervention into the States' decision of who could vote. There are some who would challenge its constitutionality. I believe the Federal Government has the ability to make these decisions.

Both the outreach program and the voter verification program were mandated, not in specifics, not dictating to the States, as I said in my opening remarks to H.R. 2190, but leaving a degree of discretion to the States, where we believed it was appropriate. But the general concept of outreach and the general concept of voter verification were mandated. And because the Federal Government mandated, we thought it was incumbent upon us to place money in the bill to pay for these federally mandated programs. That also was somewhat unprecedented in recent years.

For Members to stand up and say that S. 250 is substantially the same as H.R. 2190 is to deny that fundamental structure of the compromise. In S. 250 not only is the outreach mandated, not only does it specify certain agencies, but it goes on to the point that in those specified agencies the clerk or the staffer has to fill out the form as though it were the unemployment form or the welfare form. They have to take pen in hand, if necessary, and go item by item over the voter registration structure. It is mandated down to the checkpoint and the column, but there is no requirement whatsoever in this bill that the State perform a voter verification procedure. There is fuzzy language. Clearly there is no money provided for what was part of the bipartisan compromise.

So when someone says that S. 250 is almost like H.R. 2190, Madison Avenue is crying out for you folks, because the way in which you advertise and package an item is desperately needed on Madison Avenue. When you say S. 250 is substantially the same as H.R. 2190, it is like saying radio is like TV, except without the pictures. There is a fundamental difference. Something was lost between the bipartisan passage of H.R. 2190 and the return of the partisan S. 250.

Why do I say something was lost? It is pretty obvious. The Democrats wrote a rule which would not allow a historical offering under the rule of a motion to recommit with instructions. They bent the rules to make sure that we could not return to H.R. 2190. They are adamant, even though the bill does not go into effect until 1994, in shoving it to the President in this election season. They are willing to break the bipartisan working relationship that we had on H.R. 2190 to shove it to this President.

It bothers me a lot that a program that started out cooperatively, that worked, that actually produced a bill that has a majority of the Republican leadership in support of it to this day, and on which someone who worked hard as a cosponsor in passing the legislation has to stand up and oppose it.

We will go through and examine some specific areas in which S. 250 mandates the Federal Election Commission to regulate the States. For example, S. 250 requires a uniform form to be imposed on every State. Under H.R. 2190 there was a general understanding of the direction that was needed to be taken, but the individual States could conform and construct the procedures that best fit their needs.

Is there any money in the bill for the mandated FEC role of dictating forms? Of course not.

So when examining the differences between the two bills, my worthy opponents will tell Members that there is not much difference, and that it is basically the difference between mandating and allowing. It is a difference between funding and not funding. I can understand why some Members do not think that is much of a difference. I can tell you the American voters and the State officials believe it is a great difference.

I happen to come from the largest State in the Union. I come from a State with more than 30 million people. I come from a State whose secretary of state is a Democrat. I come from a State in which Democrats and Republicans have operated a number of outreach programs. We have registration by mail, we have registration where you come into a fast-food establishment, we use State agencies, we use Federal agencies, we blanket in an attempt to try to register people to vote. The secretary of state of California, March Fong Yu, opposes S. 250. She is not with you in this attempt to mandate to the States, without funding, a voter registration program. You are doing your best to continue the mask of bipartisanship in moving forward a voter registration bill. But I can tell you as one of the key principals in putting together a truly bipartisan bill that passed this House, you are not successful. The difference between mandating and allowing, the difference between funding and not funding is fundamental.

S. 250 is a sham. It deserves to be vetoed, and it will be vetoed. And after this election, those of you who plan to be back, I will be willing to sit down and work with you once again, as we did in the previous Congress, to put together a bill that is truly bipartisan, that we can move to a Republican President so that he can sign it. That is my offer to you, and until then, if all you can offer back are these kinds of partisan documents, then I can tell you a veto is what you are going to get, and a veto is what you deserve.

Mr. CONYERS. Mr. Chairman, will the gentleman yield for a brief question?

Mr. THOMAS of California. I will yield on your own time. The gentleman has time.

Mr. CONYERS. I will yield myself such time as I may consume.

Mr. Chairman, did I hear the gentleman correctly when he said that the President might, or would, veto a voter rights measure at this particular time of the season? Is he going on what he hopes, or does he have reliable information to bring to the Congress, as we vote on this very important matter? I would be pleased to yield to my colleague.

Mr. THOMAS of California. If the gentleman will yield, I would tell the gentleman, as he probably well knows, that the President has said that if the bill is sent to him in its present form, mandating on the States without any funding, the kind of procedures in S. 250, the President's senior would recommend a veto.

Mr. CONYERS. OK. Is this in writing on Capitol Hill, and would a copy be made available to this Member who played a small role over the last 5 years in this legislation?

Mr. THOMAS of California. The letter is dated June 16, and the gentleman can certainly have a copy if he does not have one, or if his friends on that side of the aisle do not have one.

Mr. CONYERS. I thank the gentleman. I was not sent one, but I can hardly believe my ears that the White House would veto this bill.

Mr. Chairman, I reserve the balance of my time.

□ 1530

Mr. THOMAS of California. Mr. Chairman, I will tell the gentleman that not only is the President going to veto it, I will repeat what I said: "The Democratic secretary of state of the State of California opposes S. 250 as well."

Mr. Chairman, I reserve the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise today I strong support of S. 250, the National Voter Registration Act. The bottom line, my colleagues, is that America needs this bill. Our Government is quickly becoming a nonparticipatory democracy.

Only 61 percent of the eligible voting age public is registered to vote. As a result, our Nation has the worst voting participation rate of the world's major democracies. Clearly, America, the model of democracy to the world, can and should do better.

Our Nation places too many barriers in the way of its citizens. Voting, some of these barriers are procedural and some are physical and attitudinal. The bill before us today encourages greater registration while still protecting the electoral system from fraud and misuse.

Because ours is such a mobile society, the reality is that people change their addresses and driver's licenses very often. By utilizing these and other access points to the public system, we greatly increase the chances that first, people will register to vote; and second, that voting lists will be more regularly updated and corrected.

Furthermore, in addition to retaining current protections against fraud, this bill also requires every applicant to sign an oath under penalty of perjury, that he or she is eligible to vote.

There are some who are criticizing the procedures under which this bill is coming to the floor. Yet, by coming to the floor today, we are ensuring that this bill will be sent to the President's desk where it belongs and where it should be signed. Further congressional review would be dilatory and unnecessary.

S. 250 was passed by the Senate by a vote of 61–38. Very similar legislation was approved by the House in 1990 by a vote of 289–132. The changes in the Senate bill were added to provide greater flexibility to the States, which many critics of the earlier bill had called for.

The Senate added some very important changes to remove physical and attitudinal barriers to voter registration. I would like to spend a moment concentrating on those changes. As I have already stated, voter registration and participation is too low for too many Americans. But there is one group of Americans whose experience makes it even less likely that they will register or that they will vote, despite a strong interest to do so.

Several important changes to help these individuals with disabilities better access the system are included in S. 250.

Disabled Americans vote at a rate 12 percent lower than nondisabled Americans. Furthermore, they register at a rate that is six points lower than the general population.

Physical disability is often the reason cited for not registering to vote. One-half of all nonvoters over the age of 65 cited that reason. Furthermore, 50 percent of the nonvoting and nonregistered disabled say that they would like to participate more. S. 250 provides a way for them to do so.

In the Elderly and Handicap Accessible Polling Place Act of 1984, Congress took steps to ensure that disabled Americans could get to and vote at the polling place. But we must go back to the first step—registration. That is exactly what S. 250 does by providing that offices which receive State funds and who are primarily engaged in providing services to persons with disabilities, must offer voter registration services during intake procedures, recertification procedures, and change of address procedures.

Even more importantly for persons with disabilities, if the service is provided in an individual's home, the agency representative who actually goes to the home, must assist with voter registration. As in other sections of the bill, the client is guaranteed the right not to vote and is protected from coercion or harassment by the agency's personnel.

The procedures provided in the bill, which appears so simple and straightforward, are critical to reaching out to disabled Americans and allowing them to be part of the democratic process.

Our Nation, with the strong support and leadership of the current administration, has resoundingly said that people with disabilities must be part of mainstream America and that if it takes changes to do it, then changes will be made. Well, S. 250 includes some of those changes. They are reasonable, they are responsible, and most importantly, they are necessary.

I am greatly saddened that the substitute offered by the distinguished minority leader, does not include these important provisions. I was there to watch President Bush, with great pride, sign the Americans With Disabilities Act into law. Surely, so soon after its enactment, we would not want to ignore the goal of that act.

Too often in our history, the disabled have been forgotten. Now, America has started to say no more to that mode of thinking. At this time, on this bill, say yes to allowing Americans with disabilities the means and the opportunity to exercise the most sacred right America offers.

I encourage my colleagues to support this bill and take an important step toward ensuring America's future as a participatory democracy.

Mr. THOMAS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition to this bill.

I rise in strong opposition to this legislation. Increasing voter registration is a noble goal, but this measure falls far short of the mark. Let's consider the facts:

This bill not only invites fraud—it virtually guarantees it. The Justice Department has reviewed the measure and deemed it "fraught with the potential for fraud * * * and electoral corruption."

This bill does not mandate any program to verify an applicant's address. There is no provision to ensure accurate, current voter registration lists, and there is an unreasonably strict limitation on standard means of purging old lists.

By targeting State offices which provide public assistance, the bill creates an unacceptable bias, one which is bound to result in partisanship. Why are such entities as public schools, libraries, marriage license bureaus, and the offices of city and county clerks not included?

This bill would run roughshod over traditional States' rights and impose unreasonable new costs on those States. It requires the Federal Election Commission [FEC] to prescribe such regulations as are necessary, without compensating the States for any increased costs.

The only way for a State to avoid unwanted new costs would be to allow election day registration, another step down the road to fraud.

Finally, this bill has never seen the light of day in committee. In comes to the floor only by bypassing the hearing process.

I strongly support the concept of simple, honest, accurate voter registration. But S. 250 is not the answer. Instead, it guarantees only partisanship, fraud, and wasteful spending. I urge its defeat.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS], the distinguished deputy majority whip, and, Mr. Chairman, the fact is that the gentleman from Georgia [Mr. LEWIS] has marched in many voter registration drives, was a leader in the march on Washington in 1963, and has created a career as a civil rights and voter rights leader in America.

Mr. LEWIS of Georgia. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to urge Members of this body to support S. 250, the National Voter Registration Act.

As elected officials, we have a responsibility to encourage citizens to vote. We also have an obligation to protect their voting rights.

Before they can vote, they must register to vote. The reality is that it is not always easy or convenient to register to vote.

This legislation would make it easier and more convenient for millions of Americans to register to vote. It would increase voter participation in the political process.

We have an opportunity to expand democracy by supporting the National Voter Registration Act. As we all know, the United States has the lowest rate of voter turnout among the world's major democracies. In the 1988 Presidential election, turnout fell to 50 percent, the lowest turnout in the past 64 years. That figure is a function of the fact that only 61 percent of the eligible voting age population is actually registered to vote in this country.

Only 61 percent are registered to vote. Only 50 percent actually voted.

With this kind of voter turnout, America is becoming a government, of, for and by a few—a few who can afford to take time off from work to register, or the few who have transportation to travel long distances. Many people in rural areas must travel 50 or 60 miles to the county courthouse to register to vote.

The major barrier to voter participation is registering to vote. When you ask people why they do not vote, they say that registering to vote is a hassle. It is not convenient. Registration facilities are located in a few, out-of-the-way places. Registration hours conflict with work hours.

This bill makes it possible for people to register to vote where they work, where they get their drivers' licenses, where they do business, and by mail. It also makes it easier for disabled Americans to register to vote.

Mr. Chairman, more Americans want to vote.

Mr. Chairman, when more Americans have an opportunity to vote, it will renew the strength and vitality of our democracy.

In 1965, to be exact on March 15, 1965, Lyndon Johnson, the President of the United States, stood right behind me at this podium and endorsed the Voting Rights Act of 1965. At that time in our country, hundreds and thousands and millions of our citizens could not register to vote simply because of color. That act was passed by Congress and signed into law on August 6, 1965, and opened the doorway, made it possible for millions of people to become registered voters. That was a great step. By passing this act today is another significant step to open up the political process and letting all of our citizens come in and participate.

This is a good bill. It is the right thing to do.

I strongly urge you, my colleagues, to support S. 250, the National Voter Registration Act.

Mr. THOMAS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the ranking member of the Subcommittee on Elections of the Committee on House Administration, who, as ranking member of that subcommittee, has not had a chance to review this legislation.

Mr. LIVINGSTON. Mr. Chairman, I rise in opposition to S. 250. While I strongly support increasing voter registration and encouraging participation in the electoral process, I do support expensive Federal mandates which promote fraud.

This bill contains much more than the motor-voter provisions implied by the bill's nickname. S. 250 requires the States to implement mail registration, with registration at welfare and unemployment offices, and encourages States to adopt election day registration. All in a costly Federal mandate with no funding to help the States comply with big brother's wishes.

This is not a serious bill. The Democrats have done a great job of loading this turkey up with every fraud-inducing provision possible to gain a certain veto.

Coming from Louisiana, I know something about election fraud. There have been several celebrated voter fraud cases in Louisiana in recent history. One case occurred in my home district. Therefore, I am very concerned about legislation which would open the door to widespread fraud.

The very purpose of voter registration laws is to ensure the integrity of the elections process. This bill would jeopardize that integrity by opening the way for fraud. S. 250 requires the States to accept registration by mail, while simultaneously forbidding the States from requiring notarization or other formal authentication. So, just mail it in. Popeye can register, Porky Pig can register. What the heck, register your cat.

The bill also requires the States to provide registration at unemployment and welfare offices, but fails to include public schools, libraries, city and county clerks, and other bipartisan locations. Clearly, registering more Democrats is the intent of this bill. Applicants for public assistance could be highly susceptible to coercion by public officials, or to the perception that their benefits were linked to registering for the right party.

In 1991, the St. Louis Post Dispatch reported an ongoing investigation into allegations that public assistance employees were routinely registering public assistance applicants, suggesting who they should vote for, and even taking them to the polls. These cases will increase as we require every welfare official in every State to register welfare recipients.

This bill contains a provision that is either a glaring loophole or a devious attempt to undermine the entire voter registration system. Section 4 of S. 250 states that the act does not apply to a State if all voters in the State may register to vote at the polling place at the same time of voting in a general election for Federal office. Therefore, if the States do not want to comply with the costly and onerous mandates of S. 250, they simply must allow election day registration. Merging the registration and the voting process into one simultaneous act would totally preclude meaningful verification of voter eligibility. This is truly a farce. This is not a motor-voter bill, it is an election-deception bill that in effect does away with the voter registration.

The States have every right to implement these new voter procedures if their State legislatures approve them. In fact, 17 States have adopted some form of registration while applying for a driver's license. However, the great things promised by the supporters of motor-voter have not been fulfilled. The nonpartisan Congressional Research Service studied the changes in voter participation resulting from enacting motor-voter registration systems prior to the 1988 Presidential election, eight States displayed declines in the percentage of voting age populations voting in elections after the adoption of motor-voter registration.

No wonder the Senator from Kentucky, the chairman of the Senate Rules and the Sponsor of S. 250, stated on the Senate floor on May 19, 1992, that, "This bill has never purported to increase voter turnout. It never has." Well, then why the heck are we risking all this fraud if we aren't going to increase voter turnout.

Supporters would have you believe that the bill has a program for removing ineligible voters. However, the bill only says that the States shall conduct a general program that makes a reasonable effort to remove ineligible voters. This general and reasonable program may not remove a name for not voting. It may not remove a name unless the registrant requests removal in writing or fails to respond to a mailed notice and does not vote in two general elections. In other words, the States can have a voter removal program but it cannot have any teeth.

Human Serve, a group opposed to removing names from voter lists, wrote about S. 250 that:

> Even though people drop off the driver/ID or human service agency lists, they will not be struck from the voter registration lists. First, the act provides that addresses must be checked by mail notices. And even if that suggests people have died or moved, they still will not be purged. * * * It is hard to see how people could be given greater opportunity to keep their registration status current.

I agree. It is also hard to see how a State could maintain reliable voter lists under this graveyard voter registration act.

This so-called motor-voter bill opens up numerous avenues for voter fraud and causes a hearty case of sticker shock for the States who must pay for it. It prevents States from verifying their voter lists and CRS says it won't increase turnout. In short, it is a bad bill which will undermine the integrity of the electoral process. I urge my colleagues to vote against S. 250 and in support of the Republican substitute.

Mr. Chairman, I am submitting a formal statement for the RECORD, but at this point I would like to make some informal comments at this time. The gentleman that preceded me yields to no one in advocacy of civil rights. He is a civil rights hero in this Nation.

In 1965, because of his efforts and many others in this Chamber and others throughout America, the sacrifices that they made came to fruition, and we passed the 1965 Voting Rights Act.

Today American citizens are free to vote. They are free to register. They are free to go to the polls and cast their ballots for the candidates of their choice. But they are also free not to vote. They are also free to decline to cast their ballot, unless, of course, we pass this law which binds them to register, intimidates them to register, and induces individuals to take advantage of the electoral process.

□ 1540

Human Serve, a group advocating this legislation, is opposed to the removal of name from the voter list.

Now, when people die, you would think they should have their names removed from the voter list. When people move away, they should have their names removed from the voter list. When people for some reason or another choose not to go to the polls and exercise their privilege of voting, perhaps they should have their names removed from the voter list; but Human Serve says no.

They also said,

> Even though people drop off the driver ID or Human Serve Agency list, they will not be struck from the voter registration list under this legislation.
>
> First, the Act provides that the addresses must be checked by mail notices. And even if that suggests people have died or have moved, they still will not be purged. It is hard to see how people could be given a greater opportunity to keep their registration status current.

I agree with that, because if this provision passes, Lord knows you could stand on your head in an insane asylum for years and years and still be registered, even though you never left the place. You would still be registered to vote, and if somebody wanted to take advantage of your registration and go in and cast your ballot for you, they could do it. It would not take much.

This bill tramples on States rights, Mr. Chairman. The Justice Department asserts that S. 250 would deny the States their historic freedom to govern the electoral process and questions whether or not the bill is even constitutional.

They point out that if this bill passes, it would usurp the rights of States to govern their own election process.

Throughout the history of this country and certainly since the 1965 Voting Rights Act was passed, States have the right to govern their own voter registration system. This bill would change that. Proponents would say you have to abide by Federal mandate in each and every State, that you have to provide for same-day registration, that you have to register people under circumstances proscribed by Federal law.

Even though such Federal mandates would cost the States an incredible amount of money to implement, they have still got to do it. They are forced to do it.

Freedom is taken away from the States, and the boot of Big Brother is imposed upon the States to implement this legislation.

Now, 10 States alone have estimated that the mandates in this bill would cost $87.5 million to implement the provisions. Many States are already running record deficits, but that does not matter. They will be forced to live by Federal rules.

If this legislation were to pass, we would require the Federal Election Commission to regulate each and every State. That means a big bloated bureaucracy would be looking over the registrar's shoulders to make sure that they are doing what Big Brother said they should do.

The FEC would prescribe such regulations as are necessary to carry out the act. They would generate universal voter registration application forms. And they would require each State to live by their article.

In other words, the Federal Government in Washington would prescribe the rules which the State must follow and the hoops through which they must jump.

Now, there are several other mandates, though. This bill requires that people be entitled to register by mail. It also specifically designates registration at welfare offices and also encourages same-day registration; that is, you walk in and you say that you have a driver's license, you want to vote at this particular poll. After all, if you have a driver's license, you should be able to vote.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. LIVINGSTON] has expired.

Mr. THOMAS of California. Mr. Chairman, I yield 2½ additional minutes to the gentleman from Louisiana.

Mr. LIVINGSTON. What that means, Mr. Chairman, is that it is going to be incredibly easy to walk into the polls and to cast a ballot—anytime you want.

Now, is that good or bad? I think certainly people should have as few restrictions on them as possible. But that ought to be regulated by a State. Some States already have many of these provisions, and that is fine. If they want to do that, let them do it; however, I might also add that for those States that have such provisions, the turnout at the polls is not necessarily increased, as the gentleman from Georgia [Mr. LEWIS] was concerned about. Actually, States with mail-in registration show decreases in turn out rates after the introduction of mail registration procedures.

More States with motor-voter registration systems showed declines in voter turn out rates after the adoption of motor-voter registration procedures. So a motor-voter bill is not necessarily going to increase turnout.

If people do not want to vote, they are not necessarily going to vote because of this legislation. But, this bill is going to increase the possibility of fraud.

My own district 16 years ago was involved in a case of fraud, not by me, but other people involved in the election were involved in fraud. Several people ended up going to prison.

Fraud exists. If people want to take advantage of the current system, they can do so, but by passage of these Federal mandates, we will make it very easy for people who want to take advantage of the system to induce people to go to the polls and cast ballots even though they are not legally entitled to do so. That is going to undermine democracy.

Mr. Chairman, I urge this House to reject this bill, because if we are going to make it easier to destroy democracy and allow people to cast invalid votes, then we are not about serious business in this House.

Mr. Chairman, I urge rejection of this bill.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, first of all, I would like to thank the gentleman from Washington [Mr. SWIFT] for yielding me time on this very important issue.

Mr. Chairman, I rise today in strong support of S. 250, the National Voter Registration Act.

I would first like to compliment the author of this legislation, Mr. CONYERS, and the chairman of the House Administration Elections Subcommittee, Mr. SWIFT, for their continued dedication to this cause.

As a member of the campaign finance reform task force, which brought H.R. 3750, the Election Reform Act of 1991, to the floor late last year, I have spent a great deal of time over the past year and a half exploring the problems of our current set of election laws. While there are partisan differences on many issues, one point that cannot be argued is that voter turnout is too low, and that Congress must do everything in its power to bring the people back into the electoral process.

The object of this bill is an area of deep concern, not only to those of us who serve in this Chamber, but to every American who marks a ballot. For this bill ensures that every one has an equal and unobstructed chance to cast their vote for Federal office holders.

While we have come a long way from the days of poll taxes and literacy tests, a maze of inhibiting local laws and procedures—often as restrictive as these outlawed practices—remains intact.

My home State of Wisconsin has been one of the most progressive in eliminating barriers to the polls. Since 1976, Wisconsin has been among the three States that offer election day registration at the voting site. I am proud to say that it has ranked among the top four States in voter turnout in each of the last four presidential elections.

And according to our State elections board, there has not been a single report of voter fraud in that time.

I am confident these statistics are due, in part, to the access to the polls Wisconsin provides its voters. Voting records, tabulated by the Congressional Research Service, show that States with the election day registration—clearly the most far-reaching registration system—average nearly 14 percent higher turnout than States without it. While S. 250 does not have a national same day registration requirement, a goal I hope this Nation will some day reach, I believe this bill will greatly increase accessibility to the polls and voter turnout.

It is generally accepted that between 75 and 80 percent of those citizens who are registered vote in Presidential elections. However, only about 61 percent of the eligible voters are registered. Thus, even a relatively good turnout of registered voters will only produce an overall participation rate in the low 50 percent range.

Statistics from the Department of Transportation indicate that approximately 87 percent of the population 18 years and older have driver's licenses. Furthermore, 3 to 4 percent of the adult population have identification cards issued by State motor vehicle agencies. So essentially 90 percent of the population 18 years or older—many of those coming from demographic categories least likely to be registered—would be reached by this procedure.

Mr. Chairman, over 150 years ago, when the Congress passed laws allowing non-land owners to vote, it took the first steps toward the enfranchisement of all Americans.

We can be part of this enfranchisement process today by voting for S. 250, and bring the process of democracy to more of our citizens.

Mr. Chairman, Congress not only has the right, but the duty to make Federal elections as accessible as possible.

I believe S. 250 takes a strong step toward fulfilling that duty. I urge my colleagues to join me in supporting the National Voter Registration Act.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Michigan.

Mr. CONYERS. First of all, Mr. Chairman, I want to commend the gentleman as a distinguished member of the Committee on Government Operations, but to point out that his State and other States have same-day registration which he strongly supported and was in the previous bill. It was compromised out. That does not mean it will not be coming as soon as we can bring it in.

Mr. KLECZKA. Well, in response to the gentleman, the previous speaker indicated that this system, this motor-voter system, with the other registration could have the effect of decreasing voter participation, and I say that is clear nonsense. I think the more we open up the system, the more participation that we will see.

Again let me repeat, the State of Wisconsin with its on-site registration has on average nearly 14 percent higher turnout than States without it, so let us not kid anyone. If we do not want people to vote, let us eliminate elections and we will be appointed for life by some higher body.

It seems to me that the minority party fears people voting in this country, and with the President's threatened veto, I think that is very sad.

Mr. THOMAS of California. Mr. Chairman, I yield myself such time as I may consume.

Let us make sure that we do not get carried away with the rhetoric here about who is for people voting and who is not.

This gentleman cosponsored a bill which was a major outreach bill. One of the fundamental differences between the bill the Republicans supported and this bill is that we believe that if you mandate requirements to the States, you should pay for them.

□ 1550

There is no question that the Democrats are not familiar with this concept, that if the Federal Government mandates there should be dollar amounts tied to it. There is no question that you folks have a clear history of Federal mandates with no funding. I understand that.

One of the things we tried to do in the compromise was to get you to understand that if we are going to have States cooperating in this effort, that if we are going to mandate States, we should fund it. You have failed to understand that point that was in H.R. 2190. It is not in S. 250.

The gentleman from Maryland talked about the fact that this was an outreach to disabled. There are clear, specific requirements for outreach in S. 250, to those on welfare, unemployed, and the disabled. Not only is there an outreach to those who are disabled who come into the State agency, but if the State agency offers programs for the disabled that are in the home, this bill mandates that it be done in the home as well. Is there anything wrong with that? No, of course not. But if we mandate it, should we pay for it? Yes.

That is one of the fundamental flaws with your approach. You simply want to order, you want to dictate, you want to require, you want to mandate; you just forget one other word, and that is "fund."

In H.R. 2190, mandating and funding went together.

In S. 250, a classic partisan document, you mandate with no funding.

Mr. Chairman, I reserve the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman for that generous yielded time.

Mr. Chairman, I rise in very strong support of his bill. As the gentleman knows, it was authored in the other body by the senior Senator from Kentucky, Senator FORD.

I am for the bill because it strikes a blow for better voter registration, for better voter turnout, which I think would result from better voter registration, and, with better turnout, I am voting for better government.

I would also hasten to add my support for the gentleman from Washington's campaign finance reform bill, which the President vetoed. I think as a total package of making government receive the people's attention, I think that that bill more accessible and more prone to ought to pass at some stage.

Using my own State of Kentucky as a case in point, Mr. Chairman, only 17 percent of the eligible Kentuckians voted in the May primaries. Only 30 percent of eligible Kentuckians voted in last November's general election. Some 800,000 Kentuckians are not even now registered.

This bill makes a modest step in that direction by allowing people to register to vote when they get their licenses, auto licenses, allows people to register to vote at public places like schools and libraries and also establishes a uniform system of mail-in voter registration, which we also have in Kentucky.

Mr. Chairman, some say that people do not vote because they are content and satisfied; others say people do not vote because they are disaffected and alienated. But among the reasons people may not vote is the difficulty to register, and this bill helps correct that. Part of what we should do as public people and what our public policy ought to be is 100 percent voter registration, 100 percent voter participation. This bill makes a step in that direction.

I am very much for the bill, and I hope this House resoundingly passes this into law.

Mr. CONYERS. Mr. Chairman, Democrats, Republicans, and Independents support this measure. One of the Independents who serves with great distinction on the Committee on Government Operations is the gentleman from Vermont [Mr. SANDERS], to whom I yield 2 minutes.

Mr. SANDERS. I thank the chairman for yielding this time to me, and congratulations to him for his work over the years on this important issue.

Let us be clear what we are talking about this afternoon. What we are talking about is the most fundamental and important issue that this institution can address, and that is whether or not we are satisfied that the United States of America today is at the bottom, the bottom of the list of industrialized nations in terms of voter turnout? Are we happy that last congressional elections, two-thirds of the American people did not vote and the estimate is that this presidential election half the people will not vote? Are we happy that 90 percent of poor people do not vote and 3 out of 4 young people do not vote?

What this issue is about is opening the doors of democracy to all of our citizens, to make it as easy as possible for all people, for the young, for the poor, for the working people to participate in the political process.

When this country was formed, it was rich, white men who could vote, and people struggled; then it was all white men. Then finally, after women fought very hard, it was women as well. And after minorities and blacks fought very hard, we allowed black people the right to vote.

What this legislation says is that if you are an American citizen, if you are over 18 years of age, you should vote, the door is open to your voting, we want you to vote.

If you believe in democracy, if you believe in the right of people, all people, to control the future of this country, we must support this legislation.

Mr. Chairman, I urge a strong "yes" vote.

Mr. THOMAS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this bill, and it is always a treat to rise right after my friend from Vermont because we discovered that we do not agree on much of anything. And that is true also in this case.

One of the reasons, Mr. Chairman, that people are not voting is because the Federal Government has their nose in everybody's business. I think that is part of the process here.

So if we want to deal with voting, it seems to me we ought to deal with it on the level where people live, and that is what I object to.

Mr. Chairman, I rise in opposition to the bill. There are real questions of workability of the plan. There are real questions about the cost to the local offices that do this. I think there is question about insuring it is free from fraud.

But the real reason that I rise is the notion that other than the idea that we ought to protect the civil rights of everyone for an opportunity to vote and not to be barred from voting is this ought to be an issue of local government. I am a little surprised at my friend, who comes from being a mayor and from local governments, that he wants to turn this matter of registration and qualifying for voting over to the Federal Government.

So I think we do a pretty darned good job in Wyoming. We have people that can come in and register, we register in the primary, there is no problem with registering. You can register as you vote. If you are handicapped, people will come and bring your registration for you.

We think it is a pretty good deal.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. Let me finish my enthusiasm for what you spurred me on to here first.

We are talking to the voting election officers in our State, the secretary of state, the county clerks, who do not think that this is a necessary item and indeed do not believe it ought to be, that the folks in this room or any other room in Washington know any more about registering voters than they do, and indeed will not do a better job.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Vermont.

Mr. SANDERS. I thank the gentleman for yielding.

Mr. Chairman, in terms of how well States do, let me ask the gentleman a question: If 3 days before an election, a voter suddenly becomes interested in the issues of the day or a particular candidate, walks into a local board in Wyoming and says, "I am ready to vote, I want to vote," can that voter vote?

Mr. THOMAS of Wyoming. You cannot vote unless you have registered in the primary.

Mr. SANDERS. So what the gentleman is saying is that in the heart of the political season, when people are most attuned to the political process, they cannot vote?

Mr. THOMAS of Wyoming. I am saying that the political process goes beyond the last week before an election, and I think it is probably a good thing to have been involved along in an election. We have a system where indeed you can vote.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the chairman and join in thanks to both chairmen for this legislation.

Mr. Chairman, out our way in Montana we have one of the highest registration and get-out-the-vote percentages of any State in the Nation. But nonetheless, a year ago in January, the Montana State Legislature, in an effort to improve our registration and our voting percentage, implemented a law that is very similar to the one we are considering today. It is the Montana motor-voter program.

□ 1600

It went into effect in October of last year, and, since that time, more than 1,700 Montanans each month have been using the services to either register or update their registration.

As this is related to fraud, Mr. Chairman, I talked to our Secretary of State, Mike Cooney, and he tells me, "No, there guarding against the possibility of fraud," and, "No, they're has not been a single case of fraud in Montana," he tells me, "since this act has been implemented."

Mr. Chairman, I really think now is the time for us to move on to a Federal law of this kind, now, particularly as we move into the heat of an election year.

Article by Mike Cooney follows:

Earlier this month, syndicated columnist George F. Will wrote a column in which he described the National Voter Registration Act pending in Congress (S. 250), as "another example in missing the point." I disagree.

In his widely circulated column, Mr. Will argues that it is acceptable and perhaps preferable if barriers to voting are "filtering out the unmotivated, who are apt to be the uninformed." Perhaps Mr. Will has forgotten the very basics of our democracy. The Constitution of the United States of America does not start, as Mr. Will seems to suggest it should: "We the motivated and informed people," and our rights as Americans are not dependent upon our ability to pay a poll tax or pass a literacy test.

The rights that our ancestors fought for and which brave Americans are fighting for today, are guaranteed to all Americans. Of these rights, the right to vote is perhaps the very cornerstone of our rich past and our promising future.

The National Voter Registration Act currently pending in the Congress, and known commonly as the "Motor-Voter" bill, will further enhance access to the electoral process for all Americans. The measure is really quite simple. If passed, the bill would mandate that states develop a program to allow individuals applying for a drivers license to simultaneously register to vote. In addition, mail in registration and agency based registration programs would be implemented to further increase public access to the voter registration procedure.

Unlike Mr. Will, I believe that this is government at its best. It is the fundamental responsibility of a democratic government to make laws that protect the basic rights of its citizenry. The National Voter Registration Act not only reaffirms the importance of our right to vote, but it implements a set of programs that make it easier for all Americans to utilize the power of the vote.

It is here that Mr. Will and I have a significant disagreement. Mr. Will does not believe that it should be easier to vote. In fact, he further leads his readers to believe that the 26th Amendment to the Constitution, the Voting Rights Act and other progressive measures of the 1960s designed to increase access to the system, have provided exactly the opposite result.

This is patently absurd. How many times have you heard anyone say, "I don't want to vote because it is too easy?" Without question, voter participation in America has declined since the early 1960s. However, to correlate this decline to reduction in barriers to voting is not dissimilar to attributing the rain to the fact that you washed your car. While both events took place, a causal connection is not likely.

Rather, in the case of voter participation, it is more likely that an anti-government reaction stemming from the war in Vietnam, Watergate, Abscam, Iran-Contra, and the S&L crisis have been the root of increased public skepticism about our political process.

The real question, however, is what we do now to encourage more Americans to register to vote and to vote on election day. While I agree with Mr. Will that part of the solution is incumbent upon government officials to uphold the public trust, I disagree that we should sit on our collective hands when it comes to implementing a program that will provide an additional access point for more than 90 percent of all voting age Americans to become part of the electoral process. And getting these citizens registered to vote is a crucial step, because people who are registered to vote, go to the polls and vote. U.S. Census Bureau figures show that since 1976 some 85 percent of those registered actually cast a ballot in presidential elections.

It is going to take some time for politicians to regain the public trust, but we can and should pass the National Voter Registration Act this year.

In Montana, we passed a Motor-Voter bill this past January that will go into effect on Oct. 1, 1991. This program will effectively cut bureaucratic red tape by allowing Montanans to register to vote when they get or renew their drivers licenses. The "I'm-sorry-you'll-need-to-go-to-another-agency-to-do-that" shuffle will end, and the public will be much better served.

Will passage of S. 250 provide an immediate solution to the problem of declining voter participation? No. Will passage of this measure make the problem worse? No. Will passage of the National Voter Registration Act cut bureaucratic red tape and make it easier for Americans to register to vote? Absolutely, and this is the point that Mr. Will has missed in his column, and that I hope the Congress will not miss when they vote on passage of this bill.

It's time to reject the scare tactics of conservative nay sayers in whom Mr. Will has clearly held too much stock and move ahead with a measure representing what is best about our democracy. Our democracy is great because we are free to determine our own fate, as individuals and as a country. We can elect our representatives and we can throw them out when we chose. We do this on our own; each with our own background, beliefs and dreams.

In the words of President Franklin D. Roosevelt, "Inside the polling booth every American man and woman stands as the equal of every other American man and woman. They have no superiors. There they have no masters save their own mind and consciences."

This is as it should be.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON. Mr. Chairman, I rise today in strong support of the motor-voter concept embodied in this legislation. In my home State of Washington.

a State with the foresight to have already adopted motor-voter, 800 to 1,000 new voters are being registered every day. Much of the credit goes to our Secretary of State, Ralph Munro. The program has been in place for only 5 months, yet a remarkable 100,000 voters have already been added to the registration rolls. Motor-voter works.

My friends, we have an opportunity today to bring folks across the country back into the democratic process. Making the voting booth—the foundation of our democracy—more accessible, is a goal Members from both sides of the aisle should embrace.

For those who contend that motor-voter will increase State costs, let me again take you back to my State's example. In Washington, motor-voter costs no more than 40 to 50 cents per transaction—the lowest per-transaction cost of any form of voter registration. And we have found no evidence of the increased fraud which opponents of this bill are trying to sell to you today.

In short, this is commonsense legislation. Bringing the millions of unregistered voters into our system strengthens and legitimizes our democracy. I can't think of a more laudable goal, and urge all of my colleagues to give this legislation their strong support.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. MORRISON. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I applaud the fact that the State of Washington has adopted their own law. They did it without the passage of this Federal legislation.

Why is it that the gentleman is looking at the success in the last 5 months, the untested success of the last 5 months, in the State of Washington and seeking to impose upon the entire Nation an additional cost, whether or not States wish to implement this legislation or not?

Mr. MORRISON. To the gentleman from Louisiana all I can say is, "We like to share a good thing."

Mr. LIVINGSTON. And I say to the gentleman from Washington, "We'll take your apples. You can have the legislation."

Mr. THOMAS of California. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I think it interesting to note that both the gentleman of Montana and the gentleman from Washington, who have indicated they have just instituted a motor-voter procedure in their States, also have a purging procedure in their States. Montana removes people from the rolls for failure to vote. Washington removes people from the rolls for failure to vote. So, there is no question that States who have an outreach program, who put people on the rolls, who have a punitive procedure for removing them by taking them off the rolls if they do not vote, will have clean rolls.

It is ironic that the gentleman from Washington supports Federal registration which mandates putting people on the roll, but provides no funding or real mechanism in the States to take them off the rolls. It would be convenient if every State could have this kind of a procedure so that they could keep their rolls clean. The legislation does not parallel either the election laws of the State of Montana or the election laws of the State of Washington.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I just came to the floor, and is the gentleman telling me that, under the bill that we have before us, that the States would not be able to purge their rolls of these folks that were added through drivers' licenses?

Mr. THOMAS of California. The authors of S. 250 are more than generous in the bill, telling the States that if they wish to get the deadwood off the rolls, that they should do so with their own State funding. They mandate putting people on the rolls, but they do not provide funding to remove them, in direct contravention to the bipartisan H.R. 2190 which provided an outreach and a funded removal mechanism.

Mr. WALKER. So, if a college student came to a college in my area, applied for a driver's license at that address, got registered to vote at that point, then moved away years later, he could still be on the rolls in that community.

Mr. THOMAS of California. It depends upon the particular State. With all of these names being mandated by this bill to be added to the voter rolls, it is up to the State then, with its own resources, to try to figure out a way to counter it. Some States have on the books the ability to purge their rolls. Others do not.

Mr. Chairman, the problem with this legislation is that it is classic mandating without funding, one-half of the requirement.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am delighted to find out that there is something in writing about what the President may do about this bill, But it does not come from the President. It comes from the Office of Management and Budget, and maybe that is the same place; I do not know.

But nowhere on this document, generously provided to me by my friend from California, does it say that the President is going to veto this bill.

I am doing this in defense of Republicans. Nowhere does it say the President is going to veto this bill. So, if anybody is worried about the President further lowering his rating, which now stands at an all-time low of 34 percent in the polls, he is not about to make that mistake.

Mr. Chairman, what he did say, somebody in OMB, maybe Mr. Darman, said that the administration opposes S. 250 in its current form. He did not say that he would veto it.

That is my contribution to good bicameral government today.

Mr. SWIFT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in support of S. 250, the National Voter Registration Act. This bill will make it easier for eligible citizens to register to vote while at the same time strengthening antifraud measures.

S. 250 would permit voter registration simultaneously with application for a driver's license. Since most Americans are licensed to drive, this is a simple, cost-effective means to facilitate voter registration for all eligible voters.

In order to reach those who don't have driver's licenses, the bill would allow voters to register when they apply for many other public certificates, such as hunting permits or marriage licenses. It would also let citizens register by mail and in person at a host of Government offices, where the opportunity to apply for registration is offered along with whatever services the agency normally provides.

S. 250 is an important step in the ongoing effort to expand voter registration. The bill will also help open up all aspects of public life to Americans with disabilities, many of whom have difficulty registering under current procedures.

S. 250 contains strong antifraud measures to safeguard against abuse. It mandates that all the requirements for eligibility to register are clearly stated, and that the applicant sign under penalty of perjury. States may require that a first-time voter who has applied by mail make a personal appearance to vote. Federal criminal penalties would apply to any person who knowingly and willfully engages in fraudulent conduct.

I support this legislation because increasing voter registration is a first step toward bringing more Americans into the political process. Over the past decade, we've seen voter participation in Federal elections steadily decline. In the 1988 Presidential election, turnout dropped to 50 percent, the lowest participation rate in the last 64 years. According to the League of Women Voters, about 70 million Americans who are eligible to vote are not registered. Clearly, this must be cause for alarm. It's been estimated that nearly 90 percent of all eligible voters would be registered if S. 250 were enacted. That's why this bill is so essential.

S. 250 would give all Americans earlier access to the most fundamental right our country affords its citizens—the right to be a part of our democratic legislative process. All folks should have their voices heard come election day. With so many vital issues facing the Nation, and with growing public discontent over the political process, it's essential to expand opportunities for voter registration. I urge adoption of S. 250.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of S. 250, the National Voter Registration Act of 1991, and wish to thank the chairman of the subcommittee, the gentleman from Washington [Mr. Swift], for helping to bring this measure to the House floor.

Mr. Chairman, most of us are fully aware that participation in our Nation's elections is not what it should be. Particularly in non-Presidential election years, participation by those eligible to vote is alarmingly low. The process of registering to vote is cited by many as a reason for not voting.

S. 250, which is virtually the same as H.R. 2190, which passed the House by a vote of more than 2 to 1 last Congress, is designed to encourage more eligible citizens to vote by directing States to incorporate voter registration into applications for drivers' licenses and by permitting registration by mail and through certain State agencies, including State public assistance, unemployment, and very importantly, disability offices. The bill also establishes penalties for election officials attempting to coerce voters to join a certain party or vote for a certain candidate.

In addition, Mr. Chairman, through the motor-voter provisions of the bill and use of our U.S. Postal Service's national change of address [NCOA] system, States will be able to save thousands of dollars and be much more accurate in the maintenance of up-to-date voter registration lists.

In sum, this measure encourages voter participation by providing greater access for registration, incorporating anticorruption efforts, and providing flexibility to the States to clean up their registration rolls. Accordingly, I urge my colleagues to support this measure, bearing in mind that good government is dependent upon an alert, concerned, and an active citizenry.

Mr. CONYERS. Mr. Chairman, I yield half of the time remaining that the gentleman from Washington [Mr. Swift] has generously given to me, 2 minutes, to the gentleman from Mississippi [Mr. Espy] who is a direct product of the Voter Rights Act of 1965.

Mr. ESPY. Mr. Chairman, I appreciate the gentleman from Michigan [Mr. Conyers] yielding this time to me, and I appreciate his offering this very important legislation.

Mr. Chairman, at a time when millions of Americans are alienated from our political system, this legislation helps to accomplish two very important purposes. First of all, it encourages citizens to register, and it makes it more convenient, second, for them to do so.

Now to the gentleman from Louisiana [Mr. Livingston] I say, "We know already that all Americans are free to vote and free not to vote. That's not the issue. That's been well settled a long time ago with the blood and sacrifice of many heroes and heroines."

The point is that oftentimes in rural States like Mississippi it is not convenient to vote, and I think that is a worthy and legitimate purpose for government. So, by this bill, it allows eligible voters to register by mail, it automatically registers them when they get a drivers license, and it allows voters to register when they conduct business at State and Federal agencies, all very important provisions in States like mine.

□ 1610

This legislation also provides for uniform and nondiscriminatory verification to ensure that voter registration lists are kept up to date.

Mr. Chairman, in part I am proud to say that some of the changes in this bill were recently adopted by the Mississippi Legislature, a State with a sordid history, as the gentleman from Michigan [Mr. Conyers] has already noted, of obstruction to voter participation. So it is a sign of the tremendous progress in my State that we have already passed some of these provisions.

So in furtherance of that, I hope that the Congress will pass this bill today as a sign of progress throughout all of our Nation, and urge all of my colleagues to support this very, very worthwhile bill.

Mr. SWIFT. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. de Lugo] for the purposes of entering into a colloquy.

Mr. de LUGO. Mr. Chairman, I would like to ask the gentleman from Washington [Mr. Swift] a clarifying question.

The initiatives in this bill should go a long way in simplifying and expanding voter registration in this country as such, I want to commend the gentleman from Washington [Mr. Swift] and Congressmen John Conyers, prime sponsor Charlie Rose, John Lewis, and staff on a fine effort.

Some in the insular areas have expressed an interest in these types of voter registration methods. As chairman of the subcommittee with jurisdiction over the insular matters, I will be speaking with insular leaders, including the Governor of the Virgin Islands, about this and the possibility of including the insular areas by an amendment through my subcommittee. It is my understanding that you and the primary sponsor do not object to this. Is that correct? And may I count on your support if such an amendment were to be included in legislation reported by my subcommittee?

Mr. SWIFT. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, that is absolutely correct.

Mr. de LUGO. Mr. Chairman, may I count on the support of the gentleman from Michigan [Mr. Conyers] and the gentleman from Washington [Mr. Swift] if such an amendment were to be included in legislation reported by my subcommittee?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, I think that is a fine idea.

Mr. SWIFT. Mr. Chairman, if the gentleman will yield further, I would support the subcommittee in that area.

Mr. de LUGO. Mr. Chairman, the American citizens in the insular areas thank both of these fine leaders.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. Morella].

Mr. THOMAS of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland.

The CHAIRMAN. The gentlewoman from Maryland [Mrs. Morella] is recognized for 3½ minutes.

Mrs. MORELLA. Mr. Chairman, I rise today in support of S. 250, the National Voter Registration Act. By opening up the political process, I believe this bill is good for the democratic process and the American people.

One of the most fundamental rights protected by our Constitution is the right to vote. I believe every Member of Congress will agree that the American people's ability to vote must be protected, nurtured, and even facilitated if our political system is to be preserved.

The 36-percent national voter turnout in the 1990 congressional elections, the lowest turnout since 1942, should be a serious warning to our Nation that our constituents are becoming increasingly disenfranchised from the political process.

When tied to driver licensing and State ID's, voter registration becomes readily accessible to over 90 percent of the population, and getting voters registered is the key to high voter turnout. The most often heard explanation for why Americans do not vote is that they do not register in time. This bill would make the registration process virtually effortless and statistics show 80 to 90 percent of the registered voters participate in Presidential elections, even when overall voter turnout is low.

States, who have motor-voter programs have not only increased political participation but have also significantly decreased costs of registration. This, too, is an objective that follows no party lines.

The greatest concerns raised regarding S. 250 are the potential risks of fraud through mail registration and lax list-cleaning procedures. The successes of existing State motor-voter programs are proof that these concerns are unfounded.

For example, Oregon has had mail registration for 17 years without a single case of fraud, and Minnesota and Washington have had similar experiences. However, this bill is anything but indifferent to the threat of fraud. It provides for strong criminal penalties for fraud, mandatory address verification procedures, and requirements to remove from the voting rolls the names of those who have died or moved out of the jurisdiction.

Mr. Chairman, with passage of the Voting Rights Act of 1965, Congress made a historic stand for the voting rights of the American people. Today, we have an opportunity to again engage millions of Americans, especially the disabled and the elderly, in our participatory democracy. Let us not pass up this opportunity. I urge my colleagues to support this legislation.

Mr. LIVINGSTON. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, the gentlewoman from Maryland [Mrs. MORELLA] has made the point that this bill would increase turnout. I just wondered if the gentlewoman is familiar with the bipartisan Committee for the Study of the American Electorate, which found that declining voter participation cannot be attributed to problems in registration and voting laws since it has occurred during a time when registration and voting laws generally have been altered to make registration and voting easier.

Furthermore, the chairman of the Senate Rules and sponsor of the bill said not too long ago that, "This bill never purported to increase voter turnout. It never has."

If the gentlewoman would yield further, I would simply point out that you can increase registration, but you are not necessarily going to increase the vote. In fact, statistics in place where this type of legislation already exists already reflect that voter turnout on election day declines.

Mrs. MORELLA. Mr. Chairman, it has the potential for increasing voter participation. In my State of Maryland, which has the mail-in voter card, participation has increased because of the facility of being able to vote. So maybe there is no scientific proof, but I think you will find some experiences in States will indicate if you make it readily accessible and available, then it is going to promote I think an interest in voting.

Mr. THOMAS of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to underscore the fact that the gentlewoman from Maryland [Mrs. MORELLA], who just spoke, the gentleman from New York who spoke previously, the gentleman from Montana, and the gentleman from Washington, all have purge language in their State laws. If this legislation becomes law, the Federal Government will dictate and that portion of the election law of those States must be stricken. There is no option for the States to follow a procedure they already have in law and want to follow.

So I hope these people who are excited about this legislation understand that it will preempt the already chosen procedures of the States in dealing with their own election laws.

Mr. SWIFT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, just for the record I would like to do several things. One, it has been said on the floor that this bill contains same day registration. That is not true. It has been said on the floor several times there is no purge language. That is not true.

Mr. Chairman, if one were listening to the opposition of this, one would think that this is supported only by evil, mean, and stupid people. For the RECORD I submit a list of supporters of this legislation, including the American Association of Retired Persons, the American Baptist Churches, USA, the American Jewish Congress, the Association for Education and Rehabilitation of the Blind and Visually Impaired, the Disabled American Veterans, Friends Committee on National Legislation, League of Women Voters, the National Council of Churches, the National Urban League, Paralyzed Veterans of America, the Presbyterian Church, the United Church of Christ, the United Methodist Church, and the United States Catholic Conference.

Mr. Chairman, I would also indicate that dated today and addressed to the Speaker of the House the American Bar Association, which represents 380,000 lawyers nationally, informs the Speaker they support the enaction of S. 250.

Mr. Chairman, I include these two documents for the RECORD.

JUNE 9, 1992.

DEAR REPRESENTATIVE: We urge you to support House passage of S. 250, the National Voter Registration Act. Through simple and effective means, S. 250 will ensure that every citizen has the opportunity to register and vote.

National voter registration reform is long overdue. If current trends continue, more than one-third of the eligible electorate—nearly 70 million citizens—will not be able to vote this year because they are not registered.

Access to voter registration differs greatly from state to state and county to county. In our highly mobile society, this patchwork system acts to discourage voter participation and permits restrictions and practices that discriminate against many of our citizens.

A citizen's right to vote cannot be distinguished from his or her opportunity to register and stay registered. Your support for S. 250 will help strengthen our democracy by ensuring convenient and accessible voter registration for all citizens.

Sincerely,

American Association of Retired Persons (AARP).
American Baptist Churches USA.
American Civil Liberties Union.
American Council of the Blind.
American Ethical Union, Washington Ethical Action Office.
American Federation of State, County and Municipal Employees.
American Nurses Association.
Americans for Democratic Action.
American Jewish Congress.
Association for Education & Rehabilitation of the Blind and Visually Impaired.
Center For A New Democracy.
Central Conference of American Rabbis.
Church of the Brethren, Washington Office.
Citizen Action.
Citizenship Education Fund.
Common Cause.
Commonwealth of Puerto Rico, Electoral Coordination and Orientation Division.
Disabled American Veterans.
Disabled AND Able to Vote.
Federally Employed Women.
Federation of Reconstructionist Congregations and Havurot.
Friends Committee on National Legislation.
Human Rights Campaign Fund.
100% VOTE/Human Serve.
Interfaith Impact for Justice and Peace.
International Ladies' Garment Workers' Union.
International Union, U.A.W.
League of United Latin American Citizens (LULAC).
League of Women Voters of the United States.
Lutheran Office for Governmental Affairs.
Mexican American Legal Defense and Educational Fund (MALDEF).
Midwest/Northeast Voter Registration Education Project.
NAACP Legal Defense and Educational Fund.
National Association for Black Veterans, Inc.
National Association for the Advancement of Colored People (NAACP).
National Association of Latino Elected and Appointed Officials.
National Association of Recording Merchandisers.
National Association of Rehabilitation Facilities.
National Center for Law and Deafness.
National Coalition of Black Voter Participation.
National Community Action Foundation.
National Congress of American Indians.
National Council of Churches.
National Council of La Raza.
National Council of Senior Citizens.
National Education Association.
National Rainbow Coalition.
National Student Campaign for Voter Registration.
National Urban League.
Paralyzed Veterans of America.
People for the American Way Action Fund.
Planned Parenthood Federation of America.
Presbyterian Church, (USA) Social Justice and Peacemaking Unit.
Public Citizen.
Rock The Vote.
Service Employees International Union.
Union of American Hebrew Congregations.
Unitarian Universalist Association of Congregations.
United Church of Christ, Office For Church In Society .
United Food & Commercial Workers Union.
United Methodist Church, General Board of Church and Society.
U.S. Conference of Mayors.
U.S. Public Interest Research Group.
United States Catholic Conference.
United States Student Association.

AMERICAN BAR ASSOCIATION,
Washington, DC, June 16, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We understand the House of Representatives will consider shortly S. 250, National Voter Registration legislation. The American Bar Association, which represents 380,000 lawyers nationally, supports the enactment of S. 250.

While we do not have positions on and do not necessarily agree with all the specific components of this package, the ABA believes that it represents a logical and well-crafted compromise which would benefit the electoral interests of both parties in the House of Representatives by bringing in more citizens to the electoral process. The need for revisions in our system of registering voters is obvious. Today, nearly 70 million Americans cannot vote because they are not registered. Only about 23 percent of people with disabilities are registered to vote. Nearly one-third of adult Americans move within a two-year period, and they have to register to vote in addition to changing their postal address and their drivers licenses. Americans need a simple, efficient national system of voter registration. The National Voter Registration Act would address this need.

We hope members from both parties will put aside their fears of the unknown to support S. 250. It offers the best opportunity to balance the sensitivities of both political parties and to adopt a bill that will provide the opportunity to vote to many persons now faced with unnecessary barriers to exercising their franchise.

This legislation will:

(1) establish national procedures for voter registration for elections for federal office;

(2) require states to allow their citizens to register to vote when applying for a motor vehicle license or identification card;

(3) provide for voter registration by mail and in person at federal, state, and other governmental locations.

Since 1974, the ABA has supported legislation creating a federal administration of, and procedures and funding for, voter registration by mail for federal elections. In 1979 the ABA supported the enactment of legislation that encourages voter participation. In August 1990 the ABA specifically endorsed supporting efforts to increase voter registration through state and local agencies that have direct contact with the public (e.g. licensing agencies), and encouraged efforts that make the opportunity to vote easy and convenient. In our opinion S. 250 implements these goals.

We urge you and your colleagues to adopt S. 250.

Sincerely,

TALBOT D'ALEMBERTE.

Mr. CONYERS. Mr. Chairman, the State of Michigan is losing six Members this term, and one who will be missed very sorely inside the Metropolitan Detroit area is the distinguished gentleman from Michigan [Mr. HERTEL], to whom I yield such time as he may consume.

□ 1620

Mr. HERTEL. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to commend the gentleman from Michigan [Mr. CONYERS] and the gentleman from Washington [Mr. SWIFT] for all their work in this area. There is a lot of talk about reform of this body, but this is real reform that lets citizens participate at a higher level. Who are we talking about? We are talking about, in many cases, less educated. We are talking about people with lower incomes, because people that are better off can better plan, have more time, let us be frank about it.

This gives the average person a chance to vote in an election. Is that not what we want? To have more people participate? Are we not all embarrassed when we talk to people from foreign nations that have such a high percentage of people participating in voting?

More importantly, is it not a danger to our democracy to see a continually declining base of support? We are talking about primary elections where less than 15 percent of voters eligible to vote can decide the outcome. We are talking about Presidential elections where it is hard to get 50 percent turnout of those that are eligible to vote and register, and even less for those that are just eligible by age and citizenship.

The key to a strong democracy is participation. People share the responsibility, and the wider we can reach people for that first step of citizen responsibility, just to vote, and then to get people more active in their communities and their States and their governments will make this a stronger country.

I want to commend the gentlewoman from Maryland for her strong support of this measure. It should be a bipartisan measure and bill, because we are talking about all the people in this country having a better chance to participate and to vote and to make this a stronger democracy.

I want to again thank the sponsors very much for putting this forward. I wish them the best of luck in getting this passed all the way and signed into law.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of S. 250, the National Voter Registration Act.

Never, in the years that I have served in the House of Representatives, have I seen the American people so dissatisfied with their Government. I believe the only way that this Congress can regain the trust and confidence of the American public is to earn it—through reform of our campaign finance system, reform of the procedures, of this institution to make us more effective and responsive, and encouraging and facilitating increased voter participation.

National voter registration reform is a necessary step in encouraging voter participation, which has reached historically low levels. In the 1990 elections, only 36 percent of eligible American citizens went to the polls—the lowest percentage in 50 years. Even more disturbing is the fact that an estimated 70 million eligible citizens cannot vote because they are unregistered.

Study after study has shown that a primary reason for this shocking statistic is the public's unfamiliarity with the confusing array of State and local registration procedures. The bill before us today addresses this problem by putting three registration methods into effect nationwide which will reach the entire eligible population, including those who are most underserved under our current registration system—disabled and low-income Americans.

Mr. Chairman, we are a self-governing people. It is our duty to pass legislation that will facilitate the voting process and enfranchise, empower, and involve all eligible American citizens in our democratic system of government. S. 250 would do that, and I urge my colleagues to join me in supporting it.

Mr. THOMAS of California. Mr. Chairman, I yield myself the balance of my time.

This fight is not about expanding the rolls. This fight is not about trying to ensure that more Americans can participate in the electoral process. This fight is about something that started out as a bipartisan compromise that has turned into a mandated, nonfunded, partisan fight.

I would urge the gentleman from Michigan to take the June 16 statement of administration policy and read the last sentence of the first paragraph which says, "If S. 250 were presented to the President in its current form, his senior advisers would recommend a veto."

That may not mean veto to the gentleman from Michigan, but 28 times this President has sent the same message to this Congress. Seven times in this Congress the President has sent the same message. Three times in this session the President has sent this message, and every time the President vetoed it. At no times has this Congress overturned a Presidential veto.

The gentleman from Michigan may feel that this language is ambivalent or unclear to him, but I am sure that same capability to read this language, and see it as ambivalent or unclear, is exactly the same mental set that brought him to S. 250 and saw mandate after mandate with no funding leading him to believe that S. 250 is virtually identical to H.R. 2190, which had funding in it for the mandated programs.

It is very simple, my colleagues. If we want to mandate to the States, put money in the bill. If we want to dictate, pay. If we are going to continue to try the same old policies, we are going to get a veto. And the President's veto is going to be sustained.

I am only sorry that this is now a partisan issue in a partisan season, when it started out as a bipartisan effort to expand the roles.

I will end with my initial offer. After the President vetoes, after you folks lose another Presidential election, let us try to sit down and craft a bipartisan bill that can move through both Houses and that can be signed by the President.

I await my colleagues' understanding of reality.

Mr. SWIFT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the United States has a history in one respect that is not proud. It is the history in which government in this country has for decades used registration as a means to deny the vote to people who some political organization or other deemed to be unreliable citizens. It has been used against the Irish, the Southern Europeans, the Eastern Europeans, and of course, African-Americans.

The fact is that most free nations on the face of this Earth believe that it is Government's positive responsibility to facilitate citizens being able to vote through registration. In fact, a friend of mine who lives in Canada had to practically beat the canvasser off the front porch with a broom, so badly did he want to register him for an upcoming Canadian election in which he could, obviously, not participate because he was an American citizen. Yet here we have the idea government has a right to interpose itself.

One of the earlier debaters said government has got to get its nose out of people's business. That, Mr. Chairman, is precisely what this will do. It will get government out of its place between the citizen and the ballot box by making registration easy.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of the National Voter Registration Act, a commonsense piece of legislation which may do more to revitalize the democratic process in this country than any other bill that we consider during this Congress.

This measure will remove roadblocks to voting registration which contribute to low election turnout. It simply says that a citizen should be able to register to vote when and where they get or renew their driver license, or by uniform application through the mail. Many States already have successful registration programs of this type, and this legislation asks remaining States to imitate these successful examples.

This bill also provides important registration assistance to Americans with disabilities, millions of whom are currently discouraged from going to the ballot box by the difficulties that they face with the registration process in many States.

Those concerned that an increase in voter registration will mean an increase in ineligible people on the registration rolls should be reassured by the antifraud provisions of the legislation. This bill strengthens Federal authority to criminally prosecute vote fraud, in addition to retaining all present safeguards against fraud and abuse, and it requires that States have a regular, effective and nondiscriminatory list-cleaning program to remove ineligible voters from the registration lists.

For those who ask if we can afford the modest initial costs of this legislation, I think there are two answers. First, in the narrow sense, the simplification and list-cleaning provisions of this legislation will save the States $9 to $12 million per election year in the short term, and 50 percent per registrant once the new system is implemented. Second, in the larger sense, in an era when declining voter turnout threatens to undermine the system of reciprocal responsibility between voter and representative which lies at the heart of our government, how can we afford not to reduce unnecessary roadblocks to voting?

The philosophy behind motor-voter is a conservative one: keep government interference to a minimum when it comes to our citizens exercising one of their most fundamental rights. It should be endorsed by people from the entire political spectrum, and I am proud to support it.

Mr. CLAY. Mr. Chairman, I support legislation to create a national voter registration program. The bill we are considering today, S. 250, creates that program. Last Congress an overwhelming bipartisan majority of this House passed a similar voter registration program. Today we can, and should, reaffirm that support.

S. 250 provides for voter registration through driver's license applications which allows ready access to voter registration for young people, elderly, working poor, and those who have recently moved. Our country's voter lists will be more up-to-date and accurate.

Basically, this bill will do two important things: it will expand the voting franchise to more Americans, and it will help our States, counties, and cities compile up-to-date and accurate voter lists. Let's move ahead and strengthen our democracy—support S. 250.

Ms. PELOSI. Mr. Chairman, I rise today in support of S. 250, the motor-voter bill. This important legislation is a long overdue step in helping millions of Americans become active voters.

Over the last 40 years, voter participation in the election process has been declining at a troubling rate. In fact, in the 1990 election only 36 percent of eligible Americans chose to exercise their right to vote. This means that 19 percent of the eligible voting population constituted a majority and thus made decisions affecting the entire country, rather than the 51 percent that should be necessary. In order to increase participation we must remove obstacles to participation.

A significant percentage of those individuals who do not vote say they would have voted if they had been registered.

However, complicated deadlines and filing procedures have led many Americans to believe that it is just not worth their time or their vote to deal with the bureaucratic headache of registering.

By allowing voter registration through the mail, or while registering an automobile, or applying for a drivers license, millions more young Americans, older Americans, disabled Americans, and minority Americans will become registered to vote. Through such wider voter registration and increased voter participation, we can do what we were sent here to do, represent the views of all Americans.

Mr. Chairman, we cannot allow the trend toward lower voter turnout to continue. The issues facing our country are too serious and too comprehensive to allow 19 percent of the voting population to decide the fate for the rest. I urge my colleagues to support the necessary and long overdue voter registration reform bill.

Ms. LONG. Mr. Chairman, I rise in support of S. 250, the National Voter Registration Act—or motor-voter bill. This legislation would facilitate registration, thereby increasing voter participation in our country—something I think all Americans favor.

The bill ensures that individuals will be allowed increased opportunities to register to vote, including the ability to register to vote at the time they apply for a driver's license.

Mr. Chairman, years ago, Franklin Delano Roosevelt said that, "Every man and every woman who has voted in the past has had a hand in the making of the United States of the future." He also said at the same time that, "They (the people) become good citizens by the exercise of their citizenship and by the discussions, the reading, and campaign give-and-take which help them make up their minds how to exercise that citizenship."

The motor-voter bill will allow people to more easily become the good citizens about which President Roosevelt spoke.

I commend our colleagues who worked to bring this legislation to the floor, and I urge the House to support the bill.

Mr. KOLTER. Mr. Chairman, I ask my colleagues to join me in supporting S. 250 which would simplify and make uniform the voter registration process. More than ever before, we need to do everything we can to bring detached American voters back into our democracy. Toward this end, the National Voter Registration Act would facilitate the process of registering to vote by expanding the facilities where a voter can register and by standardizing the applications.

The United States is bringing up the rear in voter turnout among the world's major democracies. A 50-percent turnout among registered voters is an embarrassing and unacceptable rate which declines every year. What's more, only 61 percent of those eligible to vote are even registered. We in Congress should support all efforts to head off this constant, alarming decrease in voter participation. This is precisely what S. 250 aims to achieve.

Presently it is not all that difficult to register to vote. However, voter apathy in this Nation is a serious problem. Many voters throughout this Nation are either alienated, cynical, or disinterested in the political process. It follows that many Americans not presented with the opportunity to register will either not inquire or simply not pursue the necessary forms to do so. This is why further simplification is vital.

The potential benefits of this bill far outweigh the cost to the States. Moreover, turning this into a partisan debate and trying to make the case that this would tend to bring more voters likely to vote Democratic, rather than Republican, into the process seems to me to be an overly cynical, bordering on silly, argument.

Voting no on this important legislation would be inconsistent with what would be expected of a Member of Congress who should be doing everything possible to encourage voter participation which is, after all, the foundation of our democratic government.

Mrs. KENNELLY. Mr. Chairman, 61 percent of those eligible to be registered voters in the United States are, in fact, registered. The other 39 percent are missing from the rolls. In 1988, 50 percent of those eligible to vote for President did. The other 50 percent did not. In 1986 there were 40 million more nonvoters than voters.

These figures are appalling and embarrassing. Mr. Chairman, I strongly support S. 250, the Senate version of the National Voter Registration Act, which passed the House during the last Congress.

Both apathy and barriers to registration are responsible for low turnout. While voter apathy is difficult to address, there is simply no excuse for not removing registration barriers. The future of our representative democracy is at stake.

Now I know this legislation has been criticized based on cost and the potential for fraud. Frankly, I think the potential for fraud is overrated. Each and everyone of us stands for election. I ask you, given your experience with elections, which has been a bigger problem—voter fraud or voter apathy?

That is exactly the point. Apathy is a far bigger problem than the rare occurrence of voter fraud. And, as a former Secretary of State who was responsible for administering elections, let me assure you that I think the enhanced protections against fraud in this legislation are more than sufficient.

The Governor of my own State of Connecticut recently signed into law motor-voter legislation. Four States that have implemented motor-voter laws have increased voter turnout between 16 and 26 percent from 1986 to 1990. In five States without such laws, voter turnout decreased between 9 and 35 percent

It is now time for us in the Congress to do our job. We have sworn to protect the Constitution—our democratic form of government. Let's do it by passing this legislation. It is unacceptable for us to allow any obstacle to remain in the path of an American citizen exercising his or her right to vote.

Mr. ROEMER. Mr. Chairman, it is truly a national shame that the United States has what is arguably the worst reputation in the free world for voter turnout. This country is the No. 1 guardian of democracy, free speech, and voting rights around the globe, yet our own voter registration continues to fall.

When only half of the eligible voters in the Nation show up at the polls, as it happened in the 1988 Presidential elections, we are approaching what should be considered a crisis.

The legislation before us today, known as the motor-voter bill, seeks to address this national concern. By making it easier to register to vote, we improve the opportunities for our citizens to take part in one of the most vital functions of our democracy.

Mr. Chairman, we read and hear every day about how disenfranchised the American public feels from their Government, and about how pessimistic the voting populace is. If we pass this bill today, we will be sending a signal that we want to address these concerns and bring the people back into the system.

Our democracy's health depends on the support and participation of the American people. This is a small but important step toward maintaining that health.

Mr. PACKARD. Mr. Chairman, I am an advocate of registering citizens of this country to vote. I support measures which make it easier for citizens of this country to vote.

I have strong convictions that citizens should register to vote, and in doing so undertake a duty. Along with any right, there comes responsibility. We live in the greatest country on the face of the Earth. One of the foundations on which this country is built is participatory democracy. What makes this country work are the citizens of the United States taking an active interest in the state of our democracy by voting.

It is precisely my deeply held convictions about U.S. citizens' responsibility to register and vote that leads me to oppose this legislation. The bill before us today undermines right and responsibility of the voting process. I am sure that I do not need to remind my colleagues that the right to vote is extended to citizens of the United States.

Illegal immigrants pose a tremendous strain on California's social services. However, under the legislation, these very State institutions are charged with registering people to vote. Agencies which administer public assistance, unemployment, and State-funded programs administer a large percentage of this assistance to illegal immigrants. Because the process includes so many entities it invites fraud and abuse.

My problem with this bill stems from the impact of illegal immigration which I have witnessed upon the State of California. It is not difficult for an illegal immigrant to obtain phony documents such as green cards. It is in their best interest to try and obtain a driver's license as proof that they belong here, when in fact, they do not.

In addition, this legislation requires only that the applicant sign a form that states they meet the eligibility requirements, including citizenship, under penalty of perjury. Illegal immigrants aren't afraid of being charged with perjury, they are afraid of being sent back across the border. These are people who are already here illegally—they broke the law to get into this country. Penalty of perjury is hardly a stiff legal deterrent.

Now, I don't know about my colleagues, but procedurally this does not sound to me like a rigorous, thorough way to determine a person's citizenship and along the way, extend an opportunity to vote like an American citizen. To illegal aliens who may already possess phony documentation, this sounds more like an invitation to obtain a more reliable form of identification, like a driver's license.

Finally, as a reasonable person would conclude, this bill invites voter fraud. The agencies which administer social services to illegal immigrants are given the power to register them to vote. Furthermore, it only asks them to promise they are citizens, under penalty of perjury. This distorts the objective of democracy by allowing those who are not legal citizens to participate in a process they have no business participating in.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today in support of the Michel substitute to the National Voter Registration Act. The goal of the legislation the House will pass today is an admirable one, one that will keep democracy alive in our country. How we achieve this goal, however, it as important as the goal itself. The bill that has been offered is not an attempt to increase voter participation—it is an obvious attempt to railroad the House into passing legislation that will merely give the appearance of solving our country's problem of decreasing voter participation.

I listen to some of my colleagues accusing the Republican Party of trying to drive down voter participation and can hardly believe what I am hearing. The system with which the voters are disillusioned, the one in which they no longer choose to participate, is the system that is a result of almost 30 years of Democratic domination of the House. It is the Democratic-ruled Congress that brought about the House bank scandal, the unpaid restaurant bills, and a plethora of perks and privileges with which the public is finally fed up.

I think that my Republican colleagues have very much the same goal in mind as the Democrats appear to have. We want more voters and we want more participation, because it is finally time to change the system, and give the American people a government in which they have a voice, and in which they have respect and confidence.

If the goal today is to achieve the best reform in the system of voter registration, then we must address several provisions in this legislation that would render our goal impossible.

We cannot impose on our States costly mandates that will weaken their control over the electoral process. Our Founding Fathers recognized the vital role the States play in our electoral system, and we are now ignoring this role in favor of Federal regulations which fail to account for local considerations and solutions. We must allow the States to choose the methods that will best increase their local voter participation.

We must also avoid the possibility of increased fraud in our voter registration system. Unsupervised registration by mail, without any provisions for verification of the authenticity of the applications, can only be expected to result in fraud and error which will hurt, not help our system.

The use of State agencies as vehicles—no pun intended—for increasing voter registration, is another questionable provision of this bill. The benefits provided by the suggested agencies should in no way be tied with the electoral process, so as to avoid the perception that the way in which a person votes could have some effect on the receipt of these benefits.

In addition, the bill we consider today is a perfect example of the Democratic domination of the House taking precedence over the just and fair process by which a bill should be considered. This bill has not been fully examined by the House committees of jurisdiction, no opportunity has been given to amend and perfect this legislation with input from the Members of the House. We are forced to either blindly accept what is set before us, or be portrayed as being against increased voter participation.

Fortunately, we have been given one option to the problem-ridden legislation that has been forced down our throats today—the Michel substitute attempts to address these problems by allowing States to decide how they will encourage and facilitate voter registration.

Let us pass legislation that will increase participation in our system in the most just and equal manner. Let us leave in the hands of our States the power that rightly belongs to them. Let us change our system in a way that will solve our existing problems without creating new ones.

I know my Republican colleagues are as much in support of improving our electoral system as I am, and as dedicated to achieving the best reforms possible. It is for these reasons that I lend my strong support to the Michel substitute.

Mr. PASTOR. Mr. Chairman, I rise in strong support of S. 250, the National Voter Registration Act.

One of the most important rights and responsibilities of citizenship in the United States is the right to vote. Yet recent census data indicates that nearly 70 million citizens will not be able to excercise this fundamental right because they are not registered.

Compared to other industralized countries—some of which have voting participation rates in excess of 75 percent—American citizens have a dismal voting record. For instance, during the 1988 Presidential election, barely half of those eligible bothered to vote. This is totally unacceptable.

The apathy and disillusionment displayed by nonvoters in America are disappointing. However, we have an opportunity, through S. 250, to substantially improve this situation.

The legislation before us today provides a simpler, cost-effective means to facilitate voter registration for all eligible voters. Individuals will be able to register at designated government agencies and by mail. More importantly, people can register to vote when applying for a driver's license. By enacting this legislation, we can reach up to 90 percent of all eligible voters nationwide.

For a variety of reasons, people with disabilities and our younger eligible citizens traditionally have low registration and low participation rates during most elections. This bill will remove some of the barriers that inhibit or discourage these people from voting. Although enacting this legislation will not increase voter turnout, it will help increase the pool of those eligible to vote.

Bringing more voters into the system is a vital first step to expanding participatory democracy, while ensuring the integrity of the electoral system. I urge all of my colleagues to vote for the National Voter Registration Act.

Mr. CHANDLER. Mr. Chairman, I rise today in support of S. 250, the National Voter Registration Act.

During the past two decades, voter participation in Federal elections has steadily declined. In 1988, only half the Nation's eligible population participated in the Presidential election. During the 1990 congressional elections, the turnout of eligible voters was 36 percent, the lowest since 1942 and the second lowest since 1798.

In an effort to increase citizen participation in the electoral process, many States have enacted motor-voter laws. Washington State began its motor-voter registration program this past January. The Washington State program was designed by Secretary of State Ralph Munro in 1989. Our legislature passed it into law in 1990. The program has already produced extremely positive results.

In just 5 short months, motor-voter registration has added more than 100,000 voters to Washington State registration rolls. This is a remarkable achievement by any standard. At the current rate, the motor-voter program will register 800,000 Washington voters during the next 4 years, an increase of 30 percent.

There are those who contend that motor-voter registration will significantly increase voter registration costs. The Washington State experience has been to the contrary. In Washington, motor-voter registration costs no more than 40 to 50 cents per transaction. This is the lowest per-transaction cost of any form of voter registration.

Motor-voter provides protection against fraud and abuse. By connecting the licensing and voter registration systems, Federal, State, and local election officials have several new cross-checks and auditing tools to protect the integrity of the registration process. It is the only form of voter registration in which the applicant's picture is taken.

Motor-voter provides a convenient accessible method of registering voters while maintaining personal contact with the applicant and the registrar. Most States maintain dozens of driver licensing outlets which are accessible to both rural and urban areas.

The bottom line is that voter registration is an administrative mechanism, and should be as convenient as possible for our citizens. We must remember that the purpose of the election process is not to test the fortitude and determination of the voter, but to discern the will of the majority.

Motor-voter registration is not the cure to all that ails our election process. It does, however, remove many of the administrative barriers to voter registration. Combined with campaign reform, voter education, and programs to increase voter turnout, this legislation will provide a positive step in increasing participation in American democracy. I urge my colleagues to vote "yes" on S. 250.

Mr. STOKES. Mr. Chairman, I rise today in support of S. 250, the National Voter Registration Act. This bill, better known as the motor-voter bill, contains many provisions designed to remove the barriers to voter registration. I commend Representative CONYERS and the leadership for bringing this bill to the floor for consideration.

Mr. Chairman, the right to vote is a fundamental right guaranteed under the Constitution. Unfortunately, our Nation's antiquated voter registration system has unfairly excluded millions of Americans from exercising this right by denying them equitable access to the electoral process. The fundamental right to vote means little if the opportunity to register and stay registered is limited. S. 250 would remove many of the barriers to voter registration and facilitate equal access to citizen participation in the electoral process.

Specifically, S. 250 would allow eligible voters to register for Federal elections by mail, when applying for a driver's license, and at State and Federal agencies. Since it is estimated that 91 percent of the adult population in this country either has a driver's license or a photo ID card, this provision would dramatically increase the number of registered voters. Those who do not have a driver's license or photo ID may simply apply to register to vote at designated Government agencies. S. 250 would also provide for automatic voter registration when individuals apply for, renew, or change their address on such licenses.

S. 250 also extends the ability of millions of disabled Americans to register to vote. According to a Harris poll, disabled Americans show greater interest in politics and public affairs than does the general population, but they register and vote at lower rates. Study after study has shown that persons with disabilities list lack of transportation as the first or second obstacle in their lives.

Today, 20 States in this country require a person with a disability to go to either the offices of the board of elections or to a temporary voter registration site where deputy registrars offer voter registration. S. 250 removes the barriers to the disabled by mandating all officers primarily engaged in providing services to persons with disabilities to offer voter registration services during intake procedures, recertification procedures, and change-of-address procedures. It guarantees that if services are provided in a disabled person's home, the agency representative who actually goes to the home must assist the client with voter registration.

Opponents to S. 250 have argued that it would not increase voter turnout and that it would increase the cost associated with voter registration. Contrary to this, research has concluded that voter turnout increased between 13 and 26 percent in the four States which instituted effective motor-voter programs, and cost actually fell because the demand to hire additional staff, as voter registration deadlines approached, was eliminated.

Mr. Chairman, new opportunities for political empowerment must be afforded to persons left out of the political system. It is important for us to ensure that everyone in this country has a stake in our democratic form of government and that the people are encouraged to seek change through the ballot box, creating a more representative government.

Although the literacy tests and poll taxes of the past which excluded potential voters and minorities in particular, no longer exist, inconvenient and cumbersome procedures in many States still serve to inhibit citizen participation in the electoral process.

I encourage my colleagues to join me today in support of S. 250 and bring down the barriers which have prohibited participation in the electoral process.

Ms. NORTON. Mr. Chairman, I rise today in strong support of the National Registration Act of 1991. This legislation embodies the essence of democracy at a time when the strongest threat to democracy in this country is the shrinking participation of Americans at the polls. A democracy is dysfunctional when there is shallow participation. Motor-voter legislation is a remedy with impressive proven effectiveness.

The District of Columbia has first-hand experience with the benefits of local motor-voter registration, which we started over 2 years ago. Under the District's motor-voter program, individuals who register for a driver's permit or a nondriver's identification card fill out a single one-page form—the top half goes to the department of motor vehicles and the bottom of the form goes to the board of elections. With that simple step, District residents are registered to vote.

At a cost of six cents per form, the motor-voter system saves money compared with voter registration by mail, which costs at least ten cents per form plus two-way postage. Especially important, the motor-voter systems allows year round voter registration and avoidance of the preelection rush.

The success of motor-voter registration in the District is born out in the numbers. Since its inception in May 1989, this system has yielded more than 46,000 new registrants, or half the new registrants in this time period. Of voter address changes, the motor-voter system accounted for 25 percent. Thus, almost 9,500 registrants would have been purged from the voter rolls or gone to the wrong polling place without motor-voter, and 13.8 percent of the changes in party affiliation in the District since May 1989, were accomplished through the motor-voter system. In the November 1990, general election, motor-voter registrants accounted for 30 percent of the total voting population.

The District is justifiably proud of its results with motor-voter. Many of us are ready to move on to same day registration allowing those with adequate evidence of their eligibility to vote as they register. Why not? If not, with so fewer and fewer Americans voting, we are dangerously close to de facto democracy.

If we want to promote citizen participation, if we want to eliminate voter apathy, if we want a healthy democracy, then this legislation is an effective step in the right direction. I urge my colleagues to follow the District's example and vote in favor of democracy by voting for national motor-voter legislation.

Mr. EWING. Mr. Chairman, I rise in opposition to S. 250, the National Motor Voter Registration Act, the so-called motor-voter bill. This bill contains many serious flaws that cannot be ignored and which overshadow any benefit it attempts to offer.

I strongly support efforts to increase voter registration, but this legislation would place another expensive, unfunded mandate on States, drastically increase the chances of voter fraud, and probably would not significantly increase voter turnout. Indeed, a Congressional Research Service survey has revealed that many States showed lower voter turnout after motor-voter programs were instituted.

This bill would force States to order their agencies to provide voter registration services. However, Federal funds are not appropriated to reimburse the States' expenses needed to set up and maintain these services. These rigid mandates are heaped upon State governments, many of which are already suffering the burden of severe budget shortfalls, caused in large part by more and more unfunded Federal mandates in recent years. If Congress finds that these mandates so important, it ought to back them up with the necessary funds.

S. 250 robs the States of their rights to regulate the election process by establishing national standards. The bill requires the Federal Elections Commission to write Federal voter registration regulations and orders States to comply with them. This bill is a classic example of the tendency of the Federal Government in recent years to trample on the rights of the States, and enforcing them to pick up the tab for the whimsical mandates of the Federal Government.

The motor-voter bill will encourage more registration fraud, a problem many States are already trying to tackle. First, S. 250 requires States to adopt voter registration through the mail, but also limits the ability of States to verify the eligibility and identity of applicants. Second, the bill puts severe limits on the ability of State agencies to rid their voter lists of bad names. Third, the bill encourages election day registration, which makes acceptable verification impossible. Finally, by requiring registration in welfare and unemployment agencies, it would be extremely difficult to prevent partisan encouragement or coercion. This bill's proposed methods invite a situation where the opportunity for voter registration fraud is heightened.

I support Republican leader MICHEL's substitute to S. 250, which will increase voter registration without encouraging fraud. This substitute would make motor-voter voluntary and provide block grants, with State matching requirements, for implementing voter enhancement programs. S. 250 would encourage partisanship and manipulation of citizen's voting activities, as well as electoral fraud, and this is not what our government should be encouraging. This bill will cost States millions of dollars.

Finally, Mr. Chairman, S. 250 did not even receive consideration from the House committee of jurisdiction. It is brought before the House without the benefit of hearings or a committee markup. This is a mockery of the legislative process. This type of handling by the majority party leads me to believe that this bill is politically motivated, this at a time when the American people are crying for the Congress to put politics as usual aside and be concerned about the real needs of America.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Senate bill is considered as having been read for amendment under the 5-minute rule.

The text of S. 250 is as follows:

S. 250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(2) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3));

(3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;

(4) the term "State" means a State of the United States and the District of Columbia; and

(5) the term "voter registration agency" means an office designated under section 7(a)(1) to perform voter registration activities.

SEC. 4. NATIONAL PROCEDURES FOR VOTER REGISTRATION FOR ELECTIONS FOR FEDERAL OFFICE.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office—

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 5;

(2) by mail application pursuant to section 6; and

(3) by application in person—

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 7.

(b) NONAPPLICABILITY TO CERTAIN STATES.—This Act does not apply to a State described in either or both of the following paragraphs:

(1) A State in which there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

SEC. 5. SIMULTANEOUS APPLICATION FOR VOTER REGISTRATION AND APPLICATION FOR MOTOR VEHICLE DRIVER'S LICENSE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) DECLINATION TO REGISTER.—(1) An applicant for a State motor vehicle driver's license may decline in writing to be registered by means of the motor vehicle driver's license application.

(2) No information relating to a declination pursuant to paragraph (1) may be used for any purpose other than voter registration.

(c) FORMS AND PROCEDURES.—(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license—

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) shall include a means by which an applicant may decline to register to vote pursuant to subsection (b);

(C) may require only the minimum amount of information necessary to—

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(D) shall include a statement that—

(i) states each eligibility requirement (including citizenship);

(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) CHANGE OF ADDRESS.—Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

SEC. 6. MAIL REGISTRATION.

(a) FORM.—(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 9(b) for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) AVAILABILITY OF FORMS.—The chief State election official of a State shall make the forms described in subsection (a) available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) FIRST-TIME VOTERS.—(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);

(B) who is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or

(C) who is entitled to vote otherwise than in person under any other Federal law.

SEC. 7. VOTER REGISTRATION AGENCIES.

(a) DESIGNATION.—(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies—

(A) all offices in the State that provide public assistance, unemployment compensation, or related services; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance; or

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 9(a)(2); or

(ii) the office's own form if it is substantially equivalent to the form described in section 9(a)(2), unless the applicant, in writing, declines to register to vote;

(B) to the greatest extent practicable, incorporate in application forms and other forms used at those offices for purposes other than voter registration a means by which a person who completes the form may decline, in writing, to register to vote in elections for Federal office; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) FEDERAL GOVERNMENT AND PRIVATE SECTOR COOPERATION.—All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a), and all nongovernmental entities are encouraged to do so.

(c) TRANSMITTAL DEADLINE.—(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

SEC. 8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION.

(a) IN GENERAL.—In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 5, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 6, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);

(5) inform applicants under sections 5, 6, and 7 of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) CONFIRMATION OF VOTER REGISTRATION.—Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

(c) VOTER REMOVAL PROGRAMS.—(1) A State may meet the requirement of subsection (a)(4) by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude—

(i) the removal of names from official lists of voters on a basis described in paragraph (3) (A) or (B) or (4)(A) of subsection (a); or

(ii) correction of registration records pursuant to this Act.

(d) REMOVAL OF NAMES FROM VOTING ROLLS.—(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant—

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) PROCEDURE FOR VOTING FOLLOWING FAILURE TO RETURN CARD.—(1) A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(ii)(II), voting at the former polling place as described in subparagraph (A)(i) and at a central location as described in subparagraph (A)(ii)(I) need not be provided as alternative options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) CHANGE OF VOTING ADDRESS WITHIN A JURISDICTION.—In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

(g) CONVICTION IN FEDERAL COURT.—(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 10 of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) REDUCED POSTAL RATES.—(1) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for voter registration purposes

"The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1992."

(2) Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)–(h)" and inserting "3626(a)–(h), and 3629".

(3) Section 3627 of title 39, United States Code, is amended by striking "or 3626 of this title," and inserting ", 3626, or 3629 of this title".

(4) The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for voter registration purposes."

(i) PUBLIC DISCLOSURE OF VOTER REGISTRATION ACTIVITIES.—(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

(j) DEFINITION.—For the purposes of this section, the term "registrar's jurisdiction" means—

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

SEC. 9. FEDERAL COORDINATION AND REGULATIONS.

(a) IN GENERAL.—The Federal Election Commission—

(1) in consultation with the chief election officers of the States, the heads of the departments, agencies, and other entities of the executive branch of the Federal Government, and representatives of nongovernmental entities, shall prescribe such regulations as are necessary to carry out this Act;

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act; and

(4) shall provide information to the States with respect to the responsibilities of the States under this Act.

(b) CONTENTS OF MAIL VOTER REGISTRATION FORM.—The mail voter registration form developed under subsection (a)(2)—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury; and

(3) may not include any requirement for notarization or other formal authentication.

SEC. 10. DESIGNATION OF CHIEF STATE ELECTION OFFICIAL.

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this Act.

SEC. 11. CIVIL ENFORCEMENT AND PRIVATE RIGHT OF ACTION.

(a) ATTORNEY GENERAL.—The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this Act.

(b) PRIVATE RIGHT OF ACTION.—(1) A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) ATTORNEY'S FEES.—In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) RELATION TO OTHER LAWS.—(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this Act authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

SEC. 12. CRIMINAL PENALTIES.

A person, including an election official, who in any election for Federal office—

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for—

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this Act; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 13. EFFECTIVE DATE.

This Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1996; and

(2) with respect to any State not described in paragraph (1), on January 1, 1994.

The CHAIRMAN. No amendment to the bill is in order except the amendment printed in House Report 102-558. Said amendment shall be considered as read and shall not be subject to amendment.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Chairman, as the designee of the gentleman from Illinois [Mr. MICHEL], I offer an amendment in the nature of a substitute.

The CHAIRMAN. The clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. THOMAS of California:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Enhancement Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(A) FINDINGS.—The Congress finds that—

(1) the right to vote is a fundamental right;

(2) it is the responsibility of each citizen to exercise that right;

(3) it is the duty of the Federal, State, and local governments to promote the exercise of that right;

(4) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office;

(5) such laws and procedures can disproportionately harm voter participation in such elections by members of various groups, including racial minorities;

(6) all citizens of the United States are entitled to be protected from vote fraud and from voter registration lists that contain the names of ineligible or nonexistent voters, which dilute the worth of qualified votes honestly cast; and

(7) all citizens of the United States are entitled to be governed by elected and appointed public officers who are responsible to them and who govern in the public interest without corruption, self-dealing, or favoritism.

(b) Purposes.—The purposes of this Act are—

(1) to increase registration of citizens as voters in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to enhance voter participation in elections for Federal office;

(3) to protect the integrity of the electoral process;

(4) to ensure the maintenance of accurate and current official voter registration lists; and

(5) to guarantee to the States, and to their citizens, a republican form of government, including elections conducted free of fraud, and governmental processes conducted free of corruption, self-dealing, or favoritism.

"TITLE I—VOTER REGISTRATION ENHANCEMENT

SEC. 101. FEDERAL COORDINATION AND BIENNIAL ASSESSMENT.

The Attorney General—

(1) shall be responsible for coordination of Federal functions under this Act;

(2) shall provide information to the States with respect to State responsibilities under this Act; and

(3) shall, not later than June 30 of each even-numbered year, submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2 calendar years and providing recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act.

SEC. 102. RESPONSIBILITY OF CHIEF STATE ELECTION OFFICAL.

The chief State election official of each State shall be responsible for coordination of State functions under this title.

SEC. 103. VOTER REGISTRATION ENHANCEMENT BLOCK GRANTS.

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General—

(1) for making grants under this section for fiscal years 1992, 1993, and 1994, a total of $25,000,000; and

(2) such additional sums as may be necessary for administrative expenses of the Attorney General in carrying out this title.

(b) BLOCK GRANTS.—(1) From the amounts appropriated under section (a) for any fiscal year, the Attorney General shall make grants to States, through chief State election officials, for the purposes of supporting, facilitating, and enhancing voter registration.

(2) To qualify for a grant under paragraph (1), a State shall match any amount of Federal funds dollar for dollar with State funds for voter registration enhancement activities, such as, but not limited to—

(A) providing for voter registration for elections for Federal office at State departments of motor vehicles; and

(B) providing for uniform and nondiscriminatory programs to ensure that official voter registration lists are accurate and current in each State.

(c) ALLOCATION OF GRANTS.—(1) The Attorney General shall by regulation establish criteria for allocation of grants among States based on—

(A) the number of residents of each State;

(B) the percentage of eligible voters in each State not registered to vote; and

(C) other appropriate factors.

(2) In promulgating criteria pursuant to paragraph (1), the Attorney General shall give special consideration to State-sponsored programs designed to improve registration in counties with voter registration percentages significantly lower than that for the State as a whole.

(d) ADMINISTRATIVE REQUIREMENTS.—(1) The Attorney General shall by regulation establish administrative requirements necessary to carry out this section.

(2) To be eligible to receive a grant under this section, a State shall certify that the State—

(A) has in place legislative authority and a plan to implement procedures to promote and facilitate, to an extent and in such manner as the Attorney General may deem adequate to carry out the purposes of this title, voter registration for Federal elections in connection with applications for driver's licenses;

(B) agrees to use any amount received from a grant under this section in accordance with the requirements of this section;

(C) agrees that any amount received through a grant under this section for any period will be used to supplement and increase any State, local, or other non-Federal funds that would, in the absence of the grant, be made available for the programs and activities for which grants are provided under this section and will in no event supplant such State, local, and other non-Federal funds; and

(D) has established fiscal control and fund accounting procedures to ensure the proper disbursement of, and accounting for, grants made to the State under this section.

(3) The Attorney General may not prescribe for a State the manner of compliance with the requirements of this subsection.

(e) REPORTS.—(1) The chief State election official of a State that receives a grant under this section shall submit to the Attorney General annual reports on its activities under this section.

(2) A report required by paragraph (1) shall be in such form and contain such information as the Attorney General, after consultation with chief State election officials, determines to be necessary to—

(A) determine whether grant amounts were expended in accordance with this section;

(B) describe activities under this section; and

(C) provide a record of the progress made toward achieving the purposes for which the block grants were provided.

SEC. 104. DEFINITIONS.

For the purpose of this title—

(1) the term "chief State election official" means, with respect to a State, the officer, employee, or entity with authority, under State law, for election administration in the State;

(2) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(3) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)); and

(4) the term "State" has the meaning stated in section 301(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(12)).

TITLE II—PUBLIC CORRUPTION

SEC. 201. ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the honest services of an official or employee of the United States or the State, political subdivision, or Indian tribal government shall be fined under this title, imprisoned for not more than 20 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the jurisdiction in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned for not more than 20 years, or both.

"(c) Whoever, being a public official or an official or employee of the United States, a State, a political subdivision of a State, or an Indian tribal government, in a circumstances described in subsection (d), defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the right to have the affairs of the United States, the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title, imprisoned for not more than 20 years, or both.

"(d) The circumstances referred to in subsection (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(3) Whoever defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title, imprisoned for not more than 20 years, or both.

"(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States, a State, a political subdivision of a State, or an Indian tribal government, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) For the purposes of this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that such person will be so nominated, appointed, or selected;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201(a) and shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(4) the term 'under color of official authority' includes any person who represents that such person controls, is an agent of, or otherwise acts on behalf of an official, a public official, or a person who has been selected to be a public official.".

(b) TECHNICAL AMENDMENTS.—(1) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 202. FRAUD IN INTERSTATE COMMERCE.

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 203. PRESERVATION OF THE EFFECT OF STATE LAW THAT PROVIDES GREATER PROTECTION AGAINST VOTE FRAUD.

In the case of any conflict between the provision of this Act and any provision of the civil or criminal law of any State, the law of the State shall prevail to the extent that such State law provides for more stringent suppression of vote fraud than this Act.

Amend the title so as to read "An Act to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this substitute is fairly simple, and it underscores the difference that apparently failed to be understood in the major arguments against S. 250.

This is a block grant program which funds, the ability of States to carry on a motor-voter program if they so desire and a voter verification program if they so desire. It contains $25 million for States to assist their voters in more easily being placed on the rolls and for the States to have a more accurate roll for carrying out its elections.

That is basically the sum and substance, except for title II, which is a fraud section. It attempts to place some teeth in the law for those people who would believe that, because we believe more people should be registered, it is an opportunity for carrying out fraudulent practices in an election.

This substitute is not to be an invitation to fraud. It is an invitation for more people to participate in a fundamental act of their government.

Mr. Chairman, I reserve the balance of my time.

□ 1630

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Washington is recognized for 30 minutes in opposition to the amendment.

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in beginning another hour of debate, this one on the substance, I would like to make one point. Others can be made later. That is that the substitute says that it is voluntary. Once we realize that, it is not very important what else is in the substitute. It has no force at all. The States now can do this voluntarily, so what the amendment is is not a serious effort to try to come up with an alternative approach to assuring that voter registration is eased in all the States, but it is, rather, something that tries to gloss over the reality by the simple word "may."

Yes, the provision this is an amendment to is a bill that says all the States will provide the opportunity for citizens to register when they renew their driver's license. They may have the opportunity to register through direct mail, and they will have available to them agency registration. It says the States will do that. The moment an alternative comes in and says "may," it means, "We are not going to do anything."

The States may do that now and many States in fact have. The majority of people in this country today can register by mail. Many States already have motor-voter. There is nothing, in fact, in this bill that is not in place and working in some of the States at the present time.

For the reasons I listed just as we closed debate a few minutes ago, the fact that in a free society it is government's responsibility not to provide high hurdles for the citizen to jump over in order to be able to get at his right to vote, it is government's responsibility to facilitate the ability of a citizen to meet what minimal requirements are necessary to assure we have an accurate roll, and then facilitate the citizen's way past that to the ballot box.

The substitute as offered says "may." It is voluntary. We have all that now. It has no effect. Therefore, I suggest that we get on with the vote on that and move to passage of a bill that will in fact facilitate the ability of Americans to get from where they are to the ballot box, the way they have every right to do.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I love the gentleman's comment about how a free society should be operated, or I should say, a free society should be mandated, and that in a free society, we have to tell the States exactly how to handle their election laws because they do not know how to do it themselves.

Of course, it is a coincidence that the State of Washington has already passed their own version of a motor voter law, and it is irrelevant, so we have got to go ahead and tell them to conform to Federal standards. We have to tell Louisiana to conform to Federal standards. We have to tell every State to conform to Federal standards. But I do not understand. It seems to me in a free society a State ought to be able to choose its own electoral process.

Mr. Chairman, I rise in strong support of the Republican substitute to S. 250. Passing the substitute is the only chance for Congress to really improve the Nation's voter registration procedures in this session of the Congress. S. 250 will be vetoed by the President and the veto will be sustained. If the Members vote against this reasonable substitute, I hope they will not cry crocodile tears when the President delivers the well-deserved veto of what I would call the auto-fraudo bill.

The Republican substitute will make the Federal voter registration requirements voluntary, which apparently is anathema to the gentleman that just spoke. It will make it voluntary for the States, thereby affirming the constitutional and historic authority of the States to conduct elections.

The Justice Department, in a letter to the chairman of the Senate Committee on Rules and Administration, wrote,

> While Congress has some authority to preserve the integrity of the Federal election process by taking steps to prevent fraud, it cannot encroach upon the exclusive power of the States to regulate the manner in which elections are conducted.

But that is what this bill would do.

The States are in the best position to know which mechanisms are most likely to increase voter turnout, at what cost the State can afford, and without increasing the likelihood of election fraud. In comparison, S. 250 would trample those States rights and prevent the States from tailoring their individual approaches to their own particular problems and circumstances.

The Republican substitute encourages the States to adopt motor-voter registration while providing matching grants for State voter registration efforts. The carrot approach embodied in the Republican substitute will encourage States to enact improvements in voter registration without the big stick of unfunded Federal mandate. Also, the Republican substitute contains a strong public corruption title that would significantly increase the ability of the Federal criminal justice system to prosecute electoral fraud. The substitute preserves State law if it provides greater protection against voter fraud.

Most importantly, the Republican substitute will not prevent the States from implementing procedures which will ensure accurate voting rolls and prevent fraud. S. 250 ties the hands of State elections officials and invites fraud.

Mr. Chairman, I include at this point a letter from the Louisiana Registrar of Voters Association, Inc., which illustrates their opposition to S. 250:

LOUISIANA REGISTRAR
OF VOTERS ASSOCIATION, INC.,
Franklin, LA, May 22, 1992.

DEAR LOUISIANA REPRESENTATIVE: On behalf of the Louisiana Registrar of Voters Association, Inc. I would like to urge you to vote against Senate Bill 250. Although this bill contains provisions for registration that we do not oppose and that we currently have in effect in the State of Louisiana it also contains provisions that we oppose and could possibly lead to election day registration.

For years the Association has worked with the legislature in Louisiana to provide the best voter registration laws possible for our people. We currently rank high in the United States in number of eligible citizens registered to vote and also number of voters participating in elections.

Please allow our Association and the legislature of Louisiana to provide the best methods of registration for our people. Therefore, we urge you to consider voting against SB 250.

Thank you for your consideration regarding the above mentioned bill.

Sincerely,

STEVEN BERNARD,
President, LA Registrar of Voters Assoc.

Mr. Chairman, Project Human Serve, a group devoted to removing registration requirements, writes:

> Current policies in all but a few States allow election officials to strike people from the rolls if they do not appear at the polls during some specified period, * * * a practice that would be prohibited by the S. 250.

In addition, S. 250 forces States to accept mail registration but expressly prevents States from requiring notarization or authentication. I guess the States do not know what they need to address fraud.

In short, the Republican substitute provides both funds and flexibility to the States while at the same time providing Federal prosecutors with stronger tools to combat election fraud and preserves the States rights to prevent fraud. I urge my colleagues to support this responsible approach, and simply, again, suggest that if we are going to operate in a free society, the States should be free to set their own electoral laws.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am delighted to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I was fascinated by the gentleman's discussion.

Mr. CHAIRMAN. The time of the gentleman from Louisiana [Mr. LIVINGSTON] has expired.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I was fascinated by the gentleman's discussion of electoral problems in his own State that occurred before he got to the Congress, which I presume gives him some particular expertise over and above ordinary Members of Congress.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, certainly I have a personal acquaintance with the ramifications of fraud. I will tell the gentleman, they are deadly. They do steal elections in this country. They do steal elections in my State. I think S. 250 makes it easier to steal elections. I am against that.

Mr. CONYERS. Mr. Chairman, the gentleman's background and experience from the proximity of his congressional district and State would, of course, make him one that I would listen very carefully to, as I did in the Committee on Rules. I do not think there is anywhere in the country where one could get the kind of background that would lead one to have the kind of experience that would lend him the voice of authority here.

I am sorry to understand that the President would veto this bill even with the Republican amendment.

Mr. LIVINGSTON. Mr. Chairman, I do not think that is the case.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. RICHARDSON) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1639

NATIONAL VOTER REGISTRATION ACT OF 1992

The Committee resumed its sitting.

□ 1640

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of the Motor-Voter Registration Act and against the substitute.

Mr. Chairman, what we are trying to do is simply make it easier for people to vote. Now what is wrong with that? That is the purpose of a democracy.

If we look at what is happening today nationally, let us look squarely at the Perot factor. Hundreds and thousands of Americans are wanting to get involved in the political process because they are concerned about the gridlock brought forth by both parties. What are we going to say to those people? We should make it easier for them to participate in the political process so that we do not have 48 percent of the eligible voters voting in Presidential elections, below most Western democracies, below Central American countries that have never had elections in this century.

Mr. Chairman, let us also think about rural voters. I represent Indian reservations primarily, also rural Hispanic voters. Is there anything wrong with getting them to register to vote and to bring up their very low participation rates by using motor voter? My State of New Mexico in 1991 passed this kind of legislation. Do we say to our native Americans, our Indian people, the first Americans who vote only about 7 percent of the time that we will continue to make it difficult for them to vote? They have to go to the Navajo Reservation main office which is hundreds and hundreds of miles away to register? Should they not be able to register by license if 78 percent of the American people have driver's licenses? Should we not make it easier?

Mr. Chairman, low rates of voter participation threaten the legitimacy of our democratic process, and 60 million Americans are not registered to vote. However, most registered voters do indeed exercise their right to vote. Of those who are registered, 80 percent to 90 percent vote in Presidential elections. These figures stress the urgency of expanding access to voter registration.

Minorities are among those most unlikely to register to vote. Perhaps the most important impact of this legislation will be the registration of these groups. Are we afraid of minorities voting? In 1980, only 53.5 percent of the total eligible Hispanic voters were registered to vote. What is worse, this figure has decreased during the past decade. In 1990, only 51.9 percent of the total eligible Hispanic voters were registered to vote compared to 67 percent of the eligible white population.

Mr. Chairman, let us pass the Swift legislation.

Mr. Chairman, I rise today to express my strong support for the National Voter Registration Act. By streamlining the voter registration process, this legislation reaffirms our commitment to democracy and, if signed into law, this legislation will give a political voice to millions of Americans.

Low rates of voter participation threaten the legitimacy of our democratic process. Sixty-eight million citizens are not registered to vote. However, most registered voters do indeed exercise their right to vote. Of those who are registered, 80 to 90 percent vote in Presidential elections. These figures stress the urgency of expanding access to voter registration.

Minorities are among those most unlikely to register to vote. Perhaps the most important impact of this legislation will be the registration of these groups. In 1980, only 53.5 percent of the total eligible Hispanic voters were registered to vote. What's worse, this figure has decreased during the past decade: In 1990, only 51.9 percent of the total eligible Hispanic voters were registered to vote, compared to 67 percent of the eligible white population. By simplifying and standardizing the voter registration process, the National Voter Registration Act will result in 90 percent registration of all eligible voters.

As a champion of the democratic system, our country must dismantle the obstacles to voter registration, just as we removed barriers to voting itself, such as poll taxes and literacy tests. If we are to call ourselves a democracy, we must affirm the fundamental right to vote.

The National Voter Registration Act is a strong symbol of Congress' commitment to the American people. I am proud to lend my support to this important legislation and I urge my colleagues to do the same.

OPPOSITION ARGUMENTS—OUR RESPONSES

This bill is coming to the floor with no hearings or consideration by the committee of jurisdiotion. This procedure subverts the democratic process and the rules of the House.

This bill has been the subject of more "democratic process" than almost any other—for over five years we have heard testimony on, debated, amended, negotiated, and compromised on a voter registration improvement proposal. S.250 is not a new proposal—it's the same checklist of reforms that passed the House with bi-partisan support in the last Congress. Many of us have personally conceded provisions that we'd worked on for years, in order to develop a consensus bill that would receive bipartisan support. And we had that bill in that last Congress, with Gingrich and Thomas leading the fight on the minority side. It would be a waste of valuable taxpayer's money to spend more of this Congress' time and energy putting this legislation through the long committee process, when it's been through that numerous times.

The bill requires voter registration at welfare offices and unemployment offices. Applicants would be highly susceptible to coercion by public officials, or to the perception that their benefits were linked to registering for the "right" party.

It is the worst kind of duplicity for those Members on the minority side who supported this proposal in the last Congress which included agency registration, to now turn around and argue that agency registration invites fraud. And even more reprehensible is the Dear Colleague that was circulated by the Minority Leadership—instead of arguing against all agency registration, they selected only the welfare and unemployment office registration as being potentially fraudulent. One can only conclude that they wish to exclude the poor and the unemployed from fully exercising their democratic right to vote. 87% of the population has a driver's license—the purpose behind agency registration is to register those persons who are unlikely to be registered under the Motor-Voter program—the elderly, those persons with disabilities, and the poor. It is a disgrace to try to pick and choose among these groups in deciding who will vote, and who will be ignored.

As Bill Thomas, who now stands opposed to agency registration, said in support of this program "When you can charge with a VISA card anywhere in the USA in 5 seconds, there is no reason we cannot stop fraud at the polling place if we are determined to do so. Honest people should not be penalized by making it more difficult to register, using the excuse of voter fraud."

It requires the states to allow mail registration while simultaneously limiting the ability of the states to verify the applicant's identity and eligibility.

27 states currently have a successful mail-in registration programs, and S. 250 will set a fair national standard to provide equal treatment for registrants from state to state. As for verifying the identity of mail-in registrants, S. 250 specifically give states the power to require inperson voting for new mail registrants in a jurisdiction. The only persons exempt from that requirement are those protected under federal statutes, like the Voting Accessibility for the Elderly and Handicapped Act. It is hard to imagine any better verification than in-person voting.

If a state wishes to avoid the costs and mandates of the bill, it must allow election day registration. Merging registration and voting into one simultaneous act precludes meaningful verification and invites fraud.

Same-day registration is not a part of this bill, and we are not imposing any restrictions which would encourage or require States to adopt such a plan. In fact, when the Congressional Budget Office conducted their study in the last Congress, it found an annual average of $20-25 million dollars for local and state governments to implement this plan—States like Michigan have implemented their own Motor-Voter programs with nominal costs. You can look to Minnesota, which spent a grand total of $65,000 per year, processed 200,000 Motor-Voter transactions at a cost of 33 cents each, and didn't hire a single new full-time employee. Many States have taken the initiative in devising Motor-Voter and Agency registration programs, and this bill builds on the momentum by setting national guidelines for every State. Those States, like the Minority Leader's home State of Illinois, which have consistently resisted reasonable registration reform are now creating cost estimates that boggle the imagination—I suggest that they use the model programs of Michigan, Minnesota, Oregon, or any of the other States which have successful, cost-effective programs.

The percentage of voter participation went down in some States after they adopted Motor-Voter. Motor-Voter doesn't really work the way they say it does.

This is a red-herring to make people think that Motor-Voter isn't effective: their statistics on voter participation are a comparison between the registered population and the number who vote in an election. So the fact is that a State can register hundreds of thousands of eligible voters in one year under a new Motor-Voter program, and if half those new registrants vote you'll still have a 50 percent percentage rate. The hard numbers go way up, but the percentage stays the same—it's easy to be mislead. (Ex: 30 registered voters, 15 actually vote = 50 percent rate; 100,000 registered voters, 50,000 actually vote = 50 percent rate)

S. 250 requires the Federal Election Commission to write and impose on the States regulations for voter registration nationwide. The costs to the FEC are not reimbursed.

The Federal Election Commission is not required to anything more than to create regulations for this program, to draft the standard mail-in registration form, and to report to Congress once every 2 years on the status and impact of the voter registration program. All these responsibilities are within the jurisdiction of the FEC, and none require extra funding at this time.

Mr. THOMAS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. MICHEL], our minority leader and the author of the substitute, whose understanding of election law, based upon his State that he is from, is perhaps more personal than for most of us.

Mr. MICHEL. Mr. Chairman, I appreciate the gentleman from California yielding me the time. May I applaud him for the manner in which he has acquitted himself today, both during the course of the general debate and in consideration of the substitute amendment to S. 250.

I obviously rise in support of the substitute being offered on our side. S. 250 is in desperate need of repair.

The moniker given this bill, motor-voter, is indeed a misnomer. The gentleman from Louisiana [Mr. LIVINGSTON], who preceded me in the well, referred to it I think as auto-fraudo which is probably a very appropriate moniker to be attached to it.

The American people do not want a return to those days of yesteryear when some voters were encouraged to vote, as we have referred to it so many times out in Illinois early and often.

Increasing voter participation at the expense of honest elections, frankly, is not worth the cost. And our substitute significantly strengthens the voter fraud provisions of S. 250. Without these important modifications the bill is, frankly, dead on arrival at the White House.

Our substitute also provides $25 million in block grant money to implement those voter registration programs.

Our Nation's Governors agree there are too many Federal mandates made on the States that come without Federal money. As a result, the States have been forced to make very dramatic cuts of some very important programs. Our substitute encourages the States to start with their own innovative programs to increase voter participation without telling them how to do it.

The American people want and will bring about change in the status quo, if the early polls are correct. But such a determination to change the system to participate in our form of government, to vote, must be done in a legal and honest manner. Exposing the system to the potential of widespread abuse is no solution to the problem of decreased voter participation.

Theresa Petrone of the State board of elections in my home State of Illinois put it best when she said;

> Though the intent of this proposed legislation to increase voter participation is commendable, the implementation requirements will greatly increase the potential of vote fraud and impose a significant monetary burden on the States.

Our substitute addresses both of those concerns. It makes the changes to S. 250 that are critical to its survival, and I would urge all of my colleagues to support it.

I would also say, without a doubt that if our substitute were adopted there would be no question that we would have a favorable nod by the folks down Pennsylvania Avenue to the degree that the President could sign it into law, and that is why we offer the substitute in good faith, because we know it is something that could be supported by the Chief Executive, and obviously signed into law. And I think that is what we are really looking for.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I want to thank you for the opportunity to express my strong support for S. 250—the National Voter Registration Act. Over the past 3 years, we have watched many formerly totalitarian countries hold open democratic elections for the first time in decades. I am always amazed at the turnout in the countries of the former Soviet bloc, for instance. Despite the lack of recent first-hand experience in conducting elections, a huge percentage of the eligible population has turned out for each election. In Central America, over the past decade, we have seen people turn out to vote despite the threat of violence at the polls. The great desire to embrace free elections around the world stands in sharp contrast to the often ambivalent attitude Americans take toward our 200-year-old tradition of voting.

That is why I am strongly in favor of S. 250, which closely resembles a measure approved by this House in 1990. I believe that any steps we can take to strip away impediments to voting can only improve the American democratic process. In many parts of the country, voter registration levels are only slightly over 50 percent. It is estimated that difficulties with registration are now blocking 70 million Americans from voting.

Even if motor-voter and mail-in registration reaches only 20 percent of this total—that would still mean 14 million new voters, a huge number. Democracy works best with the most people involved. These new procedures are also a boon for the elderly and handicapped people who have difficulty getting to a municipal building to register in person.

Mr. Chairman, I also believe this measure adequately addresses the questions of potential fraud and misuse of voter lists. The penalties are realistic and enforceable. Many States have taken steps to improve and update their voter lists. This bill sets forth some commonsense registration guidelines. I believe these guidelines are long overdue. S. 250 is not a partisan bill—all political parties and candidates will benefit from the removal of registration barriers and from new opportunities for easier registration. I urge my colleagues to support this important measure.

☐ 1650

Mr. THOMAS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas [Mr. ROBERTS], a member of the Committee on House Administration.

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Michel substitute. I want to make it clear that the substitute should not be viewed as a partisan package meant to scrap the past efforts to improve the process.

The basic truth is that S. 250 is flawed in many ways. We heard all the comments in regard to cost and the potential for fraud, and the administrative burdens that this legislation will place upon the States.

This measure attempts to address all of these concerns and points, and I do not know of anybody in this House who is opposed to increasing the registration of voters. In fact, the Republicans have long fought for legislation to increase participation through various campaign finance reform measures. We want to open it, the election process, to all Americans.

The Michel substitute does contain many substantial provisions. There are real strong positives. First and foremost, it creates a national voter registration program. Second, it strengthens the fraud provisions contained in S. 250 and allows State law that is more explicit, with punishment more forceful, to be retained, and, finally, the Michel substitute would make the program voluntary for States that already adopted the various voter registration programs, and it would authorize $25 million to be provided to State governments to improve the voter registration.

During the previous hour's debate, it seems to me the focus has been, as the gentleman from Vermont [Mr. SANDERS] has indicated, that we have a theory here that motor-voter is the culmination of democracy, and to oppose it is basically standing in the way of justice and the American way. Let the RECORD show, and I want to repeat it again, that nobody in this body is opposed to more voter registration and more participation in the voting process, nobody.

The gentleman from Vermont [Mr. SANDERS] and the proponents of this bill believe that too few Americans vote. I agree. But the reasons they do not vote hinges on barriers to registration, and to that I disagree.

In the last 40 years, the voter registration in America, during the Presidential election years, has remained fairly constant despite the massive reforms that have removed the roadblocks in many States—literacy tests, property ownership, poll taxes, residency requirements. Long ago they were torn down and rightly so.

The facts are that registration has remained fairly constant since 1948, around 70 percent. The truth is there is very little correlation between registration and actual voting. The voting percentage in the Presidential elections has dropped to around 50 percent, and the 30-percentile range for congressional elections.

Why? Why are people not voting? Disillusionment with the process, a lack of good candidates, the absence of true election reform, a government that simply does not address the needs of the individual, whether they be from the inner city or a rural area, or economic status, or minority or whatever.

The need for accountability, a strong two-party system where the parties stand for something, Congress needs to clean up its act, and we are trying to do just that, negative campaigning, gridlock in the House as evidenced by this legislation. Those are the reasons, those are the reasons that people are not voting.

Let us not forget that the American people vote all the time, for school boards, for local community candidates, bond issues, and, yes, also in national elections.

That is why the turnout does not compare favorably with many foreign countries. You put a school bond issue or a competitive local race on the ballot and you hold an election where people can actually influence government one way or another, and they will vote.

Can we also stress that voting is a cherished right, but it is also a privilege, and it carries with it the responsibility of getting informed and getting registered, and getting to the polling place, and an uniformed and real apathetic voter may be worse than no vote at all.

One final thought, you know, we went through a debate in this House in regard to our official mail around this place and the use of registered voter mailing lists, to wash out those who were not registered. Do you remember that? The argument that the majority made at that time was that we were just cleansing our mail to the folks who really counted. The practice of using Member office funds to wash individual mailing lists to include only those registered to vote is wrong, and so is S. 250.

I urge my colleagues to vote for a reasonable, a reasonable substitute as introduced by the gentleman from Illinois [Mr. MICHEL].

I rise in support of the Michel substitute to S. 250.

Unfortunately, and completely due to the majority's efforts, this substitute is the single opportunity that the minority has been allowed to improve upon this legislation.

However, this substitute should not be viewed as a partisan package meant to scrap the past efforts to improve the U.S. election process. It is meant to correct certain inconsistencies and concerns associated with S. 250.

S. 250 is flawed in many ways. We have heard numerous comments on the cost, the potential for fraud, the administrative burdens this legislation will place upon the States. This measure attempts to address all these concerns and points, while preserving the fundamental principle in which S. 250 is based upon—increasing voter participation.

I do not know anyone opposed to increasing voter registration. In fact, Republicans have long fought for legislation to increase voter participation through various campaign finance reform measures. Republicans want to open the election process to all Americans. Republicans fully embrace efforts to strengthen the concept of one man, one vote.

Mr. Chairman, the Michel substitute contains many substantial provisions. First, and foremost, it creates a national voter registration program. Second, it strengthens the fraud provisions contained in S. 250 and allows State law, that is more explicit and punishment more forceful, to be retained. Finally, the Michel substitute would make the program voluntary for States that already adopted voter registration programs and it would authorize $25 million to be provided to State governments to improve voter registration. Millions of dollars have been invested by State governments in recent years to increase voter registration. Why should these efforts be thrown away? Why should not States be provided an opportunity to improve their current efforts and be given Federal dollars to assist them. Current registration programs are working. Voter registration has been increasing, although voter participation has been falling.

Again, I would like to stress that as a Republican member of the House Administration Committee in the 102d Congress, I would have and continue to welcome the opportunity to bring any voter registration bill before our committee. I would urge my colleagues to support the Michel substitute and improve State voter registration programs.

During the previous hour's debate, Mr. SANDERS provided us with the theory that motor-voter was the culmination of democracy and to oppose it was basically standing in the way of justice and the American way.

Let the RECORD show that no one in this body is opposed to more voter registration and more participation in the voting process. Mr. SANDERS and the proponents of the bill believe that too few Americans vote, I agree, but the reasons they do not vote hinge on barriers to registration, and to that, I disagree.

In the last 40 years, voter registration, in America during the Presidential election years has remained fairly constant despite the massive reforms that have removed roadblocks in many States. Literacy tests, property ownership, poll taxes, residency requirements were torn down long ago, and rightly so.

The facts are that registration has remained fairly constant since 1948; around 70 percent. The truth is there is very little correlation between registration and actual voting. The voting percentage in Presidential elections has dropped to around 50 percent and in the 30 percentile range for congressional elections.

Why? Disillusionment with the process. A lack of good candidates. The absence of true election reform. A Government that simply does not address the needs of the individual. The need for accountability, a strong two-party system where the party stands for something, a Congress that needs to clean up its act, and we are trying to do just that. Negative campaigning. Gridlock in this House. Those are the reasons people are not voting.

And, let us not forget the American people vote all of the time, for school boards, for local community candidates, for bond issues, and yes, in national elections. That is why the turnout does not compare favorably with many foreign countries. Put a school bond issue or a competitive local race on the ballot and hold an election where people can actually influence government one way or another and they vote.

And, can we also stress that voting is a cherished right but it is also a privilege and it carries with it the responsibility of getting informed and getting registered and getting to the polling place. An uninformed and apathetic voter may be worse than no vote at all.

Remember the story about the two volunteers registering voters in the cemetery and quitting about half way through when one turned to the other and said, lets finish the job, the folks in this part of the cemetery have just as much right to vote as the folks we have already registered. Integrity of our election process is just as important as turnout.

One final thought. You know we went through a debate in this House regarding our official mail and the use of registered voter mailing lists to wash out those who were not registered. Remember that? The argument the majority made at that time was that we were just cleansing our mail to the folks who counted. The practice of using Member's office funds to wash individual mailing lists to include only those registered to vote is wrong.

Mr. SWIFT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I must confess that I am a little confused by the debate.

We have heard one gentleman say Government has got to get its nose out of the people's business and objected that this bill mandates some things, and then we hear what is wrong with the bill is that it does not mandate things.

H.R. 2190 mandated two specific ways of purging the lists. This bill mandates that lists will be purged, but it does not mandate exactly how. It gives States additional flexibility.

The former bill mandated a specific application form. This sets some general standards and gives more flexibility.

The former bill mandated a lot more places where registration forms had to be available. This mandates fewer and leaves completely open to the States what they want.

Mr. Chairman, I think sometimes we have to decide whether we want mandates or not, and not criticize the bill both because it has them and because it does not.

Let me address one other major issue that is being raised here, and that is the whole question of fraud. This is a bugaboo that has been waved around. It started in the Senate described as the primary thing that was wrong with this bill, as though this bill in some way was going to increase the opportunity for fraud. It does nothing of the sort. It leaves everything that currently exists in place; all the antifraud provisions that are in place in any State in any place at the present time are left untouched, and it does these additional things: This bill gives Federal prosecutors the right to prosecute in Federal court for any election fraud at any level, State or local. It addresses all the fraud concerns, and, first, an attestation clause that sets out all requirements for eligibility to vote; second, a signature that the applicant must provide under penalty of perjury; third, the States may require by law that a first-time voter who registers by mail make a personal appearance to vote; fourth, that each applicant is to be given notice of the disposition of his or her registration. Many States use this notice as a means of detecting fraudulent registrations. And, fifth, Federal criminal penalties would apply to any person who knowingly or willfully engages in fraudulent conduct.

Motor-voter does not automatically register people to vote. It automatically serves as an application to register to vote, and this allows for State election officials to use discretion and review each application and decide if an applicant is a minor, a noncitizen, or in some other way a fraudulent registrant.

As regards the whole issue of mail registration, which most States and most Americans currently can use, a letter from the chief elections officer of the State of Mississippi, the Honorable Dick Molpus, who is the secretary of state, says that:

> I am proud that on July 1, we will begin voter registration by mail, the 27th State to do so. During a heated public debate on the merits of mail-in registration, my office conducted an extensive nationwide study of voter registration with particular emphasis on determining the potential for fraud during registration.

And he underlined the next sentence, "We could find no evidence of registration fraud."

It is a red herring. Every protection against fraud that is currently in effect in this country today will be in effect if this law passes, and this law adds additional protections. The only thing fraudulent here is the argument against the bill about fraud.

Mr. Chairman, I am including at this point in the RECORD the letter from the secretary of state of the State of Mississippi, as follows:

STATE OF MISSISSIPPI,
SECRETARY OF STATE,
Jackson, MS, March 20, 1992.

Hon. ALFONSE D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: Our citizens cannot participate in American democracy unless they are registered to vote. The "Motor Voter" bill to come before you soon is a creative, modern way to make voter registration available to some people who might have difficulties registering in more traditional ways. I hope you will support "Motor Voter" as a good way to extend enfranchisement, while safeguarding the integrity of the electoral process.

In my state of Mississippi, I am proud to say that July 1 we will begin voter registration by mail—the 27th state to do so. During a heated public debate on the merits of mail-in registration, my office conducted an extensive nationwide study of voter registration with particular emphasis on determining the potential for fraud during registration. *We could find no evidence of registration fraud.* The U.S. Postal Service confirmed that it has had virtually no instances of registration fraud. In other words, mail-in voter registration is effective and safe.

As my state's chief elections officer, I also believe a well-crafted "Motor Voter" system will be effective and safe. If you or your staff would like a copy of our mail-in registration research, please contact me. I will be happy to provide you with a copy. Public officials such as you and I must search for ways to help Americans participate in their government. I believe mail-in and "Motor Voter" registration are two such ways.

Sincerely yours,

DICK MOLPUS.

□ 1700

Mr. THOMAS of California. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. GILLMOR], who, had this underlying bill been brought to the committee, would have had a chance to examine it in the appropriate committee structure of the Subcommittee on Elections of the Committee of House Administration.

Mr. GILLMOR. Mr. Chairman, I rise in support of the Michel substitute.

Mr. Chairman, I rise today in support of the Michel substitute to S. 250, the so-called motor-voter bill.

I would have preferred to be rising in support of the amendment I offered in the Rules Committee last Wednesday. That amendment would have made State compliance with the provisions of S. 250 optional unless and until this new Federal mandate was fully funded by the Federal Government.

Unfortunately, my amendment—one designated as a "key amendment" by the National Association of Counties—was not made in order by the committee.

I am not one who believes that S. 250 is necessary. Administrative burdens to voting have generally been reduced over the years, and at the same time voting has declined. People register because they want to vote. They do not vote—just because they are registered.

Men and women elected to this body should not ram the costs of the legislation down the throats of State and local governments.

If you really want to bring people back into the elections process, perhaps we should start by restoring some consistency and responsibility to our actions here on the floor of the House.

It is no wonder that the American people listen to very little of what we say, and believe even less.

Just 5 days ago, we debated the need for a balanced budget amendment. We heard eloquent speeches by Members saying that we did not need the amendment, that all we needed was a little backbone, a little guts, to prioritize, to make the hard decisions, and to live within our means.

How soon those empty words were forgotten.

The fiscal responsibility of this body has been in question for some time. Now we are reaching with both hands into the treasuries of the States.

Mr. Chairman, the problem is that the States do not have the luxury of buy-now and pay-later.

In my home State of Ohio, Governor Voinovich and the legislature simply cannot afford to fund another Federal pet project. They already have their hands full making ends meet now to fund vital State services. They are already making hard decisions.

In April of this year, in large part because of Federal mandates, 96,000 Ohioans were removed from the general assistance rolls due to lack of funding. State employee unions are faced with a best case of either freezes in salaries or significant layoffs in their collective bargaining negotiations because of a lack of funding. Public universities once again as a result of Federal mandates, are facing millions of dollars in cuts and State agencies are bracing for future cuts of as high as 20 percent because they simply do not have the money.

Mr. Chairman, I think it would be fair to ask the sponsors of this bill how many more poor people you want to cut off of welfare in Ohio and other industrial States, how many more students you want to deny college education to fund your pet projects.

Mr. Chairman, I intend to vote for the Michel substitute, for the motion to recommit and, if necessary, against the final passage, not because I am opposed to voter participation, but because this body will not fund this mandate.

If this legislation is a priority, fine. Fund it. If it is not, let us not pass it.

Mr. SWIFT. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I rise in full support of this bill and would just point out that the arguments made by the Republican side are fully rebutted by People for the American Way, who will tell anyone who asks that this bill is almost exactly the same as last year's bill. There is no difference and it is good for America.

Mr. Chairman, I want to pay tribute to several people who worked on this bill last Congress who made this historic day possible.

The first one is Bill Gray. As majority whip during the last Congress, he brought the various civil rights and public interests groups together on a compromise bill that could garner Republican support and give every American the opportunity to vote, free from onerous registration rules. Certainly a tribute is deserved by our colleague, AL SWIFT of Washington. The other Members I would like to pay tribute to are the ranking Republican on House Administration and the minority whip. Last Congress they worked tirelessly on passing the motor-voter bill, and even sent letters urging its passage.

Unfortunately, they have decided to oppose this year's bill, despite the fact that the only real difference is that the antivoter fraud sections are toughened. I can only hope that the Republicans' irrational opposition does not stem from a desire to keep voter turnout low during this election year.

Nevertheless, this is an important bill. No democracy in the world sets up voting barriers like we do. And those States that have torn these barriers down have seen a tremendous increase in voter turnout without any increase in voter fraud.

This bill will bring more democracy to more people than any bill the Congress has debated with since the Voting Rights Act of 1965. I urge its passage.

Mr. SWIFT. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, there is a healthy revolt going on in this country among average people who feel so unrepresented that they are becoming directly involved, many for the first time, in this historic Presidential campaign.

People who never thought of themselves as political are leading petition drives. People who feel locked out of the system are now seeing the answer to their problems lying right before them; they're getting involved.

I do not fear this development; I welcome it. I want participation to increase. I want to get people off the sidelines.

I want people to enjoy the 200-year-old tradition in this country that the people of Eastern Europe and Latin America are now discovering, many for the first time.

Motor-voter legislation is the right bill for us to bring forward at this time. This legislation is aimed at increasing participation by making registration forms as accessible as driver's license forms.

It enables States to make registration by mail available. It opens new avenues for registration at State agencies and, perhaps most significant, it makes it easier for people with disabilities—people with great stakes in the political process—to participate more easily and exercise their rights as citizens.

I cannot think of a better time to widen the circle of democracy, to urge more Americans to exercise their franchise, and to bring more people into the process.

And I cannot think of a worse time to tell Americans that their vote isn't welcomed, or their participation doesn't count.

This is not a Democratic voter recruitment bill. The reality is, if you are listening to what the people are saying, is that the allegiance of Americans to particular parties is up for grabs.

We cannot win their devotion with a registration form, we have to win it with our beliefs.

And what we are saying today in this debate is that we don't care which box on the form they check—we want them to register because we want them to participate. Once they enter the political arena, Democrats and Republicans and Perot people will enter democracy's most important contest—the competition of ideas.

The truth is this: The substitute offered by the distinguished minority leader is a pale imitation of the regular bill. It may taste great to the people who do not want legislation at all, but it is less filling for those of us who want to break down the walls to increased participation.

And increasing participation is really what this debate is all about.

At its proudest moments, during the most difficult periods of our national life, this Congress has risen to the moment and broken down barriers to widen and deepen the democratic experience.

Stopping slavery and segregation, empowering women, repealing poll taxes, the Voting Rights Act, voting rights for the District and 18-year-olds, the Americans With Disabilities Act—these constitutional amendments and Federal statutes are monuments to this democracy's ceaseless efforts at self-improvement and expansion, and they are testaments to our ability to surmount the procedural arguments and the passions, and to do what is right.

That is what we must do this afternoon.

We cannot stop now. The motor-voter registration bill is not the answer to all our democracy's problems, but it is a good place to take a stand and make a start.

If you want to validate the respect our country has earned across the world, if you want to tell the people mobilized in our country that we hear their concerns, vote for the motor-voter bill.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I just was really moved by the gentleman's comments.

I think this bill is far more momentous than people understand. Here we are the world's leader for democracy and yet we have one of the worst voter turnouts. Here we are, the people responsible for the fact that democracy is spreading throughout the world, and we still have this alienation and apathy.

To me this is a government of, by and for the people. That means all the people, and this bill leads us toward a more perfect democracy.

Mr. THOMAS of California. Mr. Chairman, I yield myself such time as I may consume.

Perhaps one of the reasons that the American voters are not voting in the numbers that we would like them to vote is because more and more of them are watching the process. If the process looks anything like this one, it is no wonder that they chose not to participate.

I myself am a little confused about the arguments against the substitute. Is it because it allows States the option to participate, or is it because there is money in the bill to fund those States who want to participate?

It seems to me that a substitute which stresses motor-voter registration and voter verification and can be signed by the President would be something that the majority would at least want to look at, instead of dismissing it out of hand.

Their argument is that this is the bipartisan bill which passed the House, which was modified in the Senate to mandate the outreach, but not to mandate the verification. I can assure you that the language in the bill that says States must make an effort to verify whether or not voters are still there is not anything more than the "may" language of the substitute.

So on the one hand the substitute gets criticized because it is an opportunity for States to participate, while on the other hand the underlying legislation treats voter verification in exactly the same fashion, and it is wrong in the substitute but it is OK in the bill.

I think the $25 million is more the heart of the issue. I do not think the Democrats want to put any money in any bill at any time.

The idea of dictating to the States is such an overwhelming aphrodisiac that even folks who should know better stand up on the floor and say that S. 250 will not change State law at all.

□ 1710

Whoever said that has not read S. 250, if I give them the benefit of the doubt in terms of the veracity of the statement. S. 250, if it were passed and became law, would change State election law in Alaska, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. State law would be changed in every one of those States. So to stand up and say that this does nothing to State law, that all we are doing is adding to what is already done by States, is simply untrue.

S. 250 mandates a series of requirements to the States, State law notwithstanding, and, if in contradiction to S. 250, the State law must go.

In contrast to that, the substitute says we want to work with the States, through Federal grant, through motor-voter and other procedures for registration, and through voter verification to make it easier for Americans to vote. And by the way, we will put a pot of $25 million out there for those States who are willing to share in working these changes.

Now, why is that so onerous? What is wrong with the bill that can become law which underscores the areas that have been discussed and which provides funding with one difference? The Michel substitute says, "States, you can reserve the right which has been historic under the Constitution to exercise your option," as opposed to S. 250, which mandates the changes, "whether you like it or not," and does not provide any funding.

It seems to me that in the condition that we find ourselves today, the Democrats willing to scuttle the compromise structure that was H.R. 2190 and substitute a partisan document which mandates with no money, that another compromise that seems reasonable is an outreach program that does fund programs, that urges States to change their laws and provides the wherewithal to do so.

That is, I believe, a reasonable compromise. It is the substitute that is in front of us and it is a substitute worthy of sending to the President so he can sign it.

Mr. Chairman, I yield back the balance of my time.

Mr. HAYES of Illinois. Mr. Chairman, I rise today to speak in support of S. 250, the National Voter Registration Act, or as many have decided to call it, the motor-voter bill. This much needed piece of legislation would certainly increase voter participation in the electoral process. In a democracy such as ours all citizens should have the opportunity to exercise their right to vote, and as their leaders we should try to make it as easy as possible for them to accomplish that goal. Yesterday we provided the perfect opportunity to make that happen.

National voter turnout has declined steadily since 1964 in both Presidential and non-Presidential election years. In 1990, a non-Presidential election year, 34.4 percent of the national voting age population voted. In 1988, a Presidential election year, barely 50 percent of the national voting age population voted. These figures are atrocious. With the rise of democratic governments around the world, it is crystal clear how precious the freedom to vote has become. Turnout in the United States is embarrassingly low compared to many other countries and the motor-voter bill could drastically improve these dismal figures.

It has been shown that simplified registration increases voter turnout. States like Minnesota have simple registration procedures and have voter turnout that is 25 percent higher than the national average. I am confident that if such a plan existed in Illinois, voter participation among African-Americans and other minorities would dramatically increase. Linking voter registration to application, renewal or change of address for a driver's license or a nondriver's ID is logical and cost effective, since nearly 90 percent of the American population has a driver's license or identification from a State's motor vehicle department. Since the agencies will share information, address changes and updated information from license renewal would be automatically given to the election boards.

The U.S. voter registration system is complicated and inconvenient, sometimes requiring voters to drive miles to register or update their registration each election cycle. This legislation would help alleviate this problem by allowing Americans to register quickly and conveniently.

As we approach the 1992 Presidential Elections, this country stands to have another abysmal showing at the polls. S. 250 would allow greater access to voting and therefore increase voter participation. I am thankful that 268 of my colleagues' had the courage to support the motor-voter bill, so that we can make some aspect of democracy a convenient reality for thousands.

Mr. SWIFT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. THOMAS].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. THOMAS of California. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 192]

Abercrombie
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist

Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1738

The CHAIRMAN. Four hundred and seventeen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. THOMAS] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes on this vote.

The vote was taken by electronic device, and there were—ayes 133, noes 290, not voting 11, as follows:

[Roll No. 193]

AYES—133

Allard
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lancaster
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Myers
Nichols
Nussle
Packard
Paxon
Petri
Porter
Ravenel
Regula
Rhodes
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)

NOES—290

Abercrombie
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Hutto
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Reed
Richardson
Ridge
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron
Zeliff
Zimmer

NOT VOTING—11

Ackerman
Bonior
Broomfield
Bryant
Hefner
Hubbard
Owens (UT)
Quillen
Ray
Traxler
Wolpe

☐ 1748

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Bonior against.

Mr. THOMAS of Wyoming changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

☐ 1750

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McNULTY) having assumed the chair, Mr. McDERMOTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes, pursuant to House Resolution 480, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 268, nays 153, answered "present" 1, not voting 12, as follows:

[Roll No. 194]

YEAS—268

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bilbray
Bilirakis
Blackwell
Boehlert
Borski
Boucher
Boxer
Brooks
Brown
Bruce
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy

Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Hopkins
Horn
Horton
Hoyer
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Reed
Richardson
Riggs
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Vento
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron
Zimmer

NAYS—153

Allard
Allen
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bliley
Boehner
Brewster
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Moorhead
Myers
Nichols
Nussle
Olin
Oxley
Packard
Paxon
Petri
Pickett
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skaggs
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

ANSWERED "PRESENT"—1

Martin

NOT VOTING—12

Ackerman
Bonior
Broomfield
Bryant
Hefner
Hubbard
Lancaster
Owens (UT)
Quillen
Ray
Traxler
Wolpe

☐ 1810

The Clerk announced the following pairs:

On this vote:

Mr. Bonior for, with Mr. Quillen against.

Mr. Lancaster for, with Mr. Martin of New York against.

Mr. WHITTEN changed his vote from "nay" to "yea."

Mr. MARTIN. Mr. Speaker, I have a live pair with the gentleman from North Carolina [Mr. LANCASTER]. Had he been present, he would have voted "yea." I, therefore, withdraw my vote and vote "present."

Mr. MARTIN changed his vote from "nay" to "present."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on S. 250, the Senate bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Washington?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, FISCAL YEAR 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–571) on the resolution (H. Res. 485) waiving certain points of order during consideration of the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5099, CENTRAL VALLEY PROJECT IMPROVEMENT ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–572) on the resolution (H.R. 486) providing for the consideration of the bill (H.R. 5099) to provide for the restoration of fish and wildlife and their habitat in the Central Valley of California, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3247, NATIONAL UNDERSEA RESEARCH PROGRAM ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–573) on the resolution (H. Res. 487) providing for the consideration of the bill (H.R. 3247) to establish a National Undersea Research Program within the National Oceanic and Atmospheric Administration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4310, NATIONAL MARINE SANCTUARIES PROGRAM REAUTHORIZATION AND ESTABLISHMENT OF COASTAL AND OCEAN SANCTUARY FOUNDATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–574) on the resolution (H. Res. 488) providing for the consideration of the bill (H.R. 4310) to reauthorize and improve the National Marine Sanctuaries Program, and to establish the Coastal and Ocean Sanctuary Foundation, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4996, JOBS THROUGH EXPORTS ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–575) on the resolution (H. Res. 489) providing for the consideration of the bill (H.R. 4996) to extend the authorities of the Overseas Private

Investment Corporation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such rollcall vote, if postponed, will be taken on Wednesday, June 17, 1992.

U.S. HOLOCAUST MEMORIAL COUNCIL AUTHORIZATION

Mr. KOSTMAYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2660) entitled "Authorization of appropriations for the United States Holocaust Memorial Council," as amended.

The Clerk read as follows:

H.R. 2660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 17, 1980 (P.L. 96–388; 36 U.S.C. 1408) is amended to read as follows:

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"To carry out the purposes of this Act there are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year through fiscal year 2000. Notwithstanding any other provision of law, there are authorized to be appropriated to the Council such amounts as may be necessary to obtain, from a private insurance carrier, insurance against loss in connection with the memorial museum and related property and exhibits. Notwithstanding any other provision of this Act, no funds authorized under this Act may be used for construction. Authority to enter into contracts and to make payments under this Act, using funds authorized to be appropriated under this section shall be effective only to the extent, and in such amounts, as provided in advance in appropriation Acts.".

SEC. 2. REPORT.

The Act of October 7, 1980 (P.L. 96–388; 36 U.S.C. 1401 and following) is amended by adding the following new section at the end thereof:

SEC. 11. REPORT.

"The Council shall submit to Congress by June 30, 1995 a report containing each of the following:

"(1) A description of the extent to which the objectives of this Act are being met.

"(2) An examination of future major endeavors, initiatives, programs, or activities that the Council or museum proposes to undertake to better fulfill the objectives of this Act.

"(3) An examination of the Federal role in the funding of the Council and its activities, and any changes that may be warranted.".

SEC. 3. MISCELLANEOUS AMENDMENTS.

The Act of October 7, 1980 (P.L. 96–388; 36 U.S.C. 1401) is amended as follows:

(1) In section 1, strike "oversee the operation of," in paragraph (2) and insert "operate,".

(2) Section 6 is amended by adding the following at the end thereof:

"(d) All employees of the memorial who on April 1, 1993, including employees currently on excepted appointments covered under schedules A, B, and C who are performing inherently governmental functions which will continue after the opening of the museum shall be brought into the competitive service in accordance with the classification and pay policy guidelines contained in V of the United States Code.

"(e) The Council shall maintain insurance on the memorial museum to cover such risks, in such amount, and containing such terms and conditions as the Council deems necessary.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2660, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say very briefly that H.R. 2660 authorizes appropriations for the U.S. Holocaust Memorial Council through the year 2000.

The legislation was approved by the Committee on Interior and Insular Affairs on May 20, and subsequently discharged from the Committee on Post Office and Civil Service and the Committee on House Administration without prejudice.

Mr. Speaker, let me say that this legislation was written by the gentleman from Illinois [Mr. YATES], our distinguished colleague. Its intent, of course, is clear, to recall for the people of our own country and for all the world those unspeakable deeds which took place in Nazi Germany and in Europe during World War II.

Mr. Speaker, I am proud of support this legislation. I think it is an invaluable piece of legislation to help all of us to remember that period of time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I thank the gentleman for yielding me this time and for shepherding my bill through the committee and bringing it to the floor at this time.

The U.S. Holocaust Memorial Council was, under the existing legislation, required to construct a memorial, museum and memorial, respecting the Holocaust with donated funds. Pursuant to that charge, over $125 million was raised for the purpose of constructing that museum. It now stands on 15th Street near Independence, a magnificent structure that has won acclaim from architects and from critics all over the country, for that matter all over the world. It will stand as a memorial for those who were killed by the Nazis during the dark days of World War II and will serve as an instruction to all those who come within its doors that what happened in the killing of the people by the Nazis must not happen again.

Mr. KOSTMAYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me only add a very brief personal note. My subcommittee held a hearing on this legislation, and one of the things that interested me the most, and I will be very brief, is that before the war began, Senator Robert Wagner of New York introduced, along with a Member of the House, Edith Rogers of Massachusetts, a bill to allow 10,000 Jewish children into the United States in 1939, 1940, and 1941. The American Legion testified against the bill, and the Daughters of the American Revolution testified against the bill. A vote was taken to allow these 30,000, over 3 years, into this country. It was defeated in the subcommittee.

Some time later, the ship the *St. Louis* with almost 1,000 German Jews sailed into Miami harbor. Those Jews were seeking refuge from Nazi Germany. The war had begun, Hitler had been in control of Germany for some years, and the U.S. Immigration Service turned the ship back. The ship returned to Europe.

One of the things I hope that this museum will do is to let all Americans know of our own complicity, let all American gentiles know of our own guilt, of the role we played and of our silence during the Holocaust. That for me, as an American and as a non-Jew, is the invaluable lesson of the legislation we seek to pass today.

Mr. Speaker, H.R. 2660 authorizes appropriations for the U.S. Holocaust Memorial Council through the year 2000. It was approved by the Committee on Interior and Insular Affairs on May 20 and subsequently discharged from the Committees on Post Office and Civil Service, and House Administration, without prejudice.

The U.S. Holocaust Memorial Council was created by Public Law 96–388 to achieve three main objectives: First, to plan, construct, and oversee the operation of a permanent living memorial museum to the victims of the Holocaust, second, to provide for appropriate ways for the Nation to commemorate the Days of Remembrance as an annual national, civic commemoration of the Holocaust, and third, to develop a plan for carrying out the 1979 recommendations of the President's Commission on the Holocaust.

The Federal funding has augmented a very successful private fundraising campaign and will result in a world class museum here in Washington, DC. The museum is scheduled to open in April 1993 and will stand as a truly remarkable symbol of our moral obligation to remember the Holocaust.

The museum's permanent exhibition has been fully designed, and the microdesign for each of the 108 exhibition segments is almost complete. Historians and writers are preparing the text of the exhibition and the captions for photographs, objects, and documents which will be on display.

In the coming year the final hardware and software equipment needed for the interactive learning center will be installed. The learning center databases include the Holocaust Encyclopedia, maps, photographs, and oral histories. Printouts of various data, including maps and photographs, will be available to the visitor to take home. Planning for two special exhibitions to premiere at the museum's opening is also underway.

I want to express my appreciation to the bill's author, Representative YATES, for his support and commitment to the council's work, and I urge the bill's adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill.

Let me congratulate the chairman and others who have put in so much effort and so much work to successfully bring this bill to the floor and, more importantly, bring the memorial to where it is now.

I guess I am particularly impressed that it is to be funded from private funds. I know it is a difficult task to raise $150 million, plus, in that area.

I think perhaps there is some lack of specificity as to how these funds will be handled in the future in terms of the operation, but I understand that will be discussed and will be resolved in the near future. So I do rise in support.

The administration has no objection to the bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DELAY].

□ 1820

Mr. DELAY. Mr. Speaker, this is not an easy thing for me to do. It is with great reluctance that I rise in opposition to passing H.R. 2660 under suspension of the rules, as I am certain my opposition will be misunderstood by many. I do not argue that the Holocaust Memorial Council is not making a valuable contribution to creating an awareness of the tragic events the Jewish people experienced not too long ago, nor do I argue that this is not a worthy cause to support. Rather, I argue that the Federal Government simply does not have the resources to fund every worthy cause no matter how much they may merit assistance.

The Holocaust Memorial Council was created in 1980 by an act of Congress and was charged with building the U.S. Holocaust Memorial Museum in Washington, DC. The Museum is being built on Federal land, but the act specifically stipulates that the costs of construction be covered by private contributions, as the Vietnam Memorial and many others have been.

The Federal role was limited to the donation of land and $2½ million in upfront development funds. To date, Congress has gone well beyond the original figure by appropriating $33 million above the authorized ceiling.

H.R. 2660 authorizes such sums as may be necessary in fiscal years 1992 to the year 2000 for the operation of the Holocaust Memorial Council and Holocaust Museum. The CBO estimates that such sums means about $18.3 million in fiscal year 1993, and $15.4 million for each additional year, adjusted for inflation, and that could amount to $110 million until the year 2000. These are not small sums. This is $3 million more than operating the Air and Space Museum, the most visited Museum in the world. It is seven times the funding authorized for the Lincoln, Jefferson, and Washington Memorials combined.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I am glad to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I do not know where the gentleman gets his figures.

I would point out to the gentleman that it was always intended that after the museum was constructed it would become a part of the U.S. Government as a museum comparable to the museums of the Smithsonian Institution.

Operating funds are needed for the museum.

I point out the paragraph in the report of the Commission, the report of the President's Commission on the Holocaust:

> The Commission proposes the Museum become a federal institution, perhaps an autonomous bureau of the Smithsonian Institution offering extension services to the public, to scholars and to other institutions.

As it happens, I am chairman of the Appropriations Subcommittee which has jurisdiction over the expenditures.

Mr. DELAY. Mr. Speaker, I do not have much time.

Mr. YATES. Mr. Speaker, I will be glad to get the gentleman additional time.

Mr. DELAY. Mr. Speaker, I thank the gentleman.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I want to say that I certainly do not question the gentleman's motives. I know he is sincere.

This is a Federal museum. It was built with private funds, unlike any other Federal museum. It is to be operated with public funds.

What the gentleman is saying is that we ought to operate the Smithsonian with private funds. That would not be a good thing.

Mr. DELAY. Reclaiming my time, Mr. Speaker, it is my time and you all can answer me and I will ask you to yield the time you spend.

Let me just say that the President's Commission on the Holocaust, formed in 1978 to make those recommendations, and I quote from their own recommendations:

> Concerning the critical question of funding of the Museum and its operation, the Commission's report stated "The Commission holds that funding for the memorial should be realized principally through public subscription. Despite the size of the project, the Commission believes that it can receive extensive public support. The sources for funds for establishing and maintaining the Holocaust Memorial and its programs can include large individual contributors, foundations, associations, institutions, corporations, civic organizations, churches, and synagogues as well as voluntary contributions from Americans from all walks of life throughout the Country."

Even in its own publication, it states that the act creating the council stipulates that the museum be built and operated with private contributions.

I know how important this is to the gentleman and I do not take this action lightly, but I have got to tell you that even a detailed look at one of the aspects of running this museum, this operation, reveals the inflated cost that we are finding there.

For instance, the Artifact Curation Program for the Holocaust is budgeted to cost $830,000.

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from Texas [Mr. DELAY] has expired.

Mr. KOSTMAYER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me this time.

I am just saying that the Artifact Curation Program for the Holocaust is budgeted to cost $830,000 annually and requires 11 full-time permanent employees to curate a 22,000-item collection.

By comparison, the National Park Service spends less than $50,000 annually to support two temporary employees who oversee the 25,000-item collection of artifacts collected from the Vietnam Veterans Memorial.

The Council is requesting these funds for traveling education programs, the establishment of a research center, ongoing programs, and to complete research on the museum's exhibits, among other activities.

Again I am certain these are worthy projects, but is it the Federal Government's responsibility to pay for them?

I do not need to remind this House that we have a $400 billion operating deficit, and in light of this fact it does not seem wise to spend money on the operation of a museum when there are many urgent needs, such as feeding hungry children or helping poor families, or many others that we can barely fund now.

I hope my colleagues will recognize that opposing H.R. 2660 under suspension does not mean we do not appreciate what the Jewish people experienced or that it should not be memorialized. Rather, it means we believe that we have to make hard decisions about where our limited Federal dollars are spent, and this is not the best choice at this time.

I urge my colleagues to oppose H.R. 2660 under suspension of the rules.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, this is not a memorial only to the Jewish people. This is a memorial for all those who suffered at the hands of the Nazis during the dark years of World War II. The funds are being raised not only from the Jewish people, but from people of all faiths from all over the country. There has been an outpouring of support for this museum.

I point out to the gentleman, too, and I do not know where he got his figures, because we are familiar with the figures that are pertinent to the Holocaust Museum, and his I think are beyond the extreme.

Mr. DELAY. Mr. Speaker, if the gentleman will yield, I will tell the gentleman where I got them.

Mr. YATES. Where did the gentleman get them?

Mr. DELAY. The Congressional Budget Office.

Mr. YATES. For all the figures that you received?

Mr. DELAY. That is my understanding, that is where we got them.

Mr. YATES. Well, I cannot believe that the Congressional Budget Office made such errors.

At any rate, I point out to the gentleman that the President of the United States supports this legislation. The President of the United States supports the budget for the Holocaust Museum, and I point out to the gentleman that this memorial will stand proudly with the other museums and memorials in the District of Columbia that have been established in order to memorialize historic events.

□ 1830

This is a memorial which will memorialize one of the incredible human crimes in all the history of civilization. It will serve as the model for the museums that are memorializing the Holocaust throughout the country. There are memorials to the Holocaust in various cities now, which are small, but this will be the greatest memorial to the Holocaust in the entire world.

I would hope that the gentleman would reexamine his views on this. I think the gentleman is in error with his figures. I think the Congressional Budget Office has erred somewhere along the line, because the figures that the gentleman has presented have never surfaced before.

Mr. Speaker, I urge passage of this legislation.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 2660, legislation authorizing the operations of the U.S. Holocaust Memorial Council and programs for the impending Holocaust Museum. I commend its chief sponsor, our distinguished colleague, the gentleman from Illinois [Mr. YATES], for his ongoing strong support and leadership in this important and historic endeavor.

For the past decade, plans have been underway to make a U.S. Holocaust Memorial Museum a reality. While all construction has been privately funded—$147 million to date—H.R. 2660 authorizes operating appropriations to the Holocaust Memorial Council, which is responsible for planning and overseeing the construction and operations of the museum.

In past years the National Days of Remembrance ceremony hosted by the Holocaust Memorial Council has taken place in our own Capitol rotunda. At long last, the Holocaust Memorial Museum is now scheduled to open next year, in April 1993, and will thereafter be the location for the National Days of Remembrance ceremony.

Mr. Speaker, the authorization under consideration today will allow the Holocaust Memorial Council to continue to develop educational programs, to establish a research center, and allow the completion of research on planned exhibits. H.R. 2660 authorizes such sums as may be necessary for fiscal year 1992–2000. The Congressional Budget Office estimates outlays of $18.3 million in fiscal year 1993, including a one-time start-up cost of $3.5 million.

The establishment of the U.S. Holocaust Memorial Council back in 1980 was one of the most significant steps our Nation had undertaken during the past several decades. When the Congress created the Council, it was based upon the recognition that if we do not remember the injustices and the inhumanities of the past, our world is doomed to repeat them.

Today, the need for such a memorial is underscored more than ever. We read in horror of our young people being unable to identify Hitler, being unable to name the major issues of World War II, being unaware of this gross inhumanity which took place not a millenium ago, but within the lifetimes of many of us in this Chamber.

Accordingly, Mr. Speaker, I urge our colleagues to support the important work of the Holocaust Memorial Council by voting for H.R. 2660. To do so will allow the completion of the long-awaited museum, which will not only honor the memory of the millions of innocent men, women, and children who perished during that chilling era, but will also serve the public by teaching the important lessons that can be learned from those horrible years.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I yield myself such time as I may consume and conclude by saying this is the only Federal museum that we know of that has been constructed entirely with private funds. Given the subject matter of this museum, it seems entirely appropriate, especially appropriate to me, that the funds to operate it should be paid for by all Americans.

My suspicion is, although I do not know, that a large number of donors to the construction program were American Jews, and it seems especially appropriate that that not be the case for its operating budget and that those funds come from Americans of all faiths, from the American taxpayer.

That seems especially appropriate to me.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] that the House suspend the rules and pass the bill, H.R. 2660, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations for the U.S. Holocaust Memorial Council, and for other purposes."

A motion to reconsider was laid on the table.

ANNUAL REPORT ON DEVELOPMENT OF ENERGY CONSERVATION AND EFFICIENCY STANDARDS FOR CERTAIN COMMERCIAL AND RESIDENTIAL BUILDINGS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

To the Congress of the United States:

I transmit herewith the annual report describing the activities of the Federal Government for fiscal year 1991 required by subtitle H, title V of the Energy Security Act (Public Law 96-264; 42 U.S.C. 8286, *et seq.*). These activities include the development of energy conservation and efficiency standards for new commercial and multifamily high-rise buildings and for new residential buildings.

GEORGE BUSH.

THE WHITE HOUSE, *June 16, 1992.*

INTERRELATIONSHIP OF GENERAL AGREEMENTS ON TARIFFS AND TRADE AND NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, earlier today I referred to a factsheet on the interrelationship of the General Agreements on Tariffs and Trade [GATT] and the North American Free-Trade Agreement [NAFTA] supplied by the United Food and Commercial Workers International Union. Because I believe the American people should be made aware of the threats to our national sovereignty by these agreements as they are currently being considered, I am going to discuss them here this afternoon.

I might point out first that GATT is the international agreement under negotiation in Geneva known as the Uruguay round.

Of course, NAFTA brings together the three countries in North America—with the Mexican Free-Trade Agreement playing a major role.

The factsheet follows:

FACTS YOU SHOULD KNOW ABOUT THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

The GATT negotiations have served in part as a "stalking horse" for rules which will govern a U.S.-Mexico Free Trade Agreement.

Fact: The language of the draft U.S.-Mexico Free Trade agreement (FTA) clearly anticipates consistency between GATT and a FTA. Fifteen separate references in the FTA draft indicate compliance with GATT. In addition, the FTA draft suggest that the Standards and Risk section (relating to food safety) as well as the Market Access section of the GATT will be incorporated in the FTA. The draft NAFTA text also allows the U.S., Mexico and Canada to select the dispute-settling mechanisms of GATT.

The current GATT draft eliminates key import control laws and threatens jobs in the meat packing industry.

Fact: The terms of the current GATT draft will result in elimination of all import control laws including the U.S. Meat Import Act. This will mean a rise in beef imports from the current limit of 1.2 million pounds annually to 1 billion pounds per year by 1999. Ultimately, this will result in the elimination of jobs in the meat packing industry.

The current GATT draft proposes greatly expanded powers for GATT. It creates a multi-lateral trade organization [MTO] which would threaten existing laws and our Nation's right to enact and enforce new laws in the future.

Fact: According to a memorandum by the Congressional Research Service, "The bottom line is that a party that loses a challenge to one of its laws and policies would no longer have control * * * over whether or not it must change that particular policy or law to conform with the GATT." (CRS, March 18, 1992).

Under the current GATT draft, a GATT panel decision that is contrary to the U.S. national interest presumptively becomes world trade policy unless all GATT countries decide otherwise.

Fact: The Congressional Research Service has concluded that the current GATT draft requires a unanimous vote to change a panel decision. This reverses present GATT rules, which require a consensus for adoption of a panel report. According to a CRS memorandum, this change would mean that the adoption of a panel decision "would be presumed unless the GATT votes unanimously" not to do so. Incredibly, this unanimity requirement means that the country which brought the charge in the first place must change its mind! (CRS, January 13, 1992).

GATT officials have characterized the MTO as a means to thwart the power of elected representatives.

Fact: "The MTO is about keeping the House and the Senate from doing whatever they want whenever they want. This is not about reorganization * * * It is about power to make countries follow GATT rules." (A GATT official as quoted by Representative Jill Long at a House Agriculture Committee hearing. March 31, 1992).

A GATT panel has ruled that GATT is part of U.S. Federal law and is, therefore, supreme over the laws of our 50 States. If the panel report is adopted, this would massively erode our Federal system of government.

Fact: According to a ruling by a GATT panel, "GATT is part of federal law in the United States and as such is superior to GATT-inconsistent state law." If the panel report were to be adopted, the federal government would be obligated to ensure that the fifty states were in strict compliance with GATT. This means that under GATT the right of states and localities to implement strong and effective laws with respect to consumer safety, the environment, labor, etc. is subordinate to the authority of international bureaucrats? (Feb. 7, 1992 GATT Panel decision).

The general counsel of the Office of the U.S. Trade Representative has admitted in public testimony that GATT procedures constitute a danger to important U.S. laws.

Fact: In reacting to the recent Tuna-Dolphin decision by a GATT panel the U.S. Trade Representative's then General Counsel stated: "The implications are quite grave for a lot of our important statutes" (General Counsel John Bolten in testimony before Representative Henry Waxman's Subcommittee on Health and the Environment, September 27, 1991).

Under GATT, the United States' food safety standards will be dragged downward.

Fact: The proposed GATT draft threatens the Delaney Clause of the Federal Food, Drug and Cosmetics Act. This important food safety standard helps keep our food supply safe from carcinogenic additives. For instance, under the Delaney Clause, no cancer causing pesticide, color or flavor can be added to processed foods such as apple sauce.

Under the terms of the current GATT draft, the U.S. Government would be under severe pressure from food companies to lower food safety standards since imported food products could initially be under less stringent safety requirements than those governing U.S. food companies. This ultimately means either loss of jobs, or downward pressure on our national and local food safety standards or both!

□ 1840

WAIT-AND-SEE ISN'T GOOD ENOUGH

The SPEAKER pro tempore (Mr. PETERSON of Florida). Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, President Bush stated in a recent CNN interview that he would take a wait-and-see approach to the possibility of military intervention in Bosnia.

Well, Mr. Speaker, let's see where the wait-and-see policy has gotten us so far.

Wait-and-see has allowed at least 15,000 men, women and children in the former Yugoslavian republics to die in the fighting.

Wait-and-see has forced a million and a half refugees to flee the war zone, the largest mass movement of refugees since World War II. Nearby nations like Hungary and Germany have been swamped by the flood.

Finally, wait-and-see may even be responsible for the bloodshed. The administration's silence in response to Serbia's attacks on Slovenia and Croatia last year may have been mistaken for apathy or approval. While Serbia was warming up its war machine, the United States refused to support in any way the new states of Slovenia, Croatia and Bosnia-Herzegovina. Instead it feebly called for peace. It was months before even United States assistance to Serbian-dominated Yugoslavia was cut off.

Well over a year ago I called for recognition and support of the new Balkan nations. I believe that a show of American strength and resolve on their behalf at the time would have prevented its need now.

To turn to the present the President's wait-and-see policy does nothing to stop the rising death toll in Bosnia. For 2 months the Bosnian capital of Sarajevo has endured the brutal, barbaric warfare inflicted on it by Serbian forces. Last week's edition of Time magazine printed graphic evidence of the war's terrible toll, showing gruesome photos of innocent civilians killed in Sarajevo.

In response to the atrocities, last month the administration abandoned its wait-and-see policy on economic sanctions and joined in imposing U.N. sponsored sanctions. The sanctions will halt all Serbian exports and imports except for food and medicine, freeze all Serbian assets, and break all airlinks to the outside world.

I support the sanctions, but we should have imposed them a year ago. At this stage they are too little, too late.

The fact is that the sanctions and 13 cease-fires in the last 2 months have failed to stop the advance of Serbian forces in Bosnia. Serbs now control 70 percent of Bosnia's territory and the end is nowhere in sight.

I believe the only effective policy is to threaten military action against Serbia—and be prepared to back up the threat. We should make clear to President Milosevic, the Balkan Butcher, that a U.N. force will bomb the artillery batteries that are tormenting Sarajevo unless he removes them. We should no longer sit idly by while these terrorists shell the homes, markets, and hospitals of Sarajevo. They must be stopped.

Without armed intervention, Bosnia's foreign minister believes that, and I quote, "hundreds of thousands will be condemned to death from attack and starvation." I fully agree with him.

We therefore must not delay. I understand the risks, but I also believe that the Balkan Butcher is not foolish enough to challenge the strength of the United Nations. Threatening retaliation provides the best opportunity we have to stop the war.

Mr. Speaker, I hope and pray that Milosevic, the Balkan Butcher, will come to his senses so that further bloodshed can be avoided. But the people of Bosnia cannot afford to wait for the time to come. I support taking action to force his hand—now. Let's wait-and-see no longer.

TIME FOR ACTION IN BOSNIA-HERZEGOVINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, while we have been debating whether or not to pass a balanced budget amendment, the people of Bosnia-Herzegovina have been enduring bombardment and starvation. I am compelled to call upon the President and my colleagues to take decisive action in the former Yugoslavia to halt the senseless killing of innocent civilians. Serbia and its henchmen in Bosnia-Herzegovina have taken their irredentist war to that formerly peaceful model of ethnic tolerance, Bosnia-Herzegovina. Bearing witness to a two-month siege and bombardment of Sarajevo, formerly a city of 560,000, we are now receiving reports of the slow starvation of the entire populace. To date, over one million Bosnians have fled their homes, joining another one million refugees for Croatia and Serbia. Over 5,200 Bosnians have been killed and 20,000 wounded in the past 2 months.

On purely humanitarian grounds, the United States, as the preeminent democracy of the world, should involve itself in protecting the innocents of this fledgling nation. First it was Croatia, now it is Bosnia-Herzegovina. On national security grounds, we have a clear stake in the resolution of a war that threatens to spread throughout the Balkan nations at a time when the former Soviet Union remains combustible.

We have the ability successfully to intercede. The United Nations, stronger than ever, has demonstrated that its Security Council is capable of and willing to authorize decisive collective military action to halt illegal international aggression.

The administration has tried to avert its responsibility by making the case that Europe should care of its own. Europe is not doing the job, however, and the United States has a duty to bring this crisis before the U.N. Security Council and to force decisions about the Council's course of action without delay. We ought to be able to work closely with our European allies, but their hesitation should not provide cover for the Bush administration's footdragging.

First, the administration ought to aid the relief effort in Bosnia by providing supplies through air supply drops and military protection to relief convoys, and it should press the United Nations, our NATO allies, and the European Community strongly to participate in that effort. On June 10, U.N. peacekeepers began to attempt to secure the Sarajevo airport to allow relief flights to deliver food to Sarajevo's starving citizens. The United States must provide whatever humanitarian, military and logistical assistance is required in that effort.

Second, the U.N. sanctions on Serbia must be tightened and enforced; too many supplies of oil and other materials continue to flow through Montenegro and Macedonia, states powerless to stop them without the military assistance of the United Nations.

Third, I would join with the other body, which has passed a resolution calling on the President urgently to develop a joint military action plan in the U.N. Security Council to authorize a collective intervention in Bosnia-Herzegovina. I would urge my colleagues in the House to adopt the resolution without delay.

An intervention should anticipate specific and discrete deployments and strikes to force Serb troops to cease their bombardment of Sarajevo and pull back from attacks on relief convoys. Once that first, minimal objective had been achieved, a cease-fire could be arranged and civilian populations provided permanent protection. In other words, the provision of relief convoy protection could be upgraded to secure critical transportation corridors through Bosnia-Herzegovina. In combination with the worldwide, U.N.-imposed sanctions on Serbia, a strong U.N. military presence in and around Sarajevo and around key transport routes might be enough to persuade Serbia's leaders to agree to pull back their allied forces in Bosnia-Herzegovina.

In the event that Serbia refuses to abide by a cease-fire and agree to withdraw from all captured areas, the administration should lay plans now for an escalated military intervention by American and allied forces under the auspices of the U.N. Security Council. We are not under the illusion that Serbia and its hardliner forces in Bosnia-Herzegovina will go quietly, nor that a limited military action is certain to bring a quick and decisive victory. I strongly believe that Serbian military forces would retreat promptly in the face of an international military coalition and an air campaign. Nevertheless, the U.N. Security Council and American and allied military planners must be prepared for a range of contingencies, including the possibility that Serbian units will entrench themselves throughout Bosnia. Under those circumstances, I would support whatever collective force was necessary under the aegis of the U.N. Security Council to quell Serb forces in Bosnia-Herzegovina.

The President speaks of a new world order, but his actions in Yugoslavia have been muted. If we stand at a threshold in history—and I believe we do—we must recognize that the Serb aggression in Bosnia-Herzegovina is yet another vital test of our resolve to fashion a just, stable and peaceful world order. I urge my colleagues and the President to accept this challenge and pass the test.

AN HONEST BALANCED BUDGET ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. ROSE] is recognized for 60 minutes.

Mr. ROSE. Mr. Speaker, last week's debate on the balanced budget amendment to the Constitution moved us closer to what may be an historic window of opportunity for tackling the Federal budget deficit. Skeptics want to know if we are really serious this time. Both Congress and President have expressed their commitment to reducing the deficit, but of course we have made those promises before. The real difference between new plans to balance the budget and our failed plans of the past is that the American people now recognize the seriousness of the situation, and appear willing to make the kind of sacrifices needed to bring our debt under control.

If in fact we are going to abide by the will of the people, let us also be truthful with the people. Using Social Security surplus receipts to mask the true size of the annual debt is not being straightforward. Yet that is what we continue to do each year, playing a very dangerous game with the future of our trust funds. Today I am introducing the Honest Balanced Budget Act, a plan which would eliminate the Federal debt by 1998, and protect the future solvency of Social Security and other trust funds by removing them from the calculation of the annual debt.

I voted against the amendment to the Constitution last week for several reasons, but chief among them was a date of enactment which would have allowed the deficit to soar for 6 more years. Under the Honest Balanced Budget Act, the deficit reduction process would begin next year. Of immediate concern would be balancing the operating budget, which would include everything except the interest payments on our debt and the trust fund receipts. The President would be required to propose a balanced operating budget in fiscal year 1994. Any proposed budget which was not in full compliance with the act would go back to the White House with a request for a new one.

Beginning in 1995, we would begin tackling the interest on the debt at an annual rate of about 1 percent gross domestic product, which is the rate most economists believe we can eliminate the debt without substantially undermining the economy. At about $70 billion a year, the debt could be eliminated by 1998. Meanwhile, surplus receipts for trust funds like Social Security would be going directly into those trust funds, where they belong.

Enforcement provisions include points of order against any budget not in full compliance with the act, any legislation which changes the provisions of the act, any legislation that requires outlays that exceed the statutory debt limit, and any increase in the statutory debt limit beyond the established level.

I hope that the American people and their elected representatives will maintain their resolve and move forward in what promises to be a painful process. But if we are going to do it, let us do it honestly.

APPLAUDING PRESIDENT YELTSIN'S COMMITMENT TO A FULL ACCOUNTING OF ANY AND ALL SOLDIERS IMPRISONED BY THE SOVIETS

(Mr. MINETA asked and was given permission to address the House for 1 minute.)

Mr. MINETA. Mr. Speaker, Russian President Boris Yeltsin and other Russian officials have now confirmed what some have long suspected:

American soldiers were held prisoner in the Soviet Union during the Second World War, the Vietnam war, and the cold war.

President Yeltsin says that some of these Americans may still be alive.

Mr. Speaker, just as the legacy of the Soviet Union is an outrage, Russian President Yeltsin's candor is heartening.

Nine months ago, I wrote President Yeltsin and asked him to investigate this matter, determine the truth, and act.

His admission is welcome, but far from the ultimate action Americans demand.

I applaud President Yeltsin's commitment to a full accounting of any and all soldiers imprisoned by the Soviets during the conflicts of the past 50 years—including the Korean war.

That is the sort of honesty and action required from Russia, in my opinion, for it to join the community of nations fully, and for a policy of vigorous economic assistance to Russia from the United States.

President Yeltsin has made a bold start toward making that a reality.

MANDATORY LABELING OF GENETICALLY ENGINEERED FOODS

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous material.)

Mr. KLECZKA. Mr. Speaker, on May 29, the Food and Drug Administration [FDA] published its policy for new food varieties derived from gene splicing, cell fusion, and other advanced biotechnology methods.

Unfortunately, it contains a glaring omission—the absence of a labeling requirement for these revolutionary foods. Today, I am introducing legislation which mandates that these new, genetically engineered foods be labeled as such.

One project in this emerging field illustrates my case for labeling genetically engineered foods. A well-known U.S. biotech firm is now field testing an antifreeze protein derived from Arctic fish. When injected into fruits and vegetables, this protein is intended to preserve their freshness and texture after being frozen and thawed. Fresh vegetables and fruits altered in this unusual fashion may not be dangerous, but we don't really know this for certain.

When these altered products are on sale in the supermarket of the future, full disclosure and labeling of genetic alteration is the only way to inform the consumers of this fact.

By supplying consumers up front with information on where food comes from, as required by my bill, they can more easily make their own decisions about the benefits or risks of genetically altered foods. By mandating full disclosure of genetic engineering, this labeling requirement should help consumers to make more informed decisions about these novel foods than the current, flawed FDA policy which denies the public the right to know how, and with what, the new foods are altered.

I hope my colleagues agree that consumers have a right to know whether their groceries have been altered by the new biotechnology methods, and invite them to cosponsor this legislation.

At this point, let me provide you with some background on genetically engineered foods, and explain why mandatory labeling of these products is in the public interest.

The science of plant breeding is centuries old. It involves the combining through repetitive breeding cycles of the desirable genetic traits of plants into a new variety, which is generally used to improve crop yields or food quality. Some useful gene transfer methods have been developed in the past to streamline this otherwise lengthy process. Mutation by treatment with chemicals and physical agents, or hybridization by embryo transfer and chromosome doubling, are commonly used today to cross breed plants. However, the new biotechnology methods by which plants are genetically altered, such as cell fusion and gene splicing—the recombinant DNA technique—represent a quantum leap forward from the traditional forms of plant breeding.

While these new, genetic engineering methods are used to achieve the same goals as traditional plant breeding techniques, they enable scientists for the first time to combine genetic material from completely unrelated genera or species. One such project now under development involves transferring an antifreeze protein from Arctic fish into fruits and vegetables to preserve their freshness and texture after being frozen and thawed. Foods can be altered in this revolutionary and unusual fashion only through the advanced genetic engineering methods now available to society. Such cross-breeding certainly would never occur in nature. Unbelievable as it may seem, it is nevertheless true that the science fiction of yesterday is fact today. At this time, more than 30 new crops developed using recombinant DNA methods are in field trials. The harvest from these crops may be available in grocery stores as early as next year.

The power to manufacture enhanced foods in the laboratory triggers a duty to protect public health and consumer rights. These foods are not the traditional harvest to which we are accustomed, and which Federal law presumes to be safe because of longstanding use. Although unlikely, the FDA itself admits that genetic engineering may in some rare cases activate hidden toxicants, allergens, or other characteristics posing a danger if consumed. For this reason, it is the duty of Congress to ensure the public is safeguarded from any dangerous food traits or novel substances which may be unintentionally released by genetic engineering.

New food varieties are expected to reach supermarkets by 1993. However, because the May 29 policy represents guidance only, it is essential that foods derived by genetic engineering be labeled as such. My bill stipulates these new food varieties will be considered misbranded unless they are labeled as genetically altered. The measure also provides the Department of Health and Human Services with 1 year in which to publish final regulations implementing the labeling requirement. This approach is well suited for advancing the development of these foods while promoting consumer confidence in them.

My bill is consistent with the Federal Food, Drug, and Cosmetic Act, which requires a producer to inform consumers of food properties by an appropriate label. Although such labels generally have never before contained information on a food's production method, genetic engineering is an exception. Cell fusion, gene splicing, and other new breeding methods enable scientists for the first time to completely alter food and even food properties with great precision. This ability directly affects food nutrition, texture, shelf life, taste, and a host of other traits. Accordingly, we cannot divorce the production method from the finished product, as with foods long used that occur in nature or are modified by traditional breeding techniques. For the new foods, my bill simply clarifies the labels must state the derivation method—that is, the label must inform consumers whether the food is genetically engineered. In this way, my bill empowers consumers to decide for themselves whether it is safe to buy a genetically altered food.

This legislation is a reasonable response to the pending introduction into our grocery stores of foods modified by advanced genetic engineering. Again, I urge my colleagues to cosponsor this bill.

At this point, I will include the text of the bill in the RECORD, and related material concerning the debate over genetically modified foods.

The material follows:

[From Newsweek magazine, June 8, 1992]

A Mystery in Your Lunchbox—Bioengineered Food Is the Brave New Wave of the Future, but Should We Be Asking More Questions?

Hungry? Sit right down, we're having catfish, corn on the cob, baked potatoes and fresh tomatoes. This might turn out to be the most nutritious meal of your life. It might even be the best-tasting dinner you ever had. On the other hand, it might expose your body to a toxic combination no human has ever experienced before. Or it might induced an allergic reaction—even though you're not allergic to any of these foods. Still hungry? Bon appétit!

Last week's announcement that the federal government would impose no special regulation on bioengineered foods, in effect permitting them to be marketed exactly like nature's own, heralds a potentially vast change in our food supply. Virtually any characteristic of a living organism may now be transferred to another organism; with a few exceptions, the resulting product may be placed on supermarket shelves without federally mandated testing or special labeling. "We will not compromise safety one bit," Vice President Dan Quayle told the press. "[And] the consumer will enjoy better, healthier food products at lower prices." Many specialists in biotechnology agree—in fact, they see consumers around the world benefiting from a new, genetically engineered green revolution—but critics are urging the government to move ahead more cautiously. A potato that resists disease with the help of a chicken gene? A catfish that grows like lighting, thanks to a gene from a virus? Some believe new products like these, which may be on the market by the end of the decade, call for a new regulatory system. "We should have learned from the history of regulating pesticides that we never knew the long-term consequences until it was too late," says Ellen Haas, executive director of Public Voice for Food and Healthy Policy, a Washington, D.C.-based advocacy group. The Food and Drug Administration maintains that most bioengineered foods present no special safety issues. "We're saying this is just another plant-breeding technique," says Eric Flamm, deputy director of the FDA's Office of Biotechnology.

Here's how bioengineering works: all cells contain DNA, the long molecule shaped like a double helix. A gene is a swatch of DNA that controls a certain characteristic of the organism. In the 1970s scientists discovered the could clip off a gene-length swatch from a DNA molecule, and later they learned to affix it to a different DNA molecule—a cut-and-paste job that became known as gene splicing and results in what's called recombinant DNA. Immediately, visions of carrots with the flavor of peanut butter began dancing in the imaginations of scientists and food writers alike. But most current experiments are not as exotic. In many ways the new technology differs little from traditional cross-breeding. "One of the powers of the technology is that you make simple and direct changes and alter the food as little as possible," says William Belknap, a plant physiologist at the Department of Agriculture's Agricultural Research Service in Albany, Calif.

The first example of recombinant DNA in a form suitable for lunch makes its debut next summer: the Flavr Savr tomato (chart). Scientists at Calgene, Inc., a biotech company based in Davis, Calif., isolated the gene in the tomato that triggers the enzyme responsible for rotting and rendered it inactive. Rather than having to be picked hard and green for easy shipping, the tomatoes stay on the vine about five days longer than usual. They can be shipped without refrigeration, which also helps retain flavor, and they'll resist rotting for more than three weeks, twice as long as their conventionally grown cousins. They aren't perfect: like other supermarket tomatoes they're grown with pesticides, they may be waxed, and they still lack the last three to five days of vine-ripening that homegrown tomatoes enjoy. Sampled at Calgene's headquarters, the Flavr Savr tasted fine; whether consumers will find it worth a dollar more per pound remains to be seen.

Repel pests: Several companies are hard at work on plants that will repel pests. Monsanto, a St. Louis chemical company, expects to put many such products on the market before the end of the decade, including cotton resistant to the cotton bollworm and a potato that kills the Colorado potato beetle. The weapon of choice is bacillus thuringiensis, or BT, a soil dwelling bacterium that creates a protein crystal that is toxic to certain insects but harmlessly digested by humans. BT has been used for 30 years as an organic pesticide. Scientists can transfer the gene for the toxin into plant cells, and the new plants will produce their own insecticide. Like traditional insecticides, however, these may simply spur the creation of new, more resistant pests. According to Belknap, the solution will be to splice several toxins into a given plant, thus lessening the potential for insects to develop resistance (or inviting the birth of some pretty amazing insects).

Monsanto is also developing herbicide-resistant plants, specifically Roundup-resistant plants. Roundup is one of Monsanto's most lucrative products, a herbicide with sales of a billion dollars a year. It has been recognized as noncarcinogenic by the Environmental Protection Agency, though it's toxic to fish. Roundup is used as a weed-killer, but it will kill everything else it touches in the field, so farmers have had to apply it carefully. Now, however, Monsanto can isolate the enzyme in, say, corn, that is fatally vulnerable to Roundup. A corn plant engineered to have twice as much of that enzyme can lose a chunk of it to Roundup and still survive. Critics charge that this technology simply invites farmers to use more Roundup. Jim Altemus, manager of public affairs for plant/science research at Monsanto, says the aim is to help farmers manage their crops. "Some herbicides are better than others; they can't all be classified as bad," he says.

[From the Washington Post, June 10, 1992]

For the Next Course, "Engineered" Entrees? "Genetic" Tomato May Launch an Industry

(By Sandra Sugawara)

Calgene Inc.'s tomato, which is expected to be the first genetically engineered food to it the market, could be the little fruit that launched a billion-dollar industry.

At least, that's the hope of companies that use biotechnology to try to improve foods, make heartier plants and chemical-free pesticides.

"The industry needs a good blockbuster product to come. Hopefully, Calgene can do that with its tomato," said Joseph Kelly, chairman and chief executive of Crop Genetics International Corp., which uses biotechnology to produce herbicides and insecticides. "Many people in this industry believe that ag-bio is today where the human medical biotech was in 1987, ready to take off."

For years, these companies have been the Rodney Dangerfields of biotechnology, struggling for just a little respect. While medical biotechnology companies were the darling of Wall Street last year, raising billions of dollars, agricultural biotechnology companies were largely ignored by investors.

Few investment firms even have analysts that follow the agricultural biotech industry. And the few times the industry thought it had a blockbuster product, antibiotech activist Jeremy Rifkin and other critics launched an emotional offensive to rally public opinion against agriculture biotechnology.

The newest hope for the industry lies with Calgene, a Davis, Calif, biotech company that says it has found a way to turn off the gene that causes tomatoes to soften and rot, enabling it to ship what it says are juicy, tasty vine-ripe tomatoes. To do so, researchers essentially add a backward version of the softening gene to the tomato's genetic materials. The company, which has targeted the $3.5 billion fresh tomato market, plans to grow and sell the tomatoes next year. They will sell for about twice the price of grocery store tomatoes, which are picked green and ripened by using ethylene gas.

Unlike the medical biotechnology sector, which has produced several successful products, agricultural biotech has not had any big winners yet. And while most of the publicity for medical biotech companies has been positive stories about efforts to create wonder drugs for diseases such as AIDS and Alzheimer's, most of the publicity for agriculture companies has centered on public fears of mutant organisms in foods and the environment. For example, bovine somatotropin, or BST, a growth hormone designed to increase milk production in cows, ran into bitter opposition from farmers and consumer groups.

Another difference between the two biotech fields is that agriculture often faces intense price competition while drug companies do not. Because it is unlikely that a patient with a fatal or debilitating disease will reject a drug because it is too expensive, the markup on drugs can be quite high. It is more likely however, that someone may decide not to pay twice as much to get a tastier tomato salad.

Likewise, someone who is suffering from a life-threatening disease may not be upset that injected medicine contains a mouse gene. But healthy consumers may think twice before ingesting tomato juice with flounder genes.

Some investors also worry that protecting patents on crops and animals (and the profits from those patents) may be more difficult than protecting patents on medicines, because it might require companies to track how farmers re-sow seeds and breed animals.

Cynthia Robbins Roth, editor of BioVenture View newsletter in San Mateo, Calif., said there is another less tangible reason that agriculture has been ignored by biotech investors. "Agriculture just isn't as sexy as human therapeutics. It's exciting to participate in the creation of a new treatment for cancer or a drug for helping heart attack victims. It's not as easy to feel personally involved in tomatoes that don't rot," she said.

The federal government also has played a role in determining the comparative well-being of the two industries, according to Jim McCamant, editor of two Berkeley, Calif.-based newsletters on the medical and agriculture biotech industries. Medical biotechnological advancements came much more rapidly because of the billions of dollars that the National Institutes of Health poured into cancer research. There were no comparable funds for agriculture biotech research.

Agriculture biotech companies also faced more regulatory uncertainties. The Food and Drug Administration regulates all drug products. But jurisdiction over agricultural biotech is split between the FDA, the U.S. Department of Agriculture, and the Environmental Protection Agency. In the Crop Genetics case, for example, the company does not deal with the FDA at all. The EPA must approve Crop Genetics pesticide products.

The FDA has tried to eliminate some of the uncertainty by stating precisely how it would treat biotech food products. In a long-expected announcement, the FDA recently said that genetically engineered foods would be regulated in the same manner as foods developed by traditional plant breeding. Although the industry has sought the ruling to increase investor confidence, it prompted Rifkin to launch a campaign to kill the industry, with Calgene's tomato at the top of his list.

"We're going to give the 'Flavr Savr' tomato more publicity than they could ever have hoped for," said Rifkin, who has formed a group called the Pure Food Campaign, which he said is composed of anti-biotech environmentalists, consumers and farmers.

Rifkin held a press conference in New York, along with chefs from more than 20 restaurants, including the Water Club, the Russian Tea Room and Tatou, who pledged to boycott the use of genetically engineered foods. "I will not sacrifice the entire history of culinary art to revitalize the biotechnology industry," declared Rick Monnen executive chef at the Water Club Restaurant.

Rebecca Goldburg, a senior scientist with the Environmental Defense Fund, said that, unlike Rifkin, her group is not opposed to all genetically engineered foods.

But she said she was alarmed that the FDA did not require that all biotech food be screened by the agency and labeled. The FDA said labeling may be needed if a gene inserted in a product could cause an allergic reaction. But Goldburg said that things not generally considered allergens can cause a dangerous allergic reaction in some people. She said mandatory labeling would help those people protect themselves.

Calgene Chairman Roger H. Salquist said there will be no attempt to hide the fact that Flavr Savr is genetically engineered. In fact, he called it an important selling point for persuading consumers that Flavr Savr is indeed a better tomato.

He said focus groups have convinced him that consumers will accept a genetically engineered tomato that tastes good. And despite the activities of Rifkin and others, analysts who follow Calgene generally do not expect a consumer revolt.

"They are not making weird killer tomatoes or anything. They are going to make sure that they are safe," said Jeffrey Kraws, an analyst with Alex Brown & Sons Inc. "The company does not have an interest in going out and harming the public intentionally."

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THE MISSING IN CYPRUS

The SPEAKER pro tempore (Mr. PETERSON of Florida). Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to speak of an unfortunate and tragic matter. It is a matter that should have been resolved years ago—however, the fate of 1,619 individuals, collectively known as the missing in Cyprus, remains an unsolved mystery today; one that seemingly defies resolution, at least partly because this mystery is wrapped in an even greater tragedy.

There are those of us in this Congress, and around the world, who have pledged that this issue—unlike these unfortunate 1,619 individuals—will not disappear. We speak on their behalf today and we ask the world to listen.

Mr. Speaker, in the summer of 1974, Turkish forces occupied the northern part of the Mediterranean island-nation of Cyprus, splitting it in two from that day to this. As a result of this military invasion, 1,619 individuals—some of whom happened only to be in the wrong place at the wrong time—have never been seen again.

I continue to stress for my colleagues that these are individuals of which we speak today, 1,619 individual human lives like yours and mine. Indeed, we can sometimes overlook the individual stories that collectively make up such large numbers as this. It is important that we do not. Rather, it is important that we keep focused in our minds exactly what we are talking about here today.

Each of these individuals had dreams of productive lives with loving families, dreams that were swept away in a conflagration that left only shattered families and long-answered questions in its wake.

For nearly two decades the families of the missing have been grieving the loss of their loved ones. These families do not have the first clue as to the whereabouts of their relatives. In July, they will have been living with this awful uncertainty for 18 years. Eighteen years is a long time.

Mr. Speaker, among those 1,619 individuals are 5 U.S. citizens—unaccounted for, lost, missing.

Coming to light even now are reports from Russian President Boris Yeltsin that the former Soviet Union shot down 9 United States planes in the 1950's and took 12 survivors prisoner. Mr. Yeltsin has said that records show eight of the fliers were held in prisons or prison camps in 1953 and four others were in psychiatric clinics run by the KGB secret police. Whatever happened to them "is being investigated," according to Mr. Yeltsin.

These reports are causing widespread outrage across our Nation. Questions are being asked, such as, "How could this happen?" "How could 12 Americans simply disappear?" "Weren't they missed?" "Didn't we investigate?"

I ask, Mr. Speaker, if the 1,619 missing of Cyprus—including 5 Americans—are any less worthy of an investigation by our Nation?

Last month, in fact, I chaired a congressional human rights caucus hearing that dealt with the missing in Cyprus. What I heard was heart-wrenching.

In a briefing for that hearing, Mr. Costas Kassapis, an American citizen who resides in Michigan, testified that he and his family had been vacationing in Cyprus at the time of the invasion and occupation. His son, Andrew, who was only 17 years old at the time, was taken before his eyes on August 20, 1974.

While the rest of his family was held captive for 11 days, Andrew was dragged off by Turkish Cypriot soldiers, as Mr. Kassapis testified, "U.S. passport in hand."

His family has not seen him since, though a message purportedly from Andrew was relayed to them through the Red Cross in October 1974, stating that he was in Amasia Prison in Turkey. Since that time—nothing.

Mr. Kassapis pleaded with the caucus in that briefing. He made it plain that he harbors no hatred. All he wants, Mr. Speaker, is to have his son returned to him. Is this too much to ask?

"If he is alive, I want him back," Mr. Kassapis told us. "If he is not, I need a concrete answer as to what has happened. I need help finding out."

> My family and I have suffered very much these past 18 years wondering where Andrew is. Our thoughts and prayers are with him every single day wondering if he is hungry or fed, if he is rotting in a Turkish prison.

Mr. Speaker, why is it that five American citizens are still missing as a result of the military invasion of Cyprus in 1974? Turkey is considered by the United States and this administration as an ally, however, Turkey has not offered any proof of what has happened to these people.

Ambassador Nelson Ledsky of the United States Department of State, special coordinator for Cyprus, testified at the caucus hearing as well. He told us that he has had many meetings with Turkish Cypriot leader Rauf Denktash and that in these meetings, Mr. Denktash informed him that all the 1,619 missing people, including Andrew Kassapis and the other 4 Americans, were dead.

Ambassabor Ledsky told us that Mr. Denktash said he went out and personally interviewed villagers to attempt to find the whereabouts of Andrew Kassapis and the other four Americans, and he has concluded by these interviews that these people were killed.

However, when I asked Ambassador Ledsky if the Turkish Government and Mr. Denktash had provided the United States or the Greek Cypriot people with any concrete evidence that these missing individuals are dead. Ambassador Ledsky told us that they have offered no evidence proving the exact whereabouts of these people.

Nearly two decades have passed, and still we do not know what really happened to these people. All we have is the word of Mr. Denktash that these people are dead.

Mr. Speaker, that is not enough. We must find out what has happened to these 1,619 missing individuals if their families ever are to have peace.

In 1974, Turkish television and newsreels produced photographs of prisoners of war that were taken during the occupation. They show Greek Cypriot soldiers on their knees with their hands above their heads.

These prisoners of war that have been identified in these photographs are still listed as missing. If these defenseless prisoners are dead, as Mr. Denktash told Ambassador Ledsky, then where are they? They were last in the hands of Turkish army officials who must know their whereabouts—even if it is only the locations of graves. However, even this information we have not been given.

During the informal briefings for the hearing, we heard another story of a missing Greek Cypriot. It was the story of a 5-year-old boy that went by the name of "Christaci," or young Chris. During the fighting, this 5-year-old was nicked by a stray bullet. His mother took him to a nearby Turkish doctor to be examined for any other injuries that he might have sustained.

The mother gave the boy into the doctor's care—and never heard from or saw him again; not in 18 years. He would be 23 now. What happened to him? What threat could a 5-year-old boy have been that he was spirited away while in the care of a doctor? That question, too, goes unanswered.

The U.N. General Assembly Resolution 33/173 notes that the United Nations is:

> Concerned also at reports of difficulties in obtaining reliable information from competent authorities as to the circumstances of such missing persons, including reports of the persistent refusal of such authorities or organizations to acknowledge that they hold such persons in their custody or otherwise to account for them.

The International Conference of the Red Cross at their 24th conference is on record as saying it is "Alarmed at the phenomenon of forced or involuntary disappearances, perpetrated, connived at or consented to by governments."

Amnesty International writes on the missing, that:

> Enforced disappearance is one of the most serious violations of the human rights safeguarded by international instruments; it infringes virtually all the victims personal rights and many of the rights of their families.
>
> The violations are also contrary to the 1949 Geneva Conventions and cannot be justified by special circumstances, whether armed conflict, state of emergency or internal unrest or tension. Under International Law (article 4 of the International Covenant on Civil and Political Rights) there can be no derogation from the obligation to respect a "hard core" of rights, comprising the right to life, protection against torture and the universal right to recognition as a person before the law, which are infringed in the event of enforced disappearance. The breach is so serious that it should elicit the most severe international sanctions.

The European Commission on Human Rights, in its report adopted on July 10, 1976, writes that:

> The Commission considers that there is a presumption of Turkish responsibility for the fate of persons shown to have been in Turkish custody. However, on the basis of the material before it, the Commission has been unable to ascertain whether, and under what circumstances, Greek Cypriot prisoners declared to be missing have been deprived of their life.

During the caucus hearing, we also heard testimony about the destruction of the cultural heritage of the Greek Cypriot people in northern Cyprus. Greek Orthodox churches in the northern part of the nation—churches that are hundreds of years old—have been looted, destroyed, or converted into mosques, hotels, and even cafeterias.

Priceless religious icons have been chiseled out of church walls and sold to the highest bidder. Cemeteries have been defiled, the graves dug up, tombstones destroyed, and the remains of the dead scattered throughout the area.

Mr. Speaker, the only way that peace will ever come to the families of the missing, and—indeed—to the nation of Cyprus, will be the day that the Turkish troops leave the island and the mystery of the missing of Cyprus is solved.

I believe that the evidence is solid enough to prove that a violation of human rights has occurred on the island of Cyprus. The United States simply must act to help the Greek Cypriot families locate their loved ones, as well as the five United States citizens lost in a storm that descended upon their peaceful lives from out of nowhere.

It has been 18 years, Mr. Speaker. It is time for answers.

Mr. FAZIO. Mr. Speaker, I rise to join my colleagues in this special order on behalf of those missing on the island of Cyprus.

In 1974, when the island was originally divided, Turkish troops seized and removed over 1,600 men, women and children. Twenty-seven of these "Cyprus disappeared" were under 16 years of age when this happened. Five of the Cyprus disappeared were American citizens, and three were relatives of American citizens.

One of those unfortunate enough to be abducted was a Detroit, MI, youth, who was 17 years old at the time. And now, 18 years later, his family has still heard nothing from him. They have no idea whether or not he remains in danger. They do not know if he is sick or well, dead or alive.

The Turkish Government has yet to adequately account for these missing people. Although it maintains that all of them are dead, it has produced no solid evidence of their status. In the meantime, however, families continue to suffer, as they draw their own conclusions about the fates of their loved ones.

The human suffering that results from the political division of a territory is inevitable, but this sustained torment of these poor families is not only insensitive, it is also criminal. And with no settlement of the Cyprus problem on the horizon, their agony will be prolonged even more.

As we focus on the peace process and the human rights abuses on Cyprus, we cannot forget those who were taken prisoner 18 years ago and who remain unaccounted for. As we work toward a free, unified Cyprus, we must somehow also concentrate our efforts on putting this issue to rest for these victims, as well as for their families and friends. It is time to bring their heartache and torture to a close, once and for all.

Mr. Speaker, I would like to close by thanking the distinguished gentleman from Florida [Mr. BILIRAKIS]. My colleague has called this special order and thereby not permitted us to forget our responsibility to Cyprus' disappeared. He has instead allowed us to reaffirm our commitment, both to these innocent victims of Cyprus' occupation, and to their families.

Mrs. BENTLEY. Mr. Speaker, last evening, a network reported that Russian President Yeltsin expressed familiarity with documents relating to the fate of American servicemen sent to the Soviet Union from Vietnam. Similar stories have surfaced about American POW's being sent to Russia in the aftermath of World War II—never to return to their own homeland. I mention this tonight because I think it terribly important that we press the Russians for a full accounting of the whereabouts of these servicemen.

In addition, I think it important to call attention to other Americans who have failed to return to our shores. Specifically, I am referring to a number of American citizens who were on Cyprus at the time of the bloody fighting in 1974. In fact, 5 Americans are currently listed as being among the 1,600 still missing. That is five too many. Mr. Speaker, it is my hope that the Eastern Mediterranean soon will yield new hope for the families of these innocent people.

I want to pay a special compliment to my good friend from Florida, Mr. BILIRAKIS, for making this a priority issue here this evening. I also want to thank him for his tireless efforts to forge a peaceful solution for Cyprus—which remains tragically divided after nearly 2 decades.

Mr. BROOMFIELD. Mr. Speaker, I want to join my colleagues in participating in this important special order on the missing in Cyprus. Let me salute Congressman MIKE BILIRAKIS for his leadership on this important humanitarian concern.

I have a longstanding personal interest in the missing on Cyprus. One of my constituents, Andrew Kassapis, is among those unaccounted for. Andrew's tragic story highlights the futility and continuing anguish of that unjust war.

In 1974, Andrew's father, Costas Kassapis, took his family to Cyprus and was planning to return to the United States when Turkey invaded the island. The then 17-year-old boy and his brother-in-law were taken away from the Kassapis home and never seen again. There are some indications that they may have been taken to a prison in Turkey, but neither Turkish nor Turkish Cypriot officials have been able to provide any concrete evidence about these two innocent victims of that conflict.

As any loving father would, Mr. Kassapis has worked tirelessly to determine what happened to his son. He deserves our recognition as well as continuing help in trying to solve the disappearance of Andrew and the other victims of Turkish aggression.

There are 1,619 people still missing from the Turkish occupation of Cyprus, including 5 Americans. Each missing person is a tragedy, and those left with only memories of their loved ones must wonder every day about their whereabouts.

I strongly encourage the administration to aggressively pursue the matter of the missing in Cyprus. I also urge Turkish and Turkish Cypriot officials to provide all information currently available concerning these cases. Making progress on this issue would be a positive accomplishment and could help to promote a resolution of the Cyprus dispute.

We can honor the missing by continuing to work to find answers about their fate.

Mr. WOLPE. Mr. Speaker, Cyprus has always been a good friend to the United States. Sometimes memories are short, but I want to remind everyone that in October 1983, when the United States was hurt by an attack on the marines in Lebanon, the people of Cyprus helped evacuate our wounded soldiers. In 1985, when Americans were being held hostage after a TWA airliner was hijacked, the people of Cyprus helped free the hostages.

Unfortunately, the people of Cyprus are no strangers to conflict on their own soil. It has been almost 18 years since Turkish troops invaded and partitioned Cyprus. For Cypriots, this had meant 18 years of disappointment, pain, and suffering. This is 18 years too long for a people to be divided and to have foreign troops on their soil.

Mr. Speaker, as Cyprus has been a friend to the United States, I am proud to have been a friend to Cyprus. I am a member of the congressional friends of Cyprus working group. I have advocated the reunification of Cyprus to Presidents Reagan and Bush, and Secretaries of State Baker and Schultz. As a member of the House Foreign Affairs Committee, I have consistently supported efforts to prevent Turkish military escalation on Cyprus. Most recently, I am a cosponsor of legislation which would withhold United States military and economic assistance from Turkey as long as that nation continues to occupy Cyprus illegally. On numerous occasions I have spoken here on the floor, and back in Michigan, in support of Cypriot reunification. Quite frankly, I'm outraged with how slow a resolution of the Cyprus conflict seems to be in coming.

Throughout the world, we are seeing tremendous advances toward peace, reconciliation, and self-determination. People who had suffered under oppression or in conflict in Eastern Europe, the former Soviet Union, and South Africa, are now facing the prospect of freedom for the first time in decades. It is now time for the people of Cyprus to enjoy these same freedoms.

Freedom and true independence on Cyprus can only come with the removal of all foreign troops from the island. Although there is currently an apparent impasse in negotiations leading to this end, I hope that strong United Nations and international action will bring a long-awaited solution for the Cypriots.

President Bush speaks of a new world order. If indeed this means dedication to international law and respect for national sovereignty, than let Cyprus be the first test of the new world order. There are operative U.N. resolutions which pertain to the resolution of the Cyprus conflict and which are not being enforced. Moreover, Turkey continues to ignore the will of the international community by maintaining its occupation of Cyprus. The unenforced U.N. resolutions weaken the United Nations as an institution, and destroy the opportunity for a new world order.

Mr. Speaker, we have been talking about issues of international diplomacy in lands which seem very far away. Unfortunately, there is a very human face to the suffering in Cyprus. There is a father in Michigan named Costas Kassapis. Costas Kassapis has a son named Andrew. Andrew Kassapis was born and raised in Michigan, in Detroit. Andrew Kassapis was in Cyprus in 1974 with his United States passport. With his American passport in hand, Andrew Kassapis was kidnaped by Turkish Cypriots during the 1974 Turkish invasion of Cyprus. That father in Michigan, Costas Kassapis, has not seen his son since then. Costas Kassapis does not know if his son is dead or alive, if he is in prison, if he is hungry, if he is clothed. A day does not go by without Costas Kassapis living the horror and tragedy that has befallen his native Cyprus. How many more Andrew Kassapises do we need before peace finally comes to Cyprus, before that small island can be reunified, and before families like the Kassapises can again be made whole?

Mr. MANTON. Mr. Speaker, I rise today to join my colleague, Mr. BILIRAKIS, in this important special order on the missing in Cyprus. At the outset, I want to commend Mr. BILIRAKIS for his tireless work to ensure this issue is not forgotten.

Mr. Speaker, since Turkey invaded Cyprus in 1974, 1,619 people, including 8 Americans, last seen alive in the Turkish-occupied areas of Cyprus have never been accounted for. The families of these missing individuals suffered a twofold tragedy; first the immediate loss of their relatives, and second the long years of uncertainty which have followed.

I first learned of the tragedy of the disappeared in Cyprus from the Anastasiou family who live in Astoria, NY, in my district. Andreas Anastasiou's brother George has been missing since 1974, when he was captured by Turkish troops. Although his family received a message from George Anastasiou 6 months after his capture, no word has been heard from him since.

For the many families like the Anastasious, the war will never be over until they learn the whereabouts of their loved ones.

Unfortunately, although the Congressional Human Rights Caucus held a hearing in which I participated in 1988, and again looked into the matter this year, the Turkish Government has still not accounted for these missing persons.

Earlier this year, the committee ministers of the Council of Europe made public the report of the European Commission of Human Rights, which is an impartial international judicial body, regarding Turkey's violations of human rights in Cyprus.

The Commission found that Turkey had violated the European Convention on Human Rights by the continuous deprivation of liberty of Greek Cypriot missing persons who were in Turkish territory in 1974.

The Commission also found that the families of the missing have suffered severely from the 9 years of uncertainty they have endured about the fate of their relatives.

Mr. Speaker, it is time for the suffering to end. It is time for the Turkish government to provide some answers. So far, congressional and U.N. appeals on behalf of human rights have failed to give us any answers. For many years, those of us who have favored taking a firm stance against Turkey have been told Turkey's strategic position as a NATO ally required us to be patient in the interest of preserving the strength of NATO.

However, the time for such arguments has long passed. The Government of Turkey continues to urge the world to stop calling attention to the aftermath of the 1974 Cypriot war, while ignoring the obvious first step necessary to put that war behind us: Accounting for all the missing.

Turkey should be required to account for the missing in Cyprus before she receives any more United States assistance. Maybe withholding financial assistance is the only way we can force a reply from Turkey. One thing is clear, all other recourse has failed.

Mr. TORRICELLI. Mr. Speaker, I would like to address an issue of deep concern to many Americans and Greeks alike, the thousands of people still missing in Cyprus after the 1974 Turkish invasion.

Some 18 years have passed and little progress has been made to resolve this issue. When Turkish forces swept through Cyprus 18 years ago, they rounded up and abducted some 600 Greek Cypriot civilians in their raid. The International Red Cross reports 112 of these prisoners were women and 26 were under the age of 16.

The United Nations and the International Red Cross have worked in vain to resolve the issue through the Committee of Missing Persons in Cyprus. This body was constituted despite the opposition of Turkey and now remains paralyzed due to political stonewalling.

Prisoner accounts reveal that many of the Greek Cypriots captured during the raid were relocated to Turkish prisons. Amnesty International backs this contention. Yet the Government of Turkey and Turkish Cyprus will not cooperate by providing information on the 1,619 missing. Instead, they simply assert that they are dead.

If these Greek Cypriots are dead, then evidence must be produced. Compassion dictates that Turkey and Turkish-controlled Cyprus return the remains of these individuals so that families and friends may finally lay to rest the hopes of their return.

What is more astounding is that the United States has not taken a more active role in resolving the issue of missing in Cyprus. Of the thousands unaccounted for, seven are American citizens.

The issue of missing in Cyprus needs to be resolved. For 18 years, this unsettled matter has toyed with the emotions of Cypriots and Americans alike. We have an international humanitarian obligation to end their pain. It is time for the Bush administration and the world community to give this issue the attention it deserves.

Mr. MAVROULES. Mr. Speaker, when George Bush was Vice President, the Reagan administration sold arms to Iran in an attempt to obtain the release of American hostages held in Lebanon. Why has he ignored the issue of Americans being held prisoner by Turkey?

The President was at the dedication of a memorial for the forgotten war, Korea, but he does not address the fate of five Americans kidnaped by Turkish forces during the illegal 1974 invasion of Cyprus. They are the forgotten hostages.

It is a disgrace that the Government of the United States refuses to pressure the Turkish regime to even confirm the fate of our hostages. I am extremely disappointed that a supposed ally continues to violate international law and disregard the human rights of Americans, all while the Bush administration presses for millions of dollars in direct assistance to Turkey. The Bush administration has even threatened the 7:10 ratio, disregarding blatantly anti-American policies of the Turkish regime.

Mr. Speaker, we must act now. There are no hostages in Lebanon. Russia has come forward to help solve the mystery of Vietnam-era POW/MIA's. Even Vietnam has shown an increasing willingness to locate Americans missing or killed during that war.

We cannot wait any longer. The families of the hostages missing from Cyprus should receive the same assurances from the President that our hostages in Lebanon received during the past few years. This Chamber must call on the President to give this issue the priority it deserves, and has deserved for more than a decade-and-a-half.

Mr. ATKINS. Mr. Speaker, I rise to join my colleagues to mourn the fact that 1,619 people are still missing in Cyprus after 18 years of illegal Turkish occupation of the northern portion of that island.

Last month, the Congressional Human Rights Caucus had the opportunity to hear from both Greek and Turkish Cypriots. The caucus heard from Costas Kassapis, who testified that his son, Andrew, an American citizen, was kidnapped at age 17 by two Turkish Cypriots during the invasion. Although it is said that he is prisoned in Turkey, his family has not heard from him since. A similar story is repeated over and over again—1,619 times to be exact. The tragedy of so many missing Greek Cypriots—perhaps dead, perhaps alive—has made it impossible for Greek Cypriots to rebuild their lives, even after 18 years of Turkish occupation.

Namik Korhan, the Washington representative of the so-called Turkish Republic of Northern Cyprus appeared before the Congressional Human Rights Caucus. In his testimony, Mr. Korhan said, "For over 400 years, Cyprus has been the home of Muslim Turkish Cypriots and Christian Orthodox Greek Cypriots, who, together, make up the native population of Cyprus." This much I think we can all agree with.

But then Mr. Korhan engaged in a bit of revisionist history. In an attempt to justify the unjustifiable actions of the Turkish Government in Cyprus, he claimed that the "distinct national, religious, and cultural characteristics of each ethnic people has prevented the creation of a Cypriot nation over the centuries." His claim appears to be that there are no Cypriots, rather, there are Greeks and Turks on Cyprus. This kind of cynical revisionism defies the facts of the summer of 1974, when Cypriots defended themselves against the invading forces.

Of the 1,619 missing Greek Cypriots, Mr. Korhan argued that 1,100 were military personnel who took part in the fighting. But what kind of crime is it to defend your native land? And what of the other 519 missing Greek Cypriots? By referring to the missing Cypriots as "alleged" and assuming the missing to be dead at the hands of the Greek Cypriots, Mr. Korhan then engaged in the ultimate revisionist speculation. His testimony stands on its own: It is revolting and inexcusable.

In opening the Human Rights Caucus Hearing, Congressman BILIRAKIS quite rightly limited the scope of the hearings to the human rights concerns and not political questions concerning the division of Cyprus. He said that such questions "should be left to another place and time." Therefore, let it be said at this place and at this time: The 1974 Turkish invasion of Cyprus was an illegal act. The subsequent revelation that the invasion resulted in 1,619 missing Greek Cypriots, including 116 women and 27 children under the age of 16, makes this illegal act a massive human rights violation. And the fact that the Turkish Government ignores the pleas on behalf of the missing makes this whole tragic event into an indefensible coverup on the part of the Turkish Government.

Mr. PORTER. Mr. Speaker, I thank the gentleman from Florida for yielding to me and for his tireless efforts to bring about a full accounting of the 1,619 individuals who disappeared during the Turkish invasion of Cyprus in 1974.

The issue of the missing of Cyprus remain a horrendous stain on the history of Europe and a constant torment to the families of those who have been missing for nearly 18 years. This stain cannot be removed until all 1,619 missing, including 5 American citizens, are accounted for.

At Mr. BILIRAKIS' request, the Congressional Human Rights Caucus recently held a members forum on the missing of Cyprus. Members of the caucus heard statements from Ambassador Nelson Ledsky, the United States Special Assistant on Cyprus, and from representatives of human rights and religious groups regarding the missing and status of negotiations to discover their whereabouts.

At the members forum, there was some difference of opinion whether the issue of the missing could be fully resolved short of a comprehensive settlement of the Cyprus issue. I am a firm believer that it can. The disappeared is not a political issue, it is a humanitarian issue. As such, it can be separated from the political issues that have separated the island of Cyprus for the last 18 years and dealt with on its own terms.

A U.N. commission to investigate the fate of the missing has been in existence for years, but to date has not reported any findings. During the Human Rights Caucus forum, Nelson Ledsky indicated that he believed that the Commission had reached conclusions on the fates of several hundred of the missing, but has been blocked from releasing this information by one of the principle nations involved. I call on the Commission to report its findings to date and renew its efforts to account for all the missing.

It also became evident during the hearing that Rauf Denktash, the leader of the occupied north of Cyprus, could lay to rest a great many questions by allowing a neutral group from the United Nations or another international agency access to the north to search for clues to the disappearances. To date, Mr. Denktash has not agreed to do this. I call on Mr. Denktash to demonstrate goodwill and humanity by allowing such a team access to the north.

While a political solution to the separation of Cyprus is not a perquisite to resolving the issue of the missing, it is clear that a fair, just and democratic solution is the most desirable course of action and would also entail a resolution of the missing issue.

To this end, last Friday, the Foreign Operations Subcommittee included report language in its fiscal year 1993 bill that strongly supports the upcoming U.N. negotiations in New York on the Cyprus issue. The subcommittee made clear that it will pay close attention to the positions taken by each party during the upcoming talks and expects all parties to be fully cooperative and forthcoming.

I intend to monitor the talks carefully and if any party is obstructionist in the negotiations, I will push to have this party's foreign assistance eliminated in the coming year. Cyprus has remained separated too long and the United States should not be party to supporting any nation that tacitly or directly undermines a solution to this unconscionable separation.

Mr. Speaker, I thank Mr. BILIRAKIS for calling this special order today. He has been in the forefront calling for a resolution of the missing issue and is one of the truest friends of Cyprus in Congress. I appreciate the opportunity to participate today and look forward to working with Mr. BILIRAKIS and other members to resolve the issue of the missing and reunify the island of Cyprus.

Mr. FEIGHAN. Mr. Speaker, I want to commend the gentleman from Florida [Mr. BILIRAKIS] for his leadership in taking out this special order and for allowing us this opportunity to address one of the most prolonged and unsettling human rights situations in the world: The plight of the 1,619 people who remain missing and unaccounted for since the 1974 Turkish invasion of Cyprus.

Today's headlines are filled with revelations by Russian President Boris Yeltsin that United States servicemen, missing since the Vietnam conflict, were transferred to Soviet work camps and still may be alive in Russia. The plight of these Americans strikes a chord deep within the American psyche. There is a deep longing on the part of the families of these American citizens and by the American public at large to end the years of suffering and make these families whole again.

It is that same longing that we saw in the faces of the mothers of the disappeared in Argentina. It is the same longing we saw in the faces of the classmates and families of the students who faced-down tanks in Tiananmen Square. And it is the same longing that we see in the face of Mr. Costas Kassapis, an American whose son, Andrew, was taken captive by Turkish soldiers, with his United States passport in hand, and subsequently disappeared 18 years ago.

Andrew Kassapis is one of the 5 Americans among the 1,619 Greek-Cypriots who are still missing. Turkish authorities claim to this day that all of the missing were killed at the time of the invasion. That claim is contradicted by evidence collected by the International Committee of the Red Cross as well as by photographs in the Turkish press showing Greek-Cypriot captives in Turkish prisons.

The time has come for the international community to demand a full accounting for each of these cases. Ankara claims that there are no Greek-Cypriots held in Turkish prisons. If so, it is within the power of the Turkish Government to allow an independent investigation of the northern part of the island to conduct inverviews, to locate remains, and to take all the necessary steps to bring these cases to a resolution.

Whether it's for purely humanitarian reasons or to remove this issue from the ongoing Cyprus dilemma, it is in Turkey's best interest to see this issue resolved. But that won't happen unless the United States and the rest of the international community makes it known that we are concerned about this issue. That's why this special order is so important, not just for the families of the disappeared, but to influence policymakers around the world about this prolonged denial of basic human rights.

Once again, I want to commend my friend, the gentleman from Florida [Mr. BILIRAKIS], for his tireless commitment to this issue and to all my other colleagues who have worked so hard for justice and human rights for the people of Cyprus.

□ 1900

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the RECORD.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEFNER (at the request of Mr. GEPHARDT), for today through June 26, because of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 60 minutes, on June 16, 17, 18, and 19.

Mr. BROOMFIELD, for 60 minutes, on June 16 and 17.

Mrs. BENTLEY, for 5 minutes, today.

Mr. STEARNS, for 5 minutes, today.

(The following Members (at the request of Mr. LIPINSKI) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. COMBEST.
Mr. GALLEGLY.
Mr. CUNNINGHAM.
Mr. COX of California.
Mr. BROOMFIELD.
Mr. PACKARD.
Mr. PORTER.
Mr. HORTON.
Mr. LEWIS of California.
Mrs. ROUKEMA in two instances.
Mr. LEWIS of Florida.

(The following Members (at the request of Mr. LIPINSKI) and to include extraneous matter:)

Ms. SLAUGHTER.
Mrs. KENNELLY.
Mr. HOYER.
Mr. SWETT.
Mr. SCHEUER.
Mr. LEVINE of California.
Mr. MRAZEK.
Mr. TORRES.
Mr. PENNY.
Ms. NORTON.
Mr. JACOBS.
Mr. MAZZOLI in two instances.
Mr. VENTO.
Ms. OAKAR.
Mr. MCDERMOTT.
Mr. MATSUI.
Mr. TORRICELLI.
Mr. FORD of Michigan.
Mr. HOCHBRUECKNER in two instances.
Ms. LONG.
Mr. ROSTENKOWSKI.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2507. An act to amend the Public Health Service Act to revise and extend the program of the National Institutes of Health, and for other purposes.

ADJOURNMENT

Mr. ANDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 17, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3756. A letter from the Chairman, Federal Housing Finance Board, transmitting annual enforcement report of the Federal Housing Finance Board, pursuant to 12 U.S.C. 1422a; to the Committee on Banking, Finance and Urban Affairs.

3757. A letter from the Director, Environmental Protection Agency, transmitting the semiannual report of activities of the inspector general covering the period October 1, 1991 through March 31, 1992, and management report for the same period, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3758. A letter from the Secretary, Department of the Interior, transmitting the biological study of the striped bass fishery resources and habitats of the Albermarle Sound-Roanoke River basin area, pursuant to 16 U.S.C. 1851 note; to the Committee on Merchant Marine and Fisheries.

3759. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 5, United States Code, to encourage the voluntary separation of civilian employees of the Department of Defense, and for other purposes; to the Committee on Post Office and Civil Service.

3760. A communication from the President of the United States, transmitting a copy of a proclamation that extends nondiscriminatory treatment to the products of Albania; also enclosed is the text of the "Agreement on Trade Relations Between the Government of the United States of America and the Republic of Albania," which was signed on May 14, 1992, pursuant to 19 U.S.C. 2437(a) (H. Doc. No. 102-346); to the Committee on Ways and Means and ordered to be printed.

3761. A communication from the President of the United States, transmitting his determination that Syria no longer meets the eligibility requirements set forth in the GSP law (H. Doc. No. 102-345); to the Committee on Ways and Means and ordered to be printed.

3762. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the second and third annual report of the Federated States of Micronesia on the use and expenditure of funds made available under the Compact of Free Association, pursuant to 48 U.S.C. 1681 note; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 3673. A bill to authorize a research program through the National Science Foundation on the treatment of contaminated water through membrane processes; with an amendment (Rept. 102–566). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 5344. A bill to authorize the National Science Foundation to foster and support the development and use of certain computer networks (Rept. 102–567). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2675. A bill to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child; with an amendment (Rept. 102–568). Referred to the Committee of the Whole House on State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4484. A bill to authorize appropriations for fiscal year 1993 for the Maritime Administration; with an amendment (Rept. 102–570). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 485, waiving certain points of order during consideration of H.R. 5373 a bill making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102–571). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 486. Resolution providing for the consideration of H.R. 5099, a bill to provide for the restoration of fish and wildlife and their habitat in the Central Valley of California, and for other purposes (Rept. 102–572). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 487. Resolution providing for the consideration of H.R. 3247, a bill to establish a National Undersea Research Program within the National Oceanic and Atmospheric Administration (Rept. 102–573). Referred to the House Calendar.

Mr. MOAKLEY: June 16, 1992 Committee on Rules. House Resolution 488. Resolution providing for the consideration of H.R. 4310, a bill to reauthorize and improve the national marine sanctuaries program, and to establish the Coastal and Ocean Sanctuary Foundation. Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 489. Resolution providing for the consideration of H.R. 4996, a bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes. Referred to the House Calendar.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5099. A bill to provide for the restoration of fish and wildlife and their habitat in the Central Valley of California, and for other purposes, with an amendment (Rept. 102–576, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FASCELL: Committee on Foreign Affairs. H.R. 4547. A bill to authorize supplemental assistance for the former Soviet republics; with amendments; referred to the Committees on Agriculture, Armed Services, Banking, Finance and Urban Affairs, and Science, Space, and Technology for a period ending not later than July 2, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1 (a), (c), (d), and (r) of rule X, respectively. (Rept. 102–569, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Omitted from the Record of June 15, 1992]

H.R. 5095. Referral to the Committee on Armed Services extended for a period during not later than June 17, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EDWARDS of California:

H.R. 5399. A bill to amend the U.S. Commission on Civil Rights Act of 1983 to provide an authorization of appropriations; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself, Mr. BURTON of Indiana, Mr. MONTGOMERY, Mr. STUMP, Mr. EVANS, and Mr. KENNEDY):

H.R. 5400. A bill to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans; to the Committee on Veterans' Affairs.

By Mr. KLECZKA:

H.R. 5401. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that foods derived from plant varieties developed by methods of genetic modification be labeled to identify their derivation; to the Committee on Energy and Commerce.

By Mr. PENNY:

H.R. 5402. A bill to amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes; to the Committee on Agriculture.

By Mr. PENNY (for himself, Mr. FAWELL, Mr. JONTZ, Mr. BALLENGER, Mrs. MEYERS of Kansas, Mr. ZELIFF, and Mr. UPTON):

H.R. 5403. A bill to rescind funds made available under the Department of Defense Appropriations Act, 1992, for the Arctic Region Supercomputing Center; to the Committee on Appropriations.

By Mr. ROSE:

H.R. 5404. A bill to require that the operating segment of the Federal budget be balanced in fiscal year 1994 and that the entire budget be balanced by fiscal year 1998 and to provide tough enforcement mechanisms to guarantee the budget is balanced; jointly, to the Committee on Government Operations, Rules, and Ways and Means.

By Mr. TORRICELLI (for himself, Mr. FIELDS, Mr. SOLARZ, Mr. LANTOS, Mr. LENT, MR. JONES of North Carolina, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. AUCOIN, Mr. BATEMAN, Mrs. BENTLEY, Mr. BORSKI, Mr. DARDEN, Mr. DAVIS, Mr. DELLUMS, Mr. ENGEL, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr. LAUGHLIN, Mr. MACHTLEY, Mr. MANTON, Mr. MILLER of Washington, Mr. NAGLE, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PRICE, Mr. RAHALL, Mr. RITTER, Mr. SAXTON, Mr. SMITH of New Jersey, Mr. SWETT, Mr. TAUZIN, Mrs. UNSOELD, and Mr. YOUNG of Alaska):

H.R. 5405. A bill to amend the Foreign Assistance Act of 1961 to ensure that U.S. cash transfer assistance is utilized to purchase U.S. goods and services, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BERMAN (for himself, Mr. HAMILTON, Mr. MILLER of Washington, Mr. GEJDENSON, Mr. PANETTA, Mr. MILLER of California, Mr. GONZALEZ, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. WEISS, Mr. MCCLOSKEY, Mr. LEVINE of California, Mr. WAXMAN, Mr. KOSTMAYER, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. MINETA, Mr. KOPETSKI, Mr. ATKINS, Mr. NAGLE, and Mr. RANGEL):

H.R. 5406. A bill to restrict the authorities of the President with respect to regulating the exchange of information with, travel to or from, and educational and cultural exchanges with, foreign countries; to the Committee on Foreign Affairs.

By Mr. RICHARDSON (for himself, Mr. HALL of Texas, Mr. SERRANO, Mr. MORAN, Mr. ABERCROMBIE, Mr. ECKART, Mr. PAYNE of New Jersey, Mr. ANDREWS of New Jersey, Mr. ROYBAL, Mr. TORRES, Mr. TAUZIN, and Mr. DORGAN of North Dakota):

H.R. 5407. A bill to establish in the Department of Labor the U.S. Boxing Commission to develop minimum Federal boxing standards applicable to the conduct of professional boxing, and for other purposes; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. STARK:

H.R. 5408. A bill to extend until January 1, 1995, the existing reduction of duty on certain paper products; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 5409. A bill to extend the statute of limitations applicable to civil actions brought by the Federal conservator or receiver of a failed depository institution; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GEPHARDT (for himself and Mr. MICHEL) (both by request):

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania; to the Committee on Ways and Means.

By Mr. HOYER (for himself, Mr. PORTER, Mr. FASCELL, Mr. MARKEY, Mr. FEIGHAN, Mr. RICHARDSON, Mr. RITTER, Mr. SMITH of New Jersey, Mr. WOLF, Mr. SMITH of Florida, Ms. HORN, Ms. PELOSI, Mrs. MORELLA, Mr. MCNULTY, Mr. BLILEY, Mr. CARDIN, Mr. ACKERMAN, Mr. LEHMAN of California, Mr. HUGHES, Mr. LANTOS, Mr. BATEMAN, Mr. OWENS of Utah, Mr. SISISKY, Mr. BUSTAMANTE, Mr. SCHEUER, Ms. NORTON, and Mr. LIPINSKI):

H.J. Res. 508. Joint resolution designating August 1, 1992, as "Helsinki Human Rights Day"; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

By Mr. MCCOLLUM (for himself, Mr. CRANE, Mr. HUNTER, and Mr. DORNAN of California):

H. Con. Res. 332. Concurrent resolution expressing the sense of the Congress that the governmental authorities of the independent states of the former Soviet Union should release certain information regarding the past activities of the Communist Party of the Soviet Union, and for other purposes; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GILCHREST:

H.R. 5410. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHIFF:

H.R. 5411. A bill for the relief of Benjamin Stock; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mr. Guarini, Mr. Gallegly, and Mr. Clement.

H.R. 576: Mr. Camp and Mr. Clement.

H.R. 643: Mr. Sundquist.

H.R. 747: Mr. Rowland.

H.R. 875: Mr. Mineta.

H.R. 1188: Mr. Klug and Mr. Ritter.

H.R. 1218: Mrs. Lowey of New York.

H.R. 1443: Mr. Condit, Mr. Smith of Texas, and Mr. Colorado.

H.R. 1468: Mr. Santorum.

H.R. 1509: Mr. Davis.

H.R. 1536: Mrs. Collins of Michigan, Mrs. Byron, and Mrs. Boxer.

H.R. 1624: Mr. Cunningham and Mr. Gingrich.

H.R. 2063: Mrs. Unsoeld.

H.R. 2089: Mr. Bustamante.

H.R. 2650: Mr. Weiss.

H.R. 2798: Mr. Peterson of Florida.

H.R. 3026: Mr. Guarini.

H.R. 3164: Mr. McCrery and Mr. Gallegly.

H.R. 3258: Mr. Scheuer.

H.R. 3438: Mr. Ritter.

H.R. 3439: Mr. Ritter.

H.R. 3440: Mr. Ritter.

H.R. 3441: Mr. Ritter.

H.R. 3442: Mr. Ritter.

H.R. 3450: Mr. Atkins, Mrs. Collins of Michigan, and Mr. Owens of New York.

H.R. 3518: Mr. Upton and Mr. McCurdy.

H.R. 3561: Mr. Ewing and Mr. Miller of Washington.

H.R. 3570: Mr. Atkins.

H.R. 3599: Mr. Ewing.

H.R. 3677: Mr. AuCoin and Mr. Bustamante.

H.R. 3763: Mr. Lantos.

H.R. 3838: Mr. Dannemeyer and Mr. Goodling.

H.R. 4089: Mr. Fish and Ms. DeLauro.

H.R. 4124: Mr. Atkins.

H.R. 4159: Mr. Beilenson, Mr. Morrison, Mrs. Unsoeld, and Mr. Evans.

H.R. 4192: Mr. Weldon.

H.R. 4206: Mr. Mollohan and Mr. Campbell of Colorado.

H.R. 4207: Mr. Sensenbrenner, Mr. Boehlert, and Mr. Peterson of Minnesota.

H.R. 4259: Mr. Frank of Massachusetts, Mr. Hayes of Illinois, Mr. Penny, Mr. Early, Mr. Nowak, Mr. Kopetski, Mr. Lagomarsino, Mr. Kennedy, Mr. Shays, and Ms. Kaptur.

H.R. 4300: Mr. Atkins, Mr. Sawyer, Mrs. Schroeder, and Mr. Torricelli.

H.R. 4311: Mr. English, Mr. DeFazio, Mr. Jontz, Mrs. Mink, Mr. Stallings, Ms. Norton, Mr. Kopetski, Mr. Peterson of Minnesota, Mr. Rangel, Mr. Hughes, Mrs. Schroeder, and Mr. Lancaster.

H.R. 4393: Mr. Cramer, Mr. Flake, Mr. Goss, Mr. Hochbrueckner, Mr. Johnston of Florida, Mr. LaFalce, Mr. Lancaster, Mr. Lent, Mrs. Lowey of New York, Mr. McHugh, Mr. Nowak, Mr. Owens of New York, Mr. Paxon, Mr. Shaw, Mr. Solomon, Mr. Sundquist, Mr. Thomas of Wyoming, and Mr. Walker.

H.R. 4611: Ms. Molinari.

H.R. 4689: Mr. Owens of Utah.

H.R. 4754: Mr. Ritter.

H.R. 4848: Mr. Berman and Mr. Murtha.

H.R. 4961: Mr. Gallegly.

H.R. 5000: Mr. Horton and Mr. Hoyer.

H.R. 5017: Mr. Berman.

H.R. 5019: Mr. Dornan of California, Mr. Klug, Mr. Porter, Mr. Dannemeyer, Mr. Santorum, and Mr. Brown.

H.R. 5036: Ms. Norton.

H.R. 5108: Mrs. Kennelly.

H.R. 5113: Mr. Boehner.

H.R. 5155: Mr. Weldon, Mr. Rangel, and Mr. Frost.

H.R. 5157: Mr. Riggs.

H.R. 5166: Mr. Atkins.

H.R. 5167: Mr. Bateman.

H.R. 5176: Mr. Towns.

H.R. 5208: Mr. Pallone, Mr. Owens of Utah, Mr. Lantos, Mr. Lewis of Georgia, and Mrs. Morella.

H.R. 5217: Mr. Atkins, Mr. Ford of Michigan, and Mr. Torricelli.

H.R. 5250: Mr. Shaw and Mr. Anthony.

H.R. 5257: Mr. Tauzin and Mr. Blackwell.

H.R. 5272: Mr. Penny, Mr. Visclosky, and Mr. Espy.

H.R. 5276: Mr. Parker, Mr. Blaz, Mr. Coble, Mr. Stenholm, Mr. Hayes of Louisiana, Mr. Pickett, Mr. McCrery, Mr. Callahan, Mr. Upton, Mr. Schaefer, Mr. Bliley, Mr. Barton of Texas, Mr. Hancock, Mr. Oxley, Mr. Chandler, Mr. Costello, Mr. Saxton, and Mr. Gallo.

H.R. 5282: Mr. Studds, Mr. Rohrabacher, Mr. Pallone, and Mr. Murphy.

H.R. 5316: Mr. Jefferson.

H.R. 5323: Mr. Hochbrueckner.

H.R. 5340: Ms. Ros-Lehtinen.

H.R. 5357: Ms. Norton.

H.R. 5360: Mr. Frank of Massachusetts, Mr. Scheuer, Mr. Atkins, Mr. Oberstar, Mr. Penny, Mr. Foglietta, Mr. Lehman of Florida, Mr. Hayes of Illinois, Mr. Johnston of Florida, Mr. Olin, Mr. Stark, Mr. Abercrombie, Mr. Moody, Ms. Horn, Mr. Hall of Ohio, Mr. Kopetski, Mr. de Lugo, Mr. Ackerman, Mr. Gejdenson, Mr. Dymally, Mr. Wheat, Mr. Clay, Mr. Owens of New York, Mr. Stokes, Mr. Espy, Mr. Blackwell, and Mr. Kostmayer.

H.J. Res. 83: Mr. Young of Alaska.

H.J. Res. 237: Mr. Lehman of Florida, Mr. Hubbard, Mr. Matsui, Mr. Gonzalez, Mr. Natcher, and Mr. Kopetski.

H.J. Res. 336: Mr. Fish.

H.J. Res. 393: Mr. Murtha, Mr. Fascell, Mr. Borski, Mr. Annunzio, Mr. Bilirakis, Mr. Frank of Massachusetts, Mr. Rowland, Mr. Smith of Florida, Mr. McNulty, Mr. Gilchrest, Mr. Ewing, Mr. Porter, Mr. Goodling, and Mr. Gingrich.

H.J. Res. 399: Mr. Boucher.

H.J. Res. 411: Mr. Ackerman, Mr. Roemer, Mr. Staggers, and Mr. Bacchus.

H.J. Res. 436: Mr. Fish.

H.J. Res. 473: Mr. Matsui.

H.J. Res. 476: Mr. Espy.

H.J. Res. 478: Mr. Owens of New York and Mr. Faleomavaega.

H.J. Res. 483: Mr. Tallon, Mr. Miller of Washington, and Ms. Norton.

H.J. Res. 486: Mr. Annunzio, Mr. McHugh, Mr. Tanner, Mr. Peterson of Florida, Mr. Sawyer, Mr. Lehman of California, Mrs. Patterson, Mr. Atkins, Mr. Erdreich, Mr. Feighan, Mr. Hubbard, Mr. Harris, Mr. Hefner, Mr. Fascell, Mr. Hayes of Illinois, Mr. Cramer, Mr. Rose, and Mr. Jontz.

H.J. Res. 495:, Mr. Serrano, Mr. Quillen, Mr. Bateman, Mr. Gallegly, Mr. Bevill, Mrs. Morella, Mrs. Bentley, Mr. Brewster, Mr. Clement, Mr. Cooper, Mr. Costello, Mr. De Lugo, Mr. Dicks, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Faleomavaega, Mr. Feighan, Mr. Ford of Tennessee, Mr. Gejdenson, Mr. Gekas, Mr. Geren of Texas, Mr. Gilchrest, Mr. Hefner, Mr. Hertel, Mr. Hobson, Mr. Hochbrueckner, Mr. Hughes, Mr. Hutto, Mr. Hyde, Mr. Jones of North Carolina, Mr. Jontz, Mr. Kasich, Mr. Lagomarsino, Mr. Lancaster, Mr. Leach, Mr. Lewis of California, Ms. Long, Mr. Lowery of California, Mr. McCloskey, Mr. McCollum, Mr. McCrery, Mr. McEwen, Mr. Martin, Mr. Murphy, Mr. Owens of New York, Mrs. Patterson, Mr. Pursell, Mr. Rinaldo, Mr. Ritter, Mr. Roe, Mr. Rowland, Mr. Roybal, Mr. Savage, Mr. Slattery, Mr. Spratt, Mr. Staggers, Mr. Taylor of Mississippi, Mr. Traficant, Mr. Valentine, Mr. Vander Jagt, Mr. Wylie, Mr. Yatron, Mr. Bacchus, Mr. Matsui, Mr. Hayes of Illinois, and Ms. Norton.

H. Con. Res. 189: Mr. Peterson of Florida, Mr. Paxon, Mr. Zeliff, Mr. Lent, Mr. Durbin, Mrs. Meyers of Kansas, Mr. Campbell of California, Ms. Horn, Mr. Guarini, Mr. Gilman, Mr. Oxley, Mr. Franks of Connecticut, Mr. Hughes, Mr. Hayes of Illinois, and Mr. Bustamante.

H. Con. Res. 295: Mrs Kennelly.

H. Con. Res. 309: Mr. Espy.

H.Con. Res. 316: Mr. Quillen, Mr. Hughes, Mr. Condit, and Mr. Dixon.

H. Res. 347: Mr. Upton.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4211: Mr. Berman.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

161. By the SPEAKER. Petition of the city council of the city of New York, relative to a national health plan; to the Committee on Energy and Commerce.

162. Also, petition of the city council, District of Columbia, relative to legal admission of Haitian refugees; jointly, to the Committees on Foreign Affairs and the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4996

By Mr. ANDREWS of New Jersey:

—Page 50, line 10, strike "INFORMATION IN AGGREGATE FORM" and insert "BASIS FOR PROJECTIONS".

Page 50, line 13, strike "Such" and all that follows through page 51, and line 2, and insert the following after line 3:

"(3) MANNER OF REPORTING EFFECTS ON EMPLOYMENT.—In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

"(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

"(B) any jobs created by the project; and

"(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

—Page 2, strike line 4 and all that follows through page 55, line 23, and insert the following:

TITLE I—TERMINATION OF OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. TERMINATION OF OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) TERMINATION OF AUTHORITY TO MAKE NEW OBLIGATIONS.—(1) Effective 60 days after the date of the enactment of this Act, the Overseas Private Investment Corporation shall not issue any insurance, guaranties, or reinsurance, make any loan, or acquire any securities, under section 234 of the Foreign Assistance Act of 1961, enter into any agreements for any other activity authorized by such section 234, or enter into risk sharing arrangements authorized by section 234A of that Act.

(2) Paragraph (1) does not require the termination of any contract or other agreement entered into before such paragraph takes effect.

(b) TERMINATION OF OPIC.—Effective 180 days after the date of the enactment of this Act, the Overseas Private Investment Corporation is abolished.

(c) TRANSFER OF OPERATIONS TO OMB.—The Director of the Office of Management and Budget shall, effective 1890 days after date of the enactment of this Act, perform the functions of the Overseas Private Investment Corporation with respect to contracts and agreements described in subsection (a)(2) until the expiration of such contracts and agreements, but shall not renew any such contract or agreement. The Director shall take the necessary steps to wind up the affairs of the Corporation.

(d) REPEAL OF AUTHORITIES.—Effective 180 days after the date of the enactment of this Act, title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 and following) is repealed, but shall continue to apply with respect to functions performed by the Director of the Office of Management and Budget under subsection (c).

(e) APPROPRIATIONS.—Funds available to the Corporation are authorized to be transferred, upon the effective date of the repeal made by subsection (d), and to the extent provided in appropriations Acts, to the Director of the Office of Management and Budget for use in performing the functions of the Corporation under subsection (c). Upon the expiration of the contracts and agreements with respect to which the Director is exercising such functions, any unexpended balances of the funds transferred under this subsection shall be deposited in the Treasury as miscellaneous receipts.

SEC. 102. SAVINGS PROVISIONS.

(a) PRIOR DETERMINATIONS NOT AFFECTED.—The repeal made by section 101(d) of the provisions of law set forth in such section shall not affect any order, determination, regulation, or contract that has been issued, made, or allowed to become effective under such provisions before the effective date of the repeal. All such orders, determinations, regulations, and contracts shall continue in effect until modified, superseded, terminated, set aside, or revoked in accordance with law by the President, the Director of the Office of Management and Budget, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) The repeal made by section 101(d) shall not affect any proceedings, including notices of proposed rulemaking, pending on the effective date of the repeal, before the Overseas Private Investment Corporation, except that no insurance, reinsurance, guarantee, or loan may be issued pursuant to any application pending on such effective date. Such proceedings, to the extent that they relate to functions performed by the Director of the Office of Management and Budget after such repeal, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(2) The Director of the Office of Management and Budget is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) ACTIONS.—Except as provided in subsection (e)—

(1) the provisions of this title shall not affect suits commenced before the effective date of the repeal made by section 101(d); and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this title had not been enacted.

(d) LIABILITIES INCURRED.—No suit, action, or other proceeding commended by or against any officer in the official capacity of such individual as an officer of the Overseas Private Investment Corporation, shall abate by reason of the enactment of this title. No cause of action by or against the Overseas Private Investment Corporation, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this title.

(e) PARTIES.—If, before the effective date of the repeal made by section 101, the Overseas Private Investment Corporation or officer thereof in the official capacity of such officer, is a party to a suit, then such suit shall be continued with the Director of the Office of Management and Budget substituted or added as a party.

(f) REVIEW.—Orders and actions of the Director of the Office of Management and Budget in the exercise of functions of the Overseas Private Investment Corporation shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Overseas Private Investment Corporation. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function of the Overseas Private Investment Corporation shall apply to the exercise of such function by the Director of the Office of Management and Budget.

By Mr. BEREUTER:

—At the end of the bill (Page 77, after line 16), add the following:

TITLE VI—ENTERPRISE FOR THE AMERICANS INITIATIVE

SEC. 601. SHORT TITLE.

This title may be cited as the "Enterprise for the Americas Act of 1992".

SEC. 602. PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this title for those countries with democratically elected governments that meet investment reforms and other policy conditions.

SEC. 603. DEFINITIONS.

For purposes of this title—

(1) the term "administering body" means the entity provided for in section 609(c);

(2) the term "Americas Framework Agreement" means the agreement provided for in section 609;

(3) the term "Americas Fund" means an Enterprise for the Americas Fund provided for in section 608(a);

(4) the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(5) the term "beneficiary country" means an eligible country with respect to which the authority of section 605(a)(1) is exercised;

(6) the term "eligible country" means a country designated by the President in accordance with section 604;

(7) the term "Enterprise for the Americas Board" or "Board" means the board established by section 610 of Agricultural Trade Development and Assistance Act of 1954 (as amended by section 610(b) of this title); and

(8) the term "Facility" means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

SEC. 604. ELIGIBILITY FOR BENEFITS.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country must be a Latin American or Caribbean country—

(1) whose government is democratically elected;

(2) whose government has not repeatedly provided support for acts of international terrorism;

(3) whose government cooperates on international narcotics control matters;

(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) Eligibility Determinations.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this title. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

SEC. 605. REDUCTION OF CERTAIN DEBT.

(a) Authority To Reduce Debt.—

(1) Authority.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1991, as a result of concessional loans made to an eligible country by the United States under part I of the Foreign Assistance Act of 1961 (or predecessor foreign economic assistance legislation).

(2) Appropriations act requirement.—The authority of this section may be exercised only in such amounts or to such extent as is specifically provided in advance by appropriations Acts.

(3) Certain prohibitions inapplicable.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(b) Implementation of Debt Reduction—

(1) In general.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

(2) Exchange of obligations.—The Facility shall notify the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of that Act shall make an adjustment in its accounts to reflect the debt reduction.

SEC. 606. REPAYMENT OF PRINCIPAL.

(a) Currency of Payment.—The principal amount of each new obligation issued pursuant to section 605(b) shall be repaid in United States dollars.

(b) Deposit of Payments.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

SEC. 607. INTEREST ON NEW OBLIGATIONS.

(a) Rate of Interest.—New obligations issued by a beneficiary country pursuant to section 605(b) shall bear interest at a concessional rate.

(b) Currency of Payment; Deposits.—

(1) Local currency.—If the beneficiary country has entered into an Americas Framework Agreement under section 609, interest shall be paid in the local currency of the beneficiary country and deposited in the Americas Fund provided for in section 608(a). Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 608(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

(2) United states dollars.—If the beneficiary country has not entered into an Americas Framework Agreement under section 609, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

(c) Interest Already Paid.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country pursuant to section 608(a).

SEC. 608. ESTABLISHMENT OF, DEPOSITS INTO, AND DISBURSEMENTS FROM AN ENTERPRISE FOR THE AMERICAS FUND.

(a) Establishment.—Each beneficiary country that enters into an Americas Framework Agreement under section 609 shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 607(b)(1).

(b) Deposits.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(c) Investment.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by Congress.

(d) Disbursements.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement under section 609.

SEC. 69. AMERICAS FRAMEWORK AGREEMENTS.

(a) Authority.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for the country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 610.

(b) Contents of Agreements.—An Americas Framework Agreement with an eligible country shall—

(1) require that country to establish an Americas Fund;

(2) require that country to make interest payments under section 607(b)(1) into an Americas Fund;

(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) Administering Body.—

(1) In general.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) Composition.—The administering body shall consist of—

(A) one or more individuals appointed by the United States Government,

(B) one or more individuals appointed by the government of the beneficiary country, and

(C) individuals who represent a broad range of—

(i) environmental nongovernmental organizations of the beneficiary country,

(ii) child survival and child development nongovernmental organizations of the beneficiary country,

(iii) local community development nongovernmental organizations of the beneficiary country, and

(iv) scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

(3) Responsibilities.—The administering body—

(A) shall receive proposals for grant assistance for eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

(D) shall be required to grant to representatives of the United States General Accounting Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

(d) Eligible Activities.—Grants from an Americas Fund shall be used for—

(1) activities that link the conservation and sustainable use of natural resources with local community development; and

(2) child survival and other child development activities.

(e) Grant Recipients.—Grants made from an Americas Fund shall be made to—

(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

(2) other appropriate local or regional entities; and

(3) in exceptional circumstances, the government of the beneficiary country.

(f) Review of Larger Grants.—Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) Eligibility Criteria.—In the event that a country ceases to meet the eligibility requirements set forth in section 604(a), as determined by the President pursuant to section 604(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 604(a).

SEC. 610. ENTERPRISE FOR THE AMERICAS BOARD.

(a) Responsibilities.—For purposes of this title, the Enterprise for the Americas Board shall—

(1) advise the Secretary of State on the negotiations of Americas Framework Agreements pursuant to section 609;

(2) ensure, in consultation with—

(A) the government of the beneficiary country,

(B) nongovernmental organizations of the beneficiary country,

(C) nongovernmental organizations of the region (if appropriate),

(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

(3) review the programs, operations, and fiscal audits of each administering body.

(b) Amendments Relating to the Board.—Section 610 of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in the section heading, by striking out "ENVIRONMENT" and inserting in lieu thereof "ENTERPRISE";

(2) in subsection (a), by striking out "Environment" and inserting in lieu thereof "Enterprise"; and

(3) in subsection (b)(1)(B)—

(A) by inserting "child survival and child development," after "environmental,", and

(B) by inserting ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

SEC. 611. ANNUAL REPORTS TO CONGRESS.

(a) In General.—Not later than December 31 of each year, the President shall transmit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report on the implementation of this title and title VI of the Agricultural Trade Development and Assistance Act of 1954. Such report shall include—

(1) a description of the activities undertaken by the Enterprise for the Americas Facility during the previous fiscal year;

(2) a description of any Americas Framework Agreements entered into under this title and a description of any Environmental Framework Agreement entered into under title VI of the Agricultural Trade Development and Assistance Act of 1954; and

(3) a description of any grants that have been extended by administering bodies pursuant to an Americas Agreement under this title or pursuant to an Environmental Framework Agreement under title VI of that Act.

(b) Supplemental Views.—Each member of the Enterprise for the Americas Board shall be entitled to receive a copy of the report required by subsection (a) at least 14 days before the report is to be transmitted to the Congress, to have 14 days within which to prepare and submit supplemental views for inclusion in such report, and to have those views included in the report when it is so transmitted.

(c) Conforming Amendment.—Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (relating to annual reports to the Congress on the Enterprise for the Americas Facility) is repealed.

By Mr. BROOMFIELD:

—Page 33, line 19, strike "1995" and insert "1997".

—Page 2, strike line 4 and all that follows through page 55, line 23, and insert the following:

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

SEC. 102. REFORM PURPOSE; UPDATING INCOME LEVELS.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended—

(1) in the first paragraph by inserting after "economic and social development of" the following: "emerging democracies, free market economies, and";

(2) in paragraph (2) of the second undesignated paragraph—

(A) by striking "$984 or less in 1986 United States dollars" and inserting "$1,146 or less in 1990 United States dollars"; and

(B) by striking "$4,269 or more in 1986 United States dollars" and inserting "$4,974 or more in 1990 United States dollars".

SEC 103. STOCK OF THE CORPORATION.

Section 232 of the Foreign Assistance Act of 1961 (22 U.S.C. 2192) is amended to read as follows:

"Sec. 232. Capital of the Corporation.—The Secretary of the Treasury shall hold the capital stock of the Corporation.".

SEC. 104. REVISIONS TO PILOT EQUITY PROGRAM.

Section 234(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(g)) is amended—

(1) in paragraph (1)—

(A) by striking "40-year pilot program" and inserting "pilot program to terminate on September 30, 1997,"; and

(B) by striking "(5)" and inserting "(4)";

(2) by striking paragraph (2) and redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively; and

(3) by amending paragraph (4), as so redesignated, to read as follows:

"(4) Creation of Fund for Acquisition of Equity.—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $45,000,000 from its income, revenues, and other funds transferred to the Corporation for such purposes. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(b) of this Act.".

SEC. 105. RAISING CEILING ON INSURANCE.

Section 235(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(1)) is amended by striking "$7,500,000,000" and inserting "$10,000,000,000".

SEC. 106. RAISING CEILING ON INVESTMENT GUARANTIES.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)) is amended by striking "$1,500,000,000" and inserting "$3,500,000,000".

SEC. 107. EXTENDING ISSUING AUTHORITY.

Section 235(a)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(6)) is amended by striking "1992" and inserting "1997".

SEC. 108. CONFORMING AMENDMENTS FOR CREDIT REFORM.

Issuing Authority, Direct Investment, and Reserves.—Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

(1) in the section caption by striking "Fund" and inserting "Loans";

(2) in subsection (a)—

(A) in paragraph (2) by inserting after "Acts" in the second sentence, the following: ", pursuant to section 504(b) of the Federal Credit Reform Act of 1990";

(B) in paragraph (4)—

(i) by striking "and (b)"; and

(ii) by inserting after "expenses" the following: "for noncredit activities. There are authorized to be appropriated to the Corporation such amounts as may be necessary for operation and administrative expenses for credit activities. Such amounts may be transferred to and merged with funds for such expenses for noncredit activities"; and

(C) by striking paragraphs (3) and (5) and redesignating paragraphs (4) and (6) as paragraphs (3) and (4), respectively;

(3) by amending subsection (b) to read as follows:

"(b) Direct investment loans are authorized for any fiscal year only to the extent or in such amounts as provided in advance in appropriation Acts, pursuant to section 504(b) of the Federal Credit Reform Act.";

(4) by amending subsection (c), to read as follows:

"(c) The Corporation shall maintain an insurance reserve. Such reserve shall be available for the discharge of liabilities, as provided in subsection (d) of this section, until such time as all such liabilities have been discharged or have expired or until such reserve has been expended in accordance with the provisions of this section. The insurance reserve shall consist of—

"(1) any funds in the insurance reserve of the Corporation on the effective date of the Overseas Private Investment Corporation Amendments Act of 1992;

"(2) amounts transferred to the reserve pursuant to section 236(b) of this Act; and

"(3) such sums as are appropriated pursuant to subsection (e) of this section for such purposes.";

(5) in subsection (d)—

(A) by striking "(f)" in the first sentence and inserting "(e)"; and

(B) by striking all that follows "shall be paid" in the second sentence and inserting "in accordance with the Federal Credit Reform Act of 1990.";

(6) by striking subsection (e) and redesignating subsection (f) as subsection (e); and

(7) in the first sentence of subsection (e), as so redesignated—

(A) by striking "and guaranty fund" and inserting "reserve";

(B) by striking ", reinsurance, or guaranties" and inserting in lieu thereof "or reinsurance"; and

(C) by striking "guaranty" after "predecessor".

(b) Income and Revenues.—Section 236 of the Foreign Assistance Act of 1961 (22 U.S.C. 2196) is amended—

(1) by inserting after "earned by the Corporation," the following: "with respect to noncredit activities,";

(2) in subsection (b)—

(A) by striking "or guaranty reserves, the Direct Investment Fund established pursuant to section 235," and inserting "reserve"; and

(B) by inserting after "determine" the following ", subject to the provisions of the Federal Credit Reform Act of 1990".

(c) GENERAL PROVISIONS.—(1) Section 237(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(d)) is amended to read as follows:

"(d)(1) Fees may be charged for providing insurance, reinsurance, guaranties, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guaranties, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, guaranties, financing, or services and for similar guaranties issued under predecessor guaranty authority may be reduced.

"(2) For credit transactions covered by the provisions of the Federal Credit Reform Act of 1990, project-specific transaction costs relating to loan obligations or loan guaranty commitments, including but not limited to project related travel and outside legal expenses, shall be considered cash flows from the Government resulting from direct loan obligations or loan guaranty commitments and shall be paid out of the appropriate financing account established pursuant to section 505(b) of that Act.

"(3) Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2) of this subsection), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected."; and

(2) Section 237 of the Foreign Assistance Act of 1961 (22 U.S.C. 2197) is amended by adding at the end the following new subsection:

"(n) Loans, guaranties, or investments made with funds received in foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) of this Act, shall not be considered in determining whether the Corporation has made or has outstanding loans, guaranties, or investments to the extent of any limitation on obligations, commitments, and equity investment imposed by or pursuant to this Act. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligation or loan guarantee commitments made with funds described in this subsection.".

SEC. 109. PENALTIES FOR FALSE STATEMENTS.

Section 237 of the Foreign Assistance Act of 1961 is amended by adding at the end the following.

"(o) Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefore, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.".

By Mr. GEJDENSON:

—Page 43, strike lines 9 through 19 and insert the following:

"(j) USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 233(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.

By Mr. UPTON:

—Page 64, line 24, strike "and" and insert "by using, for example, technical teams consisting of highly skilled and experienced United States citizens who".

—Page 69, line 4, insert "(including a manufacturing plant)" before "or physical".

—At the end of the bill (page 77, after line 16), add the following:

TITLE VI—AMERICAN PRODUCTS FOR INTERNATIONAL CONSUMPTION AND SERVICES PROGRAM

SEC. 601. ESTABLISHMENT OF PROGRAM.

Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to economic assistance programs) is amended by adding at the end the following:

"Chapter 11—American Products for International Consumption and Services Program

"SEC. 498. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The President shall establish an American Products for International Consumption and Services Program (hereinafter in this section referred to as the 'Program'). The Program shall be carried out with funds made available for economic assistance programs under this Act.

"(b) PURPOSE.—The purpose of the Program shall be to use the expertise of United States citizens to provide technical training and assistance to foreign countries (such as the independent states of the former Soviet Union and East European countries)—

"(1) that are developing a free market economy, and

"(2) whose manufacturing sector is outdated, inefficient, or otherwise unproductive,

in order to encourage those countries to modernize their manufacturing sector by acquiring manufacturing equipment from the United States and to assist those countries in acquiring and using such equipment.

"(c) TECHNICAL TEAMS.—The Program shall assemble teams consisting of United States citizens who are highly skilled and experienced professionals or technicians with expertise relevant to manufacturing, such as industrial and manufacturing engineers, quality control engineers, materials manufacturing experts, accountants, and marketing experts. Such teams shall be sent, on a short term basis, to countries described in subsection (b)—

"(1) to analyze individual companies and develop projects and programs for the modernization of those companies using United States manufacturing equipment; and

"(2) to assist those companies in the purchase, shipment, and installation of such equipment and to provide on-sight training with respect to such equipment.

"(d) PER DIEM, CULTURAL ORIENTATION, LANGUAGE TRAINING, AND OTHER ASSISTANCE.—The President shall ensure that the members of the teams provided for in subsection (c) receive appropriate per diem, cultural orientation, language training, and assistance with travel and other personal arrangements.

"(e) ANNUAL REPORTS.—The President, acting through an appropriate agency of the United States Government, shall report to the Congress each year on the program carried out pursuant to this section, including an analysis of the economic benefits to the United States of the program.".

By Mr. WISE:

—Add the following at the end of the bill:

TITLE VI—TRADE PROMOTION EXPANSION

SEC. 601. SHORT TITLE.

This title may be cited as the "Trade Promotion Expansion Act of 1992".

SEC. 602. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

"(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1994 and 1995 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

"(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) REPORT TO CONGRESS.—The Secretary of Commerce, acting through the Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1995, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

EXTENSIONS OF REMARKS

THE GROWING EPIDEMIC OF STD'S

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. McDERMOTT. Mr. Speaker, during the past 10 years, in the United States and throughout the world, we have witnessed the devastation of millions of lives from AIDS. In investigating this epidemic in many nations, I am constantly reminded of its enormity, its destructive potential, and our tragic delay in responding to it.

I have also found that countries with high rates of HIV infection experience high rates of other sexually transmitted diseases [STD's] as well. We are only beginning to understand this relationship. We have learned, for example, that the presence of certain sexually transmitted diseases can greatly increase the risk of HIV transmission. We also know that focused strategies to reduce the incidence of the other STD's may reduce the rate of sexually acquired HIV infection, especially in heterosexual men and women.

STD's are a neglected but serious public health problem in the United States. STD's contribute to excessive morbidity, death, and health care costs among adolescents, young adults, and newborns. In 1989, the Centers for Disease Control estimated that 13 million people in the United States were newly infected with one or more symptomatic STD's. Since many cases are asymptomatic and therefore go undetected and untreated, 13 million is a low estimate for the true number of cases. Adolescent and young adult populations are particularly at risk of infection, with two-thirds of newly acquired cases occurring among people under 25.

In women, these diseases have serious debilitating and even fatal consequences. They are associated with cervical cancer, life-threatening ectopic pregnancy, infertility, and chronic pelvic inflammatory disease, as well as HIV transmission. Routine screening and treatment for STD's such as syphilis, gonorrhea, and chlamydia, particularly in the absence of symptoms, can help control the spread of these diseases, reduce morbidity and mortality from them, and reduce the potential for HIV transmission in populations at risk.

I want to share with my colleagues a recent article in the Washington Post, which outlines the devastating spread of STD's throughout the world and its health consequences for millions of women. I urge my colleagues to support efforts to strengthen education, prevention, and treatment strategies to combat this growing epidemic.

[From the Washington Post, June 7, 1992]

BEYOND AIDS: THE WORLDWIDE PLAGUE OF SEXUAL DISEASES

(By Jodi L. Jacobson)

A silent scourge is taking a devastating toll among women and children throughout the world. It causes far more death and illness in women than does AIDS in men, women and children combined. It can lead to cervical cancer, inflammation of the uterus, ectopic pregnancy and other life-threatening conditions. It accounts for a large share of preventable infant deaths and disability. It destroys families, reduces individual economic productivity, hampers efforts to slow population growth and burdens already poor health care systems. And worse yet, it facilitates transmission of the AIDS virus—which is spreading even faster than thought, according to newly released data.

This "other epidemic" is no mysterious new menace but rather a group of well-known sexually transmitted diseases (STDs) that includes chanchroid, chlamydia, gonorrhea, herpes, human papillomavirus and syphilis. All of them can be prevented or treated and, unlike AIDS (an STD itself), most can be cured. Through better family planning programs, increased accessibility of testing and treatment, and—most important—improvements in the status of women, the spread of such infections could be curtailed sharply. But for want of such initiatives, these "other" STDs continue to spread unchecked and relatively unnoticed throughout the world.

While infection rates of most STDs appear to be the same in males and females, "women and infants bear the major burden of complications and serious [consequences]," warn A. De Schryver and Andre Meheus of the World Health Organization (WHO). Typically, infections in men cause mild to severe gentile or urinary tract problems; in rare cases they cause sterility and death. For women it's a different story. STDs and other "reproductive tract infections," a broader grouping to which STDs belong, cause at least 750,000 deaths and 75 million illnesses among women each year worldwide. Indications are the number of these deaths will more than double by 2000. Death rates are rising fastest in Africa, followed by Asia, and then Latin America.

Cervical cancer caused by sexually transmitted human papillomavirus now accounts for nearly half of these losses. About 450,000 cases of potentially fatal reproductive-tract cancers are diagnosed annually. Of these, an estimated 354,000 occur in Third World women, virtually all of them die because they lack access to relatively simple early-treatment measures. Complications of other infections also are running rampant.

Worldwide, about 250 million new infections, reinfections and multi-infections—including chlamydia, gonorrhea and the human papillomavirus—are sexually transmitted each year. These STDs outrank AIDS in both the numbers of people infected and the annual increase in new cases. Chlamydia and the human papillomavirus, for example, account for 50 million and 30 million new cases per year respectively. HIV, the AIDS virus, infected 1 million people worldwide between April and December 1991, according to the WHO, and will infect 38 million to 120 million by the end of the decade, according to a study by the Global AIDS coalition released last week.

Numerous studies confirm that STDs and other reproductive tract infections are epidemic in many developing countries. A study of 650 rural women in the Indian state of Maharashtra revealed that 92 percent of them had at least one gynecological or sexual disease, with the average an astonishing 3.6 per woman. Fewer than 8 percent of the women had ever undergone a gynecological examination. A study in two rural Egyptian villages found that half of 509 non-pregnant woman aged 20 to 60 had infections. Twenty-two percent of 3,000 women canvassed in Bangladesh reported symptoms of reproductive tract infections. The actual number infected but not reporting symptoms was believed to be twice as high.

Behavioral patterns are key to the spread of STDs. Some patterns are perpetuated by dangerous myths regarding health practices. Throughout sub-Saharan Africa, for example, traditional healers promote the idea that men infected with STDs should have sex with virgins to cure themselves, a belief contributing to the uncontrolled spread of these diseases now evident among adolescent girls in that region.

Others are the product of social expectation. In many countries, assessments of sexual behavior show that men tend to have a larger number of sexual partners than women. High rates of premarital sex often result from the belief that males should be sexually experienced from an early age. In Guatemala and Ecuador, for example, the transition to "manhood" supposedly requires a young male to have his first intercourse with a prostitute. In part of sub-Saharan Africa, STDs are regarded simply as proof of male sexual potency.

Elsewhere, social or religious taboos against intercourse between husband and wife under various circumstances—including the perceived need in some cultures for women to abstain from sexual relations while menstruating or breast-feeding—may encourage men to seek extramarital partners.

Vast economic changes occurring throughout the world reinforce these patterns. Deepening poverty among women is contributing to a documented rise in prostitution in cities from Russia to Zimbabwe. So too does rapid urbanization, say World Bank researcher Mead Over and the World Health Organization's Peter Piot. In this complicated scenario, economic development enriches urban areas at the expense of rural ones, which leads to migration by farm workers in search of jobs in the city. Especially in Africa, and to a large extent in Asia, most migrants to cities have been male, and they tend to return home infrequently—satisfying sexual needs in the meantime with a second wife, a girlfriend or prostitutes. A vicious cycle arises when migrants do return home: The husband transmits an STD to his wife, leading to infertility or chronic infection that prevents her from sustaining pregnancies and bearing healthy children. The consequences of infertility can be devastating in cultures where a woman's value is gauged in terms of births: divorce, abandonment, abuse—even murder.

It's at this point that Over and Piot see a connection between the lack of educational opportunity for women and the spread of

STDs. In developing countries, women with little or no education and economic opportunity have few prospects outside of marriage. Prostitution is a recourse sometimes taken by infertile women rejected by their families and communities—and by countless others impoverished by continuing economic crises. The movement of abandoned or rejected "barren" women to urban prostitution has been documented in Niger, Uganda and the Central African Republic. Numerous studies in Africa and Asia by the World Bank and a number of international research organizations have found that divorced or separated women comprise the great majority of prostitutes or "semi-prostitutes."

Economics also drives unmarried adolescents to increase their risks of infection. In Kenya and Nigeria, it is common for pregnant girls—but not the boys who impregnate them—to be expelled from school. Rejected by friends and family, many resort to prostitution to survive.

While far more women are put at risk by their partners' behavior than their own, they frequently are unable to protect themselves from infection. The use of condoms would markedly reduce the risk of infection, yet in many societies the prerogative of what birth control method to use, and whether to use one at all, lies with the man. Examples from two regions starkly illustrate this imbalance of power:

In a survey of 144 Ugandan women, the overwhelming sentiment was that "because of their lack of decision-making power in matters of sex . . . women felt they were more at risk of becoming infected than men," states E. Maxine Ankrah, a lecturer at Makerere University in Kampala, Uganda. Faced with "philandering by their husbands [these women] say they prefer to abstain . . . or use condoms . . . but find their husbands won't cooperate." With limited economic opportunities, she says, there is no "clear path for these worried women to follow."

Women in Mexico face similar problems. As many as 60 percent of Mexican women who seek state-sponsored birth control do so without their spouses' knowledge, in large part because many men believe that using contraceptives will diminish their manhood or lead to infidelity by the woman. A wife found practicing birth control surreptitiously risks being physically abused.

Fear of violence or rejection by their partners also inhibits millions of women from acknowledging symptoms that might lead to prompt identification and treatment of STDs. Psychological deterrents, including strict mores proscribing even married women from discussing sexual problems, can create virtually insurmountable obstacles for women to disclose symptoms or complications.

In "The Culture of Silence," a report on reproductive tract infections worldwide published by the International Women's Health Coalition, Ruth Dixon Mueller, a private consultant on reproductive rights in the Third World, and Judith Wasserheit, chief of the sexually transmitted diseases branch at the U.S. National Institutes of Health, underscore where this code of silence can lead: "Women [may] accept vaginal discharge, discomfort during intercourse or even chronic pelvis pain which accompanies some [infections] as an inevitable part of their womanhood, something to be endured along with other reproductive health problems such as sexual abuse, menstrual difficulties, contraceptive side effects, miscarriages, still births and potentially life-threatening clandestine abortion or childbirth."

Even if empowered to seek it, few women have access to treatment for reproductive tract infections. Clinics are scarce even in those countries where STDs are most prevalent. Only two facilities designated for the diagnosis and treatment of STDs exists in all of Kenya. Ibadan, the largest city in Nigeria, with a population of 2 million, has only one recognized STD clinic. What clinics do exist in developing countries are usually geared toward and frequented by men and by prostitutes of both sexes, which greatly diminishes their accessibility to women who fear social censure.

Without doubt, the social response to the STD plague has been slow to take shape. Michael J. Rosenbert of the U.S.-based Family Health International contends, "African governments have put few resources into the management or control of STDs, and technical and financial assistance has been limited." As noted earlier, studies from Bangladesh, Egypt and India reveal an indifference toward the control of STDs that is nearly universal.

This is true as well in the industrial world. In the United States, many of these same factors—female poverty, social disintegration and prostitution, along with a growing trend of exchanging sex for drugs—are responsible for the disproportionately high rates of sexually transmitted diseases among women in some low-income populations. Yet these same women lack access to preventive care and treatment because of massive cutbacks in federally funded clinics.

All of these factor are critical in the spread of AIDS as well. For one thing, the behavioral patterns that lead to infection are generally similar for AIDS and STDs. For another, chancroid, herpes and gonorrhea produce genital lesions that facilitate transmission of AIDS. Chlamydia and human papillomaviruses also are believed to play a role in facilitating HIV infection. Although these factors combine to make women more vulnerable than men, the implications for both females and males in populations characterized by poverty and gender inequity are serious. As they have in Africa, STDs are now laying the groundwork for AIDS to move rapidly throughout Asia and Latin America—and indeed the world. The Global AIDS study warned that the epidemic has become "dynamic, volatile and unstable," with 57 countries at "high risk" and another 39 at "substantial risk."

The connections between the spread of AIDS and other STDs make plain the need to incorporate prevention and treatment of the other STDs into any AIDS-control strategy. But there are many reasons for making STDs a top international health-care priority in their own right.

Looking at infections in both sexes, the health burden of STDs already poses a major drain on Third World societies. Measuring the number of productive healthy years lost per person as a result of various diseases, researchers Over and Piot found that in urban areas where they were prevalent, STDs rank second only to measles in their socioeconomic impact.

Controlling STDs would benefit not only those infected but infants and children as well. Early recognition and treatment of STDs in pregnant women would cut infant mortality. Maternal infections with chlmaydia, gonorrhea or herpes are transferred to infants at birth in 25 to 50 percent of all cases. These infections are a leading cause of low-birth-weight babies, whose inability to thrive is responsible for 70 percent of all infant deaths in developing countries. Other problems include permanent disability or impairment. In Africa, for example, infant blindness due to gonorrhea infection is 50 times more common than in industrial countries.

Controlling infections may also boost efforts to slow population growth by helping eliminate mistrust of family-planning programs. Where large families are desired, fears of becoming infertile or having infants die prompt many women to hedge their bets by having even more children than they otherwise might.

Moreover, because family-planning programs do not by and large play a role in STD prevention, nor adequately counsel women on normal side-effects of birth control, it is common for women to associate infection-related symptoms to their use of IUDs or the pill. "In the absence of accurate diagnosis and effective education and therapy for [infections]," Judith Wasserheit notes, "it is far easier for the woman to blame her [symptom] on her contraceptive method than to entertain and address her husband's infidelity." Many women link infection-related infertility to contraceptives and for that reason do not use them or discontinue using them.

A Little Money, a Lot of Will—If Governments Get Serious, Curing STD's Can Be Inexpensive

(By Jodi L. Jacobson)

The heartening news is that strategies to prevent and cure STDs are inexpensive. A combination of coordinated strategies and a relatively small allocation of government resources could make tremendous public health gains—not only against AIDS and other STDs but in improving maternal and infant health.

But the frustrating news is that few governments and health agencies around the world recognize these diseases as a priority. Judith Wasserheit says most governments regard them as too expensive and complicated to treat—and the necessary changes in human behavior as hard to make. Perhaps most significant, she argues, is "the perception that the individuals at risk . . . are relatively small numbers of sexually promiscuous women such as prostitutes, rather than significant numbers of the general population [such as] adolescents, wives and mothers."

Yet, the benefits far outweigh costs. Prevention is, of course, the cheapest option. Delivering a year's supply of condoms or diaphragms to a couple anywhere in the Third World costs far less than curing one case of cervical cancer caused by human papillomavirus.

But screening and treatment are also affordable. According to WHO's Andre Meheus, "If the cost . . . in developing countries is assessed in terms of hospitalization, infertility, pelvic inflammatory disease, ectopic pregnancy and low birth weight infants . . . screening would be very cost-effective." Screening women in poorer countries for the presence of the human papillomavirus even once in their reproductive years might reduce deaths from cervical cancer by as much as one half, according to Nancy Kiviat, a scientist at Harborview Medical Center in Seattle, Wash.

Wasserheit points out that "treatment of [these infections] need not be expensive or complicated. . . . Detected in a timely way, they are usually readily treatable with antimicrobials available throughout the Third World." In fact, she claims that spending $10 million annually on research and development would revolutionize diagnostic methods within five years.

Even now, preventing the most common adverse outcomes associated with gonorrhea and syphilis infections transferred from mother to infant, for example, would cost about $1.40 and $12, respectively. By comparison, the cost-per-child for full immunization from other diseases, such as measles and pertussis, ranges from $5 to $15.

Integrating these efforts to the greatest extent possible with family planning and maternal and child health programs would reduce both the public and private costs. Women who can have most of their reproductive health care needs met in one place—obtaining counseling and information, contraceptives, testing for infections, prenatal and even child health care—are more likely to make use of all these services. Moreover, the services themselves may be seen as more acceptable if put under one roof, eliminating the stigma of the "STD clinic." Several private organizations in developing countries, including the Bangladesh Women's Health Coalition, SEARCH and SARTHI in India, the Indonesia Planned Parenthood Association and women's health groups in parts of Latin America, have proven this integration successful. Their efforts, however, remain small-scale due to a lack of resources. These and other conclusions were supported by 14 of the world's leading reproductive health scientists and eight major donors at a 1991 meeting in Bellagio, Italy. The group asserted that "actions are urgently needed, at the national and international levels simultaneously, to put [STDs] and other reproductive tract infections on existing health agendas."

Ultimately, the education and empowerment of women is fundamental to improving reproductive health, and much of the battle will have to be fought by women themselves. One method now being tried in several countries is to bring women together to discuss taboos that may be harmful to their health. This empowers women because it breaks their silence and enables them to think of themselves as individuals deserving of good primary health care. At the same time, these groups are trying various approaches in the diagnosis and treatment of infections, including training village-based workers to spot the signs of reproductive tract infections. Most such groups also include techniques to educate men on the health hazards of STDs, creating a bridge between genders that never existed before.

At the global level, groups such as the International Women's Health Coalition are working to raise awareness of the link between women's status and their health. In March an IWHC-sponsored meeting of more than 40 women scientists, health advocates and policymakers from industrial and developing countries produced a seven-point plan for combating reproductive tract infections that calls for the reestablishment of basic human needs as the objective of development policies, the integration of all reproductive health care services, improvements in quality of care and increased access to information on sexuality and sexual health.

These initiatives alone, promising as they may be, cannot be counted on to win the battle against STDs. Unless governments and international health organizations muster their resources to wage an all-out war on STDs—including prevention, testing and cure—the number of women dying from such infections will continue to multiply.

TRIBUTE TO MAJ. MICHAEL B. BLASHER

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mrs. MORELLA. Mr. Speaker, it is with great pleasure that I rise to pay tribute to Maj. Michael B. Blasher, as he retires from the Montgomery County Police Department after 24 years of distinguished service.

During his tenure, Major Blasher continually rose through the ranks—each step of the way enhancing training guidelines, fine-tuning department policy, and making the environment for all those around him outstanding.

Following leadership positions in the Silver Spring and Bethesda patrol districts, he applied his patrol experience to the design of innovative police programs, and development of support systems.

Throughout his career, Major Blasher has shown a great deal of personal interest in the training of his fellow officers and new recruits to the force, often conducting training for the Maryland Police Training Commission. It is this personal dedication, combined with an outstanding level of integrity and versatility, that serve as the bedrock of Major Blasher's years of service.

For the past 5 years, Major Blasher has served as the chief of the Management Services Bureau, supervising the Divisions of Records, Emergency Communications, Management and Budget, and Personnel and Training. This job has allowed him to pass on his professionalism, his mastery of management and training, and his love of the Montgomery County Police Department.

For nearly a quarter-century, Michael B. Blasher has played an instrumental role in making the Montgomery County police force one of the finest in the Nation.

I know that I echo the sentiments of many citizens of Montgomery County by wishing Maj. Michael B. Blasher luck and success in his future endeavors.

SAVE SOCIAL SECURITY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. JACOBS. Mr. Speaker, Judge Paul Shaw has written the following piece about the Social Security Administration and proposals to ensure its independence from the political machinations of this or that administration.

It is reading that should be a must for all Americans who care about this important institution.

SAVE SOCIAL SECURITY

(By Paul R. Shaw, Former Judge, Civil Court of New York)

Modern Maturity has published (April—May, 1992) the minutes of a discussion on Social Security, concentrating on the future of Old Age and Survivors Insurance [OASI] and Disability Insurance [DI], commonly referred to as OASDI, funded exclusively by payroll deductions. Participating were Dr. Henry Aaron (Brookings Institution), Professor Laurence Kotlikoff (Boston University), Dr. John Rother (American Association of Retired Persons) and Dr. Carolyn Weaver (American Enterprise Institute). The moderator was John Wood (Senior Editor of Modern Maturity). The report is significant because it highlighted the most potent threat to OASDI, government squandering of the revenues.

"MM. But if Social Security were independent, how could Congress touch its reserve fund?

"Rother. Independent means independent from the Executive branch, not from Congress.

"Aaron. What Congress giveth, Congress taketh away."

That Congress can legally terminate benefits under OASDI has been long since decided by the Supreme Court in Fleming v. Nestor (1960):

"To engraft upon the Social Security system a concept of 'accrued property rights' would deprive it of the flexibility and boldness in adjustment to ever changing conditions which it demands."

This "flexibility and adjustment to ever changing conditions" has been the literal trademark of Congressional legislation throughout the history of Social Security ever since it was signed into law by President Franklin D. Roosevelt on August 14, 1935, but the result has been destructive of the original concept of Social Security.

Social Security has born during the Great Depression commencing in 1929. It was designed to provide a fall-back floor for retirement income, self-supported with payroll deductions matched by employer contributions. Since then Congress has emasculated that vision, directly and collaterally, increasing payroll deduction and the payroll cap, reducing benefits, engrafting public obligated social programs and misusing trust funds accumulated from payroll deductions for unrelated government expenses.

The initial payroll deduction was two percent (combined employee and employer contributions) on the first $3,000 of earned income annually. Congress increased the rates in 1978, 1979, 1981, 1982, 1984, 1985, 1986, 1988 and 1990. Currently the rate is a combined 12.4 percent on a cap of $55,500, in addition to 2.9 percent for Medicare, totaling 15.3 percent. Benefits have been reduced, notably in the Cost of Living Adjustment (COLA) and benefits have been extended to persons regardless of actuarial requirements.

Social programs unrelated to the insurance concept of OASDI have been lumped under the common appellation of Social Security. That in turn has given rise to the drumbeat on the public consciousness that Social Security takes too much of a toll of public revenue. How can that be when OASDI produces billions in surplus? The Congressional Research Service Report for Congress, (January 27, 1991), states:

"The 1990 Report of the Social Security Board of Trustees projected that assets of the OASDI Trust Funds would be about $220 billion at the end of calender year 1990. Under all four of its alternative forecasts, OASDI trust funds' income will exceed outlays during the next 25 years."

The disastrous association of OASDI with other unrelated programs is clear from the bureaucratic administration of these programs. On March 15, 1991 I wrote in behalf of The New York Teachers Pension Association, of which I have the privilege of serving as a director, to the White House and to Mrs.

Gwendolyn S. King, Commissioner of the Social Security Agency within the Department of Health and Human Services [HHS], inquiring about possible independence for OASDI. Although the SS administration may be as much as 90 percent of the business of HHS, the publicity manager, Mr. Delmar D. Dowling, Director of Public Inquiries, presumed to answer for both the White House and HHS on April 4, 1991:

"The Administration opposes proposals to remove SSA from the Department of Health and Human Services [HHS] and to establish SSA as an independent agency. Establishing such an independent agency would break up an integrated system of service delivery in closely related programs and would create problems for beneficiaries of these programs and for the administrators who serve them.

"Finally, whether or not Social Security is administered by an independent agency—would never allow it to operate outside the concerns of, and without consideration for, other areas of government."

Exactly so. That letter expresses perfectly, if inadvertently, why Social Security should be made independent of other programs. Senator Daniel Patrick Moynihan put it this way [Congressional Record, January 4, 1991]:

"It is the dirty little secret of last year's budget summit agreement that we will spend $500 billion of Social Security tax revenue on general expenses over the next 5 years."

The thievery goes on. Pius support for the integrity of Social Security is oratorical pretense. The myth that payroll deductions for SS are taxes applicable to government other operations and to reduce the budget deficit must be dispelled. Lawyers serving in Congress know full well that trust funds may not be used for other purposes. Officially they have the benefit of Constitutional immunity, Article 1, Section 6. The Congressional Research Report for Congress (January 27, 1991) states in its summary:

"* * * Perhaps the biggest misconception is that the social security trust funds represent actual resources to be used for future benefit payments, rather than what is in reality a promise by the Government to take steps necessary to secure resources from the economy at that time."

Payroll deductions must be paid into the Treasury, which mingles such receipts with general tax revenues to be used to pay unrelated expenses of government operations. The Department credits SS with such receipts at interest rates fixed by the Secretary of the Treasury in agreement with himself as Trustee of the SS Trust Funds. Even a Japanese investor in U.S. bonds gets a better deal, at competitive rates and a bond that is negotiable.

It is also noteworthy that OASDI has been discriminated against as compared with other government sanctioned retirement programs. Payroll deductions are not deductible from income subject to income taxes. Individual Retirement Accounts [IRSs] permit such deductions, as do employer pension plans, 401k, which latter permit even larger tax deductions. Both plans permit withdrawal without penalty many years prior to the withdrawal age in OASI. Both plans permit investor discretion in where to invest their payments. There are other advantages too detailed for this presentation.

Mr. Robert J. Myers, formerly Chief Actuary to the Social Security Administration, Deputy Commissioner of Social Security and Executive Director of the National Commission on Social Security Reform wrote "The Senior Class, February/March 1992, published by The Seniors Coalition):

"Enactment of an independent-agency bill could do much to restore further public confidence in Social Security, to insulate SSA from short-term political pressures, and to enhance its stability."

Pending legislation for relief has taken three courses. Senator Daniel Patrick Moynihan's S. 11 proposed to reduce payroll deductions. That wouldn't work because it would emasculate the Trust Fund reserves, which he had championed in 1983 to keep SS out of bankruptcy. His own bill shows that these reserves would be exhausted in the year 2010, coincidentally when baby-boomers will commence to reach retirement age. His table of charges shows that rates will then increase and reach 8.1 percent, more than 30 percent higher than the current rate of 6.2 percent.

H.R. 2838 offered by Representative Dan Rostenkowski, Chairman of the House Committee on Appropriations, proposes to reform the current administration of SS, some good and some questionable items, but fairly also includes a section calling for independence.

The only unconditional proposals for independence of SS are S. 33 by Senator Moynihan and H.R. 886 by Representative Andy Jacobs, Jr., Chairman of the Subcommittee on Social Security and approved by Representative Rostenkowski.

Seniors, baby-boomers and wanabees by the millions need to unite to save Social Security.

RECOGNITION OF MICHAEL DRAGONE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to commend Michael Dragone, a sixth-grade student from Emmanuel Lutheran School in Patchogue, NY. Michael was recently selected to receive the Jefferson Award for Students, to represent the State of New York in Washington, DC, for his outstanding public service work. Michael is 1 of only 37 outstanding young citizens to be honored this year.

The Jefferson Awards for Students Program is part of a larger award established by Jacqueline Kennedy Onassis and Senator Robert Taft, Jr., in 1972, to recognize the dedication, sacrifice, and accomplishments of individuals serving the American people. It also strives to develop new leadership. Past recipients of the award include Senators RICHARD LUGAR and TERRY SANFORD, journalist Bill Moyers, playwright Neil Simon, and actor Kirk Douglas.

One of the major goals of the Jefferson Awards has been to attract young Americans into public and community service. The Jefferson Awards are presented in conjunction with the premier school publication Weekly Reader, whose aim is to build citizenship in America's future generations. Michael's continued service to his school has been recognized nationally with the receipt of this award.

Michael Dragone has earned the respect of his fellow classmates. Consequently, Michael has been described as the "Most Wanted" sixth grader at his school. He is always ready to lend a hand with any community activity.

Michael uses his extensive knowledge of computers to tutor other students, and creates banners and announcements for various school functions. In addition, Michael has taken on the responsibility of updating the school's mailing list. Michael's involvement extends beyond the regular school day with his participation in the extracurricular activities of basketball, softball, and the school choir. Each day, Michael pays his respect to this great country by raising and lowering the American flag. Michael also proves to be a handyman as he helps to keep the school grounds clean and makes repairs on the school building with his father.

Michael's excellence continues in the academic field as well. He is able to balance all of these activities while maintaining a 94 percent grade point average, which places him third in his sixth-grade class. Michael is also a member of the gifted and talented program at Emmanuel Lutheran School.

Michael has unequivocally earned the high distinction that accompanies the Jefferson Award. I am pleased to have such an outstanding young man in my district, and I ask my colleagues to join me in congratulating Michael on his remarkable achievement.

RULE ON H.R. 5100, THE TRADE EXPANSION ACT OF 1992

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to serve notice to my colleagues that, pursuant to the rules of the Democratic caucus, I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 5100, the Trade Expansion Act of 1992.

THE PRESENTATION OF THE FASEB 1992 PUBLIC SERVICE AWARDS TO THE LATE HONORABLE SILVIO O. CONTE AND THE HONORABLE THOMAS P. O'NEILL, JR.

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. GEPHARDT. Mr. Speaker, I am pleased to join the Federation of American Societies for Experimental Biology in saluting my friends Tip O'Neill and the late Sil Conte for their outstanding contributions to the support and encouragement of biological and medical research.

Although they sat on different sides of the aisle, both of these leaders brought the same political effectiveness and personal dedication to the causes they championed during their years of public service. And the causes they championed were the causes of the American people. More important, they demonstrated that public officials understood that some issues were more important than their party labels, and they demonstrated a capacity to do something that is in terribly short-supply today: They recognized the public interest, and fought together for it, as legislators, as brothers, and as friends.

It is difficult to talk about Silvio Conte because you want to say everything at once. Here was a man of enormous dignity who wore technicolor sports jackets. Here was a man who loved America but could not contain his own ceaseless joy at being of Italian heritage. Here was a man who excelled in the legislative process and in reducing the work of Congress to parody.

This is not a paradox. For the single strand which bound all of these qualities together was Silvio Conte's humanity. That is the essence of our celebration today. Congressman Conte's effective support of the National Institutes of Health and his leadership in implementing the "Decade of the Brain" has made it possible to save and improve the lives of millions of Americans with devastating brain disorders.

After a long and distinguished career in public service, Tip O'Neill has every reason to enjoy his rest and to rest on his laurels. But that's not the kind of public servant he was, and it isn't the kind of man he is. Speaker O'Neill's tireless support for biomedical research, and cancer research in particular, has been instrumental in making possible advances that now offer hope to millions of Americans fighting what used to be the most hopeless of diseases.

Sil Conte's leadership is sorely missed, but his example and his inspiration live on. Tip O'Neill's public service did not end with his career in the House. He continues to speak and work in the continuing battles against cancer and for biological and medical research.

I salute my two colleagues' achievements and thank the Federation of American Societies for Experimental Research for their frontline contributions to biomedical research and their ongoing program of acknowledging the efforts of public leaders such as Sil Conte and Tip O'Neill.

SMALL BUSINESS ADMINISTRATION HONORS SOUTH FLORIDIANS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring my colleagues' attention to the outstanding work of two Dade County residents who were recently honored by the Small Business Administration.

As part of the celebration of National Small Business Week, the Small Business Administration honored a small business owner and a Small Business Administration officer. The business owner honored was Jose Lacal, president of Bakerycorp in north Miami, as Small Business Young Entrepreneur of the Year. Carla Schworer, public information officer for the south Florida bureau of the Small Business Administration in Coral Gables was selected as that agency's Employee of the Year.

The Miami Herald published an article about the accomplishments of these outstanding Floridians, which I would like to include in the RECORD.

SBA OFFICER HELPS BUSINESSES BLOSSOM

(By Berenice D. Chauvet)

When Carla Schworer describes her "wonderful, charming existence" in the Philippines, her "very good life" in Africa, her adventures in Latin America and the Caribbean, she isn't evoking the pleasures of a jet-setter. She means business.

Fun to Schworer is helping businesses mushroom just about everywhere. She has worked around the globe on development projects of American and international organizations since graduating in 1962 from the American Graduate School of Business Management in Arizona. In South Florida, she helps entrepreneurs start or stay in business through the U.S. Small Business Administration.

"I got fascinated with entrepreneurs and their spirit, and their visions, and their determination, and their positive, can-do attitude," she said.

The SBA this week celebrates National Small Business Week in honor of those achievers.

Tired of being "always in the road," Schworer settled down two years ago in Miami. She had visited only once before, in 1962. That was enough for her to decide that she and the "colorful city" were a perfect match, she said.

"It's an immigrant city with a tremendous entrepreneurial spirit," she said. "People come here to realize their dreams."

Schworer became public information officer for the Small Business Administration's South Florida bureau in Coral Gables. Since then, she has helped hundreds of small businesses to take off and grow.

A small business is defined as one that employs fewer than 500 people. Ninety-eight percent of all businesses in Dade are small businesses, Schworer said. In Broward, the figure is about 94 percent.

Schworer proudly recalls the performance of Broke Pottery Co., a Tampa-based maker of ceramics. Sales increased by 78 percent in 1991, "when the recession was hitting hard," she said, thanks to training the company received through the SBA.

But horror stories also abound. More than half of small businesses fail within six years of start-up, Schworer said.

"They don't do their homework," she said. "The leading cause of business failure is poor management."

To help change that, the Small Business Administration bureau in Miami offers free seminars and counseling. Schworer's daily challenge is to get business owners to attend. That's not an easy task: "One of the reasons for poor management is the inability of a manager to admit he doesn't know," Schworer said.

Schworer said she has to wear more than "15 different hats" in a typical 11-hour work day to meet the specific needs of businesses that seek help. Besides being a public relations officer, she acts as the SBA's international trade officer, business development specialist and women business owners' representative.

Her commitment and enthusiasm are rewarded, she said. An honorary member of the National Association of Women Business Owners, Schworer was named the SBA's 1992 Employee of the Year.

Schworer said she is successful because she acts as a would-be entrepreneur should. Her message: Make sure you know why you are in it, be absolutely committed, enjoy the challenge, roll up your sleeves, and go for it.

Mr. Speaker, I commend Jose Lacal and Carla Schworer for their outstanding contribution to the development of small business in south Florida.

A TRIBUTE TO WALTER C. HORNBERGER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. PORTER. Mr. Speaker, I rise to honor an exemplary educator in my district, Walter C. Hornberger, who has served as principal of Libertyville High School for the past 24 years.

Mr. Hornberger's association with Libertyville High School spans 30 years, during which time he has served as assistant principal, dean of students, and principal. While it is easy to direct criticism toward young people, Mr. Hornberger's career is distinguished by his efforts to encourage them to do their best in all of their endeavors.

Mr. Hornberger's route to Libertyville High School is best described as uncommon. While attending high school, his ultimate goal was to be a metal pattern maker. He was encouraged by one of his instructors to pursue a 2-year degree and consider attending a 4-year college. All of his career choices have been based upon motivation and a willingness to take chances.

Mr. Hornberger chose to attend Morton Junior College in Cicero, IL. After completing his associate of arts degree in engineering, he transferred to Purdue University in Lafayette, IN, where he earned his bachelor of science degree in industrial technology education.

His first teaching position was at O'Neal Junior High School in Downers Grove, IL. During this time, Mr. Hornberger was encouraged to enroll in Northwestern University's Secondary Education Masters Program.

Shortly after graduating from Northwestern, he applied for Libertyville's position as assistant principal. Since that time, he has earned a Professional Certificate in School Administration and has continued to attend various seminars and enrichment programs every year. Libertyville is known for its fine educational opportunities at all levels. Mr. Hornberger was an early advocate of vocational and technical education, and has helped many young people learn to use their talents in both technical and nontechnical fields.

While Mr. Hornberger's commitment to education is appreciated throughout Libertyville, he is also respected for his support of the community at large. He has served in numerous capacities at First Presbyterian Church, as well as with the Boy Scouts, Junior Achievement, YMCA, Rotary—where he has 18 years of perfect attendance and was president during 1982–83, the Youth Exchange Committee, and the American Legion, to name just a few. Wherever Mr. Hornberger becomes involved, he does so to benefit the community.

When he has time away from his school and other commitments, Walter Hornberger and his family—his wife Jackie of 33 years and his son Scott—have a very active lifestyle. They are involved in archery, competition target shooting, sailing, scuba diving, as well as downhill, cross-country, and water skiing.

During Mr. Hornberger's years at Libertyville, the school has received numerous academic and scholastic awards. Hornberger's emphasis on academic excellence helped Libertyville High School attain the Department of Education's Excellence in Education Award in 1991, and the Drug Free Award in 1990.

Everyone at Libertyville High School knows that next year will not be quite the same without Mr. Hornberger walking the halls of Libertyville High School, greeting teachers and students in his trademark orange blazer—a sign of the Libertyville Wildcats. Let us all hope that Mr. Hornberger's optimism and faith in today's young people will live on in the educators and students who have known and worked with him. I join with the citizens of Libertyville in saluting this fine educator and in wishing him in all his future endeavors.

TREASON TO THE CONSTITUTION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. EDWARDS of California. Mr. Speaker, once again the Supreme Court has threatened the people's right to have their constitutional claims heard by the Federal courts. This New York Times article focuses on the Court's decision not to stay Robert Alton Harris' execution despite the fact that he had raised important constitutional questions about his case. In the name of "deference" to State judgments, the Court ignored the protections guaranteed by the Bill of Rights. The decision also sent a dangerous message to lower courts, telling them to turn their backs on their constitutional duty to hear constitutional questions. The Court's actions, here and in other cases, have alarming implications for the future of habeas corpus review. I call Members' attention to this dangerous trend and urge them to protect the great writ by supporting the habeas corpus provisions in H.R. 3371, the omnibus crime bill.

[From the New York Times, Apr. 27, 1992]

SHOULD STATE EXECUTIONS RUN ON SCHEDULE?

(By John T. Noonan)

SAN FRANCISCO.—"Treason to the Constitution" is a strong charge. It was the phrase employed in 1821 in argument before Chief Justice John Marshall to describe a Federal court's failure to exercise its jurisdiction in a case properly brought before it. On Saturday evening April 18, a courageous Federal judge, Marilyn Hall Patel, refused to commit treason to the Constitution and, in a suit brought under the Civil Rights Act ordered a hearing on whether death by cyanide gas was cruel and unusual punishment prohibited by the Constitution. Her order also affected the execution of Robert Alton Harris, the condemned murderer scheduled to die on April 21. The state immediately appealed to my court, the Ninth Circuit.

The established standards, built up over the years by the judiciary, are these: First, "cruel and unusual" means "cruel and unusual" in today's terms. Not even the most doctrinaire "original intent" jurist maintains that the determination is to be made as of 1791, when the Bill of Rights became part of the Constitution. Since Weems v. United States in 1909, we have been committed to an evolving standard of human decency.

Second, a good index of what is cruel and unusual is what the state legislatures allow. In 1992, just three states authorize cyanide gas as the only means of inflicting capital punishment. One, Arizona, is in the process of abandoning the method, and another, Maryland, has not had an execution since 1961. It is a serious question whether the consensus of all the other legislatures shows that California's means of carrying out the death penalty violates the constitutional norm.

Third, any "unnecessary suffering" in imposing the death penalty is forbidden by the Constitution. The Constitution permits capital punishment: it does not permit torture. Judge Patel was presented Saturday night with a mass of affidavits asserting that the use of the gas chamber did lead to a tortured death. It is an important question whether this evidence could be rebutted.

Concluding as a matter of common sense that these questions could not be answered on a Saturday night, Judge Patel set a hearing to be held in 10 days where testimony could be taken and the arguments pro and con fully explored. Pending the hearing, she prohibited the use of lethal gas to execute anyone. The immediate beneficiary was Robert Alton Harris.

He was only one of 323 death-row inmates in California on whose behalf the civil rights action was brought. The state, anxious for him to meet his date with death, claimed that the case was really "a Harris case," unfairly brought at the last moment to throw his execution off track. The state's contention brought into focus an issue now before the country—not the death penalty itself, but whether the precedents, built up over this century for guarding everyone's civil rights, are to be suspended or set aside to assure the orderly keeping of an execution date. About 3 a.m. on Tuesday, the U.S. Supreme Court decided that the Harris execution must stay on track. Federal courts must no longer exercise their jurisdiction in ways that would derail it.

Profound ambivalence had existed. We are a country with a Constitution and a Bill of Rights, which we celebrate and cherish and which the courts enforce. We are a country with a Civil Rights Act that no one wants to appeal. But we are also a country where some states by vote have determined that atrocious crimes may be punished by death.

Prompt enforcement of that penalty conflicts with the precedents built up under the Constitution, Bill of Rights and Civil Rights Act. If death penalties are to be inflicted according to a state's schedule, these protections must give way. A Federal court must even commit "treason to the Constitution" and abstain from exercising its jurisdiction.

So, at least, is the present position of the U.S. Supreme Court, Justices Harry A. Blackmun and John Paul Stevens dissenting. That Court has resolved the national ambivalence and decided that it is intolerable for a Federal court to delay an execution to decide a constitutional question. Robert Alton Harris was a casualty of this decision. Was the Constitution, too?

THE BILLIONS CONGRESS WANTS TO SPEND

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. PACKARD. Mr. Speaker, I rise to express my strong disappointment that this body could not muster the political will to pass the balanced budget amendment. After all the rhetoric I encountered during the debate about making tough choices and avoiding gimmicks, I was appalled that the vote fell short of the required two-thirds to amend the Constitution.

Today, I would like to submit for the RECORD a chart of the biggest spenders in Congress, identified by the National Taxpayers Union [NTU] from the June 15, 1992, Wall Street Journal. Since Congress failed to pass the balanced budget amendment, I would just like to note the correlation between the big spenders in Congress and those who led the charge against passage of the amendment.

I find it interesting that the same people who, despite Gramm-Rudman I and II, and the budget agreement of 1990, orchestrated a spending hemorrhage, the likes that this country has never seen are the same people on this list. You see, ordinary laws are no problem for these people: They find ingenious ways to circumvent laws which prevent them from spending.

The big spenders on this list are the same ardent supporters of breaking down the firewalls in budget agreement. Why? So they could spend more. Their argument then was that in the post-cold-war era, we needed to concentrate our intellectual and fiscal energy on problems at home. Domestic spending was the buzz word. Spending was the goal.

Or how about the dire emergency spending bill for the SBA and FEMA? The spending dynamic came into play here. The big spenders in the House could not control themselves. What we ended up with was a bill designed to help those in a dire situation distorted by their spending frenzy: It was loaded with pet projects and pork.

The House passed a bill which was more than the President requested. More than SBA requested, and more than FEMA requested. If the American people could see the pork attached to this bill, believe me, it is much more than they would request or could afford. Then, when it went over to the Senate the same thing happened: The big spenders could not control their appetite for spending. All of this was tacked directly on to the ballooning Federal deficit.

How long are the members of this body going to fall prey to the cynical tactics and lofty rhetoric which time and again defeat sound fiscal policy? If you read the CONGRESSIONAL RECORD on June 10 and 11, you would think from the impassioned debate that these people were really serious about sane fiscal policy. You would think that we could pound out a budget that was balanced tomorrow.

The sad thing is, actions speak much louder than words. Time and time again, the big spenders in Congress have said we need to make tough choices, and balance the budget. Believe me, the very next bill that comes along with a morsel of pork in it for the folks back home, or funding for their pet special interests, these people will vote for it in a heartbeat.

So, Mr. Speaker, instead of resting easy with the reality that not even the big spenders in Congress would have the gall to circumvent a balanced budget amendment to the Constitution of the United States. I am left with the hollow hope of trusting that they will someday come around. After all, the big spenders said it simply came down to a principle: Political will—that this body was capable and willing to pass a budget that did not spend more than the Federal Government took in. This was a noisy debate about trust and principles: In the end, the big spenders' proven record of unprincipled spending has quietly killed my trust.

[From the Wall Street Journal, June 15, 1992]

THE BILLIONS CONGRESS WANTS TO SPEND

Congress last week extended its own license to spend when it failed to pass a constitutional amendment to balance the budget. Why did Congress reject this measure? Research by the National Taxpayers Union Foundation, the research arm of an anti-tax lobby, yields one age-old answer: Congress was protecting interest-group wish lists.

The foundation ran up the numbers and found that the opponents of a balanced budget amendment are also sponsors of legislation that would cost taxpayers the most money. Congressmen who voted for the balanced budget amendment are sponsoring legislation that would increase spending by around $23 billion; members who opposed the amendment currently sponsor legislation that would cost the taxpayer about an additional $137 billion. The foundation also produced a list of the 100 congressmen and women who would spend the most (as of April 5). Only 16 of them supported the amendment. We reprint the list here, with rankings:

[In billions of dollars]

Rank member	Increases sponsored	Decreases sponsored	Net cost of projects sponsored
1. Boxer, Barbara (D., CA)	406	−1.26	405
2. Johnston, Harry (D., FL)	370	−0.83	370
3. Towns, Edolphus (D., NY)	347	−0.38	347
4. Norton, Eleanor Holmes (D., DC)	347	−1.43	345
5. Hayes, Charles A. (D., IL)	344	−0.11	344
6. Martinez, Matthew G. (D., CA)	343	−0.49	343
7. Owens, Major R. (D., NY)	341	−0.16	341
8. Savage, Gus (D., IL)	339	−0.02	339
9. Frank, Barney (D., MA)	341	−2.49	339
10. Dymally, Mervyn M (D., CA)	337	−0.02	337
11. Conyers Jr., John (D., MI)	327	−0.31	327
12. Rangel, Charles B. (D., NY)	332	−5.50	326
13. Collins, Barbara Rose (D., MI)	324	−0.08	324
14. Weiss, Ted (D., NY)	324	−0.46	324
15. Ford, Harold E. (D., TN)	323	−0.16	323
16. Clay, William L. (D., MO)	319	−0.08	318
17. Dellums, Ronald V. (D., CA)	316	−0.12	316
18. Collins, Cardiss (D., IL)	316	−0.38	315
19. Mfume, Kweisi (D., MD)	309	−0.38	309
20. Payne, Donald (D., NJ)	307	−0.03	307
21. Mink, Patsy (D., HI)	304	−0.39	303
22. Kleczka, Gerald D. (D., WI)	303	−0.07	303
23. Serrano, José (D., NY)	302	−0.06	302
24. Rahall II, Nick J. (D., WV)	300	−0.16	300
25. Kolter, Joseph P. (D., PA)	301	−1.75	299
26. Pelosi, Nancy (D., CA)	299	−0.24	299
27. Flake, Floyd (D., NY)	296	−0.09	298
28. Abercrombie, Neil (D., HI)	298	−0.72	297
29. Foglietta, Thomas M. (D., PA)	294	−0.08	294
30. Kildee, Dale E. (D., MI)	293	−1.85	291
31. Markey, Edward (D., MA)	290	−0.47	290
32. McNulty, Michael R. (D., NY)	291	−1.54	289
33. Poshard, Glenn (D., IL)	289	−0.09	289
34. Brown Jr., George E. (D., CA)	290	−3.00	287
35. Hochbrueckner, George J. (D., NY)	286	−0.15	286
36. Oberstar, James L. (D., MN)	288	−2.07	286
37. Evans, Lane (D., IL)	288	−2.80	286
38. Lipinski, William O. (D., IL)	287	−1.25	286
39. Yates, Sidney R. (D., IL)	286	−0.01	286
40. LaFalce, John J. (D., NY)	287	−2.01	285
41. Feighan, Edward F. (D., OH)	281	−0.14	281
42. Scheuer, James H. (D., NY)	282	−0.61	281
43. Annunzio, Frank (D., IL)	279	−0.15	279
44. Dwyer, Bernard J. (D., NJ)	283	−4.54	279
45. Ravenel, Arthur (R., SC)	279	−1.12	278
46. Berman, Howard (D., CA)	280	−1.99	278
47. Nowak, Henry (D., NY)	278	−0.38	277
48. Miller, George (D., CA)	279	−2.16	277
49. Lewis, John (D., GA)	276	−0.16	276
50. Mavroules, Nicholas (D., MA)	274	−0.67	273
51. Moody, Jim (D., WI)	273	−0.32	273
52. Studds, Gerry E. (D., MA)	273	−0.52	273
53. Traxler, Bob (D., MI)	272	−0.08	272
54. Olver, John W. (D., MA)	272	0.00	272
55. Edwards, Don (D., CA)	272	−0.03	272
56. McDermott, Jim (D., WA)	272	−0.55	271
57. Vento Bruce F. (D., MN)	271	−0.41	270
58. Sangmeister, George (D., IL)	270	−0.09	270
59. Downey, Thomas (D., NY)	270	−0.07	270
60. Dicks, Norman (D., WA)	270	−0.31	270
61. Schumer, Charles (D., NY)	289	−0.01	289
62. Solarz, Stephen (D., NY)	268	−0.01	268
63. Coyne, William (D., PA)	267	−0.08	267
64. Gejdenson, Sam (D., CT)	267	−1.64	265
65. Russo, Marty (D., IL)	283	0.00	263
66. Kennedy, Joseph (D., MA)	263	−0.01	263
67. Faleomavaega, Eni (D., AS)	264	−1.44	262
68. Beilenson, Anthony (D., CA)	261	−0.39	261
69. Swift, Al (D., WA)	259	−0.31	259
70. Bustamante, Albert (D., TX)	258	−0.59	258
71. Atkins, Chester (D., MA)	261	−4.51	257
72. Stark, Fortnery (D., CA)	218	−0.39	218
73. Peterson, Pete (D., FL)	214	−1.79	212
74. Tallon, Robin (D., SC)	211	−0.08	211
75. Gibbons, Sam (D., FL)	201	−0.01	201
76. Lehman, William (D., FL)	187	−0.01	187
77. Torres, Esteban E. (D., CA)	154	−0.45	153
78. Stokes, Louis (D., OH)	153	−0.08	153
79. Staggers, Harley (D., WV)	150	−0.13	150
80. Oakar, Mary Rose (D., OH)	147	−0.01	147
81. Bonior, David (D., MI)	145	−3.08	142
82. Traficant, James (D., OH)	141	−0.59	140
83. Jefferson, William (D., LA)	93	−0.18	93
84. Ackerman, Gary (D., NY)	84	−1.27	83
85. de Lugo, Ron (D., VI)	78	−3.14	75
86. Engel, Eliot (D., NY)	71	−0.81	71
87. Gephardt, Richard (D., MO)	69	0.00	69
88. Johnson, Tim (D., SD)	64	−0.46	63
89. Emerson, Bill (R., MO)	60	−3.78	57
90. Smith, Christopher (R., NJ)	52	0.00	52
91. Dingell, John (D., MI)	53	−1.59	52
92. Quillen, James (R., TN)	49	−0.66	49
93. Gonzalez, Henry (D., TX)	46	−0.07	46
94. Wilson, Charles (D., TX)	47	−1.05	46
95. Williams, Pat (D., MT)	46	−0.19	46
96. Sanders, Bernie (I., VT)	45	−0.21	45
97. Unsoeld, Jolene (D., WA)	44	−0.74	44
98. Waxman, Henry (D., CA)	43	−0.01	43
99. Roe, Robert (D., NJ)	44	−2.04	42
100. Kaptur, Marcy (D., OH)	42	−0.54	42

TRIBUTE TO CRIME STOPPERS CLUB DURING ITS 25TH ANNIVERSARY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. NORTON. Mr. Speaker, I rise today to pay tribute to a very special organization in the District of Columbia, the Crime Stoppers Club, Inc., a nonprofit concern whose members are District of Columbia children 8 to 12 years old. This year, the club is celebrating a quarter of a century of dedicated service to these children and to our city.

Mr. Speaker, at a time when Washingtonians and Members alike are concerned about an upsurge of crime in this and other cities, we all should be grateful for the Crime Stoppers Club. We hear much about the children not reached—we hear too little about the larger number of successes. Crime Stoppers has made an invaluable contribution to those children.

Crime Stoppers was founded in 1967 by Ms. Margie R. Wilber to help children avoid the specter of crime that has such a stranglehold on the cities of this Nation. During the past 24 years, more than 25,000 youngsters have joined Ms. Wilber in reciting the club pledge: "We, the Crime Stoppers of the District of Columbia, pledge to obey all laws, respect police officers, and all other citizens." And they have learned and lived the club's motto: "Stop Crime by Not Committing Crime."

The primary objectives of the Crime Stoppers Club are:

To fight juvenile crime in elementary schools and neighborhoods;

To help young boys grow into adulthood without a police record;

To work toward shaping positive attitudes; and

To encourage and honor those youngsters who exemplify excellent citizenship and respect for others.

Mr. Speaker, I know that you and my other colleagues in this body will join me in saluting the Crime Stoppers Club, Inc., its founder and executive director, Ms. Margie R. Wilber, and its members, past, present, and future.

IN RECOGNITION OF DR. VINCENT DeSANCTIS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mrs. ROUKEMA. Mr. Speaker, I rise today to ask my colleagues in the House to join with Jenny Jump District of the George Washington Council of the Boy Scouts of America as they gather to honor Dr. Vincent DeSanctis with their Distinguished Citizen of the Year Award. Dr. DeSanctis has dedicated his time and resources to further the long proud tradition that is the Boy Scouts.

The Distinguished Citizen Award is presented to persons who have distinguished themselves in their life work and who have shared their talents with their communities on a voluntary basis. Few meet the criteria as fully as Vincent DeSanctis. Few more perfectly fit the definition of role model for young Americans.

Dr. DeSanctis was born in Paterson and raised in Fair Lawn, NJ. He received his B.A. from William Paterson College, his M.A. from Montclair State College, and his Ed.D. from Rutgers University. He has dedicated his career to education and has taught in or administrated at the high school, college, and university levels until he became the president of Warren County Community College in 1987.

Dr. DeSanctis knows that the Scout motto—"Be Prepared"—embodies so much more than learning how to start a campfire or pack for a hike. Scouting prepares young men and women to be contributing and important members of society. Through the Scouting experience, children learn the essential lessons of country, commerce, and community. Dr. DeSanctis has been a success at each.

He has published and delivered some 40 professional articles and papers on such topics as training, adult literacy, vocational education, and management issues in higher education. He has also served in an editorial capacity to professional journals such as "Adult Literacy and Basic Education" and "Career Education Quarterly."

In all his accomplishments, Dr. DeSanctis has never forgotten the scout principles of community and to help other people at all times. He is a member of the Belvidere, NJ, Rotary Club where he works to send high school students overseas as chairman of the Youth Exchange Committee. He also serves on the board of directors of the United Way of Northampton and Warren Counties, the Hackettstown Chamber of Commerce, and the Warren County Library Commission.

Mr. Speaker, Scouting brings boys of common interests together and provides a camaraderie that builds friendships and nurtures character. I can think of few who are better role models for our youth than Dr. Vincent DeSanctis. That is why I urge my colleagues in the House to join with the Jenny Jump District of the George Washington Council of the Boy Scouts of America and me in congratulating Dr. Vincent DeSanctis as he is honored as the distinguished citizen of the year.

VIKRAM BHAGAT WINS THIRD PRIZE IN ESSAY WRITING CONTEST

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. CARPER. Mr. Speaker, each year, the U.N. Association of the United States of America sponsors a national high school essay contest on the United Nations. The essay which won the third prize this year was written by a Delaware student, Vikram Bhagat, who recently completed the tenth grade at A.I. DuPont High School in Wilmington, DE. His sponsoring teacher there was Edwin Zippe.

I am proud of Mr. Bhagat and pleased to submit for the RECORD his excellent essay.

DEVELOPMENT AND ENVIRONMENT: WHAT CAN THE UNITED NATIONS DO?

(By Vikram Bhagat)

(Sponsoring teacher, Mr. Edwin Zippe)

Sustainable development, as defined by the World Commission on Environment and Development, is economic, social and political progress that "meets the needs of the present without compromising the ability of future generations to meet their own needs." This requires commitment from both developed and developing nations, which, though on opposite ends of the economic spectrum, share a common global environment.

In developing countries, poverty often forces people to over-graze lands and deforest large areas for fuelwood or agriculture. A lack of technology for halting industrial pollution or improving energy efficiency and a dearth of education, training, and financial resources result in wasted resources and environmental degradation.

Industrialized nations cause a different and perhaps more harmful sort of ecological damage. Affluence provides them with a huge variety of material goods and comforts, but at the same time contaminates the air and water with pollutants, generates hazardous waste, and creates enormous demands for energy.

The root of most economic and environmental concern stems from the great inequity between the industrialized and developing world. The economically richest 15% of the world consumes 33% of all plant fertilizer and 50% of all energy. Industrialized nations, with less than 25% of the world's people, consume 85% of its wood products, 72% of its steel production, and 80% of its total goods.

More developing countries have resource based economies, and therefore their economic capital consists mainly of stocks of environmental resources. For them, long-term economic development depends on maintaining these stocks and enhancing their ability to support agriculture, forestry, fishing, mining, and tourism.

During the past two decades, however, developing countries have suffered massive depletion of this capital. For example, 40 years ago Ethiopia had 30% forest cover; today it is less than 1%. In tropical regions around the globe, 10 trees are cut for every one planted. Worldwide, an area roughly the size of Africa and inhabited by over a billion people is now at risk of desertification. In general, the basic economic capital of developing nations is being consumed much faster than it is being replaced.

In a race to industrialize, developing countries are often ignoring environmental concerns in favor of economic progress. In Brazil's Amazon River Basin, tropical hardwood forests are rapidly being destroyed to make way for cattle ranches and farms. The deforestation will not only increase emissions of carbon dioxide, but the new concentrations of cattle will result in emissions of methane. China and India are both building their current industrialization plans around coal as their cheapest and most domestically abundant fuel supply. This will mean a substantial addition to the world's carbon dioxide emissions and therefore an increase in the global warming and acid rain epidemics.

Human overpopulation, the single most degrading factor on the environment, is most noted in developing countries, where population growth continues to outstrip economic growth. On the other hand, each child born in the industrialized world will consume far more resources and produce far more waste in its lifetime than a child from a developing nation. Nevertheless, the population explosion in the developing world is straining resources to the limit and destroying the environment's ability to sustain human life.

The United Nations, as the leading world body, has played an instrumental role in dealing with global environmental and developmental issues. The United Nations Development Programme actively supports efforts in developing countries to meet the goals of sustainable development. UNDP provides funding for technical, social, and economic development and helps to identify a country's natural resources and economic potential. Along with the U.N. Environment Programme and the World Bank, it has set up the Global Environmental Facility, which will assist countries in developing prudent ecological management. UNDP had also started the sustainable Development Network, a means of ensuring that information on environmental issues will be available throughout the developing world.

In Brazil's Amazon River Basin, UNDP and the Food and Agriculture Organization have started a program aimed at curbing the rapid destruction of the Amazon environment. They have developed a zoning system that defines land and resource use on the basis of agricultural as well as ecological criteria. The UNDP-FAO team is also training personnel to assist settlers in adapting environmentally sound farm practices.

In China, UNDP is involved in a variety of efforts to half pollution of the air, water, and land. Together with the World Health Organization, it is helping to find safe sites for power plants, providing equipment to measure pollution levels and wind conditions. In addition, a project backed by UNDP and the U.N. Industrial Development Organization is enabling China to recycle large quantities of precious metals from left-over scrap and industrial sludge.

As a worldwide coordinator and monitor, the U.N. has the opportunity to influence environmental and developmental policy on a global scale. Its most urgent imperative is to promote the notion that ecological sustainability is indeed compatible with a growing economy. The U.N. must provide incentives for developing and developed countries alike to adopt environmentally sound attitudes.

One such incentive would be a global resource tax, placed on items such as fossil fuels. This would encourage energy reduction and the recycling of materials. The resulting funds could be put toward further environmental research and supplying energy-efficient technology to needy developing nations. The U.N. could also provide the capital to alleviate some of a developing nation's debt if it shows strong commitment to ecological preservation.

The U.N. is in a prime position to serve as the ecological watchdog for the entire world. All international environmental research and funding should be channelled directly through the U.N., so as to eliminate any political bias where our planet's health is concerned. U.N. agencies such as UNDP and UNEP could serve as liaisons between national governments and the world community. Specialized teams of U.N. officials would be assigned to each and every nation, developed or developing, to aid in environmental decision-making and serve as multinationally-backed advisory committees with significant clout.

The U.N. must also take an instrumental role in forcing industrialized nations to show more concern for developing countries and their problems. It is the responsibility of the richer nations to provide the technology and socioeconomic incentives for the poorer countries to institute ecological reform. Fertility rates will not decrease unless people have economic assets other than child labor. Support for U.N. programs like UNFPA should be mandatory from all members of the industrialized world.

Non-governmental organizations are generally free from political and economic prejudices and are therefore in position to significantly alter environmental attitudes. Citizen monitoring groups must be set up in every community of every nation in the world, to ensure that national and international mandates on the protection of the environment are obeyed.

The youth of the world are perhaps the only ones capable of significantly changing our planet's ecological destiny. By becoming actively involved in environmental and developmental issues, they have the opportunity to influence decision-making on a national and even international level.

The only means of assuring that future generations will pursue the goals of sustainable development and environmental protection is through education. A worldwide information campaign headed by the U.N. is necessary to educate the populace about how to merge the objectives of economic growth with ecological sustainability. People are willing to learn and change, if incentives and resources are provided.

The words ecology and economy are derived from a single Greek root-"oikos," meaning house. It is only when the goals of both sciences are merged in every aspect of human thought and action that we as a planet can truly be accredited with prudent domestic management.

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ROBERT MENDOZA—JEFFERSON AWARD RECIPIENT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. PICKLE. Mr. Speaker, I would like to take this opportunity to commend one of my constituents, Mr. Robert Mendoza, the founder of the Greater Austin Youth League. Today I had the honor of presenting the American Institute for Public Service's Jefferson Award to Mr. Mendoza for his untiring efforts on behalf of Austin's young people. The Greater Austin Youth League has served over 1,200 young people in the Austin area, organizing sports leagues, a tutoring program, and clothes, shoes, and lunches for those in need. These are amazing accomplishments considering that the league did not even exist 2 years ago. Mr. Mendoza also chaired the Mayor's Task Force on Crime, Gangs and Drugs and continues to work to reduce gang-related crime in the city of Austin. I commend Robert Mendoza for his service to the Austin community and congratulate him for receiving this most deserved award. I would also like to recognize KVUE–TV in Austin for its sponsorship of Mr. Mendoza for this award.

Earlier this year, it was my privilege to participate in the dedication of Robert Mendoza Field at the Greater Austin Youth League's Roy Velazquez Sports Complex. During the ceremony, I commented on what a fine field this was going to be, but I noted that the outfield fences looked awfully deep. In fact, they were so deep that I promised to place the name of the first ballplayer to hit a home run out of this park in the CONGRESSIONAL RECORD. I am proud to report that on May 5, 14-year-old D.J. Avarado of the Angels hit a 345-foot home run off of pitcher Paul Cruz of the Mets in the bottom of the fifth. Significantly, this was on "Cinco de Mayo." I extend my heartiest congratulations to D.J. on a fine effort, and I again commend Robert Mendoza for his leadership for the youth of Austin. This Jefferson Award to Mr. Mendoza is richly deserved.

MULTITHREAT ERA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. HOYER. Mr. Speaker, we live in challenging times. But we also live in times of great opportunities. The Armed Services Committee's bill we will consider this week has begun the process whereby we will move from the cold war era to what I term the "multithreat era."

The basic premise of the committee's bill was that if we learned anything from Desert Storm, it was that the Guard and Reserve can be counted upon to perform well with Active Forces—and that America can rely on a well-trained Guard and Reserve force to supplement out Active Forces. The committee rejected deep cuts in the Guard and Reserve programs, and strengthened our investment in these areas to improve the combat readiness of the Guard.

The committee also refused attempts to go below the President's recommended reductions in Active Force strengths—so that not one more active duty member will be cut beyond the President's request. Obviously, there will be downsizing of forces, and the President has requested that this reduction reduce overall forces by 20 percent in the next 5 years. This is a prudent course, and one which will avoid a hollowed out forcestructure.

The second lesson from Desert Storm was that technology matters. And the committee makes the investment in key technologies to preserve that cutting edge for our fighting forces. Where the committee saves money is in extending the acquisition trail, keeping assembly lines warm, but not needlessly stockpiling equipment.

For example, the committee cut $2 billion from a $20 billion request for secondary inventories. A recent GAO audit revealed that over $20 billion in current inventories was not needed to meet current requirements, so the committee felt comfortable that this was fat that could be cut without any impact on readiness of the capability of our fighting forces. This approach marks the difference between the President's request and the committee level—it is a prudent approach and one which I support.

Let me close with this. The world is still a very dangerous place. Terrorists still threaten American interests and lives. Drugs still stream across our borders. The Middle East remains an area of great unrest and the future stability of Republics in the former Soviet Union is uncertain at best. That is why I refer to this as the "multithreat era." And it is why we cannot make wholesale reductions in our defense budget or our investments in national security. What we must do is seek to rightsize our forces, so that they will be capable of responding to any threat to our national interests. We must ensure that our forces retain the training and technological edge necessary to produce victory if they are called upon. And that is what the committee bill before us today does. I urge its adoption and commend the chairman on a job well done.

INTRODUCING LEGISLATION TO EXTEND DUTY REDUCTION ON CERTAIN PAPER PRODUCTIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. STARK. Mr. Speaker, today I am introducing legislation to extend the reduction of duty on certain paper products. When the United States adopted the Harmonized Tariff System in 1989, we changed the tariff classification for paper products such as toilet paper, facial tissues, and paper towels of cellulose wadding, resulting in a new, higher rate. As the move to the HTS was not supposed to change the duty rates for any products, I introduced legislation back in 1989 to reduce the rates of these products to pre-HTS levels. That reduction is due to expire at the end of this year, so I am introducing legislation to extend the reduction until January 1, 1995. Hopefully, the current round of the GATT negotiations will have concluded by then, and this matter will have been resolved through a tariff reclassification.

TRIBUTE TO ARSTER ORANGE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. DYMALLY. Mr. Speaker, I rise before you to recognize a truly deserving individual who has served her community unselfishly for almost four decades, Ms. Arster Orange. Ms. Orange has devoted 37 years of her life, 35 of which were with the Los Angeles Unified School District, to educating our children.

Ms. Orange began her teaching career at Bob Thornton Business School in Fort Worth, TX, after graduating from Prairie View A&M University in Hemstead, TX. The following year she worked as a seventh grade teacher in Longview, TX, and in 1957, she started work with the Los Angeles Unified School District.

In her 35 years with the Los Angeles School District, Ms. Arster Orange was a third, fifth, and sixth grade teacher at various schools in the district. Proof of her devotion to our children is shown to all in the many hours she has dedicated of her own time to after-school programs. One such program created by Ms. Orange was a boys and girls club that taught children how to enhance their self-esteem. This particular program was so successful that she traveled to other school communities to set up a similar program.

In addition to her praiseworthy career as a teacher, Ms. Orange is deserving of recognition for another great deed to humanity. An orphan herself, she has committed her life to helping others. For the last 11 years she has been feeding 200 to 300 people on Thanksgiving Day at her home. Her home is listed with shelters and other organizations as a place where less fortunate can come for a Thanksgiving meal. This gesture of goodwill has become so popular that television stations cover the event.

Mr. Speaker, I know my colleagues will want to join me in congratulating Ms. Arster Orange on her retirement from public schools and wish her the best. I hope Ms. Orange will continue to serve our community as her exemplary commitment as a teacher will be missed. Again, congratulations and thank you Ms. Arster Orange for 37 years of devotion and dedication to our children.

TRIBUTE TO MANUEL BALADO

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding success of Manuel Balado, a remarkable example of the American dream.

Manuel Balado was born in 1918, and grew up in Havana. In his teens, he went to work for a bus company in the tire repair shop. With a lot of hard work, and after putting aside as much money as he could into savings, he was able to start his own business. He continued to work hard, and was able to build his business up into a network of gas stations and tire shops. He developed a relationship with the Firestone Tire Co., and became a Firestone dealer in the 1950's.

On the eve of the missile crisis in 1962, Manuel Balado fled Cuba and moved to Miami. With his reputation already established at Firestone, he was able to open a tire shop within months of his arrival. He has been able to build that business and now owns two shops under the name Balado National Tire.

The Miami Herald published an article about this remarkable success story, which I would like to include in the RECORD:

IMMIGRANT PARLAYED SKILL INTO SUCCESSFUL TIRE FIRM

(By Alfonso Chardy)

In Cuba, Manuel Balado ran a chain of gas stations and tire dealerships known as Gomera Nacional Balado.

After fleeing Cuba on the eve of the 1962 missile crisis. Balado succeeded in rebuilding his business and translated its name to English, Balado National Tire, in honor of his adopted nation's language. Balado himself never did learn the language.

His business prospered beyond his expectations, and is now a multimillion-dollar corporation that is ranked among the top 500 of the country's major Hispanic owned companies.

Born in Matanzas in 1918, Balado grew up in Havana.

He began his career in the tire business as a teenager when he went to work for the tire repair shop of a bus company.

Parlaying his experience in the bus company into private business, Balado ultimately managed to build a network of tire shops and gas stations that made him relatively well known on the island.

In the 1950s, Balado was a Firestone dealer in Cuba, frequently honored by the U.S. tire company as a top salesman.

His connections to the U.S. tire industry enabled him to rebuild his business in Miami relatively quickly after Castro came to power.

Within months of arriving in 1962, Balado opened a tire shop.

He has two shops, at 1633 NW 27th Ave. and 6779 SW Eight St.

Balado, 74, still keeps in his desk a yellow photograph from a Firestone company newspaper showing him and two Firestone executives touring the company's plant in Akron, Ohio, in 1953.

Despite the longtime connections to the American company, he never got around to learning English.

"There was never enough time to spare to learn English," said Balado. "It was work, work all the time. But ultimately it was not a major problem because I could always bring an interpreter."

Mr. Speaker, I commend Manuel Balado for his hard work and perseverance, and I congratulate him on his remarkable success.

AMERICA'S AILING WAMPUM SYSTEM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. JACOBS. Mr. Speaker, the facile pen of the National Taxpayers Union Sid Taylor has done it again. As follows:

AMERICA'S AILING WAMPUM SYSTEM

(By Sid Taylor, National Taxpayers Union)

The other day and while down at the National Press Club, I bumped into a most interesting individual. He said that his name was "Zoom Zoom Moonchild." At first, I didn't believe him. I thought he was merely spoofing. Then he said "Call me Zoom."

When asked about his unique name, he told me that he was part Indian (Navajo/Apache), part Irish and part Italian. He suggested that he might even be descended from Christopher Columbus. As we were standing in front of the Press Release rack on the 13th floor of the National Press Building, I asked what his field of interest or profession was.

He literally exploded. He said that he was a self-appointed "wampum-dollar" economist for his tribe. Waving a finger in my face, he said that if the American Indians had understood money and economics instead of fooling around with wampum and trinket-trading, this country would now probably be named the United Tribes of America—not USA.

Where the Indians went wrong, he said, was that they didn't understand the Colonists' money system. If they had had a currency, a Treasury, a Bureau of Printing and Engraving and at least one Economist, Peter Minuit would never have been able to buy Manhattan Island (then New Amsterdam) for a measly $24 worth of beads, cloth and trinkets—in the year 1626. The Indian tax system was flawed too. Imagine paying five deer skins or ten sheep for your annual tax assessment! And all this without filing an income tax form! The Indians didn't know too much about tax collecting. They spent too much time chasing enemy scalps and dancing around campfires. This was not productive economics. They were always at war or on a raid.

Zoom then pointed out that we so-called 50 American State tribes (the USA) are now making the same mistake the Indians made about 366 years ago. We, too, don't understand money and our own wampum system. History has come full circle. Zoom pointed out that with a $4 trillion national debt, it should be apparent to you Colonists that your wampum system is flawed, too. You've also been on too many raids of enemy camps.

His last remarks were "And with budget deficits around $400 billion a year—you palefaces are now being scalped by your own chiefs."

RECOGNITION OF THE FIRST METHODIST CHURCH OF YPSILANTI, MI

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. FORD of Michigan. Mr. Speaker, I rise today to recognize the history and tradition of the First Methodist Church of Ypsilanti, MI, located in the 15th Congressional District, which I represent. On June 26, of this year, the 600-member congregation of this dynamic and progressive inner-city church is celebrating the 100th anniversary of the dedication of their current church sanctuary.

The church's history is long and significant to those who have had the benefit of being connected to it or touched by it. Following initial meetings in 1824, Rev. Elias Pattee organized a society of five members in May 1825, which evolved into the present First United Methodist Church of Ypsilanti, MI. The church family went from meeting in homes to a new schoolhouse to a chapel built on North River Street in 1835. Finally, in 1843, they moved to a building on the current site. The cornerstone for the present building was laid in 1891, and the dedication was in June 1892. In 1958, the education unit was added to the basement of the sanctuary. The building is in the style usually called Victorian Gothic and is built on the Akron plan, allowing for several aisles to cut through the pews to take parishioners to the altar. The sanctuary is noted for its stunning windows filled with geometric figures and pastel colors, as well as its oak woodwork and original pews.

The centennial renovation includes barrier-free access, a modern dining room, a new office complex, and a youth recreation room, making it truly a building able to accommodate all ages. From its original historic structure, a modern, urban church continues the Wesleyan tradition of worship, fellowship, and service in the name of Christ. The outreach work of the church includes community service open to all, as well as extensive support of Methodist mission projects in the United States and throughout the world.

Mr. Speaker, the parishioners of the First United Methodist Church in Ypsilanti are truly a blessing to the city of Ypsilanti as well as the surrounding areas. I would like to take this time to give thanks and recognition to them for all that they have accomplished these past 100 years.

AMERICAN JEWISH COMMITTEE HONORS BRUCE AND TONI CORWIN WITH COMMUNITY SERVICE AWARD

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. LEVINE of California. Mr. Speaker, I rise in honor of my dear friends Bruce and Toni Corwin, who are to be honored tonight with the American Jewish Committee's Community Service Award. Each year the American Jewish Committee presents the Community Service Award to someone whose untiring work on behalf of the community deserves special recognition. Bruce and Toni are this year's unanimous choices.

Bruce, as president of Metropolitan Theatres Corp. and a general partner of the San Diego Padres Baseball Club, is highly respected in the business world. However, he has also taken time to become extremely active in the community, serving as an officer or board member of several organizations. Bruce is a past president of Temple Israel of Hollywood, president-elect of the Coro Foundation National Board of Governors, and has served as Southern California chairman of the Democratic Party. He was a founding president of the Los Angeles Children's Museum as well as president of the Variety Children's Charities of Southern California. Bruce has also acted as a board member for the American Jewish Committee, the California Community Foundation, and the National Multiple Sclerosis Society.

Toni has found time to assume important leadership roles with many community organizations. She has served as president of Temple Emanuel of Beverly Hills, as vice president and board member of the American Jewish Committee, and has chaired two United Jewish Fund divisions. Toni has also served as an active member of the boards of the Beverly Hills Education Foundation and the Maple Center of Beverly Hills. She has also been a key organizer in several political campaigns.

Both as a couple and individually, Bruce and Toni have found time beyond their active family life to make an immeasurable contribution to the vitality of Los Angeles. Along with the deep admiration and gratitude of the community, Bruce and Toni share the love and support of their two marvelous sons, David and Daniel.

Because of their untiring dedication to the community, it is with great pleasure that I ask my colleagues in the House of Representatives to join me in congratulating Bruce and Toni Corwin on being the unanimous choice for the American Jewish Committee's 1992 Community Service Award. We wish them both years of continued success and happiness.

A TRIBUTE TO NEW HAMPSHIRE'S IRVING N. SANDS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to Irving N. Sands of Nashua, NH, New Hampshire's graduate representative of the Coors Literacy. Pass it On. Program.

Mr. Sands' inspirational experience which led to his participation in this program began when he reached the age of 40. When he lost his job because of the faltering economy and began seeking employment, he realized he could become more competitive in the job market if he were literate. After living his entire life with the albatross of illiteracy hanging from his neck, Mr. Sands, through great fortitude and hard work, finally learned how to read and write. Through classes that he took at the Adult Basic Education Program in Nashua, he is now able to read to his 4-year-old daughter and for the first time can stay ahead of her in reading ability. Because Mr. Sands took these courageous steps to learn how to read, he can now fill out an application for employment and has plans to pursue his GED.

Mr. Speaker, I can hardly even begin to imagine not being able to read a bedtime story to one of my six children and furthermore, I cannot imagine not being able to fill out an application for employment so that I could support my children. I am most inspired with Mr. Sands' accomplishment in tackling this difficult problem.

Irving Sands strongly believed, as we all do, that being literate would give him a competitive edge in the work place. Mr. Sands' story is but a microcosm of what should be happening nationwide, for without a literate work force our country simply cannot be competitive in today's global economy. Mr. Sands truly is an inspiration to us all.

With an educated and literate work force comprised of people with the work ethic and courage of Mr. Sands, I firmly believe America can make its way back to the forefront of the world economy.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Mr. Irving N. Sands for his graduation from the Coors Literacy. Pass it On. Program. For the future of our country I hope that the American people will take a page from Irving Sands' book and follow his outstanding example.

IN HONOR OF FLAG DAY

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. GEREN of Texas. Mr. Speaker, this past Sunday, June 14, we once again celebrated our national Flag Day. This day is one we set aside each year to celebrate the greatest symbol of democracy the world has ever known. As we watch freedom flourish in new democracies around the world, it is more important than ever that we maintain a constant vigil over our own democratic ideals, beliefs and the symbols which we use to represent them.

Fourteen-year-old Amber Bradshaw of Weatherford, TX, is setting an example for all of us in how to maintain this vigil. Amber won a Gold Medal this year in the University Inter-Scholastic League essay competition for her essay "Does Our Constitutional Right to Protest Give Us the Right to Burn the Flag." In her essay, Amber reminds us of all the Americans who have sacrificed so much for our flag and all that is at stake in the continuing debate over whether we have the moral and legal right to burn this great symbol of democracy.

Mr. Speaker, I would like to submit Amber's essay for the RECORD at this time.

DOES OUR CONSTITUTIONAL RIGHT TO PROTEST GIVE US THE RIGHT TO BURN THE FLAG

(By Amber Bradshaw)

Cannon balls and bullets whiz past me like lighting. Men and boys scream and crumple up in pain and agony underneath me. The darkness of death fell over the battlefield and I slowly wilted to the ground.

The next morning as the first rays of the sunlight slipped over the horizon and began to dry my tear stained colors, men around me moaned and gathered themselves up and went to look for survivors of the death ridden battlefield. Someone picked me up and slung me over their shoulder like a burden too heavy to bear. Men around me cursed our country and each word tore at my colors and ripped out my heart.

I was born in June of 1776 when George Washington came to visit my maker Betsy Ross. He presented her with a rough sketch and asked her to have me ready for presentation at the meeting of the Continental Congress in 1777.

Oh I have to admit my treatment was varied over the years. I was quite honored when Francis Scott Key wrote his poem "The Star Spangled Banner" for me. Over the years, my colors grew; in 1850 I boasted 30 white stars on my front. In 1863 when my country stood divided in war I waved with the winds of change on the battlefield as my colors bled along with every man that died. As time passed, respect and honor for my colors grew. In 1945 I was raised high on the battlefield at Iwo Jima and that day my colors sparkled and sang in the sun. The day that I protected President Kennedy's coffin was the most honorable of all my memories. In July of 1969, I reached new heights as I landed on the moon.

My life had been long and plentiful until I met the man of my nightmares, Gregory Johnson. In 1984 he lit a match to my colors and up in smoke I went. The pain I felt that day was the pain of every man, woman and child that had ever died for me. The people went into an uproar when he was tried and convicted for violating the First Amendment to the Constitution. But was he really? I have to admit it hurt me deeply but is burning me covered in the Constitution? When our fore fathers sat down and wrote these amendments, did they ever intend or even imagine that anyone would want to burn me? The Supreme Court thought so because in 1989 they said that a state could not make burning me a crime. Justice William J. Brennan was quoted in a 1989 issue of Time magazine as saying "If there is an underlying bedrock principal to the First Amendment of the Constitution it is that the government cannot prohibit an expression simply because the government finds it offensive." Many people did find the burning of my colors offensive for example, Justice John Paul Stevens was quoted in the same issue of Time magazine as saying, "Sanctioning the public desecration of the flag will tarnish its value both for those who cherish the idea for which it stands and for those who desire to don the robes of martyrdom." Actually defacing my colors has always been a hot topic. For example, in 1903, Nebraska legislature passed a law that said it was illegal to wear my colors in public. In 1931, California law made it illegal for anyone to display a banner or a flag in a public place or in a meeting place.

But this brings me back to my main point, does our constitutional right to protest give us the right to burn the flag? I think not, but I'm just the flag. We as a country may never agree on this controversial topic but I want you to remember what I stand for. I'm not just your red, white and blue or your Old Glory, I'm made of blood, sweat, tears and pain. So the next time you bring that match to my colors, I want you to remember all the men, women and children that will go up in smoke as I do. Just think about it, is it really worth it?

IN RECOGNITION OF THE GOOD WORKS OF PERRY BRAND

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. PORTER. Mr. Speaker, I rise today to recognize Perry Brand, a resident of Wilmette, IL, who exemplifies the spirit of voluntarism and helping others. For over 25 years, he has dedicated himself to assisting those in need and his wonderful good works merit praise as well as our thanks.

Perry is past president of the Illinois YMCA, and has also served as a member of the Evanston and Washington Park YMCA Boards, the National YMCA organization, and as cochairman of the National Conference of Christians and Jews. He has also been chairman of the O'Hare Aviation Commission, was a USO board member, was named an Oustanding Young Man of Chicago, and was nominated as an Outstanding Young Man of the United States. Most recently, he received a certificate of merit from the Office of National Service at the White House.

Perry has always been a dedicated volunteer, and since retiring and selling his successful advertising firm, he has worked virtually full time on his charitable activities. These include teaching summer crafts and swimming to children with Down's syndrome and cerebral palsy at Chicago's Misericordia Children's Home; reading to the blind with the Winnetka Volunteer Talent Pool; assisting children, unwed mothers, and the elderly at Christopher House in Chicago; tutoring poor children at the Washington Park YMCA; and feeding the elderly with the Little Sisters of the Poor.

In 1980, Perry initiated an annual Christmas party which brings together underprivileged children from the Washingon Park YMCA and students from New Trier High School in Winnetka. The children at these parties enjoy lunch, gifts, and games, but most importantly, they meet new friends.

Mr. Speaker, in an age when increasing demand for social services is stretching government resources to the limit, every community should be fortunate enough to have someone like Perry Brand. His good works illustrate that one person can make a difference. He not only practices unselfish voluntarism, but inspires young people to continue his legacy. I am proud to represent a congressional district that includes dedicated individuals like Perry Brand, and I am pleased to recognize him for his outstanding efforts to enrich the lives of others.

U.N. PEACEKEEPING FORCES NEEDED FOR A NEW WORLD ORDER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. HOYER. Mr. Speaker, I rise today in support of H.R. 4548, the International Peacekeeping Act of 1992, and praise my good friend the distinguished chairman of the Foreign Affairs Committee, Mr. FASCELL, for sponsoring and sending this important measure to the floor.

Authorization of this legislation comes as the efficacy of U.N. peacekeeping forces is being tested and debated as never before. In addition to missions undertaken in the 1940's in flashpoints like Cyprus, the India-Pakistan border, and later in the Middle East, U.N. forces have also recently been introduced into Iraq, Cambodia, and Namibia. Presently, bloody conflicts raging in the former Republics of Yugoslavia and the Soviet Union are prompting renewed international calls for introduction of U.N. peacekeeping forces.

Mr. Speaker, the U.S. Government and this Congress should do its utmost to help fund U.N. peacekeepers. I believe the judicious deployment of such forces will become a critical component of the quest for lasting peace and tranquility in the postcold war world. We must also encourage our allies around the world to do the same, for it is in all of our best interests to avert tragedies like we are today witnessing in Bosnia and Nagorno-Karabagh. And while U.N. peacekeepers might be able to avert violence and bloodshed, they cannot become indefinite buffers between antagonists who will resume fighting when the United Nations withdraws.

Before the violence in Bosnia and Nagorno-Karabagh reached their present levels of viciousness, as Chairman of the Commission on Security and Cooperation in Europe, I urged the introduction of peacekeeping forces. Unfortunately, such action was and is still being debated. Peacekeepers were not dispatched, and the world has had to bear witness to atrocities not seen for decades. United Nations or other international organizations sanctioned to keep the peace must be empowered and equipped to act quickly and effectively. The United States, as a proponent of democracy and peace, should act responsibly by supporting the development of such a peacekeeping contingent.

Mr. Speaker, support of H.R. 4548 will demonstrate our commitment to the principles behind U.N. peace missions. Passage of the measure will evidence this Nation's concern over the conflicts I have mentioned and will help us address these conflicts as a global leader.

TRIBUTE TO CARMEN J. LUNETTA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the outstanding service rendered to the community of Miami by Carmen J. Lunetta, port director of the port of Miami.

During the past 31 years, Carmen Lunetta has turned his vision of a vibrant Miami seaport into reality. His efforts have made the port of Miami the cruise capital of the world, as well as the cargo hub of Latin America and the Caribbean. To achieve that remarkable transformation, Carmen Lunetta brought together teams of men and women of all faiths and national origins who worked hand-in-hand to re-create Miami's port.

Despite the long hours and intense work required by his job as port director, Carmen Lunetta has found time to be active in community services. Supported by his wife, Janet Denike Lunetta, he has served as a fundraising campaign official for United Way, Easter Seals, and the Leukemia Society. He is a neighborhood commissioner for the Boy Scouts of America, a member of the University of Miami alumni staff, and a trustee of the Greater Miami Chamber of Commerce.

The Institute of Human Relations of the American Jewish Committee recently paid tribute to Carmen Lunetta at a dinner co-chaired by Richard D. Fain, Ron Fraser, and Thomas G. Travis. The dinner honored Mr. Lunetta for his skills and dedication to preserving our democratic heritage. Last Saturday, he was honored by the Coral Gables chapter of UNICO National as "Miamian of the Year." He has been honored by the Italian's Foundation, the International Longshoremen's Association, the Miami chapter of the Florida Engineering Society, the Industrial Association of Dade County, and the B'nai B'rith.

Mr. Speaker, I commend Carmen Lunetta for his outstanding and unselfish service for the betterment of his community.

RETIREMENT OF SENIOR LEAD OFFICER RONALD TREUTLEIN, ONE OF LOS ANGELES' FINEST

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to honor Senior Lead Officer Ronald Treutlein of the Los Angeles Police Department. Officer Treutlein will be retiring on June 27, 1992, and will be honored on June 25 in appreciation for over 25 years of dedicated service to the field of law enforcement. Officer Treutlein's 25-year career could well serve as the Los Angeles Police Department's standard of excellence. Loyalty, dedication, and unsurpassed police skills have truly been his hallmark.

One hundred and eight commendations stand as testimony to this outstanding officer's distinction. Among the numerous incidents that account for these commendations, one situation stands as the most illustrative of his professional and personal character. In 1965, only a few months after his graduation from the police academy, officer Treutlein faced the most tragic situation anyone could imagine. He and his partner encountered two Federal fugitives with extensive criminal histories, and who had recently committed an armed robbery in the Los Angeles area. The suspects assaulted the officers and felled Officer Treutlein's partner with a gunshot wound. Undaunted, Officer Treutlein engaged the suspects, forcing one to surrender, while the other continued the gun battle until he was shot and taken into custody.

For nearly 22 years, Officer Treutlein has served the west Los Angeles area as a senior lead officer of Basic Car 8A72. Within that capacity, he has acted as the police department's ambassador. Through the years, he had received accolades from the Optimist Club, the Rotary Club, the Lions, and the Elks for outstanding service to the community.

Officer Treutlein is a native of Los Angeles, but was raised in South Dakota, Nebraska, and Colorado. He served 4 years in the United States Navy-Air as a radar technician during the Vietnam war, and now lives in Torrance.

Throughout his endeavors, Senior Lead Officer Ronald Treutlein has enjoyed the love and support of his family, including his wife of 25 years, Anna, his daughter, Roxanne, and his two sons, Ronald, Jr., and Erik. He plans to continue living in the South Bay area for several years, and hopes to spend more time with his family. His long term goal is to relocate out of the State and live life to the fullest.

It is an honor and a pleasure to ask my colleagues to join me in saluting Senior Lead Officer Ronald Treutlein, a man who has built a record of achievement and excellence through dedication and leadership that is an inspiration to us all.

IN RECOGNITION OF STEPHEN B. VANCAMPEN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mrs. ROUKEMA. Mr. Speaker, the Boy Scouts of America are an unique organization. When most think of the Boy Scouts, the image that immediately comes to mind is the young man, dressed in his khaki uniform, escorting the elderly woman across the street. While I'm sure no Scout would pass up that chance to lend a helping hand, for Stephen B. VanCampen and the George Washington Council of the Boy Scouts of America, the Boy Scouts have meant so much more. It is for that reason that the Jenny Jump District of the George Washington Council will gather in Allamuchy, NJ, to recognize this native son of New Jersey as a Distinguished Citizen.

The Distinguished Citizen Award is presented to persons who have distinguished themselves in their life work and who have shared their talents with their communities on a voluntary basis. Few meet the criteria as fully as Stephen VanCampen. Few more perfectly fit the definition of role model for young Americans.

Stephen VanCampen's family settled in the hills of Warren County over 350 years ago and his family has helped shape the developing region since. He continues to reside there with his wife and five children.

Mr. VanCampen knows that the Scout motto—"Be Prepared"—embodies so much more than learning how to start a campfire or pack for a hike. Scouting prepares young men and women to be contributing and important members of society. Through the Scouting experience, children learn the essential lessons of country, commerce, and community. Stephen VanCampen has been a success at each.

He is chairman and chief executive officer of Gilbert & VanCampen International, a worldwide executive recruiting, management consulting and organization building practice, with projects completed in more than 35 countries. He is also a member of many worldwide business councils and professional organizations, including the National Foreign Trade Council, the Trade and Economic Council and the World Trade Institute.

In all his accomplishments, Stephen VanCampen has never forgotten the Scout principles of community and to help other people at all times. He serves in numerous public service positions including chairman of the Delaware Water Gap National Recreation Area Citizen's Advisory Committee, the Warren County Economic Advisory Council, and the board of trustees of Warren County Community College.

Mr. Speaker, Scouting brings boys of common interests together and provides a camaraderie that builds friendships and nurtures character. I can think of few who are better role models for our youth than Stephen B. VanCampen. That is why I urge my colleagues in the House to join with the Jenny Jump District of the George Washington Council of the Boy Scouts of America and me in congratulating Stephen B. VanCampen as he is honored as the Distinguished Citizen of the Year.

CONGRATULATIONS AND THANKS TO CAPTAIN JOHNNIE L. JOHNSON

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I am honored to have this opportunity to extend my gratitude and appreciation to Capt. Johnnie L. Johnson, commander of the U.S. Coast Guard Group Moriches, NY for his untiring service over the past 3 years to the people of my district.

Under the leadership of Captain Johnson, Group Moriches successfully undertook over 7,000 search and rescue missions including 5 separate lifesaving efforts to rescue a total of 19 capsized boaters from the hazardous inlets at Fire Island, Shinnecock and Moriches. He directed the completion of waterway analyses for the majority of Group Moriches area of responsibility, which included the assumption of 90 aids to navigation in the State boat channel after its abandonment by the State of New York.

Captain Johnson also actively supported the fishing industry of eastern Long Island through participation in unit-sponsored safety seminars and the annual Long Island Fisheries Forum. He was helpful to my office in determining the safe navigation needs of fishermen, particularly at Shinnecock and Montauk.

To maintain and improve the service provided by the Coast Guard, Captain Johnson directed the preparation of a comprehensive 5 year plan which included substantial documentation to provide the Group with future facility and personnel requirements. He created a group operations training team comprised of staff and selected station experts to standardize boat crew drills and to supplement unit training efforts.

Captain Johnson, a native of Akron, OH, is a graduate of Utah State University. He was commissioned an ensign in the Coast Guard in June of 1969. He has been awarded the Coast Guard Commendation Medal with gold star in lieu of a second award, the Coast Guard Achievement Medal, the Commandant's letter of Commendation Ribbon, the Bicentennial Unit Commendation Ribbon, the National Defense Service Medal with bronze star in lieu of second award, the Coast Guard Special Operations Service Ribbon, the Coast Guard Sea Service Ribbon, the Coast Guard Expert Rifle Medal and the Coast Guard Sharpshooter Pistol Ribbon.

During his 3 years of service on eastern Long Island Captain Johnson has been an exemplary officer and provided outstanding service to everyone who is dependent on the Coast Guard for their safety whether at work or having fun. My district has been fortunate to have such a talented and committed gentleman in charge of the Coast Guard and I wish him good fortune in all his future endeavors.

SPECIAL THANKS TO CONGRESSIONAL PAGES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. MAZZOLI. Mr. Speaker, today I would like to extend a warm and sincere thank you to some of the most dedicated youth of our Nation. These special individuals represent a promising sector of our society which I am confident will become the next trailblazers of our country. The young people that I am referring to are our congressional pages. Our page program not only provides Members of Congress the chance to work with some of the brightest and most talented young people in our Nation, but also allows us to perform the most basic functions essential to Congress.

In particular, Mr. Speaker, I would like to acknowledge David Johnson, from my home district of Louisville, KY. I had the privilege of sponsoring David this term, and I commend him for his exceptional service. After working with David and meeting his relatives, it would be unfair to label the American family as a dying tradition. For the Johnson family truly represents a loving and supportive family which is so essential in these times.

As an offspring of such a solid foundation, David embodies the morals and principles rarely found in people his age. His hard work and cheerful demeanor always brightened the mornings, afternoons, and late evenings for myself and my staff.

Our congressional pages come together from all different walks of life to experience the energy and power of the House of Representatives. I am certain that this experience will become a vital part in their daily activities, and will provide them with the valuable knowledge fundamental in climbing the ladder of success.

The Congressional Page Program provides these individuals with some of the tools needed to survive successfully in our country and our world. Tools which I believe our pages have firmly grasped, allowing them to become our future craftsmen. I am confident that our pages will engrave marks upon the world which will not easily be erased—for these skills are the foundations for everyday problem solving.

Once again, I would like to congratulate these most talented individuals, especially David Johnson. I wish them all the best of luck and continued success wherever they may come to reside—away from their home at the Capitol. The winter pages from 1992 are as follows:

SPRING PAGES, 1992

Hiram R. Andrews, Mary Marlene Atkinson, Allison P. Beard, Veronica S. Bernal, Sean D. Blelat, Nakia L. Buchanan, Jason L. Campbell, Sarah D. Carr, Heather M. Childress, Jackie Cohen, Katharine M. Collin, Hannah M. Cothern, DeAndre J. DeVane, John F. Dinusson, Mary F. Doyle, Patricia Draper, Lisa A. Eckel, Marita C. Etcubanez, Kathryn R. Farrell, Tamika Finch, Maya E. Goehring, Anja K. Hansen, Chareese H. Hayes, Ethan F. Hayward, William F. Head, Scott W. Henry, Lisa O. Hensley, Carrie Ayn Hiser, Karrie N. Howard, William Dale Howard, Carty E. Jacobs, William David Johnson, Jenna Keith, Amanda J. Klefner, Paul F. "Hinch" Knece, Joshua R. Kramer, Tanya S. Kuehnis, Sean P. LaSalle, Kelly J. Lauritzen, Constance Elizabeth McDaniel, Hector Morales, Franklin P. Mosley III, Patricia Perry Narro, April D. Neveau, Brantley Adam Newsome, Jessica L. Nierenberg, Josef R. Novotny, Karen L. Nuckols, William F. Raw, Paul B. Reinhardt, Kerry E. Rhodes, Jade L. Riley, Jessica R. Robinson, Renee S. Rosen, Hal N. Schwartz, Rachel H. Sontag, Aubrey L. Spriggs, Michaela D. Starr, Judy M. Sung, William J. Thinnes, Joshua C. Wallenstein, Moira A. Whelan, Lindsey P. Winick, Heather Yeckes, Elizabeth Carden Yelser, and Laura E. Zachman.

ARMS DEALERS TAKE TAXPAYERS FOR A RIDE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. EDWARDS of California. Mr. Speaker, there is continuing debate about how much Federal funding should be given to the military's budget, most notably for the high-tech stealth bomber and stealth fighter. The main cost that is discussed is the flat cost of production and maintenance.

What is rarely mentioned are the hidden costs of these new military technologies. These other costs include, but are not limited to, the cost of presentations of this technology to other countries, and the effect that the purchase of these technologies has on developing countries.

In an article which appeared in the June 10 issue of the Christian Science Monitor, Caleb Rossiter points out that the cost of overseas weapons sales is a burden which neither the U.S. taxpayers nor the governments of developing nations can afford to bear. I commend this article to the attention of my colleagues.

[From the Christian Science Monitor, June 10, 1992]

ARMS DEALERS TAKE TAXPAYERS FOR A RIDE

(By Caleb Rossiter)

Did you ever want to take a spin in one of those really neat Stealth fighters? But you know you could never afford it, right? Wrong. Taxpayers are paying the tabs run up by multimillion-dollar corporations like McDonnell Douglas when they display their wares at international military "trade fairs."

Here's how it works. Step 1: The Pentagon pays the cost of taking lots of its fancy United States-made planes and tanks to overseas arms bazaars. Step 2: Taxpayers pay the Pentagon back. Step 3: McDonnell Douglas and other arms manufacturers make lots of money from overseas sales. It's that simple. The complicated part is paying for it: The expenses for just one of these many trade fairs can run to $1 million for fuel and maintenance, and if a $30 million jet crashes on the way back from a fair, as one recently did in Singapore, guess who gets to pay for it?

The frantic post-cold-war drive by US arms-makers to replace sales to the Pentagon with sales to developing nations is being subsidized by American taxpayers. This has the potential to do as much damage to the American economy as the savings-and-loan debacle (a few hundred billion dollars, at latest count).

The weapons merchants say that arms sales are good for US jobs and good for America. (About the effects on developing countries they are strangely silent.) Some important people are taking the bait. Deputy Secretary of State Lawrence Eagleburger has said that the Pentagon, along with the Departments of State and Commerce, "support the marketing efforts of US companies in the defense trade arena [overseas]." US embassies in the third world are devoting diplomatic skills to helping US defense firms contact possible weapons buyers.

But militarization overseas is both a moral and an economic disaster, not just for the developing world, but for the US as well.

Forty million people have died in 125 conflicts since 1945, the year that the US and the USSR began using the developing world as the gameboard for their elaborate ideological chess game. The cold war in the developed world often meant hot wars in the developing world. Ironically, the end of the cold war threatens to heat things up even more, if increased arms sales to developing regions are any indication. If arms manufacturers have their way, nations too broke to feed their citizens will out-spend their current $200 billion annual military budget (already four times their foreign aid).

Four out of 5 people on this planet live in the developing world. Because we now have a global economy, what happens in four-fifths of the world necessarily affects us. For example, a study by the congressional Joint Economic Committee revealed that the recession in the developing world in the 1980s cost America $440 billion in export receipts and 1.8 million jobs, a full quarter of our unemployment. With recession in the third world slowly ending, American exports to developing nations have again picked up, and the Commerce Department reported this month that the increase provided 400,000 jobs last year.

But militarization is one of the major barriers to continued growth for the developing world, and hence for us. Investment is driven out and growth is driven down by military spending, civil wars, and the political power of armed forces that keep half the developing nations in dictatorship and another quarter in limbo between elections and full democracy. If we won't care about heavily militarized developing countries on moral grounds, can't we at least care on economic grounds?

It is penny-wise and pound-foolish for the Pentagon to promote arms exports, preserving a few jobs now at the expense of the many more that would come from a dramatically demilitarized world. Rep. Howard Berman (D) of California, understanding this much, has pushed an amendment through the House that will put a stop to these Pentagon subsidies. Now it is up to the Senate, whose upcoming vote on the matter will decide whether US policy speaks to arms manufacturers or to the US taxpayer. The taxpayers have been paying for somebody else's joyride long enough.

(Caleb Rossiter directs the Project on Demilitarization and Democracy and is an associate fellow at the Institute for Policy Studies in Washington.)

STOPPING THE FLOOD OF ILLEGAL IMMIGRANTS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. GALLEGLY. Mr. Speaker, I wish to bring to the attention of my colleagues an article by Harry Bernstein, labor columnist of the Los Angeles Times, on the subject of illegal immigration.

Mr. Bernstein, a columnist of impeccable liberal credentials, discusses the current controversy raging between those like this Member who wish to stop illegal immigration into this country and those who don't. He makes a persuasive case against the Kennedy-Hatch bill to abolish employer sanctions. He points out that employers and undocumented aliens are working together to make a mockery out of the 1986 immigration reforms by using phony documents so that employers can claim they have no way of knowing whom they hire. In this way, employers end up exploiting cheap foreign labor in our own country and take away jobs from our own citizens.

Bernstein makes the same arguments for taking action that I made when I offered my package of bills, H.R. 3438 through H.R. 3442, House Joint Resolution 357, H.R. 3605, and H.R. 4754, to beef up the Border Patrol, eliminate document fraud, cut off Federal welfare payments to illegals, and restrict automatic birthright citizenship. "If employers are not allowed to get away with hiring illegal immigrants who show phony documents," he writes, "foreign workers will be much less tempted to come here illegally because there will be fewer jobs for them." He calls for cutting off services to illegals "that cost us billions of dollars," such as free education for illegal alien children, free pregnancy services for illegal alien expectant mothers, and welfare and unemployment benefits. He inveighs against allowing the children of illegal alien mothers to become U.S. citizens automatically by virtue of being born here when millions of foreigners patiently wait in line to go through the prescribed legal process of acquiring citizenship. Only by such actions can the 1986 immigration law succeed.

I urge my colleagues to read Mr. Bernstein's thoughtful column, and, if they have not done so, join their 52 colleagues representing 17 States in cosponsoring these eight bills.

Mr. Speaker, I request that the full text of Harry Bernstein's column of Tuesday, June 9, 1992, be printed in the RECORD.

[From the Los Angeles Times, June 9, 1992]

STOPPING FLOOD OF ILLEGAL IMMIGRANTS

(By Harry Bernstein)

Ugly exploitation of illegal immigrants by California growers had been going on for decades before I first saw it myself 40 years ago when I began writing for a small newspaper in El Centro near the Mexican border.

The exploitation of illegal immigrants who take jobs from domestic workers continues today in agriculture and has spread to many other industries. Yet a campaign has started to wreck a 1986 law that was designed to stop the abuse and slow the flood of foreign workers pouring into this country.

Because I came from South Carolina, I should not have been shocked by the mistreatment of illegal immigrants. After all, exploitation of blacks, who also worked cheap and hard, was rampant in the South. But I wasn't prepared for the depth of the workers' poverty on the generally prosperous Imperial Valley farms.

I saw paymasters tossing a few coins a day—and at times only some food and soft drinks—to the illegal immigrants who worked uncounted hours to plant and harvest the valley's bountiful crops. They slept on tattered blankets in the fields or in tin or cardboard shacks.

Much, but far from all, of the most blatant abuse of workers has stopped. Nonetheless, serious abuse of illegal immigrants continues. It is less glaringly conspicuous, but it is far more costly to taxpayers.

I found then, as I do today, strange bedfellows were involved in the argument raging about foreign workers.

Those who want to sharply curb illegal immigration include conservatives, liberals and most unions. Their just cause is badly damaged because their ranks also include disgusting racists.

On the other side is, as it was then, an equally odd combination of groups that usually fight one another; liberals, militant Latinos, conservatives, a few unions and, of course, employers who love the cheap labor of illegal immigrants.

For instance, a bill that actually encourages more illegal immigration is co-sponsored by the liberal senator from Massachusetts, Edward M. Kennedy, and conservative Utah Republican Orrin G. Hatch.

Practically nothing was done about illegal immigration until passage of the 1986 Immigration Reform and Control Act. By then, illegal immigrants made up a majority of farm workers in Southwestern states and in garment industry sweatshops, as well as a large proportion of the workers in hotels, restaurants and other low-wage jobs. They had also moved into far more skilled jobs, such as construction and electronics.

Congress wisely granted amnesty to nearly 3 million illegal immigrants, and, as part of a compromise, included in the new law a weapon aimed rather inaccurately at the massive economic and social problems that the illegal immigrants pose for this country.

For the first time ever, U.S. exploiters who knowingly hired illegal immigrants could be punished by heavy fines. Until then, only the poor workers were punished—when caught—by sending them back to their home countries at our expense.

Now the same odd assortment of usually feuding forces that battled over the 1986 immigration reform act are fighting again as one side campaigns to remove all penalties against the exploiters and the other wants to help make it enforceable.

The law is being eviscerated by employers and by illegal immigrants who pay criminals to help them evade the law and dodge our overworked Border Patrol officers.

They are making a mockery of the law by turning out massive quantities of counterfeit and forged documents such as Social Security cards to help employers "prove" that they didn't knowingly hire illegal immigrants.

These crimes can be dramatically reduced without violating anyone's civil liberties or risking discrimination by requiring that all workers seeking jobs have counterfeit-proof work authorization cards that can be verified as easily as credit cards.

Everyone must have a Social Security card to get employment. A similar card can be made at least as counterfeit-proof as those holographic credit cards that are secure enough to allow the companies issuing them to make hundreds of millions of dollars with relatively little fraud.

If employers are not allowed to get away with hiring illegal immigrants who show phony documents, foreign workers will be much less tempted to come here illegally because there will be fewer jobs for them.

We must also stop enticing them with valuable services that cost us billions of dollars. These enticements include free schooling for their children, free medical care for mothers when their babies are born here, welfare payments for children and government help in finding jobs.

The children of illegal immigrants can even become citizens automatically despite the fact that nearly 3 million other foreigners around the world are waiting for visas as they go through the slow process of coming here legally.

Better enforcement of our immigration laws would cost a fraction of those costs of the enticements. Alan C. Nelson, former commissioner of the Immigration and Naturalization Service, sensibly suggests that a $1 fee for crossing the U.S. border would generate hundreds of millions of dollars each year to pay for work authorization cards and enforcement of immigration laws.

It is speciously argued that illegal immigrants only take jobs that those here legally will never do. The truth is, employers hungering for really cheap labor hunt out the foreign workers.

Also, those here legally who reject tough jobs—and not many do—are turned off by the lousy wages and working conditions that are nearly intolerable, except to the truly desperate who rarely complain for fear of being deported.

With unemployment frighteningly high, we don't need more workers. When we do, let them in legally. Let's stop tempting illegal immigration and use counterfeit-proof work authorization cards to make the landmark 1986 immigrant reform law succeed.

INTRODUCTION OF LEGISLATION REGARDING STATUTES OF LIMITATIONS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. VENTO. Mr. Speaker, the General Accounting Office has reported that the FDIC and the RTC are failing to pursue professional liability claims against officers, directors, and various professionals involved with failed financial institutions, amounting to billions of dollars. One reason for these failures of action—short statutes of limitations—we can correct in Congress.

The Congress must push the Bush administration's regulators and the Justice Department to pursue with rigor, claims against those who negligently or fraudulently caused financial institution failures, whether Republicans or Democrats. The white collar civil and criminal cases must be pursued to completion.

The public and taxpayer will be outraged if sloppy regulation is followed by incompetent prosecution; with lame excuses that technical filing dates shielded those who bilked financial institutions. These persons must not be allowed to avoid their day in court and avoid being brought to justice because of inaction by the national Government.

I am introducing today a bill to extend the statute of limitations on these cases for an additional 3-year period. This will take the financial regulatory agencies through the lifespan of the RTC. The bill also will preserve claims against wrongdoers whose acts were not discovered until after the Federal conservator or receiver was appointed or where the statute of limitations had already expired.

I am aware that the FDIC and the RTC both have plans to reduce the time that it takes them to decide to file claims from 33 to 12 months. However, in view of their record over the past 3 years, I have very little confidence that they will actually do so. The number of claims, as well as the number of cases is growing. Yet top management lacks the commitment and leadership to pursue these claims.

The other problem, which must be solved in order to see these cases succeed, is to assure that the claims against officers or directors or professionals involved in the failure of the institution are preserved until the Federal conservator or receiver is appointed and can take action. In too many instances, the appointment of a conservator or receiver occurs after the applicable statute of limitations has run out. The courts have not always agreed that FIRREA was to be applied retroactively or that a claim which expired with the statute of limitations could be revived. This express authority to revive such claims is consistent with similar statutory authority. For example, the Secretary of Education is allowed to revive claims on defaulted student loans at the time the loans are reassigned by the financial institution even though the applicable statute of limitations may have expired. The Supreme Court has upheld the revival of claims where Congress so provides. The language of this bill expressly provides for retroactive application of the extended period of limitations.

The other reasons for failures of action—the absence of a comprehensive system for tracing assets of wrongdoers, and the absence of a comprehensive information management system—are matters that the Congress can oversee only indirectly. Last year we made structural changes in the RTC in order to strengthen its management. Improved administrative structure unfortunately doesn't guarantee sound decisionmaking. The old adage holds true, you can lead a horse to water, but you can't make him drink.

The prosecution of professional liability cases requires a complete, nationwide information system. Neither the FDIC nor the RTC has one. Their efforts to cooperate to set up such a system failed. In order to develop nationwide information about what is going on, they have to survey their field and regional offices, and then enter the information into a database. The information is old, in varying formats, and incomplete. The information does not include claims where they decided not to take action. The information does not include costs of pursuing these suits. How any responsible manager can believe that this is consistent with basic principles of sound business management is beyond understanding.

The professional liability prosecution responsibility of the thrift crisis appears to be another victim of the convenient RTC policy which suffers the current "inefficiencies" of multiple, disconnected databases for management information because the RTC's job is almost finished. The contrary view that the RTC is nowhere near finished—is in midstream—seems not to be found or considered. The American taxpayer will call upon them to demonstrate what they have actually accomplished in return for the tens of billions of dollars that have been provided and are being requested today to complete the task.

In the next few weeks, I will be asking the members to consider further changes in the structure of the bailout, involving the FDIC, the RTC, and the OTS. I'm hopeful that such modifications and ideas will be successful in improving the management of these regulatory entities. The American public expects Congress to take action to help resolve the obvious shortfalls. The responsibilities of Congress and the administration are clear.

I urge my colleagues to consider and vote for an increase in the period of the statute of limitations for professional liability litigation to permit a deliberate and orderly prosecution of such negligence. I strongly urge my colleagues to keep the pressure on the Bush administration today so they might come forward with sound and sensible management for these costly thrift and bank regulatory efforts.

STEVE YODER, FUTURE PRESIDENT OF AMERICAN SOYBEAN ASSOCIATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. LEWIS of Florida. Mr. Speaker, today I would like to submit an article from Top Producer magazine to introduce my very good friend and next president of the American Soybean Association, Mr. Steve Yoder.

Steve Yoder is a man who symbolizes all that is important to traditional American values. His belief in the work ethic has carried his Bluebird Farm to a successful, broadbased farm in Calhoun County, FL. Steve's hard work and leadership capabilities are responsible for making Bluebird Farm's owner the next logical choice in serving as the next president of the American Soybean Association.

This Renaissance farmer has overcome many odds in the world of American agriculture since starting his own farm in 1978. He and his wife, Carolyn, came to Florida in 1978 as Mennonite missionaries. Since that time, within 14 years, the Yoders have been successful turning Bluebird Farm into a diverse agricultural enterprise growing 500 acres of soybeans, 400 acres of peanuts, 300 acres of corn, 200 acres of wheat, 200 acres of oats, along with a 200-cow beef herd, a stocker cattle operation, and a 70-head cow dairy. Steve and his family have turned their efforts into a cultivated dream in Florida's Panhandle.

Beyond work on his own farm, this agricultural entrepreneur has reached out to help other farmers by serving on State and national agricultural organizations. Steve and his wife have contributed their time and effort not only to their farm, but have been more than willing to work on behalf of the entire Florida farming environment as well. I have enormous faith he will do the same on a national level with the American Soybean Association.

I hold Steve and his family in the highest regard. I congratulate Steve for his successes and wish him luck as the president of American Soybean Association for the 1992–93 term. He is a great leader and will be a wonderful asset to the American soybean farmer.

I urge my colleagues to review the following article. For anyone who has had the pleasure of meeting Steve—you have been touched by a man with a heart of gold.

[From Top Producer Magazine, June 1992]

MAN WITH A MISSION

(By Charles Johnson)

Lucy and Tony Exposito remember a time not so long ago when they were desperate for a friend. Cuban refugees, they arrived in Florida's Panhandle to start a small hog farm. Determined to provide their own food, they went looking for a milk cow. The search led to Steve Yoder's Bluebird Farm near Altha, Fla.

He let them have a cow, asking only that they pay for it when they had the money. Then they arranged to buy feed from him pretty much the same way. After that, he sent two employees to help build their hog house, no charge.

That's why Lucy Exposito gets emotional when she talks about Steve and Carolyn Yoder. "They are wonderful people, the best in the world," she says. "They will do anything they can to help anybody. Steve is a very giving person. He just said it was his turn to help somebody, that he was thankful for what he had. People like this make you believe in the world again."

Soybean farmers hope Steve Yoder gives them the same warm feeling. Set to be installed as American Soybean Association (ASA) president in July, his leadership comes at the most crucial time in the organization's history. Stunned by dissension in the ranks, severe money problems, and a study highly critical of management, all in the past year, it's clear ASA must rethink its mission in order to survive.

Healing the business as well as spirit of ASA will fall heavily on Yoder, a former Mennonite missionary who still lives a Spartan lifestyle and starts each day with a sunrise prayer service.

Natural peacemaker. Even Yoder says he wouldn't have picked this time, in an ideal world, to lead the group. But it could be that he, of all people, is the right man for the job. His special gift, says Yoder's wife Carolyn, is to bring people with opposing viewpoints to a compromise.

"It seems that whatever organization he has served, whether it was Farm Bureau or the dairy co-op or the cattlemen's association, they were going through a difficult time," she says. "I've seen discussions that were heated, and Steve just sat there and listened. Then he had a way of bringing things back together in tense situations, of blending it all together."

With his Mennonite background and diverse farming interests, Yoder's vision is unique among all ASA leaders. Bluebird Farm's profit centers are about as broad as you'll find on any farm in America. This year he's growing 500 acres of soybeans, 400 of peanuts, 300 of corn, 200 of wheat, 200 of oats, along with a 200-cow beef herd, a stocker cattle operation and a 70-cow dairy that can easily expand to 200. Due to ASA responsibilities he won't plant his management-intensive 200-acre cotton base. But he will find time to go partners on 50 acres of watermelons.

When the Yoders started farming in 1978, no one gave them much chance of survival and none of becoming national agricultural leaders. Leveraged 80 percent, it took hard work, ingenuity, even a little luck, perhaps, to succeed. "It scares me even now to think about it," he says.

The odds against any of this happening, in fact, are huge. Steve Yoder was the longest of long shots to head ASA. Just consider this: The new ASA president comes from a state with about 120 ASA members and fewer than 50,000 soybean acres.

He was born in Sussex County, Del., in 1948, where his parents, Monroe and Naomi Yoder, had a 37-acre truck farm 25 miles south of Dover. They grew strawberries, peppers, tomatoes, seven back-breaking acres of asparagus, and ran a small dairy and an old-style chicken farm. Monroe made a living off a roadside market and a weekly run to Wilmington, where he sold chickens, vegetables, eggs, and the butter, cream and cottage cheese Naomi made.

In 1953, they moved to Calhoun County, Fla., to a farm a Soil Conservation Service agent, enlisted to help out, declared "not worth messing with." The Yoders came here because the Mennonite Church wanted to colonize the South. In a sense, they were both missionaries and pioneers.

With Steve and his two older brothers and five younger sisters, Monroe and Naomi had plenty of help establishing a dairy that eventually topped out at 45 cows.

"I was not interested in operating a large dairy," Monroe says. "My main interest was in raising a family, in giving the children responsibility. Family was our main crop. Cows and chickens, all that was just a sideline."

Religious roots. Steve Yoder's childhood was one of material poverty and spiritual wealth. "As a boy, the Mennonite Church was my world. It was all I knew," he says.

Carolyn's Mennonite family, with 14 children, moved to Florida from Kansas and Iowa about the same time as the Yoders. In the fourth grade she and Steve became sweethearts; they never really parted after that. "What I remember about Steve is that he had a vision for what could develop on the farm," she says. "He was a boy with a lot of dreams."

As a teenager, those dreams almost got him into trouble. His two brothers went to college. At 17, Steve stayed home to run the family farm, then he was gone, off to Colorado, to work for some cousins on a ranch. The day he arrived, they left for another job in Wyoming. He stayed behind, taking a job cowboying on Carl and Jo Soderberg's ranch near Loveland. It was eye-opening.

"I learned to ride on a mule back home. They put me on horseback and made a cowboy out of me. The Soderbergs treated me like a son. I would not be who I am without them," he says.

Until the age of 20, he worked off and on for the Soderbergs, coming back home for breaks. Finally, enough was enough, and he and Carolyn married in April 1969. The Vietnam War was at its height. As conscientious objectors, Mennonite men usually take alternative service rather than join the military.

"It was a painful period for me," he says. "I wanted to go to Vietnam in the worst way. It was difficult to give that up. Had I gone, my story could have been different. I'm the kind of person who would have come back with a Purple Heart or in a box. That's the way I am."

Instead he opted for alternative service, got a pilot's license and soared over Canada as a bush pilot Mennonite missionary. He flew supplies in a float plane to an Ojibwa Indian reservation 110 miles north of the nearest road, and ferried sick Indians to the hospital.

Carolyn went with him, dispensing medicine, working with native crafts people, and in the mission children's home. It was there that she fell in love with a tiny Ojibwa girl who at five months weighed just 10 lb., a victim of abuse and malnutrition. The Yoders adopted her and named her Margaret. A week after making that decision, Carolyn learned she was pregnant.

Alternative service called for a two-year commitment. The Yoders served three. By the time they returned to Florida, Margaret was two years old and had a year-old-sister Loretta.

After a few years farming with his family, he and Carolyn signed on for what seemed a huge indebtedness with the Production Credit Association, and Bluebird Farm was born. It was two miles from the Yoder homeplace, but with much better soil.

The local PCA, seeing potential in the young couple, sent them to a co-op couples conference. From there, they were invited to a Florida Farm Bureau Young Farmers and Ranchers meeting. No one else from the Panhandle showed up, and Steve was asked to represent the area on the group's state committee. That led to national involvement.

"I never saw myself as a leader," he says. "Until the age of 35, the city that was furthest from my mind was Washington, D.C."

Word got around that not only was Steve Yoder willing to serve farm organizations, he was capable, as well. Before long he was president of the county cattlemen's association, a director of the state's biggest dairy co-op, on the state ASCS committee, on numerous appointed boards, and Florida soybean president.

Much is made of the price of leadership, and the price is certainly there. ASA vice presidential duties during the past year took Yoder away from Bluebird Farm 150 nights. Though Carolyn's hands-on farming is reduced since breaking her back in a car wreck in 1986, longtime employees Fred Brown and Merle Shetler have taken up the slack, along with the Yoder children. Margaret, now 21, runs the dairy. Loretta helps when she can. Ralph, 18, and Florida FFA vice president, took on added duties. But Steven Jr., 17, and David, 15, have become the real farm hands.

Test of faith. The biggest price for Steve Yoder, though, has been personal, and it cuts deep. Local Mennonites questioned whether his activities might make him too worldly. Steve and Carolyn both have brothers who are Mennonite ministers, and they took some heat. Even Monroe and Naomi are concerned, though they feel Steve can withstand society's lures.

The pressure built. Steve wouldn't back off on his farm organization duties, which he feels are important not only for farmers but for the good of the world. So he and Carolyn dropped their membership in the Mennonite Church, though they still attend.

"It's a thing of perception. My own relations with the Lord are secure. I can serve the Lord regardless of the church I'm in," he says.

"In the final analysis when I stand before God I'll have to give an account of myself. God will ask my attitude in life, whether I was a good person. He won't ask if I was a good Mennonite."

No one knows if God will care whether Yoder healed ASA's wounds. Those who know him best, however, think he can do the job.

WORLD REFUGEE SURVEY: 1992

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. SOLARZ. Mr. Speaker, each year, the U.S. Committee for Refugees whose energetic, dedicated staff speak and write with clarity and passion on behalf of refugees worldwide, publishes the World Refugee Survey, a carefully documented analysis of the situation of the world's uprooted people. One especially moving article contains excerpts from a journal written by Raci Say, a USCR administrative assistant, who returned to the Thai/Cambodian border last December to teach a pilot course in human rights to the refugees there. Raci's journey to the camps she left a decade ago is a reminder of the extraordinary spirit of refugees—people who may have lost everything most dear to them, but whose courage and compassion stay to light all our lives.

I ask that Raci Say's article be included in the RECORD.

THEY PROBABLY THOUGHT I WAS A REFUGEE

(By Raci Say)

(Raci Say is an administrative assistant with the U.S. Committee for Refugees. In December, she went to Site 2, Cambodian refugee camp in Thailand, to teach a pilot class for the refugees there on human rights. The following are excerpts from her journal.)

This trip is a joint project of the U.S. Committee for Refugees and the Cambodia Documentation Commission to promote human rights for Cambodians. My assignment is to train refugees at the Thai border and to test out a pilot course on Human Rights developed and translated into Khmer by the Cambodia Documentation Commission, a private, nonpartisan agency that documents human rights violations in Cambodia.

The lesson plan covers the causes and effects of human rights violations on the individual and society, the relationship of civil, political, and social and economic rights; and the provision in constitutional and international law for protecting human rights.

As I began to think about this trip, memories of my experience as a refugee in Thailand came back into my mind. I'm very excited that after 11 years, I have a chance to go back and work with my lovely people, with whom I shared the tragedy of living through Pol Pot's murderous time. I have tried very hard to forget those times, so that I could regain my health, but it is impossible. The images come as clearly as if they are happening right now. I have learned that the image of persecution never fades away.

December 9: This morning on our way to Site 2, where we will teach our classes, we stayed for seven months before I was accepted for resettlement in the United States. Filled with old memories of how I was treated years ago during Pol Pot, then the Heng Samrin regime, as a refugee in Khao I Dang, and as a newly resettled refugee in the United States, I almost broke into tears. Site 2 itself, at the border with Cambodia, is an enormous temporary home to 14,000 Cambodian refugees. There are so many children here. Most of them have no shoes, their shirts with only a few buttons. It was very hard to control my emotions when I saw these refugee children and compared them with my kids in the United States. While I was in very deep thought, my friend Samnang said to me, "This is really a world of children."

I was shocked when I went into the classroom today and saw thirty men and only two women. Women make up the majority of the population in this camp. After class, I talked with the two women, asking them why others wanted to come, but felt they might not be qualified. I asked them to help get more, and they said they would.

On the first day, very few people spoke up. They were skeptical about what we had to say. After we talked about our goals and our feelings, they began to talk, though still in a reserved way. Most of them have lost their immediate family. They need somebody they can trust and depend on. And that's not abnormal. Nobody knows how broken are the hearts of the Cambodian survivors more than the Cambodians themselves who have passed through the horrible time.

When I first came to the camps, I was also very reserved because in the communist time I had to be very cautious about the people I talked to. The more silent you could be, the safer you were. Keeping myself from talking became my instinct. There were some subjects that I was not supposed to talk about at all, and I had to train my mind to seal off information like my family's background, or my father's or mother's occupation. That instinct changed my personality, from an outgoing to a quiet person who watched with whom I spoke. I was in that situation for four years, and it took me ten years more to come from the darkness to speak openly. But these refugees have endured ten years or more in the camp with their normal lives suspended.

Today we studied the Universal Declaration of Human Rights. My mind was drawn to my teacher in tenth grade. He knew so much about human rights. I remembered the last time I saw him, in a field in 1977, when our lives had deteriorated so much. He had come as part of a group of laborers to work the fields. He and I recognized each other right away, but we managed to stay quiet. I knew he was more frightened than me, because the Khmer Rouge had started to kill teachers. We sat under the shadow of a tree and talked. He told me of his concern because two of his fellow professors were taken by the Khmer Rouge (DR) for no reason. They simply asked, "Were you a professor?" and took them away. He told me, "If you look into the field there are only two DR soliders, and about three hundred of us whose rights are abused. Because we did not stand up together, they treat us like animals." A few weeks later, I met his wife in the field. She told me he had been taken away. Her eyes were red, but she did not dare cry. We were not supposed to cry when we lost a family member or when we were condemned as a traitor.

December 10: The next day the class was bigger: 15 women, 42 men, and one monk. I was so excited, and during the break I talked to every one of them, trying to get to know them more personally.

Today, we divided the class into two groups and practiced voting democratically. David Hawk told them a story, and asked them to vote on what they thought should be done about the human rights abuse in the story. After everyone decided what they believed, they took a final vote. They were so excited by the fact that they could actually vote to support an idea they liked. I explained to them that after an idea was voted on, no matter wrong or right, the majority would win. We would not consider the losers to have lost face. We discussed the democratic belief that most of the time the majority have the correct idea, and that is why people in each country should consider voting to be an important duty.

The students were very surprised to learn that all the human rights we described were also theirs. They asked so many questions. "Are these rights true? Are these rights also ours? Do they all apply to Cambodians?" The monk, Chao Sambo, asked: "Will the authorities allow us to practice our rights? Will they learn about these rights, too? How can a spiritual leader, a monk, help protect citizens' rights?"

It amazed me that most of these trainees already knew what they wanted to do with what they learned. They really wanted to reach out to more people or to talk to friends. Some asked for extra copies of the human rights documents because they wanted to send them out to friends and relatives inside Cambodia. I've never seen Cambodian people this eager to have learning materials. It's just something they were hoping to have, and they did not know that it already existed.

December 11: We ended up with 91 students: 68 men, 17 women. There are six monks in the class. They are a very good group, filled with questions: "Who will be responsible for our security if we exercise our rights?" asked an elderly man. "Why have we never been informed about these rights in the past?"

They asked more hard questions. "If the authorities do not give us these rights or if they abuse them, what will happen to them?" "Will the UN or the international community protect us?" "What will the UN do to the government or the authorities?" I told them that I hoped human rights organizations will be set up inside Cambodia to watch and monitor the abuses. These groups can interview witnesses so that the information can be forwarded to the UN or to international human rights monitors. I told them that the UN can pressure governments that abuse their citizens. It can embarrass them.

December 13: This is the last day of class. I teach them about speaking up—now it is their turn to be teachers. A third of the class handled it easily; the others find it difficult, and are very nervous, especially the women. I looked into these women's eyes and saw myself 10 years ago. I was the same way. I could almost read their minds. I told them they must not think they cannot speak out. I told them I had also been very scared, shy, reserved. We are so similar. But now I enjoyed my freedom of speech and my rights in America, and I tell them I have wished so long that the Cambodians back home could have the freedoms they deserve also.

I think that the majority of the refugees who are preparing to go back home want to take along with them something more than subsistence materials. They want to take along with them the knowledge that will help them to protect themselves. I could see in their eyes that they still had the Buddhist spirit. I told them to hold on tight to their thoughts, their hopes, their commitment, because we are all turning a new page of the history. We survivors have the responsibility to fulfill the wishes of millions of people who died in the horrible times. We cannot walk—we have to run together. The chance for a free election supervised by the UN is rare, we have to take advantage of it wisely.

Before I left for Bangkok, we went to a marketplace about a mile from the Cambodian border. When we arrived there the sun was almost down. It was not crowded any more. I saw the Cambodian flag flying above the trees.

I told my colleagues that I had no interest in shopping. I needed a quiet moment. While we were talking, a group of young children passed by holding ice cream and calling to each other in Khmer to rush back home before dark. We were stunned to hear the voices of Cambodian children outside of the camps in Thai territory. I stayed there to chat a little more with them. I asked, "Where do you live?" They pointed to where the flag was flying. I asked if they lived in Cambodia. "yes," they told me. "We only come here every day to collect empty bottles so we can sell them inside Cambodia. We get about 150 riels [about a dime] each day." I asked them if they went to school. "There are no schools in our village," the oldest girl said. "If I want to go to school. I have to stay in the pagoda in a village far from here. I cannot do that because I have no father, and I have to help my mother earn a living."

I watched these children, no shoes, covered in dirt, their ice cream cones spotted with black dirt from their busy hands. I wanted to talk with them more, but one said. "We have to leave before dark so that we will not get lost in the forest." I watched them run towards the flag until they disappeared in the darkness that was then covering the country.

I imagined what they were traveling toward, and remembered my own journey across the fields with no shoes four years before I arrived in Khao I Dang. I looked again at the flag. I almost cried, but I kept it back as I pictured my father before his captivity. The night before he was taken away, Khmer Rouge soldiers came around to tell all high ranking military officers they recognized to present themselves to "Angka" immediately to avoid problems for their families. That night, around ten of my father's fellow officers gathered to talk to each other quietly. They discovered that all of them had received the same message.

My father assigned a family member to watch and make sure our last conversations were very private. We stayed over night to talk to him, but mostly we cried. My father did not cry. He said tomorrow was probably his last day with us for a long time, but that we should not assume that he had died. "I've been trapped by the enemy a couple of times, but I've never felt bad. One thing I would feel bad about it if tomorrow when I leave, my family cries. So, you all make sure you don't cry in public. In my absence you all will have a lot to endure, but you have to be very strong, we will get over it. We don't know how much time we need. If you don't cry tomorrow, you will not cry in the difficult time to come."

He was very concerned about me because I was weak and unhealthy. He repeated directly to me at least ten times, "Be strong, we will overcome it." We did not cry that morning. My dad smiled and left with his friends. I managed not to cry at all in the whole four years in the communist times. I wanted to show my father that because I had not cried during his captivity, nothing that happened later would merit my tears. When I saw this flag, all these images came back to me like it just happened yesterday. I remember every single word of his that night so clearly.

On Friday night we left for Bangkok. On the road, I was questioned very carefully at the checkpoint. First they asked me if I spoke Thai. I said no. And then I handed them my American passport. They carefully checked it for discrepancies in the picture. They came toward me, looking so closely at my face, even though the driver had turned on the lights. They probably thought I was a refugee.

March 12: Today, in Washington, I received a fax from Site 2. More than 1,500 refugees at Site 2 have taken the class that began with only 30 people. I am deeply pleased. Now is the time—while they are still in the camps, before they make the dangerous journey home—for my people to learn about their human rights. I feel that this knowledge will be the best way to ensure that the UN-monitored elections in Cambodia will be real—the votes of people who understand their rights and responsibilities, their ownership of their own land.

IMPORT TARIFF REDUCTIONS IN THE GLASSWARE INDUSTRY

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. LONG. Mr. Speaker, I comment for the RECORD today to bring attention to the important issue of import tariff reductions in the glassware industry under heading 7013 of the Harmonized Tariff Schedules of the United States [HTS]. A reduction of tariffs on foreign glassware coming into the United States will reduce our ability to compete in this market and will result in further plant closures and lost jobs in this industry.

In this regard, today, MARCY KAPTUR, several colleagues, and I are sending a letter to U.S. Trade Representative Clara Hills regarding this matter. I have taken the liberty of inserting the letter in the RECORD for the benefit of my colleagues and others who are interested in this issue.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 12, 1992.

Re need to exclude U.S. glassware imports from the exercise to reduce peak tariffs in the Uruguay Round.

Hon. CARLA A. HILLS,
U.S. Trade Representatives, Office of the U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR HILLS: We write to ask that any approach for addressing the "tariff peak" issue in the Uruguay Round exclude glassware articles under heading 7013 of the Harmonized Tariff Schedules of the United States (HTS). One recent press account indicates U.S. willingness to cut all rates over twenty percent by one-third in response to requests from the EC.

The U.S. glassware industry would be seriously impacted if you were to agree to an across-the-board cut of tariff peaks. You have already received extensive evidence of the high import sensitivity of the U.S. glassware sector, and requests for retention of glassware duties, from Members of the Senate and House, glassware producers, and glass workers. At present tariff rates, U.S. glassware producers and workers face significant and growing import competition and shrinking market share. While imports from traditional source grow, new countries become significant exporters to the United States each year. Glassware import penetration exceeds levels facing other import sensitive sectors. Scores of glassware plants have closed in the past decade and thousands of jobs have been lost. Exclusion of import sensitive glassware from duty elimination under the Generalized System of Preferences (19 U.S.C. 2463(c)(1)(F)) serves to highlight the special sensitivity of this sector.

The relatively-high tariff ("peaks") on certain HTS 7013 articles also reflect the sector's special sensitivity. The peaks apply only to the lower-value glassware imports. Imports in the tariff-peak, lower-value ranges are the ones most directly competitive with glassware mass produced by the major U.S. manufacturers. More than one-half of the volume of glassware imports under HTS 7013 are lower-value articles subject to duty rates over 20 percent. These are the imports which, notwithstanding present tariff rates, have played the greatest role in disrupting the market and displacing U.S. operations and workers. Although existing tariff rates have not inhibited increases in lower-unit-value imports, cuts of the HTS 7013 peak tariffs will seriously injure the U.S. industry. Please do not permit that result.

The EC's attack on glassware "peaks" ignores the differences between the goals and evolution of the U.S. and EC schedules and the de facto similarity of the two schedules on a trade-weighted basis. Whereas the consolidation of several countries in the EC's unified schedule has flattened its schedule and resulted in an across-the-board EC rate on glassware of 12%, U.S. tariffs under HTS 7013 range from 6% to 38%, the lower rates applying to the less sensitve import categories and the higher rates applying to the most import sensitive categories. Under the more customized and rational U.S. schedule, glassware tariffs on a trade-weighted basis are only one or two percentage points above the EC's 12% rate. Consequently, the EC focus on "peaks" in isolation is distortive.

The overall goal of the Round is to reduce tariffs by one-third on a trade-weighted basis. To apply the one-third goal to these sensitive articles is both unnecessary to achieving the goal and inconsistent with preserving glassware within the U.S. manufacturing and employment bases. Formula cuts of peaks would also be inconsistent with the sector-specific interests sought to be served by U.S. insistence on a "request-offer" approach. Certainly the Round's general goal to reduce peaks does not oblige the United States to make equal cuts of all peaks. Glassware should be excepted.

Significantly, this is not the only initiative for elimination or reduction of tariffs confronting the glassware sector. Although U.S. glassware producers and workers have requested exclusion from duty elimination under the North American Free Trade Agreement (NAFTA), to date, exclusions have not been among the options our negotiators have been willing to consider. The industry has also been confronted in the past five years with a continuous stream of petitions requesting duty free treatment under the Generalized System of Preferences for all HTS 7013 glassware.

Finally, the EC has put forward de minimis offers in many areas of the Uruguay Round. The United States has compromised on many issues in an effort to obtain a final package. There is simply no need for the United States to cede to yet another EC demand by agreeing to significant cuts of glassware tariffs as part of a "peak" cutting exercise.

Please let us know if there are any aspects of this discussion about which we may offer further information.

Sincerely,

Marcy Kaptur, Joseph M. Gaydos, Andrew Jacobs, Jr., Clarence E. Miller, Austin J. Murphy, Dan Burton, Edolphus Towns, Helen Delich Bentley, Jill L. Long, J. Bennett Johnston, Dale Bumpers, John Glenn, Howard M. Metzenbaum, John D. Rockefeller, Paul Simon, John B. Breaux.

A TRIBUTE TO THE BARSTOW POLICE RESERVE ORGANIZATION

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding public service of the Barstow Police Reserve Service Organization of Barstow, CA. The organization, former police chief H.O. "Sonny" Davis, and the present chief of police, Robert A. Sessions, will be recognized at this ceremony commemorating the organization's 25th anniversary.

The reserve organization was given its roots and formally recognized as a voluntary association by the Barstow City Council through the guidance of H.O. "Sonny" Davis. Today, the organization is led by Chief Sessions.

Over these 25 years, the organization's 85 members have provided more than 80,000 hours of dedicated, professional service to the city of Barstow with no pay. In the field, the reserves have worked side-by-side with regular officers, stood as sentries at crime scenes, stood shoulder to shoulder and perused the desert in search of evidence in homicide cases, and answered numerous calls for help in searching for lost children.

Presently, 400 hours of classroom instruction, 200 hours of field training, and annual updates in all phases of law enforcement are required for those participating in the organization. As law enforcement has changed, so too have the requirements for serving in the organization, requiring members to meet the expectations of law enforcement officers.

Like police officers, members of the police reserve put their lives on the line through their service. On March 15, 1977, Reserve Officer Virgil McGlothlin was critically wounded in a shooting incident but fortunately, recovered and continued to serve for many years. It is not uncommon for reserve officers to experience many of the bumps and bruises associated with preserving peace but overall the organization maintains an excellent safety record.

The Barstow Police Reserve Organization has participated in community events sponsored by the city of Barstow and the Barstow Police Department. The police reserves demonstrate their organization's high values by helping with the DARE Program Kid Print, and Law Appreciation Days. Active recruiting programs are on-going at the Barstow Community College.

Mr. Speaker, each member, past and present, holds a common bond as Barstow Reserve Police Officer. Please join me, our colleagues, and our good friends in Barstow in praising the outstanding work of this fine organization, its 25 years of service, and the many people who have contributed their talent and energy over the years to make the Barstow Police Reserve Organization such a wonderful success.

CONGRATULATING YOUTH EXCHANGING WITH SENIORS IN BECOMING THE 775TH DAILY POINT OF LIGHT

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. COMBEST. Mr. Speaker, I would like to take this opportunity to congratulate the Youth Exchanging with Seniors [Y.E.S.] project for being recognized by the President as the

775th Daily Point of Light. As you know, the President names daily points of light 6 days a week to recognize those who have successfully addressed compelling social problems through acts of community service.

The Y.E.S. project, which was launched 2 years ago, pairs senior citizens with students in my congressional district. The students perform tasks for the senior citizens, such as running errands and helping with home upkeep, which in turn enables the seniors to maintain and increase their independent lifestyles. At the same time, the students receive guidance from their elder friends in setting personal goals and are able to learn from their life experiences.

Narrowing this generation gap has proven to be a tremendous success in west Texas. To date, 250 students have devoted over 2,500 volunteer hours to assisting more than 200 seniors citizens in their communities. I salute all those who have devoted their time and energy to this valuable undertaking, and wish the Y.E.S. project continued success.

THE FOREIGN AID REFORM ACT OF 1992

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. TORRICELLI. Mr. Speaker, today I am introducing the Foreign Aid Reform Act of 1992 [FARA]. This bill is virtually identical to the so-called cash transfer provision that I have successfully amended to the foreign aid authorization bill for the past three Congresses. This provision was passed by the Foreign Affairs Committee and the entire House three times and was included in the conference report of the foreign aid bill last year.

The cash transfer provision ensures that foreign recipients of U.S. cash aid purchase exclusively U.S. goods and services and ship 50 percent of those goods and services on U.S.-flagged vessels. It also requires a General Accounting Office [GAO] audit authority over all cash transfers.

The provision gives the President waiver authority if it is in the national interest to do so. It exempts from its requirements poorer nations that receive less than $25 million in assistance. It also exempts Israel because of a separate side letter agreement between that country and the United States.

Unfortunately, for various reasons, Congress has been unable to pass a foreign aid authorization bill since 1985. Thus, passage of this measure as an individual bill is that much more urgent, since it would ensure that U.S. foreign cash aid does not have the effect of enabling recipient countries to buy products from our economic competitors.

In fact, the current cash transfer program is inadequate because: It allows recipients absolute freedom to buy foreign goods with U.S. dollars; lacks controls and effective U.S. audit trails; provides no tangible evidence of U.S. aid in the recipient nation; and ignores the U.S. trade deficit, budget deficit, and nationwide crisis facing American farmers and America's maritime industry.

It is absurd that we provide more than $3 billion in cash aid over which we simply have no control. Indeed, recipients of United States cash aid, funded by American taxpayers, can turn around and purchase Japanese tractors or German computers. Our cash aid program operates, in essence, as a subsidy program for foreign goods.

In an ideal world, poor countries would be assisted, with no restrictions, by their wealthier friends. But in reality, the foreign aid programs of our agricultural and industrial competitors are highly tied, formally and informally, to procurement in the donor country.

No other country operates as liberal a foreign aid program as the United States. Take Japan for instance. They have a clear policy that defines their foreign aid program on how it can best serve the national industrial and economic interests. In fact, the private sector plays a key role in coordinating foreign aid with the Japanese Government.

It is logical that when the purchase of goods is made possible by foreign aid, those goods should be shipped on U.S.-flagged vessels. It's important to recall that this means only 50 percent—the rest can be shipped on non-U.S. vessels, and cargo preference was the normal procedure in the days when the United States provided foreign aid in the form of commodities, not cash.

The U.S. merchant marine is in serious straights. Forty years ago, there were 2,000 U.S.-flagged vessels. Today, there are a little more than 350. Forty years ago, 65 percent of U.S. waterborne commerce was carried by U.S.-flagged ships. Today, that figure is at 4 or 5 percent.

In fact, U.S.-flagged vessels transported only about 4 percent of total U.S. agricultural exports in 1991. Again, in an ideal world no one would subsidize shipping. But in the real world, our industrial competitors do just that. Furthermore, the national security implications of allowing the U.S.-flagged fleet to contract even further are enormous.

The age of foreign aid as charity is over. American economic power has ceded to a $4 trillion debt and a $175 billion trade deficit. Foreign aid must begin to provide America with greater economic benefits. Every other major foreign aid provider requires recipient nations to bring benefits back home.

With the entire foreign aid program under attack, we simply can no longer afford this level of generosity. We must insist that recipients of U.S. aid give something back to America: that they at least buy American. I urge my colleagues to cosponsor the Foreign Aid Reform Act of 1992.

HONORING THE FREE SYNAGOGUE OF FLUSHING AND RABBI CHARLES G. AGIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to recognize the unique role of the Free Synagogue of Flushing and its rabbi, Dr. Charles G. Agin, in the lives of the Jewish families in North Queens on the occasion of the synagogue's 75th anniversary.

Founded in 1917 by the Hebrew Women's Aid Society, the Free Synagogue of Flushing derived its inspiration from the philosophy of Rabbi Stephen S. Wise, the founder of the Free Synagogue of Manhattan. Rabbi Sidney Goldstein, one of the dearest associates of Rabbi Wise, became the founding spiritual leader of the new congregation.

From its inception, the Free Synagogue has been dedicated to the cultural and intellectual growth of its members and their neighbors. Its religious school and communal activities have focused consistently on the the brotherhood of man. One of the synagogue's most outstanding rabbis, Bernard Cantor was martyred while distributing food, clothing, and medical supplies in Eastern Europe.

For the past six decades, two exceptionally gifted rabbis have led the Free Synagogue into the modern era. The first, Rabbi Max Meyer, guided the congregation for forty years. His devotion and sacrifice are eternally commemorated in the religious school that was dedicated in his honor in 1964. In this institution of learning thousands of young people have prepared for their bar and bat mitzvah, studying Hebrew, history, music, culture, and ethics. Their elders attend stimulating classes on subjects ranging from Hebrew and music to bioethics.

Rabbi Meyer's protege and dear friend, Rabbi Dr. Charles G. Agin, is the Free Synagogue's dynamic and compassionate leader. Dr. Agin began his tenure in 1958 as assistant to Rabbi Meyer and succeeded him to the pulpit. Since his arrival, he has been an outstanding advocate of liberal Judaism and all that it embodies. He gentle guidance touches every area of synagogue life from religious education and family counseling to community outreach. Rabbi Agin's support plays an integral role in the success of the Brotherhood, Sisterhood, Youth Groups, Golden Age Club, and the "Chai Chevrah." His inspiration encourages members to face pressing societal issues and interact with Flushing's multicultural and multiracial community as it moves into the twenty-first century.

Cantor Steven Pearlstein is a fitting successor to the distinguished line of liturgist and musicologists who have served the Free Synagogue for the past three quarters of a century. In addition to performing with the New York Philharmonic and at Alice Tully Hally, Cantor Pearlstein has sung with the Washington, DC Civic Opera, the Central City—Colorado—Opera, and the Aspen Music Festival.

Throughout its history the synagogue has been blessed by devoted officers and members. Their commitment to the congregation and to American and world Jewry have earned the Free Synagogue the highest plaudits of the Union of American Hebrew Congregations.

I ask my colleagues in the House to join me in wishing mazel tov to Rabbi Agin; to Cantor Pearlstein; to Linda Stone, president of the congregation; to Ira Josephs, president of the brotherhood; and to Lorraine Simon, president of the sisterhood.

CASH MANAGEMENT IMPROVEMENT ACT DELAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. HORTON. Mr. Speaker, following lengthy discussions with State officials who are trying desperately to comply with the coming effective date for the Cash Management Improvement Act of 1990, I have, along with Government Operations Committee Chairman JOHN CONYERS, introduced H.R. 5377, to delay the implementation of that Act.

The Cash Management Improvement Act [CMIA] was passed overwhelmingly 2 years ago with bipartisan support. Its purpose was simple; ensure greater efficiency in the transfer of funds between the Federal and State governments. Under the Act, the incentive for one level of government to benefit from holding the other's funds is gone. If State governments request Federal funds early, they pay the Treasury interest. If the Federal Government is late in getting payments out to the States, the Treasury will owe the State interest.

Before passage of the CMIA, the Federal Government was collecting interest from States on a variety of programs, while the Federal Government was prohibited by law from paying interest to States. By requiring the Federal Government to pay the States interest on delayed funds, the legislation puts States on an even footing with the Federal Government.

The concerns of the State officials are that the effective date of the act is October 24, 1992, but the U.S. Department of the Treasury will not have finalized their regulations until mid-August. Under current law, States would be given only about 2 months to negotiate payment agreements with Treasury, train their personnel and otherwise implement the agreement. With most State legislatures already out of session, few can enact the statutes necessary to prepare for the new Federal requirements.

H.R. 5377 extends the effective date of the CMIA from October 24, 1992, to July 1, 1993, or the first day of a State's fiscal year beginning in 1993, whichever is later. States would then have nearly 9 months to amend their financial practices in accordance with this law. With bipartisan support, this legislation could speed its way through Congress and reach the President's desk in time to provide State governments with much needed relief.

I encourage all Members to support H.R. 5377.

WAVES CELEBRATES 50TH ANNIVERSARY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. SLAUGHTER. Mr. Speaker, it is my honor today to pay special tribute to WAVES, "Women Accepted for Volunteer Emergency Service, on the 50th anniversary of its incorporation. WAVES brings together all former, retired, and present Navy women, promotes the Navy and Navy women, serves women veterans, and supports the traditions and history of the women of the U.S. Navy.

During World War I, while the Army remained committed to its prohibition against enlisted women, the Navy Department took advantage of the skills women offered by signing up 13,000 women into the Navy and the Marine Corps.

World War II marked a turning point in the history of women in the military. On July 30, 1942, Congress enacted legislation establishing a Women's Reserve for duty with the U.S. Navy stateside, and on August 3, 1942, WAVES was established. Women have continued to make invaluable contributions to the U.S. military ever since.

The Department of Veterans Affairs estimates that women veterans total more than 1.2 million in this country, representing 4.2 percent of the total veteran population. Women have served in and with the military services since our country was founded. As medics, mechanics, postal workers, clerks, cooks, or MP's, women have contributed and continue to contribute mightily to our national defense in times of both war and peace. The contributions of servicewomen to our Armed Forces are readily apparent in our recent conflict with Iraq as these women filled vital support and resupplying roles for our advancing troops. Women veterans have served proudly in nearly every U.S. military action risking their lives in the service of their country.

I am proud to have the Finger Lakes Unit No. 49 of WAVES National, with members from Seneca Falls, Hamlin, Batavia, Geneva, and other surrounding Rochester towns, as an active organization in my district. Our local unit carries out national programs with special emphasis on service to women veterans in VA hospitals, at home, and in nursing homes; supports recruitment of young women into the Navy through the Delayed Entry Program; contributes funds to the Fleet Reserve Association Recruiter of the Year Program; and supports the Institute of Logopedics for Special Children.

I am happy to offer my congratulations to WAVES on their 50th anniversary and my strong support for the important work they do recognizing and promoting the valuable service of women veterans.

PENNY INTRODUCES BILL TO RESCIND SUPERCOMPUTER PORKBARREL

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. PENNY. Mr. Speaker, with our colleagues HARRIS FAWELL, JIM JONTZ, CASS BALLENGER, JAN MEYERS, BILL ZELIFF, AND FRED UPTON, I am introducing legislation to rescind the fiscal year 1992 appropriation for the supercomputer at the University of Alaska.

Specifically, the fiscal year 1992 Department of Defense Appropriations Act contained a $25 million earmark for the Arctic region supercomputer at the University of Alaska. What started out as a project investigating the upper atmosphere and its effect on radio waves, has through the miracle of porkbarreling, become a project to harness the energy of the aurora borealis and bring it to the ground to be made available for energy needs.

Practically no one—except the authors of the provisions—believe scientists are anywhere near the point of being able to harness the aurora borealis. In a Washington Post Magazine article late last year, Professor Wong, one of the scientists involved in this research, was quoted as saying "Professor Akaasofu, the director of the Geophysical Institute at the University of Alaska and myself have never claimed it was a way of taking energy to the ground." More recently, Newsweek labeled this project a prime example of what they called "rotten pork."

Because he was opposed to this earmark and other academic porkbarrel projects in the fiscal year 1992 Defense appropriations bill, Senator SAM NUNN opposed the bill's passage. Senator NUNN told the Senate that "Evidently these project are of such questionable value that the bill has to exempt these projects from any form of competition or merit review in order to assure their funding." Other critics in the Defense and Energy Departments and NASA have repeatedly raised serious reservations about the aurora borealis project that have mostly gone unanswered.

Because these funds will soon be released despite the well-founded concerns expressed by the scientific community and here in Congress, it is vital the Congress act quickly before the money is spent on this porkbarrel project. I am attaching, Mr. Speaker, many letters and supporting documentation on why this money should not be spent. I urge my colleagues to join me to end this unnecessary porkbarrel spending.

H.R. 5403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESCISSION.

(a) FINDINGS.—The Congress finds that—

(1) the amount listed in subsection (b) is set aside for the Arctic Region Supercomputing Center; and

(2) such amount was—

(A) not authorized;

(B) not awarded on a competitive basis; and

(C) not the subject of a congressional committee or subcommittee authorization hearing.

(b) RESCISSION.—There is hereby rescinded—

(1) $25,000,000, which was set aside or otherwise made available for the Arctic Region Supercomputing Center under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES" under title IV of the Department of Defense Appropriations Act, 1992 (Public Law 102-172; 105 Stat. 1166); and

(2) the underlying appropriation for such amount.

AMERICAN PHYSICAL SOCIETY,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC, April 30, 1992.

Hon. TIMOTHY J. PENNY,
Member of Congress, Washington, DC.

DEAR MR. PENNY: I am responding to your letter requesting my personal opinion of the feasibility of the project at the University of Alaska to harness the energy of the aurora borealis.

The concept of extracting usable energy from the aurora is totally wacky. It will not happen on any time scale. Indeed, the researchers at the University of Alaska never had any intention of seeking ways to extract energy. The $50 million or so devoted to this program so far supports basic research of such low priority that it had no prospects of funding under any sort competitive peer review.

I do not know whether Senator Stevens was deliberately misled about the objectives of the research, misunderstood what he was told, or simply dreamed up the whole thing. The important thing is that this sort of waste is the inevitable consequence of a system that allows funds to be earmarked for research projects in the absence of merit review by qualified and disinterested experts. Congress may choose not to take the advice of the experts, but it should at least be aware of what that advice is.

If the United States is to keep pace with the explosive worldwide growth of science and technology in a period of tight funding, we must set our research priorities wisely. I wish you success in your efforts to rescind funding for the aurora project.

Sincerely,

ROBERT L. PARK.

ASSOCIATION OF AMERICAN UNIVERSITIES,
April 23, 1992.

Hon. TIMOTHY J. PENNY,
House of Representatives, Washington, DC.

DEAR MR. PENNY: Please excuse the delay in replying to your letter of April 14, 1992. Our annual spring membership meeting put a number of things on hold for a while.

I was pleased to learn that you are concerned about the $25-million University of Alaska project. Since I am not a scientist, I don't have a competent judgment to offer about the scientific merits of the project. I can report that what I have heard from people who are competent to judge is that the project would not have survived a competitive review on its merits of the kind that scientific projects normally undergo.

That is, of course, precisely the point. All we have in support of this large expenditure is the testimony of the project's proponents from the university and from Senator Stevens. With all respect to all of them, that should not be sufficient. Any process for allocating scientific funds that does not include a serious, competent, and objective evaluation of the quality of the science is going to result in lower-quality science overall. The public should not be asked to support less than the best science available; the substitution of political clout for serious evaluation makes that result inevitable. Good luck in your efforts.

Sincerely,

ROBERT M. ROSENZWEIG.

WATCHDOGS ROAST CONGRESSIONAL PORK

(By Dana Priest)

Millions of dollars worth of Washington pork was thrown into the frying pan yesterday by a watchdog group that did its shopping in Congress' 13 appropriation bills for 1992.

At a National Press Club news conference featuring two live and hungry pot-belly pigs, the Council for Citizens Against Government Waste released its second "Congressional Pig Book," which details 59 projects it believes epitomize government waste.

The featured projects included:

$25 million for an arctic region supercomputer for the University of Alaska to try to capture energy from the aurora borealis "courtesy of ranking minority member of the Senate Appropriations subcommittee on defense, Sen. Ted Stevens (R-Alaska)."

$2.7 million for the Abraham Lincoln Research and Interpretive Center in Springfield, Ill., "courtesy of Rep. Richard J. Durbin (D-Ill.)."

$2.5 million in the transportation bill to construct bicycle paths in affluent North Miami Beach, "home of appropriator Rep. William Lehman (D-Fla.)."

$1.5 million added to the Veterans Affairs and Housing and Urban Development bill for acquisition and renovation of theater space located in the district of Rep. Bill Green (R-N.Y.), ranking minority member of the House Appropriations VA-HUD subcommittee.

$1 million to rehabilitate the Pease Auditorium, a historic building in Ypsilanti, Mich., home state of House Appropriations VA-HUD subcommittee Chairman Bob Traxler (D-Mich.).

The council also named Sen. Robert C. Byrd (D-W.Va.), chairman of the Senate Appropriations Committee, as this year's "Pork King" for his success in getting $510.8 million in special projects and earmarked funds for his state.

"I don't care if you make $1 million a year or $1, no one deserves to have their taxes raised while there is this much government waste," said Thomas A. Schatz, the council's acting president.

Pork barrel projects were recognized according to seven criteria, including whether the appropriation was authorized by Congress, whether it relates to the act or law under which is was funded, whether it is of primarily local interest, whether it was awarded without investigating competitive alternatives and whether the expenditure was added to a bill in conference, a notorious place for deal-making.

Because there is so much pork to choose from, the council tried to be nonpartisan and to point fingers across the country. "The beauty of pork is that everyone gets some," said council spokeswoman Leslie K. Paige.

Legislation that would take back unspent 1992 pork barrel funds, using criteria similar to the council's, is expected to be introduced in the House and Senate next week.

The council also found millions of tax dollars appropriated for research grants on a non-competitive basis. Among them:

$210,000 for fish-marketing in Oregon and Rhode Island.

$393,000 for a food market policy center in Connecticut.

$75,000 for grasshopper biocontrol in North Dakota.

MINNESOTA LAWMAKER TRIES TO KILL $25 MILLION UAF SUPERCOMPUTER

(By Brigid Schulte)

WASHINGTON.—A lone congressman from Minnesota, armed with letters from prominent physicists, is starting a crusade to kill the $25 million supercomputer destined for the University of Alaska Fairbanks.

It is a project he calls porkbarrel spending at its worst.

"This is as clear an example of pork as you can find in the budget," Rep. Timothy Penny, a five-term Democrat from Minnesota, said in an interview. "No department or agency requested this. There was no competitive process in terms of awarding this grant. Nobody in the scientific community seems to speak to the merits. . . . And there's really no discernible national need for it."

Sen. Ted Stevens, R-Alaska, secured the $25 million for the supercomputer. Almost two years ago, he began extolling its virtues as a tool for tapping the energy of the aurora borealis, among other scientific projects.

"It is my dream that we might someday be able to utilize the electrojet for the purpose of providing energy to the northern hemisphere." Stevens said in an interview with Alaska reporters in 1990. "It's pollution-free, inexhaustible and we ought to pursue it to the 'nth' degree."

However, leading physicists have scoffed at the idea. And a spokesman for the University of Alaska Fairbanks said last week that the supercomputer is being sought for reasons other than harnessing energy from the aurora.

Luis Proenza, UAF vice chancellor for research, said the computer would be used for strategic environmental research, especially global climate change. Nowhere, he said, has any scientist mentioned harnessing energy as justification for the coveted machine.

"I certainly don't think that it is the rationale that Sen. Stevens used," Proenza said.

"There's a lot of misunderstanding," Proenza said. "Let's just say it's wasted a lot of time."

Stevens did not return several phone calls last week.

Rescinding the supercomputer project is included as one of 460 projects in Rep. Penny's "Pork Buster's Bill." But Penny said he is so outraged at the project that he plans to push a separate bill through the House this summer—just to force members to vote on it.

"I want to get the House on record opposing this," Penny said. "I think the public mood for the first time in years is strongly supportive of those of us who want to cut spending. The old rules of bringing home the bacon no longer apply."

INTRODUCTION OF LEGISLATION TO REFORM THE WELFARE SYSTEM

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. CUNNINGHAM. Mr. Speaker, I feel that our current welfare system is a major contributing factor to the strife in this country. For this reason, I will soon introduce legislation to reform our welfare system.

Nearly three decades have passed since President Johnson launched his "unconditional war on poverty in America." Despite the enormous financial and political resources which have been committed, welfare dependency is at the highest level ever. In many respects the condition of the poor is worse than it has ever been.

The problems facing the poor today, however, have less to do with low material living standards and more to do with the collapse of the traditional family unit. Welfare, most analysts now agree, has discouraged family formation and work ethic.

It is then our responsibility in Congress to amend this faulty system and restore pride to welfare recipients.

Under the guidance of my bill, States would set up programs which would require welfare recipients who do not have pre-school-aged children, and those who have been on welfare for more than 7 years to work 30 hours a week. Hours spent in job-training would be deducted from the required work hours.

At a time when State budgets are pinched, welfare recipients can provide the needed work force, and at the same time gain valuable work experience and training. By becoming a productive member of the labor force, welfare recipients can more easily make the transition to a permanent job.

It is clear that the American taxpayer is frustrated with the current system and there is good reason for this public hostility. In 1991 alone, the Federal Government spent $140 billion on a range of welfare programs. State spending on welfare has grown even faster. From 1980 to 1988, Federal outlays for all programs rose from $48.7 billion to $74.1 billion. State spending during the same period mushroomed from $23.3 billion to $46.2 billion.

I feel that my legislation offers welfare dependent individuals the opportunity to become productive members of the working society, renew their self-esteem, and eventually serve as a catalyst from welfare dependency to self-sufficiency.

I invite my colleagues to join me as cosponsors of this legislation.

TRIBUTE TO WALLACE COULTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the outstanding service rendered to the community of Miami, and the tremendous contribution to the health care of the Nation by Wallace H. Coulter.

Wallace Coulter is the founder of Coulter Corp., of Miami, one of the leading medical instrument companies in the world. The family owned firm, which started in Wallace Coulter's basement 40 years ago, has been built on innovation and research. The product developed in the basement laboratory was the first automatic blood analysis machine. The machine counts blood cells automatically, replacing the method of counting cells manually under a microscope. As a result of its emphasis on developing technology, the company has grown to 2,500 employees in Dade County, and over 5,000 worldwide. The company, under the leadership of Wallace's brother, Joseph Coulter, spends 15 percent of its revenues on research and development. That is twice the rate for the scientific instruments industry, and three times the average for U.S. industry as a whole.

Coulter Corp.'s emphasis on research led it to launch an immunology division 10 years ago. The division was designed to use the company's experience in testing blood to discover ways to detect and prevent diseases. Today, the company's best selling products are tests to detect the presence of the AIDS virus by measuring its impact on components of the blood. The company is working on a test to detect the AIDS virus directly.

Coulter Corp., not only provides valuable technical jobs for south Florida, but provides other support for the community and the Nation. The company backs the Center for Health Technology, an incubator of start-up biotechnology companies. It has recently funded a fellowship in immunopathology at the University of Miami Medical School, and it is providing, at cost, antibodies for clinical trials on children with brain tumors.

Mr. Speaker, I commend the spirit of community service and the entrepreneurial dedication to new technology of the Coulter family and Coulter Corp. With more companies following Coulter's example, the United States would not need to worry about competitors in the global economy.

PYA HONORS THREE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. MRAZEK. Mr. Speaker, I rise today to honor Port Washington Youth Activities, Inc. [PYA]. The goal of PYA is to encourage all children to grow and learn through atheltic participation in a variety of sports. The organization provides over 51,000 child/program hours during the year in two dozen programs including Little League Baseball, basketball, lacrosse, swimming, football, wrestling, and tennis.

This year, PYA is honoring three special people who have helped to make these programs s success.

William Cronin is being honored for an outstanding athletic career which started in PYA. He played varsity basketball, lacrosse, and football at Port Washington's Paul D. Schreiber High School, achieving all division honors in lacrosse, as well as, all county, all Long Island, and all American honors in football. At Princeton University, he played varsity basketball for 1 year and varsity lacrosse and varsity football for 3 years. He was the captain of the football team. He received all Ivy honors in both football and lacrosse, and made honorable mention on the all East football team.

Martin J. Rybecky is being recognized for his substantial contributions to the youth of Port Washington as an active member of the PYA board of directors for 13 years, President for 4 years, and vice president for 2 years. He was a coach in Little League Baseball program for 14 years and served 2 years as commissioner. In addition, he coached for 2 years in the basketball program and was commissioner for 6 years.

Peter Van Dusen is being honored posthumously for his dedication to PYA, where he was an active member of the board of directors for 9 years, president for 2 years, and vice president for 2 years. He showed the love for the athletics and the youth of Port Washington through his 9 years as coach of the football program and the lacrosse program. He was the commissioner of lacrosse program for 3 years and he also took part in the wrestling and judo programs.

Mr. Speaker, I know that my colleagues will want to join me as I congratulate these three men and the PYA on their achievements and dedication to the goals of sportsmanship.

TRIBUTE TO DAVID B. MULHOLLAND

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mrs. KENNELLY. Mr. Speaker, I rise today to honor an outstanding educator, Mr. David B. Mulholland of Tolland, CT, who is retiring this June. During his 35 years with the Hartford school system, Mr. Mulholland has distinguished himself as a teacher, a vice principal, a principal, but most importantly, as a friend. That friendship is reflected in the operation of the Parkville Community School where he has worked for the past 23 years.

Mr. Mulholland's contributions to the Parkville Community School have been immeasurable. During his career he focused on proactive ways to strengthen the institution and to link it more closely with the neighborhood. He worked to make his philosophy a part of the Parkville Community School even before it was built. It was founded on the community concept and the building was designed to include a senior center, a public library branch, and a day care center for the neighborhood, and space for city recreation programs.

David believes strongly in education. He was a member of the curriculum development team, of the Hartford public school system, and a consultant for the Connecticut School for Boys in Meriden. On his own time he developed reading materials for children who found reading difficult. His work was later published by the Hartford Board of Education.

Throughout his tenure, Dave strove to attain excellence in education by introducing and encouraging the arts. Theater groups, and music ensembles were brought into the new Parkville neighborhood school to expose the children to the arts. His dedicated and committment to his staff, his students, and his neighbors has been a true asset to the school and community at large.

David's activities go beyond his duties as a principal. He is recognized and respeced as a true union activist for the Hartford Principals' and Supervisors' Associated, the Connecticut Federation of School Administrators, the American Federation of School Administrators, and the Hartford Federation of Teachers. He has served in various positions of leadership in numerous organizations such as the Great Hartford Labor Council, the Central Connecticut Federal Teachers' Credit Union, the Tolland town committee, and many others.

As a friend, I can attest to his warmth and generosity. He is a man who is greatly respected in the community, a man whose dedication reaches far beyond the Parkville school to all those who seek his counsel and goodness.

Mr. Speaker, I ask all my colleagues to join me in applauding Mr. Mulholland's accomplishments and wish him the very best for a wonderful retirement.

EVEN FURTHER TRUTH ABOUT PRORATIONING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. SCHEUER. Mr. Speaker, over the last couple of days I have discussed the real motives behind State natural gas prorationing. I presented the views of energy officials and both trade press and producing State reporters. Today, I will focus briefly on the views of natural gas producers.

Raymond Plank, chairman and chief executive officer of the Apache Corp., suggested that long term goals for the gas industry should include supply assurance at a sufficient price, for risk-taking producers to invest to replace reserves and removal of some of the price volatility and the present inequities of unrestricted field and well allowables through improved prorationing measures in each producing State.

J.E. Roberts, senior vice president for exploration and production of ORYX Energy Co., writing about the Oklahoma natural gas prorationing rules, said: "Proponents of this bill are seeking a means to raise the price of natural gas." I think Mr. Roberts may have hit it right on the nose.

When the House passed the Markey-Scheuer amendment, it did the right thing.

A TRIBUTE TO NEW HAMPSHIRE'S MARY CHAMBERS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. SWETT. Mr. Speaker, I rise to pay tribute to the New Hampshire State Representative Mary P. Chambers, who is being honored this week at the annual Jefferson-Jackson dinner in Manchester, NH, for her many years of outstanding service to the State of New Hampshire and the Democratic Party. Mary has been a devoted public servant for the last 20 years, and this award is truly well-deserved.

For the last 8 years, Mary has served as the Democratic leader of New Hampshire's State House. She is currently serving her 10th term in the New Hampshire House of Representatives. This will be her last term of office since she has decided not to seek reelection.

Mr. Speaker, New Hampshire, while certainly not one of the more populated States in our country, in fact has the largest State legislature in our country. Perhaps even more remarkable is that these 400 citizens work for a salary of only $100 per year. I think that my colleagues will agree that these New Hampshire State representatives deserve our respect and praise for their personal sacrifice and many hours of hard work.

Mary Chambers, one of these fine legislators, deserves very special recognition for her contributions and leadership. As with her colleagues, all of her time and all of her dedication has been compensated at that rate of only $100 a year. There are many who may seek public office, but far fewer truly seek public service. Mary Chambers is one of the few.

Born in Poca, WV, Mary started her career in public service as an elementary school teacher in the Putnam County school system in Winfield, WV. Over the years, she has touched the lives of many people. A foster parent of a disturbed child, a tutor for adults with learning problems, an advocate for quality education, a dedicated wife and mother—Mary Chambers served in all of these capacities before she ever ran for public office.

In the legislature, Representative Chambers has been a spokesperson for many who have no other voice. Mary has fought for the youngest and the oldest in our society, and for everyone between who may be in need of help. She has fought for the disabled and the disenfranchised. And, despite the odds, many of her battles have been won.

Mr. Speaker, I ask colleagues to join me and the thousands of people Mary P. Chambers has helped over the years in recognizing this truly extraordinary individual.

FREE TRADE IN IDEAS ACT OF 1992

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. BERMAN. Mr. Speaker, I am pleased to introduce today the Free Trade in Ideas Act of 1992, and to be joined in this by my colleagues, Mr. HAMILTON, Mr. MILLER of Washington, Mr. GEJDENSON, Mr. PANETTA, Mr. MILLER of California, Mr. GONZALEZ, Mr. CONYERS, Mr. FRANK, Mr. WEISS, Mr. MCCLOSKEY, Mr. LEVINE of California, Mr. WAXMAN, Mr. KOSTMAYER, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. MINETA, Mr. KOPETSKI, Mr. ATKINS, Mr. NAGLE, and Mr. RANGEL.

The purpose of this legislation is to protect the right of Americans to travel abroad and to exchange information and ideas with foreigners. This bill would amend the Trading With the Enemy Act and the International Emergency Economic Powers Act, to ensure that the President's power to regulate economic relations with foreign countries is not used to inhibit communication with the people of those countries. The fact that we disapprove of the government of a particular country ought not to inhibit our dialog with the people who suffer under those governments.

Bans on travel by U.S. citizens, and on other communicative activity, do not serve U.S. interests. Even at the height of the cold war, we did not prohibit travel to Eastern bloc countries. And when it came to other forms of communication, we positively promoted the exchange of literary and artistic work in an attempt to liberalize and open up the cultural and political climate in those countries. Recent events in the formerly Communist world suggest that contact with Americans and the exposure to American ideas were crucial to the momentous changes which are taking place there, to our great national advantage.

Moreover, consistent adherence to our own democratic principles is the surest way to promote our political values abroad. We are strongest and most influential when we embody the freedoms to which others aspire. There is a growing consensus that foreign policy goals should and can be pursued without infringing on the first amendment rights of Americans to impart and receive information and ideas. My amendment to the Omnibus Trade and Competitiveness Act of 1988 to allow the export and import of books and other informational materials, subject to protections for national security information, was enacted with bipartisan support in Congress, and with the imprimatur of the administration.

Nevertheless, the Treasury Department, which is charged with enforcement of this law, has attempted to interpret it so as to limit the exchange of public information between Americans and foreigners. Moreover, the administration continues to use its economic embargo authority to effectively prohibit travel by Americans, at their own expense, to certain countries.

I firmly believe that the rights of Americans to travel and to communicate are basic liberties that ought not to be infringed for anything less than compelling national purposes. The negligible amount of money spent by Americans traveling abroad, and the insignificant sums of money that may be realized by foreign governments from trade in books, works of art, and other informational materials, cannot be a valid reason for curtailing the rights of Americans, or for cutting off the flow of ideas to captive peoples who are starved of contact with the larger world of ideas and information.

I urge my colleagues to support this measure, and to ensure its swift approval by the House.

The provisions of the bill are summarized below:

SUMMARY OF THE BILL

SECTION 1. SHORT TITLE

Section 2. Exchange of Information and Related Transactions

Section 2 (a) amends the International Emergency Economic Powers Act (IEEPA) to prohibit restraints on exchanges of information or information materials.

Section 2 (b) amends the Export Administration Act of 1979 (EAA) to the same effect.

Section 2 continues the exception under current law to allow national security controls under Section 5 of the Export Administration Act.

This section is necessary to clarify the intent of Congress in adopting the Berman amendment to the Omnibus Trade and Competitiveness Act of 1988 (Section 2502 of Public Law 100-418) That provision provided protection from embargoes for materials protected by the First Amendment of the U.S. Constitution. The Executive branch has interpreted the 1988 provision narrowly, to exclude many informational and artistic materials. That has resulted in litigation, with results adverse to the Administration position. Nevertheless, delays resulting from attempts to restrict information exchanges have effectively prevented the free flow of information which was contemplated by the 1988 provision. Section 2 makes clear and explicit that all First Amendment protected materials and activities, including paintings, telecommunications, and travel necessary for trade in information, are within the ambit of the statute's protection.

SECTION 3. FREEDOM OF TRAVEL FOR U.S. CITIZENS.

Amends IEEPA and TWEA to ensure that U.S. citizens are not prevented from traveling abroad at their own expense. This section would not curtail the executive branch's power to restrict use of U.S. passports when travel to a particular country poses a danger to Americans.

SECTION 4. EDUCATIONAL, CULTURAL, AND SCIENTIFIC EXCHANGES.

Amends IEEPA and TWEA to prohibit restrictions on academic, cultural, and scientific exchanges, except to the extent that they might result in the evasion of national security controls under Section 5 of the Export Administration Act.

SECTION 5. ESTABLISHMENT OF NEWS BUREAUS.

Amends IEEPA and TWEA to ensure that bureaus of U.S. news organizations may be established in embargoed countries, and that foreign news organizations may establish news bureaus in the U.S.

SECTION 6. FOREIGN ASSISTANCE ACT OF 1961.

Amends the Foreign assistance act to ensure that it is not used to restrict the activities which are freed from restriction by Section 2 through 5 of this bill.

SECTION 7. UNITED NATIONS PARTICIPATION ACT.

Amends the U.N. Participation Act to ensure that it is not used to restrict activities which may not be restricted under the International Emergency Economic Powers Act (IEEPA), as amended by this bill.

SECTION 8. APPLICABILITY.

Provides that the protections established by this bill apply to embargoes currently in effect as well as to future embargoes.

In order to ensure that no prejudice results to the interests of American parties to disputes with the Cuban government over compensation for nationalized property, this section also provides that the amendments made by this bill do not alter the status of assets already blocked pursuant to the Trading With the Enemy Act, or the Foreign Assistance Act.

TRIBUTE TO DR. RAJENDRA PRASAD

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Dr. Rajendra Prasad, an outstanding citizen who is retiring from the San Mateo-Foster City School District after 24 years of dedicated service.

Dr. Prasad is to be commended for his many accomplishments as the deputy superintendent of the San Mateo-Foster City School District. In this role, Dr. Prasad has been largely responsible for the high quality of education in San Mateo and Foster City. Indeed, he has also been an inspirational leader for the students, teachers, and school administrators of his community.

In addition to his work as deputy superintendent, Dr. Prasad has served in a number of other professional capacities. He is the founding chairman of the First Indo-American Bank in San Francisco and serves as the chair of the advisory council of the India Studies Chair at the University of California at Berkeley. Dr. Prasad has been appointed to both the California State Commission on School Governance and Management and the National Council on Continuing Education. He also has been a principle organizer of fundraising events for candidates for State and national elected offices.

Mr. Speaker, it is with great pleasure that I rise to recognize Dr. Rajendra Prasad. His achievements are truly worthy of praise and I invite my colleagues to join me in congratulating Dr. Prasad.

A CONGRESSIONAL SALUTE TO MR. BRUCE HUME

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a remarkable man who had dedicated his life to helping others, Mr. Bruce Hume. Recently, Mr. Hume was honored by the Downey Rotary Club with the Community Volunteer Award. It is with great pleasure that I bring this man to your attention.

Mr. Hume is the individual most responsible for opening the doors of Rancho Los Amigos Medical Center to the community. Not only has Rancho Los Amigos in Downey, CA, been the recipient of his tireless devotion but, the patients and their families as well. Bruce began his association with the medical center as a clinical social worker and the ensuing years have witnessed his rise to assistant director and education coordinator of the social work department. Early in his career, Bruce realized that the little miracles necessary in a medical environment would not be possible without the support of the community. Under Bruce's expert guidance, the community of Downey responded with open arms and pockets to make the dream of Rancho Los Amigos come true.

In addition, Bruce's spirit of goodwill and volunteerism has inspired others to respond and embrace his worthy causes. Friends and family know that whenever there is a charitable event in the community, Bruce Hume will be present offering his time and leadership talents. His organizational skills have enhanced the Downey Rose Float Association and he has served as cochair of the Rancho Los Amigos Foundation Amistad Awards dinner dances. Mr. Hume is also a member of the Downey Chamber of Commerce, the Downey Civic Light Opera, and the National Association of Social Workers.

Mr. Hume's record of service to the community is admirable and his reputation is that of a caring, hard-working individual. He has been honored with the Joseph Dowling Award in 1984, the Department of Health Services "Being the Best" Award in 1987, and the USC School of Social Work Special Recognition Award in 1990. Bruce has received the National Association of Social Workers Conference Committee Award and the Amistad Recognition Award from Rancho Foundation.

Mr. Speaker, it is not often that a man of such stature is brought to my attention. Bruce's dedication to his community is commendable and the value of his services enrich and touch many lives.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Mr. Bruce Hume. We wish Bruce all the best in the years to come.

TRIBUTE TO THE CLEVELAND CLINIC FOUNDATION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Ms. OAKAR. Mr. Speaker, it is with great pride that I rise to commend the writers and editors of the June 15, 1992, edition of U.S., News & World Report for their excellent coverpiece, "America's Best Hospitals." I am delighted that this special article recognizes the Cleveland Clinic Foundation, in Cleveland, OH, as one of our Nation's 10 best hospitals.

It comes as no surprise to those of us who have long recognized that Cleveland, a city founded on the frontier of our new Nation, has remained on the frontier of many of the most important advances in medical science. The city's many fine hospitals, including our community hospitals, are all worthy of recognition. The people of Greater Cleveland know that they are blessed with several of the world's premier health care centers. It is no coincidence that nearly 24 percent of Cleveland jobs are in health-related fields.

In the June 15 edition, the Cleveland Clinic Foundation was named best in five special categories which include cardiology, gastroenterology, neurology, orthopedics, and urology. The Cleveland Clinic Foundation is a national and regional referral center composed of over 500 physicians practicing in a not-for-profit group practice setting. Under the fine leadership of Dr. Floyd Loop, the Cleveland Clinic has reached out to the residents of northeast Ohio as well. The Cleveland Clinic has been at the forefront of many of the advances in our Nation's health care system including implementation of less radical techniques to treat cancer of the breast to the development and refinement of coronary artery bypass surgery.

Mr. Speaker, this deserved recognition of the Cleveland Clinic Foundation as America's best is a tribute to the dedicated health care professionals and employees who serve all over northeast Ohio. It speaks directly to the work ethic, the care, and the compassion that makes Cleveland such a dynamic American city. This leading center of healing is representative of hospitals and clinics throughout the Greater Cleveland area. I congratulate them all on their fine service to their community and to our Nation.

THERE'S NO ACCOUNTING FOR CONGRESS

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1992

Mr. COX. Mr. Speaker, At a time when Congress is searching for ways to cut deficit spending, the $2.3 billion annual budget for Congress itself offers an excellent place to start.

The General Accounting Office, only one part of the massive complex of Congressional staff, costs taxpayers over one-half billion dollars each year. If has grown to be part of the problem rather than part of the solution.

The following article, which appears in the July 1992 issue of the American Spectator details why GAO budget cuts, and reforms must be made, and how Congress can accomplish a great deal of good by making them.

THERE'S NO ACCOUNTING FOR CONGRESS

(By Edward McFadden)

On Capital Hill, the General Accounting Office has become the legislative-branch franchise of Alice's Restaurant. According to Sen. Christopher Bond (R-Mo.), "With the GAO, you can get anything you want. And if you don't know what the recipe is, they will make that up for you too." Bond laments the passing of what was once an unbiased, independent auditing agency.

Rep. Christopher Cox (R-Cal.) is even more pointed. "The GAO doesn't give us anything a good accounting firm in the private sector couldn't give us for less," he says, "What we're talking about here is part of a shadow executive branch."

In the past ten years, the General Accounting Office has entered into a very comfortable arrangement with Democrats in Congress. A congressional watchdog has become a Democratic lapdog. In many ways, the GAO has become the largest and most influential disinformation outlet for Democrats in Washington, covering up serious problems such as the recent House Bank scandal. Press accounts present the agency as a nonpartisan, vigilant office full of men and women with green eyeshades, poring over budgets and expense accounts for waste or fraud and answering to no one. Maybe the picture fit twenty or thirty years ago, but no more.

The GAO was founded in 1921 to track and report federal expenditures for Congress. With the establishment of the Congressional Budget Office, the GAO's beat became sniffing out waste and fraud within the executive branch and—theoretically—Congress. It is now a $488-million, 5,000-employee bureaucracy with sixteen regional offices across the country and overseas; that excludes the more than 170 GAO staffers detailed to work for congressional committees at an annual cost of $4 million.

In the past two years, the GAO, led by Comptroller General Charles Bowsher, whom President Ronald Reagan appointed to a 15-year term in 1982, has performed more than 1,900 audits and investigative reports and testified more than 500 times before Congress. And whereas twenty years ago 80 percent of GAO's audits were performed independent of congressional request or assistance, in 1991 more than 80 percent of those audits and testimonies were requested by congressional committee chairman and 90 percent of those came through the Democratic majority.

These statistics are important because of the role that the GAO plays in shaping legislation. Unlike other congressional agencies—the Congressional Budget Office and the Congressional Research Service—the GAO can make policy recommendations scripted by the audit's requester. For instance, audits of the Pentagon done for Armed Services chairman Les Aspin turned up $600 toilet seats and forced changes in bidding policies. More recently, the GAO audit of the Canadian health care system—requested by House Ways and Means chairman Dan Rostenkowski—has become the basis of a number of reform schemes. (The report has since been discredited by a series of reports from a GAO detailee to the House Committee on the Budget, which showed huge tax increases would result, but both Democratic presidential candidates continue to support the GAO model.)

Former GAO employees say one of the reasons the agency has been so easily co-opted by congressional Democrats is the 94-percent retention rate of GAO staffers. "Once you begin your career there, you never leave," said a disenchanted former employee. "Most of these people have never held a job outside the GAO, and have no experiences other than GAO to relate their work to. After working there for twenty years, it is easy to become a drone for congressional work orders. You give Congress what it wants, because you would never dream of biting the hand that feeds you."

Nowhere has the GAO been more twisted and obfuscatory than in its investigation of the House Bank scandal in which it has hidden from public view a tradition of check-kiting, overdrafts, campaign-finance money-laundering, and possible illegal gambling and interest-free loans for re-election campaigns. With the scandal's spotlight currently on special prosecutor Judge Malcolm Wilkey, the GAO has managed to avoid scrutiny. But many of the answers to the special prosecutor's questions may lie in the thirty or so GAO audits of the House Bank obtained for this article. Going back as far as 1952, when the GAO began auditing the bank operated out of the Sergeant-at-Arms office, these audits reveal that the GAO and the office of the Speaker of the House have long been aware of check-kiting and overdrafts. Take the audit for the period January 4–July 3, 1952:

It was noted that some Members still consistently overdraw their accounts, sometimes in excess of their monthly salary and expense allowances, while others make periodic overdrafts. Over sixty accounts showed overdrafts during the period of audit. Some former members continue to maintain active accounts with the Office of the Sergeant-at-Arms.

The audit also revealed that some congressmen left blank, signed checks with the bank so that staff could fill in the amounts in case of overdrafts.

In every audit from 1952 on, the GAO staffers would pointedly reveal the continuing overdraft problem. In 1958, the auditor said, "Aside form the doubtful legality of accepting overdraft items and holding them for rather lengthy periods of time, the accounting control over the items is not adequate."

In 1961, the GAO began to cite explicit numbers—$610,000 on 5.221 worthless checks—and reported that half the members had overdrafts, many of them going unpaid for a month or more. Kite totals increased steadily until 1977—when GAO audits became public. Until then, audits had been submitted confidentially to the Speaker of the House. Now, the language and detailed information about the check-kiting mysteriously changed; under a note labeled "Accounts Receivable From Members," the text read:

Amounts due from Members represent checks drawn on and cashed or paid by the Sergeant at Arms but not charged to Member's accounts. . . . The Speaker at Arms monitors all such items daily, and no financial losses have occurred under these procedures.

Quite a change from the "questionable legality" language of twenty years before. It wasn't until the late-1989 audit—in which Speaker of the House Tom Foley claims he first "learned" of the overdraft problem and acted "within minutes"—that the GAO finally teed off on the House Bank and called for changes. Sergeant-at-Arms Jack Russ, who was bouncing large numbers of checks, informed the GAO and Foley that changes would be instituted to prevent further overdrafts. Those policies were never enacted.

Nor did the GAO check to see that they were. David Clark, the GAO staffer who oversaw the most recent audits, said that the year the reports became public, "we went to a new reporting format that eliminated a lot of the information that did not pertain to the bank's financial statement. The overdrafts simply didn't play a large role in what we were reporting. Therefore we didn't include that information in the report." Perhaps, but there is a simpler explanation, confirmed in interviews with legislators and staffers (but denied by a GAO spokesman)—GAO auditors were asked by Democratic House leaders to remove the documentation in a made-to-order audit.

"The relationship between GAO and Democratic leaders has gotten so that the agency will tailor-make the audit to the requester's liking," said a Republican congressman. "The ethics committee had all the draft work [for the 1991 audit] performed by GAO on the bank and the draft reports detailed a great deal more than any report that has been issued thus far. All of that information was cut by the GAO at the request of the House leadership prior to the audit's release. GAO simply couldn't withhold it unless it was told to."

The offices of House Minority Leader Robert Michel and three different senators have been trying for months to get copies of any GAO working papers and reports on the House Bank and have been denied access. Wilkey's staff is believed to have all that documentation now.

Another congressman says the GAO uncovered evidence of a numbers racket being run out of the Sergeant-at-Arms office. That information was edited out of the report. At least one congressman, Larry Smith (D-Florida), has announced his retirement from the House, evidently because of checks written to cover gambling debts, among other reasons. But the GAO didn't pick up on that; the Miami Herald did.

Personal vice on the part of elected officials is not necessarily the purview of the GAO, although it would have been difficult to miss. A bigger part of the story the GAO conveniently left out relates to the relationship between bounced checks and re-election campaigns. As the chart on page 27 shows, the GAO ignored a mysterious rise in check-bouncing levels each campaign season. In the annual audits of fiscal years leading up to re-election in November, the accounts receivable from members increase. During years with no re-election campaign, the accounts receivable decrease. Annual differentials are more subtle in some years, but still noticeable. Clark agreed that the differentials stood out, and said that auditors had noticed them, but "there really was nothing to it. The numbers could have meant anything."

That isn't what the special prosecutor thinks. A House staffer who has been monitoring the investigation says that it is now focusing on the theory that the bank became a means of providing interest-free loans for re-elections campaigns, and a depository for cash deposits of large campaign donations.

The Miami Herald, in its investigation of Smith, alleged that he funneled campaign funds through his House bank account.

There is mounting evidence in the hands of Wilkey that there was an intricate campaign fund—laundering technique practiced through the House Bank and House Post Office. A check made out to a re-election campaign would be cashed for stamps at the House Post Office. A day later, the House Post Office would buy back the stamps for cash, which would then be deposited in the House Bank. One House source says, "There were a lot of checks written in very round numbers—$1,000, $3,000, or $5,000. Not the kind of number one normally writes out to pay off a grocer's bill. More importantly, a large number of those checks are believed to have been made out for cash. The fact that that information will come out has a lot of people nervous around here because you have to wonder why someone would want that kind of money hanging around a House office."

Already, federal prosecutors have caught on to this scam, and have subpoenaed the office records of Ways and Means chairman Rostenkowski and two Democratic congressmen from Pennsylvania. Those subpoenas were issued May 6, but were not made public until May 14 by Foley, who said it was an "oversight" that Republicans were not informed at the time they were issued.

Clark said that the GAO auditors would not have looked into these allegations because it was not part of the procedure the GAO followed in auditing the bank, and said his agency was simply fulfilling the audit request put forth by the Speaker's office. The credit for bringing these scams to light belongs to the staff of the House Administration Committee, which is supposed to oversee the Sergeant-at-Arms. Working, ironically, with a GAO detailee, committee staffers began examining the bank in 1989 after Foley and the GAO refused to provide the committee with full audits of the bank. Only after staff discovered the seriousness of the bank problem did the GAO catch on that a more illuminating audit might have to be performed. The GAO's auditing of the bank had slipped so badly that in 1988, for instance, there was no mention whatsoever of a check-bouncing problem.

Yet take the GAO off the congressional beat and watch it become a pit bull of an auditing agency. This GAO is a tenacious, even vindictive body, known to hound other agencies for years:

In a clear example of partisan retaliation for the bank scandal, the GAO is in the midst of a comprehensive audit—requested by the House leadership—of the perks "abused" by members of the executive branch and the Bush Administration. Democrats are hoping to have the report ready prior to the report issued by the special prosecutor in the House Bank scandal. The only problem with this audit is that all of the so-called perks available to the executive branch are theoretically examined, audited, and approved by Congress annually through the budget process.

Democrats may think they can win the perk war by using the GAO, but they had better tread lightly. The Defense Department has compiled detailed documentary evidence showing how seriously Congress abused its own privileges regarding the use of military jets. The GAO has completed its own report on congressional flights, but Democrats are holding up its release.

During Operation Desert Storm, two GAO auditors showed up on the front lines to inform Gen. Norman Schwarzkopf that they wanted to observe the Apache helicopter under wartime conditions. The GAO had an axe to grind. It had earlier recommended ending the Apache program and, after its initial report was ignored, continued to investigate, citing congressional interest. When the two auditors found nothing amiss during their initial meeting with Schwarzkopf, they showed up again two days later, saying they had been "misled" on their first visit. Again, nothing wrong was detected with the helicopters. Sen. Pete Domenici (R-N.M.) remarked, "What the GAO is doing in a war zone, occupying limited military resources that clearly had more pressing requirements, boggles my mind."

In 1989, North Dakota Democrats Sen. Kent Conrad and Rep. Byron Dorgan jointly requested a GAO investigation into a drought's effect on the Missouri River Basin. At the time, North Dakota, South Dakota, and Montana were suing the U.S. Army Corps of Engineers over who controlled the flow and level of the river. The upriver states wanted the Corps to allow less water to flow out of their reservoirs so that the states' boating and recreation businesses would flourish. The downriver states, mainly Missouri, wanted the river flow to remain at its normal level. The GAO found in favor of the upstream states and the report's finding was trumpeted by North Dakota as proof its lawsuit had merit.

But an investigation by Christopher Bond's office revealed that the GAO had based its analysis and recommendations on a law review article written and provided to the GAO by South Dakota Assistant Attorney General John Guhin, a Democrat. The GAO never bothered to confirm the article's facts. In accepting Guhin's article, GAO refused to accept written comments from the Corps of Engineers, and did not consider a widely accepted research paper on the drought's effects on the river issued by the University of Missouri, nor did it interview the appropriate government officials in the downriver states.

Under pressure from Bond's office, the GAO acknowledged its source for the report was the article. After Bond's office released a 45-page report on the inaccuracies of the audit, the GAO admitted the report was incomplete but insisted that "our report is consistent with GAO's responsibilities." Bowsher refused to withdraw the report, which should come as no surprise: in his ten years of stewardship, a GAO report has never been withdrawn due to errors of fact or incomplete research. The GAO got even with Bond by "randomly" selecting Missouri for an audit on the benefits accruing to states from federal agencies based in them.

Bond sees Bowsher as part of the problem, a far cry from 1982, when Republicans thought he would be an ally in leveling the GAO playing field. A longtime government comptroller and senior member of the Arthur Anderson accounting firm, Bowsher had gained Ronald Reagan's attention in 1979 as a major fund-raiser for the Reagan presidential campaign.

Former GAO staffers say Bowsher simply couldn't deal with the permanent bureaucratic establishment of the GAO. Early in his tenure, Bowsher tried to introduce a salary system that would reward quality work, but the plan was blocked and killed by GAO assistant directors. The former staffers point to assistant director of human resources Lawrence Thompson as a reason for the close Democratic ties. He is said to be a major Democratic player who encourages the intimate links between Democratic committee chairmen and the agency.

In May 1991, the GAO performed an audit of a NASA space station proposal for Barbara Boxer (D-Cal.). NASA officials assisted the auditors in preparing the report, but when NASA asked to receive a copy of the final product prior to the hearings of the House Science and Technology Committee, GAO refused, saying Boxer would not allow it. (The ability to block a report's issuance is one of the perks GAO provides requesters. Again, it is common for GAO auditors to work closely with the requesters to shape reports in a way that is satisfactory and useful to the legislator or committee. If a report does not meet with requester approval, it is never publicly released, even if the information is in the public's or Congress's interest.)

The report stated that NASA had grossly underestimated the cost of building a space station, and NASA had no way of preparing a rebuttal. NASA officials did see portions of the report—for either Boxer or the GAO leaked a copy to the Washington Post, which ran it as a page-one story the morning of the hearing. "After several weeks we were finally able to show that GAO's numbers were off and that they had fudged the numbers, combined some figures, and ended up with this huge price tag," says Rep. Robert Walker (R–Penn.), a member of the House Government Operations Committee in the mid-1980s who has since resigned from it. "But by then, it was too late, the damage was done." Funding for the space station remains inadequate, and NASA says the project is no longer taken seriously.

Walker says he saw many GAO reports and audits that were incomplete, misleading, and prepared through a "group-participation process" that included only Democratic legislators and staffers. When he had occasion to deal with the GAO himself, he was told to take a hike. "I had solid evidence and information leading me to believe that 75 percent of Congress was not following its own drug-free policy guidelines, and GAO refused the audit," he says. According to the GAO, Walker was not entitled to make the request because he was not a ranking member of the Government Operations Committee. But when Walker asked if the House Minority Leader could request the audit, the GAO replied that only the Speaker of the House could make such a request. Walker says that the GAO can still perform top-notch work when both parties are allowed to participate—as, for example, in the cooperation shown by the GAO detailee in the House Administration Committee's look into the House Bank. But Walker, Domenici, and Bond insist that those situations occur infrequently, mainly because of the abuse of GAO staffing policies that detail employees to committees.

When the GAO details a staffer to a committee, that auditor technically no longer works for the GAO, even though the salary is paid through the agency. The chairman of a committee makes the request to GAO for the assignment, and requires the approval of the committee's ranking minority party member. An unscientific poll of committees with GAO detailees showed that fewer than five of the Democrat-requested GAO personnel were signed off by Republican members of the committee—in other words, the policy is ignored. Also ignored is the courtesy notification that a GAO audit has been requested. Cox, the ranking Republican on Government Operations, says he often finds out about GAO reports only on the day they are released to committees.

On the House Government Operations Committee, the Democratic Staff is eighty-two members strong, compared to seventeen for Republicans. In addition, the committee has twenty-six GAO detailees, who work for the Democrats exclusively. Rep. John Dingell, the formidable chairman of the Energy and Commerce Committee, has twenty-two detailees at his service; Republicans on that committee have none. Of the 127 current GAO detailees—on average there are 172 annually—not one has been provided to Republican committee members or staff and only one detailee was approved for the Republicans. Last year, Republicans requested a three-percent increase in their overall committee staff. The request was denied by the House leadership.

If a committee chairman doesn't approach the GAO with the idea, the GAO staffers know that they can approach the chair just as easily. GAO auditors hot to investigate a certain subject regularly shop their ideas to either Rep. John Conyers of Government Operations or Dingell for a detail assignment. "Both men jump at the idea. It's almost a game to them to see which one can snap up the GAOer first," said a committee staffer. "They don't want to possibly miss out on a juicy report." One such audit was performed for Dingell. Even though the GAO has a fully staffed outpost in Germany, detailees approached Dingell with an idea to examine the Securities and Exchange Commission's International Cooperative Agreements, and off they went on a free tour of European capitals.

Cleve Corlett, a spokesman for the GAO, is candid enough when he says the relationship between his agency and the Democrats "was bound to happen, given the length of time the committees have been controlled by Democrats." It's a theme that insurgent Republicans like House Minority Whip Newt Gingrich have been playing up for years now. In a round of tough talk after the bank scandal broke earlier this year, Gingrich said his side of the aisle would just "sit back and wait for the political fallout to occur." Only after the Democrats were suitably weakened, he said, would the Republicans come to the negotiating table on such issues as equitable staffing policies and relations with the congressional agencies. Unfortunately, Gingrich has not addressed the GAO problem, and it's been up to Republicans like Bond, Cox, Domenici, and Walker to keep the issue alive.

But let us not forget that most Republicans in Congress are not insurgents. More typical are the three congressmen who asked that their names not be used in this article, for fear of Democratic and GAO retribution. It's the sort of attitude that will lead Republicans to squander an election year tailor-made for them. The fast-fact joint known as the GAO, it's safe to say, will remain Democrat-owned and operated for many years to come. On Capitol Hill, that's one thing you can still bank on.

SENATE—*Wednesday, June 17, 1992*

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The guest chaplain, the Reverend Father Carl Beavers, chancellor-moderator of the Catholic Diocese of Cheyenne, WY, offered the following prayer:

Let us pray:

Lord, these quiet moments are more than a brief respite in the proceedings of our day. They are moments of faith and of our desire to connect with You. Our prayer this morning is offered not only because we are servants of people, but because we are Your servants, as well. Our work here today and each day is a response to them and also to You. Aware of our need for You and Your gracious assistance, we implore Your help. Conscious that You are with us and that Your care attends us always, we continue our day pledging the best of ourselves, so that all we do may redound to the glory of You, Lord, the One in whose image and likeness we have been made. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 17, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the time of the majority leader is reserved and the acting minority leader is recognized.

Mr. SIMPSON. Mr. President, I thank you. I thank the occupant of the chair.

RECOGNITION OF THE GUEST CHAPLAIN

Mr. SIMPSON. Mr. President, I thank Reverend Halverson. He was so kind to accommodate my long-time friend, Father Carl Beavers. I want to welcome him and give recognition to this man. He is the rector of St. Mary's Parish in Cheyenne, one of the largest Catholic parishes in the entire State of Wyoming, which is something to say, when there are only 460,000 of us and a few Episcopalians like me are mixed in there, too. St. Mary's Parish has a proud and colorful history. The beautiful parish cathedral sits two blocks from the Wyoming State Capitol.

Father Beavers also serves as the chaplain of the Wyoming Legislature. He is a man who has given tirelessly to the work of the Christian church. His work and spiritual guidance, which he and his staff at St. Mary's provide for Wyoming's many fine citizens, Catholic and non-Catholic, is truly inspirational.

He came to Cheyenne only a few years ago, following in the footsteps of a very effective, amiable, and genuinely good man, Monsignor O'Neill. He served the majority of his life in the priesthood in Wyoming. He was born in Sheridan, WY. His family moved to Powell, WY, my home county, while he was in the fourth grade. In Powell, he excelled in all endeavors—academic and athletic. He was one fine football player, I can tell you that. He was all-State for the State champion, Powell Panthers. It may mean nothing to people here, but when you are from Cody, it does.

Before he arrived at St. Mary's, he served as principal administrator at St. Joseph's Childrens Home in Torrington, WY, a very unique place. St. Joseph's places homeless children with families throughout the State and throughout the country.

He subsequently moved to St. Mary's and quickly grasped the reins of this parish. This remarkable and sincerely humble man made all of Cheyenne's citizens feel they were welcome in his church. He opened the parish to all of the local citizenry, and he also opened up his heart to their needs, experiences, concerns, pains, anxieties, fears, and joys. He expressed a sincere, kind, and devoted love for our fine citizens. He says often that he has the best parishoners a priest could ask for. Well, they have the best priest that ever could be given to them.

He is a special man. He is well known throughout our State. He has earned a reputation for being a fair, concerned, considerate, dedicated, and compassionate priest. I have seen him on many occasions in times of joy, of grief, of healing, and of pain. He is, indeed, very steady, thoughtful, kind, sensitive, earthy, and loving. He is imbued with a kind and gentle humor that serves him well. He is a special man with special gifts, and he uses them as God would have him do. And he is my friend.

He will be here in Washington at the Catholic University for 2 weeks.

I thank again Reverend Halverson for his extraordinary courtesy and accommodation for arranging for Father Beavers to be guest chaplain on rather short notice.

So to Father Carl Beavers we extend truly a warm, hearty welcome to the U.S. Senate.

My good friend and senior colleague from Wyoming, Senator MALCOLM WALLOP, is also here this morning. Both of us have known this remarkable man so many years, just as we came to know each other for over 40 years.

So I am very proud to see Father Carl Beavers here today and have him give the opening prayer in the U.S. Senate.

Mr. President, I yield a portion of the leadership time to my senior colleague from Wyoming.

The ACTING PRESIDENT pro tempore. The Chair recognizes Senator WALLOP, from Wyoming.

Mr. WALLOP. Mr. President, I thank the Chair and I thank my colleague from Wyoming.

I am particularly delighted to welcome our friend Carl Beavers here today. He is, as ALAN has said, a friend to all of us. He is known to an enormous section of Wyoming citizens and known very well and very warmly and known with love.

And I thank him for having come here this day and graced us with that wonderful prayer. The Senate has benefited and each of us, ALAN and I, have benefited by his presence.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

The ACTING PRESIDENT pro tempore. Without objection, the time of the Republican leader is reserved.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, while the managers of the pending legislation are negotiating, I have asked and they have consented that I may be allowed to proceed for about 6 minutes. So I ask unanimous consent that I may proceed as if in morning business for 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized for up to 6 minutes.

Mr. PRYOR. Mr. President, if the managers of the bill would like to interrupt me and continue with their legislation, I will be glad to yield them the floor.

May I inquire, Mr. President, are they ready to proceed now?.

Mr. HEFLIN. No; go ahead.

Mr. PRYOR. Mr. President, I thank the managers.

THE ELECTORAL COLLEGE

Mr. PRYOR. Mr. President, in 1823, one of our Nation's Founding Fathers and great constitutional scholars, Thomas Jefferson, wrote about the 12th amendment to the Constitution. He wrote this, Mr. President:

> I have ever considered the constitutional mode of election ultimately by the legislature voting by the States as the most dangerous blot on our Constitution and one which by some unlikely chance will someday hit.

Thomas Jefferson in 1823, and the subject, the 12th amendment to the Constitution, discussing how we may someday elect our President, not by the popular vote, but conceivably in the House of Representatives.

Mr. President, I have long admired Thomas Jefferson's penetrating logic. His assessment of the 12th amendment is yet another example of his wisdom and foresight. Eighteen months after he wrote these prophetic words, the United States underwent the wrenching process of selecting a President in the House; the infamous "corrupt bargain" election of 1824 that we all read about in school.

I hope and pray we will never again have to undergo that ordeal in our country.

I would like to speak for a few moments, Mr. President, this morning, to address a couple of concerns I share with our Nation's third President, Thomas Jefferson, about our constitutional system of selecting our country's two highest leaders.

As we now move into the summer months, and we prepare for this fall's Presidential election, it is becoming more and more apparent that we have three viable Presidential candidates. We must prepare the American public for the complications and the possibilities that our electoral college system presents in the context of a three-candidate race.

On May 20, I spoke to this body about one of those complications: The possibility that Senators in this body, in this room, might filibuster the selection of the Vice President if no candidate achieves an electoral college majority. That predicament is feasible, and it is feasible because the 12th amendment, which lays out the contingency plan if no candidate receives an electoral majority, is inadequate and antiquated, and as Thomas Jefferson pointed out, "a dangerous blot" on our Constitution.

Today, let us continue to outline the strange scenarios made possible by the Presidential selection process covered by the 12th, the 20th, and the 25th amendments to the Constitution.

As we all know, if none of the three candidates receives an electoral vote majority when the electoral votes are counted on January 6, 1993, the House of Representatives is mandated by the 12th amendment to immediately proceed to select a President. Each State delegation receives one vote. The delegations may only choose from the top three Presidential electoral vote-getters, and it takes a majority of the States' votes—26 of 50—to select a President.

At the same time, Mr. President—this is where it gets interesting—the 12th amendment also dictates that the Senate select a Vice President, with each Senator casting one vote for either of the top two Vice Presidential electoral vote-getters. In that vote, 51 votes are necessary in this room to select a Vice President of the United States. As I outlined in May, because of the two-thirds quorum requirement, it is very possible that vote could be indefinitely put off.

The President's 4-year term expires at noon, January 20, 1993, as specified in the 20th amendment. If the House has not been able to select a President at that time, the Vice President, as selected by the Senate, is sworn in as acting President. If the Senate has not selected a Vice President, the Constitution then allows the Congress, by law, to stipulate a Presidential succession order. Congress passed such a law in 1948, the Presidential Succession Act of 1948.

That law states that next in line—assuming he or she would be willing to resign from their current office—would come Speaker of the House, then the Senate President pro tempore, then the Cabinet Secretaries, starting with the Secretary of State and moving down in chronological order of each Department's founding year.

Mr. President, I apologize for this lengthy recitation of the Presidential succession process. In this area the Constitution and the law are anything but simple and straightforward.

Mr. President, many columnists and political pundits have given various scenarios for a variety of people to become President because of the intricacies of this process. But all the scenarios I have read have forgotten one very important possibility. And that possibility, Mr. President—and that is the purpose of my taking the floor today—is to remind our colleagues that the Speaker of the House does not have to be a Member of Congress.

Mr. President, I repeat that point. The Speaker of the House of Representatives does not have to be a Member of Congress, of the House of Representatives. Curious as it may seem, unbelievable as it may seem, the House may select anyone to be Speaker next January, including, if they wish, any of the candidates for President.

Actually, Mr. President, the Members of the House do not have to choose an elected official. They could choose Lee Iacocca as Speaker of the House, who would then next be in line to be President. They could choose Walter Cronkite to be Speaker of the House, who would then be in line to be our next President.

It is also important to bear in mind that the vote for Speaker is only a vote, Mr. President, that requires a majority—a majority—of those House Members voting. That also means you do not have to vote by States, as you do if you are voting for President, under the 12th amendment guidelines. That type of majority—for Speaker—is much easier to attain than the majority of the State delegations, stipulated, as I have stated, by the 12th amendment for the selection of President.

Mr. President, let us assume this reasonable scenario in this fall of 1992. Governor Clinton, President Bush, and Ross Perot all run well in both the electoral college and the popular vote.

No candidate receives 40 percent of either the electoral or the popular vote. Because no one had received an electoral majority, the election would then be thrown into the House. Let us assume that none of the three candidates received the votes of 25 States, which can happen for any number of political and procedural reasons.

In addition, assume whichever party is a minority in this body refuses to allow the other party's Vice President to assume the Presidency, by refusing to assemble the necessary two-thirds quorum.

If that deadlock occurs, Mr. President, a bare majority of the House of Representatives could select one of the Presidential candidates as Speaker, so that he or she might assume the Presidency on January 20—serving for a brief moment as Speaker, and then being sworn in as acting President. This might even be used as a means to select a compromise candidate, someone who is not even on the ballot in November, thereby avoiding the 12th amendment requirement that the House choose the President from the top three electoral vote-getters.

Mr. President, we must realize it is not necessary to change the Constitution for any of these possibilities to happen, nor is it necessary to pass or change any law. I am talking about the prospects completely within the constraints of current law and current rules.

Mr. President, let me be the first to say this scenario is very unlikely, but the point is that our electoral system allows for possibilities such as these. The American people deserve to have a system to select their Nation's highest two leaders that guarantees that we will never be confronted with the constitutional hazards which face us this election.

Mr. President, I hope the Congress will act today. I hope the Congress will study the proposed constitutional amendments that are now before the Senate, that will be before the House, and even conceivably, Mr. President, think about the possibility of fast-tracking one of these amendments and sending one to the State legislatures of our respective States.

Yes, even before November 3, it is possible, just possible, that we could change this system and give to our people this opportunity to select their President in a direct election by a popular vote of the people.

Mr. President, it was James Mason, at the Constitutional Convention, who said that States should not vote; people should vote. I hope we will adhere to that admonition. I hope we allow the people to vote directly for President.

Mr. President, I thank, once again, the managers of the pending legislation for allowing me to speak at this time.

TODAY'S BOXSCORE OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,943,941,930,864.83, as of the close of business on Monday, June 15, 1992.

On a per capita basis, every man, woman, and child owes $15,354.50—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

JOSEPH BUMBLEBURG RECEIVES HIGHEST RECOGNITION

Mr. LUGAR. Mr. President, it is with great pleasure that I rise today to salute Joseph Bumbleburg, an attorney from Lafayette, IN, who has received the National American Red Cross' highest recognition, the Harriman Award for Distinguished Volunteer Service. The award was presented on May 31, 1992, at the American Red Cross National Convention in Baltimore, MD.

The Harriman Award for Distinguished Volunteer Service was established in recognition of the services of E. Roland and Gladys Harriman. They provided unprecedented leadership to the organization through their extraordinary commitment and public relations achievements.

This award is designed to promote superior performance among all volunteers. It is not an annual award but is given only when the nominee's level of performance and caliber of contribution exceed those of the average Red Cross volunteer. It requires extraordinary accomplishments rather than merely length of service and must be merited under strict regulations.

Joe Bumbleburg began his service as a Red Cross youth volunteer in 1958. He has served as board chairman for 4 terms, and as First Division Council chairman, regional chairman, and a member of the board of governors on the national level. He currently chairs the Council of Former Governors and is a member of the Red Cross Board of Directors.

Mr. Bumbleburg is dedicated to preserving, managing, and utilizing the historical and archival collections of the American Red Cross organization and encourages the preservation and use of collections of the various chapters. His selfless devotion to the goals of the American Red Cross is an example for us all.

I ask my colleagues to join me today in saluting this outstanding Hoosier.

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. BRYAN). The Senate will now resume consideration of S. 1985, which the clerk will now report.

The assistant legislative clerk read as follows:

A bill (S. 1985) to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Danforth Modified Amendment No. 2426, to express the sense of the Senate that public officials and candidates for public office make proposals and engage in discussion on reducing the deficit, and that the candidates for President agree to a formal discussion that focuses entirely on the Federal budget deficit.

Mr. PACKWOOD. The Internal Revenue Code and ERISA require ongoing pension plans to make minimum funding contributions, paid on a quarterly basis. Plans covered by PBGC's insurance program must meet these requirements until they are properly terminated in accordance with the provisions of title IV of ERISA. The required contributions are calculated under the minimum funding rules set out in the Internal Revenue Code, ERISA, and the rules and regulations issued under those provisions, as are the due dates for payment of those contributions.

Until recently, companies, even those in bankruptcy, paid the required contributions as ordinary, necessary business expenses. A recent court decision questioned the amount and priority of these contributions under bankruptcy law.

It is my understanding that this amendment would clarify the Bankruptcy Code to assure that minimum funding contributions for which a company and its affiliates are responsible under the Internal Revenue Code and ERISA are again consistently treated as ordinary and necessary expenses of a debtor in a bankruptcy case, payable in the ordinary course of the debtor's business. This clarification would remove any doubt that the minimum funding rules shall apply to companies in bankruptcy in the same manner as they apply to nonbankrupt companies, and that the entire amount of the minimum contribution calculated under the Internal Revenue Code and ERISA must be paid. It is also my understanding that the required contributions of an affiliate of the debtor meeting the Internal Revenue Code and ERISA controlled group tests are to receive the same treatment under bankruptcy law. Is my understanding correct?

Mr. HEFLIN. Yes, this clarification to the Bankruptcy Code would assure that minimum funding contributions are, like wages, treated as ordinary and necessary expenses of a debtor payable in the ordinary course of the debtor's business; that the obligation to meet minimum funding standards is not affected by bankruptcy. This is true for the company sponsoring the plan as well as for affiliates in the sponsor's controlled group. This clarification does not upset any minimum funding arrangement already worked out between a company and the IRS and the PBGC.

Mr. PACKWOOD. It is my understanding that under current law, minimum funding contributions for which a company and its affiliates are responsible under the Internal Revenue Code and ERISA are not recoverable as preference payments under bankruptcy law. Is my understanding correct?

Mr. HEFLIN. The Senator is correct. Payments made to a company's pension plan, or to that of an affiliate, are not recoverable as preference payments because they are payments required by law and are paid by the company in the ordinary course of its business. Under the Internal Revenue Code and ERISA, money in a pension trust is never to be used for the benefit of the company sponsoring the pension plan, or an affiliate of that company. Consistent with the mandate of the Internal Revenue Code and ERISA, and as stated in the Judiciary Committee report, the preference rules were never intended to apply to payments made to a pension fund. If there were a question as to the application of the insider preference rules to pension contributions made by a debtor company with affiliates who were also liable as controlled group members under the Internal Revenue Code and ERISA, section 204 of the bill, which overrules the Deprizio case, makes clear that neither the pension plan nor the PBGC, if the plan subsequently terminates, may be required to return those payments.

Mr. President, at this time, I want to spend a moment to carry on a colloquy between myself and the Republican manager of the bill, Senator GRASSLEY. Our remarks are directed at section 308 of the bill concerning the interpretation of the substantial abuse provisions.

At the Judiciary Committee meeting on March 12, 1992, when the language of section 308(2) was offered as an amendment, I made the following statement:

> This amendment, as I read it, "The court shall find that a petition constitutes a substantial abuse of this chapter if the petition was filed in bad faith, or if the debtor, without substantial hardship, has the ability to pay the debtor's debts as they become due."
>
> Now, really, that is not an inclusive finding about substantial abuse, but just two instances of substantial abuse.

As to whether or not this language is exclusive or nonexclusive, I want to point out that the above-quoted language pertaining to the nonexclusiveness of the two instances of substantial abuse was not disputed during committee deliberations. Throughout the entire legislative history before the committee, no one contended that the two instances of substantial abuse set forth in section 308(2) were to be the only and exclusive instances of substantial abuse that could be found by a court. It is true that the amendment was offered by another Senator, but the language was drafted by my staff, and certainly the drafters never intended that these two instances be exclusive.

The discussion on March 12, 1992, before the committee, as well as at other times, indicate that there was a desire on my part to further work on language and reach an understanding on the import of this subsection. However, the only part of the language that I wanted to further refine were the words, "as they [the debts] become due." Nothing contained in the transcript of the committee deliberations indicates the desire to refine language regarding the exclusiveness or nonexclusiveness of this provision. At no time during the committee's consideration was the issue of exclusiveness raised and the transcript of those proceedings bear this fact out.

The specific language of the provision supports the position that the two instances are not exclusive. Certainly a court could find that a substantial abuse could occur if the conduct of the debtor was exercised in bad faith after the petition was filed. Under this provision, a court certainly has the right to find substantial abuse based on a totality of circumstances. These tests, outlined by the language of the bill, certain point to a nonexclusiveness interpretation.

Mr. GRASSLEY. I think that Senator HEFLIN has correctly recited the legislative history before the Judiciary Committee, as well as given valid reasons why the two instances cited in section 308(2) should not be interpreted to be exclusive. I agree that these two instances of substantial abuse, set forth in this subsection, were not intended to be all inclusive and that a court would have the right to find other instances of substantial abuse.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2427

Mr. SANFORD. Mr. President, under the previous order, I have time reserved for three amendments. I would like to send forward now an amendment to section 205, which has been approved by both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 2427.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Amend the pending business in section 205 in the following manner:
>
> (1) Delete subsection (b)(1) on page 16, line 15–line 21, and renumber subsections "(b)(2)" and "(b)(3)" as "(b)(1)" and "(b)(2)" accordingly.
>
> (2) On page 18, line 23, add after "debtor" the following, "including, but not limited to, the proper use of disposable income".
>
> (3) On page 19, line 9, add after "chapter" the number "11".
>
> (4) On page 20, line 15, delete the word "shall" and insert the word "may".
>
> (5) On page 20, lines 16–17, delete the sentence "Any waiver of the right to dismiss under this section is unenforceable.".
>
> (6) On page 29, paragraph (B) found at lines 3–14, and insert the following:
>
> "(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and".

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. This side, and also Senator GRASSLEY, has reviewed these technical amendments to section 205, and they are acceptable on our side, and it is our understanding that it is acceptable by Senator GRASSLEY.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2427) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. SANFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for 5 minutes.

ARMS CONTROL

Mr. GRASSLEY. Mr. President, I want to discuss with the Members of this body a topic which I think is of paramount importance to this country and, more importantly, to the entire world, and it deals with the capability of preserving peace, and that issue is arms control.

Over the last few years, we have witnessed the collapse of the Berlin wall, what we hope is the end of communism, and a dramatic change in the political climate of the Middle East. The end of superpower rivalries gives us historic opportunities, I believe, to make further strides in easing tension and promoting peace.

Despite our victory in the gulf war, the Middle East remains a flash point, and a very volatile region. It is the one region of the world where the appetite for more arms never seems to be satisfied. That is why, Mr. President, the United States must take the lead in a multilateral effort to stop the flow of arms and weapons into the region.

I recently endorsed the conclusions of a bipartisan study group involving legislators and scholars brought together by the Henry L. Stimpson Center. The 20 member study group included Senator BIDEN, Representatives WEBER and BERMAN, representatives of major defense industries as well as think-tank experts on arms control.

Those of us who make up this diverse group agreed that regional stability would be improved with a U.S.-led initiative to curb the spread of dangerous weapons in the Middle East. The United States is uniquely situated to lead the permanent members of the U.N. Security Council in a multilateral arms control effort. Our prestige and influence stands at an all-time high following our triumph in the gulf war.

We have already seen a great example of our leadership capability. The United States has succeeded in bringing Israel, her Arab neighbors, including Palestinians, to the peace table. And the United States led the effort to repeal that outrageous stain on the United Nations, the "Zionism is Racism" resolution.

The gulf war demonstrated many important lessons. First, the magnitude of the damage done using only conventional weapons was a wake-up call to the world, reminding us of the disastrous effects of war. The possibility of an increase in conventional, and worse yet, unconventional weapons in an area should strike fear into the most dauntless of hearts.

Second, the area is currently dependent on outside sources for these advanced weapons systems, but an infusion of scientists and technicians into the area from the Commonwealth of Independent States and from the five or six countries of Eastern Europe could provide indigenous capabilities to some of these countries. Last, the region has meager resources to commit to more weapons now.

The humanitarian thing to do is for these nations to help themselves first before expecting the rest of the world to help them with their humanitarian needs. And, it can be done if they, themselves, spent less of their own resources upon weapons systems and spent more of those resources upon their domestic needs.

Our group, the Stimpson Center Study Group, has come up with four specific short-term proposals aimed at the five permanent members of the U.N. Security Council.

First there should be a registry of arms sales to the Middle East. Under this proposal, a detailed analysis of proposed weapons sales would be divulged to a tribunal which would determine compliance with agreed upon guidelines.

Second, a blanket ban on sale of certain weapons and technologies should be imposed upon Middle Eastern countries. They should not receive: First, weapons of mass destruction—nuclear, biological, and chemical or their components; second, all types of surface-to-surface missles; and third, any advanced technology such as stealth technology. In the near future it may even be possible to negotiate an outright ban on all weapons of mass destruction in this area.

The third recommendation of the Stimpson Center Study Group is the institution of a one-in and one-out requirement. This proposal would work in conjunction with a ban on new weapons systems and would cover armored combat vehicles, artillery, fighter attack aircraft, helicopters, and tanks. For every new piece of weaponry bought by a country, one piece of similar weaponry would be taken out of use.

Finally, economic incentives should be established to encourage Middle East nations to spend less on arms and weapons. Following the gulf war, the United States convened the permanent five to discuss arms control in the Middle East. There have been three meetings in the last year. These meetings are historic and without precedent but they need to produce results. The Stimpson Center study lays out a blueprint for action.

Finally, Mr. President, we may have the best of intentions regarding arms control in the Middle East, but I have concerns that we may be practicing business as usual. Earlier this year the Pentagon notified Congress of $23 billion in potential arms sales to this region. Gulf nations have already bought some $10 billion in weapons in the year following the gulf war.

Before unilaterally moving ahead with arms sales, I think we need to sit down with leading arms sellers and hammer out a multilateral agreement limiting arms to this region.

We cannot expect other nations to follow what we say if we act otherwise. We have to lead by example. If we do not succeed in establishing an arms control regime in the Middle East, we will have squandered our victory in the gulf.

These proposals will not solve all the problems of the Middle East, but they will provide a stable environment for the peace process that is going on now for it to continue.

It is difficult to get along with a neighbor if you think that neighbor is going to rob your house. In the long term these proposals will not only provide security to the countries of the Middle East, but hopefully will prevent the need for United States troops to be introduced into that region ever again.

I yield the floor.

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President I will take just a few minutes from the time of the distinguished Senator from Alabama, the manager of the bill.

Momentarily we will be debating, of course, the sense-of-the-Senate resolution proposed by the distinguished Senator from Missouri. And on that particular score I want to, once and for all, reiterate exactly what has happened.

Gramm-Rudman-Hollings worked. I will object to anyone saying it did not work. Indeed, it worked so well, reducing the deficit $71 billion in its first full year, that Congress and the President conspired to dilute it and finally repeal it lest they be required to enact even deeper cuts. The enactment of Gramm-Rudman-Hollings was the culmination of a long struggle, trying to put in budget freezes in a bipartisan fashion. Finally, in 1985 the majority of the Republicans, the majority of the Democrats supported Gramm-Rudman-Hollings. It was a bipartisan initiative. And it was subsequently reaffirmed by another 13 votes, up or down, in the Senate.

We voted up and down and put it in. It provided for cuts across the board, and it mandated truth in budgeting. Whatever we budget we have to live by. Gramm-Rudman-Hollings did not dilly-dally. It did not say so much more for this, and so much for that, and a wall here, and a wall there, and all the economic or budgetary gimmickry.

It said whatever deficit target you agree to, you appropriate that much and no more, and if you try to do more there will be cuts right straight across the board.

It worked in 1986; it worked in 1987. We reduced the deficit from $221 billion down to $150 billion in the first full year. But then with the 1988 election, we began playing games, diluting the discipline, and moving back the deficit-reduction targets from 1991 to 1993. And then, 1990 summit agreement, Gramm-Rudman-Hollings was effectively repealed. So to those who talk about gridlock, I say let us praise gridlock because it is when Republicans and Democrats get together to connive and conspire that the country loses ground in this town, I can tell you.

Washington got together in a sweetheart deal in 1990, the White House leadership and the Democratic congressional leadership and the Republican leadership. They got together, and on page 1156 of the Omnibus Budget Reconciliation Act of 1990, you will see the words that encapsule their conspiracy to denature Gramm-Rudman-Hollings:

> The conference agreement incorporates the procedures proposed by the House under which the President must adjust the deficit targets for fiscal years 1991 through 1993 and may adjust the target for fiscal years 1994 and 1995. The deficit targets established reflect current economic projections and the removal of Social Security trust fund balances from the deficit calculation. These deficit targets will be adjusted for further updated economic and technical factors through fiscal year 1993.

So they vested in the President the power to set targets.

So in a surreptitious, very clever way they repealed the targets and thereby repealed the targets and thereby repealed Gramm-Rudman-Hollings. They mutilated the measure. Now they have the shamelessness to bring to the floor this sense of the Senate resolution. They voted for Gramm-Rudman-Hollings, and then they voted to strip it of its teeth and claws. And now they dare to put forth this flowery sense of the Senate that public officials and candidates should make proposals and engage in discussion on reducing the deficit.

Man, come on. Why not just do the job? We made a proposal to do the job last fall. We made it again this year in the Budget Committee. We have succeeded, to some extent, with finally agreeing to a budget freeze.

Point 2 of the resolution says the candidates should agree to a discussion of the deficits. Discussion? Discussion is all we're had for years. Why talk, when we can act?

And then finally the resolution states: All candidates for office should affirm their support for principles and resolve "to seek a mandate from the electorate." "Seek a mandate from the electorate." Heavens above, Mr. President, we already have a mandate to act responsibly on the deficit. What are we waiting for?

You could not get away with this in the Legislature of Alabama. You could not get away with it in the Legislature of South Carolina or North Carolina. We all know that. In the States, they do not run around trying to find a mandate to balance their budgets. They just do it. They pay the bills.

I am going to vote against this nonsense of the Senate. We absolved ourselves after having committed the dastardly deed of mutilating Gramm-Rudman-Hollings when it was working. We got rid of the targets, and then we had the audacity to give ourselves the good-government award for an alleged $500 billion savings.

The President of the United States last year said, and I will quote, "We are headed in the right direction. We will reduce the deficit $500 billion over 5 years."

Absolutely false. We are headed in exactly the wrong direction, which of course is one reason for this resolution. We are increasing the deficit $500 billion in a single year—this year. You look at the numbers in September or right after—of course, they will not give you the real figures until after the election in November. But if you do not count the billions borrowed from the trust funds, the true deficit will be up to $500 billion. So we here, and the President too ought to be embarrassed, running around saying he is for a balanced budget amendment to the Constitution.

I supported that amendment, as I described on yesterday, to try to restore our fear of deficits and debt. As old Tom Jefferson said, "public debt is the greatest danger to be feared." On that score, as Roosevelt said, "the only thing we have to fear is fear itself," today the thing we must fear most is our very lack of fear, our shamelessness about running up deficits and debt. Instead of action, we have debate and discussion. We get on TV and we run around in circles with "I said," and "I introduced" and "I took the floor." Heavens above, all we have to do is do it.

The President of the United States is saying don't worry. He says we are headed in the right direction; you do not need revenues or steep cuts.

And the President is not alone in leading in the wrong direction. A majority of Senators voted to do away with the targets; they voted for the summit agreement in 1990. And they ought to admit to it. They led the way.

That is, incidentally, why I said at that time in 1990, after the summit, "Leave my name off of Gramm-Rudman-Hollings." Gramm-Rudman-Hollings was supposed to be a spear to good fiscal responsibility, but the 1990 summit turned it into a shield to hide behind and create fiscal irresponsibility.

So I thank the distinguished Senator from North Carolina and the Senator from Alabama on allowing me the few moments here to clarify why I am going to vote against this shenanigan. Instead of a sense of the Senate about slashing deficits, why don't we just do it. It is within our power. The mandate is already there.

As the distinguished Governor of the State of Connecticut, our former colleague, Senator Weicker, said not long ago. It is like in a football game, with players down on the gridiron rushing up into the grandstand and hollering, "We want a touchdown. We want a touchdown." Why not get back down to the field and score the blooming touchdown? Likewise, why not get down on this Senate floor and let us start fiscal responsibility? Do not presume to admonish the Presidential candidates about what they ought to be doing and trying to get mandates from the people.

The President of the United States is in a responsible position. But he has not acted on that responsibility, and that message is coming through loud and clear to the American people. As long as he says we are headed in the right direction when we are headed in the wrong direction, as long as he engages in the shenanigans of alleged savings rather than sticking to actual, hard targets for eliminating the deficit, then all is lost. Incidentally, last year he said the target for the budget we are now working on this year, for 1993, is $285 billion. Do you know what he said earlier this year? He amended, he moved the target. He moved the goalpost. He now says the target is $407 billion.

What kind of fiscal shenanigan is that? No, no. No discussion, no mandates, no telling Presidential candidates what they ought to do and everything else. They know where to go. Get on the President of the United States and say, "Get real." Quit running around patting little children on the head, going to all these social engagements. Let us go to work. Let us go to work and start cutting spending, freezing spending; all the above in order to work our way out of this situation. We are going to have to work our way out.

I am going to oppose this misleading sense of the Senate. It tells the American public that we can wait until after the election and if the candidates speak out and if the candidates get a mandate, then we can do something. Always next year, never this year. We are hired up here to do the job. It's time to do it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that any time allotted to me, which I understand has been running on this, which is now down to about 4 minutes—that those 4 minutes be reserved until later and that the quorum call time running will not be counted against my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SANFORD. May I inquire what the order was?

The PRESIDING OFFICER. The Senator from Alabama secured unanimous consent that 4 minutes be retained and reserved by him, and that with respect to any quorum call, that the quorum call will not be chargeable to the time allocated.

Mr. SANFORD. May I inquire if now the order is to proceed with amendments?

Mr. HEFLIN. We are still trying to clear it.

The PRESIDING OFFICER. The Chair will inform the Senator from North Carolina that amendments are in order, pursuant to the unanimous-consent order of yesterday.

The Chair will further inform the Senator that there is a standing order that at the hour of 10:40 the Senate will stand in recess until the hour of 2 this afternoon.

Who yields time?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that any time in quorum calls during the pendency of this bill not run against the time allocated to the managers of the bill.

The PRESIDING OFFICER. The Chair understands the request is that the time not be charged?

Mr. HEFLIN. Without objection, the unanimous-consent proposal by the Senator from Alabama is agreed to.

The Chair will inquire of the Senate, what is the will of the Senate?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If the Senator would suspend for a moment, the Senate is not in order.

The Senator may proceed.

Mr. SANFORD. Mr. President, I will take just a couple of minutes because we have been delayed an hour and a half here. I will offer an amendment to section 206.

The PRESIDING OFFICER. Will the Senator suspend for a moment? I believe the majority leader seeks recognition.

Mr. MITCHELL. It was my understanding the Senate would go into recess at 10:40. So as to permit us to complete action on this amendment, Mr. President, I ask unanimous consent that the recess previously ordered be postponed until 10:45.

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Maine is agreed to.

The Senator from North Carolina is recognized.

AMENDMENT NO. 2428

Mr. SANFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 2428.

At the end of section 206(g)(1)(A), add the following sentence: "Nothing in the subsection (g) shall affect the court's existing authority to issue an injunction pursuant to an order approving a plan of reorganization".

Mr. SANFORD. Mr. President, I offer an amendment to section 206. Section 206 was drafted to solve a specific problem in a case involving mass tort litigation claims. My concern is that this particular solution may preclude others which may work just as well, and I just want to make sure that does not happen.

We all know that the Bankruptcy Court is faced with resolving very difficult issues. In fact, because of its virtually unlimited jurisdiction and because insolvency is not a requirement for filing bankruptcy, the Bankruptcy Court is more and more often becoming the forum where large, complex cases often involving social issues are being handled. We are seeing large judgments, mass tort claims, pension shortages, labor disputes, and a host of other problems being played out in the Bankruptcy Court. We in Congress must make it clear to the bankruptcy bench that they have the widest degree of latitude in crafting responsible reorganizations that fit the specific needs of each case.

The amendment that I am proposing does just that. It does not prejudice those who wish to utilize the specialized trust arrangements laid out in section 206. It simply clarifies the fact that this is not the only alternative, that other companies in similar situations are not bound to that single resolution, and that the parties and the courts may continue to use their imagination and skill to look at the facts and circumstances in each case to determine what is in the best interests of all parties.

There are those who will contend that the court could do that anyway without this amendment. I do not disagree with them, but few of us can guess what any judge under particular circumstances will do. Judges are different. Some place great weight on congressional intent. Others rely exclusively upon a strict construction of the wording of the statute. Some will follow the lead of others while some will chart their own course. Therefore, this amendment is offered simply to avoid the possibility of any confusion in the court's possible interpretation of this statute.

I have been contacted by several companies who are concerned that a court's narrow reading of section 206 as drafted could be detrimental both to companies currently in bankruptcy and companies not in bankruptcy.

I hope that my colleagues will recognize that this is not intended to be a controversial amendment. In fact, I cannot imagine any disagreement. It is simply a clarification of what the law is, so that we will not be back here in a few years trying to fix something we broke.

Mr. President, I thank the distinguished Senator from Alabama for his work on the omnibus bankruptcy reform bill and engage in a colloquy regarding section 206 of the bankruptcy bill.

Mr. HEFLIN. I will gladly engage in a colloquy with the Senator from North Carolina.

Mr. SANFORD. It is my understanding that the purpose of section 206 is to set out circumstances in which a bankruptcy judge can issue permanent injunctive relief in addition to its existing authority under section 524 with respect to tort claims against the debtor in certain circumstances where the debtor establishes a trust to be used to compensate both past and future claimants.

Mr. HEFLIN. The Senator from North Carolina is correct.

Mr. SANFORD. I understand that this provision will be of particular assistance to a company currently in a bankruptcy proceeding which anticipates a plan of reorganization, in certain circumstances, in which the court can grant supplemental permanent injunctive relief against the debtor which creates a trust for those to whom it is or may be liable.

Mr. HEFLIN. The Senator from North Carolina is correct.

Mr. SANFORD. Among my constituents is a North Carolina company which is also in chapter 11 facing similar mass tort liability claims as Johns-Manville which used the procedure in section 206. This company has advised me that it has proposed a plan of reorganization using a different strategy for compensating those to whom it is or may be liable which would not fit within the language of section 206. If this section were strictly interpreted by its judge, the result would be catastrophic to this company's efforts to reorganize. I just want to be sure that when the chairman prepared this section, it was his intent and interpretation that section 206 not provide an exclusive remedy.

Mr. HEFLIN. The Senator from North Carolina is correct.

Mr. SANFORD. In other words, section 206 should in no way be interpreted to tie judges' hands from issuing supplemental permanent injunctive relief in other cases involving current and future tort claims where appropriate. Therefore, section 206 is not the only alternative for handling cases involving mass tort claims so that other companies in similar situations are not bound to that single resolution and that the parties and the courts may continue to use their imagination and skill to look at the facts and circumstances in each case to determine what is in the best interests of all parties.

Mr. HEFLIN. The Senator from North Carolina is correct. Section 206 is not intended to prohibit bankruptcy courts from issuing supplemental permanent injunctive relief as deemed necessary. Section 206 is not an exclusive remedy, though it is a safe harbor. Other courts may certainly craft other remedies in cases involving mass tort claim litigation.

I appreciate the Senator raising this issue so that we could clarify the meaning of section 206 to prevent any future misunderstanding.

Mr. SANFORD. I would like to thank the chairman for this important clarification.

The PRESIDING OFFICER. Is there further debate?

Mr. HEFLIN. Mr. President, the managers of the bill are agreeable to this amendment. It has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2428) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SANFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, I do not have a third amendment as the previous order noted. I have concluded my business.

AMENDMENT NO. 2429

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 2429.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 57, line 15, delete "unusual", and insert "extraordinary".

(2) In section 206, strike all of section (g)(9) on page 49, line 21, through page 51, line 2.

(3) In section 408, on page 90, line 8, add after "attorney", add the following "in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(3)(A) of title 28".

(4) In section 210, on page 55, line 3, delete "120-day", and insert "180-day".

(5) In section 205, on page 19, line 9, delete "this".

Mr. HEFLIN. Mr. President, this strikes the section pertaining to the Johns-Manville trust. It has been agreed to on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2429) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, as I understand it, there only remains the issue pertaining to the Danforth amendment. I yield back all time in regards to all amendments but reserve the full minutes I have after the Danforth amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Do I understand that is the only thing that remains?

The PRESIDING OFFICER. The Senator is correct. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, if I have time remaining, I yield back in conformance with the same condition as the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, at 2 p.m., the Senate will return to the Danforth amendment under the order entered yesterday. That will be the only remaining amendment on the bill under the order.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE RUSSIAN FEDERATION

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Pursuant to a previous order, the Senate now stands in recess until 2 p.m. and assembles as a body to proceed to the House of Representatives to hear an address by Boris Yeltsin, President of the Russian Federation.

Thereupon, the Senate, at 10:44 a.m., took a recess until 2 p.m., and the Senate, preceded by the Secretary of the Senate, Walter J. Stewart; the Sergeant at Arms, Martha S. Pope; the Senator from Delaware [Mr. BIDEN]; the Senator from California [Mr. CRANSTON]; the Senator from Georgia [Mr. FOWLER]; the Senator from Hawaii [Mr. INOUYE]; the Senator from Maine [Mr. MITCHELL]; the Senator from New York [Mr. MOYNIHAN]; the Senator from Georgia [Mr. NUNN]; the Senator from Rhode Island [Mr. PELL]; the Senator from Arkansas [Mr. PRYOR]; and the Senator from Maryland [Mr. SARBANES], proceeded to the Hall of the House of Representatives to hear the address by the President of the Russian Federation.

(The address delivered by the President of the Russian Federation to the joint meeting of the two Houses of Congress, is printed in the proceedings of the House of Representatives in today's RECORD.)

At 2 p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer [Mr. KERREY].

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2426, AS MODIFIED

The PRESIDING OFFICER. The pending question is amendment No. 2426, as modified. Debate on the amendment is limited to 1 hour.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator GORE be recognized to address the Senate as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

NUCLEAR STABILITY

Mr. GORE. Mr. President, first of all let me thank the majority leader for his courtesy and the Republican leader and manager and ranking Republican member managing the bill.

We have just been treated to a rather extraordinary address of the joint meeting of Congress. The news of the arms agreement worked out between the United States and Russia truly merits the term "breakthrough." Agreement to de-MIRV both sides' land-based forces in the context of deep overall reductions is an advance over arms control as it has been practiced in the past. It not only reduces the size of the strategic forces on both sides, but specifically and decisively addresses one of the key elements of the problem of nuclear stability.

I hope it may be excused, Mr. President, if I also say that this outcome is the fulfillment of a long effort on my part, beginning in March 1982 before the Reagan administration announced its first START proposals, to incorporate the idea of strategic stability as a central element of U.S. arms control policy and to do so, specifically, by proposing the de-MIRVing of land-based ICBM's in the context of reductions. On this occasion I would like to congratulate the President on the achievement this agreement represents.

However, there are still a number of areas where administration policy lags seriously behind the opportunities and challenges of the day. One of these areas is nuclear testing and production policy. This is a field in which I have always felt that any sitting administration deserves a decent interval of time in which to gather its thoughts. But the contrast between the possibilities available to us and the apparent sterility of thought within the administration in this area makes it increasingly hard to sit quietly in hopes that inspiration will strike the White House. I am therefore rising to offer some background and some thoughts relating to these matters.

On March 31, Senator NUNN, Senator SIMON, and I sent a letter to the National Security Adviser on administration policy regarding nuclear weapons testing. With permission, I submit the text of that letter for publication in the RECORD and ask unanimous consent that it be printed after these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. Up until now, Mr. President, this letter has not received a response from the administration. But in this letter we reminded the President of commitments his administration had made early on to enter into follow-on talks aimed at limiting nuclear tests, with the Soviet—now the Russian—Government.

As noted in our letter, the administration's commitment to early resumption of the nuclear testing talks dates, at the latest, from September 17, 1990, in the form of an explicit exchange between ACDA Director Ron Lehman and Senator NUNN at a hearing before the Senate Armed Services Committee. Ambassador Lehman clearly envisaged resumption of talks within a relatively short period of time, and with an interesting agenda.

Eighteen months after that, however, another administration witness—this time, Robert Barker, Assistant to the Secretary of Defense for Atomic Energy, told me at a hearing that the administration has not yet determined whether "there is any further reduction in nuclear testing that is in the interest of the United States." This was the event that triggered the letter from Senator NUNN, Senator SIMON, and myself. Meanwhile, the administration continues to be in violation of the Simon amendment to the fiscal year 1992 Defense Act, which required the President to submit by February 5, 1992, a report containing the schedule and goals for follow-on talks.

It should be kept in mind that Mr. Barker's response to my inquiry also called into question understandings regarding nuclear testing that have been in place between Congress and the executive branch since the Reagan administration. In 1986, the House of Representatives backed away from a mandatory test ban in the fiscal year 1987 defense authorization bill in response to President Reagan's promise to "immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing."

To date, we have received no answer to our letter. Moreover, as the time for President Yeltsin's visit grew near, there were reports in the press to the effect that the administration was gridlocked over this question. There were said to be unreconciled differences between some in the administration who would like to reduce the rate of testing and/or the yields of tests and others who wish to accept no new limits on testing now or any time in the future. Unfortunately, gridlock appears to have prevailed on this issue, and by default the U.S. position on testing will remain unchanged and events will continue to drift.

Indeed, drift is not the only thing that can happen. Policy may actually be pushed in very undesirable directions. After listening to testimony before the Senate Armed Services Committee, my impression was that the Bush administration was entertaining some very strange views as to the future of nuclear weapons after the end of the cold war and the collapse of the Soviet Union. For example, the administration clearly preferred an outcome involving higher weapons totals than those finally agreed to in the present compromise. The administration has also been reflecting upon proposals for novel ideas regarding the applications of nuclear weapons—for example, to deter the use of chemical and biological weapons by Third World governments. I believe that some within the administration are also considering new warhead designs for which extensive test programs would be needed.

The administration's readiness to compromise and go to levels of strategic forces substantially lower than the figure it originally favored is extremely good news. But that step raises a series of further issues about the fundamental long-term objectives we should hope to be pursuing now that we have passed this watershed. The balance of my comments address those issues.

In my opinion, the future of nuclear weapons should be a movement toward drastically lower levels. If the Soviet Union still existed, START would have been a decent enough accomplishment. The total of 3,500 agreed to in the present announcement is a major step forward. However, for years, expert analysis has been suggesting the acceptability of even lower totals.

I have thought at times that the ultimate number might be 1,000 or even lower, but that total raises and reemphasizes the need for continued attention to strategic stability. Moreover, the prospect of a United States-based ABM system with hundreds of interceptors—which holds open the door for, and in due course may encourage, a Russian analog—does not fit well in an effort to reduce nuclear deterrent forces to ultra-low levels. In view of the reductions agreement just announced, and considering the many problems that have surfaced in relation to last year's compromise measure on SDI, I believe Congress should completely reexamine that issue.

New doctrinal justifications for nuclear weapons should be avoided and, on the contrary, their doctrinal role as war-fighting weapons ought to be contracting as their numbers decrease. Our objective should be to reach levels of weapons that are sufficiently low so as to cause the elimination of war-fighting missions. The purpose of nuclear weapons must be to deter the use of nuclear weapons—no more, no less. Their role as general-purpose deterrents should become one more vanished artifact of the cold war. New types of nuclear weapons should be avoided. For this purpose, we also need a nuclear testing regime that inhibits the Russians as well as ourselves from any further proliferation of new types of weapons in support of new types of nuclear missions.

This brings up the question of a comprehensive test ban [CTB] and/or a moratorium to precede it. Having allowed the President time to make progress in this area, and noting that there is none, I believe that Congress should now act. I am therefore pleased to become the 51st cosponsor of the Hatfield amendment for a 1-year nuclear testing moratorium.

However, whether one favors a moratorium or not, the core issue is whether there ought to be a comprehensive test ban. In this connection, I have some concerns and this is the time to mention them.

There are some improvements in nuclear weapons that would promote safer designs, without modifying the military characteristics of existing weapons. Those changes can be made with a relatively small number of associated tests, and I believe they should be made. It is possible, moreover, to believe that such testing could be completed within a very limited period of time, even if carried out at very constrained levels.

This would, of course, disappoint many who believe that we should have an immediate CTB, and who support the idea of a moratorium mainly as a warmup to the main event. I can understand that, but would also like to ask them to consider a different side of the equation; namely, the safety of Soviet designs. Since Soviet warhead designs are the product of the same disastrous bureaucratic culture that is responsible for other Soviet nuclear disasters, we had better give some thought to the advisability of freezing their designs, as opposed to somehow encouraging their modification for purposes of greater safety.

Second, and independently of testing modifications for safety, there is the question of testing for reliability. If nuclear warheads remain in our inventory for another 10, 20, or 30 years, there may come a moment when we detect a flaw that raises serious doubt about the reliability of a design. If by then we are relying on only a handful of weapons types, and have realized the hope of radically cutting back the total number of weapons, any doubt as to the reliability of a warhead design would be very serious.

I would add that it would be even more serious in the event that at that future time we face an opponent who is both nuclear-armed and equipped with a missile defense and air defense system of some substance. Of course, we might hope that political relations with any such country will be so good as to make the risks flowing from a failure of some element of our nuclear arsenal entirely acceptable. But then again, there is no way to count on that.

Testing for reliability might be possible under a very limited quota, although that would mar the concept of a CTB by creating an exception for nuclear weapons states. Some will argue that this imperfection will be rejected by the nonnuclear weapons states that are parties to the NPT, and will therefore endanger this vital agreement when it comes up for review in 1995. Others may argue that at a time when the two nuclear superpowers are decommissioning weapons by the thousands, a sharp reduction in nuclear testing short of absolute zero might be justified as reasonable on their part.

Therefore, although I continue to give close and respectful attention to the idea of a total and permanent ban on nuclear testing, it would fit my notions of progress were we to emerge in a year's time with agreement to cut testing levels sharply, under conditions that allow for safety improvements and then, minimal reliability testing. I would have been happy if the administration had come to a similar view. Failing that, it is time for Congress to impose a pause for further reflection.

In any event, however, I am convinced that the time has come for a cessation of production of weapons-grade fissionable materials, whether high enriched uranium or plutonium. The time could not be more right for a formal production ban. We are not producing these substances nor do we have plans to resume production, and the decommissioning of warheads assures an ample supply of fissionable materials for future contingencies. This is the moment, therefore, not merely to announce cessation ourselves but to lock it up in the form of a formal agreement with the Government of Russia.

Moreover, I think we would be wise to leave that agreement open-ended for the accession of other parties. I believe that ultimately the civil nuclear energy programs of France and Japan will come under review, as voters in those countries become aware of the reality that they will be living with vast quantities of reprocessed plutonium. The sooner this happens, the better. By leaving a United States-Russian agreement on fissionable materials open for others, we can emphasize the need to block the further accumulation of bomb-grade material anywhere for any reason.

To summarize: The time has come when we are shifting decisively away from a half-century of growing dependency upon nuclear weapons. Consistent with the agreement announced yesterday, our objective should be to curtail nuclear weapons' function in military doctrine; to hold open, rather than seal off, options for further dramatic reductions in numbers of nuclear weapons; to review SDI in light of problems of strategic stability consistent with ultra-low levels of nuclear weapons; to block the development of new designs aimed at new missions and requiring elaborate new test programs; to sharply cut back on testing to a level absolutely consistent with no more than the minimum required for safety and reliability; and to formally suspend the production of bomb-grade fissionable materials under the terms of an international agreement.

I believe that this entire agenda ought to be accessible to President Bush. Certainly, we are now on a course headed in that direction. However, to the extent that the administration may wish to stop short, Congress should consider pushing ahead.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 31, 1992.

Lt. Gen. BRENT SCOWCROFT,
USAF (Retired),
Assistant to the President for National Security Affairs, the White House, Washington, DC.

DEAR BRENT: On October 10, 1986, President Reagan wrote the Congress a letter in which he pledged that once the Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty (TTBT/PNET) verification protocols had been achieved and the two treaties had been ratified, the United States and the Soviet Union would "immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing." (emphasis added) In return for this pledge, the House of Representatives agreed in the conference on the FY 1987 defense authorization bill to drop a provision that would have mandated a comprehensive test ban (CTB). More importantly, President Reagan's pledge opened the door to House/Senate agreements on a range of strategic issues which the White House felt were absolutely essential if the President was to negotiate from strength at the Reykjavik Summit.

As you know, the first phase of U.S./Soviet Nuclear Testing Talks (NTT) culminated in success on June 1, 1990, when Presidents Bush and Gorbachev, signed the TTBT/PNET verification protocols, thereby breaking the impasse that had blocked ratification of the treaties for over a decade. However, when the Senate conducted ratification hearings on the two treaties later that year, concerns were raised as to when the United States would resume the next round of NTT talks and what further restrictions we would seek in that round. In response to a question from Chairman Nunn at a September 17, 1990 Armed Services Committee hearing, ACDA Director Ronald Lehman promised that the delay in resuming the NTT talks would not be lengthy. Ambassador Lehman said, "We are not talking about years." He also testified that an annual quota on the number of permitted tests and a lowering of the 150-kiloton testing threshold were among the options under study by the Administration for the next round of NTT talks.

That was a year and a half ago. Yet as of today the Administration has made no decisions on when the NTT negotiations will be resumed or what our negotiating objectives will be when they are resumed. This despite the fact that the Simon Amendment to the FY 1992 Defense Authorization Act (sec. 3140) required the President to submit by February 5, 1992 a report to Congress containing the proposed schedule for resuming the talks and identifying the goals the United States will pursue in this next phase.

Of even greater concern, though, was the testimony presented at an Armed Services Committee hearing Friday by Robert Barker, Assistant to the Secretary of the Defense for Atomic Energy. In response to questions by Senator Gore, Mr. Barker stated that the Simon Amendment report had not been submitted yet because the Administration had not decided whether "there is any further reduction in nuclear testing that is in the interest of the United States."

We would appreciate an immediate clarification of the Administration's position with regard to the timing and goals of the next round of NTT talks. We would also appreciate knowing when, exactly, the overdue Simon Amendment report will be submitted to Congress by the President.

When Congress reached its compromise agreement on nuclear testing with President Reagan on the eve of the Reykjavik Summit in 1986, it believed that it had received a solemn commitment from the President to pursue in good faith a step-by-step series of negotiations resulting in progressively more stringent limitations on underground nuclear tests. We cannot overemphasize the implications for possible legislative action by Congress in the nuclear testing area this year were the Bush Administration to renege on this commitment.

Sincerely,

SAM NUNN,
Chairman.
ALBERT GORE, Jr.,
U.S. Senator.
PAUL SIMON,
U.S. Senator.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank the Senator for his very thoughtful statement. As the coauthor, with Senator HATFIELD, of the testing moratorium, I think his support is significant beyond the fact that he is the 51st cosponsor, because Senator GORE has long been recognized as a national leader and expert on the subject of arms control. So I am very grateful for his thoughtful statement and especially for his support of the testing moratorium.

REDUCTIONS IN STRATEGIC NUCLEAR ARSENALS

Mr. MITCHELL. Mr. President, I am pleased that President Bush and President Yeltsin have agreed upon significant additional reductions in the strategic nuclear arsenals of Russia and the United States. This historic agreement is a tribute to both Presidents during President Yeltsin's historic visit here as President of the Russian Federation.

The new agreement ultimately will lead to reductions of two-thirds of current levels of nuclear warheads. The speed with which the agreement was reached and the import of its reductions are unprecedented. The agreement will achieve another important objective: Eliminating land-based weapons with more than one warhead. By eliminating more destabilizing weapons systems, this agreement will further enhance our mutual security.

The agreement does more than establish a safer and more stable framework within which United States-Russian relations can become closer. It also sets an important example for other nuclear and aspiring nuclear powers. I hope and trust that it will be used as a means to engage other nations in the larger process of arms control. I commend Presidents Bush and Yeltsin for this achievement.

Earlier today, President Yeltsin told a joint meeting of Congress that reason had begun to triumph over madness and that the nightmare of nuclear war between the superpowers is becoming a thing of the past. The new strategic agreement gives credence to those comments. President Yeltsin also urged the United States to join the unilateral moratoriums on nuclear testing now being observed by Russia and France.

Since our countries are reducing nuclear weapons, he asked why the United States wants to continue improving nuclear weapons. I share President Yeltsin's disappointment that President Bush has failed to respond to the Russian initiative. A testing moratorium is an important political symbol of our willingness to finally bring the arms race to an end. We have buried the cold war, we should now bury the arms race with it.

I urge President Bush to join Russia and France in suspending nuclear testing and to renew America's commitment to negotiate a comprehensive test ban. This will help attain the goal expressed by President Yeltsin today that a country be judged not by the number of its nuclear weapons but by its traditions, cultural values, and the living standards of its people.

Mr. SYMMS. Mr. President, I ask unanimous consent to proceed as in morning business for less than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho.

PERSECUTOR RUNS AMOK

Mr. SYMMS. Mr. President, looking at the morning papers today is enough to turn anyone's stomach who has any sense of fairness and justice. To see we have paid some $40 to $50 million to a Special Prosecutor who, I think today, should earn the title the "special persecutor," issued an indictment of a great American, Caspar Weinberger who served this country very ably in two administrations.

To top it off, we heard a wonderful speech today from an elected leader of the Republic of Russia which has not had an elected leader for over a thousand years. He is the first one. Had it not been for individuals like Secretary Weinberger, who is now being persecuted by a bunch of lawyers who have run amok, Mr. President, we would not have seen Mr. Yeltsin addressing our Congress.

I find it, as one Member of the Senate, absolutely obnoxious to think that our Government is running this loose, and that we in the Congress do not have the ability to defund the special persecutor who has wasted now some $40 million of the U.S. taxpayers' money. I call on the President and the leadership of the House and the Senate to stop this nonsensical and continual persecution of people.

Senator HATCH was quoted as saying, what is happening is we are allowing the special persecutors—the prosecutor—to criminalize a difference in policy opinion. It just so happens former Secretary Weinberger happened to be opposed to the whole arms transfer to Iran. That was the issue in the first place. How we in this Senate and in the other body and in the White House can continue to let this go on and expect to have any kind of a justice system which people will have any respect for begs the question.

I urge the President to put a stop to the Special Prosecutor's Office. I urge the President to issue pardons to all people who had any part of Iran-Contra and shut this operation down. I further urge the leaders in the House and the Senate to bring up a resolution to defund Judge Walsh and his crew of persecutors who are working down here under the taxpayers' expense digging back through—it is very obvious to me they are now trying to justify their existence. I find it outrageous, Mr. President.

I say again, I call on my colleagues to join together in a bipartisan coalition to put a stop to this. We will never get the kind of people we want in our Government in the future if we allow these kinds of persecutions to continue to go forward. It is absolutely outrageous. There is no justice to it and it is an absolute disgrace to this country. I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, is the leaders' time reserved?

The PRESIDING OFFICER. The leaders' time is reserved.

OFFICE OF THE SPECIAL PROSECUTOR

Mr. DOLE. Mr. President, first let me join in the comments made by the distinguished Senator from Idaho. It has been 5 years now and somewhere between $30 million and $50 million and they have not got much to show for it, and they keep perpetuating themselves in office hoping they might sooner or later get something on Ronald Reagan, who left this place 4 years ago.

That has been their real target. They will not tell you that, but that is their real target. And all this Weinberger thing in my view is a sideshow. As the Senator from Idaho pointed out, it is certainly stretching every point they could find. It should have been closed up 3 or 4 years ago.

If Congress spent $50 million on this kind of chicanery, the liberal media would be investigating. They do not say a word about this. They criticize the Senator for criticizing the special persecutor, or prosecutor, whatever it is. They will not dig into the $50 million, and how much they pay for office space, and how many lawyers they have, and what their expenses are. No, no, that is off limits for the New York Times, the Washington Post, and all the other liberal media in America.

In any event, the Senator hit it right on the head. It does not mean you are not going to continue prosecution. If somebody violated the law, I do not care who it is; they ought to be prosecuted. But we still have a Justice Department. The last time I checked there were fairly honest men and women in the Justice Department. We do not need a Special Prosecutor to go on forever and ever. Five years. Talk about term limits. Maybe there ought to be a term limit on Special Prosecutors: 1 year, 2 years, 3 years, 4 years, 5 years.

FREEDOM SUPPORT ACT

Mr. DOLE. Mr. President, there is no doubt in my mind today that we heard a very historic address by President Yeltsin, of the Republic of Russia. He certainly underscored the turning point that has happened between the United States of America and the former Soviet Union. He talked about partnership, he talked about the future, and he talked about no more lies from the Soviet Union. He said himself to Senator JOHN MCCAIN in a private conversation, "I will assure you as the President of the Republic of Russia that I will disclose every bit of evidence in an effort to find any American who might have been a prisoner of war in the Soviet Union at any time in the past."

It seems to me that in response to President Yeltsin's visit we ought to be debating this afternoon, or tomorrow afternoon, or next week at the latest, the Freedom Support Act. It is in our national interest. President Bush supports it. There is bipartisan support in the Senate, bipartisan support in the House.

It seems to me we do a disservice to this relationship that is starting to expand and grow, as it should, and we in effect tell people who want democracy in the former Soviet Union: Well, you have to wait a while because we are not ready to act.

So I hope we can take action. I think it would pass in this Senate by 80 votes or more, because I have talked to my colleagues on the Democratic side, my colleagues on the Republican side. If we want Boris Yeltsin to succeed, if we really believe in democracy, if we want to end the arms race, if we want a decade or generation of peace, then we may have to contribute a little in our national interest and their national interest.

It may cost us a few billion dollars, but I would say to the skeptics who say, "Oh, you can't do that, that is foreign aid," I think it is an investment in democracy.

But ask those same people: What happens if Yeltsin is overthrown, or if there is a coup and a hardliner takes over again in the former Soviet Union and we start back in an arms race that spends billions, and billions, and billions a year, and we threaten the future of our young people, our children, our grandchildren, and those beyond?

So, Mr. President, I urge that we act as quickly as we can. We ought to set a date so that when President Yeltsin leaves the United States of America he knows Congress is going to act on a certain date or in a certain timeframe to make it possible for him to do his job and also to serve our own best interests.

Mr. President, I reserve the remainder of my time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The Senate continued with the consideration of the bill.

Mr. METZENBAUM. Mr. President, we have been discussing lots of things in the last half-hour or so, but I would like to come back to discussing the bankruptcy bill which is the pending measure before this body.

I rise to indicate my support for the measure and to commend the chairman of the subcommittee having to do with this subject, Senator HEFLIN. It is his bill, and he and I have worked very hard on certain aspects of the bill. I would like to discuss two amendments that I sponsored and that have been adopted and are now a part of S. 1985, a provision on professional fees, and a provision on substantial abuse and a debtor's right to a fresh start.

First I would like to comment on the provision concerning professional fees. The increased number of bankruptcies has created literally a feeding frenzy for the attorneys, accountants, investment bankers, and other professionals who service the unraveling or the restructuring of a bankrupt debtor. Law firm after law firm has added special departments to handle bankruptcy matters. The fact is these professionals get paid first out of the bankrupt's estate, and as a consequence all too often there is nothing or very little left to pay those the bankruptcy system is designed to protect: the creditors, the shareholders, the pension plans, the employees, and the businesses that may emerge from bankruptcy.

Last March, I chaired a hearing on professional fees in bankruptcy. That hearing revealed a number of examples of how professionals literally suck the financial life out of a bankrupt company by charging exorbitant and in many cases unnecessary fees. For example, attorneys get paid as much as $500 per hour for their services.

Recently, on June 8, 1992, the National Law Journal in an article entitled "More Legal Fees From Drexel's Bankruptcy," reported that a total of six New York and national laws firms have received $85 million in fees and expenses for little more than 2 years' work in the Drexel, Burnham, Lambert bankruptcy. One firm got a total of $36.4 million in fees and expenses from February 1990 to April 30, 1992, approximately 26 months. But that is over a million and a quarter a month. That is just unbelievable.

Investment bankers also get paid handsomely for their services. They are generally hired on retainer and are paid a fixed monthly fee regardless of the amount of time or work they put in. For example, a top investment firm can get as much as $135,000 a month plus success fees of 1.5 percent of the price of the assets sold. And the creditors, they get just the dribbles that are left, and the original bankrupt company, they do not get anything.

Bankruptcy consultants can get over $200 an hour for their services—and this is really an interesting one—which may include packing and unpacking boxes.

For example, in the L.J. Hooker bankruptcy, a consultant was paid over $6,074 for packing and unpacking boxes. Professionals also charge hefty fees just for preparing their bills.

I practiced law before I came to the Senate. Until I came to this body and conducted this hearing recently, I had never heard of anybody in any law firm charging just to prepare the fee bill. I thought preparing the fee bill was part of the way you went about collecting the money that was owed to you.

In the Carter, Hawley, Hale bankruptcy, one firm charged $30,724 to prepare its billing, another firm $62,583, and another firm a whopping $177,844 to prepare its billing. And the court approves it? Also, in that case we learned that a law firm submitted a bill, this is a very difficult one, very challenging one, for an impossible 27 hours of work done by one person in 1 day. Figure that one out for yourself.

The abusive billing practices used by these professionals cover the spectrum. For example, in the LTV case, a Boston law firm billed for what it called passive travel, a term the firm used to refer to the time lawyers spent sleeping or reading a magazine while on a plane en route to a bankruptcy meeting. Moreover, it is not uncommon in bankruptcy cases to receive bills for research into irrelevant issues or to find more than one firm charging for the same legal research.

Overstaffing can also be a problem. According to the pension Benefit Guaranty Corporation PBGC an audit of a bill from one accounting firm showed that five partners attended all meetings related to the bankruptcy. Who are they kidding? If they attended they should not have been attending. But I think it is questionable if they ever attended.

Some attorneys even engage in what has become known as "forum shopping." Instead of filing a petition for bankruptcy in the jurisdiction where the corporation has its principle place of business, the petition is filed in a jurisdiction where the attorney is more likely to get the highest fees. Indeed, it is not uncommon for practitioners to scour our country's bankruptcy jurisdictions in search of the highest fee schedule.

Our current bankruptcy system is not doing enough to protect a bankrupt company from those that would drain it of its financial life. While the professional fee meters are running full-blast, those responsible for minding the store sit idly by and do nothing. As a result, the degree to which fees are actually monitored vary from jurisdiction to jurisdiction, and the standards used for such review are often less than prescribed by law. In many instances, the bankruptcy courts operate more like private clubs for professionals who share the same goal of getting their piece of the action, rather than as the guardian of the bankrupt company and other affected parties. All too often the name of the game is "If you scratch my back, I'll scratch your back."

Bankruptcy is a different kind of area. When you have two normal litigants in a contract case, or two litigants that are perhaps an insurance company and a plaintiff's lawyer, then there is no desire on the part of one side or the other that the other be paid a higher fee. But when you have a bankruptcy case, the only watchdog with respect to the amount of fees paid other than the bankruptcy court itself, are the attorneys for the creditors on one side, attorneys for the bankrupt on the other, attorneys for the trustee. But in this field, one day one is an attorney for the creditor, and tomorrow's case one is an attorney for the bankrupt or for the trustee and switch around.

Almost with no exception they never object to the fees that the others are getting paid because they too have to file fee applications and they do not want any objection made to their fees. As a consequence, it is an end game in the fact that those who are part of the team, those who are part of the operation of the bankruptcy courts, are looking out for each other rather than looking out for the creditors or for the bankrupt.

To curb some of the abuses, some creditors are taking a more active role in the review of fee applications. After our committee hearing on bankruptcy fees, the Secretary of Labor, Lynn Martin, announced June 5 that the PBGC will increase monitoring professional fees in large bankruptcy cases. According to Secretary Martin:

> Part of our responsibility to American workers and retirees—and the American taxpayers—is to see that the scarce remaining resources of bankrupt firms are used to fund pensions and health benefits and not to line the pockets of the bankruptcy bar.

I could not agree more.

In noting the trend toward excessive professional fees in bankruptcy, the PBGC cited several examples. In the Eastern Airlines case, $95 million was awarded in fees while the company's pension fund was underfunded by $700 million. In the Pan American World Airways bankruptcy, pensions were underfunded by $900 million while fees for less than 1 year were nearly $30 million.

While the PBGC's actions are laudable and more creditors should take a more active role in the review of fee applications, this is not enough. A Federal mandate in clear and concise terms is necessary to establish guidelines and to firm up the Bankruptcy Courts and the U.S. trustees responsibility for reviewing fee applications.

This bill contains the amendment that gives the court specific guidance as to what factors to consider when deciding the appropriateness of a fee request.

It is up to the court to look at those new guidelines and to understand that the Congress of the United States has grave reservations about the kinds of fees they are permitted to be paid in the past many years.

It is time for the courts to accept the responsibility to the creditors, and to the bankrupt and to all other parties interested in the case that the case not just be a bonanza for the lawyers but that it be fairly adjudicated, the lawyers properly paid but not overly paid.

In addition, the bill now requires the U.S. trustee a adopt uniform procedural and substantive guidelines for the review of fee applications. The bill makes it clear that the U.S. trustee in addition to the court has the duty and the responsibility to review each fee application and where appropriate file an objection to such application.

I sponsored an amendment to S. 1985 that gives the Bankruptcy Court specific guidance as to what factors to consider when deciding the appropriateness of a fee request.

In addition, the bill requires the U.S. trustee to adopt uniform procedural and substantive guidelines for the review of fee applications. S. 1985 makes it clear that the U.S. trustee has the duty and the responsibility to review each fee application and, where appropriate, file an objection to such application.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. METZENBAUM. I reserve the remainder of my time.

Mr. SIMON. Mr. President, I ask unanimous consent to speak for not to exceed 10 minutes on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I rise in support of the amendment Senator DANFORTH will be introducing very shortly saying we have to pay attention to this deficit.

I recognize a balanced budget amendment was defeated in the House. That does not mean we are not going to have to face this issue.

In the first 175 years of this Nation's history 60 percent of the time we balanced the budget, and if we did not, it was by small amounts. In the last 25 years of this Nation's history, 4 percent of the time we have balanced the budget, and when we did not, it has been by huge amounts. Let me give you one other figure.

For the deficits we have run in the last 12 years, we have spent over $1.4 trillion on interest—interest. What do we get for it? Not one thing other than an eroding industrial base and higher interest rates in this country.

The General Accounting Office, Mr. President, sent out a report that I think is the most significant report in the history of the GAO. What astounded me, frankly—I say this as a former journalist—I thought what the GAO had to say was going to be on the front page of the Washington Post, the New York Times, and every other newspaper in the leadoff item in the TV news that evening. It has been, believe it or not, ignored.

I am sending around an extra copy to every Senate office, just in case Senators and their staffs for some reason have missed it. It is devastating.

Among other things, this report says, if we get ahold of and balance the budget by the year 2001, compared to doing what we are doing now, the difference is 39.7 percent in GNP. In per capita income, if we balance the budget by the year 2001, it means an increase in per capita income of 36 percent, for every man, woman, and child in this country, compared to just going downhill. The report is just devastating, and it says why the Danforth amendment ought to be adopted.

Frankly, there is particularly one word in the Danforth amendment that I would just as soon not have in there referring to the candidates as being irresponsible for not discussing this. I note that the Presiding Officer and I have both gone through the experience of being unsuccessful candidates for our party's nomination, and we have also both gone through the experience of saying things that no one pays any attention to, particularly if they are significant. The trivia gets the attention.

But, for example, in the GAO report, listen to this: During the 1960's, the budget deficit absorbed approximately 2 percent of net national savings generated by the private sector in State and local governments. During the 1970's, the Federal deficit absorbed 19 percent of the net savings of other sectors. By the 1980's, nearly one-half, 48 percent, of that savings was needed to finance the budget deficit. This trend continues. In 1990, the deficit absorbed 58 percent of net national savings, and one estimate I have seen—this is just an estimate, because we do not have the figures in—is that this year it will be 75 percent, going from 2 percent to 75 percent.

Let me read another little item from this staggering report here.

> The budget deficit is projected to reach 20.6 percent of GNP by 2020, and the economy is on a path that is clearly unsustainable.

That is powerful language. I note, in working on my balanced budget amendment, frankly, that some of the groups whose causes I have and will continue to advocate, who are for social programs—I regret to say they have taken a very short-term look at this deficit situation. Under the optimistic scenario that interest rates will not rise—and that is an optimistic scenario in the view of the capital needs of the world—this GAO report, on page 61, says that social programs, the discretionary nondefense programs, domestic programs, as well as foreign programs, will drop from 29.3 percent of the budget to 20.9 percent, or roughly a one-third drop, if we do not do anything about it.

Obviously, with the deficit is a massive redistribution factor. We will spend next year, for the first time in the Nation's history, more money on interest than on any single item. We will spend 10 times as much on interest as we do on education. We will spend twice as much on interest as for all of the poverty programs. Talk about welfare. We take from those of limited incomes and give to those who are more fortunate.

This next fiscal year, the current estimate is that we will spend about $316 billion on interest, and the total domestic discretionary nondefense—that is education, agriculture, space, everything—domestic discretionary nondefense will be $235 billion. In other words, we are going to spend $80 billion more on interest than we will on all the domestic discretionary nondefense items.

To those few who say, well, the deficit really is not that bad because we do not have capital budget and an operating budget, my friends, the report also makes clear—and GAO suggests that we talk about investments versus consumption—that the creation of explicit categories for governmental capital and developmental expenditures should not be viewed as a license to run deficits to finance these categories.

The greatest capital project in the history of humanity is the Interstate Highway System. It costs us about $345 billion. President Eisenhower suggested we issue bonds for that, and the father of one of our colleagues, Senator Albert Gore, Sr., got up and said that we should not issue bonds for the highway system; we ought to pay for it on a pay-as-you-go basis and increase the gas tax. Fortunately, Albert Gore won, and we paid for that on a pay-as-you-go basis, and we saved hundreds of billions of dollars.

I could go on and on, but I shall not. One of the things in the American Revolution they talked against was taxation without representation. That is what we are giving our children in future generations. We are the first generation of Americans to live on a credit card and say, "Send the bill to our children." We are taxing them. We have to stop it. We are eroding the base of this country. The New York Federal Reserve Bank study shows that the deficit has already caused about a 5-percent loss in the growth of GNP. We just cannot keep that up.

Mr. President, I hope we will support the Danforth amendment not just as empty words, just some gesture, but I hope we will take the words seriously and that we will follow through and really do something for this country in future generations.

I yield whatever time I have left.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I ask unanimous consent to speak on the bill for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I want to address the Danforth amendment that will be debated shortly. It is a sense-of-the-Senate amendment that addresses the single greatest issue this country has to face and the single most important issue that anybody who runs for office this fall must address. That issue is the exploding Federal debt.

Pictured here on my left is a simple chart of the amount of money this country has borrowed and continues to borrow to finance the continuing operations of this Government. No one can look at this chart and look at the record of this Congress and not be stricken by what has been done to the taxpayers, the working men and women of this country. The truth is that the mountain of debt that has grown threatens the very future of our country and the future of our children.

Mr. President, the chart shows a rising debt that is almost a vertical line. The 1 year in the last 25, that the budget has been balanced, as the distinguished Senator from Illinois mentioned, was 1969. Every year since 1969, the deficit has continued to grow. What is alarming is that it continues to escalate at an even greater rate. This year, the deficit will not only reach an all-time high of nearly $400 billion, but the deficit will be approximately $130 billion more than what this very Congress approved when the budget resolution was passed.

If one looks at the record we find a pattern. Each year the Congress promises to reduce the deficit. Each year a budget is passed that reduces the deficit. Each year that budget is ignored. Each year this body spends more money than what it said it would. Each year the interest cost of this Nation grows higher, higher, and higher. It is no secret why the American people are disgusted with the performance of this Congress. It is because Congress has mortgaged the future of this Nation to finance a series of programs that simply do not stand up in the light of day.

The Danforth sense-of-the-Senate amendment would recognize the budget as the most important problem that faces our Nation and would call on the Presidential candidates as well as others to address this issue when they run for office. Most importantly, it calls for these individuals to lay out their specific plans and proposals to deal with it.

Yesterday, on the floor of the Senate, I outlined in specifics the programs I believe we ought to cut to bring this deficit into line. At the appropriate point I will offer an amendment to the Danforth amendment which will replace the narrow language in one of the findings that proposes increasing taxes as one of the keys to solving this deficit problem.

We have increased taxes. The 1990 budget agreement included a huge tax increase. That tax increase imposed on the working men and women of this country last year did not solve the deficit problem. As a matter of fact, the deficit escalated.

I will offer an amendment that will replace language which prescribes a narrow number of proposals with language that states we ought to look at all aspects of the Federal budget in addressing the problem.

The key point is this: Year after year after year, Congress has promised to do something about the deficit. Year after year after year they have offered budget resolutions that commit this country to reducing the deficit. And year after year after year they continue to appropriate more money than what was agreed to in the budget. This cycle has caused the deficit to explode and burden all of our children.

Mr. President, this could be the most irresponsible Congress in the history of our Nation. It is my belief the American people are not going to put up with this kind of nonsense anymore. The Danforth amendment pinpoints the No. 1 issue and calls for the candidates to address this issue directly in the coming election of the President.

I think the Danforth amendment is sound policy. I hope that my amendment will make it clear that we should look at more than just tax increases as a solution. But whether or not my amendment is passed, the will of the American people to turn this fiscal nightmare around, this flood tide of red ink. I believe is going to be made clear in the coming November.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to address myself further to the bankruptcy question, but I would like to point out to my colleague from Colorado in case somebody misunderstands the fact, the deficits about which he has been speaking come about by reason of the failure or ability of the President of the United States and the Congress. All of us have the responsibility and all of us need to carry the burden and the sense of embarrassment.

But no President in recent years has sent up to the Congress a balanced budget, and the President is where the problem starts, and it is time for the President and the Congress to work together.

I understand exactly what the Senator from Missouri is doing and have no quarrel with that. But when the Senator from Colorado rises and attempts to make the point that the Congress is to blame, I must take strong issue with him.

Let me say that the American people or a portion of them who may happen to be listening to this at the moment have to be very confused. Somehow they thought we were considering the bankruptcy bill and intertwined with the bankruptcy bill we now find ourselves on this question of dealing with the balancing of the budget. And let no one misunderstand: Bankruptcy is not contemplated for the United States nor do I think it will be contemplated any time in the future.

That does not mean that we do not have a strong sense of responsibility and an obligation to find a way to balance the budget, and each of our Presidential candidates has a special sense of responsibility to provide such leadership in that area.

While we were considering the bankruptcy bill coming back to that, I want to point out that I sponsored an amendment to S. 1985 that clarifies the bankruptcy court judge's power to pay retiree benefits.

In 1988, Congress enacted the Retiree Benefits Bankruptcy Protection Act which created a new section 1114 of the Bankruptcy Code. The act was the result of 2 years of congressional consideration of the need for special protection for retiree benefits in bankruptcy situations.

In creating section 1114, Congress sought to provide an important level of protection to retiree benefits in recognition of the unique position of retirees in bankruptcy situations. These are the men and women who had worked for the company, who had helped the company grow to a certain point, and then at some later point the company found that it had to go into bankruptcy. Because the retirees generally are no longer employed and almost by definition they are not employed, their ability to retire is totally dependent on the receipt of promised benefits. For many retirees, the loss of promised benefits would result in impoverishment.

Health benefits are especially crucial to retirees. Older individuals, who are not yet eligible for Medicare, would not be able to obtain private health insurance were they to lose their employer-promised benefits. Particularly, in these times of skyrocketing health care costs, it is imperative that individuals be covered by health insurance.

For these reasons, Congress unanimously enacted section 1114 of the Bankruptcy Code.

Section 1114, unfortunately, has had mixed results as far as interpretation in the courts is concerned. In numerous cases, the enactment of section 1114 has worked well to continue and protect retirees' benefits.

But in other cases, the results have been troubling. Some courts and creditors continue to oppose the payment of retiree benefits. A particular area of concern involves cases in which the debtor or the court has agreed to pay retiree benefits but all of the debtor's assets are subject to secured interests. Some creditors have refused to permit use of the assets in which they have a security interest to pay retiree benefits and some courts have held that they do not have the authority to require payment of retiree benefits from secured assets.

The amendment that I offered to S. 1985 and that is accepted makes clear that retiree benefits are to be paid if necessary from secured assets. Congress was aware of this issue prior to the enactment of section 1114 and believed it had addressed the issue in the act's final language. Because some courts have found the revised language insufficient, my amendment which is now part of the bill clarifies this issue.

Under my amendment, any court order approving the use, sale or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit or debt to pay retiree benefits.

It is my hope and expectation that with this clarification, retiree benefits will be paid in bankruptcy cases. Retirees are uniquely vulnerable in bankruptcy cases. They have nowhere else to turn and no way to protect the benefits promised to them. For these reasons, it is imperative that retiree benefits receive priority treatment in bankruptcy.

SUBSTANTIAL ABUSE AND A FRESH START

Mr. President, I also sponsored an amendment to S. 1985 that clarifies the meaning of substantial abuse as was originally intended by Congress in 1984 when section 707(b) was enacted. Under S. 1985 two specific and exclusive tests may be used to determine whether substantial abuse has occurred. Substantial abuse can be found if the debtor acted in bad faith or if the debtor without substantial hardship has the ability to pay his or her debts as they become due. The phrase "ability to pay his or her debts" means the debtor's ability to pay all of his or her debts at the time of filing. The debtor's ability to pay part of his or her debts at the time of filing shall not constitute substantial abuse. The phrase "as they become due" means at the time the debtor files a petition for bankruptcy. It does not include or contemplate a future income or earnings test or whether the debtor would be able to fund a chapter 13 plan. My provision overrules cases such as in re walton where a chapter 7 case was dismissed for substantial abuse even though the debtor was unable to pay his or her debts as they became due.

Since the passage of the Bankruptcy Reform Act of 1978, a debtor's right to a fresh start has been under constant attack by the consumer credit industry. The consumer credit industry would have us believe that all debtors are deadbeats, unworthy of the chapter 7 fresh start provided by law and confirmed by the Supreme Court. In their view, debtors should have limited access to a chapter 7 fresh start. In fact, in their efforts to curtail a debtor's right to a fresh start, they would have us enact a future income test to be used in determining whether substantial abuse of chapter 7 has occurred.

A future income test was specifically rejected by Congress in 1984 when section 707(b) was enacted and was again rejected by the Judiciary Committee when considering S. 1985. In fact, for almost 100 years our laws have recognized the right of an individual to file for bankruptcy, and upon discharge of his or her debts, be able to have a fresh start, unencumbered by debt.

A future income test would deny a debtor a fresh start. It would force the debtor to mortgage his or her future in order to get bankruptcy relief. Moreover, bankruptcy relief would become hostage to a judge's guesses about how much an individual would earn, what his or her financial burdens would be, and whether the debtor would become sick, unemployed, or disabled. Such determinations are far too speculative, especially given today's economy. In the end, debtors would not be treated fairly or equitably.

Contrary to what the credit industry would have us believe, recent studies have shown that the vast majority of debtors are conscientious, hardworking people who have suffered unemployment, disability, basic bad luck, and yes, sometimes poor judgment, too. Often they have struggled to pay their bills for years and filing for bankruptcy relief is the very last thing they want to do but simply have no choice. Elizabeth Warren, coauthor of a book entitled "As We Forgive Our Debtors," which documents a study on consumer bankruptcy, noted in testimony before the Judiciary Committee on June 27, 1991 that:

> More than three out of four debtors in bankruptcy could sell everything they own—the house, the furniture, the clothes, the kitchen utensils, and the cat—and not have enough to pay off their outstanding debt.

Crushing debts place enormous stress on individuals and their families. Often bankruptcy relief and a financial fresh start is the only answer for many honest good faith debtors facing financial collapse. They seek bankruptcy relief not to deceive their creditors but to survive.

In fact, it is important to note that section 707(b) as amended does not protect those who would abuse and undermine the integrity of out bankruptcy system. The doctors, lawyers, and others who attempt to shuck their debts in order to later resume a lavish lifestyle should be prevented from thumbing their noses at those of us who believe in living up to our responsibilities. Section 707(b) as now amended gives the court the flexibility it needs to weed-out those who would abuse our bankruptcy laws. Creditors' interests should be and will be protected.

Section 707(b) as amended by S. 1985 safeguards the debtor's right to a fresh start and provides a clearly defined safety valve to eliminate those abusive chapter 7 filings that would undermine confidence in our bankruptcy system. It gives the Bankruptcy Court the discretion it needs to provide both the creditor and the debtor with equitable and just treatment.

Mr. President, I rise in support of section 206 of the Heflin-Grassley bankruptcy bill. This section would codify a court's authority to issue a permanent injunction channeling claims to an independent trust established as part of a chapter 11 proceeding.

Section 206 plays the simple, but important, role of providing certainty with regard to the permanence of the injunction. Without a clear statement in the Bankruptcy Code as to a court's authority to issue such an injunction, the financial markets tend to discount the securities of the reorganized debtor.

This is critical where, as in the Manville reorganization, the trust created to pay injured workers has as its principal assets the common stock and future earnings of the reorganized debtor. Obviously, how the marketplace values those securities dictates the amount of money available in total to pay claims.

In fact, in the Manville case, the company estimates that for each $1 discount in stock value imposed because of this uncertainty, the trust created to pay asbestos claims loses $96 million.

Enactment of section 206 of this bill is thus critical to hundreds of thousands of asbestos victims, whose payments have been delayed for years because the assets of the Manville Trust have been depleted. The provision confirms for the financial markets, the lending community, and others that the debtor will not at some future time be exposed to liability beyond that defined in or by the reorganization plan. Section 206 will enable the marketplace to value the reorganized debtor's ongoing business operations fairly, thus ensuring that the trust—and thereby the claimants—will receive the maximum value for the assets it holds. Based on court records, this certainty has the potential of creating hundreds of millions of dollars in value for a trust such as the Manville Trust to use in paying injured workers.

Mr. President, further let me conclude my remarks in connection with this bankruptcy matter by expressing publicly my appreciation for the untiring work and effort of a lady on my staff by the name of Pam Banks. She has given of herself to a tremendous extent to make it possible to achieve these amendments that are in this bill, and I express publicly my appreciation and recognition for her work. Were it not for her they would not be in the bill.

Mr. BROWN. Mr. President, will the distinguished Senator from Ohio allow me to respond to his remarks?

Mr. HEFLIN. We want to know whose time this is being charged against.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. I yielded the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Colorado.

Mr. BROWN. Mr. President, I believe I have some time reserved.

The PRESIDING OFFICER. The Senator from Colorado has 4 minutes.

Mr. BROWN. Mr. President, my good friend from Ohio addressed some concerns about the deficit and made a point about Presidential records. Inasmuch as my view differs to some degree from the distinguished Senator from Ohio, I wanted to at least participate in this discussion and this debate.

First of all with regard to the Presidents: Unless they have changed the Constitution other than exercising the veto, the President does not have a vote on this floor or the floor of the House. If the Senator's point is that the Presidents have not—and I say "Presidents" plural, referring to President Bush, President Reagan, perhaps even President Carter—if the point is that those Presidents have not done all they could to reduce the deficit I must say I agree with him. I think more can and should have been done.

But if the point is that Presidents have a vote in these Chambers and control the budgets, I sincerely disagree. They do not. The Constitution is quite clear on this.

Second, it should be noted for the record that when it comes to the mandatory spending programs, Presidents do not have an opportunity to veto spending for these programs. Those changes in the law to these programs must come from Congress.

Third, I think it ought to be noted that the current President has recommended over 4,000 projects and programs that ought to be cut or terminated. Many of these Congress has yet to act on.

Fourth, I think it would be a shame not to note that, while our current President has not recommended a balanced budget, over the 5 years, for fiscal year 1993, every other budget that the President of the United States has sent to Capitol Hill has been, over the 5-year plan, a balanced budget.

The breakdown has not come from the failure of the President of the United States, to recommend balanced budgets. The failure has been in this Congress which does not adopt and enforce budget plans that are balanced.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I yield myself as much time as I require on my amendment.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, 2 weeks ago tonight, Senators BOB GRAHAM, BROWN, LEVIN, DOMENICI, NUNN, and I appeared on the television program "Nightline." During that program, Ted Koppel announced that ABC would make available to the Presidential candidates three 1-hour programs. Each of the three Presidential candidates would be invited to appear for 1 hour on those programs and they would be questioned by Senators RUDMAN and CONRAD on the sole issue of the budget deficit and what to do about the budget deficit.

Last week, the six Senators wrote the three Presidential candidates and extended the invitation that had come from ABC to the Presidential candidates and asked for a response.

Today, we have received a response, which was dated yesterday, June 16, from H. Ross Perot, and would like to read that response to the Senate:

> DEAR SIRS: Thank you for your letter of June 10 inviting me to participate in a series of discussions about our national debt.
>
> As I look at your names, my first reaction is that I would like to have a long meeting with the six of you to listen and learn. Certainly, you understand this problem and have been working to resolve it. In the event that the people select me in November, we will be working together night and day to implement well thought-out plans of action to rebuild our country.
>
> I propose that the first hour be given to the current leaders of the House and Senate to explain what they intend to do. These legislators are in office now and have the authority to act now. They and their predecessors understand the problems and forces that created our current four trillion dollar debt. In my opinion, they will have the best ideas about how to solve the problem.
>
> I propose that the second hour be given to the President to let him explain to the American people his plan of action. He is in office, has twelve years experience in the Executive Branch, and the authority to take action now.
>
> In the event that you approve the format I have suggested. I will agree to participate.

assuming the petition-signing process is completed successfully, and that I do become a candidate.

Again, I would welcome the opportunity to meet, listen, and learn from all of you.

Best wishes.

Sincerely,

ROSS PEROT.

Now, Mr. President, of course, this letter is no response at all to the invitation from ABC. It ducks the invitation. That is not to say that ducking direct questions is not a tried and true method for Presidential candidates. It is not a new development with Mr. Perot. But I suggest that this letter is no more than part of a long tradition in American politics of ducking hard questions. He has managed to duck, or provided the basis for ducking, the hardest question of them all; namely, What do you intend to do about the deficit in the Federal budget?

ABC has made available a particular format. ABC has said each of the Presidential candidates is invited to appear on a separate 1-hour program to be questioned in depth about the deficit, and only the deficit, by two outgoing Members of the U.S. Senate, both members of the Budget Committee, Senator RUDMAN and Senator CONRAD. That is the format. That is the offering. It is either accepted or rejected, yes or no. Failing to give a yes or no answer to direct questions is, as I say, nothing new in the parlance of American politics.

I do think this is a most unfortunate response, a response which is evasive, evasive to the question that has been asked. My hope is that Mr. Perot will consider the letter that we sent on June 10 and give us an answer to that letter and give us a response to that invitation which has been put forward by ABC.

Mr. President, I want to return to consideration of the amendment that is now before us and call the Senate's attention to the fact that this is a tough amendment in the wording of it. I would like to restate to the Senate what we will be voting on.

The amendment states, among other things, that "the frequency and level of public comment on this issue"—that is the budget deficit—"by public officers and candidates, including those who hold and seek the office of the President, are so insignificant as to constitute irresponsibility."

So we are saying that the three major Presidential candidates still standing in this election year have engaged in insignificant discussion of the problem of the deficit, and that is irresponsible. That is tough language that we are using.

We further say that, "by and large, the candidates, Congress, and the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse."

We further say that "the existing reckless Federal fiscal policy cannot be addressed in any meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending."

Now, that, Mr. President, is very tough. I believe that at least one Senator is going to try to undo that language, try to water it down, try to fuzz it up. But this says quite clearly that we must at least consider, we must at least place on the table of consideration, those two items which are the most unpopular to deal with politically; namely, restraining entitlements and increasing taxes.

Now, there are going to be differences among all of us as to the extent to which we should restrain entitlements and the extent to which we should increase taxes if at all. But the first order of business has to be to face reality. The first order of business has to be to clean out the underbrush of misconception by American politicians and the media and the American people themselves. The first order of business is to face up to the reality that responsible action on the Federal deficit cannot occur—cannot occur—without consideration of restraining entitlements and increasing taxes. If those items, entitlements and taxes, are taken off the table there can be no responsible action on the Federal budget deficit.

So, if we say going into this next election, "No new taxes," and if we further say, "No action to control the growth of entitlements," those might be popular things to say to try to win an election but they are contrary to the language that we will vote on with respect to this amendment. This amendment says squarely and directly that entitlements must be on the table and taxes must be on the table for consideration if we are going to deal with the budget deficit.

Then the amendment says that candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions.

The point here, of course, is that the typical political campaign nowadays is the 30-second spot commercial or the 20-second sound bite or the debate where the answer is 2 or 3 minutes in length. And any politician worth his salt can dance around an issue for 2 or 3 minutes. But extended discussion involving hard questioning on the one subject of the budget deficit is much harder to deal with. And it is going to be hard to deal with. And there is no responsible way of dealing with it without including consideration of entitlements and taxes. That is what this amendment is all about.

Every Senator who votes for this amendment is taking a great political risk because it has language in it that will come back in the next election—no doubt about it. Any Senator who is willing to vote for this language is asking to be the subject of a 30-second negative commercial dealing with entitlements or taxes the two so-called silver bullet issues. That is why I expect that there will be efforts to fuzz this up by way of amendment. I will oppose those efforts to fuzz it up.

The time has come for clarity. The time has come for straight talk to the American people. And straight talk means we are either going to have to address the issue of entitlements or taxes or more likely both, or we are going to continue to see our country get weaker and weaker and weaker and weaker, year after year after year. So that by the time we pass it on to our children and our grandchildren, the United States is no longer going to be the leader of the world.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Washington [Mr. GORTON].

Mr. GORTON. Point of parliamentary inquiry. Is an amendment in the second degree to the amendment of the Senator from Missouri in order at this point?

The PRESIDING OFFICER. Only after all time on the first-degree amendment has expired.

Who yields time?

Mr. GORTON. Mr. President, at the suggestion of the Senator from Missouri, I ask unanimous consent that I be permitted to offer a second-degree amendment to the amendment of the Senator from Missouri at this time.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. We object to that.

The PRESIDING OFFICER. Objection is heard.

Who yields time on the amendment? If no Senator yields time, time will be charged equally on the amendment.

Mr. HEFLIN. Mr. President, I will ask for a quorum, in the event that equal time can be charged against both sides in regards to the Danforth amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. I ask unanimous consent that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I yield 5 minutes to the Senator from Washington and, immediately following that, 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I thank the Senator from Missouri for yielding to me at this time, especially due to the fact that I am not particularly friendly to his amendment. It seems to me we have now once again reached either silly season in the U.S. Senate or perhaps more significantly have shown another mark of our failure to deal with reality.

Just a few weeks ago a proposal by Senator RUDMAN and Senator NUNN, which was strongly supported by the Senator from Missouri which actually would have eliminated the budget deficit by the end of this decade, received only 28 votes on the floor of the Senate. Just last week, a constitutional amendment which would have forced Congress to take meaningful action with respect to the budget deficit was turned down by the House of Representatives and has been abandoned here, at least for the reminder of this Congress, by its primary supporter in the Senate. Those votes, or those failures to vote, were real votes on a real debate on real issues.

This is a pretend vote, Mr. President, whether it takes place on the amendment of the Senator from Missouri or on some substitute for it which I understand is now being prepared. Even so, while it mentions in several of its paragraphs the Congress of the United States, in one of its key paragraphs it ignores the Congress entirely, focusing solely on the President and on candidates for President.

My amendment, if we are ever able to get to it, will simply add the Members of Congress and candidates for Congress in a place where I believe it was inadvertently omitted by the sponsors of the amendment and to which they will agree. It will cure one minor defect in this proposal. It will not, in my opinion, cure the unwillingness of Congress, including this body, to deal with the real problem. The real responsibility, the power of the purse under the Constitution of the United States rests in the Congress of the United States. This is one more attempt I think, Mr. President, to focus on candidates for the Presidency in order to excuse the failure of this body to pass the proposal which was before it early in April or the House of Representatives to pass a constitutional amendment on the subject to send to the States.

It is the view of this Senator that it is time to vote on real issues, with real binding effect which will actually affect the fiscal policy of the United States. If a resolution of this nature leads us to such a vote, it will have been time well spent. I am afraid that I doubt that and that this will be used by many who vote for it as an excuse for not acting on the real issue, rather than to deal with the problem of the deficit here where responsibility lies, in a timely and in a effective manner.

I will offer this minor amendment if and when the parliamentary position allows me to do so. If there is a substitute for the Danforth amendment, I suspect it will be less meaningful than the Danforth amendment is itself, and I, as other Members, will deal with that proposal in the way in which it deserves.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. LEVIN. Mr. President, first let me commend Senators DANFORTH, GRAHAM, and the others who have worked together so hard on this. I am proud to be part of that group, and I think we are making some progress. We are putting the focus of public attention on an issue which is critical to the future of this country, and that is our economy and the budget deficit. Basically, the President and the Congress have ducked this issue for too long. Is the Congress included in that sentence? You bet you. Is the President included in that sentence? He sure is.

But the point is that until and unless we have a Presidential debate that focuses on the specifics of how to address this deficit, we are not going to have a mandate to the next President to act on the deficit. All three of those candidates out there know where the loopholes are. They know where the hiding places are. They know the few buzzwords they can use to try to duck a question on how they will address the deficit. But if they are confronted with two knowledgeable, strong interlocutors for 1 hour each on how specifically they will address the deficit, they will not be able to wiggle out of it. They are going to have to get specific.

Those of us who are cosponsoring this resolution have stated fairly clearly, as clearly as we can, that the reckless Federal fiscal policy cannot be addressed in a meaningful way without including, and here I am going to read the words because they are so important, "consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending." In other words, everything has to be on the table. That is what we have signed up to. It all has to be considered.

That is our belief. Do the Presidential candidates believe that? Maybe they do and maybe they do not, but that is what in-depth discussions are all about. If they believe that they can address the deficit by going after one item, let them say what the item is, let them put a dollar figure on it. If they say it will take 10 items, let them say what the 10 items are. We have had enough of platitudes. We have had enough of 30-second sound bites. We have had enough of photo opportunities. We have had enough of generalities. What we need is leadership.

Some people say, what about leadership in the Congress? I say amen. A lot of us have set forth our own specifics, and there are 535 of us. There are 100 in this body and 435 in the other body. We have no consensus here on a plan to address the deficit. There are so many of us, we have not been able to achieve that consensus.

Having said that, that still leaves us with the heart of the problem: We need a strong President who will lead on this subject and, Mr. President, if we have learned nothing in the last 10 years, it is that a President must have a mandate to lead. If these candidates can get through this election with nothing but generalities and 30-second responses on how they will reduce the deficit, they may be able to get elected—one of them will be—but they will not have the crucial mandate to address this issue once they are in office. This resolution is intended to force the candidates to address an issue which must be addressed specifically if the public is going to vote for a program to be implemented when one of these candidates raises his hand and takes the oath of office next January.

There has just been a silent, eerie truce on this subject that has permeated the campaigns of these candidates and must end. If it is to end, it will take this kind of energy forcing the candidates to address the issue.

I thank the Chair, and I yield the floor, and suggest the absence of a quorum.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the quorum call that has been requested be charged against both sides equally.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. Senator from Missouri.

Mr. DANFORTH. Because no time has been used on the other side, I object to that.

The PRESIDING OFFICER. Objection is heard. Who yields time? If no one yields time, time will be deducted from both sides.

Mr. DANFORTH. How much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. DANFORTH. Mr. President, I would call the attention of the Senate to an article that appeared today in the New York Times on page A13, and the headline of the article is: "U.S. To Press Yeltsin To Reduce Budget Deficit."

The first paragraph of this article in the New York Times is as follows:

> Administration officials said today that they would press President Boris N. Yeltsin to bring Russia's budget deficit under control to help enable it to sign an economic reform agreement with the International Monetary Fund.

Mr. President, I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 17, 1992]

UNITED STATES TO PRESS YELTSIN TO REDUCE BUDGET DEFICIT

(By Steven Greenhouse)

WASHINGTON.—Administration officials said today that they would press President Boris N. Yeltsin to bring Russia's budget deficit under control to help enable it to sign an economic reform agreement with the International Monetary Fund.

If Russia controls its deficit, reins in its money supply and moves to make the ruble convertible, then the Administration will press the I.M.F. not to delay an agreement because of concerns about details, the officials added.

"If those three key issues can be resolved, then we're willing to work with Russia to see that superfluous issues don't get in the way," said a senior Administration official.

With their battered economy deteriorating day by day, Russian officials are eager to sign an agreement with the fund as soon as possible because an accord will unblock most of the $24 billion aid the Group of Seven industrial nations promised last April.

CAMPAIGN BY RUSSIANS

During Mr. Yeltsin's visit to Washington, Russian officials have waged a public campaign to urge more flexibility from the fund, arguing that if the I.M.F. is too stern it could push Russia's economy to the breaking point.

Fund officials are pushing Russia to reduce its budget deficit to zero, while Russian officials are talking of a deficit target of around 4 percent of the gross national product as compared with more than 20 percent last year.

The fund also wants Russia to explain how it will coordinate monetary policy with other former Soviet republics that plan to continue to use the ruble, because such coordination is deemed essential for reducing inflation and stabilizing the currency.

"We couldn't support a program that would be regarded as less than adequate," said Michel Camdessus, the I.M.F.'s managing director.

The I.M.F. is also pushing Russia to remove price controls on oil, but Mr. Yeltsin said this would make it hard for farmers to harvest.

"Russia needs to concentrate on the key elements fundamental to reform," said Treasury Under Secretary David C. Mulford.

In meetings today with President Bush, Mr. Yeltsin explained the sweeping reforms he announced Monday about privatization, bankruptcy, ownership of land and foreign exchange.

"They clearly gave us the impression that they're fully committed to continuing with their reform effort, that they're going to stay the course," said an Administration official who sat in on the meetings.

Members of Congress said an American aid package for Russia could be further delayed by Mr. Yeltsin's statement that Russia might be holding some American prisoners of war who have survived since the Vietnam War.

"If it's determined definitively there are Americans being held as prisoners of war in Russia, there's no way that the Congress is going to pass aid while they're being held," said Senator Patrick J. Leahy, Democrat of Vermont.

The House and Senate foreign relations committees have both approved the package, but no floor vote has been scheduled.

Mr. DANFORTH. Mr. President, clearly we are lacking in some degree of credibility in asking that Russia bring its budget deficit under control when we in our country have a $400 billion budget deficit.

Mr. President, I am prepared to yield back the remainder of my time, and I understand Senator HEFLIN is also. So conditioned on Senator HEFLIN yielding back the remainder of his time on my amendment, I yield back the remainder of my time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Alabama yield back his time?

Mr. MITCHELL. Mr. President, if I might just clarify the situation, I intend to offer a substitute amendment. It is my understanding that I will not be eligible to do so until the remaining time on the Danforth amendment has been used or yielded back, and it is that time which is now being yielded back; is that correct?

The PRESIDING OFFICER. The leader is correct.

Mr. MITCHELL. Second, it is my understanding that once I offer this substitute amendment, under the order there will be 1 hour for debate on this amendment equally divided and controlled in the usual form. Is that correct?

The PRESIDING OFFICER. The leader is correct.

Mr. HEFLIN. We yield back our time on this side.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 2430 TO AMENDMENT NO. 2426

(Purpose: To express the sense of the Senate regarding the need to reduce the Federal deficit)

Mr. MITCHELL. Mr. President, on behalf of myself, Senator BYRD, Senator SASSER, and Senator WELLSTONE, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] (for himself, Mr. BYRD, Mr. SASSER, and Mr. WELLSTONE) proposes an amendment numbered 2430 to amendment No. 2426.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans;

(3) the national interest in controlling the deficit takes precedence over partisan advantage;

(4) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country (such as investing in human capital and physical infrastructure to promote economic growth) are to be effectively and honestly addressed;

(5) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice;

(6) the frequency and level of public comment on this issue by too many public officers and House and Senate candidates, including those who hold and seek the office of the President, have been insignificant and inadequate;

(7) by and large, too many candidates, Members of Congress, and members of the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse;

(8) entitlement and interest spending are the fastest growing components of the Federal budget and are at an all-time high, largely due to the explosion of health costs;

(9) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(10) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(11) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people:

It is the sense of the Senate that—

(1) public officials and candidates for public office should make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office should affirm their support for this statement of principles and should resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit if elected.

Mr. MITCHELL. Mr. President, this amendment slightly modifies the Danforth amendment. It makes just a few changes in words which I will momentarily describe in verbatim form but embodies the substance and the intention of the Danforth amendment.

The changes are as follows: Paragraph 4 in the Danforth amendment, that paragraph in the form introduced by Senator DANFORTH and others read as follows:

It is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country are to be effectively and honestly addressed.

The proposed modification is to add in parenthesis a clause as an example of such issues the following words: "such as investing in human capital and physical infrastructure to promote economic growth."

So the entire paragraph now as amended would read:

> It is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country (such as investing in human capital and physical infrastructure to promote economic growth) are to be effectively and honestly addressed.

That is the first change.

The second change is in paragraph 6. Senator GORTON earlier sought to amend the Danforth amendment by specifying that the reference to candidates was made specific to House and Senate candidates, and this modification does that. And it also makes one other word change. Where the original amendment described the efforts as insignificant as to constitute irresponsibility, it now is changed to say "insignificant and inadequate."

So that is the principal change in paragraph 6 which as modified would read:

> The frequency and level of public comment on this issue by too many public officers and House and Senate candidates, including those who hold and seek the office of the President, have been insignificant and inadequate.

The words "too many," the words "House and Senate" have been added, and the words "insignificant and inadequate" have been substituted for the words "as to constitute irresponsibility."

The third change is in paragraph 7, and these changes are similar to the changes I have just described in paragraph 6. In this case the words "too many" are added as well and the words "Members of" Congress, and "members of" the media.

So that the language, which is very close to that initially suggested by Senator DANFORTH, would now read, under the substitute amendment:

> By and large, too many candidates, Members of Congress, and members of the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse.

The final change, Mr. President, in paragraph no. 8, which as initially proposed by Senator DANFORTH and his cosponsors, reads "entitlement and interest spending are the fastest-growing components of the Federal budget and are at an all-time high." The modification would simply add to that sentence the following clause, "largely due to the explosion of health costs."

Mr. President, I believe these changes are self-explanatory. Each of these changes relates to the findings portion of the amendment. There are no proposed changes in the operative resolving portions of the amendment; that is the three paragraphs reading after the words "It is the sense of the Senate that * * *" So I believe they can be described as relatively minor modifications of the original amendment.

Mr. President, I yield the floor. I reserve the remainder of my time.

Mr. DANFORTH. Mr. President, I wonder if the majority leader would entertain some questions about the substitute.

Mr. MITCHELL. Certainly.

Mr. DANFORTH. Mr. President, it is always, it seems to me, that any time any Members of the Senate are drafting anything—and this was drafted on a bipartisan basis—there are always going to be differences of opinion as to wording. I wonder. Is it the intention of the majority leader that the substitute be a substantial difference from the amendment that is before us?

Mr. MITCHELL. Mr. President, of course "substantial" is a relative term. What may be substantial to one is not substantial to the other. I believe the modifications improve the amendment and further promote the intention of the amendment.

I think also, for myself—and I cannot speak for all the others on this because I have not discussed this particular detail with them—I felt that substituting the word "inadequate" for "irresponsibility" was a substantive change and that should be made.

Mr. DANFORTH. That occurs in paragraph No. 6.

Mr. MITCHELL. That is correct.

The second point I would make is that, as the Senator from Missouri may know, I have long argued that one of the necessary steps that we must take to deal with the deficit is to bring under control the tremendous increase in health care costs in our society. I have introduced legislation to that effect.

I think it is a central problem—surely not the exclusive problem with respect to the deficit—but a central problem that actually goes beyond the Federal deficit, contributes to State and local government problems, and that of business.

So I think the addition of the reference to health costs is a substantial change but I do not know whether the Senator would see it in that light.

Mr. DANFORTH. I would see it as a statement of fact; that is, there is no doubt about it, that the increase in health care costs is the largest single growing area in the Federal budget, Medicare and Medicaid as far as the Federal Government's share of the health care problems is concerned, that is the main budget problem we have.

I obviously would prefer the word "irresponsibility" to "inadequate." I think it is a better total word. I am not sure that I would lose much sleep over "inadequate." Such as investing in human capital and physical infrastructure to promote economic growth, as modifying the priority issues facing the country, that is simply a specification of what some of the priorities are. But I take it that the point here is that it is very hard to deal with any problems that we have in our country, and it is very hard to pursue any kind of domestic agenda for the country if we do so on the basis of a $400 billion deficit.

Mr. MITCHELL. I surely share that. But I also believe it is intended to convey the view that a principal objective in reducing the deficit, and for reasons beyond that, must be to promote economic growth. There is an interacting effect. The deficit retards economic growth and the lack of economic growth contributes to the deficit. So it is an effort to give importance and weight, in my mind at least, to the necessity for a more rapid economic growth as a way of dealing with the budget deficit.

Mr. DANFORTH. In the original form of the amendment, which is not touched, the amendment says that the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes as well as reducing the defense and domestic spending. That, of course, would be the most politically volatile statement in the whole amendment. I notice that is not touched in the substitute.

Mr. MITCHELL. That is correct.

Mr. DANFORTH. Further, the call in the resolution for formal discussion that focuses entirely on the Federal budget deficit by the Presidential candidates, that remains as it originally was in the amendment.

Mr. MITCHELL. The Senator is correct.

Mr. DANFORTH. I thank the majority leader.

Mr. MITCHELL. Mr. President, I yield the floor.

I yield such time as the Senator from Minnesota would like: 5 minutes?

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, first of all, let me also respond to the questions of the Senator from Missouri, which I think are good questions.

Yesterday, as I presided and was listening to the Senator from Missouri speaking with considerable eloquence and power about the deficit, there were a couple of issues that came to mind that I really wanted to see addressed. As long as we are going to try to make an effort here on the floor of the Senate to make sure that there is a political dialog and debate that focuses on the deficit, I thought it should address what we believe are the critical issues that affect people's lives in our country, especially health care and investment in human capital.

These additions, which I think really strengthen this amendment, are designed to ensure that we deal not just with the budget deficit, but that we also acknowledge the enormous investment deficit we face. I mean we simply have not invested in our human capital, we have not invested in our kids, we have not invested in education, we have not invested in job training, we have not invested in physical infrastructure, repair of roads, bridges, and all the rest. There comes a point in the history of a country—I am afraid that we are now at that point—where decline begets decline begets decline.

Second, if we are going to talk about the explosion of costs of entitlement programs, I think it is factually correct to make the compelling point that the huge cost increases have virtually all been in the health care field.

I think that is a central priority to which I testified before the Finance Committee this morning, and Senator DANFORTH was there. I think that also needed to be referenced.

Finally, let me just say that as far as trying to place blame, I have here somewhere a whole series of votes that have taken place on a variety of different budget issues for fiscal year 1993, as well as fiscal year 1992. I could go through the votes of different Senators, and I could point out that there is plenty of blame to spread around. There are Senators who have supported this original resolution, and voted against that would have had a major impact on reducing the deficit.

Mr. President, we are past the stage of blaming each other. I think this is a good-faith effort on the part of all of us to develop an amendment that gets the debate focused on key economic issues in our country.

I think that is what this does. I think that this substitute is an improvement. I think the differences are minor but significant, especially in the findings.

So, Mr. President, to conclude, I do not have any problem at all with making it very clear, along with Senator GRAHAM, Senator DANFORTH, and everyone else, that as a matter of fact, we have to speak the truth about raising revenue, and that may mean we raise taxes. For my own part, I think we ought to restore progressivity to the Federal Income Tax Code which we have severely eroded since 1981. That was one of the most regressive pieces of tax legislation passed in this country since the 1920's.

Second, I believe we must begin to have serious discussions about reducing substantially Pentagon expenditures. I think we should make such reductions now. Third, I have no problem with focusing on entitlements and making the point that we have to look there as well, as long as it is linked to this critical question of reform in the way we finance and deliver health care.

I think this kind of discussion makes sense. I think these additions make sense, and I think the substitute is an improvement in the original text. I am pleased to cosponsor it.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I have discussed the matter with Senator DANFORTH and Senator GRAHAM. They have suggested that the Senate accept, by voice vote, the amendment which I have just proposed, and then vote by rollcall on the Danforth amendment, as amended by the amendment which I have just proposed, and which would then have been adopted.

That is agreeable to me, and I therefore am authorized, on behalf of Senator DANFORTH and Senator HEFLIN, to yield back all of the time on the amendment which I have just offered, so as to complete the acceptance of that amendment, and then go immediately to a rollcall vote on the Danforth amendment, as amended by this amendment.

Mr. DANFORTH. That is correct.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 2430) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, the Federal budget is out of control. The irresponsible spending habits of Washington have resulted in a massive debt burden that is being passed on to our children. This must end, and it is precisely the reason that I have lead the effort to approve a balanced budget/tax limitation amendment to the Constitution. However, the sense-of-the-Senate amendment before us unfortunately implies that tax increases are once again the solution to the deficit. This is not the case.

The people of Wisconsin are tired of Congress repeatedly raising their taxes only to increase spending and produce even greater deficits. In recent years tax hikes have repeatedly been justified on the grounds that they will reduce the deficit. Tax increases do not reduce the deficit, they merely encourage Congress to spend more money. This is confirmed by a new study by Richard Vedder, Lowell Gallaway, and Christopher Frenze titled "Taxes and Deficits: New Evidence." This study concludes, based on an analysis of 1947–90 data, that $1 of tax increases leads to $1.59 of new spending.

In the 1982 budget deal, Congress promised $3 in spending cuts for $1 in tax hikes. The actual result was a dramatic spending increase. In 1990, the so-called budget summit deal imposed a $165-billion tax increase on the American people. All in the name of reducing the deficit. And what was the result? Tax revenues dramatically fell—and the deficit went up instead of down. When the agreement was enacted 18 months ago the deficit for 1992 was supposed to be $229 billion, it will in fact be over $350 billion. Similarly, the 1993 deficit forecast has grown by $223 billion. The reason is clear, in addition to encouraging more spending, tax increases depress the economy, destroy jobs, and ensure that a balanced budget continues to elude Congress.

This argument is reinforced by recent history. After declining from 6.5 percent of GDP to 3 percent during the low-tax, high-growth period of 1983–89, the deficit is now projected to reach almost 7 percent of GDP in 1992 following a massive tax hike and several years of antigrowth policies.

Mr. President, America's families and small businesses are already overtaxed. This year Tax Freedom Day for the American taxpayer will fall on May 5, 1992, the latest day ever. This means that the average American will work 126 days to satisfy all Federal, State, and local taxes. This date is late enough and I will not support efforts to further increase the Federal tax burden. The Federal deficit will be balanced when Congress makes a serious effort to restrain spending and then enacts a comprehensive progrowth economic package that will boost the economy, create jobs, and increase Federal tax revenues.

Mr. MCCAIN. Mr. President, I am concerned about the deficit like Senator DANFORTH and the supporters of his amendment. However, I must oppose the amendment for reasons I will discuss below.

I have worked for the enactment of proposals that would actually reduce the deficit rather than just talking about the issue. I have been the main proponent of the line-item veto. A recent General Accounting Office study found that a President empowered with a line-item veto could have saved the taxpayer $70 billion between 1984 and 1989. That savings would be realized without raising taxes or cutting entitlements. At the very minimum, we must cut the waste.

I strongly disagree with the resolution's contention that the deficit debate is trivialized by suggesting that meaningful deficit reduction cannot be accomplished merely by attacking waste, fraud, and abuse. Whether it is billions for missionless *Seawolf* submarines, billions for unauthorized defense spending, billions for Lawrence Welk homes, demonstration projects, or other pork projects; it is waste, and meaningful deficit reduction can be accomplished by addressing waste. The budget will not be balanced solely by eliminating waste, but I consider $70 billion of deficit reduction meaningful.

I must also take exception to another contention in the resolution. It states:

> Other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982.

The level of taxation relative to the economy has been low recently because we simply have not had any economic growth, it is not a result of tax relief. Just 2 years ago, this body passed a $166 billion tax increase that has caused little more than economic stagnation.

I also find it interesting that the resolution excludes taxes devoted to Social Security pensions in calculating the level of taxation. Why exclude this tax from the calculation? While the Senate can conveniently exclude the consideration of taxes for Social Security, taxpayers cannot. According to the Tax Foundation, the average American works until February 8 to pay his or her Social Security taxes. To exclude the second largest tax from calculating the relative level of taxation, is to provide the American public with incomplete information about taxation that does little more than trivialize the debate. Social Security taxes are a distinct reality to all working Americans. I do not support increasing any of the taxes we have imposed on our citizens.

Mr. President, I would also like to address another problem with the resolution's position on the relative level of taxation in the United States. The relative level of taxation is irrelevant—especially when you compare it to the size of the economy. What is important is the absolute level of taxation. In 1962, the average American taxpayer worked until April 17 to pay all his or her taxes. In 1982, tax freedom day was May 3. In 1992, Tax Freedom Day is May 5. While the relative level of taxation to the size of the economy may be lower, Americans are paying more and more in taxes.

Finally, the resolution contends that the budget cannot be balanced without tax increases and restrained entitlement spending. In the last 30 years, Congress has raised taxes 56 times and balanced the budget once. Tax increases have only gone to finance more and more spending. The 1990 budget deal is the quintessential example of a tax increase that was supposed to reduce the deficit but only masked spending increases. Taxes went up. Spending increased. The deficit increased. And, the economy went into recession. Again, in the last 30 years, Congress has raised taxes 56 times and balanced the budget once. We have to learn how to control spending.

Mr. President, we can control spending without restraining entitlement spending. I am a cosponsor of the 4-percent solution, legislation that would limit the growth of domestic discretionary spending to 4 percent a year. This would save $255 billion over 4 years. And, even without changes in law, tax receipts are expected to increase annually by about $75 billion. Thus, with modest economic growth, restraining domestic discretionary spending to 4 percent growth could eliminate the deficit without cutting Social Security or Medicare or other entitlements.

Mr. President, the deficit can be addressed in a meaningful way without considering restraining entitlements or imposing tax increases. It can be addressed by eliminating waste that does exist. It can be addressed by limiting the growth of domestic discretionary spending to 4 percent. At the very least, we should try to eliminate waste and try to control domestic discretionary spending before we mug the taxpayer for the 57th time in 30 years or balance the budget on the back of seniors.

I am greatly concerned about the deficit. I have spent a great deal of my time in the Senate on efforts to reduce or eliminate the deficit like the line-item veto, rescissions, the 4-percent solution, and a balanced budget amendment to the Constitution.

Unfortunately, Mr. President, I cannot support this amendment. I feel that it is based upon questionable premises that do not promote a healthy debate on deficit reduction. The resolution attempts to define what is relevant and what is not relevant. I feel efforts to reduce waste are relevant—not trivial. I feel we can balance the budget without tax increases or restraints on entitlements.

We have never tried. Maybe we should before we scare the American public with tax increases and attacks on entitlement programs.

Mr. LEAHY. Mr. President, the accelerating growth in the Federal debt, which will be about $4 trillion by the end of this year, imperils the economic stability of our Nation today and the legacy we pass to our grandchildren in the next century.

I agree with the resolution that "the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction." One of the "serious choices" this resolution cites without giving any information is restraining entitlement spending.

Mr. President, in recent years, cutting entitlement spending has been used as a code phrase for reducing access to the Medicare and Medicaid programs.

Meaningful entitlement spending reductions cannot occur without reducing the amount the Government spends on health care. This year one in seven Federal dollars will be spent on health care. Without reform and cost containment this level will rise to one in three Federal dollars in a decade. Medicare and Medicaid spending cannot be controlled without first having comprehensive health care reform including cost containment.

I want to be perfectly clear that health care reform and cost containment are precursors to controlling entitlement spending. Capping entitlement programs and expecting health care reform to result would be putting the cart before a Trojan horse.

Mr. WOFFORD. Mr. President, I commend my colleagues for introducing this resolution and for focusing the Nation's attention on the hard issues surrounding the Federal budget deficit.

The balanced budget amendment, which was narrowly rejected by the House last week, is a symbol of the strong desire in our country and in this Capitol to tame the Federal deficit and protect our children's future. But, the people deserve more than symbols. They deserve action. And real action to reduce the deficit will take leadership from the President, courage from Congress and a mandate from the voters.

The resolution we are voting on does not provide the answers on how to reduce the deficit. I don't have all the answers myself. Hard choices will have to be made. If something serious is to be accomplished in balancing our Federal budget, all of us must be willing to make those choices. I am ready to begin.

The budget deficit is a reflection of competing public demands and priorities. For more than a decade, Washington has failed to resolve those competing demands and choose among those priorities. The time has come for a frank public discussion of those choices. Just as our Pennsylvania campaign sharpened the debate on our Nation's health care crisis, the upcoming election campaign can provide the national forum we need for a mandate to balance the Federal budget.

We must use this opportunity. The time has come to put our country back on the right track. We know that to do that, we must begin to live within our means. We must focus our precious resources on the kind of public investments which will build for our children a land of opportunity instead of a mountain of debt.

Again, I congratulate my colleagues on their effort. I look forward to working with them and others to reduce the deficit.

Mr. GRASSLEY. Mr. President, there is no question that the deficit and its attendant debt spiral is public enemy No. 1. It threatens the future of our children and our country. There is no question we need drastic action, and the time for that action is long past. Nonetheless, this amendment, in my view, does not address the underlying, fundamental cause of this problem.

I intend to vote "no" on this amendment at the risk of seeming indifferent on the question of lowering the deficit and retiring the spiralling debt.

I am confident, however, that my long record on fighting for deficit reduction in this body would belie that perception.

Let me remind my colleagues that this is the same Senator who, in 1984, 1985 and 1986 offered across-the-board budget freezes, including entitlement freezes, either in the Senate Budget Committee, on the Senate floor, or both. These proposals were roundly criticized as draconian by many of those still in this body who currently pronounce that they are "shocked, shocked to find the deficit is so huge." Many voted, instead, for a watered-down Rose Garden budget each year because the Rose Garden budget was "much more responsible." This view was held notwithstanding the fact that many of us prepared analyses to show that the spending and revenue estimates, year after year, had been biased. In other words, Congress knew the deficit would be larger than projected at the time of each vote for a watered-down budget. And now some of us are shocked, shocked to discover the deficit is so huge.

What irony it is that some of my colleagues prefer to point the finger at Presidential candidates instead of Congress. Some of these are the same Senators who voted to release the constraints imposed by Gramm-Rudman. And now we are shocked, shocked at what has occurred on Congress' own watch. Under this amendment, this body is being asked to harass the Presidential candidates on the issue of the budget deficit. Why not a little self-harassment? Why not reflect on Congress' record, which is miserable-in-the-extreme. Instead of abdicating, why doesn't Congress make an act of contrition? Instead of throwing rocks, why not confess to a mea culpa?

As one Senator who is up for reelection this year, I intend to run on my own record to fight for lower deficits. I, for one, have been screaming ad nauseum for drastic deficit reduction, since day one of my service in this body. I was proposing across-the-board budget freezes so long ago that a budget freeze back then would actually save big money. And that included entitlements. Now, all it'll get you is a spit in the ocean. That's because we're having to pay all that interest on the debt. In 1984—May 16, to be exact—I stood right here on this floor warning about how we were starting to pay interest on the interest on our national debt. That was the first indication that we were bankrupt—that's the classic sign. I had just offered, with some of my colleagues, the infamous KGB freeze, which stood for Kassebaum, Grassley, and Biden. That freeze would have saved tens of billions. Moreover, the freeze was regarded as merely a tourniquet needed to stop the hemorrhaging. I called, also, for an overhaul of our budget estimating, our program estimating and for dramatic structural reforms to follow the freeze. It was an attempt to herald the impending budget crisis that was becoming obvious to those of us who would just look.

Instead, we opted for procrastination—the Rose Garden budget—the archetypical see-no-evil budget. Because there was a Presidential election that year, it was safer in the short term to call a truce, and put fiscal policy on automatic pilot. We did the same thing in 1985, 1986, 1987, 1988, and 1989. In 1990, all we did was ensure rising deficits by pulling the teeth from the Gramm-Rudman straitjacket. And now deficits are $300 billion as far as the eye can see. And we're shocked.

If this is to be a serious vote, let Congress offer specifics. Let's see the Defense Budget where it should be—between $200 and $250 billion. Let's scale back the congressional budget by 10 percent so we'll have the moral authority to scale others back by 10 percent.

Two months ago, when the entitlement freeze was offered, I voted against it because there was no balance. If you're not willing to reduce defense to a level that meets a drastically diminished threat, how do you expect to get others to sacrifice their own benefits. In the budget game in this town, either everything is a sacred cow, or nothing is a sacred cow. The reality is, there is no in between.

True leadership, Mr. President, does not mean pointing the finger at Presidential candidates. This is where the buck stops—Congress. The American people have watched the actions of this institution. Congress has built a public record, and the American people have studied it. And they have responded by saying "A pox on all your Houses."

Indeed, Congress' record is one gigantic failure. Congress simply had a wishbone where its backbone should be. It crowed about deficit reduction the last 12 years. The only difference between Congress crowing and roosters crowing is that the roosters delivered what was promised.

When the American people examine the past pronouncements of Congress on deficit reduction, and then they match those pronouncements against Congress' performance, there is clearly one lesson to be learned by the public about the product of this body: if it looks like a duck, quacks like a duck and walks like a duck, it's probably a hog.

It is not the Presidential candidates who have trivialized the deficit issue, Mr. President. It is the Congress. The proof is the legacy of debt Congress has left to our children and their children. Unless we learn from the past and stop pointing the finger, Congress will continue to have diminishing credibility with the public. If ever there were people living in a glass house, surely it is Congress.

Mr. GLENN. Mr. President, I rise today in support of the Danforth amendment. We can no longer put off earnest discussions over the burgeoning deficit crisis. We must address the causes of the deficit and its cures—not after the coming election—not in the next fiscal year—but now.

From the time of President Washington to President Carter the United States accumulated less than $1 trillion in Federal debt—200 years to accumulate not quite a trillion dollars. But it took us only 12 years following 1980 to nearly quadruple that trillion-dollar debt. Imagine that—in just 12 years we have increased our debt from less than $1 trillion to almost $4 trillion.

Consider how much $4 trillion really is. The amount is almost unimaginable. If the U.S. Mint had a money machine that produced dollar bills at one per second—day and night—it would take 128,000 years to produce $4 trillion. The figure is staggering.

This massive debt will burden a generation of Americans yet to be born. And it is the burden of our generation also, draining scarce resources away from pressing domestic needs. In fiscal 1993 we will pay more than $300 billion just in interest on the debt. This is more than the Federal Government has spent over the past 7 years on discretionary programs to promote education, training, employment, and social services—combined. What a waste.

Continuing the cycle of spiraling deficits will undermine America's future, draining our Nation of its hard-earned wealth and sacrificing our children's standard of living. How do we prevent this? The answer is clear—we must take steps now to eliminate the deficit.

Many of us will disagree about what steps should be taken. But few would disagree that the process must begin with responsible and forthright leadership from the White House. The Danforth amendment rightfully recognizes the importance of Presidential leadership.

It was in 1921 that the President was first formally required by law to submit a budget request to the Congress. With the 1921 Budget and Accounting Act, the President officially became the Government's budgeteer, subject, of course, to congressional approval.

Administrations since 1921 have deployed thousands of budgetary experts throughout departments and agencies to put together the President's annual budget request. While Congress has its own limited number of experts, we cannot compete with the executive's ability to construct its initial budget request.

In recent years, we have seen Presidents rely more and more on the use of loans in constructing their budget requests. So year after year—instead of seeing Presidential leadership in balancing the budget—we have rather seen repeated requests by the White House to increase the debt limit. We in Congress simply comply with each request and another step into debt is taken. That's why I have voted against debt limit increases eight times since 1981. If we would refuse to increase the debt limit and force the hard decisions, we would not need the budget tourniquets that have been debated in this body.

The Danforth amendment calls upon the Presidential candidates to earnestly address the deficit in the hopes that after winning election a President will not merely resort to loans as the easy way out. If the Danforth recommendations are carried out, we may see the end of this regrettable trend.

But these discussions must also take place in the Congress. We share in the responsibility of confronting the deficit—and we must not shy away from that responsibility merely because the pollsters and pundits tell us that the deficit is not a hot topic or because some of our actions may be unpopular.

I welcome debate over this issue. Throughout my years in the Senate, I have worked hard to achieve fiscal responsibility and intend to continue that effort. I have voted to cut spending on programs that I felt were not in the public interest, while supporting increased spending for others that offered important investments in our Nation's future.

And I have fought waste, fraud, and abuse long before it became a popular, cure-all campaign issue. As chairman of the Governmental Affairs Committee, I worked to expand and strengthen inspectors general throughout Federal agencies saving taxpayers billions of dollars in unnecessary spending.

I have also worked to ensure that wealthy Americans pay their fair share of the Federal tax burden. These Americans should not be the benefactors of big tax breaks and scarce Federal resources.

Over the past 12 years, we have learned that the trickle-down theory of Reaganomics was poorly named. It rather opened up the Federal floodgates drenching the wealthy with benefits while the middle class received rarely a drop. As we continue discussions over the budget, I am committed to restoring fairness in the Tax Code. Without it, we will see continued alienation with our system of government.

I look forward to a continuing debate over deficit reduction here in the Senate and throughout the Nation. I will work to ensure that this is an honest and forthright debate so that all Americans can be fully engaged in this critical issue.

• Mr. HATFIELD. Mr. President, I would like to applaud the efforts of several Senators, especially the distinguished Senator from Missouri, in making an effort to get the issue of deficit reduction to the forefront in this election year. While the Danforth amendment before us is only a sense of the Senate proposal, it contains an extremely important message to those who may make budgetary policy and to those who report on budget issues to the people of this country.

As I will discuss below, we need to take action on the real problem areas of our budget. This amendment is only a small gesture, created out of the frustration of seeing this important issue avoided. The national debt has been out of control for a long time. It will take much more attention in the media and many more real answers from our leaders before it is brought under control. The people of this country realize, perhaps better than their leaders, that there is no free lunch.

It is true that this amendment will not immediately enact laws to address the deficit. It is also true that we will hear many speeches in this Chamber decrying the lack of real action to address the deficit. Today, we have already heard speeches complaining that this amendment tells other candidates for office to address the deficit while we have not voted to attack this problem ourselves.

But, I would like to remind my colleagues that in April of this year we had the opportunity to shape our budget policies in a significant and novel direction. During consideration of the budget resolution, we debated a proposal to cap growth in mandatory spending programs. At that time, only 28 of us voted to keep that proposal intact. There was a lot of discussion about what caps would do to the various beneficiaries of these programs, and these are understandable concerns. But, we were not even suggesting spending reductions during that debate. We were talking about limiting programs, besides Social Security, to growth that represents inflation, population growth, plus an extra 2 percent to ease the effects of this limitation.

Mr. President, we have also heard it said today that we already have the power we need to lower the national budget deficit. This is only partially true. We have the ability to give ourselves control over spending, but have not yet done so. Mandatory programs do not come up for annual review by Congress. They continue to grow automatically year after year to the extent that they now account for around two-thirds of the budget. In 1990, the $750 billion in mandatory spending consumed 75 percent of all revenues brought in for that year. When you add this to all of the other demands upon the Federal Government it is no wonder that we run a budget deficit.

It has become evident that mandatory programs have grown by enormous amounts over the level of inflation and are taking over the budget. In another budget area, I still believe that defense spending can be reduced to reflect the new realities evident in light of President Yeltsin's address today to the joint session of Congress. However, we also need to begin to address the out-of-control spending represented by the largest portion of our budget; it is time for reform of our mandatory spending process.

We have the power to take real steps to address the deficit. That we have not collectively taken these steps at this time is not a reason to shy away from asking for help from any person willing to come up with solutions. It is my hope that we will see the Presidential candidates discuss this issue in a serious manner. At the same time, Congress should be an equal partner in making the tough choices necessary for finally lowering the deficit.

Mr. President, at this time I would also like to announce my support for final passage of S. 1985, which contains several amendments to the Bankruptcy Code. While I have concerns over some of the provisions contained in the bill, I believe that this legislation is an important step towards correcting some of the problems that exist in our bankruptcy laws. I have heard from many debtors and creditors in Oregon regarding the issue of bankruptcy. Their comments make it obvious that there are other modifications to the Bankruptcy Code that will have to be considered in the future. However, most of the provisions in this bill represent thoughtful and much needed changes. I would like to acknowledge Senators HELFIN, GRASSLEY, BIDEN, and HATCH and their staffs for the fine efforts put into the creation and passage of this legislation.•

Mr. MITCHELL. Mr. President, am I correct in my understanding that if this amendment is agreed to, the bill will not be open further to amendment?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Thank you, Mr. President.

The PRESIDING OFFICER (Mr. CONRAD). The question is on agreeing to the underlying amendment, as amended.

The yeas and nays are ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma [Mr. BOREN] would vote "aye."

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Oregon

[Mr. HATFIELD] are absent due to illness.

On this vote, the Senator from Oregon [Mr. HATFIELD] is paired with the Senator from North Carolina [Mr. HELMS]. If present and voting, the Senator from Oregon would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 65, nays 32, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—65

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Glenn
Gore
Graham
Harkin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—32

Burns
Coats
Cochran
Craig
D'Amato
Dole
Domenici
Fowler
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Hollings
Kasten
Lott
Mack
McCain
Murkowski
Nickles
Packwood
Roth
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—3

Boren
Hatfield
Helms

So the amendment (No. 2426), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader, is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on final passage of S. 1985 occur at 5:30 p.m. today and that the time between now and then be equally divided between Senators HEFLIN and GRASSLEY

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. Is the majority leader seeking recognition?

Mr. MITCHELL. Yes; merely to ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I would like to express my thanks for the hard work of Senators HEFLIN and GRASSLEY and their staff in putting together S. 1985, bankruptcy reform legislation. I know what a tough job it is to try and balance the rights of creditors and debtors in the Bankruptcy Code.

This bill makes a number of significant and needed changes to the code. It creates a national bankruptcy review commission to review the Bankruptcy Code and look for further modifications needed to make the bankruptcy process more effective. It also seeks to solve some of the problems facing small business by creating a temporary chapter 10. This will be a pilot program in eight Federal districts which will provide expedited procedures for the reorganization of small businesses.

There are a number of particular provisions included in the bill that I would especially like to thank Senator HEFLIN for his help. S. 1985 includes the language of S. 1588, a bill I introduced last July that clarifies that official creditors' committees and equity security holders' committees are eligible to recover reasonable, "actual and necessary" administrative expenses incurred during a chapter 11 bankruptcy proceeding. The bankruptcy courts currently disagree over whether and to what extent official committees may recover their costs. This provision will clarify once and for all that these committees are eligible to have their expenses paid as administrative costs.

This bill also includes language providing some assistance for maintaining the low cost and availability of money orders. Money orders are used by many consumers as their principal means of paying bills. When a business that sells money orders goes bankrupt, the money order proceeds may not be released to the money order company. Nonetheless, the money order company must still pay the outstanding money order. Language included in S. 1985 is needed to clarify that money order proceeds are not the property of the bankrupt estate and as a result will be available to pay the outstanding money orders.

The modified version of S. 1985 that we expect to pass today is a compromise. In my additional views to the Judiciary Committee's report on S. 1985, I expressed some concerns about section 210 dealing with airport gate leases and section 408 dealing with attorney fees. I am pleased that these issues have been revisited and improvements made.

I would like to express some reservations about section 401 which would extend chapter 12, the family farmer bankruptcy chapter, for 2 additional years. Currently, it is set to expire in 1993. When chapter 12 was enacted in 1986, I was worried about the impact this chapter could have on our Nation's farm borrowers and lenders. Chapter 12 was enacted in the midst of the agricultural crisis as a temporary means to allow bona fide family farmers an opportunity to continue farming through a special reorganization procedure.

In particular, I am troubled about a provision of chapter 12 that permits a family farmer to cram down the secured debt on their farm to the current value of the land, and then to pay creditors what amounts to a new mortgage at a decidedly lower value. Then as the farmer returns to profitability, the creditor is precluded from sharing in the appreciation of these assets, as they could do under a more traditional chapter 11 reorganization.

It is my understanding that as a result of the cram down provisions, farm lenders are being forced to write off hundreds of millions of dollars of farm debt with no hope of recovery. This in turn is limiting the credit available to family farmers. I believe this was not the result we intended when we enacted chapter 12 in 1986.

I will not object to the 2-year extension of chapter 12. However, I do expect that during the next Congress, the Judiciary Committee will have a thorough hearing and debate on the effect of chapter 12 prior to any further reauthorization.

Mr. President, the number of bankruptcy filings continues on its upward trend. For the first quarter of 1992 bankruptcy filings were up to 9.5 percent from the same period last year. There were 252,733 individuals and businesses that filed for protection from January through March. Clearly bankruptcy filings will reach the 1 million mark in 1992. Although the legislation before us today is unlikely to affect the number of filings occurring, it will help make the process run more smoothly. I am pleased to see the bill is moving forward and express my strong support for its enactment.

Moreover, because of my concern about the significant increase in bankruptcy cases, I introduced legislation on March 13, 1991, to authorize the appointment of additional bankruptcy judges. This legislation which passed the Senate on August 2, last year, would create 32 new bankruptcy judges, including 2 for my home State of Arizona. The need for these judges is overwhelming. Unfortunately, the House of Representatives has not yet acted on this bill. Nonetheless, I am hopeful this legislation will be enacted before adjournment this fall.

Mr. THURMOND. Mr. President, I rise in support of S. 1985, the omnibus bankruptcy reform bill, sponsored by Senator HEFLIN and Senator GRASSLEY. This legislation is the result of a series of hearings before the Subcommittee on Courts and Administrative Practice last summer to consider several different bankruptcy matters and their effect on the bankruptcy community.

S. 1985 represents a comprehensive reform of the Bankruptcy Code. The first title of this legislation establishes a National Bankruptcy Review Commission to study problems relating to the Bankruptcy Code and develop proposals to make the bankruptcy process more effective and efficient. The Commission will report its findings to Congress for appropriate action.

Title II of the bill addresses a number of commercial and credit issues in bankruptcy, including the creation of a pilot chapter 10 program for small business bankruptcies which would allow for more streamlined reorganizations. Title II of the bill also addresses some of the concerns of the Pension Benefit Guaranty Corporation, seeks to clarify bankruptcy law with respect to Employee Retirement Income Security Act pension fund assets, and addresses the issue of the effect of personal guarantees and insiders preferences in the bankruptcy system.

Title III of the bill addresses issues involving individual debtors. This title seeks to encourage individual debtors to file chapter 13 bankruptcies, if possible, as opposed to liquidating under chapter 7. Other provisions of this title will increase the eligibility limits to file a bankruptcy under chapter 13, require that the debtor be examined under oath to determine if he or she fully understands the consequences of filing a bankruptcy, and encourage chapter 13 trustees to begin making payments under a chapter 13 plan as soon as possible.

S. 1985 also includes a bill, which I introduced at the administration's request, to amend the compensation method for private bankruptcy trustees to provide incentives to ensure that the bankruptcy system is not abused. Further, the substitute amendment includes a provision that I recommended, along with Senator HELMS, that will amend the bankruptcy rules to require that summons and complaints of adversary proceedings be served by certified or registered mail to ensure that all interested parties are aware of these proceedings.

Mr. President, I would like to commend the following staff members for their fine work on this important legislation: Mary Fritsche, and Thad Strom, my counsel on the Judiciary Committee, and also Winston Lett, Scott Williams and Jeffrey Hartley of Senator HEFLIN's staff, and Melissa Patack and Fred Ansell with Senator GRASSLEY.

Mr. President, in my home State of South Carolina, the number of bankruptcy filings increased by 35 percent last year. Clearly, Congress must take steps to address this situation. The bill we are considering today contains many necessary reforms that will assist in making the system more efficient. I believe that overall this legislation is fair to all parties, and I urge my colleagues to vote in favor of S. 1985, the omnibus bankruptcy reform bill.

Mrs. KASSEBAUM. Mr. President, I applaud the managers of the bill and support their efforts in making reforms to the current bankruptcy laws. However, I am concerned with the section of the bill which would extend chapter 12, which allows for the reorganization of debtors who qualify as family farmers.

In 1986, the Family Farm Bankruptcy Act established chapter 12 to provide both temporary relief and an expedited procedure under which prompt reorganization would alleviate further distress of both debtors and creditors. At that time, during a severe agricultural crisis in the Midwest, the Senate adopted a conference agreement which called for the addition of more bankruptcy judges and included the establishment of chapter 12.

According to the conference report, "Because this is a new chapter, aimed at a specific class of debtors, Congress will want to evaluate both whether the chapter is serving its purpose and whether there is a continued need for a special chapter for the family farmer. When it makes this evaluation, Congress will be able to determine whether or not to make this chapter permanent." Because of these reasons, Congress chose to sunset chapter 12 on October 1, 1993.

My concern is that Congress has yet to evaluate this chapter, even now as it acts to extend it for 2 years. I believe, at some point, we should take the time to see how well this provision has worked. Since its enactment, a number of issues have been raised with respect to its effectiveness.

For example, chapter 12 permits a family farmer to go into bankruptcy, write down the secured debt to the current value of the land, and then begin to pay the creditor based on the current value of the land. However, chapter 12 does not include write-down protections corresponding to sections 1129(b)(2)(A) and 1111(b) of chapter 11. This bill, by not including the doctrines embraced in chapter 11, precludes a creditor from any hope of participating in any upswing in the value of the collateral. Consequently, a real credit crunch for young farmers and ranchers may be the end result.

Mr. President, I hope the Committee on the Judiciary would consider hearings and focus on this matter next year.

Mr. HEFLIN. Are we ready now to have the bill read for the third time?

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HEFLIN. Mr. President, at this time, I wish to take a moment to thank all the members and staff who have worked so diligently on this legislation. I want to first recognize the ranking member of the Subcommittee on Courts, Senator GRASSLEY, and his staff—Melissa Patack and especially Fred Ansell for all their hard work. On the committee, I would like to thank the following people:

From Senator BIDEN's staff: Scott Schell, James Cooper, and Cynthia Hogan;

From Senator THURMOND's staff: Mary Fritchie and Thad Strom;

From Senator KENNEDY's staff: Jeff Blatner;

From Senator HATCH's staff: Mark Disler and Miller Baker;

From Senator METZENBAUM's staff: Pam Banks, Bill Corr, Jim Brudney, and Michele Varnhagan;

From Senator SIMPSON's staff: Jeff McCullough;

From Senator DECONCINI's staff: Janis Long and Karen Robb;

From Senator SPECTER's staff: Barry Caldwell;

From Senator LEAHY's staff: Tris Coffin;

From Senator BROWN's staff: Tracy Carnes;

From Senator SIMON's staff: Jayne Jerkins and Susan Kaplan;

From Senator KOHL's staff: Matt McCoy.

In addition, a wide range of staff from members of the committee, we received enormous input and aid. Some of these persons are:

From Senator DANFORTH's staff: Bill Hughes;

From Senator BOB GRAHAM's staff: Ann Hardison;

From Senator REID's staff: Melissa Mueller;

From Senator SANFORD's staff: David Post;

From Senator PACKWOOD's staff: Rick Grafmeyer.

In addition, I would be remiss if I did not mention the outstanding efforts of Tim Trushel from Legislative Counsel's Office, and the efforts of my staff especially: Winston Lett, Jeff Hartley, Scott Williams, and Becky Ward.

I particularly want to pay tribute to Scott Williams who has worked untiringly on this bill over a long period of time. He will be leaving the Senate shortly, and we will miss him, but in the conference and followup we are sure that Winston Lett and Jeff Hartley will be able to carry on in a competent and acceptable manner.

I know that these are not all the names of everyone who has worked on this bill and I apologize for any person who I may have left out. But I want to thank these persons for their efforts and recognize them for their hard work.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. GRAMM. Mr. President, we just adopted a sense-of-the-Senate resolution to tell the Nation that the Senate is deeply alarmed about the budget deficit. I voted against the resolution, and I would like to begin by just reading the clauses in the resolution and then make a few brief remarks, and I will be finished.

What we voted for was a resolution that said, No. 1:

> Public officials and candidates for public office should make proposals and engage in extensive and substantive discussion on reducing the deficit.

No. 2:

> The candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications, and solutions.

No. 3:

> All candidates for office should affirm their support for this statement of principles and should resolve in the course of their campaigns to seek a mandate from the electorate with which they can effectively address the Federal deficit if elected.

Mr. President, I hope that a merciful God does not hold politicians accountable for the sin of hypocrisy. Here we are sitting Members of the Senate asking candidates for office to talk about the deficit when we have the power to do something about it right here on the floor of the Senate, and yet, we don't take action. That is why I voted against the resolution.

We voted just last week to increase funding through authorization for the Public Broadcasting System by 50 percent. The President asked for $490 million of emergency aid for Los Angeles, and now the conference committee is sending to the floor of the House and Senate a bill that spends $2 billion. We just rejected a Presidential proposal to stop this absurd situation where we are building MIA2 tanks in one part of the country and getting ready to disassemble them in another part of the country, very much like the former Soviet Union is doing today. Yet in the midst of all of this spending and all of this irresponsibility, the best we can do is to say that these people who are running for public office, these people who are running for President ought to talk about this issue.

Well, Mr. President, I believe that we ought to act on this issue. The House voted on the balanced budget amendment to the Constitution, and much to my disappointment, they rejected it. We ought to vote on it. We ought to bring up the balanced budget amendment to the Constitution. It is in order as an amendment to any bill brought to the floor of the Senate. If we are so concerned about the deficit, we ought to bring it up and vote on it in the Senate. If we are concerned about the deficit, why not defeat this emergency aid bill and go back and write one that is at the funding level the President requested?

I guess, Mr. President, I am frustrated in that the best we seem to be able to do is say to the guys who are running for public office, go out and talk about the deficit, cogitate on it, think about it, and if you get elected consider doing something about it.

We have been elected. We ought to do something about it.

Mr. President, I propose we start doing something about it today. I think we ought to vote on the balanced budget amendment to the Constitution. I just want to put people on notice that I am committed to seeing that this Congress does not come to an end without the Senate having an opportunity to be recorded with the yeas and the nays on this critically important issue. I do not believe that passing a balanced budget amendment to the Constitution will fundamentally change the world before the election.

But it will force us to begin to adopt a meaningful process to deal with the deficit. We will not have any more cases where we are seeing exploding spending at the same time that we are talking in these vague platitudes about doing something about the deficit, by debating it in the Presidential campaign.

So I am ready to act, and not just talk about these issues. I trust others are as well. I look forward to the opportunity to getting to vote yes on the balanced budget amendment to the Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I yield myself 5 minutes.

Mr. President, I have a rate opportunity here today, and in these brief moments I cannot pass it up. I find myself in agreement with one of the lead editorials in the Washington Post of June 17, 1992. I ask unanimous consent that editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIX WEEKS AND COUNTING

> It's been six weeks since the Los Angeles riots, and Congress has yet to pass even the "dire emergency" supplemental appropriations bill that was meant to be its quick response. Much less have the Democrats and the president agreed on the longer-term increase in urban aid that they also hastily promised at the time.
>
> The House approved its tidy version of the appropriations bill a month ago; the measure was limited to cleanup money. A grandstanding Senate insisted on adding about $1.5 billion in mostly summer aid to cities generally, but without financing it. Instead it gave the president the moral equivalent of the line-item veto he is always calling for—the right to spend the extra money or not in whatever increments he chose simply by suspending the budget rules, declaring an emergency and adding the cost to the deficit.
>
> Mr. Bush, however, turned out to like neither the cost nor the responsibility the bill conferred. The conferees obliged him in part by reducing his discretion over the money, but they kept the Senate amounts and still did not finance them. He is now threatening a veto, but the House may spare him the trouble. For lack of funds as well as lack of enthusiasm for urban causes, it is said to be likely to cut back the conference report to about $500 million in extra money for summer jobs to which the administration would apparently agree. If that's how it turns out, the summer jobs money should become available—by about midsummer.
>
> As to a longer-range bill, the White House and Democrats are still negotiating. The president's main proposal is to establish low-tax inner-city enterprise zones, the theory being that the tax concessions will generate on-the-spot employment. The Democrats seem disposed to give him this, though there could be a fight ahead on the form of the tax inducements. A new Congressional Research Service study warns that tax cuts that favor capital over labor could actually reduce employment in the target areas, and that even those that favor labor—tax cuts based on hiring rather than investment—aren't likely to increase employment much.
>
> The Democrats meanwhile have their own magic formula, which is to increase spending on public works, but whether all of that would rebound to the benefit of the inner cities, and how to finance it, aren't clear, either.
>
> The dispute between the president and Congress over unemployment insurance also continues. The government has been providing extended benefits on an emergency basis to tens of thousands of workers who wouldn't otherwise qualify but have exhausted their basic 26 weeks. The provision expires next month; both parties want to extend it through the election. But the Democrats also want to strengthen the underlying system to make such emergency provisions unnecessary in the future. The president objects to both the restructuring and the tax increases with which they would finance the bill; here again he has threatened a veto. They are playing a game of chicken with the unemployed; that's about what they're doing with the cities as well.

Mr. LOTT. Mr. President, let me just read part of this editorial. It begins:

> It has been 6 weeks since the Los Angeles riots, and Congress has yet to pass even the "dire emergency" supplemental appropriations bill that was meant to be a quick response.

It goes on to say:

> The House approved its tidy version of the appropriations bill a month ago; the measure was limited to cleanup money. A grandstanding Senate insisted on adding about $1.5 billion in mostly summer aid to cities generally, but without financing it.

It goes on to point out that this is an issue that has been ending, this emergency, and yet we have reached no agreement, that the Senate added $1.5 billion, did not finance it, and continues to insist on that extra money for summer programs while we begin to approach the end of June.

So I would like to associate myself with the remarks of the Senator from Texas. I looked at the sense-of-the-Senate resolution we just adopted. I found myself in somewhat of a position of disbelief. Here we are saying that Members of Congress should quiz Presidential candidates about what they want to do about the deficit and we say that other candidates for public office should have a dialog about what we should do about deficit. Yet here we are in instance after instance adding to the deficit.

The Presidents are not the problem, and will not be the problem. Democratic Presidents and Republican Presidents, since I have been a Member of the House and Senate, have usually asked for less money than the Congress appropriated.

Under the Constitution, the spending bills begin in the House of Representatives. We are the people that set up the automatic entitlement programs that are spiraling through the ceiling. We are the people that pass the appropriations bills that spend the money that cause this great deficit. So, for us to lecture Presidential candidates about what they want to do about the deficit is ridiculous. I am willing to bet you they would do a better job, any of the three, than we are doing.

I do also feel that we have just been party to hypocrisy, letting on we are so worried about the deficit and asking why nothing is done about it.

I took the time to read the resolution. It is setting up once again to say that the way to deal with the deficit is to raise taxes.

It says in the Mitchell substitute, article 9, that other than taxes devoted to Social Security pensions, the level of taxation relative to the U.S. economy has been lower in the last decade than it was in any year between 1962 and 1982. The implication once again is that the American people are undertaxed.

I invite my colleagues to check with your constituents and ask them if they feel undertaxed. Talk to the people that are pulling the load and paying the taxes. They will tell you they feel they are already overtaxed and they do not need more taxes.

Clearly, the implication in the next article, No. 10, is that the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes.

That is why I voted "no" on this resolution; first of all, I could not believe that we would presume to lecture somebody else about the deficit when you look at our voting record. And second, because I believe this is the beginning of the effort to deal with the deficit just by raising taxes.

The simple truth is we are spending too much money on entitlements and on regular appropriations bills. We should get our own act in order first before we begin to lecture any candidate for President about the deficit.

I yield the remainder of my time, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise for two purposes. One is to comment on the speeches I just heard about the deficit and balancing the budget.

I heard the junior Senator from Texas say that he is going to see that every Member of the U.S. Senate is recorded on a constitutional amendment to balance the budget. Everybody knows that the House has already killed that—it is dead for this session—and that a vote on it in the U.S. Senate would be for purely partisan purposes. That is fine with me. We are all grown up here. I will face that when it comes.

But I also want to assure the junior Senator from Texas that in addition to voting to put some writing in the Constitution, I am going to personally guarantee him and everybody else in this body who waxes eloquently on a daily basis about the criminality of the deficit, and what we are going to do about it, I promise all of them personally that they are going to get a chance to vote to do something about the deficit, not just to put a few words in the Constitution and say the deed is done.

There are people who actually think that when you put it in the Constitution you have waved the wand and somehow or other it is all going to happen. You can put it in the Constitution, you can put it anywhere you want to, but the spines of the Members of Congress still have to be stiffened to make the tough choices.

I am going to start with a couple of programs called the space station and the superconducting super collider. One, the space station, the General Accounting Office says will cost some $118 billion over the next 25–30 years. The other, the superconducting super collider, started out at $4 billion—star wars started out I think at $4 billion, too—everything starts at $4 billion around here—it is up to $8–$12 billion, headed north; first spade of dirt not turned.

Last year when I offered an amendment on the super collider, of course, I had the senior Senator from Texas on this side of the aisle, and the junior Senator from Texas on that side—both opposed my amendment—and I think we had maybe 37 votes.

One of the principal arguments was, what will our partners in this venture think if we halt the super collider? We were promised that the Japanese are going to put over $1 billion into this. We are going to be untrustworthy if we stop the program. George Bush goes to Japan, and he brings up the superconducting super collider, and everybody thinks since this trip is already an unmitigated disaster the Japanese will certainly commit to him on the superconducting super collider.

Do you know what the Japanese told him he could do with that superconducting super collider: "Do not call us; we will call you."

That argument is gone. So here are two little projects, the latter one headed for $20 billion, the first one going upwards of $118 billion.

We are going to find out whether people just want to talk about this deficit, and put it in the Constitution, or whether they want to do something about it.

Mr. President, I will save the remainder of this barn-burning speech for the day we actually offer amendments and give everybody a chance to vote on reducing the deficit.

Mr. President, I rose a few minutes ago to compliment the Judiciary Committee on this bill that is before the Senate right now, the bankruptcy bill, and to say that as a young practicing lawyer it did not take me very long to learn to decline all bankruptcy cases.

There are people who specialize in bankruptcy. I suppose they get along very well with it. But I represented a lot of small businesses, trying to collect something for them, and was in bankruptcy court. I never got enough to pay my fee out of a bankruptcy case, let alone anything for my client. The trustee, the lawyers, they know how to drag these cases out until there is not even a nickel left for the creditors.

The best thing about this bill is not what the bill does, but that it sets up a commission to study precisely what is wrong with the Bankruptcy Code; how can we refine it; how can we streamline it; above all how can we be assured that small business gets something out of Bankruptcy Court.

What happens so often is that small businesses are put under because some big creditor that owes them a lot of money takes bankruptcy.

Mr. President, I was not born in a log cabin. The story goes that my folks moved into one just as soon as they could afford it. But I was born during the Depression. My father really was better off than most in town. When people were working for $21 a month on WPA and a few cheese and bean commodities, my father was making $75 a month. He sent my sister to college at a private institution when he was making $75 a month. Having grown up in that environment, I think it was only natural that one of my first desires, of course, was to make money.

One of the reasons I got into politics—and this sounds terribly self-serving, and so be it—I bought back the family business that my family had sold after my father died. It was a small town, and I knew it was going to be a long time before I could build a law practice. It was a lot longer than I thought it was going to be. Betty taught school for $125 a month, and I could not take anything out of the business, because it was not making anything. We lived on that $125 a month.

For 10 years, I owed more people than I did not owe. But bankruptcy was out of the question. I had grown up in a household where it was just an absolute given that you would not ever declare bankruptcy, even though I was hopelessly insolvent the day I bought the business.

So I toughed it out, and I had a few people take bankruptcy that owed me money. That almost put me to the point where I was going to have to shut my doors. So I have a very keen appreciation for what small business people go through. I am sympathetic to people who fall on hard times and have to take bankruptcy. I am not trying to paint everybody with the same brush, but I can tell you that, oftentimes, not only did some of my customers take bankruptcy, they skipped the country, and I got left with nothing, and they left with my merchandise.

So I feel very strongly about reforming the bankruptcy laws for the benefit of the small business community in this country.

Finally, Mr. President, I will simply say that I put everything I made in my business back into it, and the only way I got anything out of it was when I sold it. I came out reasonably well when I sold my business. I can tell you that it was a struggle for 15 years in a small town, and I knew I was going to have a tough time making it. You are being addressed right now by the South Franklin County Bar Association. I was the only lawyer in town in south Franklin County. I had personal experience with this. So I compliment the Judiciary Committee and thank them for the idea of creating this commission. I hope that commission will pay special attention to how small businesses are so adversely affected by bankruptcies.

I yield the floor.

Mr. DODD. Mr. President, first of all, if I may, I commend my colleague from Arkansas for his eloquence, as always. I want to say, before he leaves the floor, when he told me about not taking bankruptcy matters as a lawyer, he probably should have had the professor I had in law school, who taught bankruptcy. When he gave a final exam, he asked one question: What is the first thing you do as a lawyer when you are confronted with a bankruptcy matter? Everybody tried to remember the textbook and all the things in it, and everybody flunked the test, because the answer was that the first thing you do is get your client to borrow some money so you get paid. So I presume that had my colleague had that professor in law school, he might have handled more bankruptcy matters. Unfortunately, that is how they do it today.

Mr. BUMPERS. Will the Senator yield?

Mr. DODD. Yes.

Mr. BUMPERS. Since we are having a bit of levity, I had a professor one time who said, "I am going to tell you the most important thing at the end of this course anybody will every tell you." We were waiting with wild anticipation, and he said, "Here it is: Bill them while the tears are falling."

Mr. DODD. That is one of the reasons people love lawyers so much.

Mr. BUMPERS. I yield the floor.

Mr. DODD. Mr. President, I ask unanimous consent that I may be allowed to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 2863 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RACHEL ROSSOW RECEIVES JEFFERSON AWARD

Mr. DODD. Mr. President, I would like to say a few words about someone from my State who cared very deeply about children for many, many years and who this morning was recognized in a very moving ceremony at the Supreme Court, along with a number of other people, including retired Justice Thurgood Marshall, Eunice Kennedy Shriver, Faye Wattleton, and others, as recipients of the Jefferson awards in the 20th anniversary since those awards were first given.

Rachel Rossow is not well-known nationally, but she is in my State. I have known and worked with her for 20 years. In fact, I serve on the board she started called Alpha and Omega, which deals with multiply handicapped and retarded children.

This morning, as I said, she was recognized nationally for her efforts. It is hard for anybody to imagine anyone who has more fully devoted her life to public service. She and her husband have given more than 20 children their home, love, and caring beyond anything they could have ever imagined, considering the conditions to which they were born into. She has brought together and supported other families of children with special needs. She has tirelessly advocated for children, especially children with significant and sever disabilities, in every possible forum and town meeting before your State legislature, in fact, the Halls of Congress.

Mr. President, before I served in this body I served in the House of Representatives, which the Presiding Officer is very familiar with. And that body today is accessible to the handicapped because of Rachel Rossow. Back 15 years ago she showed up with about 10 of her children, all of whom were in wheelchairs with respirators, in some cases suffering from the worst kinds of birth defects and disabilities. But her children could not witness Congress in session. All they could do was put those wheelchairs in the various doors, not unlike in this Chamber, around the Chamber so they could watch Congress in session.

Then Speaker of the House, Tip O'Neill, was so moved by that inability of people to actually witness Congress in session who suffered from disabilities, that, without any legislation or any resolutions, they changed the interior of the House to accommodate people who suffer from disabilities and who would like to watch their Congress in session. And that all happened because of Rachel Rossow.

She was not recognized today for that particular involvement, but that is the kind of person she is. It was not done by holding a rally or a demonstration at all. It was just bringing her family down and, coincidentally, encountered that particular set of circumstances.

At any rate, she is a remarkable women. She has been a great asset to Connecticut.

There were some 80 or 85 nominees for this award around the country and she was 1 of the 5 finalists who received that honor today at the Supreme Court.

I missed the speech given by Boris Yeltsin. I would have loved nothing more this morning than to have attended the joint session of Congress to hear history in the making. And I apologize—I am sure Boris Yeltsin noted my absence—for missing that historic moment.

But, frankly, I think most people would understand that exactly at the same hour in the Supreme Court, in a small ceremony, a friend of mine and five richly deserving individuals received a very high honor in this country, and I wanted to be with Rachel Rossow this morning and I am pleased that I was.

I would just like to thank her and thank her husband, Carl, and her family, for all they have done for so many people as an example of what one individual can do, making a difference in the lives of so many of the people.

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

The Senate continued with the consideration of the bill.

Mr. GRASSLEY. Mr. President, I would like to offer a few remarks concerning the matter that is before the body, and that we will vote in about 17 minutes. I want to repeat what I said yesterday because I mean it and also because I want everybody to know that I feel this way as one Republican, who has worked so closely with Senator HEFLIN. As we get to the final vote on this bankruptcy bill, I thank once again Senator HEFLIN, as chairman of the subcommittee, and as a hard-working member of the full Judiciary Committee, for working out what I think is a very good bill. Particularly over the long haul the bill will improve the operation of our bankruptcy system through the establishment of the blue ribbon commission of experts on bankruptcy law that will look at needed changes in the Bankruptcy Code. All that has been put into motion by this bill—the bankruptcy commission and the consensus-type legislation that is involved with it—I am confident will create positive change in this vital field.

It is a very technical subject. It is very difficult to craft bankruptcy legislation. Senator HEFLIN has done a very good job. I thank him very much for his efforts.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I appreciate the kind remarks from the distinguished Senator from Iowa. It has been a pleasure to work with him and his staff. Melissa Patack has done a tremendous job. Senator GRASSLEY is not a lawyer but has tremendous abilities to comprehend legal principles and to understand the bankruptcy laws, the bankruptcy courts, as well as other matters that arise in the Judiciary Committee.

It is a real pleasure to work with him. A person normally does not understand such matters unless he has a legal education and background but I suppose a person that just has a high IQ, and a natural ability to learn, can prove himself to be a fast learner in this regard. I deeply appreciate all of his efforts and recognize and respect his mentality and his ability.

There have been many people who have been involved in this bankruptcy bill. We have talked to a great number of bankruptcy judges, seeking advice from them although they probably want to stay in the shadow. I was going to mention some of them but my very competent, able aid, Scott Williams, thinks it would be inappropriate if we mention their names, there has been a great deal of input.

There has been a lot of input from the American Bankruptcy Institute and the National Bankruptcy Conference. These organizations are dedicated toward a balance in regard to bankruptcy law. This balance is necessary. The Constitution allows for bankruptcy. In the speech that Boris Yeltsin gave today he indicated that the Republic of Russia had adopted a bankruptcy law based on the civil law in the Republic of Russia.

I think it is essential that we recognize that people do need a new start; but, on the other hand, we recognize that there have been tremendous abuses by individuals who have gone into bankruptcy. The thrust of this bill is to try to see that debts are paid. There is a chapter 7, which is known as straight bankruptcy, by which an individual goes in and his debts are erased, turning or over what assets he might have. The creditors generally will not get more than maybe a few cents on the dollar when this happens. But chapter 13 is a chapter of the Bankruptcy Code which allows a person who has to go into bankruptcy the ability to pay their debts over an extended period of time, by working out a plan of reorganization for themselves just like corporations that go into chapter 11. One of the main features of this bankruptcy bill is to fully inform all people who go into bankruptcy that there is a provision in the Bankruptcy Code that will allow them to pay their debts. And if they choose to do so, I think they come out with a feeling that they are not marked by society with the scorn that used to be present when people went into bankruptcy. Although, I think the scorn is something that is needed today for those who do not have the justification for going into bankruptcy.

There are many provisions in this bill. I will not reiterate them because I have mentioned them previously. But this is a good bill and it is a bill that I think will do a lot toward bringing about the balance now needed.

There has been a sort of absence of this balance. I think this bill will bring that balance forward.

There are also issues that arise between secured creditors and nonsecured creditors addressed in this bill. I think this bill gives a balance in this regard.

There are many provisions that some people would not notice, but we think under the trends that are currently taking place relative to the purchase of homes where Fannie Mae and Freddie Mac are involved, the average home buyer may will have to pay substantially more interest and a substantially greater discount on money. We feel this bill will help the housing market, particularly in that it remedies a situation that could have a disastrous effect in the real estate market if not addressed.

There are many other aspects of the bill. One aspect relates to asbestos litigation. In the civil court, there is probably no more urgent need for some sort of congressional solution than that of asbestos claimants. In this particular bill, we attempt to codify a procedure that took place in the Bankruptcy Court in the Southern District of New York. Here, Judge Weinstein worked out with the consent of claimants, the consent of creditors, and the consent of the asbestos company involved, by creating a situation by which, instead of wasting assets in regard to litigation, the court developed a compensation type of an approach toward pain based on the severity of the sickness and the injury of each claimant.

To me, this approach gives us some ideas in regard to how judicially we can approach the issue dealing with asbestos claims in civil courts. This is certainly something that we will be giving more attention to.

We have already had one hearing, and we hope to schedule another, dealing with the issue of asbestos claims and the civil courts of the United States which includes State courts as well as the Federal courts. We will be giving careful consideration to this in the near future.

There are many things in this bankruptcy bill that affect the general economy. We feel by passing this bill that it will aid the economy in many different ways. Some may look at them as a small matter, but such things all come together to have a big impact upon the economy, hopefully helping to get out of the recession. This bill, I think, approaches this concern and gives incentives and encouragement to business relative to how to approach economic problems in the future. We believe that this bill will help the economy as we proceed to try to get out of the current recession.

So, again, let me thank all the people who have been involved in this process. I feel like it is a good bill, and hope that the House will move expeditiously. There are some people who have come to me at the last moment pointing out what they think are defects in the bill. We disagree with this position, but nevertheless, attention can be given to any problem raised.

We have worked on this bill over a long period of time and I believe have addressed many of the problems that has been brought to our attention. The Bankruptcy Review Commission, of course, will review substantial problems as we look to the future in the bankruptcy field. Nevertheless, there are many concerns addressed. For example, the airline industry and the airport authorities will benefit. Ultimately the traveling public who use airlines will benefit as a result of this bill.

There are many aspects of this bill that do affect the general health of the economy of this country.

I again want to thank Senator GRASSLEY and all people who have participated in trying to frame a bankruptcy bill that addresses many of the problems in today's bankruptcy laws.

Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Mr. President, I support S. 1985 which will do much to redress current problems in the bankruptcy system and thereby help to assure a reasonably priced and adequate supply of credit to America's businesses and consumers. However, I do wish to express my concern about one provision of S. 1985 which I believe may create unnecessary problems.

Section 205 of S. 1985 establishes a new, eight-district pilot program for small business bankruptcies. I have no quarrel with the notion that the options available to small business in financial distress may be too limited under the current Bankruptcy Code. My concern is that section 205 may actually hinder the flow of credit to small businesses due to increased lender concern about the protection of their rights in a bankruptcy situation.

For example, section 205 would permit reorganizing small businesses to write down the secured portion of an undersecured claim to the collateral's value, provide little or no recovery on that unsecured portion, and subsequently retain the entire benefit of any postbankruptcy appreciation in the collateral's value. This could have a chilling effect on a lender's willingness to extend credit to small businesses in a state where this option is available and may worsen the credit crunch already being felt by our Nation's small businesses.

It is my understanding there also could be constitutional problems with a pilot program in a limited number of States because it would not be applied uniformly to a defined class of debtors. Litigation questioning its constitutionality will likely follow the filing of the first application for relief under its provisions. Given the extended time the courts generally take to deal with constitutional issues, it is probable that this provision will be under a constitutional cloud during its entire 3-year lifespan.

Section 205 is modeled on the successful consensual program of procedural shortcuts which have been working in the Eastern District of North Carolina. It is my belief that section 205 should be replaced by an amendment to title I of the bill to encourage the National Bankruptcy Review Commission to study the need for a separate small business chapter and to recommend its contents.

I believe this issue must be approached carefully in order to keep credit flowing to small businesses. As I have said many times, credit to a business is like oxygen to the body, without it one will die. Abrogating creditor's rights in an attempt to help small businesses may only serve to cut off this essential element to a thriving small business.

I thank my colleagues for their attention to this matter of serious concern.

The PRESIDING OFFICER. The hour of 5:30 having arrived, the question is on final passage of the bill. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS], is necessarily absent.

I further announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from North Carolina [Mr. HELMS] are absent due to illness.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] and the Senator from North Carolina [Mr. HELMS] would each vote "yea."

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—97

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—0

NOT VOTING—3

Hatfield
Helms
Symms

So the bill (S. 1985), as amended, was passed, as follows:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) there was a record number of Federal bankruptcy filings for the calendar year of 1991;

(2) the smooth and efficient operation of the bankruptcy system is vital to the continued growth and vitality of our Nation's economy;

(3) debtors that file for bankruptcy are entitled and deserve full and complete information regarding the effects and consequences of filing for bankruptcy;

(4) creditors of a debtor that files for bankruptcy deserve and need full and timely information regarding the circumstances of a debtor's bankruptcy filing; and

(5) individual debtors, creditors, the bankruptcy system, and the national economy may be generally better served by the successful completion of a reorganization of debts under chapter 13 or a liquidation of debts under chapter 7 of the Bankruptcy Code, depending upon the circumstances of each particular case; however, it is vital to the efficient operation of the bankruptcy system that each debtor consider and understand the consequences of both options.

TITLE I—BANKRUPTCY REVIEW COMMISSION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 102. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 103. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 108; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 104. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) Two members of the Senate, 1 from each of the 2 major political parties, appointed by the President pro tempore of the Senate.

(3) Two members of the House of Representatives, 1 from each of the 2 major political parties, appointed by the Speaker of the House of Representatives.

(4) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 105. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 107. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 108. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 109. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 108.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE II—COMMERCIAL AND CREDIT MATTERS

SEC. 201. DEFINITION OF PERSON FOR PURPOSES OF SECTION 1102.

Section 101(42) of title 11, United States Code, as redesignated by section 501(7), is amended to read as follows:

"(42) 'person' includes an individual, a partnership, and a corporation, but does not include a governmental unit, except that a governmental unit is a person for purposes of section 1102 to the extent that it—

"(A) acquires an asset from a person as a result of operation of a loan guarantee agreement;

"(B) is a receiver or liquidating agent of a person;

"(C) is a guarantor of pension benefits of the debtor or an affiliate of the debtor; or

"(D) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan as defined in section 457(b) of the Internal Revenue Code of 1986.

SEC. 202. ANTI-ALIENATION.

(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(7), is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by adding "or" at the end of paragraph (17); and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or 457 or a governmental plan under 414(d) of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the case of a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(c) PROPERTY OF THE ESTATE.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k), or a governmental plan under 414(d), or 457 of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).".

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

SEC. 203. CASH COLLATERAL.

Section 363(a) of title 11, United States Code, is amended by adding at the end the following new sentence: "If the cash collateral includes an interest in rents or leases, in real property, held by a creditor and duly recorded in the public records, such interest shall be deemed perfected for purposes of this title upon the filing of a petition under section 301 or 302, or upon the entry of an order for relief under section 303.".

SEC. 204. PREFERENCES.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e) and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

"(1) all the elements of section 547(b) are satisfied as to the first transferee; and

"(2) the exceptions in section 547(c) do not protect the first transferee.".

SEC. 205. SMALL BUSINESS CHAPTER.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 501, is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), and (62) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), and (63); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10.".

(c) TEMPORARY CHAPTER APPLICABLE TO SMALL BUSINESSES.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1001. Definitions for this chapter.
"1002. Commencement of action.
"1003. Trustee.
"1004. Rights and powers of debtor.
"1005. Removal of debtor as debtor-in-possession.
"1006. Property of the estate.
"1007. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) ELECTION BY DEBTOR.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) CONVERSION.—

"(1) THIS CHAPTER TO CHAPTER 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"(2) COMPENSATION OF TRUSTEE.—Prior to the court's conversion of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"§ 1003. Trustee

"(a) PERSON TO SERVE.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

"(b) DUTIES.—The trustee shall—

"(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

"(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) the operation of the business activity of the person by the debtor;

"(C) the filing of a plan and the approval of a disclosure statement;

"(D) confirmation of a plan;

"(E) modification of a plan after confirmation; or

"(F) the sale of property of the estate;

"(4) ensure that the debtor timely files a plan and disclosure statement;

"(5) ensure that the debtor commences making timely payments required by a confirmed plan;

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);

"(7) investigate the financial affairs of the debtor including, but not limited to, the proper use of disposable income;

"(8) file and serve the report required by section 1029(d); and

"(9) file such motions as are appropriate under section 1029.

"§ 1004. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under chapter 11, including operating the debtor's business activities.

"§ 1005. Removal of debtor as debtor-in-possession

"(a) ORDER FOR CAUSE.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) REINSTATEMENT.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1006. Property of the estate

"(a) PROPERTY INCLUDED.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) POSSESSION.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1007. Conversion or dismissal

"(a) CONVERSION BY DEBTOR.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) DISMISSAL BY DEBTOR.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court may dismiss a case under this chapter.

"(c) CONVERSION OR DISMISSAL AT REQUEST OF PARTY IN INTEREST.—

"(1) IN GENERAL.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) CAUSE.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"(d) COMPENSATION OF TRUSTEE.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) REQUIRED CONTENTS.—The plan shall—

"(1) provide for the submission of all or such portion future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

"(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

"(b) ADDITIONAL CONTENTS.—Subject to subsections (a) and (c), the plan may—

"(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;

"(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;

"(3) provide for the curing or waiving of any default;

"(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

"(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

"(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;

"(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;

"(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;

"(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);

"(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity ;and

"(11) include any other appropriate provision not inconsistent with this title.

"(c) LIMITATION.—Except as provided in subsection (b)(5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

"§ 1023. Postpetition disclosure and solicitation

"(a) PLAN AND DISCLOSURE STATEMENT.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"(b) FORM.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—

"(i) the date of termination of the plan; or

"(ii) the date that is 6 years after the date of assessment of the claim,

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) ON COMPLETION OF PAYMENTS.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of the kind specified in section 523(a).

"(2) WHEN PAYMENTS ARE NOT COMPLETED.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—

"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;

"(B) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed secured claim is not less than the amount that would have been paid on the claim if the estate of the debtor had been liquidated under chapter 7 on that date; and

"(C) modification of the plan under section 1029 is not practicable.

"(3) EFFECT.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b)(5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) REVOCATION.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) TERMINATION OF SERVICES OF TRUSTEE.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

"§ 1029. Modification of plan after confirmation

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"(d) REPORT.—Not later than 60 days after each anniversary of the confirmation of the plan, the trustee shall file a report with the court, and serve a copy on all creditors requesting service of a copy of the report, setting forth—

"(1) the amount of distributions made to creditors during the preceding year;

"(2) a description of the debtor's compliance with the provisions of the plan during the preceding year;

"(3) a description of the debtor's disposable income in relation to the continued ability to comply with the terms of the confirmed plan; and

"(4) any modifications to the plan that are necessary to ensure the reorganization of the debtor and the payment to creditors of all disposal income.

"§ 1030. Revocation of order of confirmation

"(a) REVOCATION FOR FRAUD.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) DISPOSITION OF CASE AFTER REVOCATION.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses .... 1001".

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(ii) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(ii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10" after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,"; and

(C) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, $600.".

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 301 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3118) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 206. SUPPLEMENTAL PERMANENT INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal action as is expressly allowed by the injunction or plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met, after entry of an injunction under paragraph (1) any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to be funded in whole or in part by the securities of one or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(II) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(III) is to use its assets or income to pay claims and demands; and

"(ii) the court finds that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands; and

"(IV) as part of the process of seeking approval of the plan of reorganization, a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that is a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making such loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) is not intended to—

"(i) imply that such an entity would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance; or

"(iii) relieve any debtor of its obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A) Subject to subparagraph (B), an injunction issued under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(B) With respect to a demand that is made subsequent to the confirmation of a plan against any debtor or trust that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by an injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection governs any injunction of the nature described in paragraph (1)(B) entered before or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's existing authority to issue an injunction pursuant to an order approving a plan of reorganization.".

SEC. 207. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association" the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),".

SEC. 208. PRE-MERGER NOTIFICATION.

Section 363(b)(2) of title 11, United States Code, is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification on behalf of the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b)(1) of that section, the required waiting period shall end on the tenth day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

"(ii) by the court, after notice and hearing.".

SEC. 209. STATUS CONFERENCE.

Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, the court, on its own motion or on the motion of any party in interest, may hold a status conference regarding any case under this chapter, after notice to creditors and other parties in interest. At such a conference or any subsequent status conference set by the court, the court may issue an order, consistent with this title, prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including orders that—

"(1) set a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

"(2) set a date by which the debtor, or trustee if one has been appointed, shall confirm a plan;

"(3) set the date by which a party in interest other than a debtor may file a plan;

"(4) fix the notice to be provided regarding the hearing on approval of the disclosure statement;

"(5) provide that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan;

"(6) direct the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court; and

"(7) set the date by which the debtor must accept or reject an executory contract.".

SEC. 210. AIRPORT LEASES.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 180 days after the date of the order for relief, or within such additional time as the court sets under subparagraph (B) during such 180-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

"(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

"(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

"(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

"(III) the size and complexity of the case; and

"(IV) air carrier competition at the airport.

"(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

"(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply in all proceedings commenced on or after January 1, 1992. In a proceeding commenced on or after January 1, 1992, that is pending on the date of enactment of this Act, the 180-day period provided in section 365(d)(5)(A) of title 11, United States Code, as added by subsection (a), shall commence on the date of enactment of this Act.

SEC. 211. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 205(a), is amended—

(1) by redesignating paragraphs (54), (55), (56), (57), (58), (59), (60), (61), (62), and (63) as paragraphs (55), (56), (57), (58), (59), (60), (61), (62), (63), and (64); and

(2) by inserting after paragraph (53) the following new paragraph:

"(54) 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto;".

(b) AUTOMATIC STAY.—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate."; and

(2) by adding at the end the following new subsection:

"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

"(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.".

SEC. 212. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.".

SEC. 213. AIRCRAFT EQUIPMENT, VESSELS AND ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362 or 363 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(c) APPLICATION OF AMENDMENTS.—(1) The amendment of section 1110(a) and section 1168(a) of title 11, United States Code, made by subsections (a) and (b) shall not apply to bankruptcy proceedings commenced prior to the date of enactment of this Act.

(2) The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 214. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after "real property" the following: "and, in a case under chapter 11, under an unexpired lease of personal property".

SEC. 215. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365(d)(3) of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.".

SEC. 216. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the value of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.".

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h)(2),".

SEC. 217. INDENTURE TRUSTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) an indenture trustee;"; and

(C) in subparagraph (E), as redesignated by subparagraph (A), by striking "an indenture trustee,"; and

(2) in paragraph (5) by striking "for services rendered by an indenture trustee in making a substantial contribution in a case under chapter 9 or 11 of this title" and inserting "for necessary services".

SEC. 218. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) any interest in cash or cash equivalents (within the meaning of section 363(a)) that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor).".

TITLE III—INDIVIDUAL DEBTORS

SEC. 301. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—(1) Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) DEFINITION.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e) AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor unless—

"(A) the debtor has first given the preparer written authorization to execute the document; and

"(B) the preparer is otherwise authorized by law to execute the document.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f) DAMAGES.—If a bankruptcy case or related proceeding is dismissed because of the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(1) the debtor's actual damages;

"(2) the greater of—

"(A) $2,000; or

"(B) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(3) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(g) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared as document for filing, the United States trustee in the district in which the bankruptcy petition preparer resides or has a principal place of business, or the United States trustee in the district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) ATTORNEY'S FEE.—The court shall award to a debtor who brings a successful action under this subsection reasonable attorney's fees and costs of the action.

"(i) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(2) The chapter analysis for chapter 1 of title 11, United states Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 9 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 156. Willful disregard of bankruptcy law or rule.

"(a) DEFINITIONS.—In this section—

"(1) the term 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) the term 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined $5,000.".

(2) The chapter analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following new item:

"156. Willful disregard of bankruptcy law or rule.".

(c) AMENDMENT TO SECTION 152.—Section 152 of title 18, United States Code, is amended by—

(1) designating each of the presently unnumbered paragraphs as "(a)" through "(i)" respectively;

(2) inserting in the newly designated paragraph (a) "or the United States Trustee" after the words "or from creditors"; and

(3) inserting in the newly designated paragraph (i) "or the United States Trustee" after the words "or other officer of the court".

(d) AMENDMENT TO SECTION 153.—Section 153 of title 18, United States Code, is amended by deleting the words "which came into his charge as trustee, custodian, marshal, or other officer of the court,", and by amending the catchline and the item in the table of sections to read:

"§ 153. Embezzlement against estate".

(e) AMENDMENT TO SECTION 154.—Section 154 of title 18, United States Code, is amended by—

(1) designating each of the presently unnumbered paragraphs as "(a)" through "(c)" respectively;

(2) deleting the hyphen at the end of newly designated paragraph (b) and inserting in lieu thereof "; or";

(3) inserting a new paragraph (c) and redesignating paragraph (c) as paragraph (d):

"(c) Whoever being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by the United States trustee—"; and

(4) deleting in subsection (d) "$500" and inserting in lieu thereof "$5,000".

SEC. 302. WHO MAY BE A DEBTOR.

Section 109(e) of title 11, United States Code, is amended to read as follows:

"(e)(1) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of less than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13.

"(2) An individual with regular income that owes, on the date of filing the petition, noncontingent, liquidated debts of more than $1,000,000, or an individual with regular income and such individual's spouse, except a stock broker or commodity broker, may be a debtor under chapter 13 if there is no objection raised on the record by any creditor prior to the date that is 10 days after the date on which the meeting of creditors pursuant to section 341 is concluded, and no order of confirmation shall be entered prior to the date by which such an objection is required to be made.".

SEC. 303. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521;

"(6) the potential penalties and fines for committing fraud or other abuses of this title; and

"(7) the consequences of substantial abuse under section 707(b).".

SEC. 304. AUTOMATIC STAY.

Section 362(e) of title 11, United States Code, is amended by adding at the end the following new sentence: "In no event shall the final hearing on a request under subsection (d) be concluded later than 60 days after the filing of the request, except upon a finding of good cause by the court.".

SEC. 305. EXEMPTIONS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings.".

SEC. 306. EFFECT OF DISCHARGE.

Section 524(d) of title 11, United States Code, is amended—

(1) by striking "(d) In" and inserting "(d)(1) In";

(2) by striking "(1) inform" and inserting "(A) inform";

(3) by striking "(A) that" and inserting "(i) that";

(4) by striking "(B) of" and inserting "(ii) of";

(5) by striking "(i) an" and inserting "(I) an";

(6) by striking "(ii) a" and inserting "(II) a";

(7) by striking "(2) determine" and inserting "(B) determine";

(8) in the third sentence of paragraph (1), as designated by paragraph (1) of this section, by striking "If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then" and inserting "Prior to granting a discharge, if the debtor desires to make an agreement of the kind specified in subsection (c)(6),"; and

(9) by adding at the end the following new paragraph:

"(2) If a debtor fails to attend a hearing under paragraph (1) concerning a reaffirmation agreement—

"(A) the hearing shall be rescheduled;

"(B) the court shall cause the debtor to be given written notice that failure to attend the rescheduled hearing will cause the reaffirmation agreement to be deemed void; and

"(C) if the debtor fails to attend the rescheduled hearing, a discharge shall be granted without further delay.".

SEC. 307. PREFERENCES.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "property" and inserting "property, or with respect to which the creditor has taken all necessary steps to perfect under State law and the failure to perfect within 20 days is due solely to the operations of a governmental unit;".

SEC. 308. SUBSTANTIAL ABUSE.

Section 707 of title 11, United States Code, is amended—

(1) by adding at the end the following new subsection:

"(c)(1) Nothing in this section prohibits a party in interest from providing information concerning the debtor's assets, liabilities, or financial affairs to the United States Trustee.

"(2) The United States trustee shall provide the debtor with—

"(A) notice that a party in interest has provided the United States trustee with information pursuant to subsection (c)(1), including the identities of all sources of information provided;

"(B) a copy of all documents presented to the United States trustee pursuant to subsection (c)(1); and

"(C) an opportunity to respond to the issues raised by a party in interest pursuant to subsection (c)(1)."; and

(2) in subsection (b) by inserting after the first sentence the following new sentence: "The court shall find that a petition constitutes a substantial abuse of this chapter if the petition was filed in bad faith or if the debtor, without substantial hardship, has the ability to pay the debtor's debts as they become due.".

SEC. 309. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.".

SEC. 310. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "claims;" and inserting "claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

SEC. 311. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 312. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim."; and

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.".

SEC. 313. PLAN CONTENTS.

Section 1322 of title 11, United States Code, as amended by section 202(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

"(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

"(B) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).".

TITLE IV—MISCELLANEOUS

SEC. 401. DELAY OF REPEAL OF CHAPTER 12 (FAMILY FARMERS).

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended by striking "October 1, 1993" and inserting "October 1, 1995".

SEC. 402. DOLLAR ADJUSTMENTS.

(a) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000"; and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(b) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "$2,000" and inserting "$4,000";

(2) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000"; and

(3) in paragraph (6) by striking "$900" and inserting "$1,800".

(c) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000";

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400";

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400"; and

(B) by striking "$4,000" and inserting "$8,000";

(4) in paragraph (4) by striking "$500" and inserting "$1,000";

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800"; and

(B) by striking "$3,750" and inserting "$7,500";

(6) in paragraph (6) by striking "$750" and inserting "$1,500";

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000"; and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(d) APPOINTMENT OF EXAMINER IN CERTAIN CIRCUMSTANCES.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 403. TRUSTEE COMPENSATION.

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a) In a case under chapter 7 or chapter 11, the court may allow reasonable compensation under section 330 for the trustee's services, payable after the trustee renders such services, computed as a percentage of all monies disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor for the debtor's exemptions, but including holders of secured claims, as follows:

"(1) In a case in which such moneys do not exceed $1,000,000, reasonable compensation may be 25 percent of the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, and 5 percent of any amount in excess of $50,000.

"(2) In a case in which such moneys exceed $1,000,000, reasonable compensation, in addition to that prescribed in paragraph (1), may be 3 percent of the excess of those moneys over $1,000,000, but the court may allow additional compensation to the trustee for exceptional services not to exceed 25 percent of the compensation otherwise due.".

SEC. 404. TAX PROVISIONS.

(a) SPECIAL TAX PROVISIONS.—Section 346 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(k) A trustee or debtor in possession shall establish and maintain a separate bank account for post-petition taxes that are required to be withheld or collected from third parties, and shall also make deposit of such taxes therein when withheld or collected and remit such taxes to a governmental unit at the time and in the manner required under Federal, State, or local government law, unless ordered by the court to do otherwise.".

(b) AUTOMATIC STAY.—Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;".

(c) CONVERSION OR DISMISSAL OF CHAPTER 11 CASE.—Section 1112(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(d) CONFIRMATION OF PLAN.—Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking "such claim, of a value" and inserting "such claim, or, if a claim has not been assessed, after the date of confirmation of the claim, of a value".

(e) CONVERSION OR DISMISSAL OF CHAPTER 12 CASE.—(1) Section 1208(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (8);

(B) by striking a period at the end of paragraph (9) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(10) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by the laws applicable to such taxes subsequent to the date of the order for relief under this chapter.".

(2) Section 1307(c) of title 11, United States Code, is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(11) failure to file tax returns or pay taxes due to be paid to a governmental unit within the time and in the manner required by laws applicable to such taxes subsequent to the date of order for relief under this chapter.".

SEC. 405. CREDITOR COMMITTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a committee representing creditors or equity security holders appointed under section 1102 in the performance of its powers and duties under that section.".

SEC. 406. JUDICIAL CONFERENCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 407. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ", by certified or registered mail," after "complaint"; and

(2) by inserting ", by certified or registered mail," after "copy".

SEC. 408. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.

"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and

"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.

"(3) The court shall not allow compensation for duplication of services or for services that are not either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.

"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.

"(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation the court may order the return of the excess to the trustee or other entity that paid it.

"(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications shall be reasonable and based on the level of skill required.

SEC. 409. TRUSTEE DUTIES.

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly except when circumstances warrant different treatment), applications for compensation and reimbursement filed under section 330 of title 11; and

"(ii) filing with the court comments with respect to such an application and, when the United States Trustee deems it to be appropriate, objections to any such application.

SEC. 410. PENSION PLAN CONTRIBUTIONS.

(a) TREATMENT AS ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by section 405, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) minimum funding contributions to an employee pension benefit plan for which the debtor is liable, which accrue on or after the date of commencement of the case (regardless of the time such contribution comes due), under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).".

(b) PAYMENT OR POSTPONEMENT OF MINIMUM FUNDING CONTRIBUTIONS DUE PENSION PLANS.—(1) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1115. Contributions to certain employee pension benefit plans

"(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Except as provided in subsection (b), the debtor in possession, or the trustee if one has been appointed, shall make any minimum funding contributions for which the debtor is liable, which accrue on or after the date of commencement of the case (regardless of the time such contribution comes due), under section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082).

"(b) POSTPONEMENT OF CONTRIBUTIONS.—(1)(A) Subject to paragraph (2), the court may, on motion of any party and after notice and hearing, determine that the making of all or part of a minimum funding contribution required to be made by a debtor to a pension plan may be postponed until a date that is not later than—

"(i) the effective date of a plan of reorganization confirmed under section 1129; or

"(ii) if the case is converted to a case under chapter 7, the date on which a distribution of property is made under section 726.

"(B) In making a determination under subparagraph (A), the court shall take into account the requirements of the estate.

"(C) Interest shall accrue on the amount of a contribution that is postponed from the date on which the contribution became due to the date of payment at the rate specified in section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)).

"(2)(A) Before permitting payment of all or part of a contribution to be postponed, the court shall grant security to the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, for the amount of a contribution that is postponed, affording adequate protection in accordance with section 364(d)(1)(B).

"(B) If the debtor in possession or trustee fails to make a postponed contribution on the date on which it is to be made under an order issued under paragraph (1), the pension plan shall be permitted to foreclose on the security provided under subparagraph (A).

"(c) NOTICE.—The administrator of the pension plan and, in the case of a plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guaranty Corporation, shall be given notice of and may participate in any hearing seeking postponement of a contribution or foreclosure under this section.".

(2) The chapter analysis for chapter 11 of title 11, United States Code, is amended by inserting after the item for section 1114 the following new item:

"1115. Contributions to certain employee pension benefit plans.".

(c) CLARIFICATION OF EXISTING LAW.—(1) The amendment of section 550 of title 11, United States Code, made by section 204 shall apply with respect to a transfer to a pension plan that is subject to the minimum funding requirements of section 412 of the Internal Revenue Code of 1986 and section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082) only if the transfer is the subject of a motion or proceeding seeking avoidance of the transfer that is filed on or after the date of passage of this Act in the Senate.

(2)(A) In making the amendments made by subsections (a) and (b), it is the purpose of Congress to clarify the meaning of the provisions that are amended as they existed prior to the date of enactment of this Act.

(B) The amendments made by subsections (a) and (b) shall not be applied so as to supersede or alter any agreement or understanding (or modifications thereto before or after enactment) regarding a debtor's minimum funding contributions entered into among a debtor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation prior to the date of enactment of this Act. If any agreement or understanding referenced in the preceding sentence is set aside or not implemented because of the act or omission of the Pension Benefit Guaranty Corporation, the law applicable to all matters in that proceeding shall be determined without regard to subsections (a) or (b).

SEC. 411. DEFICIT REDUCTION: A CALL FOR DEBATE.

(a) The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans;

(3) the national interest in controlling the deficit takes precedence over partisan advantage;

(4) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country (such as investing in human capital and physical infrastructure to promote economic growth) are to be effectively and honestly addressed;

(5) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice;

(6) the frequency and level of public comment on this issue by too many public officers and House and Senate candidates, including those who hold and seek the office of the President, have been insignificant and inadequate;

(7) by and large, too many candidates, Members of Congress, and members of the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse;

(8) entitlement and interest spending are the fastest growing components of the Federal budget and are at an all-time high, largely due to the explosion of health costs;

(9) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(10) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(11) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people.

(b) It is the sense of the Senate that—

(1) public officials and candidates for public office should make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office should affirm their support for this statement of principles and should resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit if elected.

SEC. 412. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 413. EFFECTIVE DATE.

Except as provided in sections 205(e)(2) and 210(b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 15;

(2) in section 101—

(A) by striking paragraph (39);

(B) by redesignating paragraphs (40) through (51) as paragraphs (41) through (52), respectively;

(C) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39), respectively;

(D) by inserting after paragraph (35) the following paragraph:

"(36) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; and

"(F) mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law;";

(E) in paragraph (39) (as redesignated by subparagraph (C)) by striking "and" after the semicolon;

(F) by inserting after paragraph (39) (as redesignated by subparagraph (C)) the following paragraph:

"(40) 'mask work' has the meaning given it in section 901(a)(2) of title 17;";

(G) by redesignating paragraphs (52) and (53) (as designated before the date of enactment of this Act) as paragraphs (54) and (55), respectively;

(H) by inserting after paragraph (52) (as redesignated by subparagraph (B)) the following paragraph:

"(53) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;"; and

(I) by striking both paragraphs (54), both paragraphs (55), both paragraphs (56), and both paragraphs (57) (as designated before the date of enactment of this Act) and inserting the following:

"(56) 'stockbroker' means a person—

"(A) with respect to which there is a customer, as defined in section 741(2) of this title; and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account;

"(57) 'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing);

"(B) any combination of the foregoing; or

"(C) a master agreement for any of the foregoing together with all supplements;

"(58) 'swap participant' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor;

"(59) 'timeshare interest' means that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan;

"(60) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years;

"(61) 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary of involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption; and

"(62) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.";

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302";

(4) in section 346 (a) and (g)(1)(C) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(5) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(6) in section 349(a) by striking "109(f)" and inserting "109(g)";

(7) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraphs (12) and (13) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(D) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17), striking "or" at the end of paragraph (16), as redesignated by this subparagraph, and adding "or" at the end of paragraph (17), as redesignated by this subparagraph;

(8) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(9) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(10) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307"; and

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to";

(11) in section 507(d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(12) in section 522(d)(10)(E)(iii) by striking "408, or 409 Internal Revenue Code of 1954" and inserting "section 401(b), 403(b), 408, or 409" of the Internal Revenue Code of 1986";

(13) in section 523(a) by striking "1141., 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),";

(14) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) by inserting "and" at the end of subsection (d)(1)(B)(ii);

(15) in section 542(e) by striking "to to" and inserting "to";

(16) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(17) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(18) in section 553—

(A) in subsection (a)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in subsection (b)(1) by striking "362(b)(14),," and inserting "362(b)(14),";

(19) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(20) in section 724(d) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(21) in section 726(b) by striking "section 1112 1208" and inserting "section 1112, 1208,";

(22) in section 743 by striking "clerk" and all that follows through "Commission" and inserting "clerk shall give the notice required by section 342 to SIPC and to the Commission";

(23) in section 745(c) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(24) in section 1104(c) by striking "then the United States trustee, after consultation with parties in interest shall" and inserting "the United States trustee, after consultation with parties in interest, shall";

(25) in section 1129(a)—

(A) by striking the semicolon at the end of paragraph (4) and inserting a period; and

(B) in paragraph (12) by striking "section 1930," and inserting "section 1930 of title 28,";

(26) in section 1226(b)(2)—

(A) by striking "section 1202(d) of this title" and inserting "section 586(b) of title 28"; and

(B) by striking "section 1202(e) of this title" and inserting "section 586(e) of title 28";

(27) in section 1302(b) by striking "and" at the end of paragraph (3); and

(28) in section 1328(a)(2) by striking "of" and all that follows through the semicolon and inserting "of the kind described in section 523(a) (5), (8), or (9);".

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. SANFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business during which Senators may be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

BORIS YELTSIN'S ADDRESS TO CONGRESS

Mr. DOMENICI. Mr. President, as one Senator from the State of New Mexico, I was privileged to be in the halls of the House of Representatives late this morning for a joint session. All of us, Senators and Representatives, who were present got to hear what I believe was an extraordinary address. We got to hear the President of Russia, Boris Yeltsin, talk about his country and what it was in the past, what it is now, and what he hopes it will be.

He made some very profound statements. I want to read one that was very, very intriguing and interesting to me.

He said, "It is in Russia that the future of freedom in the 21st century is being decided. We are upholding your freedom as well as ours."

In a sense, Mr. President, he was saying, if Russia and the other Republics of the former Soviet Union can maintain democracy and freedom, they will have strengthened our democracy. The corollary would be, if they do not make it, and they are not free and do not have a democracy, they will have weakened our democracy. I think that is true. But I also think, from the standpoint of our interests, if our interests are what people are genuinely concerned about, then it seems to me that the failure of democracy in the former Soviet Union is not good for our country.

Such a failure will cost us a lot. It will diminish us. It will make us less successful in international trade. In a sense, the failure of democracy in Russia will diminish our leadership in the world and it will diminish Americans in the world, be it business America or other Americans.

FREE RUSSIA DESERVES MORE THAN APPLAUSE

So I rise today to say to my fellow Senators, it was exciting to join with you in round after round of applause for Boris Yeltsin. Indeed, it was absolutely gratifying to stand shoulder to shoulder with Senators as we cheered and applauded this brave and courageous leader. But I come to the floor tonight saying, all that is not enough. To praise him, to applaud him, to stand and, in a sense, give him the kind of response we gave this morning is good, but it is not enough.

We ought to get on with adopting and sending to the President of the United States the Freedom Support Act, which is pending here in the Senate, that puts together ways we can assist Russians in their quest to stabilize their victory for democracy and move toward the free market and liberty. It pulls together the various components as suggested by the President and suggested by Members of the Senate and the House on ways we can assist Russia and other former members of the Soviet bloc who have become free.

The time to act has come. I hope our leaders listened today to overwhelming support from the elected representatives of the people of this country for Boris Yeltsin and what he stood for and what he said. I hope our leaders will bring the freedom support bill to the floor so we can see if Senators will now vote where their applause was, vote like their adulation was today. We will find out what Senators think of the President of the United States and his plan in support of Russia. I think the time has come to get on with it.

YELTSIN'S COURAGE MAY PROVE CONTAGEOUS

In fact, I believe it is fair to question whether one deserves to be a member of a free parliament such as ours, called the Senate and the House, if they do not have the courage to vote for the kind of assistance package that is being asked of us for Russia, Ukraine, and those other free people. I clearly have doubt to what end we would be here if we are not ready to do that.

Mr. WARNER. Will the Senator yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. WARNER. The Senator from New Mexico is well-known for his knowledge on economics. A group of us just had the privilege of being at the White House when the President and President Yeltsin signed a series of agreements. The President of the United States explicitly said there are two main benefits coming to the American people. Our people are in bad need of help.

First and foremost, it provides a basis for our present programs to reduce defense spending. And some of those reductions, hopefully, can be applied against the deficit which, in turn, will help our economy.

Second, the biggest potential market for American products in the whole world is in just one independent State, Russia, the Federation of Russia, not to speak of the Ukraine and others. The President pointed out the need for those people, struggling to achieve freedom and maintain it, the need for everything from toothbrushes to bicycles; unlimited possibilities for American business to go over there and meet the crying needs of the former Soviet people.

So I commend the Senator and I wish to associate myself with his remarks.

(Mr. WELLSTONE assumed the chair.)

AMERICA HELPS ITSELF BY HELPING RUSSIA

Mr. DOMENICI. Let me just say, Mr. President, contrary to what some have led the American people to believe, the largest world trader in terms of selling goods and services to the market places of the world is not Japan or Germany, it is America this year and last year. We thrive on that. Our Nation has never lived a good economic life when we were not selling to the world. In fact, we complain bitterly about people owning pieces of America. Well, for much of America's economic life, we owned pieces of businesses in all countries in the world. We did not seem to think that was so wrong. We sell, they sell.

So it seems to me, if we are looking for self-interest, obviously, if America gets in on the ground floor as the solid friend of the Russian people and their leaders, we cannot even calculate today the eventual economic benefit to our people. My estimate would be that Russia could be the largest market outside of North America, bar none, for United States goods, United States services, and that does not have much to do with the noncommercial exchange that will occur between our people which will just make both people stronger.

I thank the Senator for his comments and I yield the floor.

Mr. CRANSTON. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. CRANSTON. Mr. President, I just wanted to express my total agreement with the remarks of the Senator from New Mexico and the Senator from Virginia.

That was a remarkable speech that we heard this morning. In my 24 years in the Senate, I have never heard the President of our country or some other country be interrupted so often, so many times, by applause and by standing ovations.

Plainly, it is not only in the interest of the Soviet people, but in the interest of the American people to proceed to approve the package of assistance that has been requested by President Bush. And I am doing all I can to see that we have the votes on this side of the aisle, and I gather you have the votes on that side of the aisle, to ensure that measure passes the Senate.

In addition to all the reasons that the Senator from New Mexico and the Senator from Virginia just gave for supporting this is the fact that Russia is one of the largest oil producers on Earth, perhaps the largest. And if total chaos should come to that country, that would interrupt oil supplies and do great damage to our economy.

Also, we have spent literally trillions of dollars defending ourselves and much of the rest of the world against communism, which might have spread further out of the Soviet Union. Now to invest relatively small sums to support democracy there and make sure that no new Communist dictatorship, no fascist dictatorship, no military dictatorship emerges there equipped with nuclear weapons is in our great interest.

So I am eager to work with the Senator from New Mexico and the Senator from Virginia and others in support of this measure.

Mr. DOMENICI. Mr. President, I thank the Senator from California.

I want to give a couple more observations, and then I note my friend from Texas is here.

I have been thinking about the U.S. Constitution and the freedom that it gave us and how it has served us over time.

It dawns on me that sometime people in our country lament and even complain about the burden of leadership in America in the world. Some say, "Why don't we come home and just worry about ourselves and just leave the rest alone?"

That Constitution of ours, I say to my friend from Texas, was such a profound document of freedom that it probably destined our people to be involved in getting the same freedom for people that were not Americans. It is a document of energy on behalf of freedom that resonates so much that we probably were destined to be part of seeing the rest of the world move our way. We may be destined to be a leader in that cause.

FOREIGN AND DOMESTIC REASONS TO SUPPORT THE FREEDOM SUPPORT ACT

That is what is happening in Russia. To an amazing extent they want to be like us, while retaining their Russian character. It seems to me that two selfish interests should convince people that a vote for this Freedom Support Act is a vote for America. One is, what if freedom fails? And what if this treaty on nuclear weapons goes down the drain because of that? How would we like 3,500 nuclear weapons, if they got down to that bottom rung, in the hands of a regime that had thrown out freedom lovers, friends of America? It seems to me we would be right back in somewhat of the muddle we have been in for 44 years of the cold war.

Second, it seems to me that when the United States is concerned about selling products in the world so our people can have better jobs, of investing our money in the world so we can profit from it along with those that we invest with and countries that we invest in, where could we find a better situation than this one if we will just do our share to encourage and push that country into setting into an operational government the tools that will let a free market operate?

That is essentially what this man was asking us to do today. He is committing that Russians are going to do what is necessary. Yeltsin is urging that western peoples do the little bit of governmental things around the edges of Russian reform. Our $650 million appropriated foreign aid money in that freedom support bill, if that becomes a reality, is not what is going to make this arrangement work. It is the courage for Yeltsin to make their ruble stabilized; it is the international private effort that is going to go into investing in businesses over there that are going to become businesses working with us or with other freedom loving people. Why is that not good for America?

It seems to me, we should help Russia on both counts, that their freedom enhances our freedom and it enhances our economy as their market benefits from solvency and credibility.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. GRAMM. First, I would like to thank our colleague for coming to the floor and saying something about the speech by President Yeltsin. It was a profound speech, and I am happy to have lived to have heard it delivered.

Mr. DOMENICI. Absolutely.

Mr. GRAMM. It was more clear and convincing evidence that we have won the cold war, that we have not only torn down the Berlin wall and liberated Eastern Europe, but that we have dramatically transformed the Soviet Union, the old, evil empire that threatened our lives and our freedom for 45 years.

It is imperative that we help Russia and the countries of Eastern Europe build their economy and promote their freedom, because our freedom is at stake in the process. If I have a frustration, it is not that we are talking about an assistance package. It is that, in my opinion, we are responding to a revolutionary change in the world with a fairly status quo response. In fact, if you took all the foreign aid given by all the countries in the world—$100 billion last year roughly—and gave it to Russia, it would be a drop in the bucket as compared with their development needs.

There is only one mule that is capable of pulling that wagon, and that mule is trade, supplemented by foreign investment.

Mr. DOMENICI. Absolutely.

Mr. GRAMM. I think it is important that we develop a proposal. I want to be sure it is going to work. I am very concerned about the IMF underwriting the value of the ruble. I have very grave doubts about our ability to make that work. But I want to do something.

But, let me tell you, I believe we should go far beyond what we are talking about—or are going to be talking about if and when we get around to debating it. We ought to be sending, today, a negotiator to every capital of the former Soviet empire to begin to negotiate a free-trade agreement.

Why should we replicate all the mistakes made in the Third World? Who would be imperiled? What industry would be imperiled by a free-trade agreement with the Russian Republic? Where could they outcompete the United States?

I think we must have dramatic approaches to deal with this problem, and I think what Boris Yeltsin convinced us of today is, No. 1, that he is serious. I wish our Government had the commitment to free enterprise that, apparently, the Russian Republic has today. The bad ideas are being debated here, not there.

Second, I am convinced they are willing to do what it takes to develop their country. I want to do what it takes here to promote the trade, the commerce, the investment. I want to do this not just to help them but to help ourselves.

I thank our colleague for bringing this up for discussion.

Mr. DOMENICI. Mr. President, I want to close by thanking my friend from Texas for his kind remarks about me. More important, I thank him for the good ideas he has contributed to the U.S. Senate and whoever has lent an ear tonight.

I believe our Senate leaders are on the threshold of arranging to bring this freedom support bill to the floor. At least from what I hear they are. I hope so. I urge that they do so. Frankly, if there are Senators who cannot vote for it—certainly there are not Senators who are going to vote against it because it is not a dramatic enough document.

Mr. GRAMM. That is right.

Mr. DOMENICI. Clearly, we can work more drama into the bill on the floor if we like. But if there are some who for some reason cannot vote for it, so be it. There are less than a third of us running for reelection this year. So if everyone running does not want to vote for it, that is all right, too. But let us get the job of helping free Russia done.

THE WILL TO ACT IS MISSING

It seems to me we can get almost anything we want around here done quickly if we have the will to do it. So I believe the will is here—in fact, I think if we had brought that bill up within 2 or 3 hours of Yeltsin's speech, we might have even reduced debate a few hours, and maybe 20 or 30 amendments would have been offered. We need to get it done so we can say to that brave leader of those Russian people: We believe that you are telling us the truth. We want to do what we can to make sure your freedom works and that your people up and down the line have something to show for it. We want Russians, too, to have some good things of life.

That is what we want them to have, along with their freedom. We want them to have automobiles and solid houses and, yes, air-conditioning, and ample light bulbs, and all the things we take for granted. That is what we want.

Mr. GRAMM. If my colleague will yield. We are producing quality products in each of those areas, and we are ready to sell to them. We will benefit by their prosperity and their freedom.

Mr. DOMENICI. Absolutely.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

WE HAVE BIG PROBLEMS HERE IN AMERICA AS WELL

Mr. RIEGLE. Mr. President, I thank the Presiding Officer. I want to follow up on this before Senator DOMENICI and Senator GRAMM leave the floor, because I want to comment on the issue that they have raised, not in direct reference to their remarks.

I think certainly there are enormous development problems now that face the Soviet Union. An effort has to be made, I think, by the rest of the world, in combination, to try to respond to that challenge.

That clearly is an issue that is before us. But there should not be any mistake about it, we have big problems here in America as well. We have all kinds of underdevelopment problems in our country. We need investment in infrastructure. We have a lot of unemployment. We have businesses failing. We have a huge trade deficit.

What I do not want to see is an effort where we are so solid and so committed that we are able to reach out to respond to the problems in some other country and not to respond to the problems in our own country at the same time. The American people, frankly, do not want that. They are sick of that.

So we cannot just have issues—every time there is a domestic policy issue, whether it is job training, unemployment extension, what have you—where that legislation is sidetracked or vetoed, and then all of a sudden something comes along to help another country, whether it is most-favored-nation trading status with China or a free trade agreement with Mexico or help for the Soviet Union, the old Soviet Union, or what have you; all of a sudden that goes on the fast track. That is something that we have the money for, there is the will for, the President wants it, he will sign it, he will push for it, and so forth.

But then when it comes down to getting a package that is going to respond to either widespread unemployment in America or the infrastructure shortfall in America, or too many businesses leaving the country going overseas, or huge trade deficits, and we try to get something done in that area, either there is no interest or there is a veto out there against it.

I feel very strongly that when we go ahead with an aid package for the Soviet Union we ought to have, connected to that, a response to some of the urgent problems—economic problems—here in this country.

You talk about people in the old Soviet Union wanting refrigerators and air-conditioners and all these things, and I am all for them having that aspiration. We have a lot of people in America that want those same things. It may be that all the Senators have them but there are a lot of people in Michigan and all the other 49 States who are going without a lot of things right now—very particularly going without jobs.

With respect to the notion about a free trade agreement—with all due respect I think that is utter nonsense—I will give you an illustration of it.

We have right now a trade situation with Communist China. They are going to have a trade surplus with the United States this year of roughly $15 billion in their favor. They are cheating in the currency area. They are using slave labor—that has been documented. We have a bad situation there. They are sucking $15 billion out of this country and all the jobs that go with it.

That helps Communist China. That does not help America. I do not want to see that same thing now cropping up some other place.

It is one thing if we have a balance of trade with somebody. But I will tell you this, I do not see right now where the income is going to come from on the other side. Maybe some in raw materials, but not of an amount sufficient to talk about taking a whole lot of products out of the United States and creating a whole lot of jobs in America.

That is not what has happened with Communist China. Communist China is sucking jobs out of America. And Mexico is sucking jobs out of America. We have an unemployment rate right now the highest it has been now in several years, 7.5 percent. People in the country are needing work.

I am all for participating in a measured way in a package of help to other countries that are in trouble, as long as the rest of the free world steps up and carries their fair share. I would like to see Japan in the lead because Japan is going to take at least $40 billion out of the United States this year in terms of the trade deficit that they have with us. So Japan alone is going to take $40 billion out of the United States. That is part of our unemployment problem here.

If we are going to do something to help the Soviet Union, I certainly expect to see Japan doing a lot more than we would be doing and help the Soviet Union at the same time.

But we cannot help people somewhere else if we are not helping our own people. Do you want to know why the presumed candidate from your State, in the State of Texas right now, I say to the Senator from Texas, is running first in the Presidential race? I am speaking in terms of Ross Perot, in terms of the polling data around the country. Because he is addressing the issue of our economic future and what is not being done in the United States of America.

So we cannot have just one eye open where we are looking at all the problems around the world, where we are quick to help the rest of the world, and turn our back on the rest of our own people. These things have to go in tandem.

That is one of the great deficiencies of this Presidency; that we have a President here for the rest of the world but no President for America. That is why the people are upset. That is why there is a political rebellion going on in this country.

We have a war going on in America right now. You see it in the crime statistics, you see it in the unemployment, you see it with college graduates who cannot finds jobs, you see it with people with engineering degrees driving taxi cabs or circulating resumes and cannot find work. The same with teachers who ought to be teaching and cannot find work in teaching because there are not enough jobs to go around.

We've had enough of this business of turning our back on America. So when you bring that bill to the floor I want you to be prepared at the same time to do something to help solve the economic problems in America.

If somebody says to me, well, that we cannot do them both at once, that we cannot keep these thing in tandem, that we have urgent problems overseas to solve and we will have to do that first and then some other time, later on down the line, maybe next year, we will do something about dealing with the problems in America, I do not think that is right. I think these things have to move together, they have to move in tandem.

I think it is an insult to the American people to say that we cannot do something about solving America's urgent economic problems and that we are going to put the needs of some other part of the world ahead of our own national needs. I think these things have to go together. They have to go in tandem and that is what the people want. If you put this out to a public opinion expression across the country, I guarantee you that the American people will say, look, if we are going to go out there now and do something to help somebody else with some legitimate problems that they have, then you act at the same time to deal with the problems of this country.

So I do not want to see a bill coming in here, whether it is tomorrow or next week or next month, that has help for some other part of the world and is turning its back on the problems of America. You bring in a package that takes care of both problems at once and, if not, be prepared then to have me, and I hope others, offer something at the time that will deal with the problems here in America.

You want to vote against helping America, then so be it. At least there will be a record and it will be there for everybody to see. But I do not want to see one more foreign policy initiative coming through here when we are turning our back on the American economic problems at the very same time. So bring them together. Bring them together and let us act on them together. I think that has to be the test.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, we are turning our backs on America in the Senate everyday, but we are not doing it because we are not spending money. We are turning our backs on America everyday because despite the fact that the President asked for a bill to get tough, grab criminals and drug thugs by the throat, over 1,080 days ago, we have not yet adopted that bill. It was killed by a Democratic bill that not only does not address the crime problem but that overturns 22 Supreme Court decisions that have strengthened law enforcement in the last 15 years.

We are not addressing America's problems because we will not vote on the balanced budget amendment to the Constitution. Our colleague from Michigan seems to think that we can make the program that failed in the Soviet Union work in the United States; that all we have to do is spend a little more money on all of these old tired programs that do not work and suddenly we are going to reach prosperity. I reject that.

As far as looking at the world through one eye, no nation on Earth has ever failed by practicing free and fair trade. No nation has ever truly succeeded with protectionism. I hear our colleague talking about all this money being sucked out of the country. What are the Japanese doing with this money? Are they burying this $40 billion in a mattress somewhere? No, they are investing it back in the United States. And why is it being invested here? It is being invested here because we are running a $400 billion deficit and Government is borrowing 50 cents out of every dollar raised on the American capital markets. As a result, we have higher real interest rates than we should and people are sending their money to invest here. They are doing so because our Government is squandering our money.

I reject the idea that we have no stake in freedom in the former Soviet Union, the Russian Republics we are talking about today. Their development and their prosperity affect our development and our prosperity. Mexico's economic prosperity affects our own. We cannot be poorer by having Mexico richer. We cannot be poorer by promoting economic growth in the Soviet Union.

My problem with what we are about to do in terms of the proposed aid package is that it is a Band-aid. We need a revolutionary change. That is why I am for free trade with the Russian Republics. I reject the idea that we cannot compete.

I get tired on the one hand of hearing people stand up here and talk about those terrible Japanese politicians who say that Americans are dumb and lazy and then on the other hand hearing the same people talk as if they believe that those Japanese politicians are right, as if we really cannot compete, as if we cannot in a free trade agreement compete with the Russian Republics. I reject that idea. Economic growth comes through trade. We cannot be a world power by building a wall around America and hiding behind it.

Let me say, since Ross Perot's name has been brought up, there may be many tides that carry America forward, but protectionism is not going to be one of them. It is an old siren song that has been preached on the floor of the Senate and in legislative bodies throughout the world, but it is not the tide of the future. I never cease to be amazed by how someone like President Yeltsin this morning understands so clearly that only trade and free enterprise and competitive capitalism can build a sound future, and yet find that there are so many people in this great Congress who are absolutely committed to the opposite program.

President Yeltsin this morning not only talked about freedom and about destroying weapons. He rejected the very philosophy and values that we hear espoused on the floor of the Senate day after day after day. Socialism is dead in this world. Every place except Havana, Cuba, North Korea, and the United States Congress has rejected the idea. It has not died here. Here we find still alive and well one of the last bastions, of this old tired and rejected idea that politicians can make better decisions than ordinary people.

Congress is going to solve the problem by keeping all this competition out. Congress is going to solve the problem by rebuilding industries. Congress is going to solve the problem by deciding where our investment goes in this national economic planning, that is nothing more than socialism wrapped in computer paper. That formula failed in Eastern Europe, that formula failed in the Soviet Union, and it would fail in American if we were so foolish as to go back and practice it.

I believe that the world demands that America be the leader. I reject this idea that we cannot be the leader of the world and be the master of our own destiny. If we want to help Americans, let us adopt a crime bill and let us do it today. Let us adopt a balanced budget amendment to the Constitution. Let us try enterprise zones.

We are going to employ free enterprise to rebuild the Russian Republics and Eastern Europe, and yet our colleagues in the Democratic Party will not allow us to use that same system to rebuild our own cities. I do not understand it. We seem perfectly willing to practice capitalism everywhere except in the United States of America.

I say, if we are going to prosper, we are going to have to put our system to work. We are not failing today in our inner cities because we are not spending the money. We are failing because we are not applying ideas that work. We will benefit from trade that comes from helping to rebuild Russia and Eastern Europe. Our prosperity and our freedom depend on it.

I feel perfectly comfortable saying that everybody who lives in Texas in small towns, big cities, has a stake in a growing prosperity in Russia, in more trade. I believe our freedom and our prosperity will be fostered. I reject the idea that we cannot be a world leader and be the master of our own house. It is lack of ideas, it is lack of vision, that has produced problems and misery in America. It is not lack of money.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

BIOLOGICAL DIVERSITY CONVENTION

Mr. NICKLES. Mr. President, I rise in support of the President's decision that it is in the best interests of the United States that the United States not be a signatory to the Biological Diversity Convention.

During the Rio Conference, the Biological Diversity Convention was the primary focus of those who wish to accuse the administration of a lack of leadership in world environmental issues. Despite the willingness of the United States to sign the Framework Convention on Climate Change, the other multilateral treaty open for signature at the Rio Conference, the United States is still being maligned for not signing the Biological Diversity Treaty. Worse, allegations persist that the United States opposes international efforts to protect endangered species.

The truth is, the United States strongly supports the principle of maintaining biological diversity, both domestically and internationally. In fact, the United States was an early proponent of an international convention to protect biodiversity in developing countries—yet another environmental area in which the United States has been a world leader in terms of domestic action.

The reasons the United States is not signing the Biological Diversity Convention are grounded not in the positive provisions that would protect biodiversity, but in the provisions of the Convention the relate to treatment of intellectual property rights, biotechnology and, once again, the language concerning financial obligations and responsibilities.

These problematic provisions are almost side issues to the protection of endangered species and habitat. However, these problematic provisions are the heart of the agenda of the developing nations at Rio. They want our money with only vague accountability and they want our technology for free, without any understanding of the effectiveness of private sector investment to assist in meeting biodiversity goals. These same two issues, wanting to have funding without strings and technology without royalties, have also been major stumbling blocks in the Agenda 21 provisions. Agenda 21 is a nonbinding environmental action plan. The Biological Diversity Convention, however, is an enforceable treaty.

The Biological Diversity Treaty would essentially coerce the transfer of technology by the United States and other developed countries to the developing countries. Article 16(2) of the treaty would obligate the United States to transfer not only the commercially available products of technology, but also the technology itself to developing countries, without regard to intellectual property rights.

I remind my colleagues that the United States has been pressing for appropriate international recognition of intellectual property rights for the past 5 years in the Uraguay round of the GATT negotiations. This very issue—treatment of intellectual property rights—has been one of the two biggest hurdles for agreement during the GATT negotiations. Why should we throw away our basic position of 5 years on this critical issue just to say we will sign this particular environmental treaty?

Biotechnology has a promising future in assisting in many of the goals of the Biological Diversity Convention and of Agenda 21—disease and drought resistant crops, for example. Biotechnology is also an important technology in which the United States has a clear competitive advantage. Under the Biological Diversity Convention, the U.S. biotechnology industry would be harmed in the same way as any U.S. industry trying to provide products to the developing countries pursuant to the Biological Diversity Convention—the proprietary process information would have to be given free to the developing country along with the product. That is not right. That is wrong.

However, in this convention, the biotechnology industry has been singled out for special regulation and criticism. Under the guise of concern for the safety of biotechnology products, the convention would authorize preimport approval of products produced by the United States using its biotechnology capabilities. Signing this treaty would be handing the rest of the world a new trade barrier for U.S. high-technology products. For those who have been frustrated by the European farm subsidy issue, this convention's open invitation to reject United States agricultural products should be of real concern.

Mr. President, I ask unanimous consent to place into the RECORD at this point two letters supporting the position of the President not to sign the Biological Diversity Convention. One letter is from the Pharmaceutical Manufacturers Association and the other is from the Industrial Biotechnology Association. Both letters strongly oppose the language in the convention dealing with intellectual property rights.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHARMACEUTICAL
MANUFACTURERS ASSOCIATION,
Washington, DC, June 9, 1992.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the research-based pharmaceutical industry, I am writing to thank you for the strong position you have taken in support of intellectual-property rights by refusing to sign the proposed Convention on Biological Diversity.

Patent protection is the foundation of the research-based pharmaceutical industry. Without such protection, there simply would be no pharmaceutical industry—and no new drugs to cure disease, ease suffering and prolong life. Unlike many U.S. industries, the U.S. pharmaceutical industry continues to increase its investment in research and development. This year, the industry will spend almost $11 billion on R&D, 13.5 percent more than last year. Our member companies have doubled their investment in research and development every five years since 1970. As a result, America's research-based pharmaceutical industry leads the world in discovering and developing new and better drugs. Our industry, according to the March 9, 1992 issue of Fortune magazine, is America's most internationally competitive industry. None of this would be conceivable without the assurance of strong patent protection. As it is, our companies continue to lose billions of dollars a year in sales to patent pirates who operate in countries that lack adequate patent protection.

The proposed Convention on Biological Diversity would undermine the great progress your Administration has made in encouraging other countries—most recently and notably Mexico and China—to strengthen their patent laws. The unclear language relating to "technology transfer" and equitable sharing appear to be code words for compulsory licensing and other forms of property acquisition. Your sensitivity to these matters is most gratifying.

Our industry considers your continuing strong support for protection of both the environment and intellectual-property rights as an indication of your commitment to ensuring American competitiveness in the international arena.

Respectfully,
GERALD J. NOSSINGHOFF.

INDUSTRIAL BIOTECHNOLOGY
ASSOCIATION,
Washington, DC, June 8, 1992.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: The Industrial Biotechnology Association commends you for refusing to sign the Convention on Biological Diversity which would have committed this country to a course of action which threatens the U.S. biotechnology industry.

The biotechnology industry would support the treaty if its provisions were limited to conservation of biological diversity. Unfortunately, the treaty also contains provisions permitting developing countries to disregard the patent rights of biotechnology companies and mandates that companies transfer their inventions to developing countries on "concessional," "preferential," and "most favorable" terms. It would then allow both government institutions and the private sector of developing countries to market U.S.-developed biotechnology products in competition with the companies that developed them.

In addition, the treaty contains regulatory provisions that would tend to delay the development of new products.

By singling out biotechnology for unfavorable treatment with regard to regulation of intellectual property, the treaty not only constitutes a threat to continued U.S. leadership in biotechnology, it also undermines the very incentives which serve to encourage the development of technologies that would preserve biological diversity.

IBA represents 136 companies engaged in biotechnology research and development. Collectively our members represent more than 80% of all private biotechnology research investment in the U.S. Thank you for acting to protect the technology and the jobs thereby affected. Your stand is one of political courage and foresight.

Very truly yours,
RICHARD D. GODOWN.
President.

Mr. NICKLES. I ask my colleagues to reflect whether they would sigh any treaty that undermines the U.S. historic and well-founded position on intellectual property rights and expressly damages one of the most important U.S. high-technology advantages—the biotechnology industry. This Senator would certainly subject such a treaty to very critical examination. If the administration were to send the Biological Diversity Convention to the Senate for ratification, there would be overwhelming concern, perhaps overwhelming opposition, to signing this treaty. But the fact that this Biological Diversity Convention would authorize developing nations to ignore or restrict intellectual property rights is, as I have mentioned, not the only problem with this treaty.

The financing provisions are yet another attempt by the developing world to obligate the developed world, especially the United States, to pay them to meet environmental goals without any strings attached. The convention would treat the role of the Global Environment Facility, run in part by the World Bank and over which the donating countries such as the United States exercise considerable control, quite differently than the way the GEF would be used according to an agreement reached by the GEF participants only a month ago. Under the Biological Diversity Convention, the signatory nations would manage the funds, presumably by majority vote. The majority consists of developing countries, not developed countries like the United States. In order to protect the American taxpayers, the President is absolutely right in wanting to retain some control over how taxpayer money will be spent. The majority vote of the developing world would hardly be a process that would protect the American taxpayer.

Moreover, the language of article 20 of the convention conditions any responsibilities of the developing world to implement their commitments under the convention only after the industrialized nations first effectively implement their financial resource commitments. In other words, under the convention, the developing world does not have to act at all to protect biological diversity until the industrialized countries have given them funds without oversight and technology without royalties.

Moreover, article 20 states that, and I quote, "economic and social development and eradication of poverty are the first and overriding priorities of the developing country parties."

What then would we be obligating the United States to fund under this treaty? When would the developing countries be sufficiently developed that they would use our financial aid and technological assistance for the environmental purpose of protecting biological diversity? The goal of the United States is, and should be, to encourage economic self-sufficiency and sustainable growth rather than prolong the tragic financial dependency of the developing countries embodied in this convention.

In my view, the Biological Diversity Convention is not an acceptable treaty, and would not withstand Senate scrutiny if it were signed by the President. One of the burdens of leadership is standing alone, of keeping your wits about you when all those around you are losing theirs.

Looking behind the simple descriptions of this convention, compels this Senator to conclude that the President is exactly correct in refusing to sign it.

I urge my colleagues to review the text of the convention and the State Department's concerns, and then to decide for themselves.

Mr. President, I would like at this point to enter into the RECORD an editorial from the New York Times dated Friday, June 5, the title of which is "Not-So-Bad Boy of Biodiversity." It states, I will quote two lines:

The treaty will start a valuable conservation effort but it contains subsidiary clauses that could erode important American interests going far beyond saving endangered species.

The treaty has been read by a few to give poor countries the right to determine how much money the rich countries must contribute.

Again, this is not from the administration. This is from the New York Times. That was dated June 5.

Here is an editorial from USA Today, dated June 9, entitled "Bush Is Right Not To Sign Environmental Treaty."

The so-called biodiversity treaty is long on good intentions.

But the price demanded of the U.S.A. is too high and the promise of meaningful results is too low.

Bush should resist pressure from home and abroad to sign the treaty and work for changes.

Mr. President, I agree wholeheartedly. I ask unanimous consent to have these two editorials printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 5, 1992]

NOT-SO-BAD BOY OF BIODIVERSITY

Critics are quick to cast the United States again as an environmental bad boy for refusing to sign the biodiversity treaty today at the world environmental summit meeting in Rio de Janeiro. But the Bush Administration should not be judged too harshly. The treaty will start a valuable conservation effort but it contains subsidiary clauses that could erode important American interests going far beyond saving endangered species.

The best course now for the U.S. is to warmly embrace the goals and most provisions of the treaty—and find ways to work around the nettlesome clauses. There will always be time to sign the treaty later if U.S. concerns prove exaggerated.

The need for a treaty is clear. The world's enormous store of life—some 10 million or more species of insects, microbes, plants, birds, animals and marine life—is shrinking. Species are disappearing at an unknown but apparently very high rate, largely because their habitats are being obliterated for development. Some people estimate that a quarter of the existing species may be wiped out over the next half-century. This would mean losing genetic stocks that might someday serve as the basis for better crops, medicines or other products.

The treaty that has emerged after arduous negotiations will at least begin to mitigate the mindless destruction. True, it sets no firm requirements for saving species and guarantees no level of funds. But it commits the signatories to develop national programs to conserve diversity, monitor species and establish protected areas.

What stuck in the craw of the Bush Administration were subsidiary clauses, especially those on financing. The treaty has been read by a few to give poor countries the right to determine how much money the rich countries must contribute. More worrisome is that the money will be allocated to conservation projects through a financing mechanism controlled by the parties to the treaty, mostly the poor countries. Donor countries would have little control over how the money was spent, a sharp break with usual practice.

There are also clauses that the Administration believes threaten the protection of patents and intellectual property rights. others imply that organisms modified by biotechnology need special regulation to insure safety, the very opposite of the Administration's approach.

All these obstacles can be surmounted. The Administration could submit memorandums setting forth its understanding of somewhat ambiguous language on patents and biotechnology. And it could wait until the financing mechanism is chosen before concluding that the treaty is inadequate. President Bush badly needs to make his commitment to environmental issues more credible. Even if he says "no" now in Rio, he can also keep the door open to affirming this important conservation effort.

[From USA Today, June 9, 1992]

BUSH IS RIGHT NOT TO SIGN ENVIRONMENTAL TREATY

Biodiversity treaty may sound good, but it demands too much of the USA and too little of others.

President Bush may be all alone this week in refusing to sign an Earth Summit treaty aimed at protecting endangered wildlife species.

He also happens to be right.

The so-called biodiversity treaty is long on good intentions. It offers under-developed countries economic aid in exchange for limiting the environmental damage they cause. It would protect dying species that might someday provide new medicines and foods.

But the price demanded of the USA is too high, and the promise of meaningful results is too low. The treaty would:

Deny the USA and other industrial nations control of the dollars they donate to conservation.

If the USA is going to spend money on conservation, it should be able to assure that the money is spent effectively.

Unwisely and unnecessarily force the emerging U.S. biotechnology industry—the undisputed world leader—to share confidential information and property rights with other countries.

Lead to international regulation of the genetic-engineering industry, impeding progress and endangering U.S. leadership in the field.

The treaty does all this without setting firm requirements for saving species.

Too much sacrifice; too few results. Bush should resist pressure from home and abroad to sign the treaty and work for changes.

Other developed countries pressing Bush to sign have less at stake. In fact, some could gain by opening up U.S. biotech efforts.

They also make weak arguments. Britain and Japan, for instance, say they share some of the same concerns but plan to sign anyway. If they have doubts, they should work for change.

President Bush should take the lead in advancing programs to prevent species from dying out. He should be willing to spend U.S. money and expertise to help avert environmental devastation.

But he should keep his name off this document until rightful U.S. concerns are addressed.

Mr. NICKLES. I yield the floor.

FOREIGN AID AND PROBLEMS IN AMERICA

Mr. RIEGLE. Mr. President, it is unfortunate that the discussion that was going on prior to the remarks of the Senator from Oklahoma was necessarily interrupted. I refer of course to the conversation or the discussion going back and forth between the Senator from New Mexico, and the Senator from Texas, and myself on the question of foreign aid and the question of responding to problems here in America.

So I want to add a few additional thoughts in response to the last comments from the Senator from Texas. And where there will be an interruption in the RECORD I think it is important that these facts be put upon the RECORD.

First of all, there is not a free trade system in the world today. People can talk about it. They can talk about it as a philosophic idea. But basically when you lay that concept against the reality of what is happening, it is really nonsense. We do not have free trade going on in the world today. We have a very carefully structured pattern of managed trade all around the world. Different countries do it different ways. The masters at it of course are Japan. That is one of the reasons why Japan last year had a $43 billion trade surplus with the United States, which means they drained $43 billion out of the United States in the trade account. And of course all the jobs that would go with that were also lost in our economy.

So if you look at what the cumulative trade deficit that we have had with Japan and the surplus that they have enjoyed in trade with us, has been just since the year 1980, if you go back to that point and see over the last decade what it has been, it is $460 billion.

So anyone who wonders where all the unemployment is coming from, all the plant closings in America, all the hardship, all the people that need health insurance coverage who do not have it, all the kids that need to go to college or go on for advanced work beyond high school but are not able to do it because their families cannot afford it. You wonder where all the money went. That is where a lot of the money went.

The way it works with respect to Japan, just as an illustration, is that they essentially closed their home market to the sale of American goods. They let a few things trickle in here and there, but in terms of the high cost, high value added items, they make sure that those things do not go into Japan in any amount worth talking about. At the same time Japan is shipping all of its surplus production to the United States.

There was a very extreme illustration of this not long ago in a different product area. That example had to do with rice grown here in the United States, because that is one thing we are very efficient in doing—growing rice here in America. We are much more efficient at it than the Japanese are in their country. They have a rice-producing industry, if you will, but it is a high-cost industry.

In order to protect that industry at home and protect those jobs, the Japanese will not allow American rice—even though it is cheaper, the quality is every bit as good if not better to go into Japan.

One day not terribly long ago there was a trade show in Japan where an American company had the audacity to bring in a couple of bags of American rice and put it on a table just so people could see it—just to see what it looked like. It created such a furor that the officials in the Japanese Government came and, in effect, arrested the bags of rice. They said you cannot leave the bags of rice there, on the table even to be looked at, because it is just too provocative. So the American company was required to remove the bags of rice. They could not even be seen, let alone sold on a fair trade open basis. That has been true of any number of other things.

The other thing that Japan does, just again to explode this myth of free trade, is to sell their products in the United States, in many cases, below cost. Because they sell below cost—another word for that is predatory pricing—they can come in and manage to establish an increased market share in a targeted product area. They do it, and back it up with resources from home until they target and destroy an American competitor, who of course cannot afford to do that over any great length of time.

They also employ another technique called Keiretsu. That is where Japanese firms will only buy from each other. So that even with the factories that Japan establishes here in the United States, say automobile plants, instead of allowing American automobile parts suppliers to be able to sell on a fair competitive basis parts to those Japanese auto plants in America, the Japanese firms will instead only give orders in many cases just to other Japanese auto supply companies. They do this with the thought in mind of crushing and destroying the American competitors in this area right here in our own country. And it is going on. I have held hearings on this. There is an abundant hearing record on that very issue.

So when I hear that sophistry about free trade from the Senator from Texas, I must say it gets very tiresome because the world does not operate that way. And any look at the facts illustrates that point.

Take the case of Europe. Europe decided that it would not be a doormat for Japan in the area of this unfair pattern of trading practices. Because they wanted to maintain a high level of employment, a job base, and a high level of manufacturing base in Europe, they decided to restrict the number of Japanese cars that could be shipped into Europe because of the problem of Japan keeping their own home market in Japan closed to European cars.

So the Europeans established a very low level of percentage of sales that Japan can have in Europe—not just for a few months or for a year or two, but stretching out through the rest of this decade to the year 2000.

Why have the Europeans done that? They have done it because it is necessary and it is intelligent strategy, and because Japan is not interested in fair and free trade. That is not the game they play. They play a manage-trade game.

So when someone comes in here and sort of puts forward a fairy-tale notion that we ought to play by a different set of rules from every other country in the world, I say yes, we can do that. We are doing that now, and we are losing our shirt. We are losing our future. We are losing the faith of the American people. That is one of the reasons why there is a political rebellion underway in the country right now.

There is a story today on the AP wire. I tore it off a little while ago. It came across the wire earlier today. Listen to this: "Voters say Ross Perot is the Presidential contender best able to handle the economy, an Associated Press poll finds. The economy remains the voters top concern. Overall, 42 percent of those polled chose Perot as the best candidate to handle the economy compared with 19 percent * * *" who chose President Bush. Bush has been in office now 3½ years. He was part of the Reagan-Bush administration for the 8 years before that. Now he gets a 19-percent rating selling the same kind of snake oil that I was listening to being advocated here by the Senator from Texas.

Look at this so-called free trade situation we have—presumably—with Communist China. What a joke. This free trade means that, this year, mainland China, run by hardline Communists, is going to have a trade surplus with the United States in their favor of about $15 billion. That means they are going to take and draw $15 billion out of our economy. That is where part of our economic strength is going, leaving here and going to Communist China. More important, all of the jobs connected with that activity, that might otherwise be here in the United States, disappear. In effect, those jobs are taken out of the United States and shipped to China.

I realize that some people get rich on this. I realize there are some people in the business sector managing some of this trade activity and are the lobbyists for these foreign interests and so forth, who are making fortunes. But they are making fortunes, in my view, by damaging the United States of America.

I am sick of it, and I think the American people are sick of it. That is why they are going to elect a new President this year. They are so sick of it that they may actually do something that is so unconventional and elect somebody outside of the two-party system, because the economic issue is so pressing and real in this country.

I listened to this talk on the floor by the Senator from Mexico about how important it is to help the people of the Soviet Union have air-conditioners, refrigerators, and whatever else he mentioned. I am all for them being able to afford what they can afford to earn. But I will tell you this: There are an awful lot of people in America today that cannot afford to buy a refrigerator, do not have air-conditioning, and cannot afford to buy air-conditioning.

I will tell you about a case of air-conditioning, if you want to hear one. The other day on national television, on one of the evening network television shows, they interviewed two American veterans of Desert Storm from a little over a year ago. These are veterans who went over and fought in the uniform of this country, put their lives on the line, and carried out that mission. They came back to the United States, went back into civilian life, and are today unemployed, cannot find a job, and are homeless and living in cardboard boxes here in the District of Columbia, the Nation's Capital.

I suppose that is air-conditioning, too, if you are living in a cardboard box because you are homeless. What is going on here? How is it that this Nation and this administration can find in its heart and in its strategies a way to have an economic strategy for every country in the world but our own?

There is a plan for Mexico. It is called a free trade agreement with Mexico. Mexico has already sucked a lot of jobs out of the United States, because workers down there are paid about 50-cents-an-hour, and there are no environmental standards. So the jobs have been rolling down there. We will have a free-trade agreement, and a lot more jobs will go to Mexico, while people in our country are desperate to find work.

There is a plan for Kuwait.

There is a plan for Communist China, called the most-favored-nation trading status. The administration was in here breaking arms left and right the other day to get that through here again, so the Chinese can run this big trade surplus and keep their people at work while ours are unemployed.

They want help for the old Soviet Union now. I understand the argument and the reasoning behind that. But how about some help for our own people? What about the people in America who are losing faith in their own Government?

It is not just the unemployment. We have 40 million people in this country tonight—that is the rough estimate, between 35 million and 40 million—that do not have any health insurance whatsoever, not a penny. Several million of them are children, going without any health insurance protection in America today.

Well, where does that come on the list of priorities? Why should we not attach that item to any bill that comes through here to give money to the old Soviet Union?

Why, at a minimum, for example, should we not be providing health care protection for the children of America, or for the expectant mothers of America who do not have health insurance now, who are not getting prenatal care, which they need? Why not take something that is as fundamental and basic as that and at least attach that to the next request that comes through here to send money to some country across the ocean? Why should we not be doing that? How is it that we say to our own people, look, you go without, because we need to take the money and give it to somebody else in another country? How is it that we can keep saying that?

I will tell you how it is—because this administration is an elitist administration. It is an administration where a lot of people have the advantage of family trust fund income, and great wealth. They are insulated from the problems that affect rank-and-file people in this country. Their kids are not looking for summer jobs. Their kids have summer jobs. They are not worried about having a sick child and not being able to get health care because they lack health insurance, because they all have health insurance—essentially, a very good Government health insurance plan, I might say.

The things that are present in the lives of other people across the country that are desperate problems and that need solving are so far removed from the people in the top of the executive branch of Government today that they do not understand it. They do not understand their own country. In fact, they have more of an interest and understanding of other foreign countries. That is why the emphasis today is being placed on helping other countries and not on helping America.

We just cannot have that any longer. I want to see the rest of the world come along. I think we should play a responsible part around the world, although I do not think we should do it by ourselves. I think other countries ought to help do it.

When Japan is taking $43 billion a year out of the United States, they obviously are in a stronger position to help than we are right now. They are spending money on their infrastructure; we are not. They have a much lower unemployment rate than we do. They have fewer homeless people than we do. They do not have a rampant crime problem in Japan today; we do. They have their people covered by health insurance; we have nearly 40 million without any health insurance.

So they obviously can afford to do more right now than we can, especially because they are going to take $43 billion out of the United States this year, essentially through unfair trading practices that our administration here is not really doing anything about.

These are real issues. This is what is going on in America today, We cannot continue this detachment from these realities. We cannot keep coming up with economic programs for every other country in the world and not have an economic program for people right here in America.

We have had major problems in our inner cities. We saw an example in Los Angeles after the Rodney King verdict, and we have seen outbreaks in other cities as well. We may see more of it this summer in other cities. The problems of inner-city youth today are desperate problems, and the problem, fundamentally, is that there is no economic hope or opportunity. There are no jobs to be had. There are not even McDonald's jobs to be had, because there are not enough to go around.

The unemployment rates among our inner-city youth—black, white, whatever the race—is running over 50 percent. Our country has turned its back on those young people. As a result, those young people increasingly feel no stake in our country, because they do not see the country showing any willingness to make any kind of a stake in them, in trying to make sure there is some job opportunity for them.

Now we are going to go ahead and make sure we have some employment strategy for the old Soviet Union. How do we do that, when, at the same time, we are turning our back on our own country's needs? I do not understand it. I just do not understand it.

I realize that when that happens, there are some people who will get very rich here in America—a handful of people, the ones that control some of the trading franchises, the people who are the lawyers and the lobbyists here in town that hustle for the foreign interests.

Oh, yes, they are going to make a lot of money and they are making a lot of money, obscene amounts of money. but our country is in serious trouble.

That is what the public is trying to say in these public opinion polls, and not just in the Presidential race where there is a very powerful manifestation of it now. There are polls that ask periodically whether or not the United States is on the right economic track going into the future or on the wrong economic track going into the future. Consistently in those polls now, taken by various polling companies of reputation, over 80 percent of the American people are coming back time after time after time saying America is on the wrong economic track going into the future.

And the people are right. We are on the wrong economic track. And we need a new economic strategy in America. And we have to stimulate job growth in America. The problem is urgent. It is at least as urgent as any problem in any other country.

People talk about our ability to be able to lead internationally. We cannot lead if we are not leading at home. If we are not strong here, if we do not have enough jobs to go around, if our society is not at peace with itself, we are not going to be able to offer any kind of a meaningful world leadership role.

It all comes back to the question of how well are we doing here at home, how strong are we here. Our country today is not united. It is not solid. It is not showing the kind of economic strength that we have to have.

There was a story on the front page of the Washington Post the other day. College graduates coming out of school today have the highest level of unemployment among college graduates thjat we have seen in recent times. Here are people that have sacrificed and their families have sacrificed, so they can get on through and get advanced degrees; they cannot find work.

As I mentioned before, we have engineers in this society by the thousands who cannot find jobs in engineering and who are having to take jobs well below their skill levels. They are driving taxi cabs, flipping hamburgers, doing what they have to do. Many of them just remain unemployed because they cannot find anything.

Now, what is No. 1 on our list? Let us find another country to help overseas. Recently, it was China. The other day it was Thailand. It is Mexico. You name the country, the Bush administration has a plan. Just do not name America because when it comes to America they do not think there is a problem and, therefore, they do not have a plan. That has to change.

I do not want to see a bill brought on this floor that does not also address the problems of America. I will be prepared to offer to any bill like that that comes along something that addresses the economic problems here in America at the same time. We will find out where people are on this thing, whether they are prepared to help our own people at least as much as we are prepared to help people in some other country.

Our Government has walked away from the American people. That is why there is all this disillusionment, why people are wanting to vote, why they want change, and why there is a political rebellion in the country. I think there should be, given what I have seen today.

It is time to concentrate on solving problems here in America—problems that come about when we do not pay attention to the economy.

(Mr. WOFFORD assumed the Chair.)

Mr. RIEGLE. Something else. A reference was made to crime legislation. We have a terrible crime problem in

America. People are being slaughtered in every city across the country and in the rural areas as well.

There is a story in the paper today about a young mother here in Washington, DC, who was driving home from church the other day, and was cut down by a bullet intended for someone else. We have an aide to one of the Senators just recently shot and killed on a street within four or five blocks of here. This kind of mayhem is rampant. We will have more people slaughtered in the city of Washington, DC, this year than are killed in that fashion in the entire country of Japan.

Something is wrong here in America, and it has to be fixed. Why is it that the focus is here on problems somewhere else around the world? We say we have great ideas, let us go solve their problems. The administration says, oh, wait, there is another spot around the world. They have problems; let us go over and solve their problems. Here is Kuwait and Iraq. Let us go off and solve their problems. Thailand. By all means let us help them. What about Mexico? Mexico has a big unemployment problem. We need a job program for Mexico. By all means let us have a jobs program for Mexico.

Meanwhile back here in the United States, the American people are crying out in every way they know how that our economy is in trouble and let us pay attention to things here at home.

It is time we had a President for America and not just a President for the world.

Maybe we need two Presidents, one who can play foreign policy and one who concentrates on what is going on here in America. It would be nice if we could get one President who could do both things. But we cannot have a situation where the emphasis is continually going on the problems outside of America, at the same time that the problems in America are being ignored and are getting worse.

We have to give our people hope. We have to have a new economic strategy in America. It has to be an investment strategy. We have to lift our productivity and that means the private sector. And the private sector and public sector has to work together.

I am talking about a concept called "Team America." That means that business, government, labor, and citizens ought to be working together as a team here in this country to create more jobs, to create better jobs, and to stop this backward slide where people are finding that they are having to work harder and harder to earn less and less and have less and less of a living standard. That is not the future we want for ourselves. But, that is the future we are getting.

Now again, I realize that someone in the executive branch of Government today who may be living off a great big, fat family trust fund does not think there is a problem. They will not think there is a problem because they do not have a problem. Just because they do not have a problem does not mean that there are not tens of millions of Americans who do have a problem.

As a matter of fact, the greed of some is what is responsible for the deprivation of so many others right here in our own society.

You look at these huge structural deficits throughout the Federal budget. It is not a mystery where those came from. They came from Reaganomics and supply side economics and the nonsense of the 1980's. It started out under the name of so-called budget discipline in the House, back in those days called Gramm-Latta. It was a complete nothing. It was brought later here and turned into the Gramm-Rudman-Hollings. It was a complete flop over here. We have the highest deficits we have ever had. The Federal budget deficit and debt just keeps ballooning all the time. Trickle-down does not work. Yes, it works for some. Let me change that. Trickle-down works for the people that get the money in the first place, but not to anybody beneath them in the economic pecking order. That is why the data compiled by the Federal Reserve Board show how the wealth is being increasingly concentrated at the top of the income scale in the United States. The money is going to the top but it is not coming back down and being shared across the country.

The middle class is shrinking. It is shrinking every single day. And it is not right that should happen. So anyone who is going to come in here and argue for building a middle class in some other country I think has first to have a plan about how we retain and build the strength of the middle class here in the United States and stop people who were in the middle class from sliding back into a lower income scale, many of them right now who are homeless.

These things have to be kept together. That is what the American people want and expect. And I will tell you this: We are going to vote on this. We have had other votes like this. We have had votes on Social Security here. And I remember them very well because I offered the amendments, particularly backing up to 1986 when the Reagan people were trying to make cuts in some of the basic programs that helped rank and file people across this country. They were trying to make deep cuts in Medicare and make deep cuts in Social Security. We had votes on those things and thank goodness that we did because we stopped those things from happening.

The people who voted the other way got sent home in the next election. We are going to have some votes on this. We are going to have an opportunity to vote here. We are going to have a chance to let people make it very clear where they are on this issue of helping America. And my hunch is that the American people have had enough of all of this preoccupation on foreign policy when the leaders have turned their backs on America's problems.

And I think people that vote that way on the issue of helping America and who plan to run for reelection, are going to find out about it when they take that voting record back to their home constituencies. That is the way it ought to be.

There was a kind of rough justice back in 1986, and a lot of people that bought into that sophistry went down the drain in 1986. I think after we get some of these votes recorded this time, there are going to be some people go down the drain in 1992.

That will be a healthy thing, because we need a change in orientation here. We need an economic plan for America. We are not going to withdraw from the rest of the world. That is not what I am saying, and I do not want that suggestion put on it. We have a big role to play in the rest of the world. But the biggest role we have to play is right here at home, in building a stronger America. Not in turning our backs on people, extinguishing economic hope for our own people, and having Desert Storm veterans of a year ago today being unemployed and living in cardboard boxes.

They do not need parades. They need jobs, and they deserve jobs. And I do not want their jobs going to Mexico, or going to the old Soviet Union, or going to China, or going to Kuwait, or going to any other place. They deserve the chance to work here in America, just like the sons and daughters of top officials of our Government in the executive branch, in the Cabinet, in the Senate, in the House, and throughout or Government system. Rank and file people deserve at least as much, at least as much.

So it is time to end the double standard and all the sophistry. A whole lot of ideas were trotted out as to how all these things were going to happen—trickle-down economics, thousand points of light. I will tell you that these two homeless and unemployed Desert Storm veterans who were on the news the other night would like one of those points of light to shine on them. That is where Government comes into the act here in this country.

I hear the administration say, well, wait a minute, we see a problem; we do not see it here in America, but we see a problem out there in another country and we have a grand plan to fix that problem. It is going to cost some money, going to have to have some sacrifice. The United States is going to have to get out there and lead the charge. Let us go on and do it. See the problem in Mexico, let us go help Mexico. See it in Kuwait, go help Kuwait, and so forth.

But they just cannot see the problems here at home, because they do not understand them, because the problems are not affecting them, and they just do not have any sense of urgency about it. It is a failure of leadership that is really breathtaking. That is why you see stories like this one I cited earlier. That is why on the economic rating today, this administration gets 19 percent. Out of 100 percent, it gets 19 percent. That is a pretty miserable rating after 11½ years. But it bears out what I am saying.

So, let us do these things in America. If we are going to help the rest of the world, then we should make sure that we are going to help America. If we are going to help some citizen in another land, then we should help some citizens in our own land. If we are going to provide jobs in another land, then let us provide jobs in America. If we are going to worry about providing somebody with a refrigerator or an air conditioner in another land, then let us worry about somebody in America. If we are going to worry about providing health care in some other land, then let us worry about providing health care here in America. I think our people deserve no less than that.

What is so ironic is that the rank and file—the average citizen—who today is carrying most of the load of this country, especially with the volunteer military force. In previous years, with other wars, and other war actions, you have a high percentage turnout of people from the high-income levels going into the military services and putting their lives on the line. There is much less of that today. We have a volunteer Army. And the volunteer Army tends to be sort of class oriented. You do not find so many of the wealthy people or their sons and daughters in there anymore. You find more of the people who are what is left of the middle class, many times the lower-income groups, that are the ones who are serving and putting their lives on the line.

At the very least, if we are going to ask somebody to put on the uniform for America and go to a foreign land and be prepared to fight and die or come back with, perhaps, a disability for the rest of their lives, then when they come back to America I would hope that we would have the grace and the decency to see to it that that person is accorded as much consideration and as much opportunity, as good a life as we are prepared to try to establish for some other person in some other country. But we are not doing that today. We have turned our back on our own people.

Yes, we want the service. Yes, we want people to go ahead, go out and carry the brunt of the responsibility when there are lives that have to be put on the line. But then when that is over, and the parades have been held, and so forth, which are appropriate to have, then do not come knocking on the door of the Federal Government for a job, for health care, or for a decent place to live. No, you make your way in the free trade system. You find a way to have a good life for yourself and to be able to make your way and establish a family and provide for your family in this good old free-trading system.

That is why the Japanese are laughing at us, ridiculing us. They cannot believe it. They cannot believe how stupid we have been to allow ourselves to be manipulated this way, year in and your out. They took $43 billion out last year. They have taken $460 billion out since 1980. You did not see any young Japanese men or women out there on those sand dunes in the Persian Gulf putting their lives on the line. You did not see them because they were not there. No, they preferred to have us do that.

And in our own society we made some preferences as to who we would prefer to have do that within our own society. Then when those veterans come back, having functioned in a heroic way, they have their Government say, well, thanks, we needed you then but we do not need you now. You make your own way. You see if you can find a job in the so-called free trading system.

Do you think that does not create cynicism and a feeling that the country has turned its back? Of course it does, because that is what is happening.

So we cannot have any more of it. And I do not want to see the President send down one more bill where we are taking something out of the hides of the American people to help somebody in the other countries, unless at the same time we are standing up to bat to do something about helping our own people.

I am going to finish with this and then I will yield the floor. But it relates directly to this, at least in my mind.

I chair the Health Subcommittee on the Senate Finance Committee. We are trying to get a national health care plan in place. We desperately need one that will control costs for everybody that has health insurance—a plan to bring those costs down so they are not just skyrocketing and wrecking peoples' financial situations. And we need a plan to extend coverage out to those people in our society that do not have any health insurance coverage at all.

So we have had lots of hearings. We had hearings in Michigan. We have had hearings here. We are gathering an enormous wealth of information to demonstrate why it is essential that we go ahead and enact a sensible national health insurance plan that controls costs and provides for coverage for everybody in our country. Every other major nation has found a way to do this. We can. It is time that we do it.

At one hearing out in Michigan, we had a young woman come and testify named Cheryl Eichler. She was a lovely, lovely young woman in her twenties. She looked frail the day she came because she actually left a hospital bed to come and testify. She came because she felt so strongly about the need for national health insurance coverage.

Cheryl was a young woman working in a responsible position in a 7-Eleven store. She made about $12,000 a year. She had a serious medical problem called Crohn's disease. This is a disease that can be treated if you get to the doctor on time, or if you get the medical procedures you need on time. But in order to do that, you have to have health insurance, and she did not have any health insurance. She did not get any through her employer because she did not qualify at her employment level to get health insurance, and she did not earn enough to be able to buy private insurance for herself.

Of course, once it was established that she had a medical problem, namely this Crohn's disease, she was in effect uninsurable. In other words, the insurance companies do not want the people who really need the health insurance. So they were not interested in covering her in any case.

She came in and she told her story as to the problems she had encountered: How she had delayed going to the doctor because she did not have the money, about the terrible pain and the difficulty, and how finally when she went in the operations that she had, and so forth. It was as touching a testimony as I have heard, and I have heard a lot of witnesses over 26 years now of service here in the Congress.

Within about 6 months of her testimony that day—which was so riveting, and so powerful, and so designed to try to tell the story so that other people would not have to go through the degrading, terrible, painful difficulty that she had gone through—within 6 months Cheryl Eichler died. I am convinced that she would be alive today if she had the health care that she needed when she needed it.

And we could have done that in this country. We could have done that for her. We could be doing it for everyone. The Japanese are doing it for their people. The Germans are doing it for their people. The Canadians are doing it for their people. Here in our country we have just decided, by our inaction, that our people are not important enough to have done for them.

So Cheryl Eichler died. And I think it is really a crime. It is a crime against her. It is a crime against the future of this country that her life was lost, and could have been saved if she had just gotten the basic health care that she needed.

We know that the same situation is true right now with women who develop the early stages of breast cancer. If we can detect that with a mammogram early, then in most cases now we know how to deal with that problem. And we can prevent that cancer from spreading and worsening—spreading until women, many of them at a young age, are killed by cancer. Yet we are not doing it. We are not doing it because we do not attach a high enough value to that problem or to those people in our society.

That has to stop. That has to change. I mean, that is the cry that the American people are sounding all across this country. They do not want any more of that. They want us to become a modern, decent Nation where we care about our own people and where we concentrate on basic things.

First, we have to do things like making sure there are enough jobs to go around so that people are not fighting each other over too few jobs. There should be enough jobs so that everyone is able to work and earn a living and make a contribution to the country and to provide for themselves and provide for their family.

There should be basic health insurance in place so parents do not have to lay awake at night worrying themselves sick about a child that may have a fever or have some other symptom that indicates they need to go to the doctor, but because they do not have much money or they do not have health insurance they are reluctant to go. And they hold off. That is happening all across this country tonight.

Why should that be? Why are the children of America not as important as the children of Japan, or Germany, or Canada? They are. But the selfishness and the blindness of some of our leaders in our Government who can see those problems when they are in their own family circle but cannot see them when they are out across town or in another community or in some other family prevents us from dealing with the problems. Oh, they may know in some abstract way the problem is out there. And in some abstract way they may care about it. But they do not care enough about it to do something about it.

That is why you run for President, in my view. You run for President to be President. And you run to be President to do things to help your country and to help your people live better lives.

Yes, there are some foreign policy responsibilities that go with it. But, I do not think they come first. And I do not think they come in place of your basic responsibility, your most fundamental responsibility—which is to look after the interests and the well-being of your own people. All of the people. Not just some. Not just some in your party or some who have your orientation. But to look after all 250 million-odd American people so that they have a decent chance and a decent way to live.

If somebody wants the job for any purpose other than that, then they are not right for the job. And they should not get to be President. They should not even be considered in a serious way for President. We should only consider people for President who see that responsibility as the basic operating premise of the job and who will bring their ideas and their commitment. People who will roll up their sleeves to go to work on those issues that really affect what is going on in the lives of our people, and who will really secure a decent future for our people in the broadest sense across the country. That is what is missing. That is what has been lost.

So, when I hear tonight, earlier, as I did, all of this great enthusiasm for helping still yet another country and giving full weight to the needs of another country, and why those needs should properly be met and put that ahead of these personal problems and unmet needs in America, I feel it is wrong. It is just as wrong as it can be.

And it is wrong to a child in America today, growing up in a situation of deprivation—whether it is a young child who is black, in the inner city, where the problems, I think, in many cases are the worst because then you have the racism poured in on top of it. Or it is a white child somewhere out in a rural area where there is no income to speak of in the family, where the educational opportunity is meager or, in a sense, so substandard that it cannot possibly make any difference in their life, where there is no real access to health care or preventive medicine, or bad nutrition because there is very little money even for decent food. We have children like that that number in the millions in our country tonight, throughout our society. We are not concentrating on them. In effect, they have been written off. And it is not right. And it has to change.

America in some respects may have lost part of its soul during the 1980's, with respect to these kinds of issues—with all of the philosophic things that were tossed out there about supply-side economics and trickle down. You know, that philosophy that if people are poor it must be because they want to be. If people are on welfare it must be that that is what they prefer for themselves.

We heard a lot of that nonsense coming from very wealthy people who were living in the lap of luxury and did not have the foggiest understanding of what life is like for poor people in any meaningful way. That was sort of used as a way to disconnect from those problems.

Well, America has to get back in touch with itself. We have to get reconnected to one another. We have to have an authentic Team America concept, where we understand that everybody in this country is important. They are a creature of God. I would think there is a moral foundation for it, to start with. And beyond that, they are American citizens, equal in importance to every other American citizens from the President right on down the line.

They have a right under our laws and under our conception as a country to the fundamental things that the Bill of Rights and the Constitution speak about. And they have a right to an opportunity to some measure of a full life—to be everything that God intended that they might be, to develop their talents and to live decently, and in a decent society.

So when the bill comes in to help people in another land, let us make sure that we are prepared at the same time to help people who live in this land, this land we love. Let us love and care about our fellow citizens. Let us see that they have the kind of chance that we want for ourselves and for our own children. That has to start here first. If it is going to be an authentic overseas and have any meaning, then it has to be real at home first.

That is our challenge. I put that challenge to my colleagues who spoke earlier tonight, because, frankly, I did not really hear anything said about the American agenda and responding to the need of America. They will have a chance to vote on that issue shortly.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 586, 587, 644, 645, and all nominations placed on the secretary's desk in the Coast Guard.

I further ask unanimous consent that the Senate proceed to their immediate consideration; that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

ENVIRONMENTAL PROTECTION AGENCY

Christian R. Holmes IV, of California, to be an Assistant Administrator of the Environmental Protection Agency.

Christian R. Holmes IV, of California, to be Chief Financial Officer, Environmental Protection Agency. (New position.)

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Gregory A. Penington.
Paul E. Versaw.
William C. Donnell.

The following officers of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral:

Fred S. Golove.
George R. Merrilees.

The following officer of the U.S. Coast Guard reserve for appointment to the grade of rear admiral (lower half):

Robert E. Sloncen.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning William I. Norton, and ending George S. Karavitis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 12, 1992.

Coast Guard nominations beginning Richard B. Gaines, and ending Michael A. Megan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 1, 1992.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes; without amendment.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2660. An act to authorize appropriations for the United States Holocaust Memorial Council, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 331. A concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2660. An act to authorize appropriations for the United States Holocaust Memorial Council, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that on today, June 17, 1992, he has signed the following enrolled bill which was previously signed by the Speaker of the House:

H.R. 2507. An act to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3440. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the audited financial statements of the Corporation for fiscal year 1991; to the Committee on Governmental Affairs.

EC-3441. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Education, for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3442. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Veterans Affairs, for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3443. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, rules of practice and procedure; to the Committee on Governmental Affairs.

EC-3444. A communication from the President of the American Council of Learned Societies, transmitting, pursuant to law, the annual report of the Council for fiscal year 1991; to the Committee on the Judiciary.

EC-3445. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Foreign Periodicals Program; to the Committee on Labor and Human Resources.

EC-3446. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Chapter 1 Migrant Education Program; to the Committee on Labor and Human Resources.

EC-3447. A communication from the Secretary of Education, transmitting a draft of proposed legislation to reauthorize and improve educational opportunities for individuals who are deaf, and for other purposes; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-401. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE CONCURRENT RESOLUTION 15

"Whereas, Guam, Hawaii's Pacific Island neighbor, has been invaded by a menace, commonly referred to as the brown tree snake, which can grow up to ten feet in length; and

"Whereas, according to an article in the Wall Street Journal, the brown tree snake, which numbers three million on Guam (14,000 snakes per square mile) and outnumbers the population by as much as 22 to 1, has become a serious threat to Guam's infrastructure and environment; and

"Whereas, the brown tree snake has caused the eradication of nine out of twelve species of Guam's native birds since 1975, and has been blamed for 250 power outages a year and millions of dollars of damage to power lines and electrical facilities; and

"Whereas, this snake purportedly has crawled through sewer lines, in and out of toilets, and into homes in an attempt to find food; and

"Whereas, the snakes are mildly poisonous and 53 cases of snake bite, which includes the near death of four infants, have been treated at the Guam Memorial Hospital emergency room between 1986 and 1989; and

"Whereas, thus far Hawaii has been free of snakes and must remain vigilant in preserving its environment, agriculture, and beauty against the unwelcome intrusion of this and other destructive pests; and

"Whereas, in the past 10 years at least six snakes have found their way to Hawaii either as stowaways in aircraft or cargo, or on aircraft in the wheelwells; and

"Whereas, snakes could also be inadvertently transported to Hawaii on commercial or military ships; and

"Whereas, because the brown tree snake movements from Guam to Hawaii and other Pacific regions will likely continue, the state Department of Agriculture is currently finalizing an Action Plan for the prevention, detection, and eradication of the brown tree snake in Hawaii; and

"Whereas, the Action Plan will establish cooperative relationships for research and technology transfer, coordinate activities, and delineate areas of responsibilities among the various state and federal agencies, as well as promote public education on the brown tree snake; and

"Whereas, on the federal level, the recently passed Defense Authorization bill authorized a program to suppress, control, and eradicate brown tree snakes by utilizing beagles to sniff out snakes in outgoing planes and sea freight on Guam—but unfortunately, the program has not received any funding; and

"Whereas, expansion and funding of this program to include Hawaii is necessary to protect Hawaii from the spread of unwanted pests; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, the Senate concurring, that the United States Congress be urged to pass legislation to expand and fund a program to prevent the infiltration of brown tree snakes to Hawaii; and

"Be it further resolved that a certified copy of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Agriculture, the Secretary of the United States Department of Defense, the Secretary of the United States Department of Interior, the Commissioner of the United States Customs Service, and the members of Hawaii's congressional delegation."

POM-402. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Armed Services:

"SENATE CONCURRENT RESOLUTION NO. 27

"Whereas, the Louisiana Army National Guard performs a vital service to the state of Louisiana when called upon to assist during periods of disasters such as hurricanes, tornados, and flooding; and

"Whereas, the Louisiana Army National Guard is an outstanding military organization as proven by its heavy involvement in Operation Desert Shield and Desert Storm when it activated more than ten percent of the total national guard that was mobilized; and

"Whereas, the state of Louisiana is one of only six states in the nation that makes a major investment in its soldiers through a state tuition exemption program which allows soldiers to attend a state funded college or university without paying tuition; and

"Whereas, the Louisiana Army National Guard has a long history of recruiting, training, and retaining a large quantity of high quality soldiers.

"Therefore, be it resolved that the legislature to Louisiana memorializes the Congress of the United States to petition the Secretary of Defense to compare the readiness and credentials of the Louisiana Army National Guard to other states before ordering a reduction in force.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-403. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION NO. 65

"Whereas, The U.S.S. Missouri is currently homeported in Long Beach; and

"Whereas, The Base Closure Committee recommended, and Congress and the President approved, the closure of the Long Beach Naval Station; and

"Whereas, The United States Navy will be closing the Long Beach Naval Station over the next five years and all ships, including the U.S.S. Missouri will be relocated to other ports or put into storage; and

"Whereas, The U.S.S. Missouri is scheduled to be mothballed and towed to Bremerton, Washington early in 1992 for storage; and

"Whereas, The citizens of Long Beach desire to retain the U.S.S. Missouri in Long Beach, a "Navy Town" since 1919, to be berthed at an unused pier and open for public display; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly*, That the members support keeping the U.S.S. Missouri in Long Beach, and urge all citizens to contact their federal representatives to request their assistance in keeping the U.S.S. Missouri in Long Beach; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-404. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Armed Services:

SENATE CONCURRENT RESOLUTION NO. 32

"Whereas, when the Congress of the United States passed the National Defense Authorization Act for Fiscal Year 1991, they amended Chapter 39 of Title 10, United States Code, by adding a new section which prohibits a member of a reserve component serving on active duty or full-time National Guard duty from serving with a unit of the Reserve Officer Training Corps program; and

"Whereas, by inserting this section into Title 10 of the United States Code, the Congress of the United States has failed to recognize that by doing so, they have hindered college and university ROTC programs immeasurably as this prohibition seriously degrades every school's ability to support and maintain their ROTC units; and

"Whereas, by this omission the Congress of the United States further hinders the relationship between colleges and universities and the military community; and

"Whereas, most importantly, this prohibition has drastically undermined the obligation that colleges and universities owe to their cadet corps.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to amend that section of the National Defense Authorization Act for Fiscal Year 1991 and allow members of a reserve component serving on active duty or full-time National Guard members to serve with the Reserve Officers Training Corps program.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-405. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION 20

"Whereas, the State of Hawaii has gone on record for the need for cable rate re-regulation; and

"Whereas, before the 1984 Cable Act went into full effect, Hawaii's cable industry and consumers enjoyed sixteen years of balanced rate regulation at the state level; and

"Whereas, as a result of this balanced approach to rate regulation, Hawaii became one of the first states to be ninety-nine per cent cabled with many areas reaching seventy per cent penetration and one large community attaining a penetration of ninety-three per cent; and

"Whereas, since deregulation in 1984, cable rates have risen geometrically, upsetting the balance that had existed for years and exacerbating problems that have threatened the welfare of the consuming public; and

"Whereas, in the eight years since 1984, Hawaii's cable systems have raised rates by as much as ninety-nine per cent, making Hawaii no exception to this national trend; and

"Whereas, all sources of competition presumed under the 1984 Cable Act have failed to materialize; and

"Whereas, although nonexclusive cable franchises have been mandated by law in Hawaii, the realities of cost, financing, limited pole space, and the presumption of renewal all combined to create natural monopolies for existing cable systems in Hawaii; and

"Whereas, in addition to the need for cable rate regulation, it is in the public interest to provide competition for existing cable TV services; and

"Whereas, for example, the introduction of newer technologies, such as an integrated broadband network, would provide consumers with greater choices of video program suppliers and preferred services—advantages that would be extended ultimately to all consumers, rural and urban, so as to avoid a divided society of information "haves" and "have nots" and

"Whereas, in addition, the establishment of a statewide fiber optic network would serve as a vital component to Hawaii's future public and continuing education structures; and

"Whereas, also, the implementation of a highly-featured telephone network capable of video transmission would be an asset to international competitiveness for the United States and economic development within the states; and

"Whereas, adequate accounting and structural safeguards have been developed and are already in place in the state and federal jurisdictions to protect against cross-subsidization from telephone customers; and

"Whereas, opening the cable industry in Hawaii to increased competition and restored rate regulation by state and local governments would benefit local viewers of cable television by providing them with new cable products at more competitive prices; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, that the United States Congress is urged to open the cable television industry to more competition in the marketplace and restore cable television rate regulation to state and local governments; and

"Be it further resolved that copies of this Resolution be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to every member of the Congress and the Senate of the United States."

POM-406. A concurrent resolution adopted by the Legislature of the Commonwealth of Massachusetts; to the Committee on Commerce, Science, and Transportation:

CONCURRENT RESOLUTION

"Whereas, the Atlantic bluefin tuna is a renewable resource of historic importance to Massachusetts' commercial and recreational fishermen; and

"Whereas, Massachusetts continues to be a leader in conservation and wise use of all renewable marine fisheries resources including Atlantic bluefin tuna; and

"Whereas, Massachusetts tuna fishermen have gone on record in supporting conservation actions and harvest reductions proposed by the International Convention for the Conservation of Atlantic Tunas; and

"Whereas, the long-standing allocation scheme by gear types and user groups has adequately accommodated all the diverse tuna harvesting groups; and

"Whereas, in nineteen hundred and ninety-one, Massachusetts fishermen harvested one million three hundred and thirty-four thousand pounds of Atlantic bluefin tuna worth ten million four hundred thousand dollars to the fishermen or forty-seven percent of the total available quota and has taken over fifty percent of the total United States quota in recent years; and

"Whereas, the proposed rule making recently issued by the National Marine Fisheries Service, under the guise of implementing the recommendations of the International Convention for the Conservation of Atlantic Tunas, actually constitutes an arbitrary reallocation of the tuna resource which would reduce tuna harvest in the general category by thirty-one percent and in the purse seine category by twenty-five percent, well beyond the ten percent reduction recommended by the International Convention for the Conservation of Atlantic Tunas; and

"Whereas, said proposed rule making would arbitrarily reallocate the reductions of general and purse seining category tuna quota from New England and Massachusetts to the angling category which occurs predominately outside Massachusetts, mostly within the Mid-Atlantic area; and

"Whereas, substantial harvest overages in recent years in the angling category have not been adequately controlled or reported by the National Marine Fisheries Service; and

"Whereas, the refocus of fishing effort from mature giant tuna to immature school and medium sized tuna has negative implications on overall fishing mortality rates; therefore be it

"Resolved, that the Massachusetts general court goes on record as opposing this proposed rule making by the National Marine Fisheries Service which would arbitrarily reallocate over three hundred and fifty tons of Atlantic bluefin tuna worth over five million five hundred thousand dollars from New England and specifically Massachusetts to the angling and in-season adjustment categories, thus depriving said Massachusetts commercial fishermen of significant revenue and Massachusetts recreational fishermen of significant recreational opportunity; and be it further

"Resolved, that a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the National Marine Fisheries Service, the Secretary of Commerce, the President of the United States, the Presiding Officer of each branch of Congress, and to the Members thereof from the commonwealth."

POM-407. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION 352

"Whereas, earthquakes are a national problem requiring a national solution; the United States Congress and the United States Geological Service have found that portions of all fifty states are vulnerable to the hazards of earthquakes, and that thirty-seven states are especially susceptible to major or moderate quakes; and

"Whereas, the next major earthquake may well hit east of the Rocky Mountains, especially along the New Madrid Fault in Missouri, where the strongest seismic events ever recorded in American history occurred in 1811 and 1812; and

"Whereas, a midwestern and eastern earthquake will do more damage than a California earthquake, due to the relatively loose and moist soil conditions and the proliferation of structures in the east and midwest that are not built to withstand major quakes; and

"Whereas, California is not the only western state at risk. Other especially high-risk earthquake states include Alaska, Washington, Oregon, Idaho, Utah, Montana, Nevada, Wyoming, Arizona, New Mexico, and Hawaii; and

"Whereas, the probable maximum loss of a great earthquake (8.0 or larger on the Richter Scale) is estimated at fifty to sixty billion dollars, including claims for workers' compensation, business interruption, property loss, and injuries; and

"Whereas, the recent Loma Prieta earthquake which devastated northern California provided a preview of the potential destruction in business and the financial community brought on by a great quake; and

"Whereas, regardless of where in the United States an earthquake actually occurs, the financial implications will be nationwide. Some examples include the following:

"(1) Infrastructure damage will affect the entire nation. Major quakes can rupture pipelines, severing the entire Eastern seaboard, down transmission power lines, block river traffic, and destroy interstate highways;

"(2) The municipal bond market would be impacted by the sudden sale of billions of dollars in bonds by insurance companies to pay claims. Local communities all across the country may find it difficult to enter the municipal bond market for some time after a major quake;

"(3) Policyholders nationwide would be impacted as some insurance companies would become insolvent and others would have insufficient reserves to write new coverage for conventional risk, such as auto and homeowners coverage; and

"(4) Taxpayers from the entire country would pay for disaster relief efforts. Taxpayers are currently paying for the four billion dollars federal rescue package passed by Congress in the aftermath of the recent California quake;

and

"Whereas, the current system of earthquake coverage is unacceptable to both the insurance industry and policyholders, inviting adverse selection and resulting earthquake insurance coverage being unaffordable for many and unavailable for those most susceptible to the perils of earthquakes; and

"Whereas, the recent Loma Prieta earthquake has shown how inefficiently the current coordination of federal and state relief funds operates, leaving many individuals without any assistance long after the earthquake has occurred; and

"Whereas, a prepaid insurance fund built up from premiums collected from homeowners and businesses throughout the nation should save the federal government money in the long run by reducing the need for disaster relief; and

"Whereas, insurance is a preferable protection against earthquakes over disaster aid because insurance:

"(1) Provides better incentive to reduce risk since people contribute to their own assistance in the form of premiums;

"(2) Provides more complete compensation for damages and is more equitable;

"(3) Gives people more control over their degree of protection;

"(4) Is more efficient in dispensing payments to victims; and

"(5) Is less expensive of the federal government in the long run;

"and

"Whereas, the principal beneficiaries of a federally cosponsored program would be the insurance policyholders themselves—America's homeowners and business owners who currently cannot afford earthquake insurance; such a program would also protect the nation's economic health, which would be jeopardized by the severe disruptions of a catastrophic earthquake; and

"Whereas, only a partnership between the federal government and the insurance industry will ensure the effective management of such an unpredictable and widespread risk; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, that this body memorialize the United States Congress to support legislation proposed in "The Earthquake Project," which would provide nearly universal earthquake insurance coverage for homeowners and create a federally backed financial reserve to protect the national economy from the severe financial shock resulting from a major quake; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation."

POM-408. A resolution adopted by the Twenty-First Guam Legislature; to the Committee on Energy and Natural Resources:

"RESOLUTION NO. 325

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the Honorable Ron de Lugo, Chairman of the House Subcommittee on Insular Affairs, concerned about and fully aware of the judicial needs and desires of the people of Virgin Islands, as well as other U.S. Flag territories, has introduced House Resolution 4901 which amends the Organic Act of the Virgin Islands to require that Presidential nominations to vacant judgeships in the Federal District Court for the Virgin Islands be selected from a list of five qualified candidates provided by the Governor of the Virgin Islands; and

"Whereas, the conditions and problems in the Virgin Islands with its Federal District Court are parallel to and similar with, if not identical, to the same conditions and problems confronted by the people of Guam with the Federal District Court of Guam; and

"Whereas, the people of Guam are now in the process of realizing full self-government by determining their own destiny in a political relationship defined as a commonwealth of the United States of America, this Commonwealth Act, embodied in H.R. 98, setting out the desire of the people of Guam to achieve full judicial independence by the establishment of their own judicial system and by drawing from their own island community to meet personnel needs; and

"Whereas, the importance of Guam's Federal District Court, in the schema of administration and enforcement of federal statutes, is magnified by the geographical separation of Guam from the continental United States, the multitude of highly sensitive court related matters not being capable of being handled or resolved through available electronic telecommunications systems for fear of compromising on-going litigation and the court's mandate to stringently protect the integrity and dignity of its system; and

"Whereas, the present vacancy in the judgeship of the District Court of Guam, which has lasted for an inordinate length of time awaiting a Presidential appointment and Senate confirmation, has created untenable and unacceptable delays in the resolution of active cases, both civil and criminal, and makes it difficult for other matters to proceed because of pending litigation, despite the commendable efforts of visiting and temporarily appointed judges, the value of continuity in judgeships being paramount, particularly in complex cases where protracted court proceedings may be required for the proper administration of justice; and

"Whereas, although Americans in the continental United States directly influence the selection of federal judges through their election of members of the Senate, who traditionally have recommended nominations to the President, and through their election of the President, the people of Guam do not enjoy the privilege of electing either Senators or the President and thus are denied a voice in the selection process from the traditional recommendation to the President to the final advice and consent of the Senate; and

"Whereas, the judicial system is one of the cornerstones of American democracy, all laws being effectuated through judicial interpretation, and, thus, continuity in the courts must be protected by insuring that vacancies in the judgeships are expeditiously filled; now, therefore, be it

"Resolved, that the Twenty-First Guam Legislature does hereby on behalf of the people of Guam support the enactment of HR 4901 to amend the Organic Act of the Virgin Islands by requiring that Presidental appointments of Federal judges be from a list of five qualified individuals provided by the Governor of the Virgin Islands, and does hereby respectfully memorialize the Congress of the United States to do pass and the President of the United States to do enact said HR 4901 as expeditiously as possible; and be it further

"Resolved, that, the Legislature does also on behalf of the people of Guam request that HR 4901 be further amended to likewise amend the Organic Act of Guam and extend the same provisions for Federal appointments in the territory to the people of Guam through their Governor; provided, however, that such amendment to Guam's Organic Act not affect the process whereby the current nominees to Federal positions in Guam are appointed, which process should go forward without further delay; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the House of Representatives; the President of the Senate; to the Honorable Ron de Lugo, Chairman, House Subcommittee on Insular Affairs; to the Honorable George Miller, Chairman, House Committee on Interior and Insular Affairs; to the Honorable J. Bennett Johnson, Chairman, Senate Committee on Energy and Natural Resources; to the Attorney General of the United States; to the Honorable George Bush, President of the United States; and to the Governor of Guam."

POM-409. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Foreign Relations:

"CONCURRENT RESOLUTION 4613

"Whereas, public concern about protecting the global environment continues to grow as evidence mounts of the long-term damage being done to the Earth by global climate change, toxic waste, freshwater and ocean pollution, and loss of biological diversity; and

"Whereas, environmental problems are inextricably linked with economic and trade policies; and

"Whereas, states have many critical responsibilities with respect to supporting responsible economic development as well as for environmental protection and natural resource management, including land-use planning, transportation, solid and hazardous waste management, and procurement policies; and

"Whereas, the General Assembly of this State has also supported national initiatives which enable states to develop and implement successful economic development and environmental protection programs; and

"Whereas, the General Assembly of South Carolina recognizes that problems such as global climate change, diminishing biological diversity, and ocean pollution can only be solved with cooperation at all levels of government from the local to the international; and

"Whereas, in June of 1992, the world's leaders will gather in Rio de Janeiro, Brazil, for the United Nations Conference on Environment and Development (UNCED), otherwise known as the Earth Summit, to define new and bold steps to achieve solutions to the planet's environmental and economic development problems; and

"Whereas, the Earth Summit will pay special attention to concerns regarding global climate change, toxic waste, diminishing biological diversity, and ocean and freshwater resources.

"Now, therefore, be it resolved by the House of Representatives, the Senate concurring: That the General Assembly of the State of South Carolina, by this resolution, endorses the goals and objectives of the Earth Summit, particularly with respect to the creation and adoption of global agreements which will result in policies and mechanisms to protect the global environment and enhance the ability of nations to develop equitably their natural and human resources.

"Be it further resolved that the General Assembly of this State calls upon the President of the United States to join his counterparts from around the world at the Earth Summit and to instruct United States negotiators to work with other national delegations in crafting an international protocol on global climate change that would reduce this nation's emissions of carbon dioxide by twenty percent by the year 2000 and thus reestablish the role of the United States as a leader in managing the planet's resources for present and future generations.

"Be it further resolved that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, and the Speaker of the United States House of Representatives, all at Washington, D.C., and to the United States Ambassador to the United Nations, at the United Nations, New York City."

POM-410. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Foreign Relations:

"HOUSE CONCURRENT RESOLUTION 280

"Whereas, 'Japan-bashing' and 'America-bashing' are colloquialisms for the nonfactual, emotionally-based generalizations, comments, and accusations made by Americans against Japanese and by Japanese against Americans; and

"Whereas, 'Japan-bashing' and 'America-bashing' have most recently been brought forth out of the highly volatile union of the disagreement over the trade imbalance between the two world powers and the uncertainty created by the economic recession in America; and

"Whereas, such rhetoric has infected the tongues of the young and the old, the rich and the poor, the progressive and the conservative, and the common and the uncommon of both countries alike; and

"Whereas, some leaders of the United States and Japan degenerated to the level of name-calling, stereotyping, and tasteless remarks; and

"Whereas, hurtful epithets when tolerated and spoken by anyone against members of any other group—whether based on race, religion, gender, physical ability, or sexual orientation—can promote and encourage bigotry, discrimination, and hate crimes against the targeted group (e.g., Japanese Americans) or similar groups that may be perceived to be akin to the targeted group (e.g., Filipino Americans, Korean Americans, Chinese Americans, Taiwanese Americans, Vietnamese Americans, and others); and

"Whereas, powerful and influential individuals of both nations who set examples for their people, further legitimize racism, bigotry, and hate-crimes against targeted groups by engaging in irresponsible behavior or by not moving swiftly and forcefully to denounce such behavior; and

"Whereas, the brutal murder of Yasuo Kato, a Japanese American investment counselor, by a Caucasian American who claimed Japan's business practices caused him to lose his job, is but a single instance of the escalating number of hate-crimes being perpetrated against Asian Americans; and

"Whereas, the history of Japanese in America extends over 100 years and is rich in acts of unconditional patriotism and selfless service by Japanese Americans on behalf of America; and

"Whereas, the epitome of Japanese American patriotism transpired during World War II when the courageous men of the famed 442nd Regimental Combat Team, despite many of their friends and relatives being forcibly and unjustifiably imprisoned in relocation camps, asked not what their country could do for them, but instead played a herculean role in the liberation of France, were part of the most decorated American battalion in World War II, and without having to be asked, showed their country what they could do for it; and

"Whereas, fifty years after the start of World War II, Japanese Americans and other Asian Americans are sometimes subject to persecution by their fellow countrymen, who during times of prosperity have tolerated Japanese Americans and touted them as the 'model minority,' and who during periods of economic hardship and instability have ostracized and brutalized their Japanese American and other Asian American brothers and sisters; and

"Whereas, the recent statutory report 'Civil Rights Issues Facing Asian Americans in the 1990s,' which was released by the United States Commission on Civil Rights, revealed that racism, bigotry, and violence against Asian Americans is increasing and has become 'a serious national problem'; and

"Whereas, all forms of racism severely undermine U.S.-Japan relations at a critical period in the history of mankind when America and Japan, as two of the mightiest nations on this planet, must unite, not only with each other, but also with the other countries of the world, both old and newly independent, to negotiate and shape global policy on trade, the environment, energy, human rights, and relations between countries; and

"Whereas, as over 22 percent of Hawaii's residents are Japanese American and at least 60 percent are of Asian or Pacific Islander ancestry, the State of Hawaii has a substantial interest in Pacific Basin affairs; and

"Whereas, as the Pacific bridge linking the United States with Japan and the rest of Asia, the State of Hawaii has a geographic interest in a healthy and viable U.S.-Japan relationship; and

"Whereas, it is all too easy for some of Hawaii's residents to mistakenly believe that the events occurring in Hawaii's sister states or in foreign lands, and the sentiments expressed by others elsewhere, do not affect them because of Hawaii's geographic isolation; and

"Whereas, as a result, some of Hawaii's residents may give "Japan-bashing" or "America-bashing" only fleeting fascination when it is imperative that they be acutely cognizant of, and concerned with, national and world affairs and trends, since these happenings do directly affect Hawaii residents when they travel to the mainland, Japan, or other nations, and when the children of Hawaii choose to matriculate at a school or participate in other programs and activities outside the Islands; and

"Whereas, Hawaii's people need only recall the racial discrimination suffered by Bruce I. Yamashita, an Island Son whose efforts to correct the injustices that were done unto him by the United States Marine Corps were supported by this Legislature in H.C.R. No. 22 during the Regular Session of 1991; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, the Senate concurring, that in view of the concern, expressed in this Resolution, the President of the United States, the Prime Minister of Japan, the United States Congress, the Japanese Diet, all the State Legislatures, all the Japanese Prefectural Governments, and leaders of the business communities of both nations are respectfully urged to join in a concerted bilateral effort to support and accomplish, among other things, the following:

"(1) Condemning and ceasing further "Japan-bashing" and "America-bashing";

"(2) Increasing awareness of hate crimes and discrimination;

"(3) Combatting stereotypes and promoting understanding of minority cultures;

"(4) Reviewing, enacting, and enforcing laws that protect all people from discrimination in any form, such as bias-related intimidation and violence; and

"(5) Entering into open, sincere negotiations, free of name-calling and stereotyping, to reach a more agreeable trade policy between the United States and Japan;

"and be it further resolved that the Office of International Relations develop and coordinate a program that will build transnational understanding and communications in the State of Hawaii, such as:

"(1) Facilitating greater contact and interchange between members of the international community and residents of the state;

"(2) Encouraging meetings and forums between foreign officials and representatives of the state government; and

"(3) Offering its facilities and resources, such as the East-West Center, the Spark M. Matsunaga Institute for Peace, and the Neil S. Blaisdell Complex to host negotiations, international trade shows, symposiums, and other activities to promote the furtherance of U.S.-Japan relations; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Prime Minister of Japan, the President of the United States Senate, the President of the Japanese Senate, the Speaker of the United States House of Representatives, the Speaker of the Japanese House of Representatives, each of the presiding officers of the legislative bodies of each State of the United States of America, each of the presiding officers of the legislative bodies of each Prefecture in Japan, the American Embassy in Japan, the Japanese Embassy in America, members of Hawaii's Congressional delegation, the Japanese Consulate in Hawaii, and the chief executive officers of the 10 largest American and Japanese corporations."

POM-411. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION 17

"Whereas, the Legislature of the State of Alabama notes that the citizens of our great nation have long been attempting to pull in the reins of federal spending and have long desired the highest degree of integrity and accountability from elected officials; and

"Whereas, on September 25, 1789, the 1st Congress of the United States convened in New York City and submitted to the Legislatures of the several states of proposed amendment to the United States Constitution designed to check the considerable power of the Congress to vary the compensation of its members; and

"Whereas, the aforementioned amendment was presented for adoption by the outstanding constitutionalist, member of the 1st Congress, and later, fourth President of our nation, James Madison; and

"Whereas, believing that fiscal irresponsibility at the federal level poses one of the greatest threats which face our Nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline and the accountability of elected officials which is necessary to restore public confidence in the federal government; and

"Whereas, this little known and scarcely advertised 202 year old proposal has received renewed attention, since it has been learned that it is still viable, and the Legislatures of the states of Delaware, Maryland, North Carolina, South Carolina, Vermont, and Virginia ratified it between the years 1789 and 1791; the General Assembly of the State of Ohio ratified it in 1873; the Legislature of the State of Wyoming ratified it in 1978; and the Legislatures of the states of Alaska, Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin ratified it from 1983 to present; and legislation to ratify it has received the approval of the Senate of the State of California, the House of Representatives of the State of Illinois, the Senate of the State of Michigan, and the House of Representatives of the State of Missouri; and

"Whereas, among other appropriate avenues of pursuit, Article V of the United States Constitution also provides for that great and noble document to be amended by the adoption of a particular proposal by a vote of two-thirds (⅔) of the members present in the two chambers of the United States Congress, which must then be ratified by the Legislatures of three-fourths (¾) of the several states, and that was and remains the case with the original proposed Second Amendment which this resolution would ratify on behalf of the State of Alabama; and

"Whereas, in 1939, The United States Supreme Court ruled in the case of Coleman v. Miller that if Congress submits a proposed amendment to the state Legislatures without any deadline within which those Legislatures must act, then the proposal in question remains as pending business before those Legislatures and they may, at their discretion, continue to consider its merits; now therefore,

"Be it resolved by the Legislature of Alabama, both Houses thereof concurring, That the original proposed Second amendment to the United States Constitution stipulating a delay in variations in the compensation of members of the United States Congress which reads as follows: "Article the Second. . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened." be and the same hereby is ratified by the Legislature of the State of Alabama.

"Be it Further Resolved, That properly inscribed copies of this resolution be forwarded by the Secretary of the Alabama Senate to the Archivist of the United States in Washington, D.C., to the Vice-President of the United States as the presiding officer of the United States Senate, to the Speaker of the United States House of Representatives, and to both United States Senators and all United States Representatives from the State of Alabama with the request that it be reprinted in full in the Congressional Record.

POM-412. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION—CONSTITUTIONAL AMENDMENT 2

"Whereas, The First Congress of the United States of America, at its first Session begun and held March 4, 1789, sitting in New York, New York, in both Houses, by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following [Article] be proposed to the Legislatures of the several States, . . . which [Article], when ratified by three fourths of the said Legislatures, to be valid to all intends and purposes, as part of the said Constitution, viz.:

"[An Article] in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."; and

"Whereas, Article V of the Constitution of the United States allows the ratification of the proposed Amendment to the United States Constitution by the General Assembly of the State of Illinois; and

"Whereas, Article V of the Constitution of the United States does not dictate a time limit on ratification of an Amendment submitted by Congress, and the First Congress specifically did not provide any time constraint for ratification of the above-quoted Amendment; and

"Whereas, The Supreme Court of the United States in 1939 ruled in the landmark case of *Coleman v. Miller* that Congress is the final arbiter on the question of whether too much time has elapsed between Congress' submission of a particular Amendment and the most recent State Legislature's ratification of same if Congress did not specify a deadline on the proposal's consideration; and

"Whereas, Section 11 of Article IV of the Constitution of The State of Illinois provides that "(C)hanges in the salary of a member (of the Illinois General Assembly) shall not take effect during the term for which he has been elected."; and

"Whereas, The General Assembly of the State of Illinois finds that the proposed Amendment is still meaningful and necessary as part of the United States Constitution and that the present political, social and economic conditions are the same as or are even more demanding today than they were in the eighteenth century when the proposed Amendment was submitted for its adoption; and

"Whereas, the proposed Amendment to the United States Constitution has already been ratified by the Legislatures of the following States on the dates indicated, to wit:

"Alaska on May 5, 1989 (135 *Cong. Rec.* H5486, S8054);

"Arizona on April 3, 1985 (131 *Cong. Rec.* H2060, S4750);

"Arkansas on March 5, 1987 (134 *Cong. Rec.* H3721, S7518);

"Colorado on April 18, 1984 (131 *Cong. Rec.* S17687; 132 *Cong. Rec.* H6446);

"Connecticut on May 13, 1987 (133 *Cong. Rec.* H7406, S11891);

"Delaware on January 28, 1790;

"Florida on May 31, 1990 (136 *Cong. Rec.* H6198, S10091);

"Georgia on February 2, 1988 (134 *Cong. Rec.* H2638, S5239);

"Idaho on March 23, 1989 (135 *Cong. Rec.* H1893, S7911);

"Indiana on February 19, 1986 (132 *Cong. Rec.* H1634, S4663);

"Iowa on February 7, 1989 (135 *Cong. Rec.* H836, S3509–10);

"Kansas on April 5, 1990 (136 *Cong. Rec.* H1689, S9170, E1740–41);

"Louisiana on July 6, 1988 (134 *Cong. Rec.* H5783, S9939);

"Maine on April 26, 1983 (130 *Cong. Rec.* H9097, S11017);

"Maryland on December 19, 1789;

"Minnesota on May 22, 1989 (135 *Cong. Rec.* H3258, H3678, S7655–56, S7912);

"Montana on March 11, 1987 (133 *Cong. Rec.* H1715, S6155);

"Nevada on April 26, 1989 (135 *Cong. Rec.* H2054, S10826);

"New Hampshire on March 7, 1985 (131 *Cong. Rec.* H1378, S3597);

"New Mexico on February 13, 1986 (132 *Cong. Rec.* H827, S2207–8, S2300);

"North Carolina on December 22, 1789;

"Ohio on May 6, 1873 (70 *Ohio Laws* 409–10);

"Oklahoma on July 10, 1985 (131 *Cong. Rec.* H7263, S13504);

"Oregon on May 19, 1989 (135 *Cong. Rec.* H5692, H5972, S11123–24, S12150);

"South Carolina on January 19, 1790;

"South Dakota on February 21, 1985 (131 *Cong. Rec.* H971, S3306);

"Tennessee on May 23, 1985 (131 *Cong. Rec.* H6672, S10797, S13504);

"Texas on May 25, 1989 (135 *Cong. Rec.* H2594, S6726–27);

"Utah on February 25, 1986 (132 *Cong. Rec.* S6750, S7578; 133 *Cong. Rec.* H9866);

"Vermont on November 3, 1791;

"Virginia on December 15, 1791;

"West Virginia on March 10, 1988 (134 *Cong. Rec.* H2492, S4784–85);

"Wisconsin on June 30, 1987 (133 *Cong. Rec.* H7406, S12948, S13359); and

"Wyoming on March 3, 1978 (124 *Cong. Rec.* 7910, 8265–66; 133 *Cong. Rec.* S12949); therefore be it

"Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, the Senate Concurring Herein, that the foregoing proposed Amendment to the Constitution of the United States is ratified by the General Assembly of the State of Illinois; and be it further

"Resolved, That the Secretary of State of Illinois shall transmit certified copies of this resolution to the Archivist of the United States, to the Vice-President of the United States and to the Speaker of the United States House of Representatives with a request that it be printed in full in the Congressional Record.

"Passed by the House, May 5, 1992, by a vote of three-fifths of its Members."

POM–413. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Labor and Human Resources:

HOUSE CONCURRENT RESOLUTION 34

"Whereas, RU–486, a major new drug, has been in use in France since 1988, has more recently been approved for use in Great Britain and is likely to be marketed soon in the Scandinavian countries; and

"Whereas, when prescribed with another drug, RU–486 has been shown to be an effective, safe and non-invasive treatment for the termination of early pregnancy; and

"Whereas, research continues under the auspices of a task force of the World Health Organization on RU–486's potential for contraceptive use, and

"Whereas, RU–486, has also been found to be useful in easing labor and an effective treatment for Cushing's syndrome; and

"Whereas, the medical community has identified RU–486, as a promising treatment for a number of other conditions, including some breast and brain cancers, prostate cancer, endometriosis, ovarian cancer, osteoporosis and AIDS; and

"Whereas, before RU–486 can be made available for use in the United States it must be subjected to clinical trials by the Federal Drug Administration; and

"Whereas, the drug's maker, Roussel-Uclaf, and its parent company, Hoechst, have indicated that they will not ask to market the drug in this country because of the perceived political climate and their fear of a possible boycott of all their other products; and

"Whereas, the FDA has given no indication that it will conduct such tests and in 1989 banned the importation of RU–486 for personal use; and

"Whereas, RU–486 has been used safely over 80,000 times in France where there has been only one fatality in a high risk patient; and

"Whereas, the ban not only denies Americans access to an important drug, it has also caused most American research in this area to come to a stop; and

"Whereas, The American Medical Association, the American Public Health Association, the American College of Obstetricians and Gynecologists, and the American Association for the Advancement of Science have formally recognized the importance of RU–486 and have acted to support the testing of RU–486 and related agents in the United States; and

"Whereas, the Hawaii State Legislature, together with the above organizations, supports freedom of medical research for American scientists and decries barriers to access to promising drugs and important new technologies; and

"Whereas, political considerations should not stand in the way of the right of American women to have access to the least invasive and safest care available in terminating early pregnancies; now, therefore

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, the Senate concurring, that the Hawaii State Legislature urges the President of the United States and the Congress to rescind the ban imposed by the Food and Drug Administration and support the use of RU–486 and other related agents for all appropriate research and, if indicated, clinical trials; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, Hawaii's congressional delegation, to the manufacturer of RU–486, Roussel-UCLAF, 35 Boulevard des Invalides 75007, Paris France and to the Commissioner of the Federal Food and Drug Administration."

POM–414. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Labor and Human Resources:

"SENATE RESOLUTION 16

"Whereas, RU–486, a major new drug, has been in use in France since 1988, has more recently been approved for use in Great Britain and is likely to be marketed soon in the Scandinavian countries; and

"Whereas, when prescribed with another drug, RU–486 has been shown to be an effective, safe and non-invasive treatment for the termination of early pregnancy; and

"Whereas, research continues under the auspices of a task force of the World Health Organization on RU–486's potential for contraceptive use; and

"Whereas, RU–486 has also been found to be useful in easing labor and an effective treatment for Cushing's syndrome; and

"Whereas, the medical community has identified RU–486 as a promising treatment for a number of other conditions, including some breast and brain cancers, prostate cancer, endometriosis, ovarian cancer, osteoporosis and AIDS; and

"Whereas, before RU–486 can be made available for use in the United States it must be subjected to clinical trials by the Federal Drug Administration; and

"Whereas, the drug's maker, Roussel-Uclaf, and its parent company, Hoechst, have indicated that they will not ask to market the drug in this country because of the perceived political climate and their fear of a possible boycott of all their other products; and

"Whereas, the FDA has given no indication that it will conduct such tests and in 1989 banned the importation of RU–486 for personal use; and

"Whereas, RU–486 has been used safely over 80,000 times in France where there has been only one fatality in a high risk patient; and

"Whereas, the ban not only denies Americans access to an important drug, it has also caused most American research in this area to come to a stop; and

"Whereas, The American Medical Association, the American Public Health Association, the American College of Obstetricians and Gynecologists, and the American Association for the Advancement of Science have formally recognized the importance of RU–486 and have acted to support the testing of RU–486 and related agents in the United States; and

"Whereas, the Hawaii State Senate, together with the above organizations, supports freedom of medical research for American scientists and decries barriers to access to promising drugs and important new technologies; and

"Whereas, political considerations should not stand in the way of the right of American women to have access to the least invasive and safest care available in terminating early pregnancies; now, therefore

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, that the Senate urges the President of the United States and the Congress to rescind the ban imposed by the Food and Drug Administration and support the use of RU–486 and other related agents for all appropriate research and, if indicated, clinical trials; and

"Be it further resolved that certified copies of this Senate Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, Hawaii's congressional delegation, to the manufacturer of RU–485, Roussel-UCLAF, 35 Boulevard des Invalides 75007, Paris France and to the Commissioner of the Federal Food and Drug Administration."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1993" (Rept. No. 102–296).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for appointment to the grade of general on the retired list under the provisions of Title 10, United States Code, section 1370:

To be general

Gen. Charles C. McDonald, [redacted] U.S. Air Force.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Gen. Ronald W. Yates, [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Clifford H. Rees, Jr. [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be general

Lt. Gen John M. Shalikashvili [redacted] U.S. Army.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be lieutenant general

Maj. Gen. Barry R. McCaffrey, [redacted] U.S. Army.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

*Lt. Gen. Donald Snyder, USAF, for appointment to the grade of lieutenant general on the retired list (Reference No. 916)

*Lt. Gen. Charles J. Searock, Jr., USAF, for reappointment to the grade of lieutenant general (Reference No. 918)

*Lt. Gen. Henry J. Hatch, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 938)

*Lt. Gen. David J. Teal, USAF, for appointment to the grade of lieutenant general on the retired list (Reference No. 948)

*Lt. Gen. Jerome B. Hilmes, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 949)

*Lt. Gen. Frank F. Ledford, Jr., USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 950)

*Lt. Gen. Charles McCausland, USAF, to be placed on the retired list in the grade of lieutenant general (Reference No. 962)

*Lt. Gen. Charles A. May, Jr., USAF, for appointment to the grade of lieutenant general on the retired list (Reference No. 1019)

*Lt. Gen. John T. Myers, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 1020)

*Lt. Gen. Charles P. Otstott, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 1035)

*Lt. Gen. Billy M. Thomas, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 1036)

*Maj. Gen. James L. Jamerson, USAF, to be lieutenant general (Reference No. 1091)

*Maj. Gen. Arlen D. Jameson, USAF, to be lieutenant general (Reference No. 1092)

*Lt. Gen. James W. Crysel, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 1173)

Total: 14.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 2858. A bill to suspend temporarily the duty on polyamide resin and synthetic staple fibers of nylon or other copolyamides; to the Committee on Finance.

S. 2859. A bill to suspend until January 1, 1995, the duty on certain photo-active compounds used in the manufacture of photo-resistance chemicals; to the Committee on Finance.

S. 2860. A bill to suspend until January 1, 1995, the duty on formulated fenoxaprop; to the Committee on Finance.

By Mr. INOUYE:

S. 2861. A bill to prohibit the Secretary of Agriculture from implementing a rule that would allow the importation of papayas into the contintental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States from Costa Rica until certain conditions are met, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GARN (for himself and Mr. HATCH):

S. 2862. A bill to establish the Canyons of the Escalante National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 2863. A bill to protect children by directing the Consumer Product Safety Commission to require the labeling of certain toys and games; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself, Mr. RIEGLE, Mr. GARN, and Mr. MACK):

S. 2864. A bill to reauthorize the Export-Import Bank Act of 1945, to encourage export promotion, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY (for himself and Mr. PELL):

S. Con. Res. 125. A concurrent resolution calling for a United States policy of strengthening and maintaining an International Whaling Commission moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale population; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 2858. A bill to suspend temporarily the duty on polyamide resin and synthetic staple fibers of nylon or other copolyamides; to the Committee on Finance.

S. 2859. A bill to suspend until January 1, 1995, the duty on certain photoactive compounds used in the manufacture of photoresistant chemicals; to the Committee on Finance.

S. 2860. A bill to suspend until January 1, 1995, the duty on formulated fenoxaprop; to the Committee on Finance.

SUSPENSION OF CERTAIN DUTIES

Mr. THURMOND. Mr. President, I rise today to introduce three bills which will suspend the duties imposed on certain chemicals used by the manufacturing industry. Currently, these chemicals are imported for use in the United States because there is no known domestic supplier or readily available substitute. Therefore, suspending the duties on these chemicals would not adversely affect domestic industries.

The first bill would temporarily suspend the duty on polyamide resin and synthetic stable fibers of nylon or other copolyamides until December 31, 1994. These chemicals are used in the production of plastics which are transparent, resistant to chemicals, easily moldable as well as stiff. Some common items made from these materials are fuel, air, and water filter bodies; faucet and shower handles; fashion eyeglass frames; some automotive and agricultural parts; as well as many other items.

The second bill would suspend until December 31, 1994, the duty on certain photoactive compounds used in the manufacture of photoresistant chemicals. The materials are blended with resins and dissolved in solvents to make a photoresist. This photoactive compound is sensitive to light and when exposed to light it can be developed similar to photographic film. The photoresist is used in manufacturing integrated circuit chips.

The third bill would suspend the duty on formulated fenoxaprop until December 31, 1994. Fenoxaprop is the active ingredient in a herbicide used on wheat and soybeans.

Mr. President, suspending the duty on these chemicals will benefit the consumer by stabilizing the costs of manufacturing the end-use products. Further, these suspensions will allow domestic producers to maintain or improve their ability to compete internationally. As previously stated, there is no domestic producer or source of these chemicals; therefore, no American company will be harmed. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bills be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. POLYAMIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.09	Polyamide (CAS No. 79331–75–2) (provided for in subheading 3908.90.00)	Free	No change	No change	On or before 12/31/94."

SEC. 2. SYNTHETIC STAPLE FIBERS OF NYLON OR OTHER COPOLYAMIDES.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.55.03	Synthetic staple fibers of nylon or other copolyamides (CAS No. 25191–04–02) (provided for in subheading 5503.10.00)	Free	No change	No change	On or before 12/31/94."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 2859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN PHOTO-ACTIVE COMPOUNDS USED IN THE MANUFACTURE OF PHOTO-RESISTANT CHEMICALS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

"9902.31.12	1–Naphthalene Sulfonic Acid, 6-Diazo-5,6,Dihydro-5-Oxo-, Ester with Phenyl (2,3,4 Trihydroxyphenal) Methanone (Z-2000) (CAS No. 68510–93–0), 2-Diazo-1-Oxo-Naphthalene-4-Sulphonic-Acid, -P-cumyl Ester (SD-2484) (CAS No 52125–43–6), 1-Naphthalene Sulfonic Acid, 6-Diazo-5, 6-Hydro-5-Oxo-(Octahydro-4, 7-Methano-1H-Indene-2, 5-Diyl) Bis Methylene Ester (ER-1388) (CAS No. 88733–86–2), and 2,1,5-Diazonaphthoquinone Sulfonic Acid Ester with 2,3,4-Trihydroxy Benzo-phenone (ER-999) (CAS No. 5610–94–6) (provided for in subheading 2927.00.20).	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 2860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Forumulated fenoxaprop (provided for in subheading 3808.30.10.	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. INOUYE:

S. 2861. A bill to prohibit the Secretary of Agriculture from implementing a rule that would allow the importation of papayas into the continental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States from Costa Rica until certain conditions are met, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

IMPORTATION OF PAPAYAS

● Mr. INOUYE. Mr. President, I rise to introduce a bill to prohibit the Secretary of Agriculture from implementing a rule that would allow the importation of papayas into the continental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States from Costa Rica until certain conditions are met.

I take this action in response to the Animal and Plant Health Inspection Service's [APHIS] proposal to allow untreated papayas from certain provinces in Costa Rica to be imported into the continental United States, Alaska, Puerto Rico, and the Virgin Islands of the United States. This proposed rule was published in the Federal Register on January 3, 1992. The papaya fruit fly exists in Costa Rica, and Hawaii is the only State having papaya production sufficient to sustain an infestation of the papaya fruit fly. Accordingly, the proposed rule specifically excludes direct shipment of Costa Rican papayas to Hawaii. This is not sufficient to protect one of Hawaii's largest diversified agricultural industries.

The proposed rule makes no provision for indirect shipments of Costa Rican papayas, potentially infested with papaya fruit fly, to Hawaii. It is important to note that this particular fruit fly is not established in Hawaii. Further, since the proposed rule involves untreated papayas, domestic papaya producers are at a competitive disadvantage since Hawaii papayas must undergo costly and oftentimes fruit damaging quarantine treatment. This is unfair. Foreign papaya growers are placed at a better position than our own farmers.

My bill prohibits import of untreated papayas from the provinces of Costa Rica to the continental United States, Alaska, Puerto Rico, and the Virgin Islands of the United States. This prohibition would remain in effect until APHIS approves and implements a quarantine treatment protocol for Costa Rican papayas, for papaya fruit flies, and also establishes and implements an effective inspection process for all domestic passengers and freight bound for Hawaii. Both conditions would ensure that there is only minimal risk of infesting Hawaii's papaya industry with the papaya fruit fly.

I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPORTATION OF PAPAYAS FROM COSTA RICA.

The Secretary of Agriculture may not implement a proposed or final rule that would allow the importation of papayas into the continental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States from Costa Rica until the Secretary establishes—

(1) a quarantine treatment protocol for papayas imported from Costa Rica to prevent the introduction of fruit flies;

(2) a program to prevent the introduction of fruit flies into Hawaii through the inspection of all passengers, freight, commercial vessels, commercial aircraft, commercial trucks, and railroad cars destined for Hawaii; and

(3) conditions for the importation of papayas from Costa Rica that are at least as stringent as the conditions prescribed in proposed section 319.56-2u of title 7, Code of Federal Regulations (19 Fed. Reg. 219).●

By Mr. GARN (for himself and Mr. HATCH):

S. 2862. A bill to establish the Canyons of the Escalante National Conservation Area, and for other purposes; to the Committee on Energy and Natural Resources.

CANYONS OF THE ESCALANTE NATIONAL CONSERVATION ACT

● Mr. GARN. Mr. President, I am pleased to rise today with my colleague, Senator HATCH to introduce a landmark piece of legislation for the people of southern Utah. The Canyons of the Escalante National Conservation Area would be Utah's first Bureau of Land Management administered National Conservation Area to be a showcase of multiple use land management. To me it potentially represents the best of all worlds. This measure is the product of substantial local public involvement and represents the views and interests of local residents of southern Utah.

Significantly, this National Conservation Area's size would be in excess of 500,000 acres. Nearly 330,000 acres will be managed for multiple use activities including mining, livestock grazing, fire control activities, the use of off-highway-vehicles, hunting, trapping and fishing, and many other outstanding recreational activities.

The Conservation Area would designate five areas of the Escalante River Drainage totaling some 170,000 acres as wilderness. By name these areas are Phipps-Death Hollow, North Escalante Canyons/The Gulch, Scorpion, Escalante Canyons Tract 5, and Steep Creek. These wilderness areas represent the highest quality lands deserving preservation in Garfield and Kand Counties in Utah.

Historic state water rights will be protected and no Federal reserved rights will be created. Continued low-level aircraft flights will be permitted based on historic flight patterns.

To provide for the long-term management of the area, the Secretary of the Interior would establish an advisory committee made up of local citizens whose purpose will be to assist the Secretary in creating a comprehensive management plan. The plan will emphasize public involvement and the socioeconomic consequences of the creation of this Conservation Area.

From a historical standpoint, I am extremely pleased that this legislation provides many opportunities for the protection of Utah's historical treasures. The trail used by Spaniards Dominguez and Escalante as well as the great exploration routes of the Mormon pioneers who settled the unbelievably desolate parts of southern Utah are just a few of the areas which will receive special management attention under this designation. Specifically, the bill creates a corridor called "Hole in the Rock" commemorating the epic Mormon pioneer journey across a rugged Colorado River canyon. The corridor will be managed by the Bureau of Land Management within the Glen Canyon National Recreation Area.

All told, I believe this is a balanced initial approach to managing these scenic lands which represent rich historical values to all Americans. I commend Garfield County Commissioner Louise Liston for her vision in pursuing this initiative as well as my colleague, Congressman JIM HANSEN, for his diligent pursuit of the idea in the House. Senator HATCH and I are hopeful that the Canyons of the Escalante National Conservation Area will become a reality some day soon.●

● Mr. HATCH. Mr. President, I am pleased to join with Senator GARN in the introduction of legislation that would establish the Canyons of the Escalante National Conservation Area.

This legislation is the result of months of negotiations between leaders in Garfield and Kane Counties, Utah, the Bureau of Land Management (BLM), and the Utah congressional delegation. It is an effort to protect some of Utah's most scenic country while guaranteeing that traditional uses of public lands are allowed to continue. Too often decisions concerning the management of Utah's public lands are made with little regard for the needs of the citizens that use those lands for their livelihoods. This legislation represents the interests of the Utah citizens that live near the proposed conservation area and is a balanced and thoughtful approach.

Mr. President, the lands that we propose to designate as a National Conservation Area are quite spectacular. The slickrock canyons and domes of the area surrounding the Escalante River drainage are recognized around the world for their beauty. To ensure that the most sensitive environments are protected, this legislation would designate five wilderness areas containing a total of nearly 170,000 acres. These lands are part of what the BLM has recommended as wilderness and I believe the lands meet the congressionally approved definition of wilderness. All other wilderness study area within the NCA would be released from further study.

Importantly, this legislation would also promote the traditional multiple uses of public lands in and adjacent to the Canyons of the Escalante River. The bill would ensure that the grazing of livestock would continue at historic levels and provide that hunting, trapping, fishing and other recreational activities continue. The legislation would also encourage the development and protection of the many historic sites within the NCA. The trail used by the Spanish fathers as they explored parts of the Southwest, the route used by Mormon pioneers as they settled southern Utah, and the remnants of the Anasazi Indian culture within the NCA would all receive special attention and management.

The NCA would be managed by the BLM and provide that agency with an opportunity to showcase some of the most scenic and unique lands that it manages.

While I am certain that this proposal will be controversial, I believe it is a responsible approach to managing the lands of the Escalante drainage. I look forward to working with the other members of the Utah delegation, the people of Utah, and others as we attempt to find solutions to the controversies over the management of our public lands.●

By Mr. DODD:

S. 2863. A bill to protect children by directing the Consumer Product Safety Commission to require the labeling of certain toys and games; to the Committee on Commerce, Science, and Transportation.

TOY INJURY REDUCTION ACT

Mr. DODD. Mr. President, today I am introducing the Toy Injury Reduction Act of 1992, which takes steps to reduce the number of toy-related injuries that occur each year.

All too many parents have experienced the horror of having their child choke on a toy or game piece. This measure would require that toys and games which have small parts, and which are intended for children between the ages of 3 and 7, have a clear and conspicuous cautionary label on their packages. The label must communicate that the contents include small parts which pose a hazard for children under the age of 3. It is a very straightforward solution that will enable parents to make informed purchases for their young children, whose safety must be guarded diligently.

Mr. President, Federal regulations already prohibit small toys and toys that contain small parts from being marketed to children under 3. Some manufacturers comply with the current regulation by using voluntary age labeling that reads "for ages 3 and up." At first glance, that is a perfectly logical way to comply with the regulation. But what happens in the toy store, when a parent is choosing a toy for his or her child, is a textbook case of miscommunication.

When parents see the phrase "for ages 3 and up, "they think it refers to the child's intellectual ability. They do not know the history of toy regulations. They do not know that age labeling, when it is used, is there to dissuade people from purchasing the toy for a child under 3, who could choke on the small parts. The parent evaluating the toy knows only that their child is smart enough to play with toys meant for older children. So, well-intentioned parents purchase toys that contain small parts for their young children. No safety consideration is triggered by age labeling alone.

Toys can pose a very real threat to children. The threat becomes a reality all too often. In 1990 alone, at least 23 children died and an estimated 164,500 people were injured in toy-related accidents. Half of the injuries occurred to children under 5 years of age. These numbers are tragic—not only because any child's death or injury is sad—but particularly because these are toy-related injuries. Toys are supposed to be fun.

In response to these accidents, States across the country are considering legislation. Just last month, my own State of Connecticut became the first State to enact a toy labeling law. I followed the Connecticut debate closely and was impressed with the process, which reflected a cooperative effort between public and private interests. Lawmakers received input from consumer groups and other interested parties, but an important toy manufacturer, Lego Systems, provided assistance, as well.

The legislation which I am introducing today is modeled on the Connecticut law because I believe that law is a good one. The opportunity exists now to enact Federal legislation that not only will help inform parents about toy safety, but will reduce the possibility of manufacturers having to comply with potentially 50 different State laws on the same subject.

Some would argue that we should go even further than this proposal. As many know, I welcome discussion on this measure. In my view, however, this legislation does strike an important balance. It requires a visible label conveying the safety warning, but allows manufacturers the flexibility to position the message and design it as they see fit, so long as it meets the requirements. For example, manufacturers who sell products to customers who speak different languages, or who need to ensure that the safety message reaches their customers who cannot read, may choose to use pictures along with words. The important thing is that when a parent stands in the toy store and contemplates purchasing a toy for a child younger than 3, that parent understands there is a safety consideration for the child.

Mr. President, the Consumer Product Safety Commission could have addressed this problem on its own. The CPSC staff did in fact recommend that toy labeling regulations be adopted. Regrettably, the Commissioners chose to abandon the issue. In my view, we must require that toy labeling be absolutely clear. "For ages 3 and up" does not mean "buy it because your 2-year-old is smart." It may mean "danger—your child could choke from small parts." It's time Federal law protected children from these preventable and often tragic injuries.

Regulations cannot replace supervision of children and common sense. However, we can require informative labeling that allow parents to make good judgments.

Very briefly, Mr. President, in the context of everything else, this is not one of the most cataclysmic of issues in the country, unless, you happen to be a parent whose child was seriously injured or killed in a toy-related accident. In 1990 there were 23 toy-related deaths and over 164,000 serious toy-related injuries.

This legislation is a very modest proposal that would require cautionary labeling on certain toy packages. The Consumer Product Safety Commission already prohibits toys with small parts from being marketed to children under 3. One of the problems though is when parents see the voluntary age labels manufacturers use that say "for ages 3 and up," the parents conclude this has to do with the intellectual level of the child to enjoy the particular toy, the parent does not consider whether or not it is safe for a child under 3. So they unknowingly purchase toys that are unsafe for their young children.

In the past, what we have done on matters such as this is sort of insist on certain language and insist on certain symbols and the like.

This bill Mr. President, allows the manufacturers to come up with the most appropriate warning message for their packaging, so long as it conveys the information required.

I speak with some experience on this, in that my own State of Connecticut has adopted State legislation on this matter very similar to what I am proposing. The toy manufacturers, in my State particularly the Lego Co., were tremendously helpful in crafting the Connecticut legislation.

Now, the toy industry obviously is like any other, not overly enthusiastic about additional requirements on it. But our concern would be that if we end up with potentially 50 State statutes on this matter, it may work to the detriment of the industry itself.

We feel that this proposal, requiring cautionary labeling and allowing the manufacturers some flexibility, we can do something worthwhile at a very nominal cost to the industry. Hearings will be held on this matter in the near future, Mr. President, and I very much would enjoy to have suggestions from the industry and other interested parties on this legislation.

Mr. President, I wish to point out a staff person who has helped me tremendously on the toy safety bill. Tramell Alexander has worked tirelessly on this legislation and I want to commend her for her tremendous effort in bringing this bill to the position it is in today.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Toy Injury Reduction Act".

SEC. 2. LABELING REQUIREMENT.

(a) GENERAL RULE.—

(1) The Consumer Product Safety Commission shall issue under the Federal Hazardous Substances Act a regulation for any toy or game intended for use by children at least 3 years of age but not older than 7, which—

(A) is manufactured for sale, offered for sale, distributed in commerce, or imported into the United States; and

(B) which includes a small part, as defined by the Commission;

to require that the packaging of such toy or game contain a conspicuous cautionary label described in paragraph (2).

(2) The cautionary label required under paragraph (1) for a toy or game shall clearly and specifically communicate that the contents include small parts which pose a hazard for children under the age of 3.

(3) No later than January 1, 1993, the Commission shall promulgate the regulation referred to in paragraph (1) and rules implementing the requirements of the regulation.

(b) ENFORCEMENT.—The Commission may use any remedy available to it under the Federal Hazardous Substances Act to enforce the requirements of the regulation issued under subsection (a).

SEC. 3. EFFECTIVE DATE.

Except in the case of section 2(a)(3), section 2 of this Act shall take effect on October 1, 1993. Section 2(a)(3) shall take effect on the date of the enactment of this Act.

By Mr. SARBANES (for himself, Mr. RIEGLE, Mr. GARN, and Mr. MACK):

S. 2864. A bill to reauthorize the Export-Import Bank Act of 1945, to encourage export promotion, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT ENHANCEMENT ACT

Mr. SARBANES. Mr. President, I rise today to introduce the Export Enhancement Act of 1992. This legislation would reauthorize the Export-Import Bank of the United States, whose charter expires on September 30, as well as the export promotion programs of the Commerce Department.

I am pleased that this legislation is being cosponsored by the chairman of the Senate Banking Committee, Senator RIEGLE, who has taken an active and long-run interest in U.S. export promotion and finance policy. In fact, Senator RIEGLE participated actively in two subcommittee hearings which I chaired and which helped us to develop many of the proposals in this bill. Senator GARN, the ranking Republican member of the Banking Committee, and Senator MACK, the ranking Republican member of the Banking Committee's Subcommittee on International Finance and Monetary Policy, which I chair, are also cosponsors of this legislation and were closely involved in its development. Senator ROCKEFELLER has also taken a strong interest in this bill.

Title I of the legislation reauthorizes the charter for the Export-Import Bank of the United States. The Subcommittee on International Finance and Monetary Policy held an oversight hearing on the Export-Import Bank on May 14. Testimony presented at the hearing by John Macomber, the President and Chairman of the Export-Import Bank, as well as leading representatives of U.S. exporters and commercial banks engaged in trade finance, made clear that foreign countries' export. As a result, there continues to be a need for the United States to have a strong and active Export-Import Bank to support sales of U.S. exports abroad.

It was only a few short years ago that the Reagan administration proposed the elimination of the Export-Import Bank on the ground that there was no need for such an institution. Fortunately that view seems to have been reversed, and the Eximbank appears to have made significant improvement under the leadership of President Macomber.

The legislation introduced would reauthorize the charter for the Export-Import for 5 years, through September 30, 1997. In addition, it would reauthorize the tied aid credit war chest of the Eximbank for 3 years, at its current authorization level of $500 million a year.

The three key issues that emerged in the hearing on May 14, and that are addressed within the OECD, Organization for Economic Cooperation and Development, to restrict the use of tied aid credits; the impact of credit reform on the loan guarantee programs of the Eximbank; and the problems encountered by the Eximbank in retaining experienced professional staff.

The tied aid credit agreement concluded within the OECD in February prohibits the use of tied aid credits in higher income countries and middle-income developing countries for projects that are financially viable. A project is considered financially viable if it has the capacity, with appropriate pricing determined on market principles, to generate cash-flow sufficient to cover the project's operating costs and to service the capital employed. The rationale is that if a project is not financially viable then it is truly a development project and may be eligible for concessional assistance.

Pursuant to the conclusion of the OECD agreement, the Eximbank announced a policy of using its tied aid credit war chest simply to enforce compliance with the agreement. In other words, if foreign governments are making extensive use of tied aid credit, but within the terms of the OECD agreement, then the Eximbank will not utilize its war chest.

This raises a couple of concerns. First, the Eximbank adopted a similar policy in 1988 and 1989 of using war chest simply to enforce the then existing OECD agreement. The result was that the war chest was virtually unused in both of those years while foreign governments continued to make extensive use to tied aid credits in support of exports from their countries.

Second, and particularly troubling, are the consequences of this policy for dealing with the lines of credit grandfathered under the new OECD agreement. Under the OECD agreement, credit lines notified prior to February 15, 1992 are grandfathered. Offers under these credit lines, subject to the old rules, may be extended through August 15, 1992 with a shelf life of 12 months. Thus deals could continue under the old rules for 18 months after the new rules go into effect.

The U.S. business community has raised concerns over this grandfather provision because it places U.S. companies in the position of having to compete for projects under the old OECD rules for up to a year and a half after the new rules are supposed to go into effect. This is particularly problematic because of the Eximbank's announced intention of using the war chest in the future only to enforce compliance with the agreement. Since the grandfathered lines of credit are permitted under the agreement, U.S. companies will have to compete for projects against foreign companies benefiting from tied aid credits with no possibility of receiving any tied aid credit support from the U.S. Eximbank.

As a result of these concerns, the Export Enhancement Act of 1992 amends the provision of the Export-Import Bank Act authorizing the Bank to match tied aid credits offered by another country by adding

> with special attention to match tied aid and partially untied aid credits extended by other governments—(i) in violation of the OECD arrangement; or (ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the arrangement, including grandfathered cases.

The intent of this new provision is to make clear that the Eximbank has authority to match tied aid credits offered by other governments in compliance with the OECD agreement if the Bank determines it is in the U.S. economic interest to do so, with particular attention to cases of credits grandfathered under the OECD agreement.

A second issue of concern is the potential impact of credit reform on the loan guarantee program of the Eximbank. The budget agreement reached in 1990 contained a new method of accounting for Federal credit programs that has resulted in a higher subsidy cost for an Eximbank loan guarantee than for an Eximbank direct loan. As a result, exporters and commercial banks have expressed concerns that the lower subsidy costs of direct loans might lead the Eximbank to reduce or eliminate its loan guarantee program.

This would be an unfortunate result because the loan guarantee program of Eximbank has had an important influence on keeping private commercial banks in the business of trade finance. Commercial bank participation in trade finance expands the pool of available credit, and commercial banks provide an ease of access, a range of services, and financing for the 15 percent of a transaction not covered by Eximbank credits that the Eximbank itself cannot provide.

Thus far the Eximbank has indicated a clear intent to continue its loan guarantee program and to provide borrowers both a direct loan and loan guarantee option. Nevertheless, to provide statutory direction to the Eximbank on this issue, the legislation contains a provision requiring—

> That the Bank, in determining whether to provide support for a transaction under the loan guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990.

The third key issue relates to the compensation of Eximbank personnel. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] authorized the Federal financial regulatory agencies—the Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Federal Housing Finance Board, and the Office of Thrift Supervision—to set compensation and benefits for their officers and employees independently of the Federal civil service guidelines. As a result, these agencies have been able to compensate their professional and management employees at rates significantly above those available to Eximbank employees.

This has created a problem for the Eximbank which recruits from the same professional talent pool as the financial regulatory agencies. The Eximbank reports that it has experienced difficulty in competing for new staff with the regulatory agencies. Perhaps of greater concern, the Eximbank reports that it has lost some key experienced Eximbank professional staff to the financial regulatory agencies.

As a result, the legislation contains a provision which would authorize the Eximbank, within its existing budgetary resources, to provide additional compensation and benefits to Bank employees if similar compensation and benefits are being provided by Federal bank regulatory agencies.

Title II of the legislation reauthorizes the export promotion programs of the Commerce Department and addresses the broader issue of U.S. export promotion policy. The Banking Committee's Subcommittee on International Finance held a hearing on May 20 to review the range of export promotion programs sponsored by the Federal Government. Invited to testify at the hearing were representatives of the Commerce Department, Eximbank, Small Business Administration, Agriculture Department, Agency for International Development, and the Trade and Development Program.

The number of agencies represented at the hearing is an indication of a key problem confronting U.S. export promotion policy: the lack of coordination and an overall national strategy. This lack of coordination and overall strategy was commented upon by representatives of the General Accounting Office, the National Association of Manufacturers, and the National Governors Association, who also testified at the hearing.

In response to this problem, the legislation would provide a statutory base for the interagency Trade Promotion Coordinating Committee [TPCC], which until now has operated pursuant to Executive order. While the TPCC has, according to a GAO report, achieved some success, it lacks permanent status and its long-term effectiveness is yet to be demonstrated.

The TPCC would be chaired by the Secretary of Commerce. Its purpose would be to coordinate the export promotion and financing activities of the United States Government and develop a governmentwide strategic plan for carrying out Federal export promotion and financing programs. Members of the TPCC would include representatives of the Departments of Commerce, State, Treasury, Agriculture, Energy, and Transportation, as well as the U.S. Trade Representative, Small Business Administration, Agency for International Development, Trade and Development Program, Overseas Private Investment Corporation, and the Eximbank. The TPCC would be required to submit an annual report to Congress describing its strategic plan, the implementation of the plan, and any revisions made to the plan.

In order to improve the accessibility of U.S. export promotion programs to small-and medium-sized exporters around the country who are not able to come to Washington, the legislation directs the U.S. Foreign and Commercial Service to utilize its 69 domestic offices and its 130 foreign posts as one-stop shops for U.S. exporters. The offices would be required to provide exporters with information on all export promotion activities of the Federal Government, and assist exporters in identifying which Federal programs may be of greatest assistance and making contact with the Federal programs identified.

In addition, the legislation would specifically require the US&FCS to provide U.S. exporters with information on all financing and insurance programs of the Eximbank, including providing assistance in completing applications for Bank programs, and working with exporters to address any deficiencies in such applications. The Eximbank, in turn, would be required to provide full and current information on all of its programs and financing practices to the US&FCS and undertake a training program for US&FCS officers in Bank programs and practices. Senator ROCKEFELLER has been a leading proponent of increasing cooperation between the US&FCS and the Eximbank and utilizing the US&FCS district office network as an outreach arm of the Eximbank.

The legislation would also require the Secretary of Commerce to submit to Congress an annual report on the international economic position of the United States, and appear before the Senate Banking and House Foreign Affairs Committees annually to testify on the report. Senator RIEGLE has been the leading proponent of institutionalizing such an annual reporting requirement by the Commerce Secretary on the competitive position of the United States in the international marketplace. This report and annual hearings on it will enable Congress to strengthen oversight of this increasingly important issue.

Finally, the legislation would increase the number of foreign commercial service officers with the rank of Minister-Counselor from 8 to 12, and provide a 2-year authorization for the export promotion programs of the Commerce Department—$182 million for fiscal year 1993, and $190 million for fiscal year 1994.

Mr. RIEGLE. Mr. President, I am pleased to join Senator SARBANES in introducing the Export Enhancement Act of 1992. This legislation will renew and amend the charter of the Export-Import Bank of the United States and strengthen our overall export promotion efforts. In this new era of global economic competition, exports are crucial to our Nation's economic well-being. This bill is designed to enhance U.S. export competitiveness.

Export financing plays a critical role in export competitiveness. Through its reauthorization of the Eximbank and amendments it makes to that Bank's charter, this bill strengthens the export financing programs of the United States. The bill also reauthorizes the export promotion programs of the Commerce Department. Without such programs important growth markets and strategic export sectors may be lost to our competitors.

The bill, however, goes beyond simply reauthorizing existing export promotion and financing programs. In contrast to our principal competitors, the United States does not have a comprehensive, integrated export enhancement strategy. There are 10 executive agencies involved in either export promotion or financing activities. Yet, we have no strategic plan for coordinating these activities and ensuring the efficiency of these many Federal programs. A January 1992 report issued by the GAO found that export promotion programs do not receive funding based on a governmentwide strategy or set of priorities. Without an overall rationale, it is unclear whether export promotion resources are being channeled into areas with the greatest potential return.

In order to improve the coherence of our export promotion programs, this bill establishes permanently in statute the recently established Presidential interagency committee known as the Trade Promotion Coordinating Committee [TPCC]. This committee is chaired by the Secretary of Commerce and composed of representatives from the various agencies engaged in trade policy and export promotion and financing activities. This bill not only establishes the TPCC in law but also charges it to develop a governmentwide strategic plan for promoting and financing exports. Proper development and implementation of such a plan will ensure our export promotion and financing activities are being coordinated and that priorities are being set that will enable our Nation to get the maximum return for money we spend on such activities.

The bill also directs the U.S. Foreign and Commercial Service to utilize its 67 domestic offices and 129 foreign offices as one-stop shops for U.S. exporters. Our intention is to ensure that small- and medium-sized companies, not familiar with exporting, can get all the help they need in identifying relevant Federal programs in one easily accessible office. We have to get more American firms involved in exporting and this provision is designed to help that happen.

The Department of Commerce has a key responsibility for strengthening our international trade and investment position. This bill raises the visibility of that important function by requiring the Secretary of Commerce to submit to the Congress an annual report on the international economic position of the United States and to appear annually before the Senate Banking Committee and the House Foreign Affairs Committee to testify on the report. Among other things, this provision will require the Commerce Secretary to report on the Department's efforts to promote the development of technologies and products critical to our industrial leadership and to increase exports of products using such technologies. The Secretary is also required to include in this annual report a summary of the work being done by the TPCC to implement a governmentwide strategic plan for coordinating all export promotion and financing activities of our Government. The annual report and hearing requirements are designed to focus attention on these important activities and ensure better congressional oversight of them.

Mr. President, I want to express my appreciation to Senator SARBANES for his leadership in this area and for working closely with me to ensure that many of the provisions to which I attach great importance are included in this bill. The oversight hearings which his International Finance Subcommittee held this year on the Export-Import Bank and our country's export promotion and financing activities led to the development of many of the provisions of this bill. I very much appreciate his personal attention to these issues to which we both attach so much importance. I would also like to thank Senator GARN and Senator MACK for their support and contributions to this bill. Senator ROCKEFELLER, who testified at one of our subcommittee hearings, also contributed ideas that are incorporated in this bill.

I look forward to marking up this important piece of legislation in the Banking Committee this week and hope for early consideration of it by the full Senate shortly thereafter. This is legislation we can and must enact this year.

ADDITIONAL COSPONSORS

S. 781

At the request of Mr. SARBANES, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1851

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1851, a bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes.

S. 2027

At the request of Mr. CHAFEE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2027, a bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the medicare program.

S. 2041

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2041, a bill to amend the Petroleum Marketing Practices Act to enhance competition, and for other purposes.

S. 2346

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2346, a bill to provide for comprehensive health care access expansion and cost control through standardization of private health care insurance and other means.

S. 2385

At the request of Mr. RIEGLE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

S. 2426

At the request of Mr. DANFORTH, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2426, a bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Florida [Mr. MACK], the Senator from Florida [Mr. GRAHAM], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2515

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2515, a bill to authorize the establishment of job training programs for unemployed veterans and persons who have been recently separated from the Armed Forces, to pay certain assistance and benefits to employers of such veterans and persons, such veterans and such persons to defray certain costs relating to the provision of such training, and for other purposes.

S. 2624

At the request of Mr. GLENN, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2644

At the request of Mrs. KASSEBAUM, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 2644, a bill to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for purposes of safety.

S. 2680

At the request of Mr. PRYOR, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2680, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to consult with State medical societies in revising the geographic adjustment factors used to determine the amount of payment for physicians' services under part B of the Medicare Program, to require the Secretary to base geographic-cost-of-practice indices under the program upon the most recent available data, and for other purposes.

S. 2704

At the request of Mr. BYRD, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2704, a bill to prevent any foreign person from purchasing or otherwise acquiring the LTV Aerospace and Defense Company.

S. 2707

At the request of Mr. RIEGLE, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Nevada [Mr. BRYAN], the Senator from Virginia [Mr. WARNER], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th Anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2736

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2736, a bill to prohibit the Secretary of Health and Human Services from taking any action with respect to certain alleged violations of the requirements of title IV of the Social Security Act.

S. 2763

At the request of Mr. ROTH, the names of the Senator from Utah [Mr. GARN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2763, a bill to establish the Mike Mansfield Fellowship Program for intensive training in the Japanese language, government, politics, and economy.

S. 2810

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2851

At the request of Mr. JOHNSTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes.

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 303

At the request of Mr. PELL, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 303, a joint resolution to designate October 1992 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 307

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 307, a joint resolution designating the month of July 1992 as "National Muscular Dystrophy Awareness Month."

SENATE RESOLUTION 314

At the request of Mr. DECONCINI, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Resolution 314, a resolution concerning the provision of humanitarian aid to civilian populations in and around Sarajevo.

SENATE CONCURRENT RESOLUTION 125—RELATIVE TO A MORATORIUM ON COMMERCIAL WHALING

Mr. KERRY (for himself and Mr. PELL) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 125

Whereas whales are marine resources of great aesthetic, educational, and scientific interest and are a vital part of the marine ecosystem;

Whereas the International Whaling Commission adopted in 1982 an indefinite moratorium on commercial whaling, which was scheduled to go into effect in 1986, establishing zero global catch limits for eleven species of whales;

Whereas despite the moratorium on commercial whaling, thousands of whales have been killed since its inception by the commercial whaling nations;

Whereas there remain great uncertainties as to the true status of whale populations due to the difficulty of studying them, their slow reproductive rate, and the unpredictability of their recovery even when fully protected;

Whereas the consequences of removing whale populations from the marine ecosystem are not understood and cannot be predicted;

Whereas whales are subject to increasingly grave environmental threats from nonhunting causes, such as pollution, loss of habitat, oil spills, and the use of large-scale driftnets, which underscore the need for special safeguards for whale protection;

Whereas, in addition, many of the more than 60 species of small cetaceans are subject to direct commercial harvest;

Whereas there is significant widespread support in the international community for the view that, for scientific, ecological, aesthetic, and educational reasons, whales should no longer be commercially hunted;

Whereas efforts made at the 1991 meeting of the International Whaling Commission to overturn the moratorium on commercial whaling were defeated; and

Whereas there is concern that, at future International Whaling Commission meetings, some countries will again press for an immediate resumption of commercial whaling on some stocks: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) United States policy should promote the conservation and protection of whale, dolphin, and porpoise populations;

(2) toward that goal, the United States should work to strengthen and maintain International Whaling Commission moratorium on the commercial killing of whales, and work toward a similar moratorium on the direct commercial harvest of dolphins and porpoises;

(3) the United States should work to strengthen the International Whaling Commission by reaffirming its competence to regulate direct commercial whaling on all species of cetaceans, and should encourage the Commission to utilize the expertise of its Scientific Committee by seriously considering the Committee's recommendations;

(4) the United States should, before the meeting of the International Whaling Commission in Glasgow, Scotland, in the summer of 1992, endorse the proposal of France to create a sanctuary in the oceans of the Southern Hemisphere in which commercial whaling shall be expressly prohibited; and

(5) in so promoting the conservation and protection of the world's whale populations, the United States should make the fullest use of diplomatic channels, appropriate domestic and international law, and all other available means.

Mr. KERRY. Mr. President, I am today submitting a concurrent resolution calling for a U.S. policy of strengthening and maintaining the international moratorium on commercial whaling which has been in effect since first declared by the International Whaling Commission [IWC] in 1986.

I take this action to strengthen the hand of our representatives to the annual meeting of the IWC to be held in Scotland at the end of this month. It is anticipated that whaling nations, including Japan, will seek to lift the moratorium at that time. I believe that would be a mistake and hope that U.S. negotiators will hold firm in support of the moratorium.

Mr. President, the decimation of whale populations throughout the oceans of the world is comparable only to the near extermination of the American buffalo from the Great Plains of the West. Year after year of relentless harvesting, coupled with steadily improved technology, has left virtually every significant species of whale seriously depleted, threatened or endangered. The blue whale, just for example, once numbered a quarter of a million; now it numbers about 1,000. The North American right whale—the most endangered of all the world's large whales—had declined from more than 50,000 to approximately 350 by the beginning of this century.

It is important to realize that the process of rebuilding a stock of marine mammal that has been devastated is not simple. You cannot simply throw a switch and revive a species whose biological viability has been put at risk. The right whale, for example, has been protected from commercial whaling for half a century but—although it has survived—its numbers have not grown.

The concurrent resolution I submit today includes a provision calling upon the United States to support a proposal to be offered in Scotland by the Government of France to create a southern ocean whale sanctuary in Antarctic waters. These waters serve as a critical feeding ground for many endangered species of whales.

Finally, the concurrent resolution also urges action to end the direct harvesting of dolphins and porpoises for commercial purposes.

Mr. President, there may have been a time when whales held enormous value as a source of food, fuel and other commercial products. No one who has the privilege of representing New Bedford or Nantucket in the U.S. Senate could deny this. But that day has long since past. Today, the greatest economic value of the whale is in its existence; in its capacity to be seen—to be watched—swimming free in Massachusetts Bay or off the Florida coast or in the nearshore waters of the Pacific. Whale-watching generates an estimated $1 billion in tourist dollars in Massachusetts alone. And the message that sends to our citizens, and especially to our children, about respect for life and awe at the majesty of nature has educational value that far exceeds that.

I hope that the submission of this concurrent resolution today will strengthen all our resolve to ensure the continued protection of whales from commercial harvest, and their continued survival for the benefit of us all.

I note, in closing, that the concurrent resolution is comparable to House Concurrent Resolution 177, which was approved by the House of Representatives on May 19 of this year.

AMENDMENTS SUBMITTED

NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

SANFORD AMENDMENT NOS. 2427 AND 2428

Mr. SANFORD proposed two amendments to the bill (S. 1985) to establish a Commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes, as follows:

AMENDMENT NO. 2427

Amend the pending business in section 205 in the following manner:

(1) Delete subsection (b)(1) on page 16, line 15–line 21, and renumber subsections "(b)(2)" and "(b)(3)" as "(b)(1)" and "(b)(2)" accordingly.

(2) On page 18, line 23 add after "debtor" the following, "including, but not limited to, the proper use of disposable income".

(3) On page 19, line 9 add after "chapter" the number "11".

(4) On page 20, line 15 delete the word "shall" and insert the word "may".

(5) On page 20, lines 16–17 delete the sentence "Any waiver of the right to dismiss under this section is unenforceable.".

(6) On page 29, paragraph (B) found at lines 3–14, and insert the following,

(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and".

AMENDMENT NO. 2428

At the end of sec. 206(g)(1)(A), add the following sentence:

"Nothing in the subsection (g) shall affect the court's existing authority to issue an injunction pursuant to an order approving a plan of reorganization."

HEFLIN AMENDMENT NO. 2429

Mr. HEFLIN proposed an amendment to the bill S. 1985, supra, as follows:

Amend the pending business in the following:

(1) On page 57, line 15, delete "unusual", and insert "extraordinary".

(2) In section 206, strike all of section (g)(9) on page 49, line 21, through page 51, line 2.

(3) In section 408, on page 90, line 8, add after "attorney", add the following: "in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28".

(4) In section 210, on page 55, line 3, delete "120-day", and insert "180-day".

(5) In section 205, on page 19, line 9, delete "this".

MITCHELL (AND OTHERS) AMENDMENT NO. 2430

Mr. MITCHELL (for himself, Mr. BYRD, Mr. SASSER, and Mr. WELLSTONE) proposed an amendment to amendment No. 2426 proposed by Mr. DANFORTH to the bill S. 1985, supra, as follows:

In lieu of the language proposed to be inserted, insert the following:

The Senate finds that—

(1) the growing national debt is a legacy of bankruptcy which will make America's economy steadily weaker and more vulnerable than it is today;

(2) to amass a national debt of $4,000,000,000,000 and an annual deficit of $400,000,000,000 is to breach trust with present and future Americans;

(3) the national interest in controlling the deficit takes precedence over partisan advantage;

(4) it is the responsibility of candidates for President and for Congress to discuss the deficit, if the priority issues facing our country (such as investing in human capital and physical infrastructure to promote economic growth) are to be effectively and honestly addressed;

(5) the American people will provide a mandate for governmental action, if given information and serious choices for deficit reduction that calls for shared sacrifice;

(6) The frequency and level of public comment on this issue by too many public officers and House and Senate candidates, including those who hold and seek the office of the President, have been insignificant and inadequate;

(7) by and large too many candidates, Members of Congress, and member of the media have ignored or trivialized this issue by suggestions such as that meaningful deficit reduction can be accomplished merely by attacking waste, fraud, and abuse.

(8) entitlement and interest spending are the fastest growing components of the Federal budget and are at an all-time high, largely due to the explosion of health costs;

(9) other than taxes devoted to Social Security pensions, the level of taxation relative to the United States economy has been lower in the last decade than it was in any year between 1962 and 1982;

(10) the existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes, as well as reducing defense and domestic spending; and

(11) to suggest that meaningful deficit reduction can be accomplished without shared sacrifice constitutes deception of the American people:

It is the sense of the Senate that—

(1) public officials and candidates for public office should make proposals and engage in extensive and substantive discussion on reducing the deficit;

(2) the candidates for President should agree to a formal discussion that focuses entirely on the Federal budget deficit, its implications and solutions; and

(3) all candidates for office should affirm their support for this statement of principles and should resolve, in the course of their campaigns, to seek a mandate from the electorate with which they can effectively address the Federal budget deficit if elected.

AUDIO HOME RECORDING ACT OF 1991

DECONCINI AMENDMENT NO. 2431

Mr. RIEGLE (for Mr. DECONCINI) proposed an amendment to the bill (S. 1623) to amend title 17, United States Code, the implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes, as follows:

In lieu of the matter proposed to be inserted insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Audio Home Recording Act of 1991".

SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA

"Subchapter A—Definitions, Prohibition of Certain Infringement Actions, and Rules of Construction

"Sec.
"1001. Definitions.
"1002. Prohibition on certain infringement actions.
"1003. Effect on other rights and remedies with respect to private home copying or otherwise.

"Subchapter B—Royalty Payments

"1011. Obligation to make royalty payments.
"1012. Royalty payments.
"1013. Deposit of royalty payments and deduction of expenses.

"1014. Entitlement to royalty payments.
"1015. Procedures for distributing royalty payments.
"1016. Negotiated collection and distribution arrangements.

"Subchapter C—The Serial Copy Management System

"1021. Incorporation of the serial copy management system.
"1022. Implementing the serial copy management system.

"Subchapter D—Remedies

"1031. Civil remedies.
"1032. Binding arbitration.

"Subchapter A—Definitions, Prohibition of Certain Infringement Actions, and Rules of Construction

"§ 1001. Definitions

"As used in this chapter, the following terms and their variant forms mean the following:

"(1)(A) an 'audiogram' is a material object (i) in which are fixed, by any method now known or later developed, only sounds (and not, for example, a motion picture or other audiovisual work even though it may be accompanied by sounds), and material, statements or instructions incidental to those fixed sounds, if any, and (ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(B) An 'audiogram' does not include a material object—

"(i) in which the fixed sounds consist entirely of spoken word recordings, or

"(ii) in which one or more computer programs are fixed, except that an audiogram may contain statements or instructions constituting the fixed sounds and incidental material, and statements or instructions to be used directly or indirectly in order to bring about the perception, reproduction, or communication of the fixed sounds and incidental material.

"(C) For purposes of this section, (i) a 'spoken word recording' is a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by ancillary musical or other sounds, and (ii) the term 'incidental' means related to and relatively minor by comparison.

"(2) A 'digital audio copied recording' is a reproduction in a digital recording format of an audiogram, whether that reproduction is made directly from another audiogram or indirectly from a transmission.

"(3) A 'digital audio interface device' is any machine or device, now known or later developed, whether or not included with or as part of some other machine or device, that is specifically designed to communicate a 'digital audio interface signal' to a digital audio recording device, and that supplies a digital audio signal through a 'nonprofessional interface,' as those terms are used in the Digital Audio Interface Standard in part I of the technical reference document or as otherwise defined by the Secretary of Commerce under section 1022(b).

"(4) A 'digital audio recording device' is any machine or device, now known or later developed, or a type commonly distributed to individuals for use by individuals,whether or not included with or as part of some other machine or device, the digital recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(5)(A) A 'digital audio recording medium' is any material object, now known or later developed, in which sounds may be fixed where the media product is (i) in a form commonly distributed for ultimate sale to individuals for use by individuals (such as magnetic digital audio tape cassettes, optical discs, and magneto-optical discs), and (ii) primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include—

"(i) any material object that embodies a sound recording at the time it is first distributed by the importer or manufacturer, unless the sound recording has been so embodied in order to evade the obligations of section 1011 of this title; or

"(ii) any media product that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical literary works, including, without limitation, computer programs or data bases.

"(6) 'Distribute' means to sell, resell, lease, or assign a product to consumers in the United States, or to sell, resell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public;

"(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in an audiogram a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public; or

"(C) any association or other organization—

"(i) representing persons specified in subparagraph (A) or (B), or

"(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

"(8) An 'interested manufacturing party' is any person that imports or manufactures any digital audio recording device or digital audio recording medium in the United States, or any association of such persons.

"(9) 'Manufacture' includes the production or assembly of a product in the United States.

"(10) A 'music publisher' is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

"(11) A 'professional model product' is an audio recording device—

"(i) that is capable of sending a digital audio interface signal in which the channel status block flag is set as a 'professional' interface, in accordance with the standards and specifications set forth in the technical reference document or established under an order issued by the Secretary of Commerce under section 1022(b);

"(ii) that is clearly, prominently, and permanently marked with the letter 'P' or the word 'professional' on the outside of its packaging, and in all advertising, promotional, and descriptive literature, with respect to the device, that is available or provided to persons other than the manufacturer or importer, its employees, or its agents; and

"(iii) that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business.

"(B) In determining whether an audio recording device meets the requirements of subparagraph (A)(iii), factors to be considered shall include—

"(i) whether it has features used by recording professionals in the course of a lawful business, including features such as—

"(I) a data collection and reporting system of error codes during recording and playback;

"(II) a record and reproduce format providing 'read after write' and 'read after read';

"(III) a time code reader and generator conforming to the standards set by the Society of Motion Picture and Television Engineers for such readers and generators; and

"(IV) a professional input/output interface, both digital and analog, conforming to standards set by audio engineering organizations for connectors, signaling formats, levels, and impedances;

"(ii) the nature of the promotional materials used to market the audio recording device;

"(iii) the media used for the dissemination of the promotional materials, including the intended audience;

"(iv) the distribution channels and retail outlets through which the device is disseminated;

"(v) the manufacturer's or importer's price for the device as compared to the manufacturer's or importer's price for digital audio recording devices implementing the Serial Copy Management System;

"(vi) the relative quantity of the device manufactured or imported as compared to the size of the manufacturer's or importer's market for professional model products;

"(vii) the occupations of the purchasers of the device; and

"(viii) the uses to which the device is put.

"(12) The 'Register' is the Register of Copyrights.

"(13) The 'Serial Copy Management System' means the system for regulating serial copying by digital audio recording devices that is set forth in the technical reference document or in an order of the Secretary of Commerce under section 1022(b), or that conforms to the requirements of section 1021(a)(1)(C).

"(14) The 'technical reference document' is the document entitled 'Technical Reference Document for Audio Home Recording Act of 1991' in section 5 of this Act.

"(15)(A) The 'transfer price' of a digital audio recording device or a digital audio recording medium is—

"(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale).

"(B) Where the transferor and transferee are related entities or within a single entity, the transfer price shall not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section 482.

"(16) A 'transmission' is any audio or audiovisual transmission, now known or later developed, whether by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other form of analog or digital communication.

"(17) The 'Tribunal' is the Copyright Royalty Tribunal.

"(18) A 'writer' is the composer or lyricist of a particular musical work.

"(19) The terms 'analog format', 'copyright status', 'category code', 'generation status', and 'source material', mean those terms as they are used in the technical reference document.

"§ 1002. Prohibition on certain infringement actions

"(a) CERTAIN ACTIONS PROHIBITED—No action may be brought under this title, or under section 337 of the Tariff Act of 1930, alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device or a digital audio recording medium, or an analog audio recording device or analog audio recording medium, or the use of such a device or medium for making audiograms. However, this subsection does not apply with respect to any claim against a person for infringement by virtue of the making of one or more audiograms, or other material objects in which works are fixed, for direct or indirect commercial advantage. For purposes of this section, the copying of an audiogram by a consumer for private, noncommercial use is not for direct or indirect commercial advantage, and is therefore not actionable.

"(b) EFFECT OF THIS SECTION.—Nothing in this section shall be construed to create or expand a cause of action for copyright infringement except to the extent such a cause of action otherwise exists under other chapters of this title or under section 337 of the Tariff Act of 1930, or to limit any defenses that may be available to such causes of action.

"§ 1003. Effect on other rights and remedies with respect to private home copying or otherwise

"Except as expressly provided in this chapter with respect to audio recording devices and media, neither the enactment of this chapter nor anything contained in this chapter shall be construed to expand, limit, or otherwise affect the rights of any person with respect to private home copying of copyrighted works, or to expand, limit, create, or otherwise affect any other right or remedy that may be held by or available to any person under chapters 1 through 9 of this title.

"Subchapter B—Royalty Payments

"§ 1011. Obligation to make royalty payments

"(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute in the United States, or manufacture and distribute in the United States, any digital audio recording device or digital audio recording medium unless such person—

"(1) records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified by this section and section 1012 of this title, or

"(2) complies with the applicable notice, statement of account, and payment obligations under a negotiated arrangement authorized pursuant to section 1016 of this title.

"(b) FILING OF NOTICE.—

"(1) GENERALLY.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file a notice with the Register, no later than 45 days after the commencement of the first distribution in the United States of such device or medium, in such form as the Register shall prescribe by regulation; provided, however, that no notice shall be required with respect to any distribution occurring prior to the effective date of this chapter.

"(2) CONTENTS.—Such notice shall—

"(A) set forth the manufacturer's or importer's identify and address,

"(B) identify such product category and technology, and

"(C) identify any trade or business names, trademarks, or like indicia of origin that the importer or manufacturer uses or intends to use in connection with the importation, manufacture, or distribution of such device or medium in the United States.

"(c) FILING OF QUARTERLY STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given quarter any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register, in such form as the Register shall prescribe by regulation, a quarterly statement of account specifying, by product category, technology, and model, the number and transfer price of all digital audio recording devices and digital audio recording media that it distributed during such quarter.

"(2) PERIOD COVERED.—The quarterly statements of account may be filed on either a calendar or fiscal year basis, at the election of the manufacturer or importer.

"(3) STATEMENTS OF ACCOUNT FOR THE FIRST THREE QUARTERS.—For the first three quarters of any calendar or fiscal year, such statement shall—

"(A) be filed no later than 45 days after the close of the period covered by the statement; provided, however, that any quarterly statement that would be due within three months and 45 days of the effective date of this chapter shall not be filed until the next quarterly statement is due, at which time a statement shall be filed covering the entire period since the effective date of this chapter;

"(B) be certified as accurate by an authorized officer or principal of the importer or manufacturer;

"(C) be accompanied by the total royalty payment due for such period pursuant to section 1012 of this title.

"(4) STATEMENT OF ACCOUNT FOR THE FOURTH QUARTER.—The quarterly statement for the final quarter of any calendar or fiscal year shall be incorporated into the annual statement required under subsection (d) of this section, which shall be accompanied by the royalty payment due for such quarter.

"(d) FILING OF ANNUAL STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given calendar or fiscal year (as applicable) any digital audio recording device or digital audio recording medium that it manufactured or imported shall also file with the Register a cumulative annual statement of account, in such form as the Register shall prescribe by regulation.

"(2) TIMING AND CERTIFICATION.—Such statement shall be filed no later than 60 days after the close of such calendar or fiscal year, and shall be certified as accurate by an authorized officer or principal of the importer or manufacturer.

"(3) INDEPENDENT AUDIT.—The annual statement of account shall be audited in accordance with U.S. generally accepted auditing standards by an independent certified public accountant selected by the manufacturer or importer. The independent certified public accountant shall report whether the information contained therein is fairly presented, in all material respects, in accordance with the requirements of this chapter.

"(4) RECONCILIATION OF ROYALTY PAYMENT.—The cumulative annual statement of account shall be accompanied by any royalty payment due under section 1012 of this title that was not previously paid under subsection (c) of this section.

"(e) VERIFICATION.—

"(1) GENERALLY.—

"(A) The Register shall, after consulting with interested copyright parties, interested manufacturing parties, and appropriate representatives of the accounting profession, prescribe regulations specifying procedures for the verification of statements of account filed pursuant to this section.

"(B) Such regulations shall permit interested copyright parties to select independent certified public accountants to conduct audits in order to verify the accuracy of the information contained in the statements of account filed by manufacturers and importers.

"(C) Such regulations shall also—

"(i) specify the scope of such independent audits; and

"(ii) establish a procedure by which interested copyright parties will coordinate the engagement of such independent certified public accountants, in order to ensure that no manufacturer or importer is audited more than once per year.

"(D) All such independent audits shall be conducted at reasonable times, with reasonable advance notice, and shall be no broader in scope than is reasonably necessary to carry out the purposes of this subsection in accordance with U.S. generally accepted auditing standards.

"(2) VERIFICATION REPORT.—The accountant's report on the results of each such independent audit shall, in accordance with U.S. generally accepted auditing standards and the requirements of this chapter, set forth the procedures performed and the accountant's findings. The accountant's report shall be filed with the Register.

"(3) ACCESS TO DOCUMENTS IN EVENT OF DISPUTE.—In the event of a dispute concerning the amount of the royalty payment due from a manufacturer or importer resulting from a verification audit conducted under this section—

"(A) any interested manufacturing party audited pursuant to this subsection, and its authorized representatives, shall be entitled to have access to all documents upon which the audit results under this subsection were based; and

"(B) any representative of an interested copyright party that has been approved by the Register under subsection (h)(2) of his section shall be entitled to have access to all documents upon which the audit results under subsection (d) of this section were based, subject to the limitations of subsection (h)(2) of this section.

"(f) COSTS OF VERIFICATION.—

"(1) The costs of all verification audits that are conducted pursuant to subsection (e) of this section shall be borne by interested copyright parties, except that, in the case of a verification audit of a manufacturer or importer that leads ultimately to recovery of an annual royalty underpayment of 5-percent or more of the annual payment made, the importer or manufacturer shall provide reimbursement for the reasonable costs of such audit.

"(2) Except as may otherwise be agreed by interested copyright parties, the costs of a verification audit conducted pursuant to subsection (e) of this section shall be borne by the party engaging the certified public accountant. Any recovery of royalty underpayments as a result of the audit shall be used first to provide reimbursement for the reasonable costs of such audit to the extent such costs have not otherwise been reimbursed by the manufacturer or importer pursuant to this subsection. Any remaining recovery shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided by a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to this section.

"(g) INDEPENDENCE OF ACCOUNTANTS.—Each certified public accountant used by interested copyright parties or interested manufacturing parties pursuant to this section shall be duly licensed to practice as a certified public accountant and shall not be financially dependent upon interested copyright parties or interested manufacturing parties, respectively. The Register may, upon petition by any interested copyright party or interested certified public accountant on the ground that such accountant does not meet the requirements of this subsection.

"(h) CONFIDENTIALITY.—

"(1) GENERALLY.—The quarterly and annual statements of account filed pursuant to subsections (c) and (d) of this section, and information disclosed or generated during verification audits conducted pursuant to subsection (e) of this section, shall be presumed to contain confidential trade secret information within the meaning of section 1905 of title 18 of the United States Code. Except as provided in paragraphs (2), (3), and (4) of this subsection, neither the Register nor any member, officer, or employee of the Copyright Office or the Tribunal, may—

"(A) publicly disclose audit information furnished under this section or information contained in quarterly or annual statements of account, except that aggregate information that does not disclose, directly or indirectly, company-specific information may be made available to the public;

"(B) use such information for any purpose other than to carry out responsibilities under this chapter; or

"(C) permit anyone (other than members, officers, and employees of the Copyright Office and the Tribunal who require such information in the performance of duties under this chapter) to examine such information.

"(2) PROCEDURES FOR ACCESS TO BE PRESCRIBED BY REGISTER.—(A) The Register, after consulting with interested manufacturing parties and interested copyright parties, shall prescribe procedures for disclosing, in confidence, to representatives of interested copyright parties and representatives of interested manufacturing parties information contained in quarterly and annual statements of account and information generated as a result of verification audits.

"(B) Such procedures shall provide that only those representatives of interested copyright parties and interested manufacturing parties who have been approved by the Register shall have access to such information, and that all such representatives shall be required to sign a certification limiting the use of the information to—

"(i) verification functions under this section, and

"(ii) any enforcement actions that may result from such verification procedures.

"(3) ACCESS BY AUDITED MANUFACTURER.—Any interested manufacturing party that is audited pursuant to subsections (e) of this section, and its authorized representatives, shall be entitled to have access to all documents filed with the Register as a result of such audit.

"(4) ACCESS BY CONGRESS.—Nothing in this section shall authorize the withholding of information from the Congress.

"§ 1012. Royalty payments

"(a) DIGITAL AUDIO RECORDING DEVICES.—

"(1) the royalty payment due under section 1011 of this title for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

"(2) With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) Notwithstanding paragraph (1) or (2) of this subsection, the amount of the royalty payment for each digital audio recording device or physically integrated unit containing a digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that for a physically integrated unit containing more than one digital audio recording device, the royalty maximum for such unit shall be $12. During the 6th year after the effective date of this chapter, and no more than once each year thereafter, any interested copyright party may petition the Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; provided, however, that the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

"(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1011 of this title for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

"(c) RETURNED OR EXPORTED MERCHANDISE.—

"(1) In calculating the amount of royalty payments due under subsections (a) and (b) of this section, manufacturers and importers may deduct the amount of any royalty payments already made on digital audio recording devices or media that are—

"(A) returned to the manufacturer or importer as unsold or defective merchandise; or

"(B) exported by the manufacturer or importer or a related person—

within two years following the date royalties are paid on such devices or media.

"(2) Any such credit shall be taken during the period when such devices or media are returned or exported, and the basis for any such credit shall be set forth in the statement of account for such period filed under section 1011(c) of this title.

"(3) Any such credit that is not fully used during such period may be carried forward to subsequent periods. If any returned or exported merchandise for which a credit has been taken is subsequently distributed, a royalty payment shall be made as specified under subsection (a) or (b) of this section, based on the transfer price applicable to such distribution.

"§ 1013. Deposit of royalty payments and deduction of expenses

"The Register shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States as offsetting receipts. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1014, 1015, or 1016 of this title. The Register may, in the Register's discretion, four years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to the calendar year as attributable to the next succeeding calendar year. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties available for distribution.

"§ 1014. Entitlement to royalty payments

"(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1013 of this title shall, in accordance with the procedures specified in section 1015 or 1016 of this title, be distributed to any interested copyright party—

"(1) whose musical work or sound recording has been—

"(A) embodied in audiograms lawfully made under this title that have been distributed to the public, and

"(B) distributed to the public in the form of audiograms or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1015 or 1016 of this title.

"(b) ALLOCATION ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into two funds as follows:

"(1) THE SOUND RECORDINGS FUND.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2⅝ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties under section 1001(7)(A) of this title and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings distributed in the United States. 1⅜ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties under section 1001(7)(A) of this title and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings distributed in the United States. The remaining royalty payments in the Sound Recordings Fund shall be distributed to claimants under subsection (a) of this section who are interested copyright parties under section 1001(7)(A) of this title. Such claimants shall allocate such royalty payments, on a per sound recording basis, in the following manner: 40 percent to the recording artist or artists featured on such sound recordings (or the persons conveying rights in the artists' performances in the sound recordings), and 60 percent to the interested copyright parties.

"(2) THE MUSICAL WORKS FUND.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties whose entitlement is based on legal or beneficial ownership or control of a copyright in a musical work.

"(B) The royalty payments allocated to the Musical Works fund shall be further allocated as follows: music publisher claimants shall be entitled to 50 percent of such payments and writer claimants shall be entitled to the other 50 percent of such payments.

"(C) Except to the extent inconsistent with the international obligations of the United States, the allocation specified in subparagraph (B) shall govern despite any contractual obligation to the contrary.

"(c) DISTRIBUTION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) of this section do not agree on a voluntary proposal for the distribution of the royalty payments within such group, the Tribunal shall, pursuant to the procedures specified in section 1015(c) of this title, allocate such royalty payments based on the extent to which, during the relevant period—

"(1) for the Sound Recordings Fund, each sound recording was distributed to the public in the form of audiograms; and

"(2) for the Musical Works Fund, each musical work was distributed to the public in the form of audiograms or disseminated to the public in transmissions.

"§ 1015. Procedures for distributing royalty payments

"(a) FILING OF CLAIMS AND NEGOTIATIONS.—

"(1) During the first 2 months of each calendar year after the calender year in which this chapter takes effect, every interested copyright party that is entitled to royalty payments under section 1014 of this title shall file with the Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

"(2) All interested copyright parties within each group specified in section 1014(b) of this title shall negotiate in good faith among themselves in an effort to agree to a voluntary proposal for the distribution of royalty payments. Notwithstanding any provision of the antitrust laws, for purposes of this section such interested copyright parties may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf; except that no agreement under this subsection may vary the allocation of royalties specified in section 1014(b) of this title.

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within 30 days after the period established for the filing of claims under subsection (a) of this section, in each year after the year in which this section takes effect, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1014(c) of this title. If the Tribunal determines that no such controversy exists, it shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a) of this section, after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy.

"§ 1016. Negotiated collection and distribution arrangements

"(a) SCOPE OF PERMISSIBLE NEGOTIATED ARRANGEMENTS.—

"(1) Interested copyright parties and interested manufacturing parties may at any time negotiate among or between themselves a single alternative system for the collection, distribution, or verification of royalty payments provided for in this chapter.

"(2) Such a negotiated arrangement may vary the collection, distribution, and verification procedures and requirements that would otherwise apply under sections 1011 through 1015 of this title, including the time periods for payment and distribution of royalties, but shall not alter the requirements of section 1011 (a), (b), or (h)(4), section 1012 (a) or (b), or section 1014 (a) or (b) of this title.

"(3) Such a negotiated arrangement may also provide that specified types of disputes that cannot be resolved among the parties to the arrangement shall be resolved by binding arbitration or other agreed upon means of dispute resolution.

"(4) Notwithstanding any provision of the antitrust laws, for purposes of this section interested manufacturing parties and interested copyright parties may negotiate in good faith and voluntarily agree among themselves as to the collection, distribution, and verification of royalty payments, and may designate common agents to negotiate and carry out such activities on their behalf.

"(b) IMPLEMENTATION OF A NEGOTIATED ARRANGEMENT.—

"(1) No negotiated arrangement shall go into effect under this section until the Tribunal has approved the arrangement, after full opportunity for comment, as meeting the following requirements.

"(A) The participants in the negotiated arrangement shall include—

"(i) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Sound Recording Fund,

"(ii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as music publishers, and

"(iii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as writers.

"(B) For purposes of subparagraph (A) of this paragraph, the determination as to two-thirds participation shall be based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied. One or more organizations representing any of the types of individual interested copyright parties specified in the first sentence of this subsection shall be presumed to represent two-thirds of that type of interested copyright party if the membership of, or other participation in, such organization or organizations includes two-thirds of that type of interested copyright party based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied.

"(C) The implementation of the arrangement shall include all necessary safeguards, as determined by the Tribunal, which ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable. Such safeguards may include accounting procedures, reports and any other information determined to be necessary to ensure the proper collection and distribution of royalty payments.

"(2) Notwithstanding the existence of a negotiated arrangement that has gone into effect under this section, any interested manufacturing party that is not a party to such negotiated arrangement shall remain subject to the requirements of sections 1011 and 1012 and may fully satisfy its obligations under this subchapter by complying with the procedures set forth therein.

"(c) MAINTENANCE OF JURISDICTION BY TRIBUNAL.—Where a negotiated arrangement has gone into effect under this section, the Tribunal shall maintain jurisdiction and shall (1) hear and address any objections to the arrangement that may arise while it is in effect, (2) ensure the availability of alternative procedures for any interested manufacturing party or interested copyright party that is not a participant in the negotiated arrangement, (3) ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable, (4) ensure that it has adequate funds at its disposal, received either through the Copyright Office or through the entity administering the negotiated arrangement, to distribute to interested copyright parties not participating in the arrangement the royalty payments to which they are entitled under section 1014(c) or 1015(b), including applicable interest, and (5) ensure that the requirements of section 1016(b)(1)(C) are met.

"(d) JUDICIAL ENFORCEMENT.—The Tribunal may seek injunctive relief in an appropriate United States district court to secure compliance with the requirements of subsection (c).

"Subchapter C—The Serial Copy Management System

"§ 1021. Incorporation of the serial copy management system

"(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—

"(1) No person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to the standards and specifications to implement the Serial Copy Management System that are—

"(A) set forth in the technical reference document;

"(B) set forth in an order by the Secretary of Commerce under section 1022(b)(1), (2), or (3) of this title; or

"(C) in the case of a digital audio recording device other than a device defined in part II of the technical reference document or in an order issued by the Secretary pursuant to section 1022(b) of this title, established by the manufacturer (or, in the case of a proprietary technology, the proprietor of such technology) so as to achieve the same functional characteristics with respect to regulation of serial copying as, and to be compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document or in any order of the Secretary issued under section 1022 of this title.

"(2) If the Secretary of Commerce approves standards and specifications under section 1022(b)(4) of this title, then no person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to such standards and specifications.

"(b) PROHIBITION ON CIRCUMVENTION OF THE SERIAL COPY MANAGEMENT SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, the Serial Copy Management System in a digital audio recording device or a digital audio interface device.

"(c) ENCODING OF INFORMATION ON AUDIOGRAMS.—

"(1) No person shall encode an audiogram of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as improperly to affect the operation of the Serial Copy Management System.

"(2) Nothing in this subchapter requires any person engaged in the importation, manufacture, or assembly of audiograms to encode any such audiogram with respect to its copyright status.

"(d) INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this subchapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. However, any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

"§ 1022. Implementing the serial copy management system

"(a) PUBLICATION OF TECHNICAL REFERENCE DOCUMENT AND CERTIFICATION.—Within 10 days after the date of enactment of this chapter, the Secretary of Commerce shall cause to be published in the Federal Register the technical reference document along with the certification from the National Institute of Standards and Technology, as such certification appears in the report of the Committee on the Judiciary to the Senate on the Audio Home Recording Act of 1991, that the technical reference document sets forth standards and specifications that adequately incorporate the intended functional characteristics to regulate serial copying and are not incompatible with existing international digital audio interface standards and existing digital audio technology.

"(b) ORDERS OF SECRETARY OF COMMERCE.—The Secretary of Commerce, upon petition by an interested manufacturing party or an interested copyright party, and after consultation with the Register, may, if the Secretary determines that to do so is in accordance with the purposes of this chapter, issue an order to implement the Serial Copy Management System set forth in the technical reference document as follows:

"(1) FUNCTIONALLY EQUIVALENT ALTERNATIVES.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that such devices possess the same functional characteristics with respect to regulation of serial copying as, and are compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document.

"(2) REVISED GENERAL STANDARDS.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that—

"(A) the standards and specifications relating generally to digital audio recording devices and digital audio interface devices have been or are being revised or otherwise amended or modified such that the standards and specifications set forth in the technical reference document are not or would no longer be applicable or appropriate; and

"(B) such devices conform to such new standards and specifications and possess the same functional characteristics with respect to regulation of serial copying as the Serial Copy Management System set forth in the technical reference document.

"(3) STANDARDS FOR NEW DEVICES.—The Secretary may issue an order for the purpose of—

"(A) establishing whether the standards and specifications established by a manufacturer or proprietor for digital audio recording devices other than devices defined in part II of the technical reference document or a prior order of the Secretary under paragraph (1) or (2) of this subsection comply with the requirements of subparagraph (C) of section 1021(a)(1) of this title; or

"(B) establishing alternative standards or specifications in order to ensure compliance with such requirements.

"(4) MATERIAL INPUT TO DIGITAL DEVICE THROUGH ANALOG CONVERTER.—

"(A) GENERALLY.—Except as provided in subparagraphs (B) through (D), the Secretary, after publication of notice in the Federal Register and reasonable opportunity for public comment, may issue an order for the purpose of approving standards and specifications for a technical method implementing in a digital audio recording device the same functional characteristics as the Serial Copy Management System so as to regulate the serial copying of source material input through an analog converter in a manner equivalent to source material input in the digital format.

"(B) COST LIMITATION.—The order may not impose a total cost burden on manufacturers of digital audio recording devices, for implementing the Serial Copy Management System and the technical method prescribed in such order, in excess of 125 percent of the cost of implementing the Serial Copy Management System before the issuance of such order.

"(C) CONSIDERATION OF OTHER OBJECTIONS.—The Secretary shall consider other reasoned objections from any interested manufacturing party or interested copyright party.

"(D) LIMITATIONS TO DIGITAL AUDIO DEVICES.—The order shall not affect the recording of any source material on analog recording equipment and the order shall not impose any restrictions or requirements that must be implemented in any device other than a digital audio recording device or digital audio interface device.

"Subchapter D—Remedies

"§ 1031. Civil remedies

"(a) CIVIL ACTIONS.—Any interested copyright party or interested manufacturing party that is or would be injured by a violation of section 1011 or 1021 of this title, or the Attorney General of the United States, may bring a civil action in an appropriate United States district court against any person for such violation.

"(b) POWERS OF THE COURT.—In an action brought under subsection (a) of this section, the court—

"(1) except as provided in subsection (h) of this section, may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

"(2) in the case of a violation of section 1011 (a) through (d) or 1021 of this title, shall award damages under subsection (d) of this section;

"(3) in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof;

"(4) in its discretion may award a reasonable attorney's fee to the prevailing party as part of the costs awarded under paragraph (3) if the court finds that the nonprevailing party has not proceeded in good faith; and

"(5) may grant such other equitable relief as it deems reasonable.

"(c) RECOVERY OF OVERDUE ROYALTY PAYMENTS.—In any case in which the court finds that a violation of section 1011 of this title involving nonpayment or underpayment of royalty payments has occurred, the violator shall be directed to pay, in addition to damages awarded under subsection (d) of this section, any such royalties due, plus interest calculated as provided under section 1961 of title 28, United States Code.

"(d) AWARD OF DAMAGES.—

"(1) SECTION 1011.—

"(A) DEVICE.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording device, the court shall award statutory damages in an amount between a nominal level and $100 per device, as the court considers just.

"(B) MEDIUM.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording medium, the court shall award statutory damages in an amount between a nominal level and $4 per medium, as the court considers just.

“(2) SECTION 1021.—In any case in which the court finds that a violation of section 1021 of this title has occurred, the court shall award damages calculated, at the election of the complaining party at any time before final judgment is rendered, pursuant to subparagraph (A) or (B) of this paragraph, but in no event shall the judgment (excluding any award of actual damages to an interested manufacturing party) exceed a total of $1,000,000:

“(A) ACTUAL DAMAGES.—A complaining party may recover its actual damages suffered as a result of the violation and any profits of the violator that are attributable to the violation that are not taken into account in computing the actual damages. In determining the violator's profits, the complaining party is required to prove only the violator's gross revenue, and the violator is required to prove its deductible expenses and the elements of profit attributable to factors other than the violation.

“(B) STATUTORY DAMAGES.—

“(i) DEVICE.—A complaining party may recover an award of statutory damages for each violation of section 1021(a) or (b) of this title in the sum of not less than $1,000 nor more than $10,000 per device involved in such violation or per device on which a service prohibited by section 1021(b) of this title has been performed, as the court considers just.

“(ii) AUDIOGRAM.—A complaining party may recover an award of statutory damages for each violation of section 1021(c) of this title in the sum of not less than $10 nor more than $100 per audiogram involved in such violation, as the court considers just.

“(iii) TRANSMISSION.—A complaining party may recover an award of damages for each transmission or communication that violates section 1021(d) of this title in the sum of not less than $10,000 nor more than $100,000, as the court considers just.

“(3) WILLFUL VIOLATIONS.—

“(A) In any case in which the court finds that a violation of section 1011(a) through (d) of this title was committed willfully and for purposes of direct or indrect commercial advantage, the court shall increase statutory damages—

“(i) for a violation involving a digital audio recording device, to a sum of not less than $100 nor more than $500 per device; and

“(ii) for a violation involving a digital audio recording medium, to a sum of not less than $4 nor more than $15 per medium, as the court considers just.

“(B) In any case in which the court finds that a violation of section 1021 of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court in its discretion may increase the award of damages by an additional amount of not more than $5,000,000, as the court considers just.

“(4) INNOCENT VIOLATIONS OF SECTION 1021.—The court in its discretion may reduce the total award of damages against a person violating section 1021 of this title to a sum of not less than $250 in any case in which the court finds that—

“(A) the violator was not aware and had no reason to believe that its acts constituted a violation of section 1021 of this title, or

“(B) in the case of a violation of section 1021(a) of this title involving a digital audio recording device, the violator believed in good faith that the device complied with section 1021(a)(1)(C) of this title, except that this subparagraph shall not apply to any damages awarded under subsection (d)(2)(A) of this section.

“(e) MULTIPLE ACTIONS.—

“(1) GENERALLY.—No more than one action shall be brought against any party and no more than one award of statutory damages under subsection (d) of this section shall be permitted—

“(A) for any violations of section 1011 of this title involving the same digital audio recording device or digital audio recording medium; or

“(B) for any violations of section 1021 of this title involving digital audio recording devices or digital audio interface devices of the same model, except that this subparagraph shall not bar an action or an award of damages with respect to digital audio recording devices or digital audio interface devices that are imported, manufactured, or distributed subsequent to a final judgment in a prior action.

“(2) NOTICE AND INTERVENTION.—Any complaining party who brings an action under this section shall serve a copy of the complaint upon the Register within 10 days after the complaining party's service of a summons upon a defendant. The Register shall cause a notice of such action to be published in the Federal Register within 10 days after receipt of such complaint. The court shall permit any other interested copyright party or interested manufacturing party entitled to bring the action under section 1031(a) of this title who moves to intervene within 30 days after the publication of such notice to intervene in the action.

“(3) AWARD.—

“(A) GENERALLY.—Except as provided in subparagraph (B), the court may award recovery of actual damages for a violation of section 1021 of this title pursuant to subsection (d)(2)(A) of this section to each complaining party in an action who elects to recover actual damages.

“(B) LIMITATIONS.—

“(i) If more than one complaining party elects to recover actual damages pursuant to subsection (d)(2)(A) of this section, only a single award of the violator's profits shall be made, which shall be allocated as the court considers just.

“(ii) If any complaining interested copyright party or parties elect to recover statutory damages pursuant to subsection (d)(2) of this section in an action in which one or more other complaining interested copyright parties have elected to recover actual damages, the single award of statutory damages permitted pursuant to paragraph (1) of this subsection shall be reduced by the total amount of actual damages awarded to interested copyright parties pursuant to subsection (d)(2)(A) of this section.

“(f) PAYMENT OF OVERDUE ROYALTIES AND DAMAGES.—The court may allocate any award of damages under subsection (d) of this section between or among complaining parties as it considers just. Any award of damages that is allocated to an interested copyright party and any award of overdue royalties and interest under subsection (c) of this section shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided pursuant to a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1011 of this title.

“(g) IMPOUNDING OF ARTICLES.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1021 of this title.

“(h) LIMITATIONS REGARDING PROFESSIONAL MODELS AND OTHER EXEMPT DEVICES.—Unless a court finds that the determination by a manufacturer or importer that a device fits within the exemption of subparagraph (A) or (B) of section 1001(4) of this title was without a reasonable basis or not in good faith, the court shall not grant a temporary or preliminary injunction against the distribution of such device by the manufacturer or importer.

“(i) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—As part of a final judgment or decree finding a violation of section 1021 of this title, the court shall order the remedial modification, if possible, or the destruction of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that—

“(1) does not comply with, or was involved in a violation of, section 1021 of this title, and

“(2) is in the custody or control of the violator or has been impounded under subsection (g) of this section.

“(j) DEFINITIONS.—For purposes of this section—

“(1) the term ‘complaining party’ means an interested copyright party, interested manufacturing party, or the Attorney General of the United States when one of these parties has initiated or intervened as a plaintiff in an action brought under this section; and

“(2) the term ‘device’ does not include an audiogram.

“§ 1032. Binding arbitration

“(a) DISPUTES TO BE ARBITRATED.—Any dispute between an interested manufacturing party and an interested copyright party shall be resolved through binding arbitration, in accordance with the provisions of this section, if—

“(1) the parties mutual agree; or

“(2) before the date of first distribution in the United States of the product which is the subject of the dispute, an interested manufacturing party or an interested copyright party requests arbitration concerning whether such product is or is not a digital audio recording device, a digital audio recording medium, or a digital audio interface device, or concerning the basis on which royalty payments are to be made with respect to such product.

“(b) ARBITRAL PROCEDURES.—

“(1) REGULATIONS FOR COORDINATION OF ARBITRATION.—The Register shall, after consulting with interested copyright parties, prescribe regulations establishing a procedure by which interested copyright parties will coordinate decisions and representation concerning the arbitration of disputes. No interested copyright party shall have the authority to request, agree to, or (except as an intervenor pursuant to subsection (c) of this section) enter into, binding arbitration unless that party shall have been authorized to do so pursuant to the regulations prescribed by the Register.

“(2) PANEL.—Except as otherwise agreed by the parties to a dispute that is to be submitted to binding arbitration under subsection (a) of this section, the dispute shall be heard by a panel of three arbitrators, with one arbitrator selected by each of the two sides to the dispute and the third arbitrator selected by mutual agreement of the first two arbitrators chosen.

"(3) DECISION.—The arbitral panel shall render its final decision concerning the dispute, in a written opinion explaining its reasoning, within 120 days after the date on which the selection of arbitrators has been concluded. The Register shall cause to be published in the Federal Register the written opinion of the arbitral panel within 10 days after receipt thereof.

"(4) TITLE 9 PROVISIONS TO GOVERN.—Except to the extent inconsistent with this section, any arbitration proceedings under this section shall be conducted in the same manner, subject to the same limitations, carried out with the same powers (including the power to summon witnesses), and enforced in the courts of the United States as an arbitration proceeding under title 9, United States Code.

"(5) PRECEDENTS.—In rendering a final decision, the arbitral panel shall take into account any final decisions rendered in prior proceedings under this section that address identical or similar issues; and failure of the arbitral panel to take account of such prior decisions may be considered imperfect execution of arbitral powers under section 10(a)(4) of title 9, United States Code.

"(c) NOTICE AND RIGHT TO INTERVENE.—Any interested copyright party or interested manufacturing party that requests an arbitral proceeding under this section shall provide the Register with notice concerning the parties to the dispute and the nature of the dispute within 10 days after formally requesting arbitration under subsection (a) of this section. The Register shall cause a summary of such notice to be published in the Federal Register within 30 days after receipt of such notice. The arbitral panel shall permit any other interested copyright party or interested manufacturing party who moves to intervene within 20 days after such publication to intervene in the action.

"(d) AUTHORITY OF ARBITRAL PANEL TO ORDER RELIEF.—

"(1) TO PROTECT PROPRIETARY INFORMATION.—The arbitral panel shall issue such orders as are appropriate to protect the proprietary technology and information of parties to the proceeding, including provision for injunctive relief in the event of a violation of such order.

"(2) TO TERMINATE PROCEEDING.—The arbitral panel shall terminate any proceeding that it has good cause to believe has been commenced in bad faith by a competitor in order to gain access to proprietary information. The panel shall also terminate any proceeding that it believes has been commenced before the technology or product at issue has been sufficiently developed or defined to permit an informed decision concerning the applicability of this chapter to such technology or product.

"(3) TO ORDER RELIEF.—In any case in which the arbitral panel finds with respect to devices or media that were the subject of the dispute, that royalty payments have been or will be due under section 1011 of this title through the date of the arbitral decision, the panel shall order the deposit of such royalty payments pursuant to section 1013 of this title, plus interest calculated as provided under section 1961 of title 28, United States Code. The arbitral panel shall not award monetary or injuctive relief, as provided in section 1031 of this title or otherwise, except as is expressly provided in this subsection.

"(e) EFFECT OF ARBITRATION PROCEEDING ON CIVIL ACTIONS AND REMEDIES.—Notwithstanding any provision of section 1031 of this title, no civil action may be brought or relief granted under section 1031 of this title against any party to an ongoing or completed arbitration proceeding under this section, with respect to devices or media that are the subject of such an arbitration proceeding. However, this subsection does not bar—

"(1) an action for injunctive relief at any time based on a violation of section 1021 of this title; or

"(2) an action or any relief with respect to those devices or media distributed by their importer or manufacturer following the conclusion of such arbitration proceeding, or, if so stipulated by the parties, prior to the commencement of such proceedings.

"(f) ARBITRAL COSTS.—Except as otherwise agreed by the parties to a dispute, the costs of an arbitral proceeding under this section shall be divided among the parties in such fashion as is considered just by the arbitral panel at the conclusion of the proceeding. Each party to the dispute shall bear its own attorney fees unless the arbitral panel determines that a nonprevailing party has not proceeded in good faith and that, as a matter of discretion, it is appropriate to award reasonable attorney's fees to the prevailing party.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(4) to distribute royalty payments deposited with the Register of Copyrights under section 1014, to determine, in cases where controversy exists, the distribution of such payments, and to carry out its other responsibilities under chapter 10"; and

(2) in section 804(d)—

(A) by inserting "or (4)" after "801(b)(3)"; and

(B) by striking "or 119" and inserting "119, 1015, or 1016".

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking "As used" and inserting "Except as otherwise provided in this title, as used".

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting "or 10" after "8"; and

(2) in subsection (b) by inserting "or 10" after "8".

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act or January 1, 1992, whichever date is later.

SEC. 5. TECHNICAL REFERENCE DOCUMENT FOR AUDIO HOME RECORDING ACT OF 1991.

[Text of Technical Reference Document.]

SEC. 6. REPEAL OF SECTION 5.

Effective upon publication of the Technical Reference Document in the Federal Register pursuant to section 1022(a) of this title—

(a) section 5 of this Act shall be repealed, and

(b) section 1001(14) of this title shall be amended by striking "in section 5 of this Act" and inserting "as such document was published in the Federal Register pursuant to section 1022(a) of this title".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MERCHANT MARINE

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Merchant Marine Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 17, 1992, at 2 p.m. on maritime reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 17, 1992, at 2 p.m., in open session, to receive testimony on the bomber "roadmap" and related bomber programs and on the tri-service standoff attack missile [TSSAM], in review of S. 2629, the Department of Defense authorization bill for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 17, at 2:15 p.m. to hold a hearing on Treaty Doc. 102-30, the North Pacific Salmon Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. RIEGLE. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on committee prints of bills relating to veterans' compensation (S. 2322), dependency and indemnity compensation (S. 2323), homeless veterans (S. 2512), education benefits (S. 2647), Native American veterans' home loan (S. 2528), employment and training (S. 2515), and health care (S. 2575, incorporating provisions from S. 2575, S. 2740, S. 2372, and S. 1424), and the fiscal year 1993 medical construction project-approval resolution. The markup will be held on June 17, 1992, at 10 a.m. in room 418 of the Russell Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, June 17, 1992, at 10:30 a.m. to conduct a hearing on the condition of the thrift industry and the outlook for its future.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 17, 1992, to receive testimony from Jerry Langdon and William Liedtke, nominees to be members of the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 17, 1992, at 9:30 a.m. to hold a hearing on comprehensive health care reform proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TO CHANGE A CITY

• Mr. SIMON. Mr. President, a distinguished Nobel Prize winner from the University of Chicago is Dr. Leon Lederman, who has started a program of teaching teachers, inspiring them in the areas of science and mathematics to do better and to expect more from their students.

Recently, he spoke to the American Philosophical Society Symposium on the underclass about the work that he is doing and about the problems that he experiences at all levels of government and even from his own university.

He does not suggest that people do not have good intentions, but sometimes the structure stands in the way of doing anything that is new and valuable.

I ask to insert the Leon Lederman speech into the RECORD at this point.

The speech follows:

TO CHANGE A CITY

(By Leon M. Lederman)

An adage I read in a business brochure calls for the courage to change the things that can be changed, the serenity to accept those that cannot be, and the wisdom to know the difference. I am chronologically advantaged enough to recall a Presidential candidate in the 1930's tell us: "one third of a nation is ill-housed, ill-clothed and ill-fed." Of course this was Franklin Roosevelt and he was talking about the underclass of 1930. So many things have happened since then. As a nation, we have grown immensely more affluent by any measure you may choose, we have had long periods of intense concern about the poor, the underclass, minorities . . . we have legislated equality, ruled against segregation, we have "Brown vs. Board of Education," we have an extensive welfare system, Head Start programs, at least some Head Start, and, and other public, private initiatives too numerous to know. But the 1930's assessment is still with us and although only a fool would say we have not made any progress, there seems to be an invariant—one third of a nation (still!) . . .

This would seem to call for wisdom and serenity to conform to the adage but it is not always wisdom that shapes what one does . . . it wasn't wisdom that got me into the campaign I will tell you about. Frankly I'm not sure I know what it was. Perhaps it is arrogance, the arrogance of the scientist who has had some success in management or perhaps it's just unreasoned anger. I find myself being very angry these days but I'll try to control this and tell you what I know. It has to do with education. It has to do with public schools in large cities.

First I must tell you about my city—Chicago. With 410,000 students, it's the third largest school system in the nation. There are somewhat over 20,000 teachers and some 17,000 of them must teach some kind of math and science, largely in primary school. Like so many large cities, the school population is 88% minority, 12% Asian and white. So much for Brown vs. the Board of Education. Over 67% of the children come from families below the poverty level. The drop out rate is officially listed by the Board of Education as 45% but the more reliable estimate is that between 60 and 70% of the children never graduate from high school. For individual schools in the worst districts, the numbers can be in the high 80 percent. Chicago students do very poorly on national tests. Over half the high schools placed in the lowest one percentile of ACT scores.

Again, like all other cities in America, the streets and even the school corridors are unsafe—violence, drugs, gangs are part of the territory. Many school buildings are over 100 years old, they are over-crowded with gyms and corridors impressed into use as classrooms. Jonathan Kozol documents this so much more eloquently in his book, "Savage Inequalities." One interesting piece of data bearing on the resilience of the underclass fraction is the increase in births to single women compared to the total of live births.[1] In 1950, this was 2.9%, in 1990 it is 28%. What has this to do with education? Well one of the President's goals is that by the year 2000, all children will be ready for school. What does this mean? It means:

(1) supplemental nutrition problems for pregnant women and young children; (2) it means immunization; (3) it means prenatal care; (4) it means special attention to the babies born to poor women; and (5) it means encouraging, not discouraging family planning and sex education. Children that are part of these statistics have a high probability of being problem children in school: hyperactivity, low attention span, impaired hearing and vision, asthma and a variety of learning problems resulting from malnutrition and brain damage in utero—these children are not ready and very little is being done to change the numbers * * * "by the year 2000."

Out teachers tell us that one or two in a class can be handled without shortchanging the rest but more tends to lead to paralysis. Ernest Boyer's 1991 study indicates that 35% of the children in this nation are not ready for school when they enter kindergarten. With this as background, let's look again at Chicago," . . . the worst school system in the nation," according to William Bennett, former Secretary of Education.

Something interesting happened in Chicago in 1988—a movement lead by outraged parents, eagerly assisted by university people, the private sector and many other elements of the city sharing the view of the public schools as a tragic and no longer tolerable disaster, combined to pass the most radical school reform law in the nation. Today, at least in principle, Chicago has almost 600 new "corporations", the CEO (principal) is installed by a Board of Directors (local school councils—elected by citizens who live around the school) and he or she must run a successful operation or be dismissed. It is far too early to comment on this reform except for the obvious benefit of stirring up of interest by the parents and citizens in the process—in running for LSC, in voting and being, even in a limited way, enfranchised by the reform of the educational system.

I was drawn to the excited discussions of how to make school reform work after moving to The University of Chicago in 1989. Out of these discussions there arose an idea for how a group of interested parents, teachers, scientists and businessmen could intervene to make a difference. And so was created the Teacher's Academy for Math and Science which miraculously opened on the campus of IIT in mid-Chicago in September of 1990.

This private, not-for-profit entity was formally created by a Council of Presidents (all the Universities in Chicago) and has, on its board, teachers, principals, scientists from universities, from two national labs near Chicago, private sector leaders, executives of some of Chicago's leading corporations, museum directors, the Chicago Teachers' Union, Urban League and the Hispanic equivalent, UNO, and representatives of the Mayor and Governor.

The intervention we had designed was a massive retraining of the teachers—those 17,000 teachers who must teach math and science and who, for the most part, were never trained to do so.

This is a very large and very complex program. With good will all around, one has still to tread on cross-cultural, political and ethnic eggshells. Yet, it's the only program I know that has the scale to address the president's further goal of "being No. 1 by the year 2000." There are many reasons why the teachers in the Chicago Public School are inadequately trained and this raises a host of other problems . . . Let me simply quote: "in the broad sweep of educational history, teacher education does not emerge as a potent force—the conditions one needs for vigorous, coherent and self-renewing programs of teacher preparation are not in place." Even if they were, it would be at least a decade before this would show up with significant force to have an effect. When this happens, the Teachers' Academy, as now designed, will not be needed. But let me jump ahead here to assure you that our experience with the teachers has been very positive. We find that they care, they want to be better teachers, they hate to be required to teach things that they do not understand; there is a love of children there. In our view the ultimate tragedy is to have children arrive at school, having overcome whatever obstacles their lives provide, from their bed to the schoolroom, ready to learn only to discover in their child-wise way, that the teacher is merely and unhappily using time.

Our conviction is that the teacher is the key to a positive, zestful school experience and to deploying the newest techniques for teaching math and science: hands-on, activity based, children working together, talking and doing, the teacher not the authoritative giver of all wisdom but as mentor and guide. These new techniques act as a catalyst, engage the child and the teacher, and are designed to involve the parent or the grandparent. We didn't invent this: interventions of this kind were going on all over the country—one school here, two schools there, ten.

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[1] I am indebted to Mr. Irving Harris for information on the pre-school problem.

twenty, fifty teachers. There were many programs going on in and around Chicago. The best ones had magical effects: teachers were re-enthused, children entranced by the learn-play activity were no longer sitting passively at their places, praying that they not be called upon. Now they work together in groups—wrong answers are just as welcome as correct ones—the objective is thinking skills. Here, through math and science, there is a key to true reform of the entire educational process.

Our plan was to "do" the whole city. Exploiting school reform, we would contract with the principal and the LSC. We quickly realized that the scale of our mission required in-service training that is, taking the teacher out of the classroom so we'd have to supply our own replacement teachers.

We hastily concocted a sixteen week intensive training program, realizing it would evolve in time. We supplemented this with afternoon, week-end and summer programs of follow-up enrichment, technology workshops, museum programs, every possible form of outreach. To get through 17,000 teachers, we planned to do 100 the first year, 1000 the second year and 2500 from then on until year eight when we could taper back to preservice teachers and follow-up programs.

Well, reality? We indeed managed 109 teachers the first year with about 1500 teachers attending our outreach programs. We are now in our second year. We are changing things and we'll be lucky if we get through 600 teachers. We have had over 3000 teachers attend our workshops and ancillary programs. We intend to have a full-time staff person in all the schools we cover for one year as one component of what amounts to a permanent follow-up program. However, we are frustrated by the difficulties of recruiting capable staff and even more by the inexplicable difficulty of securing funding.

Too many details. Let me summarize the status and my conclusions.

The good news: it works! Or to state it more carefully, it seems to show promise of working. In addition to built-in pretest and post-test measures, we record comments from teachers, principals and parents as well as our own in-school staff specialists. We measure hours of science and math taught in our schools and in the schools not yet involved and we have begun to compare truancy rates. In spite of a reasonable number of mistakes, the palpable enthusiasm of teachers who should be "burn-outs" and principals is evident. We are concentrating on K-4 now, next year we'll extend it to K-8.

If early school education can influence the cycle that traps so many minorities—the cycle of failure and drop-out, of poverty and crime, of teen age pregnancy and new candidates for the entrapment, then we have, I believe, shown a way to genuine change.

The bad news: It's an expensive program although the other things the City needs are even more expensive. When in full swing, the Chicago effort will need $30M a year . . . under present circumstances, the bulk can only come from the Federal Government. We were enthusiastically supported by DOE Secretary James Watkins and succeeded in getting start-up funds from the Department of Energy and the National Science Foundation. An early grant from David Hamburg's Carnegie Corporation was enormously helpful. Last year we raised $4M from the Feds, $2M from the state and about $2M from private sector contributions. This year the state (like so many other states) looks hopeless, the city even more so. Floods are also not helpful. Our expectations for Federal support have been scaled back from $15M to $6M or $7M. Support from foundations and businesses continues to be strong but it takes a huge effort to raise one or two million dollars if you are not Harvard or Stanford.

From the beginning we have received the following criticisms of our program: What good is it to fix teachers when the family support is lacking or when learning impairment is already so advanced that a great kindergarten teacher is too late . . . or when the buildings are so old and crumbling or when. . . . ? My response has always been that the critic is indeed correct but that if we waited for a total solution, nothing would ever start, so we'll continue with the teachers and encourage the critic to get busy on these other things. It seems absolutely clear to me that our society had better get serious about all these issues and we must do it soon.

I have thought deeply about how we do things in this country. Suppose that what we are doing makes sense. There are 25 cities like Chicago that could do similar things. We are not marketing the specific programs adopted although we are trying to document all of our efforts and mistakes. What is unique is the marshalling of all the intellectual resources of a community to a purpose. The commitment of University President(s), CEO's of major corporations, scientists, professional educators should be enough to sway a funding agency. However, conventional reviews by the professional bureaucrats is still the rule. To extend the kind of thing we are doing to 25 cities and perhaps to intervene in an equal number of poor rural areas would require something under $1 Billion. In Washington, they look at you as if you are really not with it—one billion dollars! But is this really too much to invest in the underclass—to provide a lifeline, an escape ladder out of ignorance and poverty?

Yes there is indeed a fiscal crisis yet the Republican president proposed and the Democratic Congress approved a military budget for 1993 which will allocate something like $140 billion dollars to defend Europe against an attack from the East! Is there any wonder at the irritation of the voters or the apparent frustration of legislators who are quitting or my own and, hopefully your personal anger?

My mood alternates—I oscillate from gratitude at getting any help at all (even $6 million is a huge sum of money) all the way to discouragement with the sheer weight of bureaucracy that one must penetrate in order to get anything done. This applies to the Federal Government, to the State, the City, the School System, even the University. The teacher enhancement initiative is very often greeted with great praise: "visionary," "bold," "practical" are some of the accolades. Yet, in spite of leaders at the highest level who do grasp the issues, it is also clear that they live under constraints and one still has to prevail way down in the bureaucracies where decisions are made and check are written. All over town one finds highly skilled professionals in the best sense of the world but also in the worst sense of the word. The rhetoric is echoed: "we must break the mold, we must have radical reform," but the real understanding of these words, the real sense of urgency, the awesome implications of an existing teachers corps in which, for example, only 35,000 out of 1 million elementary school teachers (3.5%!) are specifically trained for math and science teaching, these are rarely appreciated—no, there is no priority for the underclass, it creates a most discouraging block to action.

POSTSCRIPT: A CITIES INITIATIVE

There are many successful interventions; we read and hear about wonderful people who, by the force of their energy and creativity, will turn around an entire school or two. The pre-school initiatives are another case in point. But how do we begin a national deployment of what works? How do we pull together the crucial ingredients? Let me, at substantial risk, propose something really new. Suppose we define a Special Administrator for Cities, charged with the task of bringing the educational achievements of our larger inner cities up to the standards we want our nation to have. This must include teacher retraining, some equipment, e.g. computers, a large extension of Head Start and the other early intervention programs which are needed to make children ready for school. This Special Administrator must be educationally expert, nationally known, "street smart" and city-wise. Suppose this Special Administrator, appointed by the President with the concurrence of key Congressional committee chairs, is given a budget appropriation which allows the Administrator to encourage the formation of consortia of the kind I have described for Chicago. Cities would organize these not-for-profit groupings to apply for Federal funds. The matching could be 50% Federal, 50% State, City and private sector contributions. The grants might be for a period of five years whereupon the Federal contribution begins to be reduced as local sources increase. Total appropriations for this Cities Initiative might grow to something like $5B/year some of which may be reallocated from other agencies.

The Administrator could report to a Commission on the Cities which might include the Secretaries of Education, HHS, Energy, the NSF, NIH and NASA Directors as well as the President's Science Advisor and Domestic Council chair. The size of staff of the Administrator should be legally restricted since we want to keep this new (bypass) artery as free-flowing as possible. A proposal by a City should merely be authenticated e.g. the President personally asks and receives a pledge of deep commitment from the President of the local University, the CEO of the Corporation, the Chairperson of the City School Board, the Mayor and Governor, etc. No site visits or peer review or Washington second guessing is needed. Once a year, the Administrator would ask the relevant agencies to form a visiting committee to gauge and document progress, to insure fiscal integrity and to improve intercity sharing of experience and date. One could start with three cities and gradually work up to the twenty-five or so cities that contain a large fraction of what we have been calling the underclass. Let's find the courage to change things.•

NATIONAL WIRELESS TELECOMMUNICATIONS MONTH

• Mr. GORTON. Mr. President, the month of June is National Wireless Telecommunications Month. I would like to take this opportunity to mention a few of the cellular industry's many accomplishments.

Today America's roads are safer than a decade ago. This is an achievement which is in part due to the cellular telecommunications industry. The cellular industry has brought instantaneous communication to the fingertips of millions of Americans traveling our highways each year. This year marks the first anniversary of the cellular industry's continuous safety campaign launched in cooperation with the national Highway Traffic Safety Administration [NHTSA].

The cellular industry's Buckle-Up and Talk Safely Program emphasizes to subscribers the importance of the proper use of cellular technology by encouraging users to rely upon both its hands-free and memory dialing capabilities. In addition the safety campaign promotes safe driving by urging drivers to buckle up and use safety belts.

Not only does the cellular industry promote safety belt usage, but it also encourages cellular subscribers to report suspected drunk drivers to local law enforcement officials. Thanks to this cooperative effort between NHTSA and the cellular industry there are now more than 8 million extra pairs of eyes available to assist police in their efforts to remove drunken drivers from our roads.

The campaign also stresses the importance of knowing how to use cellular technology during emergencies and life-threatening situations. Cellular carriers across the country have made a commitment to ensuring that systems are tied to existing 911 emergency networks. In areas where no landline system is available, cellular carriers are committed to creating cellular 911 networks. Clearly, the cellular industry is dedicated to safety.

Nationally an estimated 500,000 calls are placed each month by cellular subscribers to 911 and other emergency numbers. Callers are reporting drunk drivers, weather problems, vehicle breakdowns, fires, and traffic accidents. It is clear that countless Americans benefit greatly from cellular technology through its many contributions to highway safety.

Washington State is home to several of the Nation's leading cellular companies, McCaw Cellular Communications, U.S. West NewVector, and GTE are each recognized leaders in the cellular industry's work towards increasing safety. U.S. West NewVector, for example, recently launched Traffic Watch which allows its customers to call in for Seattle-area traffic reports. During rush hour traffic reports are updated on a minute-by-minute basis and customers can also call in their own traffic reports. Cellular One, a division of McCaw Cellular, provides similar service to its customers in cooperation with KIRO radio in the Puget Sound area.

Mr. President, I would like to congratulate the cellular industry on the first anniversary of its Buckle-Up and Talk-Safely safety campaign. It is important to acknowledge the dedication of the cellular industry to highway safety, not only in Washington State but in other States across the Nation. I applaud the dedication of the cellular industry to this campaign and encourage the industry to continue its commitment to highway safety.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Richard W. Day, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from July 4–19, 1992.

The committee has determined that participation by Mr. Day in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for John E. Lynn, a member of the staff of Senator JOHNSTON, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from July 4–19, 1992.

The committee has determined that participation by Mr. Lynn in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Julie Montgomery, a member of the staff of Senator PELL, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from May 25–31, 1992.

The committee has determined that participation by Ms. Montgomery in this program, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Peter D. Caldwell, a member of the staff of Senator JEFFORDS, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from May 25–31, 1992.

The committee has determined that participation by Mr. Caldwell in this program, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Andrew Samet, a member of the staff of Senator MOYNIHAN, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinator Empresarial [CCE], from May 24–27, 1992.

The committee has determined that participation by Mr. Samet in this program, at the expense of the CCE, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Kathryn Gest, a member of the staff of Senator COHEN, to participate in a program in Germany and Czechoslovakia, sponsored by the Hanns Seidel Stiftung, from May 23–30, 1992.

The committee has determined that participation by Ms. Gest in this program, at the expense of the Hanns Seidel Stiftung, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Karen Robb, a member of the staff of Senator DECONCINI, to participate in a program in Singapore, sponsored by the Singapore International Foundation in conjunction with the United States-Asia Institute, from May 23–29, 1992.

The committee has determined that participation by Ms. Robb in this program, at the expense of the Singapore International Foundation and the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Alex Flint, a member of the staff of Senator DOMENICI, to participate in a program in Singapore, sponsored by the Singapore International Foundation in conjunction with the United States-Asia Institute, from May 23–29, 1992.

The committee has determined that participation by Mr. Flint in this program, at the expense of the Singapore International Foundation and the United States-Asia Institute, is in the interest of the Senate and the United States.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is below the budget resolution by $1.7 billion in budget authority and above by $3.6 billion in outlays. Current level is $2.9 billion above the revenue floor in 1992 and $0.7 billion below the revenue floor over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $351.9 billion, $0.7 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through June 12, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 1, 1992, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE 102D CONGRESS, 2D SESSION AS OF JUNE 12, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level +/− resolution
ON-BUDGET			
Budget authority	1,207.7	1,269.0	−1.7
Outlays	1,201.7	1,205.3	+3.6
Revenues:			
1992	850.5	853.4	+2.9
1992–96	4,836.2	4,835.5	−0.7
Maximum deficit amount	351.2	351.9	+0.7
Debt subject to limit	3,982.2	3,844.9	−137.3
OFF-BUDGET			
Social security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE 102D CONGRESS, 2D SESSION SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS JUNE 12, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Mandatory adjustments[1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted[2]	1,260,314	1,199,389	853,364
ENACTED THIS SESSION			
Emergency Unemployment Compensation Extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			(3)
Technical Correction to the Food Stamp Act (Public Law 102–265)	(3)	(3)	
Further Continuing Appropriations, 1992 (Public Law 102–266)[4]	14,178	5,724	
Extend Certain Expiring Veterans' Programs (Public Law 102–291)	(4)	(4)	
1992 Rescissions (Public Law 102–298)	(8,154)	(2,499)	
Total enacted this session	8,727	5,928	(3)
Total current level	1,269,041	1,205,318	853,364
Total budget resolution[5]	1,270,713	1,201,701	850,501
Amount remaining:			
Over budget resolution		3,617	2,863
Under budget resolution	1,672		

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H. Con. Res. 121).

[2] Excludes the continuing resolution enacted last session (Public Law 102–145) that expired March 31, 1992.

[3] Less than $500,000.

[4] In accordance with Section 251 (a)(2)(D)(i) of the Budget Enforcement Act, the amount shown for Public Law 102–266 does not include $107,000,000 in budget authority and $28,000,000 in outlays in emergency funding for SBA disaster loans.

[5] Includes revision under Section 9 of the Concurrent Resolution on the Budget (see p. S4055 of "Congressional Record" dated March 20, 1992).

Note: Detail may not add due to rounding.•

TRIBUTE TO MUNFORDVILLE

• **Mr. McCONNELL.** Mr. President, I rise today to recongize Munfordville, a small town located in central Kentucky.

Munfordville is a community with high hopes for the future. Despite the fact that the town has experienced little growth recently, the residents believe that this is a time for building. There are several beautification projects that have been completed and have done a great deal to improve the town's appearance. The courthouse just had 200,000 dollars' worth of renovations that enhanced the historical flavor of town square. Other projects include the planting of new flowers and trees around the community.

The people of Munfordville hope that these new improvements will help make their town more attractive to industries looking for new locations. Other measures that have been taken to lure businesses to the area are an improved sewage treatment plant that will be able to handle added factories, and a newly built industrial building. The town even hired someone full time to recruit industry.

Developing more community leaders is another way Munfordville residents have worked to make their town better. The chamber of commerce is planning a leadership program to begin in January 1993. In addition, the Hart County school system has lowered their dropout rate from 60 percent to 2 and 3 percent, an accomplishment that has won them State and national awards.

Munfordville is an example of a community working together. It is for this reason that I would like to recognize this town.

Mr. President, would you please submit the following article from the Louisville Courier-Journal into today's CONGRESSIONAL RECORD.

The article follows:

MUNFORDVILLE

(By Cynthia Crossley)

Munfordville's history has been shaped in large part by its geography.

The rolling terrain of what is now Hart County lured settlers and, decades later, Civil War generals, by offering impressive panoramas—and a commanding view of an enemy's approach.

The Green River bisects Hart County and that led to construction of a railroad bridge, which became part of a key supply route during the Civil War.

Because of the bridge, a battle was fought at Munfordville. And for decades after the war, residents indulged in skirmishes of their own—skirmishes that divided Hart County between its northern and southern halves.

"The river has been the battleground," said Bob Becker of the Hart County Historical Society.

This rivalry crystallized between Munfordville, the county seat, and Horse Cave, a once-prosperous tourist town that enjoys a place in Kentucky's cave country on Hart county's southern border. At one time, each town had its own chamber of commerce and school system.

When the public schools were consolidated into the Hart County system in 1970, Horse Cave jumped county lines and joined with Cave City in Barren County to form Caverna Independent Schools. This led to an intense basketball rivalry, and gave some romances a "West Side Story" flavor.

"If someone from Hart County was going with someone from Caverna, there would be fighting. It was real bad." said Lesia Logsdon, a secretary at the Hart County News-Herald.

Today, the school rivalries have cooled, (When several people from both Munfordville and Horse Cave mentioned this year's Mr. Basketball, Tick Rogers, they all said he was from Hart County, not just Munfordville.) But there is still a division in other aspects of life.

According to Hart County Historical Society president Ruth Becker, Munfordville residents tend to go to Elizabethtown both to shop the malls and for medical care at Hardin Memorial Hospital, Horse Cave residents seek treatment at Caverna Memorial Hospital south of town, and shop in Bowling Green.

"They do this even though the two towns, Munfordville and Horse Cave, are only 10 miles apart," she said.

This lack of unity "I think has hurt the county," said Bob Becker.

Over the years Hart County has recruited few industries. Its agriculture-based economy has been plagued with double-digit unemployment. In Munfordville, the two big employers are Louisville Bedding, a mattress-pad maker, and the school system.

Horse Cave has had more success recruiting industries, and has a small but growing tourist trade.

But Horse Cave's success have not been enough to make Hart County prosper, and parts of Munfordville are much the worse for wear.

The courthouse fell unexpectedly into the spotlight in 1990 when a highly publicized trial was transferred to Hart Circuit Court. Signs of dilapidation at and near the courthouse made some local residents wince (especially when that dilapidation showed up on television).

As soon as the trial ended, the county began working on plans to renovate the courthouse, which was built in 1929. They poured $200,000 into the building and the improvements were dramatic.

Contractors repaired the roof and bricking, repainted the window trim and installed new carpeting throughout. The building now sports new doors with brass handles. The first-floor hallway gained a large brass chandelier with candlestick lights.

With the improved appearance of the courthouse, the historical flavor of the buildings surrounding the square came back into focus.

Two residents, Charlie Williams and Stokes Baird IV, have worked from time to time since their college days, along with the Munfordville Women's Club, on beautification projects. One effort got many of the downtown buildings spruced up. Another has been to plant flowers and trees.

"Munfordville has more elm trees than nearly any town you'll ever be in," said Williams, the city attorney. That's partly because the city has been buying a new kind of elm that Williams said is resistant to Dutch elm disease.

From the Green River bridge on Munfordville's southern approaches, one can see a neat procession of mostly restored buildings and historic homes marching uphill to define Munfordville's town center. The historical society offers a walking tour of the town to show off buildings left from the days of town founder Richard Munford, including some of his brick homes and the Munford Inn, built of logs in 1801 and now maintained by the Munfordville Women's Club.

While such improvements don't go far toward solving Hart County's economic problems, many residents are optimistic that things are starting to change.

When County Judge-Executive Vince Lang first ran for the office in 1985, he campaigned on the theme of reuniting the county. After his election, he started working to merge the Munfordville and Horse Cave Chambers of Commerce into the Hart County Chamber of Commerce, a task completed in 1986.

About three years ago, the chamber's board hired a full-time director, Bob Sims, who went to work to recruit industry and to develop more community leaders.

The chamber is preparing a Leadership Hart County program, similar to programs offered by other chambers. The first class is scheduled for January 1993.

Recruiting efforts, however, have hit some stumbling blocks. While there has been some new development—some fast-food restaurants, a shopping center and a motel are newcomers to the Interstate 65 interchange just north of Munfordville—the town's aging sewage treatment plant has caused problems. It no longer meets state standards and cannot handle industrial expansion. Environmental officials have ordered that it be replaced.

A new treatment plant is in the works, and Mayor Charles Hays said it should be finished in about two years.

In the hope of attracting industry, county officials built a $500,000 industrial building just west of the interchange. between I-65 and a main CSX rail line. Sims said the building offers about 35,000 square feet of space but can be expanded to 100,000 square feet.

However, it sits empty after more than a year. Without the sewage treatment improvements, says Sims, the building "is like a Cadillac without an engine."

Another problem has been the loss of some of the chamber's federal funding. Sims says he has to find a new source for about $17,000 of his $50,000 annual budget. Lang says he hopes Sims can find the money: "The small towns that don't have a full-time mayor or someone working full-time on economic development fall behind."

But there are reasons for optimism, among them the Hart County school system, which has cut its dropout rate in the last dozen years from more than 60 percent to between 2 and 3 percent. The system also offers the oldest academic competition in the state. Hart Superintendent Wandel Strange, who is retiring, said those were among his top priorities when he arrived as superintendent in 1980.

Hart County's dropout program, which has won several state and national awards, is a product of increased academic and athletic offerings, more student activities and individual counseling, plus a new work-study program and aggressive follow-up.

"When people asked me why we were using a shotgun approach—why we didn't just try one thing at a time—I told them we couldn't wait, it was already too late," Strange said. "My theory is students who get involved in their school, they stay with you. They become like a close family."

If, between its schools and its chamber, Hart County produces new leadership, then another source for optimism may come into play—Hart County's potential for growth.

For example, there's Munfordville's Civil War heritage. The assets here include three fortifications that are the focus of an annual September reenactment of the 1862 Battle of Munfordville.

There is also a large monument to a Mississippi regiment that fell in that battle. All are difficult to find during the rest of the year because they are on private property.

Then there is a substantial population attracted to the county's rolling vistas by Glen Thomas' ads in such publications as Mother Earth News and Organic Gardening. Thomas, who is continuing the effort started by Williams and his father, Davis Williams, in the early 1970s, is marketing farmland to people seeking to escape escalating land prices and urban environmental problems.

In Hart County, the new residents have started food cooperatives, become active on issues ranging from solid waste to literacy, and in some cases, started small but profitable businesses ranging from mail-order food sales to woodworking and carpentry.

Thomas' ads attracted another group—the Amish. About 40 families have moved to Hart County from Ohio. Thomas said they have "put up new hog barns and chicken houses, new fencing, new homes . . . and those old farms looked 100 percent better six months after they arrived."

While the Amish won't take direct roles outside their community, the other "newcomers" might. Said Thomas: "We need a few more movers and shakers. We've still got a long way to go."

Population (1990): Munfordville, 1,556; Hart County, 14,890.

Per capita income (1989): $11,055, or $2,768 below the state average.

Jobs (1989): Manufacturing, 1,048 employees; wholesale/retail, 628; services, 315; state/local government, 606; contract construction, 55.

Big employers: Hart County schools, 335; Dart Container Corp. 325; Louisville Bedding, 230; Ken-Dec Inc., 120.

Media: Newspapers—The Hart County News-Herald (weekly). Radio: WLOC AM and FM. Television: Cable available.

Transportation: Air—Glasgow's Moore Field, 24 miles south of Munfordville. Scheduled commercial air service available at Standford Field in Louisville, 69 miles north of Munfordville. Rail—CSX Transportation. Truck—24 truck lines serve Munfordville.

Education: Cavema independent, 1,002 students; Hart County, 2,231 students.

Topography: Prominent knobs, rolling terrain with caves and sinkholes. The Green River bisects Hart County, and Nolin River Lake serves as part of the county's western boundary. A small part of Mammoth Cave National Park is in the southwest part of the county.

FAMOUS FACTS AND FIGURES

Hart County is named for Capt. Nathaniel G.T. Hart, one of the Kentucky "long knives" killed during the River Raisin massacre in Michigan during the War of 1812. Hart County was created seven years later, from Hardin and Green counties.

Munfordville is where two lads named Simon and Tom, who were born in 1823, grew up. Close friends as children, Simon won appointment to the U.S. Military Academy at West Point. Tom followed a year later. After graduation, both served in the War with Mexico. Then Simon resigned his commission to pursue a business career. Six years later the Civil War broke out. Tom—Gen. T. J. Wood—joined the Union Army. Simon Bolivar Buckner urged Kentucky to remain neutral in the war; he later accepted a commission as brigadier general in the Confederate Army. The two men fought each other in the bloody battles of Chickamauga and Chattanooga, Tenn., and almost met a third time at Munfordville.

Simon Bolivar Buckner served as governor of Kentucky from 1887 to 1891, and died in 1910 at his home, Glen Lily, near Munfordville. He was the last surviving Confederate general. (His friend Wood died in 1906 in Dayton, Ohio.)

John Hunt Morgan also has ties to Munfordville. The notorious raider and 84 members of his original command were sworn into Confederate service in front of the old Green River Baptist Church. The church was burned during the September 1862 battle. Only a pair of concrete steps in an old cemetery mark its location.●

TIME FOR SEQUENTIAL REFERRAL EXTENDED—S. 2566

Mr. RIEGLE. Mr. President, I ask unanimous consent that the time for the sequential referral of S. 2566, the Department of Energy Laboratory Partnership Act, be extended to June 25, 1992, and that if the Committee on Governmental Affairs has not reported the bill by that time, it then will be automatically discharged and returned to the calendar.

The PRESIDING OFFICER. Without obligation, it is so ordered.

AUDIO HOME RECORDING ACT

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 389, S. 1623, a bill to implement the royalty payment system and a serial copy management system for digital audio recording, and for other purposes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1623) to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Audio Home Recording Act of 1991".

SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA

"SUBCHAPTER A—DEFINITIONS, PROHIBITION OF CERTAIN INFRINGEMENT ACTIONS, AND RULES OF CONSTRUCTION

"Sec.

"1001. Definitions.

"1002. Prohibition on certain infringement actions.

"1003. Effect on other rights and remedies with respect to private home copying or otherwise.

"SUBCHAPTER B—ROYALTY PAYMENTS

"1011. Obligation to make royalty payments.

"1012. Royalty payments.

"1013. Deposit of royalty payments and deduction of expenses.

"1014. Entitlement to royalty payments.

"1015. Procedures for distributing royalty payments.

"1016. Negotiated collection and distribution arrangements.

"SUBCHAPTER C—THE SERIAL COPY MANAGEMENT SYSTEM

"1021. Incorporation of the serial copy management system.

"1022. Implementing the serial copy management system.

"SUBCHAPTER D—REMEDIES

"1031. Civil remedies.

"1032. Binding arbitration.

"SUBCHAPTER A—DEFINITIONS, PROHIBITION OF CERTAIN INFRINGEMENT ACTIONS, AND RULES OF CONSTRUCTION

"§1001. Definitions

"As used in this chapter, the following terms and their variant forms mean the following:

"(1) An 'audiogram' is a material object (i) in which are fixed, by any method now known or later developed, only sounds (and not, for example, a motion picture or other audiovisual work even though it may be accompanied by sounds), and material, statements or instructions incidental to those fixed sounds, if any, and (ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(2) A 'digital audio copied recording' is a reproduction in a digital recording format of an audiogram, whether that reproduction is made directly from another audiogram or indirectly from a transmission.

"(3) A 'digital audio interface device' is any machine or device, now known or later developed, whether or not included with or as part of some other machine or device, that supplies a digital audio signal through a nonprofessional interface, as the term 'nonprofessional interface' is used in the Digital Audio Interface Standard in part I of the technical reference document or as otherwise defined by the Secretary of Commerce under section 1022(b).

"(4) A 'digital audio recording device' is any machine or device, now known or later developed, of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(5)(A) A 'digital audio recording medium' is any material object in which sounds may be fixed, now known or later developed, in a form commonly distributed for ultimate sale to individuals for use by individuals (such as magnetic digital audio tape cassettes, optical discs, and magneto-optical discs), that is primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include any material object—

"(i) that embodies a sound recording at the time it is first distributed by the importer or manufacturer, unless the sound recording has been so embodied in order to evade the obligations of section 1011 of this title; or

"(ii) that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical library works, including, without limitation, computer programs or data bases.

"(6) 'Distribute' means to sell, resell, lease, or assign a product to consumers in the United States, or to sell, resell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public;

"(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in an audiogram a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public; or

"(C) any association or other organization—

"(i) representing persons specified in subparagraph (A) or (B), or

"(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

"(8) An 'interested manufacturing party' is any person that imports or manufactures any digital audio recording device or digital audio recording medium in the United States, or any association of such persons.

"(9) 'Manufacture' includes the production or assembly of a product in the United States.

"(10) A 'music publisher' is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

"(11)(A) A 'professional model product' is an audio recording device—

"(i) that is capable of sending a digital audio interface signal in which the channel status block flag is set as a 'professional' interface, in accordance with the standards and specifications set forth in the technical reference document or established under an order issued by the Secretary of Commerce under section 1022(b);

"(ii) that is clearly, prominently, and permanently marked with the letter 'P' or the word 'professional' on the outside of its packaging, and in all advertising, promotional, and descriptive literature, with respect to the device, that is available or provided to persons other than the manufacturer or importer, its employees, or its agents; and

"(iii) that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business.

"(B) In determining whether an audio recording device meets the requirements of subparagraph (A)(iii), factors to be considered shall include—

"(i) whether it has features used by recording professionals in the course of a lawful business, including features such as—

"(I) a data collection and reporting system of error codes during recording and playback;

"(II) a record and reproduce format providing 'read after write' and 'read after read';

"(III) a time code reader and generator conforming to the standards set by the Society of Motion Picture and Television Engineers for such readers and generators; and

"(IV) a professional input/output interface, both digital and analog, conforming to standards set by audio engineering organizations for connectors, signaling formats, levels, and impedances;

"(ii) the nature of the promotional materials used to market the audio recording device;

"(iii) the media used for the dissemination of the promotional materials, including the intended audience;

"(iv) the distribution channels and retail outlets through which the device is disseminated;

"(v) the manufacturer's or importer's price for the device as compared to the manufacturer's or importer's price for digital audio recording devices implementing the Serial Copy Management System;

"(vi) the relative quantity of the device manufactured or imported as compared to the size of the manufacturer's or importer's market for professional model products;

"(vii) the occupations of the purchasers of the device; and

"(viii) the uses to which the device is put.

"(12) The 'Register' is the Register of Copyrights.

"(13) The 'Serial Copy Management System' means the system for regulating serial copying by digital audio recording devices that is set forth in the technical reference document or in an order of the Secretary of Commerce under section 1022(b), or that conforms to the requirements of section 1021(a)(1)(C).

"(14) The 'technical reference document' is the document entitled 'Technical Reference Document for Audio Home Recording Act of 1991' in section 5 of this Act.

"(15)(A) The 'transfer price' of a digital audio recording device or a digital audio recording medium is—

"(i) in the case of an imported product, the actual entered value at United States Customs

(exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale).

"(B) Where the transferor and transferee are related entities or within a single entity, the transfer price shall not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section 482.

"(16) A 'transmission' is any audio or audiovisual transmission, now known or later developed, whether by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other form of analog or digital communication.

"(17) The 'Tribunal' is the Copyright Royalty Tribunal.

"(18) A 'writer' is the composer or lyricist of a particular musical work.

"(19) The terms 'analog format', 'copyright status', 'category code', 'generation status', and 'source material', mean those terms as they are used in the technical reference document.

"§1002. Prohibition on certain infringement actions

"(a) CERTAIN ACTIONS PROHIBITED.—

"(1) GENERALLY.—No action may be brought under this title, or under section 337 of the Tariff Act of 1930, alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device or a digital audio recording medium, or an analog audio recording device or analog audio recording medium, or the use of such a device or medium for making audiograms. However, this subsection does not apply with respect to any claim against a person for infringement by virtue of the making of one or more audiograms, or other material objects in which works are fixed, for direct or indirect commercial advantage.

"(2) EXAMPLE.—For purposes of this section, the copying of an audiogram by a consumer for private, noncommercial use is not for direct or indirect commercial advantage, and is therefore not actionable.

"(b) EFFECT OF THIS SECTION.—Nothing in this section shall be construed to create or expand a cause of action for copyright infringement except to the extent such a cause of action otherwise exists under other chapters of this title or under section 337 of the Tariff Act of 1930, or to limit any defenses that may be available to such causes of action.

"§1003. Effect on other rights and remedies with respect to private home copying or otherwise

"Except as expressly provided in this chapter with respect to audio recording devices and media, neither the enactment of this chapter nor anything contained in this chapter shall be construed to expand, limit, or otherwise affect the rights of any person with respect to private home copying of copyrighted works, or to expand, limit, create, or otherwise affect any other right or remedy that may be held by or available to any person under chapters 1 through 9 of this title.

"SUBCHAPTER B—ROYALTY PAYMENTS

"§1011. Obligation to make royalty payments

"(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute in the United States, or manufacture and distribute in the United States, any digital audio recording device or digital audio recording medium unless such person—

"(1) records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified by this section and section 1012 of this title, or

"(2) complies with the applicable notice, statement of account, and payment obligations under a negotiated arrangement authorized pursuant to section 1016 of this title.

"(b) FILING OF NOTICE.—

"(1) GENERALLY.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file a notice with the Register, no later than 45 days after the commencement of the first distribution in the United States of such device or medium, in such form as the Register shall prescribe by regulation; provided, however, that no notice shall be required with respect to any distribution occurring prior to the effective date of this chapter.

"(2) CONTENTS.—Such notice shall—

"(A) set forth the manufacturer's or importer's identity and address,

"(B) identify such product category and technology, and

"(C) identify any trade or business names, trademarks, or like indicia of origin that the importer or manufacturer uses or intends to use in connection with the importation, manufacture, or distribution of such device or medium in the United States.

"(c) FILING OF QUARTERLY STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given quarter any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register, in such form as the Register shall prescribe by regulation, a quarterly statement of account specifying, by product category, technology, and model, the number and transfer price of all digital audio recording devices and digital audio recording media that it distributed during such quarter.

"(2) PERIOD COVERED.—The quarterly statements of account may be filed on either a calendar or fiscal year basis, at the election of the manufacturer or importer.

"(3) STATEMENTS OF ACCOUNT FOR THE FIRST THREE QUARTERS.—For the first three quarters of any calendar or fiscal year, such statement shall—

"(A) be filed no later than 45 days after the close of the period covered by the statement; provided, however, that any quarterly statement that would be due within three months and 45 days of the effective date of this chapter shall not be filed until the next quarterly statement is due, at which time a statement shall be filed covering the entire period since the effective date of this chapter;

"(B) be certified as accurate by an authorized officer or principal of the importer or manufacturer;

"(C) be accompanied by the total royalty payment due for such period pursuant to section 1012 of this title.

"(4) STATEMENT OF ACCOUNT FOR THE FOURTH QUARTER.—The quarterly statement for the final quarter of any calendar or fiscal year shall be incorporated into the annual statement required under subsection (d) of this section, which shall be accompanied by the royalty payment due for such quarter.

"(d) FILING OF ANNUAL STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given calendar or fiscal year (as applicable) any digital audio recording device or digital audio recording medium that it manufactured or imported shall also file with the Register a cumulative annual statement of account, in such form as the Register shall prescribe by regulation.

"(2) TIMING AND CERTIFICATION.—Such statement shall be filed no later than 60 days after the close of such calendar or fiscal year, and shall be certified as accurate by an authorized officer or principal of the importer or manufacturer.

"(3) INDEPENDENT REVIEW AND CERTIFICATION.—The annual statement of account shall be reviewed and, pursuant to generally accepted auditing standards, certified by an independent certified public accountant selected by the manufacturer or importer as fairly presenting the information contained therein, on a consistent basis and in accordance with the requirements of this chapter.

"(4) RECONCILIATION OF ROYALTY PAYMENT.—The cumulative annual statement of account shall be accompanied by any royalty payment due under section 1012 of this title that was not previously paid under subsection (c) of this section.

"(e) VERIFICATION.—

"(1) GENERALLY.—

"(A) The Register shall, after consulting with interested copyright parties and interested manufacturing parties, prescribe regulations specifying procedures for the verification of statements of account filed pursuant to this section.

"(B) Such regulations shall permit interested copyright parties to select independent certified public accountants to conduct audits in order to verify the accuracy of the information contained in the statements of account filed by manufacturers and importers.

"(C) Such regulations shall also—

"(i) specify the scope of such independent audits; and

"(ii) establish a procedure by which interested copyright parties will coordinate the engagement of such independent certified public accountants, in order to ensure that no manufacturer or importer is audited more than once per year.

"(D) All such independent audits shall be conducted at reasonable times, with reasonable advance notice, and shall be no broader in scope than is reasonably necessary to carry out the purposes of this subsection in accordance with generally accepted auditing standards.

"(2) INDEPENDENT CERTIFICATION.—The results of all such independent audits shall be certified as fairly presenting the information contained therein, on a consistent basis and in accordance with the requirements of this chapter and generally accepted auditing standards, by the certified public accountant responsible for the audit. The certification and results shall be filed with the Register.

"(3) ACCESS TO DOCUMENTS IN EVENT OF DISPUTE.—In the event of a dispute concerning the amount of the royalty payment due from a manufacturer or importer resulting from a verification audit conducted under this section—

"(A) any interested manufacturing party audited pursuant to this subsection, and its authorized representatives, shall be entitled to have access to all documents upon which the audit results under this subsection were based; and

"(B) any representative of an interested copyright party that has been approved by the Register under subsection (h)(2) of this section shall be entitled to have access to all documents upon which the audit results under subsection (d) of this section were based, subject to the limitations of subsection (h)(2) of this section.

"(f) COSTS OF VERIFICATION.—

"(1) The costs of all verification audits that are conducted pursuant to subsection (e) of this section shall be borne by interested copyright parties, except that, in the case of a verification audit of a manufacturer or importer that leads

ultimately to recovery of an annual royalty underpayment of 5 percent or more of the annual payment made, the importer or manufacturer shall provide reimbursement for the reasonable costs of such audit.

"(2) Except as may otherwise be agreed by interested copyright parties, the costs of a verification audit conducted pursuant to subsection (e) of this section shall be borne by the party engaging the certified public accountant. Any recovery of royalty underpayments as a result of the audit shall be used first to provide reimbursement for the reasonable costs of such audit to the extent such costs have not otherwise been reimbursed by the manufacturer or importer pursuant to this subsection. Any remaining recovery shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided by a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to this section.

"(g) INDEPENDENCE OF ACCOUNTANTS.—Each certified public accountant used by interested copyright parties or interested manufacturing parties pursuant to this section shall be in good standing and shall not be financially dependent upon interested copyright parties or interested manufacturing parties, respectively. The Register may, upon petition by any interested copyright party or interested manufacturing party, prevent the use of a particular certified public accountant on the ground that such accountant does not meet the requirements of this subsection.

"(h) CONFIDENTIALITY.—

"(1) GENERALLY.—The quarterly and annual statements of account filed pursuant to subsections (c) and (d) of this section, and information disclosed or generated during verification audits conducted pursuant to subsection (e) of this section, shall be presumed to contain confidential trade secret information within the meaning of section 1905 of title 18 of the United States Code. Except as provided in paragraphs (2), (3), and (4) of this subsection, neither the Register nor any member, officer, or employee of the Copyright Office or the Tribunal, may—

"(A) publicly disclose audit information furnished under this section or information contained in quarterly or annual statements of account, except that aggregate information that does not disclose, directly or indirectly, company-specific information may be made available to the public;

"(B) use such information for any purpose other than to carry out responsibilities under this chapter; or

"(C) permit anyone (other than members, officers, and employees of the Copyright Office and the Tribunal who require such information in the performance of duties under this chapter) to examine such information.

"(2) PROCEDURES FOR ACCESS TO BE PRESCRIBED BY REGISTER.—(A) The Register, after consulting with interested manufacturing parties and interested copyright parties, shall prescribe procedures for disclosing, in confidence, to representatives of interested copyright parties and representatives of interested manufacturing parties information contained in quarterly and annual statements of account and information generated as a result of verification audits.

"(B) Such procedures shall provide that only those representatives of interested copyright parties and interested manufacturing parties who have been approved by the Register shall have access to such information, and that all such representatives shall be required to sign a certification limiting the use of the information to—

"(i) verification functions under this section, and

"(ii) any enforcement actions that may result from such verification procedures.

"(3) ACCESS BY AUDITED MANUFACTURER.—Any interested manufacturing party that is audited pursuant to subsections (e) of this section, and its authorized representatives, shall be entitled to have access to all documents filed with the Register as a result of such audit.

"(4) ACCESS BY CONGRESS.—Nothing in this section shall authorize the withholding of information from the Congress.

"§1012. Royalty payments

"(a) DIGITAL AUDIO RECORDING DEVICES.—

"(1) The royalty payment due under section 1011 of this title for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

"(2) With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) Notwithstanding paragraph (1) or (2) of this subsection, the amount of the royalty payment for each digital audio recording device or physically integrated unit containing a digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that for a physically integrated unit containing more than one digital audio recording device, the royalty maximum for such unit shall be $12. During the 6th year after the effective date of this chapter, and no more than once each year thereafter, any interested copyright party may petition the Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; provided, however, that the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

"(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1011 of this title for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

"(c) RETURNED OR EXPORTED MERCHANDISE.—

"(1) In calculating the amount of royalty payments due under subsections (a) and (b) of this section, manufacturers and importers may deduct the amount of any royalty payments already made on digital audio recording devices or media that are—

"(A) returned to the manufacturer or importer as unsold or defective merchandise; or

"(B) exported by the manufacturer or importer or a related person—

within two years following the date royalties are paid on such devices or media.

"(2) Any such credit shall be taken during the period when such devices or media are returned or exported, and the basis for any such credit shall be set forth in the statement of account for such period filed under section 1011(c) of this title.

"(3) Any such credit that is not fully used during such period may be carried forward to subsequent periods. If any returned or exported merchandise for which a credit has been taken is subsequently distributed, a royalty payment shall be made as specified under subsection (a) or (b) of this section, based on the transfer price applicable to such distribution.

"§1013. Deposit of royalty payments and deduction of expenses

"The Register shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1014, 1015, or 1016 of this title. The Register may, in the Register's discretion, four years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the next succeeding calendar year. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties available for distribution.

"§1014. Entitlement to royalty payments

"(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1013 of this title shall, in accordance with the procedures specified in section 1015 or 1016 of this title, be distributed to any interested copyright party—

"(1) whose musical work or sound recording has been—

"(A) embodied in audiograms lawfully made under this title that have been distributed to the public, and

"(B) distributed to the public in the form of audiograms or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1015 or 1016 of this title.

"(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into two funds as follows:

"(1) THE SOUND RECORDINGS FUND.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. The American Federation of Musicians (or any successor entity) shall receive 2⅝ percent of the royalty payments allocated to the Sound Recordings Fund for the benefit of nonfeatured musicians who have performed on sound recordings distributed in the United States. The American Federation of Television and Radio Artists (or any successor entity) shall receive 1⅜ percent of the roy-

alty payments allocated to the Sound Recordings Fund for the benefit of nonfeatured vocalists who have performed on sound recordings distributed in the United States. The remaining royalty payments in the Sound Recordings Fund shall be distributed to claimants under subsection (a) of this section who are interested copyright parties under section 1001(7)(A) of this title. Such claimants shall allocate such royalty payments, on a per sound recording basis, in the following manner: 40 percent to the recording artist or artists featured on such sound recordings (or the persons conveying rights in the artists' performances in the sound recordings), and 60 percent to the interested copyright parties.

"(2) THE MUSICAL WORKS FUND.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties whose entitlement is based on legal or beneficial ownership or control of a copyright in a musical work.

"(B) Notwithstanding any contractual obligation to the contrary—

"(i) music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund, and

"(ii) writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

"(c) DISTRIBUTION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) of this section do not agree on a voluntary proposal for the distribution of the royalty payments within such group, the Tribunal shall, pursuant to the procedures specified in section 1015(c) of this title, allocate such royalty payments based on the extent to which, during the relevant period—

"(1) for the Sound Recording Fund, each sound recording was distributed to the public in the form of audiograms; and

"(2) for the Musical Works Fund, each musical work was distributed to the public in the form of audiograms or disseminated to the public in transmissions.

"§1015. Procedures for distributing royalty payments

"(a) FILING OF CLAIMS AND NEGOTIATIONS.—

"(1) During the first 2 months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party that is entitled to royalty payments under section 1014 of this title shall file with the Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

"(2) All interested copyright parties within each group specified in section 1014(b) of this title shall negotiate in good faith among themselves in an effort to agree to a voluntary proposal for the distribution of royalty payments. Notwithstanding any provision of the antitrust laws, for purposes of this section such interested copyright parties may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf; except that no agreement under this subsection may vary the allocation of royalties specified in section 1014(b) of this title.

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within 30 days after the period established for the filing of claims under subsection (a) of this section, in each year after the year in which this section takes effect, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1014(c) of this title. If the Tribunal determines that no such controversy exists, it shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a) of this section, after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy.

"§1016. Negotiated collection and distribution arrangements

"(a) SCOPE OF PERMISSIBLE NEGOTIATED ARRANGEMENTS.—

"(1) Interested copyright parties and interested manufacturing parties may at any time negotiate among or between themselves a single alternative system for the collection, distribution, or verification of royalty payments provided for in this chapter.

"(2) Such a negotiated arrangement may vary the collection, distribution, and verification procedures and requirements that would otherwise apply under sections 1011 through 1015 of this title, including the time periods for payment and distribution of royalties, but shall not alter the requirements of section 1011(a), (b), or (h)(4), section 1012 (a) or (b), or section 1014 (a) or (b) of this title.

"(3) Such a negotiated arrangement may also provide that specified types of disputes that cannot be resolved among the parties to the arrangement shall be resolved by binding arbitration or other agreed upon means of dispute resolution.

"(4) Notwithstanding any provision of the antitrust laws, for purposes of this section interested manufacturing parties and interested copyright parties may negotiate in good faith and voluntarily agree among themselves as to the collection, distribution, and verification of royalty payments, and may designate common agents to negotiate and carry out such activities on their behalf.

"(b) IMPLEMENTATION OF A NEGOTIATED ARRANGEMENT.—

"(1) No negotiated arrangement shall go into effect under this section until the Tribunal has approved the arrangement, after full opportunity for comment, as meeting the following requirements.

"(A) The participants in the negotiated arrangement shall include—

"(i) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Sound Recording Fund,

"(ii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as music publishers, and

"(iii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as writers.

"(B) For purposes of subparagraph (A) of this paragraph, the determination as to two-thirds participation shall be based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied. One or more organizations representing any of the types of individual interested copyright parties specified in the first sentence of this subsection shall be presumed to represent two-thirds of that type of interested copyright party if the membership of, or other participation in, such organization or organizations includes two-thirds of that type of interested copyright party based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied.

"(C) The implementation of the arrangement shall include all necessary safeguards, as determined by the Tribunal, which ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable. Such safeguards may include accounting procedures, reports and any other information determined to be necessary to ensure the proper collection and distribution of royalty payments.

"(2) Notwithstanding the existence of a negotiated arrangement that has gone into effect under this section, any interested manufacturing party that is not a party to such negotiated arrangement shall remain subject to the requirements of sections 1011 and 1012 and may fully satisfy its obligations under this subchapter by complying with the procedures set forth therein.

"(c) MAINTENANCE OF JURISDICTION BY TRIBUNAL.—Where a negotiated arrangement has gone into effect under this section, the Tribunal shall maintain jurisdiction and shall (1) hear and address any objections to the arrangement that may arise while it is in effect, (2) ensure the availability of alternative procedures for any interested manufacturing party or interested copyright party that is not a participant in the negotiated arrangement, (3) ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable, (4) ensure that it has adequate funds at its disposal, received either through the Copyright Office or through the entity administering the negotiated arrangement, to distribute to interested copyright parties not participating in the arrangement the royalty payments to which they are entitled under section 1014(c) or 1015(b), including applicable interest, and (5) ensure that the requirements of section 1016(b)(1)(C) are met.

"(d) JUDICIAL ENFORCEMENT.—The Tribunal may seek injunctive relief in an appropriate United States district court to secure compliance with the requirements of subsection (c).

"SUBCHAPTER C—THE SERIAL COPY MANAGEMENT SYSTEM

"§1021. Incorporation of the serial copy management system

"(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—

"(1) No person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to the standards and specifications to implement the Serial Copy Management System that are—

"(A) set forth in the technical reference document;

"(B) set forth in an order by the Secretary of Commerce under section 1022(b) (1), (2), or (3) of this title; or

"(C) in the case of a digital audio recording device other than a device defined in part II of the technical reference document or in an order issued by the Secretary pursuant to section 1022(b) of this title, established by the manufacturer (or, in the case of a proprietary technology, the proprietor of such technology) so as to achieve the same functional characteristics with respect to regulation of serial copying as, and to be compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document or in any order of the Secretary issued under section 1022 of this title.

"(2) If the Secretary of Commerce approves standards and specifications under section

1022(b)(4) of this title, then no person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to such standards and specifications.

"(b) Prohibition on Circumvention of the Serial Copy Management System.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, the Serial Copy Management System in a digital audio recording device or a digital audio interface device.

"(c) Encoding of Information on Audiograms.—

"(1) No person shall encode an audiogram of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as improperly to affect the operation of the Serial Copy Management System.

"(2) Nothing in this subchapter requires any person engaged in the importation, manufacture, or assembly of audiograms to encode any such audiogram with respect to its copyright status.

"(d) Information Accompanying Transmissions in Digital Format.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this subchapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. However, any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

"§1022. Implementing the serial copy management system

"(a) Publication of Technical Reference Document and Certification.—Within 10 days after the date of enactment of this chapter, the Secretary of Commerce shall cause to be published in the Federal Register the technical reference document along with the certification from the National Institute of Standards and Technology, as such certification appears in the report of the Committee on the Judiciary to the Senate on the Audio Home Recording Act of 1991, that the technical reference document sets forth standards and specifications that adequately incorporate the intended functional characteristics to regulate serial copying and are not incompatible with existing international digital audio interface standards and existing digital audio technology.

"(b) Orders of Secretary of Commerce.—The Secretary of Commerce, upon petition by an interested manufacturing party or an interested copyright party, and after consultation with the Register, may, if the Secretary determines that to do so is in accordance with the purposes of this chapter, issue an order to implement the Serial Copy Management System set forth in the technical reference document as follows:

"(1) Functionally Equivalent Alternatives.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that such devices possess the same functional characteristics with respect to regulation of serial copying as, and are compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document.

"(2) Revised General Standards.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that—

"(A) the standards and specifications relating generally to digital audio recording devices and digital audio interface devices have been or are being revised or otherwise amended or modified such that the standards and specifications set forth in the technical reference document are not or would no longer be applicable or appropriate; and

"(B) such devices conform to such new standards and specifications and possess the same functional characteristics with respect to regulation of serial copying as the Serial Copy Management System set forth in the technical reference document.

"(3) Standards for New Devices.—The Secretary may issue an order for the purpose of—

"(A) establishing whether the standards and specifications established by a manufacturer or proprietor for digital audio recording devices other than devices defined in part II of the technical reference document or a prior order of the Secretary under paragraph (1) or (2) of this subsection comply with the requirements of subparagraph (C) of section 1021(a)(1) of this title; or

"(B) establishing alternative standards or specifications in order to ensure compliance with such requirements.

"(4) Material Input to Digital Device Through Analog Converter.—

"(A) Generally.—Except as provided in subparagraphs (B) through (D), the Secretary, after publication of notice in the Federal Register and reasonable opportunity for public comment, may issue an order for the purpose of approving standards and specifications for a technical method implementing in a digital audio recording device the same functional characteristics as the Serial Copy Management System so as to regulate the serial copying of source material input through an analog converter in a manner equivalent to source material input in the digital format.

"(B) Cost Limitation.—The order may not impose a total cost burden on manufacturers of digital audio recording devices, for implementing the Serial Copy Management System and the technical method prescribed in such order, in excess of 125 percent of the cost of implementing the Serial Copy Management System before the issuance of such order.

"(C) Consideration of Other Objections.—The Secretary shall consider other reasoned objections from any interested manufacturing party or interested copyright party.

"(D) Limitations to Digital Audio Devices.—The order shall not affect the recording of any source material on analog recording equipment and the order shall not impose any restrictions or requirements that must be implemented in any device other than a digital audio recording device or digital audio interface device.

"SUBCHAPTER D—REMEDIES

"§1031. Civil remedies

"(a) Civil Actions.—Any interested copyright party or interested manufacturing party that is or would be injured by a violation of section 1011 or 1021 of this title, or the Attorney General of the United States, may bring a civil action in an appropriate United States district court against any person for such violation.

"(b) Powers of the Court.—In an action brought under subsection (a) of this section, the court—

"(1) except as provided in subsection (h) of this section, may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

"(2) in the case of a violation of section 1011 (a) through (d) or 1021 of this title, shall award damages under subsection (d) of this section;

"(3) in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof;

"(4) in its discretion may award a reasonable attorney's fee to the prevailing party as part of the costs awarded under paragraph (3) if the court finds that the nonprevailing party has not proceeded in good faith; and

"(5) may grant such other equitable relief as it deems reasonable.

"(c) Recovery of Overdue Royalty Payments.—In any case in which the court finds that a violation of section 1011 of this title involving nonpayment or underpayment of royalty payments has occurred, the violator shall be directed to pay, in addition to damages awarded under subsection (d) of this section, any such royalties due, plus interest calculated as provided under section 1961 of title 28, United States Code.

"(d) Award of Damages.—

"(1) Section 1011.—

"(A) Device.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording device, the court shall award statutory damages in an amount between a nominal level and $100 per device, as the court considers just.

"(B) Medium.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording medium, the court shall award statutory damages in an amount between a nominal level and $4 per medium, as the court considers just.

"(2) Section 1021.—In any case in which the court finds that a violation of section 1021 of this title has occurred, the court shall award damages calculated, at the election of the complaining party at any time before final judgment is rendered, pursuant to subparagraph (A) or (B) of this paragraph, but in no event shall the judgment (excluding any award of actual damages to an interested manufacturing party) exceed a total of $1,000,000:

"(A) Actual Damages.—A complaining party may recover its actual damages suffered as a result of the violation and any profits of the violator that are attributable to the violation that are not taken into account in computing the actual damages. In determining the violator's profits, the complaining party is required to prove only the violator's gross revenue, and the violator is required to prove its deductible expenses and the elements of profit attributable to factors other than the violation.

"(B) Statutory Damages.—

"(i) Device.—A complaining party may recover an award of statutory damages for each violation of section 1021 (a) or (b) of this title in the sum of not less than $1,000 nor more than $10,000 per device involved in such violation or per device on which a service prohibited by section 1021(b) of this title has been performed, as the court considers just.

"(ii) Audiogram.—A complaining party may recover an award of statutory damages for each violation of section 1021(c) of this title in the sum of not less than $10 nor more than $100 per audiogram involved in such violation, as the court considers just.

"(iii) Transmission.—A complaining party may recover an award of damages for each transmission or communication that violates section 1021(d) of this title in the sum of not less than $10,000 nor more than $100,000, as the court considers just.

"(3) Willful Violations.—

"(A) In any case in which the court finds that a violation of section 1011 (a) through (d) of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court shall increase statutory damages—

"(i) for a violation involving a digital audio recording device, to a sum of not less than $100 nor more than $500 per device; and

"(ii) for a violation involving a digital audio recording medium, to a sum of not less than $4

nor more than $15 per medium, as the court considers just.

''(B) In any case in which the court finds that a violation of section 1021 of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court in its discretion may increase the award of damages by an additional amount of not more than $5,000,000, as the court considers just.

''(4) INNOCENT VIOLATIONS OF SECTION 1021.—The court in its discretion may reduce the total award of damages against a person violating section 1021 of this title to a sum of not less than $250 in any case in which the court finds that—

''(A) the violator was not aware and had no reason to believe that its acts constituted a violation of section 1021 of this title, or

''(B) in the case of a violation of section 1021(a) of this title involving a digital audio recording device, the violator believed in good faith that the device complied with section 1021(a)(1)(C) of this title, except that this subparagraph shall not apply to any damages awarded under subsection (d)(2)(A) of this section.

''(e) MULTIPLE ACTIONS.—

''(1) GENERALLY.—No more than one action shall be brought against any party and no more than one award of statutory damages under subsection (d) of this section shall be permitted—

''(A) for any violations of section 1011 of this title involving the same digital audio recording device or digital audio recording medium; or

''(B) for any violations of section 1021 of this title involving digital audio recording devices or digital audio interface devices of the same model, except that this subparagraph shall not bar an action or an award of damages with respect to digital audio recording devices or digital audio interface devices that are imported, manufactured, or distributed subsequent to a final judgment in a prior action.

''(2) NOTICE AND INTERVENTION.—Any complaining party who brings an action under this section shall serve a copy of the complaint upon the Register within 10 days after the complaining party's service of a summons upon a defendant. The Register shall cause a notice of such action to be published in the Federal Register within 10 days after receipt of such complaint. The court shall permit any other interested copyright party or interested manufacturing party entitled to bring the action under section 1031(a) of this title who moves to intervene within 30 days after the publication of such notice to intervene in the action.

''(3) AWARD.—

''(A) GENERALLY.—Except as provided in subparagraph (B), the court may award recovery of actual damages for a violation of section 1021 of this title pursuant to subsection (d)(2)(A) of this section to each complaining party in an action who elects to recover actual damages.

''(B) LIMITATIONS.—

''(i) If more than one complaining party elects to recover actual damages pursuant to subsection (d)(2)(A) of this section, only a single award of the violator's profits shall be made, which shall be allocated as the court considers just.

''(ii) If any complaining interested copyright party or parties elect to recover statutory damages pursuant to subsection (d)(2) of this section in an action in which one or more other complaining interested copyright parties have elected to recover actual damages, the single award of statutory damages permitted pursuant to paragraph (1) of this subsection shall be reduced by the total amount of actual damages awarded to interested copyright parties pursuant to subsection (d)(2)(A) of this section.

''(f) PAYMENT OF OVERDUE ROYALTIES AND DAMAGES.—The court may allocate any award of damages under subsection (d) of this section between or among complaining parties as it considers just. Any award of damages that is allocated to an interested copyright party and any award of overdue royalties and interest under subsection (c) of this section shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided pursuant to a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1011 of this title.

''(g) IMPOUNDING OF ARTICLES.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1021 of this title.

''(h) LIMITATIONS REGARDING PROFESSIONAL MODELS AND OTHER EXEMPT DEVICES.—Unless a court finds that the determination by a manufacturer or importer that a device fits within the exemption of subparagraph (A) or (B) of section 1001(4) of this title was without a reasonable basis or not in good faith, the court shall not grant a temporary or preliminary injunction against the distribution of such device by the manufacturer or importer.

''(i) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—As part of a final judgment or decree finding a violation of section 1021 of this title, the court shall order the remedial modification, if possible, or the destruction of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that—

''(1) does not comply with, or was involved in a violation of, section 1021 of this title, and

''(2) is in the custody or control of the violator or has been impounded under subsection (g) of this section.

''(j) DEFINITIONS.—For purposes of this section—

''(1) the term 'complaining party' means an interested copyright party, interested manufacturing party, or the Attorney General of the United States when one of these parties has initiated or intervened as a plaintiff in an action brought under this section; and

''(2) the term 'device' does not include an audiogram.

"§1032. Binding arbitration

''(a) DISPUTES TO BE ARBITRATED.—Any dispute between an interested manufacturing party and an interested copyright party shall be resolved through binding arbitration, in accordance with the provisions of this section, if—

''(1) the parties mutually agree; or

''(2) before the date of first distribution in the United States of the product which is the subject of the dispute, an interested manufacturing party or an interested copyright party requests arbitration concerning whether such product is or is not a digital audio recording device, a digital audio recording medium, or a digital audio interface device, or concerning the basis on which royalty payments are to be made with respect to such product.

''(b) ARBITRAL PROCEDURES.—

''(1) REGULATIONS FOR COORDINATION OF ARBITRATION.—The Register shall, after consulting with interested copyright parties, prescribe regulations establishing a procedure by which interested copyright parties will coordinate decisions and representation concerning the arbitration of disputes. No interested copyright party shall have the authority to request, agree to, or (except as an intervenor pursuant to subsection (c) of this section) enter into, binding arbitration unless that party shall have been authorized to do so pursuant to the regulations prescribed by the Register.

''(2) PANEL.—Except as otherwise agreed by the parties to a dispute that is to be submitted to binding arbitration under subsection (a) of this section, the dispute shall be heard by a panel of three arbitrators, with one arbitrator selected by each of the two sides to the dispute and the third arbitrator selected by mutual agreement of the first two arbitrators chosen.

''(3) DECISION.—The arbitral panel shall render its final decision concerning the dispute, in a written opinion explaining its reasoning, within 120 days after the date on which the selection of arbitrators has been concluded. The Register shall cause to be published in the Federal Register the written opinion of the arbitral panel within 10 days after receipt thereof.

''(4) TITLE 9 PROVISIONS TO GOVERN.—Except to the extent inconsistent with this section, any arbitration proceedings under this section shall be conducted in the same manner, subject to the same limitations, carried out with the same powers (incluaing the power to summon witnesses), and enforced in the courts of the United States as an arbitration proceeding under title 9, United States Code.

''(5) PRECEDENTS.—In rendering a final decision, the arbitral panel shall take into account any final decisions rendered in prior proceedings under this section that address identical or similar issues; and failure of the arbitral panel to take account of such prior decisions may be considered imperfect execution of arbitral powers under section 10(a)(4) of title 9, United States Code.

''(c) NOTICE AND RIGHT TO INTERVENE.—Any interested copyright party or interested manufacturing party that requests an arbitral proceeding under this section shall provide the Register with notice concerning the parties to the dispute and the nature of the dispute within 10 days after formally requesting arbitration under subsection (a) of this section. The Register shall cause a summary of such notice to be published in the Federal Register within 30 days after receipt of such notice. The arbitral panel shall permit any other interested copyright party or interested manufacturing party who moves to intervene within 20 days after such publication to intervene in the action.

''(d) AUTHORITY OF ARBITRAL PANEL TO ORDER RELIEF.—

''(1) TO PROTECT PROPRIETARY INFORMATION.—The arbitral panel shall issue such orders as are appropriate to protect the proprietary technology and information of parties to the proceeding, including provision for injunctive relief in the event of a violation of such order.

''(2) TO TERMINATE PROCEEDING.—The arbitral panel shall terminate any proceeding that it has good cause to believe has been commenced in bad faith by a competitor in order to gain access to proprietary information. The panel shall also terminate any proceeding that it believes has been commenced before the technology or product at issue has been sufficiently developed or defined to permit an informed decision concerning the applicability of this chapter to such technology or product.

''(3) TO ORDER RELIEF.—In any case in which the arbitral panel finds with respect to devices or media that were the subject of the dispute, that royalty payments have been or will be due under section 1011 of this title through the date of the arbitral decision, the panel shall order the deposit of such royalty payments pursuant to section 1013 of this title, plus interest calculated as provided under section 1961 of title 28, United States Code. The arbitral panel shall not award monetary or injunctive relief, as provided in section 1031 of this title or otherwise,

except as is expressly provided in this subsection.

"(e) EFFECT OF ARBITRATION PROCEEDING ON CIVIL ACTIONS AND REMEDIES.—Notwithstanding any provision of section 1031 of this title, no civil action may be brought or relief granted under section 1031 of this title against any party to an ongoing or completed arbitration proceeding under this section, with respect to devices or media that are the subject of such an arbitration proceeding. However, this subsection does not bar—

"(1) an action for injunctive relief at any time based on a violation of section 1021 of this title; or

"(2) an action or any relief with respect to those devices or media distributed by their importer or manufacturer following the conclusion of such arbitration proceeding, or, if so stipulated by the parties, prior to the commencement of such proceedings.

"(f) ARBITRAL COSTS.—Except as otherwise agreed by the parties to a dispute, the costs of an arbitral proceeding under this section shall be divided among the parties in such fashion as is considered just by the arbitral panel at the conclusion of the proceeding. Each party to the dispute shall bear it own attorney fees unless the arbitral panel determines that a nonprevailing party has not proceeded in good faith and that, as a matter of discretion, it is appropriate to award reasonable attorney's fees to the prevailing party.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(4) to distribute royalty payments deposited with the Register of Copyrights under section 1014, to determine, in cases where controversy exists, the distribution of such payments, and to carry out its other responsibilities under chapter 10"; and

(2) in section 804(d)—

(A) by inserting "or (4)" after "801(b)(3)"; and

(B) by striking "or 119" and inserting "119, 1015, or 1016".

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking "As used" and inserting "Except as otherwise provided in this title, as used".

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting "or 10" after "8"; and

(2) in subsection (b) by inserting "or 10" after "8".

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act or January 1, 1992, whichever date is later.

SEC. 5. TECHNICAL REFERENCE DOCUMENT FOR AUDIO HOME RECORDING ACT OF 1991.

SEC. 6. REPEAL OF SECTION 5.

Effective upon publication of the Technical Reference Document in the Federal Register pursuant to section 1022(a) of this title—

(a) section 5 of this Act shall be repealed, and

(b) section 1001(14) of this title shall be amended by striking "in section 5 of this Act" and inserting "as such document was published in the Federal Register pursuant to section 1022(a) of this title".

TECHNICAL REFERENCE DOCUMENT FOR THE AUDIO HOME RECORDING ACT OF 1991

INTRODUCTION

This Technical Reference Document is provided to facilitate the implementation of legislation relating to digital audio recording ("DAR") devices, known as the "Audio Home Recording Act of 1991" ("the Act").

This Technical Reference Document establishes the standards and specifications that are necessary to implement the Serial Copy Management System ("SCMS") under the Act. It draws in part from specifications proposed to the International Electrotechnical Commission ("IEC") in "IEC 958: Digital Audio Interface" (First edition 1989–03) and "Amendment Number 1 to IEC 958 (1989): Digital Audio Interface, Serial Copy Management System" (Reference 84(CO)126 submitted on June 21, 1991) (collectively, "IEC 958"), and "IEC 60A(CO)136 Part 6: Serial copy management system for consumer audio use DAT recorders". The standards and specifications set forth herein relate only to the implementation of SCMS via digital audio interface signals, DAR devices and digital audio interface devices. The standards and specifications set forth herein, as they may be amended pursuant to an order of the Secretary of Commerce under section 1022(b) of subchapter C of the Act, shall be considered determinative under the Act, regardless of any future action by the IEC or by a manufacturer or by an owner of a proprietary technology.

SCMS is intended to prohibit DAR devices from recording "second-generation" digital copies from "first-generation" digital copies containing audio material over which copyright has been asserted via SCMS. It does not generally restrict the ability of such devices to make "first-generation" digital copies from "original" digital sources such as prerecorded commercially available compact discs, digital transmissions or digital tapes.

Currently, the predominant type of DAR device offered for sale in the United States is the DAT recorder, which records and sends digital signals in accordance with the IEC 958 nonprofessional digital audio interface format. Additional types of DAR devices and interface formats are being or may be developed. The standards and specifications in this Technical Reference Document are not intended to hinder the development of such new technologies but require, in accordance with section 1021(a)(1)(A)–(C) of subchapter C of the Act, that they incorporate the functional characteristics of SCMS protection. In order for a DAR device to be "compatible with the prevailing method of implementing SCMS," to the extent DAR devices are capable of recording signals sent in a particular digital audio interface signal format, the SCMS information must be accurately received and acted upon by the DAR devices so as to correctly implement the same level of SCMS protection provided by that format. "Compatibility" does not require direct bit-for-bit correspondence across every interface signal format; indeed, particular interface signal formats may be recordable by some, but not all, DAR devices. To the extent that any digital audio interface device translates and sends signals in a form that can be recorded by a particular DAR device, however, "compatibility" requires that the SCMS information also be accurately translated and sent by the interface device, and accurately read and acted upon by the DAR device.

This document is in three parts. Part I section A sets forth standards and specifications constituting the functional characteristics for implementing SCMS in digital audio interface signals. Sections B and C then apply these standards and specifications in a specific reference for implementing SCMS in the IEC 958 nonprofessional digital audio interface format. Part II section A similarly first sets forth standards and specifications constituting the functional characteristics for implementing SCMS in DAR devices. Sections B and C then apply these standards and specifications in a specific reference for implementing SCMS with respect to the recording and play-back functions of nonprofessional model DAT recorders. Part III contains a series of charts that apply and correlate those codes that are mandated for implementation in DAT recorders by parts I–C and II–C of this document.

The terms "digital audio interface device," "digital audio recording device," "digital audio recording medium," "distribute," "professional model," and 'transmission" as used in this document have the same meanings as in the Act. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released pre-recorded compact discs or digital tapes or a digital transmission (referred to herein as "original"); or whether the signal emanates from a recording made from such "original" material.

PART I. IMPLEMENTATION OF SCMS IN DIGITAL AUDIO INTERFACE FORMATS

Various consumer devices are capable of producing digital audio signals. Currently, for example, compact disc players, DAT recorders and analog-to-digital converters can send digital audio signals; future devices may include digital microphones or recordable compact disk devices. To enable communication between these different types of devices and a DAR device, it is necessary and desirable to establish common protocols or "interfaces" that mandate specific information in the digital audio output signal of each device. Digital signal interfaces may enable communication of different types of data. A "digital audio interface signal" communicates audio and related interface data as distinguished from, for example, computer or video data. Digital audio interface signal formats may be established for particular types of devices or uses. For example, interface protocols may exist for broadcast use, or for users of professional model products ("professional interface") or for nonprofessional model products ("nonprofessional interface") or for nonprofessional model products ("nonprofessional interface"). One such set of protocols already has been established in the document IEC 958. Sections B and C of part I summarize and mandate the implementation of SCMS in the IEC 958 nonprofessional interface.

Section A sets forth the standards and specifications for implementing SCMS in digital audio interface signals and devices.

(A) DIGITAL AUDIO INTERFACE STANDARD.—To implement the functional characteristics of SCMS in nonprofessional digital audio interface signal formats, whether presently known or developed in the future, the following conditions must be observed:

(1) The digital audio interface format shall provide a means to indicate—

(a) whether or not copyright protection is being asserted via SCMS over the material being sent via the interface; and

(b) whether or not the generation status of the material being sent via the interface is original.

(2) If the digital audio interface format has discrete professional and nonprofessional modes, the interface format and digital audio interface devices shall indicate accurately the professional or nonprofessional status of the interface signal. Such indication is referred to generically as a "channel status block flag".

(3) If the interface format has a discrete mode for sending data other than audio material, the interface format shall indicate accurately whether or not the interface signal contains audio material.

(4) If a digital audio interface device is capable of combining more than one digital audio input signal into a single digital audio output signal, and if copy right is asserted via SCMS over the material being sent in at least one of the input signals, then the device shall indicate in the output signal that copyright is asserted over the entire output signal. If copyright protection is asserted via SCMS over any of the input signals, and the generation status of that copyright-asserted signal is not original, then the entire output signal shall indicate that copyright is asserted and that the generation status is not original.

(5) Devices that are capable of reading original recordings and/or DAR media, and that are capable of sending digital audio signals that can be recorded by a DAR device, shall accurately read the copyright and generation status information from the media and accurately send that information.

(6) Devices having a nonprofessional digital audio interface shall receive and accurately send the copyright and generation status information.

(7) Professional devices that are capable of sending audio information in a nonprofessional digital audio interface format shall send SCMS information as implemented for that format. However, nothing shall prevent professional devices and/or recording professionals engaged in a lawful business from setting SCMS information according to the needs of recording professionals.

(8) If the audio signal is capable of being recorded by a DAR device and the interface format requires an indication of the type of device sending the signal via the interface, then the device shall send the most accurate and specific designation applicable to that device; for example, "Category Codes" as set forth in part I with reference to the IEC 958 nonprofessional interface.

(9) Devices that receive digital audio transmissions sent without copyright and generation status information shall indicate that copyright is asserted over the transmitted audio material and that the generation status is original. If the transmitting entity wishes to transmit copyright status information it shall do so accurately, and the information shall accurately be received and sent unaltered by the receiving device. In the case of Electronic Audio Software Delivery signal transmissions, the receiver shall accurately receive generation status information as sent by the transmitting entity so as to permit or restrict recording of the transmitted signals. "Electronic Audio Software Delivery" refers to a type of transmission whereby the consumer interactively determines what specific work(s) and/or events(s) are received. This includes, for example, "audio on demand" (electronic selection and delivery of sound recordings for copying) or "pay-per-listen" reception, as distinguished from regular broadcast or comparable cable radio programming services.

(10)(a) If the digital audio portion of an interface signal format is recordable by a "preexisting" type of DAR device, that is, one that was distributed prior to the distribution of the interface signal format, then the signal format shall implement the rules of SCMS so that the preexisting DAR device will act upon the rules of SCMS applicable to that DAR device.

(b) If a type of DAR device is capable of recording the digital audio portion of signals sent by a preexisting digital audio interface device, then the DAR device shall implement the rules of SCMS so that the DAR device will act upon the rules of SCMS applicable to that preexisting digital audio interface device's format.

(c) If a digital audio interface device is capable of translating a signal from one interface format to another, then the device also shall accurately translate and send the SCMS information.

(B) SUMMARY OF SCMS IMPLEMENTATION IN THE IEC 958 DIGITAL AUDIO INTERFACE.—Under IEC 958, SCMS is implemented via inaudible information, known as "channel status data", that accompanies a digital audio signal being sent to or by a DAR device via a nonprofessional digital audio interface. Like all digital data, channel status data consist of numerical information encoded as a series of zeros and ones. Each zero or one constitutes a "bit" of data in which both zero and one may impart information concerning the composition of the audio signal being sent to or by a DAR device. Bits represented in this Technical Reference Document as "X", rather than as zero or one, indicate that those bits may be either zero or one without affecting the specifications set forth herein.

Channel status data bits are organized into units of information, known as "blocks," relating to both the left and right stereo audio channels. Each block contains 192 bits of information, numbered consecutively from 0 to 191. Those channel status bits that are significant to the implementation of SCMS via the IEC 958 interface are included within channel status bits 0 through 15. Certain of these 16 bits identify professional or nonprofessional interfaces; some specify copyright assertion; and some identify the generation number of a recording. The remaining bits are "Category Codes" that describe the type of device sending the digital audio signal. More complete descriptions of these channel status bits are set forth in the remaining sections of this part I.

IEC 958 defines professional and nonprofessional interface formats for digital audio signals. An IEC 958 professional interface contains particular types of channel status data for such digital audio recording devices as would be used in professional model products. An IEC 958 nonprofessional interface contains different types of channel status data. The channel status data sent in a nonprofessional interface are incompatible with the channel status data in a professional interface; a DAR device cannot correctly read the channel status data sent in a professional interface.

The specifications summarized herein and mandated in section C apply only to devices that send or read an IEC 958 nonprofessional interface signal. To the extent that a professional device also may have a IEC 958 nonprofessional interface, such a professional device must be capable to sending channel status data via its nonprofessional interface in accordance with the standards set forth herein. However, nothing in this Technical Reference Document shall be interpreted to prevent a professional device having an IEC 958 nonprofessional interface and/or recording professionals engaged in a lawful business from permitting such channel status data bits to be set in accordance with the needs of recording professionals.

All devices having a digital audio output capable of supplying a digital audio signal to a DAR device through an IEC 958 nonprofessional interface must implement five types of codes located between Channel Status Bits 0 and 15. For the IEC 958 interface format, Channel Status Bits 0 through 15 are supplied in a digital audio output signal to a DAR device as follows:

(1) BIT 0.—Bit 0 (the "Channel Status Block Flag"), one of the "Control" bits, shall identify whether the channel status bits are for a professional or nonprofessional interface. Where Bit 0 is set as "1", the signal contains the channel status data required for a professional interface. Where Bit 0 is set as "0", the channel status data is suitable for a nonprofessional interface. The remaining bit assignments are mandated only with respect to a nonprofessional interface, that is, where Bit 0 is set as "0".

(2) BIT 1.—Bit 1, another of the "Control" bits, shall identify whether the signal being sent to or by the DAR device is a digital audio or a digital data signal. Where Bit 1 is set as "0", the signal is a digital audio signal. Where Bit 1 is set as "1", the signal is a digital data signal.

(3) BIT 2.—Bit 2 (the "C" Bit), another of the "Control" bits, shall identify whether copyright protection is asserted for the audio material being sent via the digital audio signal. Where the C Bit is set as "0", copyright protection has been asserted over the material being sent to the digital audio input of the DAR device. Where the C Bit is set as "1", either that material is not protected by copyright or no copyright protection has been asserted by the owner of that material. There are specific applications of the C Bit for three types of devices, as follows:

Compact disc players compatible with the standards set forth in IEC 908 (compact disc standard, Category Code 10000000) in effect as of the date of enactment of the Act indicate in the C Bit both the copyright and generation status of the signal. (See description of "Bit 15", infra.) Where the signal is original and copyright protection has been asserted, the C Bit ="0". Where no copyright protection has been asserted, the C Bit ="1". Where the signal is first-generation and copyright protection has been asserted, the C Bit will fluctuate between "0" and "1" at a rate of between 4–10 Hz.

Digital Receivers (Category Codes 001XXXXL and 0111XXXL) shall set the C Bit as "0", except that these devices shall send the C Bit as "1" only where the cable operator, broadcaster or other entity specifically transmits information indicating that no copyright protection has been asserted over the material.

Devices that combine digital audio input signals into one digital audio output signal for example, digital signal mixing devices) shall reflect whether copyright protection has been asserted in the C Bit for at least one of the input signals by setting the C bit as "0" in the resulting digital audio output signal.

Devices in the Category Codes for General ("00000000") and Present A/D Converters ("01100XXX") are not capable of sending copyright status information in the C Bit. The C Bit in the channel status data sent by these devices has no meaning.

There is no existing legal requirement that a copyright owner must assert protection over its material (and, therefore, set the C Bit as "0"). However, except as provided herein with respect to implementation in Digital Receivers (category codes 001XXXXL and 0111XXXL), a copyright owner may not set the C Bit as "0" for material that is not copyrighted or is in the public domain.

(4) BITS 3–7.—These bits are sent to and read by a DAR device, but specific bit settings for Bits 3–7 are not necessary for the implementation of SCMS. (Bits 6–7 are Music Production Program Block ("MPPB") flag bits.)

(5) BITS 8–14.—Bits 8–14 shall specify a "Category Code" that identifies the type of device that produces the digital audio signal sent to or by a DAR device. Using various combinations of zeros and ones, Bits 8–14 can define Category Codes for as many as 128 different devices that can provide digital audio signals to a DAR device. According to IEC 958, the first three to five Category Code bits (numbered Bits 8–10 through 8–12) describe general product groups, and the remaining Category Code bits specify particular devices within each product group. IEC 958 has assigned particular Category Codes to existing and anticipated product groups and devices, and has reserved additional Category Codes for future devices.

The Category Code issued by each particular device must reflect the most specific code applicable to that device, with the following exceptions:

Digital signal processing and mixing products receive digital audio signals from one or more sources and either process or combine them with other incoming digital audio signals. If all input signals come from analog-to-digital converters having a Category Code "01100XXX", these devices should issue the Category Code of an analog-to-digital converter rather than of the digital signal processing or mixing device.

Sampling rate converters and digital sound samplers come under the Category Codes for digital-to-digital converters. If an input signal to a sampling rate converter or digital sound sampler comes from an analog-to-digital converter having a Category Code "01100XXX", the sampling rate converter or digital sound sampler should issue the Category Code of the analog-to-digital converter.

These exception cases will permit two generations of digital copies from analog recordings, which currently is permitted under SCMS.

The relevance of these Category Codes to SCMS as implemented for devices having the IEC 958 nonprofessional interface is described in Section C and, specifically as to DAT recorders, in Part II Sections B and C.

(6) Bit 15.—Bit 15 (the "L" Bit) shall indicate the "generation status" of the digital audio signals being sent to or by a DAR device. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released prerecorded compact discs or digital tapes or a digital transmission (referred to herein as "original"); or where the signal emanates from a recording made from such "original" material. In the latter case, a recording made directly from an "original" source is known as a "first-generation" copy; a recording made from a first-generation copy is a "second-generation" copy; and so forth. Because there is no restriction on the number of copies that can be made from material over which no copyright protection has been asserted, generation status is relevant only where copyright protection has been asserted over the signal. For most products, if the L Bit is set as "0", the source is a recording that is first-generation or higher. If the L Bit is set as "1", the source is "original." There are four specific categories of products which indicate generation status differently, as follows:

Compact disc players compatible with the specifications in IEC 908 (Category Code 10000000) are incapable of controlling the L Bit. These products signal generation status solely by means of the C Bit (Bit 2).

Digital audio output signals from all other laser-optical products (Category Code 100XXXXL) shall send the L Bit as "0" for "original" material and the L Bit as "1" for first-generation or higher recordings.

Digital Receivers (Category Codes 001XXXXL and 0111XXXL) shall set the L Bit as "0"; except in the case of receivers for Electronic Audio Software Delivery, which receivers shall send the L Bit as "1" only where the entity specifically transmits information indicating that the material should be treated as if it were first generation or higher.

Devices that combine more than one digital audio input signal into one digital audio output signal, such as digital signal processors or mixers, shall reflect in the L Bit of the output signal the highest generation status of any input containing material over which copyright protection has been asserted. Thus, where one or more of the constituent input signals contains material that is not original (that is, a first-generation copy) and over which copyright protection is asserted, then the device must reflect in the L Bit of the digital audio output signal a nonoriginal generation status. In all other cases, the device shall reflect in the L Bit that the output signal is original.

(C) Mandatory Specifications for Implementing SCMS in the IEC 958 Digital Audio Interface.—The following bit assignments for channel status data, as referenced in the provisions of IEC 958 paragraph 4.2.2 "Channel status data format for digital equipment for consumer use", shall be mandatory for devices implementing the IEC 958 interface:

(1) Bits 0–2 of the "Control" bits.—

(a) Bit 0 (the "Channel Status Block Flag"):

Bit 0="0"	*Nonprofessional interface.*
Bit 0="1"	*Professional interface.*

(b) Bit 1:

Bit 1="0"	*Digital audio signals.*
Bit 1="1"	*Nonaudio (data) signals.*

(c) Bit 2 (the "C" bit)—

(i) Case 1:

Bit 2="0"	*Copyright protection asserted.*
Bit 2="1"	*No copyright protection asserted or not under copyright.*

(ii) Case 2—Compact disc players.—For compact disc players compatible with IEC 908 (Category Code 10000000), the C Bit shall indicate:

Bit 2="0"	*Copyright protection asserted and generation status is "original".*
Bit 2="1"	*No copyright protection asserted.*

Where the Bit 2 fluctuates between '0" and "1" at a rate between 4–10 Hz, copyright protection has been asserted and the signal is first generation or higher.

(iii) Case 3—Digital receivers.—For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), the C Bit shall indicate, where copyright information is transmitted to the digital receiver:

Bit 2="0"	*Copyright protection asserted.*
Bit 2="1"	*No copyright protection asserted*

Where no copyright information is transmitted to the receiver, the digital receiver shall set the C Bit as "0".

(iv) Case 4—Digital signal mixers.—Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 2="0"	*Copyright protection asserted over at least one of the constituent digital audio input signals.*
Bit 2="1"	*For all of the constituent digital audio input signals, no copyright protection asserted or not under copyright.*

(v) Exception case.—The C Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (that is, A/D converters in Category Code 01100XXX).

(2) Bits 3–7.—Specific bit settings for Bits 3–7 are not necessary for the implementation of SCMS.

(3) Category code bits 8–15:

(a) Bits 8–15.—The Category Codes that follow are established for particular product groups. Where Bit 15 is represented by "L" rather than a zero or one, Bit 15 (the "L" Bit) can be either a zero or one without affecting the Category Code. Where Bit 15 is represented by "X" rather than a zero or one, the device is not capable of issuing status information concerning the L Bit:

00000000	*General. This category applies to products that are capable of sending channel status data but are not programmed to send such data in accordance with the specifications set forth in this Technical Reference Document because the products were manufactured before the effective date of the Act. This General Category Code shall not be used for products manufactured after the effective date of the Act.*
0000001L	*Experimental products not for commercial sale.*
100XXXXL	*Laser-optical products, such as compact disc players (including recordable and erasable compact disk players) and videodisc players with digital audio outputs.*
010XXXXL	*Digital-to-digital ("D/D") converters and signal processing products.*
110XXXXL	*Magnetic tape or disk based products, such as DAT players and recorders.*
001XXXXL and 0111XXXL	*Receivers of digitally encoded audio transmissions with or without video signals.*
101XXXXL	*Musical instruments, microphones and other sources that create original digital audio signals.*
01100XXX	*Analog-to-digital ("A/D") converters for analog signals without status information concerning the C Bit and the L Bit ("Present A/D converters").*
01101XXL	*A/D converters for analog signals which include status information concerning the C Bit and the L Bit ("Future A/D converters").*
0001XXXL	*Solid state memory based media products.*

Particular devices within each product group defined above shall be assigned specific Category Codes in accordance with IEC 958. Manufacturers of any device that is capable of supplying a digital audio input to a DAR device must use the most specific Category Code applicable to that particular device. However, digital signal processing or digital signal mixing products in Category Code product group "010XXXXL" shall issue the Category Code for Present A/D converters where all the input signals have the Category Code for a Present A/D converter. Similarly, sampling rate converters in Category Code "0101100L" and digital sound samplers in Category Code "0100010L" shall issue the Category Code for Present A/D converters where the input signal comes from a Present A/D converter.

(b) Bit 15 (the "L" bit).—The L Bit shall be used to identify the generation status of the digital audio input signal as emanating from an "original" source or from a nonoriginal (that is, first-generation or higher) recording.

(1) Case 1—General case.—For all Category Codes (except as explicitly set forth below), the L Bit shall indicate:

Bit 15="0"	*First-generation or higher recording.*
Bit 15="1"	*"Original" source, such as a commercially released prerecorded digital audiogram.*

(2) Case 2.—Laser optical products.—The reverse situation is valid for laser optical products (Category Code 100XXXXL), other than compact disc players compatible with IEC 908 (Category Code 10000000). For laser optical products in Category Code 100XXXXL, the L Bit shall indicate:

Bit 15 = "1"	*First-generation or higher recording.*
Bit 15 = "0"	*"Original" recording, such as a commercially released prerecorded compact disc.*

(3) Case 3.—Digital receivers.—For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), Bit 15 always shall be set as "0";

except for receivers for Electronic Audio Software Delivery, for which the L Bit shall indicate:

Bit 15 = "0"	*Generation status information transmitted as "original" material.*
Bit 15 = "1"	*Generation status information transmitted as for nonoriginal material, or no generation status information transmitted.*

(4) CASE 4.—DIGITAL SIGNAL MIXERS.—Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 15 = "0"	*One or more of those constituent digital audio input signals over which copyright protection has been asserted is first-generation or higher.*
Bit 15 = "1"	*All other cases.*

(5) EXCEPTION CASE.—The L Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (that is, A/D converters in Category Code 01100XXX) and compact disc players in Category Code 10000000.

PART II. SERIAL COPY MANAGEMENT SYSTEM FOR DAR DEVICES AND NONPROFESSIONAL MODEL DAT RECORDERS

The intention of SCMS is generally to prevent DAR devices from making second-generation or higher "serial" digital recordings of "original" digital audio material over which copyright protection has been asserted through SCMS. SCMS does not prevent the making of a first-generation recording of such "original" digital audio material. As future technologies permit, SCMS may limit the digital recording by a DAR device of analog audio material over which copyright protection has been asserted to the making of only first-generation digital copies. However, because present technology does not identify whether analog audio material is protected by copyright, SCMS will not prevent the making of first- and second-generation digital copies of such material. SCMS will not restrict digital recording of material carrying an indication through SCMS that copyright protection has not been asserted. SCMS does not apply to professional model products as defined under the Act.

(A) GENERAL PRINCIPLES FOR SCMS IMPLEMENTATION IN DAR DEVICES.—To implement the functional characteristics of SCMS in DAR devices, whether presently known or developed in the future, the following conditions must be observed:

(1) A digital audio recording medium shall be capable of storing an indication of—

(a) whether or not copyright protection is being asserted over the audio material being sent via the interface and stored on the DAR medium; and

(b) whether or not the generation status of the audio material being sent via the interface and stored on the DAR medium is original.

(2) If the digital audio interface format being sent to and read by a DAR device has discrete modes for professional as well as nonprofessional purposes, the DAR device shall distinguish accurately the professional or nonprofessional status of the interface signal.

(3) If the interface format has a discrete mode for sending data other than audio material, the DAR device shall distinguish accurately whether or not the interface signal contains audio material.

(4) A DAR device capable of receiving and recording digital audio signals shall observe the following rules:

(a) Audio material over which copyright is asserted via SCMS and whose generation status is original is permitted to be recorded. An indication that copyright is asserted over the audio material contained in the signal and that the generation status of the recording is first generation shall be recorded on the media.

(b) Audio material over which copyright is not asserted via SCMS may be recorded, without regard to generation status. An indication that copyright is not asserted shall be recorded on the media.

(c) Audio material over which copyright is asserted via SCMS and whose generation status is not original shall not be recorded.

(5) DAR media shall store the copyright and generation status information as described herein during recording in a manner that the information can be accurately read.

(6) Devices that are capable of reading original recordings and/or DAR media, and that are capable of sending digital audio signals that can be recorded by a DAR device, shall accurately read the copyright and generation status information from the media and accurately send the information.

(7) DAR devices shall not be capable of recording digital audio signals transmitted in a professional digital audio interface format.

(8) DAR devices having a nonprofessional digital audio interface shall receive and accurately send the copyright and generation status information.

(9) Professional devices that are capable of sending audio information in a nonprofessional digital audio interface format shall send SCMS information as implemented for that format. However, nothing shall prevent professional devices and/or recording professionals engaged in a lawful business from setting SCMS information according to the needs of recording professionals.

(10) Digital audio signals that are capable of being recorded by a DAR device but that have no information concerning copyright and/or generation status shall be recorded by the DAR device so that the digital copy is copyright asserted and original generation status.

(11) If the signal is capable of being recorded by a DAR device and the interface format requires an indication of the type of device sending the signal via the interface, then the device shall send the most accurate and specific designation applicable to that device; for example, "Category Codes" as set forth in part I with reference to the IEC 958 nonprofessional interface.

(12) Except as may be provided pursuant to section 1022(b)(4) of subchapter C of the Act, a DAR device that is capable of converting analog input signals to be recorded in digital format shall indicate that the digital copy is copyright asserted and original generation status.

(13)(a) If the digital audio portion of an interface signal format is recordable by a "preexisting" type of DAR device, that is, one that was distributed prior to the distribution of the interface signal format, then the signal format shall implement the rules of SCMS so that the preexisting DAR device will act upon the rules of SCMS applicable to that DAR device.

(b) If a type of DAR device is capable of recording the digital audio portion of signals sent by a preexisting digital audio interface device, then the DAR device shall implement the rules of SCMS so that the DAR device will act upon the rules of SCMS applicable to the format of that preexisting digital audio interface device.

(c) If a digital audio interface device is capable of translating a signal from one interface format to another, then the device also shall accurately translate and send the SCMS information.

(B) SUMMARY OF MANDATORY SCMS SPECIFICATIONS FOR DAT RECORDERS.—SCMS, to be implemented for DAT machines, requires that a DAT machine must play-back and/or record specific inaudible data in a particular location on a DAT tape. According to IEC documents "IEC 60A(CO)130 part 1: Digital Audio Tape Cassette System (DAT) Dimensions and Characteristics" and "IEC 60A(CO)136 part 6: Serial copy management system for consumer audio use DAT recorders", that particular location on the digital audio tape consists of two bits known as "subcode ID6 in the main ID in the main data area" ("ID6").

(1) SCMS OPERATION WHEN PLAYING A DAT TAPE.—With respect to the play-back function, a DAT machine that is connected to a DAT recorder can provide digital audio output signals via a nonprofessional interface. In that circumstance, the DAT play-back machine functions as a digital audio interface device that must provide channel status data conforming to the general principles and specifications set forth in part I. SCMS as implemented for the IEC 958 nonprofessional interface format requires that when a DAT tape is played back, the DAT play-back machine reads the information from ID6 on the tape and then sends the corresponding channel status data (concerning Bit 2 "the C Bit" and Bit 15 "the L Bit"), along with the Category Code for a DAT machine, in its digital audio output signal. The channel status data to be sent in response to the various settings of ID6 are as follows:

(a) Where ID6 is set as "00", copyright protection has not been asserted over the material under SCMS. In response to ID6, the digital audio signal output of the DAT will provide the C Bit set as "1" and the L Bit set as "0".

(b) Where ID6 is set as "10", copyright protection has been asserted over the material under SCMS and the recording is not "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "0".

(c) Where ID6 is set as "11", copyright protection has been asserted over the material under SCMS and the recording is "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "1".

(2) SCMS OPERATION WHEN RECORDING ON DAT TAPE.—With respect to the recording function, SCMS governs the circumstances and manner in which a DAT recorder may record a digital audio input signal. A DAT recorder implementing SCMS information being sent in the IEC 958 nonprofessional interface format must be capable of acknowledging the presence or absence of specific channel status information being sent to the DAT recorder via its digital audio input. The DAT recorder then responds to that channel status information by either preventing or permitting the recording of that digital audio input signal. If recording is permitted, the DAT machine records specific codes in ID6 on the tape, so that when the tape is played back, the DAT machine will issue the correct channel status data in its digital audio output signal. The settings of ID6 to be recorded in response to particular IEC 958 channel status bit information are as follows:

(a) Where the C bit of the digital audio input signal is set as "0" (copyright protection asserted), the DAT recorder shall not record the input, except in three circumstances: (a) where the input is original material and the digital audio input signal comes from one of the products on the "Category Code White List" (section D below); (b) where the digital audio input signal contains an undefined Category Code (in which case only one generation of recording is permitted); or, (c) where the digital audio input signal comes from a product with a defined Category Code but the product currently is not capable of transmitting information regarding copyright protection (in which case, two generations of copying are possible). In circumstances (a) and (b) above, the DAT recorder will record

"10" in ID6 to prevent further copying. In circumstance (c) above, the DAT recorder will record "11" in ID6 for the first-generation copy.

(b) Where the C Bit of the digital audio input signal is set as "1" (no copyright protection asserted or not copyrighted), the DAT recorder will record "00" in ID6, and unlimited generations of copying will be permitted.

(c) Where the C Bit of the digital audio input signal fluctuates between "0" and "1" at a rate of between 4–10 Hz, the signal is coming from a compact disc player compatible with IEC 908 (Category Code 10000000) which plays back a compact disc that is not an "original" and that contains material over which copyright protection has been asserted. The DAT recorder shall not record in this circumstance.

(d) The condition "01" in ID6 has been assigned no meaning within SCMS. Therefore, to prevent circumvention of SCMS, the DAT recorder shall not record "01" in ID6 on the tape.

(C) MANDATORY SPECIFICATIONS FOR IMPLEMENTING SCMS IN DAT RECORDERS IN THE IEC 958 FORMAT.—

(1) MANDATORY STANDARDS FOR DIGITAL AUDIO OUTPUT SIGNALS.—

(a) CATEGORY CODE BIT 15 (THE "L" BIT).—All nonprofessional model DAT recorders having a IEC 958 interface shall provide the Category Code "1100000L" in the channel status bits of the IEC 958 digital audio output signal. The status of the L Bit of the Category Code shall be provided in the digital audio output signal of the DAT recorder as follows, in accordance with the status of ID6:

When ID6 is "00", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is either a first-generation or higher DAT tape recorded from an "original" source, or an "original" commercially released prerecorded DAT tape of material over which copyright protection is not being asserted under SCMS. In either of these cases, the L Bit shall be set as "0", and the complete Category Code would be "11000000".

When ID6 is "10", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is a first-generation or higher DAT tape recorded from an "original" source (that is, L Bit="0"). The complete Category Code in this case would be "11000000".

When ID6 is "11", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is an "original" source, such as a commercially released prerecorded DAT tape (that is, L Bit="1"). The complete Category Code in this case would be "11000001".

(b) BIT 2 (THE "C" BIT).—All nonprofessional model DAT recorders having an IEC 958 nonprofessional interface shall provide an output code in the C Bit in the channel status bits of the IEC 958 digital audio output signal. The C Bit shall be applied in the digital audio output signal as follows, in accordance with the status of ID6:

When ID6 is "00", the C Bit shall be set as "1".

When ID6 is "10" or "11", the C Bit shall be set as "0".

(2) MANDATORY SPECIFICATIONS FOR RECORDING FUNCTIONS.—SCMS with respect to recording functions performed by a nonprofessional model DAT recorder receiving digital audio input signals in the IEC 958 nonprofessional interface format shall be implemented as follows:

(a) Digital audio input signals in which the C Bit is set as "0" shall not be recorded, except for the cases specified below in paragraphs b, d, and e.

(b) A DAT recorder may record a digital audio input signal in which the C Bit is set as "0", where the Category Code of the signal is listed in the "Category Code White List." The DAT recorder shall record "10" in ID6 on the tape in this case.

(c) For digital audio input signals in which the C Bit is set as "1", the DAT recorder shall record "00" in ID6 on the tape except for those cases specified below in paragraphs d and e.

(d) For digital audio input signals that contain Category Code information that is not defined in this document, the DAT recorder shall record "10" in ID6, regardless of the status of the C Bit or the L Bit.

(e) For digital audio input signals originating from a source identified as an A/D converter with the Category Code "01100XXL", or from other sources such as from A/D converters with the Category Code for "General" ("00000000"), the DAT recorder shall record "11" in ID6, regardless of the status of the C Bit or the L Bit. This requirement shall be applied to digital input signals that do not contain source information of the original signal before digitization, for example, and A/D converter that does not deliver source information.

(f) For digital input signals originating from an A/D converter with the Category Code "01101XXL", which can deliver original source information concerning the C Bit and L Bit even if the source is in analog format, the requirement stated above in paragraph e shall not be applied. The "Category Code White List" includes this Category Code.

(g) A DAT tape of "original" generation status over which copyright protection has been asserted shall contain "11" in ID6. A DAT tape of "original" generation status over which no copyright protection has been asserted shall contain "00" in ID6.

(h) A DAT recorder shall not record digital audio input signals where the C Bit alternates between "0" and "1" at a frequency of between 4 and 10 Hz and the Category Code is for a Compact disc digital audio signal ("10000000"), as in the case of digital audio input signals from recordable or erasable compact discs that are not "original" and that contain material over which copyright protection has been asserted.

(i) A nonprofessional model DAT recorder shall not record digital audio input signals sent from a professional interface, that is, where channel status Bit 0 is set as "1".

(j) The condition "01" in ID6 is not to be used.

(k) Category codes and the C Bit included in the channel status information of digital audio input signals being sent to or by a DAT recorder shall not be deleted or modified and shall be monitored continuously and acted upon accordingly.

(D) "CATEGORY CODE WHITE LIST".—

100XXXX0	Laser optical product.
010XXXX1	Digital-to-digital converter and signal processing devices.
110XXXX1	Magnetic tape and disk based product.
001XXXX0 and 0111XXX0	Receivers of digitally encoded audio transmissions with or without video signals.
101XXXX1	Musical instruments.
01101XX1	Future A/D converter (with status information concerning the C Bit and L Bit).
0001XXX1	Solid state memory based media products.
00000011	Experimental products not for commercial sale.

PART III. APPLICATION OF SCMS IN DAT RECORDERS IMPLEMENTING THE IEC 958 INTERFACE

The following charts apply and correlate those codes that are mandated under the Act to implement SCMS in nonprofessional model DAT recorders having an IEC 958 nonprofessional interface, in those situations contemplated by these standards. The columns in each of these charts identify the following information:

The "Signal Source" column describes the type of product sending the digital audio signal to a DAT recorder.

The three columns under the heading "Digital Audio Input Signal," that is, the signal sent to the DAT recorder, identify the correct channel status information in the C Bit, Category Code Bits 8–14 and the L Bit, respectively, which correspond to each product. (In each case, Bit 0 will be "0" to indicate that the signal is being sent in the IEC 958 nonprofessional interface format, and Bit 1 will be "0" to indicate that the signal consists of audio data.)

The next three columns under the heading "DAT Recorder Response" identify the response of the DAT recorder to the corresponding digital audio input signal. The column "ID6" specifies the code that the DAT recorder will record on the tape in ID6 in response to the digital audio input signal. The last two columns set forth the correct channel status information in the C Bit and L Bit that are sent in the digital audio output signal of a DAT recorder in response to the setting of ID6.

Each of the appropriate codes is set forth in the cases described below:

Case 1: Where copyright protection has been asserted over the digital audio input, and the source of the input is "original" material (Only first-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	0	100XXXX	0	10	0	0
D/D converter	0	010XXXX	1	10	0	0
Magnetic prod.	0	110XXXX	1	10	0	0
Musical Instrum.	0	101XXXX	1	10	0	0
Future A/D conv.	0	01101XX	1	10	0	0
Digital Receiver	0	001XXXX	0	10	0	0
Digital Receiver	0	0111XXX	0	10	0	0
Experimental	0	0000001	1	10	0	0
Solid state dev.	0	0001XXX	1	10	0	0

Case 2: Where copyright protection has not been asserted over the digital audio input, and the source of the input is "original" material (First-generation and above recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	1	100XXXX	0	00	1	0
D/D converter	1	010XXXX	1	00	1	0
Magnetic prod.	1	110XXXX	1	00	1	0
Musical Instrum.	1	101XXXX	1	00	1	0
Future A/D conv.	1	01101XX	1	00	1	0
Digital Receiver	1	001XXXX	0	00	1	0
Digital Receiver	1	0111XXX	0	00	1	0
Experimental	1	0000001	1	00	1	0
Solid state dev.	1	0001XXX	1	00	1	0

Case 3: Where copyright protection has been asserted over the digital audio input, and the source of the input to the DAT recorder is not "original" material (No recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	0	100XXXX		....	....	
D/D converter	0	010XXXX		....	....	
Magnetic prod.	0	110XXXX		....	....	
Musical Instrum.	0	101XXXX		....	....	
Future A/D conv.	0	01101XX		....	....	
Experimental	0	0000001		....	....	
Solid state dev.	0	0001XXX		....	....	

Case 4: Where copyright protection has not been asserted over the digital audio input, and the source of the input to the DAT recorder is not "original" material (Second-generation and above recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	1	100XXXX	1	00	1	0
D/D converter	1	010XXXX	0	00	1	0
Magnetic prod.	1	110XXXX	0	00	1	0
Musical Instrum.	1	101XXXX	0	00	1	0
Future A/D conv.	1	01101XX	0	00	1	0
Experimental	1	0000001	0	00	1	0
Solid state dev.	1	0001XXX	0	00	1	0

Case 5: Where the digital audio input signal includes Category Code information, but cannot provide information concerning copyright protection of the source (First- and second-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
General	X	0000000	0	11	0	1
Present A/D Con	X	01100XX	X	11	0	1

Case 6: Where the digital input signal does not include a defined Category Code (First-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Undefined	X	....	X	10	0	0

Case 7: Where copyright protection has been asserted over the digital audio input from a compact disc that is not an "original" by fluctuating the C Bit at a rate between 4–10 Hz (No recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
CD Player	0/1	1000000	X			

Case 8: Where the digital signal transmitted to a Digital Receiver does not include information concerning copyright protection (Only first-generation recording permitted):

Signal Source	*Digital Audio Input Signal*			*DAT Recorder Response*		
	C Bit (Bit 2)	*Category code (Bits 8–14)*	*L bit (Bit 15)*	*ID6*	*C Bit (Bit 2)*	*L bit (Bit 15)*
Digital Receiver	*0*	*001XXXX*	*0*	*10*	*0*	*0*
Digital Receiver	*0*	*0111XXX*	*0*	*10*	*0*	*0*

Case 9: Where the digital signal transmitted to a receiver for Electronic Audio Software Delivery provides generation status information as if the status were first-generation or higher (No recording permitted):

Signal Source	*Digital Audio Input Signal*			*DAT Recorder Response*		
	C Bit (Bit 2)	*Category code (Bits 8–14)*	*L bit (Bit 15)*	*ID6*	*C Bit (Bit 2)*	*L bit (Bit 15)*
Digital Receiver	*0*	*001XXXX*	*1*			
Digital Receiver	*0*	*0111XXX*	*1*			

AMENDMENT NO. 2431

Mr. RIEGLE. Mr. President, on behalf of Senators DECONCINI and HATCH, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. DECONCINI for himself and Mr. HATCH, proposes an amendment numbered 2431.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2431) was agreed to.

Mr. DECONCINI. Mr. President, S. 1623, the Audio Home Recording Act of 1991, was amended and favorably reported out of the Judiciary Committee by unanimous consent on November 21, 1991. Since that time I have worked with various groups regarding several changes that are necessary to clarify the intent and scope of this bill.

First, the bill has been amended to exclude so-called spoken word recordings—for example, books on tape, recordings of instructional materials and conference proceedings, and the like—from the scope of the bill. To this end, the definition of "audiogram" has been amended to exclude material objects consisting of "spoken word recordings." The term "spoken word recording" is defined as "a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by ancillary musical or other sounds." This new definition will ensure that objects embodying "books on tape" and other forms of spoken word recordings are not considered to be "audiograms," even if they contain brief musical passages or other sounds as, for example, interludes between chapters or pages, or as occasional background to the spoken words.

If the musical or other sounds are more than ancillary to the recording, such as in the case of rap, gospel, or similar music types that frequently rely on spoken phrases, the recording is not a spoken word recording. I believe that recordings of such music types should be included in the scope of the bill; they are created by songwriters, performed by recording artists, marketed by recording companies, and sold through traditional record outlets. Most important, even when words are spoken in these recordings, they have the rhythmic and tonal qualities of music.

Second, certain members of the computer industry have expressed concerns that the language of S. 1623 does not make sufficiently clear that material objects containing general purpose computer programs are not included within the definition of "audiogram." In order to further clarify this point, the definition of the term "audiogram" has been amended to expressly exclude material objects in which one or more computer programs are fixed, except for certain specialized statements or instructions that may be contained in CD's, digital audio tapes, and similar objects covered by the legislation.

Third, the definition of "digital audio recording medium" has been amended to clarify that whether or not a recording medium qualifies as a digital audio recording medium depends in part upon whether the media product is "primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device." The "primarily marketed or most commonly used" test should be applied on a product-by-product basis, taking into account, among other things, the advertising and marketing channels for the media product, its packaging and markings, and the actual uses to which the product is put, rather than merely focusing on the product's generic format or capability. The legislation has been amended to more clearly reflect this intent.

Fourth, concerns were expressed that the definition of "digital audio interface device" might encompass certain devices that were not designed to communicate digital audio interface signals to digital audio interface devices. As reflected in part I of the Technical Reference Document, such devices were not intended to fall within the definition of "digital audio interface device." This definition has been amended to clarify this.

Fifth, the word "digital" has been inserted before the phrase "recording function" in the definition of "digital audio recording device." The definition focuses on "the recording function" of the device and whether it is designed or marketed for the primary purpose of making a digital audio copied recording. A recording device may, however, have both digital and analog recording capabilities. In determining the "primary purpose" of the recording function, consideration of any analog recording capability was not intended. Therefore, in order to remove any ambiguity as to the applicability of the legislation with respect to such devices, the phrase "recording function" has been expanded to include the term "digital."

Sixth, the headings "GENERALLY" and "EXAMPLE" have been deleted from section 1002(a)(1) and (2), and the two provisions have been joined. The provision following the heading "EXAMPLE" is intended to make clear that copying by a consumer for private, noncommercial use is not for direct or indirect commercial advantage, and is therefore not actionable. The intent of the provision is better clarified by deleting these headings.

Seventh, several amendments have been made to section 1011. The section contains provisions concerning the certification and verification of the annual statements of account filed with the Copyright Office by manufacturers and importers of digital audio recording devices and media. These clarifications are based upon the comments of the American Institute of Certified Public Accountants.

Eighth, under section 1014(b)(1), portions of the royalty payments allocated to the sound recordings fund were to be distributed to the American Federation of Musicians and the American Federation of Television and Radio Artists—or any successor entities—for the benefit of nonfeatured musicians and vocalists. These provisions have been amended to require the placement of the nonfeatured musicians' and vocalists' portions of the royalty payments into escrow accounts managed by independent administrators jointly appointed by the interested copyright parties under section 1001(7)(A) and each of the relevant unions.

The creation of separately administered escrow accounts solely for the receipt and distribution of royalty payments earmarked for nonfeatured musicians and nonfeatured vocalists will best ensure speedy and efficient payment of moneys to nonfeatured performers. Management of the escrow accounts by independent administrators jointly appointed by the record companies and the unions who are engaged in the day-to-day representation of the performers ensures access to production and employment data which might otherwise have to be independently generated, and in addition, provides experienced administrators who deal with such data on a regular basis. For instance, record companies and unions jointly participate in the administration of pension funds—the American Federation of Musicians-Employer Pension Fund and the American Federation of Television and Radio Artists Health and Retirement Fund—for musicians and vocalists. In addition, various collective-bargaining agreements in the entertainment industry create special payment funds administered by neutral administrators. In all of these cases, the funds operate totally separate and apart from the operation of the respective unions. Moreover, the funds are subject to annual independent audits, and deductions from the funds are limited to the costs associated with administering the funds, such as investments, fund accounting, bookkeeping, recordkeeping, salaries, and fees. The committee expects the two newly created escrow accounts to operate in a similar manner.

Moreover, since access to these funds should not be limited to union members, the section has been amended to clarify that nonfeatured musicians and nonfeatured vocalists who are not affiliated with either the American Federation of Musicians or the American Federation of Television and Radio Artists also are to receive their appropriate shares of royalty payments.

Finally, the language in the bill concerning the 50-50 split of royalty payments between writers and music publishers has been modified so as to provide that the overriding of any conflicting contractual obligations will not apply where such an override would be inconsistent with international obligations of the United States. Although such an override is not inconsistent with any current obligations of the United States, the U.S. Government is presently seeking, in the Uruguay round and other international negotiations, to obtain binding international commitments to respect foreign contractual relationships in providing access to royalty pools and otherwise enforcing copyrights. Should the United States become a party to international commitments along these lines, the bill would direct that the musical works fund be administered in such a way as to adhere to these commitments in distributing royalty payments to foreign rightsholders.

• Mr. HELMS. Mr. President, I thank the Senator from Arizona for his efforts to address the concerns of several Senators regarding the section which gave unions control of the royalties to be distributed to nonfeatured musicians and vocalists. We were concerned that the funds could be misused, for example, for political purposes. Furthermore, we wanted to ensure that union and nonunion nonfeatured musicians and vocalists were treated equally. We spent several months negotiating a compromise provision.

Mr. President, for the record, would my friend from Arizona clarify the new section 1014(b) of S. 1623, regarding the distribution of royalty payments from the sound recordings fund? It is my understanding that any distributions would be made on a neutral basis to deserving parties, regardless of union membership and that disputes involving royalty distribution may be settled in state courts.

Mr. DECONCINI. Mr. President, the Senator from North Carolina is absolutely right. A portion of the sound recordings fund, to be exact, 2⅝th percent for nonfeatured musicians and 1⅜ percent for nonfeatured vocalists, shall be placed in separate escrow accounts managed by independent administrators. Those individuals will be jointly appointed by interested copyright parties, and the American Federation of Musicians or the American Federation of Television and Radio Artists, respectively.

Let me stress that this is neutral legislation. The legislation is very clear and spells out that a deserving performer will be paid whether or not that individual is a member of a union.

With regard to any disputes involving royalty distribution, I note that under state law trust administrators have fiduciary responsibilities to trust beneficiaries. Accordingly, to the extent that a fund administrator has breached this fiduciary duty, recourse in State court would be available.

I appreciate the Senator's interest in this legislation and his concern over royalty distributions. Section 1014 is the result of much thought and hard work where the concerns of all parties were taken into account. I think you will find the result is fair to all.

Mr. HELMS. I thank the Senator.•

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the bill, as passed, will appear in a future edition of the RECORD.)

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF SENATE ACTION

Mr. RIEGLE. Mr. President, I ask unanimous consent to vitiate the confirmation of Calendar Nos. 586 and 587, as in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TRANSPORTATION SAFETY BOARD

Mr. RIEGLE. Mr. President, I now ask unanimous consent that we act to confirm Nos. 640 and 641.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I ask unanimous consent that the confirmation of the nominations be reconsidered, the motion laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

Carl W. Vogt, of Maryland, to be a member of the National Transportation Safety Board for the term expiring December 31, 1996.

Carl W. Vogt, of Maryland, to be Chairman of the National Transportation Safety Board for a term of 2 years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TOMORROW

Mr. RIEGLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m., Thursday, June 18; that following the prayer, the Journal of proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business, not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator BRADLEY recognized for up to 35 minutes; Senators GORE and DOMENICI for up to 5 minutes each; Senators GORTON and BREAUX for up to 10 minutes each; and Senator REID for up to 15 minutes; that at 1 p.m., the Senate proceed to the consideration of Calendar No. 464, S. 2733, a bill to improve the regulation of Government-sponsored enterprises.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. RIEGLE. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:36 p.m. recessed until Thursday, June 18, 1992, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 17, 1992:

DEPARTMENT OF STATE

RICHARD MONROE MILES, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AZERBAIJAN.

JOSEPH S. HULINGS III, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKMENISTAN.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

ARMY

To be colonel

ANDERS B. AADLAND, [redacted]
JOHN P. ABIZAID [redacted]
GEORGE ABRAHAM, JR [redacted]
JAMES P. AHERN [redacted]
MICHAEL F. AHERN, [redacted]
WILLIAM F. ALDRICH, [redacted]
CARL K. ALLARD [redacted]
THOMAS J. ALLEN [redacted]
WILLIAM W. ALLEN, [redacted]
GEORGE R. ALLIN, III [redacted]
CLINTON J. ANCKER, [redacted]
WILLIAM C. ANGERMAN, [redacted]
THOMAS F. ARMELI, [redacted]
RAYMOND F. ARMENT, [redacted]
ARTHUR A. ARMOUR, [redacted]
WILLIAM ARMSTRONG, [redacted]
ARCHIBALD V. ARNOLD, [redacted]
EDWIN J. ARNOLD, [redacted]
STEPHEN J. ARNTZ [redacted]
ROLAND A. ARTEAGA, [redacted]
HARRY B. AXSON, [redacted]
JOHN R. BAER, [redacted]
ROBERT G. BAGGOTT [redacted]
TOMMY F. BAILEY, [redacted]
DONALD C. BAKER, [redacted]
WILLIAM G. BALKUS, [redacted]
PERRY F. BALTIMORE [redacted]
HAROLD BANKIRER, [redacted]
PAUL F. BARB [redacted]
ELDON A. BARGEWELL, [redacted]
STEPHEN R. BARIBEAU [redacted]
BILLY R. BARKER [redacted]
BRUCE H. BARLOW, [redacted]
JOHN W. BARNES [redacted]
THOMAS R. BARNES, [redacted]
RAYMOND D. BARRETT, [redacted]
WAYNE M. BARTH, [redacted]
BARRY D. BATES, [redacted]
RAYMOND H. BECERRIL, [redacted]
CHARLES S. BEESON [redacted]
WILLIAM A. BELICH, [redacted]
CLIFFORD BENNETT [redacted]
ANDREW R. BERDY, [redacted]
FLOYD K. BERGER, [redacted]
FRED M. BERGER, [redacted]
DAVID G. BERNS, [redacted]
MARK D. BETO, [redacted]
JOHN E. BINKLEY [redacted]
JOHN S. BIRD, [redacted]
PAUL N. BOHLEN, [redacted]
JOHN L. BOOTH, [redacted]
LANCE E. BOOTH, [redacted]
JOHN E. BOREL, [redacted]
BENTON H. BORUM, [redacted]
JAMES M. BOSLEY [redacted]
STEVEN W. BOUTELLE [redacted]
THOMAS G. BOWDEN, [redacted]
JOSEPH C. BOWEN [redacted]
WAYNE W. BOY, [redacted]
RONALD R. BOYKIN, [redacted]
VINCENT A. BOYLE, [redacted]
ARTHUR L. BRADSHAW, [redacted]
WILLIAM R. BRANCH, [redacted]
ROBERT M. BRAY, [redacted]
COLBY M. BROADWATER, [redacted]
ALBERT P. BROCIOUS, [redacted]
CLIFTON BRODERICK, [redacted]
JESSE L. BROKENBURR [redacted]
JOHNNY W. BROOKS, [redacted]
PHILIP E. BROU [redacted]
DOUGLA BROUILLETTE [redacted]
ROBERT K. BROWER, [redacted]
CHRIS E. BROWN, [redacted]
GEORGE P. BROWN [redacted]
JOHN S. BROWN, [redacted]
RICHARD L. BROWN, [redacted]
WILLIAM D. BROWN, [redacted]
WILLIAM A. BRUCE, [redacted]
DAVID L. BRUENING [redacted]
ALBERT E. BRYANT [redacted]
CALVIN BRYANT, JR [redacted]
GEORGE T. BRYANT [redacted]
JOHN M. BRYANT, [redacted]
JUDITH R. BUGERT [redacted]
ALBERT G. BUNGARD, [redacted]
WALTER L. BUNYEA, [redacted]
JOHN C. BURCH, [redacted]
JOHN J. BURNS [redacted]
MICHAEL A. BURNS, [redacted]
RONALD P. BURTON, [redacted]
CONRAD H. BUSCH, [redacted]
PATRICK W. BUTTON, [redacted]
THOMAS J. CAIN, [redacted]
PETER L. CALAME [redacted]
JOHN P. CALHOUN [redacted]
CHARLES C. CAMPBELL, [redacted]
LARRY O. CAMPBELL [redacted]
PHILLIP T. CAMPBELL [redacted]
ARNOLD J. CANADA, [redacted]
SAMUEL E. CANTEY, [redacted]
ALVIN D. CANTRELL, [redacted]
JACK W. CARTER, [redacted]
JAMES R. CARTER [redacted]
RICHARD C. CASHON, [redacted]
JOHN F. CASTONGUAY, [redacted]
JOHN P. CAVANAUGH, [redacted]
LARRY M. CEREGHINO, [redacted]
RAYMOND M. CHAPMAN, [redacted]
THEODORE G. CHOPIN, [redacted]
MICHAEL V. CHURCH, [redacted]
RALPH B. CHURCHILL [redacted]
KENNETH H. CLOW, [redacted]
BYRON C. COATES, [redacted]
HENRY C. COBB, [redacted]
CHARLES H. COGSWELL, [redacted]
MICHAEL COLACICCO, [redacted]
WILLIAM D. COLEMAN, [redacted]
LARRY J. COLLIGNON [redacted]
JOSEPH J. COLLINS [redacted]
RAUL COLON, [redacted]
ROBERT W. COOK, [redacted]
STEPHEN K. COOK [redacted]
JOHN W. CORBETT [redacted]
MARK E. CORNWELL, [redacted]
JAMES R. CORREIA [redacted]
SAMMY J. COWDEN, [redacted]
CHARLES S. COX, [redacted]
JAMES A. COX [redacted]
BANTZ J. CRADDOCK, [redacted]
RICHARD W. CRAMPTON, [redacted]
STEVEN L. CRAWFORD [redacted]
JOHNNY A. CREECH [redacted]
DENNIS L. CRIPPS [redacted]
PHILIP A. CROSBIE [redacted]
CHARLES L. CROW [redacted]
WALTER J. CULBERSON [redacted]
RICHARD M. CURASI, [redacted]
LOUIS J. CURL, [redacted]
STEPHEN J. CURRY [redacted]
LAWRENCE M. CURTIN, [redacted]
PHILLIP L. CURTIS [redacted]
FRANK N. CUSHING, [redacted]
BRIAN C. DAVIS, [redacted]
DANIEL D. DAY, [redacted]
RONALD E. DEAVER, [redacted]
MICHAEL DEEGAN, [redacted]
THOMAS A. DELUCA, [redacted]
EDWIN J. DENBESTE [redacted]
MORGAN F. DENNY, [redacted]
DANIEL D. DEVLIN, [redacted]
DAVID F. DEVOTI, [redacted]
LARRY J. DODGEN, [redacted]
JAMES E. DONALD [redacted]
MICHAEL J. DORMEYER, [redacted]
JOHN P. DRINKWATER [redacted]
ROBERT F. DRISCOLL [redacted]
JAMES M. DUBIK [redacted]
LOUIS J. DUET, JR [redacted]
PAUL B. EAST, [redacted]
WILLIAM T. ECHOLS [redacted]
ROY L. EDWARDS, [redacted]
THOMAS M. EHLINGER, [redacted]
WILLIAM J. ELDER [redacted]
BEN L. ELLEY [redacted]
ALFRED H. ELLIOTT [redacted]
DAVID C. ELLIOTT, [redacted]
DERALD E. EMORY, [redacted]
WILLIAM F. ENGEL, [redacted]
CHARLES W. ENNIS, [redacted]
JOHN D. ENYART, [redacted]
JAMES ETCHECHURY, [redacted]
RAYFORD M. EUBANKS, [redacted]
LLOYD A. EVANS, [redacted]
STANLEY L. EVANS [redacted]
WILLIAM P. FACKNER, [redacted]
JAMES F. FAGAN [redacted]
DONALD R. FAINT, [redacted]
WILLIAM FAIRCLOTH, [redacted]
PATRICK L. FAVER, [redacted]
RALPH W. FENEIS [redacted]
ALAN D. FENTY, [redacted]
GRADY J. FERGUSON [redacted]
JAMES L. FETIG [redacted]
DENNIS W. FEUGE, [redacted]
LARRY E. FEUGE [redacted]
WILLIAM C. FEYK, [redacted]
ROBERT C. FILBEY [redacted]
WILLIAM R. FINNICUM, [redacted]
JOHN E. FIRTH [redacted]
CARLA K. FISHER, [redacted]
MATTHEW H. FLEUMER, [redacted]
JOHN P. FLORIS [redacted]
ARTHUR L. FLOYD, [redacted]
ROBERT A. FORTIN, [redacted]
THEODORE C. FOX, [redacted]
JOHN D. FOYE, [redacted]
WEBSTER E. FRANCIS [redacted]
JESS J. FRANCO [redacted]
RICHARD L. FREEMAN, [redacted]
PATRICK J. GAGAN, [redacted]
THOMAS E. GARNETT, [redacted]
ROBERT B. GATLIN, [redacted]
COLBERT GAUTREAUX, [redacted]
FRANK C. GAVIN, [redacted]
ROBERT E. GAYLORD [redacted]
FRANK J. GEHRKI, [redacted]
HARRY B. GIBB, [redacted]
LEE P. GIBSON, [redacted]
JOHN R. GINGRICH, [redacted]
JOSEPH G. GIRLANDO [redacted]
JOHN A. GLASIER, [redacted]
LEONARD GLIATTA, [redacted]
EDWIN P. GOOSEN, [redacted]
ROY C. GORTNEY, [redacted]
JOSEPH G. GRAF [redacted]
JAMES GRAZIOPLENE [redacted]
WILLIAM GREENAWALD, [redacted]
JOHN M. GREENWALT, [redacted]
FRANK B. GREGORY, [redacted]
RALPH GRIECO, [redacted]
DWAYNE L. GRIESE [redacted]
MARK E. GRIFFARD [redacted]
GARY B. GRIFFIN [redacted]
ROBERT H. GRIFFIN [redacted]
JOHN C. GRIMSLEY [redacted]
CHARLES H. GROOM, [redacted]
RONALD A. GRUBB, [redacted]
JAMES B. GUNLICKS [redacted]
WALTER P. GUNNING [redacted]
MICHAEL C. GUTHRIE, [redacted]
RICHARD A. HACK, [redacted]
FRANKLIN HAGENBECK, [redacted]
GREGORY V. HALL, [redacted]
RICHARD W. HALL, [redacted]
BEAUFORT C. HALLMAN, [redacted]
WILLIAM L. HAND, [redacted]
REX A. HARGADINE [redacted]
WAYNE C. HARRIS, [redacted]
MAX M. HARSHMAN, [redacted]
DANIEL K. HARTZ, [redacted]
TED W. HASHIMOTO, [redacted]
JAMES P. HAYES [redacted]
RICHARD M. HAYFORD, [redacted]
RICHARD O. HELMS [redacted]
GEORGE F. HENDERSON, [redacted]
JAMES W. HENDERSON, [redacted]
DANIEL W. HENK, [redacted]
JOHN C. HERBERT [redacted]
MELVIN L. HERITAGE [redacted]

ANTHONY C. HERMES, [redacted]
FRED W. HERRES [redacted]
ROBERT V. HESTER [redacted]
ROBERT E. HILLIARD [redacted]
CHRISTOPHER HIROTO, [redacted]
QUINCY C. HOBBS, [redacted]
RICHARD C. HOCHBERG, [redacted]
CURTICE E. HOLLAND, [redacted]
WILLIAM L. HOLLAND, [redacted]
JOHN W. HOLMES, [redacted]
RUSSEL L. HONORE, [redacted]
FLOYD C. HOOD, [redacted]
JAMES D. HORNADAY, [redacted]
JOHN R. HOSTETTLER [redacted]
LOUIS D. HUDDLESTON, [redacted]
WILLIAM H. HUFF [redacted]
HENRY R. HUKE, [redacted]
DAVID W. HUNT, [redacted]
EDWARD K. HUTCHISON, [redacted]
JOHN M. HUTCHISON, [redacted]
RONALD D. HYATTE, [redacted]
JAMES C. HYLTON [redacted]
EDWARD F. IRICK [redacted]
JOHN K. JACCARD [redacted]
GALEN B. JACKMAN, [redacted]
MICHAEL H. JACKSON, [redacted]
JIMMY O. JACOBS [redacted]
WILLIAM F. JAISSLE, [redacted]
ROBERT L. JARVIS [redacted]
JOSEPH E. JENKINS [redacted]
MICHAEL J. JIMENEZ [redacted]
ALAN D. JOHNSON, [redacted]
JAMES G. JOHNSON [redacted]
MITCHELL C. JOHNSON, [redacted]
NELSON P. JOHNSON [redacted]
CHARLES E. JOHNSTON [redacted]
CHARLES B. JONES [redacted]
ELWOOD A. JONES, [redacted]
MICHAEL L. JONES [redacted]
ROBERT L. JORDAN, [redacted]
ROBERT E. JORGENSEN [redacted]
JOHN E. JUSTICE [redacted]
BRYAN N. KARABAICH, [redacted]
JOHN F. KEHOE, [redacted]
JIM D. KEIRSEY [redacted]
DONALD L. KELDSEN, [redacted]
MICHAEL D. KELLY, [redacted]
JEAN C. KENNEDY [redacted]
DAVID B. KENT, [redacted]
DEAN A. KERSHAW, [redacted]
WALTER F. KILGORE, [redacted]
LAWRENCE J. KIMMEL, [redacted]
STEPHEN P. KINDER [redacted]
COLE C. KINGSEED, [redacted]
JOHN R. KNIGHT, [redacted]
KIRK M. KNIGHT, [redacted]
WILLIAM E. KNIGHT, [redacted]
STEPHEN A. KNUDSEN, [redacted]
RUTH A. KREPS [redacted]
ARTHUR R. KREUTZ, [redacted]
GARY L. KRUEGER [redacted]
SAMUEL R. KRUG, [redacted]
DANA F. KWIST, [redacted]
DANIEL L. LABIN [redacted]
JOSEPH S. LAHNSTEIN [redacted]
ROBERT E. LAIRD [redacted]
GREGORY S. LAMOND, [redacted]
WILLIAM F. LANDRUS [redacted]
WILLIAM D. LANE, [redacted]
JOHANN R. LAWTON, [redacted]
BRIAN F. LEE [redacted]
DANWILL A. LEE, [redacted]
MILES R. LEHMANN, [redacted]
JOSEPH J. LEIGH [redacted]
MICHAEL W. LEMONS, [redacted]
THOMAS A. LENOX, [redacted]
WILLIA LESZCZYNSKI, [redacted]
MARCEL J. LETTRE, [redacted]
ROY D. LEWIS, [redacted]
ROY W. LHEUREUX, [redacted]
JOHN F. LILLEY [redacted]
CRAIG R. LIND, [redacted]
JOSEPH R. LINDHORST [redacted]
JAMES R. LINGVAI [redacted]
WILLIAM J. LINN [redacted]
SCOTT C. LONG, [redacted]
VICKIE LONGENECKER, [redacted]
ALFRED A. LOPEZ [redacted]
HAROLD W. LORD, [redacted]
HARRY N. LUMPKIN, [redacted]
CHARLES D. LUREY [redacted]
GERALD E. LUTTRELL [redacted]
DANIEL J. LYNCH [redacted]
WILLIAM L. LYNCH, [redacted]
THOMAS D. MACIVER, [redacted]
JON D. MACKEY [redacted]
CHARLES MACPHERSON [redacted]
WILLIAM T. MADDOX, [redacted]
ROBERT M. MAGGIO, [redacted]
RICHARD MAJAUSKAS, [redacted]
WILLIAM C. MALKEMES [redacted]
JAMES P. MALONEY [redacted]
HOWARD E. MANCE, [redacted]
MICHAEL MANCINO, JR., [redacted]
ARTHUR R. MARSHALL [redacted]
KELVIN C. MARSHMENT [redacted]
JOHN T. MASTERSON [redacted]
PHILIP M. MATTOX [redacted]
DOUGLAS C. MCCARY, [redacted]
PATRICK D. MCDONALD [redacted]
CHARLES MCFETRIDGE, [redacted]
DAVID D. MCKIERNAN, [redacted]
JEFFREY MCKITRICK [redacted]
JOHN G. MCLINN, [redacted]
GARY A. MCMILLAN, [redacted]
HOWARD W. MCMILLAN, [redacted]
THOMAS J. MCNAMARA, [redacted]
LEE A. MERCHEN, [redacted]
MICHAEL P. MERZ, [redacted]
IL METTEEMCCUTCHON, [redacted]
MICHAEL MEULENERS, [redacted]
HENRY W. MEYER, [redacted]
KURTIS A. MEYER, [redacted]
ROY D. MILLAR, [redacted]
CALVIN W. MILLER, [redacted]
CLARENCE MITCHELL, [redacted]
ROBERT L. MOBERLY, [redacted]
DELANE F. MOELLER [redacted]
FREDERICK J. MOENCH, [redacted]
FRANCIS J. MONACO, [redacted]
DANIEL G. MONGEON, [redacted]
STEVEN J. MOODY, [redacted]
WALLACE C. MOOK, [redacted]
DAVID W. MOORE, [redacted]
LEE A. MOORE, [redacted]
GARY D. MORGAN, [redacted]
JACK R. MORRIS, [redacted]
ROBERT G. MORRIS, [redacted]
CHARLES L. MUDD, [redacted]
PAUL G. MUNCH, [redacted]
WILLIAM L. MUNDIE, [redacted]
DAVID E. MURDOCK, [redacted]
ROBERT R. MURFIN, [redacted]
JAMES K. MURRAY, [redacted]
NORMAN J. MYERS, [redacted]
LELAND A. NAKAI, [redacted]
STEPHEN A. NASH, [redacted]
PAUL E. NELL, [redacted]
JOHN T. NELSEN, [redacted]
JAMES W. NEWELL, [redacted]
DAVID A. NEYSES, [redacted]
JAMES R. NICHOLS, [redacted]
TOM M. NICHOLSON, [redacted]
RICHARD D. NIDEL, [redacted]
JOHN W. NOE, [redacted]
EDWARD R. NUTTALL, [redacted]
DAVID J. OBERST, [redacted]
BRIAN J. OHLINGER, [redacted]
EDWARD C. OKEEFFE, [redacted]
JAMES A. OLEARY, [redacted]
RICHARD L. OLSON, [redacted]
RUSSELL V. OLSON, [redacted]
TIMOTHY R. ONEILL, [redacted]
ASHTON H. ORMES, [redacted]
BETTY J. OSWEILER [redacted]
STEPHEN OVERSTREET [redacted]
THOMAS L. OWENS, [redacted]
STEPHEN J. PACHECO [redacted]
THOMAS F. PAGE, [redacted]
JAMES E. PAIGE [redacted]
LANEY M. PANKEY, [redacted]
MICHAEL C. PASCOE, [redacted]
TIMOTHY R. PATRICK, [redacted]
WILLIAM PATTERSON, [redacted]
JOHN D. PAVLOVSKY, [redacted]
ROBERT M. PEDEN, [redacted]
JOEL M. PELIS [redacted]
WAYNE R. PEMBROOK, [redacted]
WILLIA PENHALLEGON, [redacted]
OVIDIO E. PEREZ, [redacted]
MARK S. PERNELL, [redacted]
HOWARD S. PERRY, [redacted]
PETER L. PETOSKEY [redacted]
PAUL P. PEYTON, [redacted]
RUTH A. PHILLIPS, [redacted]
BRIAN V. PIZZANO, [redacted]
THOMAS O. PLANT, [redacted]
WILLIAM C. PLOWDEN, [redacted]
DENNIS D. PORTER, [redacted]
DANIEL M. PRESCOTT [redacted]
KENNETH PRIVRATSKY, [redacted]
JOHN F. PROUT, [redacted]
JAMES R. PROUTY, [redacted]
PAUL E. PTASNIK, [redacted]
EDWARD S. PUSEY, [redacted]
VICTOR G. RAPHAEL, [redacted]
STEPHEN RASMUSSEN [redacted]
DENNIS K. RAYMOND, [redacted]
JOHN N. REESE, [redacted]
KURT B. REINEKE, [redacted]
JAMES REISENWEBER [redacted]
JOHN W. REITZ, [redacted]
ROBERT REUSS, [redacted]
JOHN T. REVELLE, [redacted]
KENNETH RHYLANDER, [redacted]
ROGER A. RICKETTS, [redacted]
JOHN C. RICKMAN, [redacted]
PETER E. RIEDEL, [redacted]
STEPHEN P. RILEY [redacted]
PAUL W. ROACH, [redacted]
JERRY D. RODGERS, [redacted]
THOMAS A. RODGERS, [redacted]
THOMAS J. ROEBER, [redacted]
LYNN W. ROLF, [redacted]
JOHN J. ROSSI [redacted]
GLADSTON E. ROUSE, [redacted]
CHARLES A. RUSSO, [redacted]
HENRY C. RUTH, [redacted]
RICHARD L. RUTLEDGE, [redacted]
DONALD J. RYDER, [redacted]
GIACOMO R. SABIA [redacted]
GERALD D. SALTNESS [redacted]
TALIAFERRO SAMUEL [redacted]
JAMES L. SAUNDERS, [redacted]
STEVEN R. SAWDEY, [redacted]
ALFRED A. SCHENCK, [redacted]
JOHN R. SCHMADER, [redacted]
MARK M. SCHNABEL, [redacted]
FRANCIS E. SCHWABE, [redacted]
JOHN E. SCHWEPPE [redacted]
PHILIP P. SCIANNA [redacted]
STEPHEN M. SEAY, [redacted]
HAROLD J. SEIFERT [redacted]
PATRICK SHANNAHAN, [redacted]
WALTER L. SHARP, [redacted]
WILSON A. SHATZER, [redacted]
DAVID L. SHAW, [redacted]
JOHN J. SHELDON, [redacted]
MARK R. SHOEMAKER, [redacted]
KENNETH SILVERNAIL, [redacted]
JOSEPH J. SIMMONS [redacted]
PAUL N. SIMS, [redacted]
THOMAS J. SINCLAIR, [redacted]
WAYNE L. SITTLER, [redacted]
JOSEPH B. SKEES [redacted]
WILLIAM S. SKINNER, [redacted]
SILAS C. SMALLS, [redacted]
ROBERT L. SMALSER, [redacted]
DAVID C. SMITH, [redacted]
DEAN T. SMITH, [redacted]
DOUGLAS I. SMITH, [redacted]
JACK E. SMITH, [redacted]
JAMES R. SNIDER, [redacted]
WILLIAM B. SNOW, [redacted]
CHARLES F. SPARKS, [redacted]
DAVID E. SPAULDING, [redacted]
DANIEL J. SPECK [redacted]
ROBERT J. SPERBERG [redacted]
WILLIAM C. SPRACHER, [redacted]
MICHAEL R. STAFFORD, [redacted]
STEVEN G. STARNER, [redacted]
EDGAR W. STEELE, [redacted]
GARY R. STEELE, [redacted]
GARY T. STEIMLE, [redacted]
GARY R. STEPHENS, [redacted]
SHELBY T. STEVENS, [redacted]
MITCHELL STEVENSON, [redacted]
STEPHEN A. STEWARD, [redacted]
LAWRENCE J. STEWART, [redacted]
ROBERT M. STEWART, [redacted]
WILLIAM P. STORMER, [redacted]
RICHARD L. STOUDER, [redacted]
NORMAND L. STPIERRE, [redacted]
RICHARD L. STRUBE, [redacted]
MARK S. SULLIVAN, [redacted]
PETER F. SUN [redacted]
MICHAEL A. SUOZZO, [redacted]
DAVID W. SWANK, [redacted]
CHARLES H. SWANNACK, [redacted]
EDWARD J. SZELIGA, [redacted]
DONALD W. TARTER, [redacted]
JERRY A. TAYLOR, [redacted]
MICHAEL J. TERCY, [redacted]
WILLIAM J. TETU, [redacted]
GARY THOMAS, [redacted]
JAMES A. THOMAS, [redacted]
JOSEPH T. THOMAS, [redacted]
RODNEY G. THOMAS, [redacted]
GERALD B. THOMPSON, [redacted]
ROBERT P. THOMPSON, [redacted]
EDWARD E. THURMAN, [redacted]
ALBERTO W. TIO, [redacted]
JAMES R. TOMPKINS, [redacted]
FRANK J. TONEY, [redacted]
DAVID H. TOOPS, [redacted]
MICHAEL A. TOPP, [redacted]
WILLIAM T. TORPEY, [redacted]
BARRIE A. TOWN, [redacted]
DONALD P. TOWNSEND, [redacted]
HARRY M. TOWNSLEY, [redacted]
ANTONIO J. TRINIDAD, [redacted]
BRUCE M. TRIPP, [redacted]
ROY R. TRUMBLE, [redacted]
RONNIE W. TUCKER, [redacted]
THOMAS R. TURNER, [redacted]
JOSEPH M. TYO, [redacted]
JAMES E. UNTERSEHER [redacted]
HENRY VANBREDERODE, [redacted]
DAN M. VANNATTER, [redacted]
HANS A. VANWINKLE, [redacted]
BENJAMIN VEGA, JR, [redacted]
MICHAEL E. VELTEN, [redacted]
JAMES E. VERITY [redacted]
JOHN M. VERMILLION, [redacted]
ELRIDGE J. VINCENT, [redacted]
JOHN R. VINES, [redacted]
DONALD E. VINSON, [redacted]
MICHAEL E. VIRGIN, [redacted]
DELLOYD J. VOORHEES, [redacted]
STEPHEN J. WAGER, [redacted]
THOMAS L. WALSH, [redacted]
WALTER V. WALSH, [redacted]
FRANK E. WARD, [redacted]
JAMES R. WARD, [redacted]
ROBERT L. WARD, II, [redacted]
JAMES H. WARE, [redacted]
DOUGLAS E. WARNE, [redacted]
THOMAS D. WASHBURN, [redacted]
JESSE L. WATSON, I [redacted]
ARNOLD E. WEAND, [redacted]
JAMES M. WEBSTER, [redacted]
MICHAEL B. WEIMER, [redacted]
JOHN O. WELCH, [redacted]
THOMAS E. WERNER, [redacted]
WILLIAM J. WETZEL, [redacted]
CLARENCE WHITAKER, [redacted]

ROY S. WHITCOMB, [redacted]
DAVID M. WHITE, [redacted]
PAUL A. WHITE, [redacted]
ROY J. WHITEHEAD, [redacted]
DONALD D. WHITFIELD, [redacted]
MICHEL WHITTENBERG, [redacted]
STEPHE WHITTENBERG, [redacted]
LAWRENCE WILKERSON, [redacted]
GERALD J. WILKES, [redacted]
ROBERT T. WILLARD, [redacted]
BRISTOL W. WILLIAMS, [redacted]
MICHAEL S. WILLIAMS, [redacted]
JAMES F. WILLIE, [redacted]
JOSEPH K. WILSON, [redacted]
ROGER E. WISE, [redacted]
WALTER WOJDAKOWSKI, [redacted]
DON K. WORKMAN, [redacted]
ROGER A. WRIGHT, [redacted]
WILLIAM R. WRIGHT, [redacted]
SAMMIE G. YOUNG, [redacted]
TERRY J. YOUNG, [redacted]
MICHAEL J. ZAHORSKY, [redacted]
HENRY A. ZIMON, [redacted]

[redacted]

[redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 17, 1992:

NATIONAL TRANSPORTATION SAFETY BOARD

CARL W. VOGT, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1996.

CARL W. VOGT, OF MARYLAND, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE UNITED STATES COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

GEORGE A. PENINGTON
PAUL E. VERSAW
WILLIAM C. DONNELL

THE FOLLOWING OFFICERS OF THE UNITED STATES COAST GUARD RESERVE FOR PROMOTION TO THE GRADE OF REAR ADMIRAL:

FRED S. GOLOVE
GEORGE R. MERRILEES

THE FOLLOWING OFFICER OF THE UNITED STATES COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

ROBERT E. SLONCEN

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATIONS BEGINNING WILLIAM I. NORTON, AND ENDING GEORGE S. KARAVITIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 1992.

COAST GUARD NOMINATIONS BEGINNING RICHARD B. GAINES, AND ENDING MICHAEL A. MEGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 1, 1992.

HOUSE OF REPRESENTATIVES—*Wednesday, June 17, 1992*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 17, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Reverend Mary Cushman, associate rector, Christ Episcopal Church, Alexandria, VA, offered the following prayer:

Let us pray:

O God of many names, lover of all nations and peoples, we give thanks to You today for the new spirit of friendship and reconciliation which prevails between our own country and Russia.

We pray that You would make us deeply conscious of our kindred hope;

That where there was discord, we might now find harmony;

Where there was darkness, we might now find light;

Where there was despair, we might now find gladness;

Where there was hatred, we might now find love.

Give to us each, O God, Your heart of trust, grant that our wills may be so knit together in Your will, and our spirits in Your spirit, that we might know ourselves as brothers and sisters of one planet, one promise, bound together in one abiding peace, this day and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Nebraska [Mr. BARRETT] will lead the House in the Pledge of Allegiance.

Mr. BARRETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

After consultation with the majority and minority leaders and with their consent and approval, the Chair announces that during the joint meeting to hear an address by His Excellency Boris Yeltsin only the doors immediately opposite the Speaker and the doors on his right and left will be open. No one will be allowed on the floor of the House who does not have the privileges of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privileges of the floor must be strictly adhered to. Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today, while the House is reading measures for amendment under the 5-minute rule, to consider the following legislation:

H.R. 4850, the Cable Television Consumer Protection and Competition Act of 1992;

H.R. 4706, the Child Safety Protection and Consumer Products Safety Commission Improvement Act; and

House Concurrent Resolution 246, expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States.

Mr. Speaker, the minority has been consulted on this request and has expressed no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, June 11, 1992, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 6 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1100

JOINT MEETING OF THE HOUSE AND SENATE HELD TO HEAR AN ADDRESS BY THE PRESIDENT OF THE RUSSIAN FEDERATION, HIS EXCELLENCY, BORIS YELTSIN

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the Russian Federation into the Chamber:

The gentleman from Missouri [Mr. GEPHARDT];

The gentleman from Maryland [Mr. HOYER];

The gentleman from California [Mr. FAZIO];

The gentleman from Florida [Mr. FASCELL];

The gentleman from Illinois [Mr. MICHEL];

The gentleman from Georgia [Mr. GINGRICH];

The gentleman from California [Mr. LEWIS]; and

The gentleman from Michigan [Mr. BROOMFIELD].

The VICE PRESIDENT. The President of the Senate at the direction of that body appoints the following Senators as members of the committee on the part of the Senate to escort His Excellency Boris Yeltsin into the Chamber:

The Senator from Maine [Mr. MITCHELL];

The Senator from Arkansas [Mr. PRYOR];

The Senator from Rhode Island [Mr. PELL];

The Senator from Hawaii [Mr. INOUYE];

The Senator from California [Mr. CRANSTON];

The Senator from Georgia [Mr. NUNN];

The Senator from Delaware [Mr. BIDEN];

The Senator from Maryland [Mr. SARBANES];

The Senator from New York [Mr. MOYNIHAN];

The Senator from Georgia [Mr. FOWLER];

The Senator from Kansas [Mr. DOLE];

The Senator from Wyoming [Mr. SIMPSON];

The Senator from Oklahoma [Mr. NICKLES];

The Senator from Mississippi [Mr. COCHRAN];

The Senator from Wisconsin [Mr. KASTEN];

The Senator from South Carolina [Mr. THURMOND];

The Senator from Indiana [Mr. LUGAR];

The Senator from South Dakota [Mr. PRESSLER];

The Senator from Alaska [Mr. MURKOWSKI];

The Senator from Florida [Mr. MACK]; and

The Senator from California [Mr. SEYMOUR].

The Doorkeeper announced the Ambassadors, Ministers, and Chargés d'Affaires of foreign governments.

The Ambassadors, Ministers, and Chargés d'Affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 6 minutes a.m., the Doorkeeper announced the President of the Russian Federation.

The President of the Russian Federation, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and personal pleasure to present to you His Excellency Boris Yeltsin, President of the Russian Federation.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY, BORIS YELTSIN, PRESIDENT OF THE RUSSIAN FEDERATION, BEFORE THE JOINT MEETING OF THE UNITED STATES CONGRESS

(The following address was delivered in Russian and translated simultaneously in English.)

President YELTSIN. Please don't count the applause against the time that I have been allotted for speaking.

Mr. Speaker, Mr. President, Members of Congress, ladies and gentlemen, it is indeed a great honor for me to address the Congress of the great land of freedom as the first ever, in over 1,000 years of history of Russia, popularly elected President, as a citizen of a great country, which has made its choice in favor of liberty and democracy.

For many years our two nations were the two poles, the two opposites. They wanted to make us implacable enemies. That affected the destinies of the world in a most tragic way.

The world was shaken by the storms of confrontation. It was close to exploding, close to perishing beyond salvation.

That evil scenario is becoming a thing of the past. Reason begins to triumph over madness. We have left behind the period when America and Russia looked at each other through gunsights, ready to pull the trigger at any time.

Despite what we saw in the well-known American film "The Day After," it can be said today, tomorrow will be a day of peace, a day less of fear, and more of hope for the happiness of our children.

The world can sigh in relief. The idol of communism, which spread everywhere social strife, animosity, and unparalleled brutality which instilled fear in humanity, has collapsed. It has collapsed, never to rise again.

I am here to assure you, we shall not let it rise again in our land.

I am proud that the people of Russia have found strength to shake off the crushing burden of the totalitarian system. I am proud that I am addressing you on behalf of the great people whose dignity is restored. I admire ordinary Russian men and women, who, in spite of severe trials, have preserved their intellectual integrity and are enduring tremendous hardships for the sake of the revival of their country.

Russia has made its final choice in favor of a civilized way of life, common sense, and universal human heritage. I am convinced that our people will reach that goal.

There is no people on this Earth who could be harmed by the air of freedom. There are no exceptions to that rule.

Liberty sets the mind free, fosters independence, and unorthodox thinking and ideas. But it does not offer instant prosperity or happiness and wealth to everyone.

This is something that politicians in particular must keep in mind. Even the most benevolent intentions will inevitably be abandoned and committed to oblivion if they are not translated into everyday efforts. Our experience of the recent years has conclusively borne that out.

Liberty will not be fooled. There can be no coexistence between democracy and a totalitarian state system. There can be no coexistence between market economy and power to control everything and everyone. There can be no coexistence between a civic society which is pluralist by definition and Communist intolerance to dissent.

The experience of the past decades has taught us, communism has no human face. Freedom and communism are incompatible.

You will recall August 1991, when for 3 days, Russia was under the dark cloud of dictatorship. I addressed the Muscovites who were defending the White House of Russia. I addressed all the people of Russia. I addressed them standing on top of the tank, whose crew had disobeyed criminal orders.

I will be candid with you—at that moment I feared, but I had no fear for myself. I feared for the future of democracy in Russia and throughout the world, because I was aware what could happen if we failed to win.

Citizens of Russia upheld their freedom and did not allow the continuation of the 75 years of nightmare.

From this high rostrum, I want to express our sincere thanks and gratitude to President Bush and to the American people for their invaluable moral support for the just cause of the people of Russia.

Last year citizens of Russia passed another difficult test of maturity. We chose to forgo vengeance and the intoxicating craving for summary justice over the fallen colossus known under the name of the CPSU.

There was no replay of history. The Communist Party Citadel next to the Kremlin, the "Communist Bastille," was not destroyed. There was not a hint of violence against Communists in Russia. People simply brushed off the venomous dust of the past and went about their business. There were no lynch law trials in Russia. The doings of the Communist Party over many years have been referred to the Constitutional Court of the Russian Federation. I am confident that its verdict will be fair.

Russia has seen for itself that any delay in strengthening the foundations of freedom and democracy can throw the society far back. For us, the ominous lesson of the past is relevant today as never before. It was precisely in a devastated country with an economy in near paralysis that bolshevism succeeded in building a totalitarian regime, creating a gigantic war machine and an insatiable military-industrial complex.

This must not be allowed to happen again. That is why economic and political reforms are the primary task for Russia today.

We are facing the challenges that no one has ever faced before at any one time. We must carry through unprecedented reforms in the economy that over the last seven decades has been stripped of all market infrastructure; lay the foundations for democracy and restore the rule of law in a country that for scores of years was poisoned with social strife and political oppression; and guarantee domestic, social, and political stability, as well as maintenance of civil peace.

We have no right to fail in this most difficult endeavor, for there will be no second try, as in sports. Our predecessors have used them all up. The reforms must succeed.

I am given strength by the support of the majority of the citizens of Russia. The people of Russia are aware that there is no alternative to reform, and that this is very important.

My job, as everybody else's in Russia, is not an easy one, but in everything I do I have the reliable and invaluable support of my wife and of my entire large family.

Today I am telling you what I tell you my fellow countrymen: I will not go back on the reforms, and it is practically impossible to topple Yeltsin in Russia. I am in good health and I will not say "Uncle" before I make the reforms irreversible.

We realize our great responsibility for the success of our changes, not only toward the people of Russia, but also toward the citizens of America and of the entire world. Today the freedom of America is being upheld in Russia. Should the reforms fail, it will cost hundreds of billions to offset that failure.

Yesterday we concluded an unprecedented agreement on cutting down strategic offensive arsenals. They will be reduced radically in two phases. Not by 30 or 40 percent as negotiated previously over 15 years. They will be slashed to less than one-third of today's strength, from 21,000 nuclear warheads on both sides down to 6,000 or 7,000 by the year 2000. And it has taken us only 5 months to negotiate. And I fervently hope that George Bush and myself will be there in the year 2000 to preside over that.

We have simply no right to miss this unique opportunity. All the more so that nuclear arms and the future of the Russian reforms are designed to make impossible any restoration of the totalitarian dictatorship in Russia are dramatically interrelated. I am here to say that we have the firm determination and the political will to move forward. We have proved that by what we have done. It is Russia that has put an end to the imperial policies and was the first to recognize the independence of the Baltic Republics.

Russia is a founding member of the Commonwealth of Independent States which has averted uncontrolled disintegration of the former empire and the threat of a general inter-ethnic blood bath.

Russia has granted tangible powers to its autonomous republics. Their Treaty of Federation has been signed and our Nation has escaped the fate of the Soviet Union. Russia has preserved its unity.

It was Russia that has substantially slowed down the flywheel of militarization and is doing all it can to stop it altogether.

I am formally announcing that without waiting for the treaty to be signed, we have begun taking off alert the heavy SS–18 missiles targeted on the United States of America, and the Defense Minister of Russia is here in this room to confirm that.

Russia has brought its policies toward a number of countries in line with its solemn declarations of the recent years. We have stopped arms deliveries to Afghanistan, where the senseless military adventure has taken thousands of Russians and hundreds of thousands of Afghan lives. With external props removed, the puppet regime collapsed.

We have corrected the well-known imbalances in relations with Cuba. At present that country is one of our Latin American partners. Our commerce with Cuba is based on universally accepted principles and world prices.

It is Russia that once and for all has done away with double standards in foreign policy. We are firmly resolved not to lie any more, either to our negotiating partners, or to the Russian, or American, or any other people. There will be no more lies, ever.

The same applies to biological weapon experiments and the facts that have been revealed about American prisoners of war, the KAL–007 flight, and many other things. That list could be continued.

The archives of the KGB and the Communist Party Central Committee are being opened. Moreover, we are inviting the cooperation of the United States and other nations to investigate these dark pages.

I promise you that each and every document in each and every archive will be examined in order to investigate the fate of every American unaccounted for. As President of Russia, I assure you that even if one American has been detained in my country and can still be found, I will find him. I will get him back to his family.

I thank you for the applause. I see everybody rise. Some of you who have just risen here to applaud me have also written in the press that until Yeltsin gets things done and gets all of the job done, there should be no Freedom Support Act passing through the Congress.

Well, I don't really quite understand you, ladies and gentlemen. This matter has been investigated and is being investigated. Yeltsin has already opened the archives and is inviting you to join us in investigating the fate of each and every unaccounted for American.

So now you are telling me, first do the job, and then we shall support you in passing that act. I don't quite understand you.

We have made tangible moves to make contacts between Russian and foreign business communities much easier. Under recent legislation, foreign nationals who privatize a facility or a building in Russia are given property rights to the plot of land on which they are located.

Legislation on bankruptcy has been recently enacted.

Mandatory sale of foreign currency to the state at an artificially low rate of exchange has been ended. We are ready to bring our legal practice as much as possible in line with world standards, of course on the basis of symmetry with each country.

We are inviting the private sector of the United States to invest in the unique and untapped Russian market. And I am saying, do not be late.

Now that the period of global confrontation is behind us, I call upon you to take a fresh look at the current policy of the United States toward Russia and also to take a fresh look at the longer term prospects of our relations. Russia is a different country today. Sometimes the obsolete standards brought into being by a different era are artificially imposed on new realities. True, that equally applies to us. Let us together, therefore, master the art of reconciling our differences on the basis of partnership, which is the most efficient and democratic way. This would come naturally both for the Russians and the Americans.

If this is done, many of the problems which are now impeding mutually advantageous cooperation between Russia and the United States will become irrelevant. And I mean legislative frameworks, too.

It will not be a wasteful endeavor; on the contrary, it will promote a more efficient solution of your problems, as well as of ours, and, of course, it will create new jobs in Russia, as well as in the United States.

History is giving us a chance to fulfill President Wilson's dream; namely, to make the world safe for democracy.

More than 30 years ago, President Kennedy addressed these words to humanity: "My fellow citizens of the world, ask not what America can do for you, but what together we can do for the freedom of man."

I believe that his inspired call for working together toward a democratic world is addressed above all to our two peoples, to the people of America and to the people of Russia.

Partnership and friendship of our two largest democracies in strengthening democracy is indeed a great goal.

Joining the world community, we wish to preserve our identity, our own image and history, promote culture, and strengthen moral standards of our people.

We find relevant the warning of the great Russian philosopher Berdyaev, who said, "To negate Russia in the name of humankind is to rob the humankind."

At the same time, Russia does not aspire to change the world in its own image. It is the fundamental principle of the new Russia to be generous and to share experience, moral values, and emotional warmth, rather than to impose and coerce.

It is the tradition of the Russian people to repay kindness with kindness. This is the bedrock of the Russian lifestyle, the underlying truths revealed by the great Russian culture.

Free and democratic Russia will remain committed to this tenet.

Today free and democratic Russia is extending its hand of friendship to the people of America. Acting on the will of the people of Russia, I am inviting you, and through you, the people of the United States, to join us in partnership in the quest for freedom and justice in the 21st century.

The Russian-American dialog has gone through many a dramatic moment, but the peoples of Russia and America have never gone to war against each other. Even in the darkest period, our affinity prevailed over our hatred.

In this context I would like to recall something that took place 50 years ago. The unprecedented world war was raging. Russia, which was bleeding white, and all our people were looking forward to the opening of the second front. And it was opened, first and foremost thanks to the active stand taken by President Roosevelt and by the entire American people.

Sometimes I think that if today, like during that war, a second, but peaceful front, could be opened to promote democratic market reforms, their success would be guaranteed earlier.

The passing by Congress of the Freedom Support Act could become the first step in that direction. Today, legislation promoting reforms is much more important than appropriations of funds. May I express the hope that the United States Congress, as the staunch advocate of freedom, will remain faithful to its strategic cause on this occasion as well.

Members of Congress, every man is a man of his own time. No exception is ever made for anyone, whether an ordinary citizen or the President. Much experience has been gained, many things have been reassessed.

I would like now to conclude my statement with the words from a song by Irving Berlin, an American of Russian descent: "God bless America," to which I will add, "and Russia."

[Applause, the Members rising.]

At 11 o'clock and 56 minutes a.m., the President of the Russian Federation, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Ambassadors, Ministers, and Chargés d'Affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 11 o'clock and 58 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

The SPEAKER. The House will continue in recess until 12:30.

□ 1230

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. MONTGOMERY] at 12 o'clock and 30 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

THE 20TH ANNIVERSARY OF WATERGATE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today, June 17, is exactly 20 years after Watergate, which led to many changes in this country and in the world, really. Some of them are good, with regard to Congress. We have democratized the Congress. We have spread the action around. We do not have the hegemony that used to be the case with senior Members. On the other hand, it may have led also to the so-called congressional gridlock.

One thing which came in the wake of Watergate was the 1974 election reform bill which created political action committees. It has not been a good thing. Instead of having the 600 political action committees of the 1970's, we now have almost 4,500.

Ninety-seven percent of all the big money that the PAC's give is to incumbents. They have not balanced the playing field, as they said they would do.

I have a bill in which would eliminate political action committees. I think it is a good bill. I would urge my colleagues to join in this anniversary of the Watergate to try to use this moment in time to recreate this Congress and to recreate and restructure the American political system.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will take only ten 1-minutes on each side of the aisle.

REPUBLICAN HEALTH CARE REFORM

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the American people have sent a clear message to the Congress that they want reform of the current health care system. Our citizens with health insurance are worried they will face escalating premiums they can't pay, and millions face the future with no health insurance at all.

What has the Democrat leadership done? Absolutely nothing.

Instead, the Democrats fiddle away while the hopes of millions of Americans go up in smoke.

Mr. Speaker, if the Democrats cannot come up with a proposal that will solve the problem of access to health care, they should stop wasting time and permit the Republican health care proposal to come to the floor. Within days, this House could pass legislation that would provide a solution for all Americans.

A majority of the Republican conference, and I am pleased to count myself among them, have united behind a plan. The Republican proposal will cure flaws in the current system, increase access, and restrain costs, while still enhancing freedom of choice, quality, and availability of care. The plan pays for itself and doesn't create a new Federal bureaucracy.

As the minority party, Republicans don't have the power to bring legislation to the floor. Only the majority party has that power. Use your power, Mr. Speaker, and solve the health care crisis today. Schedule a vote on the Republican health care reform plan.

INTERNATIONAL DOLPHIN CONSERVATION ACT OF 1992

(Mr. STUDDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUDDS. Mr. Speaker, today I am introducing the International Dolphin Conservation Act of 1992—legislation that will finally resolve the 20-year-old controversy over dolphins being killed by tuna fishermen in the eastern tropical Pacific Ocean.

Since the enactment of the Marine Mammal Protection Act in 1972 [MMPA], we have worked to eliminate the intentional killing of dolphins in tuna nets. From the beginning, we concentrated our efforts on cleaning up our own fishery. Unfortunately, while U.S. tuna fishermen continued to minimize dolphin mortality, foreign fishermen slaughtered tens of thousands of dolphins each year.

In 1988, we strengthened the MMPA by authorizing the embargo of tuna from countries that did not have dolphin saving programs comparable to ours and we approved the use of a dolphin-safe label, so consumers could decide whether or not to purchase tuna that was caught without killing dolphins in the process.

The results of those amendments have been remarkable. The American consumers spoke with their pocketbooks by purchasing dolphin-safe tuna. The U.S. tuna canning industry responded by declaring that they would only sell dolphin-safe tuna. And the embargoes that went into effect have given our negotiators the leverage to convince others to stop the slaughter.

The legislation I am introducing provides for an international 5-year moratorium on the practice of intentionally setting on dolphins, institutes an international research program, and assures U.S. tuna fishermen access to productive fishing grounds in the South Pacific. The administration has already received initial commitments from Mexico and Venezuela in support of the moratorium. This action alone will save over 55,000 dolphins in the next 5 years.

From the beginning, those of us who have fought so hard and so long to stop the slaughter of dolphins—like BARBARA BOXER and PORTER GOSS—realized that it could only be done through an international agreement. The International Dolphin Conservation Act will provide for such an agreement. The bill is supported by the administration, the environmental community, and by millions of Americans who want dolphins protected.

Almost 2,000 years ago Plutarch wrote:

> To the dolphin alone nature has given that which philosophers seek: friendship for no advantage. Though it has no need for help of any man, yet it is a genial friend to all, and has helped man.

Today—2,000 years later—Plutarch's words still ring true for the millions of Americans who support the International Dolphin Conservation Act.

CASPAR WEINBERGER'S INDICTMENT

Mr. LIVINGSTON. Mr. Speaker, today Boris Yeltsin formally pronounced the evil empire dead and buried. Yesterday one of the principal architects of its collapse was indicted for alleged crimes stemming from the Iran-Contra investigation. Iran-Contra being a policy he, Cap Weinberger, vigorously opposed and a policy which is the product of the imagination of an overzealous criminal prosecutor gone wild.

To the news of that indictment, I say shame on those whose have misused their office to press forward with an investigation and charges which have wasted 40 million taxpayer dollars for very poor and little purpose.

I say, end this farce. Close down the office of the inquisitor special counsel and pull the plug on Walsh.

RUSSIAN AID

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today Boris Yeltsin pledged freedom. Yeltsin's speech offers hope for the entire world. Congress is euphoric. So euphoric that Congress is ready to significantly reduce our nuclear arsenal and also give Russia $12 billion.

Now, I do disagree with that. Yeltsin is without a doubt a great man, but before Congress reduces our military advantage or writes a $12 billion check, I just want to caution Congress that all those hard-line KGB guys did not just find religion overnight.

If Yeltsin's experiment fails, the Russian military will be making the future speeches. We have got an awful lot of problems in this country. Mr. Yeltsin and Russia can work on their own marketplace without American dollars. We have got Americans pounding the streets as well.

THE CROWNING MOMENT

(Mr. MCEWEN asked and was given permission to address the House for 1 minute.)

Mr. MCEWEN. Mr. Speaker, this is undoubtedly a very special moment in the history of the world. Allow me just to reiterate a couple of the statements made by the President of the Russian Republic where he said just moments ago, "The idol of communism which spread social strife, enmity, and unparalled brutality everywhere, which instilled fear in humanity has collapsed. It has collapsed never to rise again. I am here to assure you, we shall not let it rise again in our land."

Liberty, as we think of the peaceful coexistent efforts of the 1950's, the President of Russia said this morning, "Liberty will not be fooled. There is no coexistence between democracy and a totalitarian state. There is no coexistence between a free market economy and the power to control everything and everyone. There is no coexistence between a civil society, which is pluralist by definition, and Communist intolerance to dissent. The experience of the past decade has taught us, communism has no human face. Freedom and communism are incompatible."

Mr. Speaker, the American people have paid a great price to bring us to this moment. As we rejoice and celebrate, let us say that this is the crowning moment. This is the capstone. This is the memory that shall be given to Cap Weinberger and to Ronald Reagan for doing what was right for freedom, what was right for America.

And when we say, Gold bless America, on this day, I add, Gold bless Cap Weinberger.

FAMILY LEAVE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as I continue my countdown to Father's Day, the Governor of New York has been trying to get the Vice President into a basketball game. I am just trying to get him into some legislative action, some legislative action on family legislation that has been waiting here for the administration to focus on it for 3 years.

We all listened to President Bush, and he promised that he would sign family leave. Family leave gives job-protected leave to men and women upon the birth or adoption of a baby or upon catastrophic illness.

Unfortunately, we believed the President. We passed that. He vetoed it. But we now have passed it but through both the Senate and the House again, and we are waiting to send it to the President, but we would sure like a signal from the Vice President or someone that they would be willing to sign it this time or at least talk to us about it so we could iron out any wrinkles they might have.

I am getting tired of family values speeches and no action. How very sad.

If we want to have a real Father's Day, let us have some real family legislation that would make life easier for parents in this country.

YELTSIN VISIT POINTS UP NEED FOR ECONOMIC REFORM IN BOTH RUSSIA AND THE UNITED STATES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I join with my colleagues in welcoming Russian President Boris Yeltsin to the United States. He is in no small part responsible for the remarkable changes that have taken place in the former Soviet Union and neighboring eastern European nations.

We all wish him well as he continues to transform his country, but this is a year of difficult choices. Just as President Yeltsin is looking inward to make reform, the United States, too, must put its house in order. In the end, the United States cannot afford to play so generous an international role unless we tend to our own people, our own economy, and our economic future. But the President offers no short- or long-term economic program.

He threatens to veto the unemployment bill one more time.

He has no plans to get health care costs under control. Yet he wants to fund reform in Eastern Europe.

He vetoed middle-class tax relief, he threatened to veto urban aid and he has not adequately addressed the issue of student financial aid.

Mr. Speaker, I say, with regret, if we cannot afford to rebuild America, we cannot afford to rebuild Russia. We need a domestic agenda. Our Nation's families depend on it.

A DUAL TRACK: AMERICA'S SUPPORT FOR RUSSIA, RUSSIA'S SEARCH FOR MIA'S

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, this is an excellent day to wear your combat infantry badge and for me to wear my peacetime fighter pilot wings. This was truly a day in history. I began by listening to the news media about the 20th anniversary of Watergate, and I wanted to think about the anniversary of Bunker Hill, when Colonel Prescott said, "Wait until you see the whites of their eyes." Now this day, the 17th of June, goes down in history as one of those benchmarks were we really can clearly see the end of the cold war, at least as it has involved the head of the Soviet Union. Mr. Boris Yeltsin got eye contact with me twice today in a room filled with almost 600 people. This was no little ego trip on my part. Twice I went like this to him, and he continued my symbol, and on the way out gave me an extra special big smile, because I took personally what he said up there on what I call that high rostrum:

> I do not understand you. I am asking for your help, and you are applauding me for the POW search that I want to begin, but then you are saying that that has to bring everything else to a halt.

I stand corrected, Mr. Yeltsin. I was one of those yesterday that made a very impassioned speech here, maybe my most impassioned speech ever, about moving forward on this POW accounting, and I am willing to go with him on what I think he was indicating is a dual track; we help him, and he keeps on a fast track the accounting of what happened to our missing in action.

He spoke of KGB files, Communist Party-Soviet Union files. I am willing to go over there at a moment's notice, with or without our President's blessing, and I think George Bush would give me his blessing to go to try and bring an end to something that has agonized me and most Americans for almost half a century, our missing from World II, Korea, and yes, out of Mr. Yeltsin's own mouth, Vietnam itself.

This was a great day in history in this Chamber.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I take this time to announce the schedule for the rest of the day and for the rest of the week, and to put Members on notice that today we will be taking up the energy and water bill, and we will be under the 5-minute rule. I would simply put Members on notice that we are likely to go to 7 or 8 p.m. this evening to try to finish that bill. We do hope to finish that bill this evening.

On tomorrow we will be considering the Hamilton-Gradison reform legislation. We have possible consideration of the supplemental appropriations bill, and there may be some other bills to be determined. I would assume that we would likely be in until 7 or even 8 o'clock tomorrow evening.

I would like to inform Members there will not be votes on Friday, but there will be votes on Monday, and Members will be advised of which bills will actually be taken up on tomorrow. We will give Members full notice of exactly how many votes or nearly how many votes, and what bills will be taken up on Monday. Obviously, the reason for Monday votes is to accelerate the schedule on the appropriation bills, so we can stay on schedule this year.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, I would ask the gentleman, does he anticipate delaying any votes on Monday, or can we expect at what time we must be here?

Mr. GEPHARDT. We will give Members full notice of when to expect votes on tomorrow. We will try to hold back as much as we can in terms of the timing of the voting, but we will give the Members a specific estimate on that tomorrow.

Mr. McEWEN. Mr. Speaker, if the gentleman will yield further, does he have any estimate about next Friday?

Mr. GEPHARDT. At this time we are expecting that there will be votes on Friday, as well as Monday. Again, I would say to Members that we are trying to expedite the appropriations schedule. We also have an enterprise zone bill that will be coming forward in the last week that could take a day or two to consider.

We also have been trying to have the ability to finish the unemployment compensation conference report, so we have a lot of business to finish before the break for the Fourth of July.

Mr. McEWEN. I thank the distinguished majority leader.

HABITAT FOR HUMANITY'S JIMMY CARTER WORK PROJECT SITE

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, earlier this week I was one of over 600 people that met to hammer out solutions to our low-income housing needs in this country that have been cut by over 90 percent in the last 12 years.

We met, not in a fancy conference room, but in a nearly completed living room on the site of 1 of 10 homes that we were building for our low-income residents in Southeast Washington, DC. This was part of the Habitat for Humanity's Jimmy Carter Work Project site.

Not only are these sites going up in Washington, DC, but across the country, and I am proud that my consitutents, Leroy Troyer and Art and Carolyn Mosier, were part of those efforts in Washington.

I am proud of the partnership that comes together between the homebuilders, the Habitat, and hundreds of volunteers in our communities. I am also excited that the 15,000th home will be built in Evansville, IN, my home State.

We need these new partnerships, Mr. Speaker. We need new ideas. I am proud to join in these efforts throughout this country.

COULD THE UNITED STATES DEFEND ITSELF?

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, as we enter the debate on the downsizing of the American military we should carefully consider whether or not the American taxpayers will actually own anything that may be left of the U.S. military industrial base. The pending sale of General Motors' Allison Transmission Division and Allison Gas Turbine Division will leave the U.S. military depending on foreign sources for tank transmissions and helicopter turbines.

More importantly, the American taxpayers have paid for this defense technology with hard-earned tax dollars. Now a German-owned company will be making most of the United States military's transmissions if the sale goes through to Zahnradfabril Friedrichshafen [ZF]. Another United States defense firm, LTV, is on the block to France's Thomson-CSF, which is 60-percent owned by the French Government. Janes Defense Weekly reports that a Defense Department memorandum indicates "that Army and Pentagon officials have advised that some classified work under LTV might be canceled if the Thomson deal is approved." Now the United States is in the position of depending on foreign companies and governments for weapons and parts. That is a poor solution for the American people, not only because they are losing their investment and technology but also the jobs.

Let us put a stop to it now.

□ 1250

A PLAN TO BALANCE THE BUDGET

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, last week the Congress of the United States turned down a balanced budget amendment to the Constitution. Everybody agrees what we have to do, and we do have to balance the budget. We have to have the guts before we are going to be able to do that. We have to put our money where our mouth is.

One of the things that we need is new revenue. I am not talking about new taxes. I am talking about new jobs. And based on the simple premise that no job, no income, no income tax, no balanced budget.

Here is my plan, and I think we ought to do it, and I am going to introduce it as a resolution:

We have to change our trade policy in this country to enhance America's position in the world market. We have to help American industries through tax incentives, cut foreign aid, tax foreign corporations doing business in this country, cut the waste and the fat out of Government, stop selling America to the foreign countries and cut defense even further. And last, but not least is make the deadbeats and the cheaters pay back the loans and pay back the back taxes that they have taken from the American taxpayer.

Now that is a plan, and I think that if we really want to do something about balancing the budget without cutting all of the programs and adding new taxes on, this is the way to do it.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 485 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 485

Resolved, That during consideration of the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, all points of order against the following provisions in the bill for failure to comply with clause 2 of rule XXI are waived: beginning on page 2, line 11, through page 18, line 10; beginning on page 19, line 5, through line 22; beginning on page 20, line 9, through page 25, line 8; beginning on page 26, line 1, through line 16; beginning on page 26, line 23, through page 50, line 3; beginning on page 51, line 3, through page 54, line 3; and beginning on page 55, line 14, through page 57, line 18; and all points of order against the following provisions in the bill for failure to comply with clause 6 of rule XXI are waived: beginning on page 2, line 11, through page 15, line 6; beginning on page 21, line 1, through page 23, line 20; beginning on page 26, line 23, through page 27, line 9; beginning on page 32, line 16, through page 33, line 7; beginning on page 34, line 8, through page 35; line 15; beginning on page 45, line 1, through line 20; beginning on page 46, line 18, through page 48, line 6; and beginning on page 51, line 3, through page 54, line 11. All points of order against amendments printed in the report of the Committee on Rules accompanying this resolution for failure to comply with clause 2 of rule XXI are waived. The amendment specified in the report to be offered by Representative Brown of California or his designee shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent and shall not be subject to amendment. No other amendment to the paragraph under the heading "General Science and Research Activities" shall be in order until the amendment specified in the report to be offered by Representative Brown of California or his designee has been disposed of.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio [Mr. MCEWEN] pending which I yield myself such time as I may consume. During consideration of House Resolution 485, all time yielded is yielded for the purposes of debate only.

Mr. Speaker, House Resolution 485, waives clause 2 and clause 6 of rule XXI against specified provisions in H.R. 5373, the energy and water development appropriations for fiscal year 1993. Clause 2 of rule XXI prohibits the consideration of unauthorized appropriations or legislative provisions in a general appropriations bill; clause 6 of rule XXI prohibits the consideration of provisions which contain reappropriations of unexpended balances.

In addition, Mr. Speaker, the rule waives clause 2 of rule XXI against the amendments printed in the report accompanying this rule. While amendments which seek to change dollar amounts contained in the bill recommended by the Committee on Appropriations are in order during the consideration of H.R. 5373, the waiver provided for in House Resolution 485 will permit the consideration of amendments which are legislative in nature.

Among those amendments is an amendment which will be offered by the gentleman from California [Mr. BROWN], the chairman of the Committee on Space, Science, and Technology. The Brown amendment seeks to impose deadlines for foreign participation in the superconducting super collider [SSC] project in order for funding to be continued. The rule provides that the Brown amendment, when offered by Mr. BROWN or his designee, shall be debatable for 30 minutes which shall be equally divided and controlled by the proponent and an opponent and is not subject to amendment. Mr. Speaker, House Resolution 485 also provides that no other amendment to the paragraph of H.R. 5373 under the heading of "General Science and Research Activities" shall be in order until the Brown amendment has been disposed of.

The Committee on Rules has recommended this provision in order that debate on the superconducting super collider might be considered by the House in an orderly fashion. As I stated, any amendment to change dollar amounts recommended in the bill are in order during consideration of the bill for amendment; opponents of the SSC have indicated their intention to offer an amendment to zero fund the project. The Brown amendment, under the procedure recommended by the Committee on Rules, will be considered prior to a zero funding amendment and will offer the House the opportunity to place serious constraints on the future of the project if no substantive foreign participation is forthcoming in the next year. Mr. Speaker, I believe this procedure fairly frames the issues surrounding the future of this most important scientific project and I recommend it to my colleagues.

Mr. Speaker, the House will decide today if this project is to go forward. I think we should all be very clear about what the SSC means for the United States. The SSC is a symbol of our Nation's commitment to scientific leadership in this century and in the next. It is an investment in the future: the SSC will enhance our Nation's competitiveness by yielding exciting discoveries and technological innovations. And, the SSC will serve as a training ground for the next generation of scientists, engineers, and physicists; men and women who will lead the way in helping to improve our quality of life through advances in science and medicine.

Mr. Speaker, just a few minutes ago, this House met with the Senate to hear the words of the President of the Russian Federation, Boris Yeltsin. President Yeltsin called upon the United States to seize upon this unique moment in history to assure the advancement of freedom, justice, and democracy. He called upon the United States to invest in the future of all mankind. Without sounding too grandiose, Mr. Speaker, I believe the House can make just such a choice today. Even in these times when serious fiscal restraints require prudent spending decisions, the SSC represents the best kind of investment we can make in the future of the United States. I urge my colleagues to support the SSC and help to assure our just position as a leader in science, research, and technology.

In addition to the Brown amendment, the Rules Committee has recommended a waiver of clause 2, rule XXI for an amendment to be offered by the gentleman from New York, Mr. SCHUMER. The Schumer amendment, which has been adopted by the House as part of the Department of Defense authorization, earmark's full funding for the Department of Energy's Reduced Enrichment Research Test Reactor Program. Because the DOD authorization has not yet been enacted into law, the waiver of clause 2, rule XXI against the consideration of the Schumer amendment is necessary and thus has been recommended by the Committee on Rules.

Mr. Speaker, H.R. 5373 provides for no new engineering, design, or construction starts for energy or water projects in fiscal year 1993. The bill recommends $40 million less than what was appropriated for energy and water projects in fiscal year 1992 and $630 million less than recommended by the President. Mr. Speaker, the Appropriations Committee has acted in a prudent and fiscally responsible manner in recommending this bill to the House, and I urge my colleagues to support House Resolution 485 so that we may proceed to the consideration of H.R. 5373.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today's rule, as described by my friend, the gentleman from Texas [Mr. FROST], marks the beginning of the appropriation season.

The Committee on Appropriations and the Subcommittee on Energy and Water in particular have done an especially commendable job on this measure. They have appropriated $21.8 billion, exactly the amount granted in the 602(b) allocation under the budget resolution, and $43.9 million less than last year.

Beyond that, this rule may allow further reductions in the total appropriations in this bill since, in general, amendments will be allowed under this rule that further reduce spending.

We are certain to have a healthy debate on the funding levels for the superconducting super collider, as mentioned by the gentleman from Texas. While I believe that most support the committee funding on this provision, it is healthy always to have a full debate on measures that impact significant sums of taxpayers' funds.

Mr. Speaker, I need to take just a moment to thank the committee for including some vital funding for one of the Nation's most important energy programs, the atomic vapor laser isotope separation process known as AVLIS.

The bill's $1.3 billion appropriation for uranium enrichment program operating expenses would be more than offset by revenues from the sale of enrichment services to nuclear powerplant customers. These revenues are expected to total $1.5 billion in fiscal year 1993, thus the net appropriation for the program is actually negative; in other words, the Government of the United States and the people will make money on this program.

Within the total appropriation, the bill provides $1.1 billion for operation and support of the Energy Department's gaseous diffusion enrichment plants of which there are two, and $70 million for work on a new enrichment technology, the atomic vapor laser isotope separation currently under development by the Energy Department. The AVLIS earmark is $30 million less than sought by the administration, less than half the amount provided in fiscal 1992.

The committee notes that the funding in the bill will permit the Department to complete the AVLIS demonstration program and document that program's results pending a decision on deployment of that technology.

Mr. Speaker, now, as you recall in the National Energy Strategy Act which was approved by the House just last week, we authorized a Government corporation to raise the capital necessary to invest in AVLIS, the next generation of uranium enrichment so vital to energy and national security programs. This appropriation bill includes $70 million toward operating expenses for AVLIS technology and is therefore essential.

Now, while southern Ohio has a particular interest given that the Portsmouth uranium enrichment plant is a prime contender for the future jobs that AVLIS will provide our Nation, I want to say unequivocally that it is in the Nation's clear interest to move ahead on this technology. The Committee on Appropriations should be commended for moving toward that end.

Mr. Speaker, the legislative process can be trying for the minority, especially, when we see unauthorized appropriations being made, and as we see major policy issues being addressed on spending measures. For example, in the particular bill that will come before us momentarily, we have a provision to ban nuclear testing. Now, this has been a topic of great debate and something which some people expected the President of Russia to discuss in his speech here today. It is of international significance.

Clearly, a major policy issue such as this should not interfere in the appropriations process. The ranking Republican on the Committee on Appropriations, the gentleman from Pennsylvania [Mr. MCDADE], pointed out in a letter to the Committee on Rules, and I quote, "This is a major policy issue that, in my opinion, should not be included in an otherwise fair and responsible appropriations measure. The 1993 Defense authorization bill recently passed by the House includes a ban on nuclear weapons testing. I believe that debate on this issue should remain within the authorization process."

So let me explain that the authorization process from the Committee on Armed Services is the place in which we debate these policy issues. To say that we will cut off funding for particular policy issues through the appropriations process is an aberration of the rules of the House. Therefore, this rule had to permit a special exemption.

I believe it was wrong, and it should not have been done, and I wish to call it to the attention of my colleagues.

Mr. Speaker, this is basically a fair and responsible rule, however. But that does not mean that nuclear testing policies should be allowed into the appropriations process, let me underscore. An unnecessary confrontation may well result in impeding the process of this vital bill which includes crucial funding for the Department of Energy, the Bureau of Reclamation, and the Corps of Engineers if we pursue this course.

While I cannot wholeheartedly endorse the bending of rules to protect the rights of the minority party and integrity of the legislative process, the rest of this rule is basically fair and reasonable and deserves consideration. I look forward to the debate and ultimate approval of the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule, and I am going to support the bill.

I support the superconducting super collider. Today there will be amendments to cut it.

I just want to mention to the Congress that just yesterday a ship driven by a new technology was launched on the waters of this planet. It takes us back to conjure up the famous and the infamous silent submarine in Tom Clancy's novel "Run Silent, Run Deep," whatever they call it, "Red October." The bottom line is Clancy's ship was powered by electricity. This new silent ship is powered by MHD [magnetohydrodynamics] an end result and end product of superconductor technology. It is not a Russian submarine. It is called *Yamato*, *Yamato I*, a Japanese ship.

Now, what is amazing is it should be called *Yamato II*, because the original

Yamato was a giant Japanese battleship in World War II.

So when we are talking today about cutting certain types of technology that America has finally come to grips with, Japan is not only moving in that direction, they are applying those technologies to actual products and projects.

There is an old saying that those in history who failed to understand their own history, or learn from it, may experience it once again. I think it is time today for Congress to stop this debate and quibble over the superconducting super collider.

The Members of the Congress should come forward and, let me say this, that is money that is being invested in America, and every Member of this House was trying to get that project in their State. I am on the committee, and I would have loved to have seen it in Ohio. We certainly needed the jobs, but it did not go to Ohio. The project went to Texas.

I am for that project in Texas. Congressmen and Congresswomen should not be hypocritical. That is a good project.

The State of Texas came up with a good program. It is good for our country, and we had better wise up, because there is now MHD, silent ships, a reactivation of the Japanese military, and we are over here dismantling our nuclear arsenal, maybe, and holding back on superconductor technology.

I think that says it all.

Today Congress should once and for all beat down those amendments and take America into the future. We will not be competing with guns. We will be competing with technology that will be found as an end result of the superconducting super collider.

☐ 1310

Mr. McEWEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, regrettably, I rise in opposition to the rule. The rule is not fair to me. It is not fair to the American taxpayer, and let me tell you why. It is because I appeared before the Rules Committee and made a request, a request similar to the one made by the chairman of the Committee on Science, Space, and Technology, upon which I serve and endorsed by the ranking Republican. They asked for a waiver so that conditions could be imposed on pursuing the superconducting super collider. I asked for that same privilege.

Now, I am a big boy and I understand the situation. I know how this institution works. As a courtesy to a veteran member of the Rules Committee from Texas, who has an understanding special interest in this, the committee granted the waiver for the gentleman from California [Mr. BROWN] and the gentleman from Pennsylvania [Mr. WALKER] and denied the waiver for Boehlert, for a very basic reason. It is because we are recognizing and we are able to present to this House and to the American people some facts that need to be brought to their attention.

Last week, 280 Members of this House voted for a balanced budget amendment. Two hundred eighty Members of this House said we are concerned with the fiscal condition of a nation that has a $4 trillion national debt and is spending $886 million a day, every 24 hours, just in interest on that debt. That $886 million per day payment does not feed anyone or clothe anyone or educate anyone or take care of the health care needs of anyone. It just services the national debt.

So 280 Members of this body, Republicans and Democrats, liberals and conservatives, voted "aye" for a balanced budget amendment.

Now, let us carry this a little bit further. Every single Member of this House, and I challenge my colleagues to run away from this statement, they do not want to because it makes sense. Every single Member of this House wants to keep a lid on taxes. No one is suggesting that we raise taxes. So we want to balance the budget, yet we refuse to find any additional revenues through taxes.

Then how are we going to do it, through smoke and mirrors? Is it not time that we were honest with the American people? I think it is time.

What we have to do is start establishing some priorities.

Now, I have no challenge to the worthiness of the superconducting super collider as good science.

For the 10 years that I have been privileged to serve in this body, I have also been privileged to serve on the Committee on Science, Space, and Technology, so I have had the opportunity to examine very carefully all the many proposals that come before us. I am the first to acknowledge that the SSC does represent good science, but it is not priority science. It is not science that this Nation can afford at this critical juncture.

So I asked the Rules Committee to give me the same courtesy that was extended to the chairman of my committee and to the ranking minority member. Permit a waiver, so that we could impose a condition on going forward with the SSC.

Now, what was the condition? Was it something really onerous? No, twofold. No. 1, to reaffirm a previously clearly stated position of this House that a ceiling of $5 billion on the taxpayer investment in the SSC would be maintained, not a penny more.

Second, we said, as the House has said repeatedly, yes, this is an international project; yes, we want foreign contributions.

Incidentally, we have not received the first penny to date, but if we are going to receive foreign contributions, let us make them honest contributions. Let us not do what has been suggested, enter into a contract with a Third World nation for a project involving say $200 million and then saying if we did it here at home, it would cost us $500 million, but since we can do it abroad for only $200 million, we then will figure out $300 million as a foreign contribution.

Well, good gosh, that is creative financing, and that creative financing has the Nation in a hell of a pickle, $4 trillion in debt; $886 million every 24 hours in interest on that debt.

Mr. Speaker, it is time to change. I would urge defeat of the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, last week the House debated the proposed constitutional amendment to balance the budget. Those of us who were opposed to that amendment made a number of different points. We expressed our concern, for example, that the amendment would create the opportunity for minority rule in this Congress that a minority could effectively determine the national budget priorities of this country of ours.

But there was another concern that many of us had. It was that the passage of the constitutional balanced budget amendment would essentially avoid the tough choices and give to many people in this body, and certainly give to the President, the opportunity to cloak their votes and their support for some of the most wasteful projects within the Federal budget behind their vote for the constitutional amendment; that is, they could on the one hand vote for wasteful spending and then point to their vote for the constitutional amendment as an example of their fiscal responsibility.

Mr. Speaker, today we will have an opportunity to test the sincerity of the commitments people expressed last week to attack wasteful Federal spending. We are going to have several amendments that will be offered in the course of the debate. There are three, in particular to which I want to draw the attention of my colleagues.

I will be offering an amendment to cut the funding for the SP-100 Space Nuclear Reactor Program.

I will be offering an amendment as well to cut the funding for the advanced liquid metal reactor.

Finally, I will be joining with the gentleman from New York [Mr. BOEHLERT] and the gentleman from Ohio [Mr. ECKART] and the gentleman from Kansas [Mr. SLATTERY] in moving to eliminate funding for the super collider.

Now, understand what is at stake here. These are the three projects that have the least justification within the appropriations bill that is before us.

The Department of Energy undertook, in its own internal analysis, to evaluate all of the various energy and science programs that have been funded by the Federal Government on the basis of their comparative merit, without regard to political sensitivity. The super collider came out next to last on the list of basic science projects that were considered in this merits-based evaluation.

The advanced liquid metal reactor likewise came out near the bottom of the list of their energy technologies that were evaluated.

The Space Nuclear Reactor Program, a total fiasco, does not even have a clearly defined mission.

And so you have three projects that simply cannot be justified on the basis of their merit. I will wait until general debate and until the offering of the amendments to give further detail on the mismanagement of these programs, the cost overruns that they have incurred, and the schedule delays that have occurred.

Make no mistake: There are no projects in the bill we are considering that are less supportable on the basis of their merit.

The second point: There are enormous taxpayer savings to be realized if this body will today bit the bullet and really cast votes against these undeserving projects.

The SP-100, if we eliminate that project this year, will mean a savings of $26 million this year, and some $2 billion over the next decade.

If we can eliminate the Advanced Liquid Metal Reactor Program, that would represent a $34 million savings this year, and $5 billion over the next decade.

If we can prevail, and I certainly hope we will be able to do so today, in killing the super collider project, that would mean $450 million of savings to be achieved this year, and at least $4.8 billion in the year's ahead. Many would argue that the savings in the outyears will be far larger than the $4.8 billion figure.

Now, I, too, oppose this rule. I do so for many of the same reasons that were identified by my distinguished colleague, the gentleman from New York [Mr. BOEHLERT]. It is really unfair, pure and simple. It is unfair. We came before the Rules Committee not only this year, but in previous years, requesting the opportunity to condition the expenditure of the funds for the SSC in the course of the appropriations debate.

□ 1320

And we were repeatedly denied the opportunity to offer that kind of conditional language.

Let us be very clear: The only reason the Brown-Walker amendment has been made in order is because of the effective advocacy of the gentleman from Texas [Mr. FROST] who happens to serve on the Committee on Rules. It is an act, very simply, of desperation because I think the supporters of the SSC realize this project is in trouble. And what they are trying to do by this amendment is to provide a figleaf.

I will continue this discussion in general debate.

Mr. McEWEN. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today to express reluctant support for the rule. I do not have any real big problem with it. I do want to bring to the attention of my colleagues, however, several amendments that will be under consideration today; specifically, the Brown-Walker amendment and the Eckart-Slattery-Boehlert-Wolpe amendments. I would just caution my colleagues, as they listen to the debate today, that the real tough amendment is the amendment to be offered by the gentleman from Ohio, [Mr. ECKART], the gentleman from New York [Mr. BOEHLERT], the gentleman from Michigan [Mr. WOLPE], and me. The bottom line is do we want to terminate this project? Yes or no? And let us not get sucked into this idea that we are going to be able to find countries around the world to help pay for this, because as we stand here today, Albania and India are the only two countries that have come forward with real cash to indicate an interest in this. The idea that we are going to look to the Russian Federation for assistance in building this, is laughable, in light of the speech we heard earlier today by President Yeltsin.

It just seems to me, in light of the fact that 280 of our colleagues last week voted for a balanced budget amendment, today will be the first big test of this body's will to make the tough choices.

Mr. Speaker, I strongly urge those 280 Members of last week who came to the floor and gave very eloquent speeches about the need for us to make tough choices to balance the budget, to put your rhetoric in action, we'll find out today if you are willing to make the tough choices needed.

This amendment will offer us the opportunity to save this year $450 million. Over the next 7 to 10 years, we are talking in the neighborhood of $10 billion, coupled with the fact that to operate this thing will cost $300 million to $500 million a year on an ongoing basis.

So I urge my colleagues to listen to the debate today, and I hope that they will support the attempt to strike all funding for the super collider.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART]

Mr. ECKART. I thank my colleague for yielding this time to me.

Mr. Speaker, the SSC is more aptly nicknamed as "Super Spender of Cash." That is exactly what it is going to be all about. I think it is illustrative to look at the costs of this project. First, in conceptual design we were told it would cost between $3.9 billion and $4.2 billion. In 1990 the budget was raised to a little more than $5 billion. In late January 1990, that number changed to $7.2 billion and, a few months later, moved to $7.8 billion.

In June 1990 that number jumped again to $8.25 billion. It has grown more than 100 percent since we were first told what a good deal it was.

Now the Department of Energy tells us, in their own independent cost estimate [ICE], that the real cost can be more than $11.25 billion.

The costs keep growing, and the only thing that looks like it will be colliding in the tunnels underneath Texas will be taxpayer dollars.

There will be several amendments, one of which I will offer, which will get to the heart of the question as to whether or not we are going to give reality to the rhetoric of the past few weeks and skill the super collider. My amendment, along with the gentleman from Kansas [Mr. SLATTERY], the gentleman from New York [Mr. BOEHLERT], and the gentleman from Michigan [Mr. WOLPE], will cut the continued development and construction of this project.

Other amendments will be offered which will precede it, the one by Mr. BROWN and Mr. WALKER, are a figleaf; they make you feel good but they will not do any good in terms of guaranteeing the real contributions, the real foreign contributions that need to be in place. I guess we should all support those, but the fact of the matter is, I say to my colleagues, we have to stop spending money we do not have on projects that we do not need.

This project, while well-intentioned, at some point in time simply has gone beyond the ability of the American taxpayers to afford.

Mr. Speaker, I urge adoption of the amendment which will make it clear that the priorities of government are elsewhere other than big construction projects that will soak the taxpayers, enrich the contractors, and leave the children paying the price.

Mr. McEWEN. Mr. Speaker, if the gentleman from Texas [Mr. FROST] has no further speakers, I just merely would make this observation: Often in this appropriations process, as we begin to go through the 13 bills, the Subcommittee on Energy and Water often leads the way. In my experience in the Congress, the Subcommittee on Energy and Water Appropriations has been a textbook example of how the appropriations process should work. They are timely, they are gentlemanly and courteous to witnesses, they are helpful in every conceivable way. And how they do it I do not know, but invariably they come in either on the mark or under the mark, and there is no need on the part of the Committee on Rules or the Congress to make exceptions for their efforts.

So, as we begin again this year for fiscal year 1993 and begin the appropriations process and have the Subcommittee on Energy and Water before us, I wish to close my comments on the rule by expressing again my admiration and respect for the gentleman from Alabama, Chairman BEVILL, the gentleman from Indiana [Mr. MYERS], the ranking member on the subcommittee, as well as all the members of the subcommittee, and wish them well and thank them for the service they do for our country so faithfully each year.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule providing for consideration of the Energy and Water appropriation bill, and I also rise in support of the bill. I would like to speak generally and then specifically about one of the projects that is in the bill.

As to the bill itself, let me simply say that when we talk in the Congress about making tough choices, trying to be fiscally responsible, one of the bills that we should look at as a positive example of how to do that is the Energy and Water appropriations bill. This bill is spending in excess of $21 billion for various scientific research projects, energy projects, and water projects around this country. The amount in this year's bill is less than was spent last year, and it is less than the President requested this year. There are no new authorizations in this bill. So when we talk about being responsible, I think an example of responsibility is the energy and water appropriation bill that is on the floor today.

Now let me speak specifically about one of the projects that is in the bill, the supercollider super conductor high-energy physics particle accelerator, better known as the SSC.

□ 1330

Some of my colleagues on the authorizing committee, the distinguished gentleman from New York [Mr. BOEHLERT] and the distinguished gentleman from Michigan [Mr. WOLPE], have risen in opposition to this rule primarily because they were not given an opportunity to offer certain amendments regarding the SSC. I share their concerns, think there should be an authorization bill reported by the Committee on Science, Space, and Technology specifically addressed to the SSC. We had such a bill several years ago. It passed the House; but it died in the Senate.

Mr. Speaker, I am willing to work the rest of this Congress and in the next Congress, if am fortunate enough to be here, to pass such an authorization bill where we can debate these issues and put all of the authorizing language that, the majority of the Congress, feels that is necessary to address building the SSC.

However, having said that, this bill is an appropriation bill. It is not an authorizing bill, and so, in general, legislating on an appropriation bill should be made out of order. That is what the Committee on Rules did. The amendment they did make in order is an amendment that most Members of this body I believe are going to support, and I would think most members of the authorizing committee, the Committee on Science, Space, and Technology, are going to support.

The Brown-Walker amendment, with regards to the SSC, requires the Department of Energy by June 1, 1993 to certify to the Congress that the international participation that has been estimated in the baseline cost estimate submitted in the Congress 2 years ago is going to be met, or we are not going to spend any more money on the SSC. Proponents and opponents of the SSC support such language. We say it is going to be an international project. It should be an international project.

The amendment that the gentleman from California [Mr. BROWN], the chairman, and the gentleman from Pennsylvania [Mr. WALKER], the ranking Republican, are going to offer simply says what we have already accepted de facto in any event is policy. That is the only authorizing amendment that should be made in order, and the Committee on Rules is to be commended for making that amendment in order.

We should have a general debate on the SSC, in the context of an authorization bill. We should have an SSC authorizing bill. We should debate all issues relating today to the SSC, but today is not that time.

I rise in support of the rule, I rise in support of the bill, and at the appropriate time I will have some remarks on the amendment in the bill.

Mr. MCEWEN. Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, the issues are pretty clear-cut. This is a fair rule. We should approve the rule and get on to the issues of the day.

A number of us have differences with the gentleman from Michigan [Mr. WOLPE], the gentleman from Kansas [Mr. SLATTERY], and the gentleman from Ohio [Mr. ECKART] on the merits of the SSC, on whether the United States should surrender its lead and scientific development or not, and I have the feeling the United States should not surrender that lead in the scientific area, and I would hope that, when we get to the motion to strike, that the funding will be defeated.

But that is not what is at issue right now. The issue is the rule, and I urge adoption of the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 44, not voting 13, as follows:

[Roll No. 195]

YEAS—377

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilirakis
Blackwell
Bliley
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
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Evans
Ewing
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
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Gaydos
Gejdenson
Gephardt
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Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Henry
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Hoagland
Hobson
Hochbrueckner
Holloway
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Hughes
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Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
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Jones (GA)
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Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
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Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco

Laughlin
Leach
Lehman (CA)
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Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
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McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin

Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Rinaldo
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski

Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—44

Allard
Bereuter
Bilbray
Boehlert
Bunning
Burton
Cox (CA)
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Fawell
Franks (CT)

Gekas
Grandy
Hancock
Hefley
Hopkins
Hunter
Kyl
Lewis (CA)
Lewis (FL)
McCandless
Meyers
Mfume
Morella
Ramstad
Ridge

Riggs
Ritter
Roberts
Schaefer
Sensenbrenner
Shays
Skeen
Snowe
Stump
Thomas (CA)
Vucanovich
Wolpe
Zeliff
Zimmer

NOT VOTING—13

Bonior
Espy
Gilchrest
Gingrich
Hefner

Herger
Hubbard
Ireland
Miller (WA)
Porter

Quillen
Savage
Traxler

□ 1354

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Porter against.

Mr. RIGGS and Mr. HANCOCK changed their vote from "yea" to "nay."

Messrs. JOHNSTON of Florida, HANSEN, and JACOBS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 310. Joint resolution to designate August 1, 1992, as "Helinski Human Right Day."

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the consideration of the bill, H.R. 5373, making appropriations for energy and water development for 1993, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. BEVILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Indiana [Mr. MYERS] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection?

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

□ 1359

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5373) with Mr. PEASE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

□ 1400

Mr. BEVILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring to you today for your favorable consideration the bill H.R. 5373 making appropriations for energy and water development for the fiscal year 1993. I am joined in this effort by my colleagues on the Energy and Water Development Subcommittee who have worked long and hard to bring this legislation to the floor. Let me express my special appreciation to our ranking minority member, the gentleman from Indiana [Mr. MYERS]. As in years past, he and I have worked together with the subcommittee without any trace of partisanship to fashion a bill that meets the present and future needs of our entire country. I also want to express my appreciation and thanks to the members of the subcommittee, the gentleman from California [Mr. FAZIO], the gentleman from Georgia [Mr. THOMAS], the gentleman from Texas [Mr. CHAPMAN], the gentleman from Colorado [Mr. SKAGGS], the gentleman from New Jersey [Mr. DWYER], the gentleman from Michigan [Mr. PURSELL], and the other gentleman from New Jersey [Mr. GALLO]. I want to also thank Chairman WHITTEN, a member of the subcommittee, and Mr. MCDADE for their assistance. I would like to note that we will be losing three members on the subcommittee this year. Mr. THOMAS, Mr. DWYER, and Mr. PURSELL have decided not to stand for reelection to the 103d Congress. They have been valuable members of the subcommittee, and they will be missed.

Mr. Chairman, at the outset, I want to point out to Members of the House that this bill is within the section 602(b) allocation for both new budget authority and outlays. I caution Members that any amendments offered to increase appropriations for any programs in this bill will put it over our allocations amount as we are right at our ceiling.

The committee believes that this is the best bill that could be developed within the severe budget constraints that we faced. The bill includes no new preconstruction engineering and design or construction starts for the Corps of Engineers or Bureau of Reclamation. The fiscal year 1993 funding level is so tight that financing new programs or projects would severely impact ongoing programs.

Mr. Chairman, the bill before the committee today would provide $21,835,286,000 to the Army Corps of Engineers, the Bureau of Reclamation, the Department of Energy, and eight independent agencies and commissions. The bill includes $11,887,459,000 for defense activities and $9,947,827,000 for domestic programs. The amount for defense is $244,170,000 below the budget request, and the amount for domestic programs is $386,482,000 below the administration's request.

I would like to note that the total amount recommended in the bill is $21,795,636,000 in new budget authority. However, the Congressional Budget Office has scored the bill at a total amount of $21,835,286,000 due to an adjustment needed to compensate for $39,650,000 of excess revenues received in the uranium enrichment account. The $21,835,286,000 is equal to the subcommittee's 602(b) allocation.

TITLES I AND II—WATER RESOURCE DEVELOPMENT

Mr. Chairman, the committee is committed to a policy of development of the vital navigation, flood control, water supply, irrigation, and hydroelectric projects that are necessary to the well-being and economic growth of the entire Nation. No part of this country is immune from the problems of water—too little or too much—and all States of the Union must join together cooperatively to foster a truly national water policy which responds to the unique needs of each State and region.

Title I includes $3,663,670,000 for the Corps of Engineers which provides for 494 water resource projects in the planning or construction phases.

Title II includes $825,825,000 for the Bureau of Reclamation which provides for 96 water resources projects in the planning or construction phases.

Titles I and II also provide for research and development activities, other studies which are not project specific, and projects in the operation and maintenance category. Within the available funds, the subcommittee has attempted to accommodate the most critical needs, within budget constraints, identified through the extensive hearings conducted with administration witnesses, the public, State, and local officials and Members of Congress. It was unfortunate this year that the committee was unable to provide for new preconstruction engineering and design projects or new construction starts for the Corps of Engineers and Bureau of Reclamation in this bill, but we did seek to maintain adequate funding for those projects which are ongoing.

TITLE III—DEPARTMENT OF ENERGY

In title III, for the Department of Energy, the recommendation provides a total of $16,948,105,000. In this title, we are recommending $11,874,459,000 for the national security programs and $5,073,646,000 for all other energy programs. The amount recommended for energy research programs maintains a balanced energy research program and a healthy scientific research effort. The recommendations include many changes in the request which are summarized in the report. I will mention a few.

In the energy programs of the Department of Energy, several items are worth mentioning:

For solar and renewable energy programs, we are recommending $246,975,000, which is the same as the budget request.

The magnetic fusion program was reduced by $20,000,000 to a recommended level of $339,710,000 due to severe budget constraints.

For environmental restoration and cleanup activities at Department of Energy defense and nondefense facilities, the committee recommendation is $5,312,703,000, the same as the budget request, and an increase of $1,029,536,000 over the fiscal year 1992 appropriation.

For nuclear energy R&D, the recommendation is $304,294,000, a decrease of $32,364,000 from the fiscal year 1992 level. Due to severe budget constraints, the committee was unable to fund the proposed new space exploration initiative.

For general science and research, the committee recommendation provides a total of $1,448,884,000, a decrease of $203,800,000 from the budget request. The recommendation includes $483,700,000 for the superconducting super collider, a decrease of $166,300,000 for the budget request, and the same as the fiscal year 1992 appropriation. In addition, the committee recommendation provides $15,000,000 for the Fermilab main injector, the same as the fiscal year 1992 level, and $15,000,000 less than the request. The reductions were necessary due to the severe budget constraints the committee faced.

The recommendation for defense programs of $11,874,459,000 is $93,541,000 below the current appropriation and $244,170,000 below the budget request. The recommended level includes increased funds for defense waste cleanup as I noted previously.

TITLE IV—INDEPENDENT AGENCIES

Title IV of the bill includes $358,036,000 for eight independent agencies. This is $3,599,000 below last year's level.

We have provided $185,000,000 for the Appalachian Regional Commission; $135,000,000 for the Tennessee Valley Authority; $13,000,000 for the Defense Nuclear Facilities Safety Board; $2,060,000 for the Nuclear Waste Technical Review Board, and $1,876,000 for three river basin commissions.

The committee recommendation provides $535,415,000 for the Nuclear Regulatory Commission, which is offset by revenues of $514,315,000, resulting in a net appropriation of $21,100,000.

GENERAL PROVISIONS

The bill contains several general provisions carried in prior years to permit the agencies funded in this bill certain flexibility and to limit other activities.

In addition, section 507 provides for a 1-year moratorium on any explosive nuclear weapons test unless the President certifies that any of the independent states of the former Soviet Union has conducted a testing during that period.

COMMITTEE REPORT

The report accompanying the bill provides a good explanation of the recommendations reflected in the bill. I would encourage the Members to look through it.

This is a good bill. I recommend its adoption.

☐ 1410

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the chairman of our subcommittee has done an excellent job, as he usually does, in presenting our bill. Today we are coming to the floor with the first appropriations bill for this year, one of 13 major appropriations bills, plus I suspect at least one or two more supplemental bills.

As the chairman has said, there are a great many people who have contributed to this bill: the staff, under the able leadership of Hunter Spillan; our colleagues on the Subcommittee on Energy and Water Development of the Committee on Appropriations, three of whom will not be back next year, and we will miss them very much, they have been contributors through the years; the gentleman from Georgia [Mr. THOMAS], who is a very capable member; our colleague, the gentleman from New Jersey [Mr. DWYER] and our colleague, the gentleman from Michigan [Mr. PURSELL]. So we will miss them, but they have been very valuable members.

When the committee started hearings back in February we knew we would have a lot of witnesses. We had 106 of our colleagues testify before our committee, a number of Governors, and thousands of witnesses sent messages or came in person to testify before our committee.

As the chairman has said, this is the most austere appropriations bill that we have had through the years that the chairman and I have been on this committee. At a time when the country is asking for the Government to be more careful in its spending, this subcommittee has complied by coming in with $43.5 million less than last year, and $623 million less than the President's request. It has not been easy. A great many of the Members have come forth with some requests for programs which are very fine programs, ones which in previous years we probably, could have included, but if we are going to cut spending, we need to start with the first appropriations bill, and this committee has certainly done this.

One of the problems we had, one of the biggest problems, of course, is the superconducting super collides, which the Members are going to hear a lot about this afternoon, built in Texas. It is the largest public works project ever started by any nation in the world.

It is a very fine program. However, our committee felt we just could not come up with the request that the President made, so we did fund it at last year's level, as we did a number of other programs. We came into last year's level with just $483 million, and the President requested $166 million more than that. We just were not able to fund it at the level requested by the President.

One of the other big programs the President objected to or the Office of Management and Budget objected to is the Fermilab main injector, out in Illinois, again a very fine research instrument. We funded it, again, at last year's level, not that we expected it to be killed, we certainly do support the program, but we just did not have the money this year.

The Office of Management and Budget did object to the fact that we did not put the money in that it requested, $183 million for environmental cleanup and language to implement a user fee. This is the Committee on Appropriations. Certainly the environment needs to be cleaned up, but we could not fund the $183 million because it would require authorization for the user fee program in this particular fund, so we did not include that.

Another objection that some of us had is the environmental cleanup in the bill. More than $5 billion of a $21 billion program goes for environmental cleanup; not that I am opposed to environmental cleanup. Some, as the chairman has suggested, goes back to World War II days. However, anything that has been around that long surely could wait maybe another year or two for cleanup in this important year, this year when we are in a crunch trying to find enough dollars to fund the programs. So I question whether a $1 billion increase this year, at a time when we are so tight for money and so many of the programs are pressed to finish, is the appropriate way to spend our dollars this year.

There are other programs that the administration does object to. One is section 507, which provides a 1-year moratorium on nuclear testing. I think the Members probably will hear more about that today.

In closing, I am sure from this floor today the Members are going to hear the four-letter word that we on this committee do not like to hear, "pork." Last night on Public Broadcasting here in Washington was a program on the awesome power of water. It showed the destructive power of floods, the sweeping away of property, the sweeping away of automobiles. One was a school bus carrying teenage children, and 10 were killed. Ten teenage children were killed in the devastation. The power of water, something this committee has attempted to address to control floods. Some will call these projects pork. Tell the parents of those 10 teenagers that were swept away and drowned that this bill contains pork. Tell those that are expecting energy to always be available, and for our children and grandchildren to have available the cheap sources of energy that this committee seeks to achieve, that this bill is pork.

It once was called the all-American bill because it does touch every one of us a number of times each day. The programs we are funding in this program are something that are an investment in our future, our children's future, our grandchildren's future. It is a sound bill, one that needs support.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], another one of our colleagues who is leaving us.

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman. I want to express my strong support and appreciation to the gentleman from Indiana [Mr. MYERS], to the gentleman from Alabama [Mr. BEVILL], to the gentleman from Mississippi [Mr. WHITTEN], to the gentleman from Kentucky [Mr. NATCHER], and to the gentleman from Pennsylvania [Mr. MCDADE] for putting together a very strong investment bill for the citizens of this country. I strongly support it.

Mr. Chairman, I rise in support of H.R. 5373, the energy and water development appropriations bill for fiscal year 1993.

Let me commend all those involved for their hard work and sound judgment in putting this important bill together and bringing it to the floor. Mr. WHITTEN, Mr. NATCHER, and Mr. MCDADE deserve out thanks for their leadership and their commitment to a responsible funding package for our energy and water programs.

I especially want to thank the chairman and ranking member of the subcommittee, the gentleman from Alabama [Mr. BEVILL], and the gentleman from Indiana [Mr. MYERS], for all of their hard work and cooperation—in this bill and over the many years we have served together in this House.

Mr. Chairman, this is a good bill. It is a responsible bill. The overall funding level of $21.8 billion is below the President's request and even below last year's funding level. Yet it manages to find the needed funds for modest increases in the important Corps of Engineers water civil works programs.

The corps's program is an important component in the development and protection of our Nation's infrastructure. It provides navigation, flood control, and hydropower improvements essential to our economy. In addition, these programs provide ancillary water quality, water supply, recreation and fish and wildlife benefits.

For example, in my region, corps projects give us a system of navigation along the Arkansas and White Rivers which provides cost effective transportation to the region, a comprehensive system of multipurpose reservoirs which generates power and tourism while providing clean sources of water supply, and levees and other improvements which protect our towns and cities from flood waters.

Funds provided in this bill will allow continuation of important initiatives in my region. This includes the Beaver Lake Water Quality Program, essential dam safety repairs at that same lake, and planning, engineering and design of improvements at the mouth of the McClellan-Kerr waterway needed to address low water problems. I want to thank the committee for all their help in funding these important projects and in addressing substantive problems, through bill language and report language, to allow this work to proceed quickly and in a fair and equitable manner.

In summary, let me repeat that this is a good bill—one that makes needed cuts while providing needed funds to continue essential public works programs.

Mr. MYERS of Indiana. Mr. Chairman, I thank my colleague in the committee with whom we have always worked so well. We will miss you very much, JOHN PAUL.

Mr. Chairman, I reserve the balance of my time.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to our friend and colleague, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding time to me, and would ask my friend from Alabama to engage in a very brief colloquy.

I want to first of all salute the gentleman for bringing this bill to the floor and for his work over the years.

Mr. Chairman, with reference to the Belvedere connector project, which is in my district of Louisville, KY, for which $3.5 million was appropriated in fiscal year 1991, am I correct, Mr. Chairman, that the gentleman supports commencement by the Corps of Engineers of construction of the Belvedere project by May 31, 1993, and that under normal construction procedures the project should be completed by September 30, 1995?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, the gentleman is correct, and I am delighted to take part in this colloquy with him.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman. Once again, I appreciate his work over the years, and thank him for his comment.

Mr. MYERS of Indiana. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MCDADE], the ranking Republican member of the Committee on Appropriations.

Mr. MCDADE. Mr. Speaker, I take just a few minutes to express the deep appreciation I feel to the distinguished chairman from Alabama [Mr. BEVILL], the chairman of the subcommittee; to my dear friend, the gentleman from Indiana [Mr. MYERS], who has his heart and soul in this bill, and to all the members of this subcommittee who worked so hard to produce a bill under extraordinarily difficult circumstances.

Mr. Chairman, this is the first appropriation bill to come to the House this year, and it is also the second year that this body has had to face the harsh realities of the Budget Enforcement Act of 1990. Last year we had a glimpse of the discipline that the Budget Enforcement Act process imposes on us. We got a taste of how real the spending cuts were, how difficult they were, and how difficult they were to achieve. This year we got more than a taste, we got a real bite.

This subcommittee achieved its work, even though it received an allocation that is below the 1992 level by $39 million in budget authority, far less than anyone would have wished. Nevertheless, my colleagues did what it took to stay within the allocation. They made a lot of hard choices. They said no to an awful lot of people, as my friend, the gentleman from Indiana [Mr. MYERS] just attested to when he talked about witnesses who appeared before the subcommittee. They were tough, they were responsible, they were fair. That is the most important thing.

□ 1420

Mr. Chairman, I think the House should recognize that for the second year in a row, there are no new starts in this bill which invests, as my friend has said so ably, in America. For the first time in my 30 years as a member of the Appropriations Committee there are no new preconstruction, engineering, and design awards, which are the precursors to future years' projects.

They did yeoman work under very difficult circumstances. They deserve the support of the House, and they deserve our applause. I hope this bill is adopted by a huge margin.

Mr. Chairman, I have reservations about the nuclear weapons testing ban included in this bill. At this time, I would like to insert in the RECORD letters from the Secretary of Defense, the Secretary of Energy, and the Assistant to the President for National Security Affairs on this issue.

THE WHITE HOUSE,
Washington, June 17, 1992.
Hon. JOSEPH MCDADE,
Ranking Minority Member, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MCDADE: I am writing to express my strong opposition to a moratorium on nuclear testing.

The dramatic changes in the international security environment are leading to profound changes in the size and composition of the nuclear forces of the United States and the former Soviet Union. The START Treaty and the President's nuclear initiative of last September will reduce total U.S. nuclear weapons to about one half the level of 1990. Yesterday, the President and President Yeltsin announced a remarkable agreement on even more far-reaching strategic arms reductions. When codified in a treaty, that agreement will result in the elimination of the world's most dangerous weapons—multiple-warhead ICBMs—and will further reduce our strategic nuclear stockpile to less than one-third the 1990 level.

Despite these extraordinary reductions, nuclear deterrence remains an essential element of U.S. national security strategy. As long as this is the case, the U.S. must conduct a limited number of nuclear weapons tests to ensure the safety and credibility of our forces. Testing is essential to monitor, maintain and improve the safety of the stockpile. It is also critical to evaluating and maintaining the reliability of our deterrent capability.

In keeping with the dramatic reductions in the number and types of our nuclear forces, the United States has significantly reduced the number of our nuclear tests. We now conduct only about one-third as many tests as we did in the early 1980s. Our dramatic achievements in nuclear arms reductions amply demonstrate that a moratorium on testing is in no way required for far-reaching arms reductions. Nor does the fact of U.S. nuclear testing provide any incentive to potential nuclear proliferators. However, a modest but effective nuclear testing program remains essential to U.S. and international security.

Sincerely,
BRENT SCOWCROFT.

THE SECRETARY OF ENERGY,
Washington, DC, June 16, 1992.
Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House begins consideration of H.R. 5373, the "Energy and Water Development Appropriations Act, 1993", I am writing my views on certain provisions in the bill and on significant amendments expected to be considered by the House.

I am very concerned about the FY 1993 appropriation level currently in the bill for the Superconducting Super Collider (SSC) and would oppose strongly any amendment to reduce further or strike SSC funding. In this era of construction delays and higher costs, I am proud to report that the SSC is being built on schedule and on cost. The SSC will help ensure that the U.S. maintains its preeminence in fundamental science and engineering research. The Project successfully developed and tested the superconducting magnets during the past year. It is imperative that we continue to fully support the SSC so that we build on U.S. scientific leadership. Accordingly, a cancellation of funding would result in a loss of over 7,800 first-tier jobs. Also, any amendment which would have the effect of inhibiting the continuous flow of appropriated funds would be counterproductive and opposed to the Administration.

I also strongly oppose section 507, the nuclear testing moratorium provision. Underground testing is now at its lowest level in almost 40 years. Halting nuclear testing will not enhance our nonproliferation objectives nor increase global security. Testing is critical to our ability to introduce enhanced safety features into the weapons stockpile and is essential to assure weapons reliability. A nuclear testing moratorium only jeopardizes, rather than increases, our national security.

We also would oppose other amendments that may be offered to reduce funding for certain programs if they are not consistent with the President's FY 1993 budget request. In particular, I am concerned about a possible amendment which may be offered on the floor that would reduce the "Departmental Administration" account by 10 percent. I would oppose this amendment because it would force the Department to either reduce Headquarters' service contracts by about 20 percent or initiate Reduction-in-Force procedures for approximately 750 positions.

Mr. Speaker, the Department looks forward to working with the Members of the House to pass a reasonable appropriations bill.

Sincerely,
JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

THE SECRETARY OF DEFENSE,
Washington, DC, June 3, 1992.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing to express my strong opposition to a moratorium on nuclear testing. Nuclear deterrence will continue to play a key role in the future of our nation's security, and continued nuclear testing is needed if we are to be confident in the safety, security, effectiveness, survivability and reliability of the smaller nuclear stockpile.

Both the Congress and the Administration share the goal of assuring the safety of our nuclear stockpile. Continued nuclear testing is critical to this end. It is essential both for incorporating additional safety features into our weapons and for identifying, assessing, and correcting aging, safety, and other problems that may arise.

Many believe that nuclear testing contributes to an arms race or hinders the important effort to stern nuclear proliferation. This is not the case. The nonproliferation challenge will not be eased by the cessation of nuclear testing. Revelations regarding the Iraqi nuclear program have demonstrated once again that testing is not required to develop a basic nuclear weapon capability. Rogue nations such as Iraq or North Korea will not be deterred from pursuing nuclear weapons programs by a halt in U.S. nuclear testing.

As to contributing to an arms race, our nuclear testing program did not hamper the very deep nuclear reductions being brought about by START and the President's initiatives on September 27, 1991 and January 28, 1992. Full implementation of START and the President's recent initiatives would reduce our stockpile size to about 30 percent of its September 1990 level—a dramatic demonstration that further testing limits are not required for deep and stabilizing arms reductions.

A halt to our nuclear testing would not eliminate any nuclear weapons, nor would it increase international security. However, it would erode our confidence in our remaining nuclear deterrent, prevent us from making desirable safety improvements, and severely restrict our ability to insure that our nuclear deterrent will meet the requirements of our national security.

Sincerely,

DICK CHENEY,
Secretary of Defense.

Mr. BEVILL. Mr. Chairman, I yield 3 minutes to our friend and colleague, the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I would first like to thank Chairman BEVILL, Mr. JOHN MYERS, and the other members of the committee and the committee staff for all the help they have given me over the years. I know they have a very difficult job, and they work hard to develop responsible legislation that is fair to all members.

I must say, however, that I deeply regret the fact that the committee has been unable to fund any new construction starts. I recognize the tremendous fiscal pressure that the committee faced this year. But many of these projects, which have been supported through engineering and design, simply can't wait. Let me tell you about one in my district.

Buena Vista is a city of 6,000 people located in the middle of the Shenandoah Valley whose very existence depends on a flood control project that we've been working on for the past 6 years and is ready to start construction. Flooding has already cost this small city the loss of two industries and 500 jobs from the great flood of 1985. And even as I speak here today, the city is under still another Federal disaster declaration from flooding that occurred this past April.

The city has already spent over $1 million on the flood control project. It has sold bonds and raised the taxes on its citizens to help pay for this project. Moreover, it has persuaded the State of Virginia to contribute funds to a Federal flood control project for the very first time in history.

Buena Vista's citizens have done everything that has been asked of them, everything they are capable of doing, to get this project built. The remaining industries in Buena Vista are watching the Federal Government very closely as they evaluate their future plans in Buena Vista. If this flood control project cannot be started, they will leave.

As we debate providing disaster relief for the riots in Los Angeles and the flood in Chicago, aid to Russia, and many other worthy causes, I hope my colleagues will recognize that smaller communities have disasters, too. And the consequences can be life or death for the whole community.

Such is the case with Buena Vista. The people there are desperately trying to save their city from another catastrophic flood. The city and the State have done their parts. All that remains is for the Congress to give the go ahead; $1.3 million to start construction is all that is needed.

Obviously, the fiscal constraints we face this year are enormous, probably the biggest they have ever been. But we have found money for many disasters—lots of money. Frankly, this Federal project is the only thing that stands between little Buena Vista and extinction. The city has only me and the two Virginia Senators to save it. This project is my single highest priority in this, the last year of my congressional career. I sincerely hope that as this process proceeds, we will be able to find a way to fund this absolutely essential project. I would appreciate your help as I ask for it.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. GALLO], a very able-bodied member of our subcommittee.

Mr. GALLO. Mr. Chairman, I rise today in support of H.R. 5373 and its accompanying report making appropriations for energy and water development for fiscal year 1993. As a member of this subcommittee, I would like to thank Chairman BEVILL and ranking member JOHN MYERS for their leadership and direction. I would also like to thank the dedicated and capable staff of the subcommittee for their expertise and knowledge of these important issues.

This year, as appropriators, we had a difficult task balancing our Nation's energy and water needs due to the fact of the tight budget restraints. However, I am proud of the fact that we have crafted a bill that will continue to move this country toward energy efficiency and energy independence.

With this bill, we have also made a significant long-term commitment to the development of new energy sources for our future needs. Oftentimes we find it very difficult to look to the future for our energy needs. However, we must make the commitment now. We must provide the economic opportunities today. Without this investment we are dooming our future generations to a lower standard of living and less productive lives.

I believe this bill takes that necessary step. Within this bill, we have funded programs that will make this country less dependent on foreign sources of energy. We have funded scientific research that will give us the edge and the capability to take this country into the 21st century. I am pleased that the committee increased the solar budget account from last year so that we can continue the important work in the area of photovoltaics and wind energies.

An important element of this year's funding bill is the $339 million for the magnetic fusion energy program. It is difficult to think of a more worthwhile Federal investment than research and development into future energy alternatives. Fusion holds the promise of an environmentally benign and safe source of energy and it is an investment that I am happy to support.

We, in Congress, talk a lot about energy security and energy strategies. The American fusion energy strategy is really quite simple: Maintain strength in the U.S. program while cooperating with our international partners on a large experiment that will bring fusion science closer to a commercial fusion reactor. Without a strong domestic program, America won't be able to compete and lead the world community in fusion research and American industry will be left behind on a promising energy technology.

The U.S. fusion program is spread out across the country at over 30 universities and research laboratories. In New Jersey, the Princeton Plasma Physics Laboratory is home to the country's largest fusion machine, the tokamak fusion test reactor [TFTR], where next year scientists will introduce a fuel mixture of deuterium-tritium. These D-T experiments are the highest priority in the U.S. fusion program and this appropriations bill will bring those D-T experiments closer to reality.

Another important part of this bill are the funds for the next fusion machine, which will replace TFTR at Princeton. The fusion community has started early design work on a smaller machine that will explore long pulsed fusion phenomenon and advanced tokamak operations, both critical to the eventual design of a commercial fusion reactor.

Interest in fusion is growing, but we have to stick with it. These are not simple issues and these are not scientific experiments that can wait until the electricity demands of the future are upon us. Last year, the funding for fusion increased. But, after more than a decade of shrinking budgets, I say the time has come to keep the investment in fusion strong. I am pleased my colleagues on the Appropriations Committee have made their commitment to fusion research.

In addition, this bill also provides funding for a number of critical flood control projects throughout the United States. These important projects will help to prevent property damage in areas with recognized flooding problems. It is even more important, however, that these projects move forward in order to save the countless lives lost to devastating floods. This bill provides the needed relief to those areas stricken each year by floods.

Funding for continuation of the design phase of the Passaic River dual inlet flood tunnel project represents our commitment to prevent what could become the worst natural disaster in any of our Nation's river basins.

The $10 million contained in this bill is the minimum required to keep this important flood control project on track. This critical project will save lives, prevent flooding while preserving wetlands, and will create 2,500 jobs for 10 years.

I will never forget the fear and apprehension expressed by the people in the Passaic River basin after April flooding in 1984 took three lives and caused $355 million in damage.

Eight years have passed since that event and thankfully we have not been hit with a devastating flood to this point. While no one can accurately predict what the future will bring, we can be sure that time is not on our side, based on past experience.

This bill also contains priority funding for the Green Brook flood control project in the Raritan River basin as set at $3.5 million.

These critical New Jersey flood control projects must move forward in order to protect the public safety in the Passaic and Raritan River basins.

Preparing for our future needs is never easy, but H.R. 5373 provides the insight and programs that will make it a little easier. I urge the adoption of this important bill.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to our colleague, the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank my chairman for yielding the time and wish to thank him and our ranking minority member, the gentleman from Indiana [Mr. MYERS] for the leadership they have given the committee this year in bringing this bill to the floor, first among the appropriation bills as is the tradition.

I am particularly pleased that the bill includes a provision that will block the consolidation of what is generally referred to as the nonnuclear elements in the Department of Energy's nuclear weapons complex. This proposed consolidation would affect a number of DOE plants around the country, bringing their nonnuclear operations together in Kansas City. The Department estimates that this will cost well over a quarter of a billion dollars up front to accomplish. With that kind of cost involved, I think the committee has wisely acted to halt the proposed consolidation until we have clear and really conclusive evidence from the Department that the proposal will ultimately save the American taxpayers the substantial moneys the Department suggests it will.

In the meantime, speaking for my own part of the country in Colorado where some 800 jobs at the Rocky Flats plant would be affected, and given the downsizing that is occurring there in any event, we are anxious to have those positions retained and are pleased that we have this provision in the bill to effect that outcome.

I also want to make note of the fact that in this very, very difficult budget environment the bill before us includes the President's full request for solar and renewable energy, a modest increase over current fiscal year funding. But in the context of the funding constraints in many, many areas, it is a remarkable plus that the committee has been able to support solar and renewable to the degree that the bill does.

Again, noteworthy in this bill is that it is coming in below this year's appropriation level and substantially below the President's request. I think that demonstrates the discipline of the subcommittee and the full committee in meeting our obligations in these times of necessary frugality.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to our colleague, the gentleman from Arizona [Mr. KOLBE], a member of the Committee on Appropriations.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the fiscal year 1993 energy and water appropriations bill. Facing severe budget constraints, the subcommittee has produced a bill which I believe all Members can support.

The bill is $623.7 million below the President's request, $43.9 million less than last year's appropriation and falls within the subcommittee's 602(b) allocation. To get to this point, the subcommittee had to make some tough decisions, such as providing no new funding for new preconstruction engineering or construction projects for the Corps of Engineers or the Bureau of Reclamation. The subcommittee also funded no major new construction under the Department of Energy's domestic programs or other new initiatives.

Many important projects were not funded in the bill, including a number in my home State and district. But the subcommittee has demonstrated the kind of leadership and discipline so needed in Congress.

I know this has been a painful and difficult process for the subcommittee members. What has emerged from that process is a bill that is fiscally responsible and fair. At a time when the country is calling out for leadership, this subcommittee has shown it. I commend the chairman, Mr. BEVILL, and the ranking member, JOHN MYERS, for their leadership and the entire subcommittee for their work. This is the first fiscal year 1993 appropriations bill to be considered by this body, and I am hopeful that it will serve as a model for how to make the tough, fiscally responsible, and fair decisions dictated by our severe budget constraints. I urge my colleagues to support it.

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Mr. MYERS of Indiana. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise to speak about my hopes for future energy and water appropriations bills. The House has just completed days of debate on the Comprehensive National Energy Policy Act, which contains significant new support for solar, geothermal, wind, and biomass technologies. My hope was that this appropriations bill would redirect our use of energy sources in a similar manner. The bill, however, fails to achieve the growth needed to sustain these fledgling industries, and in some cases, cuts fiscal year 1992 programs. I and many of my colleagues believe that it is time to reorient our spending priorities to reflect new national and global trends toward more sustainable energy practices such as discussed at the Earth summit in Rio.

Mr. Chairman, I realize that the Committee on Appropriations has an extremely difficult job to do this year. But we must redirect our scarce resources to solar thermal, wind, photovoltaics, and biofuels. Our energy future lies in these areas, both for domestic use and for export. We will cut our dependence on foreign oil and reduce carbon dioxide emissions. Renewable technologies will lead to new industries and new jobs. I will vote for passage of this bill, and I will work for increased funding for solar and other sources of renewable energy.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], our valuable and very distinguished chairman of the full committee.

Mr. WHITTEN. Mr. Chairman, I want to pay tribute to the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS], and my other colleagues on this subcommittee for the great job they have been doing.

As we develop the appropriation bills within our limited funding allocation, we need to take care of our real wealth, our country itself. This bill does that. This subcommittee and those who worked with it have shown good, sound judgment in investment in our own country on which all the rest depends.

Mr. Chairman, I join with my colleagues Chairman TOM BEVILL and ranking Republican JOHN MYERS, and with my other subcommittee colleagues in recommending this bill to you. This is a major bill for looking after the physical resources of our country itself—which is our real wealth. Along with the bill for agriculture, it is the foundation of our economy.

Mr. Chairman, these are investment expenditures.

It is hard sometimes to look after your own country, but the problems we have today are not the result of what we spend on our own country. We must spend on our country if we are going to be economically strong enough to do all these other things.

Within this bill there are programs of special interest to my area and State.

For the Foothills Joint Demonstration Erosion Control Program, funds are included for work on Batupan Bogue, Otoucalofa Creek, Hotophia Creek, Hickahala and Senatobia Creeks, Long Creek, Black Creek, Burney Branch, Town Creek-Charleston, Sherman Creek, Abiaca Creek, Toby Tubby Creek, Pelucia Creek, Cane-Mussacuna Creeks, Hurricane-Wolf Creeks, and the Coldwater River.

For other ongoing construction, funds are included for the Nonconnah Creek project, the Sardis Dam—dam safety assurance, the Tombigbee River and tributaries project, the Tennessee-Tombigbee Waterway—purchase of mitigation lands, the Horn Lakes Creek and tributaries project, and the Gulfport harbor project. Funding is also included to continue the Jackson metro area study, and for the East Fork and Tennessee-Tombigbee Waterway operation and maintenance. Language is also included in the bill providing that operations and maintenance funding for Yazoo basin lakes shall be available for maintenance of roads and trails.

For the Yazoo basin, funding is provided to continue construction on the big sunflower project, the demonstration erosion control projects, the tributaries project, the Upper Yazoo projects, and for backwater mitigation lands. The reformulation study—Yazoo basin projects—is also funded as well as operation and maintenance for all completed Yazoo basin projects.

For the Tennessee Valley Authority, rural development activities are maintained at the current level. Efforts are directed at helping to eliminate the economic hardships in the valley's rural areas.

For the Appalachian Regional Commission, funding for the highway program and area development activities is at nearly last year's level. This funding supports continued construction of corridor V.

Funding in this bill also continues a cooperative agreement between Jackson State University, Lawrence Berkely Laboratory, and Ana G. Mendez Educational Foundation, an ongoing program.

Mr. Chairman, this is a good bill and I urge that it be adopted.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in strong support of this legislation. This Member would like to take the opportunity to thank the chairman and the ranking minority member of the House Appropriations Subcommittee on Energy and Water Development. The distinguished gentleman from Alabama [Mr. BEVILL] and the distinguished gentleman from Indiana [Mr. MYERS] have been longtime supporters of water projects that are very important to Nebraska.

Mr. Chairman, this Member formally recognizes and expresses appreciation that this appropriations bill does provide important funding for several Missouri River projects which are designed to remedy problems of erosion, loss of fish and wildlife habitat, and sedimentation. By appropriating an additional $2 million for the item over the President's request for a four-State area, Nebraska, Iowa, Kansas, and Missouri—for a total of $7,600,000—the committee makes an important commitment to a long delayed effort to reconstitute fish and wildlife habitats lost on the Missouri River through its channelization and stabilization. Also, the bill provides $156,000 for a minimal effort to remedy erosion problems and preserve the river's recreational and scenic potential. Finally, the bill provides $250,000 and $100,000 respectively, for a much-needed study of sedimentation problems at Lewis and Clark Lake and the completion of the Missouri River Master Water Control Manual.

In addition, the committee meets the President's request for several other important projects vital to Nebraska's residents. The committee bill provides $106,000 for a floodplain study of the Antelope Creek which runs through the heart of our capital city, Lincoln. It appropriates $4,535,000 and $763,000 respectively, for the operation and maintenance of Gavins Point Dam between South Dakota and Nebraska and for the Salt Creek and its tributaries in east-central Nebraska. By allocating $32,000 to Washington and Burt Counties at this Member's request, those sums will assist local sponsors properly allocate costs for current and future water projects in the area.

Finally, Mr. Chairman, this Member would like to express his support for this bill's funding of the following water projects throughout the State of Nebraska. By funding the Army Corps' projects on the Papillion Creek and its tributary lakes, Wood River, and Harlan County Lake, as well as Bureau of Reclamation projects at North Loup, the Bostwick division, and the Farwell unit, the committee has reaffirmed its strong support of these important Nebraska water projects in the other two Nebraska congressional districts which are not represented by this Member.

Again, Mr. Chairman, this Member would like to thank the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS], other members of the subcommittee and full committee, and their staff members for their continued support and assistance on these important water projects. Continued funding of these projects is absolutely necessary to ensure that people in Nebraska and every other State can continue to use and enjoy our precious ecological, soil, and water resources in an environmentally sound manner and that feasible and affordable flood protection is provided to the areas affected by several of these projects.

Mr. BEVILL. Mr. Chairman, I yield 1 minutes to our friend and colleague, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I applaud the leadership of the gentleman from Alabama and the gentleman from Indiana in bringing this bill to the floor today.

I could not help but think of this bill this morning as we listened to the President of the Russian Republic as he lauded the benefits of freedom but referred in his remarks to a statement that I think deserves to be quoted here when he said:

> Even the most benevolent intentions will inevitably be abandoned and committed to oblivion if they are not translated into a multitude of everyday jobs.

The actions of this committee over the years have supported investments in agricultural, energy products, industrial, recreation, residential, water supply, flood control, inland waterways, all public investments essential for economic growth.

Just in the last 12 years, we reviewed my own projects in my own district. This committee has invested $326,724,000 in the First Congressional District that has produced more economic return than that investment during that time.

The investments were done within the President's budget, I would add. I have asked unanimous consent earlier during the day to include a table which compares those investments, and I am including them in the RECORD.

Mr. Chairman, I rise in support of this bill which provides funds to make job-creating investments here in America.

I think we should never lose sight of the fact that these investments return money to the Treasury by promoting economic growth—in my State of Arkansas and throughout the Nation.

I was impressed this morning to hear Mr. Yeltsin, President of the Russian Federation, say "even the most benevolent intentions will inevitably be abandoned and committed to oblivion if they are not translated into a multitude of everyday jobs".

Certainly that is true. It is also a very appropriate sentiment as it relates to the legislation we are now discussing.

What this legislation represents is job creation and economic activity, ensuring that we do not consign our benevolent intentions to oblivion, but that we translate them into a multitude of everyday jobs.

Projects of the sort contained in this bill have been vital to the development of the district which I represent.

During the last 12 years, in fact, $326.7 million has been provided for Corps of Engineers projects benefiting my district.

I will include a table in the RECORD which outlines those investments.

This money has been used, for example, to build a new slackwater harbor at Helena. It has been estimated that as many as 30,000 jobs could be created over the long-term by this project, returning more money to the Treasury than it will cost to build the harbor.

The harbor is like so many other worthwhile undertakings in that it resulted from a strong local, State and Federal partnership.

Without the participation of any one of the three partners, there would be no harbor at Helena and the prospect of new jobs would be extinguished.

Federal investments are especially important to a capital poor State such as Arkansas. Frankly, our road to progress would be blocked without them.

I know that critics brand public works projects as pork barrel spending, but I disagree. They can call it pork all they want, but I call it progress.

Such criticism represents a one dimensional and shortsighted view, since it does not take into account the income generated by these projects.

Mr. Chairman, it is important to remember that while Congress has kept money flowing to these job-creating projects, we have been making tough choices and setting priorities. We have not been spending money like a drunken sailor. During the last 12 years Congress has appropriated $22.7 billion less than Presidents have requested in their budgets.

The very bill we are considering today comes in well under both President Bush's request and is even under the amount appropriated in last year's bill. This could not have happened without making hard, tough choices.

Mr. Speaker, I am including a table which demonstrates this point.

Project name	*Cumulative amount*
1. Batesville, Arkansas flood control levee	$347,000
2. Bell Foley Lake, Arkansas	25,000
3. Cache River Basin, Arkansas	1,397,000
4. DeValls Bluff Pumping Station, Arkansas	450,000
5. Eastern Arkansas Region (Comprehensive Study)	3,444,000
6. Eight Mile Creek, Arkansas	2,551,000
7. Greers Ferry Lake, Arkansas	47,011,000
8. Helena & Vicinity, Arkansas (flood control)	2,115,000
9. Helena Harbor, Phillips County, Arkansas (new slackwater harbor)	18,900,000
10. Helena Harbor, Arkansas [operation and maintenance of the existing harbor]	4,758,000
11. L'Anguille River, Arkansas	5,425,000
12. Lower White River (Big Creek and Tributaries), Arkansas	1,993,000
13. Lower White River (Augusta to Clarendon Levee), Arkansas	10,000
14. Lower White River (Clarendon Levee), Arkansas	10,000
15. Osceola Harbor, Arkansas	6,519,000
16. St. Francis Basin, Arkansas and Missouri, Consolidated Construction	115,270,000
17. St. Francis River Basin, Arkansas and Missouri Operations and maintenance	66,934,000
18. St. Francis Basin Below Wappapello Lake, Arkansas and Missouri	2,289,000
19. St. Francis River, Fish and Wildlife, Arkansas and Missouri	1,290,000
20. St. Francis River Navigation	109,000
21. Village Creek Taylor Bay, Arkansas	70,000
22. West Memphis & Vicinity, Arkansas (flood control) (Berm, Mississippi River levee system $2,000,000)	10,218,000
23. White River Basin Authorization Report, Arkansas and Missouri	1,542,000
24. White River, Arkansas (navigation channel)	25,210,000
25. White River Backwater, Arkansas	7,787,000
26. White River and Tributaries, Arkansas and Missouri	200,000
27. Whiteman's Creek, Arkansas	850,000
Total	326,724,000

I would urge that, even in these times of tight budgets, we not neglect our own people—and that Federal investments in America take priority over such things as foreign aid.

I would like to include a table showing the job-creating investments in the First District of Arkansas.

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS—COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED

	Administration budget requests	Appropriations enacted	Difference (under −) (over +)
Calendar year:			
1945	$62,453,310,868	$61,042,345,331	−$1,410,965,537
1946	30,051,109,870	28,459,502,172	−1,591,607,698
1947	33,367,507,923	30,130,762,141	−3,236,745,782
1948	35,409,550,523	32,699,846,731	−2,709,703,792
1949	39,545,429,108	37,825,026,214	−1,720,502,894
1950	54,316,658,423	52,427,926,629	−1,888,731,794
1951	96,340,781,110	91,059,713,307	−5,281,067,803
1952	83,964,877,176	75,355,434,201	−8,609,442,975
1953	66,568,694,353	54,539,342,491	−12,029,351,862
1954	50,257,490,985	47,642,131,205	−2,615,359,780
1955	55,044,333,729	53,124,821,215	−1,919,512,514
1956	60,892,420,237	60,647,917,590	−244,502,647
1957	64,638,110,610	59,589,731,631	−5,048,378,979
1958	73,272,859,573	72,653,476,248	−619,383,325
1959	74,859,472,045	72,977,957,952	−1,881,514,093
1960	73,845,974,490	73,634,335,992	−211,638,498
1961	91,597,448,053	86,606,487,273	−4,990,960,780
1962	96,808,292,115	92,260,154,659	−4,543,137,456
1963	98,904,155,136	92,432,923,132	−6,471,232,004
1964	98,297,358,556	94,162,918,996	−4,134,439,560
1965	109,448,074,896	107,037,566,896	−2,410,508,000
1966	131,164,926,586	130,281,568,480	−883,358,106
1967	147,804,557,929	141,872,346,664	−5,932,211,265
1968	147,908,612,996	133,339,868,734	−14,568,744,262
1969	142,701,346,215	134,431,463,135	−8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,865	−2,648,963,072
1972	185,431,804,552	178,960,106,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,176,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
1990	704,510,961,506	697,257,739,756	−7,253,221,750

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS—COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED—Continued

	Administration budget requests	Appropriations enacted	Difference (under −) (over +)
1991	756,223,264,591	748,262,835,695	−7,960,428,896
Total	11,710,201,833,552	11,521,432,604,188	−188,769,229,364

Note.—Prepared by House Committee on Appropriations.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], with whom we work very closely, with the authorizing committee.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is an auspicious start to the appropriation season, because this particular bill, I think, says a lot about the kind of attitude we ought to have on appropriations.

No. 1, it comes in here less than last year's bill. It comes in under the President's budget. So, therefore, it is an example of this committee having made very tough choices, and knowing something about some of the programs that they are dealing with, I know how tough those choices were.

When you look at something like the superconducting super collider, which they held at a freeze level, I will tell you that is a tough choice, because they know, as we know on the authorizing committee, that what that means is that you probably are increasing costs in the outyears simply because you have taken it off schedule, but, you know, if you are going to hold within the budget levels that we have decided, that is something that has to be accommodated in this budget.

So this committee has done some very responsible work in that regard.

I also want to thank the committee for working with the authorizers. I think there has been a spirit of accommodation and relationship here which has been very positive. We have been able to pass out of the House some authorization figures. The committee worked very hard to stay with those authorized figures and work with us. That is the kind of accommodation I think will serve this House well.

We on the authorizing committees put a lot of time and effort into trying to decide what the priorities are. To have the appropriators working with us and accommodating some of that, I think, produces good legislation. So I am very pleased with many aspects of this bill.

We are going to have some amendments where we will be in here, but I do not think even those are going to be adversarial, because I think a lot of that has been worked out.

I thank the gentleman from Indiana for the time and his work and the gentleman from Alabama for the hard work he put in on the bill.

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Mr. BEVILL. Mr. Chairman, I yield 3 minutes to our good friend and colleague, the gentleman from California [Mr. FAZIO], the ranking member of this subcommittee.

Mr. FAZIO. Mr. Chairman, I want to thank the gentleman from Alabama [Mr. BEVILL] and the ranking member, the gentleman from Indiana [Mr. MYERS] once again for an outstanding job.

I also want to say I really find it a pleasant opportunity to follow my friend, the gentleman from Pennsylvania [Mr. WALKER], because for the first time that I can remember I am in complete agreement, and in harmony, as a matter of fact, with his comments. I think it is because the committee has done such an outstanding job of staying within the budget requirements.

Let us be honest. Our President asked this committee to spend $439 million more in the domestic discretionary area than last year, and the committee did not accommodate that, given the restraints that we impose on ourselves right here in the Congress.

In fact, this committee is almost $40 million below last year on domestic discretionary spending. In fact, when you add the domestic and the defense aspects of our bill, we are $630 million under the total bill that was requested by the President. We have made real and significant cuts in this bill. I know there will be Members who will not be happy about that, because we cannot have it both ways. If we are going to put a tight package together, it will bear down on some individuals and some excellent projects.

In fact, overall this committee was confronted with requests by our colleagues for $350 million more in the Corps of Engineers, $80 million more in the Bureau of Reclamation, and some $600 million in additional energy projects.

We have obviously not been able to accommodate those add-ons, however, well-intentioned and well-motivated they may have been from individual Members and stay within the budget restrictions and the 602(B) allocation we received from our full committee.

How have we done this? It has not been easy. If you look at the budget of the Corps of Engineers, we said no new construction starts, including projects requested by the administration.

No new preconstruction engineering and design projects, including those requested by the administration.

No new major rehabilitation initiatives, including projects requested by the administration.

We have held our administration costs or administrative expenses at the 1992 level. There may well be additional amendments on that score later on.

The regulatory program has been held at that 1992 level.

In fact, I think it is fair to say we did a similar kind of thing with the Bureau of Reclamation.

In the Department of Energy, we are required and I think we will hear a lot more about this today, to adhere to a much tighter budget for the SSC, $166 million, to bring the level down to where it would have to be in order for our bill to come to the floor today with any hope of success.

I might add, it is also required for us to have any success for the SSC to remain in the bill. It is a right level of funding, but it is a level we must have, if we expect this bill to be signed.

Despite numerous requests for increases in the solar budget, and I am sure I am included among those who made those requests, we held it at the President's budget level of $181 million.

Our nuclear programs were reduced to $304 million, which is 10 percent below the 1992 level.

The President's budget for basic energy and sciences were reduced by some $49 million to the 1992 level.

Magnetic fusion was reduced by $20 million.

So I think you can see in program areas after program areas we have had to do a tight, but I think fair funding job.

I want to thank once again the leadership of this committee, because they bring to the floor today a bill that ought to be passed overwhelmingly by what I think should be a grateful group of members of both the caucus and the conference.

Mr. Chairman, this was, beyond any doubt, the toughest bill that I have been involved in in my 12 years on the committee. We have no new construction starts in this bill. We have no new preconstruction and engineering starts. We have no new major initiatives and we have no new programs funded in this bill.

What we have done, however, is continue funding, at reasonable rates, our ongoing priorities for the Corps of Engineers, the Bureau of Reclamation, the Department of Energy, and the other independent agencies within our jurisdiction.

And we have maintained these priorities and our ongoing programs and done so while producing a bill that is not only some $630 million under the president's budget request but $40 million under the amount we appropriated for these programs in fiscal year 1992.

So, while no one is completely happy with our product here, again, it is a fair, balanced, and responsible bill.

One of the priorities that we have been able to maintain includes our commitment to solar and renewable energy programs.

While I certainly was among those who advocated a higher funding level, the programs were funded at the President's budget request.

All of the other energy technologies were either cut below the levels requested by the administration.

I would also like to point that the bill as it comes before the House contains significant investments in much needed flood control and water supply projects which are critical to communities throughout the Nation.

Mr. Chairman, I would also like to take this opportunity to commend the good work of the chairman of the Energy and Water Subcommittee, Mr. BEVILL; Mr. MYERS, the ranking minority member; and the subcommittee's dedicated staff. They have done an outstanding job over the years in putting together a balanced bill, and this year is no different.

Mr. Chairman, I would especially like to thank Mr. BEVILL and Mr. MYERS for their assistance in many varied needs of California. The bill is very generous to a number of key energy and water projects throughout the State of California, including a number of important projects in my district.

For example, the bill continues to support the efforts of the Corps of Engineers to address the flood threat to Sacramento and parts of Yolo County. The bill contains funds that will help us improve the operation of the massive central valley project in California, making the project more protective of the environment and thereby helping to ensure that the CVP can continue to meet its critical flood control and water supply purposes.

And, the bill continues to support a strong role for the Corps of Engineers in wetlands restoration, particularly in the central valley of California, where we have seen 98 percent of the historical wetlands destroyed over the years.

The bill—through its support for the SSC, general science, and other nuclear and high energy physics research—will also help maintain our Nation's position as a world leader in science and technology.

And, we have made every effort to ensure that adequate funds are available to continue the cleanup of toxic and hazardous materials from our DOE facilities across the country. The bill contains a 25-percent increase in funding for DOE environmental restoration and waste management activities—$4.7 billion provided in fiscal year 1992.

Again, Mr. Chairman, I thank Mr. BEVILL and Mr. MYERS for their cooperation and support, and their sensitivity to the many water development and energy-related problems facing the Nation. I urge my colleagues to support the bill.

Mr. MYERS of Indiana. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], a member of the Committee on Appropriations.

Mrs. VUCANOVICH. Mr. Chairman, I would like to commend Chairman BEVILL and ranking member JOHN MYERS for their hard work on this bill. I understand the difficulty in crafting the bill considering the budget constraints they were faced with this year.

I was pleased that the full committee accepted my amendment to increase the allocations to the State of Nevada and the affected local governments out of the nuclear waste disposal fund. My amendment increased from $5 million to $5.7 million to the State of Nevada for parallel site characterization studies and increased from $4 million to $6.25 million the allocation to affected local governments for socioeconomic studies of the impacts of the repository on the counties.

Nevada's parallel site characterization studies are vital to the credibility and safety of the program and must continue to be adequately funded.

However, Mr. Chairman, it is unfortunate that the 1-year ban on nuclear testing is included in this bill. This authorizing language simply does not belong in an appropriations bill and should never have been protected against a point of order by the Rules Committee. We all know that if this ban remains in the bill the legislation very well could be vetoed.

Mr. Chairman, yesterday Presidents Bush and Yeltsin agreed to the most drastic cuts in nuclear weapons ever proposed. I praise them for this historic step. However, the fact remains that we will still retain a certain amount of nuclear weapons. As long as there is a need for a nuclear deterrent and as long as we possess nuclear weapons we must test to ensure their safety and reliability. The cold war may be over, but the United States must continue its own testing to protect its national security interests and to discourage the proliferation of nuclear weapons by other countries.

Mr. Chairman, on the whole this is a fair bill. However, as long as the test ban remains in the bill I cannot support the bill and urge my colleagues to vote "no" on final passage.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BROWN], the distinguish chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 5373, and I want to commend the distinguished chairman of the subcommittee, Mr. BEVILL, and the ranking minority member, Mr. MYERS, for their work in crafting this bill and making difficult choices. It is no secret that this will be a difficult year for the appropriations process; the resources available are simply not sufficient to fund all of the programs that enjoy wide support in the Congress. I know that it is particularly frustrating that the bill can fund no new starts for needed programs; but I think the gentleman has taken the appropriate course in that decision. We need to fully fund and complete the commitments we already have before taking on significant new funding obligations.

As the chairman of the Committee on Science, Space, and Technology, which authorizes much of the Department of Energy civilian programs for which funds are appropriated in this bill, I would have preferred a slightly different emphasis on different programs. In particular, I would have hoped for a greater increase in solar and renewable R&D and higher funding for basic energy sciences, which includes several high-priority initiatives critical to U.S. competitiveness, such as biotechnology, advanced materials, and high-performance computing. Given the constraints faced by the committee, however, on balance I am satisfied with the bill as reported.

I very much appreciate the cooperation extended to our committee by the gentleman from Alabama and his commitment to continuing to work with us through the conference process to more closely reflect the priorities of the authorizing committee as reflected in the House passage of H.R. 776.

In addition, I note that the committee transfers about $50 million for science education to the defense side of the agency, and would like to engage the distinguished chairman in a colloquy on that point.

I would like to clarify the intent of the transfer of appropriations from the Department of Energy's civilian university and science education programs within the energy supply research and development account to the defense programs.

It appears that the tables in the report (H. Rept. 102-555) accompanying the bill contain an entry which reduces the support for university and science education at the civilian laboratories by $52.4 million and transfers these funds to the defense programs. Is it the gentleman's intent to terminate the education programs at the civilian laboratories?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, in response to the gentleman's question, the answer is no.

Mr. BROWN of California. And is it the intent of the bill that the university and science education program currently ongoing at the nondefense laboratories would continue to be funded within the money appropriated?

□ 1450

Mr. BEVILL. The gentleman is correct. That is our intent.

Mr. BROWN of California. I certainly do appreciate that response. I assure the gentleman of my support for the legislation, and we will do everything possible to make sure that this bill is passed by the House in the form in which it is brought to the floor.

Mr. MYERS of Indiana. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to take the well of the House at this point in time to first and foremost thank the distinguished chairman of the subcommittee, the gentleman from Alabama [Mr. BEVILL], and the distinguished ranking member, the gentleman from Indiana [Mr. MYERS], and their staffs, especially their staffs, for the patience they have shown with me and my staff's phone calls.

But I also want to say that I think it is important at this point in time to share with the House what this subcommittee has done.

My colleague, the gentleman from Pennsylvania [Mr. WALKER], came down here and said, "Look, ladies and gentleman, it can be done." This subcommittee has brought to us the first funding bill for fiscal year 1993, $623 million below the President's request, $43 million below last year's appropriation.

We can move toward a balanced budget.

Second, what this subcommittee has done is they have shown us that you can indeed within that process establish priorities. I know every one of us has our own list of Christmas toys we would like to have received, but I do not know that any of us can stand down here and criticize this subcommittee for making the decision that those projects that are underway in construction ought to receive first priority for completion.

Third, what this subcommittee has done in this bill is they have said to us that the Energy and Water Committee can lead the way, not only in construction projects, Mr. Chairman, but in the compatibility of construction projects with environmental causes.

Obviously, I am delighted with the $19.4 million that they have appropriated for the Environmental Management Program of the five States of the upper Mississippi River. But I want you all to know that this program is significant because this is the first time anywhere in the world where a construction group such as the Army Corps of Engineers is also taking the lead in environmental rehabilitation of that same navigation waterway.

The upper Mississippi River is a multiuse river. It was recognized under the great studies and other programs that if we are going to save that river for navigation, for recreation, for fish and wildlife habitat, that we have to have a comprehensive management program over the long term.

This committee, under the greatest of pressure, saw the need to fund this program and to make it happen, and, as a result, today we see for the second year in a row the administration and the President have asked for full funding of the Environmental Management Program and, under the context of those parameters which I suggested earlier, the Energy and Water Subcommittee has brought forth that funding.

Mr. Chairman, I commend them for what they have done and thank them for their commitment to this Nation and for our rivers' future.

Mr. MYERS of Indiana. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to add my praise, if you will, to the committee for staying within the budget; $40 million below last year and $623 million below the President's request.

However, there still are some pork-barrel projects in this bill that ultimately will cost the taxpayers of this country $680.7 million if they are approved. There is $8 billion in this bill that is above the administration's request for general investigations. There are four projects that I am concerned about. I will be proposing amendments on three of them. One I could not get to because it is in the report language.

But the three projects that I am talking about that are pork-barrel projects, two of them are in Chicago and one in Texas, and I will be debating those at some length when we get into the amending process of the general debate.

The reason I wanted to take 3 minutes right now, however, is because I want everybody in the Chamber and in their offices to understand one thing, and that is that the country has to prioritize spending because we are on the road to financial disaster.

The national debt is $4 trillion-plus, but that does not include the unfunded liabilities that are off budget, totaling $2.5 trillion. We are actually $6.5 trillion in debt.

Most economists tell us that if we stay on the same basic spending trend we are on right now, we will go another $7 trillion into the tank by the year 2000.

Peter Grace, who headed the Grace Commission, said that by the year 2000 the interest payments on the national debt would be over 100 percent—over 100 percent—of the personal income taxes collected in this country; 102 percent, to be exact.

What we are saying is we will not be bringing in enough in personal income taxes to pay the interest on the national debt.

So we are at the fork in the road, if you will. We have to start deciding whether or not we are going to make the hard choices to bring this budget into balance or are we going to be on the road to fiscal calamity and disaster that is going to leave the young people in the galleries today without any hope of a sound economic future, many without jobs? We have to come to these hard decisions now.

We are going to be talking about three amendments on this bill which do not amount to that much overall, about $600-some million in the long run, but it is a step in the right direction.

So I urge my colleagues to listen very carefully to the debate on those amendments, and I hope I can garner some support for them.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to our colleague, the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise, too, to applaud the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] for their hard work on this bill.

Mr. Chairman, last year I rose in support of the superconducting super collider because of the efforts, the real true science, the research strategies and bargains that it brings back to this country. And I intend to support it this year, with some reservations.

There are more and more things that worry me about this and more and more things about the superconducting super collider that seem to be a catch-22 working against itself. I want to associate myself with my chairman's very astute comments, the gentleman from California [Mr. BROWN].

Mr. Chairman, I have an amendment that would say that foreign contributions made to the superconducting super collider have to be made in cash and not in lieu of technology and equipment, thereby costing the American people jobs, eroding our manufacturing base, and hurting our people in this country.

Also, the House, working with the Energy Cabinet head back in 1985, passed an amendment to an authorization bill capping this at $5 billion. It continues to go up and up and up.

I am hopeful that we can address a couple of these concerns, the technology transfer and jobs in this country.

Mr. MYERS of Indiana. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I thank the gentleman for yielding this time to me.

Mr. Chairman, first of all, I wish to commend the chairman of the subcommittee, the gentleman from Alabama [Mr. BEVILL] and the ranking member, the gentleman from Indiana [Mr. MYERS]. As usual, they have performed magnificently, and we have a bill before us that is below the President's budget request, below the amount we spent last year.

That is the type of leadership this Nation needs if we are going to be serious about getting our fiscal house in order.

But, Mr. Chairman, I say to all of you the moment of truth is here and now. Last week, more than 280 of us stood up proud and tall and we said to the American people that we are serious about balancing the budget.

Then all of us hastened to add, "And we are also serious about not raising taxes." No, no, that dreaded "t" word, we do not want to touch that one.

So, we want to balance the budget, and yet we refuse to address the need to raise revenue. How do we do it? Well, I will tell you how we can do it. We can do it by once and for all being very serious about establishing priorities; proceed, move forward with that which is essential and defer that which is only desirable.

Now, some people might say, "How can you ask me to support a proposal to eliminate funding for the superconducting super collider? After all, I have supported it in the past," they would say.

The answer to that question is very simple: circumstances change.

□ 1500

Within the past few hours in this very Chamber, right there at that podium, stood the President of Russia, the President of Russia who concluded his speech by saying, "God bless America."

Do circumstances change? I say to my colleagues, "You bet they do, and let me tell you about the changed circumstances involving the superconducting super collider."

When this venture started out, just 4 or 5 years ago, it was going to be a $4 billion project. Where is it now? At least a 100-percent increase. It is now over $8 billion, and I say to my colleagues, "We ain't seen nothing yet."

An in-house estimate in the Department of Energy; in-house now, and this is not for wide publication so the world will know; they keep it in-house. It said over $11 billion it is going to cost the American people, and I would remind all my colleagues that by an overwhelming vote 2 years ago we said:

First, we are going to cap the Federal expenditure at $5 billion, not a penny more; and, second, we are going to require, require, foreign participation of at least 20 percent of the total cost. After all, we reasoned, why should we continue to foot the bill ourselves and let everyone take advantage of it? So, we imposed a ceiling, and we imposed a floor.

Where are we now? We have exceeded the ceiling. We are $600 million over.

My colleagues might say that is not much money. I happen to think it is a lot, and so do the American people.

Where are we with foreign contributions? Not one penny.

But wait a minute. We have got a pledge of $10 million from India. We have not seen a penny of it, but we have got a pledge, and the Albanians are coming. The Albanians; get that one, say they might come up with $30 million.

Mr. Chairman, this is serious business, and I hope my colleagues will give serious consideration to Eckard-Boehlert.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN], a distinguished member of this subcommittee.

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman from Alabama [Mr. BEVILL] for yielding this time to me, and I want to take this 2 minutes to thank him and my subcommittee colleagues on both sides of the aisle for what I think is a productive, thoughtful and responsible bill, the first appropriation bill that we will deal with for fiscal year 1993.

As my chairman pointed out, this subcommittee heard requests from over 100 Members of Congress, over 300 witnesses, spent months listening to testimony, examining reports, in an attempt to determine and draft a bill that would be both responsible fiscally and responsible in taking care of the needs of this country. Other Members have already detailed how the bill has come in well under both the President's request and last year's funding, and it does not take a genius to know that in times of even modest inflation what this subcommittee has done has cut appropriations, cut real spending for programs, all across this country.

Mr. Chairman, that is not an easy thing to do, so I say to my colleagues, "I truly believe it is the responsible thing to do. I believe, as we have continued debate on this bill, as we develop issues and amendments that may be offered, that my colleagues will recognize and realize that some of their colleagues, over hundreds and hundreds of hours of testimony and examination of reports, have crafted a bill that we bring now to the floor of this House and ask you to support, not just the superconducting super collider, which gave it the office and gave it a home and was cut some $167 million from the President's request, but other critical funding as well."

Mr. Chairman, the projects in this bill are needed projects, thoughtful projects, projects that are investments in the future of America, projects that we in this body ought to support. I urge that this entire House support this bill and commend the leadership of my committee, the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS], for their countless hours and thoughtful work product in preparing this product for us today.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes, the balance of my time, to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Chairman, I rise in support of H.R. 5373, the fiscal year 1993 energy and water development appropriations bill, and the level of funding it provides for the superconducting super collider.

For fiscal year 1993, $484 million has been provided for the SSC. This funding is critical in order to maintain the progress we have achieved to date in building this important scientific instrument.

Let me highlight some of the work that's been going on during the last year.

The first full-sized prototypes of magnets vital to the SSC were successfully tested at Brookhaven National Laboratory in New York, and the Fermi National Accelerator Laboratory in Illinois. These tests marked an important milestone for the project, as some had questioned whether the magnets, which are the key components of the accelerator, would work. The fact is, they do work.

Also, last summer the first underground excavation began with the boring of a 265-foot shaft that will allow examination of the characteristics and stability of the underlying geological structures in the area. Data obtained will provide the basis for designing and constructing several tunnel sections and the experimental halls, which will house the detectors.

Other construction work is progressing rapidly, as well. Already in place are key facilities necessary to support construction of the SSC. The magnet development laboratory was completed last year. It is being utilized to develop and test specialty magnets, and manufacture superconducting cable. Also, the accelerator systems string test facility was completed and is being readied to conduct an above-ground string test of the magnets next month. Additionally, the ASST shelter will simulate the actual collider tunnel environment and so will allow testing of operational conditions, installation tools, and procedures.

A refrigeration system so powerful it can cool a 300-foot-long string of 15-ton magnets to near absolute zero has been successfully installed and tested at the laboratory. At this low temperature, the coils of the magnets are superconductive, which allows for achievement of highly efficient and powerful magnetic fields.

Underground construction on an even larger scale is not far behind. A contract has been awarded for the construction of the first section of the collider tunnel. Excavation of the first tunnel access shaft will soon be completed. A tunnel boring machine will be lowered through the access shaft to begin the tunneling process later this summer.

Finally, the contract for construction of the first stage accelerator in the booster complex has been awarded. Work on this portion should begin this summer, as well.

The SSC is no longer merely a dream, but is now in fact a concrete and steel reality. Buildings are going up, dirt is being moved, and developmental work is advancing at a steady clip. Let us continue the progress on this investment in American's future. I urge my colleagues to support the SSC by supporting the committee's position for fiscal year 1993.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5373, the energy and water appropriations bill for fiscal year 1993. This is the first of the 13 annual appropriations bills to be reported to the House.

This bill provides $11,887 million in defense discretionary budget authority and $11,731 in defense discretionary outlays, which is $1 million below the 602(b) subdivision for budget authority, and at the 602(b) subdivision for outlays for this subcommittee.

This bill also provides $9,948 million in domestic discretionary budget authority and $9,577 million in domestic discretionary outlays, which is at the 602(b) subdivision for budget authority, and $1 million below the 602(b) subdivision for outlays for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the impact of all spending legislation. I will provide a Dear Colleague letter describing how each appropriations measure compares to the 602(b) subdivision for that subcommittee.

I look forward to working with the Appropriations Committee in the future and commend the committee for the work they have done in adhering to the limits set forth in the budget agreement and the 1993 budget resolution.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 15, 1992.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 5373, the Energy and Water Development Appropriations Bill for Fiscal Year 1993, scheduled to be considered Wednesday or any day thereafter, subject to a rule being adopted.

This is the first of the annual thirteen appropriations bills for Fiscal Year 1993. The bill is $1 million below both the discretionary budget authority and outlay 602(b) spending subdivisions for this subcommittee.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact Sheet]

H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FISCAL YEAR 1993 (H. REPT. 102-555)

The House Appropriations Committee reported the Energy and Water Development Appropriations Bill for Fiscal Year 1993 on Thursday, June 11, 1992. This bill is scheduled for floor action on Wednesday, June 17, or any day thereafter, subject to a rule being adopted.

COMPARISON TO THE 602(b) SUBDIVISION

The bill provides $21,835 million of discretionary budget authority totalling the defense and domestic budget authority in the bill. The bill also provides $21,308 million of discretionary outlays. This bill is below the discretionary budget authority subdivision and the discretionary outlay subdivision by $1 million in budget authority and outlays.

Since the Budget Enforcement Act established defense, international affairs, and domestic discretionary caps, this table compares the bill's spending in those 3 categories with the equivalent breakout of the 602(b) spending subdivisions. This bill has no international affairs spending.

COMPARISON TO DISCRETIONARY SPENDING SUBDIVISION

[In millions of dollars]

	Energy and water development appropriations bill		Appropriations committee 602(b) subdivision		Bill over (+)/under (−) 602(b) subdivision	
	BA	O	BA	O	BA	O
	DEFENSE DISCRETIONARY SPENDING SUBDIVISION					
Discretionary	11,887	11,731	11,888	11,731	−1	....
Mandatory	....	....	....	....	....	....
Total	11,887	11,731	11,888	11,731	−1	....
	DOMESTIC DISCRETIONARY SPENDING SUBDIVISION					
Discretionary	9,948	9,577	9,948	9,578	....	−1
Mandatory	....	....	....	....	....	....
Total	9,948	9,577	9,948	9,578	....	−1

Note.—BA—New budget authority; O—Estimated outlays.

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays on June 11, 1992. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-529, the conference report to accompany H. Con. Res. 287, Concurrent Resolution on the Budget for Fiscal Year 1993, as adopted by the Congress on May 21, 1992.

The following are the major program highlights for the Energy and Water Development Appropriations Bill for Fiscal Year 1993, as reported:

PROGRAM HIGHLIGHTS

	Budget authority	New outlays
Atomic Energy Defense Programs[1]	11,887	7,401
Army Corps of Engineers	3,664	2,439
Bureau of Reclamation	819	673
DOE General Science	1,449	913
(Superconducting Super Collider—SSC)	(484)	(339)
Energy Supply R&D	2,948	1,179
Uranium Enrichment (Gross)	1,335	939
Nuclear Waste Fund (Civilian)	275	138
Appalachian Regional Commission (ARC)	185	9
Nuclear Regulatory Commission (Gross)[2]	535	375
Tennessee Valley Authority (TVA)	135	33

[1] The Atomic Energy Defense program funds are part of Function 050, National Defense, and count against the Bipartisan Budget Agreement defense target. The other accounts shown above count against the domestic discretionary target.

[2] The Nuclear Regulatory Commission is almost 100 percent self-financed through user fees on nuclear facilities, thus the net cost to the Federal Government is nearly zero.

Mr. HOPKINS. Mr. Chairman, I rise today in support of H.R. 5373, the energy and water appropriations for fiscal year 1993, and appreciate the difficult task of Chairman BEVILL, Representative MYERS, and the other members of the subcommittee in formulating this legislation.

However, I am extremely disappointed that an urgent and necessary project to protect Kentucky's State Capital of Frankfort has been wrongfully denied funding because it has been classified as a new construction start.

In reality, the construction of a floodwall to protect Frankfort is a half-completed project that has languished for over a half a century.

The South Frankfort floodwall is a unique and particularly urgent segment of the city's flood protection system. It protects the State Capital from severe perennial flooding which has created costly interruptions to State government operations. The last three major floods have cost Kentucky taxpayers more than $70 million in flood damage assistance.

The local officials in Frankfort have gone way beyond the call of duty to make completion of this floodwall project a reality. They resolved a very difficult conflict surrounding this segment of the project and have secured their cost share for its construction.

I believe that the local officials and people of Frankfort deserve more than this rationale of no new starts for congressional inaction.

I appeal to the Members of the Appropriations Committee to reconsider their decision and find a way to provide funding for this desperately needed project in the 1993 fiscal year budget.

Mr. KYL. Mr. Chairman, I rise in support of H.R. 5373, the fiscal year 1993 energy and water development appropriations bill, and I want to commend the committee on not only remaining within its budget allocation for energy and water programs, but for producing a bill that is $44 million less than last year.

That is significant given last week's debate on a balanced budget amendment, and I hope we will see similar restraint as the remaining appropriations bills come before the House.

Mr. Chairman, this bill includes many good and important programs to my home State of Arizona, the most important of which is the central Arizona project [CAP]. The project, nearly 25 years after it was first authorized, is finally nearing completion, and the appropriation in this bill will keep the project on track.

Since it is related to the CAP, I also want to thank the committee for including report language on the Small Reclamation Projects Act loan that is required for consummation of the Fort McDowell Indian Community Water Rights Settlement Act. The committee was unable to include funding because the paperwork had not yet been cleared by the Department of the Interior, but that is just a matter of time. My hope is that, if that is completed prior to the conference with the Senate, that funding can be included at that time.

Funding has also been included for environmental mitigation of the Arizona canal diversion channel through Phoenix and Paradise Valley. This is a small amount of funding in the scheme of things, but something very important to the people who are impacted by the project. The committee's funding recommendation will allow the designated area to be restored to its previous use after the channel construction is complete.

The bill also continues funding for the Holbrook levee, a project which will alleviate serious flooding problems along the Little Colorado River. Since 1971, there have been three near-disaster flood events in the city. This project is essential, and I thank the committee for its support in moving it forward.

Mr. Chairman, notwithstanding these good things in the bill, there are provisions that cause serious concern. Those provisions primarily relate to the 1-year moratorium on nuclear weapons testing. The provision should have been ruled out of order as not germane and as legislating on an appropriations bill. Moreover, it has already been included in the DOD authorization bill.

Mr. Chairman, as long as we have a nuclear deterrent, we have got to test it in order to ensure that it is safe and reliable. Testing has been essential as a vehicle for detecting possible weaknesses in weapon safety, effectiveness, and survivability, and in developing appropriate corrective measures for any such weaknesses. A halt to testing would create uncertainty as to the safety and credibility of the stockpile, and render us unable to make safety improvements to react to new threats. This trend could erode stability, not enhance it.

To the extent that proponents of the moratorium believe that an end to testing will somehow lead to an end to the development of these weapons by other countries, that is simply not valid. Countries, like Iraq in particular, don't care who is testing or is not testing. They are going to develop weapons to suit their own national goals.

Finally, the moratorium is just not workable. The test ban would be in place unless the President certifies that any of the Soviet Union's successor republics have violated it. There is no provision for a test by other countries such as Iraq on Iran. Dr. John Immele of the Los Alamos National Laboratory testified recently about an additional problem, noting that when he and his colleagues were visiting in Russia not too long ago, he learned that the Russians had conducted a contained nuclear explosion that the United States could not detect on our seismic sensors. In other words, the President would have no ability to certify whether or not the Russians were in compliance because they have the capability to conduct these tests in a closed container.

Mr. Chairman, I will vote for this bill today to get the bill to conference, but I hope the Senate or conference committee will delete the moratorium before returning the bill for a final vote. If not, I will have to oppose the conference report.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 5373, the Energy and Water Development Appropriations Act for fiscal year 1993, and to compliment the chairman, Mr. BEVILL; the gentleman from Indiana [Mr. MYERS]; and the gentleman from California [Mr. FAZIO] for producing a sound bill which addresses the crucial infrastructure needs of our Nation while also taking into consideration the extremely tight fiscal situation—not an easy task but one at which your committee has always excelled.

Mr. Chairman, this bill provides funds to the Army Corps of Engineers for needed flood control, dredging, and design work for projects essential to the protection of life and property in my district. It falls within the subcommittee's 602(b) allocation, and is below last year's level, and I urge my colleagues to support the bill.

Mr. SABO. Mr. Chairman, I rise to express my support for both the 1993 Energy and Water Appropriations Act and for section 507 of that bill, which essentially prohibits the United States from conducting any nuclear tests during fiscal year 1993, unless the President determines that any of the former Soviet Republics have first conducted a nuclear test.

This provision was adopted by the Appropriations Committee at the urging of Representatives FAZIO, GREEN, and myself. It is very similar to the nuclear testing provision adopted on the 1993 Defense Authorization Act by a vote of 237–167.

I know that some Members continue to oppose limits on nuclear testing, but in my view there are many reasons to adopt a temporary ban on testing, and no real reason why the 1-year moratorium we have proposed should not be approved.

First, a test ban will help stop the spread of nuclear weapons, primarily by strengthening efforts to renew the Nuclear Nonproliferation Treaty [NPT], which expires in 1995. Recent Iraqi and Korean efforts to develop nuclear weapons were made more difficult by the NPT. This treaty is essential to stopping the spread of nuclear weapons, as the United States understood when it agreed to the NPT's requirement that it pursue additional measures to end the arms race.

Other countries take that commitment seriously, and we should too. There could be problems extending the NPT without some indication that the United States is going the extra mile to end the nuclear arms race. It is true that we are reducing United States and Russian arsenals, but we have to do more. The Russian and French Governments understand this, and we can tell from their decisions to halt their nuclear testing programs. Those moratoria were announced as efforts to stop all nuclear testing, incidentally, and they are not permanent: both countries will resume testing if the United States does not join their effort. That would be a tragedy.

I believe a 1-year U.S. moratorium will help with the NPT negotiations by showing other countries that we are serious about ending the arms race. And a new, stronger NPT is crucial to stop the spread of nuclear weapons.

A U.S. test moratorium will help move us toward another, related goal: a comprehensive nuclear test ban [CTB] treaty. Negotiation of a CTB was a goal of every U.S. administration from Eisenhower to Carter—because those Presidents knew that limits on testing are in the U.S. national security interest. I am a strong supporter of a CTB, and I hope this 1-year moratorium will move us in that direction.

On the other hand, a 1-year test ban will not harm U.S. national security. The United States is not producing any new weapons, or testing any new weapons designs, so a test ban will not delay the introduction of any necessary systems. Many safety issues have been addressed by operational changes, such as removing our bombers from nuclear alert and placing short-range attack missiles in munitions bunkers. Reductions in nuclear arsenals will allow us to improve the overall arsenal safety by focusing withdrawals on older, less safe designs. Reliability concerns have been the subject of extensive testing, and would not be compromised by a 1-year test ban. Finally, effects testing—where we test the effects of nuclear weapons on other military systems—are not an issue, since no such tests are planned for fiscal year 1993.

Finally, however, a 1-year test ban will allow us time to evaluate the issue. As I noted, there are some legitimate questions about weapons safety and reliability. Many of them are being addressed right now, and some will be resolved by withdrawing less safe weapons from the active arsenal. But a 1-year pause will let us assess and debate those issues without prejudicing moves to improve international arms control treaties.

In addition, we need to assess the role of nuclear weapons in a changing world. As our colleague, Armed Services Committee Chairman LES ASPIN has noted, nuclear weapons no longer serve their cold war function as a battlefield equalizer for the United States and against the Warsaw Pact. With the dissolution of the Warsaw Pact, if nuclear weapons spread to more countries their primary use may be as battlefield equalizers against the United States. Our increasing reliance on accurate conventional weapons only increases the need to examine this issue.

In short, a 1-year test ban provides us with the opportunity to assess the role of nuclear weapons in the post-cold war world, with no danger to the United States. It paves the way to a more comprehensive limit on testing, and helps to negotiate renewal of the Nonproliferation Treaty. I am very pleased this provision is included in the Energy and Water Appropriations Act. I urge my colleagues to support it.

Mr. ROE. Mr. Chairman, I am pleased to express my strong support for the energy and water development appropriations bill for fiscal year 1993. In particular, I am pleased that my colleagues on the Appropriations Committee included $339.7 million for the magnetic fusion program in the bill. This funding is critical to keep fusion energy on target and on track so that we can yet get closer to real fusion energy.

Many Members of Congress have supported fusion energy over the years and last year's funding level of $337 million was proof that support has been growing for this long-term energy alternative. This year, Congress is debating national energy strategy legislation and fusion is an important element of that strategy. For America, our investment in fusion peaked in the 1970's, and after declining in the 1980's, funding for fusion started to rise again last year for the first time in a decade. If we are going to be serious about our energy future, we must support this funding bill and the $339.7 million that is dedicated to fusion energy research and development at universities, research laboratories, and industry around the country.

Fusion scientists are working in the international arena as well. This year will mark the start of formal international cooperation among the Japanese, European Community, Russia, and the United States on engineering and design for the international thermonuclear experiment reactor [ITER], a model of international cooperation. San Diego will be home to scientists from around the world who are putting their heads together to help harness fusion energy. We cannot afford to do it alone on these large, scientific projects. From the start, fusion scientists have done ITER the right way by cooperating on the conceptual and engineering designs. The ITER project is breaking new ground every day in terms of international scientific collaborations, and all indications are that this collaboration is working.

Here in the United States, the fusion community is gearing up for the first deuterism-tritium experiments on the country's largest fusion machine, the Tokamak fusion test reactor [TFTR] at Princeton. These D–T experiments—which are scheduled to begin next summer—will help scientists better understand how a D–T fuel mixture will react inside a Tokamak. The D–T experiments are the highest priority in the U.S. fusion program and we expect outstanding results.

Another important initiative contained in the energy and water development appropriations bill for fiscal year 1993 is funding to design the next advanced Tokamak to replace TFTR at Princeton. This steady state advanced Tokamak [SSAT] will be the first major fusion facility built in the United States since TFTR construction began in the late 1970's. To advance the science, to build industrial capability, and to keep our competitive edge, fusion needs a new machine. The community has eagerly begun the early design work on the SSAT and the fiscal year 1993 appropriations bill will allow that work to continue.

I urge you to support this year's appropriation for fusion energy, $339.7 million. This funding level is not what DOE asked for in its fiscal year 1993 budget and it's not what the fusion community needs to sustain the pace of scientific progress that is required to get to that alternative energy source. But times are tough and budgets just aren't what we want them to be. We all recognize that the Appropriations Committee and the energy subcommittee had a difficult job to do. Vote for the bill. Vote for fusion and make an investment in our energy future.

Mr. RAHALL. Mr. Chairman, I rise in support of H.R. 5373, the fiscal year 1993 appropriations bill for energy and water development.

This bill would fund energy and water development programs at a total of $21.795 billion. Importantly, this bill will provide for water projects carried out by the U.S. Army Corps of Engineers and the Interior Department's Bureau of Reclamation, as well as various independent agency functions such as the Appalachian Regional Commission [ARC].

First, Mr. Chairman, let me just say that I appreciate the severe budgetary constraints under which the subcommittee had to work this year, and understand fully its inability to fund new initiatives. Because of the great need in cities and States nationwide, I am deeply grateful for the bill's focus on ongoing projects and programs in our districts. I commend Chairman TOM BEVILL and the members of the subcommittee for having reached very difficult, but very meaningful agreements on how to use its scarce resources to do the most good.

I will begin a brief summary of the provisions in the bill of importance to me and to my State of West Virginia, with the Appalachian Regional Commission funding level for fiscal year 1993 being chief among them.

The bill provides $185 million in the coming fiscal year for the ARC and its economic development programs. This is $5 million less than last year's appropriation, and I regret that because of the dire need of our towns and cities for funds to leverage greater economic development opportunities, and particularly Appalachia's overwhelming need for the completion of the Appalachian highway system so important to their linkage with mainstream America.

But while I lament the loss of $5 million in funding for ARC projects, I applaud the subcommittee for rejecting the President's proposal that ARC be cut by $100 million this year. That would have been, and reflects the President's penchant for, complete and total abandonment of the poverty pockets of the United States which are found in Appalachia.

If I were called upon to define, as some claim to have been called to do, a poverty of values in America, I could think of a much more telling poverty of values than situation comedies on television—and my book, attempting to gut the ARC and the critical work that it does, would be high on the list of a poverty of values.

I was privileged, Mr. Chairman, to testify before the Subcommittee on Energy and Water Development this year, on behalf of projects in my district in West Virginia.

I testified on a number of projects managed by the Corps of Engineers which are of vital importance to my district, projects which span the range of the construction process from authorized studies to operations and maintenance.

The first project, the Kanawha River Basin comprehensive study, and the second, the West Virginia comprehensive study are of prime importance, and I deeply appreciate their inclusion in this bill.

The Kanawha River Basin comprehensive study affects the Kanawha River Basin in West Virginia, Virginia, and North Carolina. The project needed $700,000 in order to bring about early completion of the project and, since this is an ongoing project, I deeply appreciate the approval of a $500,000 allowance under this bill for its continuation at a time when resources are so scarce.

As a result of public hearings held by the Corps of Engineers, two additional areas of interest evolved, expanding the original scope of the study to determine the feasibility of creating a series of intermodal ports and industrial parks.

I am pleased also to note that an additional $750,000 is provided for the West Virginia port development comprehensive study along the West Virginia side of the Ohio River, focusing on the counties of Cabell, Wayne, Wood, and Ohio, and the West Virginia side of the Big Sandy River.

The second part of the expanded study, which would be covered by the increased funding for the West Virginia comprehensive study, involves examining the feasibility of developing the Virginia Point recreation area located in Kenova, West Virginia, in Wayne County, the result of corps' hearings and workshops which led to local sponsors giving their commitment to share in the costs of the study. The corps reestimated that with $750,000 they would be able to accommodate the enlarged study scope to include a reconnaissance riverport development study of the West Virginia side of the Ohio River, focusing on the riverfronts of the cities of Parkersburg, Point Pleasant, Virginia Point, and Wheeling, WV.

Mr. Chairman, riverfront development is one of the keys to unlocking the economic development potential that exists along the Big Sandy and the Ohio Rivers, and these funds will permit us to move forward into the next critical phase of the process.

H.R. 5373 has provided well for my State and district with respect to expanded studies described above, and will go far toward developing this historic and natural area for potential recreational as well as commercial use.

Aside from the expanded studies recommended by the corps, there is one other project in its construction phase, and is of particular importance to my district—the Tug Fork project. H.R. 5373 has proposed to spend $67,450,000 for the Levisa and Tug Forks and Upper Cumberland River construction projects in West Virginia, Kentucky, and Virginia.

H.R. 5373 also allows $25 million for the Gallipolis locks and dams for West Virginia and Ohio, and $38.5 million for the Winfield lock and dam in West Virginia, which is sorely needed.

Further, I am pleased to note that the following Corps of Engineers general investigations and planning projects have been funded in my district and State, in addition to those outlined above:

Island Creek at Logan, WV.	$304,000 Planning.
Kanawha River Navigation, WV.	1,050,000 Invest.
Moorefield, WV	585,000 Planning.

Mr. Chairman, the $304,000 for the Island Creek PED at Logan, WV, can be used to complete the project there, and is of utmost importance to that area which is located in my district.

It pleases me also to note that Corps of Engineers' operations and maintenance projects for the coming fiscal year include:

Beech Fork Lake, WV	$679,000
Bluestone Lake, WV	1,278,000
Burnsville Lake, WV	1,241,000
East Lynn Lake, WV	1,052,000
Elk River Harbor, WV	314,000
Elkins, WV	6,000
Kanawha River Locks and Dams, WV	8,829,000
Ohio River Locks and Dams, Huntington, WV	14,196,000
Ohio River Open Channel Work, Huntington, WV	1,833,000
R. D. Bailey Lake, WV	1,322,000
Stonewall Jackson Lake, WV	892,000
Summersville Lake, WV	1,476,000
Sutton Lake, WV	1,750,000
Tygart Lake, WV	1,078,000

Mr. Chairman, the funding for Beech Fork Lake in West Virginia and for East Lynn, R.D. Bailey, and Bluestone Lakes, will serve the needs of several flood control projects. The significant funding levels for the Ohio River locks and dams and for open channel work in Huntington, WV, are critically needed and I deeply appreciate their inclusion in H.R. 5373.

Again, let me express my strong support for H.R. 5373 and to congratulate the chairman of the subcommittee, my esteemed friend and colleague, TOM BEVILL, for coming close to making a silk purse out of a sow's ear, having managed the subcommittee's 602b allotment in an efficient, effective way that provided vital continuation funding for critically needed flood control, navigation, operations, and maintenance of water resources development projects for the United States.

I urge my colleagues to join with me in strong support of H.R. 5373, and hope that the bill do is pass.

Ms. NORTON. Mr. Chairman, I rise today to express my strong support for language included in H.R. 5373, the energy and water appropriations bill for fiscal year 1993, which will continue work on the Anacostia River flood control and navigation project. This work will complete a feasibility study designed to help us understand how to best repair parts of the Anacostia watershed located in Washington, DC and Maryland.

The study's findings will help us, for example, to gain critical knowledge about how to remove blockages to fish passage in the river and how to construct wetlands which will enhance the wildlife habitat as well as purify water flowing through the wetlands. This project includes plans to increase public involvement in the work the Corps of Engineers is undertaking in this important initiative.

Since first coming to Congress, I have had as a major priority the goal of focusing public and congressional attention on the need to clean the Anacostia watershed. In July 1991, I was pleased to be joined by Chairman HENRY NOWAK and ranking member THOMAS PETRI in a community field hearing at Burrville Elementary School in ward 7 before the Water Resources Subcommittee on this very subject. Regional representatives from local governments and environmental organizations testified about the Anacostia and what has been done and what needs to be done.

Since that time, as the only member of the Public Works and Transportation Committee in the Anacostia watershed region, I have begun a major effort to get Federal dollars for the Anacostia River so that it can once again serve as host to fishing, boating, and swimming. I am seeking funding for initiatives such as creation of wetlands, reforestation, and stream rehabilitation. These and others will complement the relatively limited Federal efforts already underway and augment the action to be taken as part of the Anacostia River flood control and navigation project.

The extent of public enthusiasm for cleaning and using the river has been most encouraging. Just last month, over 250 neighborhood volunteers joined me in a major Anacostia River cleanup despite a cold, pouring rain. Together, we collected over 25 tons of garbage and debris, including 300 tires, a refrigerator, a washing machine, and a large quantity of logs. This effort was only the beginning of a series of events for the Year of the Anacostia which we have organized to promote the river. H.R. 5373 is an essential part of this initiative.

I am grateful to Chairman TOM BEVILL for his diligence on this matter of great importance to the District and the metropolitan region, and I urge the support of my colleagues.

Mr. HOAGLAND. Mr. Chairman, today as the House considers H.R. 5373, the fiscal year 1993 energy and water appropriations bill, I oppose funding for the superconducting super collider [SSC] a project to be located in Texas, that will use superconducting magents to accelerate atomic particle beams to high speeds and collide them, in order to examine the interactions of subatomic particles in the resulting reaction. The bill before the House would provide $484 million for the SSC.

The SSC could make the United States a world leader in this field of high energy physics and there is no question that we must keep scientific progress moving. This could be a cutting-edge project.

However, the reality is that the Nation cannot afford the SSC today. Our economy is being strangled by an unprecedented $400 billion deficit and a $4 trillion debt which exacts $2,000 per taxpayer in debt service each year. We must rein in Federal spending and call into question many projects like this, no matter how worthwhile. Eliminating the deficit will require some painful steps, but the question is do we endure the pain now or later? There is no free lunch.

I wish we had the resources to fund the SSC and many other meritorious scientific pursuits and I will work to rebalance the Federal budget so that we can some day. But today, the sad fact is, the SSC will have to wait.

Mr. MYERS of Indiana. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment specified in House Report 102-571 to be offered by the gentleman from California [Mr. BROWN], or his designee, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment. No other amendment to the paragraph under the heading "General Science and Research Activities" shall be in order until the amendment offered by the gentleman from California [Mr. BROWN], or his designee, has been disposed of.

The Clerk will read.

The Clerk read as follows:

H.R. 5373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993 for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $177,831,000, to remain available until expended: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1993 in the amounts specified:

Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

Los Angeles River Watercourse Improvement, California, $300,000;

Rancho Palos Verdes, California, $400,000;

Miami River Sediments, Florida, $50,000;

Monroe County (Smathers Beach), Florida, $500,000;

Casino Beach, Illinois, $110,000;

Chicago Shoreline, Illinois, $800,000;

McCook and Thornton Reservoirs, Illinois, $3,500,000;

Lake George, Hobart, Indiana, $260,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $400,000;

Mississippi River, Vicinity of St. Louis, Missouri, $500,000;

Ste. Genevieve, Missouri, $750,000;

Passaic River Mainstem, New Jersey, $10,000,000; and

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $2,800,000:

Provided further, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: *Provided further*, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a study of a greenway corridor along the Ohio River in New Albany, Clarksville, and Jeffersonville, Indiana, using $125,000 of the funds appropriated under this heading in Public Law 101-101 for Jeffersonville, Indiana, $127,000 of the funds appropriated under this heading in Public Law 101-514, and $250,000 of the funds appropriated under this heading in Public Law 102-104: *Provided further*, That using $450,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: *Provided further*, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: *Provided further*, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further*, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100-202: *Provided further*, That using $440,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: *Provided further*, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: *Provided further*, That using $950,000 of the funds appropriated under this heading in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the study of the disposition of the current Walla Walla, Washington, District headquarters including preparation of the environmental assessment and design work associated with demolition of the building.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,235,502,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1993 in the amounts specified:

Kissimmee River, Florida, $8,000,000;

O'Hare Reservoir, Illinois, $3,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $2,500,000;

Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000; and

Wallisville Lake, Texas, $500,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: *Provided further*, That using funds appropriated prior to fiscal year 1992, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the design memorandum and the environmental impact study on the Ouachita-Black Rivers navigation project in Arkansas and Louisiana: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to base all economic analyses of the Sacramento River Flood Control (Deficiency Correction), California, project on the benefits of the entire project, rather than the benefits of individual increments of the project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: *Provided further*, That, using $660,000 in funds previously appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101-640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities shall be included as part of project costs with appropriate cost-sharing: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: *Provided further*, That, using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05-86-C-0101 for the Walnut Creek, California, flood control project: *Provided further*, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99-662, as amended: *Provided further*, That using $3,000,000 of the funds appropriated under this heading in Public Law 101-514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99-190: *Provided further*, That using $22,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further*, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts for construction of parallel protection along the Orleans and London Avenue outfall canals as part of the Lake Pontchartrain and Vicinity, Louisiana, hurricane protection project in accordance with the cost-sharing principles outlined in Public Law 89-298 and Public Law 102-104: *Provided further*, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99-662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: *Provided further*, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: *Provided further*, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989 with cost sharing as prescribed in the referenced report for this design deficiency: *Provided further*, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2A reaches, and the completion of construction on the Jersey City North 2 reach: *Provided further*, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such measures as are necessary to compensate for damages caused to public and private property by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington. The costs of such measures shall be considered project costs and shall be allocated in accordance with existing cost allocations for the Little Goose and Lower Granite projects; and, in addition, $90,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; to continue construction of the Curtis and Eagle Bend, Phase I, Revetments in Pool 5 which were previously directed to be initiated in fiscal year 1992; to complete construction of the Carroll and Cupples Capouts, McDade, Moss, Sunny Point, and Eagle Bend, Phase II, Revetments in Pools 4 and 5 which were previously directed to be initiated; to award continuing contracts in fiscal year 1993 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Howard Capout, Westdale Capout, Piermont Capout, Coushatta flood damage repairs, and Twelvemile Bayou Bend Revetment adjacent to Wells Island Road.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $365,432,000, to remain available until expended: *Provided*, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further*, That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,000,000 of the funds appropriated herein to continue work on the Eastern Arkansas Region, Arkansas, project including the development and implementation of plans for one area to serve as a demonstration project.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,551,905,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which $16,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided*, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That $2,285,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Hansen Dam, California: *Provided further*, That $2,000,000 of the funds appropriated herein, to remain available until expended, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Sepulveda Dam, California: *Provided further*, That using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the repair and rehabilitation of the Flint River, Michigan, flood control project: *Provided further*, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further*, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $86,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $15,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, and the Water Resources Support Center, $142,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title or appropriations made in this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress. Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

Mr. MEYERS of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD and open for amendment at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 2, strike "$177,831,000," and insert "$177,721,000,".

Page 3, strike line 7.

The CHAIRMAN. The gentleman from Indiana is recognized for 5 minutes in support of his amendment.

Mr. MEYERS of Indiana. Mr. Chairman, I understood these three amendments would be offered en bloc.

Mr. BURTON of Indiana. No, Mr. Chairman, there must be a misunderstanding. There are three separate projects.

Mr. MEYERS of Indiana. They are all the same title. I understood the gentleman would agree to offer these en bloc.

□ 1510

Mr. BURTON of Indiana. Mr. Chairman, I did not agree to offer them en bloc. There must be a misunderstanding, because I think each of them should be voted upon based upon its merits.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes in support of his amendment.

Mr. BURTON of Indiana. Mr. Chairman, I apologize to the gentleman from Indiana [Mr. MEYERS] for any misunderstanding on whether or not these were to be offered en bloc.

Mr. Chairman, we have three separate amendments. The first amendment deals with Casino Beach in Chicago, Illinois.

The bill contains $110,000 for preconstruction design and engineering.

The intention is to finish all the planning of this project in fiscal year 1993. The administration requested no funding for this project, and the Army Corps of Engineers says the purpose of this project is primarily recreational, and, therefore, not a normal Corps of Engineers function.

Mr. Chairman, if we go ahead and appropriate the $110,000 for the engineering of this, then what we are going to end up with is an $8 million recreational project in Chicago. As I said earlier in my remarks during general debate, we have a $4 trillion national debt right now, but it is much higher than that when you take those items which are off budget into consideration, which is another $2.5 trillion.

The interest alone on the national debt is over $300 billion a year. If we continue spending the way we have in the past, and there is no reason to believe we will not in the future, by the year 2000, eight years from now, over 100 percent of all personal income taxes will be needed just to pay the interest on the national debt.

So what I am doing here today is proposing three amendments. This is the first of the three, to try to take a step in the right direction in getting control of the spending which is totally out of control right now.

This $110,000 is just peanuts, but it is going to lead to an $8 million pork barrel project in Chicago. We cannot afford that $8 million. We simply do not have it. We are in the tank right now $4 trillion, and this year alone we are $400 billion in debt. So we have to do something about spending.

Mr. Chairman, I would submit to my colleagues that here is one small step that can be taken to preempt the possibility of an extra $8 million being wasted on pork barrel projects in Chicago, IL.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman reserves the balance of his time.

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I might mention that this project is at Jackson Park in Chicago, and it calls for replacing beach material and encasing the wood pilings and stone jetty in steel sheet pilings with a concrete cap.

Mr. Chairman, the project will prevent the loss of Lakeshore Drive, historical buildings, and also reduce maintenance dredging of Jackson Park Harbor.

Mr. Chairman, I oppose the amendment and urge a vote of "no."

Mr. BURTON of Indiana. Mr. Chairman, I wish to reclaim my time.

The CHAIRMAN. It is not possible under the normal 5-minute rule to reserve time.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURTON of Indiana. Mr. Chairman, there must be a misunderstanding. When I said I reserve the balance of my time, I thought the Chair said that I reserve the balance of my time. If I cannot do that, without objection, may I finish my statement?

The CHAIRMAN. Without objection, the gentleman from Indiana [Mr. BURTON] may proceed for an additional 5 minutes.

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, I just want to say to my colleagues that last week we all voted on the balanced budget amendment to the Constitution. We came within seven or nine votes of passing that constitutional amendment.

A lot of Members, as was stated by the gentleman from New York [Mr. BOEHLERT], stood tall on that particular amendment because they expressed a concern about wanting to get control of this budget deficit that could destroy the economic well-being of America and will destroy the economic well-being of America if we do not get control of spending.

Mr. Chairman, I would just like to say to those Members who voted in favor of the constitutional amendment, when you voted for that, you knew we were going to have to make hard choices on spending.

Mr. Chairman, I submit we have to start today, right now, making those hard choices. This is a pork barrel project that ultimately will cost $8 million. We should not be spending money for that purpose right now. The Army Corps of Engineers and the administration did not request this and do not want it.

Mr. Chairman, I think we should vote to kill this thing before it gets out of its hole.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. These are not new projects. If you are familiar with the shoreline along Chicago, this is an area we call the Outer Drive. I remember in my lifetime that Outer Drive has moved out several hundred yards from where it was in the 1930's during the World's Fair in Chicago.

But it is always under bombardment, particularly in the wintertime when there are high tides hitting that.

Mr. Chairman, if this project is not completed, there would be severe damage. It has been traditionally the responsibility of the Corps of Engineers to maintain areas like this from flooding and damage from high water.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman is exactly right. A few years ago the gentleman will recall when Lake Michigan swept over the shores and over Michigan Avenue and into the homes and large buildings that are on the border of the city of Chicago and the lake.

Mr. Chairman, this is not a new project. Casino Beach has been ongoing for several years. It is a jetty that will help protect the shoreline of Chicago, and it should be continued, just as the project that the gentleman from Indiana [Mr. MYERS] spoke of, that I understand will be attacked next by the gentleman from Indiana [Mr. BURTON], is highly necessary. That subject is nearing its end and will provide essential information that will be of benefit in protecting the properties along the lake of the city of Chicago from the winter storms the gentleman spoke about.

Mr. MYERS of Indiana. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments. This committee has moved to hold spending down. I think in the bottom line you will see this. But a project like this, ongoing, the money we have already spent will be wasted if we kill it now. The engineering is about to be completed. It is work that has to be done.

Mr. Chairman, I do not live in Chicago, but I have seen water clear across the Outer Drive. That does damage every time it does that. It has been historically the responsibility of the Corps of Engineers to preserve and prevent the loss of property in projects like this.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, the Corps of Engineers says the primary purpose of this project is recreational, and therefore is not a normal corps function.

The second thing I would like to ask is why should the taxpayers of the rest of the United States of America be paying $8 million for this project anyhow? I think the city of Chicago should be responsible for this.

Mr. MYERS of Indiana. Mr. Chairman, reclaiming my time, certainly some of the projects we are going to be funding later on possibly for the city of Chicago, I do not think it would be proper for the taxpayers of the rest of the country to fund. Historically, everyone in the country uses ports, uses waterways. The value to our infrastructure is tremendous. This is one of those. True, if it was only recreational, the gentleman would be correct. But this has many other features other than recreation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device and the following Members responded to their names.

[Roll No. 196]

ANSWERED "PRESENT"—417

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition to the Burton amendment. This ill-considered amendment strikes language providing $110,000 for the Casino Pier shoreline reconstruction project in Chicago, IL.

The city of Chicago's lakefront is protected by a series of embankments that have been in place since the 1920's and 1930's. These structures do not last forever: they have a life expectancy of 25 to 30 years. Due to fluctuating water levels, these embankments are subject to massive deterioration and potential collapse.

Casino Pier is one of Chicago's most severely affected areas. The U.S. Army Corps of Engineers recognized the need for reconstruction at this site in its 1984 Interim II Report. In 1986, based on the corps' recommendation, Congress authorized $5.48 million for the Casino Pier reconstruction project in the Water Resources Development Act (Public Law 99-662). For the past 3 years, this project has received funding through the appropriations process. This year's funding completes the preconstruction engineering and design work, enabling the urgently needed construction to begin next year.

Currently, the Corps of Engineers spends $15,000 annually in removal of sand from the harbor entrances. Indeed, erosion damage has necessitated the closing of this pier. Reconstruction is vitally important in order to protect the La Rabida Children's Hospital, located along the eroding shoreline. Additionally, this project will preserve the Jackson Park shoreline, which is part of a national historic landmark as the site of the 1983 Columbian Exposition. Furthermore, it will prevent flood damage and erosion to the beach, harbor, and park facility area.

The Corps of Engineers has determined that the Casino Pier shoreline reconstruction project will yield $1 million benefits annually. The Burton amendment is ill-conceived and misguided. I urge my colleagues to oppose this amendment.

□ 1539

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Indiana [Mr. BURTON] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. According to the previous announcement of the Chair, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 323, not voting 7, as follows:

[Roll No. 197]

AYES—104

Allard
Allen
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Bentley
Bilirakis
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clement
Coble
Combest
Condit
Cooper
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Hamilton
Hancock
Hansen
Hefley
Henry
Hobson
Holloway
Hopkins
Inhofe
Jacobs
James
Johnston
Klug
Kyl
Leach
Lewis (FL)
Marlenee
McCollum
McCurdy
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Moorhead
Nichols
Nussle
Olin
Oxley
Patterson
Paxon
Penny
Ramstad
Ravenel
Ray
Rhodes
Ritter
Roberts
Rohrabacher
Roth
Santorum
Schaefer
Schulze
Sensenbrenner
Sharp
Shays
Slattery
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stearns
Stump
Sundquist
Tanner
Taylor (NC)
Thomas (WY)
Upton
Walker
Weldon
Wylie
Zeliff
Zimmer

NOES—323

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Herger
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Solarz
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—7

Bonior
Hefner
Hubbard
Martin
Obey
Quillen
Traxler

Mr. TAYLOR of Mississippi changed his vote from "aye" to "no."

Mr. SHARP changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1550

The CHAIRMAN. Before proceeding with the next amendment, the Chair would note that it was his understanding, under the unanimous-consent request to dispense with the reading of the bill, the request was to dispense with the reading of all of title I. The Chair's understanding was it would be through page 7, line 12. It is now the understanding of the Chair that the gentleman from Indiana intended that all of title I be read and that the reading be dispensed with.

Mr. MYERS of Indiana. Mr. Chairman, it was my intention to close title I, the entire title, subject to any amendments.

The CHAIRMAN. Then all of title I stands as read.

The Chair would inquire whether there are any points of order against any part of title I.

The Chair hears no points of order.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 2, strike "$177,831,000," and insert "$177,031,000,".

Page 3, strike line 8.

Mr. BURTON of Indiana. Mr. Chairman, well, after that last vote, it does not appear as though that these amendments are going to go anywhere, but I would like to say to my colleagues that this is a very important issue that we are facing on amendment after amendment after amendment. It does not appear to me as though the House of Representatives has the intestinal fortitude necessary to get control of spending.

There was a book put out that was sent to every one of your offices by a man named Mr. Larry Burkett entitled "The Coming Economic Earthquake." I submit to all of my colleagues that they really ought to read that book. Every one of you in your offices, I believe, received the book authored by Larry Burkett entitled "The Coming Economic Earthquake." That ought to be must reading for everyone in this body, because on that last vote there were 320-some people who voted against the amendment, and it appears to me that we are not even paying attention to the crisis that faces this Nation in the next 5 to 10 years. We could end up with a depression which would be much worse than what happened during the 1930's if we do not get control of our appetite for spending.

Peter Grace, the chairman of the Grace Commission, said that based upon the trends in spending in this country, in the Congress of the United States, that by the year 2000 it will take over 100 percent of all personal income taxes just to pay the interest on the national debt.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, we are witnessing a savior coming down the land, are we not, in Ross Perot? Is it not true that if we put Ross Perot in the White House we are going to change the spending habits of the United States? Is that not true?

Mr. BURTON of Indiana. If the gentleman would make his point.

Mr. DANNEMEYER. That is what Mr. Perot is saying around this country, is it not? "Put me in the White House and I will change the runaway spending habits of the Congress."

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman does not have any other point to make, or does the gentleman have another point to make?

Mr. DANNEMEYER. I thought that was obvious to all of us.

Mr. BURTON of Indiana. Let me just reclaim my time and say that regardless of who is in the White House, all spending originates in this body with the concurrence of the other body.

We are $400 billion in the tank this year. We are $6.5 trillion in debt, if you take in the unfunded liabilities and those things that are off budget.

In the next 10 years or less, we are going to go another $7 trillion to $8 trillion in debt if we do not control our appetite for spending, and that is why I say to my colleagues today that we have to prioritize. We must prioritize.

This next amendment that I am talking about here will cost millions and millions of dollars. We do not know exactly how much. But we do know it is going to cost $800,000 just for the preconstruction engineering and design work. The administration did not request this. They offered no funding for it. We have to prioritize spending.

This is not a priority. It was not recommended by the Corps of Engineers nor by the administration.

It is going to cost $800,000 just for the design work, and it will cost millions and millions of dollars for this project to be completed. We need to prioritize.

It may be important down the road to do this, I do not know, but it is not a priority right now. It is the Chicago shoreline, the Lake Shore Drive project in the area of the gentleman from Illinois [Mr. YATES], and I would just like to say to my colleagues let us start prioritizing. If we do not, there is going to be an economic debacle unparalleled in American history to take place, and you all know we are not just whistling Dixie when we talk about this. It is a real major problem.

We have to prioritize spending and get control of our appetites, and I see some of my colleagues who come in and smile and say, "Is that in my State," or, "Is that in my district?" "If not, I will vote for it."

We have got to start making hard choices in our own States as well as other parts of the country. Because we cannot win or cut spending any other way.

I would just like to say to my colleagues that this is another small amendment. It will show that we are taking steps in the right direction to control spending and hopefully head off the economic disaster that faces this Nation down the road.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an amendment for disaster prevention in Chicago and the other communities that live along the lakeshore, communities like the suburbs of Evanston, part of Wilmette, suburbs to the south of Chicago which always live with the prospect of a disaster occurring such as the one that occurred some years ago when lake levels rose and winter storms swept the waters of Lake Michigan across the highways, across the roads, across park areas into the buildings, into the homes of people across the road.

This is not pork barrel. This is work within the Corps of Engineers' jurisdiction. The Corps of Engineers is just about the only agency that can do work of this kind. It is not pork barrel any more than it is pork barrel for a committee or a subcommittee like mine on the Department of the Interior which has jurisdiction of the Geologic Survey.

Our committee is putting money into our bill for earthquake and for volcano protection in the State of California. The administration has cut that budget drastically.

□ 1600

Yet we know that within the next 30 years experts have told us that there are going to be earthquakes, there may be volcano eruptions in the State of California, and we have to protect the people of that State. The possibility of disaster does exist.

Is that pork barrel when our committee put that money in for the State of California at the request of Members from the State of California? That is not pork barrel. That is common sense. That is disaster prevention, so that we can prevent the costs that come in the event of earthquakes.

The same thing is true with respect to this shoreline study. We want to be able to prevent the kinds of floods, the kinds of disasters that have taken place in the past. The money that has been appropriated in this bill for that purpose is vitally necessary.

Mr. Chairman, I hope the House rejects the amendment.

Mr. BEVILL. Mr. Chairman, I rise in opposition to this amendment.

I just would like to expand on what my friend and colleague, the gentleman from Illinois, has just said.

This project has been authorized by the Congress. It provides $2.60 in benefits for every dollar invested. It is primarily a storm damage reduction project. The administration does consider those to be high priority benefits.

Mr. Chairman, I urge everyone to vote no on this amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. It is my understanding, Mr. Chairman, the gentleman said the administration considers this a high priority project.

According to the information I have, the administration requested no funds for this particular engineering study.

Mr. BEVILL. The Corps of Engineers has advised us that the benefits are primarily storm damage reduction, which the administration considers high priority benefits.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman will yield further, why is it the administration in their budget request put no money in there for it?

Mr. BEVILL. I guess it is because they could not put in everything they think ought to be in there just as we could not put everything in our bill that we thought was necessary and should have been put in.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman will yield for one more question. Then in the opinion of the administration because we have to make hard choices right now, this was not a priority item for this particular fiscal year?

Mr. BEVILL. Well, as I said before, this project provides $2.60 in benefits for every dollar invested.

Mr. MYERS of Indiana. Mr. Chairman, I rise in opposition to the amendment.

I am sorry I must do that to my friend and colleague, the gentleman from Indiana, but my colleague spoke about prioritizing programs and that is what the Appropriations Committee is all about. Our priorities, true, are different than the administration's. We are closer to Chicago and the problem there than the administration has been.

We see first hand quite often what the problem really is.

So ask about 150 of our colleagues here about prioritizing, those who would like to have had programs in their districts, but this committee decided they were not high enough priorities; but in the judgment of your committee, who works very hard, has hearings, hears thousands of people testify in letters and appearances, and actual witnesses, we have found that this was a higher priority actually than the administration did.

We are talking here about what happens that Lake Michigan is doing to the shoreline along the Chicago Outer Drive. Lake Michigan does not belong to Chicago. It does not belong to Illinois. It belongs to the country, to everyone in the country.

The wind damage there did not start in Chicago. It is not like driving a piling through a flood wall that did happen along the Illinois River in Chicago.

This project addresses something that no one has any control over, and historically the Corps of Engineers has provided for this.

Now, there are about 21/2 miles of revetment, steel, stone, being built or would be built, this is the engineering for it, along the north side of Chicago in the Lincoln Park area, the near north side. There are a lot of fine properties along this area.

Then on south things are in danger. Meigs Field, many of us fly into Meigs Field. That would be in danger if we do not build this.

The south side filtration plant would also be in danger if we do not do this.

Fullerton Avenue would also be in danger. That is about 5 miles down on the south side.

So there are almost 7 miles of revetments that would be done here, again to protect investments, to avoid further loss of property.

It is the responsibility of the Corps of Engineers and the people of the United States to protect those investments that the city of Chicago has made and is trying to protect. It is an ongoing project and it is authorized.

So Mr. Chairman, I urge Members to continue the efforts of this committee to protect those investments in Chicago against further loss. Really, it is a small investment, $2.60 in benefits for every dollar we spend.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer my last amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 2, strike "$177,831,000," and insert "$175,031,000,".

Page 3, strike lines 19 and 20.

Page 3, line 16, insert "and" after the semicolon.

Page 3, line 18, strike "; and" and insert in lieu thereof a colon.

Mr. BURTON of Indiana. Mr. Chairman, some of my colleagues have asked if I am going to get a vote on this one. I want you to know there will be a vote on this amendment.

It has been said by some of the members of the Appropriations Committee that the White House has one budget, we have another, and we prioritize spending around here. If we prioritize spending, answer this question for me.

We spent $1.8 trillion in this fiscal year and we only took in $1.4 trillion. We are $400 billion short. If we prioritize spending, why are we $400 billion short?

Well, you might say we did not have enough tax revenues. Ten years ago we brought in $500 billion in taxes. Now we are bringing in $1.4 trillion, almost three times as much, and we are still $400 billion short. So if we are prioritizing, if the Appropriations Committee is doing such a great job, why is it we have tripled the amount of taxes coming in and we are still $400 billion short?

The fact of the matter is we do not control spending around this place. We do not take anything into consideration other than who wants what and what does it mean to them in their districts, and whether or not it would help them get reelected.

We need to prioritize. There is a fiscal calamity heading toward this Nation.

Listen to what I am going to say one more time. The interest on the national debt will be more than the private personal tax revenues coming in in the next 8 years.

Do you know who said that? Peter Grace, the head of the Grace Commission.

We must get control of our appetite for spending.

Now, this project, the Red River waterway between Shreveport, LA, and Dangerfield, TX, is going to cost $2.8 million for preconstruction and design for the waterway.

The Army Corps of Engineers says that the economic justification for this project is marginal at best and it did not meet their criteria for the requesting of funding this fiscal year. So the Corps of Engineers says it does not meet their criteria for funding this year.

Now, do you know how much this project is going to cost once you get by the engineering study? Now, listen to this. It is going to cost 644 million Federal taxpayer dollars and it does not meet the criteria of the Corps of Engineers for a project.

Now, I want to say to my colleagues, you did not like the first two amendments. This is $644 million. Are you going to vote against this one as well?

Where are you going to draw the line? When are we going to get control of spending around this place?

I have three children. There are a lot of children visiting us today. Do you know what kind of legacy we are leaving for those kids? Zippo. There is not going to be an economic future for them if we do not get control of spending around here, so do not talk politics to me today.

I want to tell you one more thing. We are all concerned about the reelection around here. Do you know why the people of this country are fed up with all of us? They are fed up because they know we are not doing the job. We are not making those hard choices and the longer we wait, the harder the choices are going to be and the kids are going to pay the price.

□ 1610

Mr. BEVILL. Mr. Chairman, I rise in opposition to this amendment. I realize the gentleman mentioned $644 million. Of course, he is not referring to the amendment that we are talking about right now. He is referring to construction of a project, and we are simply talking here about a study that we have already spent over $5 million on. We are saying, "Don't waste this money by cutting the study off." This project has been authorized by the Congress, and funding for the study has been in bills that have been signed by the President. So we just say it is ridiculous to waste money by cutting off a study in the middle of a study. That is what the gentleman's amendment would do.

So I urge you to vote against the amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentlemen for yielding.

Mr. Chairman, if the project is going to cost $644 million and the Corps of Engineers says it is not a worthy project right now, why would you want to spend $2.8 million more than the $5 million we have already spent when it is going to cost $644 million when the project comes to fruition?

Mr. BEVILL. There is no $644 million affected by your amendment. The funds in our bill simply apply to the study, and it is a waste of money to cut off the balance of the study when only about $2 million more is needed to finish the study. You are throwing that figure around, that $644 million, like we are talking about that amount. The amendment has nothing to do with the $644 million. The gentleman knows it.

Mr. CHAPMAN. Mr. Chairman, I move to strike the requisite number of words. Let me just say that this project was funded in 1989, 1990, 1991, and 1992. This is the last year of funding for the feasibility study.

The corps will have an answer in a few months. It is absolutely ludicrous to stop a feasibility study that is 80 percent complete. The potential here down the road could be 48,000 to 100,000 jobs if it were feasible. We are not going to know, if the study is not done, not finished.

It is crazy to not finish this project. We are 80 percent through.

Mr. HUCKABY. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman and colleagues, the Red River waterway project was initially authorized back in the late 1960's, 1968. Construction of the first lock and dam was begun, as I recall, in the year 1977. Here today in 1992, three of the locks and dams have been completed. The final two, which will lead to navigation to Shreveport, LA, are underway today. This is a big project, an expensive project, it is very important to the State of Louisiana. Total estimated cost is some $1.7 billion. In addition to that, it has always been planned that we would further expand navigation on the Red River into Dangerfield, TX.

The issue here today is simply whether or not we will spend the last $2 million of a study to determine whether or not it is feasible to do this. Somewhere in excess of $5 million has already been spent to date.

I would point out to my colleague, the gentleman from Indiana, that even though he has good intentions, certainly, I think if we look at the whole scope of the project, it does not make sense to cut at this time.

Mr. Chairman, I would urge defeat of the amendment.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would be much more moved by the protestations of the gentleman from Indiana [Mr. BURTON] if I felt that he really was concerned about the well-being of our children that he talks about paying the price. If he were concerned, then I would expect him to be leading the effort to take care of the children of today who are not getting medical care or who are not getting immunization programs or who are not getting Head Start programs or whose parents, whose mother is not getting nutritional programs.

None of that seems to enter the gentleman's consideration. Those are wasteful programs, for him.

I think you really have to be consistent. If you are concerned about the well-being of the children, then be; do not just use them for political rhetoric and political purposes.

Whether this particular project is good, bad, or indifferent, to use the argument in this amendment that the Corps of Engineers does not find this a high-priority item when the last amendment the gentleman offered he said it does not make any difference that the Corps of Engineers considers it a high-priority item because we make the decisions. That demonstrates a certain inconsistency. I do not know whether he is really after, whether scoring some political points, but we should not be using our kids in that fashion.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding to me.

I will not belabor the point except to say that we must prioritize around here. And this project, this amendment, granted, will only cut $2.8 million, but we all know once the feasibility study is done, there will be requests for a total of $644 million over some given period of time to complete this project. We all know that. So it is going to result in $644 million in spending. We do not have the money, it is not a high-priority project.

The Corps of Engineers has said that.

All I would like to say to my colleagues is you do not have to agree with me on whether or not my definition of a pork barrel project is correct or not, but one thing you have to agree to is that we are in a fiscal mess and we have to start prioritizing and deciding where we are going to spend our money. Otherwise we are going to face financial disaster and it will not be too far down the road.

So, Mr. Chairman, let us start making those hard decisions. I think this is a good place to start.

Mr. Chairman, I thank my colleague, the gentleman from Indiana, for yielding to me.

Mr. MYERS of Indiana. Mr. Chairman, in response to the gentleman, this committee has prioritized. We are $623 million below the President's request in the total bill. True, we have some items in here that the President did not request, but again this is a matter of prioritizing. His priorities were different than ours. There is nothing new about that.

I have been on this committee for 22 year. We do it quite frequently, several times a year, regardless of whether we have a Democratic or Republican President.

I also add that we are $43 million below last year's spending. So we are prioritizing. We have come in under the bill.

But if the train is running away, to answer the gentleman's question here about excessive spending—I certainly will admit this, we have wasted money in the past—but if there is a runaway train in that sort of an economy, you cannot just stop it at a given stop. We are slowing it down. I think we are doing a good job.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened to the gentleman from Indiana [Mr. BURTON] characterize the Congress as being the culprit here, the wild-spending Congress, unable to get spending under control. I am going to offer with some friends an amendment that will cut far more than the gentleman is proposing later in this debate, if you want to vote for it, because I happen to feel we also are facing serious trouble. I agree the Federal deficits are very troublesome to this country's future and we ought to do something about them. But I do not want the gentleman to characterize his amendments as amendments which, if you vote against, you do not care about the deficit. These people have prioritized; that is precisely the issue. The interesting thing about this debate is the gentleman from Indiana asked the chairman a while back, "Well, did the administration recommend this?" I guess the suggestion or implication of that question was what the administration recommends is important.

Let me tell you what the administration recommends. This is a book which they sent to us, and I am sure they sent it to the office of the gentleman from Indiana [Mr. BURTON]. It is 10 or 12 pounds, 2,000 pages. That is what they recommend as a fiscal policy.

Now, before the big-spending Congress, as the gentleman characterizes it, even gets involved to read this, this is the roadmap developed down at 1600 Pennsylvania Avenue about where they want us to go.

In this fiscal year, I say to the gentleman from Indiana [Mr. BURTON], this President proposes we spend $352 billion more than we take in, and he only gets to the $352 billion by taking $90 billion in Social Security surplus and subtracting it from the deficit. The real deficit proposed by President Bush in this document sent to us in February is $440 billion.

Now, look, is this place blameless? Of course not. Do we have to change priorities? Of course, we have to.

Do we have to do something different to deal with the deficit? Absolutely.

But does it start with this? Is this the first step in the process? You had better believe it is. The President by law is required to send it to us. He says here is the direction I want to lead. It is a road to more deficits, more economic troubles and more economic decline.

Now I just—look, all of us have the same responsibility to sort out what is right and what is not. What do we need and what can we afford?

But I do not want the gentleman to continue to characterize the Congress solely as a Congress out of control. This is a fiscal policy that is out of control; this is leadership that leads in the wrong direction.

□ 1620

All of us, it seems to me, ought to try and figure out an approach that moves toward some priorities that make sense for all of those whom we represent, and all of us should decide that this is a fiscal policy none of us can support. This fiscal policy, in my judgment, leads to economic stagnation and decline.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I do not disagree that the administration and the White House is blameless either. I think that the gentleman is absolutely correct, that there is enough blame to go around, but I just want to ask the gentleman one question:

Where do all the appropriations originate? Here. So, we have to deal with it.

Mr. DORGAN of North Dakota. Reclaiming my time, Mr. Chairman, let me explain something the gentleman well understands.

There are three steps to the process of spending a dollar. The first step, by law, the President sends us his recommendation. The second step, by the Constitution, we decide to vote on the specific appropriation bill. And the third step, by the Constitution, the President either signs or vetoes it.

Two of the three steps are there, and I just do not want to continue to see the characterization by the gentleman's side of the aisle that somehow everything that is screwed up starts here.

Yes, we have got plenty of problems, but our biggest challenge in my judgment is to decide this kind of fiscal policy is wrong for the country, and, once we have decided that, let us all work together to straighten it out, and the point that the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] made is they have already made priorities, they have established a priority, and, in fact, they brought a bill to this floor that is $600 million less than was requested by the White House. I am prepared to cut it more than that, and I am going to join some friends on the floor in a while to cut some $20 million more.

So, Mr. Chairman, I understand what the gentleman is saying. I just do not like the characterization of it, and I hope we can get to more constructive approaches, if all of us understand we are all headed toward the same direction, and let us stop blaming the Congress for everything.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield for one final comment?

Mr. DORGAN of North Dakota. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, the fact of the matter is all appropriations originate here, and we are the ones responsible for sending some kind of bill down to the White House. They can veto it, but it starts here, and, if we are responsible and control spending at our level, we will take care of the problem.

Mr. DORGAN of North Dakota. Reclaiming my time, Mr. Chairman, the gentleman understands the budget of the United States starts by law at the White House. Here is what he delivered. He asked us to spend $440 billion more than we take in next year.

I am not prepared to do that. I am prepared to say that is wrong for this country's future. It is a destructive fiscal policy, and we have to change it.

So, I say to my colleagues, "Let's all of us decide that it's our priorities that count, and let's try to do it in a way that reduces this crippling Federal deficit."

Mr. McCRERY. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Indiana [Mr. BURTON].

Mr. Chairman, the area which is affected by the study that is the object of my colleague's amendment is mostly outside of my district, but it does affect my district, and I am very familiar with the project, the Red River navigation project, to which this would be an extension, if the study is favorable and if the project goes to completion.

So I want to say that I followed very closely the progress of the study so far, and I want to tell my colleagues that I have some concerns. There are some very sensitive environmental concerns with respect to the extension of this project, and I am hopeful that the completion of the study that will be funded by this $2.8 million will clear up those environmental concerns and will also tell us that the extension of the project will have, as does the project in chief, a favorable benefit-to-cost ratio.

So, Mr. Chairman, I would ask my colleagues to refuse this time the amendment of the gentleman from Indiana [Mr. BURTON], and let us complete the study.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 105, noes 319, not voting 10, as follows:

[Roll No. 198]

AYES—105

Allard
Allen
Archer
Armey
Ballenger
Barrett
Bentley
Bilirakis
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Coble
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Franks (CT)
Gallegly
Gekas
Gilchrest
Gingrich
Goss
Gradison
Guarini
Hamilton
Hancock
Hefley
Henry
Hobson
Hopkins
Hunter
Ireland
Jacobs
James
Johnson (CT)
Johnston
Jones (GA)
Jontz
Kasich
Klug
Kyl
Lagomarsino
Leach
Lewis (FL)
Luken
Marlenee
McCollum
McEwen
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Nichols
Nussle
Oxley
Paxon
Penny
Petri
Ramstad
Ray
Ridge
Ritter
Roberts
Roemer
Rohrabacher
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shays
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Tanner
Taylor (NC)
Upton
Vander Jagt
Walker
Weber
Weldon
Wylie
Zeliff
Zimmer

NOES—319

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—10

Bonior
Broomfield
Edwards (OK)
Fascell
Ford (TN)
Hefner
Hubbard
Lowery (CA)
Quillen
Traxler

☐ 1643

Mr. MARTINEZ changes his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $13,700,000: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM
(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $470,568,000 of which $69,333,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $156,168,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294): *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further*, That the amount authorized by section 4(a)(1) of Public Law 98–541 for the Trinity River Basin, California, Fish and Wildlife Management Program, is hereby increased by $15,000,000 to $48,000,000.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $284,010,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: *Provided further*, That of the funds appropriated herein, $3,250,000 shall be available for environmental studies associated with the renewal of Central Valley Project, California, water contracts and environmental compliance, provided that such funds shall be treated as capital expenses in accordance with Federal reclamation law.

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans and/or grants, $2,202,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $5,060,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $600,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $53,745,000, of which $1,177,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses: *Provided further*, That none of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS
(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only.

Appropriations for the Bureau of Reclamation in this Act or in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by 5 U.S.C. 3109, in total not to exceed $500,000 per year; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That hereafter no part of any appropriation made in this Act or in subsequent Energy and Water Development Appropriations Acts shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated in this Act or in subsequent Energy and Water Development Appropriations Acts which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act, in any prior Act, or in subsequent Energy and Water Development Appropriations Acts which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance in this Act or in subsequent Energy and Water Development Appropriations Acts, except those derived from advances by water users, shall hereafter be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act or by any subsequent Act shall hereafter be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. Hereafter, the Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Hereafter, the Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in contract negotiation and source selection proceedings without invoking provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix (1988)): *Provided*, That such non-Federal participants shall be subject to the provisions of the Federal Procurement Integrity Act (41 U.S.C. 423 (1988)) and to the conflict of interest provisions appearing at 18 U.S.C. 201 et seq. (1988)

Mr. BEVILL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any points of order against any part of title II?

Are there any amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—DEPARTMENT OF ENERGY

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent to take my amendment to title III on page 39 out of order. I have cleared this with the chairman of the committee and the ranking member.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER: Page 39, line 1, insert after "Energy" the following: and, in addition, of which $4,300,000 shall be available for the Reduced Enrichment Research Test Reactor program for fuel development and technical assistance

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, we have no objection to this amendment.

Mr. SCHUMER. Mr. Chairman, this is a very simple amendment.

Mr. Chairman, I rise today to offer a very simple amendment, which would earmark funds—previously authorized in the Defense authorization bill—for the Reduced Enrichment Research and Test Reactor Program.

This program reduces the risk of nuclear proliferation by developing non-weapons-usable fuels to replace U.S. exports of bomb-grade uranium fuel, and then assisting reactor operators to convert to the safer fuels. If fully funded, it will permit the United States to terminate all remaining exports of bomb-grade uranium in approximately 5 years.

The amendment would provide $1.3 million for technical assistance and $3 million for fuel development. I thank the gentleman from Alabama, Chairman BEVILL, and the gentleman from Indiana [Mr. MYERS] for their leadership on this bill and their support of this amendment and I urge my colleagues to vote "yes."

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman from New York has discussed this amendment, and we accept it on the Republican side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 15, of which 14 are for replacement only), $2,947,633,000, to remain available until expended, of which, $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund.

AMENDMENT OFFERED BY MR. WOLPE

Mr. WOLPE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLPE: Page 33, line 4, strike "$2,947,633,000" and insert "$2,913,594,000".

Mr. WOLPE. Mr. Chairman, the intent of the amendment that is now before this House is to strike $34,039,000 from energy supply, research, and development activities in title III of this bill that, according to the committee report, is devoted to the advanced liquid metal reactor program.

Mr. Chairman, last week this House debated a constitutional amendment to require a balanced budget. Today the Members of this body will have the opportunity to demonstrate whether we are, in fact, really willing to go after and to eliminate unneeded Federal programs or if we are going to continue to support wholly unjustified Federal expenditures and then cloak our fiscal irresponsibility by pointing to our vote for the constitutional balanced budget amendment.

I will be offering today, Mr. Chairman, amendments to delete funding for the advanced liquid metal reactor program and for the SP-100 space reactor program. Many Members of this body have probably never heard of these programs and yet they represent the worst kind of wasteful spending. They exist because of the parochial interests of a handful of Members of Congress; the institutional interests of the Department of Energy bureaucracy; and the special interests of large energy corporations. And these two programs will cost American taxpayers some $60 million this year and could cost $7 billion over this decade.

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I would not be aware of these programs myself if it were not for my activities as chairman of the Committee on Science, Space, and Technology's Subcommittee on Investigations and Oversight. From what I have learned from our oversight activity, I am here to report to my colleagues that these two programs are prime targets for deficit reduction.

The advanced liquid metal reactor program is an attempt by the Department of Energy to revive its breeder reactor program. In the early 1980's Members will recall Congress voted to kill the Clinch River breeder reactor project. The reasons for that decision were several: Breeder technology was not expected to be competitive in the marketplace for at least 70 years; breeder technology created the specter of nuclear terrorism, due to the proliferation of plutonium; and to top it off, the Clinch River project was outrageously expensive. The cost soared from an initial estimate of $400 million to over $8 billion.

The project was finally killed when the nuclear industry refused to put its own money up to help the American taxpayer over these huge cost overruns, but it did not stay dead for long. The advanced liquid metal reactor program rose from the ashes of the Clinch River breeder reactor.

The Department of Energy has shied away from using the word "breeder" when describing this new program, but all of the old arguments that were successfully used against the Clinch River project apply to the advanced liquid metal reactor program as well.

There is also a new argument. My subcommittee held a hearing in April to review a very interesting internal Department of Energy analysis of where energy investments should be made based on the merits, without regard to political sensitivities. The Department of Energy compared some 23 competing energy technologies. These technologies were compared on the basis of their contribution to energy supply, their contribution to economic growth, their contribution to environmental quality, their market risk, and their technical risk.

On the basis of these factors, the advanced liquid metal reactor program was ranked 21st of the 23 electricity programs examined by the Department of Energy's own internal analysis. It was third from the bottom.

Internal Department of Energy documents also indicate it will cost at least $5 billion to develop this technology, but in view of the Department of Energy's records of cost estimation on Clinch River, it could easily cost two to three times that amount.

Mr. Chairman, it is time to kill this program once and for all, for four reasons. First, we do not have to be geniuses to realize that this technology will never be competitive in the marketplace. In the real world, utility companies will never choose such costly, complex, and risky technology.

Second, the widespread use of advanced liquid metal reactor technology as envisioned by the Department of Energy would put large quantities of highly radioactive material into commerce between utility companies. This would pose a threat both to national security and to the public health.

Third, wasting scarce energy research dollars on such a low-priority project diverts resources away from investments that can make a much more substantial contribution to energy security.

Fourth, in the current fiscal environment, it simply makes no sense to spend billions and billions of dollars on a technology that rates at the very bottom of the Department of Energy's own internal analysis.

This is an opportunity, Mr. Chairman, to demonstrate to the American people that we really are serious about cutting wasteful Federal spending. The amendment has been endorsed by the National Taxpayers Union. It has been endorsed by the Friends of the Earth. I hope that Members of this body will support the amendment as well.

Mr. Chairman, I yield back the balance of my time.

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me say at the outset that I have not been a fan of nuclear power. During the time that I have been in public life I have watched very closely the development of the nuclear power industry and have had two major concerns: First, the safety of operation. Having seen what happened at Three Mile Island and Chernobyl, there is not a person in this world who would not be concerned about the safety of nuclear power operations.

Second, I have a concern about the waste that is generated by nuclear power facilities. What are we going to do with these spent nuclear fuel rods which remain radioactive and dangerous for hundreds of years? Those two concerns have really motivated me in the past to be generally in opposition to the development of the nuclear power industry, because I felt they did not answer the concerns of not only this Congressman but people across the United States.

However, I think that, frankly, we have to take a hard look at the research that is going on now and ask whether it addresses those concerns. Unfortunately, the amendment which is being offered by my colleague and friend, the gentleman from Michigan [Mr. WOLPE], is going to cut short what I consider an opportunity to develop the technology necessary to address those two concerns.

With this reactor, the integral fast reactor, we find they have been developing through their own research and technology a system which in fact has a closed loop between the burning of the fuel and the reprocessing of useful materials.

What this means in layman's terms is that they are trying to contain within their reactor facility the actual production of energy and the consumption of what is left from the fuel process. It means that they are trying to develop a technology which will not allow the possibility of a meltdown or a Chernobyl. That is something we should encourage and fund.

Second, the spent fuel, which of course lives on for hundreds of years to haunt us, is something that we must look to. Can it be used productively? This fast reactor process is trying to develop ways—and there is promise on the horizon that they will—to use these spent nuclear fuel rods again and consume them.

This reactor can also burn plutonium. The significance there is the fact that this plutonium may be coming from nuclear weapons stockpiles. Just a few hours ago we had the President of Russia stand before us and talk about his plans to dismantle their nuclear weapons, which the United States will probably match. What will happen to all this radioactive material?

If this nuclear process results in technology that we can use, we might be able to use some of the nuclear weapons stockpile for peaceful purposes. From my point of view that is very positive.

Finally, the major concern with the nuclear power industry is the fact that every time we built a nuclear reactor in the United States, it seems that every new company had to come up with a new design, and much time, and effort, and money were wasted in that process. This integral fast reactor which we are funding is trying to establish a commercial prototype which can be used by the private sector over and over again, much as France has done successfully to date.

I would urge my colleagues to take a hard look at this particular project and to vote against the amendment of my friend, the gentleman from Michigan.

I agree with him, we have to watch our Federal dollars very closely, but I happen to believe that this money, invested in this reactor, holds the promise to face the problems of nuclear power and to solve them. That is why I stand in opposition to the amendment.

Mr. FAWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, 2 weeks ago the house voted overwhelmingly in favor of national energy strategy legislation—H.R. 776—which would ensure a place for advanced nuclear power in meeting our energy needs of tomorrow. Efforts by the gentleman from Michigan [Mr. WOLPE] to delete the funding for the advanced liquid metal reactor program, I believe, would directly undermine a very important national goal.

As the centerpiece of the Department of Energy's Advanced Reactor Research and Development Program, the advanced liquid metal reactor [ALMR] program, which consists of the integral fast reactor [IFR] at Argonne National Laboratory, is a revolutionary reactor design which has been demonstrated to be passively safe, is economically competitive to build and to operate, and employs an innovative fuel cycle that recycles its own waste.

☐ 1700

It has been said that the potential advantages of the IFR visualized in past years continue coming closer to reality. These include enhanced safety, proven very high fuel burnup, proliferation resistance, reduced waste disposal problems, an integral self-contained and potentially lower cost fuel cycle, and a nearly inexhaustible supply of fuel.

Those are not my words. They came from a very special committee composed of people of the highest technical reputation, and each with qualifications and experience that uniquely qualify them to assess a program of this depth and breadth. Among the Members are Hans Bethe, the Nobel Laureate from Cornell, Manson Benedict, the founding chairman of the nuclear engineering department of MIT, Max Carbon, the ex-chairman of the Advisory Committee on Reactor Safety for the Nation, and others of comparable note in their areas.

Unlike conventional technology, the ALMR will not produce plutonium separated from other substances, and I think the gentleman from Michigan [Mr. WOLPE] has indicated a fear in that regard. That is because all reprocessing of fuel is done inside the nuclear reactor. In fact, any plutonium produced by the ALMR as waste in the fuel cycle will not only be mixed with impurities that make such a product undesirable for use in weapons, but will actually be consumed, that is recycled, as additional fuel in the reactor, gobbling up, you might say, the waste that is produced.

This feature was not offered by the Clinch River breeder reactor design, as Members may have been led to believe in the recent "Dear Colleague" from the gentleman from Michigan [Mr. WOLPE].

The ALMR is a true breakthrough in energy production in the United States. Its inherent safety features, its ability to recycle its own waste products, its economic promise, and innovative nuclear waste disposal capabilities, which produce appreciably less quantity and toxicity of waste, make it a program well worth Federal support. In fact, if one is interested in safe nuclear power, one should vote against the Wolpe amendment. The cost for this research and development program is $41.5 million in fiscal year 1993, which is less than in fiscal year 1992.

This program, which has totaled thus far $320 million over 7 years, is in no way comparable to the Clinch River program. To terminate this program would negate its potential value just when it is close to producing a very useful energy source for society. That, certainly, is not very economic or cost effective.

I have one additional point, because the gentleman did mention that the Department of Energy had ranked the ALMR project low on its totem pole insofar as advanced nuclear reactor and electric generating technology are concerned. I have a letter from DOE which fully supports the ALMR program as the centerpiece of the DOE advanced nuclear reactor program. I have been authorized to set forth the following as the view of the Department of Energy, in regard to the alleged low rating of the ALMR by DOE. I quote, "The selected excerpts from an internal draft document from one DOE office cited in Congressman WOLPE's letter of June 11, 1992, do not reflect DOE policy."

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(On request of Mr. WOLPE and by unanimous consent Mr. FAWELL was allowed to proceed for 3 additional minutes.)

Mr. FAWELL. The Department of Energy states, as I said, "The selective excerpts from an internal draft document from one DOE office cited in Congressman WOLPE's letter of June 11, 1992, do not reflect DOE policy."

As I have indicated, the ALMR is an inherently and passively safe reactor technology. In fact, there was a demonstration at Argonne National Laboratory in Idaho Falls conducted shortly after the Chernobyl accident, in which scientists simulated the conditions present which caused the Chernobyl accident. As at Chernobyl, a dangerous chain reaction began. Yet the chain reaction was shut down by the inherently safe design features of the ALMR without safety risk or intervention of technicians conducting the experiment. This is a very innovative and a very useful technology, and the last thing in the world we ought to be doing is thinking about terminating it.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I am glad to yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding to permit me to make a couple of different points.

First of all, the gentleman's comment about the Office of Policy's analysis not reflecting the Department of Energy's present point of view, I find that intriguing. I hope that all of the Members of this body will at some point take the opportunity of reviewing the Office of Policy's analysis to which I referred, which was an effort to try to evaluate all of the competing energy technologies on the basis of merit, without regard to political sensitivities.

What is intriguing was the absence of any positive correlation between the Office of Policy's own analysis and the budget that was subsequently submitted by the Department of Energy for fiscal year 1993. In fact, there is a perverse relationship. Those that were the lowest valued projects received requests for the highest increases in funding imaginable. But the point again is that when they undertook the analysis on the basis of merits, this project was rated 23 of 25.

Mr. FAWELL. Reclaiming my time, I have tried to answer that allegation by quoting the Department of Energy: "The selective excerpts from an internal document from one DOE office cited in Congressman WOLPE'S letter of June 11, 1992, do not reflect DOE policy." And indeed, as the gentleman is well aware, the Department of Energy has set forth this advanced nuclear reactor as the centerpiece of its advanced nuclear reactor program.

So I want to make it clear that there is complete faith and confidence in this program by the Department of Energy. Indeed, I think the gentleman heard me refer to the eminent scientists who have reviewed this program at Argonne. None of them are directly connected with the program. All are persons of national stature, and they all have given their full support to the integral fast reactor.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has again expired.

(On request of Mr. WOLPE and by unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from Michigan.

Mr. WOLPE. The point I think that needs to be underscored is that the Department of Energy's policies do total violence to their own internal analysis, an analysis which attempted to assess these matters on the basis of merits. That is the point that I am trying to underscore.

Mr. FAWELL. If I may interrupt, I have to insist that the Department denies that the internal memo of one particular office reflects their view or ever has reflected their view. And they also point out that these are selective excerpts.

Mr. WOLPE. The gentleman is correct. If the gentleman will yield, he is correct. The Department of Energy policy is to support this project. My point is it did so in contradiction to its own Office of Policy internal analysis.

The other point I wanted to make very briefly is I am struck by the parallel nature of this debate and the one that we had some years ago on the Clinch River breeder reactor. Those of us who were opposed to the Clinch River breeder reactor were charged with offering an amendment designed to undercut nuclear power. The fact of the matter was that the issue had nothing to do with whether we were pronuclear or antinuclear. The issue had to do with economics. It was the marketplace that was the real issue, and that was why people like Dave Stockman and other people who were pronuclear joined with people raising environmental concerns in opposition to Clinch River.

Two questions: What is the total cost to the taxpayer, and second, will it be acceptable in the marketplace when it is complete, and there is no evidence of that, and it is a huge cost to the taxpayers.

Mr. FAWELL. There is no similarity between this and the Clinch River reactor. But I see Madam Chairman of the Energy Subcommittee is ready to discuss this issue, and I am sure she will cover those points.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has again expired.

(On request of Mr. WALKER and by unanimous consent Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think it is important that we clarify this Office of Policy analysis. As I understand it, the reason why the gentleman keeps referring to the fact that this was selected excerpts is that what the gentleman from Michigan [Mr. WOLPE] has done is found selected excerpts. They were indeed judging the merits, and one of them was whether indeed it was short term or long term in terms of value, and in this particular case we have a long-term program. The fact is that if we want to produce energy short term, this is not the way to go. But in fact, if we want an advanced program looking down the road as to what the energy strategy would be, this is the way to go. And so one of the reasons why the DOE has decided to put this program forward is because it is one of their long-term advanced programs that they think has merit and, therefore, is advancing it on that basis.

□ 1710

So we should not be deceived by the Office of Policy analysis question here. This is, in part, a merit selection process that was done based upon factors other than just whether or not we have a short-term availability of energy given this kind of reactor.

Mr. FAWELL. Mr. Chairman, I think the gentlewoman from Tennessee can certainly carry on here.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do rise in opposition to this amendment.

The Advanced Liquid Metal Reactor Program is a cornerstone of the long-term plan of our national energy strategy. We have a short-, a mid-, and a long-term strategy.

This program has been reviewed. It has been debated, and it has been approved by the Subcommittee on Energy which I chair, and the gentleman from Michigan is a member, by the full Committee on Science, Space, and Technology, the Committee on Appropriations Subcommittee, and the full Committee on Appropriations and other bodies.

Now, the gentleman from Michigan characterizes this program as an attempt to overturn the congressional decision regarding Clinch River. I would remind the gentleman that this program, the ALMR Program, is congressionally approved every year, and it is not an extension of the Clinch River program.

But I would also remind this gentleman that other nations have continued with their research in this area, and they have now moved ahead of us in this direction, and other nations are also exploring liquid metal designs. They would gladly take the information and the developments from our program to enhance their own, should we decide to cancel this program.

The gentleman has repeatedly cited concerns about proliferations of weapons-grade plutonium, weapons-grade material. Yet, the ALMR could, in fact, be used to burn the plutonium from our retired weapons providing a very useful fuel for our country, and certainly the events of the past and the events of today indicate that we can make great use of this program and its equipment to burn the very element that we are concerned about and exercise control to prevent proliferation.

Let me repeat, the Liquid Metal Program is a long-term technology development program, but it can contribute to our total energy needs in the next century, and should it prove successful, we are going to have the effect of reducing our greenhouse gases. It is part of our energy strategy, and it has been approved by the other body.

I again remind my colleagues the Advanced Liquid Metal Reactor Program has been reviewed, debated, and approved by the Committee on Appropriations and the other legislative committees.

So I do urge my colleagues to vote no on this amendment.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I consider the gentleman from Michigan to be a very forward-looking, informed, and progressive Member, but I have to say that I also consider the amendment he is offering to be a very backward-looking, uninformed, and regressive amendment.

It seeks to undermine a real breakthrough in energy technology in America, a breakthrough that promises cleaner, cheaper, and more efficient energy production.

Mr. Chairman, rather than decreasing the funding for the Advanced Liquid Metal Reactor Program, as this amendment would, we should pursue this new technology with every resource available. We should energetically embrace the opportunity to produce cleaner and safer nuclear energy to lessen our dependence upon relatively dirty and expensive fossil fuels.

In fact, Congress has already endorsed the ALMR Program when it passed H.R. 776, the national energy strategy, by a vote of 387 to 37 just 2 weeks ago. This recommendation was sent to the House by the Committee on Science, Space, and Technology, which considered the new technology extensively, and in addition, Congress has voted to support the ALMR Program every year since 1984.

Contrary to what the able gentleman from Michigan would have us believe, the ALMR and the integral fast reactor which is a component of the program are not a continuation of the breeder reactor program. Unlike conventional technology, the ALMR does not produce pure plutonium.

All of the reprocessing is done within the reactor itself. What plutonium is produced is combined with impurities that make it unusable for weapons production, and it is actually consumed as an additional fuel within the reactor itself.

The Clinch River breeder reactor design which was canceled in 1983 did not contain this feature.

The letter from the gentleman from Michigan of June 11, to the Members suggests that DOE will spend $5 billion to demonstrate the technology. This is ridiculous. The letter apparently confuses demonstrating the technology with building a reactor.

In fact, the cost of demonstrating the technology, beginning in 1995, is estimated by DOE at $300 million over 12 years.

This new technology, as embodied in the integral fast reactor concept, developed by Argonne National Laboratory and being developed for commercial application by private firms such as GE, is passively safe, economically feasible to build and maintain, and uses an innovative fuel cycle that enhances nuclear waste disposal and does not produce separated plutonium.

Most importantly, unlike Clinch River, the IFR is clearly viable in the very near term.

Mr. Chairman, I would urge the Members to reject this amendment and to embrace the IFR technology that offers the very real near-term hope of environmentally safe, clean, and commercially feasible energy production.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I am happy to yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding.

I simply wanted to address one specific point. The gentleman raised questions about my claim that the Department of Energy's own internal analysis projects a $5 billion cost over the next decade. I would be pleased to share with the gentleman the internal Department of Energy document that affirms that estimate.

Mr. STALLINGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment being offered by the gentleman from Michigan [Mr. WOLPE].

The gentleman's amendment would eliminate funding for the advanced liquid metal reactor, a civilian reactor technology being developed by the Department of Energy.

Let me offer just a few important arguments against this amendment and share with you why this research and development program deserves our support.

I believe an essential part of a long-term national energy strategy must include a strong commitment to nuclear energy to meet our growing demands for electricity.

One of the key elements of our nuclear energy program is the advanced liquid metal program and the continued development of the integral fast reactor, or IFR, concept.

This project, under the excellent leadership of the Argonne National Laboratory, has been under development since 1984. This advanced reactor program will usher in a new era of reactor safety, which is essential in regaining and keeping public confidence in the nuclear energy option.

It also can breed its own fuel, thereby allowing development of enough reactors to actually make a difference in global warming.

And, finally, this program also represents what may turn out to be a real breakthrough in nuclear waste, by recycling and consuming the long-lived elements in the waste.

As you can see, the combination of enhanced safety properties, proven fuel efficiency, and reduced waste disposal problems provide a unique opportunity for this promising technology to better meet our energy, environmental, and waste management needs.

Just last month, the House approved a comprehensive energy bill which will guide this Nation for many years to come. Among other things, the House energy bill specifically calls for the Energy Department to continue the development of the advanced liquid metal program.

As a member of the Science, Space, and Technology Committee, which has jurisdiction over this research and development program, I want to advise my colleagues that this committee has spent many days and hours reviewing our nuclear energy programs.

In addition, the Energy Subcommittee, under the effective leadership of Chairman LLOYD and Mr. MORRISON, also held hearings this year on the advanced nuclear reactor program and reaffirmed its strong support for this R&D effort.

In approving the energy bill, the House recognized the valuable contribution the advanced liquid metal reactor program plays in meeting our future energy goals and endorsed continued development of the nuclear energy option.

The Science Committee completed its important work earlier this year. The Energy and Water Development Appropriations Subcommittee also has recommended funding of this program.

The Department of Energy is pursuing a disciplined, rigorous program to develop the advanced liquid metal program and is opposed to this amendment.

This program is vital to our future energy plans and deserves our support. I urge my colleagues to defeat this amendment.

□ 1720

Mr. MORRISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I serve as the ranking member of the Subcommittee on Energy of the Committee on Science, Space, and Technology. I just want to share with my colleagues that this advanced liquid metal program that is the subject of the amendment proposed is an essential part of our long-term energy investment and that our work on the authorizing committee has been directly in line with the support that we have gotten from the Energy and Water Subcommittee and the appropriations bill they bring to us and also directly in line with the national energy strategy which we proudly passed to this House not too many days ago.

Let me also share a side of this liquid metal program with you that perhaps has not been mentioned in the debate thus far. The liquid metal reactor because of the fast neutrons involved is a research base for the fusion reactor and is now part of an international effort that we share with the Commonwealth of Independent States as well as many of the countries around the world as we collectively work on fusion. These reactors, in fact, serve as the research potential for the development of the fusion concept which we hope to have ready for our children sometime early in the next century.

It also is the research base for the development of space power. I think all of us are enormously proud of the exploration programs into space and this provides the foundation on which we build a number of new machines that have the potential of reaching into outer space and providing some developments that will be vitally important to us.

One other side of it that is vitally important is that these reactors have the capability of the production of medical isotopes, and these are so important to us as we develop new techniques for finding cures for a variety of problems that ail us around the world.

I can show you a liquid metal reactor in my area that, in fact, has that capacity of producing a variety of magnificent and exciting new isotopes that can be the cure for cancer or for AIDS or other diseases. Let us not terminate this program. It is a long-term investment that the Energy and Water Subcommittee has proudly supported and we should support it by defeating this amendment.

Mr. BEVILL. Mr. Chairman, I rise in opposition to this amendment.

I want to make this very brief.

I think this is one of the two most important nuclear research programs that we have, and we are putting billions of dollars, as a matter of fact an additional billions dollars over the President's budget, to try to control and clean up nuclear waste. This could be a partial answer to it. We would be using nuclear waste to make energy through the nuclear production of safe electricity. It is one of the two possible ways that we are going to have to make nuclear energy safe to produce.

The other one as you know is the gas cooled reactor.

So this is one of the two most important nuclear programs, and I urge you to vote no on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. WOLPE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WOLPE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 282, not voting 11, as follows:

[Roll No. 199]

AYES—141

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
AuCoin
Beilenson
Bennett
Berman
Blackwell
Boehlert
Borski
Boxer
Brewster
Burton
Camp
Campbell (CO)
Clay
Clement
Coble
Collins (MI)
Condit
Conyers
Costello
Dannemeyer
DeFazio
DeLauro
Dellums
Dicks
Donnelly
Dooley
Downey
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Feighan
Fish
Flake
Foglietta
Frank (MA)
Gejdenson
Gilchrest
Gilman

Goss
Guarini
Hall (OH)
Herger
Hertel
Horn
Hughes
Jacobs
Johnston
Jontz
Kennedy
Kennelly
Kildee
Klug
Kopetski
Kostmayer
Lancaster
Lantos
Levin (MI)
Lewis (GA)
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martinez
McCloskey
McCurdy
McDermott
Miller (CA)
Mink
Moody
Mrazek
Murphy
Neal (MA)
Nussle
Oberstar
Obey
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Pease

Pelosi
Penny
Petri
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Ros-Lehtinen
Roth
Roukema
Sabo
Sanders
Santorum
Savage
Sawyer
Scheuer
Schroeder
Sensenbrenner
Serrano
Shays
Sikorski
Slattery
Slaughter
Snowe
Solarz
Staggers
Stark
Stearns
Stokes
Studds
Swett
Synar
Torres
Towns
Unsoeld
Vento
Washington
Waters
Waxman
Weber
Weiss
Wheat
Wise
Wolpe
Wyden

NOES—282

Alexander
Allard
Allen
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley

Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Cardin
Carper
Carr

Chandler
Chapman
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Cooper
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeLay
Derrick

Dickinson
Dingell
Dixon
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fazio
Fields
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Kanjorski
Kaptur
Kasich

Kleczka
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Manton
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Oakar
Olin
Ortiz
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell

Ravenel
Ray
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Rowland
Roybal
Russo
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Schumer
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Stallings
Stenholm
Stump
Sundquist
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Williams
Wilson
Wolf
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bonior
Broomfield
Fascell
Gaydos

Hefner
Hubbard
Jones (GA)
Lowery (CA)

Quillen
Ridge
Traxler

☐ 1746

Messrs. ALLARD, WELDON, and DUNCAN changed their vote from "aye" to "no."

Messrs. SYNAR, LEWIS of Georgia, ESPY, PEASE, EDWARDS of Texas, OWENS of Utah, and BURTON of Indiana changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from Alabama [Mr. BEVILL] in a colloquy to address additional funding for the San Lorenzo River control project.

The flood problems of the San Lorenzo River date back to 1955. In that year, the city of Santa Cruz suffered a disastrous flood, resulting in the death of 5 people and the displacement of 2,400 others, as well as damages estimated at some $40 million in current dollars. In 1959, in response to this tragedy, the corps built a channel and levee flood control project, but sediment buildup eventually raised the riverbed to its original level. Studies after heavy storms in 1981–82 suggests that earlier information on river behavior and flows was erroneous and Congress authorized a new study.

This study was initiated 10 years ago and was interrupted by the 1989 earthquake. Presently, the city of Santa Cruz is threatened with the possibility of a flood. They have already experienced the devastation of the 1989 earthquake and are still in the process of recovering from that disaster. It is critical that this 30-year-old problem be rectified in a timely manner.

In order to ensure the continuity and swiftness of this project, I would like to request additional funding if the necessity arises. The city of Santa Cruz wants to have the requisite work completed in order that the project be eligible for authorization in fiscal year 1994. It is my understanding that the committee would not object to the corps reprogramming money to this project if additional funds are necessary to complete the feasibility study in fiscal year 1993.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, the gentleman from California [Mr. PANETTA] is correct.

Mr. PANETTA. Mr. Chairman, I thank the gentleman from Alabama [Mr. BEVILL].

☐ 1750

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 33, line 7, after "Fund" insert: ": *Provided*, That $6,000,000 of the amount appropriated in this paragraph is provided for hydrogen research".

Mr. WALKER. Mr. Chairman, hydrogen is potentially one of the most abundant, cleanest, long-term energy sources that this country has for its future. It has a virtually limitless free supply because it comes from water, and ultimately combusts back into water. So it is one of those energy sources that if we are looking at energy alternatives for the future, we need to be doing some intense research on.

When the authorizing committee looked at this, we decided that we ought to have a line item for the hydrogen research program, and we put that in fiscal year 1993 in Public Law 101-218.

What this amendment simply does is puts into effect that authorization by providing money for that line item. It adds no money to the bill. It is simply an attempt to make certain that the Energy Department understands that this is a direction in which we want to go.

Mr. Chairman, I would urge the support of this amendment. It is my understanding that this is an amendment which is acceptable, but I would yield to the gentleman from California [Mr. BROWN], the chairman of the Committee on Science, Space, and Technology, for any comments he might want to make.

Mr. BROWN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have discussed this amendment. Not that my approval is all that important, but I want to say more importantly that the gentleman and I have both shared a common interest in hydrogen research for a number of years.

Mr. Chairman, I commend the gentleman for the amendment which he is offering, and I certainly intend to support it.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for yielding and thank him for discussing this amendment.

Mr. Chairman, this committee was aware of the line item in the authorizing committee's bill, but we were not able to appropriate money for this. The committee is well aware of the potential of hydrogen fuel for the future. The cost of production is one of the things hopefully this research will overcome.

Mr. Chairman, we accept this amendment on the Republican side.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding.

Certainly as far as I am concerned we accept this amendment and support the position of the gentleman from Pennsylvania [Mr. WALKER]. We feel that this is a good investment.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLPE

Mr. WOLPE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLPE: Page 33, line 4, strike "$2,947,633,000" and insert "$2,921,633,000".

Mr. WOLPE. Mr. Chairman, the intent of this amendment is to strike the $26,000,000 from energy supply, research and development activities in title III of the bill that, according to the committee report, is devoted to the SP-100 space nuclear reactor program.

When it comes to wasting the taxpayers's money, the SP-100 program is in a class by itself. The program began in 1984 as a joint DOE-DOD-NASA program to develop nuclear reactors for use in space. According to the General Accounting Office, projected costs have tripled and the program is 13 years behind schedule. Over $400 million has been spent to date. DOE has estimated that it would take $2.1 billion and 12 years to complete the current phase of the program. No one seems to know how much it would cost to actually complete the program.

But after 8 years, no firm mission has been identified that will use an SP-100 space reactor and no firm mission is on the horizon. This program was initially developed to meet the wishes of SDI to use nuclear power in space as part of star wars.

But as SDI's plans changed, NASA became the focus of the program. While NASA has yet to identify a firm mission, let me tell you a little about the mission that seems to be highest on NASA's agenda. NASA is interested in using SP-100 technology to power a permanent manned settlement on the Moon. This raises some very serious questions.

There are no plans to build a containment around such a reactor on the Moon. They would just dig a hole, stick in the reactor, and mound dirt around the edges. An astronaut standing next to such a reactor would instantly receive a lethal dose of radiation. An astronaut within 180 meters would get an excessive dose. At the end of its useful life, these reactors would be decommissioned by a method known as in situ abandonment. That is just a fancy way of saying that they plan to just turn off the switch and rope off the area.

I find it mindboggling that those who want to create a permanent settlement would be so willing to create a radioactive no man's land on the surface of the Moon. DOE is knee deep in radioactive waste here on Earth as a result of 45 years of weapons production. In light of that, I am amazed at the cavalier attitude at DOE and NASA toward the adoption of technologies that will spread radioactive materials throughout the heavens.

But aside from its lack of a firm mission, the turmoil in this program can be seen by looking at the actions of the major partners. DOE, which is managing the project, threatened to withdraw funding in 1989. General Electric, the prime contractor, recently tried to sell its space nuclear division, without success.

And the program was dealt a major blow last fall when DOD withdrew all support from the program, citing high costs, schedule delays, and DOE mismanagement. Only NASA hasn't tried to get out of the program. But NASA has never considered the program important enough to give it more than $10 million a year. And there is no indication that NASA has any intention of increasing its contribution to make up for DOD's withdrawal.

It's time to pull the plug on this program right now for two major reasons.

First, it makes absolutely no sense to spend $30 to $40 million a year on a program that will cost $2 billion to complete. We are throwing good money after bad. In the current fiscal environment, we cannot afford such waste.

Second, this program makes no sense in terms of our Nation's energy policy. DOE has already contributed more than half of the $400 million spent on this project. Since the withdrawal of the Department of Defense, it is up to DOE and NASA to fund the rest of this project. NASA has never given more than $10 million a year to this project and they are unable to make up for the lost funding due to DOD's withdrawal of support.

It is therefore up to DOE to make up the difference. But SP-100 technology has no earthly use. It cannot contribute to energy security. This technology can only be used in space. It makes no sense for the Department of Energy to continue to provide the majority of funding to a program that is of no use to us here on Earth. If this program is important to NASA, funds should be identified in NASA's own budget to pay for it.

Every dollar that DOE continues to waste on this program is a dollar that cannot be invested in programs that would make real contributions to energy security.

This is an opportunity to demonstrate to the American people that we are serious about cutting wasteful Federal spending. And if we cannot cut a program as obviously wasteful as this, the American people will have good reason to be cynical about our ability to control Federal spending.

This amendment has been endorsed by both the National Taxpayers Union and the Friends of the Earth. I urge you to give it your support as well.

☐ 1800

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise today in opposition to the amendment offered by my colleague, the gentleman from Michigan [Mr. WOLPE].

Mr. Chairman, the SP-100 program is the Nation's main effort to qualify a safe, long-life space nuclear electric system for future high-power civil and defense missions.

Since the inception of the ground engineering development phase of the SP-100 in 1987, the United States has invested about $400 million in development of the program. The SP-100 program has made great technical progress despite severe funding shortfalls of almost 40 percent each year.

The March 12, 1992, GAO report showed that the cost growth and schedule delay has been governed by chronic underfunding, about 42 percent total underfunding since 1986.

The GAO audit did not reveal any evidence of waste, or insurmountable technical problems.

The GAO audit also pointed out that as much as $700 million could be saved by adequately funding the program, and by taking advantage of progress to date to launch an early demonstration mission at moderate (10-15 kwe) power levels.

With the SP-100 technology and infrastructure developed to date, we have the capability to build and launch a low-power SP-100 demonstration system by the mid- to late-1990's.

Very recently, the SP-100 was reviewed by a team that included NASA, Air Force, DOE, SDIO, university, and U.S. National Laboratory experts. This team stated in its report that: "The SP-100 is unquestionably the most fully defined, designed and developed of any of the U.S. Space Nuclear Reactor System concepts." And, "Such a system could be a workhorse power supply for DOD and NASA missions."

My participation in Science, Space, and Technology Committee hearings and recent GAO and administration reports on the program, clearly illustrate to me the SP-100 technology is needed for both civil and defense applications.

Mr. Chairman, I do not think we should abandon this promising program that has made such great strides, and I strongly urge my colleagues to oppose the Wolpe amendment to terminate the SP-100 program.

Mr. WALKER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, this amendment really makes no sense, if what we are attempting to do is have a real future for space exploration.

This long duration power source is crucial for both surface and in-space applications for our space program for the future.

The gentleman from Michigan made a number of points about it. He, for instance, suggested that somehow this is not the kind of power plant we should take to the Moon. That is fine. The gentleman from Michigan opposes the space exploration initiative, so he opposes going back to the Moon in the first place.

So one can understand why he does not want to have a power source for that.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I do not oppose the space exploration initiatives.

Mr. WALKER. The gentleman voted against them in committee.

Mr. WOLPE. Mr. Chairman, if the gentleman will continue to yield, not the total initiatives. There are elements of the program I have raised questions about.

Mr. WALKER. But the gentleman voted against the program in committee when this gentleman was one of the members who was defending it.

Also this program does have some application to space station. The fact is that this is an alternative way of providing power to space station at a time when we have high power needs for space station. We could, in fact, produce power with an SP-100 and microwave the power to the space station as a way of increasing the power to space station and thereby allowing us to do more experimental and industrial type of work toward space station.

That does not bother the gentleman from Michigan either because he is against the space station. But the fact is, if we are going to do a lot of these advanced science programs, we are going to have to have the sufficient power to do them.

If we are going to do real industrial applications in space, I think there is a real future for producing materials in space that would really benefit the economy here on Earth.

We are going to have to have power sources. One of the ways of doing that is through this kind of program. I understand that the gentleman would cancel out those options for us for a long time to come and say that that is waste. I do not regard that as waste. I think it is extremely important to do some of these advanced programs, make certain that we have the capabilities to do things that we want to do in the future.

The gentleman well knows that without nuclear reactors, we cannot fly any kind of deep space mission. We cannot do deep space missions with solar power. So this is one of the ways of providing sufficient power to do real deep space efforts in the future.

Mrs. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD. Mr. Chairman, I thank the gentleman for yielding. I do rise in opposition to this amendment. I rise in opposition to the Wolpe amendment. This program and its funding requests have been reviewed by three subcommittees on the Science Committee, and part of this program's funding was approved by the full Science Committee—of which the gentleman is a member. Today the Energy and Water Appropriation Subcommittee and the full Appropriation Committee review and judgment is before us.

One of the main criticisms of this program discovered in the gentleman's own hearing was that through consistent underfunding of the program, its progress has been severely hampered. DOE alone has invested about $265 million in the past 10 years for its up front R&D investment in this program. Without completing this R&D, there is no hope that the other Federal agencies can pick up and finish this project. Further, if we cancel this power source without setting a new course for a future power source, we risk setting back our space exploration initiatives dramatically. It would take years to set a new course for future power sources for long-term space flights.

I urge my colleagues today to support the work of both the Committees on Science, Space, and Technology and Appropriations. We cannot blindly hack our way through the space budgets if we are going to continue a long-term space plan.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding to me.

I want to express my appreciation to the gentleman for his candor in explaining as the rationale for the program, the perceived importance of this venture for the space program. I would point out that we are not debating NASA's budget today. We are debating the Department of Energy's budget. NASA has refused to provide the funding.

Mr. WALKER. Mr. Chairman, reclaiming my time, the gentleman knows that the program has been operating under an MOU that consists of the Defense Department, the Energy Department, and NASA. All have contributed to that program over a period of years. They are all committed to that memorandum of understanding.

So, therefore, the Department of Energy is an integral part of this. The Department of Energy does, in fact, have real interest in long-term space needs, not only in this program but in a number of other areas.

The Department of Energy sees needs for space work. Some of the work that we are doing on solar energy, for example, does involve space applications of that and involves the Department of Energy. So for the gentleman to imply that the only place we are going to do space activities in the future is in NASA is just completely ludicrous.

The Department of Commerce, Department of Transportation, all kinds of departments are going to be involved in what we do in space in the future. The gentleman is looking to cancel out some of those options. I am disappointed in that.

I am a little tired, in all honesty, of Members coming to the floor and suggesting that the savings that we are going to get are savings in the technology that we need for this Nation to be productive in the future. We, if we are going to have an economy to address the 21st century, have to do some of these advanced projects.

I know the gentleman wants to cancel them all out. The gentleman was up here a minute ago canceling out a bill to do something about nuclear waste, and I understand he is antinuke. but the fact is, some of those options ought to be available to this country in the future. I think it would be a real loss to the country to have this program eliminated in kind of a cavalier way here on the House floor, because I think it really does have an important application to our technological needs in the future.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for yielding to me.

The response to why it is in this budget and not in NASA's budget is that DOE is responsible for nuclear reactor research, development, and construction. That is the reason it is here, because that is where the technology is funded.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

In other words, the gentleman from Michigan would have us transfer the nuclear power programs over to NASA, I guess. I doubt that that is what he really wants to do, because then he would argue that NASA is no place to put nuclear power. So the fact is that this is needed here because of the way the Government is structured.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I think there is some confusion in terms of the point I was attempting to make. My point is not that the Department of Energy cannot be involved, and ought not be involved, in this kind of effort. It has the expertise that can be involve.

The point I am trying to make is that the argument that has been advanced in favor of this program is its importance to the national space program of the United States.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. WOLPE, and by unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WOLPE. Mr. Chairman, if the gentleman will continue to yield, the reason for the underfunding has been the Department of Defense pulling out. NASA itself refused to fund more than $10 million a year on this project. The question is, who pays?

If this is so important to the space program, why has NASA itself been so resistant to assuming a larger share of the costs.

DOE can continue to do the work on a cost-reimbursement basis, payout, receiving the funding from NASA's own budget, if this is really vital to the space program.

□ 1810

Mr. WALKER. The fact is that in some elements we do have shared responsibilities within Government that make some sense. Any funding problems in this have largely resulted from the fact that we have had funding cuts in the program, and the subsequent stretching out of the program. DOE has testified to that effect, so this is not a problem that has been created by the people that are running the program. This is a problem that has been created in large part by the way in which we funded it.

I must congratulate the committee in this particular case, because what they have done is, they have avoided the pitfall by giving it the $26 million, which is the requested level for the program. I would suggest the House stick with them.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Mr. Chairman, I would like to point out that this amendment would preclude the availability of a power source that is uniquely suited to the future civilian and military space missions, so this would deny NASA and the Department of Defense the capability to conduct many missions, and it would undercut the Nation's ability to conduct future space programs, and it would cause the layoff of many personnel. Of course, again we are talking about jobs here in this bill. It would increase the U.S. reliance on foreign technology, and set back the U.S. leadership in the space industry.

Therefore, I urge the Members to vote "no," to vote "no" on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. WOLPE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WOLPE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 233, not voting 12, as follows:

[Roll No. 200]

AYES—189

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Aspin
Atkins
AuCoin
Beilenson
Bennett
Berman
Blackwell
Boehlert
Borski
Boxer
Brewster
Bruce
Burton
Camp
Carper
Clay
Clement
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (IL)
Coyne
Dannemeyer
de la Garza
DeFazio
DeLauro
Dellums
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Early
Eckart
Edwards (TX)
Engel
English
Espy
Evans
Ewing
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gilchrest
Glickman
Goss
Grandy
Guarini
Gunderson
Hall (OH)
Hayes (IL)
Henry
Herger
Hertel
Hochbrueckner
Horn
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnston
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Mavroules
McCloskey
McDermott
McMillan (NC)
Meyers
Mfume
Miller (CA)
Mink
Moakley
Molinari
Moody
Mrazek
Neal (MA)
Nowak
Nussle
Oberstar
Obey
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Porter
Poshard
Ramstad
Ray
Reed
Richardson
Roemer
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Russo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Scheuer
Schroeder
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Snowe
Solarz
Solomon
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Thomas (WY)
Towns
Unsoeld
Upton
Vander Jagt
Vento
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wolpe
Wyden
Yates

NOES—233

Alexander
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Boucher
Brooks
Broomfield
Browder
Brown
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clinger
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Darden
Davis
DeLay
Derrick
Dickinson
Dicks
Dixon
Doolittle
Dornan (CA)
Dreier
Dwyer
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gonzalez

Goodling
Gordon
Gradison
Green
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hobson
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (SD)
Johnson (TX)
Jones (NC)
Kaptur
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Martin
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Michel
Miller (OH)
Miller (WA)
Mineta
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Oakar
Olin
Ortiz
Oxley
Packard
Panetta
Paxon
Perkins
Pickett
Pickle
Price
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Rose
Rowland
Roybal
Sabo
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Shaw
Shuster
Sisisky
Skeen
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Stallings
Stearns
Stump
Sundquist
Tallon
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Valentine
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Zeliff
Zimmer

NOT VOTING—12

Bonior
Hefner
Hoagland
Hubbard
Jones (GA)
Leach
Lowery (CA)
Quillen
Schumer
Smith (FL)
Traxler
Young (FL)

□ 1832

The Clerk announced the following pair:

On this vote:

Mr. Hoagland for, with Mr. Quillen against.

Mr. LEHMAN of California changed his vote from "aye" to "no."

Messrs. BURTON of Indiana, GUNDERSON, and ASPIN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no further amendments to this paragraph, the Clerk will read.

The Clerk read as follows:

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 57, of which 54 are for replacement only), $1,335,320,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,462,000,000 in fiscal year 1993 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only), $1,448,884,000, to remain available until expended. In addition, such sums as are transferred from the Superconducting Super Collider Trust Fund shall be available, until expended, for the specific purpose of offsetting costs incurred by the Department in the design and development of the Superconducting Super Collider.

AMENDMENT OFFERED BY MR. BROWN

Mr. BROWN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN: On page 34, line 35, insert after the words "Superconducting Super Collider." the following: None of the funds made available by this Act shall be obligated for the superconducting super collider after June 1, 1993, unless the President has certified to the Congress that commitments for contributions from international sources meet or exceed a total of $650,000,000 for fiscal years 1993, 1994, and 1995.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. BROWN] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes. Is there any Member who wishes to speak in opposition to the amendment?

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to reassure the Members, I will be rather brief on this.

As I understand it, there will be no one speaking in opposition to this amendment and I believe the committee will accept it, but I wanted to explain the situation clearly.

We will have two amendments dealing with the superconducting super collider. The first one is the one that I am now offering jointly with my good friend, the gentleman from Pennsylvania [Mr. WALKER], the ranking minority member of the Committee on Science, Space, and Technology. Following what I hope will be the unanimous acceptance of our amendment, there will be another amendment offered by the gentleman from Ohio [Mr. ECKART] to strike all the funding for the superconducting super collider.

Let me now explain why I prefer the approach which I am offering.

Mr. Chairman, there has been no one in the House who has been more concerned about the financial impact of the superconducting super collider on other science budgets than I have. At least for the last year, I have been trying to make it clear to the Department of Energy and to anybody else who would listen that while I was a very strong supporter of the superconducting super collider, I would not continue to support it if I felt that continued financing of the SSC threatened the health of other very important physics projects throughout the United States. I have made that clear not only to the Secretary, I have discussed my concern with the distinguished chairman of the subcommittee on Energy and Water, the gentleman from Alabama [Mr. BEVILL].

I feel that there is a uniform understanding that my support, continued support, is conditioned upon the availability of funds to maintain the other research programs supported by the Department of Energy. I am now informed that some Members may have received a communication in an envelope which has my name on it, which contains a reprint of an article describing the concern in many circles that some science projects would be frozen out by the superconducting super collider. I did not send that communication out.

□ 1840

I am familiar with the article. I share many of the concerns expressed in that article, but I have come to the conclusion that it is possible to continue to fund the superconducting super collider if we have a solid commitment of support from foreign sources up to a specific amount, which is about $1½ billion.

Now, what my amendment does is to write into the law, write into this bill a provision that says that future funding for the superconducting super collider is contingent upon access to foreign funds in an amount equal to $665 million over the next 3 years.

The administration has said they expect to be able to get this amount of foreign funding. Only with this amount of foreign funding will we avoid undue pressure on other scientific projects. I think we ought to write that into the law. That is the purpose of this amendment.

Now, I am not proposing this amendment as a fig leaf to cover up anything.

as some have asserted. I am confessing to you that I have my own qualms about whether we can continue to fund this project. At this point I think we can if we get those foreign commitments. I want to write that into the appropriations bill, and with that understanding I will continue to support it.

It is good science. It is world class science. It is an important economic boost to the country in these times. We need it for any number of reasons. I will not belabor them because we will have another debate on the amendment of the gentleman from Ohio [Mr. ECKART] in which I can belabor them at great length. But I am trying to explain to you the circumstances which lead me, a strong supporter of the SSC, but afraid of our ability to finance it in the future, to propose this amendment which in effect conditions future support on the availability of foreign assistance to fund it.

Now, in authorizing future big science projects, I intend to make sure from the inception that there are adequate assurances that there will be international support for such projects. If possible these projects will be broken down into smaller elements, so that we do not create such large targets which make it easy for some of our dear friends to strike these projects out and say that we are going to balance the budget.

What these Members are doing is threatening investments vital to the future of America, but investments which have to be more carefully planned than they have been in the past.

Mr. Chairman, once again, whole forests have been leveled to bring us a flood of "Dear Colleagues" from supporters and opponents of the superconducting super collider.

When all of the charges and countercharges are distilled, however, there really is only one dispute about the SSC. That dispute, pure and simple, is about money.

If money were no object, there would be no debate on the SSC today. After all, the opponents of the SSC do not really challenge the fact that the SSC represents the cutting edge of high energy physics research. Nor do the opponents of the SSC disagree with the importance of investment in fundamental research, whether or not it leads to practical spinoffs and commercial applications. Everyone recognizes the importance of the SSC's creation of good jobs for our Nation's scientists and engineers, at a time when defense cutbacks have threatened many high technology jobs. Finally, I doubt that the SSC opponents would be raising so much concern about the relatively minor problems associated with the management and the construction of the SSC if money were no object.

But, as last week's debate on the balanced budget amendment so plainly reminds us, this is assuredly not a world of unlimited resources. We cannot effort everything, and therefore we must make choices. The question therefore really boils down to a simple one:

Can we afford the SSC?

Mr. Chairman, after studying this issue closely, my conclusion is "no—not by ourselves." This Nation no longer has the resources to go it alone on big science projects, and with the demise of the cold war, much of the prior rationale for going it alone has died as well. In the future science megaprojects must be truly international efforts, designed from the very beginning for international collaboration and cost sharing.

It has long been apparent that the Federal Government cannot afford to pay the full $8.2 billion cost of the SSC by itself. To do so would require massive reductions in other critical science programs, including other high energy physics programs. The space shuttle *Challenger* tragedy painfully reminded us of the perils of putting all our resources into a single technology, and I have long taken the position that we could not afford the SSC at the cost of killing or maiming other critical scientific programs.

Since early 1991, the Department of Energy has assured us that $2.7 billion would be obtained from non-Federal sources: $1 billion from the State of Texas, and the remaining $1.7 billion from foreign contributions. Despite aggressive efforts, however, the administration remains far from the necessary commitments.

We simply cannot afford to continue to front load the SSC with U.S. taxpayer funds in the vague hope that promised international contributions will be forthcoming—someday. The time has come to set a reasonable deadline, and to stick to it.

Mr. Chairman, the amendment which I am offering with Mr. WALKER, the ranking Republican member of the Committee on Science, Space, and Technology, is simple and straightforward. It conditions the availability of funds for the superconducting super collider after June 1, 1993, on a certification by the President that we have in hand commitments for $650 million in international contributions for the next 3 fiscal years. This commitment would represent nearly half of the $1.7 billion international contribution which the administration has budgeted to receive for the entire project, and is consistent with the administration's own projected schedule.

The administration has said that it can achieve this goal. Our amendment takes the administration at its word.

Mr. Chairman, this amendment is not a fig leaf for Members to find a way to support the SSC. It is an amendment with real consequences. It is an amendment aimed at helping reduce the Federal budget deficit. If the administration does not have solid commitments for the next 3 years of foreign funding for the SSC by June 1, 1993, we pull the plug. No more funding for the SSC.

Moreover, Members will still have the opportunity to vote to kill the SSC completely, even if this amendment is adopted, when Messrs. ECKART, SLATTERY, and BOEHLERT offer their motion to strike all funding for the SSC.

Mr. Chairman, I support the SSC, but I cannot support it at any cost. If we can build the SSC only with foreign contributions, then we need to see something more than expressions of confidence that those contributions are forthcoming. We have been asked to up the ante, and its time to see the other player's cards—indeed, it's time to see whether there's even another player in the room.

I urge the Members to support the amendment, and I reserve the balance of my time.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Pennsylvania, my good friend and cosponsor of this amendment.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

I do rise as a cosponsor of this amendment which is intended to ensure that the U.S. taxpayers get relief from some of the costs associated with the superconducting super collider project as it moves forward.

I join Chairman BROWN, the distinguished chairman of the authorizing committee, in urging adoption of the amendment, which would require the President to certify that significant foreign commitments are in hand before Federal funding is released. This action would permit the considerable scientific and technical benefits of the SSC to be realized, but only with the assurance that the total project cost will be shared by the international community.

You will hear the argument today that we cannot afford projects like the SSC with our astronomical national debt; however, without a world-class science and technology base, we will never generate the level of economic growth necessary to finally escape this great sea of red ink in which we are now drowning.

Two other factors are worth mentioning.

First, highly visible and productive world-class projects like the SSC can strengthen our international role in the new world economy where our security will be based as much on economic and technological strength as on military power.

Second, in light of the planned defense budget reductions, projects like the SSC take on a much increased importance in maintaining the Nation's high-technology base in providing jobs for our engineers and scientists.

But while it is appropriate and important that the United States take the lead on projects like the SSC, the fact is that we cannot afford big science on our own. We simply must have international cooperation and funding on these projects. We are doing this with the space station *Freedom*. We are doing this with the Department of Energy Fusion Energy Program. And with adoption of this amendment we will ensure that the Department of Energy will keep its promise to construct the SSC with significant international contributions.

The very worst thing that could happen to the SSC would be to stretch the program out, which will inevitably lead to massive cost overruns. It is time to make a clean and clear decision on the future of the SSC, and international commitments need to be a critical part of that decision. With international participation we minimize the exposure of the American taxpayer, and assure that other high-priority science and technology programs do not sink under the weight of the super- conducting super collider.

So, Mr. Chairman, I urge the adoption of the Brown-Walker amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield to the gentleman, but let me first yield to my colleague, the gentleman from Michigan.

Mr. BOEHLERT. Well, Mr. Chairman, I understand that is the way things work around here.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I want to say first of all how much I have appreciated service on the Committee on Science, Space, and Technology, under the chairmanship of the gentleman from California [Mr. BROWN]. One of the real privileges of serving this body for these past 14 years has been to work with the distinguished gentleman from California.

What I particularly value is that even at the times we have had differences in our evaluation of specific programs or projects, the gentleman from California has always been totally supportive of the most aggressive and independent oversight.

While we have attempted to undertake that oversight this past year on the super collider, along with my distinguished ranking member, the gentleman from New York [Mr. BOEHLERT], in my judgment, and we will get into this part of the debate when we get beyond this particular amendment, the oversight has revealed enormous deficiencies that are not addressed by the amendment that is before us.

I have indicated to the gentleman from California that I am not going to object to this amendment. I will support it because I do not think it does any greater damage than has already been done by this project, but I must say in all candor that it is not clear to me that it does much of anything that is very positive.

First of all, it does nothing to resolve the many problems afflicting this project, its undetermined price tag, the cost overruns, the poor management, the waste and abuse by the contractors, the continual drain on other science initiatives that was alluded to a moment ago.

I think some are going to see this amendment perhaps as an easy way out of making the hard choices on budget cuts that I think we have to make if we are going to get the deficit under control; but more importantly in terms of the specific issue of foreign contributions, the subject matter of this amendment, I hope it is clear to all the Members of this body that the Department of Energy has made very clear that it intends to derive a number of these alleged foreign contributions by sole source contracting to people overseas in other countries that will be able to manufacture some of these products at lower cost than they could otherwise be manufactured in the United States because of low-cost labor. In these instances, American firms will not even be involved in competing for those particular contracts.

In other words, what is really going to be happening is that the DOE is planning to award noncompetitive sole source contracts to purchase high-technology plants overseas that will be manufactured with low-cost labor and then count any savings from the projected purchase price as foreign contributions. Many of the high-technology jobs that are promised by the SSC are going overseas in order to exploit cheap labor.

I do not think that is what Members of this body had in mind when we were talking about foreign contributions, and there is nothing in this amendment that would provide a hard and fast definition to prevent that kind of abuse of the foreign contributions provision. I think the gentleman will agree with me on that.

Mr. BROWN of California. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California has 5 minutes remaining. The gentleman from New York, if he wishes, may claim 15 minutes of his own time in opposition.

Mr. BROWN of California. Mr. Chairman, the gentleman cannot claim 15 minutes. He is a supporter of the amendment.

The CHAIRMAN. Then the gentleman from New York cannot claim 15 minutes.

Mr. BROWN of California. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I am glad to support the amendment. The amendment is just a make-me-feel-better amendment. It does not have any real substance.

Do not for a moment let anyone here be misled. What this amendment does is tell the Department of Energy that they have to take their budget seriously. That is no grand pronouncement. Of course I support it. All of us should support it by a voice vote.

We have not addressed the fundamental question. Can we afford this project here and now?

Given the fact that this Nation has a $4 trillion national debt, given the fact that we are spending $886 million every single day, every 24 hours, just in interest on that national debt, that money does not feed anyone or clothe anyone or educate anyone or take care of anyone's health care needs or make us more competitive. It just services the national debt.

□ 1850

Now, all of us, or most of us, over 400 of us, last week voted for one form or another of the balanced budget amendment. All of us probably will tell the people back home, "We are in there fighting for you, we are going to get ahead on that deficit, we are going to whittle down that debt, and we are going to do it without raising taxes."

Boy, talk about wishful thinking.

Well, maybe we can. We should be creative enough to do that. I will tell you how we can do it: We can start establishing some realistic priorities and say to these big-ticket items like this, "It is good science, I don't fault that, but it is not priority science, and we will put this in the background for now until we can get our fiscal house in order."

So I would urge all of my colleagues, those who support the SSC and the emerging majority that oppose it, to support Brown-Walker.

Mr. BROWN. Mr. Chairman, I thank my distinguished colleague. I will contain myself and not respond to his statement until we are in the debate on the other amendment.

Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee [Mr. BEVILL].

Mr. BEVILL. I thank the gentleman very much for yielding.

Mr. Chairman, I rise in support of this amendment. I think this amendment is a good compromise. As a matter of fact, my friend and colleague from Michigan says that continuing this project is going to cost jobs, it is going to do this, and so forth. Actually, if his amendment to kill the program passes, it is going to cost 7,000 jobs. That is how many employees there are working on the SSC project.

So if the SSC is eliminated, there are 7,000 jobs that are gone.

I think that should be made clear.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the chairman for yielding.

Mr. Chairman, what we have to understand, and I would appreciate if the gentleman from Alabama would address this very sensitive point, in talking about jobs—and we are all concerned about that: jobs is my favorite four-letter word—but the fact of the matter is you have a limit on the high-energy physics budget. What happens to those jobs at the Stanford linear accelerator in California? The Fermilab in Illinois? The Brookhaven National Laboratory on Long Island in New York? What happens to those jobs?

Mr. BEVILL. That lab, for all practical purposes, is fully funded. There is an appropriation for the upgrade of the Fermilab, $15 million, if I recall. All this is along the lines recommended in the President's budget. So we have no apology for what has happened on the rest of general science.

Mr. BROWN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MYERS], the ranking minority member of the subcommittee.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Chairman, this is something our subcommittee has talked about, has requested and demanded that there be help from our international friends. There is one concern here, however. We were requested to fully fund it at the President's request of the $650 million, thinking if we did not come up with that additional $166 million, it might be difficult to raise the money from other sources.

But I think with a sound vote here today on final passage of this bill, with the commitment that we will continue to build, we will have no problem, really, getting the international commitments.

So this amendment is accepted on the Republican side.

Mr. BROWN. Mr. Chairman, I will take the matter up with the gentleman from New York after this is over. I have just 30 seconds left. Let me just conclude by saying that the Appropriations Committee, recognizing the tight budget situation, has cut $160 million out of the superconducting super collider account. With that, they have been able to continue to fund Fermi and Princeton and other projects. They have not cut SLAC, but they may have to in the future, if we do not get a funding commitment from foreign sources. SLAC, as a matter of fact, is seeking funding for a new start. But there are no new starts being funded, and in today's budgetary situation there probably will not be for a number of years. Many scientists are concerned about that. But they are going to have to accept some sacrifices, just as other programs in this bill have.

With that, I request a vote on the amendment offered by myself and the gentleman from Pennsylvania [Mr. WALKER].

The CHAIRMAN. If no Member wishes to claim time in opposition, all time has expired.

The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I ask unanimous consent that I may offer an amendment to this paragraph.

Mr. ECKART. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROEMER: Notwithstanding any other provision of this bill: No money appropriated in this legislation shall be used to create a condition which allows any country which has a financial obligation to the United States' superconducting super collider to exchange or supplant, in any way, machinery, equipment, technology or other substitute in lieu of their monetary obligation.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. ECKART. Mr. Chairman, reserving the right to object, and I do so without prejudice to the amendment of the gentleman, I wish to make sure, in a parliamentary inquiry, that my rights still under the rule are preserved for the motion to strike which was to take place at the conclusion of Mr. BROWN's presentation with the Brown-Walker amendment.

The CHAIRMAN. This amendment would not influence the gentleman's ability in any way.

Mr. ECKART. And my rights are still protected in the motion to strike?

The CHAIRMAN. The gentleman is correct.

Mr. ECKART. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BEVILL. Mr. Chairman, I rise to reserve a point of order on the amendment.

Mr. ROEMER. Mr. Chairman, I offer this amendment as a supporter, but a supporter with some concerns and caveats about this project. My amendment is fourfold, Mr. Chairman. One is the inherent tension within this program, the tension, the catch-22——

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BARTON of Texas. Mr. Chairman, I was on my feet requesting a rollcall vote when the gentleman from Indiana [Mr. ROEMER] was recognized, and I have got witnesses over here to prove that. The chairman just happened to be looking the other way.

The CHAIRMAN. The request is not timely at this point. Another amendment is pending.

The gentleman from Indiana [Mr. ROEMER] may proceed.

Mr. ROEMER. I thank the Chair.

Mr. Chairman, as I was saying, the purpose of my amendment, with concerns and caveats about the superconducting super collider, is fourfold. First, about the tensions and conflicts within the project. Second, about the definition of the contribution. What do we mean by a contribution from another country? Third, technology and jobs for Americans. And, fourth, the cost of this program.

Let me briefly talk about all four of these concerns, and I will be very brief.

First of all, in looking at this, is this in the inherent tension in this program, is this a program for jobs for Americans, things that we build so well and we are so proud of? Or is this an international project where we are going to go about putting our hand out, saying we need money to confront this problem? And finally, when; on achieving the big-science program goals that we seek? I think we as Americans can build this well, that we should not be hat-in-hand going across the world trying to make this an international project.

Second, what constitutes, what defines a contribution? I think this is a key point that we have not attempted to hone in on.

What is a contribution? Is it technology? Is it more money? Is it a combination or a hybrid of both? And at what point does a technological or equipment contribution then replace a monetary contribution?

This could cause severe problems for us in the future down the line.

Third, I already have, Mr. Chairman, companies in my district and throughout Indiana, talking about the Japanese replacing some of their cash contribution or monetary contribution with equipment and machinery that will take, ultimately, jobs away from Americans.

And last, Mr. Chairman, I think one of the concerns for all of us is the cost. In the 1990 authorization act passed by Congress, we said this, and I quote from page 36,

> The committee has determined the total project construction costs and the maximum Federal contribution to the cost of the SSC construction be controlled. The committee believes that allowing Federal expenditures beyond the $5 billion amount is unwarranted and is a disincentive for tough cost-control measures.

□ 1900

So, I think, Mr. Chairman, we do have to address some of these concerns. I applaud the chairman, the gentleman from California [Mr. BROWN], and the ranking member, the gentleman from Pennsylvania [Mr. WALKER], for their previous amendment. I think that moves in the right direction to look at some of these problems. I think my amendment moves even further on cost control, on looking to protect American jobs and technology, and to try to, at least, define what a contribution means.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, the gentleman from Indiana [Mr. ROEMER] has shared his amendment with me, and it raises a number of questions, which I think are valid. Unfortunately the amendment is subject to a point of order, and I anticipate that the point of order will lie against it.

I want to assure the gentleman, regardless of the outcome of the point of order, that the points that he has raised are very high on my own priority list for examination in my committee. I expect the gentleman, a member of the committee, to press those points in the committee as we proceed, both this year and next year, to reauthorize these programs and to set more stringent rules with regard to how to count foreign contributions and how to deal with the other things which the gentleman has raised.

Mr. ROEMER. Mr. Chairman, I thank the gentleman from California [Mr. BROWN], and I would just follow up by asking the gentleman to have some very specific hearings, if he would be willing to do that, on this program as well, too.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. ROEMER] has expired.

Does the gentleman from Alabama [Mr. BEVILL] insist on his point of order?

Mr. ROEMER. Mr. Chairman, I ask unanimous consent, with those kind contributions from the chairman the gentleman from California [Mr. BROWN], and with his willingness to have hearings to look into the nature and the definitions of these concerns, to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Indiana [Mr. ROEMER] is withdrawn.

Are there other amendments to this paragraph?

AMENDMENT OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART: Page 34, line 19, strike "$1,448,884,000" and insert "$998,884,000".

Mr. ECKART. Mr. Chairman, before I proceed to the discussion of the amendment, I ask unanimous consent that all discussion on this amendment be limited to 2 hours, and that the time be equally divided between the gentleman from Texas [Mr. CHAPMAN] and myself, the gentleman from Ohio [Mr. ECKART].

The CHAIRMAN. Does the gentleman in his unanimous consent request include his amendment and all amendments thereto?

Mr. ECKART. Yes, Mr. Chairman, I do.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman and my colleagues, last year we took about 4 hours to do this, so, hopefully, between the gentleman from Texas [Mr. CHAPMAN] and his colleagues, and myself and mine, we can at least guarantee a bit of dinner and an opportunity to air this issue out, which is rather straightforward.

Just a few minutes ago, Mr. Chairman, we did something that made us feel good. It was an amendment, very simply, that said we want and expect foreign countries to participate in the construction of this project. The number used was not the number that has been agreed to, but the reality is that now, having made ourselves feel good, we now have a real opportunity to do some good.

The amendment that I offer in conjunction with my colleagues, the gentleman from New York [Mr. BOEHLERT], the gentleman from Kansas [Mr. SLATTERY], and the gentleman from Michigan [Mr. WOLPE] will deplete the funding for the continued construction of the superconducting super collider project.

Mr. Chairman, there are a number of reasons why we should decide to end this project, mostly because this has become truly the project of broken promises.

When we were led to believe that this project could be built first in 1983, we were told that the total cost would be about $3.9 billion. In 1986 it jumped to $4.2 billion in 1988, to $5.3 billion and then later, in 1989, to $5.9 billion, and most recently the Department of Energy's own independent cost estimate has soared to $11.25 billion. On top of that, Mr. Chairman, the good work of the committee suggests that we will spend $500 million a year maintaining and operating this program. The general science programs of this budget saw an increase of 12 percent, or $179 million, to a total of $1.6 billion. However, as Physics Today magazine tells us with great alacrity: In the administration's budget request the single largest recipient of that increased spending was the superconducting super collider.

Mr. Chairman, the cost is simply out of control, and lest we believe that we have significant reins on those runaway costs, let me share with my colleagues a letter from the Deputy Secretary of Energy, W. Henson Moore, in which he said, and I quote:

"I have learned that the overrun problems are continuing and may even be getting worse."

Mr. Chairman, this January 1992, letter underscores the fundamental flaw in this bill, and that is we are spending money we do not have, on projects we do not need.

We were advised by the supporters of this project that they wanted to be judged on their performance. I assumed that we should judge them on their performance and their promises. This project of broken promises has failed to fulfill the promises: First, of costs—runaway costs that have almost tripled in the 7 years of discussions about it. We have failed to fulfill the promises of foreign participation. We were told by my colleague from Texas in the debate in May 1991, that he fully expected $1 billion from the Japanese in support. I guess we should build it and they will come because the reality is that we have not seen $1 billion from the Japanese. We have seen a lot of sushi, we have seen a lot of soft efforts, we have seen a lot of trade difficulties, but the fact of the matter is that, since the inception of this project, it has been consistently told to us that between one-fifth and one-third of the total expenditure will come from foreign sources. We were told that there would be a ceiling on Federal dollars. That promise was broken, too. Despite the fact that this House has persistently and consistently voted to cap Federal Government participation at $5 billion, the clock continues to run and the costs continue to soar. We were promised that they could deliver on the detectors and budgeted $500 million for the two of them. The first one has come in at $720 million, and they have given up trying to build the second one. We were promised that we would see no outside influences exercised on the construction of this project. The reality is that they are spending U.S. taxpayers' dollars to solicit sole-source government contracts in foreign countries to do away with American jobs. We were promised that communities and countries such as Russia would support this initiative, yet just earlier today we saw the bold and brave President of the Russian Federation hold his hand out, as if holding a tin cup, asking us for money—to do what? To feed his people! And now he is expected to support our cost overruns and our science projects.

No, Mr. Chairman, we can build it, but they will not come. This project of broken promises, which has never met the cost estimates, which fails to generate the amount of money that DOE said foreigners would support, which is technically flawed and economically deprives this Nation of real science—promoted in real areas that would accomplish real things of importance to real Americans—has resulted only in jobs going overseas.

Mr. Chairman, I say to my colleagues, the only thing that will be colliding under the land in Texas are taxpayers' dollars, and the reality is that we offer you today an opportunity to say enough is enough.

Many of you joined me in voting in support of a constitutional amendment to balance the budget. You did so out of desperation, and I offer this amendment almost in the same vein. Today we have an opportunity to put our votes where our voices were last week, and we need to acknowledge with clarity to our constituents that simply saying we felt good about voting for a constitutional amendment, but ate every piece of pork that came our way, just won't cut it anymore.

Mr. Chairman, we can build it, but they will not come. But it is the performance and the broken promises of this project that dooms it.

Someone said to me, "Why do you want to kill the project?"

The reality is that I, or my colleagues, will not kill this project. The SSC is committing suicide. It commits suicide by failing to be honest with us and with the taxpayers as to how much it will cost. It commits its own suicide when it proposes to rob from other important laboratories around the United States technological needs to run it. It commits its own suicide when the officials of the Department of Energy fail to admit to the Congress that they have no adequate cost controls in place to protect ultimately the taxpayers who have to pay for it. And it commits its own suicide when it sells jobs to overseas countries in the name of foreign competition.

□ 1910

The reality is that the President of the United States can certify anything he wants. We were certified as to peace in Central America just 10 years ago. This same education or environmental President can certify he supports education or the environment. But the reality is that we know better.

The adoption of the Eckart amendment today will make it clear that we have, as the President admonished us on the steps of the Capitol at the beginning of his term, much more will than wallet. But the reality of this amendment is that we are going to put our wallet first.

Mr. Chairman, I reserve the balance of my time.

Mr. CHAPMAN. Mr. Chairman, under the unanimous consent agreement by which I was yielded 1 hour for debate, I yield 30 minutes of that time to the gentleman from Texas [Mr. BARTON].

The CHAIRMAN pro tempore (Mr. TAYLOR of Mississippi). Without objection, the gentleman from Texas [Mr. BARTON] is recognized for 30 minutes.

There was no objection.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding this time, and I yield myself such time as I may consume.

Mr. BARTON of Texas. Mr. Chairman, we are here this evening hopefully to engage in a rational debate about a very important policy option that this country is pursuing. That policy option is the policy to continue to be the world leader in basic research. As an extension of that policy, the subdebate is to continue to be a world leader in high energy physics research through building and operating what we are calling the SSC, the superconducting super collider.

To start that debate I would like to read into the RECORD in its entirety a letter dated today, June 17, from George Bush, the President of the United States, at the White House.

THE WHITE HOUSE,
Washington, June 17, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As you are aware, I am strongly committed to continue construction of the Superconducting Super Collider. It is a crucial investment in our Nation's scientific, technological, and economic future.

This program is well managed and has made significant technical progress. It has attracted many of the finest scientific and technical minds in our country. Our national laboratories, over 100 universities, and our Nation's most advanced high-tech industries are actively engaged in this important endeavor.

We have come far with this vital program, and now is not the time to falter. Any slowing down will result in an eventual increase in the cost. In addition, any reduction in our commitment to the Super Collider would not only jeopardize ongoing negotiations with potential international participants just as those negotiations are yielding positive results, but would also undermine the United States' reputation as a reliable international partner.

We cannot afford to relinquish our leadership in science and technology. Our Nation's economic competitiveness and standard of living rests on it. Therefore, I urge the House to reject any amendment to H.R. 5373, the Energy and Water Development Appropriations Bill, that would eliminate funding for the Super Collider.

Sincerely,

GEORGE BUSH.

Mr. Chairman, I would also like to respond to a comment made by the distinguished gentleman from Ohio [Mr. ECKART] in regard to a letter written by Henson Moore to Dr. Schwitters, the Director of the SSC lab, talking about potential management problems.

Mr. Chairman, I interpret that letter as a positive step in managing the project, and I would like to not read it in its entirety, but just submit for the RECORD a letter from the Secretary of Energy dated yesterday to the gentleman from Michigan, the Honorable HOWARD WOLPE, House of Representatives, in response to the letter that the gentleman from Ohio [Mr. ECKART] was talking about. It basically states, paraphrasing the letter, that the interpretation that the gentleman from Ohio [Mr. ECKART] and others have given to Mr. Moore's letter was dead wrong. In fact, this letter says, "Your letter is wrong."

Mr. Chairman, I submit the letter from Admiral Watkins to the Honorable HOWARD WOLPE for the RECORD.

THE SECRETARY OF ENERGY,
Washington, DC, June 16, 1992.

Hon. HOWARD WOLPE,
House of Representatives, Washington, DC.

DEAR MR. WOLPE: I want to respond to your June 15, "Dear Colleague" letter about the Superconducting Super Collider (SSC). Your letter, entitled "DOE Doublespeak," alleges that the Department of Energy (DOE) has not done a good job of managing the SSC project and has not told Congress the truth. Your letter is wrong.

The DOE statements you quote in your letter are proof that we have a good management system that identifies potential problems, takes corrective action immediately, and monitors the performance of the corrective action. Unfortunately, your letter misrepresents the facts by comparing statements about the actual performance of the project (on time and within budget) with theoretical estimates of what would happen if DOE chose to do nothing about the potential problems we identify. Thus, you are wrong in implying that SSC construction costs will exceed the level DOE promised Congress. As a result of all the corrective actions taken to date, including a reduction in staff by the project architect engineer/construction manager, we are confident that we can complete the SSC project within the baseline reported to Congress in 1991. In short, you have taken good news and tried to turn it into bad news. This does a disservice to the people who are working so hard to make the SSC a successful project.

I am proud of the way DOE has managed this multi-billion dollar project. The SSC is being built on schedule and in accordance with the cost we provided Congress almost a year and a half ago. With adequate funding from Congress, I am confident that this record of success will continue.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. Chairman, I talked to Henson Moore about that letter. He stated that when he sent it, the super collider laboratory officials immediately replied. They had a meeting in Houston within a week of receiving the letter. Mr. Moore was satisfied that significant steps were being taken to get the AE/CM and the contractor more responsive. Mr. Moore, before he left to go to the White House, as deputy chief of staff, signed off on the plan that the laboratory presented to correct the problems identified in his earlier letter.

I also want to point out that the SSC is the next generation of national laboratories in this country. We have in existence today Brookhaven National Laboratory in New York, Fermi National Laboratory in Illinois, Oak Ridge National Laboratory in Tennessee, Lawrence Livermore National Laboratory in California, and Sandia National Laboratory in New Mexico.

These are world class assets. They are not viewed as pork barrel projects. They are viewed as tremendous national assets that have enhanced our Nation's competitiveness in this century.

The super collider laboratory is the next generation of those laboratories. It is vital that we build it, and it is vital that we operate it.

Mr. Chairman, I would also like to speak briefly to the allegations of the opponents that our budget numbers do not add up. Much has been made of the

$4 billion original estimate, or the $3.9 billion original estimate. I would simply point out that those were generic estimates in the mid-eighties, before a site had been chosen and before the project had been engineered.

The $8.2 billion cost estimate that the SSC is being built to was submitted to the Congress in January of 1991. The laboratory is working under that official cost estimate and it is meeting that goal.

Mr. Chairman, I want to repeat that. The SSC is meeting that goal. The budget that they have submitted, the funding that they have spent, has been under that budget and is slightly ahead of schedule.

Mr. Chairman, I must admit that if we continue to underfund the President's and the laboratory's request, that eventually that number may escalate. But so far it is under budget and on schedule.

This year the President asked for $650 million. The Subcommittee on Appropriations and full committee has voted for $483 million. That is a hard freeze. That is the same amount of money that the Committee on Appropriations allocated last year. That is a hard freeze, not a freeze suggested for inflation, not a freeze suggested for expanded scope of work. That is a hard dollar freeze, $166 million less than the President asked for, and actually $66 million less than the laboratory is spending at annual rates of expenditure today.

Last, I want to talk about the international aspect of the project. The gentleman from California [Mr. BROWN], the chairman, and the ranking Republican, the gentleman from Pennsylvania [Mr. WALKER], mentioned this when they put their amendment in that we accepted by unanimous consent to require the President to certify by June 1, 1993, that at least $650 million of foreign participation would be forthcoming for the fiscal years 1993, 1994, and 1995.

The SSC is an international project. There are already over 800 international scientists working on the project. We have international agreements that have been signed. The Government of India has already signed an international agreement. A national laboratory in Russia has signed a laboratory-to-laboratory agreement to work on the SSC. The Koreans have signed a working group agreement. And as we speak, we have a working group in Tokyo negotiating with the Japanese on just what their level of participation should be.

Mr. Chairman, if you go by the official baseline estimate of $8.2 billion, we need to generate $1.7 billion in foreign participation. I am confident that between now and next June, you will see the Secretary of Energy, the Secretary of State, and the President of the United States initial and bring forward agreements that will meet that commitment.

Our opponents are correct when they state that we do not have a large commitment from a single international partner. We do not have that yet. But we are working in good faith to have a large agreement concluded, and I believe that we will have that.

Mr. Chairman, I simply ask my colleagues tonight as they vote on this very important amendment that we need to think about our competitiveness in the future. We need to think about the ability to create technology and to commercialize that technology in the 21st century. If you feel the need to continue to be a world leader, then we should vote against the Eckart amendment and allow the SSC to continue to be built.

Mr. Chairman, I reserve the balance of my time.

Mr. ECKART. Mr. Chairman, will the Chair advise how much time is remaining to each Member?

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. BARTON] has 22 minutes remaining, the gentleman from Texas [Mr. CHAPMAN] has 30 minutes remaining, and the gentleman from Ohio [Mr. ECKART] has 52 minutes remaining.

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Mr. ECKART. Mr. Chairman, I yield myself 30 seconds.

I would like to point out that in May 1990, one of our colleagues from Texas, told us that "I am pleased to report that the Department of Energy has completed its international plan and will soon begin consultations with potential foreign contributors to the project."

I point out to my colleagues that today in 1992, in June, once again we are promised that the Department of Energy has a plan, much like Ross Perot's plan to balance the budget and Richard Nixon's plan to end the war. Very clearly, we have heard these promises before.

I just want to see cash money on the barrel head. The fact of the matter is, we have none.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the Eckart amendment. The gentleman from Ohio [Mr. ECKART] is absolutely right in saying that the patience of the American taxpayers ought to be exhausted on the superconducting super collider.

When this idea was first proposed several years ago, we were told that there would be significant international cooperation and that the cost would be somewhere in the neighborhood of $4.8 to $5 billion.

There have been gross cost overruns of this project. The present estimate is that the project will have a total cost of $8.2 billion, and practically everybody who has viewed this matter objectively says that that is unreasonably low. And there has been no international financial participation agreed to to date in terms of actually providing cash to offset the cost of this project to the American taxpayers.

The Canadians bailed out when the site was located in Texas and not straddling the border between upstate New York and Canada. The Europeans were never interested in providing international cost sharing because they have got their own project in Geneva, Switzerland. And try as the United States might, we have never gotten any money from the Japanese.

The first week on December 1991, Secretary Watkins an an entourage spent a considerable amount of time in Tokyo trying to get a commitment from the Japanese and came back completely emptyhanded.

The proponents of the super collider are saying the international money is coming. It is coming. It is coming. But they have had years to try to get the international money. And aside from the promise of $10 million from India and some laboratory-to-laboratory participation, there has been no international cooperation.

Unless there is, the American taxpayer is going to be holding the bag.

There is another very important point in this debate. We all know that with the deficit being out of control, we are operating with a finite and shrinking number of dollars to deal with scientific research projects. The super collider, if it is not stopped now, will eat up those dollars and leave few, if any, dollars left for less costly science projects that take place in our laboratories and in our universities all throughout the country.

The message should be quite plain. Voting against the Eckart amendment means that every member will be able to get less money for less costly science in their own States and their own districts, and we will send more and more money to Texas for the super collider.

I would hope that we would recognize that the super collider has not met up with the expectations upon which the Congress and the public were sold initially. The time has come to put a stop to the hemorrhage of dollars that is going into this project, and that can be done tonight through the adoption of the Eckart amendment.

Mr. CHAPMAN. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space and Technology.

Mr. BROWN. Mr. Chairman, I thank the gentleman from Texas for yielding time to me.

Let me first go through a little history of superconducting super colliders. In high energy physics, breakthroughs in new knowledge are always achieved by construction of higher powered machines for producing collisions between the ultimate particles of matter. That has been going on for a couple of generations.

I have been following those colliders for most of those two generations. We have had some successes, and we have had some failures. We have had some excellent science from earlier versions, such as the collider at the Fermilab and the Stanford linear accelerator, which is not a circular collider but a linear collider.

Nobel prizes have been won as successively higher levels of power were reached and the collisions became more effective in producing new subatomic particles of matter that have never been known before.

We have tried to build, and failed, a collider known as ISABEL, which had the support of the New York delegation because it was being built on Long Island. But it was never finished for technical reasons. The magnets did not turn out to be effective, and it was canceled. But the high energy physics community has gone on to plan for a new generation of even more powerful machines.

Today the world's largest collider is in Switzerland. And it makes Europe the acknowledged center of high-energy physics for the entire world. No one belittles the science that is being produced there. It is drawing American researchers, physicists and other researchers. It is drawing researchers from around the world who are constantly struggling for the opportunity to participate in the experiments going on there in Switzerland.

The Europeans are attempting to upgrade that collider, incidentally, to give it additional power.

The superconducting super collider in Texas is 20 times more powerful than CERN, the next most powerful machine. There is absolutely no question in the scientific community that the SSC will restore America's role as the preeminent nation in the world in high-energy physics. And the site in Texas will become a Mecca, a magnet that will draw researchers of the highest quality from all over the world. It will not have European financial participation, as the gentleman from Wisconsin [Mr. SENSENBRENNER] indicated. And the reason is very simple. The Europeans have their own facility. They are trying to upgrade it. It is taking all the money they have to develop it. Therefore, they are uninterested in providing money to a competing collider in the United States.

So we are not even looking to Europe for participation in this. We are looking to the have-nots of the world of high-energy physics, which basically means the newly rich countries of Asia, Japan, Korea, Singapore, and other countries in that area. We think that what they are waiting for, and I know the negotiations have been long and drawn out, is an indication that the United States knows what it is doing and is going to continue. They have not been assured of that in the past.

What I am telling my colleagues is that this is the world's best scientific machine for exploring the ultimate nature of matter, and it is so recognized by every person in the high-energy physics community around the world. There is no question about that.

Recent studies, recent evaluations by the High-Energy Physics Advisory Board, commissioned by the Department of Energy, have uniformly come to the same conclusion that this project is the highest priority project in physics in the United States.

They have also come to the conclusion that at the present time it is not threatening to freeze out money for other worthy but not quite as high priority physics projects, such as Fermi, and the Stanford linear accelerator.

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Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD], who is a member of the authorization committee, the Committee on Science, Space, and Technology.

Mr. PACKARD. Mr. Chairman, there is one topic which has fixed this Congress' attention: The economy. Time, energy, and ideas have been devoted to the state of our Nation's economy in the postcold war era. We have debated the good and the bad. The most encouraging debate I participated in was how to spur economic growth in this country. The downside of our economic debate focused on unemployment benefits.

The center of all of our economic debates were about one thing: Jobs. At the heart of our economic growth debate was how do we best encourage the creation of jobs and the expansion of economic enterprise. At the heart of our unemployment debate was helping those Americans who don't have jobs.

Before us today is the energy and water appropriations bill. I submit to my colleagues that the funding in the bill for the superconducting super collider [SSC] will contribute to economic recovery, create jobs, and ensure American competitiveness into the 21st century.

The SSC is being built to conduct scientific and technological research that will lead us through this period of economic conversion. As the victors of the cold war, we must retool an economy geared toward building and maintaining the greatest military force the world has ever known, to an economy geared toward competition and efficiency. This will allow us to meet the economic challenges of the next century.

Across the Nation, defense and aerospace companies have been hit hard by reduced defense spending. In California alone, it is estimated that up to 300,000 jobs will be eliminated in these industries. My concern is for the men and women who devoted their skill and expertise to the goal of our national defense. Those in the defense and aerospace industries and those who served in our military, which is also downsizing, deserve our gratitude. They also deserve an economic atmosphere where they can put their skills and expertise to work. In short: They need jobs.

The SSC will create high-technology employment in California, which has been hit especially hard as the cold war has drawn to a close. If we pass this legislation, important subcontractors for the SSC including aerospace and defense companies will be funded; these are the industries that led California's unprecedented economic boom. The loss of jobs in these industries is making the economic downturn in California extremely tough. Those in the California delegation should recognize that full funding of this project means that we put many of these high-tech employees back to work.

The economic benefits of the SSC are not exclusive to Texas. For example, California has been awarded over $84,041,753 in contracts in research funding from both DOE and the State of Texas. The California high-energy physics community has a very heavy stake in the SSC. The project is attracting many of California's young scientific talent. The creative energy of these young men and women can only translate into scientific advances for our country.

We can absorb and recover from the negative economic impacts that every congressional district in this Nation will feel due to reduced defense spending. The strategy we must embrace to accomplish this is devotion of our money and energy toward technology that can revolutionize the way we live and work.

The SSC is a perfect example of economic conversion. The SSC demands similar engineering, manufacturing fabrication and management skills that have been the foundation of the aerospace and defense industry.

The construction of the super collider will also create blue-collar jobs. Construction will take 10-years. It is estimated that SSC will generate up to $19.5 billion in economic impact over the 10-year duration. Presently, over 18,000 procurement awards and contracts have been awarded to businesses in 46 States.

The SSC will also contribute to the tradition of leadership in scientific research and technological advancement the United States has enjoyed. America's technological competitiveness is key if we are to maintain preeminence as a world power. Already, over 880 American scientists from over 100 universities around the country are working on two large detectors at SSC. Thirteen institutions in California are receiving funding to contribute to this scientific undertaking. These participating universities, in turn, have added high-energy physics to their curriculum, in order to participate in this research well into the 21st century.

We can not fully realize the technological benefits we will reap as a result of the SSC. Since the 1940's the United States has been the leader in high-energy physics. The benefits we have gained in everyday life as a result: electronics, nuclear medicine, nuclear power, x-ray machines and semiconductors. None of these advances were even imagined when these scientists were building their labs, or conducting their research.

It is expected that industry will be able to capitalize on numerous commercial applications of technology pioneered in SSC research. Such applications may include superconducting magnetic energy storage [SMES], magnetic levitated trains [MAGLEV], electrical power generation and many more unforeseeable advances at this time.

Mr. Chairman, fully funding the SSC will provide immediate and vital economic stimulation, will engage the best and brightest minds in our universities and scientific community, and produce technological advances which will keep America competitive in the global marketplace as well as improve our daily lives. We risk losing our preeminence in superconductivity by failing to fund the SSC.

I urge my California colleagues to vote no on this amendment to kill the SSC. California will benefit from the SSC. As the Nation will benefit from the SSC. I urge my colleagues to pass the SSC full budget request, and thus spark a flame that will light us into the next century.

Mr. ECKART. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SMITH], a member of the Committee on Appropriations.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, over the last few years I have believed what we were told by our colleagues about the value of this project, and have voted for funding for this superconducting super collider. This year I have decided to switch my vote and support the effort to end funding for this expensive project.

My colleagues have pointed out the myriad faults that this program has encountered, but I feel there is a larger issue here. Even if the super collider had gotten far in funding, which it has not, even if the project was on time and under the original budget and under control, which it is not, even if the project would result in significant technological spinoffs, which it will not, the question remains: In this time of diminishing resources and incredibly tremendous needs, is the super collider a high-priority project, worthy of funding? I feel it no longer is.

Our new infrastructure is falling apart in this country. Our children are graduating high school without an education. Our health care is lagging behind the rest of the Western World and is more expensive every day, and our budget deficit is soaring. It simply does not make any sense to fund an $8.25 billion science experiment that is simply research for the sake of research.

Last week the gentleman from Texas [Mr. BARTON] authored a constitutional amendment to balance the budget solely through spending cuts. He has also been on the floor today leading this fight against this amendment and to preserve the super collider. I am not sure such a balanced budget is possible, but if it is, the super collider could never survive the budget fiscal discipline.

The gentleman from Texas [Mr. BARTON] is obviously a contortionist, being on two opposite sides of fiscal policy at the same time. The problem is, Mr. Chairman, very few of us can be that contradictory physically or politically.

Last week the gentleman from Texas spoke of making tough choices, as many in this House have spoken over the last few years of making tough choices, of having the discipline to shun needless spending and the strength to cut out the fat. If we had unlimited resources, I would be a lukewarm super collider supporter. However, in these tough budget times, the super collider is pure fat, and I urge the House to support this amendment to trim that fat.

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in support of the superconducting super collider and urge my colleagues to vote against this amendment to further reduce the House Energy and Water Appropriations Subcommittee fiscal year 1993 allocation for this project.

We have all heard about the importance of the super collider to our Nation's scientific research program and about the technological advancements we can expect from SCC research. These are vitally important to our national interest. As a result of our national commitment to this program, we have already invested $1 billion since 1986 to develop and build the SSC. And out of this $1 billion investment, 90 percent has been reinvested into the economy.

Mr. Chairman, I would like to address the impact technological advances derived from the SSC have on our industrial base in this country.

Many countries in our defense industry are making the difficult transition from being a supplier of military equipment to becoming much broader based manufacturers of high technology products. Many of those same engineers, technicians, and manufacturing workers are now deeply involved in engineering and building the advanced components required for the SSC accelerator. This is an important program utilizing our available resources to convert our shrinking defense industrial base to high technology applications.

The SSC technology which is being transferred to U.S. industry will provide the applied science for many of these former defense equipment suppliers to build new civilian product lines based on superconductivity. Potential commercial applications of this critical technology include superconducting magnetic energy storage for utilities, maglev vehicles for future transportation needs, highly efficient electric generators, ultrafast computers, and numerous other budding technologies.

It is important to note that as these highly trained workers are applying these skills to new SCC technologies, we will be preserving critical skills needed for our defense industrial base.

I believe the SSC is a step toward the future in developing our high technology research capabilities while wisely keeping our work force employed. In my district alone, Babcock & Wilcox, a major defense contractor that supplies all Navy nuclear fuel, will shift 150 employees from their defense-related industries to SSC production in order to lessen the impact of diminishing defense dollars. This is going on all over the country and it is a trend we must encourage. As we continue to allocate our scarce Federal dollars toward economic conversion and repositioning our defense industries, I believe the SSC is one avenue we can pursue in keeping our high technology jobs productively engaged.

Mr. Chairman, I urge my colleagues to oppose this amendment.

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Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. GALLO], a member of the Committee on Appropriations and the Subcommittee on Energy and Water Development of the full committee.

Mr. GALLO. Mr. Chairman, I thank the gentleman from Texas for yielding the time and also thank him for his steadfast support for the super collider.

Mr. Chairman, I rise in opposition to this amendment and in support of the committee's recommendation to fund the super collider.

The super collider is an important scientific project for the United States to pursue. The SSC will be the most powerful accelerator of its type in the World and we cannot afford to continue to have our heads buried in the sand when it comes to high tech American research projects.

The SSC may seem like a big project, however, the subcommittee's mark of $484 million means that the allocation for the SSC is only point 6 percent of the Federal R&D budget. The SSC is not a revenue drainer. It's a revenue enhancer.

It has been estimated that during the construction phase, the SSC will create up to $19.5 billion in economic impact and will create many needed jobs. Already, over 19,000 contracts have been awarded in 46 States creating more than 6,000 jobs.

The SSC is more than a world-class science facility. It is an investment in American technology that will provide our country with a substantial return on our investment. I urge you to oppose this amendment.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, last week we had a very difficult choice to face here in this House, and every Member faced that with great trepidation and some of us with misgiving. We had the choice of then voting for a balanced budget amendment to our Federal Constitution. And as I meditated over that choice I thought shall we postpone the decision of our national debt and pass it on to some future generation after the States had ratified it several years down the line, shall we pass it on by not adopting that to our children and grandchildren.

The obvious choice to me was that we had to vote against that particular amendment, and I am disappointed to see my colleagues who were so vociferous favoring that amendment now standing before this House and asking us to spend millions more in discretionary dollars for something that is not necessary for our security, is not necessary for the welfare of the American people. I vowed last week when I had to make that hard choice that I would from that day on vote against every appropriation and for every amendment to cut an appropriation that was not absolutely necessary for the well-being of the American people, and this is one of those issues.

Yes, it may have been good when we had a lot of money. It may have been good when we were told that our foreign competitors would chip in and help pay for it. That is not the case, my friends. Our foreign competitors have left us holding the financial bag, and yet the contracts for that work are being exported overseas. We are importing materials for that, and the American taxpayer is asked to bear the burden one more time.

I say join us in stopping this foolish expenditure by adopting this amendment.

Mr. ECKART. Mr. Chairman, I yield 6 minutes to my colleague, the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I want to say that in all of the years that I have been in this Congress, and particularly in the period of time that I have been involved in the oversight of various agencies of this Government of ours, I do not think I recall an instance in which there has been a bigger gap between the public claims of a department—in this instance the Department of Energy—before my committee of jurisdiction, and the reality that emerged in the internal documents of the Department of Energy when they were finally made available to the committee.

I think it is important that everyone in this body understand that for months and months the Department of Energy totally dissimulated in insisting that there were no documents along the lines that we had requested of them. They misrepresented the situation with respect to the SSC, claiming repeatedly in public sessions that this was a project that was on budget, on schedule.

We subsequently learned that as far back as September 1990, the Department of Energy understood very clearly that there were some very serious cost overrun problems. Then, in May 1991, several months later, Department officials were still insisting in front of our committee in public session, that everything was OK, under budget, on schedule.

In January 1992, we learned subsequently, Mr. Henson Moore, the Deputy Secretary of Energy, actually wrote a letter to Mr. Roy Schwitters of the Universities Research Association, the principal contractor on the project. I want to read some portions of that letter. I think everybody needs to understand this very clearly.

Mr. Moore wrote:

> Dear Roy, when I visited the SSC site in October 1991, I held a meeting with you, Ed Sisken, Paul Reardon, and Joseph Cipriano to discuss cost problems that were developing in the conventional construction area. I was assured at that time that these were known and were being taken care of.
>
> Today, I have learned that the overrun problems are continuing and may even be getting worse. I am extremely upset at this news and URA's response. As far as I am concerned, drastic measures may have to be taken to address this problem, because it must not continue and the actions taken thus far appear to me to be woefully inadequate.
>
> Conventional construction should be the easiest part of the project. The high technology seems to be going well. With the recession and availability of architects, engineers, and construction companies, there is no reason for overruns, especially in the administrative area. You have known about this problem for some time and have not addressed it.
>
> This shows to me a lack of management ability on the part of URA when it comes to conventional construction.

Mr. Moore then goes on to say that if the plan is not satisfactory to him:

> I intend to instruct our attorneys to examine our contract to see what remedies are available to the Department.

The important point here is not only that there were very dramatic management problems in the administration of the SSC project, but that the public statements being made to members of my committee totally contradict the understanding that was being communicated internally within the Department.

So I have to tell you, for this Member of Congress, Secretary Watkins and the Department of Energy have lost all credibility, and I think any Members of this body who are banking once again on that same promise of the SCC being on budget and on schedule, are buying an enormous pig in the poke.

The reality is that the Department of Energy does not even have in place yet an integrated administrative mechanism to know whether the SSC is on cost, on schedule. They have not even put that in place yet. We have had reports from the inspector general of the Department of Energy, and we have had testimony from the General Accounting Office, identifying in pretty ugly detail, frankly, the mismanagement of this project.

□ 1950

Again, it is not only the mismanagement that's deeply troubling. It is, frankly, the deception in which the Department of Energy has repeatedly engaged in the way it has discussed this project publicly with the members of my committee and the Members of this Congress.

There is one last point I want to make this evening. The Department of Energy undertook, in its office of policy, an internal analysis to evaluate all of the science programs that were being funded by the Department of Energy on the basis of the merits of these programs. The director of the policy office specifically directed that the analysis should not consider political sensitivities, just the merits. And that analysis yielded a rank order in which the super collider came out 10th of the 11 programs, and the Office of Policy recommended it be deemphasized in the Department's funding request. Yet today the SSC, the super collider, commands over one-fourth of the Department of Energy's entire science budget in the President's fiscal year 1993 budget request, and is allocated almost 80 percent of the entire high-energy physics budget in the appropriation bill that we are now considering.

So, my colleagues, this is a project that is buried in doublespeak. It represents an enormous waste of taxpayer dollars. We cannot afford it. We could not afford it, in my judgment, in earlier budget years. Certainly now, if we are to have any credibility in the light of last week's debate over the balanced budget that our Nation so desperately requires, we cannot afford to support this wasteful project yet one more time. It is time to call it quits. It is time to kill the super collider.

Mr. BARTON of Texas. Mr. Chairman, I yield myself 3 minutes to try to directly respond to the previous comments of the gentleman from Michigan.

First of all, the gentleman from Michigan [Mr. WOLPE] talks about an information gap and the lack of credibility on the part of the Department of energy in responding to his subcommittee's requests. Let me simply state that the gentleman from Michigan [Mr. WOLPE], in the exercise of his duties which he has exercised very aggressively, and I do not have a problem with that, has attempted, in my opinion, to conduct an almost grand-jury-like inquisition. He has sent multipage letters to the Department of Energy asking for any and every document ever written pertaining in any way or every way to the construction, operation, or management of the SSC. He has requested that the General Accounting Office detail permanent employees on site and here in Washington to monitor and report on the progress or lack thereof of the SSC. Again, that is an appropriate function of his duties as subcommittee chairman. But it is certainly an unusually aggressive approach to a project that we are trying to build and work with the Congress in a good-faith way.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I would like to point out, addressing specifically the point just made by my friend, the gentleman from Texas, that the gentleman from Michigan [Mr. WOLPE] did what he did in terms of information requests in his capacity as chairman of the Subcommittee on Investigation and Oversight of the Committee on Science, Space, and Technology with the full support of the ranking minority member. And I am privileged to serve in that part.

Mr. BARTON of Texas. I understand. I am not denying the ability or the legality or even the functionality of what the gentleman from Michigan [Mr. WOLPE] has done. I am simply saying that when you ask for any and every document that has ever been written about and then send people continuously to monitor it, it does make it difficult to build and operate the project.

Mr. BOEHLERT. If the gentleman will yield further, I can say, I can swear on a stack of Bibles that the request was never for any and all documents ever associated with the SSC.

Mr. BARTON of Texas. I will provide that letter for the RECORD.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE, SPACE,
AND TECHNOLOGY,
Washington, DC, February 18, 1992.

Hon. JAMES D. WATKINS,
Secretary, Department of Energy,
Washington, DC.

DEAR MR. SECRETARY: As part of the Subcommittee's ongoing review of the SSC program and project, we request that you supply the Subcommittee with the following materials:

1. The July 1991 report of the Program Advisory Committee by the GEM detector team.

2. The October 1991 reports of the Program Advisory Committee by the GEM and SDC teams.

3. The December 1991 reports of the Program Advisory Committee by the GEM and SDC teams.

4. Copies of all results to date from PB/MK's geotechnical exploration plan.

5. Copies of geology reports done by the Texas Bureau of Economic Geology.

6. Complete copies of Cost Performance Reports from January 1, 1991 to date. Note that if these reports do not allow tracking of the cost of work performed against the budgeted cost for work performed, please provide to the committee the data used by the Office of the Superconducting Super Collider to track such costs or an explanation of why such data are not collected.

7. Copies of the U.S. Geological Survey study of flood conditions at the SSC site referenced in answer #73 of the Department of Energy's May 20, 1991 letter to the Subcommittee.

8. Copies of the SSCL surveillance reports on the Construction and Magnet Divisions.

9. Copies of audits performed by the Office of the Superconducting Super Collider of (a.) allowable costs and (b.) URA oversight of the AE/CM.

10. Analysis of the costs of manufacturing superconducting magnets in Japan (mentioned in a January 7, 1991 briefing to Science, Space, and Technology Committee staffers by Dr. Happer).

11. Copies of all SSC Underground Technology Advisory Panel reports since April 1, 1991.

12. Copies of all OSSC Weekly Highlights reports since October 18, 1991.

13. Copies of all OSSC Biweekly Reports since September 27, 1991.

14. Minutes from each Cost Estimating Staff Meeting since April 1, 1991.

15. Copies of all Cost Accrual Reports submitted by PB/MK to the SSC Lab since PB/MK was awarded the AE/CM contract as referenced in answer #37 of the Department's May 20, 1991 letter to the Subcommittee.

16. Copies of monthly PB/MK monthly invoices for costs incurred and Lab reconciliation memoranda since PB/MK was awarded the AE/CM contract as referenced in answer #37 of the Department's May 20, 1991 letter to the Subcommittee.

17. Copies of all audits conducted on SSC contracts or bids done by the Defense Contract Audit Agency at the request of the Department or URA as referenced in answer #37 of the Department's May 20, 1991 letter to the Subcommittee.

18. Copies of the following documents relating to contracts signed with General Dynamics, Westinghouse, Babcock-Wilcox and PB/MK: (a.) the negotiation plan, (b.) analysis of the contractor's response, (c.) post-negotiation memoranda, (d.) requests for deviation. (If the Department feels that documentation on some of these items has already been provided to the Subcommittee, please indicate so in your response.)

19. A copy of a letter dated October 7, 1991 sent by Ms. Priscella Thomas as well as a copy of modification No. A022 to Contract No. DE-AC35-89ER40486 as referenced in Sisken to Cipriano communication dated October 8, 1991.

20. Copies of all Cost and Schedule Control System reports composed since March 10, 1991.

21. Copies of all report from Mr. Cipriano to Secretary Watkins prepared since October 4, 1991. (These may be provided under the same guidelines that marked the Subcommittee-Departmental agreement of November, 1991.)

In addition, the Subcommittee requests that you supply all materials including, but not limited to, all documents, memoranda, letters, notes minutes, reports, work papers, computer information, electronic communications, studies, records of oral communications, or any information of other description, whether in preliminary, draft or final form, and whether signed or unsigned, in the possession of the Department or its contractors that relate to the following:

A. The projected operating costs of the SSC after completion. These materials should include materials developed since February 1, 1990 in the files of the SSC Lab Cost Estimating group.

B. Materials from the July, 1991 meeting to review SSC operating costs (if this differs from item "A").

C. All materials since June 10, 1991 regarding a projected Japanese contribution.

D. All materials that led Mr. Cipriano to report a $50 million overage in AE/CM costs on February 22, 1991.

E. All materials since February 1, 1991 from the files of Paul Reardon or R.D. Williamson regarding evaluation of the cost and scope of the AE/CM contract and any related correspondence involving the SSC Lab and/or the Department of Energy and/or PE/MK resulting from the evaluation.

F. All analysis, reports and correspondence leading to and stemming from the September 1991 announcement by the AE/CM the AE/CM costs are substantially underestimated.

G. Materials developed since February 7, 1991 examining an acceleration of the construction schedule.

H. Materials regarding meetings of the Intergency Working Group on the SSC that have occurred subsequent to June 12, 1991.

I. Materials since June 10, 1991 relating to the award of contracts to Russian manufacturers. These materials should include general Departmental or OSSC guidance on decisions to compete or not compete contracts as well as specific discussions of handling the Russian award.

J. Materials from February 1, 1991 to date regarding the potential move of the detector hall sites. These materials shall be construed to include geological evaluations of the various sites, impacts on schedule and costs of construction for each alternative, discussions of the need to file a supplemental BIS, and relevant communications between the SSC Lab, the Office of the SSC and the detector teams.

K. All materials prepared since October 1, 1991 regarding the possibility or impact of increased appropriations over the baseline numbers or on the acceleration of work schedules.

L. Correspondence, reports and memoranda since February 1, 1991 either to or from Joe Cipriano, Ed Siskan, Paul Reardon, George Robertson, R. D. Williamson regarding project rebaselining.

M. All communications between the Department of Energy and URA regarding the URA's funding problems referenced in notification from URA to Mr. Joseph Cipriano dated August 30, 1991.

Finally, please provide information on all Change Control Board actions by date, item under review, substantive decision and cost impact.

Please provide all of this material to the Subcommittee by Tuesday March, 2, 1992. However, to expedite the Subcommittee's review, please provide this material as it becomes available rather than waiting for all of it to be collected. Contact Mr. Bob Roach or Mr. Dan Pearson (202-225-4494) of the Subcommittee if you have any questions about the request and to arrange for delivery of this material.

Thank you for your attention to this matter.

Sincerely,

HOWARD WOLPE,
Chairman Subcommittee on Investigations and Oversight.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding. I will make two points.

First of all, the comment the gentleman has just made, as to the gentleman's observations, first of all, it does not obviously address any of the substantive arguments raised about the super collider.

Mr. BARTON of Texas. I will get to that, I promise.

Mr. WOLPE. But more to the point, the letter that we identified a moment ago from Mr. Henson Moore was one of the documents that we uncovered only because of the requests that were made. For 3 months the Department withheld and in fact even denied the existence of secret communications between the Secretary of Energy and the Director of the SSC program. Those secret communications finally released to the Congress under threat of subpoena, I might add, provided the information on many of the problems that have since been publicized. So without those requests, we would not know precisely what was in fact happening.

Mr. BARTON of Texas. Reclaiming my time, let me simply say that there are no secret documents. The executive branch has a right, a legitimate right, to claim Executive privilege, but in this case did not. There was an oversight hearing a year ago in which several truckloads of documents were at least offered to the subcommittee chairman and his investigative staff. I do not think the staff chose to review all of those documents.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I certainly respect the concerns of the gentleman from Texas as well. There is a point that needs to be underscored here: The Department of Energy, in fact, did develop a back-channel means of communications that the Department initially denied existed between the Secretary and the project director. The Department denied the series of documents existed, and then when we discovered that they did exist, the Department said that they had all been destroyed. Then they discovered that, indeed, some of them had been retained. And it was through those document requests that we finally were able to develop some insight as to what was really going on. So, yes, there were secret communications, and they were never entered into the formal records of the Department of Energy. They were intended as a secret back channel. Most of the bureaucracy did not even know about the communications taking place between the Secretary and Mr. Cipriano.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I would like to point out to the chairman of the Subcommittee on Oversight that it was only under threat of subpoena that we were able to get most of the information we requested from the Department of Energy.

Why did we want the information from the Department of Energy? Were we on some witch hunt? Absolutely not.

As a matter of fact, I have been a supporter of the SSC the first time, the second time, the third time. But the facts kept building and building and made a compelling case to withdraw that support.

The documents that we requested from the Department of Energy convinced me that I have moved in the right direction.

Mr. BARTON of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, you know, we have been arguing over some of the technical aspects, and our colleague, the gentleman from Pennsylvania, talked about how we talked about the balanced budget last week and that this is a project that we cannot afford.

I have to tell you that I am appalled that someone would question our Committee on Appropriations in this decision to leave this program as part of a funded decision.

Furthermore, the chairman of the Committee on Science, Space, and Technology has made it part of our program. So I think that when the balanced budget amendment failed, it said to me, anyway, let us let our committees do their work without a constitutional requirement, and the committee has done its work.

You know, what we are talking about today is not a Texas project. It is a project that affects nearly every State in the Union, and it has already been said that 48 States take part in the building process. There are 128 universities in 38 States that are involved in the research. It is research that is necessary to make the bowl program, and I have to say it as that, a success. We are talking about spinoffs that are going to benefit the fields of medicine, computers, electronics, transportation, and a lot of others.

They have already, as a result of this program, developed cancer technology, developed treatment for tumors, developed advanced plastics that can be used in hospitals to reduce hazardous waste, and work on the superconducting magnets which are a success, magnets which are in being today, and wire has already been developed to provide improved energy storage and conservation capabilities. The SSC is also driving supercomputer technology, and supercomputers are what has made the United States an advanced technology in a lot of areas.

□ 2000

We are still developing them. Think back, where would our country be if we had not kept our commitment to the space program, for example? How many of the things we take for granted today are available because of the technology that was developed in our Moon program?

Invention, discovery, research and development, these have always been the catalysts for economic growth. Science has helped make America the world's most productive nation and given our citizens the highest standard of living. We can maintain this leadership by promoting a well-balanced research and development program, and that is a program that includes the SSC.

You know, this morning, if you read the paper, you saw a Japanese boat pictured in there. That boat was built with a propulsion system for ships that use—guess what—superconducting magnet technology. We developed that technology. We abandoned it because we thought it was too costly; but not the Japanese, they saw the long-term potential, and the Japanese right now have an operating vessel because of it.

The article went on to say:

> Today's successful trial reflects Japan's continued willingness to invest large amounts of time, talent and money into long-range technological development where the payoff is years or even decades in the future.

Mr. Chairman, do we want to abrogate our leadership in research to foreign interests? The payoff may be years or decades in the future, but what we need to do here today is make an investment in our future and vote for the SSC and against this amendment.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to or colleague, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, as a member of the Committee on Science, Space, and Technology, I have looked at this issue for the last couple years as it relates to what is the best decision affecting science, science in America, and I have come to the conclusion that the superconducter super collider is not consistent with good science, particularly with the massive amount of costs involved with this particular project and its effect on impeding other science projects so desperately needed for this country.

I thought I would mention just a couple of items that are constantly talked about in terms of the facts involving technology transfer.

The first is there is a claim that the magnetic resonance imager, the MRI machine in medicine, was based upon superconductor super collider technology. Well, the fact of the matter is that is not true. The original magnetic technology used in this MRI was developed in the 1970's at Oxford Magnets in Great Britain.

The most current MRI technology was developed in 1982 before the SSC site competition ever began, and the improvements to the technology at that time are based on computer controlled advances. That information was supplied by General Electric last year.

Then after Deputy Secretary of Energy W. Henson Moore in a recent congressional hearing rattled off the list of spinoffs of the SSC, including the magnetic resonance imager, this was the response by the president of the American Physical Society testifying before the Senate. His name is Dr. Nicholas Blumberg. Here is what he says:

> As one of the pioneers in the field of Magnetic Resonance, I can assure you that these are spinoffs of small-scale science, not of the SSC, and the attribution of the SSC to the other spinoffs mentioned is also highly questionable.

Now, another claim is made that cancer patient therapy with collider protons is being used, but this is not a new technology spinoff from the SSC. The treatment is already available at Loma Linda Medical Center in California.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. ECKART. Mr. Chairman, I yield 1 additional minute to the gentleman from Kansas.

Mr. GLICKMAN. Treatment is already available at Loma Linda Medical Center near Los Angeles and the Massachusetts General Hospital in Boston, and in Los Angeles and Boston they did not need to spend $12 billion.

I am not saying that you could not get some spinoffs, some science from the superconductor super collider. The issue is for the cost of this project, could you get better spinoffs in medicine, in transportation, in construction, from other types of science? In my judgment, based upon my experience in the Committee on Science, Space, and Technology, I think you can.

So Mr. Chairman, I would urge my colleagues to vote for the Eckart-Wolpe-Boehlert-Slattery amendment and take this money, either using it in other types of science projects which could employ many more people throughout the country, or else no spend it at all and reduce the deficit of the United States.

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, in 1980 the United States had 55.2 percent of the world's high-technology market. Eight years later, by 1988, the United States had only 35.8 percent of the high-technology market.

During that same period of time from 1980 to 1988, the U.S. share of superconductor fell from 60 percent to 36 percent.

During that same period of time, we saw the Japanese and the Germans take over thousands of jobs in this country, took the market of producing television, radios, and VCR's.

Today we have 9.5 million Americans out of work, without a job. If you vote to eliminate this valuable project, you will send a pink slip to another 6,000 Americans who will lose their jobs.

I remember debating on this floor some type of economic growth package to stimulate jobs. Now you are talking about taking jobs away.

So before you make up your minds on how you are going to vote on this, ask yourselves, what will this do for the American people? Is this a wise investment? What will the American people get for their dollar?

We are talking about construction, but what is the end result? What will happen once this giant laboratory is finally completed?

It deals with compressed energy. Scientists say that they will be able to build a battery about this size that will have enough energy to run an automobile. They will have batteries a little larger that will provide enough energy for your home, or move away from our dependency on foreign oil.

We will have a computer chip that is about a fourth the size of computer chips today.

The Japanese have developed a watch that has a telephone in it, but they cannot put it on the market because they do not have a battery small enough to run the watch.

Let your imagination wander. In the medical profession, they will have a machine that you stand in front of and find any tumors or cancers in your body, never using a knife.

It is not a cost. It is an investment. It is an investment in the future. It is an investment for our children.

So Mr. Chairman, I challenge my colleagues, before you look at taking away 6,000 jobs, stop and look at the end result and what this will give to our children and to their future.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, an earlier speaker made reference to the MHD propulsion system, a magneto hydrodynamic system which was tested earlier by a consortium of Japanese businessmen, who have since 1985 had under development an extraordinary new propulsion system for vessels that travel across the water.

At the heart of this new system is a superconducting material which enables a high speed jet stream, without the benefit of a propeller system, to propel a vessel across the surface of the water without even making a wave. That in itself is not justification for us to be in total pursuit of superconducting technologies, but it is merely one example of the extraordinary new developments we cannot yet perceive nor understand that may come from sophisticated research, much less the combination of x-ray lithography, together with superconducting capabilities being enhanced.

Earlier speakers have made reference to miniaturization of computer processing which will enable us to engage in transformation of information from one point to another with extraordinary precision and speed.

All these efforts to research and find new technologies are indeed extraordinary and perhaps beyond our capability to understand as we sit here debating these issues, but of far greater import to those of us making this decision is not the jobs that will be created in Texas not the spinoff technologies that may create some possible employment opportunities in the near term, but the vision it gives to America and to establish again our preeminence as leaders in scientific research and investigation.

□ 2010

We literally stand today at a crossroads. Do we debate over dollars with the future of America in science in the balance? Or do we take the first step and expand the horizons of human knowledge, plunge into the depths of science where others are afraid to go, and give us not only an opportunity for new technologies and jobs but give us the ability as Americans to once again hold our heads high and say to all those in the rest of this world, "America is not only a leader but has the ability to go where others are afraid to tread"?

Mr. ECKART. Mr. Chairman, I yield 7½ minutes to my colleague, the gentleman from Kansas [Mr. SLATTERY] who has been intimately involved with me in this effort from the very beginning.

Mr. SLATTERY. I thank the gentleman for yielding this time to me.

Mr. Chairman, last year I offered the amendment to strike funding for the super collider, and I am pleased this evening to join with my colleagues, the gentleman from Ohio [Mr. ECKART], the gentleman from Michigan [Mr. WOLPE], and the gentleman from New York [Mr. BOEHLERT] in the amendment to strike funding for the super collider and save the American taxpayers at least $10 billion.

Mr. Chairman, man does not serve science, science serves man. These are the words of a physics professor at Kansas State University, who wrote me opposing continued funding for the super collider. Science has served our Nation well. It has made us the economic leader we are today. Discoveries in computer and telecommunications technology, energy use, engineering, and health care have affected virtually every aspect of our lives and enabled us to solve many of the problems that played previous generations. As we continue to support scientific inquiry, it is crucial that we carefully plan how we will spend our limited resources.

We have a responsibility to ensure that we will have scientists and engineers capable of meeting the challenges of the next century. It is for this reason that I strongly support continued increased funding for this Nation's broadly based scientific research program. It is for this reason that I strongly oppose continued funding of the super collider.

Put simply, the costs of the super collider are too high and the benefits to Americans are too uncertain for the super collider to be a responsible recipient of America's limited research dollars.

The American Physical Society, which represents 41,000 scientists nationwide, officially gives limited support for the super collider, provided that the funding required, and I quote, "not be at the expense of the broadly based scientific research program of the United States."

Unfortunately, that is exactly what continued funding for the super collider would do, take funds from other important research projects.

My friends, we are playing a zero-sum game. Budgets in the next few years are not going to increase, they are all going to be cut. Money spent on the super collider is money that will not be available for other scientific projects.

Do we really want to take money from basic health care research and training programs for future scientists and engineers, to fund a project no one is certain will work, that may become obsolete in 10 years and that has limited potential for educational and technological benefits? I certainly do not.

According to the Congressional Budget Office, the SSC is unlikely to provide substantial new jobs for physicists or increase the number and training of new researchers. SSC funding will concentrate research dollars in an area that accounts for less than 1 percent of all science education. And for those who are interested in jobs, let me share with you one simple fact: Proponents say 6,000 jobs are involved. Listen to me, my friends, we are talking about spending $480 million next year for 6,000 jobs. Simple math, my friends, tells us that is $80,000 per year per job. This is not a good jobs program.

Furthermore, SSC proponents exaggerate the potential for technological spinoffs from the SSC. According to the Congressional Budget Office, technological spinoffs are more likely when we fund a broad base of research programs rather than a few large projects. These questions about the potential uses and inevitable obsolescence of the SSC become more important when we consider how much the program costs.

As some may know, the SSC project has never been authorized by the Congress. The House, when it considered authorizing legislation, concluded overwhelmingly that the project should be canceled if it costs more than $5 billion or if it failed to receive one-third of its costs from sources other than the Federal Government.

DOE has failed to meet either requirement, and it is time this evening for the Congress to kill this project.

In 1987 the Department of Energy assured Congress that the total SSC project cost would be $5.6 billion. In 1989 the estimated cost increased to $5.9 billion. But on May 10, 1991, DOE admitted that the SSC project will cost $9.1 billion. And this estimate fails to include the cost of a number of items, like detectors and adequate funding for contingencies in the geological problems.

With all of these costs included, DOE's independent cost estimators put the tab at $11.8 billion.

Then, as we have heard this evening, the Secretary of the Department of Energy, in January this year, writes about the cost overruns that are getting worse.

Although DOE promised that it would obtain $1.7 billion in foreign contributions, it has received only $40 million in pledges from India and Albania. No aid has yet actually been received, and most of the aid will be in the form of cheap overseas labor resulting from American job losses and technology transfer overseas.

And I find it laughable to suggest that we are going to get a significant contribution from our friends in Russia. We just heard today President Yeltsin pleading with us for money. And this afternoon he was out on the Chesapeake Bay sailing with President Bush. And guess what was going on out there? I can only imagine that, as President Yeltsin was asking for assistance, President Bush was also saying, "By the way, before you leave town, please promise to give me some money for the super collider." That is the kind of shenanigans we are going to see to coerce foreign sources to help build the super collider.

Finally, my friends, this project is all about money. This is a big-budget vote. In the final analysis, we are talking about $10 billion that we do not have, and we should not be spending it on a project that we do not need.

That is what this debate is all about, and for those 280 of my colleagues who last week voted for the balanced budget amendment, this is your first real test. Are we going to vote to cut spending, yes or no? Are we going to vote to save the taxpayers of this country $10 billion, yes or no? Tonight is the first real test. I will be curious to see how we do.

Mr. Chairman, I urge my colleagues to support the termination of funding for the super collider.

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. I thank the gentleman for yielding this time to me.

Mr. Chairman, there have been a lot of genuine opinions expressed on both sides of this argument. I have nothing but the greatest of respect for those who would disagree with the many of us around this country who support the super collider.

In my brief moment I would like to focus on a fundamental question that America and Americans must address about our future. That question is this: How can America compete in a world of low-cost labor? How can America compete in a world of low-cost labor?

☐ 2020

Mr. Chairman, I would suggest there are basically three choices we have in this country. The first is to lower our wages and our standard of living, and I would doubt that anyone in this room, or anyone across this country, would support that option.

The second option that we have is to build an economic wall around America. Who is the country that is the basic model for that source of approach to competing in a world of low-cost labor? It is Mexico, a country that, by trying that option, has brought down its standard of living to the point where it has become economically a Third World nation.

The third and final option we have in this country to compete in this world, to find jobs and a future for our children and grandchildren, is to simply improve our productivity through education and through technology. Yet, what has Washington done in its investment in education over the last decade? We have consistently cut that investment in our future, and what tonight are we trying to do with our investment in technology? There are those who would try to cut that technology at the very time we need that technology as a cutting tool to let us be productive and to let us compete with other nations.

I would suggest, Mr. Chairman, that American citizens are not upset that Government simply spends money. I would suggest that Americans are upset at the priorities we have set in this Congress, priorities that allow us in an evening, a Thursday evening before Easter, to spend $7 billion added to a program for immediate consumption, yet priorities that would have us cut off long-term investments that will make us more productive in the future.

When I was here in the mid-1970's working for Congressman Tiger Teague, I heard much of this debate expressed, just as genuinely heartfelt as it is today, yet at that time the debate was over the future of the space shuttle program. I heard the same arguments: "We don't know what the payback will be." "This is a long-term payback." "How can we make this kind of investment?"

Mr. Chairman, we have heard these same arguments before. I would argue that what the American people want for Congress to do is not stop spending altogether, but to reorder our priorities, order those priorities for the future of this country, and I believe that scientists and engineers and people throughout this country have spoken out loudly that the SSC is a wise investment in our future.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, high energy research with particle accelerators has resulted and will result in plastics for medical use, solutions for DNA research and virus remedies, maybe even for AIDS, soil erosion and down-water management, safe nuclear waste disposal, smoke stack pollutant removal, technology to repair cracks in pipes in large vessels, location of oil deposits, creation of integrated circuits for electronics and building of powerful semiconductors, processing of incredible amounts of information, studies of watertables, and seepage and underground geological formations, cryogenic engineering, tumor and body chemistry detection, superconductivity and mass production of highly intricate magnets, magnetic energy storage, electrical generators, ultra-fast computers, high performance communications, and lots, lots more, and thousands and thousands of valuable American jobs.

Vote against the Wolpe amendment and vote for the super collider.

Mr. ECKART. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. BOEHLERT], a member of the Committee on Science, Space, and Technology.

Mr. BOEHLERT. Mr. Chairman, I just would like to interject something that I think is extremely important at this juncture in the debate.

We are hearing, as we have just heard, some claims made for this project, the same type of exaggerated claims that were made last year during the debate. So, I feel compelled to come up with the same response.

Contrary to all the hype, the SSC will not cure cancer, will not provide a solution to the problem of male pattern baldness, and will not guarantee a World Series victory for the Chicago Cubs. Let us have that understanding right here and right now.

Second, Mr. Chairman, a very important observation: My colleagues will notice that the proponents of the SSC are from Texas, Texas, Texas, Texas, and Louisiana, and maybe someone from California. But my colleagues will also notice that the opponents are from Kansas, the heartland of America; from Ohio, the Midwest industrial belt; from New York, from all across the country. So, I would suggest that the Texas, Texas, Texas, Texas, Inc. has a special interest in this project.

Mr. Chairman, we have a different interest. Our interest is on behalf of the American taxpayer.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, as Yogi Berra said: "It's deja vu all over again." The arguments for and against the superconducting super collider are the same as previous years.

Four years ago, the House directed the Department of Energy to obtain commitments for foreign participation to cover between one-fourth and one-third of the project's costs.

This year, we have yet to see those foreign working groups of Japanese, Russians, Koreans, or Canadians hand over any cash. The only firm foreign contribution thus far is $10 million from India—a long way from the $1.7 billion goal.

Yet the U.S. taxpayer has already paid $850 million toward the project.

In 1987, the SSC project estimate was $5.6 billion.

Two years ago, the Department of Energy was telling us that the SSC would cost in the range of $5.9 billion.

Last year, DOE set the new, projected cost at $8.25 billion—71 percent higher than when we were sold the original package.

In past years, critics have called the project dubious science while supporters promise enormous benefits.

Last year Congress approved spending $484 million. This year, the bill calls for the same level of spending.

The arguments are all the same, so what's different?

Well, my friends, we are all 365 days older and nearly $400 billion deeper in debt.

Debate last week on the balanced budget amendment should remind us that we cannot balance the budget with business as ususal. A balanced budget and the superconducting super collider project are mutually exclusive.

Instead of spending money on a big ditch in Texas, we ought to make a last ditch effort to save America from the mountain of debt caused by projects like this.

Supporters of SSC—many of whom supported the balanced budget amendment—closed their recent dear colleague: [SSC] "it's an investment our country can't live without."

I say instead: SSC is an investment our country can't live with.

Support the Eckart-Slattery-Boehlert-Wolpe amendment.

□ 2030

Mr. ECKART. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. I thank the gentleman from Ohio [Mr. ECKART] for yielding me 5 minutes.

Mr. Chairman, the United States is a science creating machine without parallel. And a country like Japan is a science consuming machine without parallel. Japan takes what we discover, what we learn, and makes practical use of it. We love research; Japan loves to take what we teach it and put it to practical commercial use.

The superconducting super collider is basic research. We will not be able to capture what we learn for our exclusive use. We cannot own it. We will spend the money, we will do the work, and every country in the world who wants to will reap the benefit. Our money, our work, but others get the benefit.

What we really have in the SSC is a monumental public works project. In the end the vote tonight on the SSC is not a vote for science and technology; it is a vote for a colossal public works project with a cost-benefit ratio that does not justify the expense. And no one here tonight has justified the expense.

The vote on the Eckart-Boehlert amendment to stop the SSC is first and foremost a budget vote, a vote to cut wasteful Government spending, a vote to begin to reduce our deficits.

I do not know who is to blame for our annual budget deficits: Is it the President for not submitting balanced budgets to Congress? It is Congress for never returning a budget to the President that is balanced? Is it the President for not vetoing the unbalanced budgets he receives from Congress? Or is it the Members of Congress, on both sides of the aisle, who vote for programs again and again, year-in and year-out, without providing the funds to pay for them?

What I do know is this: This year our budget deficit will be nearly $450 billion. Next year this year's budget deficit will cost U.S. taxpayers $22 billion in interest payments, and $22 billion the year after that and $22 billion the year after that, and $22 billion the year after that, for this year's deficit, ad infinitum.

In the last 12 years our national debt has gone from $800 billion to $4,000 billion, or $4 trillion. And the cost of paying the interest on the national debt now accounts for 18 percent of our entire Federal budget.

The United States is in danger of becoming a third rate nation if it continues to allow annual deficits and accumulated debt to drain our precious resources. We need to get our financial house in order and balance the Federal budget.

Mr. Chairman, last week 280 Members of Congress voted for House Joint Resolution 290, the balanced budget constitutional amendment. I was one of them. But a few days before that vote, only 90 Members were willing to vote for the Dellums amendment to cut the defense budget a mere 10 percent. That was last week.

What about today? What about tonight? Is it business as usual? We vote overwhelmingly for a balanced budget constitutional amendment, and then continue to vote for programs we cannot afford. We vote for programs that make our annual deficits larger which in turn has created a monstrous national debt.

Mr. Chairman, we need to vote yes for the Eckart-Boehlert-Wolpe-Slattery amendment, to stop the super -conducting super collider, and begin to get our financial house in order. And we need to do it tonight. We need to do it now.

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as one of the other members of the bald caucus, I did not feel like I could miss this opportunity to stand up and speak for this project. As the gentleman from New York [Mr. BOEHLERT] pointed out, this will not cure male pattern baldness, even though in the next few years a project to accomplish that might be as important for the gentleman as it is to the gentlemen from Texas [Mr. CHAPMAN] and me.

But this project will make tremendous advances in the field of science and technology for our country and for the whole world.

Mr. Chairman, I want to commend our chairman, the gentleman from Alabama [Mr. BEVILL], for putting together this package of investments in our country's future. It is a package that does recognize the realities of our budget process, of our tough budget times that we face, and I commend the gentleman for his fine work. I urge my colleagues to support the committee and support this investment in America's future.

I would like to speak to one point, about whether or not this is or is not a budget issue. As the gentleman from Kansas [Mr. SLATTERY] pointed out in his remarks, if the super collider were killed tonight, if the Congress were to decide to walk away from this investment, not one single penny of this would go to the deficit. It would all be spent somewhere else.

Mr. Chairman, it is important that we understand that. There are many of us fighting for this project tonight that fought very hard for a balanced budget amendment. I wish we were here tonight operating under the rules that said if Congress does not pass something, the beneficiary would be the taxpayers, that it would go to future generations that have been funding these monstrous budgets.

But in fact it will not happen on this. If the SSC is killed tonight, not a single penny will be used for the deficit. It will all be used for other expenditures of the Federal Government.

Mr. Chairman, this is not a way to save taxpayer money nor work us out of debt. This is not a budget deficit vote.

I have sat through those long hearings with my colleagues, the gentleman from Michigan [Mr. WOLPE], and I just respectfully disagree with this conclusions as to what we heard from the testimony there. We both sat through the same hearings, and I can tell Members as I stand before them today, we heard testimony that established beyond a doubt that the super collider is operating on time and operating under budget.

Mr. Chairman, I applaud the gentleman from Michigan [Mr. WOLPE], the chairman of the Subcommittee on Investigations and Oversight of the Committee on Space, Science, and Technology, for his work in trying to ensure that our taxpayer money is well spent. He brought many witnesses in front of us. We examined reams of documents. The testimony proved clearly that in spite of some early difficulties that this program experienced, it is now operating under budget and on time.

Mr. Chairman, I urge my colleagues to vote against the amendment of the gentleman from Michigan [Mr. WOLPE] and vote for this investment in our country's future. Vote for the superconducting super collider.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER], the distinguished ranking member of the authorizing committee.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think most Members of Congress want to do the responsible thing with regard to SSC, and there are a couple of questions in Members' minds.

First of all, is this a good science project? Yes, this is a world class science project. This is something that will ultimately produce Nobel prizes. It is something which will produce valuable basic science information for the country.

The next question is can we afford it. That is really the question we are debating here. That whole question revolves around something we have already done tonight. That question revolves around whether or not it is going to be a world class financing project, whether or not the world is going to involve itself in financing this particular project.

Mr. Chairman, if in fact that happens, we can afford it. It is something we and the rest of the world can afford to do. If that does not happen, then it is a project that should be dropped.

Mr. Chairman, we have already decided earlier this evening that if we cannot round up the international funding for this particular project, the project will be dropped. That is something that I think takes the responsible course on this.

So if Members want to do the reasonable and responsible thing, I would suggest they vote against this amendment and allow us to continue to try to round up the world class funding that is necessary to complete this project. If the project is completed, we will in fact end up with a world class science project, one that will benefit not only this country, but the world.

Mr. Chairman, I would hope that Members would see that as something that at least deserves to be considered in this argument.

Mr. ECKART. Mr. Chairman, I am delighted to yield 2 minutes to the gentleman from Illinois [Mr. DURBIN], a member of the Committee on Appropriations.

Mr. DURBIN. Mr. Chairman, let me first address the question that was raised by a previous Member from Texas as to whether our actions tonight will cut the deficit. Those of us who serve on the Committee on Appropriations know that our problem each year is in the area of outlays, how much money we can spend.

Mr. Chairman, the problem we have is that we made commitments in previous years called budget authority which tie up our money this year in terms of what we can spend. By eliminating the super collider project we will in fact loosen up at least $4, $5, or $6 billion for savings in the future or spending in the future, a choice to be made by future Congresses. But at this point we have to make the threshold decision whether to go forward, and it is my opinion that we should not go forward with the super collider.

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First, it has had embarrassingly large cost overruns from its original estimated cost of a little over $5 billion. Now the Department of Energy suggests it may cost over $11 billion to construct the super collider.

The second point, and it relates to a point made earlier by the gentleman from Pennsylvania, there has been a failure of this so-called world class science project to attract world class support. Fifty million dollars pledged by India does not suggest to me that the scientists around the world are waiting with bated breath to see what is happening in Texas. They do not want to put their money on the line. They want the United States to do it. They do not view this as a promising scientific project.

In addition, let me suggest to my colleagues, it has become a world class political project. The supporters of the super collider sent out letters to all the Members of Congress and outlined the following: They have awarded contracts totaling 19,375 in number in 46 different States. We do not do this for efficiency. We do it for the political muscle it brings to this project.

Then they sent to me a list of all the people in Illinois who are benefiting from the super collider. That is not arguing this case on the merits. That is arguing on the basis of the oldest style of politics in the book.

I would suggest to my colleagues that what we basically need to decide is whether or not our fervor for a balanced budget is going to be matched by our fervor to cut projects that should be cut, and the super collider is one of them.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Alabama [Mr. BEVILL], the distinguished chairman of the Subcommittee on Energy and Water Development.

Mr. BEVILL. Mr. Chairman, I rise in opposition to this amendment. I think that if this amendment passes, it would create chaos. We have some 18,000 contracts. We have some 100 universities in over 30 States that are already involved in this program. We had some of the brightest scientists in the country appear before our panel in support of this project, many of them are people who are knowledgeable and have made a life study and work in physics and other sciences.

I think it would be a disaster to approve this amendment, killing this project. They say they would leave $30 million to close it out, but it would cost at least $180 million. It would cost thousands of jobs. It is ironical, and I know it has been mentioned a couple of times already. This morning's paper is very timely. The front page is about the magneto hydrodynamic boat, a silent boat, and what it can mean to the future and how it can cut the cost of transportation.

It comes out of Japan because Japan stayed with the project and kept working on it. It involves improvements in the superconductors, the very thing we are talking about here today, and the scientific world is behind this project. I have only heard two witnesses with some knowledge of science, that opposed this project. And they were fearful that this project was going to affect the projects that they were working on that were getting finances. That is the only reason, selfish motives.

I think it would be unfair to the bright young men and women of this Nation not to give them an opportunity to do the scientific study on this project. It is going to mean so much in the future. We know already what the superconducting super collider means to the future. That is exactly what this MHD boat I mentioned, is all about.

Americans dropped the project when they should have kept it going. I urge my colleagues to vote against this amendment and let us go on and finish up this bill.

In closing, I just want to point out that the benefits have come from this project. This is not something that we are guessing about. Actually, no Member here opposing this project actually appeared before our committee. We would like to hear the opposition to these projects. Would it not have been nice if they would have come before us and given us the benefit of their knowledge on this?

We have the chairman of the Science and Technology Committee here. We have here our entire subcommittee, every single member of it, Republicans and Democrats alike are supporting this project. I think it does not make sense to try to kill something here and just come in here and shoot from the hip and not appear before the committee to give us the benefit of all their knowledge.

I urge a "no" vote on this amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. MYERS], the ranking member of the Subcommittee on Energy and Water Development.

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for yielding time to me.

Our chairman has just said, this subcommittee has supported this program from its inception. We have been just as concerned as anyone here about getting additional funding. We would like to see the United States build the SSC by themselves so that we can enjoy all the benefits that will come from the exploration and the findings from this very fine machine.

We recognize the dilemma we are in, and so we have welcomed outside international support, and we will get it. I do not think any of us are supporting this machine because we think it is going to solve male pattern baldness or any of those other things that have been brought up here tonight.

We are concerned about keeping America competitive in this particular research. It is what we are going to find here, going to be able to make American industry more competitive with the rest of the world and keep us on the leading edge, as we always have been. These are the benefits, I believe, we will derive from this machine.

Yes, it is an expensive machine, but this committee is just as concerned about balancing the budget. But that does not mean we are not going to continue progress and research to find answers for our future generations.

Mr. ECKART. Mr. Chairman, I thank the Chair for his good work in keeping a confusing debate in order.

Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, first of all, I would like to point out to my colleagues in response to the comments from the distinguished chairman of the subcommittee two very important things.

Never before in the history of this republic have we had more scientists submitting worthy applications for funding to the National Institutes of Health and the National Science Foundation only to be told there is not enough money to fund their worthy projects.

Second, I would point out to my distinguished chairman of the subcommittee that the Industrial Research Institute took a survey of the research and development corporate vice presidents across America and asked them to rate 5 major megabuck big science projects in terms of their promise to return something meaningful to the competitiveness of the United States. Here is how they ranked them.

No. 1, the human genome project; No. 2, the national aerospace plane; No. 3, the space station; No. 4, surprise, SDI [the strategic defense initiative].

Dead last, the superconducting super collider.

I have spent 10 years on the Committee on Science, Space, and Technology. I have listened to hundreds of witnesses, preeminent scientists, Nobel laureates come before our committee and very grudgingly say, "Well, this project is OK as long as you don't take funds away from our projects."

Well, funds are being taken away from all other science disciplines to fund the SSC. Last week 280 Members of Congress, a convincing majority, stood before the House and made an unswerving commitment to making tough choices, setting priorities and eliminating the Federal budget deficit.

Today we will see how many of those Members had their fingers crossed behind their backs. How many of those Members are willing to put their votes where their mouths have been?

If we continue to fund projects like the SSC, projects which might be desirable but by no means are essential, then last week's promises were just more empty words.

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The American people are tired of more empty words from our Nation's Capital. I doubt anyone believes that the most pressing issues facing the Nation include an insufficient understanding of the origins of the universe, a deteriorating standard of living for high-energy physicists, or declining American competitiveness in the race to find elusive subatomic particles, yet these are the concerns the SSC hopes to address.

That is why the SSC is the perfect test of congressional commitment to making tough choices and setting priorities. It is not a bad project or an evil project, but it is a textbook example of what we ought to do without if we want to cut the deficit. The questionable management of the SSC makes it an even more appropriate target.

The Department of Energy's $8.25 billion budget for the project is a gross and purposeful effort at low-balling cost estimates. The figure does not even include the full cost of the equipment that is needed to conduct experiments at the SSC, the detectors. Add another half a billion there. We are Washington people, $500 million, that is easy to come by. Add another half a billion for the costs associated with establishing the new SSC lab and operating it until the machine comes on line in 1999.

Let us start adding this up. What started out as $3.9 billion and then went to $4.4 billion and then $5 billion plus, and now it is up to $9.1 billion and we are still counting, and we are not even mentioning the in-house cost estimate at the Department of Energy that said the project last year would cost $11.8 billion.

DOE also continues to underestimate the Federal share of the cost by assuming the existence of $1.7 billion in foreign contributions that have yet to materialize, despite repeated fundraising trips by Federal officials. I am not just talking about midlevel Federal officials, I am talking about the President of the United States, the Secretary of Energy, the Science Adviser to the President, and the Chief of Staff to the President. All over the world they go with hat in hand, "Come, contribute to this exciting project," and they get nothing in return. Thus far we have a pledge of $10 million from the Indian Government, and the Albanians might be coming in with $30 million, and probably, we will get something from the Russians. I would suggest that they are probably going to be recycled American dollars.

I have been to Japan with the chairman of the Committee on Science, Space, and Technology, with the gentleman from Texas [Mr. BARTON], with the gentleman from Pennsylvania [Mr. WALKER], and we met with the president of the Science Council of Japan. We met with the Minister of Education, Science and Culture. We met with the members of the Japanese Diet. No interest whatsoever in participating in the superconducting super collider.

Yes, they finally, as a result of our begging and pleading and cajoling, agreed to form a study group, but not one dime has been forthcoming. I will tell you what, they are kind of interested in having George Bush reelected President of the United States, so if there is a contribution forthcoming from Japan it will have nothing to do with a scientific investment, it will be a political statement.

In an especially misleading budgetary shell game, DOE is now negotiating sole source contracts for some components from such low-wage countries as Russia and South Korea and even the People's Republic of China. Let me tell the Members about this creative accounting. Here is about how it is going to work. We are going to make an award of $400 million to a low-wage country like South Korea, $400 million we will award, and then we will say, as we have figured out here in Washington, "If we did it here in the United States it would really cost $800 million," so not only are we going to give $400 million for jobs in South Korea, and that does not help the employment situation in the United States, but also we are going to give them credit for a $400 million foreign contribution to the SSC.

Boy, that is one of the grandest shell games I have ever heard of. Talk about creative financing, no wonder the United States has a $4 trillion national debt. No wonder we are forced to pay $866 million every single day, every 24 hours, just in interest on the national debt. It is because we are engaging in shell games like that.

We have heard so much about this project, and I am telling the Members, this is the moment of truth. We can argue about the scientific merits all day long. We can make all sorts of exaggerated claims, as have been made from this well, but the fact of the matter is when it gets right down to the bottom line, what this debate is all about today is, are we going to set some priorities, are we going to say to the American people that we were serious last week when in overwhelming numbers Republicans and Democrats said, "We want a balanced budget," and are we going to provide to them that we want to get where we want to get without having massive tax increases?

The American people are tired of shell games from Washington, DC. The American people want us to wake up to reality. One of the realities of life that we should understand is that we cannot have all things and simply write a blank check. We have to start making some tough choices. This project only involves $484 million this year. Billions more will be asked for year after year after year, and then if the project is ever completed, it will cost $500 million a year to operate it.

Mr. Chairman, we simply cannot afford it. We have other priorities that demand our very precious resources. Support Eckart-Boehlert and end this shell game.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise to speak in favor of the superconducting super collider and, in so doing, I also rise in support of the schoolchildren of this country.

We all know that we have a problem in this country in attracting students into science and technology. And we also all know that the economic future of the United States depends upon our ability to attract such students into technical fields. How do we deal with this problem which is so vital to all of us?

All available evidence clearly shows that students make decisions to go into science at a surprisingly early age, most commonly in grade school. A variety of factors then sustain that choice with actual choices of career fields being made later. This means that if we are to make progress in solving our most basic problem of getting the people in the first place we must somehow reach those schoolchildren and convince them that science and science-related fields are, indeed, exciting.

In my view, there is really only one way to do this—namely, to have a few highly visible programs underway which are important, whose goals are readily understandable, and which are capable of generating excitement in the schoolchildren we absolutely must reach.

The superconducting super collider possesses precisely those qualities. What could be more basic or more exciting than understanding the world around us. The superconducting super collider is an investment in our future. By offering them a vision of the wonders of science, it is also an investment in our schoolchildren. It deserves our support.

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Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Chairman, I thank my friend from Texas for yielding me the time.

Let me just say that there are certain basic decisions that I think every country has to make about how they define themselves and what kind of legacy they want to leave. The truth is I do not think there is a single person in this body who has the scientific background to know for sure whether this is the greatest investment ever or the worst investment. None of us are scientifically that well trained.

And the truth is we are not really sure what we will find out, because that is part of the genius of this particular experiment. This is at the absolute frontier of our knowledge of the universe. It is at our absolute frontier of our knowledge of physics.

But what we do know is that if we walk off from this project leaving it to the Europeans to dominate the outer ridge of science, if we walk away sending a signal to the Japanese that their future is with Germany, Italy, or Switzerland but not with the United States, if we decide that cheap ignorance is better than an investment in the future of science, then we will have shaped for our children and our grandchildren a real weakness.

So I urge a "yes" vote, and I urge a vote in favor of the super collider, and I strongly urge all of my colleagues to support the super collider.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman from Ohio for yielding me the time.

Mr. Chairman, I rise in support of the amendment to kill, bury, do away with and forget about the super collider.

Now I did not always feel this way. I came to Congress excited about this, as I am about most scientific projects that are on the cutting edge of discovery. But I was assigned to the Science, Space, and Technology committee when I first came here, and I sat there when we heard the testimony on this.

The leadoff witness was the President's scientific adviser, and he was followed by a long list of scientists, and many of my colleagues in this room were sitting there with me when we heard this. And I said to the President's scientific adviser and to this long list of scientists, I said, "Excite us about the super collider. We are talking about $4 billion." Now we're talking about $9 billion. Then we were talking $4 billion. I said, "Excite us about this. So, like the Apollo Program, we can go and tell the people we represent why we are spending $4 billion of their dollars for a project like this."

We spent 3 days in hearings, and I guarantee you not he or any of the scientists excited us one iota about this project. I asked him what do you hope it will do. He could not tell me. Well, what might it do? He could not tell me. They could not define what. He said it is pure science. It is pure science and we will just discover things. He could not tell me what it would do.

Finally, he summed it up by saying, "Well, if we don't do it the Europeans will do it." And I guess I would have to say, "Let them do it." I mean we cannot do everything. We cannot do space station and everything else. Let them do it. We will steal their technology like they steal our technology. Let them develop something and put out the money for it if it is so important.

But as I think Members heard earlier this evening, they have very little interest in this.

So I would ask you, my friends, let us stop this insanity with the super collider and move on to things that are much much more important with the use of our dollars.

Mr. CHAPMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, many of the Members who are recommending termination of the SSC project are doing so for varying reasons, some perhaps because it is not in their area, some under the mistaken belief that it does not help their area, some on the ground that the Congress has to set priorities within our overall science programs. I think they fail to recognize, Mr. Chairman, that the SSC's strong support within the Nation's high energy physics community is the result of a very difficult priority-setting exercise.

The high energy physics community has met several times over the past year to set priorities within a tight funding environment. They have looked at a range of funding scenarios for DOE's future budgets, and a range of attractive physics projects. And let me just quote from the April 1992 High-Energy Physics Advisory Panel. And who knows more than they know about the needs of this country in this area?

In their report on the U.S. program of high energy physics research, the high energy physics community states:

> In all our plans we consider construction of the SSC to have the highest priority in the U.S. particle physics program and to be absolutely essential for continued progress in our field into the 21st century.

Those who propose canceling the SSC outright, in effect, are claiming that they know more about priority-setting in high energy physics than the high energy physicists do themselves.

Simply stated, we just sent 400,000 troops to the desert, and our superior technology sent back 399,900 to us alive. Now this is the chance to regain the scientific strength and the geopolitical strength that this country knew in 1949, 1950, and 1955 when we were truly the leaders of the world.

I urge Members to oppose the amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield myself my final 3 minutes.

Mr. Chairman, first I will submit for the RECORD the letter I referred to sent by Congressman WOLPE to Adm. James D. Watkins requesting information on the SSC dated February 18, 1992.

The letter referred to follows:

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, February 18, 1992.

Hon. JAMES D. WATKINS,
Secretary of Energy,
Washington, DC.

DEAR MR. SECRETARY: As part of the Subcommittee's ongoing review of the SSC program and project, we request that you supply the Subcommittee with the following materials:

1. The July 1991 report to the Program Advisory Committee by the GEM detector team.
2. The October 1991 reports to the Program Advisory Committee by the GEM and SDC teams.
3. The December 1991 reports to the Program Advisory Committee by the GEM and SDC teams.
4. Copies of all results to date from PB/MK's geotechnical exploration plan.
5. Copies of geology reports done by the Texas Bureau of Economic Geology.
6. Complete copies of Cost Performance Reports from January 1, 1991 to date. Note that if these reports do not allow tracking of the cost of work performed against the budgeted cost for work performed, please provide to the committee the data used by the Office of the Superconducting Super Collider to track such costs or an explanation of why such data are not collected.
7. Copies of the U.S. Geological Survey study of flood conditions at the SSC site referenced in answer #73 of the Department of Energy's May 20, 1991 letter to the Subcommittee.
8. Copies of the SSCL surveillance reports on the Construction and Magnet Divisions.
9. Copies of audits performed by the Office of the Superconducting Super Collider of (a.) allowable costs and (b.) URA oversight of the AE/CM.
10. Analysis of the costs of manufacturing superconducting magnets in Japan (mentioned in a January 7, 1991 briefing to Science, Space, and Technology Committee staffers by Dr. Happer).
11. Copies of all SSC Underground Technology Advisory Panel reports since April 1, 1991.
12. Copies of all OSSC Weekly Highlights reports since October 18, 1991.
13. Copies of all OSSC Biweekly Reports since September 27, 1991.
14. Minutes from each Cost Estimating Staff Meeting since April 1, 1991.
15. Copies of all Cost Accrual Reports submitted by PB/MK to the SSC Lab since PB/MK was awarded the AE/CM contract as referenced in answer #37 of the Department's May 20, 1991 letter to the Subcommittee.
16. Copies of monthly PB/MK monthly invoices for costs incurred and Lab reconciliation memoranda since PB/MK was awarded the AE/CM contract as referenced in answer #37 of the Department's May 20, 1991, letter to the Subcommittee.
17. Copies of all audits conducted on SSC contracts or bids done by the Defense Contract Audit Agency at the request of the Department or URA as referenced in answer #37 of the Department's May 20, 1991 letter to the Subcommittee.
18. Copies of the following documents relating to contracts signed with General Dynamics, Westinghouse, Babcock-Wilcox and PB/MK: (a.) the negotiation plan, (b.) analysis of the contractor's response, (c.) post-negotiation memoranda, (d.) requests for deviation. (If the Department feels that documentation on some of these items has already been provided to the Subcommittee, please indicate so in your response.)

19. A copy of a letter dated October 7, 1991 sent by Ms. Priscella Thomas as well as a copy of modification No. A022 to Contract No. DE-AC35-89ER40486 as referenced in Sisken to Cipriano communication dated October 8, 1991.

20. Copies of all Cost and Schedule Control System reports composed since March 10, 1991.

21. Copies of all reports from Mr. Cipriano to Secretary Watkins prepared since October 4, 1991. (These may be provided under the same guidelines that marked the Subcommittee-Departmental agreement of November, 1991.)

In addition, the Subcommittee requests that you supply all materials, including, but not limited to, all documents, memoranda, letters, notes, minutes, reports, work papers, computer information, electronic communications, studies, records of oral communications, or any information of other description, whether in preliminary, draft or final form, and whether signed or unsigned, in the possession of the Department or its contractors that relate to the following:

A. The projected operating costs of the SSC after completion. These materials should include materials developed since February 1, 1990 in the files of the SSC Lab Cost Estimating Group.

B. Materials from the July 1991 meeting to review SSC operating costs (if this differs from item "A").

C. All materials since June 1991 regarding a projected Japanese contribution.

D. All materials that led Mr. Cipriano to report a $50 million overage in AE/CM costs on February 22, 1991.

E. All materials since February 1, 1991 from the files of Paul Reardon or R.D. Williamson regarding evaluation of the cost and scope of the AE/CM contract and any related correspondence involving the SSC Lab and/or the Department of Energy and/or PS/MK resulting from the evaluation.

F. All analysis, reports and correspondence leading to and stemming from the Steptember 1991 announcement by the AE/CM that AE/CM costs are substantially underestimated.

G. Materials developed since February 7, 1991 examining an acceleration of the construction schedule.

H. Materials regarding meetings of the Interagency Working Group on the SSC that have occurred subsequent to June 12, 1991.

I. Materials since June 10, 1991 relating to the award of contracts to Russian manufacturers. These materials should include general Departmental or OCCS guidance on decisions to compete or not compete contracts as well as specific discussions of handling the Russian award.

J. Materials from February 1, 1991 to date regarding the potential move of the detector hall sites. These materials shall be construed to include geological evaluations of the various sites, impacts on schedule and costs of construction for each alternative, discussions of the need to file a supplemental EIS, and relevant communications between the SSC Lab, the Office of the SSC and the detector teams.

K. All materials prepared since October 1, 1991 regarding the possibility or impact of increased appropriations over the baseline numbers or on the acceleration of work schedules.

L. Correspondence, reports and memoranda since February 1, 1991 either to or from Joe Cipriano, Ed Siskan, Paul Reardon, George Robertson, R.D. Williamson regarding project rebaseling.

M. All communications between the Department of Energy and URA regarding the URA's funding problems referenced in notification from URA to Mr. Josseph Cipriano dated August 30, 1991.

Finally, please provide information on all Change Control Board actions by date, item under review, substantive decision and cost impact.

Please provide all of this material to the Subcommittee by Tuesday, March 2, 1992. However, to expedite the Subcommittee's review, please provide this material as it becomes available rather than waiting for all of it to be collected. Contact Mr. Bob Roach or Mr. Dan Pearson (222-225-4494) of the Subcommittee if you have any questions about the request and to arrange for delivery of this material.

Thank you for your attention to this matter.

Sincerely,

HOWARD WOLPE,
Chairman, Subcommittee on Investigations and Oversight.

It is four pages long. There are 21 specific items requested, A through M sub-items requested. It constantly refers to requests for all results, all reports, all documents. But on page 3 there is a paragraph that I would like to read.

It says:

> In addition, the Subcommittee requests that you supply all materials, including, but not limited to, all documents, memoranda, letters, notes, minutes, reports, work papers, computer information, electronic communications, studies, records of oral communications, or any information of other description, whether in preliminary, draft or final form, and whether signed or unsigned, in the possession of the Department or its contractors that relate to the following.

And then it goes on to another long list of requests.

I simply think that that is not the typical letter that one would send for conducting an oversight hearing.

Now let me refer to the suggestion that this SSC is going to gobble up the scientific budget. We spent in fiscal year 1991 in the general science and space technology budget $16.518 billion. The SSC part of that was $243 million or 1.5 percent of the general science and space technology budget. If you include other basic research, including military research of a scientific nature, the SSC's part of just the science research budget was .08 percent.

In the budget request submitted by the President of the United States for the fiscal year we are currently debating, it was $650 million. That would relate to 3.5 percent of the general science, space, and technology budget. Again, if you include other research, civilian research and military research, you go right back to .08 percent.

We are not gobbling up the science budget to build the SSC. Quite the contrary. We are increasing the National Science Foundation's science research budget. We are increasing the other civilian research budgets at least as requested by the President of the United States. So that argument simply does not wash.

Finally, Mr. Chairman, let me simply state that what we are engaged in here this evening is really not so much a debate about the SSC and whether it is good or whether it is bad. What we are engaged in is a debate on two things. No. 1, do we want to continue to be a world leader? I would think my colleagues would answer that in the affirmative. No. 2, if we want to continue to be a world leader, do we want to be a world leader in technology development? I would hope that we would answer that in the affirmative.

□ 2110

If we do, we do have to build the SSC. It is the preeminent basic research project for high-energy physics in the world today which, in turn, is the basic research project for all general science. It is that simple.

It is expensive, no question about that, but it is an expense that we cannot afford not to undertake.

Mr. Chairman, I would ask that we vote "no" on the amendment offered by the gentleman from Ohio [Mr. ECKART].

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Public Works and Transportation.

Mr. ROE. Mr. Chairman, I thank the gentleman for yielding me this time.

You know, I was watching this debate in my office, and it is the same characters, it is the same play, and it is the same discussion it was 3 or 4 years ago.

I rise, of course, vigorously opposed to this amendment.

Let me tell you what I heard, and we have only a few minutes: Texas, Texas, Texas. Is this bash Texas tonight?

The gentleman from New York has left, but it is bashing Texas. But if you remember how we go here, every State had the opportunity to participate, and there were dozens of universities throughout this country, and States, that participated originally in this program. Fair is fair, and Texas came up with the best program. Texas was selected out of a national competition. That is a matter of fact.

If Texas competed with the rest of the Nation, they should be credited. How could the gentleman from New York possibly go to Japan and even breathe on the Japanese and have any idea that you would be in favor of this program. You spent——

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. ROE. No. I will not yield, because you had your 7½ minutes. But, by God, I will tell you one thing, in your debate you are coming back and saying that you are opposed to the program.

How can you get the international community to consider joining with America in anything? Every time you turn around, you are running down your own country. You run down your competition? You run down the projects of the country. You run down what we are supposed to be achieving, and we are talking about merits and truth tonight, that this is the hour of truth.

I have never heard in 23 years in this Congress so much balderdash on any issue that I can dream of. Everything that is wrong in America is because of the superconducting super collider. The country is going to collapse. The whole budget deficit situation, this is a terrible thing.

Now, the logic to that is if you go ahead now and you cut out the superconducting super collider, everything is going to be great in America, and everything is going to be fine. Oh, cut it out. Nonsense, nonsense, nonsense.

Somebody ought to get on the floor, and I wish I had the figure, and I do not, but I hope somebody does. What is the figure for the cost of cancellation of the program? Ho, ho, ho, ho. Are we just going to walk away? Does it go to $200 million, $300 million, $400 million? What is involved? What about the people of Texas who put up $1 billion? They committed $1 billion which we have been expending. At our behest, we have been expending that billion dollars of the citizens of Texas. But, oh, no, that does not count. We cut that out at this point.

I say that is a travesty, and you should think a little bit. Think about the future wealth of this country.

Let me depart on this point, and this will not be my last speech between now and December, lest you think so. The new wealth of America, you are not going to be able to create the wealth of America to do housing, to do education, to do the things that our citizens are crying for because you have no wealth. If you do not grab the technological opportunities we have and run with them now, you are absolutely ruining this country.

So I would hope that you would absolutely vote down this amendment. Let us make the country No. 1 in technology in this world.

Mr. ECKART. Mr. Chairman, I yield myself 3½ minutes, the balance of my time.

Mr. Chairman, my colleagues, we were told that to oppose the superconducting super collider is to run down the country. We are not running down the country. We are standing up for the taxpayers, and it is about time somebody did when this pork gets spread around on the floor of the House.

We were criticized for resurrecting some of the same old arguments. The problem is it is the same old song you are selling us, and that same old tune will not play anymore.

The fact of the matter is that my colleague from Texas on June 28, 1989, promised us $1,200,000,000 from Texas. That money 3 years ago still ain't here. On May 2, 1990, we were promised $1 billion by another of our colleagues from Texas. That check must still be in the mail. On May 29, 1991, two more of my colleagues also from Texas promised us that this thing was going to be under budget. That was wrong, too. It is the same old song, same old tune. And that song won't sing anymore.

The fact of the matter is that this project is a trail of broken promises. They promised us a cap of $5 billion on taxpayers' expenditures. Wrong. They promised us foreign support. Wrong. Albania is going to give us some surplus copper. They promised us in January 1990 the cost would be $7 billion. That is wrong. They told us it would be $8 billion in June. That is wrong. It is now $11 billion.

The same people who offered balanced-budget amendments on the floor just last week challenging us to make tough choices, who do not support our cities when they get burned down, now come before us and tell us to fulfill the promises to the people of Texas. That is wrong if we cannot fulfill the promises to the people of Los Angeles first.

Texas promised us $1 billion. They are only giving us $870 million for actual construction of the project and its costs. That promise was wrong, too. And Representative PHIL GRAMM once told us on the floor of the House that it was about time that we started shooting real bullets around here. The problem is we are also spending real dollars around here too. We were promised a GAO report. That was wrong. We were promised we were going to have cost controls put in place. That was wrong. We were told that this project was going to be audited. That was wrong.

The fact of the matter is that budget vote after budget vote, issue after issue, this is where the rubber meets the road or where the collider meets the taxpayer, because the only thing that is going to be colliding in that deep tunnel in Texas are taxpayers' dollars running into each other.

Until we realize that every single promise, every same old song that has been sung by the same old people trying to sell us this same old sorry project has not come to pass.

Now, when this Congress fully realizes that expenditures of this nature are not going to continue to be perpetuated by a group of folks who think that somehow if they keep cutting up the pie amongst themselves, the reality is that the rest of us taxpayers will gleefully bear the burden, it just won't happen.

I am not worried, frankly, how many times the SSC makes promises to us. I am, frankly, worried about how many more times we are going to believe those promises, because the fact of the matter is, simply put, this project is not needed, and it is being paid for by dollars we do not have.

Until and unless we put meaning, until we put reality behind the rhetoric we so blithely spread around talking about balancing the Nation's budget, about making tough choices, about having priorities, every single vote we cast will cast a shadow on our pious balance budget statements.

To my colleagues, this has not been a particularly easy fight, because it comes against a subcommittee that generally does a tremendous amount of good will for each of us in our own districts. The fact of the matter is that we will relieve a very special burden of this subcommittee, because we will allow them to spend dollars on real science projects, meeting the real needs of this Nation.

Vote to end this project. Put this project to bed once and for all.

Mr. CHAPMAN. Mr. Chairman, I yield myself 4½ minutes, the remainder of my time.

Mr. Chairman, one of the things they tell us not to do in the early days when we have graduated from law school and go to court is do not get off on the rabbit trails the other lawyer throws out for you to follow.

The gentleman who has just preceded me in the well has made some allegations I feel must be answered.

It is just not true, my colleagues, that Texas has not done its share. I remind the gentleman from Ohio that last year it was Texas that made up the shortfall in Federal funding when this Congress did not appropriate enough funds to keep the project on track and on time. Texas not only committed to $1 billion but has paid every single penny of its share of this project and millions of dollars more to keep it on track, to keep the costs down.

□ 2120

Tonight we have heard I think both an instructive and an educational debate. They say there are two primary objections here. One, the country cannot afford this project, and two, that we do not need it.

I know that the gentleman from Michigan conducted extensive oversight hearings and nothing tonight has changed the fact, as the Secretary of Energy has written everyone in this Chamber, that this project is on schedule and this project is on budget.

The Department of Energy has been criticized here tonight for aggressive oversight. In fact, when W. Henson Moore discovered problems in the administration of the project, he aggressively rooted out those problems, corrected those problems, brought the project back on schedule, and tonight the DOE is criticized for that, of all things, for the aggressive oversight that has this project as we speak here tonight on schedule and on budget. That is just not fair.

Also, we see in the budget debate that this project since the final cost analysis was done and the most extensive studies conducted has stayed on track and on budget.

But let me talk a minute about this issue about "We don't need it." My colleagues, remember the statistics that we have heard in the last few years that one-half of our Nation's gross national product of America comes from technologies that did not exist just 30 years ago. One-half of the entire productivity of America comes from technologies that did not exist just 30 years ago.

The superconducting super collider is supported by the overwhelming vast majority of the high energy physicists and scientists in this country.

We received a letter from over 500 of them in the mail this week.

This is the future of America, my friends.

You say we do not need it. Let us look at what research in high energy physics has done in the past 30 years, from transistors, to semiconductors, to super computers, to biotechnology, to the space program, the lasers, the medical treatment; that is what this country is and that is what this kind of research has accomplished.

We must invest in the technologies of tomorrow. That is our future. That is our children's future.

Finally, when you say we do not need it, how many lives do we have to save before we need it?

My friends, I want to close my debate with you tonight by reading to you a portion of an announcement that was made today in Dallas, Texas, where cancer patients—please listen to this—it was said tonight this will not cure cancer. You know, my friends, it just might. Listen to what happened today:

> Cancer patients will soon benefit from the super collider, say doctors who today announced that protons from the giant atom smasher will be used in medical treatment. The plans were announced by the University of Texas Southwestern Medical Center and a $28 million patient laboratory to be constructed on the site of the superconducter super collider.

Mr. Chairman, this site will use the protons from the super collider to cure cancer. This is the future of America. This is the project we ought to support. Vote down this amendment.

Mr. ROGERS. Mr. Chairman, I rise in support of the energy and water development appropriations bill for fiscal year 1993.

This bill is the first of the thirteen general appropriations bills to be reported by the Committee on Appropriations, and it represents difficult and wise judgments on the part of the subcommittee chairman, the gentleman from Alabama, as well as the ranking member, the gentleman from Indiana, and the other members of the Subcommittee on Energy and Water Development.

H.R. 5373 demonstrates the fiscal constraints under which the Appropriations Committee must operate this year, as well as the ability to write responsible spending bills which honor those limits. If fact, the budget authority in the bill falls substantially below that of the fiscal year 1992 act and the administration's fiscal year 1993 request.

The bill also supports programs which, almost without exception, impact and benefit every congressional district in the Nation.

During the most fiscally stringent environment many of us have ever experienced, H.R. 5373 continues essential flood control and other benefits provided by the U.S. Army Corps of Engineers. I am especially grateful to the subcommittee for providing funds for ongoing flood control projects in Harlan, Barbourville, South Williamson, and Salyersville, KY. These communities have been hit very hard by disastrous floods over the course of this century. The actions of the committee, and I hope the House, will today bring these communities one major step closer to ultimate protection from the turmoil which nature would otherwise inflict.

The subcommittee and committee also have recommended continuing planning and study work for a number of other communities within eastern Kentucky, including several area which comprise the Levisa and Tug forks of the Big Sandy River and Upper Cumberland River basins. I thank the chairman and ranking member of the subcommittee, in particular, for these recommendations, which benefit Kentucky communities including Martin, Hazard, West Liberty, Salyersville, Jackson, Middlesboro, Pike County, and Martin County.

The subcommittee understandably adopted a policy of not funding preconstruction or construction work for additional corps projects, a result of very austere times for the committee, the Congress, and the Nation. The citizens of Williamsburg, KY, in my district, have been cooperating closely with the Corps of Engineers on a flood control plan being readied for approval and implementation in fiscal year 1993. Because of this year's funding constraints, the subcommittee could not provide initial funding for the Williamsburg Section 202 project; however, I hope that the subcommittee will continue its consideration of this need as the fiscal year 1993 process progresses.

The subcommittee also brings to the House a number of recommendations for other important programs and agencies. The bill includes substantial funding for energy supply, research and development activities within the Department of Energy. It continues to respond to the resource needs of our defense material production facilities with respect to environmental cleanup and waste management, an area which requires substantial efforts.

Finally, the bill includes continued funding for the Appalachian Regional Commission, which has supplied untold assistance to the many poverty-stricken areas of eastern Kentucky over the years. The ARC provides grants for the most basic services in some of the Nation's most destitute communities. It also contributes to the economic development of these areas through the Appalachian Development Highway program, which I strongly support. Kentucky has actively sought to complete the mission of the ARC highway program, even to the extent of prefinancing some $70 million worth of vital corridor improvements. ARC highway dollars, as well as the other ARC programs, are justified and well spent. Therefore, I commend the subcommittee for including these funds.

I urge my colleagues to support this bill.

Mr. GOSS. Mr. Chairman, in the past I have always supported the superconducting super collider [SSC]. It is with much regret that I find myself having to break with tradition today. Voting to cut funding on the SSC may seem like a drastic measure, but drastic measures are necessary if we are serious about reducing the Federal deficit.

I have heard all of the arguments for continued funding of the SSC—and I agree that the SSC offers much promise for the future of science, education, and technology in America. Unfortunately, all of this comes with a hefty price tag that we simply cannot afford until we sit down and set real spending priorities.

My colleagues that oppose deleting SSC funding tell me that a vote to cut funding is a vote to cut jobs, cancel contracts and place the competitive edge of the United States in jeopardy. I assure you that I do not take these possibilities lightly and understand the many implications involved in this vote. Unfortunately, as our deficit approaches $400 billion, the fact that we have already made a substantial investment in the SSC is simply not enough to justify continuation of this project at its current funding level.

Mr. Chairman, cutting funding for the SSC may cost us in the shortrun. However, it is this body's failure to address the long-term effects of overspending that has put us on such weak financial footing. It is far better to begin this process now—while there are still choices to be made—than to wait until our decisions are made for us. In the absence of any plan to achieve a balanced budget, I feel it wisest not to commit to spend funds we don't have.

The CHAIRMAN. All time under the unanimous-consent agreement has expired on this amendment.

The question is on the amendment offered by the gentleman from Ohio [Mr. ECKART].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKART. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 181, not voting 21, as follows:

[Roll No. 201]

AYES—232

Abercrombie
Ackerman
Andrews (ME)
Annunzio
Applegate
Atkins
AuCoin
Ballenger
Barrett
Beilenson
Bennett
Bereuter
Berman
Bilbray
Blackwell
Boehlert
Boxer
Bruce
Bunning
Burton
Camp
Campbell (CA)
Campbell (CO)
Carper
Carr
Clay
Clement
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coughlin
Cox (IL)
DeLauro
Dellums
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Evans
Ewing
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gillmor

Gilman
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hamilton
Hancock
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hoagland
Horn
Horton
Hughes
Hutto
Inhofe
Jacobs
James
Jefferson
Johnson (CT)
Johnston
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kostmayer
LaFalce
Lancaster
Lantos
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
McCandless
McCollum
McCurdy
McDermott
McGrath
McMillan (NC)
Meyers
Mfume
Miller (CA)
Mink
Moakley
Molinari
Moody
Morella
Mrazek
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Porter
Poshard
Price
Rahall
Ramstad
Ravenel
Reed
Regula
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schroeder
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Slattery
Slaughter
Smith (FL)
Snowe
Solarz
Solomon
Spratt
Staggers
Stark
Stearns
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (CA)
Towns
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Zeliff
Zimmer

NOES—181

Alexander
Allard
Allen
Anderson
Andrews (NJ)
Andrews (TX)
Anthony
Archer
Armey
Aspin
Bacchus
Baker
Barnard
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boehner
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Byron
Callahan
Chandler
Chapman
Clinger
Coleman (TX)
Combest
Cooper
Cox (CA)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
Dickinson
Dicks
Dixon
Dornan (CA)
Dreier
Dwyer
Edwards (TX)
Emerson
Engel
Erdreich
Fascell
Fawell
Fazio
Fields
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gingrich
Gonzalez
Green
Hall (TX)
Hammerschmidt
Hansen
Harris
Hayes (LA)
Hertel
Hobson
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Huckaby
Hunter
Hyde
Ireland
Jenkins
Johnson (SD)
Johnson (TX)
Kaptur
Kasich
Kolbe
Kopetski
Kyl
Lagomarsino
LaRocco
Laughlin
Lehman (FL)
Levine (CA)
Lightfoot
Livingston
Lloyd
Lowey (NY)
Manton
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McEwen
McHugh
McMillen (MD)
McNulty
Miller (OH)
Miller (WA)
Mineta
Mollohan
Montgomery
Moorhead
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Oakar
Olin
Ortiz
Oxley
Packard
Payne (VA)
Perkins
Pickett
Pickle
Pursell
Rangel
Ray
Rhodes
Richardson
Riggs
Roe
Roemer
Rogers
Rowland
Santorum
Sarpalius
Schaefer
Schiff
Skaggs
Skeen
Skelton
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Stallings
Stenholm
Stokes
Stump
Tauzin
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Whitten
Wilson
Yatron
Young (AK)
Young (FL)

NOT VOTING—21

Bonior
Broomfield
Cardin
Crane
Dymally
Espy
Hatcher
Hefner
Hubbard
Jones (GA)
Jones (NC)
Kolter
McDade
Michel
Murphy
Quillen
Ridge
Schulze
Schumer
Traxler
Weber

□ 2146

The Clerk announced the following pairs:

On this vote:

Mr. Murphy for, with Mr. Quillen against.

Mr. Jones of Georgia for, with Mr. McDade against.

Messrs. OLVER, HORTON, THOMAS of California, LEHMAN of California, LENT, EDWARDS of Oklahoma, FOGLIETTA, and KENNEDY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SUPERCONDUCTING SUPER COLLIDER TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

There is established in the Treasury a fund to be known as the Department of Energy Superconducting Super Collider (SSC) Trust Fund, which shall consist of moneys provided by non-Federal participants in Department of Energy SSC activities: *Provided*, That amounts deposited in the Fund are available, without fiscal year limitation, for transfer by the Secretary of Energy to the "General Science and Research Activities" account, to be used for costs incurred in the design and construction of the SSC: *Provided further*, That amounts deposited in the fund shall earn interest at a rate and under such terms and conditions as may be prescribed by the Secretary of the Treasury.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,750,000 may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $6,250,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That of the amount appropriated herein, up to $1,700,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

Mrs. UNSOELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to enable expansion of the Bonneville Dam on the Columbia River, the town of North Bonneville, WA, as condemned. In 1973, Congress required the Army Corps of Engineers to relocate the town—in section 83 of Public Law 93-251—but 20 years later, the town still does not have title to its new lands and facilities, and the relocation effort has been mired in litigation.

My colleague from Washington, [Mr. MORRISON] and I have been working with the Public Works Committee on a solution to the North Bonneville situation and should soon have legislative language that meets with the approval of the committee. Once this language is developed, and with the consent of the authorizing committee, would the gentleman from Alabama [Mr. BEVILL] be agreeable to its inclusion in the energy and water appropriations bill at a later date?

Mr. BEVILL. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Alabama.

□ 2150

Mr. BEVILL. Mr. Chairman, I would certainly be willing to consider the inclusion of North Bonneville language under such circumstances.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to begin by saying to the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] that they have done an outstanding job on this bill and I appreciate the accommodation.

Mr. Chairman, I want to take this time to illuminate a situation that has arisen because of a new program called the MRS, monitored retrievable storage, for high level nuclear commercial waste.

Mr. Chairman, monitored retrievable storage is a high level waste repository on a temporary scale. It is a scheme that has been concocted by the Department of Energy and given to the tender mercy of what is known as a nuclear negotiator.

Mr. Chairman, this program solicits sitings for this processing and storage idea from various entities throughout the country by offering them a phase 1 program in which they get $100,000 to study the feasibility of it, on phase 1. If you go to phase 2, it has two parts. Phase 2, part A, offers the candidate $200,000 and so forth.

These candidates are supposed to engender public support and prove that it is a worthwhile siting for this type of a repository.

Mr. Chairman, one of my Indian tribes in my district has been one of the first to solicit as a candidate for this particular site. They are located in one of the most beautiful parts of the State of New Mexico, adjacent to a very, very famous resort area. They have gone through phase 1. They have gone through part A of phase 2. Now the negotiator wants to change the rules and decided to give them more money, up to $2.8 million to study it, when they have engendered absolutely no support whatever from the congressional delegation, the State administration, from the legislature of the State, from the surrounding communities, from the county commissions, and so forth.

New Mexico does not want to reject the idea of taking our responsibility in handling nuclear waste. We do have the waste isolation pilot project.

Mr. Chairman, I brought this up to the committee and I failed to get it in as an amendment within the committee. I also took it to the Committee on Rules. But I think that this is an opportunity to tell the Department of Energy and the nuclear negotiator that you cannot just keep throwing away $2.8 million when there is absolutely no way in which this site will ever be situated on that Indian reservation in central New Mexico because there is absolutely no public support for it.

Mr. Chairman, I thank the chairman for his indulgence and thank the body for their indulgence, but I think that this is something that everybody understands, that this program is vibrant, that there are some 20-some applicants for this phasing, and I think everyone should have an idea of exactly how it works and that there is an inability for the Department of Energy and the nuclear negotiator to stay by their word and say that if there is no public support, we will stop the program immediately and not put any more money in it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101-101 shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $5,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 93 for replacement only, the purchase of two fixed-wing and two rotary-wing aircraft, for replacement only), $4,548,749,000, to remain available until expended, of which $40,000,000 shall be available for nuclear nonproliferation detection technology and other projects and activities of the Department of Energy: *Provided*, That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:

(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration.

NEW PRODUCTION REACTOR

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense new production reactor activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $171,800,000, to remain available until expended: *Provided*, That $100,000,000 for design of new production reactor capacity made available under the Energy and Water Development Appropriations Act, 1992, shall be available without regard to the issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 148 for replacement only), $4,603,009,000, to remain available until expended: *Provided*, That notwithstanding any other law, funds appropriated under this heading may be made available to pay $100,000 to the United States Environmental Protection Agency for a stipulated penalty assessed under the Comprehensive Environmental Response, Compensation and Liability Act against the Fernald Environmental Management Project.

MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials production, and other defense programs activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 45 for replacement only), $2,550,901,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000),

$427,228,000 to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $318,381,000 in fiscal year 1993 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $108,847,000.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 42, line 8, strike "$427,228,000" and insert "$405,656,000".

Page 42, line 25, strike "$108,847,000" and insert "$87,275,000".

The CHAIRMAN. The Chair will advise the Committee that we are about to embark on the final amendment of the evening.

The gentleman from Minnesota [Mr. PENNY] is recognized for 5 minutes in support of his amendment.

Mr. PENNY. Mr. Chairman, along with our colleague, the gentlewoman from California [Mrs. BOXER] I offer an amendment to freeze departmental administration appropriations at the Energy Department at current year, fiscal year 1992 levels. Specifically, our amendment will reduce the Energy Department's administrative funding to $405,656,000, a $21.5 million reduction. At the outset, let me thank my coauthor of this amendment Congresswoman BOXER for her dedicated and tireless work on this amendment and countless other legislative efforts intended to reduce government waste. Let me also give special thanks to BYRON DORGAN, DAN GLICKMAN, and LAMAR SMITH for their diligent work in this body to eliminate government waste and overhead costs.

As reported from the Appropriations Committee, the bill provides for over a $21 million increase—an increase of 5 percent—over 1992 for purely administrative funding at the Energy Department. It is tough to justify such an increase since overall appropriations contained in H.R. 5373 is $44 million less than current year spending, and as reported, the bill is below the allocation set by the budget resolution. In addition, the committee bill contains no new project starts and many programs and activities are being reduced, frozen, or receive very small funding increases over current year levels.

For the current fiscal year, this committee granted the Energy Department nearly a $50 million increase in departmental funding. The year before, fiscal year 1991, the Department was granted a $25 million increase for administrative purposes. The Energy Department's appetite for budget increases is insatiable. As our colleague BYRON DORGAN has stated in his waste task force report, Mr. Chairman, over the last decade, administrative funding for all Cabinet departments and agencies—including the Energy Department—grew by over 8 percent, while comparable funding for the legislative branch was reduced 5 percent. This year, our own in-house funding will be reduced by at least 5.7 percent, and perhaps more. If the House and the Senate, whose budgets have being going down, can absorb this level of reduction—and as one who has come to this floor year-after-year with amendments to reduce legislative branch funding—then surely executive departments can live with a similar reduction.

Mr. Chairman, this amendment is where the rubber hits the road. Last week we heard a lot of very good speeches about how we don't need constitutional amendments to reduce spending, all we needed, these opponents of a balanced budget amendment said, was to make the tough choices. Well, here's a real live budget reduction, and along with the colleagues who coauthored the amendment, we will present other appropriations amendments this year. Here's your chance to vote for real cuts; in this case, a $21.5 million reduction.

Now, before I yield, let me say what this amendment will not do. It will not cut any project or program funded. It will simply cut administrative funding, pure and simple.

The Penny-Boxer-Dorgan-Glickman amendment is where we must start to reduce government spending. The American people want lean and effective government. I urge adoption of the amendment.

Mr. Chairman, I yield to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to clarify that the only accounts being impacted by this amendment are the Office of the Secretary and general management salaries and expense accounts at the top of the table on page 118. Is that correct?

Mr. PENNY. Mr. Chairman, reclaiming my time, the gentleman is correct in that understanding.

Mr. BEVILL. Mr. Chairman, then we have no objection to the amendment.

Mr. PENNY. Mr. Chairman, I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I rise to support the proposed cut. I think in this instance it could have been a greater reduction. What we are attempting to do is to take a look at indirect costs or overhead costs and see if we can reduce some of the spending.

Mr. Chairman, we will have the legislative appropriations bill before us soon and we will all be dealing with the pressure to reduce costs, to reduce budgets, here in this branch of the Government. I think we ought to consider the same approach with other branches of the Government. It is what the taxpayers expect. One of five dollars spent in the Federal budget is not for program costs, but is for indirect costs or overhead.

□ 2200

It seems to me that there is plenty of room to start holding the line on some of these. I think that the gentleman has an awfully good amendment. I support it.

Mr. PENNY. Mr. Chairman, I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I rise to urge support for the Penny-Boxer-Dorgan-Glickman amendment to H.R. 5373.

This is the first in a series of overhaul, cost-cutting amendments that we will be offering that will focus on cutting out wasteful overhead costs. After holding dozens of factfinding meetings with the Inspectors General, combing General Accounting Office reports and scrutinizing spending in all corners of the bureaucracy, the Democratic Task Force on Government Waste, on which I serve, has recently released its study of Federal spending practices, called "The Challenge to Sound Management."

We have identified waste and mismanagement that are costing U.S. taxpayers $60 to $85 billion. This document—and I recommend it to my colleagues if you have not seen it—reveals the extent of unnecessary duplication, costly management failures, and just plain waste that is bloating the Federal bureaucracy.

In just cutting administrative overhead alone, we could save anywhere from $15 to $30 billion by cutting back on office supplies, transportation, and other administrative spending.

Today we have an opportunity to cut overhead—not programs. The Energy and Water bill before us calls for a 5-percent increase in administrative funding for the Energy Department, even though no new projects have been authorized and increases in existing projects have been kept to a minimal level. In fact, the overall funding for programs in this bill is below the level for fiscal year 1992.

All of us know that the Federal Government needs to tighten its belt. The legislative branch will probably sustain a 6-percent cut in funding for next year. In fact, in the last decade legislative branch spending has declined relative to inflation, while funding for Cabinet agencies has risen by 8 percent or more per year.

Last week I was among the many Members of Congress who voted for a balanced budget amendment. Today we can begin the process of putting our money—the taxpayers' money—where our mouths are.

Support the Penny-Boxer amendment.

Mr. PENNY. Mr. Chairman, I yield to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of this amendment, an effective way to let the taxpayers know that we can reduce spending without reducing essential services.

Mr. PENNY. Mr. Chairman, I again urge adoption of the amendment.

Mr. MYERS of Indiana. Mr. Chairman, I rise in support of the amendment.

The Republican side has examined this amendment and accepts it. We do so in the spirit of hoping that it will not be necessary at this late date to have a vote. We accept it with the understanding that there will not have to be a vote.

We are going to final passage very soon, so I hope it will not be necessary to have a vote on this amendment. We have all been here so long. We all accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. BOXER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 404, noes 12, not voting 18, as follows:

[Roll No. 202]

AYES—404

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—12

Baker
Barton
Fish
Gonzalez
Johnson (TX)
Lewis (CA)
Livingston
Lowery (CA)
Moran
Myers
Rahall
Skeen

NOT VOTING—18

Bonior
Broomfield
Cardin
Crane
Dymally
Hefner
Hubbard
Jones (GA)
Jones (NC)
Kolter
McDade
Murphy
Quillen
Ritter
Schumer
Swift
Traxler
Weber

☐ 2220

Mr. LEWIS of California changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RITTER. Mr. Chairman, I would like to explain that I was about 20 seconds off the floor when the vote was terminated on the Penny amendment of 10 percent on the Appropriations bill.

Had I been here, I would have voted for the Penny amendment.

☐ 2220

Mr. BEVILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, on behalf of our committee I just want to commend you for presiding over the Committee of the Whole since 1983 for this bill. You have announced your retirement, and we just want to express to you our appreciation for the great job you have done.

Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The text of the remainder of the bill is as follows:

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,362,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,577,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Springfield Hatchery Production Facility, Dryden Dam Fish Screens, Bonneville Fish Sampling Facility, and Hungry Horse Resident Fish Hatchery, and, the purchase, maintenance and operation of two rotary-wing aircraft for replacement only; and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1993, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $32,411,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $21,907,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $11,412,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $326,634,000, to remain available until expended, of which $305,390,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $6,563,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $142,801,000 to remain available until expended: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed $142,801,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1993, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

(TRANSFER OF FUNDS)

SEC. 301. Appropriations for the Department of Energy under this title in this and subsequent Energy and Water Development Appropriations Acts, hereafter shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may hereafter be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act or subsequent Energy and Water Development Appropriations Acts shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized hereafter to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for Department of Energy activities funded in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $185,000,000.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $13,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $325,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $475,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $485,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $535,415,000, to remain available until expended, of which $21,100,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $514,315,000 in fiscal year 1993 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1993 appropriation estimated at not more than $21,100,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $4,585,000 to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,060,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $301,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $290,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act or subsequent Energy and Water Development Appropriations Acts shall remain available for obligation beyond the fiscal year specified in such Acts therein unless expressly so provided therein.

SEC. 502. None of the funds in this Act or subsequent Energy and Water Development Appropriations Acts shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in such Acts.

SEC. 503. None of the programs, projects or activities as defined in the reports accompanying this Act or subsequent Energy and Water Development Appropriations Acts, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such reports expressly provide otherwise.

SEC. 504. The expenditure of any appropriation under this Act or subsequent Energy and Water Development Appropriations Acts for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, hereafter shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 505. Notwithstanding any other provision of this Act, subsequent Energy and Water Development Appropriations Acts or any other provision of law hereafter, none of the funds made available under this Act, subsequent Energy and Water Development Appropriations Acts or any other law hereafter shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 506. Such sums as may be necessary for Federal employee pay raises for programs funded by this Act or subsequent Energy and Water Development Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.

SEC. 507. During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 or any other fiscal year may be available to conduct any explosive nuclear weapons test unless the President certifies to Congress that any of the independent states of the former Soviet Union has conducted an explosive nuclear weapons test during that period.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1993".

The CHAIRMAN. Are there any points of order against any part of the remainder of the bill?

Are there any amendments to any part of the remainder of the bill?

Mr. BEVILL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. PEASE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. WALKER. Mr. Speaker, I demand a separate vote on the so-called Penny amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 42, line 8, strike "$427,228,000" and insert "$405,656,000".

Page 42, line 25, strike "$108,847,000' and insert $87,275,000".

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SKEEN. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SKEEN moves to recommit the bill, H.R. 5373, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 365, noes 51, not voting 18, as follows:

[Roll No. 203]

AYES—365

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Serrano
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stokes
Studds
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NOES—51

Allard
Allen
Armey
Baker
Barton
Bilbray
Brewster
Burton
Campbell (CA)
Coble
Combest
Cox (CA)
Dannemeyer
DeLay
Dreier
Edwards (TX)
Ewing
Fields
Frost
Geren
Goss
Hall (TX)
Hancock
Jacobs
Johnson (TX)
Jontz
Lewis (FL)
Livingston
Marlenee
McCollum
Moody
Moorhead
Oxley
Petri
Ramstad
Reed
Roberts
Roth
Sanders
Savage
Sensenbrenner
Sikorski
Skeen
Smith (TX)
Solomon
Stark
Stearns
Stenholm
Stump
Vucanovich
Zeliff

NOT VOTING—18

Bonior
Broomfield
Cardin
Crane
Dymally
Ford (TN)
Hefner
Hubbard
Jones (GA)
Jones (NC)
Kolter
McDade
Murphy
Quillen
Schumer
Swift
Traxler
Weber

☐ 2242

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Crane against.

Mr. RUSSO and Mr. PAYNE of Virginia changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5132, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1992, FOR DISASTER ASSISTANCE TO MEET URGENT NEEDS BECAUSE OF CALAMITIES SUCH AS THOSE WHICH OCCURRED IN LOS ANGELES AND CHICAGO

Mr. NATCHER submitted the following conference report and statement on the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-577)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5132) "making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 8, and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 4, and 14, and agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 5, 7, 9, 11, 12, and 13.

Jamie L. Whitten,
William H. Natcher,
Neal Smith,
Sidney R. Yates,
Edward R. Roybal,
Tom Bevill,
John P. Murtha,
Bob Traxler,
William Lehman,
Julian C. Dixon,
Vic Fazio,
Managers on the Part of the House.

Robert C. Byrd,
Daniel K. Inouye,
Ernest F. Hollings,
J. Bennett Johnston,
Quentin N. Burdick,

Patrick J. Leahy,
Jim Sasser,
Dale Bumpers,
Frank R. Lautenberg,
Tom Harkin,
Barbara A. Mikulski,
Harry Reid,
Brock Adams,
Wyche Fowler, Jr.,
J. Robert Kerrey,
Mark O. Hatfield,
Ted Stevens,
Thad Cochran,
Robert W. Kasten, Jr.,
Alfonse M. D'Amato,
Arlen Specter,
Christopher S. Bond,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in House Report 102-518 which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $169,650,000, to remain available until expended, of which $50,895,000 shall be available only to the extent that a Presidential designation of a specific dollar amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress, to subsidize additional gross obligations for the principal amount of direct loans not to exceed $500,000,000, and in addition, for administrative expenses to carry out the disaster loan program, an additional $25,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), $70,325,000, to remain available until expended, and in addition, for administrative expenses to carry out the business loan program, an additional $2,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": Provided, That these funds shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

In addition, for the cost of direct loans authorized under the Microloan Demonstration Program (15 U.S.C. 636(m)), $5,000,000, to remain available until expended, and in addition, for grants in conjunction with such direct loans, $4,000,000, to remain available until expended and to be merged with appropriations for "Salaries and expenses": Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SMALL BUSINESS DEVELOPMENT CENTER REGULATIONS

Not later than 90 days after the effective date of this Act, the Small Business Administration shall prepare, formulate, and submit to the Committees on Small Business and to the Committees on Appropriations of the U.S. Senate and the House of Representatives, but not publish in the Federal Register, proposed rules for the Small Business Development Center program authorized by section 21 of the Small Business Act as amended (15 U.S.C. 648).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DISASTER LOANS PROGRAM ACCOUNT

The conference agreement provides a emergency appropriation totalling $194,650,000 for the Disaster Loans Program Account under the Small Business Administration. This amount includes $169,650,000 to subsidize an additional $500,000,000 in direct disaster assistance loans, of which $50,895,000 (subsidizing $150,000,000 in direct loans) is available only to the extent that the President designates a specific amount as an emergency requirement and transits such a requirement to the Congress, thus creating, in effect, a "contingency fund" for the disaster assistance program. The remaining $25,000,000 is for administrative expenses associated with the Disaster Loan Program. The House bill included a total of $194,650,000 for this program, but designated $58,895,000 in subsidy amount for the "contingency fund". The Senate amendment provided only a total of $118,755,000, eliminating the contingency fund and reducing the amount of administrative expenses to $20,000,000.

BUSINESS LOANS PROGRAM ACCOUNT

The conference agreement also provides a total of $81,325,000 for the Business Loan Program Account, of which $72,325,000 is designated as a Presidential and Congressional emergency appropriation. This amount includes $70,325,000 to subsidize an estimated additional $1,450,000,000 in additional 7(a) general business lending authority. An additional $2,000,000 is provided for administrative expenses associated with the general business loan program. The conference agreement provides that these funds will be available only to the extent an official budget request that includes designation of the request as an emergency requirement under the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress.

The conference agreement also includes a total of $9,000,000 for the Microloan Demonstration Program, designated as a Congressional emergency only. This amount includes $5,000,000 to subsidize an additional $26,000,000 in direct loans under the Microloan program. The remaining $4,000,000 is provided for technical assistance grants associated with this program.

The Senate amendment included a total of $55,895,000 for the Business Loans Program Account, designated as a Presidential and Congressional emergency appropriation, as follows: $46,895,000 to subsidize an additional $966,000,000 in general business lending authority, $5,000,000 for subsidy cost for the Microloan Demonstration program, and $4,000,000 for technical assistance grants associated with that program. All of these funds would have been available only to the extent that an official budget request that designated the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 was transmitted to the Congress. The House bill contained no similar provision.

SMALL BUSINESS DEVELOPMENT CENTER REGULATIONS

The conference agreement also includes an administrative provision directing the Small Business Administration to develop and submit to Congress proposed regulations for the Small Business Development Center program within 90 days. Neither the House nor Senate bill contained any similar provision.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter insert by said amendment, insert the following:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services", $675,000,000, to be available for obligation for the period July 1, 1991, through June 30, 1992, to carry out part B of title II of the Job Training Partnership Act: Provided, That notice of eligibility of funds shall be given by June 15, 1992: Provided further, That the Secretary, to the extent practicable consistent with the preceding proviso, shall utilize the 1990 census data in allocating the funds appropriated herein: Provided further, That these funds shall be available only if an official budget request for the entire amount appropriated herein that includes a Presidential designation of the entire amount of that request as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

For an additional amount for "Human Development Services", $250,000,000, to carry out the Head Start Act, which shall be made available to Head Start agencies operating Head Start programs on the date of the enactment of this Act, for the purposes of assisting the agencies to provide, during the summer months, Head Start services, including services through family literacy projects: Provided, That for the purpose of this Act, no part of any amount appropriated under this Act or any other provision of Federal law shall be used to enforce the limitation specified in section 640(b) of such Act with respect to such amounts: Provided further, That notice of eligibility of funds shall be given by June 15, 1992: Provided further, That Congress hereby *designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.*

DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For an additional amount for "Compensatory Education for the Disadvantaged", $250,000,000, to carry out programs and projects under section 1005 during the summer months that meet the educational needs of educationally deprived children identified in accordance with section 1014 of the Elementary and Secondary Education Act of 1965, including programs and projects related to arts and drama, academic subjects, literacy, community services, recreation, conflict management, and dropout prevention: Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

EMERGENCY "WEED AND SEED" PROGRAM FUND

For necessary expenses to implement "Weed and Seed" program activities, $250,000,000, to remain available until expended for intergovernmental agreements, including cooperative agreements and contracts, with state and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: Provided, That the Attorney General with the cooperation of the Secretaries of Labor, Education, Health and Human Services, Transportation, Agriculture and Housing and Urban Development and the Director of the Office of National Drug Control Policy shall implement the "Weed and Seed" program by providing local communities funds, through intergovernmental agreements or contracts, technical assistance and related information to coordinate new or existing public and private neighborhood revitalization programs: Provided further, That any amounts obligated from appropriations under this heading may be used under the authorities available to the organizations receiving reimbursements or transfers from this appropriation: Provided further, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Committees on Appropriations of the House and Senate shall be provided quarterly reports on the obligation and expenditure of the funds appropriated under this heading.

GENERAL PROVISION

AVAILABILITY OF FUNDS

None of the funds in this Act under the heads "Emergency 'Weed and Seed' Program Fund", "Administration for Children and Families, Human Development Services", and "Compensatory Education for the Disadvantaged" shall be available for obligation unless and until: (1) the President submits to the Congress an official budget request under authority to section 1107 of Title 31, United States Code for the entire amounts appropriated in this Act under these heads; and (2) the President designates in that budget request the entire amount of the request as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,500,000 for law enforcement training activities of the Center, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,500,000 for the hiring, training and equipping of additional full-time equivalent positions for violent crime task forces and for increased costs associated with the Los Angeles riot, to remain available until expended.

UNITED STATES CUSTOMS SERVICE OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $3,400,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $500,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $800,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,765,000 are rescinded.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,000,000 are rescinded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENT OF LABOR

SUMMER YOUTH EMPLOYMENT

The conference agreement includes $675,000,000 for the summer youth employment program under the Job Training Partnership Act as proposed by the Senate but modifies the Senate language to provide that the funds will be allocated under the current law formula contained in the Job Training Partnership Act. This appropriation provides emergency funds to finance summer jobs for disadvantaged youth. The availability of these funds is conditional on the declaration of an emergency by the President under the Budget Enforcement Act. The House bill included no appropriation for this program.

The conferees encourage the involvement of JTPA participants in youth corps programs which foster citizenship skills whether or not the other youth corps members are funded under JTPA. In particular, the conferees encourage linkages of the JTPA with youth corps program where citizenship skills are a central feature of the program, such as those programs authorized by the National and Community Service Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEAD START

The conference agreement includes $250,000,000 for the Head Start program as proposed by the Senate. This provides emergency funds to finance summer Head Start programs to serve disadvantaged youth. Local matching funds shall not be required under this emergency program. The availability of these funds is conditional on the declaration of an emergency by the President under the Budget Enforcement Act and subject to the conditions of the general provision included in this amendment. The House bill included no appropriation for this program.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

The conference agreement appropriates $250,000,000 for chapter I compensatory education services as proposed by the Senate but modifies the Senate language to provide that these funds will be allocated under section 1005 of the Elementary and Secondary Education Act, as amended. This agreement provides emergency funds to finance summer programs to serve disadvantaged youth. The availability of these funds is conditional on the declaration of an emergency by the President and is subject to the conditions of the general provision included in this amendment. The House bill included no similar provision.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

EMERGENCY "WEED AND SEED" PROGRAM FUND

The conference agreement includes the language proposed in the Senate amendment to provide $250,000,000 for the "Weed and Seed" program. The House bill included no such language.

The Weed and Seed program is a new initiative whose goal is to reclaim high crime areas across the country, and make them safe places to live and work. The program first "Weeds" the community of violent criminals and activity through innovative law enforcement initiatives. The "Weeding" is to be accompanied by "Seeding" in the form of a broad array of existing and new social, economic and recreational programs designed to revitalize the community.

This comprehensive, multi-agency approach is a joint effort at the local level between Federal, State and local law enforcement and social service agencies, and community and church groups. Funding needs will be established at the local level and forwarded to the Justice Department. The Attorney General is responsible for approving these proposals, with the concurrence of other affected Federal agencies. The Attorney General will transfer required amounts to those agencies with authority to make the requested grants to the communities.

The availability of these funds is conditional on the declaration of an emergency by the President under the Budget Enforcement Act and subject to the conditions of the general provision included in this amendment.

GENERAL PROVISION

The conference agreement includes a general provision making the availability of funds for Compensatory Education, Head Start, and "Weed and Seed" activities contingent on the President submitting a budget request for the entire $750 million appropriated for these activities and contingent on the designation by the President of the entire amount as an emergency under the Budget Enforcement Act.

DEPARTMENT OF THE TREASURY AND EXECUTIVE OFFICE OF THE PRESIDENT

This management also appropriates $1,500,000 for the Federal Law Enforcement Training Center and $5,500,000 to the Bureau of Alcohol, Tobacco and Firearms. It rescinds $3,400,000 from Operation and Maintenance, Air and Marine Interdiction Programs, U.S. Customs Service, $500,000 from the U.S. Mint, $800,000 from the Bureau of Public Debt, $1,765,000 from the U.S. Secret Service and $1,000,000 from the Office of National Drug Control Policy in the Executive Office of the President.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

The conference agreement deletes the portion of the Senate amendment adding $25,000,000 for the Commission on National and Community Service's American Conservation and Youth Services Corps.

The conferees have reluctantly agreed to delete the proposed Senate provision out of concern for the sustainability of the Youth Conservation program at the amended level in fiscal year 1993. The conferees do believe that national and community service programs can play a vital part in revitalizing distressed urban areas. As a result, every practicable effort will be made to augment these programs in the fiscal year 1993 appropriations process.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

For fiscal years 1992 and 1993, funds provided under section 9 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102–240.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement applies the match-waiver provisions provided in Sec. 1054 of Public Law 102-240 to the Federal Transit Administration's section 9 formula grant program for FY 1992 and FY 1993.

GENERAL PROVISIONS

Amendment No. 4: Inserts heading as proposed by the Senate.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which revises section 125 of title 23, United States Code, to allow Emergency Relief funds to be used on all roads classified as local or rural minor collector. The House bill contained no similar provision.

Amendment No. 6: Deletes language proposed by the Senate restoring $369,000,000 in obligational authority for fiscal year 1992 that was reduced by section 1004 of the Intermodal Surface Transportation Efficiency Act of 1991. The Senate amendment also eliminates obligational authority provided by section 1095 of the Intermodal Surface Transportation Efficiency Act of 1991 by making such funds subject to appropriations.

Rural Agricultural Disasters

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "103" insert: *102*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement adds language proposed by the Senate which states that it is the "Sense of the Congress" that the President should exercise the authority granted to him in Public Law 102-229 and designate the $755,000,000 appropriated in that Act as an emergency requirement for agricultural disasters during the 1990 through 1992 crop years; and that the President should exercise the authority referred to in that Act to make emergency designations for rural agricultural disasters, as well as the urban disasters in Chicago and Los Angeles.

Amendment No. 8: Deletes language proposed by the Senate expressing a sense of the Senate with respect to Federal enterprise zones. The conferees have deleted this language without prejudice and expect that this issue of enterprise zones will be addressed in another bill.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "105", insert: *103*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment corrects section 115 of title 23 to reflect the repeal of the primary, secondary and urban systems and associated programs. The Senate amendment also provides a technical correction to include the Surface Transportation Program under the advanced construction provision. The House bill contained no similar provision.

Amendment No. 10: Deletes language expressing the sense of the Senate that the Department of Education distribute chapter I compensatory education funds using 1990 census data. The House bill included no similar provision.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "107", insert: *104*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment defines, for outdoor advertising purposes, funding "availability" under the federal-aid highway program to apply only when a state expends federal-aid funds to acquire outdoor advertising signs. The effect of the Senate amendment is to make such expenditures entirely discretionary on the part of the state and to remove the risk of losing apportioned Federal-aid funds for failure to maintain effective control of billboard removal. The House bill contained no similar provision.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 105. (a) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who is convicted of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992.

(b) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who—

(1) is under arrest for, or

(2) is subject to a pending charge of, committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992: Provided, That the prohibition on the use of funds in (b) shall not apply if a period of 90 days or more has elapsed from the date of such person being arrested for or charged with such crime: Provided further, That should such person be convicted of a riot-related crime of violence cited in (a) and (b), such person shall provide to the agency or agencies which provided such assistance, payments equivalent to the amount of assistance provided.

(c) All appropriate Federal agencies shall take the necessary actions to carry out the provisions of this section.

(d) APPLICANT CERTIFICATION. Any applicant for aid provided under this Act shall certify to the Federal agency providing such aid that the applicant is not a person described in subsection (a) or acting on behalf of such person.

(e) DEFINITION. For purposes of this section, the term "riot-related crime of violence" means any State or Federal offense as defined in Section 16 of title 18, United States Code.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement adds Sec. 105 to the Act. Sec. 105(a) prohibits the use of any of the funds made available in this Act for grants, loans or other assistance to any person who is convicted of committing a riot-related crime in Los Angeles between April 29 through May 9, 1992.

SEC. 105(b) prohibits the use of any of the funds or assistance provided in this Act to any person who is under arrest or is subject to a pending charge of committing a riot-related crime of violence in Los Angeles between April 29 through May 9, 1992, but provides that this prohibition shall not apply if a period of 90 days or more has elapsed from the date of such person being arrested for or charged with such crime. Sec. 105(b) also provides that should such person be convicted of a riot-related crime of violence cited in Sec. 105 (a) and (b), such person shall provide to the agency or agencies which provided sac assistance, payments equivalent to the amount of assistance provided.

SEC. 105(c) requires all appropriate Federal agencies to take the necessary actions to carry out the provisions of this section.

SEC. 105(d) requires applicants for aid provided under the Act to certify to the Federal agency providing such aid that the applicant is not a person described in Sec. 105(a) or acting on behalf of such person.

SEC. 105(e) defines the term "riot-related crime of violence" as stated in Section 16 of title 18, United States Code.

The Senate amendment would have added language which would have prohibited the use of any of the funds made available in this Act for grants, loans or other assistance to any person who is: (1) under arrest for; (2) subject to a pending charge of committing; or (3) convicted of committing a riot-related crime in Los Angeles between April 29 through May 9, 1992. The Senate amendment also included the provisions of Sec. 105 (c) and (d) of the conference agreement and a definition of "riot-related crime" as any

Federal or State offense committed in connection with rioting, including murder, arson, looting, theft, assault and vandalism.

The House bill contained no provision on this matter.

HUMANITARIAN ASSISTANCE TO BOSNIA-HERCEGOVINA

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 106. HUMANITARIAN ASSISTANCE TO BOSNIA-HERCEGOVINA.

Notwithstanding any other provision of law, up to $5,000,000 of the funds made available for foreign operations, export financing, and related programs in Public Law 102–145, as amended by Public Laws 102–163 and 102–266, and previous Acts making appropriations for foreign operations, export financing, and related programs, shall be made available for humanitarian assistance to Bosnia-Hercegovina: Provided, That such assistance may only be made available through private voluntary organizations, the United Nations and other international and non-governmental organizations: Provided further, That funds made available under this paragraph shall be made available only through the regular notification procedures of the Committee on Appropriations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language permitting up to $5,000,000 in humanitarian assistance to be provided to Bosnia-Hercegovina. The assistance is to be provided through private voluntary organizations, the United Nations and other international and non-governmental organizations. Funding made available through this provision is to be notified through the regular notification procedures of the Committee on Appropriations.

Amendment No. 14: Technical amendment. Strikes and reinserts the bill citation at the conclusion of the bill as proposed by the Senate. The citation is identical to the House version.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1992 recommended by the Committee of Conference, with comparisons to the budget estimates, and the House and Senate bills follow:

Budget estimates of new (obligational) authority, fiscal year 1992	
House bill	$494,650,000
Senate bill	1,944,185,000
Conference agreement	2,000,510,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority	+2,000,510,000
House bill	+1,505,860,000
Senate bill	+56,325,000

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PATRICK J. LEAHY,
JIM SASSER,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
MARK O. HATFIELD,
TED STEVENS,
THAD COCHRAN,
ROBERT W. KASTEN, Jr.,
ALFONSE M. D'AMATO,
ARLEN SPECTER,
CHRISTOPHER S. BOND,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS REPORTED FROM CONFERENCE IN DISAGREEMENT ON H.R. 5132, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1992, FOR DISASTER ASSISTANCE TO MEET URGENT NEEDS BECAUSE OF CALAMITIES SUCH AS THOSE WHICH OCCURRED IN LOS ANGELES AND CHICAGO

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 102–578) on the resolution (H. Res. 491) providing for consideration of the conference report and amendments reported from conference in disagreement on the bill (H.R. 5123) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles, and Chicago, for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON THE LEGISLATIVE BRANCH APPROPRIATIONS ACT AND FOREIGN OPERATIONS APPROPRIATIONS ACT FOR FISCAL YEAR 1993

(Mr. BEILENSON asked and was given permission to address the House for 1 minute.)

Mr. BEILENSON. Mr. Speaker, the Rules Committee is scheduled to meet Monday, June 22, 1992, to grant a rule for the Legislative Branch Appropriations Act, and on Tuesday, June 23, 1992 for the Foreign Operations Appropriations Act. Requests may be made for structured rules on these bills. The committee has circulated two "Dear Colleague" letters that request all amendments to the bills be submitted to the Rules Committee no later than 12 noon, on Monday, June 22, 1992, for legislative branch and 5 p.m. Monday for foreign operations.

In order to ensure Members' rights to offer amendments under the rules that may be requested, they should submit those amendments, together with a brief explanation of the amendment, to the committee office at H-312, the Capitol.

A draft of the bills and reports will be available immediately following the Appropriations Committee markup on Thursday. The Office of Legislative Counsel will also have copies of the bills.

To repeat, amendments to the legislative branch appropriations bill should be submitted by Monday at noon, and amendments to foreign operations should be submitted by 5 p.m. Monday.

PROVIDING FOR CONSIDERATION OF H.R. 5099, CENTRAL VALLEY PROJECT IMPROVEMENT ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 486 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 486

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5099) to provide for the restoration of fish and wildlife and their habitat in the Central Valley of California, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed sixty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section shall be considered as having been read, and all points of order against said substitute are hereby waived. It shall be in order to consider en bloc the amendments numbered 1 printed in the report of the Committee on Rules accompanying this resolution, and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments numbered 2 and 3 printed in the report of the Committee on Rules for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the

House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 5099, it shall be in order to consider a motion to take from the Speaker's table the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, with the Senate amendment thereto, and to concur in the Senate amendment with an amendment consisting of the text of the bills H.R. 429 and H.R. 5099 as passed by the House. The House amendment to the Senate amendment and the Senate amendment shall be considered as having been read. The previous question shall be considered as ordered on the motion to final adoption without intervening motion. All points of order against the motion are hereby waived.

SEC. 3. Following adoption of the motion made in order by section 2 of this resolution, it shall be in order to move that the House insist on the House amendment to the Senate amendment to H.R. 429, and to request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. JEFFERSON). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 486 is the rule providing for consideration of H.R. 5099, the Central Valley Project Reform Act. This is an open rule providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Interior and Insular Affairs Committee.

The resolution waives clause 2(L)(6) of rule XI against consideration of H.R. 5099. Clause 2(L)(6) requires that printed copies of the report accompanying a bill be available for at least 3 days prior to the bill's consideration.

It makes in order the Interior committee amendment in the nature of a substitute now printed in the bill as the original text for the purpose of amendment. All points of order against the substitute are waived.

Mr. Speaker, the Committee on Merchant Marine and Fisheries to which the bill was referred, did not request general debate time. Several amendments to the bill to be offered en bloc by the chairman, Mr. JONES, were made in order and are printed in the report to accompany the rule. The en bloc amendments are not subject to a demand for a division of the question.

The rule also waives clause 7 of rule XVI, the germaneness rule, against two amendments, one to be offered by Mr. RHODES and the other by Mr. THOMAS of Wyoming. The rule provides one motion to recommit with or without instructions.

Finally, following passage of H.R. 5099, the rule makes in order a motion to take from the Speaker's table H.R. 429, with the Senate amendment, and to concur with an amendment consisting of the text of H.R. 429, the reclamation project and policy bill approved by the House last year, and H.R. 5099 as passed by the House. All points of order against the motion are waived.

If the motion to concur with the amendment is adopted, the rule makes in order a motion to insist on the House amendment and to request a conference. The Interior Committee requested this procedure so that Congress might reach a resolution of water-related concerns in an orderly fashion.

Mr. Speaker, H.R. 5099 is the result of decades of concern that the Central Valley project in California has operated with a disregard for the economy and the environment. I commend the gentleman from California [Mr. MILLER] for his patient work in developing H.R. 5099 to help bring about an end to this history of abuse.

The bill seeks to protect, restore, and enhance fish and wildlife and their habitats in the Central Valley Basin of California; it attempts to improve the operational flexibility of the CVP; and it expands the use of voluntary water transfers and water conservation, which are so direly needed in our State of California.

Mr. Speaker, to repeat, House Resolution 486 is an open rule. I urge the adoption of the resolution so that we may proceed with the consideration of H.R. 5099.

□ 2250

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like at this time to applaud the very distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER], who I am happy to see is here in the Chamber, along with our colleague, the gentleman from Alaska [Mr. YOUNG], the ranking member of the committee, for requesting something that is very unusual, an open rule. I congratulate them for that.

Mr. Speaker, I also want to commend them for their efforts to find a reasonable compromise on the very contentious issue of water resource management in a State where water is a scarce commodity. I support the rule, Mr. Speaker, but I do have some concerns about the bill.

I agree that there needs to be a better balance between rural, urban, and environmental interests.

The most recent drought in California has sensitized all of us to the need to maintain firm water supplies for a growing population and to ensure the survival of threatened species. We also need to take a closer look at Federal subsidies to farmers to ensure that the benefits to our economy outweigh the costs.

Likewise, Mr. Speaker, a similar cost-benefit analysis is needed with H.R. 5099. In my view, it is a regulatory handcuff that will make is more difficult for the State of California to allocate water resources to their most urgent needs.

There is also a legitimate concern that this legislation could further exacerbate the current economic downturn being experienced in California. With the loss of thousands of jobs in the defense and aerospace industries, we need to be careful that we do not also undermine the farm economy.

For example, Mr. Speaker, I recently received a letter from a farm family in the Central Valley, and in it they state:

> During the last 6 years, California has suffered an extreme drought, but if H.R. 5099, or similar water allocations are mandated, permanent drought will be legislated to CVP users.

It is my hope that, as this process moves forward, Mr. Speaker, necessary accommodations can be made to insure that the Department of Interior and Insular Affairs and the Governor of California have the necessary flexibility and authority to balance competing water allocation needs.

We can make one such accommodation by adopting the Herger amendment to ensure that the management of the Central Valley project reflects the importance of public recreation to the people of northern California.

Mr. Speaker, the administration has outlined a number of additional concerns, and I submit for the RECORD the Statement of Administration Policy regarding H.R. 5099.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 17, 1992.

STATEMENT OF ADMINISTRATION POLICY

(H.R. 5099—Central Valley Project Reform Act—Miller of California and 27 others)

The Administration believes that the increasingly difficult challenge of meeting California's water needs requires maximum operational flexibility for the Central Valley Project. Enactment of H.R. 5099, however, would impose additional constraints on project operations. The Secretary of the Interior and the Secretary of Agriculture, therefore, would recommend that the President veto H.R. 5099, because the bill would:

Provide for a number of expensive measures, many of which have not been subjected to feasibility analyses and would be financed largely at Federal expense;

Affect the State's authority in matters of water allocation, distribution, and use;

Affect various on-going cooperative efforts to help balance the competing use of water in California;

Impose fees on voluntary water transfers, which could discourage the use of such transfers;

Preclude the Secretary of the Interior from providing temporary water supplies to cities during times of drought; and

Divert project revenues to a special fish and wildlife restoration fund.

The Administration supports some of the concepts embodied in H.R. 5099, as reported by the Committee on Interior and Insular Affairs. These include certain fish and wildlife mitigation efforts, water management activities, and the potential transfer of the Central Valley Project to non-Federal ownership. The Administration appreciates the Committee's apparent support for the possible transfer of the Central Valley Project. However, specific provisions contained in the bill could interfere with this transfer.

Finally, if H.R. 5099 is incorporated into House-passed version of H.R. 429, the "Reclamation Projects Authorization and Adjustment Act of 1992", the Secretary of the Interior would recommend that the President veto H.R. 429.

SCORING FOR THE PURPOSE OF PAYGO AND DISCRETIONARY CAPS

H.R. 5099 would increase Federal receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). If H.R. 5099 were enacted, final OMB scoring estimates would be published within 5 days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to Congress.

Mr. Speaker, I urge support for the rule and reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, we have no requests for time over here, and I would inquire of the gentleman from California if he has any requests for time.

Mr. DREIER of California. Mr. Speaker, while we normally have a long line of members who request time on this side, believe it or not, at 10:55 p.m., no requests for time have been received, and I am happy to, in light of that, yield back the balance of my time and urge support of the rule.

Mr. BEILENSON. Mr. Speaker, I too yield back the balance of my time and move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. JEFFERSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

JOBS THROUGH EXPORTS ACT OF 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution as follows;

H. RES. 489

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with sections 302(f) and 402(a) of the Congressional Budget Act of 1974 are waived. After general debate, which shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Other than pro forma amendments for the purpose of debate and the amendment printed in the report of the Committee on Rules accompanying this resolution, no amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII prior to the beginning of consideration of the bill for amendment. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution if offered by Representative Bereuter of Nebraska or his designee. Such amendment shall be considered as read and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendment are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. House Resolution 483 is hereby laid on the table.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for the purposes of debate only.

House Resolution 489 is the second rule that the Committee on Rules has granted for the consideration of H.R. 4996, the Jobs Through Exports Act of 1992, but the only one that has been sent to the House for consideration.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

It waives all points of order against consideration of the bill for failure to comply with two sections of the Congressional Budget Act; section 302(f), regarding direct spending, and 402(a), prohibiting consideration of certain new credit authority. The necessity for the 302(f) waiver, which did not come to our attention until after the committee had approved the first rule for H.R. 4996, required the granting of this second resolution, which tables the initial rule, House Resolution 483.

I should point out, Mr. Speaker, that these waivers were provided with the understanding that the floor manager for H.R. 4996 would offer an amendment deleting the provision which required the waivers or develop alternative language as a floor amendment so that the provision in question would not violate the Budget Act. The Rules Committee, recognizing that these waivers were necessary in order to bring the bill to the floor in a timely manner, agreed to this procedure.

Mr. Speaker, House Resolution 489 also makes in order the Foreign Affairs Committee amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment. All points of order against the committee amendment in the nature of a substitute are waived.

The rule requires all amendments to be printed in the CONGRESSIONAL RECORD prior to beginning consideration of the bill for amendment. It further waives all points of order against an amendment by Mr. BEREUTER, which is printed in the report to accompany the rule. The Bereuter amendment is not subject to a demand for a division of the question.

Finally, Mr. Speaker, the resolution provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4996 reauthorizes the operations of the Overseas Private Investment Corporation and the Trade and Development Agency, provides grants for capital projects using U.S. goods and services, and creates a partnership between the U.S. private and public sectors to pursue export markets. The chairman and ranking minority member of the International Economic Policy Subcommittee that developed H.R. 4996 testified that the objective of the bill is to create American jobs through increased exports.

Mr. Speaker, to repeat, House Resolution 489 is a modified open rule. I urge its adoption so that we may proceed with the consideration of H.R. 4996.

□ 2300

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I reluctantly support this rule and my reluctance is due to the requirement that only those amendments printed in the CONGRESSIONAL RECORD will be made in order. Obviously, the rule does not preclude the offering of amendments, and I applaud the gentleman from Florida [Mr. FASCELL] and the esteemed ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD], for not requesting what would clearly be a totally closed rule.

But one has to wonder why it has become so difficult for my friends on the other side of the aisle to allow simple open rules.

In fact, I sometimes wonder why my friend, the gentleman from California [Mr. BEILENSON] just said "open rule" in the last one we considered. It seems that many have a difficult time on that side to even utter the words "open rule." It is almost like the macho guy who cannot say the words "I love you." But we are happy that some are saying now that we will occasionally have an open rule.

I do support this rule, Mr. Speaker, and I want to congratulate my colleagues on the Committee on Foreign Affairs for producing what is clearly a good bipartisan bill to help create jobs for Americans by promoting U.S. exports abroad. H.R. 4996 will help to expand emerging markets in Eastern Europe, the former Soviet Union, and across the globe, and the gentleman from California [Mr. BEILENSON] and I represent a State which is clearly the gateway to the Pacific rim. So, we are enthusiastic about the prospect of creating jobs that will see exports increase.

This is the kind of foreign aid that our Nation clearly can afford. Rather than pumping millions of dollars in direct Government aid into failed bureaucracies, private investment in Eastern Europe and the former Soviet Union will help these countries to build thriving free market systems, and we were all fortunate to hear the statements made by President Yeltsin this morning.

We can further improve the bill by supporting the Bereuter amendment to stimulate economic growth in Latin America and open up new markets for U.S. exports, and I would say I am happy that the gentleman from Nebraska [Mr. BEREUTER], my good friend and former member of the Committee on Banking, Finance and Urban Affairs is here.

The one reservation I do have with this bill, Mr. Speaker, is that it reauthorizes OPIC, the Overseas Private Investment Corporation, for 3 years, rather than the 5 years the President requested. Some have argued that a 3-year reauthorization would make OPIC less susceptible to the political whims of the Presidential election-year cycle. I happen to believe just the opposite is the case, and I think we should reauthorize it for 5 years.

If Members on both sides of the aisle can agree that OPIC's mission is a good one, we should also agree to give OPIC the freedom to make long-term plans without the constant interference of Congress.

The Administration's policy statement follows:

> The Administration would support H.R. 4996, the Jobs Through Exports Act of 1992, if the following provisions are deleted or modified:
>
> Title III, which establishes an Office of Capital Projects in the Agency for International Development (AID), requires numerous new reports of excessively broad scope, and imposes restrictions on the sources of funding for financing capital projects. These provisions are unnecessary and place burdensome restrictions on the management of AID programs.
>
> Title IV, which requires the Secretary of Commerce to establish U.S. commercial centers in designated countries. This requirement unnecessarily micromanages Commerce's U.S. and Foreign Commercial Service.
>
> Several constitutionally questionable provisions, which pose problems under the Appointments Clause or infringe upon the President's foreign affairs powers. (Sections 232(c)(2) (D) and (E), and 234(c)(4) of the Foreign Assistance Act, as amended in section 105; and sections 305 and 401.)
>
> Authorization of appropriations in excess of the President's request for the Trade and Development Program and the Overseas Private Investment Corporation (OPIC). If these increased levels are appropriated, undesirable cuts would be required in other essential foreign assistance programs.
>
> The Administration strongly opposes the amendments to be offered by Representative Andrews (NJ), which would abolish OPIC or restrict its ability to mobilize the U.S. private sector in support of American job creation and other national interests. The Administration believes OPIC is an important element of the Support for Eastern European Democracy (SEED) program, the Enterprise for the Americas Initiative (EAI), and other bipartisan foreign policy initiatives, including assistance to the former Soviet Union.
>
> The Administration urges that H.R. 4996 be amended to reauthorize OPIC for 5 years. The 3 year reauthorization included in H.R. 4996 would severely handicap development of long-term investment strategies by U.S. businesses, particularly in the former Soviet Union. Further, it would limit OPIC's ability to plan and manage its investment portfolio on a long-term strategic basis.
>
> The Administration strongly supports adoption of the amendment to be offered by Representative Bereuter, providing needed authorization for the Enterprise for the Americas Initiative. The Initiative would enhance U.S. national security and economic interests by improving the lives of the people of Latin America and the Caribbean through market oriented reforms and economic growth.

Mr. Speaker, I do urge support of the rule, and, while I have always been warned I should reserve the balance of my time, I am going to take the liberty of yielding back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I, too, yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. JEFFERSON). Pursuant to House Resolution 489 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4996.

□ 2305

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, with Mr. KANJORSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. ROTH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4996, the Jobs Through Export Act of 1992, will help create jobs here at home. This bill passed the Committee on Foreign Affairs with bipartisan support, and, at a time when America faces a 7½-percent unemployment rate, and growing in many areas, this is a bill that can give hope to American workers and opportunity to American companies.

This will not level the playing field. Our most capable economic competitors, the Japanese and the Europeans, still have programs to assist their industries and workers in exports that far exceed ours. But these meager beginnings will give American workers and American companies at least a chance.

One example of the success of these programs is a $14 million OPIC loan guarantee to a United States telecommunications company for a project in Costa Rica which resulted in $70 million worth of American exports. OPIC will make its profit off the guarantee. The American workers who build these systems will have salaries to pay their mortgages and send their kids to school, and we will be helping the American trade balance at the same time.

When we look at the American program for increasing exports and trade, it is a meager one, but in the reauthorization of this legislation which provides for loan guarantees, risk insurance for U.S. investment overseas, the bill creates a partnership between public and private sectors to identify and aggressively pursue strategic export markets. It is our estimate that this bill will generate at least 120,000 jobs each year.

Mr. Speaker, titles I and II concern the Overseas Private Investment Corporation and the trade and development program. The language is similar to the legislation which passed the House last year. Title I reauthorizes the Overseas Private Investment Corporation or OPIC. OPIC offers U.S. investors assistance in finding overseas investment opportunities, insurance to protect those investments, and loans and loan guarantees to help finance the projects. OPIC cannot ensure or finance projects that would displace American workers. In fact, OPIC has helped to create 13,000 U.S. jobs alone in 1991.

The legislative funding levels will permit OPIC to work effectively in the new Republics of the former Soviet Union. Under this legislation, OPIC will use its own earnings to pay for its programs instead of funds provided by the U.S. taxpayers.

Title II doubles the size of the trade and development program and renames it the Trade and Development Agency. We are providing for $70 million for fiscal year 1993, and it is estimated that for every 1 dollar it spends, it generates $70 in U.S. goods and services being exported. Using this standard, the standard of $1 billion creates 20,000 jobs. Every billion dollars of exports creates 20,000 jobs.

Mr. Speaker, this bill has the potential for creating 100,000 jobs in fiscal year 1993 alone for this section. The Trade and Development Agency simultaneously promotes economic development and the export of U.S. goods and services to developing countries. This opens the door for American products, and it develops a relationship at critical stages so that American products are the ones in line as these markets expand, not ones made in Japan or Europe.

These are the initial stages of trade and particularly important areas for the United States, and it is these entry level activities, while not necessarily tremendous in size, that are the ones that do lead to the larger contracts later.

It gives us a clear opportunity to level again the playing field and set standards based on American manufactured products and provisions, and thereby again in the long haul will demand that American products are used.

□ 2310

Title III provides guidelines to the existence of the Office of Capital projects. It takes dollars now used for foreign aid and designates these dollars to be used for capital projects. which will again help American exports while helping these very countries.

Title IV calls on the Department of Commerce to create commercial centers in Asia, Eastern Europe, and Latin America. The purpose of these centers is to give the small and intermediate sized businesses an opportunity to compete on the international level. Once again, we find that every one of our major competitors, countries from Canada to France to Japan, have programs that are far larger than ours and far more aggressive.

We find that this is an important beginning, but one that needs to grow.

Mr. Chairman, the bill provides $22 million for three centers for fiscal year 1993 through fiscal year 1997.

Mr. Chairman, I would like to express my appreciation for the ranking minority member of this committee, the gentleman from Wisconsin [Mr. ROTH], whose leadership and support of this on so many issues has been critical to the committee. While the public sees battles between Republicans and Democrats, they have a difficult time finding one of those battles on our committee.

Mr. Chairman, I would also again like to thank the gentleman from Wisconsin [Mr. ROTH] and the gentleman from Nebraska [Mr. BEREUTER], who play a very important role on this committee and have been real soldiers in helping us pull this bill together.

Mr. Chairman, of course without the efforts of the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], we would not be here today. The efforts of the gentleman in promoting exports and promoting American competitiveness have been singularly important in bringing us to this point.

Mr. Chairman, I reserve the balance of my time.

Mr. ROTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I would like to thank the chairman, the gentleman from Connecticut [Mr. GEJDENSON] for his kind remarks, and to say that the feeling is mutual. We do appreciate the consideration of the Chairman, not only our views, but also of the amendments that we bring to the subcommittee. We thank the gentleman very much for the collegiality that we have on our committee. It is due to the leadership of the gentleman from Connecticut [Mr. GEJDENSON]

Mr. Chairman, I thank the Members on our side of the aisle and the other side of the aisle for their excellent work on the subcommittee.

Mr. Chairman, this bill is a bipartisan effort designed to keep good paying jobs in America, and at the same time to help our exporters abroad.

We have spent a good deal of time putting into legislative form those concepts that many informed exporters agree will enhance our American export opportunities.

This bill will accomplish two major objectives. The chairman of the committee has very well explained those objectives and the entire bill. First, it would expand OPIC, Overseas Private Investment Corporation, authority, and create two new export initiatives.

Second, the bill will enable the private sector to become more involved in the development of newly emerging democracies and less developed countries.

The United States will be able to compete with Japan, Germany, and the European Community—countries who already have many of these programs—for the important markets in the developing world.

The world has become a radically different place in the past 5 years, and the United States can no longer stand idly by while Japan and the European Community crush us in an economic competition. We need this legislation. The Jobs Through Exports Act will help us win the economic challenge. The only way to win this competition is to have an aggressive trade policy that puts U.S. products in every country in the world and, most importantly, by expanding our exports, American jobs are created here at home.

Our markets are internationalized, and this will help us fit into that scheme.

We have seen that exports are one of the best ways to strengthen our economy. Consider this—over the past 3 years, our GNP growth has averaged just under 1 percent, while export growth has averaged over 8 percent during the same time period. Our exports not only help the U.S. economy grow, they create jobs here at home as well. For every $1 billion of U.S. products that we export, 20,000 U.S. jobs are created.

The U.S. export promotion programs are considered some of our best initiatives. In today's competitive world, they play an essential role in giving U.S. companies the edge they need to win development contracts and sell their products. The Jobs Through Exports Act extends and expands the authority of the Overseas Private Investment Corporation. OPIC is an independent Government Corporation that has accumulated $1.6 billion in assets in its 20 years of existence. OPIC takes no U.S. taxpayer money, and it makes a profit by assisting U.S. companies invest in developing countries throughout the world. In the past 20 years, 353 U.S. companies have received financing or insurance from OPIC. More and more companies want OPIC support for projects in the former Soviet Union and Eastern Europe. The Jobs Through Exports Act raises the caps on OPIC's program levels so that it can meet the needs of U.S. companies. OPIC's authorization expires on September 30, and it needs this legislation to assist U.S. companies.

Title two of this bill reauthorizes the Trade and Development Program and raises its funding levels. The mandate of the Trade and Development Program is to tie economic development to U.S. exports. For every $1 we spend on the Trade and Development Program, $70 in exports are created. If we spend the $55 million in fiscal 1992 on the Trade and Development Program, about 75,000 jobs will be created just by the increased number of exports that the Trade and Development Program can generate.

The bill also creates new programs that will further allow U.S. products and services to be utilized by countries throughout the world. It creates a separate office in the agency for international development in capital projects The Capital Projects Office will ensure that the governments that receive this money will be using U.S. products and services to build needed infrastructure, rather than just using the money to buy Japanese or European goods. In the capital projects that we do fund, about 80 percent of the funds are used to buy U.S. goods and services. This money is not used, however as the foreign government chooses. But rather to buy U.S. products. This is only fair. If we are going to give foreign aid, we should use it to help our industries. Japan uses 61 percent of their foreign aid for capital projects, and Germany gives 46 percent of their air for capital projects. To compete with these countries, we need this Capital Projects Office to tie U.S. products to U.S. foreign aid.

The bill also creates a pilot program for U.S. commercial centers. The purpose of these commercial centers is to assist U.S. companies in their business dealings. All too often U.S. companies wish to export their products to foreign countries, but our companies do not have the expertise needed to tackle the different laws and customs. This bill corrects this handicap. Our competitors already have similar programs. In fact, they have offices to help their companies sell into our country. U.S. commercial centers will give U.S. companies the edge they need to sell U.S. products abroad.

In addition, the bill puts additional U.S. representatives in the multilateral development banks to ensure that U.S. companies will have the best opportunities to gain important procurement contracts. Many times, American companies do not get the needed information to make bids on multilateral development contracts. By putting more U.S. representatives at the development banks, U.S. companies will get better access to these contracts and will be able to successfully bid on them.

This bill has wide support from the business community, including the National Association of Manufacturers, the U.S. Chamber of Commerce, the Coalition for Employment Through Exports, and the National Foreign Trade Council. These groups agree that U.S. interests are best served by the export promotion programs that this bill addresses.

We hear again and again from these groups and their companies that to compete with Japan and Germany, United States industry needs Government support in obtaining investment opportunities and greater export markets. The Jobs Through Exports Act creates these opportunities for U.S. companies, which in turn will create jobs for American workers.

In his speech to the Congress, Russian President Boris Yeltsin stressed the importance of "trade not aid."

□ 2320

That is what this bill does. It strengthens U.S. trade with countries throughout the world while at the same time creating jobs for Americans.

I strongly urge my colleagues to support this bill because it is the best way to help other countries and a super way to help our own workers, not only now but also in the future.

Mr. Chairman, there are 10 amendments to this legislation. I think it is important for us to consider each one of these amendment because basically what it comes to is this: That we have an obligation, not only to our companies but also to the American people. And in the final analysis, we have to consider this bill and the amendments on how it is going to affect the American taxpayer.

Mr. Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this Member rises in support of H.R. 4996, the Jobs Through Exports Act of 1992. Thanks to the skill, hard work and persistence of the distinguished gentleman from Connecticut [Mr. GEJDENSON], the subcommittee chairman, and the strong cooperation and assistance of the distinguished ranking minority member, the gentleman from Wisconsin [Mr. ROTH], this body has the opportunity to pass legislation which can stimulate this Nation's economy by promoting the sale of United States exports in foreign markets, including the former Republics of the Soviet Union. This Member joins in urging speedy approval by the House. The hour is late and my two distinguished colleagues have clearly explained the contents, objectives, and necessity of the legislation, so that Member will be brief and highlight only a few facets.

Mr. Chairman, the objective of this bill is clear and compelling: to create American jobs through increased exports. The Jobs Through Exports Act accomplishes this objective by reauthorizing the Overseas Private Investment Corporation, providing grant funding for U.S. participation in capital projects in developing countries, and creating an enhanced public-private sector partnership to pursue strategic export markets.

This legislation is particularly important because it reauthorizes the Overseas Private Investment Corporation. OPIC is nearly unique in that it pays for its own operations through fees and insurance premiums. More importantly, it is a very effective organization in aiding United States investors by providing loans and loan guarantees as well as insurance for investments in what are new areas for OPIC like the former Republics of the Soviet Union. OPIC is a critical vehicle for new export opportunities. Indeed, this Member would have supported an even longer reauthorization period for this important program than is provided for in this bill.

The Jobs Through Exports Act also enhances the authority of the existing Trade and Development Program to promote U.S. exports in the world's developing countries by funding U.S. consultants, designers, and engineers involved in multilateral development bank projects. These multilateral projects, which represent a significant portion of international trade, will provide excellent opportunities for U.S. exporters because increased participation of U.S. consultants at this stage would often help U.S. exporters to subsequently secure the construction equipment, supply, and servicing business related to such projects.

One of the bill's simplest provisions has the potential to greatly increase the export of U.S. goods and services—especially for small- and medium-sized business. Often smaller businesses do not have the resources to monitor and collect information relating to multilateral development bank procurement. Title V includes language from the Members which directs the U.S. Department of Commerce to appoint one additional full-time officer for each multilateral development bank whose sole duty shall be to aid these small- and medium-sized exporters by alerting them to opportunities in multilateral development bank projects.

Mr. Chairman, the Jobs Through Exports Act is indeed a bipartisan effort that enjoyed overwhelming support, both in the Subcommittee on International Economic Policy and Trade and in the full Committee on Foreign Affairs. This is no doubt a tribute to the subcommittee's chairman, Mr. GEJDENSON, the ranking member, the distinguished gentleman from Wisconsin [Mr. ROTH], and my other colleagues on the subcommittee.

This member would also point to the important role played by the chairman of the committee, the distinguished gentleman from Florida [Mr. FASCELL], and the ranking member, the distinguished gentleman from Michigan [Mr. BROOMFIELD], in perfecting and expediting this legislation. As a result of their outstanding leadership and the strong bipartisan cooperation on the subcommittee, we are able to present this body with a bill that all should be able, and in fact pleased, to enthusiastically support.

Mr. Chairman, as a member of the subcommittee and the cochairman of the House Export Task Force I would strongly urge the adoption of H.R. 4996.

Mr. GILMAN. Mr. Chairman, I would like to express my support for H.R. 4996—the Jobs Through Exports Act of 1992, which reauthorizes the Overseas Private Investment Corporation.

I commend the distinguished chairman of the Foreign Affairs Committee, DANTE FASCELL; the ranking member of the committee, WILLIAM BROOMFIELD; the chairman of the International Economic Policy Subcommittee, SAM GEJDENSON; and the ranking member of that subcommittee, TOBY ROTH, for their roles in bringing this legislation, which will increase American exports, to the floor.

First and foremost, this legislation will reauthorize the Overseas Private Investment Corporation, which last year funded $6 billion of economic development projects throughout the world, and created more than 13,500 jobs for Americans here at home.

OPIC is a U.S. Government corporation that offers U.S. investors assistance in finding overseas business opportunities, insurance to protect these investments, and loans and loan guarantees to help finance projects. It is essential that the Congress reauthorize this key agency before its insurance and guarantee authorities expire later this year.

I would like to point out to my colleagues that Mr. BROOMFIELD has introduced, by request, the administration's OPIC reauthorization measure, H.R. 5200, that provides for a 5-year extension of the agency's authority, compared to the much more limited 3-year reauthorization period contained in the bill before us today.

In my view, a 5-year reauthorization is critical to OPIC's efforts to assist American companies abroad and increase our international competitiveness.

A 5-year reauthorization for OPIC would in no way preclude efforts by Congress to review the Corporation's performance and make any changes in its programs and funding levels.

While I generally support the other elements in the Jobs Through Exports Act—including expanding the Trade and Development Agency, creating an Office of Capital Projects in the Agency for International Development, and establishing commercial centers to aid American businessmen overseas—I urge my colleagues not to lose sight of the fact that the OPIC reauthorization is the only measure that must be enacted this fiscal year.

In closing, Mr. Chairman, I would also like to express my full support for the Enterprise for the Americas Initiative amendment to be offered by my colleague, Mr. BEREUTER. This amendment is fully consistent with the goals and objectives of the bill before us today and would be a powerful tool in helping to promote environmental protection and child health projects in Latin America and the Caribbean.

Mr. BROOMFIELD. Mr. Chairman, I would like to express my support for the reauthorization of the Overseas Private Investment Corporation and the efforts of the bill's sponsors to increase American exports through H.R. 4996–the Jobs Through Exports Act of 1992.

I commend the distinguished chairman of the Foreign Affairs Committee, DANTE FASCELL; the chairman of the International Economic Policy Subcommittee, SAM GEJDENSON; and the ranking member of that subcommittee, TOBY ROTH, for their roles in bringing this legislation to the floor.

First and foremost, this legislation will reauthorize the Overseas Private Investment Corporation, which last year funded $6 billion of economic development projects throughout the world and created more than 13,500 jobs for Americans here at home.

OPIC is a U.S. Government corporation that offers U.S. investors assistance in finding overseas business opportunities, insurance to protect these investments, and loans and loan guarantees to help finance projects. It is essential that the Congress reauthorize this key agency before its insurance and guarantee authorities expire on September 30.

Several weeks ago, I introduced the administration's OPIC reauthorization bill, H.R. 5200, which is very similar to the provisions contained in title I of this bill. The key difference between the two is that H.R. 5200 provides for a 5-year extension of the agency's authority, while this bill would extend it for only 3 years.

In my view, a 5-year reauthorization is critical to OPIC's efforts to assist American companies abroad and increase our international competitiveness.

A 5-year reauthorization for OPIC would in no way preclude efforts by Congress to review the Corporation's performance and make any changes in its programs and funding levels.

Another key difference is that title I of the Jobs Through Exports Act would not permit OPIC to have its own inspector general, while my bill contains no such restriction.

The legislative provisions in title I provide a mechanism for the continued review of the Corporation's financial statements by outside consultants and by the Government Accounting Office. But, I would argue that the growth in OPIC's programs and the need to maintain strict internal accounting and ethical controls mean that the time has come for this agency to have its own inspector general.

While I generally support the other elements in the Jobs Through Exports Act—including expanding the Trade and Development Agency, creating an Office of Capital Projects in the Agency for International Development, and establishing commercial centers to aid American businessmen overseas—their enactment is of secondary concern compared to the need to reauthorize OPIC before the end of the current fiscal year.

In closing, Mr. Chairman, I would also like to express my full support for the Enterprise for the Americas Initiative amendment to be offered by my colleague, Mr. BEREUTER. This amendment is fully consistent with the goals and objectives of the bill before us today and would be a powerful tool in both stimulating the economies of our neighbors in Latin America and increasing our exports to that region.

Mr. DOWNEY. Mr. Chairman, I rise today in strong support for H.R. 4996, the Jobs Through Exports Act of 1992. The long term economic health of our Nation is directly tied to encouraging more companies, particularly small companies, to export. The bill before us is an important part of a sound export strategy.

It reauthorizes the Overseas Private Investment Corporation [OPIC], establishes an office of capital projects at the Agency for International Development [AID], and creates a new authorization for the Department of Commerce to create commercial centers in Asia, Eastern Europe and Latin America.

In April, I had the honor of delivering the keynote address at a conference entitled "Taking the Guess Work Out of Exporting", held at SUNY Farmingdale in my congressional district on Long Island. At that time, I said that we had to do a better job of helping local companies move into new overseas markets. H.R. 4996 does just that.

I believe that U.S. businesses have done a good job of expanding their presence in world markets. Overall, U.S. merchandise exports have increased by 66 percent since 1987, reaching $422 billion in 1991. The "1991 Annual Report of the President on the Trade Agreement Program" revealed that between 1988 and 1991, merchandise exports accounted for 70 percent of the growth in U.S. GDP.

This increase in exports is due to many factors: a weaker dollar, congressional strengthening of the market access provisions of U.S. trade laws, and perhaps most importantly, a conscious effort by our companies to increase their export share.

As a Representative from New York, I am acutely aware of the importance of expanding our export capacity. According to the Port Authority of New York and New Jersey, exports from the New York metropolitan region increased 8.5 percent during 1991, despite the recession. New York ranks third among the States as an exporter, with $30.9 billion of exports in 1991.

Mr. Chairman, our working men and women are doing a good job, but with assistance from well designed Federal programs, they can do even better. I am particularly pleased that this bill authorizes Commerce to set up commercial centers around the world. These centers will help small businesses identify and target strategic markets for U.S. exports and services. Earlier this year National Small Business United released a Gallup survey that showed that many small businesses don't export because "they don't know where to start, fear the complexity or don't think information or Federal support is easily available." The commercial centers provided in this bill should help meet this need.

We need to do a better job of coordinating Federal, State, and local efforts to improve exports. The conference I mentioned earlier is a good example of sound coordination. It was jointly sponsored by the Small Business Development Center at SUNY–Farmingdale, the U.S. Department of Commerce, the New York State Office of Economic Development, and the Suffolk County Department of Economic

Development. The Small Business Development Center itself is a project of the U.S. Small Business Administration, and one of over 700 of these centers nationwide.

If we all work together, we can continue our export growth. We can not afford to neglect potential markets, wherever they may be. I urge my colleagues to support this bill, which has been so ably drafted by my good friend, Mr. GEJDENSON. H.R. 4996 should help to make "Made in the U.S.A." a more visible presence in the world's markets.

Mr. ROTH. Mr. Chairman, I yield back the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment and each title is considered as read.

No amendment to the committee amendment in the nature of a substitute is in order other than pro forma amendments for the purpose of debate, the amendment printed in House Report 102–575, or amendments printed in the CONGRESSIONAL RECORD prior to the consideration of the bill for amendment.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 4996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jobs Through Exports Act of 1992".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

SEC. 102. REAUTHORIZATION OF CORPORATION.

(a) IN GENERAL.—Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 and following) is amended to read as follows:

"TITLE IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

"SEC. 231. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to promote sustainable economic development in developing and other eligible countries by mobilizing and facilitating the participation of the United States private sector.

"(b) ELIGIBILITY CRITERIA FOR PARTICIPATING COUNTRIES AND AREAS.—

"(1) IN GENERAL.—Countries or areas within countries may be eligible to receive insurance, reinsurance, financing, or other financial support from the Corporation if—

"(A) that country has established diplomatic relations with the United States;

"(B) that country or area is a developing country or area, or a country in transition from a nonmarket to market economy; and

"(C) that country respects internationally recognized human rights.

"(2) PREFERENCE FOR CERTAIN COUNTRIES.—The Corporation shall, in conducting its activities, give preference to countries with per capita incomes of $1,146 or less in 1990 United States dollars; and restrict its activities in countries with per capita incomes of $4,974 or more in 1990 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act).

"(3) EXCEPTION.—In a case in which a country in which the Corporation is conducting activities no longer meets the criteria set forth in paragraph (1), the Corporation may continue to operate its programs in that country, but shall not extend any new insurance, reinsurance, or financing with respect to projects in which the government of that country is involved as a partner, shareholder, director, manager, or otherwise.

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation shall undertake—

"(1) to conduct insurance, reinsurance, and financing operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation by selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of eligible countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to consider in the conduct of its operations the extent to which the governments of eligible countries respect human rights, labor rights, and the need to support sound environmental practices and policies;

"(9) to conduct its activities in consonance with the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(10) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in eligible countries and areas.

"SEC. 232. STOCK OF THE CORPORATION; ORGANIZATION AND MANAGEMENT.

"(a) STOCK.—The Secretary of the Treasury shall hold the capital stock of the Corporation.

"(b) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (hereinafter in this title referred to as 'the Board') which shall consist of 15 Directors (including the Chair, the Executive Vice Chair, and the Vice Chair), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR.—The Chair of the Board shall be the President of the Corporation, ex officio.

"(B) EXECUTIVE VICE CHAIR.—The Executive Vice Chair of the Board shall be the Administrator of the Agency for International Development, ex officio.

"(C) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, a Deputy United States Trade Representative.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States, including an officer or employee of the Department of Labor, shall be designated by and shall serve at the pleasure of the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

Of these, at least—

"(I) one shall be experienced in small business,

"(II) one shall be experienced in organized labor,

"(III) one shall be experienced in cooperatives, and

"(IV) one shall be experienced in social and economic development issues.

"(ii) Each Director appointed under this subparagraph shall be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors shall expire in any 1 year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code. Any such Director may waive any such compensation.

"(d) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(e) OFFICERS AND STAFF.—

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title, and shall serve at the pleasure of the Corporation.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 233. INVESTMENT INSURANCE, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL ORGANIZATIONS.—Recognizing that major private investments in eligible countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this title, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this title, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1) shall be issued to a single investor.

"(4) REPORTS ON INSURANCE ISSUED FOR BUSINESS INTERRUPTION OR CIVIL STRIFE.—(A) In each instance in which a significant expansion is proposed in the type of risk to be insured under the definition of 'civil strife' or 'business interruption', the Corporation shall, at least 60 days before such insurance is issued, submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report with respect to such insurance.

"(B) Each such report shall include a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

"(C) Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability of investment guarantees which the Corporation is permitted to have outstanding under section 235(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of eligible countries or areas.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of oil or gas resources.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) IN GENERAL.—The Corporation is authorized—

"(A) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(B) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business,

except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 and shall be on equitable terms.

"(2) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

"(3) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof with respect to risks referred to in subsection (a)(1).

"(5) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this title which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(6) ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.—

"(A) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(i) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(ii) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(iii) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this clause, the Corporation shall

not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(B) ADVISORY GROUP.—

"(i) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this paragraph. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(I) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(II) Up to 4 persons, other than persons described in subclause (I), who are purchasers of political risk insurance.

"(ii) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(iii) MEETINGS.—The advisory group shall meet at least annually. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(iv) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(g) EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR EQUITY FINANCE PROGRAM.—The Corporation is authorized to establish an equity finance program under which it may, on the limited basis prescribed in paragraphs (2) through (4), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(3) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in eligible countries or areas, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(4) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate on the implementation of the equity finance program established under this subsection.

"SEC. 234. GUIDELINES AND CRITERIA FOR OPIC SUPPORT.

"(a) DEVELOPMENT GUIDELINES.—

"(1) CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, or financing for a project shall be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors.

"(2) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in paragraph (1), the Corporation shall prepare and maintain, for each investment project it insures, reinsures, or finances, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development.

"(b) SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in eligible countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—Notwithstanding the requirements of section 231(c)(1), and on such terms and conditions as the Corporation may determine through loans, grants, or other programs authorized by section 233, the Corporation shall undertake, to the maximum degree possible consistent with its purposes—

"(A) to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business; and

"(B) to maintain the proportion of projects sponsored by or significantly involving United States small business at not less than 30 percent of all projects insured, reinsured, or guaranteed by the Corporation.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation shall refuse to insure, reinsure, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, in determining whether to provide insurance, reinsurance, or financing for a project, shall ensure that the project is consistent with the objectives set forth in sections 117 (relating to environment and natural resources), 118 (relating to tropical forests), and 119 (relating to endangered species).

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 117(c) relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, or finances under this title in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, reinsurance, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization that relate to the public health or safety or the environment and are applicable to the project; and

"(B) to the maximum extent practicable, any restriction, under any law of the United States, that relates to public health or safety or the environment and would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to paragraph (3).

"(5) CONSIDERATION OF COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, or financing for any investment subject to paragraph (4), the Corporation shall take into account any comments it receives on the project involved.

"(d) WORKER RIGHTS.—

"(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

" 'The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.'.

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)).

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Committee on Foreign Affairs of the House of the Representatives and the Committee on Foreign Relations of the Senate, together with the reasons for the determination.

"(e) HUMAN RIGHTS.—The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 shall

apply to any insurance, reinsurance, or financing provided by the Corporation for projects in a country, except that in addition to the exception set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

"(f) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation shall refuse to insure, reinsure, or finance an investment if the Corporation determines that such investment is likely to cause the investor (or the sponsor of an investment project in which the investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation shall refuse to insure, reinsure, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(g) PERFORMANCE REQUIREMENTS.—The Corporation shall refuse to insure, reinsure, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(h) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this title on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, financing, or other financial support authorized by this title, if that violation related to a project insured, reinsured, financed, or otherwise supported by the Corporation under this title.

"(i) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(j) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 233 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

"(k) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, or financing under this title.

"SEC. 235. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 233(a) shall not exceed in the aggregate $10,000,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 233(b) shall not exceed in the aggregate $3,000,000,000.

"(B) Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(i) to transfer $7,450,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan guarantee program under section 233(b) of $500,000,000 for fiscal year 1993; and

"(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan guarantee program under section 233(b) of $800,000,000 for fiscal year 1994 and $900,000,000 for fiscal year 1995.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 233 shall continue until September 30, 1995.

"(b) DIRECT LOAN PROGRAM.—Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(1) to transfer up to $6,950,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for its direct loan program under section 233(c) of $50,000,000 for fiscal year 1993; and

"(2) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for its direct loan program under section 233(c) of $75,000,000 for fiscal year 1994 and $100,000,000 for fiscal year 1995.

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 233(g) and to make transfers to the fund of a total of $45,000,000 (less amounts transferred to the fund before the effective date of the Overseas Private Investment Corporation Amendments Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 233(g), and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.

"(d) INSURANCE RESERVES.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain insurance reserves. Such reserves shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance reserves shall consist of—

"(A) any funds in the insurance reserves of the Corporation on the effective date of the Overseas Private Investment Corporation Amendments Act of 1992,

"(B) amounts transferred to the reserves pursuant to this title, and

"(C) such sums as are appropriated pursuant to subsection (f) of this section for such purposes.

"(e) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 233 or under predecessor guarantee authority shall be paid first out of the insurance reserves, as long as such reserves remain available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guarantees issued under section 233(b) shall be paid in accordance with the Federal Credit Reform Act of 1990.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance reserves, to discharge the liabilities under insurance or reinsurance issued by the Corporation or issued under predecessor guarantee authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (g).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserves until the amount of funds in the insurance reserves is less than $25,000,000. Any appropriations to augment the insurance reserves shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c).

"(g) ISSUANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"(h) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

"(1) $11,000,000 for fiscal year 1993;

"(2) $13,000,000 for fiscal year 1994; and

"(3) $15,000,000 for fiscal year 1995.

"SEC. 236. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from its noncredit activities, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance reserves maintained under section 235(d), and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 237. GENERAL PROVISIONS RELATING TO INSURANCE AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this title shall cover investment made in connection with projects in any eligible country or area with the government of which the President of the United States has agreed to institute a program for such insurance, guarantees, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued under predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued under this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 233 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this title shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 233 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this title or under predecessor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) CONTRACTS PRESUMED TO COMPLY WITH ACT.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) USE OF LOCAL CURRENCIES.—Loans, guarantees, or investments made with funds received in foreign currency by the Corporation as a result of activities conducted pursuant to section 233(a) shall not be considered in determining whether the Corporation has made or has outstanding loans, guarantees, or investments to the extent of any limitation on obligations, commitments, and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations or loan guarantee commitments made with funds described in this subsection.

"SEC. 238. GENERAL PROVISIONS AND POWERS.

"(a) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) AUDITS.—

"(1) IN GENERAL.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(c) POWERS.—To carry out the purposes of this title, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the Government of the United States in collecting debts from the estates of bankrupt, insolvent, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(e) CORPORATE OPERATIONAL GUIDELINES.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this title, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, financing, or other assistance provided by the Corporation.

The provisions of this title shall be controlling with respect to the Corporation's programs and operations.

"SEC. 239. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) ANNUAL REPORT.—After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 234(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, financing, or other financial support, on account of violations of human rights referred to in section 234(e); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, financing, or financial support, on the basis of a determination that—

"(i) the exception set forth in section 116(a) applies, or

"(ii) the national security interest so requires.

"(b) PROJECTIONS OF EFFECTS ON EMPLOYMENT.—

"(1) IN GENERAL.—Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance or reinsurance or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of this Act (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 233(f)(6), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 240. DEFINITIONS.

"As used in this title, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen;

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is created under the laws of the United States, any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which is substantially beneficially owned by United States citizens; and

"(iii) a foreign corporation, partnership, or other association which is wholly owned by one or more United States citizens or corporations, partnerships, or other associations described in clause (ii), except that the eligibility of any such foreign corporation shall be determined without regard to any shares held by other than United States citizens or corporations, partnerships, or other associations described in clause (ii) if, in the aggregate, such shares equal less than 5 percent of the total issued and subscribed share capital of such foreign corporation.

"(B) For purposes of this title—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, or

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) NONCREDIT ACCOUNT REVOLVING FUND.—The term 'noncredit account revolving fund' means the account in which funds under section 236 and all funds from noncredit activities are held.

"(7) NONCREDIT ACTIVITIES.—The term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 233(b) and its direct loan program under section 233(c).

"(8) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948, (exclusive of authority relating to informational media guarantees).".

(b) CONFORMING AMENDMENT.—Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182(a)) is amended by striking "238(c)" in the first sentence and inserting "240(3)".

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON: Page 43, strike lines 9 through 19 and insert the following:

"(j) USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 233(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, this is a noncontroversial technical amendment that clarifies the language in the bill to make it acceptable both to the CBO and the House Committee on the Budget. This new language was approved by both offices.

The amendment clarifies language in the bill to permit OPIC to make loans and investments with local currency in the event that OPIC receives uncontrovertible foreign currency as a repayment for a loan or investment.

The CHAIRMAN. Is there any further debate on the amendment?

Mr. GEJDENSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. JEFFERSON) having assumed the chair, Mr. KANJORSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, had come to no resolution thereon.

□ 1240

CONGRATULATIONS TO AMERICA'S EXPORTING COMPANIES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEREUTER. Mr. Speaker, for my export 1-minute today, I would like to praise and provide a list of those U.S. companies which have taken the lead in exporting U.S. products overseas.

Mr. Speaker, this month's World Trade magazine lists the United States top 100 exporters. These companies create jobs and opportunity in each and every State by producing quality products and then aggressively selling them in foreign markets. These companies prove that in many sectors, including manufacturing, the United States remains quite competitive provided that creative ideas are backed up by hard work, motivation, and the tenacity to penetrate tough foreign markets.

Mr. Speaker, these companies are selling in markets which have proved formidable to U.S. exports and how have they succeeded? AST Research, in Irvine, CA, for example, sells computer hardware in Japan by producing a keyboard that switches from the English to Japanese alphabet with the flip of a switch. Avoiding vertical retail restraints, the company sells directly to Japanese companies.

Mr. Speaker, in my home State of Nebraska, two companies have proven the value of exports to this Nation's economy by selling computer software and irrigation equipment to countries in Latin America, Eastern and Western Europe. Last February, the country posted its smallest trade deficit in 9 years partly because of the efforts of companies like Valmont Industries in Valley, NE and Applied Communications, an Omaha-based distributor of computer software to foreign banks.

Mr. Speaker, this Member would like to congratulate those companies which greatly helped this Nation's economy in one of its more difficult times. In the last 5 years, exports have outpaced our country's economic performance by growing three times as fast as the gross domestic product thanks to companies like Valmont and Applied Communications—two Nebraska exporters. The names of America's best 100 export companies are, according to the June 1992 issue of World Trade, as follows:

Acme Manufacturing Co., Madison Heights, MI.
ABB Process Automation, Columbus, OH.
Allen-Edmonds Shoe Corp., Port Washington, WI.
Ansul Fire Protection, Marinette, WI.
Applied Communications, Omaha, NE.
Aquathin Corp., Ft. Lauderdale, FL.
Artmor Plastics Corp., Cumberland, MD.
AST Research, Inc., Irvine, CA.
AVTECH Corp., Seattle, WA.
Baldor Electric Corp., Fort Smith, AR.
Baltimore Aircoil Co., Jessup, MD.
Bel Art Products, Pequannock, NJ.
Beltwall Division of Beltservice Corp., Earth City, MO.
Benfield Electric International Ltd., White Plains, NY.
Bentley World Packaging, Milwaukee, WI.
Bird Products Corp., Solon, OH.
Bison Instruments, Inc., Minneapolis, MN.
Boca Research, Inc., Boca Raton, FL.
Broussard Cane Equipment, Park, LA.
Bruce Foods Corp., New Iberia, LA.
Cincinnati Bell, Inc., Cincinnati, OH.
Coated Products (Div. of Donnelly), Holland, MI.
CORE International, Inc., Boca Raton, FL.
Corhart Refractories Corp., Louisville, KY.
Critikon, Inc., Tampa, FL.
Crown Iron Works, Minneapolis, MN.
C-Tec Inc., Grand Rapids, MI.
Cybex (Division of Lumex Corp.), Ronkonhoma, NY.
Distributed Processing Technology, Maitland, FL.
Drillers Supply, Inc., Houston, TX.
Energy Absorption Systems, Chicago, IL.
Engineered Systems (Div. Square D), Tempe, AZ.
Farm Fans, Inc., Indianapolis, IN.
Foster Needle Co., Inc., Manitowoc, WI.
Gates Rubber Co., Denver, CO.
Gilian Instrument Corp., West Caldwell, NJ.
Greenville Machinery Corp., Greer, SC.
Gribetz International, Inc., Sunrise, FL.
Gundle Lining Systems, Inc., Houston, TX.
Hallmark Sales Corp., Houston, TX.
Harbison-Walker Refractories, Pittsburgh, PA.
Hartness International, Greenville, NC.
Hipotronics, Inc., Brewster, NY.
Hypotherm, Inc., Hanover, NH.
Igloo Product Corp., Houston, TX.
IMSL, Inc., Houston, TX.
Industrial Tool Div./Dresser Industries, Houston, TX.
International Game Technology, Reno, NV.
Interstate Engineering, Anaheim. CA.
ITT Rayonier, Inc., Stamford, CT.
James Clem Corp., Chicago, IL.
Jet Spray International Corp., Norwood, MA.
Karsten Manufacturing Corp., Phoenix, AZ.
Lawson-Hemphill, Inc., Central Falls, RI.
Legent Corp., Vienna, VA.
Li'l Orbits, Minneapolis, MN.
Lincoln Foodservice Products, Inc., Fort Wayne, IN.
Luber-Finer, Inc., Dallas, TX.
Mathews International Trading Co., Pittsburgh, PA.
Mayer Industries, Inc., Orangeburg, SC.
Mechanical Dynamics, Inc., Ann Arbor, MI.
Micromeritics Instruments Corp., Norcross, GA.
Miner Enterprises, Inc., Geneva, IL.
Morgen Manufacturing Co., Yankton, SD.
Narge Company (Div. of Sybron Co.), Rochester, NY.
Newtex Industries, Inc., Victor, NY.
Nooter Corp., St. Louis, MO.
Nordson Corp., Westlake, OH.
Octocom Systems, Inc., Wilmington, MA.
Orbit Valve International, Inc., Little Rock, AR.
Original Mink Oil, Inc., Portland, OR.
Ohsman & Sons Co., Inc., Cedar Rapids, IA.
Performance Chemicals Group, Pittsburgh, PA.
Pharmaceutical Innovations, Inc., Newark, NJ.
Pierce Chemical Co., Rockford, IL.
Plymouth Product Division/Ametek, Sheboygan, WI.
Pressure Systems, Inc., Hampton, VA.
Process Systems, Inc., Charlotte, NC.
Products Finishing Corp., Brooklyn, NY.
Purafil, Inc., Doraville, GA.
Redcom Laboratories, Inc., Victor, NY.
Rich Lumber Co., Inc., Beardstown, IL.
Rogers N.K. Seed Co., Boise, ID.
Roy J. Maier Products Div. of Nova Int'l, Sun Valley, CA.
SAS Institute, Inc., Cary, NC.
Satellite Industries, Inc., Minneapolis, MN.
Savage Universal Corp., Tempe, AZ.
SGS Tool Co., Monroe Falls, OH.
Shuford Mills, Inc./Tape Division, Hickory, NC.
Spectra-Physics, Dayton, OH.
Stein, Inc., Sandusky, OH.
Syntellect, Inc., Phoenix, AZ.
Systems Center Inc., Reston, VA.
Tecumseh Products Co./Int'l Div., Tecumseh, MI.

Thoro, Inc., Statesville, NC.
Valley Recreation Products, Bay City, MI.
Valmont Industries, Inc., Valley, NE.
Water-Jel Technologies, Inc., Carlstadt, NJ.
Vermeer Manufacturing Co., Pella, IA.
Wahl Clipper Corp., Sterling, IL.

□ 2330

NATIONAL ENDOWMENT FOR THE ARTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, on April 27, 1992, this Member spoke with the Acting Chairman of the National Endowment for the Arts [NEA], Dr. Anne-Imelda Radice, in my office at a requested visit regarding concerns about Federal funding for the NEA. Dr. Radice said then that she intends to be much more involved in the grant process than the previous chairman and that it is her intention not to allow Federal funding for pornographic or obscene works.

Over the years a great number of Nebraskans have encouraged this Member to be supportive of the excellent programs and grant activities of the National Endowment for the Arts—with the exception of various objectionable works produced in the past few years. In rural and nonmetropolitan areas of states like Nebraska, the NEA provides state and local sponsors the opportunity to bring valuable arts programs and literature to millions of people who would not otherwise have access to art and art education. This is the most valuable aspect of the NEA's program.

However, this Member believes, strongly, that if public funds are used for art programs, the public has the right to set reasonable decency standards for that art—standards preventing the production of pornography and obscenity through such funds. Sometimes a few artists who have applied for grants deceived the Endowment about the content of the work to be done with the grant. This is a difficult problem for the NEA, but the Endowment must be able to discern those who would deceive them, and, of course, to cut off funding for anyone who violates or abuses their rules and standards.

No one is entitled to public funds for arts. If a person wants to create art or literature, under the Constitution they have the right to create whatever they want—but they are not guaranteed the right to do so with public funds. Once public funds are involved, the recipient has the responsibility to adhere to the public's standards. This is not censorship.

The controversy surrounding the Endowment continues. It is all too apparent that a small number of people and organizations are trying to distort the grant award process by pushing for the right to produce obscene or pornographic works with public funds. In the process they may destroy a legitimate program that benefits many people. Now Congress has to wrestle with the problem of whether or not we can encourage the arts in this country without having a few people pervert this use of public funds.

Dr. Radice seems to be addressing the concerns discussed during our April meeting by her actions in the past few months. However, it seems that the national media is giving her difficulties because of the media's liberal bent.

Mr. Speaker, this Member would like to commend an editorial from the heartland of America to my colleagues. It is found in the Omaha World-Herald of June 3, 1992, and I include it in the record at this point:

A LOGICAL CHOICE FOR ARTS CHAIRMAN

Judging from her approach as acting chairman of the National Endowment for the Arts, Anne-Imelda Radice may be a logical candidate for the post of permanent chairman.

Unlike the previous chairman, John Frohnmeyer, who defended subsidies for projects even though they were obscene or blasphemous, Miss Radice draws a clear and sensible line. She defends an artist's right to pursue his artistic vision without being censored. But she points out that some kinds of "art" are too narrowly focused, too offensive to the general public's standards of taste and decency to deserve the national recognition that implicitly comes with a grant from the endowment.

She didn't say such projects shouldn't be produced. She said the government shouldn't subsidize them.

Now that Miss Radice has imposed a standard of taste, some people are accusing her of being against "sexually explicit art" and, in the words of one critic, of cutting "a wide swath through Western art from the time of the ancient Greeks."

Some of the projects Miss Radice has rejected for grants have subsequently received private funding. That option should remain. The government isn't the only patron of the arts, nor should it be.

But so long as the government chooses to remain a patron, the stewards of the public's money should have the option of applying some standard to the art they choose to subsidize.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOAGLAND (at the request of Mr. GEPHARDT), for today between 6 p.m. and 7 p.m., on account of important family business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. BROOMFIELD, for 60 minutes, on June 24.

(The following Members (at the request of Mr. KANJORSKI) to revise and extend their remarks and include extraneous material:)

Mr. COLORADO, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ALEXANDER, to include extraneous material on H.R. 5373 in the Committee of the Whole today.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. JOHNSON of Texas.
Mr. FIELDS
Mr. MCDADE.
Mr. GALLEGLY.
Mr. BEREUTER.
Mr. BURTON of Indiana.
Mr. STUMP.
Mr. GUNDERSON.
Mrs. MEYERS of Kansas.
Mr. LAGOMARSINO.
Mr. YOUNG of Florida.
Mr. BROOMFIELD.
Mr. EMERSON.
Ms. ROS-LEHTINEN.
Mr. CRANE.

(The following Members (at the request of Mr. KANJORSKI) and to include extraneous matter:

Mr. HOYER.
Mr. SCHEUER.
Mr. DOWNEY.
Mr. PENNY.
Mr. WOLPE.
Mr. DE LUGO.
Mrs. LOWEY of New York.
Mr. SCHUMER.
Mr. LANTOS.
Mr. ROE.
Mr. TOWNS.
Mr. WEISS in two instances.
Mr. YATRON.
Mr. HAMILTON in two instances.
Mr. NEAL of Massachusetts.
Mr. KILDEE in two instances.
Mr. KLECZKA.
Mr. CLEMENT in two instances.
Mr. HOAGLAND.
Mr. STARK.
Mr. MCNULTY.
Mr. COLORADO.
Mr. ACKERMAN.
Mr. ROEMER.
Mr. ERDREICH.

SENATE BILLS REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 310. Joint resolution to designate August 1, 1992, as "Helsinki Human Rights Day"; to the Committee on Foreign Affairs and Post Office and Civil Service.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 36 minutes p.m.), the House adjourned until Thursday, June 18, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3763. A letter from the Assistant Administrator for Legislative Affairs, International Development Cooperation Agency, transmitting a summary of activities proposed for funding in Peru during Fiscal Year 1992, pursuant to 22 U.S.C. 2151u(e); to the Committee on Foreign Affairs.

3764. A letter from the Secretary of Labor, transmitting the semiannual report of the Pension Benefit Guaranty Corporation's results of audits conducted by the Office of Inspector General, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

3765. A letter from the chairman, Board for International Broadcasting, transmitting the semiannual report of the Office of the Inspector General for the period October 1, 1991, through March 31, 1992, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3766. A letter from the Director, Office of Management and Budget, transmitting a report on activities under the Freedom of Information Act during calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3767. A communication from the President of the United States, transmitting notification that the designations of Don E. Newquist as Chairman and Peter S. Watson as Vice Chairman of the U.S. International Trade Commission, are effective June 17, 1992, pursuant to 19 U.S.C. 1330(c)(1); to the Committee on Ways and Means.

3768. A letter from the Office of Management and Budget, transmitting the 16th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102-25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

3769. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the transfer of four naval vessels to the Government of Greece; jointly, to the Committees on Foreign Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R. 5095. A bill to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 102-544, Pt. 2) Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of Conference. Conference report on H.R. 5132 (Rept. 102-577). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 491. Resolution providing for the consideration of the conference report and amendments reported from conference in disagreement on the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles, and Chicago, for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-578). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL (for himself and Mr. BROOMFIELD) (both by request):

H.R. 5412. A bill to authorize the transfer of certain naval vessels to Greece and Taiwan; to the Committee on Foreign Affairs.

By Mr. DE LUGO (for himself, Mr. MILLER of California, Mr. WAXMAN, Mr. RANGEL, Mr. COLORADO, Mr. FALEOMAVAEGA, and Mr. BLAZ):

H.R. 5413. A bill to amend the Social Security Act to increase the maximum amount of Federal medical assistance available to American Samoa, Guam, Puerto Rico, and the Virgin Islands under the Medicaid Program and to increase the Federal medical assistance percentage for those U.S. insular areas to 75 percent; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FAZIO (for himself and Mr. MATSUI):

H.R. 5414. A bill to authorize the Secretary of the Army to carry out a project for flood control and recreation on the Sacramento and American Rivers, CA; jointly, to the Committees on Public Works and Transportation and Interior and Insular Affairs.

By Mr. HANSEN:

H.R. 5415. A bill to establish the Canyons of the Escalante National Conservation Area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. LOWEY of New York:

H.R. 5416. A bill to amend section 8 of the United States Housing Act of 1937 to give preference in the provision of rental assistance under such section to individuals who are unable to return to their homes upon discharge from a hospital or nursing home because of a physical or mental impairment; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCMILLEN of Maryland:

H.R. 5417. A bill to facilitate the employment of separated members of the Armed Forces by law enforcement agencies; to the Committee on Armed Services.

By Mr. OLIN:

H.R. 5418. A bill to amend the Appalachian Regional Development Act of 1965 to include Roanoke and Rockbridge, VA, as part of the Appalachian region; to the Committee on Public Works and Transportation.

By Mr. STUDDS (for himself, Mrs. BOXER, Mr. GOSS, and Mrs. SCHROEDER):

H.R. 5419. A bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WEISS:

H.R. 5420. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of cooperative housing corporations; to the Committee on Ways and Means.

By Mr. ALLEN (for himself, Mr. ROHRABACHER, Mr. RIGGS, Mr. SANTORUM, Mr. TRAFICANT, Mr. BLILEY, Mr. GINGRICH, Mr. GOODLING, Mr. JOHNSON of Texas, Mr. ARMEY, and Mr. DELAY):

H.R. 5421. A bill to limit U.S. contributions to the United Nations Development Program; to the Committee on Foreign Affairs.

By Mr. BENNETT:

H.R. 5422. A bill to repeal section 201(d) of the act of February 16, 1988, authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GEJDENSON (for himself, Ms. DELAURO, and Mrs. KENNELLY):

H.R. 5423. A bill to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor; to the Committee on Interior and Insular Affairs.

By Mr. PORTER:

H.R. 5424. A bill to establish a Commission on Environment and Development to the Committee on Foreign Affairs.

By Mr. RANGEL:

H. Con. Res. 333. Concurrent resolution concerning the crisis in Haiti; to the Committee on Foreign Affairs.

By Mr. WYLIE:

H. Res. 490. Resolution relating to the enforcement of United Nations Security Council resolutions calling for the cessation of hostilities in the former territory of Yugoslavia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

486. By the SPEAKER: Memorial of the Legislature of the State of California, relative to reclaimed water feasibility study; to the Committee on Interior and Insular Affairs.

487. Also, memorial of the General Assembly of the State of New Jersey, relative to ocean waters east of Cape May; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. STUDDS:

H.R. 5425. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *High Calibre;* to the Committee on Merchant Marine and Fisheries.

By Mr. WILLIAMS:

H.R. 5426. A bill for the relief of Bear Claw Tribe, Inc. to the Committee on the Judiciary.

H. Res. 492. Resolution referring the bill (H.R. 5426) for the relief of Bear Claw Tribe, Inc., to the chief judge of the U.S. Claims Court; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. POSHARD, Mr. NEAL of North Carolina, Mr. RITTER, and Mr. GINGRICH.

H.R. 25: Mr. MCMILLEN of Maryland and Mr. ROSE.

H.R. 134: Mr. VISCLOSKY.

H.R. 785: Mr. DOWNEY and Ms. PELOSI.

H.R. 962: Mr. EVANS.

H.R. 1049: Mr. MOAKLEY.

H.R. 1067: Mrs. MEYERS of Kansas.

H.R. 1218: Mr. KOPETSKI.

H.R. 1472: Mr. MINETA.

H.R. 1536: Mr. NEAL of Massachusetts.

H.R. 1554: Mr. AUCOIN.

H.R. 1566: Mr. MARKEY and Mr. MATSUI.

H.R. 1624: Mr. WILLIAMS.

H.R. 1809: Mr. MCMILLAN of North Carolina.

H.R. 1969: Mr. RANGEL, Mr. BERMAN, Mr. BACCHUS, and Mr. NEAL of Massachusetts.

H.R. 2106: Mr. HOAGLAND and Mr. SAVAGE.

H.R. 2410: Mr. DANNEMEYER and Mr. FIELDS.

H.R. 2766: Mr. SABO.

H.R. 2782: Ms. LONG, Mrs. KENNELLY, Mr. DINGELL, Mr. MCHUGH, Mr. COLEMAN of Texas, and Mr. MRAZEK.

H.R. 2854: Mr. MCCLOSKEY.

H.R. 2862: Mrs. COLLINS of Illinois, Mr. BEREUTER, Mr. JEFFERSON, and Mr. SIKORSKI.

H.R. 3164: Ms. MOLINARI.

H.R. 3166: Mr. CRAMER, Mr. BONIOR, Ms. SLAUGHTER, and Mr. MANTON.

H.R. 3236: Mr. ATKINS and Mr. AUCOIN.

H.R. 3285: Mr. GUARINI.

H.R. 3562: Mr. MATSUI and Mr. DOWNEY.

H.R. 3571: Mr. SANGMEISTER.

H.R. 3598: Mr. PAXON.

H.R. 3736: Mr. KILDEE and Mr. BOUCHER.

H.R. 3801: Mr. HUTTO and Mr. LAGOMARSINO.

H.R. 3826: Mrs. BOXER, Mr. DICKS, Mr. ERDREICH, Mr. FISH, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. PANETTA, Mr. SANGMEISTER, Mr. SCHIFF, and Mr. BORSKI.

H.R. 3943: Mr. MAVROULES.

H.R. 4025: Mr. PORTER.

H.R. 4044: Mr. PANETTA.

H.R. 4045: Mr. SWETT and Mr. PEASE.

H.R. 4166: Mr. TAYLOR of North Carolina.

H.R. 4271: Mr. OBERSTAR and Mrs. LOWEY of New York.

H.R. 4305: Mr. HUNTER, Mr. PACKARD, and Mr. PORTER.

H.R. 4316: Mrs. JOHNSON of Connecticut, Mr. PAYNE of New Jersey, and Mr. HUGHES.

H.R. 4401: Mr. PRICE Mr. UPTON, Mr. RHODES, Mr. EDWARDS of Texas, Mr. FEIGHAN, Mr. GORDON, Mr. ANDREWS of New Jersey, Mr. GALLO, and Mr. MAZZOLI.

H.R. 4405: Mr. NEAL of Massachusetts, Mr. ECKART, and Mr. PAYNE of New Jersey.

H.R. 4457: Mr. HOCHBRUECKNER and Mr. WEISS.

H.R. 4502: Mr. MCCURDY, Mr. LANCASTER, Mr. RAY, Mr. PALLONE, Ms. OAKAR, Mr. DORNAN of California, Mr. MCGRATH, Mr. WALSH, Mr. CONDIT, Mr. TAYLOR of Mississippi, Mr. BUSTAMANTE, Mr. BARNARD, Mr. LAUGHLIN, Mr. FROST, Mr. SHAYS, Mr. ATKINS, and Mr. BONIOR.

H.R. 4507: Mr. CAMPBELL of California, Ms. SNOWE, and Mr. BRUCE.

H.R. 4520: Mr. MCNULTY.

H.R. 4591: Mr. MCMILLEN of Maryland.

H.R. 4595: Ms. HORN and Mr. EMERSON.

H.R. 4821: Ms. MOLINARI, Mr. SMITH of New Jersey, Mr. ROGERS, Mr. KLUG, Mrs. MORELLA, Mr. BROWN, Mr. MACHTLEY, Mr. BILIRAKIS, Mr. MCCOLLUM, Mr. HERGER, Mr. ANTHONY, Mr. LEWIS of California, Mr. FRANKS of Connecticut, Mr. WEBER, Mr. CALLAHAN, Mrs. ROUKEMA, Mr. BENNETT, Mr. BURTON of Indiana, Mr. VANDER JAGT, Mr. EMERSON, Mr. HUTTO, Mr. RAMSTAD, Mr. LEWIS of Florida, Mr. PETRI, Mr. SENSENBRENNER, Mr. DWYER of New Jersey, Mr. DUNCAN, Mr. KYL, Mr. JOHNSTON of Florida, Mr. SMITH of Oregon, Mr. HORTON, Mr. KILDEE, Mr. FAWELL, Mr. TRAFICANT, Mr. NEAL of Massachusetts, Mr. ERDREICH, Mr. CUNNINGHAM, Mr. LEACH, Mr. MARLENEE, Mr. BAKER, Mr. NOWAK, Mr. POSHARD, Mr. COBLE, Mr. TAYLOR of North Carolina, Mr. ANDREWS of New Jersey, and Mr. QUILLEN.

H.R. 4884: Mr. SCHEUER and Mr. MOLLOHAN.

H.R. 4895: Mr. MACHTLEY.

H.R. 4909: Mr. YOUNG of Alaska, Mr. RAHALL, Mr. HAYES of Louisiana, and Mr. GILMAN.

H.R. 4910: Mr. SCHIFF, Mr. BERMAN, Mr. JEFFERSON, Mr. TOWNS, Mr. FRANK of Massachusetts, and Mrs. UNSOELD.

H.R. 4928: Mr. STUMP, Mr. SCHIFF, Mr. RHODES, and Mr. KYL.

H.R. 4980: Mr. TALLON.

H.R. 5013: Mr. FALEOMAVAEGA.

H.R. 5014: Mr. BARRETT.

H.R. 5034: Mrs. COLLINS of Illinois and Mr. PERKINS.

H.R. 5126: Mr. BOUCHER, Mr. CHAPMAN, Mr. DELLUMS, Mr. ESPY, Mr. LAUGHLIN, Mr. PANETTA, Mr. SARPALIUS, Mr. STAGGERS, Mr. TAUZIN, Mrs. COLLINS of Illinois, Mrs. COLLINS of Michigan, Mr. DYMALLY, Mr. WASHINGTON, Mr. BROOKS, Mr. CLINGER, Mr. EDWARDS of Texas, Mr. HOYER, Mr. MCCURDY, Mr. PICKETT, Mr. SMITH of Texas, Mr. STENHOLM, and Mr. BLACKWELL.

H.R. 5150: Mr. LAFALCE, Mr. LENT, Mr. HAYES of Illinois, Mrs. VUCANOVICH, Mr. BATEMAN, Mr. SCHEUER, and Mr. RIGGS.

H.R. 5201: Mr. FROST, Mr. ATKINS, and Ms. NORTON.

H.R. 5206: Mr. GORDON, Mr. KOPETSKI, Mr. TOWNS, and Mr. JEFFERSON.

H.R. 5208: Mr. MFUME and Mr. CAMPBELL of Colorado.

H.R. 5237: Mr. BONIOR, Mr. JACOBS, Mr. BEREUTER, and Mr. CARR.

H.R. 5238: Mr. SKELTON, Mr. HAYES of Louisiana, and Mr. GUNDERSON.

H.R. 5240: Mr. BURTON of Indiana, Mr. DAVIS, Mr. CHAPMAN, Mr. LOWERY of California, Mr. CAMPBELL of Colorado, Mr. GILCHREST, Mr. MAVROULES, AND Mrs. SCHROEDER.

H.R. 5250: Mr. HUGHES.

H.R. 5264: Mr. FRANK of Massachusetts and Mr. EVANS.

H.R. 5267: Mr. MOAKLEY, Mr. RANGEL, Mr. SOLARZ, Mr. STOKES, Mr. TORRES, Mrs. KENNELLY, Mr. MORAN, Mr. CLAY, Mr. ESPY, Mrs. SCHROEDER, Ms. NORTON, Mr. FLAKE, Mr. HALL of Ohio, Mr. FRANK of Massachusetts, Mr. HAYES of Illinois, Mr. MFUME, Mrs. COLLINS of Michigan, Mr. SANDERS, Mr. ABERCROMBIE, Mr. LEWIS of Georgia Mr. SAVAGE, and Mr. PAYNE of New Jersey.

H.R. 5282: Mr. SENSENBRENNER.

H.R. 5290: Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. FALEOMAVAEGA, and Mr. FISH.

H.R. 5294: Mr. PERKINS.

H.R. 5307: Mr. LEHMAN of Florida, Mr. LAUGHLIN, Mr. PICKETT, and Mr. LEWIS of Florida.

H.R. 5320: Mr. DEFAZIO and Mr. NAGLE.

H.R. 5360: Ms. NORTON, Mr. FALEOMAVAEGA, Mr. FORD of Tennessee, Mr. CONYERS, Mr. FEIGHAN, and Mr. PAYNE of New Jersey.

H.R. 5401: Mrs. ROUKEMA.

H.J. Res. 1: Mr. JOHNSON of South Dakota, and Mrs. KENNELLY.

H.J. Res. 152: Mr. WEBER.

H.J. Res. 378: Mr. TRAXLER, Mr. CONYERS, and Mr. SLATTERY.

H.J. Res. 455: Mr. JACOBS, Mr. CRAMER, Mr. QUILLEN, Mr. HYDE, Mr. HUBBARD, Mr. LEACH, Mr. MCMILLEN of Maryland, Mr. MOAKLEY, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. PASTOR, Ms. OAKAR, Mr. HAYES of Illinois, and Mr. CHAPMAN.

H.J. Res. 459: Mr. ABERCROMBIE, Mr. ANDERSON, Mr. ANTHONY, Mr. ASPIN, Mr. ATKINS, Mr. BEILENSON, Mrs. BOXER, Mr. BROWDER, Mr. BUNNING, Mrs. BYRON, Mr. CHAPMAN, Mr. COOPER, Mr. DARDEN, Mr. DICKS, Mr. DIXON, Mr. DORGAN of North Dakota, Mr. DURBIN, Mr. DYMALLY, Mr. EDWARDS of Texas, Mr. EVANS, Mr. FAZIO, Mr. FEIGHAN, Mr. FRANK of Massachusetts, Mr. GIBBONS, Mr. HOAGLAND, Mr. HOYER, Mr. KANJORSKI, Ms. KAPTUR, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. MILLER of California, Mrs. MINK, Mr. MOLLOHAN, Mr. NATCHER, Mr. OLVER, Mr. ORTIZ, Mr. PANETTA, Mrs. PATTERSON, Mr. PETERSON of Florida, Mr. RAHALL, Mr. RICHARDSON, Mr. RIDGE, Mr. RITTER, Mr. RUSSO, Mr. SANGMEISTER, Mr. SHARP, Mr. STENHOLM, Mr. SWETT, Mr. SWIFT, Mr. SYNAR, Ms. WATERS, Mr. WILSON, and Mr. YATES.

H.J. Res. 468: Mr. HORTON, Mr. KANJORSKI, Mr. MONTGOMERY, Mr. VENTO, Mr. ESPY, Mr. REGULA, Mr. FROST, Mr. JONES of Georgia, Mr. CARDIN, Mr. TOWNS, Mr. FASCELL, Mr. TRAFICANT, Mr. MORRISON, Mr. EMERSON, Mr. DWYER of New Jersey, Mr. JEFFERSON, Mr. LEHMAN of Florida, Mr. ROBERTS, Mr. GOODLING, and Mr. BILIRAKIS.

H.J. Res. 483: Mr. LEHMAN of Florida, Mr. BATEMAN, and Mr. MCNULTY.

H.J. Res. 495: Mr. TRAXLER, Mr. DOWNEY, Mr. MARTINEZ, Mr. CHAPMAN, Mr. SANDERS, and Mr. HAMMERSCHMIDT.

H. Con. Res. 307: Mr. RAY and Mr. HEFLEY.

H. Con. Res. 316: Mr. MAVROULES, Mr. JEFFERSON, Mr. SUNDQUIST, Mr. JOHNSTON of Florida, Mr. STUDDS, Mr. SPRATT, Mr. PANETTA, Mr. STOKES, Mr. BLACKWELL, Mr. BROOMFIELD, Mr. ANDREWS of Maine, Mrs. BOXER, Mr. WYDEN, Mr. JONES of Georgia, and Mr. STAGGERS.

H. Con. Res. 326: Mrs. BENTLEY, Mr. ERDREICH, Mr. LIPINSKI, Mr. CHAPMAN, Mr. DURBIN, Ms. HORN, and Mr. EVANS.

H. Res. 415: Mr. BEVILL, Mr. BILIRAKIS, Mr. ATKINS, Mr. WEBER, Mr. RAVENEL, Mr. CRANE, Mr. ZELIFF, Mr. MARTINEZ, Mr. MACHTLEY, and Mr. MCCLOSKEY.

H. Res. 470: Mr. ECKART, Mr. PENNY, Mr. DELLUMS, Mr. RITTER, Mr. WOLF, Mr. TOWNS, Mr. MRAZEK, Mr. FOGLIETTA, Mr. SKAGGS, Mr. SPRATT, Mr. LIPINSKI, Mrs. LLOYD Ms. HORN, Mr. HUGHES, Mr. OBERSTAR, Mr. SISISKY, Mr. WILSON, Mr. LAFALCE, and Mr. ZELIFF.

H. Res. 472: Mr. LEACH, Mr. SHAYS, and Mr. PETRI.

H. Res. 478: Mrs. MEYERS of Kansas, Mr. HASTERT, Mr. PORTER, Mrs. BENTLEY, Mr. EWING, and Mr. LIVINGSTON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4996

By Mr. DYMALLY:

—Page 70, lines 4 and 5, strike "and in one country in Latin America" and insert "in one country in Latin America, and in one country in Africa".

—Page 74, line 20, strike "$6,000,000" and insert "$8,000,000".

—Page 74, line 21, strike "$4,000,000" and insert "$5,500,000".

EXTENSIONS OF REMARKS

HEALTH CARE IS AN IMPORTANT ISSUE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. DOWNEY. Mr. Speaker, health care is one of the most important issues facing us today. On Long Island, my constituents are concerned about the lack of affordable and adequate health insurance coverage. In addition, there is a genuine need for us to recognize the importance and cost effectiveness on preventative care and support.

The distinguished Governor of my State, the Honorable Mario M. Cuomo, recently addressed the graduates of the New York University Medical School. In his usual eloquent style, Governor Cuomo presented an insightful and thought-provoking overview of the health care issue. With your permission Mr. Speaker, I would like to include the text of the Governor's speech in my remarks:

REMARKS BY GOVERNOR MARIO M. CUOMO

Thank you Dr. Farber for that truly generous introduction. It's a great honor to be invited. It's a great honor to be here today and I thank you.

Larry Tisch, Marty Begun, John Rosenwald, Dr. Dinowitz, Dr. Eng, all the members of the board, trustees, faculty, staff, all distinguished honorees, ladies and gentlemen.

And to you, the honored principals of this occasion, the graduating class of 1992. All of us applaud you. Your intelligence, your strength, your persistence, your faith. This day belongs to you and to your mothers. Also all of your friends, all of your relatives, all of your significant others.

And to all who have stood by you through the trials and tribulations of medical school—that hard journey described already by Dr. Dinowitz. Through the written and practical exams. Through the 36-hour rounds in the emergency rooms and wards at Bellevue. Through the verbal pummeling suffered at the hands of residents—sometimes overbearing residents. Through the cadavers, the scatological med school humor and the late-night moral qualms.

You have exposed yourselves to disease. You have witnessed and assisted in the miracle of birth, and you have studied the perplexing realities of death. You have subjected yourselves to the full range of human emotions; fear, joy, anger and suffering. And many of you will continue to for years to come.

You have proven yourselves worthy of participating in one of the world's most respected and most important professions. Through it all, your family and friends have supported you, encouraged you and, when necessary, tolerated you.

As a father of a physician, I know the sense of joy and relief that many of these people feel today. The joy that you got through it all, and relief that medical school is over for you—and for them. Now only one hurdle stands between you and your full-time life as a physician—enduring the ordeal of the commencement speech. That may not be easy for you or for me, for that matter. The last time I spoke before so many doctors was in Albany in 1988 at a conference of 500 psychiatrists. This is the truth. As my turn to speak approached, one of the doctors—I think a Republican—leaned over and said, "Governor, would you prefer a podium or a couch?"

I'll try not to intrude too long on the festivities that are sure to follow and that you so richly deserve. But I will use this opportunity to focus on an important subject because it will be a significant part of your continuing medical education and, of course, you—every one of you—will be vital to its proper resolution.

The development of medicine in America, like the nation itself, has made a miraculous journey in just over 200 years. From the Colonial period, when most sickness was treated in the home by women who relied on popular medical almanacs; to the eighteenth century, when bloodletting and the liberal use of emetics abounded; to the turn of the century, when American medicine revolved around the doctor, his black bag and his office; to today, when we are blessed with startling technical capacity with internationally-renowned medical schools, with well-paid and respected hospital administrators and physicians, and more Nobel Prize winners in medicine than any other country in the world.

In only 200 years, the immense wealth of this vast nation and its gift for enterprise, innovation and compassion, have produced some of the best intelligence, technology and health care anywhere in the world.

But after 200 years, health care in America faces a confounding and even an agonizing paradox. The vagaries of the free enterprise economy and the unevenness and insufficiency of our political and governmental system have left us, despite all of these accomplishments, with daunting health care problems.

In many ways, we have too few doctors and nurses. In many instances, we overuse or abuse our technology. Sometimes we don't have enough technology. Sometimes we don't have enough care.

A few blocks from NYU lie people suffering the ravages of epidemics we thought we had conquered: drug resistant tuberculosis, measles, congenital syphilis. . . while inside the neonatal units in the hospices lie the victims of our terrible new plagues: babies the size of my hand, literally, strapped to respirators, clinging to life, born addicted to crack; AIDS babies . . . born to die.

People are dying because they come to the hospital too late in their diseases for acute care to save them, or they suffer more than they would have had to if we had only done the simple thing—provided the ounce of prevention called primary care, provided pre-natal care, regular check-ups, easy-to-understand instructions from a physician they could trust.

It is shocking and humiliating that the United States, by far the greatest, most powerful nation in world history, ranks 17th in life expectancy and 21st in infant mortality among industrialized countries.

And the cost of it all is threatening to bankrupt the nation.

Think about it: Until 1965 there was no significant national governmental involvement in making health care available to all Americans. Medicare and Medicaid were the first great national steps, but they are not enough to meet today's problems.

Today, the United States spends $800 billion a year on health care and it will be increased by 50 percent before the end of the decade. $800 billion. That's more than two and a half times the entire defense budget. Yet, some 35 million Americans, more than 2 million of them in New York State, have no coverage.

Private insurance for the middle class is being sliced like Swiss cheese—thin and full of holes. Red tape is strangling the system, making it much more expensive than it need be. Our population is growing old and more frail, more people in need of long-term care. Exquisite technology grows more exquisite and more expensive. Costs are exploding. People are frightened everywhere. Suddenly it's a huge national issue. Everyone desperate for answers.

All of this happened just as you arrive on the scene.

Now to find the solution, we will need everyone on this stage and everyone in this audience contributing to the analysis, the dialogue and formulation of a plan to reform the entire system. But most certainly, we will need you and the entire great institution of NYU and this state's government and the government of all the states.

The challenge we all face as doctors, as politicians, as Americans, is immense. But so is the opportunity.

For the first time in nearly 50 years, there is a strong consensus that we need universal health care reform. There is also a universal understanding that such reform would be more than lip service, Band-aids, or half-baked theories dreamt up by rigid ideologues who have never even seen the inside of a maternity ward. It must be real reform that preserves the best of the current system, because much of it is very good, and builds on it to make it better.

It's now clear to most Americans that universal health care can only be achieved with the help of the national government. Believe it or not, that is a giant step forward. For the past 25 years, the responsibility for expanding access and controlling costs has fallen primarily, nearly exclusively, to the states. Many states, including New York, have excelled in that role. In fact, in many ways, we're far ahead of much of the rest of the country. We expanded coverage for children through our Child Health Plus Program, invested massively in pre-natal care, and, even in tough fiscal times, we've increased funding for primary care. We created the first AIDS Institute. We compensate hospitals for the otherwise uncompensated care that they provide, and we help businesses buy coverage for their employees.

We were able to do all of this, in part, because we control costs better than most states thanks to two people whose names you probably don't hear often. I didn't have anything to do with it except I was part of

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the government led by a great Governor, Hugh Carey, who preceded me and who ordered a lot of this kind of health care. And another man, a genius, a doctor and a saint, a physician, who gave up his entire life to public service, who is with us still but not able to speak, not able to communicate because of one of those terrible, terrible unknown strokes or whatever the medical profession would call it, lying, lost to us, his mind, not reachable by us: Dr. David Axelrod. Remember him because someday you'll read about him and the contribution he made to this state.

Thanks to Dr. Axelrod and Governor Carey, our health care system is far advanced when it comes to controlling costs, and that's not always popular. We have DRG's. We have uniform rates. The hospitals are struggling. They would prefer "cost plus." "Let us spend all the money we want and then give us the 15 or 17 percent that we need as profit." That's easier but it's too expensive. And so we put caps on the costs because we had to. We do it through certificates of need that protect against unnecessary duplication of costs or services or facilities. And in New York we're cutting costs through a computerized clearinghouse that will save as much as $200 million a year in the hospital sector alone just by simplifying electronically the avalanche of complicated paperwork that has descended on the system.

So we are proud of what we've done. But even if all states did what New York is doing, stress alone would not tame the health care monster. We must have a national plan. It is inevitable. It's no longer a question of choice. We must have it.

I believe such a plan should be built on four main pillars. Let me give them to you briefly and simply, but I hope not simplistically.

One: *Cost control.* There must be a national built-in system to control costs, that should apply to all services and all payers. Some of the things we've done in New York—like certificates of need, like uniform rates—should be universally applied.

Two: *Coverage.* All Americans must be guaranteed a basic package of health care benefits with a heavy emphasis on primary and preventive care.

Three: *Public-private partnerships.* Reform must bring together the best of both what government and the private system currently offer.

Four: *Simplicity.* A reformed system must be easy to understand, easy to use, for both providers and consumers.

Let me suggest a place to start the discussion. Usually the temptation is to begin with access. Why? Because the national impulse is that we want to get all the people covered. That's the humane thing to do and it is perhaps the most important thing. But in order to achieve total access, you must first control costs. The governmental and the private sector can do that by agreeing to do at least the following:

First, reduce the waste and excessive paperwork by simplifying the billing and payment system. Sounds simple, doesn't it? We are far behind, as New York is proving with its cost control paperwork program. We've shown in New York how much can be saved just by computerizing. We have to do that nationally.

Second, we should establish uniform rules of payments to all providers, including hospitals and doctors. Currently, the country's system is a maze of different and conflicting rules and regulations depending upon the provider, and there are hundreds and hundreds of them. The big reason overall health care costs grew slower in New York than any other state was because we pay on a uniform method of payment. Now we need to do that nationally, making adjustments, of course, for regional variations because in some places the cost of living is higher. You have to pay doctors more. In some places, the costs will be higher because of the environment. And New York is such a place and that has to be taken into account. The rates must be set at a rate to discourage overutilization, promote primary care, and properly compensate the pediatricians, the interns and the so-called "family doctors" in order to ensure that early care is provided.

Third, just as we must reform the financing of the system, we must also reform the delivery part of the system. Research holds the best hopes for curing some of the worst illnesses that haunt us today. Of course we must continue research. We must do more than we're doing. We must invest more. We must enhance the work and we should continue to push all of our frontiers of technical knowledge. You can't stop. At the same time, however, we must be careful that the technologies we develop are not misused or employed excessively.

Fourth, we need to reform the way insurance works. It's a tedious subject but you need to understand this. Escalating health care costs are encouraging private insurers to avoid insuring people who are sick or are likely to get sick. They "cherry pick." They pick the people who are least likely to cost them anything—the healthy, the youngest, the strongest. Leave the others out. Stay away from those communities where there are a lot of poor people who get poor people's diseases. That has to change. We must see to it that private insurers manage risk, instead of seeking to avoid it.

In New York, we're negotiating legislation that will prohibit private insurers from discriminating against people because of their age, their sex, their health status or their occupation. And we're seeking to require insurance companies to price their policies on a community-wide basis rather than dividing up the population into risk groups. These two policies—one called Open Enrollment, a word that lawyers would say speaks for itself and Community Rating, which also speaks for itself, must be part of our state system and they must be part of the national system, too.

Then as we control costs and make the system simpler, we must make it available to more Americans. Ultimately, all Americans must be guaranteed access to a basic package of health care benefits. The package has to be comprehensive. It must include a dramatic and an intelligent emphasis on primary care. An ounce of prevention is still worth a pound of cure.

Now this is complicated. It won't be done in one great explosion of reform and it won't be done inexpensively for the national government. It will take time, but we must start now.

All sorts of ways of doing it all have been suggested. Some would leave it all to government. Canada. "Do what Canada does. Let the government run the whole thing." I'm opposed to that. The government is not particularly good at running a lot of things. There are some things that only government can run and I think government has a role to play—a very important one. I believe, however, a public-private partnership is our best opinion here. We should take what is best from both the government sector and the private sector. With both, together, ensuring the same high standards for coverage, for cost control, for cutting red tape and eliminating waste and for promoting primary care.

The public-private partnership would make the most of what's best in Medicare. Medicare is a successful government program. Take Medicare and expand it. Do it as follows: Expand it to cover the poor, which is now Medicaid. Have Medicare absorb that part of the government program. Cover all the elderly, all the unemployed, all the poor, all the self-employed, all the small businesses—all Medicare. Provide catastrophic coverage for all Americans, say for everything over $25,000.

Don't ask people to insure for millions of dollars in cost. Who can say what would happen to Dr. David Axclrod lying there for a year, maybe for another ten? Only God knows and He's not telling us.

Have government take care of the catastrophic. Private insurance would include everyone else who was employed and not elderly, and a wallet-sized health benefit card would be given to all Americans to guarantee their access to the system.

Now, another point. Clearly those who want coverage above and beyond this basic package would be free to purchase additional insurance. We are always going to be a very rich nation no matter how badly the politicians foul it up. We have been so blessed that we will always have many rich people, and that's good. That's a sign of our strength, not a sign of our weakness. And people who are sufficiently wealthy might feel that they can afford something better than the public package. Fine, let them purchase it. It will always be available. You can hire any doctor you want, create any institution they want. That happens in Canada. It happens all over the world and it will continue to happen here.

As we reform our national health care system, we must make a special effort to deal with the link that has, for too long, been left out. We must talk about this. Listen closely to the public debate in the Presidential race and everywhere else. Listen to all the health care plans, all those who have emerged already. There's a missing link. Do you know what it is? Long-term care. Why? It's too expensive and so none of the plans, so far, deal with it. Long-term care is the national concern now being primarily addressed at the state level.

In New York, for example, 85 percent of all nursing home costs are paid for by Medicaid. To change that, the State of New York has entered into a new public-private partnership to help finance long-term care. It will help some seniors secure private, long-term care coverage without spending down all of their assets. States acting alone do not have the capacity to meet the needs for long-term care. It must be part of the national plan. The thinking on this aspect of the subject has only begun. We're going to push it very, very hard in the months ahead. We're going to ask all the candidates for office—my own, the President, Ross Perot, and everybody else—to speak on the subject. In New York State, if you ask that it be done, sooner or later you'll get some kind of response. We will force that subject into the public debate.

In all the deliberation of ways to provide national universal health care, the two goals we must insist on are reasonable choice and high quality. Universal health care should not come at the expense of reducing excellence in your profession by depriving it of incentive and motivation. I would discourage any system that forces physicians to accept unrealistically low thresholds for compensation and reward. It wouldn't be fair, and it would not work. Guaranteeing excellent quality at affordable cost, while at the same time having room for excellence to manifest itself and be rewarded, is the challenge the political system must meet.

Now, for a long time the country's doctors and providers resisted or opposed national health care and there are still some who don't like even the sound of it. In the end, however, reform will happen with or without the support of the doctors. But reform of the system will not be as fruitful, will not be as intelligent without the doctors as it will be if you participate—if your voices are heard, if you use your intelligence and your knowledge to help inform the rest of the public. Your advice and cooperation is essential.

For some parts, your participation is indispensable. For example, in order to do more primary and preventive care, which we must do, we need more graduating M.D.'s to choose to become general practitioners instead of specialists. We need more doctors practicing in inner cities, rural and underserved areas. How do you do that? Draft them? Force them? Of course not, not in this country. They have to volunteer. Only the doctors can do it for you. Only by agreeing to do it. Only because you have made it worth their while to do it.

Government working with the medical schools can help young doctors to make that choice. Government reform of the system would enable doctors to spend less time answering questions from insurance clerks, and more time serving their patients.

Medical schools can help by emphasizing primary and preventive care in their curriculums and by establishing new goals to graduate doctors committed to family practice in rural, urban and underserved areas.

In the long-term, government and the medical community must take a greater interest in developing the legion of potentially young doctors already living in our inner cities.

All of those children we're losing now to crack, to AIDS, to drugs, to violence in my old neighborhood of South Jamaica in Queens, in the South Bronx and all of the troubled ghettos; we can't afford to lose all those young people. It's not only a sin, it is a practical loss that we cannot bear in this society. We need them. We need them as doctors, as nurses, as physicians. And the answer to our shortage of these critical people is literally staring back at us if we have the eyes to see it.

Is it too much to believe that those children in the mean streets that I came from, mean streets of our cities, can rise above the squalor and misery that now surrounds them, to one day wear the white coat the way you do? Why? Why is it too much? Where did you come from? Where did I come from? Where did your parents come from? And their parents, your grandparents? No one understands the miracle of birth better than those of us who were born to those people. Those who were called too uneducated, too uncouth, too undeveloped to contribute to this nation's power and glory. We, the children and the grandchildren of the immigrants who gave life to America, must now lead this nation in developing its vast untapped potential, in continuing to struggle to improve, to usher in a new birth of freedom and justice.

A physician and poet put all of this in words more eloquent than any I have. His name is familiar to you, I'm sure. William Carlos Williams. He was a family doctor. He practiced in a small New Jersey community for more than 40 years. And he also happened to be one of America's most beautifully poetic voices.

As a doctor, he faced the powerful mysteries of life and death, as many of you will as daily parts of your working lives. And as a poet, he searched out the essence of the American character, trying to understand and to express through his writing what makes us what we are as a people. Once he was asked why he hadn't gone off to Europe like so many of the other American artists and writers of his time and he said straight out, "Because the world force is here in America. We have something all our own, something vital and alive and new. We must work with it, we must use it, we must celebrate it." This question seemed puzzling and they asked him to explain this "world force." He said, "In America, we are still creating the future by dreaming it first and it's something that we're dreaming together."

That was the "world force" William Carlos Williams struggled to see beneath the excitement, the vast energy and the often hard, unloving facts of everyday life in this miracle of a place, "a dream that doesn't leave anyone out."

Like many of you, I know how powerfully this great city has nurtured those dreams.

I've told stories over and over of being born ten miles from here and growing up behind and above a grocery store and, how a generation later, my family attended my eldest daughter's graduation from one of our great medical schools.

I remember by Mother who came from another country with no education or wealth or even skills, certainly no friends, crying at that graduation and saying in another language because she didn't speak English very well, "My God, my granddaughter is a doctor."

Talk about dreams fulfilled.

I hope this day brings you one step closer to fulfilling your own dreams. I hope you take from this place the strength to go forward with human hands to help heal our aching land.

Thank you.

AFRICAN-AMERICAN FAMILIES FESTIVAL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, June 20, 1992, Brookdale Community College in Lincroft, NJ, will hold its sixth annual African-American Families Festival. This year's festival is entitled "The Family Is Our Future."

The African-American Families Festival has, in a short time, emerged as a wonderful tradition for the central New Jersey area, attracting people from the shore area, and other parts of our State. It provides a day of fun and excitement, as well as an opportunity for those who attend to learn about the long, rich, and proud tradition of the African-American community.

It is no secret that there currently exists a climate of racial tension in this country, which tragically extends into virtually every American community. Thus, it is especially important now that we give our full support to those programs and events—such as this weekend's festival that present the true face of African-American culture, which is full of love, respect for human dignity, spiritual growth, and a powerful sense of community. For African-Americans, too often subjected to bigotry and a general lack of respect, the festival offers a chance to take pride in the brilliant accomplishments of people from their community. It is to be hoped that this process of education will ultimately teach members of the white community a lesson about the profound contributions that people of African descent have made to the betterment of American society.

THE BALANCED BUDGET AMENDMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 17, 1992, into the CONGRESSIONAL RECORD:

THE BALANCED BUDGET AMENDMENT

Last week the House considered several versions of a balanced budget constitutional amendment. None received the two-thirds vote necessary to adopt a constitutional amendment. The version getting the most votes would have required the President to propose a balanced budget each year, and, although Congress could change the President's priorities, it would take a three-fifths vote of both the House and Senate to unbalance the budget.

Reservations: Although I support a carefully written balanced budget amendment, I do have several concerns. First, a balanced budget amendment could simply mean putting off action on the deficit for a few years, and it gives Members of Congress a politically popular vote now without forcing them to make any tough decisions about cutting programs or raising taxes. As it stands, the amendment is a promise without a plan. Second, it could lead to involvement of the courts in setting economic policy, deciding when the provisions are being met and what happens if they are not met. The slow, complex judicial process is not well suited for the needs of economic policy to be flexible and rapid in response to changing conditions. Courts would have no way to enforce it. Third, a balanced budget amendment could reduce the flexibility of policymakers to deal with national emergencies, and could have the effect of worsening recessions by requiring Congress to cut spending or raise taxes during a downturn. It could diminish economic growth and employment if it forced a balanced budget quickly, and could affect global economic stability by making it difficult to coordinate U.S. economic policy with those of other nations. Fourth, Congress and the President could try to evade its requirements—through basing budgets on unrealistic scenarios, putting spending "off-budget", and using mandates or regulations to shift the cost of programs, for example, requiring states or private businesses to pay for more health care coverage. Finally, the versions considered by the House did not distinguish between spending for general operating expenses and spending for capital investments (such as investments in research, education, and infrastructure); many economists believe that borrowing for long-term investments to increase economic growth can make sense and should not be subject to balanced budget requirements.

Reasons For Supporting: Yet in the end I voted for a balanced budget amendment, for several reasons.

First, Congress has tried just about everything to reduce the deficits, and none of it has worked. The steps have included Gramm-Rudman targets and across-the-board cuts; program freezes; pay-as-you-go requirements for new spending; budget summits producing packages of spending cuts and tax increases; and economic packages to grow out of the deficits. Yet the deficits continue to increase. Moreover, the projections are that they will remain high and may even get higher.

Second, I see no evidence that there is anything else on the horizon that will work to rein in the deficits. It is often said that all we need is strong presidential leadership and political will in Congress to make the tough choices. Yet no President since Carter has submitted a balanced budget; indeed, President Bush's last budget called for a $399 billion deficit. And for its part, Congress changes the procedures or waives the rules when a real squeeze comes. Deficit spending has become an intractable institutional problem, deeply embedded in our system of government. A fundamental change is needed.

Third, the large deficits are no longer just a matter of fiscal policy but increasingly a factor in our nation's security, and thus are a legitimate area for constitutional amendment. They drain our national savings and lead to stagnant productivity growth. They make it difficult if not impossible for policymakers to respond to new pressing needs or to make important long-term investments in the future.

Fourth, the balanced budget amendment puts the moral force of the Constitution behind fiscal restraint. It is not an ironclad guarantee and allows for exceptions, but it should force Congress and the President to set priorities and make choices, and will heighten public scrutiny of budgetary behavior.

Fifth, balanced budget amendments have worked reasonably well for the states. Comparison with the states should not be pressed too hard, since only the national government has responsibilities for the overall performance of the nation's economy and its security—a major reason why no other industrialized country requires a balanced national budget. But generally it appears that, although the states can play games to evade balanced budget requirements, they cannot do so over several years. The provisions eventually bite and force them to make the tough decisions. In addition, the experience of the states is that the balanced budget requirements have not led to endless disputes in the courts or to the courts taking over fiscal policy.

Different Versions: Five different versions of the amendment were considered by the House, and each had its pluses and minuses. My main concern about the version getting the most votes was its "supermajority" provision—requiring a three-fifths vote of the total membership of the House and Senate to approve an unbalanced budget. I felt this requirement would reduce the flexibility of Congress to respond to national emergencies, such as a recession, and would enshrine in the Constitution the principle of minority rule. Under this proposal, 40% of the Members plus one in either the House or Senate could stop the entire government, and that could make legislative gridlock, already a problem in Congress, more likely.

I voted for another version, which did not contain supermajority provisions but instead prohibited Congress from approving an unbalanced budget unless the President requests one by issuing a Presidential Declaration of National Urgency, and barred Congress from approving a budget with higher spending than proposed by the President. This version, I felt, better balanced the need for spending restraint with the need for flexibility to act in an emergency.

Conclusion: So I conclude that for all the flaws and risks in the balanced budget amendment, our past record and the future burdens we are placing on our children make a case for the adoption of an amendment. It is not a panacea for our nation's fiscal ills. Even if one is eventually approved, painful decisions to cut specific programs or increase taxes, or both, will still have to be made. A carefully drawn balanced budget amendment is a gamble, but a gamble worth taking.

TRIBUTE TO MANUEL CAPO

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding success of Manuel Capo a remarkable example of the American dream.

Manuel Capo was born in 1925 in Pinar Del Rio, Cuba. He left school after third grade, and began work in his father's furniture-making shop. When Fidel Castro siezed power, the government seized the furniture shop. Manuel Capo continued working as a furniture-maker in Cuba until one of his sons was arrested by the government. He then developed a plan to escape to the United States by salvaging a fishing boat and becoming a fisherman.

Soon after he moved to Miami, Manuel Capo opened a small furniture store, financed with a $600 loan from a friend. The store sold mostly the furniture that Manual and his six sons, Manolito, Luis, Carlos, Pedro, Jesus, and Roberto, made during the night. With hard work and help from the Small Business Administration, he was able to build his business up, and he now has six stores and two warehouses.

The Miami Herald published an article about this remarkable success story, which I would like to include in the record:

STORE CHAIN NAMED AFTER ESCAPE BOAT

(By Alfonso Chardy)

To escape Cuba, Manuel Capo salvaged a sunken fishing boat, repaired it and used it to flee in 1966. The name of the boat was El Dorado.

Today, the 67-year-old Capo is a millionaire, the owner and chairman of the board of successful furniture stores in Dade, Broward and Palm Beach counties. The name of the store chain is El Dorado.

"I couldn't pass up the opportunity to honor the boat that brought me to freedom," said Capo.

Born in Pinar del Rio, Cuba, in 1925, Capo left school after the third grade. He went to work with his father, who operated a small furniture-making shop.

Shortly after taking power, the Fidel Castro government confiscated Capo's business along with virtually all other private enterprises in the country.

Capo remained in Cuba, making furniture until 1966, when he decided to leave following the imprisonment of one of his sons.

To escape, Capo designed an elaborate ruse worthy of a spy thriller.

He obtained authorization to lift El Dorado from the water with the cover story that he wanted to become a fisherman for the government.

After salvaging the boat, he and friends repaired it, adding a large gas tank to enable the boat to reach Florida. Government inspectors failed to discover the tank because it was concealed under the helm.

Capo did go fishing in the boat, but only for a month. One day he and two sons sailed from Cuba's southern coast to Cozumel, a resort island off Mexico's Yucatan Peninsula.

There, Capo helped a group of American tourists carry their luggage. They tipped him $1 in quarters. That was all the money he had when he and his sons crossed the Mexico border into the United States.

Capo's first job in Miami was as a $60-a-week helper to a delivery truck driver. Within two months, a friend lent him $600 to open his first furniture store at 1214 SW Eighth St. The store's sales barely reached $500 a week, mostly from furniture he and his sons made during the night.

Profits from that operation and a $10,000 loan from the Small Business Administration launched Capo on the road to success. There are now six El Dorado stores and two warehouses in South Florida.

"At the beginning, we used sign language to sell to American customers who wandered into our stores," Capo said. "Now we go to the world's biggest furniture trade shows and the most successful salesmen from the best furniture lines try to learn Spanish to communicate with us."

Mr. Speaker, I commend Manuel Capo for his hard work and perseverance, and I congratulate him on his remarkable success.

MANUEL AND BEATRICE RAPOSA CELEBRATE 50TH WEDDING ANNIVERSARY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to extend my best wishes to Manuel and Beatrice Raposa on the 50th anniversary of their wedding day. Mr. and Mrs. Raposa were married on June 27, 1942, and will be celebrating their anniversary at a surprise party hosted by their daughter, Theresa.

Manuel, a retired machinist, and Beatrice, a retired stitcher, worked together as employees of Smith Manufacturing in Bristol. Today, Manuel selflessly volunteers his time as a fireman, also in Bristol, the town where he has been proud to raise his family. He and Beatrice, originally from Fall River, have a daughter, Theresa, and a son, Robert, who is deceased. They are also fortunate enough to have two granddaughters, Theresa and Cheryl.

I wish the Raposa's all the best on their special day and hope they have many more healthy and happy years together.

BILL TO FACILITATE THE EMPLOYMENT OF SEPARATED MEMBERS OF THE ARMED FORCES BY LAW ENFORCEMENT AGENCIES

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to introduce legislation which will serve a number of purposes. I was enthusiastic about inclusion in H.R. 5006, the Defense Authorization Act, of provisions to encourage our military men and women to enter into job training programs and of provisions in the bill which will encourage separated military personnel to become teachers. Mr. Speaker, along these lines, my proposal will bring our qualified former soldiers to continue their service to our country in an area which, as recent events attest, requires immediate address. That area is crime control.

The bill I have introduced today will provide a vehicle by which municipalities can hire for 2 years, at no cost, some of the best trained law enforcement personnel in the business. My bill would use Department of Defense funds to pay municipalities to hire, train, and employ as law enforcement officers, military police officers and law enforcement specialists who are slated for separation within the next 2 years.

This proposal will provide a tangible career service to many of our Nation's finest soldiers. This has long been a stated goal and promise made to recruits. This initiative will be of little cost to the Federal Government because a large percentage of the funds which are to go to municipalities have already been apportioned to pay the soldiers as Department of Defense personnel. That is to say, the Department of Defense will not have to pay the soldier for his/her last 2 years of service. Instead, this money will go to municipalities to pay the former soldier as a police officer.

Mr. Speaker, this bill targets cities which will hire the former soldiers permanently and only municipalities designated as high crime or underpoliced would qualify. The bill also prohibits cities from firing police officers in order to hire a former soldier under this program.

If we want to rebuild our devastated urban communities, we've got to provide jobs. Businesses won't invest where the risks of theft and vandalism are high. This bill will empower high crime municipalities in their battles against lawlessness with personnel already endowed with law enforcement skills. Almost everyone is a winner in this bill: Honest citizens and businesses in high crime areas, future veterans, and municipalities. There's only one clear loser: the criminal.

THE HEARTBEAT RACING TEAM

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. CLEMENT. Mr. Speaker, I rise today to recognize the Heartbeat Racing Team and their selfless dedication to supporting the Drug Abuse Resistance Education [DARE] Program.

The Heartbeat Racing Team was founded by Marcia Campbell after her daughter Crystal went through the DARE Program in 1990. They were so pleased with the programs results that they organized the racing team which helps to promote the DARE Program and to raise funds to assist with expenses.

In coordination with Tennessee's Drug Abuse Resistance Education Week, the Heartbeat Racing Team will be racing the DARE car on June 27 at the Nashville Motor Raceway. This event will be dedicated to DARE and will commend the community leaders and participants who have worked to make it such a beneficial program.

DARE, which works with sixth graders across the Nation, also deserves to be commended for its devotion to our Nation's youth. The program emphasizes the importance of "just saying no" to drugs and teaches them the skills necessary to avoid the pitfalls of drug addiction. It has proven to be an effective tool for preventing the use of drugs in our communities, and its efforts deserve our wholehearted support and encouragement.

Through the efforts of the DARE program and concerned and committed people like Marcia Campbell and the Heartbeat Racing Team, another small skirmish in the war on drugs has been waged and won.

Mr. Speaker, I invite you and the rest of our colleagues to join me in commending the efforts of the Heartbeat Racing Team and the DARE Program in their personal commitment to fight the spread of drugs in their community.

AMERICA'S AMORAL SUBGROUP

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. BEREUTER. Mr. Speaker, I commend to my colleagues the following editorial which appeared in the Omaha World-Herald on June 16, 1992:

AMERICA'S AMORAL SUBGROUP

It wasn't a celebration that happened in Chicago after the hometown Bulls won the National Basketball Association championship. Not in any normal sense of the term. The rioting that occurred in the Windy City was just another demonstration of the horror of urban violence.

People poured into the streets, setting fire to buildings, vandalizing city buses and throwing rocks at police officers and fire fighters. The rioters smashed the windows of shops and made off with food, liquor, carpets and furniture. A thousand people were arrested.

Michael Jordan, the superstar who led the Bulls to victory, urged the public to enjoy the championship without tearing up their city. A police official came closer to explaining the violence when he suggested that a number of rioters were merely thugs who had seized on an excuse to riot.

That is often the case. In Los Angeles, the excuse was the verdicts in the trial of the police officers who beat Rodney King, a black man.

Certainly some of the rioters who were interviewed in Los Angeles appeared to have lashed out with outrage over the jury's decision. But many others—people of all races—were photographed in the act of looting, hauling merchandise away calmly and cynically, sometimes light-heartedly.

Society, in other words, has an amoral subgroup that exists without principles or integrity. Members of the subgroup lie in wait for an outbreak of enthusiasm, or outrage, or frustration and exploit it to justify arson, robbery and assault. That's what happened in Los Angeles when understandable anger caused some other people to take to the streets. That's what happened in Chicago, as well, during an occasion that should have been fun. Criminals rioted. Anarchy broke out. Businesses were destroyed. "Celebration" is the wrong word.

EUROPEAN PARLIAMENT ADOPTS RESOLUTION ON PERSECUTION OF BAHA'IS AND HUMAN RIGHTS VIOLATIONS BY IRAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. LANTOS. Mr. Speaker, on June 11, the European Parliament of the European Community adopted a strong resolution on the persecution of Baha'is and other human rights violations in Iran. We here in the U.S. Congress have long called attention to the vicious Iranian abuse and suppression of the Baha'i religious group in Iran and called for strong action against Iran for these egregious human rights abuses. I welcome the adoption of this excellent resolution by our colleagues in the European Parliament.

It is noteworthy, Mr. Speaker, that the resolution adopted by the European Parliament asks the Commission of the European Communities "in its commercial negotiations with Iran, to include in any agreement reached a very strong clause requiring respect for human rights with an option to suspend any such agreement in the event of violation." This provision has particular significance because the Parliament must approve any foreign treaty negotiated by the Commission prior to its submission to the Council of Ministers for final approval.

Mr. Speaker, I commend our colleagues in the European Parliament for this excellent resolution, for its well-founded and thoughtful concern with the violation of the human and religious rights of citizens of Iran. It is gratifying to me—as the chairman of the U.S. congressional delegation which meets twice each year with our counterparts of the European Parliament—to find our two great legislative bodies working together in the defense of human rights and religious toleration.

Mr. Speaker, I insert the text of this resolution of the European Parliament in the RECORD, and I urge my colleagues in the Congress to read this important document:

RESOLUTION OF THE EUROPEAN PARLIAMENT ON THE PERSECUTION OF BAHA'IS AND OTHER HUMAN RIGHTS VIOLATIONS IN IRAN

(Adopted June 11, 1992)

The European Parliament:

Recalling its concern for human rights for all mankind and for religious toleration, Having regard to the continuing persecution of the Baha'i community solely on the grounds of their religious beliefs in Iran,

Drawing attention to the execution of Mr. Bahman Samandari, a member of the Baha'i faith, in Evin Prison in Teheran on 18 March and fearing that this may mark a return to the brutal persecution of the Baha'is, which disgraced the first decade of the Islamic Republic,

Noting that the Iranian government has publicly and repeatedly maintained that the Baha'i community is not being persecuted in Iran, yet this brutal act demonstrates that the Baha'is continue to suffer at the hands of the Iranian authorities,

(1) Deplores the arbitrary execution of a member of the Baha'i faith;

(2) Condemns religious and ethnic persecution, the use of torture, the application of the death penalty, imprisonment without charge and secret trials, all of which abuses are widespread in Iran;

(3) Deplores the action of the Iranian authorities which permitted the arbitrary execution of Mr. Samandari to take place in contravention of all accepted standards of justice and human rights;

(4) Sincerely hopes that this execution does not signal the resumption of the execution of Baha'is in Iran for their religious beliefs;

(5) Calls on the Community to support the Baha'i struggle for the right to practice their religious beliefs without fear of persecution or execution;

(6) Calls on the Iranian Government to ensure that such acts will cease immediately and that full human rights are granted to the Iranian Baha'i community;

(7) Asks the Commission, in its commercial negotiations with Iran, to include in any agreement reached a very strong clause requiring respect for human rights with an option to suspend any such agreement in the event of violation;

(8) Instructs its President to forward this resolution to the Council, the Foreign Ministers meeting in EPC, the Commission, the Governments of the Twelve and of Iran and the Secretary-General of the United Nations.

"COOKIE" OTAZO BREAKS NEW GROUND FOR HISPANIC AMERICAN BUILDERS ASSOCIATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Ms. Cruz "Cookie" Otazo, who was featured in the Miami Herald, for being elected the first woman on the Hispanic American Builders Association board of directors. The article, "Builders Association Chooses Director," by Charles Rabin, tells how she broke new ground in this industry which traditionally has been dominated by men:

Cruz "Cookie" Otazo broke new ground when she was elected a director of the Hispanic American Builders Association.

The organization, which serves as an advocacy group for Hispanic contractors in the public sector, has had few women members during its four-year existence, and never before had a woman on its 21-member board of directors.

But Otazo is deliberate when she explains that her appointment is in no way a token posting.

"HABA did not go out looking for a woman as window dressing," she said. "I feel I can make a difference with HABA. I won't just join a group to gain leverage."

LIKES TO GET INVOLVED

Otazo, who was born in Havana and moved with her family to New York in 1960, has a history of involvement with organizations. In 1979, she was a founding member of the Coalition of Hispanic American Women, a Miami-based group that aids female Hispanic business owners.

"It was her staunch defense of Hispanic women's rights and enterprises and her knowledge in the business field that attracted us to her." said Roberto Cerver-a-Rojas, executive director of the 200-member builders association.

"I would say her qualifications, not her being a woman, made her attractive to us." he said. "Although we were pleased to have a woman."

Otazo is president and managing partner of MCO Environmental, an asbestos-removal company in Miami that her husband, Julio, founded as a construction company in 1975. The firm went into asbestos removal in 1988, because "we kept running into a lot of asbestos problems," Otazo said.

"You've got to remember that years ago, asbestos was considered a miracle fiber. It was cheap and terrific insulation," she said. "Now, it's been proven a cancer-causing agent."

With more than 60 employees, MCO felt the pinch during the recession. "We had to rely on public work, and that wasn't good because you'd go to make a bid, and 17 different contractors would be there," Otazo said. "Everyone was driving down the prices."

MCO ventured into other markets and even expanded. It began removing lead-based paints, got involved with random mitigation and, Otazo said, will soon expand into removal of underground tanks.

Otazo studied Spanish and literature at Adelphi University in New York and attended the State University of New York at Stonybrooke, where she received her master's degree in 1974.

The following year, she moved to Miami and became a substitute teacher for Dade County Public Schools. "I wanted to stay, but my family moved to Miami, so I went with them," she said.

A MOVE INTO BUSINESS

Otazo also taught at Archbishop Curley High School and West Lab, both in Miami. In 1977, she joined Miami-Dade Community College, where she taught humanities for two years before accepting a faculty position as a grant writer at Florida International University. That experience was invaluable, she said.

"I really had had enough of teaching, and I learned about public funds," she said. "I think back every day now to FIU, how it taught and helped me."

In 1981, the mother of 5-year-old twins opened her own business, Children's Development Center on Flagler Street. She remained with the day-care center until joining her husband at MCO nine years later.

I am happy to pay tribute to Ms. Otazo and the Hispanic American Builders Association by reprinting this article. She has overcome many obstacles to achieve her goal, and is an inspiration to those who are still climbing the ladder to their dream.

THE LIMITED EQUITY COOPERATIVE HOUSING ACT OF 1992

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. WEISS. Mr. Speaker, today I am introducing a measure to rectify a misinterpretation of the Internal Revenue Code of 1986 that has cost low- and middle-income cooperative housing residents millions of dollars.

For the past several years, the Internal Revenue Service has treated cooperative housing associations under the same rules which it applies to country clubs, golf courses, and other "membership organizations." This despite the fact that the Internal Revenue Code specifically addresses housing cooperatives—at considerable length—in another subsection.

Cooperatively owned buildings frequently house retail or commercial space used to provide parking, laundry, grocery or other services to building residents. In many instances, this space exists to meet community demands, to reduce the subsidies necessary to maintain affordability for moderate and low income tenants, or to provide room for businesses that would otherwise have been displaced by construction of the building. In addition, cooperatives wishing to participate in middle-income housing programs in the State of New York are required to maintain reserve funds in interest-bearing accounts.

Current IRS enforcement practices require that rental and interest income from these sources be treated separately from tenant dues. In other words, the costs of providing direct member services cannot be used to offset revenues generated by these secondary, tenant-related sources, even where they exist primarily or exclusively for use by co-op residents.

This artificial and inappropriate barrier has been erected under the rubric of section 277 of the Internal Revenue Code, which governs "Membership Organizations" that provide goods and services. Cooperative housing developments in New York are organized under the State's private housing finance law as stock corporations—owners are considered shareholders, not members. Moreover, where Congress has intended provisions of the Internal Revenue Code to encompass the furnishing of real property—as distinct from goods and services—it customarily makes such intent clear by express use of the term "facilities."

H.R. 4210, the Democratic tax initiative passed by both Houses of Congress in March provided specific remedy for erroneous application of the Tax Code, by allowing any so-called nonpatronage earnings directly attributable to tenant/shareholder services to be treated on equal footing with income derived directly from tenant/shareholders. For well known and wholly separate reasons, that legislation was vetoed by President Bush.

The bill I am introducing today will end the costly and unfair misinterpretation of the Tax Code, extending the remedy to cooperative housing associations on retroactive basis. It is a simple provision, and one which will make life easier for the thousands of people in New

York, and around the country, who live in housing cooperatives.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.

Section 277(b) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E))."

SEC. 2. APPLICATION OF RULES RELATING TO TAX TREAMENT OF COOPERATIVES TO COOPERATIVE HOUSING CORPORATIONS.

(a) NONPATRONAGE EARNINGS OF COOPERATIVE HOUSING CORPORATIONS MAY NOT BE OFFSET BY PATRONAGE LOSSES.—Section 1388(j) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) PATRONAGE LOSSES MAY NOT OFFSET NONPATRONAGE EARNINGS.—In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(b) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388(j)(5) of such Code (as redesignated by subsection (a)) is amended to read as follows:

"(5) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(B) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(i) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(ii) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(iii) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any housing project operated by the corporation.

"(C) DEFINITIONS.—For purposes of subparagraph (B)—

"(i) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(ii) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(iii) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) ELECTION TO HAVE AMENDMENTS APPLY RETROACTIVITY.—Any corporation may elect to have the amendments made by this Act apply to any taxable year, whether beginning before, on, or after the date of the enactment of this Act, to which such amendments do not otherwise apply if the corporation was a cooperative housing corporation during such taxable year.

(c) NO INFERENCE.—Nothing in the provisions of this Act shall be construed as a change in the treatment of income derived by an cooperative housing corporation or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this Act does not apply shall be made as if this Act had not been enacted.

JUST A LITTLE MORE TRUTH ABOUT PRORATIONING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. SCHEUER. Mr. Speaker, for several days now I have discussed natural gas prorationing. I am worried that State prorationing rules are being used, not to protect the integrity of the gas industry, but to restrict prices and raise prices. I am not the only one who has concerns. Marta Greytok, a member of the Public Utility Commission of Texas, recently wrote Texas Railroad Commission Chairwoman Lena Guerrero expressing her reservations with the Texas prorationing regulations. I have included a copy of her letter which I think my colleagues will find enlightening:

DEAR CHAIRWOMAN GUERRERO: I am aware that the Railroad Commission of Texas is considering several proposals for amending its current prorationing rules. Prorationing is a complex area of regulation which can and should protect correlative rights while at the same time facilitate the functioning of healthy natural gas.

At the Public Utility Commission (PUC) proposed rules often attract the attention and comments of many. I feel that these comments improve one's understanding of the issues, but the final choice of an appropriate rule is the Commission's to make. Likewise, I recognize that the final choice in prorationing regulation is and should be up to you and the other Commissioners. However, because the PUC oversees electric rates and service in Texas, your actions in this area could impact decisions that this Commission will face in the future. Therefore, I feel that it is important to voice my concerns now.

Proration regulations should function only to protect correlative rights and prevent waste. Proration regulations should *not* impermissibly interfere with the functioning of markets for natural gas. If prorationing regulations artificially restrict natural gas supply, I believe two negative results may occur. The first, and most likely, result is that demand for natural gas will be satisfied by sources outside Texas. Thus, Texas producers of natural gas may lose with artificial market constraints, Texas gas assumes a different risk profile as a fuel for planning purposes. Major consumers of natural gas will, in all likelihood, protect themselves to the extent possible by altering their purchasing patterns. In short, demand for Texas natural gas will decrease.

The second and perhaps less likely result is that the price of natural gas in Texas will increase. This result is less likely because supply sources outside Texas are accessible and are generally market priced.

During 1990, 44% of all electricity generated in the State of Texas by electric utilities was generated using natural gas as fuel. The percentage increases significantly if cogeneration sources are included. Artificially increased prices for natural gas are not desirable from my viewpoint on the PUC because the price of electricity in Texas would increase artificially as well. Such an impact on Texas natural gas and electricity consumers appears unjustifiable to me. The entire economic environment of Texas would suffer and suffer unnecessarily.

I have no quarrel with prices for natural gas which increase because natural gas markets work. Increased demand, for example, usually yields increased prices. Therefore, I believe the best way to improve the gas industry and the Texas economy is to promote a healthy demand for gas.

It may be that the existing statutory scheme, developed long before deregulated natural gas markets became viable, no longer provides an entirely workable structure for protecting rights within reservoirs without interfering with market functions. If that is the case, the PUC would, of course, consider supporting legislation to remedy the problem and working alongside the Railroad Commission to achieve a more workable statutory scheme.

Thank you for your attention to my concerns. If I may be of assistance, I stand ready to respond at your request.

Even Texans have concerns about prorationing. When the House passed the Markey-Scheuer amendment, it did the right thing.

CONGRESSMAN KILDEE SALUTES REV. MARVIN C. PRYOR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to a great educator, Marvin C. Pryor. For the past 30 years, Reverend Pryor has devoted himself to developing the minds of Flint's youth. On June 20, 1992, Marvin Pryor will be honored by his peers for his outstanding contributions to the field of education.

Principal Pryor is a strong believer in the famous United Negro College Fund axiom, "The Mind Is A Terrible Thing To Waste". Reverend Pryor, however, knows that a developed intellect is useless if it is guided by an undeveloped spirit. For that reason, Rev. Marvin Pryor has nurtured the souls of the people of Flint and Saginaw for over a decade. For the past 8 years he has served as the pastor of Williams Memorial Church of God in Christ in Saginaw.

Marvin C. Pryor began his career in education in 1962 as a teacher at McKinley Junior High School in Flint, MI. Marvin left the education field in 1964 to take a position as a sales representative for the Jackson National Life Insurance Co. In 1965, he was hired as a counselor and teacher at Flint Northwestern High School. Because of his outstanding work with the students, Marvin Pryor was promoted in 1968, to the position of assistant principal of Holmes Junior High School. In 1973, Marvin Pryor was promoted to principal of Holmes Junior High and in 1976 he was assigned to his current position, principal of Northern Senior High School.

Marvin Pryor is an alumnus of both Michigan State University, earning a bachelor of arts degree in political science and history in 1962, and the University of Michigan, earning a master of arts degree in guidance and counseling in 1968. He has also taken courses toward a doctoral degree in education leadership and administration. He is a member of several professional organizations including the executive board of the Michigan Association of Secondary School Principals, Michigan State University Alumni Board for Genesee County, Flint Board of Education Negotiation Team, and currently chairs the North Central Association of Schools Evaluation Team.

Reverend Pryor's Christian affiliations include the Ordination Board of Southwest Michigan Jurisdiction No. 3, and Victorious Believers Ministries, which he founded. He is director of Christian Education for the International Sunday School of the Church of God In Christ, Inc., and district chairman of the Inspirational District.

Marvin Pryor was the first recipient of the United Teachers of Flint Administrator of the Year Award in 1988. He was named "Father of the Year" in 1990 by Councilman Woodrow Stanley. Marvin Pryor and his wife Ruth have four children, Derrick, Vonda, Mel, and Christopher.

Mr. Speaker, it is with great pride that I rise before you today to ask you and my fellow Members of Congress to honor Marvin C. Pryor. He has spent his life developing the minds and the spirits of youth in our community. His remarkable accomplishments will inspire educators for years to come.

A CONGRESSIONAL SALUTE TO POLICE OFFICER PATRICIA ANN RUSSELL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ANDERSON. Mr. Speaker, Saturday, May 30, 1992, marked the retirement of one of the Los Angeles Police Department's finest officers, Patricia Ann Russell. On Friday, June 26, 1992, the Los Angeles Police Department will honor Patty Ann with a service retirement party. It is with great pride and pleasure that I rise today to pay tribute to this remarkable woman who has served our community with great distinction.

Patty Ann, a resident of San Pedro, began her career with the department as a clerk typist in the records and identification division on February 14, 1965. By May 22, 1967, Patty was appointed to the position of policewoman and enrolled in the police academy. Upon successful completion of her training, Ms. Russell served in a variety of assignments which included juvenile division, harbor jail, harbor desk, and youth services officer at the northeast division. Returning to the academy in October of 1973 for field training, Patty scored the first of what was to be a number of firsts throughout her career. On March 15, 1974, Police Officer Patricia Ann Russell (nee Berry) graduated as the first field-certified female officer in the department's new unisex program assigned to Rampart patrol division. Patty's next assignment to harbor division marked another first for her career, as she was chosen the department's first female assistant range master.

In 1976, Patty transferred to south traffic division and became the first woman police officer assigned to traffic accident investigation duties in south bureau. The traffic division proved to be Ms. Russell's forte. While in south bureau, Patty received numerous commendations from her supervisors and the public for her dedicated and outstanding work. Not one to rest upon her laurels, Patty, in 1981, enrolled in and completed the department's newly developed drug recognition expert [DRE] school becoming the first female officer to do so. This program, which has been adopted by 21 States, teaches officers to identify drug-impaired drivers.

In March of 1987, in recognition of her diligent efforts in the traffic arena, Patty was promoted to the position of training officer, once again achieving a first.

Throughout her 13 years in the traffic division, Patty has had many opportunities to leave the field. Finally in March 1989, she received an offer you couldn't refuse. Patty Ann was selected to be the assistant training coordinator of the department's drug recognition expert unit. This new assignment required Patty to utilize all of the skills she learned in the academy and in the field. Under Patty's expert guidance, the DRE kept pace with the area's ever changing and growing drug problems.

Mr. Speaker, Patricia Ann Russell's record of service to our community is admirable. Patty typifies all that is good about the Los Angeles Police Department. In addition, through her drive, determination, and enthusiasm, Patty has paved the way for women entering the force today.

My wife, Lee, joins me in extending this congressional salute to Patricia Ann Russell. We wish Patty and her family all the best in the years to come.

BRING THEM HOME

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mrs. MEYERS of Kansas. Mr. Speaker, President Yeltsin's report that the Soviet Union took American POW's from Vietnam to the Gulag has shocked us all. We must immediately pursue this issue to establish all the facts concerning the fate of these men.

We should thank President Yeltsin for ending the concealment of this situation. His forthrightness contrasts sharply with the blatant lies of the Soviet and Vietnamese communities.

Mr. Speaker, we cannot waste time with recriminations or debate whether to condition assistance to Russia on the POW situation. If President Yeltsin had not taken it upon himself to raise this issue, we would never have known the truth. We must accept President Yeltsin's offer to help, and get to the bottom of this situation. I commend President Bush for sending Ambassador Toon to investigate these reports. The important point that we must convey is, that the highest priority should be to find these Americans, and bring them home.

SAM BRENNER WORKS FOR WORLD PEACE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to commend the poetry and the work of Mr. Sam Brenner, president of the World Federalist Association of Greater Miami. For many years, Sam Brenner has worked within the World Federalist Association, as a representative of his association and the town of Surfside, at the United Nations, and through his poetry and writing, for a more peaceful world without the need, or the tools for war.

The Bal Bay and Surfside News published one of Sam Brenner's poems, titled "Many Muffled Moans," earlier this year, and I would like to include it in the RECORD:

MANY MUFFLED MOANS

(By Sam Brenner Surfside Poet Laureate)

As I lay upon the rocks
That jut out into the sea,
The beauty of our world captivated me.
In awe,
I listened to the waves.
And whether they come in a roar
Or a thud upon the shore
Or in sea whispers when the tide is low,
I hear within their tones
The many muffled moans
Of millions who died
In war and genocide.

Mr. Speaker, the agreement announced by President Bush and President Yeltsin of the Russian Federation which proposes to eliminate two-thirds of our nuclear weapons stockpile brings us closer to the type of world envisioned by Sam Brenner. I commend Mr. Brenner for his efforts to establish a new era of world peace and international cooperation, a world where the sea can bring us the sounds of children's laughter instead of many muffled moans.

PINELLAS-PASCO STATE ATTORNEY JAMES T. RUSSELL RETIRES AFTER 30 YEARS OF EXCELLENCE IN PUBLIC SERVICE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. YOUNG of Florida. Mr. Speaker, it is with mixed emotions that I rise today to honor Jim Russell, Florida's Pinellas-Pasco County State's attorney as he retires after 23 years in office and 30 years of public service.

On the one hand, I am pleased that after many long hours, days, and weeks devoted to his job as State's attorney, Jimmy will now be able to relax with his wife April and enjoy their richly deserved retirement years. On the other hand, though, it is difficult for me to imagine another person serving as our State's attorney and having to fill the great void that will be left by Jimmy's retirement.

Mr. Russell and I served together in the Florida State Legislature during the 1960's before Gov. Claude Kirk appointed him State's attorney in 1969. Not only is he one of the longest-serving State's attorneys in Florida history, but he is perhaps the most respected ever. His professionalism, perseverance, and moral and ethical strength helped earn him a reputation as a tough but fair prosecutor with a conviction rate of 92 percent.

In addition to his excellence in the courtroom, Jim Russell is also an innovator in public service. His contributions include a number of programs designed to enhance Florida's criminal justice system. He established a pretrial intervention program—the first in Florida—to give first-time offenders a second chance if they complete a probation type program. It was legislation he introduced in the State House in 1961 which created the Office of Public Defender to ensure that Florida residents had available to them their constitutional right to legal representation.

And he was one of the driving forces behind the establishment of Operation PAR, a St. Petersburg drug and substance abuse treatment and education program which has received national recognition for the quality of its programs.

Throughout his career, Mr. Russell has demonstrated a unique ability to search further than the courtroom of solutions to the problems which plague our Nation. Following my remarks, I will include for the benefit of my colleagues a recent editorial from the Tampa Tribune entitled "Russell Stayed True to His Principles" which reiterates the tremendous respect Jimmy has earned in our community and throughout our State.

Mr. Speaker, Jim Russell is the type of dedicated public servant our Nation needs to restore the faith of the American people in our Government and he is the tough, no-nonsense prosecutor that we need at all levels of our criminal justice system to send a message to criminals that we have a commitment to investigate, prosecute, and incarcerate those who break our laws.

The people of Florida owe Jim Russell their thanks and gratitude for a job well done and I wish Jim and April all the best in their retirement years ahead.

[From the Tampa Tribune, Apr. 17, 1992]

RUSSEL STAYED TRUE TO PRINCIPLES

When James T. Russell steps down as Pinellas-Pasco state attorney in January, he will leave behind a three-decade legacy of integrity, honesty and innovation in public service.

A former state legislator and one of Pinellas and Pasco counties' most powerful political figures, Russell announced Tuesday he would not seek another term as the district's top prosecutor. Russell is the longest serving state attorney in Florida, having been appointed by former Gov. Claude Kirk in March 1969.

But it is not longevity that has made Russell's reputation—it has been his pursuit of excellence. "Incompetence is the highest form of corruption." Russell likes to tell assistant prosecutors.

His office had a 91.5 percent conviction rate for felonies in 1990, the second-highest in the state. Although a small percentage of cases went to trial—pleas were entered in the majority—it is the prosecutor's responsibility to determine which cases should be brought to trial and which should be plea bargained to save the state money and assure some favorable resolution.

Although rough, quick-tempered and authoritarian, the 64-year-old lawyer has often looked beyond the judicial system to find fixes for society's ills.

In 1970, Russell helped create another program that's become a model in Florida and the rest of the country. Operation PAR, for Parental Awareness and Responsibility, is a drug-abuse treatment and education program.

He also created the pretrial intervention program, the first of its type in Florida. The program is designed to give first-time offenders a second chance. If they complete a program similar to probation, charges are dismissed.

And ironically, Russell helped introduce legislation in 1961 that created his official adversary—the state public defender's office.

He has taken on public corruption and mismanagement. He investigated and obtained convictions against three county commissioners in 1974 and 1975 for accepting money in exchange for favorable rezoning votes. In 1987 he investigated the Tarpon Springs Police Department and in 1991 he looked into accusations within St. Petersburg City Hall.

Called upon by Republican and Democratic governors alike, Russell never allowed politics to stand in the way of justice.

"Your reputation is what other people think," he said recently. "I'll let history speak to that."

History will speak well of James T. Russell.

HONORING REV. RUFUS S. ABERNATHY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to extend my thanks, and those of people throughout the State of Maryland, to Rev. Rufus Sydney Abernathy for the years of service he has given to this State.

For the last 27 years, Reverend Abernathy led the congregation at the Mount Zion United Methodist Church in Annapolis, MD. During these years, he has used this compassion and wisdom to help everyone who came to him in need. He helped and guided his congregation through many crises, both personal and professional, and that alone would be more than enough for me to feel the need to honor him. He did more than that, however. He was a member of a variety of organizations, almost too numerous for me to name here, each dedicated to improving the lives of people throughout Maryland.

He donated his time to a wide range of community organizations. He had a true commitment to helping people at all levels, especially those people less fortunate than himself. He was president of the board of directors of the Community Action Agency for Anne Arundel County, as well as the commissioner of the housing authority for the city of Annapolis.

He was the president of the Maryland State Teacher's Association for 5 years, as well as a full-time teacher in Anne Arundel County for 20 years.

He is a member of the Oyster Harbor Citizens Association, the Eastport Historic Association, and the Anne Arundel County chapter of the NAACP. Through these organizations, he has worked to maintain the cultural integrity of his community.

As a member of the church, he has been actively involved with organizations that helped people both within and beyond his own congregation. He acted as the chaplain for the Annapolis Police Department, vice president of the United Black Clergy of Anne Arundel County, as well as the secretary of the Black Ministry Alliance of Annapolis. He worked on many other boards and committees as well, giving all that he could to ensure the improvement of society around him.

His vision and commitment to bettering the human condition in Maryland shall be sorely missed. The example which he set is one that we should all do our best to emulate. I wish him the best of luck in all of this future endeavors, and I once again want to offer my heartfelt thanks on behalf of the people of Maryland for the gifts he has given us all.

IN DEFENSE OF PUBLIC TELEVISION AND "IN THE LIFE"

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. WEISS. Mr. Speaker, nearly 45 years ago the House Committee on Un-American Activities voted to cite 10 distinguished writers and directors, collectively known as the Hollywood 10 for contempt of Congress.

For refusing to answer questions pertaining to their political convictions, these so-called subversives of the American entertainment industry suffered great personal and financial hardship, as would hundreds of other principled men and women who refused to cooperate with HUAC over the next decade.

Mr. Speaker, we all remember how that sordid affair came to an end a full 7 years later when Joseph Welch posed the simple question to the then-unflappable Senator Joseph

McCarthy, "Have you no sense of decency, sir, at last?"

Mr. Speaker, I thought we had learned a lesson from that experience. I never thought that gratuitous accusations of un-American activity would again come into vogue in this hallowed building. But I was wrong.

With the cold war over, a new attack on the entertainment industry is now afoot, which seeks to define once again what is American and what is un-American. This time, the target is not writers and directors, but rather the material by which they ply their trade. And from the sound of what I am hearing, gay men and lesbians have become America's new Communists.

To wit, our esteemed colleague, the distinguished minority leader BOB DOLE, took to the floor of the Senate last week to denounce a new program being developed for PBS, a variety show designed to address gay themes titled "In the Life."

This new program will feature emerging and established dancers, singers, performance artists, actors, stand-up comics, and others in an effort to present a more rounded and positive view of gay men and lesbians than is typically available on television. Producer John Scagliotti avers that "In the Life" will not be controversial, "unless you happen to think gay and lesbian [subject matter] is controversial in itself."

Obviously, Senator DOLE believes just that. In his denunciation of "In the Life" last week, Senator DOLE asks rhetorically, "Is this the kind of programming taxpayers and public TV contributors have in mind? I do not think so."

Senator DOLE goes further, incorrectly reporting that "In the Life" receives funding out of the money authorized by Congress for the Public Broadcasting Service, when in fact it has received none. He charges that there will be 12 shows per month, rather than the correct 12 per year.

Finally, Senator DOLE compares "In the Life" with other, more traditional PBS fare such as "Sesame Street," "Mister Rogers' Neighborhood" and "Masterpiece Theater," implying that supporters of PBS have used these shows to cover up a more insidious agenda: to bring subversive [read: Gay and lesbian] programming "into your living room."

Mr. Speaker, the message of these comments is very clear: Gay men and lesbians are not Americans. That makes me sad. That makes me angry. Must I now fear that the time is not far off when the Congress convenes a new committee on un-American proclivities, who will call Americans forward to answer for their sexual orientation?

Mr. Speaker, the only thing un-American going on here is the small-minded thinking of this program's attackers. That is not the American way. Public television was created to address the lives of all Americans.

Mr. Speaker, that is the goal of "In the Life." It is an enlightened goal that speaks to the many historic struggles to open our culture to all who reside here. It is a goal we all should embrace.

CONGRESSIONAL SALUTE TO EDUCATOR MELINDO A. PERSI

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding individual on his accomplishments as the Passaic County Superintendent of Schools. I am speaking of Melindo A. Persi of Clifton, NJ, who has helped mold the lives of young people in the greater northern New Jersey area for over a quarter century. I am most pleased to know that he will continue to meet the educational needs of our youth in the fall, when he assumes the position of superintendent of schools in Elmwood Park, NJ.

Superintendent Persi will be honored for a lifetime of achievement with a testimonial dinner on Tuesday, June 30. I know this event will be a source of great pride for Melindo, his devoted wife, Maureen; their daughter, Melinda Redling; son, Jon-Paul, as well as their many, many friends.

Mr. Speaker, Melindo A. Persi has spent his educational career making enormous contributions in each position he has held. He started out in 1956 as a teacher in the Franklin Township Schools in Morris County, before moving on to teach in the Washington Township schools in Mercer County. He then became the chief school administrator for Washington Township Schools from 1963 to 1967. His career path then took him to Madison, where he was the assistant superintendent of schools from 1967 to 1978.

In 1978, the State recognized this outstanding talent, assigning Melindo to Morris and Warren Counties as the county school business administrator. He then proceeded to East Orange, where he was the fiscal monitor in 1984 and 1985. In 1985, he became the county superintendent of schools for Passaic County. In June 1991 to November 1991, he was the acting assistant commissioner for the division of county and regional services.

He is active in a variety of civic organizations, having served as an executive committee member of NJASA, president of the Kiwanis Club, president of the Mercer County Principals Association, vice president of the Parent Teachers Association, chairperson of the American Red Cross chapter in southeast Morris County, division chairperson for the American Red Cross, secretary of the Eastern Advisory Council of the American Red Cross for the east coast, Madison Library Trustee, trustee and vice chairperson of the Passaic County Community College, board member of Passaic County Technical/Vocational High School, and chairperson of the County Superintendents Business Services Committee.

He has served our country as a member of the New Jersey Air Guard from 1953 to 1962, and on active duty with the U.S. Air Force in 1961 and 1962. In addition, he is a presenter for the annual school boards conference and workshops for NJASBO. He is also an author, having published manuals relative to school district budgets and elections.

Mr. Speaker, Melindo A. Persi has proven himself to be a seasoned New Jersey educator, with extensive experience in public school districts in rural, suburban, and urban settings. He continues his active teaching role as an adjunct professor at Rutgers University and the County College of Morris. His successful experience as county superintendent of schools and acting assistant commissioner of education for division of county and regional services has truly benefited the students of our State. It is clear that he has continued to strive for excellence, serving as an important role model and influence on the youth of New Jersey and has truly made his community, State, and our Nation a better place to live. For these efforts I salute him.

CAPT. JOHN D. LUKE RETIREMENT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Capt. John D. Luke for his 30 years of service in the U.S. Navy. Captain Luke is set to retire on July 1, 1992, after serving as commander of the Naval Education Training Center, located in Newport, RI.

Upon graduation from Bowdoin College, Captain Luke received his commission and was ordered to the minesweeper U.S.S. *Illusive.* He went on to serve on the U.S.S. *Newman Perry* and U.S.S. *John R. Perry* after graduation from destroyer school.

In February 1973, Captain Luke moved from his position as senior adviser to the Vietnamese Navy to combat systems officer aboard the U.S.S. *Jouett.* After serving as executive officer on the U.S.S. *Lynde McCormick,* Captain Luke was named chairman of the Department of Leadership and Law at the U.S. Naval Academy from 1977 to 1980.

He then took command of the U.S.S. *Brooke,* a guided missile frigate, in 1981. After a stay with the Office of the Chief of Naval Operations as head of the Strike and Anti-Surface Warfare Branch of the Combat Systems Division, Captain Luke took command of the U.S.S. *Richmond Turner* with deployments in the Mediterranean, Gulf of Sidra, and in the Persian Gulf. From 1988 to 1990, Captain Luke served as chief of staff for the commander of Carrier Group Two. He reported to the commander of the Naval Education and Training Center on 15 June 1990.

Captain Luke's military decorations include the Legion of Merit with one Gold Star, the Meritorious Service Medal with two Gold Stars, Navy Commendation Medal with two Gold Stars, the Navy Unit Commendation, and the Vietnamese Armed Forces Honor Medal First Class.

I commend Capt. John D. Luke for all his years of service in the U.S. Navy. I wish him all the best in all of his future endeavors.

THREE MIAMI GIRL SCOUTS WIN THE GOLD AWARD, GIRL SCOUTS' HIGHEST ACHIEVEMENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today Amy Leonard, Michelle Williams, and Rebecca Whiting who were recently featured in the Miami Herald for being presented with the Girl Scouts' highest achievement—the Gold Award. The article "Gold moment arrives for 3 Dade Girl Scouts" by Gail Epstein tells how the three Miami Girl Scouts won the award by completing a special project and through their accomplishments in leadership, community service, career planning, and personal development:

Amy Leonard was cleaning out her closet when she found a box of her favorite childhood books. Her first instinct was to throw them away. Then her 12 years of Girl Scout training kicked in.

Before long, Amy helped collect 1,000 children's books that she donated to the pediatrics ward at North Shore Medical Center. Her efforts gave sick kids something to read, and helped Amy win the Gold Award, the highest achievement in Girl Scouting.

Amy was one of three scouts presented with Gold Awards at a special ceremony Wednesday night at the Colonnade Hotel in Coral Gables. The other two were Michelle Williams, 20, and Rebecca Whiting, 15. Silver Awards were presented to 44 Girl Scouts.

It felt good to help people in need, said Amy, a North Miami High School senior who turns 18 on Sunday.

"Through Girl Scouts, I learned that community is important," she said. "This is just a culmination of all that.

"The books increase communication between parent and child, because most kids in the ward are too young to read," she said. "They also encourage kids to use their imagination."

Michelle, another Gold winner, was the first disabled woman to win the award in Dade and Monroe counties. Michelle, who is hearing impaired and mentally disabled, designed a display of Girl Scout uniforms and memorabilia from throughout the years that was shown at the North Miami Public Library.

Michell, who attends Lindsey Hopkins Technical Education Center, said her project helped her let other girls know being in the Girl Scouts is fun. But more than that, it helped her achieve one of the goals that scouting is all about: self-esteem.

"I learned I can do many things, and I can be successful," she said, hugging her niece after the awards ceremony.

The Gold Award winners "represent the best" of Girl Scouting, said Deborah Reyes, president of the Girl Scout Council of Tropical Florida. To be chosen, the teenage girls must complete a special project and achieve outstanding accomplishments in leadership, community service, career planning and personal development.

Rebecca, the third Gold award winner, won with one of the more unusual projects: a puppet ministry group at her church. Rebecca and other high-schoolers who attend St. John Neumann Catholic Church use hand puppets to tell religious and moral tales at churches and women's shelters.

Rebecca, who attends Miami Sunset High, said all the kids who participate get to stretch their individual talents—writing, voice, photography—and the church gets to share its values. She calls it "teaching with entertainment."

"I'm happy I got the award, but the work that I do means more to me. That's something I'll continue on as long as I can."

I am pleased to pay tribute to Amy Leonard, Michelle Williams, Rebecca Whiting, and the many others who are active in the Girl Scout Council of Tropical Florida by reprinting this article from the Miami Herald. The Girl Scouts through their many activities help teach many young people the leadership skills which will greatly benefit our community and Nation.

A CONGRESSIONAL SALUTE TO DR. AND MRS. CECIL O. GARTON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ANDERSON. Mr. Speaker, on Saturday, June 20, 1992, the family and friends of Dr. and Mrs. Cecil O. Garton will gather together to celebrate their 55th wedding anniversary. It is with great pleasure that I rise today to pay tribute to such an extraordinary couple, who are also my very dear friends.

Cecil and I have been friends and neighbors all of our lives. Our families built the first houses in Hawthorne, CA. We attended Hawthorne Elementary School, Inglewood High School, and U.C.L.A. together. Cecil went on to U.S.C., graduating from dental school and, until his retirement, was responsible for my million-dollar smile.

When Cecil met Lois, the winner of Bowling Green University's beauty contest, through mutual friends in 1936, it was love at first sight. Cecil knew a good catch when he saw one and he didn't want to let Lois slip away. They were married in St. Victor's Church in Hollywood one year later on June 26, 1937. Their happy and fulfilling union has produced three lovely children, Marilyn Joyce, Elizabeth Ann, and John Howard and seven grandchildren, Lori Ann, Cynthia Lee, William Joseph, Christa Grace, Dawn Elizabeth, Shannon Virginia, and Tamara Michele.

I owe much of my success to this distinguished dentist and his family. Cecil's father was responsible for setting me up in my first business venture and Cecil served as my assistant campaign manager when I ran for Lieutenant Governor. In addition to his busy practice, Cecil found time to serve on the Centenela Valley High School Board of Trustees, the Parks and Recreation Commission, and he was secretary of the Board of Education. He is a past president of the Rotary Club.

Lois shares her husband's enthusiasm for community service. Over the past years, she has served as president of the Gamma Phi Beta Sorority Mother's Club, the Inglewood Rotary Anns, the Inglewood Women's Club, and the Daniel Freeman Hospital Auxiliary.

Mr. Speaker, on this very special occasion, my wife, Lee, joins me in congratulating Cecil and Lois on their 55th wedding anniversary. It is an honor and pleasure to share this moment with them. We wish Lois and Cecil, their children, and grandchildren all the best in the years to come.

THE BUDGET DEFICIT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 10, 1992 into the CONGRESSIONAL RECORD:

THE BUDGET DEFICIT

The federal budget deficit for 1992 is estimated to be $370 billion—by far the largest in our nation's history. The federal government is now spending almost $3 for every $2 it takes in. The national debt, which represents the accumulation of the annual deficits, stood at $1 trillion in 1980; it now exceeds $4 trillion.

Particularly worrisome is that large deficits are projected as far as the eye can see. Although nearly $200 billion of the current deficit is due to more temporary factors such as the S&L bailout and the recession, the deficit over the next several years is generally expected to remain above $200 billion and is estimated to be at least $400 billion in ten years. What's more, these are the optimistic projections. If the economy persistently does poorly, the deficit in the year 2005 could reach a staggering $1 trillion.

Congress and the President have not approved new major domestic programs or serious increases in existing ones in recent years, but neither have we done anything to stop the relentless increase in the cost of entitlement programs that is really driving the budget.

HARM CAUSED BY DEFICITS

The deficits cause several problems. First, they hurt U.S. competitiveness and economic growth. The deficits absorb an ever-larger share of domestic savings that would otherwise be available to finance private sector investment, and they drive up real interest rates. The economy may begin to pick up momentum this year, but it will continue to be hampered by inadequate credit and high interest rates. The blame for these must be put upon the deficit, which is now sucking up most of the country's savings and not leaving enough to finance normal economic growth. In addition, the deficits undercut the ability of the federal government to make the investments needed to help secure our long-term economic future—in education, research, infrastructure, and the like. Second, the large deficits mean that the federal government must spend huge sums each year just to pay the interest needed to service the accumulated national debt. Annual federal interest costs are now $200 billion and growing; in a few years we could be spending almost as much on interest as we spend on national defense. Third, the large deficits worsen income inequality. Wealthy Americans can benefit from the higher interest income, while declining competitiveness and stagnant wage growth mean that working families are often forced to work longer and harder just to keep up.

So the deficit does terrible things to the economy. It reduces the nation's savings, limits investment, and slows the rate of productivity and economic growth. Everybody favors cutting the deficit but it never happens. The reason is that the deficit does not cause an immediate national crisis like, for example, the Los Angeles riots. And unfortunately not much gets done in Washington unless there is a sense of crisis.

NO EASY SOLUTIONS

Politicians are constantly saying that tens or even hundreds of billions of dollars can be saved in waste, fraud, and abuse. The problem is they never find it. This has been a popular refrain for the past twelve years, during which time we have seen the national debt increase four-fold. Certainly some savings can be made, and all federal programs need to be carefully reviewed for waste. But what is considered "waste" is often a subjective judgement—for example, while farmers may think mass transit is wasteful, people in cities may think farm subsidies are wasteful. And despite the rhetoric, Congress and the President over the years have basically agreed on the overall amount of spending. Indeed, since 1981 Congress has appropriated some $17 billion less than Presidents Reagan and Bush have requested. It is difficult to make deep cuts in federal spending because the biggest programs—social security, medicare, defense—are the most popular; less popular programs such as welfare (AFDC) and foreign aid each represent around 1% of total federal spending.

We also sometimes hear that economic growth is the answer—that we can simply grow our way out of the deficits. Yet we have tried that for the past twelve years with disastrous results.

There is considerable support for procedural changes such as the line-item veto or balanced budget constitutional amendment. A balanced budget amendment deserves serious consideration, but it would largely put the tough decisions off to another day, since it would likely take several years to be ratified by the states and put into effect. A line-item veto—giving the President power to veto not just entire appropriations bills but individual items buried in those bills—could yield some savings but could not produce a balanced budget. It could not be used on entitlements or interest on the national debt, and funding for defense is roughly at the level President Bush wants. That leaves appropriations for domestic programs—everything from the FBI to child nutrition to highway construction. But even if every one of these programs were completely eliminated—saving $225 billion—that would still fall some $150 billion short of balancing the budget.

Another proposal is to cap entitlements, but generally I think caps are not a good idea. They usually omit some major programs that ought to be included and that makes them unfair. By permitting politicians to cast easy votes against spending in general without making the tough choices about which programs to cut, caps let politicians off the hook. The intention of caps is good. The problem is that politicians want to cut spending but not specific programs. In the end, however, programs have to be cut.

A major reason deficits are hard to cut is that Americans want more government than they are willing to pay for. They do not want their taxes raised, and they do not want the biggest and fastest growing federal programs, such as Medicare, cut. They want the benefits without the sacrifice; they want the gain without the pain.

CONCLUSION

Tackling the deficit will take some hard choices. We will need to rein in health care costs, cut defense and other discretionary spending, better target entitlement benefits, and raise taxes on the rich, since they benefitted disproportionately from the tax breaks of the 1980s. What is needed is a broad package of shared sacrifice, and to achieve that we must develop a national consensus around making the difficult choices required for real deficit reduction. Some changes in congressional budget procedures can help better inform Americans about current national spending priorities and can better integrate long-term economic goals into budget decisionmaking, but most of all what is needed is for politicians to level with the American people—telling them that there are no simple, easy solutions. It is time to govern, not to pander.

THE WONDERFUL DAY CARE AS A DAILY POINT OF LIGHT

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. EMERSON. Mr. Speaker, I rise today to congratulate last Friday's Point of Light, the Wonderful Day Care of West Plains, MO, which is located in my southern Missouri district.

Six years ago, Wonderland's owner/director Janella Madden came up with the idea of once a week matching her students with the residents of the Ozark Nursing Center there in town. The program became an immediate success. The children enjoyed these Friday field trips, while the senior citizens came to look forward to their new visitors. As the program developed, so has the good character, values, and interest in serving others by the students of Wonderland Day Care.

This program and its voluntarism are examples that I hope others can begin to emulate. I believe these weekly visits are beneficial for both the youngsters and the young at heart. This intergenerational setting not only presents the children with great learning experiences, but it provides the senior citizens with the individual attention and companionship that they deserve. For example, sometimes they all play games or sing songs, while other visits are spent talking and getting to know one another.

Mr. Speaker, Janella, her staff, and her students should be commended for all of their efforts, on this the day they have been named our country's 798th Daily Point of Light. We all should respect, recognize, and encourage more groups like the Wonderland Day Care. Through their services in the West Plains community, these good folks are indeed a fitting example of a group of people doing something about making America a better place to work and live. Furthermore, I believe the children are being taught an invaluable lesson. Through these weekly visits to the Ozark Nursing Center, our next generation actually can experience firsthand how gratifying it is to serve our fellow citizens and how pleasing it can be to do so.

In closing, on behalf of Missouri's Eighth District and the rest of America, it is with deep pride that I say "thank you" to Janella and everyone associated with the Wonderland Day Care last Friday's acknowledged Daily Point of Light.

DOD SAYS MONTGOMERY GI BILL A GREAT SUCCESS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. PENNY. Mr. Speaker, the Department of Defense [DOD] recently transmitted to Congress its biennial report on the Montgomery GI bill [MGIB]. As chairman of the Veterans Affairs' Subcommittee on Education, Training, and Employment, I am particularly pleased with this evaluation of a very successful veterans' educational assistance program.

Two legislative changes are recommended by DOD, and the House has already acted on both. First, the Department supports continuation of the MGIB benefit levels provided by Congress after the Persian Gulf war, Public Law 102–25. A provision of H.R. 4342, which went through my subcommittee and was approved by the House last week, would make the increased benefit levels permanent. The Department also supports extending the GI bill to active duty personnel who are separated under the provisions of the voluntary separation incentive [VSI] and the special separation benefit [SSB] programs. A provision offered by the chairman of the Veterans Affairs Committee, SONNY MONTGOMERY, which would provide this opportunity was included in the National Defense Authorization Act for fiscal year 1993, H.R. 5006.

DOD's executive summary and a summary of the report prepared by committee staff follow my remarks.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, May 27, 1992.

Hon. G.V. (SONNY) MONTGOMERY
Chairman, Committee on Veterans Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In accordance with Section 3036, Title 38, United States Code, attached is the biennial report to Congress on the Montgomery GI Bill Education Benefits Program. The report addresses the Montgomery GI Bill as a recruitment incentive and the adequacy of its basic benefit levels to fund a program of education.

I hope this report will prove useful in your Committee's consideration of veterans' educational programs. A copy of the report is also being sent to the Chairman of the Senate Committee on Veterans Affairs, and the Chairmen of the House and Senate Committees on Armed Services, as well as to the Ranking Republicans.

Sincerely,

CHRISTOPHER JEHN.

EXECUTIVE SUMMARY

This report is submitted in compliance with §3036, Title 38, United States Code. It discusses the status, adequacy, effectiveness, and needed changes for administration of the Montgomery GI Bill education benefits program. The Montgomery GI Bill has proven effective as a recruitment incentive and has had a positive effect on educational attainment of post-service military personnel. The Department strongly supports continuation of the Montgomery GI Bill program.

This report includes the following:

History of the program's evolution and development.

Current status, including: Enrollment participation, utilization of benefits, and demographic characteristics of participants.

Adequacy of the benefit and need for continuation.

Recommended legislative change.

Our review of the program has determined a need for a minor legislative change. The Department supports continuation of the benefit levels approved by Congress after the Persian Gulf conflict. The Department also recommends that the program be extended to those active duty personnel who are separated under the provisions of the Voluntary Separation Incentive (VSI) and the Special Separation Benefit (SSB) programs.

The Department is currently facing force reductions in a period of fiscal austerity and budget decline. Nevertheless, our commitment to attract the highest caliber youth to military service, and our strong support for the enhanced educational attainment of our veterans, strengthens our continued support for the Montgomery GI Bill.

Summary of the 1992 DOD Biennial Report to Congress on the Montgomery GI Bill

A. ENROLLMENT AND USAGE

MGIB has proven to be extremely popular among recruits.

Enrollment rates have steadily increased since the Montgomery GI Bill program began.

Of the 1.7 million recruits who entered the services since the program began, over 1.2 million have enrolled.

The overall program enrollment rate stands at 75.8 percent.

Usage rates have also risen over the program's lifetime.

Forty percent of separated service members and fifty percent of those who separated during the fifth year of the program have used a portion of their MGIB benefits.

The Department of Defense (DOD) estimates that usage rates will continue to rise as all participants have several years of benefits remaining.

B. RECRUITMENT BENEFITS

MGIB plays an important role in attracting high quality recruits.

Educational benefits have proven to be a cost effective recruitment tool.

MGIB benefits have increased the number of prior-service individuals entering the Selected Reserve.

C. ADEQUACY OF BENEFITS

As a percentage of total cost of undergraduate programs, MGIB has provided significant benefits to participants.

Using indicators such as ability to meet recruitment goals, quality of recruits, and participants' completion of first term of obligation, DOD concludes that at the adjusted levels, MGIB benefits are adequate to offset educational costs.

At the 1992 benefit level, MGIB benefits will offset 54.2 percent of educational costs, down from 70 percent in 1985–1986.

The cost of educational benefits is lowered because payments are deferred for several years; eligibility depends on the completion of the first term obligation, and eligible veterans generally do not use all their benefits.

From 1985–1990, average annual costs of a four-year program rose by 29.0 percent, while the portion of educational costs offset by GI bill benefits declined by 15.7 percent.

DOD supports the continuation of increased rate provided under Public Law 102-25.

D. NEED FOR CONTINUED EDUCATIONAL ASSISTANCE

As evidenced by the high enrollment rate, the MGIB serves as a valuable recruiting tool to the military services.

Educational benefits are beneficial to the military and help to create a better educated and more informed citizenry.

The program provides opportunities to individuals who might not otherwise be able to afford higher education.

The MGIB program is a high priority of the DOD.

E. LEGISLATIVE RECOMMENDATIONS

Extend MGIB benefits to those active duty personnel who separate under the provisions of the Voluntary Separation Incentive and the Special Separation Benefit programs.

Require that service members contribute $1,200 to qualify for enrollment in the program.

F. OTHER FINDINGS

Higher proportions of minorities than whites have enrolled in the program.

Enrollment rates among female participants exceed those of males by 2–3 percent.

Recruits in the higher mental categories are more likely to enroll in the MGIB program than those in the lower categories.

SUMMARY

MGIB provides a popular incentive for military service.

Almost 87 percent of new recruits enrolled in MGIB during the most recent program year.

The program has helped the services recruit high-quality young people and maintain a ready force.

Changes adopted in the FY 1991 Persian Gulf supplemental appropriation have improved the vitality of the program.

DR. MANUEL RICO-PEREZ: PARADE'S GRAND MARSHALL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to have the opportunity to acknowledge Dr. Manuel Rico-Perez for his work in the medical profession and of his commitment to the people of our community.

Among his many accomplishments, Dr. Rico-Perez founded the nationally syndicated radio program called "Salud de Cuerpo y Alma"—Health in Body and Soul. His dedication and work in the medical field have earned him nationwide recognition and the admiration and respect of Hispanics everywhere.

Through his research, Dr. Rico-Perez created the nutritional program, The Last Diet. He has received international recognition for his natural products for the promotion of good health and the well-being of others.

It was Dr. Rico-Perez' concern for others that prompted him to begin his work and research in the medical field. It is his compassionate heart that earned him wonderful success.

In May, Dr. Rico-Perez was named the grand marshall of the ninth annual "Gran Parada Cubana de Nueva York"—New York's Grand Cuban Parade—where as many as 200,000 people gathered to celebrate this patriotic occasion. Herb Levin, director of Miami's WQBA radio station; Cecilia Bolocco of Telemundo; Maria Laria, director of the program "Cara a Cara"—Face to Face—and Manuel Garcia Oliva, director of public relations of New York's Channel 47 were among the many popular faces that joined Dr. Rico-Perez for the parade spectacular.

Recently, Dr. Rico-Perez was recognized and named honorary grand marshall of the 35th Annual New York Puerto Rican Parade. Dr. Rico-Perez was chosen to represent the Cuban community, during the parade commemorating the Quincentennial.

Mr. Speaker, I am delighted to honor Dr. Rico-Perez and I congratulate him for his dedication and commitment to bringing multi-cultural communities together to celebrate life. His hard work and love for others have appropriately earned him the opportunity to lead his own parade in honor of good health and in honor of the wonderful diversity of Hispanic culture and tradition.

EMP FUNDING IN THE FISCAL YEAR 1993 ENERGY AND WATER APPROPRIATIONS BILL

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. GUNDERSON. Mr. Speaker, included in the energy and water appropriations bill is full funding for the Environmental Management Program [EMP] on the Upper Mississippi River—section 1103, Public Law 99–662. I want to express my appreciation for continued willingness on the part of Chairman BEVILL and Mr. MYERS to take a personal interest in this model program.

FULL FUNDING FOR EMP

For the second year in a row, the President requested full funding for EMP of $19.466 million, met by this bill. As I have explained in previous years, maintaining full funding for the program is especially critical now, given the shortfall in funding for the program in previous years. The following chart illustrates the program's funding history.

[In millions of dollars]

Year	Authorized	Appropriated
1988	16.72	5.168
1989	18.56	7.5
1990	19.95	14.86
1991	19.46	17.0
1992	19.46	19.46
1993	19.46	[1]19.455
1994	19.46	
1995	19.46	
1996	19.46	
1997	19.46	
Total	191.45	83.443

[1] House.

These figures indicate that EMP funding to date has fallen short by $30.16 million.

THE EMP IS A MODEL PROGRAM

The EMP enjoys unprecedented support. This year, the National Research Council said the EMP should serve as a model for Federal-State partnerships on other rivers, stating:

> It is among the first in the nation to address conflicting federal mandates for large interstate rivers and to redress habitat degradation caused by alterations within the rivers and their drainage basins.

Similarly, in testimony before Congress in 1990—February 26, 1990, the Army Corps described the EMP as—

> A model for future efforts around the nation and we (corps) are proud to be a part of this unique initiative.

The EMP is recognized as a unique partnership that works. The Bureau of Reclamation, the Tennessee Valley Authority, and managers from many other river systems are very enthusiastic about the EMP and its application elsewhere. Additionally, Soviet and Chinese scientists have toured the EMP to learn more about the program.

The program paved the way for achieving harmony between navigation and environmental interests. It has allowed us to progress beyond the lawsuits and confrontation of the 1970's and 1980's over lock and dam 26.

IMPORTANCE OF THE EMP TO THE UPPER MISSISSIPPI RIVER REGION

Most importantly, the EMP is critical to the environmental and economic health of the Upper Mississippi River region. The river is used by millions each year for recreation, swimming, boating, fishing, hunting. The upper river alone has over 200 boat harbors, 445 recreation sites, and thousands of acres of wildlife refuge. It empties 530,000 cubic feet of water into the Gulf of Mexico each second, get its source from 31 States, and provides surface water to 70 cities—23 percent of entire U.S. public surface water supplies.

The EMP incorporates 22 active landfills and 6 to 10 inactive landfills along the Mississippi, and a superfund sight in La Crosse County.

As a result of monitoring of habitat projects, we should be able to better design new habitat projects to compensate for navigation impacts on the river. Information we've gathered will help us design future navigation systems which are more compatible with the environment, especially as they affect hydropower, upland erosion, and water pollution.

Members of the Energy and Water Subcommittee deserve credit for the foresight that has been associated with the program. We need now only to maintain the program's authorized funding level, and to take minimum steps to protect the unique program from debilitating funding cuts through Army Corps policy.

LINE-ITEM NEEDED FOR EMP

Despite the good news, further changes need to be addressed. Those of us who worked so hard in the early years to get the EMP off the ground, then worked in later years to obtain full funding for the program, have been frustrated by an Army Corps policy that cripples the program.

The corps applies—savings and slippage—expenses to all construction projects. Simply put, each year the corps projects the amount of appropriated construction funds which will not be spent because of projects which will all behind schedule. Based on this amount, the corps then assesses all projects with a prorata share of the slippage found in the total construction budget. The percentage of funding held from each project is determined to be savings.

This policy is unfairly applied to the EMP. Since a primary focus of the EMP is on long term environmental monitoring, and since the monitoring program is behind schedule due to underfunding in earlier years, the EMP suffers badly from this policy.

A strong case can be made for excluding the EMP completely from the corps' savings and slippage policy. In my discussions with the corps, it is clear the agency cannot unilaterally exempt EMP from the policy. Language included in the fiscal year 1992 energy and water appropriations bill specifically prevents the corps from utilizing this discretion.

In 1991, $1.650 million of a total $17 million was withheld from the EMP for savings and slippage. In 1992, $2.893 million of $19.46 was withheld. That means the EMP received just $16.562 million this year—not the $19.46 million Congress worked so hard to find.

The long-term monitoring program, which was so chronically underfunded in earlier years and is now playing catch-up, lost $600,000 last year under the policy. Of roughly $6 million for the program this year, $800,000 was turned back up front.

I will take action in the upcoming water resources authorization bill to exempt the monitoring portion of EMP from the savings and slippage policy. Savings and slippage should only appropriately be applied to the remaining $13.5 million under the construction portion of EMP—not to the total $19.455 million. Without this clarification, the habitat construction projects under the EMP takes a dramatically disproportionate hit under the corps policy.

IMPROVING AND EXPANDING THE EMP

Finally, efforts are underway to further refine the world-class EMP in order to maintain it as a model for the Nation and the world. I am both working with the authorizing committee to improve the EMP—to include savings and slippage changes and other refinements—and have introduced legislation H.R. 4169 to expand the EMP concept to the Nation's other interstate rivers.

These efforts, along with full funding for the second year in a row for the EMP, are creating a world class model river management program.

THE DEATH OF BERNICE R. MURRAY

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. DE LUGO. Mr. Speaker, this morning I was deeply saddened to learn of the death of Bernice R. Murray, the State Director of the Farmer's Home Administration for Vermont, New Hampshire, and my district, the Virgin Islands, and a longtime key aide to Senator JAMES JEFFORDS of Vermont.

Bernice worked tirelessly and with dedication and determination to make a real difference in the lives of the people of the Virgin Islands.

Bernice was among the first Federal officials to reach the Virgin Islands after Hugo, the terrible hurricane of 1989 that virtually destroyed the island of St. Croix. When directors from other agencies were sending assistants to help the Virgin Islands people rebuild their devastated lives, Bernice traveled personally to St. Croix to assist the thousands of FmHA clients left homeless, hopeless, and in danger of losing far more. She knew that many hurricane victims faced the real possibility of defaulting on the loans on their homes that had just been demolished by the storm. This would have pushed many into bankruptcy.

Bernice made sure that this didn't happen. She worked with Virgin Islanders to rebuild their homes and rebuild their lives.

Bernice proved how much dedicated people such as herself can accomplish for others. At FmHA she not only served, she made sure her service brought results.

In fact, just recently she announced a remarkable new FmHA program that guarantees mortgages that will be a tremendous help to our moderate income, $30,000 to $40,000 a year bracket families.

I will miss Bernice, and the Virgin Islands people whose lives she touched certainly will miss her. She was a one-of-a-kind person whom I am fortunate and thankful to have known, to have worked with, and to have had working on behalf of the people of the Virgin Islands.

May she rest in peace.

RETIREMENT OF MAJ. GEN. LAWRENCE P. FLYNN, ADJUTANT GENERAL OF THE STATE OF NEW YORK

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. MCNULTY. Mr. Speaker, the New York Army and Air National Guard today serve as an integral part of the total defense policy of this Nation.

That organization is led by the State adjutant general, Maj. Gen. Lawrence P. Flynn. General Flynn has submitted his resignation to Gov. Mario M. Cuomo, the commander in chief of our State militia forces, effective June 30, 1992. His resignation marks the end of more than 40 years of distinguished service in the military.

General Flynn began his military career as a private in the U.S. Marine Corps Reserve on May 1, 1947. Called to active duty as a corporal for the Korean war in 1950, he was promoted to sergeant, then commissioned a second lieutenant on May 29, 1951.

Later, as a colonel—and concurrent with his Marine Corps Reserve assignments—Col. Larry Flynn served in the New York Naval Militia as assistant chief of staff for operations and logistics, assistant chief of staff for personnel and administration, and finally as deputy chief of staff for plans and programs.

On October 16, 1973, Colonel Flynn was discharged from the U.S. Marine Corps Reserve and, on the following day, was appointed to the rank of colonel in the New York Army National Guard [NYANG].

The New York Guard and Reserve has diverse missions. Its primary mission is to defend our national security. However, the Guard and Reserve also assists and protects our citizens during national emergencies and natural disasters.

The New York Guard and Reserve also is very active in humanitarian aid efforts and drug interdiction. General Flynn has done an outstanding job in carrying out these missions.

General Flynn has held several high-ranking posts within the New York Army National Guard, serving as chief of staff and as deputy commanding general. On April 28, 1986, he was appointed the adjutant general of New York State and promoted to the rank of major general.

General Flynn is a military figure of national stature. He has been in the forefront of efforts to preserve a combat ready Reserve force in this Nation.

He is currently the chair of the Army Reserve Forces Policy Committee. This board of distinguished reserve officers and commanders is charged with advising the Secretary of the Army on key matters relating to the operational effectiveness of our National Guard and Reserve.

In New York, General Flynn's record is equally impressive. During his tenure as adjutant general at the New York State Division of Military and Naval Affairs, the New York Army and Air National Guard have made remarkable strides.

Under General Flynn's command, New York's Guard and Reserve achieved a superior record of mobilization for Operations Desert Shield and Desert Storm.

General Flynn has done an excellent job presiding over this diverse and dynamic force.

In addition to his role as adjutant general of New York State, Lawrence Flynn also serves as chairman of the civil defense commission, chairman of the veterans' affairs commission, and secretariat to the State disaster preparedness commission.

General Flynn received a B.A. degree in 1955, from Iona College. He is a graduate of the USMC Officer basic course, the USMC Amphibious Warfare School, the U.S. Navy Attack Cargo Ship Embarkation School, the U.S. Air Force Air Ground Operations School, and the U.S. Army Command and General Staff College.

His decorations include the Legion of Merit, the Meritorious Service Medal with oak leaf clusters in lieu of second and third awards, and the New York State Conspicuous Service Medal with devices for second and third awards.

I commend General Flynn on his outstanding service and selfless commitment to this Nation. I wish all the best to him, his wife, Betty, his four children, and his seven grandchildren.

Maj. Gen. Lawrence P. Flynn is a soldier with a record all New Yorkers—and all Americans—can look to with unbounded pride. He will certainly be missed.

THE PRESIDENT SHOULD CONTINUE TO PURSUE THE POLICY GOALS SET FORTH IN THE NUCLEAR WEAPONS REDUCTION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. STARK. Mr. Speaker, I wish to commend President Bush and President Yeltsin for their agreement to reduce the strategic nuclear arsenals of the United States and Russia down to the range of 3000–3500 each. These levels, about a third of that permitted under the START treaty, are an important first step in the long-term process of stage-by-stage reductions in the nuclear arsenals of all countries. But we can and should go farther.

Earlier this month, the House passed the Nuclear Weapons Reduction Act, authorized by Mr. MAVROULES, myself, Mr. FASCELL, Mr. HAMILTON, and Mr. EVANS. This legislation, which was accepted as an amendment to the Defense authorization bill (HR 5006) set forth a series of policy goals for reducing the nuclear arsenals of all countries. Specifically, it called for the President to seek:

Immediate elimination of nuclear weapons from Ukraine, Byelarus, and Kazakhstan;

Accelerated implementation of START reductions;

Immediate agreement with Russia to bilaterally reduce strategic nuclear weapons levels to between 2,500 and 4,700;

Subsequent multilateral agreement with Russia, China, Britain, and France to reduce United States and Russian arsenals down to within a range of 1000 to 2000, with lower levels for the other countries; and

Further, safe, stage-by-stage reductions in the nuclear arsenals of all countries, including the nuclear threshold states;

In addition, the legislation also declares that it is United States policy to:

Continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

Initiate immediate discussions, in consultation with NATO and other allies, to eliminate tactical nuclear weapons from all countries;

Provide assistance to disable and dismantle the nuclear weapons of the former Soviet Union; and

Achieve a worldwide, verifiable agreement to end by 1995 the production of plutonium and highly enriched uranium for weapons purposes, and to place existing stockpiles under bilateral or multilateral controls.

Mr. Speaker, I am pleased that the administration is pursuing the first three goals listed above: eliminating nuclear weapons from the non-Russian CIS republics, accelerating the START reductions, and yesterday's agreement to reduce the United States and Russian arsenals down to within the range recommended by the House. I would hope that the administration, having achieved this initial agreement, will bring in the other nuclear states and make a subsequent, further reduction, down to within the 1000 to 2000 range that we have recommended.

These reductions will not only leave the United States and Russia with more stable, survivable arsenals, but will also help achieve important nuclear nonproliferation goals, such as a successful extension of the Non-Proliferation Treaty in 1995 and a strengthening of the International Atomic Energy Agency.

TRIBUTE TO RAMON PUIG

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding success of Ramon Puig, a remarkable example of the American dream.

Ramon Puig was born in Cuba in 1920, and went to work as a tailor at a very early age. From the beginning of his career he began making and selling tropical dress shirts called guayaberas. He manufactured them himself and travelled around the country selling them.

When Fidel Castro seized power in 1959, Ramon Puig was forced to give up his business and go to work in the sugarcane fields of the regime. In 1968, he was one of the thousands who left Cuba on the freedom flights. Starting as a hotel janitor, and working his way up, Ramon Puig opened his own tailor shop by 1971. His concentration on quality and precision in his products has helped his business grow. He and his employees now supply guayaberas, not only to the leaders of the Hispanic community in Miami but to an international clientele including Presidents and past Presidents of Latin American countries.

The Miami Herald published an article about this remarkable success story, which I would like to include in the RECORD:

EX-JANITOR'S GUAYABERAS NOW WORN BY PRESIDENTS

(By Alfonso Chardy)

In Little Havana, Ramon Puig is better known by his nickname, el Rey de las Guayaberas, the Guayabera King.

The 72-year-old tailor is the undisputed No. 1 maker and seller of guayaberas, the Latin tropical shirts, in South Florida. His creations are worn by celebrities around the world and his business in Little Havana is worth millions.

"I owe everything to hard work and this great country," Puig said.

Born in Zaza del Medio, in the Cuban province of Las Villas in 1920. Puig learned to be a tailor from early on. From the outset in his career, Puig began making and selling guayaberas.

"I traveled across the island selling them," he recalled. Eventually he became a regular supplier to guayaberas to prominent Cubans, including then-President Fulgencio Batista.

After Fidel Castro seized power in 1959, Puig gave up his guayabera business and was forced to work in the countryside cutting sugar cane for the regime.

In 1968, Puig fled Cuba as one of thousands who left aboard the Freedom Flights.

His first job as a refugee was at the Fontainebleau hotel cleaning bathrooms.

Through friends, he later got a job in a factory that supplied uniforms to the U.S. Army.

By 1971, Puig had opened his first tailor shop on Calle Ocho in Little Havana.

Puig has clients in Mexico and Central America and counts the presidents and former presidents of Honduras and Costa Rica among them.

He also supplies guayaberas to most of the leading figures in the exile community, including Miami Mayor Xavier Suarez.

Puig now runs his business in Little Havana at La Casa de las Guayaberas, 5840 SW Eighth St. at Narcoa Plaza.

There, specialist guayabera makers manufacture the shirts using old Singer sewing machines.

"I prefer using the old machines because they are more precise than modern technology," Puig said. "That is the secret."

Mr. Speaker, I commend Ramon Puig for his hard work and perseverance, and I congratulate him on his remarkable success.

ADDRESSING THE FUTURE OF HONG KONG

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. CRANE. Mr. Speaker, I have been deeply honored with an invitation to address a select group of members of the British Parliament on the subject of the future of Hong Kong following the transfer of governing authority from Great Britain to mainland China in 1997.

As the sole representative of the U.S. Congress invited to address this group, and as ranking Republican on the Trade Subcommittee and chairman of the Washington Friends of Hong Kong, I have accepted this invitation. However, because of my acceptance, I am hereby notifying the Speaker that I will not be present for votes that may occur on the House floor on Thursday, June 18.

I look forward to the opportunity to exchange concerns and information with my British colleagues on a subject that is near and dear to their hearts as well as ours. Hong Kong is in many ways the jewel of the Pacific rim. It is one of our major trading partners and, understandably, both Great Britain and the United States have concerns with respect to how our friendship and trading relationship will be affected following the transfer of governing authority.

Although businesses and individuals from around the country, and from my own home State of Illinois, have expressed concerns about our future trading relationship with Hong Kong, I remain hopeful. I believe that continued dialogue between Hong Kong's major trading partners and mainland China will ensure that the Sino-British Joint Declaration will be faithfully adhered to and that the character of that great enclave of capitalism, Hong Kong, will remain unchanged.

Mr. Speaker, I hope that I will be able to report back to my colleagues in the House of Representatives that the leaders and people of Great Britain share my hope and that they are willing to work with us to ensure that Hong Kong's future is bright.

CONGRESSMAN KILDEE HONORS THE MICHIGAN ELKS ASSOCIATION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to the Michigan Elks Association Flint Lodge No. 222. The Flint Lodge will be holding its centennial on June 20, 1992, at the Holiday Inn in my hometown of Flint, MI.

The officers and members of the Order of the Elks are known throughout the community for their charitable work in veterans hospitals. The Order of the Elks was a major contributor to the restoration of the Statue of Liberty and has been an active supporter of the drug awareness program in our community.

The Order of the Elks played a key role in the creation of Flag Day. Each year Flint Lodge No. 222 celebrates Flag Day with the Elks dedication to the flag of the United States. The Elks have pledged to quicken the spirit of American patriotism.

Each year, the Flint Lodge honors our Nation's mothers in accordance with the grand lodge program. They continue to staff and maintain a retirement home for Elk members. On the first Sunday in December, the lodge hosts a memorial ceremony honoring their brothers that have passed away.

Mr. Speaker, it is with great pride that I stand before you today, asking you and my fellow Members of Congress to honor the Michigan Elks Association Flint Lodge No. 222. For over 100 years they have stood firmly behind their commitment to protect, promote, and enhance the human dignity of all Americans.

A VISITOR'S TRIBUTE TO THE JOYS OF NEW YORK

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ACKERMAN. Mr. Speaker, today I would like to submit an article from the New York Times which was written by a remarkable man, Consul General Uri Savir of Israel. The article is a moving and eloquent account of life in the "City that Never Sleeps"—New York.

ALONE—AND TOGETHER—IN NEW YORK CITY

(By Uri Savir)

Many New Yorkers speak to me of the decline, even the decay, of their city. Yet, four years as an accidental tourist have left me rather unimpressed by their remarks about the sundown of the city that never sleeps.

Even a sheltered diplomat is not unaware of the economic crisis, the social injustice, the cruel roots and consequences of crime. To live in New York is to live through the contradictions of life itself, only with greater force and energy than in any other city in the world. If you love life, you love New York.

As a citizen of the tormented Middle East, who is preparing to return home, I often admire New York's special blend of colors, religious, languages. The multitudes of people force a respect for individuality and privacy. Everybody is a minority member, yet at home. Co-existence is like New York traffic, anarchy with unique rules of the game: drive and let drive.

Collectively, the minorities often find themselves at odds with each other—blacks and Jews, for instance. These two peoples have suffered persecution, yet the bridge between them is shaky.

I have been to fruitful dialogues between them and I have been to Crown Heights. There I met Mayor David Dinkins, the Lubavitcher Rebbe, the Hasidic and black local leaders. Meetings between neighbors provided for no meeting of minds. Hard feelings spread and bitterness sinks in. Like stones in the mosaic, the neighbors don't move—not geographically, and clearly not emotionally.

New Yorkers, more than others, try harder in the bitter competition for success and to avoid the humiliation of failure. Even those who are successful, living on top of the world, suffer from a fear of heights. They look into the abyss of sudden downfall and are afraid of joining those who have tripped. Only the homeless, to whom New York has developed a sad numbness, seem to pose no threat.

In the race for survival and pursuit of happiness, one never stops. Time, like everything else, is money. A New York phone conversation is the shortest in the world. It is merely a transaction of self-interest. "What can I do for you?" Is synonymous with "don't waste my time."

When I innocently responded to an invitation, "We must have lunch sometime," the reaction was total bewilderment. Since then, I have improved my New York English. In an elevator one says, "Hope you have a nice day." The rhetorical wish for a neighbor is, "Hope all is well." To everybody you say, "You're looking good." Sound bites make people feel good and life more efficient. Lip service for a better environment.

A DIPLOMAT'S DISPASSION AND COMPASSION

In an Irish bar, you can see an elderly lady with a sad expression on her face singing a happy song. The anonymity grants her freedom, the freedom to be miserable, the freedom to be a star for a moment.

The other night, after a glamorous reception at the Pierre, I rushed to a game at Madison Square Garden in my tuxedo. In any other city I would have been "arrested" by the eyes of fellow spectators. In this place no one, seems out of place. Everyone is on his own, yet together.

New York is the one place in the world where a stranger feels he belongs, yet he remains anonymous. You don't have to share "your" New York. No one cares, no one is jealous. You can suffer—few will interfere. A togetherness of individually, a symphony of disarmony, somehow turned together by the pace of the merry-go-round. More than New York inspires it energizes to create. For example, the Met, the Met and the Mets.

So while Paris gets to your heart, London to your mind, and Jerusalem to your soul, New York gets into your veins, a lifetime that becomes part of you more than you become part of it. New York has a life of its own, its own pulse, which beats just a bit faster than that of its inhabitants.

TEODORO MOSCOSO OF PUERTO RICO: 1910–92

HON. ANTONIO J. COLORADO

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. COLORADO. Mr. Speaker, I rise in great sadness today to inform my colleagues of the unfortunate passing on Monday of one of the true giants of the Puerto Rico success story and a man well known in Washington diplomatic circles and in Latin America. When Teodoro Moscoso died in San Juan yesterday, at age 81, it truly marked the end of an era in Puerto Rico. Don Teodoro was the architect of the remarkable, New Deal-type Operation Bootstrap process of rapid economic development that so transformed Puerto Rico from its former Poorhouse of the Caribbean status to that of much-envied economic giant in the region.

I was fortunate, Mr. Speaker, to eventually follow Teodoro Moscoso as administrator of Puerto Rico's Economic Development Administration, known in Spanish as Fomento, but few people could exceed the accomplishments of this great and visionary man. Teodoro Moscoso was the dynamic man who, along with our legendary Governor the late Luis Muñoz Marin, transformed a poverty-stricken, agrarian island of the 1940's and 1950's into a vibrant, predominantly industrialized society that became the model for developing countries in the Third World—through the Point Four Program—a decade or so later. Some persons have compared this period in the 1940's in Puerto Rico to President Franklin D. Roosevelt's First Hundred Days.

It was Teodoro Moscoso who also built the Caribe Hilton Hotel when few people gave the idea of a new resort hotel in San Juan much of a chance in the 1950's. It was Teodoro Moscoso who was instrumental in attracting Pablo Casals to Puerto Rico and in the subsequent founding of the world-class Casals Festival. It was Teodoro Moscoso whom President Kennedy appointed as United States Ambassador to Venezuela, the first Puerto Rican so named. It was Teodoro Moscoso whom President Kennedy also appointed as the first Coordinator of the Alliance for Progress Program in Latin America.

The list could go on, Mr. Speaker. His accomplishments in the private and public sectors are as considerable as they are varied. But for those of us privileged to know Don Teodoro well, we knew him as a man for all seasons, a cultured, erudite, and compassionate human being equally at home in the Puerto Rico he loved so well as in the salons and classical music halls of Europe or New York. In this age of amateurs who do not always know they are amateurs, Teodoro Moscoso was the consummate professional, the pharmacist from Ponce by way of the University of Michigan, the can-do tactician who always saw the glass as half-full, not half-empty. That combination—of the results-oriented pragmatist and the sensitive lover of classical music—is unusual even in the best of times.

Those of us who knew Teodoro Moscoso well also remember him as a voracious reader of the most arcane and esoteric periodicals and books from home and abroad. Among the issues which interested him with a passion, Mr. Speaker, was that of overpopulation, because Teodoro Moscoso, the coarchitect of Puerto Rico revolution without bullets of the 1940's and 1950's, correctly saw that a small island like Puerto Rico, with one of the highest population densities in the world, could see most of its efforts go down the drain unless population growth was checked. That population growth has in fact been slowed in Puerto Rico, Mr. Speaker, but it is still a serious problem, and one which overlays many of the issues, both in Washington and in San Juan, concerning the Commonwealth of Puerto Rico.

Indeed, Mr. Speaker, we hear much these days in Washington about legislation to create enterprise zones in the United States, but I daresay few of my colleagues know—though Housing and Urban Development Secretary Jack Kemp does know, and publicly acknowledges—that this novel proposal has its origins in Puerto Rico's Operation Bootstrap economic miracle that Teodoro Moscoso so energetically pursued and brought about with such spectacular success. Perhaps, Mr. Speaker, this is one of Don Teodoro's greatest legacies.

Persons with the stature and enormous achievements of Teodoro Moscoso do not come on the scene very often, and when they inevitably depart, the world is diminished as a result. But the spirit of a Teodoro Moscoso lives on, Mr. Speaker, and all of us in the Family of Man are enhanced as a result of this remarkable man's vision and determination. He was, indeed, a man for all seasons.

COALITION OF HISPANIC BUSINESSES AGAINST DRUGS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to acknowledge the members of the Coalition of Hispanic Businesses Against Drugs for their work throughout the Miami community. Their commitment and dedication to drug free neighborhoods is an example to all business and community leaders.

The Coalition of Hispanic Businesses Against Drugs is made up of community leaders who have personally taken on the war against drugs. Members of Miami's Victoria Hospital and of the Latin Chamber of Commerce [CAMACOL] have joined forces to combat the evils of drugs in our schools and neighborhoods.

They understand the dangers of drug use, they know the damage drugs have done to our children and they've seen the dreams of a young generation vanish before their eyes. The serious drug problem in our Nation has prompted these community leaders to make a difference.

The coalition plans to create a network comprised of various companies and organizations, and medical professionals to stop the abuse of drugs. The members of the participating organizations assist by providing education to all people and treatment to those in need.

The members of the coalition hope to increase awareness of the dangers of drug abuse through seminars and lectures. In addition, the members of the coalition hope to provide hands-on treatment and counseling programs to assist those who already have a problem with drugs.

Mr. Speaker, I am pleased to have the opportunity to pay tribute to these fine leaders of our community. The members of the steering committee for the coalition include: Dr. Pedro Rodriguez, Ms. Ana Mederos, and Ms. Marivi Prado of Victoria Hospital as well as Mr. Luis Sabines, Mr. Tony Rivas, and Mr. Hector Gasca of CAMACOL. These individuals truly understand the value that our young people hold. They have seen the terrors that drugs provoke and they have taken a stand for these young people and their futures. Their work in our community is priceless, and I am proud to honor them.

RECOVERING COSTS IN A COMPETITIVE POWER MARKET

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. STUMP. Mr. Speaker, I offer my commendations to Dr. C.M. Perkins, general manager of the Salt River project, for his efforts at encouraging international cooperation and understanding in matters of electric energy, reclamation, and water delivery.

Last month, Dr. Perkins traveled to Milan, Italy; and Prague, Czechoslovakia, to meet with European government officials and utility administrators about the competitive forces that are reshaping power markets in the Southwestern United States and globally. As the largest water supplier in Arizona and the second largest publicly owned utility in the United States, the Salt River project has had a longstanding commitment to hosting international exchanges on water and power issues. In 1991, for example, Salt River project arranged meetings, exchanges, and tours of its facilities for more than 698 visitors from 63 foreign countries.

Mr. Speaker, much could be said on Salt River project's unique heritage, its history as one of the Nation's oldest reclamation projects and its importance to the people of central Arizona. Of more immediate note, however, are the innovative approaches that it has taken to meet critical needs in one of the fastest growing regions in the United States.

A valuable perspective is to be gained from remarks that Dr. Perkins made in a May 4 address to Milan's Azienda Energetica Municipale. I am pleased to enter into the RECORD selected excerpts from his speech:

RECOVERING COSTS IN A COMPETITIVE POWER MARKET

(Abbreviated text of remarks by C.M. Perkins, Ph.D)

The Salt River Project's mission is to be the low-cost supplier of high-value energy and water services among our competitors. Achieving this mission in the face of increased competition, economic uncertainty, expanding global markets, developing technologies and environmental issues requires commitment to make difficult and critical changes.

One of the most significant challenges facing the Salt River Project is increased competition in the utility business. To prepare, we are now managing with a greater degree of resource risk, seeking more flexibility in operations and planning, and are considering new ways to broaden our types of services.

As competition increases, quality customer service continues to be a priority. We consistently work to better understand what services our 550,000 residential and commercial customers want and we realign resources and personnel to maintain and improve levels of customer satisfaction.

On the waterside of operations, we expect to expand our traditional role of providing storage, transportation and delivery of water at low cost. Partnerships with municipalities and other entitles are another way that we address emerging concerns about water quality.

In addition to water issues, environmental issues remain a paramount concern. To contribute to scientific understanding of environmental matters for both corporate and public purposes, we support a variety of research activities and regularly communicate scientific information and results to customers, employees and shareholders.

Because our customers and the public at large expect institutions like the Salt River Project to assume responsibility for the environment, we focus our activities to provide the greatest benefit to customers and shareholders.

To compete effectively, we seek employees with high-caliber multiple skills who possess deployment flexibility. Special efforts are taken to train and retain employees to meet shifting demands. Supervisory staff receive additional cross-functional training in different disciplines to promote flexibility and help prepare them for advancement.

Like many other electric utilities in the United States, our planned capital outlays for transmission and distribution will far outweigh expected capital outlays for generation over the next several years. Our most significant task is not in generating the electricity—it is in moving it around the State of Arizona and the southwestern United States.

Between now and 1998, we plan to spend about $779 million on our transmission and distribution system. This amounts to some 43 percent of our capital budget for that period. By contrast, about $320 million over 17 percent of our capital spending will go to power generation over the next six years. With no generating facilities planned or under construction and an adequate reserve margin, SRP's capital needs are lower now than they have been for some years.

Major U.S. bond-rating agencies like Standard & Poor's and Moodys Investor's Service have given a AA rating to SRP's $3.3 billion of outstanding debt. Maintaining this rating is important to ensuring retained access to capital at reasonable cost. As other public power utilities, Salt River Project is not a publicly traded company. We do not issue stock. That is why continued access to the bond markets on reasonable terms is a top priority for us.

More than 80 percent of our capital spending budget will be funded with internally-generated cash over the next six years. We will have the funds to cover our debt service obligations more than twice over, and we will have an average of nearly $200 million in cash flow. These are indications of our financial well-being, and should help us maintain a AA rating.

When we planned our capital budget, we listened to Wall Street as well as Main Street. Like many other municipal borrowers, our tax-exempt bonds are issued in denominations of $5,000. That large a face value poses a difficult dilemma for individual investors. Many are unable to commit to an investment in large $5,000 denominations.

With this in mind, we developed or minibond program more than a decade ago to allow individual investors to buy bonds directly from Salt River Project in denominations of $500. To date, we have sold more than $250 million of these bonds, including a record $52 million offering earlier this year. The bonds generally carry 15-year maturities and federal taxes and, with a 6.3 interest rate, guarantee that investors in high tax brackets will receive the taxable-equivalent yield of nearly 10 percent.

By selling these bonds directly to Arizona investors, with no underwriters, the investor saves on commissions and Salt River Project pays no underwriting fees. To establish liquidity in this market, we stand ready to repurchase these bonds on demand.

Since internally generated funds will cover the vast majority of our capital spending needs for the next six years, we will reduce our reliance on the bond market. Nevertheless, we intend to continue our successful minibond program. Indeed, we plan to sell about $30 million of minibonds for each of the next six fiscal years.

The U.S. Congress and State public utility commissions have injected a healthy dose of competition into the power generation business over the last 15 years. Electric utilities are no longer the only companies that build and operate generating stations. Lowering customer's electric bills was the reason lawmakers and regulators took this first step to transform the industry.

U.S. lawmakers and regulators are taking the next logical step, arguing that consumers cannot enjoy the full fruits of competitive power generation unless utilities open their transmission systems for use by their neighboring utilities as well as by non-utility power producers. In the natural gas pipeline industry, this process is known as open access. We at Salt River Project believe that an analogous regulatory framework will soon be enacted by federal and state officials as a way to deliver to ratepayers additional benefits of competition.

To reduce costs, meanwhile, we have developed several new rate plans to take advantage of our customers' different power use patterns. Among choices, we offer time-of-use rates where the charges vary according to our peak and off-peak hours. We also offer real-time rates which vary according to the cost to produce power at a particular time. Other options include standby rate for customers who can use interruptible power, and declining and inclining block rates which decrease or increase as energy usage varies.

Another way we work to keep our rates low is by taking advantage of the supply and demand fundamentals in our region's bulk power market. Many utilities—ourselves included—had very strong electric demand growth in the 1980s. Annual peak demand growth of six or seven percent was not uncommon.

Some utilities, thinking this trend would continue, began building new generating capacity. In many cases, those large and expensive power plants were completed at precisely the time that the local economy plummeted, taking electric demand growth with it. Currently, the southwestern U.S. has too many megawatts chasing too little demand.

High costs, restrictive environmental regulations and a deteriorating infrastructure have caused people and businesses to leave California, thereby reducing power demand in that state. California, once a larger buyer of bulk power from southwestern utilities, has scaled its purchases back dramatically.

The fundamentals of the bulk power market present Salt River Project with many opportunities to purchase power at less than it would cost to build new generating stations. As a consequence, we do not plan to build any new base stations for at least a decade.

Instead, we are building transmission facilities and in the near future, will spend about $54 million to help construct a 500 kilovolt transmission line extending for 260 miles from Phoenix to southern Nevada. This line, known as Mead-Phoenix, will link the northwestern and southwestern regions of the U.S. The project's overall cost is $340 million. Salt River Project will operate the line once construction is complete.

Like other U.S. utilities, we have trimmed our workforce to ensure that our product is sold at a competitive price. In two separate workforce reductions over the last three years, we eliminated about 1,100 positions. This amounts to a reduction of about 19 percent. We were not the first utility to initiate workforce reductions and, judging from the newspapers, we have not been the last either.

These reductions have resulted in shrinking operation and maintenance expenses. Capital outlays have been cut by about $100 million per year, while operation and maintenance costs have been cut by approximately $57 million per year. Though we are not content to rest on past accomplishments, we are prepared to meet the challenges posed by the new, more competitive environment faced by our industry at large.

In conclusion, Salt River Project is committed to a program based on four interrelated elements. They are the four "Cs"—Costs, Competition, Customer Service and Community Responsibility.

Behind these principles is the simple precept that the economic growth and development of our region cannot occur unless reliable supplies of water and power are available at reasonable cost.

To ensure reliability, we rely on surveys and various performance indicators to rate our competitive standing, system efficiency, per unit costs, safety performance and levels of employee and customer satisfaction. Measures of service value, economic value, workplace and community considerations guide most decisions affecting our company operations and policy making.

Beyond this, we believe our customers and state have a right to expect good citizenship on the part of businesses and major corporations. To meet that expectation, we place special emphasis on community responsibility programs aimed at benefiting our schools, cultural resources, environment and local economic development efforts.

We believe, in sum, that a company cannot fulfill its mission if it is unable to deliver the goods. We think leadership, whether corporate or personal, means leading by example. It is a premise we are committed to carrying out. By that commitment, we intend—together with our community—to continue to make a distinct difference in Arizona's future.

AMERICANS WITH DISABILITIES ACT RESULTS IN ENORMOUS FINANCIAL BURDEN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. BURTON of Indiana. Mr. Speaker, I want to alert you and my other colleagues to yet another example of the costly consequences of excessive congressional and Federal regulation.

I was recently contacted by Jerry Reighley, president of the Lawrence Parks Board of Recreation in Lawrence, IN, in my district, regarding the enormous financial burden placed upon them in order to comply with the Americans with Disabilities Act [ADA]. For the city of Lawrence's eight parks to comply with the minimum requirements of the ADA by 1993, it will cost the city $250,000. They obviously do not have these extra resources currently available. As a result, Lawrence will be susceptible to the possibility of lawsuits to determine if they are considered liable for their lack of adherence with the law. In addition, this quarter of a million dollars reflect only one aspect of the cost of compliance with the ADA for the taxpayers of Lawrence. The $250,000 does not include the expenses to be incurred by the other sectors of local, county, and State governments, let alone the entire private sector, in complying with the ADA.

No one, especially me, is against including disabled Americans into all facets of life. We should strive to incorporate everyone as much as possible, and I am not arguing here against the noble goal. However, the ADA was a poorly drafted attempt to do it. This law is a boon to lawyers and a boondoggle to taxpayers and the private sector. The ADA's nebulous mandate for reasonable accommodations places a tremendous open-ended liability on society, and its undue hardship exemption is a tenuous defense whose legitimacy only thousands of court cases will decide.

When the ADA was originally debated and passed, congressional Democrats refused again and again to allow Republican amendments that would help small businesses and local governments pay for the law's requirements or that would lessen the scope of the law. Such amendments were called "killer amendments" by the Democrats because they exposed the true financial and regulatory costs of this Government intrusion. As Federal deficits have mounted, Congress has continued to pass expensive legislation but has repeatedly shifted the costs onto local governments and the private sector. It's a safe bet that if the Federal Government cannot afford these far-reaching mandates, neither can States, counties, or small businesses. This must stop.

Therefore, those who control this body must act to correct the dilemmas faced by Lawrence and others. If the Democrat leadership continues in their indifference, the ADA's burdens will force most of America's businesses and local government entities to become law breakers or to face serious economic distress or to spend their few resources to prove they do not have the resources to comply with the law. Congress must wake up to these realities.

As the old adage wisely observes, "the road to hell is paved with good intentions." We must have more than good intentions in writing laws. We should help America's disabled, but the fiscal sanity and rationale that go into the everyday decisionmaking process of American families and businesses must be introduced into this body's actions as well. If the Nation is going to be forced to abide by the ADA's stringent requirements, I hope the leadership will hear the cries of the electorate and drop its resistance to assisting Lawrence and the thousands of cities and businesses across the country in similar situations who want to comply with the ADA but simply cannot afford to.

I insert Mr. Reighley's letter into the RECORD at this point:

LAWRENCE PARKS BOARD
OF RECREATION,
Indianapolis, IN, April 8, 1992.

Congressman DAN BURTON,
Congress of the United States, House of Representatives, Washington, DC.

Re: American With Disabilities Act.

HONORABLE DAN BURTON: The Lawrence Parks and Recreation Department has done a preliminary survey of the seven parks in our system and the Veteran's Park to come on line in 1993. To meet some of the minimum requirements of the American With Disabilities Act will cost an estimated $250,400.00. Under the present Uni-Gov statute Lawrence does not receive any of the Marion County Parks money. We can not raise property taxes to fund this expense either.

We feel the Americans With Disabilities Act is a very necessary act, and will do our best to comply, but are at a loss as to where to get funding.

At this time I must ask you to introduce legislation to help fund its implementation. I feel this is necessary to do because of the many disabled veterans and handicapped citizens in our community. These people should not be treated as second class citizens.

We would appreciate your support in this matter.

Respectfully,

JERRY W. B. REIGHLEY,
President.

Projected cost list to meet ADA guidelines

Lawrence Community Park, 5301 North Franklin Road:

Picnic site	500
Signage	600
Path and trails	25,000
Entrance ways	300
Playground equipment	5,000
Playground surfacing	20,000
Picnic tables	1,500
Accessible van	40,000
TDD telephone	500
Staff training	1,000
Total cost	94,400

Fall Creek Park, 8725 Fall Creek Parkway:

Picnic site	500
Signage	300
Path and trails	15,000
Playground equipment	2,000
Playground surfacing	12,000
Picnic tables	800
Dock accessibility	1,000
Restroom facility	10,000
Total cost	41,600

Lee Road Park, 6200 Lee Road:

Picnic site	500
Signage	200
Paths	5,000
Playground equipment	2,000
Playground surfacing	12,000
Picnic tables	800
Restroom facility	10,000
Total cost	30,500

Oaklandon Playpark, 11828 East 65th Street:

Picnic site	$500
Signage	400
Paths	1,000
Playground equipment	2,000
Playground surfacing	15,000
Picnic tables	500
Restroom facility	10,000
Total cost	29,400

Charney Park, 4902 Charney Avenue:

Picnic site	$500
Signage	200
Paths	10,000
Playground equipment	2,000
Playground surfacing	7,000
Accessible deck and ramp	5,000
Total cost	24,700

Explorer Park, 5205 North Richardt Street:

Picnic site	$500
Signage	200
Paths	5,000
Playground equipment	2,000
Playground surfacing	15,000
Total cost	22,700

Soccer Park, 4510 North Richardt Street:

Signage	100
Playground equipment	2,000
Playground surfacing	5,000
Total cost	7,100

Total cost to the Lawrence Department of Parks and Recreation	250,400

1992 INDIRA GHANDI AWARD HONORS DARSHAN SINGH DHALIWAL

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. KLECZKA. Mr. Speaker, I come to the floor of the U.S. House of Representatives today to recognize the achievements of a man whose industriousness and generosity are worthy of public note.

Here in the people's House, we struggle on a daily basis with the problems and challenges that face us as a nation and as a society. It is easy for us to forget that for millions of people in other parts of the world, the United States of America is still a land of promise, a land of opportunity, a land of hope. It is easy for us to forget that many people in other parts of the world look at the United States and see a great deal that is right.

One such man is Darshan Singh Dhaliwal. Born in India in 1951, Mr. Dhaliwal emigrated to the United States in 1972. He entered Marquette University in Milwaukee, WI, to study engineering. He became a citizen in 1982.

Over a period of 15 years, through hard work, self-denial, and perseverance, Mr. Dhaliwal realized the American dream. Through his labor, ingenuity, and tenacity, he built a multi-million-dollar business—Dhaliwal Enterprises—which today employs 5,000 people and posts annual profits that exceed $50 million.

While one can understandably be impressed by the accumulation of such a great deal of wealth in so short a time, one is far more impressed by the humility and decency of Mr. Dhaliwal himself.

Albert Schweitzer once said that the fundamental principle of morality was that good consists in maintaining, promoting, and enhancing life. By this definition, Darshan Dhaliwal is a highly moral man.

His generosity is expressed in a variety of ways. For the past 12 years, he has promoted the sport of soccer among Midwestern youth and sponsored the Dhaliwal Mequon fall soccer tournaments in which 150 to 200 teams from area schools and clubs participate.

He has launched a project to build an ultramodern school in his native village of Rakhra, India, and donated $1 million for a new heart-lung transplant hospital in Patiala, India. In December 1991 he made a gift of $5.3 million to the Iowa Western Community College.

In addition he is active in both Indian and American religious and cultural communities, donating his time, talents, and wealth for the betterment of humanity, working to unify not just persons of Indian heritage, but persons of all heritage.

As you can imagine, over the past 2 years, Darshan Dahliwal has received numerous awards and recognitions. This year, however, he has been chosen by Chitrahar as the recipient of the prestigious 1992 Indira Gandhi Memorial Award—an award given to the individual who best exemplifies the qualities the late Prime Minister has come to represent: The leadership, moral courage, unselfish service, and inspired vision that transcends all barriers and strives for the fulfillment of the human potential.

I rise today to honor him and offer him congratulations on receiving this award. Thank you Darshan for your service to humanity and to our Nation.

SALUTE TO SHERIFF BELVIN BERGERON

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. HOLLOWAY. Mr. Speaker, it is with the greatest pride that I pay tribute today to a distinguished Louisianian, a man who has served his fellow citizens, his parish, his State and our Nation with great distinction for some 32 years. I am pleased today to salute Mr. Belvin Bergeron, sheriff of West Baton Rouge Parish, LA, as the date of his retirement approaches. Mr. Speaker, Sheriff Bergeron will retire June 30 at age 67. His long tenure reflects the esteem in which the voters of West Baton Rouge Parish hold him. The office which he will leave includes more than 60 employees and 75 auxiliary law enforcement officers. Sheriff Bergeron recently said of his office, "I feel sure I am going to miss it, but I also feel sure I am going to get along without it." Mr. Speaker, the distinguished sheriff of West Baton Rouge Parish surely will get along with his office, but the office will not be the same without him. He has served his parish and her people with energy, commitment, skill and ability. I am proud to pay tribute to his years of service today. Belvin Bergeron's many years in office are a credit to his political ability, personal popularity and his ability to get the job done. I know I speak for thousands of people in West Baton Rouge Parish and the Eighth Congressional District of Louisiana in wishing him and his family well.

WOMEN'S CHAMBER OF COMMERCE SELECTS GALE LANGFORD AS PRESIDENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate Gale Langford on her election as president of the Women's Chamber of Commerce of Dade County.

The Women's Chamber of Commerce is an action agency which concentrates on women's business issues and legislative issues. Recent issues in which they were involved included the Americans With Disabilities Act and the Food and Drug Administration's rules on breast implants.

Gale Langford, who spent a year as a vice president of the chamber, is the president of LeJeune Advertising, a full service advertising agency which she helped found in 1981. She is also involved in the Miami chapter of the American Marketing Association and the Greater Miami Chamber of Commerce.

The Miami Herald published an article about this outstanding woman which I ask to be included in the RECORD:

WOMEN'S CHAMBER SELECTS PRESIDENT

(By Charles B. Rabin)

After a year of waiting in the wings, Gale Langford has been named president of the Women's Chamber of Commerce of Dade County.

The chamber, which calls itself a "tri-ethnic action agency," picks its president each year from a group of three vice presidents, one black, one Latin and one Anglo, Langford said.

Langford succeeds Heather Molans, last year's president.

"The greater thing she can contribute to the chamber is her expertise in the advertising industry and her public relations know-how," said Olga Aguirre-Fermandex, a certified public accountant at Mallah Furman & Co. in Miami and a former chamber president.

The chamber meets monthly and generally has a guest speaker from the Miami business community. The organization focuses on women's business issues and legislative issues, Langford said. She cites the Federal Drug Administration's recent ruling on breast implants and the new Americans With Disabilities Act as examples.

There are 40 members. "Our members include a wide range of businesses," Langford said. "We have CPAs, environmentalists and community activists."

RUNS AN AD AGENCY

Langford, 39, is president of LeJeune Advertising. The full-service Miami agency opened in 1981 and has four employees. Clients include Arlington Industries in Miami and Mitek Industries in St. Louis.

"We're surviving," Langford said, referring to the recent recession. "It has been a tough time, but we're sensing light. We've managed to carve a little niche with the industrial market and that has helped us get by the past two years."

Langford received a degree in commercial art from Florida Atlantic University in Boca Raton. After graduation, she went to work for WCKT-Channel 7 (now WSVN) in Miami as a news graphics designer. She did courtroom sketches.

In 1981 she became a founding member of LeJeune Advertising.

"I always hoped that I'd be involved in something artistic," she said. "Now I'm delighted."

Additional interests include involvement with the Miami chapter of the American Marketing Association and the Greater Miami Chamber of Commerce.

GOLF IS HER SPORT

She has also caught the golf bug, and likes to play at least once a week. Langford's on target to break the 100-stoke barrier "very soon," she said. She plays with her husband, Jim, who has spent the past three years working for the Professional Golf Association.

Langford is upbeat about the future, especially with the economy improving.

"I don't have a crystal ball, but I've been busy and things are picking up."

Mr. Speaker, I commend Gale Langford and the Women's Chamber of Commerce of Dade County for their outstanding service to the people of Florida.

A TRIBUTE TO FATHER CAMILLO L. SANTINI, C.S.S.

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, today I wish to pay tribute to Father Camillo L. Santini, C.S.S., who is truly an outstanding citizen from the Springfield, MA, community. Father Santini has tirelessly served our community as both a priest and a friend. The special occasion for this salutation if Father Santini's 50th anniversary as an ordained priest of the Roman Catholic Church.

Father Santini was born in Vittorio Veneto, a small village north of Venice, Italy, in 1913. In 1919 he and his family emigrated to the United States for a chance of a new beginning in America. Father Santini and his family located in the Monson area and he then attended Monson High School. Father Santini entered the seminary in 1937 in Waltham, MA, and was ordained in 1942 by Cardinal Cushing in Newton, MA. For 50 years, Father Santini has served both God and the people of Springfield as a devoted member of the community.

Mr. Speaker, Father Santini is genuinely deserving of our recognition. After spending a brief period of his ordained life in Canada, Father Santini returned to the United States and devoted his time and effort to the people of Springfield. Father Santini has spent 43 of his 50 years as a man of the cloth in the Springfield diocese. Father Santini has been a priest in the Pittsfield Church as well as the Sacred Heart Church in Springfield. Father Santini now presides over the Mount Carmel parish in Springfield and his contributions to the Springfield community have been immeasurable.

Father Santini, while performing his regular duties at Mount Carmel, is also involved in activities to promote communal harmony. Father Santini is a participating member of the Springfield chapter of the Knights of Columbus. He is also a member of the Holy Name Society. His activities in the Sierra Club help recruit young men into the priesthood.

Mr. Speaker, it is heartening to know there are still people who are willing to sacrifice for the benefit of others. Father Santini has devoted his life to the service, guidance, and assistance of others. The diocese of Springfield has chosen to honor Father Santini's achievements with a mass dedicated to him on Sunday, June 21, 1992, with a reception to follow. He has given so much to our community that I could not forgo this opportunity to express extreme gratitude and appreciation for all the years of service Father Santini has contributed to the Springfield community.

INTRODUCTION OF LEGISLATION TO ESTABLISH QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. GEJDENSON. Mr. Speaker, it is with great pride that I rise today to introduce legislation to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in Connecticut. I urge my colleagues to join me in support of this important and long overdue legislation.

Designating the Quinebaug and Shetucket Rivers Valley as a heritage corridor will provide a management framework to assist the State, regional, and local governments and the public in preserving and protecting one of the most culturally, historically, recreationally and environmentally unique, and significant areas in the United States.

As development pressures mount and as the suburbs of the major cities of the Northeast, like New York, Hartford, Providence, and Boston expand, it is increasingly important that we protect some of the most significant unspoiled and undeveloped areas in the Northeastern United States. The Quinebaug and Shetucket River Valley is such an area.

This region of northeastern Connecticut has remained largely unspoiled. In addition to the rural landscapes, beautiful rivers, and open space, there are enormous discovered and undiscovered Indian and colonial archeological sites. Excellent water quality makes this area prime for swimming, boating, and other recreational activities. There are also a significant number of historic and architecturally significant mill structures that played a vital role in the industrial development of the United States and represent an extremely important part of the history of this country. The Quinebaug and Shetucket River Valley also represents one of the most important areas of the American cultural evolution during the prewar colonial period, leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and the Nation's early political development up to and during the War of Independence.

For many years, I have been working with the State and local governments, private individuals, and private groups to look for ways—either individually or collectively—to preserve and protect this unique area. In 1988, as chairman of the Oversight and Investigations Subcommittee of the House Committee on Interior and Insular Affairs, I conducted a field hearing to assess the situation in Connecticut, the need for additional parks, recreation areas and open space in Connecticut, and to look at different options for preservation, whether they be private efforts, State efforts, Federal efforts or some combination.

In that hearing, we learned a great deal, not only about the mood of the people and the area's important resources, but about what preservation options might work and their limitations both technically and financially. Perhaps the most important thing we learned is that there is overwhelming concern across the State about the lack of parks, recreation areas, and open space in Connecticut and about the loss of natural and historic resources that give Connecticut its unique qualities. Of the 23 witnesses from the environmental community, government, and industry that appeared or submitted testimony, without exception, all expressed deep concern about the potential loss of important natural, historic, and cultural resources.

We also discovered that the State of Connecticut lags far behind the other northeastern States in the amount of land set aside for public recreation. The Northeastern States have an average of 294 acres of public recreation land per 1,000 residents. Connecticut has less than 100 acres of public land per 1,000 residents, about one-third the average of the other Northeastern States. In addition, the amount of State-owned forest land in Connecticut has declined by 50 percent since 1950.

The State of Connecticut ranks dead last among the 50 States in the amount of Federal lands such as national parks, forests, recreation areas, or wildlife areas within its borders. Until last year, when the Weir Farm in Wilton and Ridgefield was established as a national historic site, the State of Connecticut had no national park units. Now with authorization of the Weir Farm, there are 2 acres of land managed by the National Park Service.

Equally as important as the desire to protect important resources in Connecticut is the level of uneasiness about the Federal Government coming in and taking control over State resources. More than 20 years ago, Senator Abraham Ribicoff proposed to establish a national recreation area at the mouth of the Connecticut River. And while there was strong support for protecting the scenic qualities of the river, there was great uneasiness on the part of the local community at the thought of having a Federal park in their midst, and most importantly the idea that the Federal Government would come in and take over control of eastern Connecticut. Despite the desire to protect resources, this uneasiness defeated the project.

Since that time, Congress and the National Park Service have come up with an innovative, cost-effective, and cooperative approach to natural resource protection called the national heritage corridor. The Illinois and Michigan Canal National Heritage Corridor, which was established in 1984, the Blackstone River Valley National Heritage Corridor established in 1986, and the Delaware and Lehigh Navigation Canal National Heritage Corridor established in 1988, provide excellent models for cooperative Federal, State, local, and private partnerships for protecting important historical, cultural, and natural resources.

Mr. Speaker, in these times of tight budgets, we are no longer able to simply acquire huge tracts of land and expect that the resources will be adequately maintained and interpreted. The heritage corridor can provide a cost-effective means of protecting important resources like the Quinebaug and Shetucket Rivers by working closely with the local communities and providing technical expertise in managing and interpreting historical and cultural resources.

Mr. Speaker, when we first came up with the idea to establish a national heritage corridor or some mechanism to preserve the important natural and historical resources in the region, we went to the local leaders to get their input, to further discuss what they wanted done, and what kind of commitment were they willing to make. The response was quick and extremely positive. All of the local elected officials we talked to were enthusiastic about getting involved, and numerous groups approached me about what they could do to help. Within months, and independent Heritage Corridor Advisory Committee formed itself, and through the leadership of John Boland, Marge Hoskins, Nini Davis, Bob Miller, and others, has been instrumental in spreading the word about the corridor and what it would mean. In many cases, after the initial excitement wears off and the real work begins, interest can fade. This group of exceptional and dedicated individuals was different. Attendance at their monthly meetings, for example, grew to the point where they had to break up into subcommittees to work on different projects. Throughout the early days, when they were asked to do some nonglamorous tasks that are necessary, interest never waned. When we were ready to draft a bill, the advisory committee presented a draft to me which I used as a model

During the course of our discussions with the advisory committee and State and local leaders, we looked at various State, Federal, and local preservation options, but found them to be unacceptable or deficient. In particular, we investigated the Wild and Scenic River Program, but found it to be inadequate and too restrictive for our needs. It did not provide the kind of flexibility we need to protect the resources while protecting economic development opportunities near the rivers, due to the quarter-mile boundary requirements associated with it. It would also have restricted water resources activities, such as the flood control project on the Yantic River begun by the Soil Conservation Service in 1983. Worst of all, it would give significant control of eastern Connecticut's lands and water to the Federal Government at the expense of the local community.

Then, in 1989, at my request, the National Park Service staff toured the Quinebaug and Shetucket Rivers region to evaluate the feasibility of designating the area as a national heritage corridor. The Park Service staff concluded that the region had great potential for recreation and site interpretation due to its abundance of outstanding 19th century mills, mill villages, and beautiful landscapes, but that further study was required to adequately determine the area's potential for Federal designation. Later that year, the National Park Service North Atlantic Region began what was intended to be a 1-year study to determine appropriate and effective resource management strategy suited to the needs of the region's resources and its people. Unfortunately, now 3 years later, that study has not been completed or released. Even after numerous requests to the Secretary of Interior and the Undersecretary for Fish, Wildlife and Parks, the Park Service continues to delay with little prospect that the study will ever be completed.

Mr. Speaker, we tried to proceed with this project by the book. We waited 3 years for the 1-year study to be completed, but unfortunately the Park Service continued to play games. Every several months they would promise that the study would be ready soon. After 3 years, we have been more than patient. It is unfortunate that the Park Service continues to stall on this project. Time and again, we in the Interior Committee consider legislation to designate areas as nationally significant, and each time, the administration objects. This time, we tried to play by their rules, but it is now extremely clear that no report will come.

That is why I am rising today. The people of Connecticut have worked very hard, researching and supporting this designation, and it is time for us to recognize this area. During the Columbus Day weekend in October 1991, more than 4,000 people came to Walking Weekend events throughout the corridor, to draw attention to the important resources of the Quinebaug and Shetucket Rivers Valley. This far exceeded anyone's expectations, at nearly every event, coordinators ran out of hand-out materials providing further evidence of the strong support for the project.

Mr. Speaker, some critics may contend that the Quinebaug and Shetucket Rivers Valley was not the first industrial area, it is not the most important recreation area, and it may not contain the oldest archeological resources. And while it could be hard to contend with that, what makes the Quinebaug and Shetucket Rivers Valley so important is that no other area has the combination of resources enjoyed by this area.

Several years ago, the President's Commission on Americans Outdoors reported that families are taking shorter vacations and are depending on close-to-home recreation options. The Quinebaug and Shetucket region would provide that to a significant population of the country. No other area, particularly in the eastern United States, offers the combination of historic mill structures, native American, and precolonial archeological sites, and undeveloped recreational opportunities and historically important resources. This relatively unspoiled and historically rich area lies within a 2-hour drive of the major metropolitan areas of New York City, Providence, Hartford, New Haven, Worcester, Springfield, and Boston.

Within the Quinebaug and Shetucket Rivers Valley, you will find the birthplace of Revolutionary War hero Nathan Hale, the site of the first silk mill in America, the site of one of the largest 18th century cotton mills, the first paper mill in the colonies, the site of the first cut nail manufacturing facility in North America, and the birthplaces of Samuel Huntington and William Williams, both signers of the Declaration of Independence.

You will also find the Prudence Crandall House in Canterbury, where in 1833, Prudence Crandall opened the first teacher-training school for black girls. The trouble that she faced became world renowned and she was a symbol for the abolitionist movement in the United States.

The Quinebaug and Shetucket Rivers Valley was the area where Uncas, most well-known from the book "Last of the Mohicans," by James Fenimore Cooper, lived and died. Uncas Leap or Yantic Falls in Norwich was the site of the famous battle between the Mohegan Indians and the Narragansett Indians of Rhode Island.

Furthermore, and of particular interest to me, is the recreational potential of the area. There are an almost unlimited number of developed or underdeveloped recreational opportunities. In recent years, the State of Connecticut has done a tremendous job in improving the water quality of a good part of both the Quinebaug and Shetucket Rivers, making them good for swimming and fishing, canoeing and boating. In addition, there are numerous areas that are excellent for hiking as well as for the development of scenic, natural, and historic trails.

If this area had just a few of these important resources, it might be a manageable project for the State or local governments to handle. However, with so many important sites to manage, mills to restore, recreational areas to develop, historic sites, mills and houses to interpret, this is a job that far exceeds the expertise and resources of the State or local governments. However, designation of this area as a national heritage corridor would be a cooperative and extremely cost-effective way to do it. The heritage corridor designation will provide a cooperative framework, where Federal, State and local governments, in conjunction with the community, work together to protect and preserve the important resources that exist in this area.

This legislation has gained widespread support, having been unanimously endorsed by the Heritage Corridor Advisory Committee. It has also been endorsed by the Governor and the State of Connecticut, the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency, the Southeastern Connecticut Regional Planning Agency, the Northeast Connecticut Visitors District, the Quinebaug Rivers Association, the Windham Textile and History Museum, the Association of Northeastern Connecticut Historical Societies, and other environmental and historic preservation groups.

Mr. Speaker, designation of the Quinebaug and Shetucket Rivers Valley National Heritage Corridor is an extremely important measure. Through this bill, we will be able to preserve and protect important resources, maintain local control and involvement, encourage local economic development in an area that has been hard hit by defense spending cuts, while establishing a cooperative framework for regional collaboration and protecting important natural, historic, cultural, archeological, and recreational resources. I urge my colleagues to join me in thus supporting this important legislation.

JOSEPHINE TOMANCIK

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. WOLPE. Mr. Speaker, today, I rise to honor a person of exceptional achievement and accomplishment.

Josephine Tomancik will retire from the State of Michigan's department of transportation, on April 30, 1992, after 50 years of continuous employment. Ms. Tomancik has achieved the longest service record by any employee within the department. Since 1942 her cheerful countenance and friendly smile have greeted thousands of visitors who have passed by her work station.

Josephine Tomancik is a spirited lady who set this service goal because she loves her work. Her determination has been an inspiration throughout the department. Her colleagues responded to her dedication with support and affection to help her achieve her landmark record of service.

Like so many exceptional employees, Josephine Tomancik is not without a role model. She fondly recalls Evagene Szczukowski, her mentor and inspirator. Evagene retired from the department's Alpena district office in 1975 with 48 years of consecutive State service.

Mr. Speaker, I hope my colleagues will join me in congratulating Josephine. She has set a remarkable example of loyalty, dedication, and service of which her family, her friends, and the department of transportation can be proud. I wish her many more years of happiness.

FISK RECEIVES AWARD FOR ARCHITECURAL AND RESTORATION PROJECTS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. CLEMENT. Mr. Speaker, I would like to extend my heartfelt congratulations to Fisk University, which recently was awarded two major awards in recognition of its restored historical campus buildings and its architectural preservations. I am equally proud that the Congress has played a major role in these efforts by providing funds through the National Park Service for these restorations.

The first award was presented by the Victorian Society of America during its recent national convention in Nashville. The Victorian Society, which is headquartered in Philadelphia, presented Fisk with its National Preservation Citation "In recognition of its restoration of the significant 19th century buildings on its campus." Society members toured the campus and were met by Fisk president, Dr. Henry Ponder, who thanked the society members, saying said that "This recognition will assist in gaining national support for the historic restoration of the Fisk University campus."

Also in May, members of the Tennessee Historical Commission visited Fisk and presented Dr. Ponder with the commission's Certificate of Merit for having made significant contributions to the preservation of the historical and architectural heritage of Tennessee. The commission has helped Fisk as one of the agencies which reviews the plans to restore each historic campus buildings.

Mr. Speaker, I have had the pleasure of participating in several events at these restored buildings. The quality and faithfulness of the restorations is second to none. More importantly, the restorations have brought to life a period in Fisk's history which is unique to Tennessee and the Nation.

And as a former college president, I have a keen appreciation of the importance of the physical plant which houses every institution of higher learning. More than anything, the quality of the buildings and the equipment used by students and faculty shape the academic environment in which learning, teaching and research occur. Drafty, leaky buildings are not conducive to the educational mission of a university of the high caliber of Fisk, or any university of higher learning for that matter.

On the Fisk campus, we are blessed with buildings of enormous historic and cultural importance. Their continued service is valuable in its own right. They link our present with a rich, tumultuous and complex past. I am reminded of an inscription engraved on the granite exterior of the National Archives in Washington. It says "The past if prologue." No phrase is perhaps more appropriate for the Fisk campus, where for 125 years we have celebrated the talents of those who have taught, studied, and like Dr. Henry Ponder and the faculty, staff and students, have had the vision to invest financially, spiritually and physically in this institution of higher learning for black Americans.

For all of us, Mr. Speaker, the historic buildings on the campus are important symbols of Fisk's past, present and promising future. Their restoration sends an important message nationally to members of all races that educational excellence is to be rewarded and not discouraged, and that through educational excellence, our country will retain its position of world leadership.

I congratulate Dr. Ponder, the faculty and students on receiving these two awards. I also want to commend the crafts people who have worked to recreate these buildings and bring them back to the glorious past. And I want to commend the National Park Service and the other agencies involved in supervising these restorations. They are all part of a cooperative effort that will ensure that the students at Fisk have buildings conducive to learning and that all Americans have buildings of such historic significance and beauty to enjoy in the future.

RETIREMENT OF JAMES E. SHEPPERD FROM THE FEDERAL AVIATION ADMINISTRATION

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. DE LUGO. Mr. Speaker, upon the retirement of James E. Shepperd from the Federal Aviation Administration, I wish to recognize the achievements of the man who oversaw one of the great airport engineering achievements—the construction of the St. Thomas Airport.

No one in the FAA was more instrumental in garnering support for this project and devising solutions to challenges that many believed were insurmountable.

The St. Thomas Airport, now called the Cyril E. King Airport, had a runway of less than 4,500 feet. It began at the edge of the ocean and ended at the foot of a mountain. There was almost no overrun giving pilots no room for error. Its length limited its use to high fuel consuming shorter take-off planes, raising the cost of tickets for tourists and residents alike, and curtailing our attractiveness as a tourist destination.

Like other islands isolated by surrounding sea, St. Thomas is particularly dependent upon its airport to maintain links with the outside world, to serve the community's travel needs, to provide transportation in emergencies, and to maintain a gateway for its primary industry, tourism.

It was clear that a new airport with a longer, safer runway was critical. But building it presented an extraordinary engineering challenge. Providing room for a new, 7,000 foot runway required that an entire mountain be removed at one end and an ocean drop-off reaching depths of 90 feet be filled at the other. The only way to site the new runway was right through the existing terminal, so another hill had to be removed to make room for airport facilities. Since the facility was nestled next to the ocean, and the runway literally in the sea, it required construction and installation of special armoring to protect against storms as strong as hurricanes.

Few believed it could be done. But Jim Shepperd did.

The administrative challenges were almost as great as the engineering and logistical challenges of staging this enormous project on an island in the Caribbean Sea. Exacerbating delays sometimes brought the entire project to a virtual standstill. But Jim was always there to get things rolling again. When the newly sworn in Reagan administration sought to kill the project in 1981, Jim was the voice of reason, patiently explaining how counterproductive it would be to jettison a project in which the Federal Government had already invested over $40 million at that time.

Jim knew how to calm the waters and bridge the gaps when the going got rough as inevitably things did during this long and complicated project. He was always the professional and I deeply respect his abilities and commitment to public service.

He did an incredible service for the people of the Virgin Islands and on their behalf I thank him and commend him publicly today. I extend to him my congratulations and my very best wishes for a long, healthy, and happy retirement. It is certainly well-deserved.

CHAW SUPPORTS HISPANIC AMERICAN WOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to my colleague's attention the outstanding work of Miami's Coalition of Hispanic American Women [CHAW]. The coalition, founded in 1979, is dedicated to the advancement of women of Hispanic heritage.

Each year the Coalition of Hispanic American Women sponsors a variety of activities that highlight the needs of or promote Hispanic women. Under the leadership of Miriam Singer, coalition president, Yvonne Faget-Soler, president-elect, and a host of other outstanding women who serve as officers and directors, the coalition works to propel Hispanic American women to leadership places in the workplace and the community. Through participation in committees and task forces, by writing and publishing articles and position papers, and through cooperation with other business and civil organizations, they fight discrimination in education, employment, housing, and the judicial system. The coalition sponsors college scholarships for young Hispanic women with outstanding academic and community service records.

Community leaders like Aurora Ares, legal adviser to CHAW; Alicia Barraque-Ellison, recording secretary; historian, Adriana Rodriguez; financial adviser, Aida E. Briele; and other officers and members of the coalition carry on the group's work. Under their leadership, CHAW supports social services including child care, works for the community on the Dade County school bond issue, and carries out many other projects.

At their annual awards banquet, a fundraiser chaired this year by Corresponding Secretary Angie Flietes, CHAW presented a leadership tribute award to a woman who has empowered women and built bridges between ethnic, cultural, and religious communities. The Woman of the Year Award is presented to an Hispanic woman who has made significant contributions to other women as well as the local community. This year's winner was Barbara Ibarra, who is a past president of CHAW.

Mr. Speaker, I commend the Coalition of Hispanic American Women for their outstanding work for the community.

TRIBUTE TO THE NEW HORIZONS YOUTH CHOIR

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. JOHNSON of Texas. Mr. Speaker, I would like to take this opportunity today to commend a group of Texans who are truly an inspiration for a better tomorrow. All of us look forward to new horizons, and what better reminder of the future than the children of this community.

The New Horizons Youth Choir from my hometown church, the First United Methodist Church in Plano, TX, have made their way to Washington this week to share a little song and fellowship. This newly formed choir is under the direction of Dave Collett, a longtime, dedicated member of our congregation.

Thirty five high school students have combined their talents and will perform a balance of good, old-fashioned, traditional music, ranging from American folk hymns to Broadway tunes to songs that were inspired by the great State of Texas.

Please join me in welcoming the New Horizons Youth Choir to this Nation's Capital. After all, these children and others like them are an inspiration to all of us and a reminder of the bright future that we are all working together to preserve.

CHINESE GOVERNMENT CRACKDOWN IN HUNAN PROVINCE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. YATRON. Mr. Speaker, several Members of Congress recently received a report from the human rights organization, Asia Watch which chronicles the suppression of the 1989 prodemocracy movement in Hunan Province. This significant report would not have been possible without the Chinese citizens who took, and continue to take, great personal risk in providing information on the human rights situation in that province. One such person is Mr. Tang Boqiao, who was a student and chairman of the Hunan Students Autonomous Federation and led several protests in the provincial capital. Mr. Tang was at the top of the Government's most wanted list and was subsequently arrested and spent 18 months in jail. He managed to escape to Hong Kong and is now residing in the United States.

Mr. Tang's collaboration with Asia Watch has produced the most detailed report to date on the suppression in Hunan Province. His information was gathered first hand and with the assistance of a network of Chinese citizens who want the world to know the real situation in China. These people took great risks to provide this information. I hope the President will convey to the Chinese Government that the United States is concerned for their safety and that they will not be persecuted for their actions. Congress also should closely monitor the human rights situation in Hunan and make our concerns known.

Asia Watch's report "Anthems of Defeat: Crackdown in Hunan Province 1989–92" suggests that what we know of the 1989 crackdown on democracy and subsequent suppression may be only the tip of the iceberg. Previously, no more than a dozen prodemocracy activists were known to have been imprisoned after the crackdown in Hunan Province. This report provides the names and specific circumstances of more than 200 prodemocracy demonstrators imprisoned at that time, 160 of whom are still in prison. Mr. Tang's courageous work has also unearthed details of 142 prisons, labor camps and re-education centers in Hunan.

Mr. Speaker, I have attached to this statement Asia Watch's list of prodemocracy prisoners in Hunan Province. This is not, though, a comprehensive list for Hunan Province. I encourage my colleagues to write to the Chinese Ambassador in Washington and to the Chinese Foreign Ministry on behalf of these political prisoners.

List of Prodemocracy Prisoners in Hunan Province

Name, age, profession, and sentence

YUANJIANG PRISON (PROVINCIAL NO. 1)

Ah Fang (nickname), 23, student, 5 yrs.
Chen Zhixiang, 34, teacher, 10 yrs.
Fu Zhaoqin, peasant, 4 yrs.
Gao Bingkun, 37, 4 yrs.
Huang Zhenghua, 54, cadre, 6 yrs.
Li Jian, 25, worker, 3 yrs.
Li Weihong, 26, worker, suspended death sentence.
Li Xiaodong, 25, worker, 13 yrs.
Li Xin, 25, worker, 3 yrs.
Liao Zhijun, 26, worker, 10 yrs.
Liu Chengwu, 24, peasant, 4 yrs.
Liu Jian'an, 40, teacher, 10 yrs.
Lu Zhaixing, 27, worker, 3 yrs.
Mao Genhong, 25, student, 3 yrs.
Tang Changye, 29, worker, 3 yrs.
Wang Changhuai, 26, worker, 3 yrs.
Wu Tongfan, 40, ?.
Xia Changchun, 24, worker, 15 yrs.
Yang Xiong, 25, 3 yrs.
Zhang Jie, 25, researcher, 5 yrs.
Zhang Jingsheng, 37, worker, 13 yrs.
Zhang Xudong, 32, worker, 4 yrs.
Zhao Weiguo, 34, student, 4 yrs.
Zhou Min, 26, worker, 6 yrs.

HENGYANG PRISON (PROVINCIAL NO. 2)

Cheng Cun, 30, reporter, 5 yrs.
Guo Yunqiao, 20–35, worker, suspended death sentence.
Hu Min, 20–30, worker, 15 yrs.
Mao Yuejin, 20–35, worker, 15 yrs.
Wang Zhaobo, 20–35, worker, 7 to 15 yrs.
Huang Lixin, 20–35, worker, 7 to 15 yrs.
Huang Fan, 20–35, worker, 7 to 15 yrs.
Wan Yuewang, 20–35, worker, 7 to 15 yrs.
Pan Qiubao, 20–35, worker, 7 to 15 yrs.
Yuan Shuzhu, 20–35, worker, 7 to 15 yrs.
He Aoqiu, 55, assistant professor, 3 yrs.
Huang Yaru, 47, professor, 5 yrs.
Li Zimin, 40, businessman, 15 yrs.
Liu Weiguo, 38, worker, 7 yrs.
Mei Shi, 40, newspaper editor, 4 yrs.
Min Hexun, 29, teacher, 3 yrs.
Qin Hubao, cadre, 10 yrs.
Teacher Min (name unknown), 3 yrs.
Teacher X (name unknown), thirties, 12 yrs.
Wang Yusheng, 40, entrepreneur, ?.
Wu Weiguo, 30, cadre, 5 yrs.
Xie Yang, 32, communist youth league secretary, 3 yrs.
Yang Shaoyue, 36, city official, 5 yrs.
Zhang Jizhong, 34, reporter, 3 yrs.
Zhu Fangming, 28, worker, life.

LINGLING PRISON (PROVINCIAL NO. 3)

Chen Yueming, 24, worker, 3 yrs.
Feng Ming, twenties, 3 yrs.
Gong Songlin, twenties, 5 yrs.
Jiang Congzheng, twenties, worker, 8 yrs.
Liang Jianguo, 26, worker, 6 yrs.
Liu Weihong, 27, worker, 4 yrs.
Peng Aiguo, 20, 6 yrs.
Qin Dong, 30, journalist, 4 yrs.
Wang Changhong, 5 yrs.
Yu Jianwei, twenties, worker, 14 yrs.
Yan Xuewu, 26, worker, 5 yrs.
Yu Zhijian, 27, teacher, life.
Yu Dongyue, editor, 20 yrs.
Lu Decheng, 28, worker, 16 yrs.
Zhong Donglin, 25, worker, 10 yrs.
Zhou Zhirong, 32, teacher, 5 yrs.

LONGZI PRISON (PROVINCIAL NO. 6)

Cai Weixing, 25, worker, 4 yrs.
Chen Gang, 25, worker, suspended death sentence.
Chen Guangliang, 48, doctor, 7 yrs.
Deng XX, 23, businessman, 4 yrs.
Ding Longhua, thirties, worker, 6 yrs.
He Zhaohui, 24, worker, 4 yrs.
Hu Nianyou, 28, life.
Li Xiaoping, 28, worker, 6 yrs.
Liao Zhengxiong, 25, businessman, 3 yrs.
Liu Chunan, 65, retired teacher, 15 yrs.
Liu Hui, 21, 5 yrs.
Liu Jian, 26, worker, life.
Liu Xin, 15, student, 15 yrs.
Liu Zhihua, 21, worker, life.
Lu Zijing, 30, business representative, 13 yrs.
Peng Shi, 21 or 22, worker, life.
Wu Hepeng, worker, suspended death sentence.
Zhu Zhengying, worker, life.
Liu Jiye, worker, 5 yrs.
Xiong Xiaohua, 25, technician, 13 yrs.
Yang Xiaogang, 35, worker, 3 yrs.
Yao Guisheng, 26, worker, 15 yrs.
Zhang Song, 24, 5 yrs.
Zhang Feilong, 18, worker, 6 yrs.
Zhong Hua, 24, student, 3 yrs.
Zhou Wenjie, twenties, worker, 4 yrs.

CHANGSHA PRISON

Chen Bing, student, ?.
Hou Liang'an, 35, ?.
Huang Haizhou, 28, ?.
Liu Fuyuan, 35, businessman, ?.
Liu Yi, 24, worker, ?.
Yi Yuxin, 36, cadre, ?.

JIANXIN LABOR REFORM CAMP

Teacher Liu (name unknown), 37, teacher, 7 yrs.

PINGTANG LABOR REFORM CAMP

Tao Sen, 38, worker, 4/5 yrs.
Zhang Xiong, 24, worker, 5 yrs.

OTHER LABOR REFORM CAMPS

Dong Qi, 5 yrs.
He Jianming, 4 yrs.
Dai Dingxiang, 3 yrs.
Liang Chao, 3 yrs.
Wang Luxiang, thirties, television producer, ?.
Yang Liu, 20, peasant, 4 yrs.

PLACE OF IMPRISONMENT UNKNOWN

Bu Yunhui, 24, peasant, 3 yrs.
Hao Mingzhao, student, ?.
He Jian, thirties, ?.
Jiang Zhiqiang, 37, 13 yrs.
Li Shaojun, student, ?.
Li Wangyang, 36, worker, 13 yrs.
Luo Ziren, 25, worker, ?.
Wen Quanfu, 38, manager, ?.
Xu Yue, 25, worker, ?.
Yang Rong, worker, ?.
Wang Hong, worker, ?.
Tang Yixin, worker, ?.
Zeng Chaohui, 22, student, 3 yrs.
Zheng Yaping, student, ?.
Zheng Yuhua, 37, teacher, ?.
Zhou Peiqi, 29, technician, ?.

RE-EDUCATION THROUGH LABOR

Boss Wu (name unknown), 40, restaurant owner, 3 yrs.
Chen Tianlai, 24, 3 yrs.
Deng Liming, 29, worker, 3 yrs.
Deng Yuanguo, 32, teacher, 2 yrs.

Duan Ping, 32, teacher, 2+3 yrs.
Fu Guangrong, 27, 3 yrs.
Hu Junda, 35, lecturer, 3 yrs.
Jiang Fengshan, 37, teacher, 3 yrs.
Liu Jianwei, 30 worker, 3 yrs.
Long Xiaohu, 30, cadre, 2 yrs.
Ma Heping, 29, 3 yrs.
Peng Liangkun, 25, worker, 3 yrs.
Qian (?) Lizhu, 26, peasant, 3 yrs.
Wu Changgui, 30, worker, 3 yrs.
We Wei, between 20–30, worker, 2 to 3 yrs.
Deng Jun, 20–30, worker, 2 to 3 yrs.
Xiong Jianjun, 20–30, worker, 2 to 3 yrs.
Fu Guanghui, 20–30, worker, 2 to 3 yrs.
Xia Kuanqun, 34, cadre, 3 yrs.
Xiao Shenhe, 32, peasant, 3 yrs.
Zhong Minghui, 30, teacher, 3 yrs.

PSYCHIATRIC INCARCERATION

Peng Yuzhang, 70, professor, ?.

INCARCERATED IN BEIJING

Wu Yun, 23, student, ?.
Xiong Gang, 23, student, ?.

INCARCERATED IN SHANGHAI

Li Dianyuan, 26, student, 3 yrs.

TRIBUTE TO CARL STOTZ—FOUNDER OF LITTLE LEAGUE BASEBALL

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. McDADE. Mr. Speaker, I rise to honor the memory of Carl Stotz, who made possible a field of dreams for millions of young boys and girls around the world through the creation of Little League Baseball. Carl Stotz, affectionately known as Uncle Tuck, selflessly dedicated his life's work to the benefit of children through his love of baseball. The children were always his primary priority and his principal concern. He loved children and always wanted to talk about Little League with them.

Many of us serving in Congress today grew up playing Little League Baseball and gained from the leadership principles taught by participation in the League. For this simple reason, many of us here personally owe a great debt of gratitude to the self-effacing, selfless, hard-working man from Williamsport, PA, Carl Stotz.

Carl Stotz started his field of dreams some 53 years ago while playing ball with his two nephews in the backyard of his home on Isabella Street in Williamsport. He had injured his ankle on a lilac bush and while resting for a moment, he recalled his own childhood dreams and asked his nephews: "How would you like to play on a regular team, with a uniform, a new ball for every game and a bat you could really swing?" With the boys' enthusiasm as his driving force, he set about designing a youth-sized baseball field and sought business sponsors for equipment and uniforms to get the League started.

The initial response from the business community was not overwhelming in those depression days. After knocking on the doors of 56 local businesses he found one which would put up some cash for the League. In my view, this was probably some of the most important private sector monies ever invested in this great country's history. It was an investment in our youth which has left a legacy that has fostered qualities in our young people such as teamwork, dedication, fair play and self-confidence.

Whenever a boy or a girl steps to the plate, with courage and their heart pounding, and faces down a fast ball and sends it to the wall. Whenever a child stretches for that fly ball which they think that they could never possibly catch—but they do. Whenever a sizzling grounder comes their way, and every bone in their body tells them to get out of the way, but they stand their ground and stop it. The greatest gift of life has been instilled in their hearts. That gift is self-esteem—belief in oneself. Carl's greatest legacy is that he helped to extend our reach beyond our grasp through the lessons we learned about ourselves in the League.

Little League shaped our values, our integrity and perceptions of ourselves—how to be humble in victory, stable in defeat, face challenge with courage and hope in the fact that if we try our hardest we will ultimately be victorious. The Little League, which Carl Stotz created, also taught us that in life we will face some curve balls and that we will be tagged out but it also taught us the lesson of hope. That even though we may fail there will be another time at bat, another fly ball to catch, another game to win and that it is better to try and fail than not to have tried at all. But the big lesson of life which he taught us is that life must be lived to the fullest. That in order to be part of life we had to step up to the plate of life, to be willing to take a risk whether we failed or succeeded, and swing. That as Theodore Roosevelt states:

> Far better is to dare mighty things, to win glorious triumph, ever though checkered by failure, than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory nor defeat.

The future of this great country is predicated upon small town leaders such as Carl Stotz who are willing to sacrifice their personal time and resources so that our children will be more empowered. Carl Stotz and the Little League he created has greatly contributed to facilitating the growth of self-esteem among our young people. To challenge our children's bodies and minds through the great sport of baseball was a stroke of brilliance by Carl Stotz which generations of young people around the World will greatly benefit from in the future. He will be sorely missed by the boys and girls and men and women who shared his field of dreams and all the blessings which he brought to his community of Williamsport, his Nation and the children of the World. I have one last thing to say in memory of Carl Stotz; and, I know that you are up there listening in the bleachers Carl—Hey, batter! Hey, Batter! Swing!

RECOGNIZING THE SPIRIT OF THE RECIPIENTS OF THE SECRETARY'S COMMUNITY SERVICE AWARD

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. HOYER. Mr. Speaker, it is with pleasure that I recognize the outstanding achievements of Ralph S. Freedman, Jennifer A. McCloskey, and Julia F. Robinson. Each is a recipient of the Secretary's Community Service Award for 1991, an award given to those employees of the Department of Energy who have exemplified the spirit of volunteerism.

The Secretary's Community Service Award is a result of the national service initiative, a program initiated by President Bush to emphasize the need and importance of community service involvement. The recipients of this award are exceptional because they have answered the call to volunteerism. Each person represents the standard of hard work, dedication, and undying commitment to their communities.

The first recipient, Ralph S. Freedman, an analyst with Forrestal Information Technology Operations, is a dedicated serviceman who has provided both his time and his knowledge of computers to the Hands on Science Outreach Program. As a volunteer instructor, Mr. Freedman has developed material for both the regional and national science bowl competitions. Mr. Freedman has also given his time to help the students of Robert Coleman Elementary School, in Baltimore, MD, create a computer club, which continues to attract students to the field of computer science.

The second recipient, Jennifer A. McCloskey, a civil engineer with the Office of Environmental Restoration, is a concerned individual who gives much of her time and support to several members within the community. When she is not tutoring third graders in reading, Ms. McCloskey provides aid to homeless persons and families in Washington, DC through her involvement with Zest. Ms. McCloskey also provides a monthly forum for teens in the form of rap sessions. These sessions were formulated to encourage the personal development of adolescents.

The last recipient, Julia F. Robinson, a mail and file clerk with the Office of Executive Secretariat, provides a great deal of assistance to the people of her community through a volunteer position as the general overseer of her church's missionary board. Among a number of duties, she helps to provide food, job counseling, and encouragement to the homeless.

Mr. Speaker, it is with great pleasure that I recognize the spirit of volunteerism of Ms. Robinson, Ms. McCloskey, and Mr. Freedman. They are, and should be, an inspiration to us all.

TRIBUTE TO THOMAS V. CASH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding service rendered to the State of Florida and the United States by Special Agent Thomas V. Cash. As special agent in charge of the Miami Division of the Drug Enforcement Administration, Tom Cash showed exemplary performance and personal initiative in slowing the tide of drugs flowing to south Florida shores.

The Miami division is the largest division of the Drug Enforcement Administration in the United States, with 11 offices covering Florida and 6 Caribbean nations and territories. As special agent in charge of that division since 1988, Mr. Cash oversaw financial investigations associated with drug trafficking which resulted in substantial seizures of cash and property. He focused the Miami division's enforcement efforts on quality investigations directed toward narcotics traffickers at the highest levels.

As a result of his exemplary performance, Mr. Cash was awarded the Distinguished Rank Award, the highest level of the annual Presidential Rank Awards, which are presented for extended exceptional performance in government.

In praising Mr. Cash and the other award winners, President Bush said, "These outstanding government executives have helped the United States meet unprecedented challenges and opportunities. Each of them has upheld the highest standards of public service. On behalf of all Americans, I thank them for their commitment to excellence."

Mr. Speaker, I commend Tom Cash for his life of service to the United States and the State of Florida, and thank him for his exemplary performance.

ON THE OCCASION OF DENNIS M. POWER'S 20TH ANNIVERSARY AS DIRECTOR OF THE SANTA BARBARA, CA, MUSEUM OF NATURAL HISTORY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Dr. Dennis M. Power, who will be celebrating his 20th anniversary as director of the Santa Barbara Museum of Natural History on June 22. Dr. Power began his current position after serving as assistant curator of Ornithology at the Royal Ontario Museum in Toronto. Since coming to Santa Barbara his leadership at the Museum of Natural History has provided our community with a growing and impressive array of natural artifacts.

Under Dr. Power's directorship the museum has, for example, acquired the only Chumash canoe in existence; remodeled the planetarium; created a marine life exhibit of mollusks; renovated the bird exhibit hall; installed a machine to simulate the properties of waves; created a kelp exhibit; organized the rescue of a 72-foot beached blue whale and ultimately reassembled the skeleton as one of only two in the United States; remodeled Gould Indian Hall; installed a shark exhibit; coordinated the funding and building of the Sea Center on Stearns Wharf; created the new Collections and Research Center; installed a Condor exhibit; remodeled Botany Hall to include an exhibit illustrating the interaction of plants and insects; and forged links with educational and environmental institutions in the area for the promotion of nature conservancy and study.

As a result of Dr. Power's leadership, the citizens of the central coast of California have had the good fortune of furthering their appreciation of nature's wonders through the resources at the Santa Barbara Museum of Natural History.

It is my distinct privilege and pleasure to join with his staff and the members of our community in congratulating and thanking Dr. Dennis M. Power for his stewardship of the Santa Barbara Museum of Natural History over these past 20 years, while wishing him continued success in the future.

THE 18TH ANNUAL UKRAINIAN CULTURAL FESTIVAL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, June 20, the Garden State Arts Center in Holmdel, NJ, will be the site of the 18th annual Ukrainian Cultural Festival.

This year's festival is an especially important and poignant event, as Ukrainians celebrate their new-found freedom after so many years of domination by Communist and czarist rule. Today's Ukrainians are the descendants of a proud and ancient people. The first major eastern Slavic culture arose in the area of Kiev, Ukraine's capital, under the leadership of Vladimir The Great. In 1985, the occasion of the 1,000th anniversary of the arrival of Christianity to Ukrainian soil was celebrated with great fanfare in Ukraine and much of the former Soviet Union. Yet, sadly, this great people for centuries lived under the shadow of domination from the czarist Russian Empire and, for most of this century, from the Russian-dominated Soviet Empire. Indeed, particularly during the years of Soviet rule, there was a tendency on the part of Americans and people of other nations not to recognize Ukraine as a unique nation separate from Russia.

To this day, while we have built new bridges between Americans and Russians, we have grossly failed to open the doors to Ukraine and her people. On a week in which we welcome the visiting Russian President Yeltsin, American foreign policy must also recognize that the great Ukraine nation, with its more than 50 million people, is one of the largest nations in Europe and one of the most important emerging nations of today's world. I hope America will step up its efforts to inaugurate bilateral agreements, within both the public and private sectors, with the new—and yet very old—nation of Ukraine.

Saturday's festival occurs shortly after the sixth anniversary of the nuclear disaster at Chernobyl. We are still learning, to our great shock and dismay, the true scope of this nightmare that caused so much sickness and death among Ukraine's people and devastated so much of her rich land. In the years since the disaster, the Soviet central government was an impediment in treating the people of Ukraine and assisting them in coping with the insidious effects of radiation poisoning. The collapse of Soviet power offers the hope that this situation will improve, but the people of Ukraine need our help.

As the years pass, the tragedy of what happened at Chernobyl has not lessened. The 7.6 tons of over 200 different radioactive substances released into the atmosphere over Ukraine and neighboring nations are still causing sickness and misery. I am especially concerned about the state of the millions of children who suffered and continue to suffer from the effects of radiation and who will probably suffer most of their lives from the long-term effects of radiation. Furthermore, increasing evidence is coming to light about the extensive coverup on the part of Soviet leaders, going right to the top. People were not informed about the dangers surrounding them, and many were denied the treatment they need.

I introduced a resolution in this House, cosponsored by 26 of my colleagues, on April 26, 1991, the fifth anniversary of the Chernobyl disaster, urging the Soviet Government to take steps to evacuate people still living in affected areas, decontaminate the Kiev Reservoir, cease the planning, construction, and operation of other nuclear facilities in Ukraine, and ask for international supervision of existing facilities. Since the time the resolution was introduced, the Soviet Government has, of course, ceased to exist. In an effort to build cooperation between the United States and Ukraine, I believe our country should provide technical and medical expertise to assist the people who continue to suffer, while working with all of the newly independent States of the former U.S.S.R. to make sure that a disaster on the order of Chernobyl never happens again.

Finally, I would like to pay tribute to Oksana Korduba, of Rutherford, NJ, who has done an excellent job of chairing this year's festival. The Ukrainian-American community of New Jersey has always been there, leading the fight for a free Ukraine. Saturday gives all Ukrainians, and everyone else who supports freedom and human rights, a chance to celebrate this great victory over tyranny, as well as an opportunity to commemorate those who sacrificed so much to make that victory possible.

FLEETWOOD SYNAGOGUE HONORS RABBI AND MRS. CHAIT, RICHARD AND PHYLLIS ROSEN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mrs. LOWEY of New York. Mr. Speaker, it is a true pleasure to join the good people of Fleetwood Synagogue in Mount Vernon as they honor their spiritual leader, Rabbi Joseph Chait, and his wife Toby, for their years of dedicated service to the congregation and the community at large. The Fleetwood congregation is also recognizing Richard and Phyllis Rosen, whose selfless contributions are an inspiration to us all.

Rabbi Joseph and Toby Chait have been distinguished members of the Mount Vernon community and have dedicated themselves to furthering the ideals and values of Judaism. Rabbi Chait has served as president of both the Mount Vernon Synagogue Council and the Westchester Board of Rabbis. As the Rabbi has served the Fleetwood congregation of Fleetwood, Toby Chait has been an important force in shaping the lives of Mount Vernon's children as a teacher at the Hamilton School for over 30 years. Both of these fine individuals, through their professional and personal lives, have added immeasurably to the quality of life of many in our community.

Richard and Phyllis Rosen have consistently found the time to dedicate their talents and energies to the people and mission of Fleetwood Synagogue as well. Phyllis Rosen has been a committed leader of Hadassah and currently serves on the Westchester Regional Board. Her commitment to the ideals of community service has inspired her to cochair the Purim Shalach Manot fundraiser and coordinate the food coupon service.

Together, Richard and Phyllis Rosen have been instrumental in the development of the Mount Vernon Eruv and Linens for Olin. Currently a member of the board of directors of Fleetwood Synagogue, Richard Rosen has also served as president of the Jewish Community Council of Mount Vernon, vice president of Emanu-el Jewish Center, and as cochair of the 1992 Convention of the Union for Traditional Judaism. In each capacity, these two individuals have gone the extra mile to ensure the success of each endeavor.

As Rabbi Chait enters retirement, those of us who know him and Toby understand that we can count on both of them to continue their service and leadership in many ways. Likewise, it is good to know that Richard and Phyllis Rosen will continue their prominent roles in the Fleetwood congregation and elsewhere in our community. All four of these individuals should serve as role models to others as we strive to build a brighter future.

AMBASSADOR MARGARET EVANGELINE MCDONALD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. TOWNS. Mr. Speaker, I am pleased to recognize and congratulate a great woman, Her Excellency Margaret Evangeline McDonald, Ambassador Extraordinary and Plenipotentiary of the Bahamas, on her upcoming retirement. She began her distinguished career in civil service as a teacher of mathematics and English in the public school system in the Bahamas. Through her diligence she progressed through the ranks and was promoted to the position of Secretary to Cabinet and Titular Head of the Bahamas Public Service in 1980. She was appointed Ambassador Extraordinary and Plenipotentiary of the Bahamas to the United States of America in July 1986, and since then has assiduously served in that capacity. She also holds the distinction of being the only woman to have held this prestigious position.

Her Excellency has received numerous awards for her outstanding service. She was honored by Queen Elizabeth II by being made a Commander of the Order of the British Empire [C.B.E.] in 1980, and later in 1985, she was given the title of the Commander of the Royal Victorian Order [C.V.O.]. In addition, in 1986 she was voted Outstanding Woman of the Year by the Bahamas Branch of the Business and Professional Women's Association.

I am extremely proud to highlight the accomplishments of this truly outstanding human being. Her Excellency Margaret Evangeline McDonald has been a tireless civil servant who deserves accolades from us all.

TRIBUTE TO THE ST. COLUMBA ROMAN CATHOLIC CHURCH

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. SCHUMER. Mr. Speaker, I would like to pay special tribute today to the St. Columba Roman Catholic Church in Brooklyn, NY, which is celebrating its 25th anniversary this month.

Founded by Msgr. Edward Jolley in 1967, St. Columba has made remarkable contributions to the Brooklyn Marine Park community. It provides numerous activities for varying sectors of the community, including a men's club, ladies guild, senior citizens club, and youth council which offers sports leagues for boys and girls. In addition, its Parish Center hosts the Marine Park Civic Association meetings and provides educational crime prevention and drug awareness programs.

It is with pride that I congratulate St. Columba and its present pastor, the Reverend Edward Kiernan, on this special occasion, and thank the Parish for its generous efforts which have affected the lives of so many Brooklyn residents.

SALUTE TO SGT. JOE LONIERO

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to honor Sgt. Joe Loniero, a friend and an outstanding policy officer who has recently been named police officer of the year by his colleagues in the Simi Valley Police Department.

I've known Joe since I had the honor of serving as Simi Valley's mayor, and I know there is no finer or more dedicated officer anywhere.

Joe, who has lived in Simi Valley for most of his life, graduated from Royal High School in 1977, attended Moorpark College and joined the department as a police aide in 1979. He became a police officer in 1980, and since then has worked in virtually all units of the department, including patrol, traffic, narcotics and administration.

He was promoted to sergeant in September 1991 and assigned to patrol, working as a field supervisor. Additionally, he is the team leader for the department's SWAT team and is responsible for the field training program.

What makes this honor so significant, Mr. Speaker, is that Joe was selected by his peers. To be honored by one's colleagues is a deep privilege, and one that you know has truly been earned. I ask my colleagues to join me in saluting Joe Loniero for his professionalism and dedication to his department and his community.

MEDICAL SCHOOL DEAN HONORED

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ERDREICH. Mr. Speaker, I rise to recognize one of Alabama's most outstanding citizens, Dr. James A. Pittman. Since 1973, Dr. Pittman has been the dean of the Medical School at the University of Alabama in Birmingham and is retiring at the end of this month.

During his tenure, Dr. Pittman helped to build UAB into one of the most prestigious medical centers in the Nation. His leadership has helped to give our area a reputation as a medical leader that reaches to the far corners of the world.

Dr. Pittman is respected, not only by his colleagues and staff at UAB, but by colleagues worldwide. In 1990, he was given the Flexner Award for distinguished service to medical education, the highest award given by the Association of American Medical Colleges.

Dr. Pittman has helped to build a solid foundation for this institution that teaches our young men and women how to care for the sick. Many of the programs he has implemented at UAB will bear fruit for years to come. For that, Alabama is grateful.

Mr. Speaker, I am thankful Dr. Pittman chose to make Alabama his home. Because of his work we will all enjoy a bright future.

HABITAT FOR HUMANITY—A SOLUTION TO NATION'S HOUSING PROBLEMS

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ROEMER. Mr. Speaker, earlier this week I was one of over 600 people who met and hammered out a solution to our Nation's low-income housing problems. We were not in a conference room but in the middle of a nearly completed living room as part of Habitat for Humanity's Jimmy Carter work project. By week's end, a coalition of people from across the country will have provided 10 local families with their lifelong dream—the American dream—a home of their own.

Habitat for Humanity is a model we as legislators and citizens should look to in trying to solve our Nation's housing crisis. By utilizing private sector energies and resources, organization such as Habitat for Humanity and Christmas in April have pieced together a framework to address the fact that Federal housing dollars are dwindling while the number of families in need of housing is growing. These organizations are joining hands with private corporations, such as Black & Decker and General Electric, and associations representing realtors and homebuilders, to lay a foundation so that those who are in need of housing do not fall between this ever expanding gap.

This week alone, many of the more than 700 Habitat for Humanity affiliates throughout the world will construct hundreds of homes as part of House Raising Week Worldwide. In fact, the finishing touches will be put on Habitat's 15,000th home this week in my home State of Indiana in the city of Evansville. To accomplish this, people have taken time away from their jobs and travelled hundreds of miles to hammer nails and fit beams to build homes for people they have never met.

I would like to commend the individuals from the Third District of Indiana who traveled this week to Washington, DC, to take part in Jimmy Carter's work project. LeRoy and Ron Troyer of South Bend; Lloyd and Loretta Troyer of Middlebury; and Arthur and Carolyn Moser of Mishawaka, joined former President Carter and his wife Rosalyn to "blitz build" 10 homes in Southeast Washington.

Mr. Speaker, I applaud these volunteers and contributors who have helped Habitat for Humanity succeed. I was proud to work alongside our former President and his wife, as well as the hundreds of others, who are showing people that the American dream really can be realized.

LIMIT U.S. CONTRIBUTIONS TO TERRORIST NATIONS

HON. GEORGE ALLEN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1992

Mr. ALLEN. Mr. Speaker, today, I am introducing legislation to limit U.S. contributions to terrorist nations through the United Nations Development Program. My recent research into the use of U.S. taxpayer money by the United Nations Development Program revealed completely unacceptable appropriations to tyrannically governed nations. Consider the following:

For the 1992–96 cycle, the following countries will receive funding from the UNDP, and ultimately, U.S. taxpayers:

	Millions
China	$176.66
North Korea[1]	21.742
Iran[1]	9.55
Cuba[1]	10.903
Iraq[1]	7.091
Laos	42.156
Jordan	7.091
Libya[1]	.954
Yemen	42.590
Syria[1]	11.794
Vietnam	92.774

[1] Countries on the State Department's list of nations supporting terrorism.

In contrast, Hungary and Czechoslovakia, which are rising democracies, are only slated to receive $1.6 and $1.8 million over the next 5 years, respectively. A similar situation exists on the Korean peninsula. The UNDP plans to send only $4.16 million to South Korea over the next 5 years, but almost $22 million to North Korea. In total, nearly 10 percent of UNDP funds are allocated to oppressive governments.

Traditional development programs, such as those sponsored by the UNDP, simply transfer wealth from the developed world to the third world governments which prevent economic empowerment. This only strengthens the power of oppressive elites and ultimately impedes economic development.

It is clear that the UNDP does not consider human rights, freedom of speech, and freedom of religion as a prerequisite to obtain funding. To correct this oversight, I will be introducing legislation which will cut funding to the UNDP by 10 percent. These savings will be applied toward deficit reduction. The remaining 90 percent appropriation cannot be used for projects within the stated countries.

With the defeat of the balanced budget amendment, Congress must explore new ways to reduce spending and balance the Federal budget. What better way to accomplish this goal than to deny funding to countries which clearly do not support democratic ideals, and do not foster the rights we as Americans hold dear. Furthermore, these nations are not our allies. I am sick and tired of hardworking Americans serving as providers for unappreciative, despotic tyrants and their minions around the world.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 18, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 19

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 2833, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States and various other issues pertaining to the Crow Indian Reservation.

SR-485

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to examine the U.S. Fish and Wildlife Service's administration of the National Wildlife Refuge System, and on S. 1862, to improve the administration, management, and compatibility process of the National Wildlife Refuge System.

SD-406

JUNE 23

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the National Telecommunications Information Administration, Department of Commerce.

SR-253

Judiciary

Antitrust, Monopolies and Business Rights Subcommittee

To hold hearings to examine the manner in which insurance policy consumers are being informed about their policy values.

SD-226

Select on Indian Affairs

To hold hearings on S. 2833, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States and various other issues pertaining to the Crow Indian Reservation.

SR-485

10:00 a.m.

Foreign Relations

To hold hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102–20).

SD-419

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 225, to expand the boundaries of the Fredericksburg and

Spotsylvania County Battlefields Memorial National Military Park, Virginia, S. 1925, to remove a restriction from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, S. 2563, to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in New Jersey, S. 2006, to establish the Fox River National Heritage Corridor in Wisconsin, H.R. 2181, to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by Ohio, H.R. 2444, to revise the boundaries of the George Washington Birthplace National Monument, and H.R. 3519, to authorize the establishment of the Steamtown National Historic Site.

SD-366

Foreign Relations

To hold hearings on the nomination of William Clark, Jr., of the District of Columbia, to be Assistant Secretary of State for East Asian and Pacific Affairs.

SD-419

JUNE 24

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 2232, to require manufacturers of new automobiles to affix a label containing certain consumer information on each automobile manufactured after a specified year.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Select on Indian Affairs

To hold hearings on proposed legislation relating to the National Indian Policy Center.

SR-485

Select on POW/MIA Affairs

To hold hearings to examine the Department of Defense's accounting process for Americans missing in Southeast Asia.

SH-216

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the government of the District of Columbia, focusing on the District of Columbia school system, and the District of Columbia court system.

SD-138

Veterans' Affairs

Business meeting, to mark up pending calendar business.

SR-418

Joint Economic

Investment, Jobs, and Prices Subcommittee

To resume hearings to examine the future of the hospital industry, focusing on hospital mergers and joint ventures.

2237 Rayburn Building

2:30 p.m.

Foreign Relations

To hold hearings on the nominations of Robert L. Barry, of New Hampshire, to be Ambassador to the Republic of Indonesia, and David C. Fields, of California, to be Ambassador to the Republic of the Marshall Islands.

SD-419

JUNE 25

9:30 a.m.

Select on POW/MIA Affairs

To continue hearings to examine the Department of Defense's accounting process for Americans missing in Southeast Asia.

SH-216

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To resume hearings on proposed legislation to reform the U.S. maritime industry in order to spur employment and activity in the industry.

SR-253

Foreign Relations

To resume hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20).

SD-419

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1879, to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, S. 1990, to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington, S. 2392, to establish a right-of-way corridor for electric power transmission lines in the Sunrise Mountain in the State of Nevada, S. 2397, to expand the boundaries of the Yucca House National Monument in Colorado, to authorize the acquisition of certain lands with the boundaries, S. 2606, to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands, and S. 2749, to grant a right of use and occupancy of certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange.

SD-366

4:00 p.m.

Foreign Relations

To hold hearings on the nominations of Alison P. Rosenberg, of Virginia, to be Assistant Administrator for Africa of the Agency for International Development, Kenneth L. Brown, of California, to be Ambassador to the Republic of Ghana, Princeton N. Lyman, of Maryland, to be Ambassador to the Republic of South Africa, Joseph Charles Wilson IV, of California, to be Ambassador to the Gabonese Republic, and to serve concurrently as Ambassador to the Democratic Republic of Sao Tome and Principe, and Joseph Monroe Segars, of Pennsylvania, to be Ambassador to the Republic of Cape Verde.

SD-419

JUNE 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine new technologies for a sustainable world.

SR-253

10:00 a.m.

Foreign Relations

To continue hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20), focusing on defense implications and military views.

SD-419

JUNE 30

10:00 a.m.

Foreign Relations

To resume open and to hold closed (S-407, Capitol) hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20), focusing on intelligence community views.

S-116, Capitol

Veterans' Affairs

To hold hearings to examine the needs of women veterans who were sexually abused during service.

SD-G50

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

SR-236

JULY 1

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on mobile communications.

SR-253

10:00 a.m.

Foreign Relations

To continue hearings on the Treaty Between the U.S. and USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20), focusing on implementation of the treaty.

SD-419

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 1096, to authorize funds for fiscal years 1992 through 1995 for programs, functions, and activities of the Bureau of Land Management, Department of the Interior.

SD-366

JULY 2

9:30 a.m.

Select on Indian Affairs

To hold oversight hearings on fractionated heirships, Indian probate, oil and gas royalty management, land consolidation demonstration programs.

SR-485

10:00 a.m.

Veterans' Affairs

To hold hearings on S. 2028, to revise title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs.

SR-418

JULY 22

9:30 a.m.

Rules and Administration

To hold hearings on S. 2748, to authorize the Library of Congress to provide certain information products and services.

SR-301

AUGUST 4

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 2746, to extend the purposes of the Overseas Private Investment Corporation to include American Indian Tribes and Alaska Natives.

SR-485

CANCELLATIONS

JUNE 18

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 2232, to require manufacturers of new automobiles to affix a label containing certain consumer information on each automobile manufactured after a specified year.

SR-253

SENATE—*Thursday, June 18, 1992*

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the nation whose God is the Lord * * *.—Psalm 33:12.

"God bless America, land that I love.
Stand beside her and guide her,
Through the night with a light from above."

Mighty God, it seems impossible that we have heard a Russian leader conclude a speech with the words, "God bless America!" Help us, dear God, to take seriously this blessing from one who endured much of his lifetime in Godless communism. Help us to make the connection, so plain on the pages of the Bible, and history, between God and liberty—godlessness and tyranny. Renew in us the faith of our fathers—faith in God—not a mythical or parochial deity of human creation, but the God who created all things, the Lord Jehovah of the Torah, God of Abraham, Isaac, and Israel, of Moses and the prophets—the I am God of Jesus and the apostles. Restore to us, gracious, patient Father in Heaven, the faith that guarantees liberty, blesses the land, and nurtures a great, free people.

In the name of the Lord who made Heaven and Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 18, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Maine [Mr. MITCHELL].

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date.

The ACTING PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, under the order approved yesterday, there will be a period for morning business beginning shortly and continuing until 1 p.m. today, at which time the Senate will resume consideration of S. 2733, the bill to improve the regulation of Government-sponsored enterprises.

Several Senators have inquired about the schedule, over the next several days. I have also received a number of the press inquiries apparently based upon my past reports of my discussions with Senator DOLE. I would like at this time to inform Members of the Senate of my intention in that regard.

I suggested to Senator DOLE yesterday that we attempt to reach agreement on a procedure under which we can complete action on S. 2733 today, and then take up and hopefully also complete action today on the supplemental appropriations bill which the House will be voting on early this afternoon.

It is a very important measure which has been the subject of lengthy and intense negotiation. Agreement has now been reached which I am advised is supported by the President and by the congressional leadership, and which I say I strongly support. I hope that we can move promptly and pass that bill because it is the first measure of assistance to the Los Angeles and other urban areas which we all agree is needed.

I then further propose that we take up and act on the unemployment insurance legislation which the House has acted on, which the Senate Finance Committee reported favorably, and which is now pending on the calendar. Since the benefits will expire shortly, it is imperative that we complete action on that measure prior to the Fourth of July recess. That measure is itself part of a broader negotiation with the administration which is now underway, and on which I hope we will reach agreement that will enable the President to sign the measure. As of this time that agreement has not been reached and it is my expectation, my hope, that we can pass the bill, then go to conference because the House and Senate bills differ—and that will still be the subject of negotiation—and that the final product that comes out of conference will be something that will be acceptable to all.

This is an effort to move it along the legislative process so that we can be in a position to act finally on it prior to the Fourth of July recess.

It is my belief that we can complete action on these measures by next Tuesday afternoon. That is the target that I set out. What I intend, and what I have advised Senator DOLE, is that when we complete action on those three measures, it is my intention to proceed to the Russian aid bill. So that my hope is that we could be on the Russian aid bill by next Tuesday afternoon.

I have no way of knowing how long consideration of that measure will take because I do not know what amendments will be offered by which Senators. But I think it is important that we take that measure up. The Secretary of State has on several occasions, most recently a telephone conversation this morning, urged me to do so. I have indicated to him, as I have with Senator DOLE, that once we complete action on the pending bill, the bill to improve regulation of Government-sponsored enterprises, which I am advised the administration supports, about which I believe there are no major controversies, and the supplemental bill which I think we all want, and the unemployment insurance bill, we should proceed directly to the Russian aid bill.

So I am hoping that we are going to be able to work out a schedule in agreement that will enable us to proceed as I have just outlined. I am now awaiting a response from Senator DOLE who is attempting to clear the proposal on the Republican side.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the time of the distinguished Republican leader.

I yield the floor.

Mr. REID addressed the Chair.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Nevada.

Mr. REID. Would the Chair advise the Senator from Nevada the time under morning business that this Senator is allowed?

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from New Jersey [Mr. BRADLEY] is recognized to speak for up to 35 minutes; the Senator from Tennessee [Mr. GORE] is recognized to speak for up to 5 minutes; the Senator from New Mexico [Mr. DOMENICI] will be recognized to speak for up to 5 minutes; the Senator from Washington [Mr. GORTON] will be recognized to speak for up to 10 minutes; the Senator from Louisiana [Mr. BREAUX] will be recognized to speak for up to 10 minutes; and last but not least, the Senator from Nevada [Mr. REID] will be recognized to speak for up to 15 minutes.

Mr. REID. Thank you, Mr. President.

(The remarks of Mr. REID pertaining to the introduction of S. 2865 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Washington [Mr. GORTON] is recognized to speak for up to 10 minutes.

WALSH'S HOSTAGE

Mr. GORTON. Mr. President, Tuesday's indictment of Caspar Weinberger bears a more distant relationship to constructive government investigations than it does to show trials in the former Soviet Union or Nazi Germany. Like these Orwellian proceedings, it constitutes the pursuit of political goals through the misuse of the criminal code. The special prosecutor's goal is not primarily to convict Mr. Weinberger, but to search for evidence of President Reagan's supposed involvement in a conspiracy with respect to the arms-for-hostages deal. It is particularly ironic that the United States indicted an architect of our victory in the cold war on the day before President Yeltsin gave such eloquent tribute to the success of Mr. Weinberger's leadership in that cold war.

The truth is a long ignored casualty of the special prosecutor's quest for fame. In that search, of course, he is unconcerned with fair treatment for Mr. Weinberger. That individual is a hostage to Mr. Walsh's political goals.

Mr. Weinberger has had a long and distinguished career of public service without a hint of scandal. In fact, extensive Congressional hearings on Iran-Contra continually showed Mr. Weinberger to be a disgusted opponent of the entire arms-for-hostage adventure.

We can be certain Mr. Walsh's true goal, after finding Mr. Weinberger's notebooks, was to force Mr. Weinberger to testify that there was a conspiracy involving President Reagan.

Having failed, Mr. Walsh developed a five-count indictment designed, in the process of attacking Mr. Weinberger, to allow the prosecution to present what it claims to be the existence of a Presidential coverup.

This process is an absolute perversion of justice. Because he was deemed useful by Mr. Walsh, Caspar Weinberger was given two outrageous options: To enter into a plea bargain and confess to crimes to which he firmly asserted his innocence and thereafter to manufacture testimony to betray his President, or face the huge legal bills a trial will surely impose. He has made the honorable choice.

We have little reason to doubt that Mr. Walsh has used this threat of another prolonged, astronomically expensive trial to pressure a plea even though he doubts that he can gain a conviction. Once again, when the suspect chooses not to plead, Mr. Walsh does not mind using an extended proceedings to exact a penalty through legal bills rather than a conviction.

For example, after charges were dropped against Joe Fernandez, a mid-level CIA officer who spent some $2 million on his defense, Mr. Walsh remarked, "I have no regrets because he always had the opportunity to cooperate with us. * * * He made the choice to be the antagonist." Mr. Walsh apparently never considered that Mr. Fernandez successfully asserted his innocence, and that he could not help but be an antagonist. Furthermore, what court decided that Mr. Fernandez should pay the $2 million? None. That was Mr. Walsh's decision. He also suggests that Mr. Fernandez was justly penalized for not complying with the prosecution's demands; Mr. Walsh apparently had no regrets for failing to convict because his goal of extracting huge legal fees of Mr. Fernandez had been successful. Of course, the taxpayers funded the case which Mr. Walsh has no regrets about losing.

Mr. Walsh's bullying tactics aside, should we continue this 5-year, at least $30 million investigation of the Iran-Contra affair at all? Does its pursuit benefit the American people? We have long since come to understand essentially what happened during the arms transfer, and precious little of what's left seems to have even political value.

In his marvelous speech yesterday to the joint session of Congress, President Yeltsin said:

> There was no replay of history. The Communist party citadel next to the Kremlin, the "Communist Bastille" was not destroyed. There was not a hint of violence against Communists in the country. People simply brushed off the venomous dust of the past and went about their business.

Ironically, the Russians' gesture appears too magnanimous even to hope for here.

Mr. Walsh has achieved little but at great cost. He sent Thomas Clines to jail on tax charges, but had his two biggest cases—Oliver North and John Poindexter—overturned in appellate courts. He has also gotten plea bargains from those who couldn't afford to go to court. Certainly, some of the motivation behind the Caspar Weinberger indictment is that Mr. Walsh must justify his job, but nothing now can disguise his failure.

Mr. President, I do not make this case on behalf of Mr. Weinberger out of friendship. We have no social relationship whatsoever. In fact, we had many policy differences while he was Secretary of Defense. He is, however, a fine man, a great patriot, and an individual who has contributed far more to this Nation than has Judge Walsh. I am convinced that Mr. Weinberger has become a victim of an investigation driven by political malice. This political witch hunt must end. If it requires a Presidential pardon to end it, President Bush should have the courage to grant one now, before the Special Prosecutor claims more innocent victims.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal entitled "Walsh's Hostage."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WALSH'S HOSTAGE

(I would not give false testimony nor would I enter a false plea. Because of this refusal, which to me is a matter of conscience, I have now been charged with multiple felonies.—*Former Defense Secretary Caspar Weinberger, on his indictment Tuesday by Special Prosecutor Lawrence Walsh.*)

In this broad land, is there a soul who doubts that Mr. Weinberger was indicted for the crime of not helping Lawrence Walsh make a case against Ronald Reagan? There may be some who believe that there is a case to be made, of course, but you have to suspend disbelief to think Mr. Walsh would care if the former Cabinet official made up some fibs to save his own neck. This indeed threatens to become the new prosecutorial ethic in political cases. As a unanimous Second Circuit Court of Appeals remarked in overturning the conviction—based on the testimony of a felon—of Ed Meese pal Robert Wallach, "We fear that given the importance of Guariglia's testimony to the case, the prosecutors may have consciously avoided recognizing the obvious—that is, that Guariglia was not telling the truth."

The Weinberger indictment, admittedly, may have other purposes, not least preserving Mr. Walsh's job. He has now kept himself employed for 5½ years, at a cost of more than $30 million, generously provided by the same Congress that ran the House Bank. For this, he won one court victory, getting someone named Thomas Clines sent to jail on tax charges. He was overturned by appellate courts in the North and Poindexter cases. (Craig Gillen, Mr. Walsh's current deputy, arrived too late for these cases, and apparently wants a reversal of his own.) He managed to coerce some plea bargains out of officials who couldn't afford to defend themselves. He continues to pursue Clair George, a retired CIA official who has already incurred legal fees of half a million dollars.

In the Weinberger case, we suspect Mr. Walsh has finally gone too far. Mr. Weinberger, after all, was an opponent of the arms-for-hostages deal. He also has compiled a long record of public service without hint of scandal. We now see the architect of Western victory in the Cold War indicted the day that the president of Russia arrives in the U.S. to celebrate and seek help. Mr. Weinberger has personal and financial backing from, no doubt among others, his employer, Malcolm S. Forbes Jr. Most crucial of all, he has a tenacious, iron-willed character, unlikely to be pushed around.

Not even Mr. Walsh alleges that Mr. Weinberger had anything to do with orchestrating the arms sales. The charges are that Mr. Weinberger lied to Congress and obstructed Mr. Walsh's investigation, based on entries in diaries kept by Mr. Weinberger. Most criminals do not keep diaries of their conspiracies. As we have already reported, indeed, it was Mr. Weinberger himself who called Mr. Walsh's attention to his diaries. He donated them to the Library of Congress in 1987, and a tidy archivist keep them in an Iran-Contra section in the library's orderly "finding-aid" guide. Mr. Weinberger helpfully wrote a letter asking the library to show the diaries to the special prosecutor. Some obstruction.

Now of course, Mr. Walsh may be able to point to this or that statement or this or that memory as being in conflict with this or that record dredged up from all the things a Secretary of Defense has to deal with in his daily life. Legal pedantry aside, what is actually going on is the use of the criminal law, via the independent counsel device, to criminalize policy differences between the executive and legislative branches.

This will end if Congress is ever held to the same standard. It has of course exempted itself from the independent counsel law, but the Walsh cases have repeatedly come down to the charge that Congress was misled. The obvious way to establish this is to start deposing Congressmen about the state of their knowledge about aid to the Contras, arms sales to Iran, etc. We assume that the Weinberger defense would start with Representative Lee Hamilton, chairman of the House Intelligence Committee in the mid '80s; we would like to know what he knew when.

The criminalization of politics cannot be good for the Republic. How many future Caspar Weinbergers are going to enter public life? Perhaps even worse is the politicization of the criminal law, eroding prosecutorial standards in a way that has started to permeate many areas of public life. The Bush administration has the legal power to remove Mr. Walsh and end this ongoing miscarriage of justice. It refuses to take the political heat for doing so. We wonder what a Perot administration would do.

The PRESIDING OFFICER (Mr. KERREY). Under the previous order, the Senator from New Mexico [Mr. DOMENICI] is recognized to speak for up to 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. DOMENICI. Mr. President, I ask unanimous consent that Tina Kaarsburg, of my staff, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2866 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee [Mr. GORE] is recognized for up to 5 minutes.

Mr. GORE. Thank you very much, Mr. President.

(The remarks of Mr. GORE pertaining to the introduction of S. 2866 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I ask unanimous consent, following the distinguished Senator from New Jersey's time as he previously reserved under the previous order, that I be permitted to speak as in morning business for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair and I thank the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

RUSSIA AND AMERICA: THE NEXT PHASE

Mr. BRADLEY. Mr. President, I am a child of the cold war. I remember as a 12-year-old drawing the design of my own bomb shelter with specific places for my cot, my books, my favorite foods, and my basketball. In 1962, I can remember going to bed during the Cuban missile crisis not knowing whether I would be alive in the morning. For 45 years, the prospect of nuclear war haunted our collective imagination. Now all that is over. The threat has disappeared.

President Boris Yeltsin's speech yesterday signals a new era of friendly, cooperative Russo-American relations. His appeal for American help, his candor about Soviet coverups, his commitment never to return to the Communist past, and his pledge to phase out all multiwarhead SS-18 ICBM's—all indicate how much has changed. The new reality is that Russia and the other republics are not the Soviet Union. They are new countries, distinct from each other and from their common predecessor. We must stop talking about them as if they carry the taint of the old Union.

The old system was controlled by a few who had power but no legitimacy. Now forces that are democratic, market-oriented, national, and spiritual seek an institutional arrangement through which they can build a better tomorrow. Congress and the American people should help make this positive change irreversible. A new beginning is at hand.

The question is, What kind of beginning? What will the next 45 years of United States-Russian relations look like? What are the opportunities for each of us? For the world? What must each of us do to seize this moment?

Let us begin with a clear understanding of what the last 70 years have done to Russia and the other Republics.

The economy is in shambles. The natural environment is a catastrophe. Ethnic conflicts are on the rise, revealing that class enthusiasm never displaced ethnic consciousness, even after 70 years of Communist repression.

The political system is in crisis. In a society never reached by the enlightenment and burdened by centuries of autocracy, the habits of democracy do not come naturally. The authoritarian impulse is real, and so is the danger of further fragmentation. Within Russia, there are autonomous Republics which assert political independence and claim sovereignty. If they succeed, the map of Russia will look like Swiss cheese. It will take a generation to purge the system of the old thinking, the old habits, and the old politicians.

All of these problems—economic, environmental, ethnic, and political—confront the present leadership just as they try to figure how to reduce their military expenditures, pull back their forces, and rewrite their military doctrine to reflect the security needs of a nation focused on internal development. As Russia makes these decisions, the attitude and action of the United States are critical.

The Russian-United States relationship can shape the geopolitics of the 21st century for the better. Russia sits between Asia and Europe—a vast continental nation—a bridge bringing East and West together and a hedge against adverse changes in Europe or Asia. A good relation with Russia could minimize a bad relation with Europe or Japan or China. A good relation with Russia enhances America's flexibility in international politics. A good relation with a democratic Russia offers the possibility of partnership between their vast market and our technology, a partnership that will help to improve living standards in both countries.

What about Russia?

Although Russia worries about renewed German intervention, its main concerns lie in the East and to the South. Russia's longest border is with China, an emerging colossus with a booming economy, a modernizing military, and an unpredictable politics. China openly and straightforwardly rejects the present border as the product of unequal treaties between the Chinese and Russian empires. The Russian population is only one-eighth the size of China's. Most Russians live in Europe, making the Siberian border with China a frail, sparsely populated barrier against Chinese challenge or migration.

To the south, forming another land bridge between East and West, lie the peoples of Islam, full of religious fervor and yearning for greatness. The former Soviet Republics of Central Asia have birth rates more than double Russia's. Iran and Turkey will vie for influence with these governments, while the people remain susceptible to the fanaticism of militant Islam, and the spread of missile and nuclear technology makes this prospect even more ominous.

Russia has no reliable allies to protect its interests in these areas of potential tension. The Commonwealth of Independent States is an unproven alliance, and China has a veto at the United Nations. While Russians might look to Europe for assurance and accept it when offered, they will increasingly look to the United States for guidance and support, which, in my opinion, we should give.

America's interests have not changed. We will benefit if Russia becomes a democracy with a market-based economy that raises living standards, with a much smaller defense establishment, and with an acceptance of free flowing capital, trade, and ideas. The U.S. objective should be to reduce the tension as quickly as possible and to normalize our relations. We need to bring Russia and the newly independent states into the international system as countries that share widely agreed objectives for their people and see roles they can play to promote stability and understanding in the world.

In order to further these interests, we have to think much, much more of the long term. When Thomas Jefferson bought Louisiana making America a continental nation, he was thinking of the long term. When Wilson advocated the League of Nations, he was thinking of the long term. When Harry Truman fired MacArthur in Korea for disobeying civilian orders, he was thinking of the long term. When Eisenhower said no to direct United States involvement in Vietnam, he was thinking of the long term. Each of these Presidents saw beyond the moment and conceived their actions in the context of our national destiny. With Russia the time for red alert is over. We need to see the United States-Russia relation beyond tomorrow's headline and without regard for the next election. Let me repeat. We need to see the United States-Russia relation without regard for tomorrow's headline or the next election. But our national leadership has failed to lead—to tell us what values are, what we stand for, where we are headed with Russia, how we will get there, and why it is important to every American.

United States policy toward Russia ultimately has to improve the lives of human beings in both countries. The last 45 years' rivalry and our triumph make Russia interested in us just as the Japanese and Germans were after 1945. But things will never remain unchanged. If we fail to act, if we reject their hand of friendship, the tide could turn against our interests.

The fact is that the oppression of totalitarianism has tested Russians more deeply than the race of materialism has tested Americans. We can share our values of individual liberty and democracy, but our genuine solidarity with them could rest on finding a deeper meaning to life than consumerism and on understanding how the suffering of others relates to each of us. Above all, we should keep our focus on people as much as on economic projections; on the human spirit as much as military hardware.

This is not a time for ambiguity. The United States must be explicit about our political and military intentions. With the defeat of communism, there remains no ideological conflict between the United States and Russia. The system that sought worldwide revolution and was supposed to "bury" us, in Khrushchev's words, has instead destroyed itself. We have no territorial design on Russia, and we no longer consider Russia a military threat.

Yeltsin told a group of United States Senators in 1991 that he was going to cut defense drastically because 40 percent of the people in Russia live in poverty. Earlier this year, the Russians cut defense spending by 50 percent, and their withdrawals from Eastern Germany continue on schedule. President Yeltsin's statements yesterday only underline the new direction and calls for a bolder U.S. response. Russia needs to see deeper cuts in our defense expenditures and larger redeployments of our forces, not continued submarine operations off their northern coast and reluctance to cut long-range bombers and missiles.

We must reject those who argue that we cannot cut defense much because we have to retain the ability for a quick return to the arms race if things change in Russia. These are people who yearn for the old ideological certainties that 1991 washed away. To them a clear enemy is better than a peace that requires fresh thinking. If we listen to them, our defense spending will not only waste billions of taxpayer dollars, but it could send the wrong message to Russia.

Beyond intentions, we have to assure Russia that we recognize its current borders, including its control of autonomous republics, that we will not foster anti-Russian feeling in the name of ethnic self-determination, and that we will not support sovereign independence for separatist movements in Siberia or the Far East. In addition, we should encourage Ukraine and the Baltics not to militarize their borders with Russia; Ukraine, Belarus, and Kazakhstan to give up all their nuclear weapons quickly; and all former republics to minimize the size and number of their military forces. This should include leading the international community to support their legitimate security interests as nonnuclear states. Russia should know that there is no threat from the West—no prospect of a two-front war for its military strategists to worry about or prepare for.

The disputes between Russia and its former republics will be bitter. They will be territorial, political, and especially economic. But we must see that they not become explosive. We should offer our good offices to mediate disputes. We are trusted by both sides. Our credibility and detachment give us a unique opportunity to defuse tensions and to bring people together focusing on the long term. We did that after World War II by encouraging Jean Monnet and the concept of European unity, and today we can use a similar influence to bring Russia and its neighbors into a harmonious future.

Next, we need to be explicit about the political changes we think Russia must make to be a full member of the international system. Much deeper democratization is necessary to give legitimacy to whatever the Government does and, in particular, to absorb the reaction that will come from the hard choices necessary to transform Russia into a modern market-based economy. To minimize the risk of state oppression reemerging under the guise of reform, Russia needs a constitutional bill of individual rights and a viable legal structure. A new constitution and new elections could also provide a better basis for legislating reforms unburdened by the Communist part.

More steps should be taken to support democratic and market reforms. First, full membership in the IMF and the World Bank gives Russia access to project loans, sectoral loans, balance of payments loans, as well as advice on radical market reforms. Second, the markets of the West should be open to raw materials, goods, and services from the East. Removing barriers will encourage foreign investment. Third, the West must be willing to restructure and to reduce Russia's international debt—at least exchange shorter loans for longer bonds. Fourth, the United States should send teams of advisers to help restructure the monetary, financial, and distribution systems—all three being quintessential elements of market efficiency. Fifth, we should lead an international effort to establish an emergency nuclear safety program—to destroy nuclear weapons and to make nuclear reactors safe. The battle against nuclear proliferation should be a guiding goal of our joint nuclear policy.

Mr. President, aid must be more than financial assistance. Nothing short of a massive exchange and sharing of ideas, people, and training will accomplish our broader long-term goals of economic prosperity and political security for Russia, for her neighbors, and for ourselves.

President Bush should not miss this opportunity. To date he has failed to provide leadership, preferring instead to react to—rather than shape—events. What the world needs is an American President who recognizes that our leadership is no longer based only on military strength, but on the power of our example as a pluralistic democracy whose growing economy takes everyone to the higher ground—an American President who will encourage all the American people to reach out toward the people of Russia and the newly independent states in an act of generosity and pride in America.

We need to get beyond the politics of the moment, the deficit of the hour, the military count of the day. We need to get beyond the numbers that rarely shape events. Our long-term investment must be in people and in the values of democracy and individual liberty.

At the end of World War II, the Germans and the French, who had fought each other three times in 70 years, sought a way to prevent future conflict by knitting a web of human relationships between their two peoples. Every year for the last 40 years, between 40,000 and 60,000 German and French young people have lived in the other's country. This massive exchange program led to a deeper understanding and a bond of common experience. At the end of World War II, the United States also began exchange programs with Germany and Japan. At one point, it was said over half the Bundestag had been to the United States in an exchange program. Once people had experienced America by living here, they never forgot it. Americans in their everyday life were the best ever teachers of American values. This is why now, at the end of another war in which we have triumphed, the whole American people should be called to service again.

I propose, along with the distinguished occupant of the chair, Mr. KERREY, the Senator from Nebraska, that we mount a massive Freedom Exchange Program beginning in January 1993 and building over five years to 70,000 people per year: 50,000 high school kids from Russia and other Republics, 10,000 college students, and 1,000 graduate students. In addition, we should invite 10,000 small businessmen to live and to learn basic business in communities across America.

More Chinese study in America every year than Russians have studied here since World War II. Last year, 1991, while there were 177,000 college students from Taiwan, China, Japan, India, and Singapore studying in United States colleges, there were only 1,200 Russians.

Last year, there were only 814 Russians in United States high schools. A young Russian who is 16 today was 9 when Gorbachev took over and perestroika began to bring change. In 5 years, she or he will be 21. Now is the time to let them experience America, learning what life is like in a market democracy with a heart. They will see the openness, generosity, pride, and democratic reality of America. Their experience would bring our peoples together in countless ways, creating bonds that would last a lifetime.

In 1989, I visited a group of high school students in Alma-Ata in Kazakhstan. They had just returned from America on a high school exchange with Central High School in Phoenix, AZ. I asked them what they remembered most vividly. One girl raised her hand and said, "the farewell." I looked around and many of the other kids had tears in their eyes. "What do you mean," I asked. "Well," the girl continued, "when we were at the airport, the girl I stayed with came up to me, put a key in my hand, and said, 'Here, this is the key to our home. If you're ever in Phoenix again and we're not home, use it and make yourself comfortable. You know where the icebox is.'" It's that kind of bond and experience multiplied by thousands that the freedom exchange will create. Combined with the skills and awareness that the young people and small businessmen will acquire, the freedom exchange will promote the long-term interest of America.

America's effort to leave the cold war behind and to join Russia in building a better world for the 21st century must be matched, though, by Russian action. In fact, the most difficult job ahead lies with Russians and Ukrainians and Balts. They are the ones who have to live through the transition and build the new society. It is their leaders who must lead and their people who must follow. It will not be easy, but the path is clear.

Russia must redefine its military strategy, moving to a totally defensive posture. It must reduce spending on weapons and redeploy forces. Removing troops is the first test of such commitments, especially those troops that Russia has not even begun to remove in the Baltics, Ukraine, and Moldova. There should be a clear, short timetable for withdrawal from these newly independent states as well as from all of Eastern Europe. Russia should recognize the independence of the newly independent states, exchange ambassadors, and forswear any future territorial designs.

Russia and the former Republics need to proceed at the same time with the massive job of restructuring the economy. The runaway deficit of 25 percent of GNP must be reduced and eliminated, and hyperinflation must be avoided. Subsidies to inefficient enterprises must be cut, bureaucracies shrunk, property privatized, a banking system and financial infrastructure built, effective tax laws passed, clear rules and laws enacted governing development, foreign investment, and repatriation of profits, and finally a clear policy on labor.

This agenda will bring different responses for different people. On the street corner in Kazan, I asked a young man who was a champion karate athlete what he thought of the reforms so far. He said, "They're OK. Prices are higher, but if you take the initiative, you can make more." And he said, smiling, "Athletes always seize opportunity." His optimism is countered by the anger of women on the streets in Moscow calling Yeltsin a criminal and the reforms a foreign conspiracy. As a friend in the Government confided to me, "I can't walk on the streets anymore. The people are too angry."

Politics in Russia will have to zig and zag forward, making reforms but pulling back from time to time to defuse political reaction that endangers all the reforms. But, the direction must never change. The key is to keep the social momentum moving toward market reform democracy.

For 45 years, we were locked in a global strategic competition with the Soviet Union that concentrated on ideology and arms, but pervaded everything from music to sports—remember how you felt when the United States hockey team won the gold in the 1980 Olympics. Since the competition ended abruptly and without war, many people have become disoriented. Although the ideological triumph, peaceful as it was, is a monumental achievement, people still wonder what it all meant to them and why the victory feels slightly hollow. We need a deeper understanding of our circumstance.

As we normalize our relations with Russia, escaping the distorting lens of the cold war, we will find affinities and similarities we never though possible. We share common problems: budget deficits, racial, ethnic strife, defense industries that need to be converted to civilian use. We also recognize that neither of us alone can solve many of our problems—such as the environment, terrorism, drugs, economic migration, disarmament. All require international cooperation. Each of us must give up some sovereignty in order to have a voice in an international effort that could succeed. That idea of giving up something to gain something has a deep appeal, and it is the essential insight of not only a new United States-Russian relation but of the new age.

Giving up the desire for more of everything is the key to having more of something in our future. We will consume away our planet if we can't find the discipline to say enough. Individualism will degenerate into greed without agreement on its limits. On an international scale, that means the gap between rich and poor nations will increase even as all of us live on borrowed environmental time.

The Soviet Union respected few limits in its disregard and destruction of our common environmental heritage. Rivers have turned to sewers of chemicals. The air in hundreds of cities is heavy with pollution. Coal mines, asbestos mines, and oil fields pollute lethally but with impunity. Along the northern coast where radioactive wastes were dropped in the 1960s, life expectancy has dropped to 32 years. We should see all our futures in Russia's "ecocide."

The Russian movie, "Raspad," offers a prophetic warning. In it a little boy, in the wake of the Chernobyl nuclear disaster, gets left behind in a housing project that is quickly contaminated. With his hair already falling out and his kitten dying, he writes with chalk in large letters on the playground, "Mother, I'm here waiting for you to return home." Mother won't return, the boy will die, and the tragedy will deepen.

Let that warning give us all pause not only about the environment, but about relations between people—parents to children, Russians to Americans, citizens to citizens. Let us reflect on the absence of meaning in millions of consumer lives in the West. Let us reflect on a world whose slogan is "Nothing lasts; nothing endures"—not products, politicians, jobs, homes. Each of us unthinkingly does what Russia did on a national scale—not worry about future generations, not care about the conditions necessary for individual fulfillment, not worry about our obligations to each other, not worry about anything but our own material circumstance today. Such a world is not sustainable.

Let us build a new relationship with Russia and the newly independent states—one based on two peoples coming together in a common commitment to make the tough choices for the long-term health of each country and the world; two peoples aware that having stared each other to the brink of nuclear holocaust, we now have a special responsibility to find in each other and within ourselves the capacity to reorder, to begin anew, to reconceive our possibilities as two nations, two peoples, one voice.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 15 minutes.

Mr. BRYAN. Mr. President, I commend my friend and our distinguished colleague on a most thoughtful presentation, most profound and most prophetic. I think all of us can benefit his thoughtful insight.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 2685 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business, which is due to expire under the previous order at 1 p.m., be extended until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I intend to take 10 or 15 minutes, but I ask unanimous consent that I be allocated that time following the Senator from Kentucky, whom I yield to at this time.

Mr. FORD. Mr. President, let me thank my good friend from Arizona for allowing me this time, and I promise him I will not be very long.

S. 250, THE NATIONAL VOTER REGISTRATION ACT OF 1991

Mr. FORD. Mr. President, this week the House of Representatives passed the National Voter Registration Act of 1991. Republicans in the House announced that senior White House advisers would recommend that the President veto this bill. The President should reject that ill-advised recommendation out of hand and sign this legislation.

We have witnessed evidence of discontent throughout the country. Anyone who has talked with his constituents recognizes evidence of widespread discontent and disenchantment. While there is no single cause, one factor that is of great significance is the alienation of so many of our citizens from their Government. One way to attack that discontent and alienation is to open the legitimate processes of Government to all our citizens, to remove the barriers to participation, to encourage full involvement in the selection of our representatives in Government.

Mr. President, this bill will remove many barriers to access to the ballot box on election day. It will encourage full participation and involvement in the most important part of our representative form of government—the election of our leaders at all levels of government.

This bill will simplify the voter registration application process and require the use of procedures that will reach out to over 90 percent of those who are eligible to register. In Kentucky, I am informed by our Secretary of State that there are 800,000 Kentuckians who are not registered but who are eligible to register to vote. Most of them would be affected by this bill. I would like to see a system enacted that reaches these individuals and encourages them to become involved. The bill establishes the principle that it is the responsibility of election officials to facilitate the registration of all eligible people.

I found it rather ironic that one of the arguments against the bill is that it will cost too much to register these additional individuals eligible to register and to vote. That argument is a double standard because it implies that it is the State and local government's responsibility to pay only for those already registered, but it is the Federal Government's responsibility to pay for those who would be added. Mr. President, I want to make a couple of points on the costs that opponents have exaggerated. This bill will not require the computerization of the voting rolls. Implementation could even reduce the cost per individual registrant. If more people are registered and vote, it will cost more money. But it is a small price for democracy.

A veto of this legislation will send a clear and unequivocal signal to our people that their representatives and leaders do not trust them, that we have no confidence in their judgment. Mr. President, that is not the signal to send under these circumstance and at this time. This is the time for those of us who have been elected and have the responsibility to govern to let the people know that we do trust them, that we rely and depend on their judgment. We want them to participate and become fully involved in their government.

As I listened to the arguments in both the House and Senate debates on this legislation, I was impressed with the fact that they were the same that have been made against just about every measure advanced to extend the right to vote in this country. They were used against laws to extend the vote to women and to remove the barriers to the registration of minorities. They were even used against legislation to remove physical barriers to make the polling places accessible to the elderly and disabled. Those who made those arguments then were wrong and they are wrong now.

Mr. President, this is the time for statesmanship, not partisanship. I urge the President to do what is right for democracy and sign the bill.

I thank my friend from Arizona and yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I would like to comment on the subject matter which the Senator from Kentucky just discussed. He is so absolutely right that this is not a political issue; it should not be a political issue when we are talking about the ability of the American public to register to vote. There is no greater right that we have than the right to vote. Part of that right is having an orderly process so that you can register.

The legislation that the Senator from Kentucky has sponsored, and I am glad to have been an original cosponsor with him, is going in the right direction.

Many States have already adopted a law similar to this and it is really imperative that this bill become a Federal law. As we see the consistent small percentage turning out to vote in national elections, we have to look at ways to improve this system. What is going wrong in this country, and there are a lot of problems, is that there is a lack of political leadership.

But one thing that can help and which would be a positive action is to make access to voting easy—to make it part of your every day life so when you get your driver's license or you go to obtain some service from the Government you can register at that time. You would not have to wait and try to recall did I vote in the primary, did I answer the card that came from the party, or from the registrar or other contacts, did I do it by the right date, or what have you.

There is a simple way to permit people to register and a way that makes common sense in the best American tradition I can think of and that is through the process laid out in this legislation. And I hope, as the Senator from Kentucky has pointed out, that the President does not play politics again with this bill. I hope that the President understands what is important about the Democratic process, that people do vote.

If they vote Republican well and good. If they vote Democrat or they vote Independent for Mr. Perot, well and good, but the important point is let them vote.

The argument that this means poorer people will have easier access to voting—that can be argued either way—so what? It can also be argued that those who own cars will benefit because they have to get a driver's license. Usually however, the vast majority of these people have jobs and are in the middle income or upper income brackets and they probably has a tendency to vote Republican. So what? What is important is that they have an opportunity to vote.

That is why this bill is so important. I implore the President to lay aside politics. I think the American public is tired of the fact that the President plays politics with these issues and is not willing to do what is good for the country.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2867 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 3:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,945,015,787,097.63, as of the close of business on Tuesday, June 16, 1992.

On a per capita basis, every man, woman, and child owes $15,358.68—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON SCHEDULE

Mr. MITCHELL. Mr. President, several Senators have asked me to report on the status of the Senate's schedule for the remainder of this week and early next week.

This morning I advised the Senate in an earlier statement here on the floor that I had proposed to Senator DOLE yesterday a schedule which contemplated the Senate taking up and completing action on the pending bill, S. 2733, a bill to improve the regulation of Government-sponsored enterprises, then to take up and complete action on the supplemental appropriations bill, and then to take up and complete action on the unemployment insurance extension bill.

A part of my proposal is that we complete action on those by next Tuesday afternoon, at which time it is my intention to proceed to the Russian aid bill.

I had hoped that we would be able to reach agreement on that today, because these are all important measures. I am particularly concerned about getting to the supplemental appropriations bill and the unemployment insurance bill.

We have been negotiating for some weeks on the supplemental appropriations bill, responding to the situation in Los Angeles and in other urban areas. And the unemployment insurance bill is of critical importance as benefits expire for millions of Americans in the near future.

I also recognize the importance of the Russian aid bill and the emphasis which the President, along, of course, with the Secretary of State, has placed on prompt action on that measure.

I was asked earlier to delay proceeding to the pending bill as Senator DOLE and his colleagues are attempting to clear on their side the agreement which I have proposed, and I have done so now twice, extending it first from 1 to 2:15 p.m., and now just a moment ago from 2:15 to 3:30 p.m. Also it is my hope that an agreement can be reached and we can proceed to these matters.

I hope there is not going to be any delay that would make it impossible to proceed on these measures as soon as possible. They are all of importance to the American people.

So, I appreciate the effort being made by Senator DOLE and his colleagues. I have extended the time again because I believe in good faith they are making a serious effort to clear this agreement and that will enable us to proceed in this fashion.

I hope to have another statement for Members of the Senate prior to 3:30 p.m., setting forth the schedule at this time.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENT-SPONSORED ENTERPRISES

Mr. SIMON. Mr. President, since we are talking about Government-sponsored enterprises, I just wanted to make a comment about a Government-sponsored enterprise that has been attempting to block some progress that we are trying to make; and I am pleased to say the Senator from Connecticut has joined in trying to make, and that the conference committee on higher education has been able to make.

Senator DURENBERGER and I have introduced one direct loan program, Senator BRADLEY another, and Senator KENNEDY another, that will make college more accessible to young people and will save the Federal Government a substantial amount of money, according to the GAO.

Opposing it have been the banks. They are interested in their own situation, and I understand that. I respect that the banks do a great deal for our society. This is a higher education assistance act, not a banking assistance act.

But also opposing it has been what we call Sallie Mae, the Student Loan Marketing Association that we created in order to help students. All of a sudden Sallie Mae, instead of helping students, has been trying to stop what we have been trying to do, and the White House is even threatening to veto this conference report, I am told, in part because of the pleadings of Sallie Mae.

Why is Sallie Mae so interested in this? It is very interesting. Take a look at the salaries, Mr. President. What kind of salaries do these officers of Sallie Mae receive that we created? Well, Lawrence Hough, the president and CEO, gets a basic compensation of $1,100,000, plus stock options, which brings him up to $1,348,769. The President of the United States gets $200,000 a year. So he gets 6½ times as much as the President of the United States.

The No. 2 person, Albert Lord, makes $881,473 a year plus stock options of $187,500, for a total of $1,068,973. The No. 2 person gets 5 times what the President of the United States makes.

The No. 3 person, Mitchell Johnson, makes $480,982, plus stock options of $60,000, for $540,000, 2½ time what the President of the United States makes.

Dennis Kernahan, the No. 4 person there, $391,385, plus $60,000 in stock options, for a total of $451,000, or a little better than twice what the President of the United States makes.

And the No. 5 person, Michael A. Wyatt, $356,000, plus $30,000 in stock options, $386,000, or almost twice what the President of the United States makes.

No wonder they are fighting changes in the student assistance program. This is a student assistance program, a higher education assistance program, and not a Sallie Mae assistance program.

One of their board of directors lives in the State of Illinois, a very fine, capable person, who handles Government relations for Northwestern University. He got the president of Northwestern University to send a letter out to the Illinois schools saying this was going to harm higher education. As a matter of fact, Northwestern is one of the beneficiaries of this, as were the other schools. What do you get when you are on the board of directors? You get $36,500 plus a stock purchase plan, plus a pension plan. Not bad for being on the board of directors.

One of the things we have to keep in mind as we create these entities, they may be created to help students or to help some other function, but at some point they start getting interested in self-perpetuation rather than the mission that we created them for.

I hope we will take a good look at Sallie Mae down the road along with other things here in the U.S. Senate.

Mr. President, I see my colleague from Mississippi standing up. I will be pleased to yield the floor.

Mr. COCHRAN. Mr. President, are we in morning business? Is that the parliamentary situation?

The PRESIDING OFFICER. The Senator is correct.

A VERY TROUBLING AND VERY SAD THING

Mr. COCHRAN. Mr. President, I note with sadness and a great deal of concern news that the special prosecutor, Mr. Walsh, and the grand jury that has been convened by him handed down an indictment of Caspar Weinberger after 5½ years of investigation at a cost of more than $30 million. I am told they finally, in a last gasp, and a last grasp at a straw to legitimize the expenditure of that kind of money, in an investigation that lasted too long, have, on the basis of what we are told are almost illegible personal notes, handed down an indictment of a person who is well known for his integrity, his honesty, his diligence, his conscientious and dedicated public service over a period of many, many years.

It is a very troubling and very sad thing.

I noticed a newspaper in my area of the country, the Commercial Appeal, in Memphis, had an editorial this morning, "Pursuer Walsh Stoops To Drag in Weinberger." Another editorial was brought to my attention that was published in the paper in Richmond on Wednesday, June 17, a Richmond Times-Dispatch editorial, entitled "Fire Walsh."

Well, we might like to. But, I do not think we can under the law. But what the law does is expire, I am told, at the end of this year. Certainly Congress will not reauthorize the kind of authority exercised by this investigator, the kind of untouchable pinnacle of unquestionable power that is assumed by this special prosecutor under this current law. Congress needs to take a new look, a fresh look, at the unfettered power that a person in this position has.

I do not know whether there are any facts that were presented to the grand jury that would justify this indictment, but all of the circumstances make me wonder whether or not this is really a legitimate exercise of prosecutorial power. I don't think this is what this prosecutor was really asked by our Government to undertake to do, to have a result such as this, at this time, in this long drawn-out investigation. He has missed the point. He is way off target.

Mr. President, I ask unanimous consent that the editorials I referred to in the Richmond Times-Dispatch, and the Commercial Appeal, Memphis, TN, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, June 17, 1992]

FIRE WALSH

. . . And so, Lawrence Walsh plunges forward into the past with his insistent regurgitation of history. Now he has indicted Caspar Weinberger, who is 74, for (primarily) having a feloniously faulty memory. This is 1992. Brer Walsh has charged Weinberger with stipulating things in 1987 about Iran/Contra in 1985—things, Walsh contends, that Weinberger knew were not true.

The truth may be, likely is, rather different—i.e., that Weinberger's memory was not so precise as it might have been regarding distant knowledge of more distant deeds. In fact, that is the testimony of such luminaries as Warren Rudman and Daniel Inouye—respectively a Republican and a Democrat—who served as the Senate's premier investigators of Iran/Contra.

Not only has Caspar Weinberger taken, and passed, a lie detector test about discrepancies in his congressional Iran/Contra testimony. Senators Rudman and Inouye also have sustained his credibility with a letter in which they (a) acknowledge the imperfection of Weinberger's memory about when he initially learned of the November, 1985, shipment of 18 Hawk anti-aircraft missiles from Israel to Iran, yet (b) say "what was important to us" was Weinberger's adamant opposition to the shipment, "on which [his congressional] testimony was incontrovertible."

These latest indictments from Lawrence Walsh suggest that the matter of greatest importance to him is not so much historical truth, per se, as skewering Ronald Reagan: removing him from the pedestal of fame to the slough of infamy; rendering him a fractured plaster saint.

Walsh should be fired—should have been fired long ago, but of course now he won't be because he owes his allegiance to a Democratic Congress and this is an election year. Nothing could be better for the Democrats than for questions to be raised yet again about involvement in—better, direction of—Iran/Contra by the foremost Republican icon of the age.

Walsh embodies the Peter Principle at the bar. In well more than five years of effort, aided by staff of 44 (including 11 full-time lawyers) and spending (depending on whose estimate of taxpayer dollars you believe) between $30 million and $100 million, he has won not a single major conviction—not one. Yet he has mercilessly hounded countless individuals—exhausting their finances and ruining their reputations.

Now, in an effort to salvage his own reputation, this unconscionable man has taken out after a 74-year-old former Secretary of Defense. His congressional masters will not call him off. And dismay, even public dismay, contains no corrective power. All that is left to the public is laughter, and its ability to gasify pride. But not even that will help Caspar Weinberger.

The only solution for him, and for the nation, is for someone to fire Walsh.

[From the Memphis Commercial Appeal, June 18, 1992]

PURSUER WALSH STOOPS TO DRAG IN WEINBERGER

The indictment of former secretary of Defense Caspar Weinberger Tuesday carries the Iran-contra scandal to a new pitch of perversity.

Special counsel Lawrence Walsh was named over five years ago to prosecute any crimes connected with the Reagan administration's secret sale of arms to Iran and illegal aid to the Nicaraguan contra rebels. Now Walsh is dragging into court a leading Reagan administration critic of those very arms sales.

Weinberger, along with then secretary of State George Shultz, vigorously argued against the secret deals with Iran that President Reagan undertook in 1985 and 1986 in the hope of freeing Americans captive in Lebanon. What is Weinberger's crime, then? The secretary allegedly concealed the existence of personal notes he made in the mid-1980s. Walsh also has convinced a grand jury that there are several discrepancies between Weinberger's notes and statements he made to congressional investigators.

Perhaps there are—who are we to deny it? Apparently Walsh believes that Weinberger misled Congress about when he learned of the arms sales—and that the secretary lied again when he said he had no knowledge of Saudi Arabian financial contributions to the contras. Legally, we gather, these allegations translate into five felony counts.

We hold no brief for lying, common though equivocation is in every branch of public and private communication. But sanity demands a sense of proportion. If Weinberger was so intent on covering up some misdeed, why did he give his notes to the Library of Congress when he retired? And can this nation stop devouring its devoted public servants?

Caspar Weinberger, now 74, was Reagan's secretary of Defense for seven years. He served prior presidents as budget director and secretary of Health, Education and Welfare. While liberals disagreed with his forthright anti-communism, none doubted his patriotism and intelligence.

Fittingly, the indictment of Weinberger comes just 20 years after Watergate, the scandal that spawned the "good-government" reforms creating special prosecutors. A flurry of retrospective analyses are pointing out the mixed consequences of the post-Watergate legislation.

One deplorable consequence is the prosecutorial culture now deep rooted in Washington. It is epitomized by the out-of-control Iran-contra investigation, which is claiming another victim.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SIMON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUN VIOLENCE IN THE UNITED STATES

Mr. DODD. Mr. President, I rise this afternoon to focus attention on what I think has become a major public-health emergency: gun violence in this country.

Each year, Mr. President, approximately 34,000 Americans are shot to death on the streets of this Nation. That is a staggering number. It means that every 2 years, more Americans are killed by firearms than were killed during the course of the entire Vietnam war.

Mr. President, gun violence continues to exact a dreadful toll, particularly on our Nation's youth. Many children, we are told, are afraid to go to school because their classmates are carrying guns. Approximately, 130,000 students a day bring a firearm to school—one out of every 20 students in this country. Outside of the classroom, many children must make their way home through very dangerous neighborhoods, neighborhoods where children shoot at other children. The situation has become so bad that homicide is now the leading cause of death for African-American males and females between the ages of 15 and 19 years of age.

Last week, there was a particularly disturbing incident in my home State of Connecticut, in the city of New Haven. A 6-year-old boy, Cesar Sandoval, was riding the schoolbus to his home. Suddenly, the bus was caught in a shootout between rival gangs and a stray bullet hit this child. If it had not been for the heroic efforts of surgeons at Yale-New Haven Hospital, Cesar Sandoval would have lost his life.

Mr. President, what has happened to our country? Why are children using guns to settle arguments? Why are children carrying guns to school?

Furthermore, what has happened to our sense of responsibility? How can we, as a nation, allow this violence to continue? How many tragedies, and how many Cesar Sandovals must there be before we scream "enough"?

The citizens of my home State of Connecticut are very concerned, as are citizens across this country, about this violence. Our Governor, Lowell Weicker, announced that this issue will be taken up in a special session of our general assembly next week.

Hopefully, that special session will result in some proposals that will help bring an end to this violence. But my State and others throughout this country are going to need help from the Federal Government. Because weapons have become easily accessible, actions by localities and States are not enough. I wish they were. But it is going to take a national effort to solve this problem.

The problem of gun violence is, of course, a difficult one and it will not be answered by legislation alone. There is no easy solution to crime. But we can take steps that will help to end the violence.

The crime bill which was reported out of conference almost 7 months ago, contains many provisions that could make a difference. Regrettably, that bill has been languishing because of the political obfuscation in this city. The bill has not been acted upon because some people want to satisfy some narrow political interests.

The crime bill, as we know, would provide $1 billion in assistance to our States, our police departments. That assistance could be used for community-based drug abuse prevention and neighborhood police programs. In fact, that legislation is supported by local police chiefs and departments. They are also demanding that we do something to make our neighborhoods safer.

If we are going to get at the root of this problem, we have to provide the tools that our local police departments need. The crime bill would be helpful because it would give the police 5 days to do a background check on anybody wishing to buy a gun.

In my home State of Connecticut, we have had a waiting period in effect for years. It is impossible to say how many crimes have been prevented or how many violent acts have been prevented as a result of that act. But the problem is that Connecticut is a small State and people can travel to a neighboring State, where you do not have a similar law, and in a matter of minutes, they can acquire whatever kind of weapon they like. Even though Connecticut has a good law, we need a national law to deal with this issue in a comprehensive way.

Again, Mr. President, I know that a waiting period will not solve the problem of gun violence. There will be Cesar Sandovals even with a waiting period. But maybe a few lives will be saved if we give our police departments a 5-day period to check out the purchaser of a handgun. To make sure that the purchaser does not have a criminal record and is not going to pose a threat to the community. Is that too much to ask? Five days, to give our police departments an opportunity to check out whether or not somebody could be the source of some future violence? I hardly think so, Mr. President.

Furthermore, my constituents who are gun collectors and hunters and target shooters, also support such legislation. It has not caused any problems for those who wish to pursue legitimate hobbies and recreational activities. They understand the importance of a waiting period—they do not mind the minor inconvenience of a few days. We ought to pass a similar provision so that citizens across our country will be safer.

As I said at the outset, it is a shame that the crime bill has fallen victim to partisan politics like so many other things. We are spending too much time pointing fingers, and not enough time passing quality legislation. I hope the bickering stops.

While the crime bill is a good starting point, I would be remiss if I did not also mention that there are other issues that need to be addressed. We are going to be dealing shortly with a summer jobs bill that would also provide assistance to Los Angeles and Chicago, for example.

I must say on this that I am frustrated by the supplemental bill's use of population instead of poverty to allocate the first $100 million of summer jobs money. When we considered this bill on the floor last month, the same arrangement was included.

But at that point there was agreement from the managers of the bill, along with Senators KENNEDY and HATCH, to find a better formula for allocating that first $100 million. And in fact, I know that Senator KENNEDY'S staff worked long and hard to craft a formula that incorporated youth unemployment and poverty rates as an alternative.

I regret deeply that the Kennedy formula was not included in the final version of the bill. In my view, it is unfair to allocate summer job money based on size instead of need.

For example, as it is currently written, Virginia Beach and Anchorage would receive hundreds of thousands of dollars even though they have very low poverty rates as cities go. At the same time, the Bridgeports and the New Havens and the Hartfords of the world are left out in the cold by the city set-aside because they are not big enough.

This is extremely unfortunate but, this is the unhappy result when deals are cut under cover of darkness. And so, while I am pleased that we can move forward to provide needed funding for summer jobs, I regret that a more equitable allocation formula was not included for the first $100 million.

Mr. President, this bill may make a difference this summer, but in the long term, it is just a Band-Aid. In the long term, we will not successfully address this problem until we put people back to work.

People in our urban areas need to have a vested interest in the future, and the best way to accomplish that is to provide opportunity. The best thing you can do for the individual, for the family, is to provide employment opportunities. No one has more self-esteem, or self worth, or sense of value and productivity than an individual with a good job. The best thing to hold families together is to provide employment.

Mr. President, in neighborhoods where people are working, where they own their homes and have a vested interest in the community, you see a significant decline in the kind of violence that grips too many of our neighborhoods. I would hope we might get to some meaningful ideas around here as to how to increase the employment opportunities, the economic opportunities, for people in this country.

Unfortunately, too many people in this country are out of work. In May, the national unemployment rate hit 7.5 percent, the highest mark in nearly 8 years. In my home State of Connecticut, the unemployment rate is 7.1 percent.

Because so many people are out of work, we need to pass another extension of unemployment benefits. Senator BENTSEN has worked hard to draft such an extension. I hope that we will pass this legislation quickly so that unemployed Americans will get the benefits they so urgently need.

It is clear that the pervasive unemployment in this country has led to much poverty and despair. And we all know that poverty and despair often lead to crime and violence.

It is truly disturbing to see the escalating violence in this country, particularly our violence. I think that we must treat gun violence as if it were a disease. Maybe if we treat it as a disease, it will get the attention it deserves.

Gun violence has taken a terrible toll, both physical and psychological, on our Nation's youth—a toll far greater than any disease. The statistics are truly disturbing. A study of junior high school students in Chicago, the major city in the Presiding Officer's State, found that 75 percent of the junior high school students had witnessed a killing, shooting, or armed robbery. In another study of children 8 to 12 years old, the common bond was fear of guns, injury or deaths to a loved one because of gun violence.

That is a staggering indictment of how our young people see their own futures. In short, our children are living in fear, and that fear ought to be the concern of every single Member of this body regardless of party.

In my view, we can no longer continue with business as usual. With each passing day the violence escalates and more lives are lost.

Mr. President, I urge my colleagues to come together and to try, before this session ends, to do something about gun violence. We need to act now so that our children will be able to live their lives without the fear of violence, or the very real possibility that they will never see their teenage years.

Mr. President, I ask unanimous consent to print in the RECORD two articles which have eloquently discussed this problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Connecticut Post, June 12, 1992]

WEICKER: CONTROL FIREARMS

(By Christopher Blake)

HARTFORD—Clearly troubled by the shooting of a 6-year-old New Haven child on a school bus, Gov. Lowell P. Weicker Jr. said Thursday he will propose legislation in an upcoming special session to limit the use and sale of handguns.

"The track record of the nation, including Connecticut, is disgraceful when it comes to injuries and homicides committed with handguns," Weicker said. He made his remarks after attending the first meeting of a state task force to study ways to reduce sexual violence.

"When it's the kids that get caught in the crossfire created by kids, its incumbent upon the adult world to look at the adequacy of our laws and policies," the governor said. "We're going to take a tough look at it and fast."

A school bus carrying Cesar Sandoval, 6, was caught in the crossfire of a gun battle that erupted on Frank Street in the Hill section of New Haven Wednesday afternoon while he was riding home from kindergarten. Sandoval was struck in the head by a bullet and was in critical condition. It was the second shooting of a child in four months in New Haven.

The special session, which will follow the June 22 veto session, was originally called to ratify some labor agreements. The expanded session would allow enactment of legislation to limit the availability and use of certain weapons and to strengthen the penalties for unlawful possession of firearms.

Weicker said he is tired of "all the fuzzy sloganeering of the past" by groups such as the National Rifle Association, especially the campaign which states, "Guns don't kill people. People kill people."

"Our children are getting killed on the streets of our cities. If there's anything we're supposed to be about, it's the future of our children," he said.

Weicker said he doesn't dispute the constitutional right to bear arms, but too many guns are used for violent purposes in society.

"The proper use of guns I can appreciate, whether in the hands of sportsmen, law enforcement or in the military," he said. "But I think I've got enough common sense to understand the improper use of guns," he said.

"The NRA doesn't represent me and I don't think it represents any common sense gun owner. We don't want our children to have guns and we don't want our children to shoot guns and we don't want our children killed by guns," he said.

An NRA spokeswoman said the governor is "obviously misinformed on our stand. We are against the criminal use of firearms," said Susan Baldyga Misiora, the NRA's Connecticut liaison.

Weicker said the best way to attack the problem of violence with guns is "to come at 'em in the most direct way possible. Right now the most direct way as far as I can see is to very severely limit who it is that can have handguns," he said.

Weicker said he will review with law enforcement and criminal justice officials issues such as the minimum age for legal possession and purchase of a handgun and restrictions on availability of handguns.

The governor said it will be difficult to come up with a major gun-control package in the upcoming special session, but he said he would develop a package for next year's legislative session.

[From the Washington Post]

FINDING A CURE FOR GUNFIRE

The blood on the streets of this city every night is evidence enough of what some of the country's top medical experts are now concluding: that gun violence in America has become a public health emergency. It should be listed with cancer and AIDS, among other afflictions, as a primary killer. In an issue devoted to the subject, the Journal of the American Medical Association points up the finding of former surgeon general C. Everett Koop and journal editor George Lundberg that medical studies "paint a grotesque picture of a society steeped in violence."

So serious is the health menace of this country's open firearms market that Dr. Koop says owners of firearms should be tracked as carefully as operators of automobiles. Purchases should be restricted to buyers according to physical and mental condition and training, the editorial says. Topics in the issue include the ease with which high school students can acquire handguns and the high rate of fatal shootings of black male teenagers in urban areas—with the District right there at the top of the list. If this violence "were due to a virus," says Dr. Koop, "the American people and their leaders would be shouting for a cure."

Let the shouting begin, then, against a health menace that can be curbed dramatically if only lawmakers stopped quaking at the sight of National Rifle Association lobbyists and instead looked around a little. They might react to the fact that firearms are now a leading cause of accidental deaths, particularly among children.

More and more parents are now painfully aware of what handguns can do to a neighborhood, to a childhood, to a life. Law enforcement officials know it, too, and have been pressing the White House and members of Congress for the Brady bill, which would require a waiting period on handgun purchases, and for restrictions on assault-style weapons, which are now mowing down innocent bystanders, police, children at play and young men at war. The answer of the gun lobby is that bad people shouldn't have guns, but other people need to arm themselves because you can't rely on government protection. And if people want instant purchase of assault weapons or handguns, that's the NRA way. But is it a way of life—or a way of death?

Mr. DODD. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, a little more than an hour ago, I reported to the Senate on the status of our efforts to obtain agreement to proceed to complete action on three measures prior to next Tuesday which would enable us to take up the Russian aid bill on Tuesday. The three measures are the pending Banking Committee bill; and then the supplemental appropriations bill, which is of great urgency and importance to the people in Los Angles, Chicago, and other urban areas around the country; and then the unemployment insurance extension bill which is necessary because benefits will be expiring shortly for millions of Americans.

I proposed to Senator DOLE, the Republican leader, yesterday, a schedule under which we could complete action on those measures and then go to the Russian aid bill on Tuesday. Senator DOLE, as I indicated earlier, was favorably disposed and undertook to clear the matter with his Republican colleagues. That effort is continuing.

I have just met with Senator SIMPSON, the assistant Republican leader. He has requested additional time for that purpose, and I am convinced that this is a good faith effort to reach an accommodation on a schedule that I think will be in the interest of the Senate and of the country and enable us to complete action in an orderly and expeditious way on these important measures.

EXTENDING MORNING BUSINESS UNTIL 4:15 P.M.

Mr. MITCHELL. Accordingly, in response to the request by Senator SIMPSON, I now ask unanimous consent that the period for morning business be extended until 4:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I hope that we will be able to resolve the matter at that time in a way that will permit us to proceed with these important bills promptly.

I thank my colleagues for their patience and consideration. This may be one of those occasions in which the apparent delays in beginning on a series of measures saves time at the end. And I surely hope that is the case, but I have no way of assuring Senators of that as of yet. But that is our hope. We are going to continue to await response from my Republican colleagues. I will have another report for Senators at or prior to 4:15 p.m.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, like many Members of the Senate who were moved by the speech yesterday from the President of the Russian Federation, I am eager to move ahead with debate on a package that would provide assistance to the Russian Republics. I think it is imperative that we help them rebuild their economy and in the process trigger economic growth in our own.

I understand that a compromise is either in the making or has been made on the issue of the emergency supplemental bill. Like many Members of the Senate, I was concerned when the President asked for $490 million of emergency assistance, and the conference committee, following the lead of the Senate, proposed a bill that costs $2 billion. I felt, as an individual Member, that that was an irresponsible action. But I understand that a compromise is either in the making or has been made that the White House has agreed to an agreement that includes their original package plus a summer jobs program.

I also understand that we are engaged in an effort to try to bring up the unemployment bill. I am hopeful that in bringing up the unemployment bill we can break the partisan gridlock that we faced in the past on similar bills.

I hope we can come up with a bill that is responsible, that is a bill that we can pay for and a bill that, in the process does, not crush more incentives and put more Americans out of work.

I am eager to move ahead with each and every one of those pieces of legislation. I am also ready today to debate any other bill. I am not aware that anyone on our side of the aisle objects to bringing any bill up at this point. I am eager, however, to vote on the balanced budget amendment to the Constitution. I think the American people want to know where the U.S. Senate stands on that issue.

Also, now we are some 1,060 days after the President sent a crime bill to Congress, a crime bill that has not been adopted, a crime bill which has been supplanted by a conference report that overturns 22 Supreme Court decisions that over the last 15 years have strengthened law enforcement, a bill that is so antilaw enforcement that 31 State attorneys general—15 Democrats and 16 Republicans—have asked the President to veto.

So I am eager to vote on a tough crime bill to give our law enforcement officials the strength they need to provide the stiff minimum mandatory sentencing to take violent criminals off the streets of this country.

So I want to make it clear. Mr. President, that I am eager to get on with the debate on these issues. I do not, as of the moment, have an amendment to the Soviet aid package. I am very favorably inclined toward it, because I believe the struggle for democracy in Russia is a struggle for democracy in the world, and I think it is vitally important.

I want to see it debated. It may be that I am persuaded that it should be improved. But I am not in favor and do not support nonrelevant, nongermane amendments to that bill.

I think the time has come to move on with unemployment compensation. It is clear we have a problem. It is clear we are going to help people who are unemployed. It is also clear, unfortunately—painful to me—that we are not going to do anything to try to create more jobs through Government action. But that is a sadness that I have lived with, now, for many months. And I suspect we will be living with it until, ultimately, the American people make a decision.

In terms of the emergency supplemental, that is a bill that has, apparently, been improved, and that the President is ready to accept. I have no inclination to amend it myself, though, obviously, if others move to amend it with relevant and germane amendments to those amendments in disagreement I intend to listen to that debate. But I, for one, am ready to get on with the debate about aid to Russia. I was moved yesterday. I think the American people were moved. And I hope we can act.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am pleased to hear that the distinguished Senator from Texas is anxious to proceed on these matters. As I previously reported to the Senate three times, we have been attempting to get an agreement that would enable us to complete action on the pending bill, and to do the supplemental appropriations bill, and the unemployment insurance bill, and then get to the Russian aid bill. I was advised, perhaps erroneously, it was the Senator from Texas who was objecting to proceeding in that way.

So perhaps now that he has made this statement I will go back and consult with the assistant Republican leader and see if we cannot get the proposal which I made to Senator DOLE yesterday—we have been held up for 24 hours—to complete action on the pending bill, to do the supplemental bill, to do the unemployment insurance bill, and to start right away on the Russian aid bill.

Mr. GRAMM. Will the distinguished leader yield?

Mr. MITCHELL. Certainly.

Mr. GRAMM. Mr. Leader, I want to make it clear where we disagree. I am eager to get on with the Russian aid bill. I think we need to pass the unemployment insurance bill. I would like to do more to stimulate the economy, but I, like the distinguished majority leader, know where the votes are on that issue. And I think, given that we are not going to agree there, we need to extend unemployment benefits for the people who are out of work.

We have, apparently, reached an agreement on the supplemental appropriations bill, and I am ready to proceed with that. It is not a bill that I am terribly happy with, since I wanted enterprise zones. But, again, it is a bill where a consensus has been reached. But, if we are going to debate the GSE bill, I want the right, and my colleagues want the right, which they have under the rules of the Senate, to offer the balanced budget amendment to the Constitution. That is where the dispute is.

The dispute is not about aid to Russia. The dispute is not about the unemployment insurance bill. The dispute is not about the emergency supplemental appropriations bill. The dispute is about the right of Senators to offer an amendment on a bill which is not part of this emergency legislation, a bill that, if brought up, clearly under the rules of the Senate is amendable. I just want to be sure we have the right to debate the issues that are of great importance to the American people. I believe the balanced budget amendment to the Constitution, and I believe the crime bill, clearly fall within that category.

I do not think we ought to disrupt these other three bills where we have a consensus, where there is, clearly, a tight timeframe. But in terms of the GSE bill, a bill that is a great disappointment in terms of what the administration had asked for. It seems to me this is a bill that we ought to be using as a vehicle to debate these other important issues.

Mr. MITCHELL. Mr. President, first let me address the issue of crime. The House and Senate, by substantial majorities, have approved a comprehensive crime bill, a tough crime bill, which has the support of every major police organization in the country. The policemen of this country, the men and women whose lives are on the line day after day after day, want this crime bill enacted.

A majority of the Senate has voted in favor of this crime bill. But twice a minority of the Senate, including the Senator from Texas, has used the rules of the Senate—in a manner to which they are entitled under those rules—to prevent the will of the majority, and the will of the policemen of this country from being exercised.

More than half of the Senate has voted for this bill. More than half of the Senate has twice voted to terminate debate on this bill, a bill which the police men and women of America, the people whose lives are on the line day after day in the fight against crime, support.

The Senator from Texas has been part of the effort of the minority of Senators that have blocked, delayed, and engaged in delaying tactics to prevent action on that comprehensive, tougher crime bill that the House has approved, that the Senate has by majority approved three times—once voting on the bill, twice voting on cloture.

So, if there is a delay on acting on crime, the delay rests squarely upon the shoulders of the Senator from Texas and those in the minority, who have delayed, delayed.

We want to press forward with that crime bill. If the Senator would now, finally, agree to let us vote on it—he does not have to vote for the bill, just let the Senate vote on the conference report and let the majority exercise its will, then of course we could proceed.

But I want to emphasize, the Senator from Texas has a perfect right under the rules. People on both sides of many issues utilize the rules to their advantage. And I expect that the delay will continue on the crime bill because more than 51, but not yet 60, are agreeable to supporting that bill.

With respect to the GSE bill, over a week ago the Senate gave its unanimous consent to proceeding to that bill. The Senator from Texas was one of those who agreed. We could not have proceeded to the bill without the consent of the Senator from Texas. He agreed to let us proceed to the bill, as did other Senators. It has been 2 weeks since I announced my intention to go to the bill.

Now, at the very last minute, after having 2 weeks' notice of intention to proceed to the bill, after having consented to let the Senate proceed to the bill, after the Senate has begun consideration of the bill, the Senator from Texas says, no, we cannot consider the bill.

So my feeling is we ought to proceed. All this has done is to cause the delay of an entire day in the Senate, to inconvenience Senators, and to drag out the operations of the Senate.

The Senator from Texas can continue in this delaying tactics. He has a perfect right to do so under the rules. The only effect of that is to inconvenience the Members of the Senate, to delay action on the GSE bill, to delay action on the unemployment insurance bill, to delay action on the supplemental appropriations bill, and to delay action on the Russian aid bill.

I have presented what I felt was a reasonable proposal. My understanding is that the Senator from Texas disagrees with it, as he has a right to do. If he does, then when we get to 4:15 we will go on to the bill and he can exercise his rights under that bill as any other Senator will. If we do, then we will have votes tonight, we will have votes tomorrow, possibly votes on Saturday, because we want to proceed with these important measures and, of course, we will be back next Monday. I do not think anything will be gained. But the Senator will have had the opportunity to exercise his rights under the rules of the Senate.

I want to emphasize, I have no criticism of that. Every Senator is entitled to use the rules. As long as it is fair or appropriate, that is something that is available to all.

Mr. President, I will yield to the Senator, now, if he wishes to respond.

Mr. GRAMM. Mr. President, let me make it clear. This is the third time I have come over here today to proceed to this bill. I in no way object to bringing the GSE bill up, because my colleagues are here, ready to offer the balanced budget amendment to the Constitution as an amendment to this bill. I am eager that it be brought up. I hope the clock will speed up to make it possible. So in no way am I trying to prevent this bill from coming up. I long for the hour when it will be up.

I do not know that it is going to serve any purpose to redebate the crime bill here, but we all know the President has said that he will veto the conference report. And what I have tried to do is take the best provisions of the House bill and the Senate bill, which the President will sign, so that we can pass a bill that can become law. That is my objective. In terms of blocking and delaying—that is not what I am about. What I am about is getting on with the job of passing the crime bill that will become law. We obviously have great disagreements about what should be in a crime bill and what our objective is here.

So I am eager to get on with either this bill, in which case we are going to see some very important amendments that are far more important, in my opinion, to the American people than the GSE bill. If we are ready at this moment to go to unemployment insurance, to the supplemental appropriations bill, or to the Russian aid package, I am eager to do that.

But, Mr. President, I am not willing to deny myself and my colleagues an opportunity to debate issues that are critically important, in my opinion, to the future of the country. If we want to bring this bill up and have amendments to it in the normal course of matters, I am for that. And if we want to set it aside and go to the other three, and we want restricted agreements to make that possible, then I am willing, because of the importance of those bills, to stand aside and to give up the normal right to offer relevant amendments and important amendments to move those bills.

But our dispute here is not about unemployment, not about supplemental appropriations, and certainly not about Russian aid. Our dispute is about whether or not we are going to have the right to offer amendments to bills that are brought up. This is something that we have now had a running dispute over for 5 or 6 weeks.

So I just wanted our majority leader, who I understand has his agenda, and has his responsibility, to know exactly where I am coming from. I am willing to agree to a unanimous-consent request concerning the three bills that are time sensitive. But I am not willing to agree to one concerning the GSE bill.

I am eager to take it up; I am not objecting to taking it up. But if we take it up, we have people here who want to offer amendments to it. I am not willing to agree to deny them that right.

That is what the dispute is about.

Mr. MITCHELL. Mr. President, I respect the Senator's right in that regard, and, of course, every Senator has the right to offer any amendment to any bill at any time. We all understand that to be one of the unique characteristics of the rules of the Senate.

It, of course, frequently occurs that in order to permit the Senate to proceed to accomplish its business, agreements are entered into either limiting or eliminating that right entirely, and that is a matter of judgment for Senators to make.

The Senator is perfectly within his rights to offer any amendment he wants, to any bill he wants. And if he chooses not to surrender that right, that is his privilege.

All I am saying is we are going to do these bills in the order that we have set forth and the Senator can take as long as he wants on as many amendments as he wants. All it means is that it is very unlikely that we will get to Russian aid at any time in the foreseeable future, because these amendments he talked about are important and will require a great deal of time and debate.

And it obviously delays, perhaps indefinitely, action on the emergency supplemental appropriations bill, which the President now supports, which is the result of weeks of negotiation, and which I believe we should—and I had hoped we would—act on today.

It also delay action on unemployment insurance, and that is a critical matter—with unemployment insurance benefits expiring—for Senators. But the Senator from Texas has the perfect right to exercise his right to offer as many amendments as he wants to any bill that he wants.

If one of the consequences is delaying action on the supplemental appropriations bill, delaying action on the unemployment insurance bill, delaying action on the Russian aid bill, why, of course, that is something everyone has to weigh in making their judgments. I accept perfectly his right to do that.

I also note that the supplemental appropriations bill is a direct outgrowth of the tragic events in Los Angeles of some weeks ago. Unfortunately, there was a long period of dispute over what should be in it. People on both sides, in good faith, had different opinions on what should be in it.

Now we have the opportunity to pass that and pass it promptly. There is finally agreement. I think it is important to Los Angeles; I think it is important to Chicago; I think it is important to people in urban areas all across the country. I regret that it will be delayed. I had hoped we could do it today.

One of the reasons why I made the suggestion was in an effort to expedite action in a manner that would permit us to pass that bill today and send it down to the President promptly. It appears that will not occur. I regret that, but I fully understand the right of the Senator from Texas to exercise his privileges under the rules, even if that is the consequence.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. MITCHELL. Yes.

Mr. GRAMM. Let me make it clear—I think it probably is clear—but I am eager, as of this moment, if the distinguished Senator asked unanimous consent to move to the emergency supplemental appropriations bill, I would certainly have no objection. If the distinguished Senator wanted to move to unemployment insurance, I would have no objection. If the Senator wanted to move to Russian aid, I would have no objection.

But if the Senator wants to debate the GSE bill, then our colleagues will want to have an opportunity to offer the balanced budget amendment. So if we do not move to those other bills, one can always debate as to who is responsible. But clearly, the majority leader has the power to move to those bills if he chooses to do it.

I certainly would not object if he did do it, I would certainly want to make that clear, and part of the RECORD.

Mr. MITCHELL. The Senator's position is clear. Let me just say that 2 weeks ago I announced my intention to go to the GSE bill. One week ago, I sought unanimous consent to proceed to the GSE bill.

The Senator from Texas did not object. He had a right to object; he did not do so. We have started on the GSE bill. Now, at the very last minute, he comes in and says: Well, no, we cannot proceed to that bill. We have to do other things on it.

The Senator has a right to do other things. All I am saying is the consequence of that is delay in these other measures, which I think are important to the country, and on which I hope we can proceed.

As I said, I respect every Senator's right to exercise the rules to the fullest, so long as appropriate under the rules. One of the consequences of the exercise of those rights by the Senator from Texas today will be an inconvenience to a large number of Members of the Senate.

Senators should be aware, under the circumstances that now appear to exist, there will be votes this evening; there will be votes tomorrow; and possibly on Saturday and Monday. But that is one of the consequences of taking action that the Senator believes is necessary. And, of course, there will be indefinite delay in the other measures.

Mr. President, I yield the floor.

I yield to the distinguished assistant Republican leader.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The minority whip is recognized.

Mr. SIMPSON. I thank my colleague. Mr. President, let me just say, during the day, obviously, we are all aware that our leader, BOB DOLE, is in Kansas with President Yeltsin. He will return to the Chamber later this evening and tomorrow. During the interim, on several occasions, I have been trying to work with my colleagues on this side of the aisle to see if we could resolve this difficulty. It is a difficult situation.

The majority leader has been very accommodating in listening to my expressions as to how it might be resolved. I do not know if it will be resolved.

I think my good friend from Texas has been cooperative in the past as to wanting to bring this issue forward. There are others in the Chamber who have things they wish to bring forward.

It is quickly apparent these are four vehicles of the must-pass variety, and usually when this time of the session comes—which usually comes a little later—the must-pass variety material is the train going through the station to hook on the mail pouch. I understand that.

I think we are all aware that I think the majority leader has been quite attentive. I think the Senator from Texas has been quite clear in his indication of what he wants to do. I think it becomes apparent that there are four critical items of legislation. Three of them apparently are the kind that would be approved for handling and passage. But the majority leader has the right, certainly, to set the agenda. That is his right and his duty.

I do not know what will occur. The balanced budget amendment, at some point, will come before this body, and that is obvious. And when it does, it is also obvious that there will be a discussion in depth on it of various sources.

Mr. MITCHELL. Mr. President, will the Senator just yield on that point, so I can state a fact for the RECORD?

Mr. SIMPSON. Yes.

Mr. MITCHELL. We have debated the balanced budget amendment two previous occasions in the Senate. In 1982 debate on it spread over a 24-day period. In 1986, debate on it spread over a 20-day period. So I fully respect the right of the Senator from Texas to bring it up whenever he wants as an amendment, but no one can realistically or candidly say I am going to bring it up but we can still do all these other things. Once it starts, it will take, if experience is any guide, somewhere between a 20- or 24-day period.

So there would be a very lengthy debate, and action on any other matters obviously will be difficult during that period. We have in the past, and I certainly would keep open, the possibility of double tracking and inserting other measures, but just for the information of the Senate these are facts. In 1982, the debate spread over a 24-day period, July 12 to August 4; in 1986, over a 20-day period, March 4 to March 25.

I apologize for interrupting the Senator. I wanted to add that. It was relevant to the point he was making at the time.

Mr. GRAMM. Will the distinguished Republican leader yield?

Mr. SIMPSON. Indeed.

Mr. GRAMM. I want my colleagues to understand, Mr. President, that I am not talking about offering a balanced budget amendment to the unemployment bill, to the emergency supplemental bill, or to the Russian aid bill. As far as I know, every Member on this side of the aisle—I am not sure about the other side of the aisle, but every Member on this side of the aisle—is ready to proceed to each and every one of those bills, and I, for one, in a spirit of compromise and comity, am willing to enter into agreements, if they should be asked, to have expedited consideration. But no one has said that the GSE is critical, must-pass legislation.

We have had an effort underway now for almost 2½ months to debate the crime bill, to bring a crime bill before the Senate that the President can sign. Our goal ought not to be to pass bills the President has to veto. Our goal ought to be to pass bills the President can sign, and that is what I am trying to do.

But in terms of the three must-pass bills, I am eager to move ahead with them. As far as I know, that is true of all of my colleagues. But if we are going to bring up a bill that is not a must-pass bill, then we are going to exercise our rights to bring up amendments and issues that we believe the American people view as being critically important.

So if there is obstruction here, it is not coming on these three critical bills: Russian aid, unemployment insurance, and supplemental appropriations, from this side of the aisle. We are eager to move ahead with each and every one of those. But on other bills that are not critical, we are not ready to give up our legitimate rights to amend those provisions. That is basically what this issue is about.

As far as the people in Los Angeles waiting, we have let this bill drag on and on and on because, beginning in the Senate and then in conference, the amount of funds appropriated compared to what the President asked for, were quadrupled. That is what the delay has been about. That is what the dispute has been about.

We have not solved that. So we wanted to bring this up and vote on it today. If we wanted to set a time at 4:05, 2 minutes from now, for a debate, I would not object. So the dispute is not about the three must-pass bills. The dispute is about our right to offer legislation that we believe is critically important and that we know will not be reported from the relevant committees, the balanced budget amendment to the Constitution and a crime bill, which is not my bill, not the bill of the distinguished Senator from South Carolina, but is an effort at compromise by taking the strongest anticrime provisions adopted by the Senate and the strongest provisions adopted by the House and trying to have an expedited process to get a bill the President can sign. That is what the dispute is about.

I thank my colleague for yielding.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do uniquely hear both sides on this. And there have been times during the past weeks where the Senator from Texas has been very deferential and has relinquished his opportunity to go forward with several items about which he feels strongly.

I am advised that the House has passed the supplemental by a vote of 249 to 168. That is there before us, or could be. And we had heard the Senator from Texas say he is ready to go forward.

Perhaps I could go back to what I first heard the majority leader say when I came to the Senate. Senator BYRD often said that sometimes we must just let the Senate work its will. I do not know where that will lead, but it will lead to a delay and it will certainly lead to voting and activity on this floor on Friday and Monday without question.

I say to the majority leader, he has been very understanding of the schedule, and yet we have been doing the Nation's business. That has been getting done and accommodating people. I think in this situation we are just going to have to go forward so that people are able to express themselves, however long that takes, and let the Senate work its will, and that indeed scheduling will be done and accomplished by the Senator.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Mr. President, when I became majority leader, the first day I went to visit with the Republican leader, and I invited into my office a large number of Republican Senators. In both meetings, I inquired as to what it was more than anything else they would like from me as the majority leader of the opposite party.

Almost unanimously, they told me what they wanted was notice; that I would tell them in advance what it was I intended to do so they would not be surprised by what it was that I proposed and would have a fair opportunity to interpose objection, to suggest alternatives, or to prepare for debate on the regular occasions in which we disagree and we must ultimately debate and vote.

In all the time I have been majority leader, I have never once failed to provide such notice—never once, without exception. I have been open and have informed my colleagues on the other side of the aisle of what it is that I intended the Senate would do and permitted, invited indeed, any opposite point of view, any objection.

Two weeks ago, I publicly announced in the Senate our intention to proceed to the GSE banking bill. One week ago I sought and obtained from the Senate unanimous consent to proceed to it. That takes the consent of every single Senator—everyone, 100.

In accordance with that consent, the Senate began consideration of the bill this week.

Now we are told that somehow we cannot proceed to it, or we should not proceed to it, or it will cause a delay. Well, there will be a delay but the delay will be a consequence of the consideration of the bill and the exercise by Senators of their rights under the rules. Everybody here knows, every single Senator knows, that the balanced budget amendment may be brought up. The principal sponsor of the bill so stated in the Senate publicly, and he described consideration of it in the Senate as a waste of time. That is the principal sponsor of the amendment described any further consideration as a waste of time.

Reasonable Senators can agree or disagree with that characterization but there is one thing that we do know. It is that when it does come up it is going to take a long time. It is an important matter, and will involve a lot of debate. I cited the experience in the two previous occasions. Consideration spread over 24 calendar days in one case, 20 calendar days in the other.

So the fact of the matter is that any Senator has a right to offer any amendment any time he or she chooses. Any other Senator has a right to debate for as long as he or she chooses, and to offer other amendments.

The reality of the situation we find ourselves in is if that amendment is offered it is going to take a long time and it will delay action on these other matters. It will delay action on the emergency supplemental bill. It will delay action on the unemployment insurance extension. And it will delay for a long time action on the Russian aid bill, all of which I favor and think we should act on promptly.

I regret that, but that is the choice that will have to be made by the Senator from Texas or others, and if they so choose, then we will proceed accordingly. It is a right that exists, it is a right that can be exercised, and if any Senator chooses to exercise that right, he can do so. And I mean no criticism of that.

We all have an exercise of the rules as we see fit. But there has been plenty of notice of this, 2 weeks' notice, unanimous consent a week ago, and the Senate already started on the bill.

So I hope that we can proceed, and I hope we can proceed in a way that every Senator feels that he has had or she has had the opportunity to exercise their rights to the fullest, to state his or her position to the fullest, and if the consequence of that is delay in these important measures, I regret that but it appears an inevitable result.

Several Senators addressed the Chair.

Mr. THURMOND. I believe I have the floor.

Mr. GRAMM. Will the Senator yield? I will try to be brief.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The distinguished Senator from Texas [Mr. GRAMM] is recognized for 2 minutes.

Mr. GRAMM. Mr. President, we have all had notice of the GSE bill but we have all had notice of the offering of the balanced budget amendment, and also of the offering of the crime bill. In fact, three of the Senators on the floor said at a press conference 2½ months ago that we were going to bring it up weekly. So surely no one was surprised at that. The majority side was notified when we passed the bankruptcy bill the other day that if I did not have an opportunity to offer the balanced budget amendment to it that it did not matter because I could offer it to the GSE bill, and we are now on the GSE bill.

A great point is made by the majority leader that no one objected to bringing it up. No one objected to having it brought up. I am ready to proceed to it now.

I do not buy the idea that debating and voting on the balanced budget amount is a waste of time. I am hopeful that it might be brought back to life. I think it is important to the future of this country that it pass. And I would like to have an opportunity to vote upon it. I do not know how long it is going to take. I think the reality is that if we do not vote on the supplemental and unemployment and the Russian aid program, it is because a decision is made not to go to those bills.

I would be willing in a spirit of compromise to do one of two things: one, I would be willing to go to the GSE bill and give the majority leader the right at any point during its consideration to go to the supplemental or to the unemployment bill or to Russian aid. I would be, and I cannot speak for this side of the aisle, but I am hopeful that we could get unanimous consent that if we went to the GSE bill now, and the majority leader decided to set it aside and go to one of these other three bills that we could do it, I would be willing to agree to that in a spirit of trying to move forward.

I would also be willing to allow the GSE bill to go forward if we could have a unanimous-consent agreement that we have a guarantee of a date certain and a time certain at which we could bring up the balanced budget amendment to the Constitution. So I would let all four of these bills go. The three I am eager to let go at this moment, and the fourth I would be willing to give up the right to offer an amendment on it if we could be guaranteed a future date.

I believe that those are all reasonable proposals and in a spirit of helping us move forward and helping our great leader lead, I simply make these suggestions and hope they will find the same spirit of receptiveness and eagerness to move the Nation forward by the consideration of such important issues as the balanced budget amendment as that spirit in which these proposals are made.

Mr. MITCHELL. Mr. President, the Senator——

Mr. THURMOND. Mr. President, I yield 2 minutes to the majority leader. I have to get this conference.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I believe I have the floor.

The PRESIDING OFFICER. The Senator from South Carolina does have the floor by prior recognition from the Chair.

Mr. THURMOND. Would you like 2 minutes?

Mr. MITCHELL. Certainly.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Among the many things on which the Senator from Texas and I disagree is the definition of "compromise." The Senator from Texas' definition of compromise is that we will do what he wants if he will let us do it. He wishes to exercise his right under the rules in a manner that would deprive others of their rights under the rules.

I do not think I can agree to that. That is the essence of what he said. He has a right under the rules, and he wants, by exercising that right, to deny other Senators their right. It is not a compromise at all, of course. It is a capitulation. It is getting what he wants and just having others agree to it, and obviously I cannot agree to that.

I respect his right under the rules, but I cannot deny other Senators their rights under the rules in order to accommodate the Senator.

Someone once said in the definition of "freedom" that "My right to free movement ends where my neighbor's nose begins." And I cannot accept the proposal which would deny the large numbers of Senators their rights under the rules to accommodate the Senator from Texas.

The PRESIDING OFFICER. Now the Chair recognizes the distinguished senior Senator from South Carolina.

Mr. THURMOND. Thank you very much.

The PRESIDING OFFICER. It is my honor, indeed.

THE RECENT INDICTMENT OF FORMER DEFENSE SECRETARY CASPAR WEINBERGER

Mr. THURMOND. Mr. President, I rise today to express my concern over a process which I believe has gone seriously awry. Tuesday's 11th-hour indictment of former Secretary of Defense Caspar Weinberger is not only an outrageous example of political grandstanding, but the latest in a series of transparent attempts to implicate former President Reagan in the Iran-Contra scandal.

Mr. President, Mr. Walsh and his team have finally gone too far. When will this process stop? While Mr. Walsh has been spending $30 million of the taxpayers' money on an investigation which ran out of steam long ago, those whom he has targeted have been spending their life savings to prove their innocence and salvage something of their reputations. Several of the accused have reportedly entered into plea bargains simply because they could not afford to defend themselves. This whole investigation has turned into a politicized witch hunt, and it is time to put an end to it.

I know Caspar Weinberger well, and he is not only a great patriot, but a man of character and courage—an honorable man. He has served this Nation with great devotion for many years, and it is beyond my ability to believe that he would have engaged in the activities ascribed to him by the special prosecutor.

Let us be clear: what is at work here is not the long arm of the law reaching out to snag a criminal. It is simply another desperate attempt by Mr. Walsh to salvage a catch from a 5-year fishing expedition. His alleged attempts to coerce Mr. Weinberger and others into implicating former President Reagan are improper and shameful, and I am disgusted with the whole process.

Mr. President, it is clear that this investigation has long outlived its viability. The results have been mixed and confusing at best, and seriously damaging to innocent individuals at worst. The time has come to bring this process to an end and move on.

The PRESIDING OFFICER. The distinguished Senator from South Carolina yields the floor.

KUDOS FOR EL SALVADOR ADMINISTRATION OF JUSTICE SUPPORT

Mr. CRANSTON. Mr. President, I rise today in strong support of the administration's plan to allocate $20 million from the El Salvador Demobilization and Transition Fund to the International Criminal Investigative Training Assistance Program [ICITAP].

As the violence ebbs in that beautiful but violent land, administration of justice assistance is vital to ensure the continued successful transition to full democracy there.

I have been a frequent critic of administration policy in El Salvador and elsewhere in the region over the last decade.

Today, however, I wish to express my appreciation to the State Department for responding to my concerns, and those of others, by making the overhaul of the Salvadoran internal security apparatus a priority objective of our assistance there.

Mr. President, in remarks on this floor on June 27, 1990, I talked about the need for drastic reform of the Salvadoran military and police.

I suggested, in order to strengthen the negotiating process and help break the stalemate existing at that time, that a key goal of the peace negotiations should be:

> * * * the redefinition of the military's eventual mission as one of strictly national defense, with the Salvadoran police delinked from armed forces control and given the role of protection of public safety.

Happily, the U.N.-brokered negotiations soon picked up this theme as a central tenet for what became, early this year, a successfully concluded peace agreement.

The task I pointed to them—the civilianization of internal security—became, and is still, perhaps the single most important one in terms of real peace and democracy taking hold in El Salvador.

Yesterday, the Washington Office on Latin America [WOLA] hosted a lunch for Salvadoran social democratic leader Ruben Zamora, a key figure in the democratic transition.

The issue of internal security, he said, "is the most dangerous threat to the peace agreements and the far right has begun to use it."

The problem outlined by Zamora is familiar to those of us who have followed closely the transitions to democracy in Argentina and Panama—two countries in the vanguard in moving the military out of internal security missions.

The problem, said Zamora, is the perceived breakdown in law and order that comes with the military moving to a strictly national defense function while new, civilianized police forces are being created.

This problem is exacerbated by the fact that democracy, but not dictatorship, brings with it guarantees for suspects—as well as other citizens—and a free and unfettered press whose job no longer is primarily coverage of the war front.

In the Salvadoran case, the crisis is aggravated even further by the fact that the army—which is in the process of being removed from its longstanding internal security functions—has stripped the police it once controlled of its equipment and even arms.

Zamora said that this disturbing lack of resources has forced his party to call for an increase in the police budget.

Mr. President, the Department of Justice's ICITAP Program is uniquely qualified to help provide critical support to El Salvador's experiment in the civilianization of law enforcement.

Unlike the police training programs of old, ICITAP has steered clear of any hint of involvement with abusive or undemocratic sectors of the police.

Indeed, the training offered forms an integral part of the larger menu the United States has to offer in support of human rights and the rule of law in emerging democracies.

According to the administration, ICITAP assistance in El Salvador will have two components: the development of a national public security academy and the development of the National Civilian Police.

This is indeed good news, and once again I congratulate the administration on its responsiveness to our entreaties to provide such support.

I look forward to watching with attention and interest the development of the administration of justice program in El Salvador, a country which now has the chance to become a model in Latin America and the rest of the developing world.

Mr. President, I ask unanimous consent that the questions I asked at a recent hearing of the Senate Foreign Relations Committee, and the answers provided to me by the director of the ICITAP Program, be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 15, 1992.

Hon. CLAIBORNE PELL
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This pertains to questions from Senator Alan Cranston to David J. Kriskovich, Director of the International Criminal Investigative Training Assistance Program (ICITAP), that arose during the hearing on May 6, 1992 concerning the proposed Mutual Legal Assistance Treaty (MLAT) with Panama. The Department's responses to Senator Cranston's questions are attached. Also enclosed is the corrected transcript of Mr. Kriskovich's testimony.

Please do not hesitate to contact me if we can provide any additional assistance in this matter.

Sincerely,
W. LEE RAWLS,
Assistant Attorney General.

RESPONSES TO SENATOR ALAN CRANSTON QUESTIONS, MAY 6, 1992, HEARING

1. As you know, there were many criticisms of the old AID Office of Public Safety police training programs, allegations that resulted in Congress killing the entire effort. One of the most telling criticisms, in my view, was that the OPS program had an operational component. It is my understanding the ICITAP does not conduct such activities. Could you please tell us why ICITAP has remained at the margins of such a mission? Do you see any reason for ICITAP to take on such activities in Panama or elsewhere in the future?

Response:

The absence of direct operational involvement is one of the basic policies of the work of ICITAP. Our efforts are clearly and cleanly focused on building strong institutions so that those institutions themselves can better perform their prescribed activities. Since its inception in 1986, ICITAP's role has been to provide assistance to countries in Latin America and the Caribbean in an effort to strengthen the administration of justice in those countries. Specifically, pursuant to Section 534(B)(3) of the Foreign Assistance Act of 1961, ICITAP develops: programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control; programs to assist in the development of academic instruction and curricula for training law enforcement personnel, and programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures.

In the case of Panama, Section 534(b)(3) has been broadened to enable ICITAP to address a wider range of activities related to all facets of civilian law enforcement. However, there is a prohibition against providing lethal equipment, and it is understood that the intent of Congress was to exclude direct involvement in police operations.

ICITAP is entirely non-operational. ICITAP experts may observe police in their work, but there is no interaction on a real-time basis. The observations serve only as a method of assessing capabilities and needs or to provide a demonstration of abilities which can be criticized after the fact as a training technique. Its programs are founded on technical assistance and training, with emphasis on the rule of law and internationally recognized human rights standards. By remaining in this role, ICITAP maintains objectivity and avoids even the suggestion that the credibility of the work could be compromised. ICITAP does not foresee or advocate involvement in operational activities in Panama or in any other country.

2. It is my understanding that in a number of countries in which ICITAP works, it had assisted local law enforcement agencies to create offices of professional responsibility. Where has this been done, and to what effect? Has Panama set up such an office?

Response:

ICITAP has developed Offices of Professional Responsibility (OPR) in Guatemala (1989), Panama (1990), and Honduras (1991). Additional offices are planned in El Salvador, as part of an ICITAP initiative to assist in the development of the new Salvadoran National Civilian Police. Nicaragua, on its own initiative and following a visit to the OPRs in Panama, opened a similar office within the Ministry of Government in 1991 to provide oversight over police matters. However, this office has yet to evolve into an efficient instrument for addressing issues of police integrity and accountability. The primary purpose of these OPRs is to ensure integrity, accountability, and professional standards within their respective institutions.

All OPRs created by ICITAP have an established system of procedures, as well as trained administrative, investigative, and supervisory staff. Also, ICITAP has provided the basic resources to carry out their mission (manuals, office equipment, and supplies) and continues training and technical assistance to upgrade and enhance their capabilities.

It appears that OPRs are impacting levels of corruption and police misconduct within the various police organizations:

Formally inaugurated in March 1991, the Guatemalan OPR has been functional since 1988 and has investigated thousands of complaints. Nearly 25 percent of these have involved allegations of police brutality and other violations of human rights. OPR investigations have resulted in hundreds of dismissals, arrests, and detention of police officers and agents.

The two Panama OPRs located within the National Police (PNP) and the Judicial Technical Police (PTJ) have enjoyed similar success. Since its inception through late February 1992, the PNP OPR has received 458 cases, of which 72 percent had been fully investigated. In 11 percent of these cases, a total of 46 employees were dismissed from the PNP; 12 percent resulted in disciplinary actions; 42 percent were found not to warrant sanction; 16 cases (5 percent) were forwarded to prosecutive authorities for further action, and 30 percent were awaiting executive review. From its beginning through March 1992, the PTJ OPR received 290 complaints. Of these, slightly more than one percent were forwarded to prosecutive authorities for further action; 14 percent resulted in dismissals; 12 percent resulted in suspensions or other disciplinary actions; 17 percent did not warrant further action; 25 percent await internal review and recommendations; and 31 percent are pending further investigation.

Four months after it opened in September 1991, the Honduran OPR had investigated 101 allegations of misconduct involving 148 members of the Public Security Force. Of this total, 100 resulted in administrative or disciplinary actions (eight were referred for prosecution). Another 48 cases were under investigation.

Continued development of these resources will focus on strengthening the overall management of the OPR process as an institutional process.

3. In transforming personnel from the old PDF into the civilianized police of the Public Forces, a considerable change in mentality had to take place. Could you please outline what that change entailed, and what strategy was used to try to carry it out.

Response:

The effort in Panama has not been so much to transform former members of the PDF as to re-structure the entire law enforcement apparatus, constructing a new civilian force and wholly abandoning the former regime. In this process it was inevitable that some members of the new organization would be former Panamanian Defense Forces (PDF). But the distinction is important: new members were expected to emerge from training as civilian police, regardless of any previous experience.

The process employed to create this new structure was to provide intensive instruction first through a transition course and later through other skills courses. This was to ensure that members of the new PNP were oriented toward law enforcement, consistent with the basic principles of civilian policing, and not toward the military mentality of acting as a national security force.

In addition to the transition course offered to those former police who qualified basic training was developed for new recruits. With both categories of PNP members, and throughout all the courses taught by ICITAP and those established in the Panamanian academy, emphasis is placed on technical policing skills, orientation toward community standards and expectations, development of policies and guidelines consistent with their mission, and an overriding appreciation for the rule of law and respect for fundamental human rights.

The process of change will take time and is supported by the inevitability of the retirement cycle that continuously changes the balance in favor of an organization staffed with personnel based in civilian policing standards. By 1995, the PNP will experience a 50 percent attrition rate due to retirement, resignations, and dismissals for personnel at all level. Furthermore, PNP plans call for 1,250 police academy graduates, yearly. At these levels, it is predicted that by 1995, 50 percent of all PNP will be academy graduates of a 16-week basic police recruit course designed by ICITAP. Professional competence, coupled with public and community education programs aimed at the general public, should serve to enhance credibility and erase the stigma associated with the prior regime.

A recent poll conducted in Panama shows that public confidence in the PNP is growing. This has confirmed that the approach taken in building the PNP as well as in educating the public to the new police orientation is taking hold.

4. What progress has been made by AID in the training of prosecutors and judges? To what extent does a continued inadequacy in their numbers and quality hamper administration of justice reform efforts overall?

Response (This question was answered by A.I.D.):

The A.I.D. Improved Administration of Justice Project will improve the operation and coordination of the justice system (i.e., Judiciary, Prosecutors, and Public Defenders) in the conduct of the investigative and trial stages of the criminal justice process. It is an institutional strengthening project to support a Panamanian-led reform program. To date, A.I.D. has provided technical assistance and training in a number of areas including (1) organization of administrative support; (2) expediting case handling; (3) support for the implementation of the judicial career; (4) improved case management; (5) provision of legal information; and (6) improvements in the operation of the justice sector through information systems support.

To date, A.I.D.-financed training has been provided to 350 officials. Training sponsored by A.I.D. has not been limited to judges and prosecutors, but has also been provided to mid-level officials as well as administrative personnel of the Judiciary, Attorney General's Office, Public Defender's Institute, and the Judicial Technical Police. (This latter agency was incorporated into the Attorney General's Office effective January 1, 1992.) A.I.D. is also working with the Supreme Court to develop the Judicial School which will provide continuous, in service training to judges, prosecutors, and other judicial personnel. Judges and prosecutors have participated actively in the identification of training needs and development of curriculum so that the training is tailored to meet the requirements of the Panamanian justice system.

The training—provided locally and abroad—has enhanced the quality performance of participating officials. However, the overall quantitative improvements (e.g., reduction of case backlog) became more evident to the extent that complementary assistance in other areas is also afforded. For example, legislative changes to the existing criminal procedures have been enacted to expedite case handling. Nine new courts with the required personnel have been formed. The Supreme Court has approved the use of "itinerant judges" which can assist in case resolution in overloaded courts. Legislation now gives the Supreme Court the authority to create new courts and hire additional personnel as necessary. In the past, the number of judicial personnel was fixed in the judicial code; the Public Ministry is requesting this same authority. Management reforms include the development of a uniform system of case management and statistics to establish an automated, simplified but reliable tool for reporting on case resolution.

Progress is evident. Available statistics demonstrate that while the number of new cases entering the system increased by 78 percent in 1990 compared to 1987, the system resolved over 69 percent more cases in 1990 than in 1987 with essentially the same level of personnel.

5. Is ICITAP able to address problems and deficiencies in Panama's penal system?

Response:

ICITAP has access to the resources which would be needed to respond to the very grave dysfunction in the Panama penal system. The state of the Panamanian penal system has been identified in U.S. and Panamanian studies as sub-standard. The tremendous efforts of the United States and the Government of Panama to establish a humane and fully functional criminal justice system cannot succeed without radical changes in the prison system.

At present, ICITAP has no congressional authority to engage in penal reform. However, inasmuch as the PNP is responsible for providing approximately 300 police officers to maintain security at Panama's correctional facilities, ICITAP has developed a plan to assist the PNP with training and technical assistance to improve management practices with regard to inmate handling and classification. Should additional authority and necessary funding be provided, ICITAP would be in a position to act quickly.

During 1991, ICITAP secured the support of the U.S. Bureau of Prisons (BOP) and the National Institute of Corrections (NIC). ICITAP has proposed a plan of correctional reform which, in its first stage, would combine a program of training and technical assistance. With the assistance of the BOP and the NIC, ICITAP would concentrate on the organizational and administrative structure of Panama's Department of Corrections and the development of the security and operational resources needed to manage Panama's correctional institutions if given the statutory authority to do so.

TRIBUTE—DONALD A. LEHMAN

Mr. SPECTER. Mr. President, this month Donald A. Lehman will be completing his year-long tour as the State commander of the Pennsylvania department of the Veterans of Foreign Wars. The story of Donald A. Lehman's career with his organization is one of a highly dedicated veteran, Pennsylvanian, and American. His honor and commitment are an example that all Americans can admire.

Don's career in the U.S. Army is one of distinction and gallantry. He enlisted in 1955 and served in Korea, Germany, Japan, and Vietnam. As a senior intelligence supervisor, he earned several decorations including the Bronze Star and the Republic of Vietnam Gallantry Cross with Palm before retiring in 1975.

Don joined Post No. 8298 of the Veterans of Foreign Wars in 1970. He served in several post offices including all State post commander; he also served in all the district offices ending with district 12 commander. In 1985 he was selected as the Outstanding Veteran of the Year for district 12.

On the State level, he served as junior and senior vice commander, deputy inspector and membership director, and was a member of the voice of democracy committee. Lastly, as a member of the Eastern Conference, he was the chairman of the East/West Conference no fewer than five times.

Most recently, on the national level, Don served on the National Voice of Democracy and the Veterans Service Committee. Further, he was a national aide-de-camp and a national deputy chief of staff.

Outside of the Veterans of Foreign Wars, Donald Lehman is highly active in his community. He is a retired head steward of the No. 1 fire company. In addition, he is a member of American Legion Post 841 and the Military Order of the Cootie. Lastly, he has spent his time serving the youth of Pennsylvania as a scoutmaster.

Don Lehman is married to Esther Young Lehman who joins her husband in auxiliary service as the senior vice president of district 12. They have two sons, one daughter, two grandchildren, and live in Northumberland.

Don Lehman is a true American patriot. As such, the Veterans of Foreign Wars and the State of Pennsylvania are extremely proud of him. I would like to add my praise to them as I take this opportunity to recognize him before the U.S. Senate.

TRIBUTE—PRESIDENT ELLEN PHILP

Mr. SPECTER. Mr. President, Ellen Philp will be completing her yearlong tour as president of the Pennsylvania American Legion Auxiliary. When Ellen steps aside, she will leave behind her a lifetime of achievement for the veterans of Pennsylvania. Her courageous dedication to the causes of those who served America in her greatest of conflicts is a shining example of the actions of a true American patriot. Her deeds are an honor to her organization, the State of Pennsylvania, and the United States of America.

She has spent the last 35 years serving with and for the American Legion Auxiliary. In those years she has held most of the offices in her unit, including 12 years as the president.

While serving on the council level, she was the president of Washington, Fayette, and Green Counties. In the department she served first as the director and later as the western vice president. Last year she served as the department vice president before being elected to the highest post of president.

As department president, Ellen Philp has attended all patriotic services, in addition to her extensive travels throughout the State to visit various other units and councils. Lastly, she will chair the department convention in Monroeville, PA, in early July.

In addition to her various posts, Ellen Philp has served as the chairman of the legislative program, community service, president's project—2 years, poppy and hospital field service director.

Ellen Philp's other responsibilities include blue and white leadership cards and active participation in other sister organizations of the American Legion Auxiliary. These include Eight and Forty and Salon 495. She is also a chapeau passe. Ellen's husband, Wayne, served in the Second World War in the U.S. Medical Corps.

Ellen Philp's extraordinary dedication to her cause, and extensive efforts on behalf of veterans in Pennsylvania, have made her an invaluable asset to the United States of America. Upon the conclusion of her tour, I extend my recognition of her before the U.S. Senate.

REGULATION AND SMALL BUSINESS

Mr. KASTEN. Mr. President, I rise today to call to the attention of the Senate a series of articles in the Wall Street Journal on "Regulation and Small Business."

I think all of us should be alarmed by the growing Federal regulatory and redtape burdens on America's small- and medium-sized businesses. In the last 3 years, the pages of the Federal Register—the rule book of the Federal bureaucracy—have increased from 55,000 to nearly 70,000. Each extra page of regulations imposes new requirements on business—especially small businesses.

I was a small businessman before entering public life, so I know what this means. It means more time, more work, and more expense. It means you have to hire extra workers for the sole purpose of filling out forms—as opposed to producing marketable products. In today's economy, this added burden becomes a very serious threat to the survival of many small businesses.

As ranking member of the Senate Small Business Committee, I have repeatedly pointed out to my colleagues that America's entrepreneurial small businesses are the source of new jobs for our workers. In the 1980's, small businesses generated 17 million new jobs at a time when the Fortune 500 companies were losing jobs.

However, instead of helping small businesses create jobs, Congress insists on killing this goose that lays the golden eggs for the economy with high taxes and new regulatory burdens.

The Wall Street Journal interviewed several small businessmen and women throughout the country to get a firsthand view of how growing Government regulations are threatening the future of small businesses. I urge my colleagues to read these articles. I think it's important for the Congress to start recognizing that the regulatory legislation we approve here in Washington imposes real costs on the people of this country who are trying to achieve the American dream.

I ask unanimous consent that the Journal series be printed in the RECORD.

There being no objection, the series was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 11, 1992]

SMALL BUSINESSES COMPLAIN THAT JUNGLE OF REGULATIONS THREATENS THEIR FUTURES

(By Jeanne Saddler)

WASHINGTON.—As Ben Cooper sees it, small business's fight against government regulation is like the famous "I Love Lucy" episode that features Lucille Ball frantically trying to wrap chocolates as they roll by on a conveyor belt.

"They just keep coming down the belt faster and faster," says Mr. Cooper, head of government relations for the Printers Industries of America in Alexandria, Va. Lucy and Ethel can't keep up; and to avoid retribution from their boss, they stuff unwrapped chocolates in their mouths, blouses and hats.

Small-business owners complain that growing government regulation is overwhelming them and sometimes even threatening their livelihoods. When Rapid Plating, a San Jose, Calif., metal-finishing concern, went out of business last June, the owners wrote a letter to former customers listing 38 federal, state and local rules that they contended contributed to the company's demise.

Across the nation, though some think they are overreacting, small-business owners are squawking more loudly than before. In a March survey by the National Federation of Independent Business, they ranked government regulation eighth in a list of 75 concerns, 11 notches higher than in a previous survey six years ago.

Mereco Technologies Group Inc. certainly feels victimized. The Rhode Island maker of adhesives for the aerospace and electronics industries says it must compile information on more than 800 chemical products that it makes or uses to satisfy an array of overlapping state and federal rules.

"The government seems to feel that every small company has a legal, personnel and chemical-administration department to write bulletins and fill out forms," says Mereco's president Herb Spivack, whose company employs 14 people. "But I had to hire three chemists to work 40-hours a week for six months to write those things and get us ready for compliance."

POLITICAL ISSUE

With the election year getting into full swing, regulations are becoming a hot political issue. President Bush is trying to portray himself as the deregulation president. Early this year, he ordered a 90-day freeze on most new federal regulations. In April, he extended the freeze for another four months. Democratic presidential challenger Bill Clinton vows to help small companies compete better, while Ross Perot plays up his reputation as an entrepreneur who knows how to cut through red tape.

Nearly everyone agrees that many regulations benefit the public—and even small business—significantly. And for all their complaints about red tape, the burden hasn't kept plenty of small businesses from making big money.

Yet evidence abounds that the burden of compliance is indeed growing after a lull in the 1980s. As new laws hit the books, the number of regulators is climbing—as is the cost of meeting their demands.

The 1992 federal budget provides salaries for 122,400 regulators, the largest number ever (and 16,400 more than in 1989), notes Murray Weidenbaum, a chairman of the Council of Economic Advisers in the Reagan administration. He says increased regulation hits small companies disproportionately.

COSTS OF COMPLIANCE

About 150,000 small companies may have to spend more than $10,000 each for pollution permits under the 1990 Clean Air Act, says Mr. Weidenbaum, now a professor at Washington University in St. Louis.

Thomas Hopkins, an economics professor at the Rochester Institute of Technology, predicts in a study sponsored by the U.S. Chamber of Commerce that regulatory costs for all businesses will increase 25% in the 1990s to $600 billion in constant 1988 dollars. That will "increase the power of the big guys and make it hard for an entrepreneur to break into an industry," he maintains. Unlike large companies, small concerns often lack the large staffs and other resources to cope with regulatory burdens.

Companies already complain that they are hit from more sides than ever. J.W. Kisling, chairman of the small-manufacturers forum of the National Association of Manufacturers and chairman of Multiplex Co., a St. Louis maker of beverage-dispensing equipment, says: "It used to be the only thing people really worried about was the OSHA [Occupational Study and Health Administration] requirements. Now we have all the problems with the Environmental Protection Agency and with the disability law" that went into full effect this year.

Since 1986, Congress has enacted 10 major pieces of legislation to regulate business, including, in 1990 alone, the Clean Air Act, Americans With Disabilities Act, Nutrition Labeling and Education Act and Worker Right to Know Act.

Some authorities believe the regulatory burden is sometimes overrated. Harvard University economics professor James Medoff argues that for all the fuss made over regulation, the sluggish economy has inflicted most of the pain lately. "Anything that's seen as weakening the bottom line will be screamed at," he says.

Moreover, small concerns often get special exemptions because of their size. "It's hypocritical for small businesses to seek tax relief and loans from the government to boost their position in the marketplace and then to decry any costs imposed on them to protect the health, safety and other needs of their employees and customers," says Eugene Kimmelman, legislative director of the Consumer Federation of America. Other watchdog groups think small business might need more regulation, rather than less.

But many entrepreneurs think more regulation is the last thing business needs. Some are fighting back. Small-business trade groups are pressing government to switch to a more flexible mix of voluntary actions and economic incentives and away from the prevailing "command-and-control" mandates that tell a business exactly how it must comply. The current system is "a one-size-fits-all, line-in-the-sand" approach, says William Sonntag, a lobbyist for the National Association of Metal Finishers.

The Small Business Legislative Council, an association of 100 trade groups, recently asked the federal government to combine 45 different reporting requirements into one. The council also is suggesting other ways to simplify government inspections and paper work aimed at reducing pollution.

The Bush administration says it wants to make compliance simpler. It has also ordered government agencies to start using new cost-to-benefit analyses when evaluating legislation or submitting rules. "There hasn't been enough attention paid to the impact of regulation on small business," says Jeffrey Nesbit, a spokesman for the White House Competitiveness Council, a regulatory-oversight group of administration officials. Headed by Vice President Dan Quayle, the group is spearheading President Bush's deregulation drive. Mr. Nesbit says several federal departments are working to consolidate reporting requirements and ease other burdens on small concerns.

Small-business owners aren't holding their breath. "I'm dubious," says Multiplex's Mr. Kisling. "There'll be about as much improvement [in reducing regulation] as there's been in reducing the deficit."

[From the Wall Street Journal, June 12, 1992]

GOVERNMENT RED TAPE PUTS ENTREPRENEURS IN THE BLACK

(By Jeffrey A. Tannenbaum)

While some entrepreneurs angrily denounce government regulation, others mine it for opportunities to make money.

Take Perfection Automotive Products Corp., which long has sold do-it-yourself exhaust-repair products for car buffs. When the Environmental Protection Agency announced the first standards for automotive replacement-market catalytic converters six years ago, the Livonia, Mich., concern saw a chance to broaden its product line.

Original-equipment manufacturers were already making the pollution-control devices for new cars. The new legislation created a market for replacement models that could be made more cheaply because they wouldn't have to last as long in aging vehicles. Perfection says the federal standards "legitimized" those cheaper models that measured up, creating demand. Moreover, rigorous state inspections of cars to identify defective converters assured a steady stream of customers. "If the inspection programs were not in place, the demand would not be there," says Norman D. Ash, executive vice president of Perfection.

DOUBLED WORK FORCE

The company says its sales have "significantly increased because of the catalytic-converter market." To serve that market, the company has added nearly 100 employees, doubling its work force since 1986.

Of course, the intense demand may fade. Starting in the 1995 model year, revised federal standards will require the original catalytic converters in cars to last 80,000 miles or eight years, up from 50,000 miles or five years. And that might bite into demand for replacement converters. As Mr. Ash puts it. "The government giveth, and the government taketh away." But for now, the company is enjoying a brisk business, courtesy of federal and state governments.

Perfection is hardly alone in seeing business openings in regulations. When the government requires workers to wear hard hats, entrepreneurs make money selling hard hats. There are myriad laws and regulations—and myriad money-making angles—for entrepreneurs.

"A lot of government regulation has been destructive," says Archie E. Albright, an executive vice president of International Process Systems Inc., Hampton, N.H. "But there has clearly also been a lot of new business opportunity created by other regulations, and a lot of demand for new technology to meet government standards

He ought to know. His company was formed in 1988 by the owners of Earthgro Inc., a Lebanon, Conn., marketer of compost; International Process Systems sells technology to convert organic waste into compost, which can serve as a substitute for peat moss or topsoil. As communities scramble to meet government-imposed recycling goals, demand for composting technology is growing.

Mr. Albright says the company was growing so fast that it needed to seek a new owner able to finance its growth. He says the founders stand to profit handsomely from their pact with Wheelabrator Technologies Inc., Oak Brook, Ill., which acquired the company last year.

Complying with regulation is big business. Environmental protection alone has become a $100 billion-a-year industry in this country, according to an EPA estimate. And the agency says that Clean Air Act requirements themselves will create 20,000 to 40,000 jobs by the end of this decade.

LIFT FOR EXPORTS

U.S. exports may get a lift, too. Companies pioneering in environmental technology are expected to find markets in Taiwan, Mexico and many other countries with emerging cleanup efforts. "These are big numbers, big markets, and they're getting bigger every day," William K. Reilly, the administrator of the EPA, said at a business conference in April. Behind the growth: increased foreign regulation.

Many entrepreneurs make a living simply helping the people keep track of the ever-rising tide of regulations. Counterpoint Publishing Inc., Cambridge, Mass., describes itself as "a company whose only reason for being is to help people handle the sheer volume of regulations issued by federal government agencies." For example, the company publishes an optical-disk version of the Federal Register, a government publication that details proposed and actual regulatory changes. Last year's register filled 68,000 pages in book form.

Computer technology makes it possible for many companies to jump into publishing. In Exton, PA., ERM-Computer Services Inc. sells optical disks of federal and state environmental regulations, updated every two months. "As many as 2,000 to 4,000 regulations will change in any two-month period," says Brian E. Gurnham, ERM's president. He says the company had revenue of $5 million in the year ended March 31. Its parent company, ERM Group, is a consulting company working various angles in the marketplace created by environmental regulation. "Clearly, the rate of regulatory change is helping our business," Mr. Gurnham says.

The same is true in many other types of enterprises. That means brisk business for the likes of Advantage Business Services Inc. The Auburn, Maine, company franchises a payroll service; its franchisees help small companies process their payrolls. Companies turn to such services because they need help complying with complicated federal and state tax withholding regulations. The Bush administration has proposed simpler federal rules, but in the meantime the current regulations are driving customers into Advantage offices.

From a single location in 1967, Advantage has grown into a chain with 30 outlets; it says systemwide revenue was about $6.8 million in its fiscal year ended May 31. A client with five employees on its payroll will pay Advantage about $15 a pay period for help in complying with all the rules.

"We probably wouldn't be in business if it weren't for government regulations," says David J. Friedrich, president of Advantage. "And the states make things as messy as the feds."

IRONY OF THE ENTERPRISE

Some entrepreneurs recognize the irony in making money on red tape. Stateside Associates Inc., Arlington, VA., has grown from a home-based venture with a single employee to a company with 14 workers that expects $2 million in revenue this year. It provides reports on pending regulatory changes, such as in state rules on underground storage tanks for gasoline.

"If all of a sudden governments got corporate-friendly, there would not be any need for us," says founder Constance Campanella. She says that when clients learn from her of regulatory moves that are bad news for them, they sometimes say, "I guess this is good news for you," Ms. Campanella doesn't disagree.

[From the Wall Street Journal, June 15, 1992]

SMALL FIRMS SPEND MUCH TIME, MONEY COMPLYING WITH ENVIRONMENTAL RULES

(By Eugene Carlson)

Someday, William Anderson's costly struggle to rid his auto dealership of five small underground gas and oil tanks will be over for good. Someday, his Dreisbach Buick dealership on the outskirts of Pontiac, Mich., will be certified environmentally pristine by the state.

Someday—but not yet. Mr. Anderson has spent two years, and more than $100,000, on the task so far. Two holes the size of swimming pools have been dug and filled in the lot behind the dealership building. Consultants have been hired, soil and water tested, and reports filed in numbing detail. The five steel tanks have long since been cut up and sold for scrap. Yet, much remains to be done.

Mr. Anderson isn't some big-time polluter. While gas, oil and chemical leaking from underground tanks have fouled water supplies around the U.S., there is no suggestion that his dealership's tanks were faulty. Over the years, occasional small oil and gas spills around the mouths of the tanks seeped into the ground, but tests indicate that the oily residue contaminated ground water no more than a few yards from the source. A consultant hired by Mr. Anderson says the threat to drinking-water supplies is nil.

Nor is the 57-year-old car dealer a casualty of a bureaucracy run amok. By most accounts, Michigan is making a good-faith effort to implement a 1988 federal rule aimed at eliminating defective underground storage tanks. To escape liability risks, Mr. Anderson and thousands of other car dealers and service-station operators in the state are replacing their old tanks with new ones.

Rather, Mr. Anderson considers himself the victim of good intentions gone awry. "Ours is just one small business, and we're trying very hard to be a good citizen and comply with environmental regulations. If it wasn't tragic, it'd be comical," Mr. Anderson says.

Entrepreneurs say that environmental regulation is a particularly fast-growing part of their red-tape burden these days. Many business owners strongly support efforts to clean the nation's air and water and protect workers and consumers from hazardous materials. But they say the "green" movement also has created a growing regulatory labyrinth.

Large corporations typically have in-house experts to guide the company through the maze. But most small businesses lack the staff and resources required to track the avalanche of paper from environmental agencies.

Up to now, small-business managers have typically taken an ad hoc approach to environmental rules, scanning trade association newsletters for hints of rule changes and hiring consultants to explain the seeming gobbledygook. But regulation's lengthening reach is forcing some companies to change tactics. "We now have two employees with engineering degrees who do nothing but track [regulatory] paper," says Earlyn Church, vice president and co-owner of Superior Technical Ceramics Corp., St. Albans, Vt.

To demonstrate the magnitude of the problem, an employee at Bernhardt Furniture Co., Lenoir, N.C., put all the government forms dealing with disposal of dirty cleaning rags, the company's principal hazardous waste, in a pile and stood beside it for a sardonic photograph.

"He's 6 feet 2 inches, and the stack of forms is slightly taller than he is," says Alex Bernhardt, the company's president. Mr. Berhnhardt says his company "could easily spend twice as much on [environmental] compliance in the next five years as on R&D and new machinery and equipment" combined.

Figuring out how to comply can require outside specialists. Richard Cox Jr., president of Camden Tanning Corp. in Camden, Maine, says the latest puzzles are the rules governing hazardous-waste disposal. "Where does it go?" he wonders. "How much do we send in? We're not engineers, so we try and do the best we can. You can't fight 'em."

Mr. Cox says his company, which tans leather on contract for manufacturers, spends about one-third of its fixed overhead on environmental items. "Our biggest problem is the paper work. If they require a study, we have to hire somebody. That could be $30,000." he says.

Bo Brasfield, co-owner of B&M Tractor Parts Inc. in Taylor, Texas, says complex new rules on disposing of tires and waste oil are counterproductive. "You have less liability if you go out in the middle of the night and dump it in a ditch. They've created a monster," he says.

In the past three years, Mr. Brasfield says he has spent about 25% of his working hours, and B&M has spent $68,000, or about 3% of sales, to comply with environmental rules.

"That doesn't leave you just a whole lot," he says.

Mr. Anderson's adventure in digging up his storage tanks reads like an environmental soap opera. Like many states, Michigan has tried to ease the pain of excavation by setting up a trust fund to pay for all but $10,000 of owner's removal costs. The fund, which totaled $41.6 million last April 30, is financed by a fee on wholesale sales of gas and oil.

To remain eligible for reimbursement, a tank owner has to follow a strict timetable, spending money at each step. But the reimbursement pipeline is clogged. Mr. Anderson, for instance, says he still hasn't seen a penny from the trust fund.

Among the expenses he says he has incurred since 1990: $500 for registering his tanks with the state; $375 to purchase a state-required surety bond; $1,100 to test the contents of the tanks before excavation; $25,000 to dig up the tanks; $73,000 to fill the holes; and roughly $12,000 in consulting fees.

State law stipulates reimbursement for approved expenses within 90 days. But Sarah Burton, the private consultant supervising Dreisbach Buick's tank-removal project, says payment typically takes "nine months to a year, easily." Meanwhile, she adds, "You have to keep forking out money to stay eligible."

Dreisbach Buick isn't on the ropes. Mr. Anderson says business has "dramatically improved" from last year. But he is angry over a program that requires him to spend large sums with no apparent payoff to his company or to the public. "It's terribly inefficient, and it's a criminal use of capital," he says.

[From the Wall Street Journal, June 16, 1992]

ENTREPRENEURS EMPLOY RULES AGAINST RIVALS

(By John R. Emshwiller)

Despite all the noise entrepreneurs make about it, red tape can be their best friend—if it strangles their competitors.

Small businesses often manipulate regulations to their advantage, either by pushing through protective legislation that stifles competition or by winning exemptions to laws for firms with low numbers of employees. And where laws do technically apply to them, small businesses often benefit because enforcement against them is relatively lax.

Blackballing low-cost outsiders is a favorite ploy, critics say. Consider the oversight powers of the accounting profession in California. There, the state Board of Accountancy essentially bars anyone but certified public accountants from calling themselves accountants or using the word accounting to describe their profession. State officials say the restriction protects the public from hiring undertrained accountants.

Critics retort that the state accountancy board, half of whose 12 members are CPAs, has a less noble agenda. "It isn't consumer protection. It is protection of a particular special-interest group," says Bonnie Moore, who has been in the accounting business for 20 years but has never been certified.

Along with a statewide trade group of non-CPAs, Ms. Moore has filed suit challenging the curbs. The California Supreme Court is expected to rule on the case soon.

Similar disputes are regularly played out around the country in small-business arenas. Hundreds of local, state and federal regulatory boards sit in judgment of companies to see if they meet standards set down by law. Such boards cover fields ranging from pest control to hairstyling. Their backers claim their sole aim is to protect consumers and there often are legitimate needs for industry regulation.

But Clint Bolick, litigation director for the Institute for Justice, a Washington, D.C. organization that challenges government efforts to restrict competition, complains that many of the boards are "dominated by the regulated industry."

That's certainly true at the Washington, D.C. board of cosmetology: All five members are licensed cosmetologists. And that has Taalib-Din Abdul Uqdah, an uncertified outsider, fighting mad. The board is threatening to shut down Mr. Uqdah's firm, Cornrows & Co., unless he complies with local licensing requirements.

He says that would force him and his employees to go through expensive training for no purpose, since his shop simply does hairbraiding and doesn't use chemicals. Competing "beauticians put pressure on the cosmetology board" to "harass" his business, Mr. Uqdah claims.

Mr. Uqdah filed suit in Washington, D.C., federal court to block the cosmetology board. Federal district judge Stanley Sporkin ruled earlier this year that the district government had the law on its side, a ruling Mr. Uqdah is appealing. But in his opinion, Judge Sporkin said: "It is difficult to understand why the District of Columbia wants to put a legitimate business out of operation." He urged the district to show "forbearance."

A spokesman for the District of Columbia government says the district is simply applying the law. "We've told [Mr. Uqdah] if he doesn't like the law, he should go to the [city] council to change it," the spokesman says. Mr. Uqdah apparently has taken that advice to heart: He is running for a seat on the council in the November election.

Of course, keeping out unwanted competitors isn't the only way government can help small businesses. Dozens of state and federal laws, from civil-rights legislation to worker-protection statutes, exempt small businesses from their requirements. Exemptions are usually based on the size of the company's work force.

However, the cutoff point at which firms qualify for exemptions varies widely from law to law. Political expediency, more than anything else, often decides the number. "There isn't any rhyme or reason" to why one bill exempts firms of 10 or fewer employees while another bill passes with a 50-worker exemption, says John Motley, a vice president of the National Federation of Independent Business, a major small-business trade group based in Washington, D.C. "It's just a matter of what we can negotiate."

For example, Mr. Motley says, supporters of a bill to regulate plant closings had to increase the small-business exemption to 100 workers to gain passage several years ago. This made the law inapplicable to 95% of U.S. companies.

Floyd Loupot, owner of Miracle Ear Center in Pasadena, Calif., says he is "very happy" that his six-person hearing aid retailing store is exempt from the employment provisions of the Americans with Disabilities Act [the cutoff is 15 workers]. He fears that the law might force him to hire a person who couldn't fully do the job. "When you have a small firm you can't afford that," he says.

The increasing frequency of such exemptions reflects the growing influence of small-business groups, says Mr. Motley. Up to several years ago, "nobody cared about how a bill affected small business," he says.

The trend doesn't please everybody. "We generally oppose small business exemptions," says Margaret Steminario, director of safety and health for the AFL-CIO. "In many respects, the injury rates and problems aren't really related to size."

Putting pressure on regulatory boards isn't the only way a private business can keep a competitor at bay. Signing an exclusive contract with a city is another time-honored ploy.

Ricardo Bracamonte of Palm Springs, Calif., ought to know. The nearby city of Rancho Mirage has filed suit in Indio, Calif., state court seeking to block Mr. Bracamonte's company, Palm Springs Recycling Inc., from making pickups there.

The city says it has an exclusive arrangement with a unit of Giant Waste-Management Inc., also a plaintiff in the lawsuit.

[From the Wall Street Journal, June 17, 1992]

TAX CHANGES BY STATES VEX SMALL CONCERNS

(By Timothy D. Schellhardt)

You own a business. You have to think of a lot of things. And if you are a grocer in New York state, you also have to remember this: Large marshmallows are tax exempt as a baking item but small marshmallows are taxed as a snack-food item.

Of all the regulations that affect small business, tax rules often have the most direct impact on the wallet. Entrepreneurs say states and cities are changing or reinterpreting the rules right and left these days—commonly at the business owner's expense. Entrepreneurs find the whole process exhausting as well as costly.

Jazzercise instructors in Arizona, for example, are getting a workout of their own. The instruction they offer, combining aerobics and jazz-dance routines, places Jazzercise Inc. franchises firmly in the health-and-fitness arena, right? Not in Arizona, where Jazzercise has been classified an "amusement" subject to the state's 5% sales tax.

Now being dunned for back taxes, Jazzercise outlets in the state profess shock. "We didn't even know about the change," says Vicki Lessor, a Jazzercise instructor in Tempe, Ariz.

Lots of small-business people say they are being blindsided by the same trend: Rather than raise tax rates, states and municipalities throughout the U.S. are changing the regulations and expanding the definition of what is taxable. "This is an election year and that puts a damper on raising revenues directly by raising taxes," explains Philip M. Tatarowicz, a tax partner in Chicago for Ernst & Young, the accounting firm. But given the weak economy, many state and local governments urgently need more money.

States' new back-door ways to raise revenue are invisible to most taxpayers. Sales and use taxes are easy targets for reinterpretation: Since individual taxpayers rarely feel these actions directly, the chance of a nasty political outcry is slight.

Even the taxpayers most directly affected, usually specific businesses, often hear about the changes only well after the fact. Many states don't have to notify taxpayers of them. "It's unlikely small businesses will know if something has happened," says Robert C. Sash, a Chicago partner at accounting firm Arthur Andersen & Co. "Unless their industry group keeps them informed, a lot of changes can just slip by them."

That's the case with Maine advertising agencies, which suddenly discovered that sample ads they prepare to show clients are considered a taxable "fabrication service."

The tax was enacted in 1986, but "the ad industry was taking a nap back then," says Meredith Burgress, president of a Portland agency. It wasn't until the tax held up in court that all of the state's roughly 30 ad agencies were audited and assessed back taxes and penalties. "We've had to eat tax bills of $5,000 to $10,000, on the average," says Ms. Burgess, noting that it's difficult to go to clients now and ask them to pay a sales tax for past work.

Once a tax change is made, state revenue departments aggressively seek to collect the money, including back taxes and penalties they believe they are owed. In Maine, where the recession hit the state's coffers hard, the Bureau of Taxation "goes after minnows as if they were whales," asserts David Clough, a lobbyist in the state for the National Federation of Independent Business, the largest small-business trade group.

Many states are hiring more tax agents to ferret out noncompliers. Maine has added 20 tax professionals recently. Arizona added 150 to its revenue department in 1989-90 and now is adding 148 more. "This increased enforcement presence is hitting more of the mom-and-pop shops that have never been audited before," acknowledges Howard Boice, a spokesman for the state's revenue department.

States say they aren't making changes only to rake in more money. Spokesmen for Maine and Arizona say tax officials there often work closely with industry and small-business groups to help clarify or better define tax regulations.

But so many tax changes are afoot in the states that a new publication, Sales & Use Tax Alert, based in Atlanta, has begun to keep track of them. In its June issue, the newsletter notes that Maryland now applies its sales tax to cellular telephones, telephone answering machines, pay-preview television, newspapers, and prescribed cat and dog food; Missouri considers trophy fees charged to guests at a wild game ranch taxable, and North Carolina deem water-treatment equipment subject to sales tax.

Tennessee imposes a sales tax on mandatory tips added to a customer's bill. Minnesota taxes the preparation of a floral arrangement by a florist or nursery. In Washington state next year, retail car rentals will be subject to a special 5.9% sales tax in addition to the current regular 6.5% tax on retail sales.

Even if businesses keep abreast of each new tax regulation, they sometimes can't ascertain the exact scope or intent of each one. Iowa recently expanded its 4% sales tax to include consulting services, but many attorneys, accountants and other professionals are still trying to determine how the revenue department will define what specific services are taxable.

In Connecticut, local and out-of-state certified public accountants recently inundated the revenue department with questions regarding a new sales tax on tax preparation. Accountant Douglas Joseph of Farmington says the department "has difficulty articulating a policy that fairly determines where accounting ends and tax preparation begins." In response, the department has spelled out services not considered tax preparation.

Small businesses sometimes *can* get tax rules overturned. Take the "cooking oil" flap that recently heated up in Arizona. Last summer, the state began requiring restaurants to pay use taxes on 75% of the cooking oil they were buying. Officials arrived at that figure by calculating that roughly 25% of the grease used in cooking went into the food, which is subject to a different tax at the time of sale.

The affected taxpayers, led by the 700-member Arizona Restaurant Association, persuaded state lawmakers to outlaw use taxes on grease and other food items that never reach diners' tables. Gov. Fife Symington signed the exemption. "Logic prevailed," says Penelope Miedener, the trade group's executive director. Besides, she asks, "Were they going to apply it to potato peels, too?"

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DETERIORATION OF THE U.S. SENATE

Mr. EXON. Mr. President, I have been listening to the debate that is going on—if you want to call it a debate—with regard to how we proceed on the floor of the U.S. Senate. I am further discouraged, as one who has been in public office for a long, long time, to see the continued and further deterioration of the U.S. Senate, as we stumble forward to nowhere.

In meeting the responsibilities that we have, a day or so ago, after the S. 55, the fair employment bill, failed on the second attempt at cloture to cut off debate, I addressed the Senate on a subject that I would like to touch on this afternoon. But I think what happened on S. 55, and in the debate that we find ourselves in here today, brings further disrepute on this body, which I feel very badly about. Not that the body cannot take the punch, not that the body might not come back, but the way we are operating with a lack of comity, with a lack of understanding, with our failure to recognize that differing points of view are healthy, so long as they are kept in due bounds, all that is being pushed aside.

Mr. President, I very strongly feel that had there been some desire for understanding, accommodation, and reasonableness, we could have come to some kind of a phased-in program that would have allowed the passage of some type of remedial legislation that I think is necessary with regard to protecting workers. The continued threat that we have right now, faced with a proposition that there is nothing that anyone can do if a strike is called, because if you just wait long enough, and if you can immediately begin to hire permanent replacement workers when the strike is called, or even advertise and seek permanent replacement workers before the strike is called, we have totally undermined the collective bargaining process which most in this body at least pretend that they support.

I talked to several people about the possibility of a phased-in program, where, after a certain number of days a small percentage of permanent replacement workers could be legally hired and phased in so that neither the rights of management or the rights of labor would be dramatically trampled on, but force them to get together and solve the problems without gridlock.

Unfortunately, gridlock and tension, lack of cooperation, and lack of understanding for the other points of view, have so deteriorated what we do to ourselves, the process, and most important the country. The place reeks with politics.

Now we are all locked up, regardless of what is said or claimed here on the floor of the U.S. Senate. It is absolutely insane from the standpoint of getting things done to waste further time in this year with the present makeup of the Senate and the present makeup of the House of Representatives to enact a constitutional amendment for a balanced budget, and everyone on both sides of the aisle knows that. Everyone on both sides of the aisle in the House of Representatives knows that. Yet here we are.

As my distinguished friend, the Presiding Officer, the Senator from Illinois, knows, this Senator has long supported a constitutional amendment for a balanced budget. I am not saying for a moment that it would necessarily be a cure-all. But having labored here for this my 13th year, I am convinced that while there may be lots of criticisms about a balanced budget amendment, I think it would be a very positive step in the right direction to bring some discipline to the Congress and, equally important, the equally shared responsibility of the President of the United States to get us on track to a balanced budget.

I think there can be no question about the determination and the dedication of this Senator from Nebraska in that regard. But I would like to say now, notwithstanding that I think that we cannot, I am confident, I know, as every Member should know, that we do not have the votes necessary, the two-thirds vote necessary, to pass a constitutional amendment. I can count noses and I know people. Once the constitutional amendment failed by nine votes in the House of Representatives, it was obviously dead for this session.

If, by some miracle, we can work our way to the place where, or be forced to consider a constitutional amendment in this session, then this Senator, despite his strong beliefs that a constitutional amendment should prevail, will vote against it. Maybe one voice can send a signal that we have to recognize, as Democrats and Republicans here, that there are things more important that face the United States of

America than our individual wills or our political determination to bring politics into more and more votes that are cast pro or con in this body.

I can tell the Senate that I know that there are not enough votes to pass a constitutional amendment in the Senate. Therefore, all of the talk that we hear about how important that is, and how every Senator has the right under the rules to do whatever he or she wants, that does not mean that we should tear the establishment apart. That does not mean, nor is it wise, nor is it in the good interest of the country for us to be going through exercises that lead to nowhere, as we did with S. 55.

Everyone on both sides of the argument, both inside and outside the Congress, knew that S. 55 as it was advanced and presented had no chance of becoming law even if cloture could have been advanced and if the measure had passed the Senate, as it had previously passed the House of Representatives, because the President had made a flat statement that he would veto it.

No one could imagine how we could come close to getting enough votes to override a Presidential veto in either the House of Representatives or the U.S. Senate.

So we wasted a lot of time. Why? We wasted a lot of time because it was politically expedient for us to cast a vote on the floor of the U.S. Senate on how we stood.

We are doing something, I believe, Mr. President, that is going to come home to haunt all of us—Democrats and Republicans alike—that happens to feel that the two-party system in the United States has served this country and served it well for a long, long period of time.

This afternoon, I heard an independent candidate for President of the United States making a mockery, if you will, to cheers and loud applause, of making fun of the Democratic Party and the Republican Party and what those two great parties with their great history behind them are doing to the United States of America today.

I happen to believe that at least a third or more of the people of the United States—maybe 50 percent of the people of the United States agree with that third party candidate's appeal, and the appeal simply is that "Elect me President of the United States because I will get something done."

Well, to the surprise of many, that just might happen come this November. Then we might have additional gridlock. I do not know. I simply want to add, if I can, some voice of reason to the collision course that we seem to be on.

It reminds me of the railroad worker who stood, many years go, with a lantern in his hand at a railroad crossing to stop cars when trains came by. The story was told often by the great, late Governor of the State of Nebraska, Ralph Brooks.

There was a terrible accident where two trains ran into each other at this crossing. There was a lot of damage and a trial was taking place. They put this watchman on the stand and the attorney said to the watchman, "Now, you were there with lantern in hand standing at your post? The watchman said, "That's right."

And the attorney said, "You saw a freight train coming this way at about 35, 40 miles an hour and saw another freight train coming at about 30, 35 miles an hour on the same track; is that right?" He said, "That's right."

And the attorney said, "Well, when you saw that happening, what went through your mind?" And the watchman said, "Well, nothin'."

Now, he said, "Mr. Watchman, you know here was this picture: Two trains coming at each other, impending disaster. What went through your mind?" And the watchman said, "Nothin'."

And he said, "Mr. Watchman, you are under oath to tell the truth. Something must have gone through your mind as these two locomotives approached each other. You have an obligation to tell the court what went through your mind." The watchman said, "Well," he said, "I did think that was a hell of a way to run a railroad."

Now, it seems to me, Mr. President, that this is not the proper way to run the U.S. Senate. I would simply appeal for reason, for sound heads to try and get together and see if we cannot be more productive than we have.

We have a majority and a minority in this body. We have a majority leader that has been duly elected. The majority leader, under the rules and precedents, has the responsibility of running the U.S. Senate and, looking back over the years that I have served here—and I have served under leaders of the Republican Party and I have searched under leaders of the Democratic Party, I must say that while I have not always agreed with the agenda and the scheduling—I felt that majority leaders, by and large, lean over backward to accommodate both the majority and the minority in their opinions, their desires, and how they want to bring things up.

The impasse that is being offered here over the constitutional amendment to balance the budget—which I again say I strongly support—will not receive the support of this Senator in this particular session, because I am not for any more waste of time to serve no possible good. All of us should have some understanding that this is more than a debating society of which we have a continual test of political wills. I hope that we come to some kind of accommodation.

Mr. President, I yield the floor.

Mr. MITCHELL addressed Chair.

The PRESIDING OFFICER. The distinguished majority leader.

EXTENDING MORNING BUSINESS UNTIL 5:45 P.M.

Mr. MITCHELL. Mr. President, a number of Senators have requested the opportunity to address the Senate on matters unrelated to the pending bill. Therefore, I ask unanimous consent that the period for morning business be extended until 5:45 p.m.

The PRESIDING OFFICER. Is there objection to the request of the majority leader to extend morning business until 5:45?

Mr. RIEGLE. Reserving the right to object, I want to make sure I protect my right to make a comment on the issue that was raised earlier about the time sensitivity of the GSE legislation. I do not want to object, but I do want to have a chance before this debate moves on and other extraneous material comes in to indicate why it is time-sensitive. Can that be accommodated within the Senator's request?

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. The Senator would be able to address the Senate during this period.

Mr. RIEGLE. I need to do if before we go to a situation where there are 10 other subjects raised by 10 Senators. This is the issue. This is the legislation we are trying to get up. And I want to protect my right to be able, in a 2- or 3-minute statement, to indicate why it is time-sensitive today, because that question has been posed, but it has not been answered.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I ask unanimous consent that the period for morning business be extended until 5:45 p.m. and that Senator SIMPSON be recognized to address the Senate, followed by Senator RIEGLE, and then any other Senator who seeks recognition.

The PRESIDING OFFICER. Is there objection to the unanimous—consent request just stated by the majority leader? Is there objection? Without objection, it is the order.

The distinguished Senator from Wyoming.

THE SENATE WILL NOW WORK ITS WILL

Mr. SIMPSON. Mr. President, I will be very brief. I want to say that the delay that was occasioned today, and it was evident, was because the majority leader was attempting to accommodate those on this side of the aisle, and we appreciate that.

I think that we all know that we are going to go on and do some extensive activity in the Senate. The Senator from West Virginia has returned to the Chamber. As he would say, the Senate will now work its will on several various items.

I thank the majority leader very much and appreciate his accommodation. The delays were occasioned by me.

The PRESIDING OFFICER. The distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Presiding Officer.

GOVERNMENT-SPONSORED ENTERPRISES LEGISLATION

Mr. RIEGLE. Mr. President, the question was raised earlier about the time sensitivity of the legislation scheduled for today; that is the legislation on Government-sponsored enterprises, which are principally Fannie Mae and Freddie Mac, these two enormous housing mortgage finance organizations that we have within our Federal system.

I would assert to my colleagues that this legislation in fact is time-sensitive. It is ready to go. I think it can be taken up and settled today.

I might point out, for example, that when we brought this issue up in the committee—and the Senator from Texas, who is lodging the objections today, is a member of the Banking Committee—we were able to settle this issue in about 15 minutes; the bill passed out of the committee with a voice vote. It is fair to say that the Senator from Texas voted with his voice vote against it, but it was reported out by the committee.

It is here on the floor with bipartisan support. It is supported, with the managers' amendment that we are going to be offering, by the administration. A comparable bill passed the House by a vote of 412 to 8.

Why is it time-sensitive? Eighteen months ago—and the Senator from New Hampshire may recall this—coming out of the budget summit there were directives sent off to put committees of the Senate and the House under pressure to perform in certain areas where there was important work needing to be done.

There was a sense-of-the-Senate resolution passed as part of the Omnibus Budget Reconciliation Act, specifically directing that an effort be undertaken to reform the regulation of these GSE's, to examine and strengthen their capital standard position, and also to make any other necessary changes in their function and regulation. We were put under that directive to have it done by September 15 of last year. We were unable to meet that date because we had a major problem in the Federal banking system where we had to provide emergency funding to bail out the Federal deposit insurance system for banks; some $70 billion of public loans had to be provided along with a series of banking reforms. That took precedence because of its overriding urgency, and the GSE legislation had to stand aside.

But we have since proceeded with the GSE legislation, and it is ready to go. It reflects a strong bipartisan compromise. And here it is here on the floor today and we can pass it today. This is not something that has to drag on for hours or go on for days, but it is very much time-sensitive.

The reason we were put under that injunction a year ago to move on this issue is that the subject of capital standards and capital strength is very important, because we have seen in one financial sector after another a washout because of a failure to adequately monitor the capital strength of some major part of the financial system.

We saw it in the savings and loans. We have seen it in the commercial banking system. Although we do not regulate insurance at the Federal level, we have seen the pileup of certain problems out in that area. And there are others that might be cited.

There are real concerns that while the GSE's today are in a reasonably solid financial position, reforms are needed to make that stronger than it is today. So those reforms are embedded in this legislation. And it is time-sensitive in that respect.

There is another element of time sensitivity. The bill also facilitates enlarged and enhanced mortgage availability, mortgage lending through the purchase of these mortgages when they are originated into the inner-city areas, for the benefit of lower-income people across our country. Lower-income people who qualify and want to buy homes in inner-city locations are finding it very difficult now to do that. With this bill, we enhance the flow of credit through these Government-sponsored enterprises to those home buyers.

We know from the problems we saw in Los Angeles and problems we see in other cities that there is an urgent need to facilitate the proper flow of credit on a nondiscriminatory basis to people in those areas who properly can and should have the financing available to them to buy their own homes. It is one of the ways that we strengthen the fabric of neighborhood life; that we give people some sense we are responding to the problems in those areas. It is altogether necessary and proper that we do so.

That flow of mortgage credit, enlarged as it will be, cannot begin to happen until this legislation is passed. It has to be passed and implemented in order for it to start to have its beneficial effect.

We are here in other committees working on a response to the urban problems in America with other kinds of strategies. This bill is a very specific part of the strategy of response that can start to make a difference, and start to make a difference in building stronger communities. It very much needs to be done.

It has been worked out on a bipartisan basis, supported by the administration, and it needs to be enacted. We should not wait another day; we should not wait another hour to postpone this. There is no reason to do so.

I know there are other amendments, unrelated to the subject I have just talked about, that someone else may want to offer that the Senator from Texas, who has created the delay, may have objection to in and of themselves. That, to me, is a side issue because those amendments may or may not come up. And his rights are certainly protected to argue against them, in any case, if they are brought up. And the Senate certainly could work its will.

This is an issue ready to go. It is time-sensitive. We should not wait any longer to take it up. We need to strengthen the capital standards of the GSE's. We need to enhance this flow of mortgage credit out into the areas where low-income people predominate who can properly qualify for these loans, so they can become homeowners, and so that you have that additional strength in these communities.

I want to see this move. We have been asked to do this. We have responded with a solid bill, with broad bipartisan support. It is ready to go. There is no excuse for delaying action on this issue, and there is every reason to do it and do it now.

I thank the Chair.

The PRESIDING OFFICER. The Chair will state we are now on morning business, under the unanimous-consent agreement requested by the majority leader.

Under the previous order, each person recognized in morning business will be limited to 5 minutes.

The Chair recognizes the distinguished senior Senator from New York.

Mr. MOYNIHAN. Mr. President, when was the previous order limiting us to 5 minutes?

The PRESIDING OFFICER. I would respond to the distinguished senior Senator from New York by saying it is the interpretation of the Parliamentarian that the unanimous-consent agreement just previously agreed to at the request of the majority leader, by reference incorporates the prior, earlier request in morning business to limit each Senator to 5 minutes.

The Senator, of course, has the right to request unanimous consent for additional time.

Mr. MOYNIHAN. Mr. President, I request unanimous consent I be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection to the request of the distinguished senior Senator from New York?

Without objection, the distinguished senior Senator from New York State is recognized for 10 minutes.

Mr. MOYNIHAN. I thank the Chair.

(The remarks of Mr. MOYNIHAN pertaining to the submission of Senate Resolution 319 are located in today's

RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

(The remarks of Mr. RUDMAN and Mr. KENNEDY pertaining to the introduction of S. 2870 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TRIBUTE—PRESIDENT ANN HELWIG

Mr. SPECTER. Mr. President, Ann Helwig will soon be completing her tour as president of the Pennsylvania Veterans of Foreign Wars Auxiliary. Her record is a testament to a lifetime of dedication to her fellow members and the people of her community. Her achievements are more than impressive, showing a rare dedication to her causes. Ann Helwig has devoted a lifetime to forwarding the welfare of her fellow Americans and, as such, is a great credit to her organization, to her State, and to her Nation.

In conjunction with her husband's leadership roles in the Veterans of Foreign Wars, she joined the auxiliary chapter O'Donnel-Martin-Baldino 7654 on November 11, 1968. From that point forth, she has advanced through the ranks of her organization.

Within her post, Ann Helwig moved through the auxiliary chairs to become president of the post in 1972, she served for three terms. Next, she moved on to become district 12 president, in addition to serving as a trustee for 1 year, the district secretary for 8 years, and the district banquet secretary for 9 years. Lastly, throughout her years in the Veterans of Foreign Wars Ann Helwig held numerous chairmanships at several different levels.

In addition to her Veterans of Foreign Wars Auxiliary responsibilities, Ann Helwig is a member of St. Joseph's Catholic Church, the Friends of St. Joseph, the Ramblers Club, American Legion Auxiliary 608, Past District Presidents Club, Rest Haven Hospital Auxiliary, and the Washington Fire Company Auxiliary.

Her other activities include community service with the Red Cross, Bloodmobile, Cancer Drive, Heart Fund Drive, and many other committees. Ann's husband, Don Helwig, served the United States well in the Pacific Theater in the Second World War.

The activities of Ann Helwig within and outside of the Veterans of Foreign Wars Auxiliary show extraordinary dedication to the common good. The Veterans of Foreign Wars and the State of Pennsylvania are proud of her, and I would like to add my appreciation of her deeds as I take this opportunity to recognize her before the U.S. Senate.

IN RECOGNITION OF ROCKFORD, IL, AS A 1992 ALL-AMERICAN CITY

Mr. DIXON. Mr. President, I am proud to inform my colleagues that the National Civic League and the Allstate Foundation have chosen Rockford, IL, the second largest city in my State, as 1 of 10 "All-American" cities for 1992. I congratulate Mayor Charles Box of Rockford, as well as the Rockford Area Chamber of Commerce and the good people of Rockford for their concerted efforts to build a strong, cohesive, supportive community.

Rockford is a community of almost 140,000 people nestled along the banks of the Rock River in far north-central Illinois. Settled primarily by Swedish immigrants, the area still retains and celebrates its Nordic roots, while recognizing the increased ethnic and racial diversity that constitute present-day Rockford.

The "screw capital of the world" has now properly joined the illustrious ranks of All-American cities, Mr. President.

In selecting Rockford as an All-American city, the National Civic League noted Rockford's outstanding recycling programs. Not only does Rockford lead the State of Illinois in the scope of its programs, it boasts a tremendous level of community participation. Over two-thirds of Rockford's residents recycle, diverting over 32,000 tons of refuse in less than 2 years. Businesses, community groups, city agencies, and individual citizens, working cooperatively, have successfully tackled one of the most vexing problems facing America's communities—how to deal with mountains of garbage. Rockford once again is leading the way.

Rockford has produced many leaders who made their mark on both Illinois and the Nation. Former Presidential candidate John Anderson was from Rockford, as is the current Labor Secretary, and former Congresswoman, Lynn Martin. Former Olympic figure skating champion Janet Lynn was a Rockford native, and social pioneer Jane Addams attended Rockford College.

Mr. President, I am proud to have visited Rockford many times throughout my career, and come to know the wonderful people who so richly deserve this honor.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Montana is recognized.

FOREIGN INFLUENCE ON U.S. ECONOMIC AND TRADE DECISIONS

Mr. BAUCUS. Mr. President, I rise today to discuss an issue of critical importance to both the competitiveness of our economy and the integrity of our political system. It is the foreign influence on our Government's economic and trade decisions.

I am making this statement today because I am angry—angry about fundamental problems that are eroding the foundation of our country. I am angry that when it comes to competing in an international economy, America seems to be coming up second best.

I am angry that we do not seem to work together in this country anymore. Our Nation came together to win the cold war and put a man on the Moon. How is it that we cannot manufacture a VCR?

I am angry that old-fashioned ideals about public service and patriotism have been replaced by Wall Street's code of ethics, where the premium is on getting rich quick, at any cost, live for the moment, never mind your neighbor—or any obligation to your country.

Most of all, I am angry that Americans no longer feel like they can trust their Government.

What have we done to foster this? And how can we begin to change? Well, there is no silver bullet, no magic solution. But I do know that when we see something that is wrong, we better start fixing it.

One thing that is wrong today cuts to the very integrity of our policymaking process: How decisions are made in this town, and who is making them.

I sometimes worry that Americans have been hit with so much scandal that they are immune from outrage. But even for the jaded and the cynical, I will wager that the following activities will strike most Americans as fundamentally wrong.

WASHINGTON'S REVOLVING DOOR

Today, Washington's revolving door sends many of our highest ranking foreign policy and trade officials to work for America's biggest economic competitors.

The U.S. Trade Representative is our Nation's international trade official. Of the eight former Trade Representatives, four have gone on to lobby for foreign interests. Three of those went to work for Japan, the United States' biggest trade competitor. The same holds true for USTR's senior staff. From 1973 to 1990, half of USTR's senior officials went on to lobby as foreign agents.

As with the USTR, top officials from the Commerce Department and the International Trade Commission have all moved on to lucrative careers lobbying on behalf of foreign interests. Two former Directors of the CIA went on to work for foreign interests.

INFLUENCING POLICY DECISIONS

What is the effect on U.S. policy? Part of the problem is that we do not fully know. Much of what happens in this town goes on behind closed doors. But from what we do know, I can tell you that something is wrong.

In an egregious example of foreign manipulation of U.S. trade policy, foreign auto makers in 1989 successfully reversed a U.S. Customs ruling on the tariff status of multipurpose vehicles, [MPV's]. MPV's are vehicles like the Range Rover or Isuzu Trooper.

Since 1963, trucks imported into the United States have faced a 25-percent tariff. By contrast, cars face a tariff of only 2.5 percent. The issue was whether MPV's should pay the tariff for trucks or cars. In 1989, the U.S. Customs Agency ruled that MPV's were trucks, and therefore subject to a 25-percent tariff.

The ruling made sense. After all, MPV's are built in truck factories on truck assembly lines. MPV's are built on a truck chassis. In fact, when it comes to standards for fuel efficiency, safety, and taxes, foreign automakers themselves claim that MPV's are trucks, since trucks have lower standards in those areas. Unfortunately, common sense and the stake of U.S. taxpayers weren't enough.

Two weeks after the ruling by Customs, the Treasury Department took the unprecedented action of reversing Customs' decision. Four door MPV's were classified as cars, and therefore were subject to only a 2.5-percent tariff.

How did this reversal come about? Foreign auto makers, especially the Japanese, and their domestic subsidiaries launched an all out attack. An army of lobbyists descended upon Congress and the Administration to press their case.

Despite the strong views of the Big Three auto makers and the UAW, Japan's lobbyists prevailed. Perhaps most disturbingly, very few of the lobbyists were registered under laws governing foreign lobbying, laws designated to bring a measure of openness to the lobbying process.

Canada has also taken full advantage of former U.S. officials and lax American laws on foreign lobbying. In a recent administrative proceeding between the United States and Canada over lumber trade, Canadians paid prominent American lawyers and lobbyists more than $20 million to argue their case. A great deal of this money went to pay former high ranking U.S. officials—State and Federal—to argue Canada's case. Some of these officials had ended their stint in government only a few months earlier.

This lobbying might have been somewhat less worrisome had it occurred in a public forum. But much of Canada's most significant lobbying took place outside of the agency proceeding, outside of public scrutiny. In other words, inside the beltway and behind closed doors.

These activities are scandalous on their face. But there is yet another kicker. As the New Republic recently stated: "The real scandal in Washington is not what is done illegally, but what is done legally." As amazing as it may seem, everything I have described is in compliance with existing U.S. laws.

CLOSING THE REVOLVING DOOR

We must close Washington's revolving door. At a minimum, I suggest the following:

First, senior U.S. officials, including Senators, Congressmen, Governors, the Director of the CIA, USTR, the Secretary of Commerce, the Secretary of State, the Secretary of Defense, and ITC Commissioners, should be barred for 15 years from lobbying for foreign interests.

Second, for lower level officials in the legislative and executive branches, a 10-year period should separate Government employment and lobbying on behalf of any foreign entity.

These restrictions would have two positive effects. First, there would be less concern about tapping-in to old friends in an old boys network. Second, more people would enter government service for the right reasons. There would be no promise of a quick windfall after a short stint in public life.

BALANCING INTERESTS—THE FOREIGN AGENTS REGISTRATION ACT

It is also time to revisit U.S. laws governing lobbying activities for foreign interests.

As Americans, we are fortunate to live in the most open society in the world. We cherish our first amendment right to free speech. But an open system such as ours is subject to abuses. In the late thirties, for example, Germany's Nazi government used the American press to spread anti-Semitic propaganda.

In response to concerns about foreign manipulation of American media and politics, Congress in 1938 passed the Foreign Agents Registration Act, commonly known as FARA. FARA delicately walked a narrow line. Rather than reduce the risks of an open society by closing channels of speech, FARA responded to concerns about manipulation by requiring more openness.

FARA does not prohibit foreigners or their American representatives from voicing their views. Indeed, it allows contact with the press. It even permits direct lobbying of U.S. political institutions.

FARA's remedy for the pernicious effects of foreign influence is sunshine. In other words, FARA's straightforward goal is to ensure that Americans receiving information from foreign entities know the source of that information. Thus armed, Americans are left to make up their own minds.

Specifically, present law requires foreign entities and their representatives to file a short registration form with the Department of Justice. In meetings with public officials, registrants must disclose the identity of their foreign principal. Twice a year, registrants must file a report with the Department of Justice listing their activities and expenditures.

FARA has significant potential for addressing some of our concerns about foreign influence. Where it applies, FARA casts a measure of sunshine on the activities of foreign lobbyists.

THE LIMITS OF FARA

Unfortunately, FARA's effectiveness is undermined by exemptions.

Two critical exemptions provide mile-wide loopholes in FARA. First, the so-called lawyers exemption exempts from coverage lawyers who represent foreign clients in court or before a Federal agency.

The theory of the lawyers exemption might make sense. In theory, a court or administrative proceeding is a thoroughly public affair. Therefore, sunshine and public scrutiny are built-in to the process. Unfortunately, the theory does not match the practice.

As the United States-Canada dispute over lumber demonstrates, many trade cases turn on activities outside of the agency hearing room, outside of public review, but behind closed doors, and inside the offices of public officials.

A second critical loophole in FARA is the so-called commercial exemption. The commercial exemption removes many U.S. subsidiaries of foreign parent companies from FARA's coverage. Thus, the subsidiaries can lobby without disclosing the interest of the foreign parent.

Let me make one thing clear: I am not suggesting that foreigners—or the Americans who represent them—do not have the right to state their case. The United States has a remarkably open system of government. By comparison to the access rights of Americans doing business abroad, foreign businessmen and their representatives doing business in our country will retain virtually unhindered access to our system.

But when information shapes public policy, U.S. Government officials and the U.S. public have a right to know where the information is coming from. Eliminating FARA's commercial and lawyer exemptions would bring needed sunshine into Washington's murky backrooms.

CONCLUSION

I wish that American loyalty alone eliminated the need for a legal proscription. Unfortunately, it is clear that legal steps are needed. There is a lot at stake.

We are talking about the competitiveness of our economy. How can we hope to compete in a tough international economy if our international trade agencies have become farm teams for foreign lobbyists? We cannot.

It is time to rethink the way we do things around this town. Anyone who has not picked up that signal just has not been listening.

It is about team work. Working together to rebuild our country's foundation. It is about personal sacrifice, commitment to a goal higher than driving a Mercedes.

Bottom line—we are talking about the integrity of our political process.

We are right to maintain the world's most open government. But we need to know the source of the information that shapes our political decisions. That is an acceptable balance.

Two years ago Senator Heinz introduced legislation that would have accomplished many of the goals I outlined here today. I intend to use his bill as a starting point for new legislation on the revolving door and foreign lobbying.

It is long past time to address this problem.

COLORADO'S PROUD HISPANIC HERITAGE

Mr. WIRTH. Mr. President, among the public policy agendas I will miss when I leave this body at the end of the year is the work we began with the Democratic Hispanic Task Force. Over the years I have talked about the growing political strength of Latinos, and I have been proud of my associations with the Colorado Hispanic Agenda and the Colorado Hispanic League.

Today, I would like to share the thoughts of a good friend, Dr. David Sandoval—a distinguished scholar of Southwestern American and Latino history who teaches at the University of Southern Colorado, in Pueblo. Dr. Sandoval has written extensively on Western history, and a recent piece he finished detailing the story of Colorado's Chicano community is particularly interesting.

The pages of the RECORD are replete with descriptions of our Nation's heritage; we often reference our Constitution's founders, European exploration and Westward expansion. We have all too often neglected our native culture and the contributions of other groups which make up the American story—including Asian Americans, African Americans and Latinos.

With permission, Mr. President, I ask unanimous consent to have Dr. Sandoval's essay, "Colorado Hispanics" printed in the RECORD as follows:

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

"COLORADO HISPANICS"

(An essay written for the Colorado Institute for Hispanic Education and Economic Development)

(By Dr. David A. Sandoval)

HISTORY

So many flags have crossed Indian trails that the mere use of a term should be sufficient for identifying an era. The Southwest becomes a descriptive label for the area after 1848 while Mexico's northern frontier is more appropriate for the period between 1821 and 1848. The Vice-royalty of New Spain's northern regions followed the Castilian flag to New Mexico where a synthesis of cultures blended from the Indian and Spanish cultures. Thus, the historical perspective of Colorado Hispanics begins with the original inhabitants and encompasses European immigrants who came from the South and the East.

The era of Spanish exploration during the initial fifty year period contributed to the World's self-knowledge unlike anything that had ever occurred. From Cristóbal Colón's initial voyage in 1492 to the return of Francisco Vázquez de Coronado's expedition to Mexico City in 1542, Spaniards explored and colonized throughout the Western Hemisphere and developed trade relations with the Far East.

The first explorers were trying to survive an ill-fated attempt to explore Florida. After the 1528 Narváez expedition was lost trying to sail the edges of the Gulf Coast in horsehide boats, the red headed paymaster Alvar Núñez Cabeza de Vaca eventually reached Mexico City in 1536. Another survivor, the Berber slave Estebanico, was selected to guide a group back north when the three surviving Spaniards refused to go back. A veteran of the Pizzarro campaign, a religious man, Fray Marcos de Niza was the official leader of the return group. After Estebanico died on a cross, full payment for insulting the Zuni Indians, Fray Marcos de Niza reported that he had seen a city made of gold. Perhaps the setting sun reflected gold off of the mud structures as the padre returned as a guide for the Coronado expedition.

Spaniards financed their own explorations and Francisco Vazquez de Coronado had to stop his soldiers from sending the priest to join Estebanico. After two years of exploring throughout the region—from the Grand Canyon to Kansas—the Spaniards returned to boards of investigation. Church and State walked together in the Spanish empire and Father Juan de Padilla retuned to Kansas as a missionary soon martyred.

From 1542 to the 1590s the Spanish sent only two types of expeditions into the north—missionary and rescue expeditions. The first entry of Spaniards into what became Colorado was in 1593-94 when an unauthorized expedition led by Francisco de Leyva y Bonilla and Antonio Gutierrez de Humana ventured into southeastern Colorado. The entire expedition was lost without benefit of clergy and a Colorado river gained a name—Rio de Las Animas Perdidas [River of the Lost Souls]—the Purgatory.

Phillip II decided that the New Mexican region should be colonized so that the Spanish culture and religion could be extended. To that end he authorized a colonizing party under the leadership of Juan de Onate to settle in New Mexico in 1598. To encourage settlers he bestowed the title of nobility upon them and their descendants in perpetuity. The normal length of noble status was two generations and this unique honor was remembered in 1810 when the first representative to the Spanish Parliament from New Mexico, Don Pedro Pino, took his seat.

Spanish settlement remained constant between 1598 and 1821 with the exception of the 1680 Pueblo Indian insurrection but many of the families driven out returned under the leadership of Don Diego de Vargas in 1693. The issue of religion had been at the heart of the revolt and Spaniards continued their efforts to bring Indian souls into the Church and State. One of the first expeditions to come into Colorado was led by Juan de Ulibarri in 1706 when he led soldiers to capture runaway Indians along the Rio Napeste [Arkansas]. Ulibarri named the region the Province of San Luis before he returned to New Mexico. Other Spaniards travelled through Colorado in the 18th century. Fray Francisco Atanasio Dominguez and Fray Silvestre Velez de Escalante sought a route to California but returned before they reached their destination in 1776.

The desire to establish communications and trade routes must have been great for New Mexicans as their community was isolated from the centers to the south. The government even required a triennial caravan to take supplies north to the colonists. These intrepid pioneers faced hostile Indians completely surrounding them while the major road south crossed through the infamous Jornado del Muerto [Journey of the Dead]. Seventy miles of desert without water combined with bandits and Indians contributed to the unique cultural synthesis in New Mexico. While efforts were made to expand settlements, the majority of communities located along the Rio Grande in the Rio Arriba and Rio Abajo areas.

Spanish troops were never in great number on the frontier and citizens belonged to a militia that alternately traded or raided with the Indians. Traders with the Comanche Indians became known as Comancheros while Juan Bautista de Anza defeated the Comanche chief Cuerno Verde in 1779. Greenhorn Mountain overlooks the eastern plains and commemorates the famous battle. To populate was to pacify and the Spanish attempted to establish communities in southern Colorado. In July 1787 San Carlos de los Jupes was built near present day Pueblo but it was abandoned the following January after the death of a woman.

The Spanish began to consider Americans their rivals after 1803 more so than they had considered the French. The mercantilistic policies of Spain prohibited trade with New Spain except through the ports of Vera Cruz and Acapulco. French craftsmen and trappers were allowed into the region in limited numbers after the French victory for the Spanish throne in the early 18th century. Whenever smugglers and illegal trappers were found in Spanish territory, they saw the inside of Spanish jails.

When Zebulon Pike came into Colorado he followed the trail of Don Facundo Melgares who was meeting with Pawnee tribes to make common cause against Americans. A fort was built by the Spanish at the Sangre de Cristo pass in 1819 but was abandoned after the Adams-Onis treaty between the United States and Mexico.

Even though settlers in New Mexico were starved for manufactured goods they traded with Chihuahua merchants who held a monopoly. New Mexican culture was shaped by its isolation and the language spoken in southern Colorado still retains a Spanish colonial flavor. Spain's other institutions were also brought to the frontier and a caste system reinforced differences between peoples on the basis of blood mixtures—or money, if one purchased the royal proclamation "Gracias a Sacar" [Thanks to get out]. While detribalized Indians [genizaros] took on Spanish names and actions, the *Gente de Razon* [people of reason] took the highest offices.

The New Mexican frontier was no different than other Spanish frontiers and many mixtures came about. The synthesis was cultural as well as biological as unique artists, Santeros, began to reflect their reality. Los Hermanos de Luz, the penitentes, continued their responsibilities to assist their neighbors and re-enact biblical stories. Jonah and the Whale would make no sense to the new Mexican who caught trout in New Mexican streams but the Capitan and the Buffalo would convey the message. From the first European play performed in what is now the United States, "Los Moros y Los Cristos," to contemporary performances by Teatro groups the culture has been dynamic. While culture changes, the desire to retain the values of society has remained constant as well.

In 1821 the Spanish colony of New Spain became the country of Mexico. The tricolor of Mexico symbolized the three guarantees promised by patriots. For isolated New Mexico celebration complete with patriotic speeches and dancing marked the beginning of independence. When Spain made an attempt in 1829 to regain its colony, Mexico ordered every Spaniard out of Mexico. This was the occasion of the first white women to travel across the Santa Fe Trail as they went east to the United States. But 1821 really meant that the frontier was opened up to Americans. Facundo Melgares who had been on the plains in order to defend the Spanish empire now sent out soldiers to bring in Americans to start a legal trade. William Becknell would be the first and is touted as the Father of the Santa Fe Trail. When he returned to Missouri and dropped Mexican gold and silver on the cobblestones, the echo signaled American traders and trappers that the frontier was open.

The Mexican period [1821–1848] also saw expansion beyond the Rio Grande River valley as Mexicans began to establish communities along the Pecos River and the front range. Mora became home to buffalo hunters as did Las Vegas in the 1820s. The Mexican government even began to give land grants in areas of Colorado. The Gervacio Nolan grant was awarded in 1843 as were the Sangre de Cristo Grant to Stephen Luis Lee and Narciso Beaubien as well as a grant to Cornelio Vigil and Ceran St. Vrain. The first land grants were awarded to the Tierra Amarilla site in 1832 and the Conejos Grant in 1833. While these grants were given they were not settled permanently until after the war with the United States.

Many Mexicans began to engage in trade with the United States and the commerce opened up additional opportunities for employment. Some Mexican merchants, such as the Otero and Chavez families, sent their children to college in St. Louis along with American frontiersmen like the Bents. This era of cooperation prepared the New Mexicans for the subsequent period after the conquest. Very early on, New Mexicans learned how the American system worked and one Mexican Governor sent his child to study in the United States with the comment that he should go and learn English and come back prepared to defend his people as the "heretics" would soon conquer.

In 1848 a different imaginary line was drawn between two nations by the Treaty of Guadalupe-Hidalgo. Certain rights were granted former Mexican citizens but many wished to retain their Mexican citizenship and relocated to the Mesilla Valley only to be brought into the United States in the Gadsden Purchase of 1853. While the line was only imaginary and immigration continued along the border, the national experiences differed between those New Mexicans incorporated through war into the United States. They and their descendants are often called *Manitos* which derives from Hermanitos [brothers]. Through the latter years of the nineteenth century when massive migration from Mexico began, because of the pull of the economy and the push of revolution, distinctive terms were coined and used.

Manitos began to expand into Colorado in San Luis in 1851 while San Pedro is dated in 1842 and San Acacio in 1853. The settlement at Ft. Pueblo was massacred on Christmas day 1854 but regional communities began to expand throughout southern Colorado. New Mexicans along the eastern slope in communities like Mora and Las Vegas began to come into the Trinidad area, while the San Luis area was settled by people who hailed from Taos and Conejos was settled by people from Tierra Amarilla.

The American government had promised to pacify the Indians in the Treaty of Guadalupe-Hidalgo and they began a program of building military forts throughout the Southwest. Ft. Garland was associated with Ft. Union as wagons of supplies poured over the Santa Fe Trail. In August of 1858 newspapers blared the news that gold was discovered in the Kansas Territory and the fifty-niners began a run into Colorado that rivaled the previous decade's dash to California.

War and politics led to the creation of the Territory of Colorado and the Assembly met in Denver with twenty-two members including Jesus M. Barela and Jose Victor Garcia. From 1861 to 1876 Manitos served in the territorial assemblies and 9th Assembly saw ten Hispanics out of thirty nine members. The tradition would continue through the turn of the century as Casimiro Barela became the "perpetual Senator" and his supporters elected him even if he changed political parties. Colorado could thank its Hispanic citizens for more than governmental leadership as it could thank them for contributions in the livestock industry, the mining industry, railroad development, military service, and as citizens in every endeavor.

The nineteenth century had its share of hardship as Chicanos were cheated out of landgrants by the "Golden Crowd." In 1863 two brothers began a reign of terror that ended with their deaths and that of a nephew at the hands of vigilantes and Tom Tobin. The heads of the Espinosas rolled across the floor at Ft. Garland and ended the fear that swept Colorado from Denver to New Mexico. But the legacy of the Espinosas would be recounted in poetry, song, and legend. The symbolism became more important than the reality.

While the Espinosas fought the authorities, New Mexicans volunteered to fight the Confederates and persons like Trinidad's Jose Rafael Chacon began a record of military distinction that is unmatched to this day.

In Mexico, the country faced the military occupation of the French. While the early victory of Cinco de Mayo acquired its significance as a day of hope during the occupation, many Mexicans began to cross the border to safety. El Paso del Norte was renamed Juarez after the full-blooded Zapotec Indian President who led his people against the French empire. The Reforms of Juarez gave way to the dictatorship of Porfirio Diaz who controlled the country from 1876 to 1911. Porfirio Diaz was praised by foreign business as he developed sweetheart arrangements with them. Not only was Mexico open to foreign exploitation and land policies which made an agricultural people destitute, but Diaz used Mexican labor as an exportable commodity. When William J. Palmer envisioned a railroad that ran from Mexico City to Denver, he brought in Mexican labor. Manitos continued to ply their trades in animal husbandry while Mexican nationals were brought to work in numerous industries. Manitos also began to work in the Rockefeller mines and industries in southern Colorado. The tariff policies of the United States encouraged the development of sugar and industries like Great Western Sugar joined other companies who found that Mexican labor served their needs.

When the Mexican Revolution broke out in 1910 the first in massive waves of immigrants began to flood the United States. When one faction lost, many followers escaped to the United States. The greatest number of immigrants were probably those who were fleeing the civil war as one could be drafted by any side. The followers of Pancho Villa, Venustiano Carranza, Pasqual Orozco, and even Emiliano Zapata sought refuge in the United States in the early decades of the twentieth century. The 1920s saw many religious refugees as the government and the "Cristeros" were at odds. Many of these refugees were educated and provided a level of leadership within a community which was being excluded from educational institutions.

In California, anti-immigrant demagogues began to rail against the "Brown Scare." But in Colorado Mexicans and Manitos were welcomed until the Depression of the 1930s led to Colorado's brand of demagoguery. In 1935 Governor Ed Johnson proposed to put Mexicans into a military camp and in 1936 he declared martial law and sent troops to the southern border to keep Mexicans out. When he was asked how one was to tell the difference between Mexican citizens and those of Mexican ancestry, he replied that if they had money they were United States citizens.

The era of the 1930s saw a "back to Mexico" movement where among five hundred thousand repatriated Mexicans, fifty thousand Chicanos were deported from their country and sent to Mexico. One should not be surprised that Manitos began to differentiate between themselves and Mexicans arriving in the twentieth century. First, the American media portrayed Mexicans in the most negative light. Then if you were identified as a "Mexican" you could get sent out of your country. While Chicanos had developed *mutualista* organizations to provide for health and death benefits, the 1930s saw many Colorado communities with one organization for the Manitos and another for recent arrivals who were often called the pejorative term *Suramato*.

In addition, the Mexican Revolution significantly changed the culture of Mexico while the Manitos only went through the Revolution vicariously. Jose Vasconcelos attacked the Spanish Caste system and the racists of his day by developing the concept of la Raza Cosmica. He reinforced the new identity by incorporating Indians through schools as well as the muralist movement. The Revolution provides much of the base for contemporary Mexican culture—in music, art, politics, and self identity.

To many Mexicans escaping the Revolution, the Manito fascination with the Spanish caste system was pretentious. To many Manitos the reality of an isolated existence of over two hundred years along with regional communities had meant the development of a Patria Chica concept. Sure they acknowledged historical ties but they also believed themselves to be distinctive and different from the more recent arrivals. Even when Governor Johnson declared martial law a group of Pueblo citizens organized the Americans of Spanish Descent to support his efforts against the Mexicans. While Johnson couldn't tell them apart, Mexicans could.

The beginning of World War II saw a new need for Mexican labor and the Bracero Acts began to fill labor needs throughout the Southwest. Mexican nationals joined the Texan migrant stream in eastern and northern Colorado while Manitos and Mexican nationals worked in the San Luis Valley and on the Western Slope. Chicanos became an urban people in 1940 and colonias gave way to inner city barrios. In Pueblo almost the entire community of Cerrillos New Mexico came to work at the Pueblo Army Depot and settled on the east side while the colonia at Salt Creek provided labor for the mill next door. The steel industry needed more workers and Chicanos began to fill the ranks of labor as quickly as the military ranks.

World War II not only brought a new migration, new industries, it also brought new opportunities as veterans returned to strive for education and economic mobility. American social scientists were often as baffled as Big Ed Johnson when it came to Mexicans and up until 1930 they wrote that the reason that Chicanos did not excel in American education was that the Chicanos were biologically inferior for genetic reasons. Between 1930 and about 1965 most social scientists rejected the genetic argument but began to assert that it was the culture of the Chicano that held them down. Of course all the evidence pointed away from Chicano culture but many institutions began efforts to "Americanize" Chicanos—"No Spanish" laws became common in education.

At the turn of the twentieth century Anglo missionaries had come to southern Colorado for the same purpose and they had the same effect. Chicanos were fervently in favor of cultural retention. Never reluctant to accept new cultural characteristics, but always determined to retain the cultural base best describes attitudes. Chicanos were willing to acculturate but not assimilate as they reasoned that a person was at a disadvantage if English was not spoken and they could still retain the Spanish language. There were some who believed that they could melt into an American stew and as they did, their community continued to suffer discrimination and racism.

As the Civil Rights movement gained impetus with the 1954 Brown v. Board of Education decision American society seemed to view itself with a black or white perspective. Not until 1960 when the success of the Viva Kennedy clubs encouraged ethnic organizations did Chicanos command a place on the national agenda. Even though Operation Wetback in 1954 meant national discrimination against Chicanos, a national voice was not heard in the 1950s with the lonely exception of the champion of Chicano Civil Rights, New Mexico's Senator Dennis Chavez.

Chicano Civil Rights leaders took encouragement from Johnson's War on Poverty but rising expectations quickly led to frustration. By 1966 a group of conservative Manitos formed the New Hispano Party and Democratic Party leader Rodolfo "Corky" Gonzales appealed for them to remain in the Democratic Party. By 1967 Corky had broken from the Democrats and began his Crusade for Justice. Corky based his movement on cultural nationalism and while others would compromise with political factions, his idealism pushed for an independent metaphysical nation of Aztlan.

Direct action tactics followed the 1968 Blow-out at West High School in Denver while Chicanos began to organize under numerous rubics. Richard Castro and Mario Padilla were beaten by the police in Curtis Park; Rep. Betty Benavidez staged a hunger strike in the Capitol to support the farmworkers; La Raza Unida ran candidates like Sal Carpio for Congress; community riots took place all over the city of Denver while activists marched from throughout the State protesting the lack of parity, equity, and self-determination; Denver School teachers organized the Congress of Hispanic Educators [CHE]; Ricardo Falco and a former Colorado legislator were killed in events surrounding the Raza Unida convention in El Paso; Luis Martinez was killed on March 17, 1973 when the Crusade was bombed; six students were killed in Boulder in 1974; and Chicanos continued in their efforts despite numerous obstacles.

The Colorado Chicano continues to attempt to realize all the benefits of full citizenship in the face of a complex history that is ignored by most Americans who view them as all the same. The issues have remained the same since 1958, a desire to preserve culture and build a society

CULTURAL CHARACTERISTICS

Culture is often defined as the ways people live. Material culture includes physical items used by a people to exist. For example, one should wear a wide-brimmed hat in the desert sun, a sombrero. But wearing a sombrero does not make a Mexican.

Material culture can reflect the values of a society such as the same santero art of southern Colorado. While culture is dynamic and changes as often as people change through technology or political events, there are certain values conveyed through time among groups. National groups are often made up of numerous ethnic groups and when one begins to describe the culture of the Mexican one should be aware that a political term is used to describe various ethnic groups. *Mexicano* is usually accepted as a cultural term but is translated as a political identity.

Is there a prototype American? Is there a prototype Mexican? What values and culture emerge because of life-style? Are there differences between a rural agrarian people and an urbanized society? What values can be seen in an agricultural people beyond ethnicity and national origin? What role has the media and scholars played in defining the Culture of the Chicano?

If one remembers the history of the Chicano, one should remember that the historical legacy of animosity between England and Spain continues to affect American educational institutions. Not only the sixteenth century Black Legend but twentieth century racism, bigotry, and ignorance shape relationships between Chicanos and their fellow citizens. Some social scientists even equate the Culture of Poverty with the Culture of the Chicano and while one must agree that many Chicanos are caught in the cycle of poverty one must be careful to not equate an ethnic culture with an economic one. There is nothing within the Culture of the Chicano that ties it to ignorance or poverty.

If one imagines a wheel with various ways of living listed in segments of the wheel between the spokes, one may get a glimpse of Chicano Culture. In one segment is customs, in another is occupation, yet another food and clothes. The outer rim of the hub is the means through which these non-salient characteristics begin to shape the inner values—that outer rim is language and family. The salient values are those cultural characteristics that make up the real values of a society such as respect for the elderly and religious values. Each wheel is unique to its time but the wheel is evolutionary and continues to turn-often times changing the non-salient characteristics [celebrate the 4th of July as well as 16th of September]—while the internal values are altered less often.

Notwithstanding various interpretations, several values have continued through the synthesis of Indian and Spanish cultures and through the American experience. The Indian and Spanish sense of regional identify continues to shape relationships among people genericly called Hispanic by the American government. The Indian value of living in harmony with the environment seems to be much more limited since the urbanization of the Chicano in 1940. The Spanish sense of caste was altered for many by the Mexican Revolution but Manitos continue the belief in the "fantasy heritage." The Spanish language and system of extended family [compadrazgo] continues after more than ten generations for many in the United States. The value of respect for the elderly continues as demographics indicate. The role of religion continues although it is not as strong as before the urbanization. The Spanish and Indian value of clan, family, and regional community continues. The participatory legacy of Manito politics continues although it has been declining in recent years. The historical value of great respect for education continues even through the realization of education remains a dream for many.

DEMOGRAPHICS

When one reviews demographics regarding Chicanos a clear pattern emerges since 1930 when the national government began to differentiate in statistics. In almost every category Chicanos fall behind their fellow citizens. In some areas the values placed on family and respect for the elderly become apparent.

I. Colorado—1990 Colorado Hispanic population 424,302—13 percent.

Metropolitan Areas:
Colorado Springs 34,473—9 percent.
Denver-Boulder 226,200—12 percent.
Fort Collins 12,227—7 percent.
Greeley 277,502—31 percent.
Pueblo 44,090—36 percent.
Counties:
Adams 49,179—19 percent.
Alamosa 5,254—39 percent.

II. 1990 National Hispanic Demographic Characteristics.[1]

A. 21.4 Million—8.6 percent of total population. This number is often described as an undercount.

B. National Origin of 1990 Hispanic Population:
62.6 Mexican;
11.1 Puerto Rican;
4.9 Cuban;
13.8 Central/South American;
7.6 Other Hispanic [This number includes persons who identified themselves as one of the following: Spain, Hispanic, Spanish-American, Hispano, Latino, La Raza, etc.]

C. Labor Force participation:
Hispanic origin males 78 percent.
Hispanic origin females 51 percent.
Non-Hispanic males 74 percent.
Non-Hispanic females 57 percent.

D. Poverty:

Family poverty—1 in every 6—17.9 percent in Poverty.

Hispanic families below the poverty line 25 percent—Non-Hispanic 9.5 percent.

Family maintained by 65 year old or older 17 percent—Non-Hispanic 5.9 percent.

Hispanic Female maintained home 48.3 percent—Non-Hispanic 31.7 percent.

Hispanic Persons in poverty 28.1 percent—Non-Hispanic 12.1 percent.

Hispanic Children in poverty 38.4 percent—Non-Hispanic 18.3 percent.

Unemployment rates:
Hispanic 10.6 percent.
Non-Hispanic 7.8 percent.
Marital Status:

Hispanic single 32.6 percent. Non-Hispanic 26 percent.

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[1] Garcia, Jesus M. and Patricia A. Montgomery. "The Hispanic Population in the United States: March 1991" Series P-20 No. 455. Issued October 1991.

Hispanic married 56.7 percent. Non-Hispanic 58.4 percent.

Hispanic divorced 6.8 percent. Non-Hispanic 8.3 percent.

Hispanic widowed 4.0 percent. Non-Hispanic 7.3 percent.

Hispanic Married couple families 69 percent. Non-Hispanic 79 percent.

Hispanic female maintained 24 percent. Non-Hispanic 16 percent.

Hispanic male maintained 7 percent. Non-Hispanic 4 percent.

Hispanic Family size 3.80. Non-Hispanic 3.13.

Hispanic 5 or more members 29 percent. Non-Hispanic 13 percent.

Mexican origin 5 or more 34 percent.

Income and Earnings:

Hispanic household income 22,300.

Non-Hispanic 30,500.

Hispanic incomes below 10k 21 percent

Non-Hispanic 15 percent.

Hispanic incomes above 50k 13 percent

Non-Hispanic 25 percent.

Person's income:

Hispanic Male less than 25k 77 percent.

Non-Hispanic 55 percent.

Hispanic Male over 50k 4 percent.

Non-Hispanic 13 percent.

Hispanic Female less than 10k 50 percent.

Non-Hispanic 41 percent.

Hispanic Female more than 25k 12 percent.

Non-Hispanic 20 percent.

Family income:

Hispanic 23,400.

Non-Hispanic 36,300.

Puerto Rican 18k.

Mexican 23,200.

Cuban 31,400.

Person's income:

Hispanic Male 14,100.

Non-Hispanic 22,200.

Hispanic Women 10,100.

Non-Hispanic 12,400.

CURRENT CHALLENGES

Education is often viewed as a measure of success in the United States and the American Council on Education reported that between 1985 and 1989 the Hispanic high school completion rate declined. "There are no neutral educational systems. It is impossible for me to think about education without considering the question of power." Paulo Freire (April 1990) *Omni* V. 12, #7: 74, 93–94.

Education is but the tip of the iceberg which causes such damage within the Colorado community. Mechanisms of domination have long been used by individuals who exploit Chicanos and those who have not realized their institutional responsibilities.

Confusion in respect to identity serves irresponsible public servants well. Recruitment of "Hispanic" teachers especially in higher education instead of Chicanos allows institutions to hire Third-World elites and usurp the purpose of Affirmative Action. Institutions of Higher Education in Colorado continue the push out rate of Chicano students while Mexican nationals do better in American schools than Chicanos.

Poverty continues to take its toll among Colorado Chicanos while negative stereotypes foster images which support a secondary citizenship. Chicanos are viewed as the latest immigrants and as foreigners in their native land. The coercive power of the State is used through human delivery systems and is reflected in the number of incarcerated Chicanos versus those employed within the Department of Corrections. There were twice as many Chicanos in State Prison [951] than those who graduated from a Colorado college with a Baccalaureate degree in 1985 [477].

The challenges that face Colorado Hispanics are keyed to Demography, Dependency, and Domination. Chicanos are the youngest fastest growing ethnic minority in the nation. They are also a focused population with the largest group of Chicanos located in the Southwest and in Illinois while Florida contains the largest concentration of Cubans and New York reflects a Puerto Rican constituency. The future calls for bilingual day care centers, diversity in education, diversity in trade and commerce, and parity as well as equity in employment.

The global village faces its greatest challenge given the environmental disasters ignored by world leaders. A microcosm of world interdependency can be seen within the Hispanic community. While many suffer the ravages of poverty and simply try to survive, political leaders ignore the natural resource talent of bilingual citizens in a world community. Demagogues like former Governor Richard Lamm curry favor from racists as he scapegoats Mexicans and denigrates the potential benefit for American society. This latter dimension of Domination can only be altered through collective action and the building of alliances. The English Only Movement passed in Colorado and it gains strength from myopic political leaders.

ASPIRATIONS

The goals of the Hispanic community in Colorado remains fairly constant—a desire to live through the content of their character without bigotry, racism, or hatred. To achieve that goal Hispanics have realized that they have to organize, to challenge, and to critically address major issues within society.

Mr. WIRTH. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DINO ZAGAMI

Mr. BYRD. Mr. President, there may be several of us here who remember a friend who was a long time servant of the Senate, Mr. Placidino Zagami. We all knew him as "Dino."

I regret to apprise the Senate of the passing on June 15 of Dino. He was 78 years old. He died of congestive heart failure at his home in Hyattsville, MD. Those of us who remember Dino will recall that he served a cumulative 34 years with the Office of Official Reporters. He retired in 1972 as the special assistant to the Secretary of the Senate. He was a native of this city, and he resided in Washington and in the metropolitan area his entire life. His only absence occurred in the years 1942 through 1946 when he left to become a member of the 4th Armored Division, 3d Army, during the Second World War. He participated in the D-day invasion landing at Utah Beach and then fought with his division through Europe into Germany under the command of the late Gen. George S. Patton.

Dino earned 5 battle stars while serving in the European-African-Middle Eastern Theatre. Among the major campaigns he fought in were the Battle of the Bulge and the Battle of Bastogne.

He and three other soldiers captured more than 600 enemy prisoners, and for his wartime efforts and gallantry, Dino Zagami was awarded numerous medals and commendations, including the Bronze and Silver Stars, the Purple Heart, the French Fourragere with Cluster, and the World War II Victory Cross.

Upon the conclusion of World War II, he returned to the Nation's Capital, where he was admitted to the Old Mount Olivet Veterans Hospital for the treatment of wartime injuries from which he had not yet fully recovered. After his military discharge and hospital release, he married his wartime sweetheart, the former Rosemary Anastasi, also a native Washingtonian. He then returned to government service, this time working for the U.S. Senate, where he remained for the duration of his career.

He worked in the Senate Chamber as a special assistant to the Secretary of the Senate, and after his retirement in 1972, he continued to reside with his family in the Washington, DC, area.

I wrote Dino a letter on December 16, 1970. He was still with us at that time working in the Official Reporters Office, and I will read that letter.

> DEAR DINO: As the Christmas Season approaches and the year draws to a close, I am reminded of the many advantages which I have enjoyed during the current year. Among them is the splendid cooperation extended me by you, which has allowed me to render my best assistance to the people whom I represent here in the United States Senate. You have enabled me to be of service to the people of West Virginia.
>
> Please accept my grateful appreciation for your assistance and my best wishes for the happiest of holiday seasons and a brighter year in 1971.
>
> With gratitude and good wishes, I am
>
> Sincerely yours,
>
> ROBERT C. BYRD,
> *U.S. Senator.*

Then, in 1972, Dino went to the hospital and I wrote him a letter on January 20, 1972.

> DEAR DINO: I cannot tell you how surprised and sorry I was to learn that you are in the hospital. I can tell you, however, that, even though the session is just two days old, you are sorely missed.
>
> No one has ever been so attentive to every Senator's request with regard to matters concerning the Congressional Record, and this has developed in us a real dependence on you. You have a reputation for your genuine interest in your work and in serving the Members of the Senate. I, personally, know how much you care, because I have called upon you many times, in your office and at home in the evening, and you have always been most helpful. Yours is a very demanding work, and the pressures upon you are great when we are in session, but you are always pleasant and cooperative in every way.

Mr. President, I will not read the rest of the letter. That will suffice for now.

The PRESIDING OFFICER. The Chair will remind the Senator that his 5 minutes under the morning business agreement has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, that will suffice. Those expressions of mine on January 20, 1972, will suffice not only for my feeling toward Dino at that time but also for my feeling today as I recall his helpful work to those of us who were Members during those years.

He was always most helpful, always cooperative, and considerate and courteous. He loved his work. He loved the Senate. And I know that I speak for a number of my colleagues who knew Dino personally as well as the numerous staff members with whom he worked in expressing to Mrs. Zagami and Dino's family our sincerest condolences, and again recalling the appreciation and gratitude that the U.S. Senate owes a man who served this institution and his country so faithfully, so unselfishly, and so tirelessly throughout his life. Indeed, if institutions possess the faculty of memory, I feel safe in saying that Dino Zagami will be remembered a long, long time by the U.S. Senate.

We are all so busy, Mr. President. We often think of our friends who have retired and we think someday perhaps we will get to see them again. We hope there will come a time when we will have the opportunity of greeting them again; but, before we know it, that opportunity is snatched away and we are too late.

It reminds me of a bit of verse which I shall try to remember in closing.

Around the corner I have a friend,
In this great city that has no end;
Yet days go by and weeks rush on,
And before I know it a year is gone;
And I never see my old friend's face,
For life is a swift and terrible race.
He knows I like him just as well,
As in the days when I rang his bell,
And he rang mine; we were younger then,
But now we are busy tired men;
Tired with playing a foolish game,
Tired with trying to make a name.
Tomorrow I say I will call on Jim,
Just to show that I am thinking of him;
But tomorrow comes and tomorrow goes
And the distance between us grows and grows;
Around the corner, yet miles away,
Here's a telegram, sir—Jim died today.
And that's what we get and deserve in the end,
Around the corner a vanished friend.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MOYNIHAN. Mr. President, on December 18, 1991, the President signed the Intermodal Surface Transportation Efficiency Act of 1991 into law. This is the most significant piece of transportation legislation passed by the Congress since the Federal-aid Highway Act of 1956. At a hearing of the Environment and Public Works Committee on May 14 our first Secretary of Transportation, Mr. Alan S. Boyd, called it breakthrough legislation.

As with all such major bills, this one contained some provisions not directly related to surface transportation. These ranged from the construction of a border station in Minnesota to the naming of a boat ramp in Tennessee.

Also included was language relating to the construction of a Federal courthouse in Brooklyn. The Eastern District of New York which includes Brooklyn, has one of the highest drug caseloads in the Nation. Its jurisdiction covers LaGuardia and John F. Kennedy Airports and much of the New York coastline. In 1989, the Judicial Conference of the United States, headed by Chief Justice Rehnquist, declared that the situation of the Federal courts in Brooklyn constituted a "judicial space emergency," the first and only such declaration ever. Juries were meeting in closets and files were being stacked in hallways. This alarmed me. Senator D'AMATO and I wrote to Mr. Richard Austin, the Administrator of the General Services Administration, to ask what was to be done.

The GSA responded with a plan. They would lease the Brooklyn Post Office at Cadman Plaza from the U.S. Postal Service and, while preserving the existing facade, reconstruct it as a courthouse. The Brooklyn Post Office, which is directly across the street from the court's present location, is a spectacular building not unlike our Old Post Office here on Pennsylvania Avenue. This was a grand idea, and the judges approved.

Still it seemed that nothing was being done. On November 4 I wrote Mr. Austin again. Mr. Austin replied that he had a proposal, and that his staff would provide it to my staff. In order to move things along, GSA asked my staff if we could offer an amendment to authorize the project. At this point the transportation bill was in conference, and my staff went to the House staff and asked if there would be any objection to including a no-cost authorization for the Brooklyn project in the bill. There was none, and the language was inserted in the conference report.

After the conference report passed, OMB undertook to score the bill. To everyone's surprise, OMB ruled that the cost of the entire courthouse project would be scored against the transportation bill. This was new. The intent of the amendment—that is, my intent and GSA's intent in proposing an amendment and drafting language—was never this. Our plan was to authorize the project and seek appropriations in the coming year to move it along. In my 15 years of the Environment and Public Works Committee I have authorized dozens of GSA projects and I have never seen one treated this way. But there you are.

And things got worse. The courthouse was "scored" not at its projected $457 million cost, but at $998 million. What's more, the CBO had originally proposed that it be scored at $3.5 billion. Something was going very wrong.

All this was happening after the transportation bill had been sent to the White House. Congress had adjourned for the year and nothing was to be done but wait for the new session to begin in January. All could be set right then. On December 11 I wrote Mr. Austin and then-Secretary of Transportation Sam Skinner stating my intention to seek the earliest possible repeal of the provision. I drafted legislation to do just that.

Meanwhile, on February 4, the Senate and the House acted on H.R. 4095, a bill to extend Federal benefits to unemployed workers. Under normal circumstances this would not affect transportation spending or my effort to repeal the courthouse authorization. But these are not normal times.

I will do my best to explain. The Brooklyn project is expected to cost $457 million. OMB withheld $998 million to pay for it—a $541 million discrepancy. Why? This was the result of a little-noticed provision in the transportation bill. It reads as follows:

SEC. 1004. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause (1) the total outlays in any of the fiscal years 1992 through 1995 which result from this act to exceed (2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992, then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

Of course. Well, perhaps I should summarize.

To comprehend what happened one must distinguish between obligations on the one hand and outlays on the other. Take our courthouse: $457 million would be obligated for the project in 1991, and this money would outlay little by little over the next 5 years. Obligations occur when the Government commits money at the outset of a multiyear project. Outlays occur over several years as money actually gets spent.

Experience tells us that highways are built more quickly than buildings—that is, their outlays occur sooner. Specifically, highway projects outlay mostly in years one and two and building projects outlay mostly in years three and four. Simple enough.

Well, maybe not.

The budget compliance language I cited a moment ago has the effect of creating outlay caps for each year of the transportation bill. This is the source of our problem. OMB declared that $457 million must be obligated in 1991 to build our courthouse, and using this money for a courthouse instead a highway means higher outlays in 1994 and 1995. This is balanced by a commensurate outlay reduction in 1992 and 1993, but, evidently that doesn't help. That would make too much sense.

All that mattered to OMB was the violation of the 1994 and 1995 outlay caps. To prevent this, OMB decreed that more than $457 million would have to be cut back. The figure they came up with was $998 million. Crystal clear.

So for better or worse, $998 million was set aside to pay for a $457 million courthouse. So what happened to the extra money—$541 million? The answer is, nothing. At least not at first. It was simply classified as savings.

As it turns out, savings can be spent, which is what happened. Our $541 million was snapped up 9 legislative days after Congress returned to session in January. The unemployment bill that passed the Senate on February 4 needed to be paid for. What better source of funds than already existing savings?

Now, to restore the full amount of funds that had been mistakenly withheld for the courthouse—$998 million—it seemed we would not only have to repeal the courthouse provision, but find $541 million to pay for it. Impossible? Still I felt I should try.

On March 24 the Senate took up and passed my S. 2398 by unanimous consent and sent it on to the House. The bill would have restored the full $998 million. In the House, the Committee on Ways and Means made it clear that it would not allow this bill to become law. Strike one.

It became clear that the most we could hope to do was restore the funds actually allocated to the courthouse. The money that had gone for unemployment benefits, I now understood, was gone for good. And so we drafted a new bill, S. 2641, which was sponsored by myself and Senators BURDICK, CHAFEE, SYMMS, SASSER, and DOMENICI. On April 30, OMB issued a statement of administration policy saying, "The administration supports enactment of S. 2641." On this same day the Senate took up and passed the bill by unanimous consent.

This second bill was drafted to satisfy the objections of the Ways and Means Committee. Rather than restoring the full $998 million, the new bill would restore only the money that we had in hand, you might say. One would think that this would be $457 million—the cost of the courthouse. Evidently not. An April 29 memorandum from the Senate Budget Committee explained:

> The Congressional Budget Office and the Office of Management and Budget have determined that $369 million is the maximum amount of highway obligation authority that can be restored by repealing the direct spending for the Brooklyn Courthouse without causing a pay-as-you-go sequester.

There you are. And so I drafted S. 2641 to restore $369 million.

The bill went over to the House and was referred to the Public Works Committee, where it sat for weeks. It seemed clear that it might sit forever. Strike two.

The next chance was H.R. 5132, the dire emergency supplemental appropriations bill, which passed the House on May 14. On May 20 the bill was taken up in the Senate and I added the language contained in S. 2641 as an amendment. It was accepted by voice vote. The Senate passed the bill the next day and all indications were that the amendment would be included in the conference report by common agreement.

Not so. I learned as the bill went into conference that the House Appropriations Committee had objections.

As near as I can tell the reasoning was as follows: Our transportation bill had diverted highway funds to a courthouse. Not by intention, but true nonetheless. This meant that $369 million in what are called mandatory outlays normally allocated to the Appropriations Committee's Subcommittee on Transportation were shifted to its Subcommittee on Treasury, Postal and General Government, which appropriates money for the GSA.

This shift was not a problem. Undoing it, however, was.

By moving $369 million from the courthouse back to the highway program, my amendment would have increased the mandatory outlays for the Transportation Subcommittee without increasing the total outlays available to the subcommittee. Out of a limited budget, $369 million more would go to the highway program and not be available for other things. This was unacceptable to the House.

It should be kept in mind that the allocation of outlays among the various subcommittees of the Appropriations Committee is decided by the full Appropriations Committee. It is not a matter of law, and cannot be altered by enactment of a law. Which is to say that no amendment could have avoided this situation.

The conferees met on June 4. The House stated its strong opposition to my amendment and it was dropped. Strike three.

Mr. President, it is now mid-June. We have barely 3½ months left in the fiscal year. The benefits of repealing the courthouse authorization diminish as the days and weeks roll by. You see, the figure of $369 million—the amount that OMB and CBO told us we can restore without causing budget problems—is not static. It is based on spending projections made in January. It is now June. OMB and CBO are now in the process of revising their spending projections for the remainder of this fiscal year, and our $369 will soon become something closer to $300 million or $250 million.

Three different times the Senate has passed legislation on this subject. The House has been unable to accept any of these bills. So be it. I have gotten the message.

RUSSIAN TROOPS OUT OF BALTIC STATES: A TOP PRIORITY

Mr. PRESSLER. Mr. President, yesterday Congress and the American people heard an eloquent address by the President of the Russian Federation, Boris Yeltsin. This impressive man sent a number of important messages about the kind of relationship he wants with the United States and the kind of country he desires to rise from the ruins of communism.

I believe that Congress and the American people really want a cooperative partnership with Russia and the other new states of the former Soviet Union. However, one important issue should not be overlooked or soft pedaled.

Boris Yeltsin was one of the most courageous of Russians when he advocated independence for Estonia, Lithuania, and Latvia from the Soviet Union. Now is the time for him to help make sure those states become truly independent.

Mr. President, 31 Senators have joined me in writing to President Bush to urge him to raise in discussions with President Yeltsin the timely withdrawal of Russian forces from the three Baltic States. Nearly one-third of the Senate has spoken—negotiating and then implementing a withdrawal timetable should be a top priority for Russian civilian authorities and the Russian military. It should also be an important component of our bilateral policy.

I commend these Senators for expressing their concern on the issue of Russian troops in the Baltic States and ask unanimous consent that copy of the letter appear in the RECORD immediately following my remarks.

U.S. SENATE,
Washington, DC, June 16, 1992.

Hon. GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We respectfully urge you to raise the issue of timely withdrawal of Russian forces from the Baltic States during your discussions with President Yeltsin. Before taking office, President Yeltsin courageously supported independence for the Baltic States. But Latvia, Lithuania and Estonia cannot be fully free or independent with thousands of foreign troops stationed on their territory against the will of the people and governments of those states.

Russian armed forces are there illegally, contrary to the express wishes of the legitimate independent governments of Estonia, Lithuania, and Latvia. The Russian government has not demonstrated good faith by undertaking serious negotiations with Baltic governments for a rapid withdrawal timetable. We consider the presence of these troops destabilizing and believe they represent an obstacle to normal diplomatic relations between the United States and Russia.

We ask you to convey the gravity we attach to the unwillingness or inability of the Russian government and its military commanders to agree to a reasonable withdrawal timetable. While we understand there may be difficulties in removing over 100,000 troops and closing bases, we believe the effort to conclude a mutually-agreeable timetable for withdrawal is vital. Mr. President, we urge you to raise the issue of good faith signals with President Yeltsin. For example, we cannot understand why conscripts continue to be deployed in the Baltic States. In addition, units that pose the greatest threat to Baltic sovereignty, such as the 107th division in Lithuania, are not being removed.

Belligerent and threatening rhetoric by the Russian military, under the guise of protecting the Russian minorities in the Baltic States, is not helpful to concluding a reasonable pullout schedule. We note a recent statement by General Grachev, the Russian Minister of Defense, that "all possible means" will be used to protect the honor and interests of the Armed Forces of Russia.

We have great respect for President Yeltsin's actions in assisting the Baltic States to achieve their independence in 1991. We have no desire to handicap his efforts to promote representative government and free markets. However, we believe that he alone is responsible for the actions of the Russian military and that he must assure that a mutually-acceptable agreement is speedily concluded with the Baltic States on a timetable for withdrawal. Additionally, he should assure Russian adherence to this timetable and respect the sovereignty of these countries.

We consider a Russian demonstration of good will on troop withdrawal to be vital to the success of democracy and freedom in the Baltic States and Russia and a precondition to U.S. assistance to Russia.

Sincerely,

Larry Pressler, Donald W. Riegle, Jr., Arlen Specter, Paul Simon, Barbara A. Mikulski, Brock Adams, Alfonse M. D'Amato, Alan J. Dixon, Malcolm Wallop, Harris Wofford, Dennis DeConcini, Daniel Patrick Moynihan, Robert W. Kasten, Jr., Daniel K. Inouye, Bob Smith, Joseph I. Lieberman.

Robert C. Byrd, Dan Coats, Jesse Helms, John Glenn, Hank Brown, John Seymour, Al Gore, Ernest F. Hollings, Wendell H. Ford, Christopher J. Dodd, Bill Bradley, Paul S. Sarbanes, Frank R. Lautenberg, Steve D. Symms, Edward M. Kennedy.

HONORING OUR FLAG

Mr. STEVENS. Mr. President, having recently celebrated Flag Day, and looking forward to the traditional celebration of our Nation's independence, I bring to your attention an article in the June issue of the American Legion magazine.

The article discusses why Americans love our flag, why we need our flag, and why we believe in pledging allegiance to our flag.

The author, Michael Novak, notes that our Constitution leaves us free to go in our own directions most of the time. But—because of that freedom—there is need to celebrate what unites us in our diversity: Our loyalty to our U.S. Constitution.

The flag stands for our Republic, Novak notes in the article, as well as for our Constitution and for our constitutional community. It has been a beacon, an inspiration, a guiding light in dark times, and a symbol that strengthens, inspires, and reinforces our loyalty and love of country.

Mr. President, as one who has supported the Senate's amendments to protect our flag, I wish to include the following article from the June 1992, issue of the American Legion magazine by Michael Novak in the CONGRESSIONAL RECORD.

Thank you, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY PROTECT OUR FLAG?

(By Michael Novak)

That the American flag evokes powerful emotions I learned most vividly over lunch, curiously enough, with five fellow faculty members at the University of Notre Dame in the autumn of '88. As we sat down, trays in hand, one complained about the "triviality" of the presidential campaign.

"Like what?" I softly asked.

"The Pledge of Allegiance," he replied with finality.

"I don't think that's trivial," I commented quietly. That was a mistake.

Almost instantly my companions raised their voices, outdoing one another in heaping up examples of how "trivial" the "flag issue" is. "Gestapo," "storm troopers," and "coercion" the first voices said.

Still louder voices denounced a "meaningless ritual," which "violated the Constitution," and was "illegal" and "un-American." They were quite worked up about it. The issue wasn't as trivial as they were saying.

Some people are passionately against the pledge, others are passionately for it. Why does the flag do that to people?

The Notre Dame experience taught me that George Bush understood the nation's symbols better than—may they forgive me—my faculty colleagues did. Four years ago, candidate Bush asked the entire Republican Convention in New Orleans to stand and recite these words:

I pledge allegiance to the flag of the United States of America, and to the republic for which it stands. One nation under God, indivisible, with liberty and justice for all.

Incredibly, the entire election of 1988 sometimes seemed to hang on this simple pledge.

The Democratic candidate, Michael Dukakis, thought so too. For he told the Democratic Convention in New York City why he had vetoed a Massachusetts bill, passed by both houses, that would have required teachers to lead the first class each day in a group recitation of the pledge.

He insisted that he himself said the pledge and encouraged others to say it, and he attacked the Republican candidate: "If the Vice President is saying that he would sign an unconstitutional bill, then in my judgment, he's not fit to hold the office of President."

Perhaps never before has this simple pledge incited such a storm. This cloth flag of the United States, this piece of red, white and blue bunting, this ensign that has thousands of times, preceded troops into stormy battle, has itself become a battleground. Would-be presidents combat over it. Elections are partly decided by its meaning. What gives?

And what did President Bush know about the flag that my university colleagues didn't? Three things.

First, the only reality that holds Americans together is our form of government, the republic. We don't share a common ancestry, language of origin, single patch of land, long history. The British, the French, the Spaniards, and Germans pledge allegiance to a plot of land, a history, a language, a fatherland. We pledge allegiance to a republic—take away the republic and the deal is off.

That's what holds us together, this republic. That's why we want to pledge our allegiance to it often by pledging allegiance to the flag "and to the republic for which it stands."

That's why we want our children's attention focused on the one symbol that holds us together, as their first action every day and in a way they will never forget, in classrooms that hopefully will mirror the nation's diversity.

True enough, some 50 years ago, the Jehovah's Witnesses protested that they could not pledge allegiance to any object except God, and the U.S. Supreme Court ruled unconstitutional a West Virginia statute that threatened to punish students, the Jehovah's Witnesses, who refused.

At that time, the Jehovah's Witnesses, citing Exodus 20, the Ten Commandments, proposed a compromise. They could pledge full allegiance only to God, since the Bible said literally: "You shall not have other gods besides me. You shall not carve idols for yourselves . . . you shall not bend down to them. . . ."

But they would pledge "allegiance and obedience to all the laws of the United States that are consistent with God's law, as set forth in the Bible."

But in 1954, the words "under God" were inserted into the pledge. This insertion seems to have met the objection raised by the Jehovah's Witnesses, if not, it still makes a very good point.

As our second President, John Adams, once wrote, what civilization most owes to the Hebrews is the conviction that, no matter how rich or powerful a nation might become, it is always under the undeceivable judgment of the Almighty. The words "under God" solidify that lesson: This republic is under judgment. It is no idol in the place of God.

Second, a country as diverse as ours—of many religions, ethnic backgrounds, and races—needs at least a few focal points like the Constitution, which undergirds the republic.

In standing for the republic, the flag represents the Constitution, too. So it is a little odd, isn't it, to say that it's unconstitutional to pledge allegiance to the Constitution?

Third, the American community was never conceived of as a "national community," in the sense that a single central government could or should override everything, or in the sense that all citizens would normally march in lockstep in pursuit of "national goals." That may sometimes be necessary. That is why there is one flag.

But look at that flag. It doesn't symbolize uniformity. Its 50 stars and 13 stripes signify a diversity of states, regions and purposes.

The United States is not a national community; it is, "a community of communities."

And, therefore, just because our Constitution leaves us so free to go off in our own directions most of the time, there is need occasionally to celebrate what unites us in our diversity: our loyalty to the U.S. Constitution.

The flag stands for the republic; for the Constitution; and for the constitutional (federal) community. These are three reasons why we love the flag, why we need the flag, and why we want ourselves and our children to pledge allegiance to it in public.

But what about flag burning? What can we do to protect the flag? Some people say that we should not call the flag sacred or speak of its desecration, since these words belong only to God and religious things dedicated to Him.

But Abraham Lincoln did speak of the ground of Gettysburg in these words: "We cannot dedicate—we cannot consecrate—we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract."

If the ground over which soldiers fight can be hallowed, then surely the colors beneath which they fought can be even more hallowed.

To pay an earthly regard to certain special things as holy, sacred or hallowed is not to trespass on what properly belongs to God. It is to practice a habit of respect, quite appropriate to a worldly republic.

The Supreme Court, alas, has ruled that burning the flag is protected expression. We must respect the court. But free citizens can also reason before it. A free republic needs free speech.

Speech is rational and is aimed at persuading fellow citizens in a civil, reasoned way. Civil conversation.

But not all expression is civilized. One person's flag burning inflames the passions—not the reason—of many. A republic based on law and reason—the Statue of Liberty holding the lamp of reason in one hand, the Book of Law in the other—does not rest on inflammatory expression.

To burn the flag is, symbolically, to burn the republic and the Constitution. It is also to abandon reasoned speech for passionate kid stuff. It is an act worse than book burning.

So shame on the court! Those who burn the flag burn the symbol of their own rights and liberties. Even the court allows us to hold them in contempt and to subject them to ridicule, catcalls, jeers and whistles. They may loathe the republic; we don't.

Republics are not like monarchies. They have very few public liturgies, and discourage bowing and scraping. Their style is humor, jest, backslapping and waving to friends, rather than the exchange of deference, the calling out of titles and the formal sobriety of regal pomp.

A republic is no stronger than the love its free citizens pledge to it. Call off that love, perish the republic. Perish the republic, dissolve our people's love.

No wonder we want to pledge allegiance to Old Glory often. It is like pledging allegiance to a great gift of Providence, better than we deserve, the last best hope of humankind.

And since the flag represents our public selves, public should be our pledge. Since children do not come born with the habits of the republic in their hearts, their wandering attention should be focused on the republic often and with regularity in a public way.

And where else but school are they likely to meet the citizens with whom they will share their generation's struggles, and learn to be as true as those who went before them?

That flag is an emotional symbol? You bet. It cuts to the quick of who we are and what we are about.

THE HOSTAGE ERA

Mr. MOYNIHAN. This week families and friends of Heinrich Struebig and Thomas Kemptner—indeed, the world—celebrate the freedom of the last Western hostages held in Lebanon. I rejoice with them. But the hostage era is not over, as a headline in today's Washington Post prematurely claims.

Ron Arad, an Israeli serviceman, has been missing in Lebanon for more than 5 years. Other Israeli servicemen are also missing and may be held captive in Lebanon. On June 1, 1992, 41 of my Senate colleagues joined me in a letter to President Bush urging him to work diligently to secure the release of Ron Arad, Heinrich Struebig, Thomas Kemptner, and others held in Lebanon. As a simple matter of humanity. And international law.

Mr. President, we must not forget and abandon the other hostages—the Israeli servicemen—still missing. As Israel rejoiced in the release of Terry Anderson, so we must remain faithful to the plight of citizens of this most steadfast ally and sister democracy.

CONCLUSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, it is my understanding that the period for morning business has expired.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2872 are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1992—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of H.R. 5132 the conference report on the dire emergency supplemental bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I realize the majority leader has made a determination, but I will say that the majority leader has been good enough to communicate that he is going forward with that. I think it is critical that we do. I hope we can process that. There are two on our side of the aisle who are indicating some type of activity, and I am not aware of that. But, in any event, we will go forward with the measure, as we must. It has to be dealt with and perhaps they will find location on another measure to express themselves.

I just want to be certain of the procedure. That is the majority leader's wish and he is going to that immediately.

Mr. MITCHELL. The Senator is correct.

Mr. President, it remains my hope and intention that we will complete action on the supplemental appropriations bill, the unemployment insurance bill, and the GSE bill in the next couple days. We are going to proceed and try to do that as best we can.

Senator BYRD is ready to proceed with the supplemental appropriations bill and I hope that we can complete action on it promptly this evening. And at that time I will consult with Senator SIMPSON regarding our best way to proceed. But I still intend to proceed to complete action on those three bills, if possible, within the next couple days.

I thank my colleague for his cooperation.

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 5132 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 17, 1992, p. 15230.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have sent word to my colleague, Senator HATFIELD, the ranking member of the Committee on Appropriations, to come to the floor. This bill is being taken up on rather short notice. I am not faulting anybody. I understand the situation that confronts the majority leader and I am glad that we could get the conference report before the Senate at this point.

But Senator HATFIELD, I am sure, will be along shortly and for the time being I will proceed.

The conferees completed their work on H.R. 5132, the dire emergency supplemental for disaster assistance, on

June 5, 1992. As passed by the House, this measure includes, for the Small Business Administration, the Disaster Loans Program account, $169,655,000; SBA disaster loans, $500 million; SBA administrative expenses, $27 million; SBA loans, $1.53 billion; technical assistance grants, $4 million; Business Loans Program, $7.32 billion; limit on microloans, $26 million; Microloan Demonstration Program, $5 million.

In addition, the measure includes $300 million for FEMA Disaster Relief Program and a $22 million limit on FEMA direct loans as well as $500 million for summer youth employment.

The House in action earlier today modified what the conferees agreed to in order to ensure that the President will sign this measure and get this urgently needed disaster assistance to the cities and communities around the country that are in dire need of the resources which this bill will provide. And the changes adopted by the House are as follows:

First, the removal of a requirement that a Presidential declaration of emergency be made before SBA business loan program funds became available. This will mean that the approximately $1.5 billion in SBA business loans will be available, but that subsequent outlays will not be declared an emergency.

Second, the $675 million provided for the Summer Youth Employment Program has been reduced to $500 million, of which $100 million will be available to the 75 largest cities, and the remaining $400 million will be available under the existing statutory formula.

Third, the House also deleted the $250 million appropriation for Head Start, the $250 million for chapter I compensatory education, and the $250 million for the Weed and Seed Program.

It is important, Mr. President, that we take quick action on the measure and present it to the White House, where we are assured it will be signed. The funds appropriated in this bill are for emergencies and should be made available to those who most need them as quickly as possible.

The crucial SBA loan assistance and payment disaster aid are vital not only for Los Angeles and Chicago, but for other communities, including those recently devastated by tornadoes in the Midwest.

I urge my colleagues to support the compromise.

I understand Senator STEVENS will be handling the conference report on the other side of the aisle. He will be along shortly. He is on his way to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, Senator STEVENS is now on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the distinguished President pro tempore, the chairman of the Appropriations Committee. In the absence of Senator HATFIELD, I am pleased to announce he and I support the conference report on the dire emergency supplemental. I will be pleased to answer any questions concerning the conference report, which is before the Senate. I hope it will be promptly adopted.

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

Mr. KENNEDY. Are we under controlled time, Mr. President?

The PRESIDING OFFICER. We are on the conference report on H.R. 5132. And there is no time limit.

Mr. KENNEDY. I thank the Chair.

Mr. President, I join in supporting the urban emergency supplemental appropriations conference agreement. I commend Congressman GEPHARDT for his efforts to reach a compromise on this package, and I also commend the leadership of Senator BYRD, Congressman NATCHER, and Senator HATCH. The final agreement includes $500 million for time-sensitive job programs for youth that can make a significant difference for the Nation's cities this summer; $100 million of these funds are targeted for inner city youth.

Under the bill before us, an additional 360,000 teenagers will have the opportunity to earn a paycheck over the summer. The overall summer job program will be almost doubled. Massachusetts will receive $13.4 million of which Boston will receive $2.8 million in additional funds for summer jobs. That means 10,000 new summer jobs across the State, including 2,000 in Boston. Many other cities across the country will receive similar increases.

Important as this first step is, it is a small step and it cannot be the only step. It is only a downpayment on the larger investment that is needed to revitalize our cities. We have had ample warning of the consequences of past neglect. None of us can afford to relax or think we have done enough.

Congress and the administration must continue to work together on an effective additional response in follow-on legislation to deal with other urgent aspects of the urban crisis.

Enterprise zones can be a significant part of the solution, by offering special tax incentives and reduced regulatory burdens for businesses willing to invest in inner cities. I hope that we can structure these tax benefits to encourage investment in inner-city labor forces, in addition to traditional capital investment.

But enterprise zones must be accompanied by new public investments in jobs, job training, housing rehabilitation, education, and health care, so that citizens in the country can participate in the benefits of the enterprises that move in.

Head Start and the Chapter 1 School Program for disadvantaged students are among the most effective ways to improve the lives of inner-city children and pupils of all ages. Education has always been a cornerstone of the American dream, and it will continue to be if we are wise enough to make the investments that our schools so urgently need.

Immediate, additional investments are needed in programs such as community development block grants, which provide the Nation's mayors with resources for a range of projects such as housing rehabilitation in poor neighborhoods, job-creating public works, and community projects such as senior citizen centers and Head Start facilities.

We also need a stronger commitment to Community Development Corporations, which have been effective in creating jobs and revitalizing neighborhoods from Los Angeles to New York. They also promote lasting stability by ensuring that impoverished areas develop the anchors that middle-class neighborhoods take for granted—including strong community organizations, corner banks, thriving local businesses, safe parks, and decent housing.

For example, the Coalition for a Better Acre, a community development corporation in Lowell, MA has helped capitalize 12 successful small businesses since 1990. In every case, the new owners were low-income citizens in the community who could not obtain financing from traditional banks.

The private sector, community groups, and Federal, State, and local governments must work in partnership to achieve these goals. Each has a major role to play. None can do the job alone. Private sector support is especially important, because it means a commitment to provide loans to rebuild devastated neighborhoods and businesses, and to continue to provide insurance to areas in which there has been unrest.

In law enforcement, the emphasis should be on additional aid to State and local authorities. We should insist on the enactment of clear nationwide police training standards and Federal enforcement authority, to reduce the likelihood of excessive use of force, and to root out the disastrous effects of race discrimination in all aspects of the criminal justice system. The Police Corps, which is authorized in the stalled crime bill, is an excellent idea; it can bring new recruits and new perspectives to police departments across the country.

We must bring a new sense of commitment to address the long-run domestic challenges we face. A decade of neglect has redlined the entire Nation—not just our cities. We have seen too much disinvestment in vital areas such as education, job training, housing, health care, and research and development. The need is more urgent than ever, and it is more important than ever that we begin to meet it now. As the Los Angeles riots proved, we face few more serious challenges than to deal responsibly with our festering urban crisis.

Finally, in rating this development—in evaluating the new sense of the possibilities of productive bipartisan action—the official scorer may well give an assist to the visit of President Boris Yeltsin. He may have provided the catalyst needed for Congress and the administration to come together on aid to American cities, as well as aid to the former Soviet Union.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I am very relieved and delighted we now have the supplemental bill to work on. A number of us have been most concerned about moving forward on this particular measure. I spoke on the floor several days ago about the urgent need for summer youth funds in our major metropolitan areas. That is based on a lot of discussions and visits I have made in both St. Louis and Kansas City in my State. And I know in Kansas City where there were some very real difficulties following the verdict in the Los Angeles Rodney King trial, our distinguished mayor of Kansas City, Mayor Manuel Cleaver, worked hard to keep the city under control. As a result of that, the political leadership on a bipartisan basis, the business community, the inner-city community, all came together to say the one thing that we most need for our youth and for our city is to provide productive jobs, useful work endeavors for the young people in our cities this summer.

At the time, they emphasized the urgency of this entire problem. They said it is not going to do us a lot of good if you send us money in July or the middle of July. We need that money now to begin worthwhile youth programs.

Mr. President, Kansas City also went forward on a massive communitywide operation in which the media agreed to put on a telethon. Businesses of all kinds and institutions in the nonprofit sector, came forward to offer employment. All of this was to be supplemental to what they would hope come out of the Federal Government Summer Youth Employment Program.

For a while there it was a real concern to me and others that maybe Congress would not get around to doing what everybody realized we should do and we must do right away in order to make constructive use of the energies and the talents of the young people, particularly in our cities.

The fact that this measure has come over from the House is very good news. I talked with the ranking Member, Mr. McDADE, earlier in the week when he said he thought this compromise was possible. I know there are lots of different views and there are many possible amendments that could be offered. I would just urge my colleagues to move forward on this bill without slowing it down.

There will be other opportunities to talk about many, many important issues that we do need to address in the few days remaining in the legislative session, but in terms of a dire need for quick action, this emergency supplemental really meets those needs. There are problems with the disaster relief funds and the emergency loan programs that are included in it, but I do not think anything is a better investment to ensure that our cities enjoy a productive summer than getting money to put the youth of our cities and the other areas of high unemployment to work during this summer in constructive endeavors. I am very pleased we have this bill, and I urge my colleagues to accept it as promptly as possible.

I thank our distinguished chairman and Senator STEVENS for bringing this matter to the floor, and I hope that we can move it expeditiously. I thank the Chair, and I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to add my voice in support of this important legislation. I am especially glad to see an agreement worked out which is acceptable at both ends of Pennsylvania Avenue, because for too long there has been a gridlock in Washington between the executive and legislative branches and also between the Democratic and Republican Parties.

An agreement has been forged that will allow the legislation to move ahead. This action is of critical importance, not only to maintaining equilibrium in the cities during the coming summer months, but also in demonstrating to the American people that Washington, DC, can function, that there can be agreement, notwithstanding political differences and notwithstanding the fact that we are in a hotly contested election year.

Within a short time after the April 29 riots in Los Angeles, I was discussing this issue with mayors of cities in my State. On the following Monday, May 4, I met with several Members of the Pennsylvania Congressional delegation in Philadelphia, with Philadelphia's Mayor Ed Rendell. In addition, we had a followup meeting the following Monday on May 11, and then assisted in convening a meeting of Republican Senators with the mayors who were in Washington that following Friday, on May 15. On that day, the mayors had a meeting with Democratic legislators and one with a number of Republican Senators which included Senator DOLE, Senator DANFORTH, Senator DURENBERGER, Senator KASTEN, and myself. We met with a number of mayors whose views were characterized by Mayor Flynn of Boston saying that he was concerned with keeping the lid on in the summer, and as Mayor Flynn characterized it, it was a matter of cops and kids.

Later on that day, I had occasion to fly to Pittsburgh with the President and discussed with him my view of the urgency of the need for summer jobs. The President said that he agreed this was a high-priority item. The President expressed some concern about all facets of the bill and the issue of cost, and of course that is a matter which concerns us all as our deficit continues to rise. I had a sense however, from that meeting with the President, although no commitments were made, that he was going to do his very best to work out a legislative solution. We find that the logjam was broken at the meetings yesterday, and we are now in the position to move ahead with this conference report.

I express some regret, Mr. President, that we were not able to include some funds for Head Start, which I think would have been very important. I note the Chair nodding in agreement on that one statement, the Chair being the distinguished Senator from Iowa, Mr. HARKIN, who is the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, where I am the ranking Republican. Senator HARKIN and I work very closely, including our efforts to try to increase the portion of funds allocated to our subcommittee because we have such tremendously pressing needs. One of those needs is on the line of Head Start which has been such an enormous success, where we are now pressing funds to increase from $2.2 to $2.8 billion on a program which has had enormous success over the years.

I had occasion in the course of the past several weeks to meet with the superintendent of schools of Philadelphia, Dr. Constance Clayton, who implored action and some help for this summer funding to enable that school district to move ahead. It would have been my preference, and I expressed it in the appropriation conference a week ago today, that we should have included some of those funds, but as the compromise and accommodation has been worked out it is important that we take the steps which we have taken and we can revisit the issue of Head Start perhaps at a later time.

The $500 million, Mr. President, will mean a tremendous amount for the cities. I am pleased to see that we will be using the formula which has been in existence, that we are not going to make a change on the formula without an opportunity to really digest it. I am pleased that we are retaining the formula which has been in existence.

When I talked to Mayor Rendell of Philadelphia I was able to gain some of the specifics on the needs of Philadelphia. Philadelphia's share of funding under the current youth summer program amounts to right at $5 million, and that provides summer jobs for some 5,600 young people. The mayor told me that they had some 2,000 people on a waiting list, so that this additional $500 million will just about double the availability of summer jobs.

I think that is very important, important in terms of a constructive, appropriate program for summer youth and also a demonstration that the Congress and the President can function, political differences can be put aside, gridlock can be broken, and we can move ahead with very constructive action.

I thank the chair. I thank my colleagues for waiting for a few moments for my arrival. I did not know precisely when this bill would be called up, but as soon as I heard about it I concluded my business in the office and walked right over to make this very brief statement in support of this important legislation.

I thank the Chair and yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. STEVENS. I do thank the Senator from Pennsylvania for his comments and his contribution, and I would report to the Senator from West Virginia we are prepared now to move to adopt the conference report.

Mr. GRAHAM addressed the Chair.

Mr. STEVENS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, it is with regret that I must conclude I cannot support this conference report for one basic reason, which is that we are proposing to finance this by adding again to the Federal budget deficit, a deficit which already is projected to approach or exceed $400 billion in this fiscal year.

All of the causes that are cited in this bill are worthy and laudatory. The fundamental question is should we pay for them, this generation of Americans who will receive the benefit of these programs, or should we ask our grandchildren to pay for them?

My own opinion is that if we are describing these as dire emergencies, urgent to benefit the Nation today, this summer, before the end of this fiscal year, they should be expenditures of sufficient gravity and importance that we are prepared to figure out how we going to assume financial responsibility.

We can do that in one of several ways. Probably the most direct way would be to find areas of expenditure which have currently been authorized of an amount equal or greater than those we are about to propose and to terminate those, thus relieving from the current level of Federal appropriations that amount of funding so we will not by this action be adding to the Federal deficit.

That, Mr. President, is my principal concern. I am also concerned that we have been creating almost assured emergencies by the manner in which we have been funding the Federal Emergency Management Agency. In each of the last 3 years, we have funded the Federal Emergency Management Agency an average of $246 million each year. That represents $200 million in fiscal year 1989, $270 million in fiscal year 1990, and $270 million in fiscal year 1991.

That was the original request of the administration. The Congress in those years appropriated $100 million in 1989, $98,450,000 in 1990, and zero in 1991. The actual average outlay in each of those 3 years has been $806 million. That is to say that in each year we have exceeded what the President recommended by an average of more than 3 times and what we had appropriated by more than 8 times.

Mr. President, by this pattern we have been virtually assuring that every year we would have an emergency in the emergency fund. I believe this experience we are going through this afternoon, where yet again we are having to appropriate on a dire basis funds for an emergency fund that has been consistently underfunded, raises the importance of our attending in the original appropriation, and hopefully in the President's request, to adequately funding these programs so that we do not artificially underfund and thus create almost an inevitable emergency throughout the fiscal year.

Mr. President, that is a matter that we can correct. My fundamental reservation with this legislation is the issue of who should pay for programs which we are judging today to be of great urgency and importance to the Nation. My position is that we should pay and, therefore, that we should not fund this by adding to the Federal deficit as we propose to do with the supplemental appropriation.

Mr. President, I ask unanimous consent that a table from the Congressional Research Service be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—REQUESTS, APPROPRIATIONS AND OUTLAYS, THE DISASTER RELIEF FUND, FY 1984–93

[In thousands of dollars]

	Administration request[1]	Appropriations			Actual outlays
		Original	Supplemental	Total	
Fiscal year:					
1984	0	0	0	0	243,014
1985	100,000	100,000		100,000	191,683
1986	194,000	100,000	250,000	[2] 345,700	335,444
1987	100,000	120,000		[3] 120,000	219,112
1988	125,000	120,000		120,000	186,901
1989	200,000	100,000	[4] 1,108,000	1,208,000	140,316
1990	270,000	98,450	1,150,000	[5] 1,250,950	1,433,959
1991	270,000	0	0	0	[6] 844,800
1992	[7] 185,459	185,000	943,000	[8] 1,128,000	[6] 659,911
1993	292,000	N/A	N/A	N/A	[6] 734,873

[1] Information in this column represents first request made each year by the Administration in submitting its budget to the Congress. Does not include amended requests or requests submitted at other times.

[2] According to FEMA, in fiscal year 1986 a sequester of $4.3 million was applied to the total appropriations.

[3] Public Law 100–202, the Continuing Appropriations Act of Fiscal Year 1988 (101 Stat. 1329–200), appropriated $120 million for disaster relief. According to information provided by FEMA, the original appropriation for that fiscal year was $125 million, but $5 million was transferred, pursuant to instructions, to the Department of Labor for "low income agriculture workers."

[4] Supplemental appropriated in P.L. 101–100, a continuing appropriations bill enacted after Hurricane Hugo struck in September 1989. According to FEMA, this amount was "referred to as a 'supplemental' but was technically an increase in the original appropriation during a continuing resolution."

[5] P.L. 101–130, enacted after the Loma Prieta earthquake to make further continuing appropriations, appropriated $1.1 billion for the disaster relief fund. In addition, $50 million was appropriated to the disaster relief fund in P.L. 101–302, dire emergency supplemental appropriations legislation. Also, according to FEMA, total appropriation includes $2.5 million transfer from President's Unanticipated Needs Fund.

[6] Current estimate.

[7] Does not include budget amendment of $90 million submitted by the Administration after action taken by House Appropriations Committee.

[8] Includes $186 million original appropriation and $943 million dire emergency supplemental approved in P.L. 102-229 (H.J. Res. 157), enacted in the fall of 1991 after Hurricane Bob. The President is required to submit a request designating $143 million of the supplemental an "emergency requirement" under the Budget Enforcement Act. The total appropriations do not include dire emergency supplemental appropriations bill (H.R. 5132) currently under consideration. House and Senate have approved supplemental appropriation of $300 million in different versions of H.R. 5132, introduced to meet "urgent needs because of calamities such as those which occurred in Los Angeles and Chicago."

Note.—The appearance of a deficit between outlays and appropriations is misleading because this table is a partial funding history. This table does not include appropriations made prior to 1984 and therefore available for future outlay. According to information provided by FEMA on April 22, 1992, approximately $1.14 billion was expected to be available in the Disaster Relief Fund prior to obligations made for the Chicago flood or the riots in Los Angeles. This amount excludes the $143 million appropriated for fiscal year 1992 but not yet designated "emergency funding."

Sources—FEMA Justification of Estimates in: U.S. Congress. House. Committee on Appropriations. Subcommittee on VA, HUD, and Independent Agencies. Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations. Hearings, fiscal years 1984–1992. Washington, U.S. Govt. Print. Off. and Appropriations legislation as cited in preceding notes.

Mr. GRAHAM. Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the conference report?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

The assistant clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $169,650,000, to remain available until expended, of which $50,895,000 shall be available only to the extent that a presidential designation of a specific dollar amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress, to subsidize additional gross obligations for the principal amount of direct loans not to exceed $500,000,000, and in addition, for administrative expenses to carry out the disaster loan program, an additional $25,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), $70,325,000, to remain available until expended, and in addition, for administrative expenses to carry out the business loan program, an additional $2,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

In addition, for the cost of direct loans authorized under the Microloan Demonstration Program (15 U.S.C. 636(m)), $5,000,000, to remain available under expended, and in addition, for grants in conjunction with such direct loans, $4,000,000, to remain available until expended and to be merged with appropriations for "Salaries and expenses": *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SENATE AMENDMENT NOS. 2, 3, 7, 9, 11, 12 AND 13

Mr. BYRD. Mr. President, I ask unanimous consent that other than amendment numbered 1, the amendments in disagreement, namely 2, 3, 7, 9, 11, 12, and 13 be agreed to en bloc.

Mr. STEVENS. We concur with that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services", $500,000,000, to be available for obligation for the period July 1, 1991, through June 30, 1992, to carry out part B of title II of the Job Training Partnership Act: *Provided*, That notice of eligibility of funds shall be given by July 1, 1992: Provided further, That the Secretary, to the extent practicable consistent with the preceding proviso, shall utilize the 1990 census data in allocating the funds appropriated herein: *Provided further*, That, for the purposes of this Act, of the funds appropriated herein, the first $100,000,000 will be made available by the Secretary to the service delivery areas containing the seventy-five cities with the largest population as determined by the 1990 Census data, in accordance with the formula criteria contained in section 201(b)(1) of the Job Training Partnership Act. *Provided further*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" $1,500,000 for law enforcement training activities of the Center, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" $5,500,000 for the hiring, training and equipping of additional full-time equivalent positions for violent crime task forces and for increased costs associated with the Los Angeles riot, to remain available until expended.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $3,400,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $500,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $800,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,765,000 are rescinded.

Executive Office of the President

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,000,000 are rescinded.

SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES.

(a) FINDINGS.—The Senate finds that:

(1) The crisis of poverty and high unemployment in America's inner-cities and rural areas demands an appropriate and timely response from Congress;

(2) Manufacturing and industry has largely disappeared from many United States inner cities which, in turn, led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) Encouraging small and medium-sized businesses, which create the majority of new jobs in the United States economy, to locate and invest in poor neighborhoods is one of the keys to revitalizing urban America;

(4) Enterprise Zones will help convince businesses to build and grow in poor neighborhoods; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful having generated capital investments in poor neighborhoods in excess of $28,000,000,000 and having created more than 258,000 jobs; and

(6) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators the Conference of Mayors, and the Conference of Black Mayors.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Enterprise Zones are a vital, proven tool for inner-city revitalization; and

(2) Congress should adopt Federal enterprise zone legislation and that such legislation should include the following provisions:

(A) Competitive designation which will maximize State and local participation;

(B) Tax incentives addressing both capital and labor costs;

(C) Tax incentives aimed at attracting investment in small businesses; and

(D) Tax incentives to encourage the hiring and training of economically disadvantaged individuals.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

For fiscal years 1992 and 1993, funds provided under section 9 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102–240.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "103", insert "102".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "105", insert "103".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "107", insert "104".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 105. (a) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who is convicted of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992.

(b) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who—

(1) is under arrest for, or

(2) is subject to a pending charge of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992: *Provided*, That the prohibition on the use of funds in (b) shall not apply if a period of 90 days or more has elapsed from the date of such person being arrested for or charged with such crime: *Provided further*, That should such person be convicted of a riot-related crime of violence cited in (a) and (b), such person shall provide to the agency or agencies which provided such assistance, payments equivalent to the amount of assistance provided.

(c) All appropriate Federal agencies shall take the necessary actions to carry out the provisions of this section.

(d) APPLICANT CERTIFICATION.—Any applicant for aid provided under this Act shall certify to the Federal agency providing such aid that the applicant is not a person described in subsection (a) or acting on behalf of such person.

(e) DEFINITION.—For purposes of this section, the term "riot-related crime of violence" means any State or Federal offense as defined in section 16 of title 18, United States Code.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 106. HUMANITARIAN ASSISTANCE TO BOSNIA-HERCEGOVINA.

Notwithstanding any other provision of law, up to $5,000,000 of the funds made available for foreign operations, export financing, and related programs in Public Law 102–145, as amended by Public Laws 102–163 and 102–266, and previous Acts making appropriations for foreign operations, export financing, and related programs, shall be made available for humanitarian assistance to Bosnia-Hercegovina: *Provided*, That such assistance may only be made available through private voluntary organizations, the United Nations and other international and nongovernmental organizations: *Provided further*, That funds made available under this paragraph shall be made available only through the regular notification procedures of the Committees on Appropriations.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

ORDER OF PROCEDURE

Mr. BREAUX. Parliamentary inquiry. I was just wondering if it would be appropriate now to ask for a period for morning business for the purpose of introducing a bill.

Mr. BYRD. Mr. President, will the Senator place a time limitation on that so we can move on this?

Mr. BREAUX. Three minutes more or less.

Mr. BYRD. I have no objection.

Mr. BREAUX. I ask unanimous consent that there be a period for morning business not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 2873 are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1992

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The pending question is the House amendment to the Senate amendment No. 1 in disagreement.

AMENDMENT NO. 2432 TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1

(Purpose: To provide urgent disaster assistance funding for recent tornadoes in the Middle West of the U.S.)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2432 to House amendment to Senate amendment No. 1.

At the appropriate place, insert the following;

For emergency disaster assistance payments made available to the Federal Emergency Management Agency, the Small Business Administration, and the Department of Agriculture that are necessary to provide for expenses related to recent tornado-related damage in the Midwest designated as Presidentially declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for disaster relief, $50,000,000, to remain available until expended, which funds shall be available only after submission to the Congress of a formal funding request by the President designating such funds as an "emergency requirement" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. WELLSTONE. Mr. President, I sent this amendment to the desk with a heavy heart. I would really like to thank Senator BYRD for his patience.

Mr. President, the last several days in Minnesota, southwestern Minnesota, and western Minnesota, have really been days of terrible pain and heartbreak for people. We had tornadoes hit the southwest part of our State. A Minnesota Department of Public Safety official, after surveying the damage, said he cannot recall anything in Minnesota where we had so much destruction simultaneously.

The town of Chandler, population 316, was virtually flattened; a town almost completely flattened. About one-third of the town's homes were destroyed, and there was serious damage to other homes. The school was demolished. In the town of Clarkfield, 70 miles north of Chandler, the city hall was destroyed. Many local businesses had the fronts and the roofs torn off, and in other areas, elevators have been destroyed.

Mr. President, you are from an agricultural State, and you know exactly what I'm talking about. It has just been a very difficult time for people in Minnesota. I appreciate this emergency supplemental bill and recognize the need for the aid to Los Angeles and Chicago. But right now, I care as much about Chandler, MN, as I do any town in the United States of America. Mr. President, I have met with a variety of Federal agency representatives, including those from FEMA, Farmers Home Administration, and the Small Business Administration, and I think those agency people have been very cooperative. Senator DASCHLE had a meeting in his office yesterday, and I thought we made real progress.

But, Mr. President, as I think about what has happened in my State, a news release from the American Red Cross describes in detail, city by city, the damage caused by the storm. For example, in Lake Wilson, MN, there were 29 homes destroyed, 20 with major damage, 5 minor. Five businesses were heavily damaged. It goes on and on, in a good many counties in western and southwestern Minnesota. What I am concerned about, and the reason that I have offered this amendment, is that I want to make sure that when all the smoke clears away and all the photo opportunities have taken place and people have visited these counties and all these programs have been laid out, that the money will be there. FEMA deals with the temporary assistance, medical assistance, and temporary housing, and that is helpful. What is going to happen when the people in Chandler want to rebuild their homes and businesses? What is going to happen to the farmers who are going to be faced with massive crop damage? I want to know that the assistance will be forthcoming.

Mr. President, I certainly hope that there will be an assurance that the assistance will be forthcoming, that the guarantees will be there, but I do not see any reason to be in the U.S. Senate, except to make sure that when this kind of tragedy hits, people that live in any of our States, we make sure that the assistance will be available. I intend to stand firm until I receive an assurance that if this disaster in my State is recognized as a disaster by the President—as it was declared today by Minnesota Gov. Arne Carlson—then sufficient funds will be available to cover the damage.

Mr. President, right now, I am just proposing this amendment. I want make it crystal clear that I wish I did not have to. I certainly hope that we get some clear commitments on this question of availability of funds soon. I speak for this amendment out of real conviction. I want to make sure that this support and assistance is going to be available for people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have a list of the already declared disaster areas for the 1992 funding needs. I wonder if the Senator has seen this list. There are 27 disasters already eligible for FEMA funding, and 79 disasters already eligible for SBA funding. They include 15 States for FEMA and 34 States for the SBA moneys. In addition to that, there are 5 territories that qualify for FEMA money, and 6 that qualify for SBA money.

May I inquire, is this disaster already declared disaster area by the Governor of the Senator's State?

Mr. WELLSTONE. The Senator is correct. The Governor has declared this a disaster area. I want to say to the Senator from Alaska that I am aware of the programs, but what I have been waiting for is some commitment. I have been here on the floor and waiting for reassurance and commitment from the White House and the administration that, as a matter of fact, this assistance will be forthcoming. I have not received such a commitment. I have been waiting all day for this.

Mr. STEVENS. Mr. President, may I inquire, has the Senator's Governor requested Federal assistance?

Mr. WELLSTONE. That is correct, and today the estimate was $50 million.

Mr. STEVENS. Mr. President, this Senator's information was that, as of noon today, there was no such request.

Mr. WELLSTONE. As of 2 o'clock, there was such a request, I say to the Senator from Alaska.

Mr. STEVENS. Mr. President, my statement to the Senator would be that neither he nor his Governor needs any assurance. Once that request is received, the State would be eligible for FEMA and SBA assistance under the law, just as these other 27 areas are already eligible for disaster assistance.

Mr. WELLSTONE. If the Senator will yield, first of all, I want to thank the Senator for his inquiry, because I know it is out of concern.

Mr. STEVENS. I might say—

Mr. WELLSTONE. The question is not one of eligibility, but whether the money will be there, should these areas be eligible. It's that simple. I recognize that the programs are available. I want to make sure the money will be there. That is the issue.

Mr. STEVENS. Well, Mr. President, I happen to represent a State that has more disasters than all the rest of the country put together, and we work with these agencies. I assure my friend that—it is my understanding that there is $300 million more added to this disaster account by this bill. At the time it was requested, it is clear that this disaster that the Senator is referring to had not occurred. But clearly, once the request is made, it is eligible for assistance, just the same as all of these other disasters are already eligible.

As I said, as of the 31st of May, there were a whole series. Mr. President, I ask unanimous consent to have this list printed in the RECORD, so that it is available for everybody to see, the 1992 funding needs as of May 31.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FY 1992 FUNDING NEEDS AS OF MAY 31, 1992

FEMA (27 DISASTERS)

(1) California.
(2) Delaware.
(3) Illinois.
(4) Iowa.
(5) Massachusetts.
(6) Maine.
(7) Minnesota.
(8) Mississippi.
(9) New Hampshire.
(10) New Jersey.
(11) New Mexico.
(12) Texas.
(13) Vermont.
(14) Virginia.
(15) Washington

Territories

(1) American Samoa.
(2) Guam.
(3) Marshall Islands.
(4) Micronesia.
(5) Puerto Rico.

SBA (79 DISASTERS)

(1) Arkansas.
(2) California.
(3) Colorado.
(4) Delaware.
(5) Florida.
(6) Hawaii.
(7) Idaho.
(8) Illinois.
(9) Iowa.
(10) Maine.
(11) Maryland.
(12) Massachusetts.
(13) Minnesota.
(14) Mississippi.
(15) Missouri.
(16) Montana.
(17) Nebraska.
(18) New Hampshire.
(19) New Jersey.
(20) New Mexico.
(21) New York.
(22) Nevada.
(23) North Carolina.
(24) North Dakota.
(25) Oklahoma.
(26) Oregon.
(27) Rhode Island.
(28) South Carolina.
(29) South Dakota.
(30) Texas.
(31) Utah.
(32) Vermont.
(33) Virginia.
(34) Washington.

Territories

(1) American Samoa.
(2) Guam.
(3) Marshall Islands.
(4) Micronesia.
(5) Northern Moria.
(6) Puerto Rico.

Mr. STEVENS. This disaster has occurred, and if it is certified as being disaster-eligible for Federal assistance, it will be considered for receiving some of this money. And if the money runs out, there will have to be another dire emergency supplemental to request more money. But, clearly, these disasters are eligible, and we do not earmark money for disasters, as I understand it.

Mr. WELLSTONE. If the Senator will yield, first of all, the Senator from Alaska is correct that, with FEMA, it has to be approved, and the President has to declare an emergency; but, in addition to FEMA and the temporary emergency assistance, there is also the question of what happens to small businesses, and what happens to other people. Will the SBA loan money be available? Will Farmers Home Administration loan money be available? That is still of great concern to me.

I have been waiting in vain for some clear assurances and commitment; that such funding is in fact available. I cannot be here in the U.S. Senate and not represent people who are in a lot of economic pain. That is why this I offer this amendment. I think it is important that we move forward and provide some assistance.

Mr. STEVENS. Mr. President, my information is that we create these funds, and the funds are made available to disasters as certified, first as requested by the Governor for Federal assistance, and then certified by the agencies. It is on a first-come first-served basis.

We are told—and I say to the Senator, the information received by the minority staff and myself is—that there will be sufficient funding in this mechanism for the SBA and FEMA moneys. The Senator has raised a new issue with regard to agricultural moneys. There are no agricultural moneys in this bill, as I understand it. And we do not have the answer to what the Senator refers to in his amendment, as I understand it, as agricultural moneys. I think that is a new element in this bill.

But as to FEMA and SBA, I again say to the Senator, I am informed that if this disaster is covered by the request, as he indicates has been made as of 2 p.m. for Federal assistance, and it is certified as a Federal disaster, as I understand it would normally be, then there are moneys available to cover the requests of those who are affected by this disaster.

Mr. President, I am on my feet basically to urge the Senator not to hold up this bill. We have been told repeatedly that we must get this money out. We have been in extreme negotiations on this bill. There has been a total endorsement now of the administration of this bill. The areas that are affected by the disasters, that are already waiting for money, will be affected by the delay.

Clearly, it does come out of a dire emergency concept, affecting Los Angeles and other areas. I think it would be very unfortunate to hold this up.

With regard to the new addition of the agricultural money, I do not have information as to coverage of agricultural, and I am not prepared to answer any questions concerning that.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. STEVENS. I do yield.

Mr. WELLSTONE. I thank the Senator.

Mr. STEVENS. I will yield the floor, Mr. President, unless the Senator has a question for me.

I yield the floor.

Mr. WELLSTONE. No, Mr. President. But I would like to respond briefly.

I want the Senator to know that I am not trying to hold up the bill. I have been waiting all afternoon for a response from the White House, or from the various agencies, for some reassurance that what the Senator said will happen, will in fact happen. I do not think that is too much to ask.

There are people who are hurting in southwest Minnesota. First come, first served does not cut it with me. I am interested in whether or not there is going to be assistance available for these people.

I say to the Senator from Alaska, I just now have received a letter from the Federal Emergency Management Agency advising me that, indeed, the funding will be available. This is the kind of reassurance that I need to represent my people in the State of Minnesota.

My understanding is the Small Business Administration will, in fact, also provide such an assurance. I hope that will be the case. I have been waiting all afternoon to hear from these people. I do not think that is too much to ask, when small towns are flattened and people in Minnesota have lost their homes and businesses. People are worried about it, and we have an emergency declared by the Governor of my State.

Mr. STEVENS. Then I ask for a vote, Mr. President. Let us vote. I am prepared to vote.

Mr. President, I cannot support the Senator's amendment that asks for agricultural money that is not in this bill.

And I again say—the Senator is requesting information—the letter that is before me says that money will be available "to fund any necessary assistance to the State of Minnesota should the recent storms in the Midwest cause any major damage to your State qualifying for a Presidential Disaster Declaration."

That is a statement this Senator made on this floor; that is available from both SBA and FEMA.

Again, if you think this is bad, you ought to see my whole State, leveled by the earthquake, the most powerful to hit the continent in the history of recorded earthquakes. My State took the Federal Government's promise of assistance with a grateful attitude. We did not try to hold anything up. Again, this is holding up this bill. I want this bill passed tonight.

I cannot quite understand. Does the Senator withdraw his amendment concerning agricultural moneys? There are no agricultural moneys in this bill. We cannot assure the Senator availability of agricultural moneys.

Mr. WELLSTONE. Farmers Home Administration money is available for housing assistance. I am waiting for a written response from them, dealing with the whole issue of crop damage and whether money will be available.

These are things that I have to find out about. These are not like abstract issues to the people out there. The Senator knows that.

No, I will not withdraw the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I seek no disagreement with the Senator from Minnesota. Minnesota is already one of those States that is listed as being eligible for a prior disaster. All States under the law have equal access to these funds once they qualify.

The House is not in session. It will not be in session until noon on June 22. This bill is vitally needed for many areas, and it is essential that we get the bill passed.

I am informed the House will not vote until June 23. I would hope that the Senator would take our assurance and the assurance of the agencies involved that if his State becomes eligible for assistance from these funds, the funds will be made available to the people who are eligible for them.

We do not earmark funds for any disaster. We have not done that, and the funds here on this bill are not earmarked for Los Angeles, or for any of the disasters for which their eligibility was declared as of May 31.

But, again, I urge that we pass this bill tonight, that we get this bill signed and get this money out as soon as it can be disbursed to those people who are already waiting in line for a series of disasters that occurred before May 31, of this year.

Mr. President, we have given the Senator assurance that, as his State qualifies for funding under these laws, it will receive equal treatment with all other States, and, as the funds are depleted, we will get another request, if that is necessary, for more money. I am told that will not be necessary, but it may be because these disaster claims sometimes do increase as the actual estimates are brought in with real appraisals for the moneys that are needed for loans and grants.

But I plead with the Senator to let this bill go. It is not a matter of discrimination against him or his people. And, believe me, I wonder how many other people have had to make application for disaster assistance. I have and I know what it means to wait. But there are people out there now that are waiting. And the Senator's people on this new disaster have not yet complied with the Federal law. The Governor has requested assistance, but I am informed the papers that follow that are not here yet.

Why should we wait until the House has a chance to act on this on the 23d? This is the 18th. There is no reason to delay this. This is the last item on this bill.

It has been a very controversial bill. I congratulate everyone that has worked on it. I never thought, when we first had this bill before us, that we would see it this quickly. But we have it now, and it is very much a dire emergency supplemental.

I urge the Senator to reconsider and accept the assurances he has received and to let this bill go.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, again, I appreciate what the Senator from Alaska is saying.

I just want to repeat one more time: It is not my intention to hold this bill up. I have not been the one who has delayed. I have been asking the White House all day for some reassurance.

I have been told—and I want the Senator from Alaska to know this—that the Small Business Administration is supposed to be getting me some written reassurance. That is all I have asked for. We know about the programs. We know about what is, in theory, available. I just want to get some written reassurance, and hopefully, I will.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I have the sense that at least the quandary in which we find ourselves is just temporary and that some appropriate assurances will be forthcoming from the administration which at least this Senator hopes will not make a vote on this amendment necessary.

But I thought it appropriate to rise and confirm a couple of things for my colleagues. I know that some of my colleagues have been around here a lot longer than I have and have seen a lot of disasters. They have lived with floods, they have lived with the tornadoes, they have lived with fire, and pestilence, and a variety of things. Most recently we have lived with the damage of inattention to an infrastructure system in the city of Chicago and neglect, if you will, of law enforcement and other systems in the city of Los Angeles.

But I think we need to remind ourselves on each of these occasions of the human damage as well as the physical damage that is done by nature. There is a reason why we have the FEMA, the Federal Emergency Management Agency. There is a reason why as a nation we flock to help communities and people who cannot help themselves. It is because a lot of these emergencies are totally unexpected. There is not a thing we can do about them.

Those of us who are born and raised on the so-called prairies and hinterlands of this country are used to heading for the appropriate corner of the basement or into the storm cellar, as it is called, particularly during the summer months when the broadcast warning of a tornado comes. So the loss of life is not what it once was, but the property damage and the devastation to the communities certainly is.

In the case of 10 States which were visited by a terrible tornado just in the last 36 hours, it is just another important reason for us to focus on what we are doing here with the dire emergency supplemental. We are providing for those who cannot provide for themselves.

In our particular case, my colleague from Minnesota and I have been discussing for the last 24 hours and during the course of this day, in particular, with the appropriate Federal agencies. We are talking about a 10-State area. We are talking about in the State of Minnesota, which I am sure was the worst hit, we are talking about towns' and people's livelihoods which have been literally uprooted.

There are hundreds of million of dollars of damage and that total damage will not be estimated immediately. Some of it can be done fairly quickly, and over the course of the next week, that will be accomplished. The rest of it will take months literally to determine. With regard to eligibility for certain disaster assistance that is only available from the ASCS through the Agriculture Department, the extent of that damage is not going to be known until sometime this fall. The reality exists.

The little town of Chandler, MN, has been wiped off the map; 35 homes destroyed; 34 homes destroyed great enough that they probably cannot be rebuilt; an apartment building destroyed; a school destroyed. In fact, I met out on the steps of the Capitol today a young Girl Scout who is wondering whether or not she is going to have to go back to school this fall because it was her school that was leveled. I assured her somehow or another between PAUL and myself we were going to make sure that her school was rebuilt. But the reality is her school as of today is no more while she was here in Washington. Her church is no more; five businesses are gone. One of the businesses was Hiskin's meat processing which is a major employer in Chandler. It provided more than 200 jobs in a small town that size. It will be lost forever. Four hundred homes in Minnesota are still without electricity. It is expected to cost $7 million to rebuild the rural electric co-ops power lines in that area, which is $7 million more than the co-ops have. But what is most troubling about the disaster is that it caused extensive crop damage, property damage to farming communities already suffering under low commodity prices and huge losses in last year's soybeans and corn crops. Hail storms 15 miles long, 4 miles wide, moved through southwestern Minnesota destroying everything that was not spared by the tornadoes. The soybean crop is devastated. I heard estimates of loss as high as 75 percent. And the corn crop is not much better. The President of the National Corn Growers, as I understand it, John Nelson, with whom I was in Chicago on Tuesday testifying before the EPA on the ethanol case, John Nelson is alive, but everything John Nelson owns has been totally wiped out.

In Darwin, MN, a corn farmer lost everything, he lost his garage, machine shed, barn. He walked away with his life and the shirt on his back and that is about it.

The Governor, Arne Carlson, has requested FEMA to assess the damage. He estimates the damage at $60 million. Minnesota needs help, the farmers need help. The Federal Government has the responsibility to help and to help now. My colleague has well stated the facts and of his efforts all day long to get some kind of commitment from a variety of agencies, as both of us have tried. We now have in hand the letters from the Federal Emergency Management Agency, the U.S. Small Business Administration, and hopefully the commitments from the Agriculture Department as it relates to Farmers Home money as well, and I will be glad to yield to my colleague in the expectation that he has some news for all of us.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. Mr. President, let me first of all thank my colleague from Minnesota. Let me also thank Senator BYRD, Senator STEVENS, and the majority leader for their patience.

Mr. President, I do have in hand written reassurances which have really been the goal all day. First, I have a letter from the Federal Emergency Management Agency:

DEAR SENATOR WELLSTONE: This is to advise you that with the additional $300 million Supplemental Appropriation through Congressional passage of H.R. 5132 for the Disaster Relief Fund and the $143 million Dire Emergency Supplemental Appropriation available, FEMA anticipates it will be able to fund any necessary assistance to the State of Minnesota should the recent storms in the Mid-West cause any major damage to your State qualifying for a Presidential Disaster Declaration.

Mr. President, I ask unanimous consent to print this letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL EMERGENCY
MANAGEMENT AGENCY,
Washington, DC, June 18, 1992.

Hon. PAUL D. WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATOR WELLSTONE: This is to advise you that with the additional $300 million Supplemental Appropriation through Congressional passage of H.R. 5132 for the Disaster Relief Fund and the $143 million Dire Emergency Supplemental Appropriation available, FEMA anticipates it will be able to fund any necessary assistance to the State of Minnesota should the recent storms in the Mid-West cause any major damage to your State qualifying for a Presidential Disaster Declaration.

I am available to discuss this matter with you at your convenience should you have any questions. Otherwise, please have your staff contact our Office of Congressional Affairs on (202) 646-4500.

Sincerely,

GRANT C. PETERSON,
Associate Director,
State and Local Programs and Support.

Mr. WELLSTONE. Mr. President, I have a letter from the U.S. Small Business Administration, for which I thank Pat Saiki:

DEAR SENATOR WELLSTONE: Should the destruction qualify as either a presidential or administrator disaster, there will be sufficient funds under H.R. 5132 for the SBA to cover any loan from that disaster. Indeed, these monies are essential for the SBA to meet existing and expected disaster loan obligations. There are no fund set aside for any specific disaster; they are all available to meet the demand from any disaster.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SMALL BUSINESS
ADMINISTRATION,
Washington, DC, June 18, 1992.

Hon. PAUL WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: Should the destruction qualify as either a presidential or administrator disaster, there will be sufficient funds under H.R. 5132 for the SBA to cover any loan from that disaster. Indeed, these monies are essential for the SBA to meet existing and expected disaster loan obligations. There are no funds set aside for any specific disaster; they are all available to meet the demand from any disaster.

Sincerely,

PATRICIA SAIKI.

Mr. WELLSTONE. Finally, Mr. President, I have talked to Mr. James Dyer, deputy assistant to the President for legislative affairs, and he assures me that the Farmers Home Administration will not have any problem responding with sufficient funds to the damage that farmers may have incurred through crop damage.

Finally, Mr. President, I ask unanimous consent to include a variety of documents that describe the extent of the damage in many counties in southwest Minnesota.

I would like to include the Governor's request for assistance. I would like to include a variety of articles which spell out in personal terms what this damage means, which is why I have been on the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINNESOTA PICKS UP PIECES AFTER STORMS WREAK HAVOC

(By Ruben-Rosario and David Shaffer)

Judy Gilbertson of Lake Wilson, Minn., grabbed her 10-year-old daughter, Tiffany, and a next door neighbor and herded them into the basement of her two story wood frame home.

Gilbertson, the wife of the town's mayor, had been warned of the approaching tornado by an emergency beeper her husband keeps at home.

Huddling against the side of a freezer unit for added protection, the three held tight to one another and prayed.

A couple of minutes passed. Glass shattered, wood and metal twisted, but the basement dwellers were so scared that they do not recall hearing the sounds.

Then Judy Gilbertson sneaked a peek at her surroundings.

"We looked up and saw the sky" she recalled Wednesday.

The house was gone, ripped from its foundation. The only structures left untouched were the basement walls, and, amazingly, two racks holding Mason jars.

Seconds later, a large field rake that had been lifted from a farm a quarter of a mile away landed in the basement about 10 feet from the women and the girl. They weren't injured.

Battered but unbowed, Gilbertson and hundreds of other residents in southwestern Minnesota had similar tales to recount Wednesday in the wake of a tornado-producing thunderstorm that ravaged the area Tuesday evening.

The fury unleashed by one of nature's most destructive forces injured at least 49 people and reduced a 75 square-mile area to rubble and debris that one area resident compared to the aftereffects of an atomic bomb.

Cars and trucks were crushed and hurled into the air like Matchbox toys.

Schools, churches, farmhouses, homes and businesses were destroyed or reduced to rubble.

In the town of Chandler, Minn., twisted pieces of a silo were scattered like crumpled balls of aluminum foil. The silo was made of galvanized steel.

"The damage is absolutely amazing," said Lt. Gov. Joanell Dyrstad who viewed the affected area from a helicopter. She added that it will take several more days of damage assessment before federal disaster relief is requested.

David Lundberg, program coordinator for the Minnesota Division of Emergency Management, said the hardest-hit areas were Chandler, Lake Wilson, Clarkfield, and Cokato. The small towns are all about 200 miles southwest of the Twin Cities.

Lundberg said the storm, accompanied by at least one tornado and possibly more, accounted for more injuries than any since the Fridley and Tracy tornadoes of the mid- to late 1960s.

"It was the most massive outbreak of tornadoes we have seen in almost 30 years," he said. "We're dealing with a more sparsely populated area of the state. If it had been in the Twin Cities area, we would have really been in a world of hurt."

Dan Effertz, meteorologist for the National Weather Service at Minneapolis-St. Paul International Airport, said only one tornado—the one in Chandler—could be confirmed. He said it was possible there were others.

There were no storm related fatalities reported in the affected area. A 7-year-old St. Paul boy was killed Wednesday when he accidentally came in contact with a downed electrical wire near a housing development on the city's East Side during a day of heavy winds.

Twenty-five people from the Chandler and Lake Wilson area were treated at Pipestone County Medical Center, said Carl Vaagenes, hospital administrator.

Six were admitted and are in serious-but-stable condition, 15 were treated and released, and four were transferred to Sioux Valley Hospital in Sioux Falls, S.D. A nursing supervisor there said one is in critical condition, one in serious condition and two in fair condition.

Another 12 patients from Chandler and Lake Wilson were admitted to Murray County Hospital in Slayton, Minn. Five were treated and released and seven were admitted and are in good condition.

A half dozen people received minor injuries in Clarkfield, five people from the Cokato area were treated for minor injuries at Health One Buffalo Hospital and released, and one man is in stable condition at Luverne Community Hospital.

About 90 Minnesota National Guard troops were sent into Chandler, Lake Wilson, Clarkfield, Olivia and Cokato, said Maj. Lucy Kender, public affairs officer for the Guard.

In Chandler and Lake Wilson, 25 troops were securing the area and providing traffic control. Another 27 were in Clarkfield and 14 were near Olivia, surveying rural areas where telephone lines had been downed. There were 25 troops in Cokato, many of them helping with two portable generators and water trucks brought in because the town's sewage system had backed up after a power failure.

Lundberg said spillage from an agricultural chemical storage facility in Chandler damaged by the storm poses no danger to the town's drinking water supply.

Red Cross and Salvation Army staffers from throughout the state moved into the area Wednesday to provide food, shelter, clothing and other forms of assistance. Many who lost homes moved in with relatives or neighbors who had been spared substantial property damage, authorities said.

In Cokato, a National Guard unit from Litchfield, Minn., began working to clean up streets littered with debris spread by a late night storm that injured eight people, shut down the business section and damaged numerous buildings.

The storm front that marched through the southern portion of the state also knocked out power to 28,000 customers in the Twin Cities, said Northern States Power Co. spokeswoman Margaret Papin. The thunderstorms were accompanied by damaging winds and heavy rains.

Greg Spoden, assistant state climatologist, said the heaviest precipitation appeared to be in west central Minnesota, in Big Stone, Lac qui Parle, Swift, Chippewa and Kandiyoli counties. "We have found a number of precipitation amounts of 4 to 7 inches, he said.

He said Montevideo got 6.32 inches, Willmar 5.35 inches, Madison 5.06 inches and an area near Watson almost 7 inches.

Nearly 2.2 inches of rain was recorded at Minneapolis-St. Paul International Airport, 1.34 inches at the St. Paul campus of the University of Minnesota and 2.76 inches in Stillwater.

Almost all parts of the state got some precipitation, which Spoden said will help ease dry soil conditions.

"We are coming off a very dry period," he said. "Through Monday morning nearly all of Minnesota had received less than 75 percent of normal precipitation since April. In fact, some areas of southwestern Minnesota had received less than half of normal for that period."

The ferocity of the storm was described with awe by southwestern Minnesota residents, many of whom somehow managed to escape injury.

Clarkfield Police Chief Bunker Hill was sitting in a patrol car when the storm hit late Tuesday, damaging at least two-thirds of the homes and businesses in the town of 1,003 in central Yellow Medicine County.

"It was a gentle rain and a little bit of wind," he said. "Then all of a sudden the wind came up and a torrential downpour started. I've never seen anything like it.

"The next thing I know," he continued, "the windows in the car exploded and I rocked and rolled for about 90 seconds." The car, a 1992 Ram Charger with 4,600 miles was destroyed.

Gert Krosschell, 72, of Chandler fought back tears Wednesday as she sifted through the remains of what once was her home.

Krosschell and her cancer stricken husband, Peter, also 72, had taken refuge in the basement.

The only part of the house what was left standing was a masonry chimney and a supporting wall.

"The whole town is just . . ." Gert Krosschell said while clutching a mud-caked picture of her husband taken in 1942. It was among a few personal belongings she had been able to find in the debris.

She pointed to a hill.

"There were houses up there," she said. "There is nothing there now. It's just like a junkyard."

Her 71-year-old neighbor across the street, Jacoba Prinsen, was alone in her home when the tornado struck.

Her home also was ripped from its foundation and its contents scattered throughout the neighborhood.

"I don't think that I can start over," Prinsen said. "The only thing that I can be thankful of is that we're all alive."

Carlson To Seek Federal Assistance for Storm Areas

(By Steven Thomma)

Washington.—Minnesotans in areas hit by this week's tornadoes can expect federal help ranging from counseling to cash grants if storm-struck areas are declared disaster areas.

Gov. Arne Carlson is expected to ask President Bush today to declare several counties disaster areas, according to a spokesman for Sen. Dave Durenberger, R-Minn.

That request would trigger a visit by inspectors from the Federal Emergency Management Agency, said Steve Moore, Durenberger's spokesman. If they agree that the storms were a disaster, Bush could be expected to open the door to federal help by Monday or Tuesday.

The agency then could:

Pay for temporary housing for those whose homes were destroyed.

Make grants of up to $11,500 for personal expenses such as food and clothing.

Cover unemployment compensation not covered by the state for those out of work because of the storm.

Provide crisis counseling.

Pay 75 percent of the cost of repairing roads, bridges, utilities and sewer systems.

The Small Business Administration could offer:

Loans to repair or replace homes at interest rates of 4 percent to 8 percent.

Loans to repair business property or replace damaged inventory at rates from 4 percent to 6.5 percent.

Working capital loans for businesses at 4 percent.

The Farmers Home Administration could offer low-interest loans to help farmers rebuild homes. Those farmers who had crop insurance would turn to it to cover damaged crops. Moore said the state's congressional delegation would likely seek an emergency federal appropriation to help those without crop insurance.

The Bureau of Indian Affairs has a social services program to help tribes after catastrophes.

Twisters Leave Trail of Shock, Tears—This Time, the Ridge Didn't Save Chandler

(By Richard Meryhew)

Chandler, MN.—Folks here never worried much about tornadoes. They say they didn't have to. They had Buffalo Ridge for protection.

From Hwy. 91 on the east end of Chandler to County Rd. 5 heading west, the rolling hills that border the south side of the town of 316 people have always protected residents from nature's nastiest winds.

No tornado ever hurdled that ridge, folks said. So, they just assumed no wind, no matter how nasty, ever would.

"When I first moved here, they told me tornadoes never touch the place because of the Buffalo Ridge," said Lynette Lingen, a resident for the past four years. "I asked about tornadoes, but they told me you don't have to worry about them because of the ridge. When the winds hit it, they usually ride the ridge east or west. They never go north or south."

But the winds blew north Tuesday, and sucked up a good chunk of Chandler.

Two tornadoes swept through town in four hours, injuring more than 30 people, wiping away nearly three-fourths of the housing and businesses and forever shattering the town's confidence in the Buffalo Ridge.

Buffalo Ridge is one of the highest northwest-southeast ridges leading to the extensive upland plateau known as the Coteau des Prairies, and at that point is the divide between the Mississippi and Missouri river water sheds.

Rising to about 1,800 feet above sea level, Buffalo Ridge is 100 to 200 feet above the surrounding valleys, and areas residents have long known that it can affect the weather.

Tuesday's devastation was so great that many residents recognized their homes only by furniture and ruins that had collapsed into their basements. Roofs were gone, as were cars. West of town, the landscape was littered with the carcasses of about 25 cattle that died in the storm.

In a town known for its faith (the water tower reads "Chandler, In God We Trust") residents said it was a true miracle that nobody died.

"God spared all of us," said Caroline VanderWoude, who scrambled beneath a table with her daughter-in-law and two granddaughters to escape winds that pulled her house off its foundation. VanderWoude's house was destroyed, along with two neighboring homes belonging to her sons.

Residents say it would have been worse had firefighters not sounded the town siren well before the first tornado touchdown, then raced around town hollering at residents to take shelter.

The siren, which is getting so much credit, was repaired three days before the tornado struck.

"We thought at first it was the 6 o'clock whistle, but no, it was 5 o'clock, it was a tornado," said Jeanette Karssen, who lived in an eight unit apartment building that was demolished. She and five other residents survived by taking shelter in a central room.

"We can't go door to door because there are no doors left," said City Clerk Al Vis. "We have to go basement to basement."

Vis, a member of the town's fire department for 23 years, rode south of town as a spotter, once word spread that a tornado had touched down near Leota, about 15 miles away. As Vis reached the top of the hill, he was stunned by what was coming at him.

"It was no funnel," Vis said. "It was about a half-mile wide and the whole thing was just black and hugging the ground. We radioed back to town and drove back as fast as we could.

"But by the time we started coming down the hill, it was gaining on us, so we had to get out of town. I had my foot to the pedal. But we could only go 20 or 25 miles an hour because this thing was sucking us back.

"All of a sudden, we shot out of it like a rocket. We'd gotten out of the draft. We drove to the outskirts of town and turned around. When we came back, we couldn't believe what we saw."

The town was in shambles. On Wednesday, it was much the same.

Huge grain bins were sliced in half, Corn stored in one spilled into the street and neighboring yards, along with strips of sheet metal that had been torn from the bins.

Sheet metal was stuck in trees and wrapped around cars. The roof was gone from the high school, as were the windows and much of the brick facade.

The high winds toppled a 200-gallon tank of herbicide at an agriculture co-op, and emergency workers worried that some of the chemicals might seep into the ground and contaminate land or drinking water. But officials said late yesterday that a concrete dike surrounding the herbicide tanks successfully contained the chemical.

"I'm confident, we have things stabilized," said Paul Liemondt, a Minnesota Department of Agriculture official.

The roof of Trinity Lutheran Church was gone, too, forcing parishioners to the nearby Reformed Church for services yesterday morning. Visa said all but 10 of the town's homes were damaged more than half were severely damaged, and 25 were destroyed.

All but the foundation of Lynette Lingen's house was gone. So was Ken Brown's place across the street. The winds had blown the metal from the grain, elevator into Lingen's house. Parts of her house blew toward Brown's house, then up the hill toward the school and the water tower. Much of the debris was spread across farm fields north of town, toward the town of Lake Wilson.

Some small items remained virtually untouched.

A Tennessee Ernie Ford album sat in the middle of Main Ave., looking clean and unscratched; and VanderWoude's kitchen cabinets built last year by her son, were intact.

Caroline VanderWoude and her daughter-in-law, Delaine VanderWoude, worked side-by-side throughout the day, searching the debris for photographs and other mementoes.

At one point, Delaine began to cry. She was one of the few in town who did. If Chandler residents were overwhelmed by what happened, they didn't show it. Few hugged or embraced. Fewer cried. Most displayed a resilience that many here say defines the community.

"It's a unique town in that way," Vis said, "People dig in and do what they have to do. If it needs to be fixed, they fix it."

Said the Rev. Bob Moritz, pastor at Trinity Lutheran, "You don't see any junkers sitting along the road in this town."

It's a town built around corn, bean, hog and dairy farmers who work the land and the 250-plus employees who work at Husken Meats, the largest employer in Murray County.

More than anything, churches hold the community together. There are three in Chandler—Trinity Lutheran, Christian Reformed, and Reformed. Worshipers at all three were at the Reformed Church yesterday, first to pray, then to help the Red Cross, which had set up an emergency shelter.

Some grabbed chain saws to help rid the town of brush that littered roads and yards; others grabbed hammers and began patching roofs and windows. Tractors pushed the debris into piles for workers to haul away.

The National Guard, Salvation Army and state Transportation Department had workers there, too, and by the end of the day, organizers said, there were too many workers to manage. The Mennonite Church of Mountain Lake was there, and the Murray County Pork Producers hosted a pork burger dinner at the Reformed Church to keep locals from going hungry., Rolls, candy, cookies, pizza and soda pop were spread across a table in the church lobby as dinner hour approached. Most in town showed.

All had stories to tell, and some even managed to smile.

"I think when it's all said and done, Chandler will pick itself up by the bootstraps and rebuild," Vis said. "They said 20 years ago when they took out the radar station here the Chandler was going to die. "But it didn't. And I don't think the community will let this kill it, either."

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2 DIE, 30 INJURED AS STORMS POUND MIDWEST AGAIN

Tornadoes and other severe weather pummeled the Midwest for a third straight day Wednesday.

Two people died, more than 30 were injured, at least 75 homes were destroyed and more than 622,000 customers lost electricity. A third death yesterday was linked to thunderstorms the night before from the same weather system.

Destruction was reported in Wisconsin, Michigan, Illinois and Indiana. The storm system moved into western Ohio last night, knocking down trees and power lines and leaving thousands more in the dark.

"It's just devastating," said Rosalind Clausman, clerk of the tiny town of Dunn, Wis., near Madison. "It missed us, but we could see the funnel going about half-a-mile away, and it was just a real loud roar."

Sixty-eight homes in the township were blown away or damaged beyond repair, 32 were moderately damaged and 132 were lightly damaged, said township chairman Edmond Minihan. About 30 people in the area suffered minor injuries, said Capt. David Listug of the Dane County Sheriff's Department.

The same tornado caused damage in Oregon, Wis., where 10 to 15 houses were destroyed and about 30 more were damaged, said firefighter Gary Wackott.

Roofs were ripped off two housing units at the Oregon Correctional Center, slightly injuring three inmates, said Deputy Warden Sandy Sweney. Nearly every building on the property was damaged, several extensively, and inmates were transferred to another prison, Sweney said.

In Michigan, the National Weather Service reported many tornado sightings across the central and northern Lower Peninsula. Large hail and high winds lashed metropolitan Detroit at nightfall.

The storms, with wind up to 70 miles per hour, cut off power to about 310,000 customers in Michigan, said an area manager for Consumers Power Co. About 70,000 Detroit Edison Co. customers also lost power, a spokeswoman Kessler said.

A pilot was killed when high winds flipped over his plane while he tried to land at Troy-Oakland Airport north of Detroit, the Federal Aviation Administration said.

In Chicago, a 12-year-old girl was electrocuted when she touched a downed power line. Elsewhere in Illinois, high winds, possibly a tornado, destroyed one home and tore off several roofs in the rural town of Gilman but caused no injuries, said Officer Nita Dubble of the Iroquois County sheriff's office. Much of the county lost electricity.

About 211,000 customers were without power after the storms passed through the six-county Chicago area, Commonwealth Edison Co. said.

Severe thunderstorms also whipped northwest Indiana. The Porter County Sheriff's Department said a tornado hit near Boone Groove. A * * * touched down near Chesterton and third struck in a rural area * * * county, said Jerry Hauer director of the state Emergency Management Agency.

The storms knocked out power to at least 30,000 homes and businesses in northern Indiana, said a spokesman for Northern Indiana Public Service Co.

As the storms moved eastward into Ohio they knocked out power to about 4,600 North Western Electric Cooperative customers. And a spokesman for Toledo Edison said thousands more customers were without power west of Toledo. Tornado watches were in effect in parts of Ohio and Indiana this morning.

[From the Minnesota Department of Public Safety]

STORM DAMAGE ESTIMATED AT $50.5 MILLION

The Department of Public Safety Division of Emergency Management today estimated the damage caused by severe weather earlier this week in southern and southwestern Minnesota at $50.5 million.

Jim Franklin, Director of the Division of Emergency Management emphasized this is a preliminary estimate which will be updated as additional information becomes available. "This preliminary estimate does not include crop damage, livestock, or stored grain losses", said Franklin.

The damage assessment in each county is estimated as follows:

Yellow Medicine County, $7 million.

Ranville County, $9.1 million.

Wright County, $10–12 million.

Redwood County, $15 million ($10 million property/$5 million utilities).

Stearns County, $0.5 million.

Swift County, $250,000.

Nobles County, $820,000.

Brown County, $100,000.

Murray County, $12 million.

Lyon County, $5–6 million.

Other damage reported:

Worthington Electric Coop., $100,000 to distribution lines.

Cooperative Power Assn., $100,000 to high voltage lines.

Estimated total, $50.5 million.

Damage assessment teams from the Federal Emergency Management Agency (FEMA) will be in Minnesota tomorrow to continue assessing the damage caused earlier this week.

Residents in areas affected by the storms are urged to contact the Emergency Management Director in their county and provide an estimate of the value of the damages or losses they sustained, or any other service needs they may have.

This will allow the counties to assemble their needs, and will in turn allow the state and federal government to better respond to those county needs.

Mr. WELLSTONE. Finally Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BYRD. Has not the Senate already concurred en bloc in the amendments of the House numbered 2, 3, 7, 9, 11, 12, and 13?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. The only amendment remaining for concurrence by the Senate is amendment No. 1?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate so concur.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am pleased that we have reached an agreement on the dire emergency supplemental legislation to provide urgently needed assistance not only to Los Angeles and Chicago, but also for summer jobs.

The supplemental appropriations conference report provides: the sum of $495 million in emergency supplemental appropriations for small business loans and FEMA disaster assistance, $500 million for the Job Training Partnership Act summer jobs for youth program, $100 million of which will go to the 75 largest cities. Detroit will receive $3.727 million; and an additional $80 million for small business loans that must be paid for under the requirements of the budget agreement.

Unfortunately, an additional $175 million for summer jobs, $500 million for summer education programs, and $250 million for the Weed and Seed Program that had been included in the Senate version of the supplemental and initially adopted by the conferees were omitted because the administration thought the version was too costly.

Mr. President, I feel this action was shortsighted. Even the Senate version of the bill would make only a small dent in a large problem. We must do more, not less, to address the problems facing young people in our inner cities, particularly the high level of unemployment. These problems have been neglected far too long. As I stated yesterday on the Senate floor, it is only right that if we can take up emergency aid for the former Soviet Republics, we can take up an emergency measure to help the people here in this country.

We need a comprehensive approach to the whole complex of problems that besiege our inner cities—lack of jobs, an undereducated and poorly trained work force, inadequate affordable housing, a crumbling infrastructure, insufficient access to health care, and neighborhoods ravaged by drugs and crime.

I intend to continue to work to keep these issues on the Senate's agenda this year. Today, the Senate Banking Committee approved a housing bill that addresses some of the critical problems facing our urban areas. I hope we will bring this measure to the floor in the near future. I will also be working as a member of the Senate Finance Committee to enhance enterprise zone legislation that will bring critical resources and programs to economically disadvantaged areas.

The housing bill that we reported out today includes many important provisions. In particular, it would create a new program to provide $40 million for a new youth training program, YouthBuild. This program would provide grants to community-based groups to educate and train disadvantaged high school dropouts to construct and rehabilitate housing for low-income people.

YouthBuild will provide an innovative approach and additional resources to provide young people with good, skills-building jobs. It would empower disadvantaged youth to become self-sufficient while at the same time increasing the supply of affordable housing.

YouthBuild's unique, comprehensive approach links job training, education, and leadership development and targets the population most at risk in our inner cities—poor, undereducated kids between 16 and 24 years old. The program is modeled on existing programs in a dozen cities, which have received rave reviews from foundation heads and academics.

YouthBuild was profiled in a recent New York Times article as one of several programs that have grown up at the grassroots level to integrate undereducated inner-city youth into the economic mainstream. The Times called Youthbuild "a wellspring of human reclamation."

The housing bill also contains a provision to ensure that jobs and contracting opportunities generated by Federal housing and community development assistance go first to low income people, particularly public housing residents and residents of the neighborhoods of federally assisted activities.

This is one low-cost way to begin to address the chronic lack of economic opportunity in our inner-city neighborhoods. Housing rehabilitation and construction projects and other community development construction projects create over 120,000 permanent jobs in our cities every year.

Directing these jobs to the residents of the low-income neighborhoods where projects are located makes our housing and community development programs empowerment programs that can enable poor, inner-city residents to pull themselves into the economic mainstream.

We are at a very important crossroads in this country. Earlier this year, we saw what could happen—not just in Los Angeles—but in communities across this country, if we do not address these problems. The sense of frustration is growing. The people in our cities want the chance to improve their communities, but they lack the resources that create opportunities for improvement.

So, Mr. President, I will support this conference report as an important first step. But I urge my colleagues to work with me to take additional steps this year to address the critical problems facing our urban areas.

DOT EMERGENCY RELIEF FUNDING FOR HUMBOLDT COUNTY, CA

Mr. SEYMOUR. Mr. President, one provision in this supplemental appropriations bill is designed to ensure that the Department of Transportation has sufficient authority under the emergency relief program to repair roads damaged in the April 25, 1992, Humboldt County earthquake.

Last month, the Senate adopted an amendment I and Senator CRANSTON offered to conform current law under the Intermodal Surface Transportation Efficiency Act [ISTEA] with prior law. Under the law prior to enactment of ISTEA, these same roads in Humboldt County would have been eligible for emergency relief funding assistance. The intent of this provision as adopted by the conferees will permit highway emergency relief funds to flow to earthquake damaged roads in Humboldt County as the Congress had intended.

There is concern, however, that this provision may be interpreted as technically insufficient, in terms of its effective date, thus leaving a 6-month period during which ER funds would not be available for use on certain highways in a disaster-stricken community. Clearly, the intent of the Senate and the conferees in adopting this provision was to make it retroactive to help communities like Humboldt County and to ensure continuity in the program. Is this the understanding of the chairman and the distinguished ranking member of the Environment and Public Works Committee?

Mr. BURDICK. I want to assure Senator SEYMOUR that the intent of this provision is exactly as he indicates. This provision is intended, and it should be interpreted by the Department of Transportation, to be retroactive, and remedy the problem facing Humboldt County. This is consistent with longstanding and established transportation policy.

Mr. CHAFEE. I rise briefly to echo the views of Senator BURDICK. It was our intent under ISTEA to make the emergency relief fund program conform to previous law. Notwithstanding the technical oversight in ISTEA, we did not intend for any disruption whatsoever in the program. The legislative intent behind this provision is consistent with that goal, and DOT should interpret it in this manner.

Mr. SEYMOUR. Mr. President, I thank Senators BURDICK and CHAFEE for their assistance in clarifying the legislative intent behind this particular provision.

Mr. DOLE. Mr. President, I would like to thank the Appropriations Committee for producing a conference report the President will be able to sign. By putting aside partisan differences and working with the President, the conference was able to fix the major problems with the Senate bill.

The conference report pares down the funding for the summer jobs programs to an amount that can be spent over the remaining weeks of summer. It also targets a portion of the funding to the areas in the most need—big cities.

The conference reports strikes funding for the Weed and Seed Program, Head Start, and chapter 1. It is my expectation that these worthwhile programs will now be dealt with in a major urban assistance package and the regular appropriations bills. This will allow the Congress to properly pay for these programs instead of waiving the budget caps and adding to the deficit.

I did not vote for the Senate bill, but I plan to fully support this conference report. This supplemental appropriations conference report is an example of what we can do when Congress and the President work together. I hope we can do more of this in the coming months.

Mr. WARNER. Mr. President, I am pleased that the Senate has approved this conference report giving emergency supplemental appropriations for disaster assistance to Los Angeles and Chicago. The sooner the States receive these necessary funds, the sooner we can rebuild the devastated areas.

During the past month, Governor Wilder and I traveled throughout the Commonwealth of Virginia meeting with a wide cross-section of individuals and having the opportunity to hear their views about the devastation. The key point that the Governor and I took away from those meetings was the importance of summer jobs for our youth. I am pleased to note that this conference agreement includes $500 million for the Summer Youth Job Program, authorized under title II of the Job Training Partnership Act. $100 million will be targeted to the Nation's 75 largest cities while the remaining $400 million will be made available under the existing formula. In my judgment, American youth have proved the most vulnerable in our recent urban tragedies and I believe this funding sends to them our vote of confidence in their abilities. Mr. President, I request that a letter sharing my experiences with the President be inserted following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
June 3, 1992.

President BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In the wake of the recent tragic events in Los Angeles, I invited Governor Wilder to join me in touring five areas in Virginia to determine what Virginians felt could be done by state and federal government to address some of the serious problems facing our urban centers. Senator Robb, Rep. Sisisky, Rep. Payne and Rep. Moran joined in some of the meetings.

At each stop, the Governor and I were impressed by the willing, thoughtful comments received from urban and suburban leaders. The meetings included mayors, city managers and other staff members, councilmen, supervisors, police chiefs and volunteers in Northern Virginia, Tidewater, Richmond, Roanoke and Danville. These were open, constructive forums where we examined the problems they view as confronting their localities, and what role state and the federal government should, and should not, play in helping to provide solutions.

I must state how impressed I was by the depth of concern and sincerity Virginians feel for their own future and that of our nation. There exists a strong desire to help. Not surprisingly, however, many voiced significant disenchantment with the efforts over many years of "the government"—both federal and state, legislative and executive.

I am pleased to share with you now the principal points that emerged from our statewide tour.

Two critical areas of consensus were reached: (1) simply throwing more money at existing programs will not solve the problems; and, (2) it is imperative that we proceed on a sincere bipartisan basis.

There was a striking consistency in the views put forth at each stop. Everywhere we heard the same three words: hope, fairness, and flexibility. We must develop new ideas and new approaches that instill hope for a better tomorrow; fairness for all Americans, and flexibility for localities to share federal programs to meet their unique needs. While the federal government has a significant role to play in strengthening our cities, many speakers felt, and I agree, that government alone cannot solve the problems facing our cities and communities today.

A recurrent theme we heard was this: that private efforts are equally essential to improve the quality of American urban life. Any successful attempt to better our cities must include individual volunteers, the churches and the synagogues, and the many charitable organizations that contribute to strengthening the family and offering hope and fairness. Each of us must bolster our individual commitment to help those less fortunate. While the problems are serious, Virginians, I feel, are confident that the Administration, Congress, the business community and the American public, working together, are capable of meeting the challenge.

That challenge includes numerous areas of concern to Virginians: (1) crime, including illicit narcotics trafficking; (2) unemployment, job training and creation of summer jobs; (3) the education system and the need to expand personal opportunity by helping people achieve greater independence; (4) lack of housing and opportunities for home ownership, and the need to give people a sense of pride and a stake in their communities; (5) the need to encourage capital investment and long-term jobs in inner-city areas; (6) lack of child care, not only for preschoolers but for older children left at home before and after school; (7) expensive federal environmental mandates draining resources from other vital necessities; (8) access to health care; (9) American jobs being transferred abroad, and (10) welfare reform.

These concerns are not set forth in any particular order of priority. The order varies from community to community.

Clearly, some of these needs can be addressed on a short-term basis and others over the longer range.

With the summer months now upon us, the greatest urgency was placed on the problems of unemployment, job training resources and summer jobs for youth. Congress, with my strong support, already has passed emergency funding for these and other programs.

We were advised by local leaders that the following Federal programs are working and merit increased funds: (1) Head Start; (2) Community Development Block Grants; (3) the Job Corps; (4) Job Training Partnership Act; (5) the Women, Infants and Children (WIC) nutrition program; (6) Chapter I program for disadvantaged elementary and secondary school students; (7) Community Services Block Grants.

Administration initiatives applauded by Virginians included Weed and Seed, the HOPE housing project, and urban enterprise zones.

In addition, I am personally exploring a limited role for the military in the solution. As you know, Senator Boren and I recently introduced S. 2373, the Community Works Progress Act. While I have reservations about some portions of the bill, I am committed to finding a role for military personnel and installations to play in providing important training and jobs for youth and displaced workers. I look forward to working with the Administration on the specifics of these proposals.

Please be assured of my continued commitment to helping the Administration identify new ways to provide aid and strengthen our nation's cities and local governments. As you led the way to the successful conclusion of the Cold War, so I hope you can lead in renewed efforts to lessen the hardships being experienced in our cities.

When you visited the Senate on May 5th and met with a group of Senators, you challenged us to make our own survey and report back to you. This I was privileged to do in partnership with Governor Wilder, who shares a deep concern for our people and a willingness to help. We will continue to work together.

I commend you for the urgency and sincerity you attach to getting a program through Congress.

I hope this correspondence will be of value to you as we work to meet this challenge.

Respectfully,
JOHN WARNER.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 483, H.R. 5260, the Unemployment Compensation Amendments of 1992.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation Amendments of 1992".

TITLE I—EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 101. EXTENSION OF PROGRAM.

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "July 4, 1992" and inserting "March 6, 1993".

(b) WEEKS OF BENEFITS AVAILABLE DURING EXTENSION.—Subparagraph (A) of section 102(b)(2) of such Act is amended by striking clause (ii) and the flush paragraph at the end thereof and inserting the following:

"(ii) REDUCTION FOR WEEKS IN 7-PERCENT PERIOD.—In the case of weeks beginning in a 7-percent period—

"(I) clause (i) of this subparagraph shall be applied by substituting '15' for '33', and by substituting '10' for '26', and

"(II) subparagraph (A) of paragraph (1) shall be applied by substituting '60 percent' for '130 percent'.

"(iii) REDUCTION FOR WEEKS IN 6.8-PERCENT PERIOD.—In the case of weeks beginning in a 6.8-percent period—

"(I) clause (ii) of this subparagraph shall not apply,

"(II) clause (i) of this subparagraph shall be applied by substituting '13' for '33', and by substituting '7' for '26', and

"(III) subparagraph (A) of paragraph (1) shall be applied by substituting '50 percent' for '130 percent'.

"(iv) 7-PERCENT PERIOD; 6.8-PERCENT PERIOD.—For purposes of this subparagraph—

"(I) A 7-percent period means a period which begins with the second week after the first week for which the requirements of subclause (II) are met and a 6.8 percent period means a period which begins with the second week after the first week for which the requirements of subclause (III) are met.

"(II) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is at least 6.8 percent, but less than 7 percent.

"(III) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is less than 6.8 percent.

In no event shall a 7-percent period occur after a 6.8-percent period occurs and a 6.8-percent period, once begun, shall continue in effect for all weeks for which benefits are provided under this Act.

"(v) LIMITATIONS ON REDUCTIONS.—In the case of an individual who is receiving emergency unemployment compensation for the week which immediately precedes the first week for which a reduction applies under clause (ii) or (iii) of this subparagraph, such reduction shall not apply to such individual for the first week of such reduction or any week thereafter in a period of weeks for each of which the individual meets the eligibility requirements of this Act."

(c) MODIFICATION TO FINAL PHASE-OUT.—Paragraph (2) of section 102(f) of such Act is amended to read as follows:

"(2) TRANSITION.—In the case of an individual who is receiving emergency unemployment compensation for a week which includes March 6, 1993, emergency unemployment compensation shall continue to be payable to such individual for any week thereafter from the account from which he received compensation for the week which includes such termination date. No compensation shall be payable by reason of the preceding sentence for any week beginning after June 19, 1993."

(d) CONFORMING AMENDMENT.—

(1) Subparagraph (B) of section 102(b)(2) of such Act is amended by striking "subparagraph (A)(ii)" and inserting "clauses (ii) and (iii) of subparagraph (A)".

(2) Section 101(e) of such Act is amended—

(A) by striking "Notwithstanding" and inserting "(1) ELECTION BY STATES.—Notwithstanding",

(B) by adding at the end thereof the following new paragraph:

"(2) WEEKS OF BENEFITS DURING PHASE-OUT.—Notwithstanding subsection (b)(1)(B) or any other provision of law, if for any week beginning after March 6, 1993, an extended benefit period is triggered on with respect to a State, individuals claiming benefits in such State for such week and any following week shall be eligible to receive compensation under this Act or extended compensation benefits under State law, whichever is greater.", and

(C) by striking the heading and inserting "ELECTION BY STATES; WEEKS OF BENEFITS DURING PHASE-OUT".

(e) EFFECTIVE DATE.—The amendments made by this section apply to weeks of unemployment beginning after March 6, 1993.

SEC. 102. MODIFICATION TO ELIGIBILITY REQUIREMENTS.

(a) INDIVIDUAL NOT INELIGIBLE BY REASON OF SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—Section 101 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN RIGHTS TO REGULAR COMPENSATION DISREGARDED.—If an individual exhausted his rights to regular compensation for any benefit year, such individual's eligibility to receive emergency unemployment compensation under this Act in respect of such benefit year shall be determined without regard to any rights to regular compensation for a subsequent benefit year if such individual does not file a claim for regular compensation for such subsequent benefit year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

SEC. 103. FINANCING PROVISIONS.

Section 104 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by adding at the end thereof the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS FOR EXTENSION OF PROGRAM.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated), to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as are necessary to make payments to States under this Act by reason of the amendments made by sections 101 and 102 of the Unemployment Compensation Amendments of 1992. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid."

SEC. 104. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Sections 501(b)(1) and (2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "July 4, 1992", and inserting "March 6, 1993".

(2) CONFORMING AMENDMENTS.—Section 501 of such Act is amended—

(A) in subsection (a), by striking "July 1992" and inserting "March 1993"; and

(B) in subsection (d)(2)—

(i) by striking the first sentence and inserting the following new sentence: "Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(ii), subparagraphs (B) and (C) of paragraph (1) of this subsection shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '50' for "130', and effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iii), subparagraphs (B) and (C) of paragraph (1) of this subsection shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '35' for '130'."; and

(ii) by striking "ending June 13, 1992" and all that follows through "apply" and inserting : "which precedes a period for which a reduction under the preceding sentence takes effect, such reduction shall not apply".

(b) TERMINATION OF BENEFITS.—Section 501(b)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by adding at the end the following: "In the case of an individual who is receiving extended benefits by reason of this section on March 6, 1993, such benefits shall not continue to be payable to such individual after June 19, 1993."

TITLE II—MODIFICATIONS TO EXTENDED BENEFITS PROGRAM

SEC. 201. MODIFICATION OF TRIGGER PROVISIONS.

Section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3)(A) Effective with respect to compensation for weeks of unemployment beginning after March 6, 1993, the State may by law provide that for purposes of beginning or ending any extended benefit period under this section—

"(i) there is a State 'on' indicator for a week if—

"(I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period referred to in subclause (I) equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) there is a State 'off' indicator for a week if either the requirements of subclause (I) or subclause (II) of clause (i) are not satisfied.

Notwithstanding the provision of any State law described in this subparagraph, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.

"(B) For purposes of this paragraph, determinations of the rate of total unemployment in any State for any period (and of any seasonal adjustment) shall be made by the Secretary."

SEC. 202. ELIGIBILITY REQUIREMENTS FOR UNEMPLOYMENT BENEFITS.

(a) WORK SEARCH RULES.—

(1) Section 202(a)(3)(E) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i)(I) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(II) the individual provides tangible evidence to the State agency that the individual has engaged in such an effort during such week; or

"(ii) the individual resides (or worked) in an area for which a waiver described in paragraph (7) is in effect for such week and the individual meets the requirements of such work-search rules as the State may impose."

(2) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any other provision of law, the Governor of a State may elect to waive the provisions of paragraph (3)(A)(ii) (relating to the requirement to be actively engaged in seeking work) with respect to any area of the State which the Governor determines to be an area of high unemployment for any week. For purposes of the preceding sentence, a waiver shall be made in accordance with regulations promulgated by the Secretary, except that with respect to any period beginning after the date of the enactment of this paragraph and before reg-

ulations take effect, such waiver shall be made in accordance with temporary guidelines published by the Secretary. The Secretary shall publish guidelines not later than July 4, 1992."

(b) EARNINGS TEST.—Paragraph (5) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking "which one of the foregoing methods" and inserting "which one or more of the foregoing methods".

(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, the amendments made by this section shall apply for purposes of extended unemployment compensation and emergency unemployment compensation to weeks of unemployment beginning on or after the date of the enactment of this Act.

TITLE III—PROVISIONS RELATING TO TAX INFORMATION

SEC. 301. INFORMATION REQUIRED WITH RESPECT TO TAXATION OF UNEMPLOYMENT BENEFITS.

(a) INFORMATION ON UNEMPLOYMENT BENEFITS.—

(1) GENERAL RULE.—The State agency in each State shall provide to an individual filing a claim for compensation under the State unemployment compensation law a written explanation of the Federal and State income taxation of unemployment benefits and of the requirements to make payments of estimated Federal and State income taxes.

(2) STATE AGENCY.—For purposes of this subsection, the term "State agency" has the meaning given such term by section 3306(e) of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 302. MAILING OF CERTAIN INFORMATION PERMITTED.

(a) GENERAL RULE.—Section 302 of the Social Security Act (42 U.S.C. 502) is amended by adding at the end thereof the following new subsection:

"(c) No portion of the cost of mailing a statement under section 6050B(b) of the Internal Revenue Code of 1986 (relating to unemployment compensation) shall be treated as not being a cost for the proper and efficient administration of the State unemployment compensation law by reason of including with such statement information about the earned income credit provided by section 32 of the Internal Revenue Code of 1986. The preceding sentence shall not apply if the inclusion of such information increases the postage required to mail such statement."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

TITLE IV—MODIFICATION TO REGULAR STATE UNEMPLOYMENT COMPENSATION PROGRAMS

SEC. 401. TREATMENT OF SHORT-TIME UNEMPLOYMENT COMPENSATION PROGRAMS.

(a) AUTHORIZATION OF PROGRAMS.—

(1) Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by adding at the end thereof the following new subparagraph:

"(E) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor;".

(2) Subsection (f) of section 3306 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(4) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor."

(3) Section 3306 of such Code is amended by adding at the end thereof the following new subsection:

"(t) SHORT-TIME COMPENSATION.—For purposes of this chapter, the term 'short-time compensation' means cash benefits payable to individuals under a plan approved by the Secretary of Labor under which—

"(1) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

"(2) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

"(3) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek; and

"(4) the employer plan is approved by the State agency and such plan provides for a reduction in the number of hours worked by employees in lieu of imposing temporary layoffs."

(4) Section 303(a)(5) of the Social Security Act (42 U.S.C. 503(a)(5)) is amended by inserting before "; and" the following ": Provided further, That amounts may be withdrawn for the payment of short-time compensation as defined in section 3306(t) of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE V—REVENUE PROVISIONS

SEC. 500. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Alternative Taxable Years

SEC. 501. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) TAXABLE YEAR MUST BE SAME AS REPORTING PERIOD.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) PERIOD OF ELECTION.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) CHANGE NOT TREATED AS TERMINATION.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) EXCEPTION FOR TRUSTS.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES THAT INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 502. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) ADDITIONAL REQUIRED PAYMENT.—

(1) IN GENERAL.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.—

"(A) IN GENERAL.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) NEW APPLICABLE ELECTION YEAR.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) REQUIRED PAYMENT.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) Due date.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) Due date.—

"(A) In general.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) Special rule where new applicable election year adopted.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) Penalties.—

(A) In general.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) Failure to pay additional amount.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) Conforming amendment.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) Refunds.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) Conforming amendments.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Other Definitions and Special Rules.—

(1) Refund.—Paragraph (3) of section 7519(c) (relating to date on which refund payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) Deferral ratio.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) Net income.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) Excess applicable payments for base year.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) Deferral period.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) Deferral period.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) Base year.—

(A) In general.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) Base year.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) Conforming amendment.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) Interest.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) Interest.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 503. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) Carryover of Nondeductible Amounts.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) Carryover of Nondeductible Amounts.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) Minimum Distribution Requirement.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) In general.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) Disallowance of NOL Carrybacks.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) Conforming Amendment.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 504. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1992.

Subtitle B—Pension Distributions

SEC. 511. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) In General.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) Taxability of Beneficiary of Exempt Trust.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) Taxability of Beneficiary of Nonexempt Trust.—

"(1) Contributions.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) Distributions.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

"(3) Grantor trusts.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) Failure to meet requirements of section 410(b).—

"(A) Highly compensated employees.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1) or (2) include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) Failure to meet coverage tests.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraphs (1) and (2) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) Highly compensated employee.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) Rules Applicable to Rollovers From Exempt Trusts.—

"(1) Exclusion from income.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) Maximum amount which may be rolled over.—In the case of any eligible rollover dis-

tribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) resulting in any portion of a distribution being excluded from gross income under paragraph (1) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis unless the taxpayer designates otherwise. Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) NONRECOGNITION OF GAIN OR LOSS.—No gain or loss shall be recognized on any sale described in subparagraph (A) to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1).

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State. A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(10) DENIAL OF AVERAGING FOR SUBSEQUENT DISTRIBUTIONS.—If paragraph (1) applies to any distribution paid to any employee, paragraphs (1) and (3) of subsection (d) shall not apply to any distribution (paid after such distribution) of the balance to the credit of the employee under the plan under which the preceding distribution was made (or under any other plan which, under subsection (d)(4)(C), would be aggregated with such plan).

"(d) TAX ON LUMP SUM DISTRIBUTIONS.—

"(1) IMPOSITION OF SEPARATE TAX ON LUMP SUM DISTRIBUTIONS.—

"(A) SEPARATE TAX.—There is hereby imposed a tax (in the amount determined under subparagraph (B)) on a lump sum distribution.

"(B) AMOUNT OF TAX.—The amount of tax imposed by subparagraph (A) for any taxable year is an amount equal to 5 times the tax which would be imposed by subsection (c) of section 1 if the recipient were an individual referred to in such subsection and the taxable income were an amount equal to ⅕ of the excess of—

"(i) the total taxable amount of the lump sum distribution for the taxable year, over

"(ii) the minimum distribution allowance.

"(C) MINIMUM DISTRIBUTION ALLOWANCE.—For purposes of this paragraph, the minimum distribution allowance for any taxable year is an amount equal to—

"(i) the lesser of $10,000 or one-half of the total taxable amount of the lump sum distribution for the taxable year, reduced (but not below zero) by

"(ii) 20 percent of the amount (if any) by which such total taxable amount exceeds $20,000.

"(D) LIABILITY FOR TAX.—The recipient shall be liable for the tax imposed by this paragraph.

"(2) DISTRIBUTIONS OF ANNUITY CONTRACTS.—

"(A) IN GENERAL.—In the case of any recipient of a lump sum distribution for any taxable year, if the distribution (or any part thereof) is an annuity contract, the total taxable amount of the distribution shall be aggregated for purposes of computing the tax imposed by paragraph (1)(A), except that the amount of tax so computed shall be reduced (but not below zero) by that portion of the tax on the aggregate total taxable amount which is attributable to annuity contracts.

"(B) BENEFICIARIES.—For purposes of this paragraph, a beneficiary of a trust to which a lump sum distribution is made shall be treated as the recipient of such distribution if the beneficiary is an employee (including an employee within the meaning of section 401(c)(1)) with respect to the plan under which the distribution is made or if the beneficiary is treated as the owner of such trust for purposes of subpart E of part I of subchapter J.

"(C) ANNUITY CONTRACTS.—For purposes of this paragraph, in the case of the distribution of an annuity contract, the taxable amount of such distribution shall be deemed to be the current actuarial value of the contract, determined on the date of such distribution.

"(D) TRUSTS.—In the case of a lump sum distribution with respect to any individual which is made only to 2 or more trusts, the tax imposed by paragraph (1)(A) shall be computed as if such distribution was made to a single trust, but the liability for such tax shall be apportioned among such trusts according to the relative amounts received by each.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

"(3) ALLOWANCE OF DEDUCTION.—The total taxable amount of a lump sum distribution for any taxable year shall be allowed as a deduction from gross income for such taxable year, but only to the extent included in the taxpayer's gross income for such taxable year.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) LUMP SUM DISTRIBUTION.—For purposes of this section and section 403, the term 'lump sum distribution' means the distribution or payment within 1 taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(i) on account of the employee's death,

"(ii) after the employee attains age 59½,

"(iii) on account of the employee's separation from the service, or

"(iv) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Clause (iii) of this subparagraph shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and clause (iv) shall be applied only with respect to an employee within the meaning of section 401(c)(1). A distribution of an annuity contract from a trust or annuity plan referred to in the first sentence of this subparagraph shall be treated as a lump sum distribution. For purposes of this subparagraph, a distribution to 2 or more trusts shall be treated as a distribution to 1 recipient. For purposes of this subsection, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(B) AVERAGING TO APPLY TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Paragraph (1) shall apply to a lump sum distribution with respect to an employee under subparagraph (A) only if—

"(i) such amount is received on or after the date on which the employee has attained age 59½, and

"(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated.

Not more than 1 election may be made under this subparagraph by any taxpayer with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to *an employee to 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the taxpayer.*

"(C) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under subparagraph (A)—

"(i) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(ii) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(D) TOTAL TAXABLE AMOUNT.—For purposes of this section and section 403, the term 'total taxable amount' means, with respect to a lump sum distribution, the amount of such distribution which exceeds the sum of—

"(i) the amounts considered contributed by the employee (determined by applying section 72(f)), reduced by any amounts previously distributed which were not includible in gross income, and

"(ii) the net unrealized appreciation attributable to that part of the distribution which consists of the securities of the employer corporation so distributed.

"(E) COMMUNITY PROPERTY LAWS.—The provisions of this subsection, other than paragraph (3), shall be applied without regard to community property laws.

"(F) MINIMUM PERIOD OF SERVICE.—For purposes of this subsection, no amount distributed to an employee from or under a plan may be treated as a lump sum distribution under subparagraph (A) unless the employee has been a participant in the plan for 5 or more taxable years before the taxable year in which such amounts are distributed.

"(G) AMOUNTS SUBJECT TO PENALTY.—This subsection shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(H) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this subsection, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(I) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this subsection, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(J) LUMP SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump sum distribution, then, for purposes of this subsection, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump sum distribution. For purposes of this subparagraph, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(K) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which subsection (c) applies, paragraphs (1) and (3) shall not apply with respect to the distribution.

"(L) SECURITIES.—For purposes of this subsection, the terms 'securities' and 'securities of the employer corporation' have the respective meanings provided by subsection (e)(4)(E).

"(5) SPECIAL RULE WHERE PORTIONS OF LUMP SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Reform Act of 1984), paragraphs (1) and (3) of this subsection shall not apply to such portion.

"(6) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(A) IN GENERAL.—For purposes of determining whether any distribution which becomes payable to the recipient on account of the employee's separation from service is a lump sum distribution, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is reemployed by the employer.

"(B) RECAPTURE IN CERTAIN CASES.—If—

"(i) an amount is treated as a lump sum distribution by reason of subparagraph (A),

"(ii) special lump sum treatment applies to such distribution,

"(iii) the employee is subsequently reemployed by the employer, and

"(iv) as a result of services performed after being so reemployed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in subparagraph (A),

under regulations prescribed by the Secretary, the tax imposed by this chapter for the taxable year (in which the increase in vesting first occurs) shall be increased by the reduction in tax which resulted from the special lump sum treatment (and any election under paragraph (4)(B) shall not be taken into account for purposes of determining whether the employee may make another election under paragraph (4)(B)).

"(C) SPECIAL LUMP SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under the subsection by reason of an election under paragraph (4)(B).

"(D) VESTING.—For purposes of this paragraph, the term 'vesting' means the portion of the accrued benefits derived from employer contributions to which the participant has a nonforfeitable right.

"(7) COORDINATION WITH FOREIGN TAX CREDIT LIMITATIONS.—Subsections (a), (b), and (c) of section 904 shall be applied separately with respect to any lump sum distribution on which tax is imposed under paragraph (1), and the amount of such distribution shall be treated as the taxable income for purposes of such separate application.

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of a distribution other than a lump sum distribution, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a distribution to which subsection (c) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of any lump sum distribution which includes securities of the employer corporation, there shall be excluded from gross income the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph, the term 'lump sum distribution' has the meaning given such term by subsection (d)(4)(A) (without regard to subsection (d)(4)(F)).

"(E) DEFINITIONS RELATING TO SECURITIES.—For purposes of this paragraph—

"(i) SECURITIES.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) SECURITIES OF THE EMPLOYER.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 424) of the employer corporation.

"(5) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for

exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, within a reasonable period of time before making an eligible rollover distribution from an eligible retirement plan, provide a written explanation to the recipient—

"(A) of the provisions under which the recipient may have the distribution directly transferred to another eligible retirement plan,

"(B) of the provision which requires the withholding of tax on the distribution if it is not directly transferred to another eligible retirement plan,

"(C) of the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution, and

"(D) if applicable, of the provisions of subsections (d) and (e) of this section.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "section 402(e)" and inserting "section 402(d)".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended—

(A) by striking "a qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "1 or more distributions within 1 taxable year to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan", and

(B) by adding at the end the following new sentence: "For purposes of this paragraph, rules similar to the rules of section 402(a)(6)(B) (as in effect before its repeal by section 211 of the Unemployment Compensation Amendments of 1992) shall apply."

(6) Clause (v) of section 401(a)(28)(B) (relating to coordination with distribution rules) is amended to read as follows:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether a subsequent distribution is a lump sum distribution under section 402(d)(4)(A) or in determining whether section 402(c)(10) applies."

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended—

(A) by striking "section 402(e)(4)" and inserting "section 402(d)(4)", and

(B) by striking "subparagraph (H)" and inserting "subparagraph (F)".

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking "subsection (e)(4)" and inserting "subsection (d)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)".

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)".

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or".

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 3405(d)(13) is amended by striking "(b)(3)" and inserting "(b)(2)".

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended by striking "section 402(e)(4)(B)" and inserting "section 402(d)(4)(B)".

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(44) Section 411(d)(3) is amended by adding at the end the following new sentence: "For purposes of this paragraph, in the case of the complete discontinuance of contributions under a profit-sharing or stock bonus plan, such plan shall be treated as having terminated on the day on which the plan administrator notifies the Secretary (in accordance with regulations) of the discontinuance."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after December 31, 1992.

(2) SPECIAL RULE FOR PARTIAL DISTRIBUTIONS.—For purposes of section 402(a)(5)(D)(i)(II) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section), a distribution before January 1, 1993, which is made before or at the same time as a series of periodic payments shall not be treated as one of such series if it is not substantially equal in amount to other payments in such series.

SEC. 512. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) OPTIONAL TRANSFERS.—

(1) QUALIFIED PLANS.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(2) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(3) ANNUITIES PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Paragraph (10) of section 403(b) (relating to distribution requirements) is amended by striking "section 401(a)(9)" and inserting "sections 401(a)(9) and 401(a)(31)".

(b) WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTIONS WHICH ARE NOT ROLLED OVER.—

(1) IN GENERAL.—Section 3405 (relating to special rules for pensions, annuities, and certain other deferred income) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) and by inserting after subsection (b) the following new subsection:

"(c) ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(1) IN GENERAL.—In the case of any designated distribution which is an eligible rollover distribution—

"(A) subsections (a) and (b) shall not apply, and

"(B) the payor of such distribution shall withhold from such distribution an amount equal to 20 percent of such distribution.

"(2) EXCEPTION.—Paragraph (1)(B) shall not apply to any distribution if the distributee elects under section 401(a)(31)(A) to have such distribution paid directly to an eligible retirement plan.

"(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A) (or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))."

(2) CONFORMING AMENDMENTS.—

(A) Section 3405(a)(1) is amended by striking "subsection (d)(2)" and inserting "subsection (e)(2)".

(B) Section 3405(b)(1) is amended by striking "subsection (d)(3)" and inserting "subsection (e)(3)".

(C) Section 3405(d)(1) (as redesignated by paragraph (1)) is amended by striking "subsection (d)(1)" and inserting "subsection (e)(1)".

(D) Sections 3402(o)(6) and 6047(d)(1) are each amended by striking "section 3405(d)(1)" and inserting "section 3405(e)(1)".

(E) Section 6047(d)(1)(A) is amended by striking "section 3405(d)(1)" and inserting "section 3405(d)(3)".

(F) Section 6652(h) is amended by striking "section 3405(d)(10)(B)" and inserting "section 3405(e)(10)(B)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 2, is amended by adding at the end the following new paragraph:

"(6) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(3) ANNUITY CONTRACTS PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Section 403(b)(10) is amended by adding at the end the following new sentence: "Any amount transferred in an direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of the transfer."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1992.

SEC. 513. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Other Provisions

SEC. 521. CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "91 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "91 PERCENT", and

(3) by striking paragraph (3) and inserting the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after June 30, 1992, and before 1997—

"(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting '96 percent' for '91 percent' each place it appears, and

"(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting '24', '48', '72', and '96' for '22.75', '45.50', '68.25', and '91.00', respectively.

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	**The applicable percentage is:**
1st	22.75
2nd	45.50
3rd	68.25
4th	91.00."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "91 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1992.

SEC. 522. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale,

"(C) any security acquired by a floor specialist (as defined in section 1236(d)(2)) in connec-

tion with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, and

"(D) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

Except as provided in regulations, subparagraph (D) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), (C), or (D) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Such term shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 523. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am pleased and gratified that the Senate has now acted on the supplemental appropriations bill.

We will now proceed on the unemployment compensation bill, and it remains my hope as previously stated on several occasions that we will be able to complete action on this bill in the near future and on the Government-sponsored enterprise bill from the Banking Committee.

I am gratified that my colleagues have joined in supporting the supplemental appropriations bill and we have completed action on that.

I hope we can move expeditiously on the unemployment bill, and following that, take action on the GSE bill as well.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, may I inquire of the majority leader—I think we know of several amendments—could the majority leader perhaps tell us which ones we may proceed toward and perhaps we might try to obtain a time agreement on that. I am just suggesting that.

Mr. MITCHELL. Mr. President, I have not yet had an opportunity to meet with the sponsors of amendments, pursuant to our previous conversation. I hope to do that in the very next few minutes and then we will report back to the distinguished assistant Republican leader.

Mr. SIMPSON. I thank the majority leader.

Mr. MITCHELL. Mr. President, while we are awaiting the presence of the chairman of the Finance Committee, the manager of the bill, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I might proceed as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTIGATION OF CASPAR WEINBERGER

Mr. SIMPSON. Mr. President, I rise to speak with no small degree of frustration and disgust over the persecution—and that is the word I will use, it is certainly not independent prosecution—in the Iran-Contra matter.

This multi-million-dollar fishing expedition has now focused on Caspar Weinberger, a man who has throughout his entire life dedicated himself to unstinting and unselfish service to his country. He has an absolutely extraordinary record of service. And in this highly contentious political year we are seeing yet one more character attack on one of our country's most distinguished and able former Secretaries of Defense.

This is a remarkable man. I know him well. He and his wife Jane are superb citizens of our country. He is decent, strong, fair, loyal, and is bright as a dollar. He has a record of public life that has always been absolutely unsullied. And now this—a witch hunt at the witching hour. The witching hour happened to be the expiration of the statute of limitations on the special counsel proceeding.

I think the American people will ultimately see this seemingly unending investigation to be an incredibly expensive and expansive abuse of power. I agree with what our fine distinguished Republican leader BOB DOLE said previously: "It is time we imposed term limits on these Special Prosecutors." I agree with that totally. This one has lasted too long, yielded precious little, and wasted millions of taxpayers' dollars.

It is my hunch the American people are plain tired of this endless charade. For over the past 6 years, Congress has spent at least $31 million on this crusade.

Let us take a look at the track record, keep your eye on the rabbit. There have been two convictions, principally for under reporting earnings to the IRS. Those are the felony successes of this office.

On other charges among seven other defendants—I put that in quotation marks, "defendants"—the Special Prosecutor was able to obtain guilty pleas to misdemeanor charges netting the American people slightly over 300 hours of community service. That is a dazzling record—300 hours of community service for the seven other defendants.

By some estimates, the American taxpayers have now spent $60 million to net this remarkable 300 hours' worth of community service, not to mention the benefit of keeping a political agenda alive in a political year and keeping a handful of lawyers exceedingly well paid. That figure of $31 million is the Special Prosecutor's Office own estimate. It has been reported that the Federal Government actually spent up to twice that much—$60 million—when you add in the attorney fees all around.

That works out to a taxpayer payment of $200,000 for each hour of community service, which I think is a little bit disproportionate. Not even some of our finest corporate officers make that much in an hour.

Mr. President, it is estimated that the Special Prosecutor will now need another $10 million to prosecute Cap Weinberger. That, Mr. President, is outrageous. I think it is time we demand that those overzealous attorneys get some real jobs and get on with their lives, wherever that may take them, away from the Federal breast.

Something else has really fascinated me. In Washington, DC, if I have been assessing things correctly in the last few days we have received about 7 metric tons of news coverage about Watergate, the 20th anniversary thereof. Who did what, when, how, where, at what time, at what location within the community with graphs to accompany the travail. It is all very interesting.

I thought what was most fascinating about this insular village on the Potomac is the headline from the Washington Post of Wednesday, June 17. In large type in the middle or near the middle of the page it said "Bush, Yeltsin Agree on Massive Nuclear Cuts. All Multiple-Warhead ICBM's to Be Eliminated." The people of the world have been waiting for that for over 40 years.

Is that the main headline? No; it is not. You guessed it. The headline is this remarkable one, "Weinberger Indicted on Five Counts, Ex-Defense Secretary Charged With Lying in the Iran-Contra Affair." Then there is his picture. Is that not a twisted set of priorities? It is also, in my view, a political agenda which has been expressed in those pages.

I believe that the Post has some very capable journalists specifically including George Lardner, Jr., and Walter Pincus. I know Walter Pincus and his able and delightful wife. They are very special people.

As far as I can think back, I believe that we have been involved in this issue for the most extraordinary amount of time. Yet when I go out in the land and hold town meetings, nobody ever asks about this at all. Not one soul has asked me about the Iran-Contra affair.

I remember another headline in an earlier Washington Post when it fell fecklessly into the pit the last time. It said, "No Smoking Gun Found."

It almost had tear stains on the side of the column. No smoking gun was found.

Well, that is where we are with that peculiar emphasis and peculiar agenda regarding the Special Prosecutor on the Iran-Contra issue.

I think it really deserves a recess. I am sure the Post, being the responsible newspaper which it is, with able people operating it, will print the letters to the editor that come to them on the issue of putting the Weinberger headline prominently at the top of the masthead instead of one of the most important items of news that we have all been ready to receive for four decades now.

The Special Prosecutor in this case has a lousy track record. It is time to put this entire matter to an end. It simply is not cost efficient or effective. This Special Prosecutor's Office has become a taxpayer-supported cash cow for a few highly unsuccessful lawyers, and some successful ones. I think we owe a duty to the American people to end this frivolous waste of Federal money. Furthermore, we should review the entire independent counsel statutes, and see where we go from here.

We do not wait 5½ years until the clock is about to expire to drag a fine man across the coals just so someone will look as if they have not failed when in fact it is obvious they have.

It is a disgrace.

Thank you, Mr. President.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, today's unemployment compensation bill comes to the floor at a time when the hard, human evidence of recession requires us to respond. Last month, our Nation's unemployment rate reached 7.5 percent, the highest since August 1984. The number of long-term unemployed workers has swelled to nearly 2 million, almost double a year ago. In April, 364,000 workers exhausted regular State unemployment benefits—40 percent more than the 260,000 who exhausted benefits last November, when the Congress first approved the Emergency Unemployment Program. So despite some positive signs the economy is on a gentle upswing, the situation remains grim for 9.5 million unemployed Americans. And the need for this new legislation is clear.

The unemployment bill before the Senate today is a balanced measure deserving bipartisan support, for it continues the present Emergency Benefit Program scheduled to expire July 4. It offers effective yet moderate changes in rules for the Permanent Extended Benefits Program. And the $5.4 billion cost over 5 years is paid by revenue measures that, for the most part, already have been passed by Congress and supported by the administration.

Let me describe the measure's major provisions.

First and foremost, the bill protects the more than 300,000 long-term unemployed workers who are exhausting their State benefits each month by extending the schedule of emergency benefits enacted last February. Therefore, workers in States suffering high unemployment will continue to receive 33 weeks of emergency benefits. Workers in less afflicted States will receive 26 weeks of benefits.

Some will urge us to reduce the cost of this bill by reducing these weeks of benefits, as the administration has proposed. Mr. President, I would respond by reminding Senators that May's 7.5 percent unemployment rate is substantially above last winter's rate of 7.1 percent, where unemployment stood when the Senate approved the 33 and 26 weeks of benefits by a vote of 94 to 2. We must not scale back benefits now that the unemployment rate has risen.

I agree we should phase down the number of benefit weeks as soon as we reasonably can, and the committee's bill does so. When the national unemployment rate falls below 7 percent for 2 consecutive months, the number of weeks of benefits automatically falls to 15 and 10, respectively, and when it falls below 6.8 percent, the weeks of benefits drop to 13 and 7. So the bill reflects actual not projected changes in unemployment rates. And if the unemployment rate drops faster than CBO has estimated, the cost of the bill will, of course, be reduced accordingly.

This bill also makes a very significant improvement in the permanent Federal-State Extended Benefits [EB] Program.

Immediately upon expiration of the Temporary Emergency Program next March, States will have the option of using a new trigger that will substantially increase their ability to provide benefits under the EB Program. Under present law, the Extended Benefits Program is activated in a State by a trigger based on the insured unemployment rate. The optional trigger in this bill takes effect when a State's total unemployment rate is 6.5 percent—1 percent above the 5.5 percent CBO considers full employment.

This new trigger represents a major improvement over current law. The experience over the last year underscores a point I have made repeatedly on this floor, which is that the current trigger based upon the insured unemployment rate simply does not work. Last November, when we passed the Emergency Unemployment Compensation Program, not a single State was eligible for extended benefits even though our national unemployment rate was 6.9 percent. And if we didn't have an emergency program in place now, the longterm unemployed in only three States would be receiving extended benefits, even though the unemployment rate has soared to 7.5 percent.

Furthermore, Department of Labor actuaries estimate that by next spring only one State will qualify for extended benefits under the present trigger. Yet the Labor Department estimates the national unemployment rate will average 6.6 percent in the first quarter of 1993. If we don't fix this problem now, Mr. President, those figures suggest we almost certainly will face another emergency bill when we reconvene next January. And this is already the sixth unemployment bill the Senate has considered in less than a year.

Let's correct this problem in the Extended Benefits Program now instead of putting ourselves on a course that almost guarantees we will be back here early next year to act on yet another emergency bill.

Other significant benefit changes in the Finance Committee bill include:

Giving States waiver authority to follow State, rather than Federal, work search rules in regions of severe unemployment.

Giving States greater flexibility in determining if workers meet earnings criteria for the emergency and extended benefits programs.

Allowing some workers who take part-time or temporary work to requalify for emergency benefits instead of requiring them to file for lesser State benefits.

The unemployment benefits in this bill are paid for by five revenue provisions. Three of these provisions—mark-to-market for securities dealers, taxable year of partnerships conditions, and the prohibition against double-dipping of FSLIC assistance payments—have been proposed or endorsed by the administration. All three have previously passed the Senate. A fourth provision, an increase in corporate estimated tax payments, has been used to fund previous extensions of unemployment benefits. At that time a similar proposal was supported by the administration.

Finally, the bill includes a provision to withhold estimated tax on lump-sum pension distributions and to facilitate rolling distributions into IRA's. Today, less than 20 percent of retirement distributions eligible for deposit in an IRA are rolled over in their entirety. Evidence suggests that large amounts of retirement savings are being spent prior to retirement. By making it easier to roll funds to IRA's and by forcing people to accommodate the tax consequences of not doing so, this bill encourages reinvesting retirement savings. This amendment also assures Americans who don't roll deposits to an IRA will not be surprised with a large tax payment and penalty on April 15.

I am encouraged, Mr. President, by the apparent consensus on the need to extend unemployment benefits. I believe it is essential to extend benefits promptly and in a manner that contributes to recovery for our economy and for the millions of Americans who feel the pain of recession. I hope my fellow Senators will support this measure when it comes to a vote tomorrow, so we can move quickly to conference with the House.

Mr. President, I ask unanimous consent that a technical explanation of the Senate Finance Committee's amendment to H.R. 776 be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF THE SENATE FINANCE COMMITTEE AMENDMENT TO TITLE XIX OF H.R. 776 (COMPREHENSIVE NATIONAL ENERGY ACT)

(Committee on Finance, U.S. Senate, June 18, 1992)

I. LEGISLATIVE BACKGROUND

H.R. 776 ("Comprehensive National Energy Policy Act") was passed by the House of Representatives on May 27, 1992. The bill was referred to the Senate Committee on Finance on June 4, 1992, for consideration of the revenue-related provisions. On February 19, 1992, the Senate passed S. 2166 ("National Energy Security Act of 1992"), which did not include tax provisions. S. 2166 was debated by the Senate on February 5-7 and 18-19, 1992.[1]

The Subcommittee on Energy and Agricultural Taxation of the Committee on Finance

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Footnotes at end of article.

held hearings on June 13–14, 1991, on proposals relating to renewable energy and energy conservation tax incentives. The Subcommittee hearings included the following energy-related tax bills: (1) S. 26 (exclusion for certain employer-provided transportation); (2) S. 83 (exclusion for public utility payments for energy or water conservation measures); (3) S. 129 (exclusion for certain employer-provided transportation); (4) S. 141 (extension of business energy tax credits); (5) S. 201 (increase in gas guzzler excise tax and tax credit for purchase of fuel-efficient automobiles); (6) S. 326 (exclusion for public utility payments for energy conservation measures, tax credit for retrofit of residential oil heaters, and employer deduction for employer parking); (7) S. 466 (tax credit for production of qualified electricity and extension of business energy tax credits); (8) S. 661 (tax credit for production of qualified electricity extension of business energy tax credits, and tax credit for telecommuting); (9) S. 679 (exclusion for public utility payments for residential energy conservation measures); and (10) S. 731 (extension of business energy tax credits).

The Subcommittee on Medicare and Long-Term Care held a hearing on September 25, 1991, on retired miners' health benefits.

The Subcommittee on Taxation held a hearing on February 19, 1992, on the effects of the alternative minimum tax.

The Committee on Finance marked up the tax title of H.R. 776 (Title XIX) on June 16, 1992, and ordered a committee amendment to the bill ("the bill") favorably reported as a substitute for Title XIX.

II. EXPLANATION OF PROVISIONS

A. Energy Conservation and Production Incentives

1. Exclusion for Employer-Provided Transportation Benefits (sec. 1911 of the bill and sec. 132 of the Code).

Present Law

Under Treasury regulations, transit passes, tokens, fare cards, vouchers, and cash reimbursements provided by an employer to defray an employee's commuting costs are excludable from the employee's income (for both income and payroll tax purposes) as a de minimis fringe benefit if the total value of the benefit does not exceed $21. If the total value of the benefit exceeds $21 per month, the full value of the benefit is includible in income.

Parking at or near the employer's business premises that is paid for by the employer is excludable from the gross income of the employee (for both income and payroll tax purposes) as a working condition fringe benefit, regardless of the value of the parking. This exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

Reasons for Change

Present law favors the provision of fringe benefits in the form of employer-provided parking over the provision of fringe benefits in the form of employer-provided transit benefits. This disparity may discourage employers from providing transit benefits as opposed to parking benefits. The committee believes that a significant increase in the amount and type of employer-provided public transit commuting benefits that may be excluded from income, together with a limit on the exclusion for employer-provided parking, will create a more meaningful incentive for employers to support commuting by public transit than the present-law exclusion. The committee believes that increased use of mass transit could provide substantial benefits to society, such as reduced traffic congestion and reduced environmental degradation.

Explanation of Provision

Under the bill, gross income and wages (for both income and payroll tax purposes) does not include qualified transportation fringe benefits. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment, (2) a transit pass, or (3) qualified parking. The maximum amount of qualified parking that is excludable from an employee's gross income and wages is $145 per month (regardless of the total value of the parking). Other qualified transportation fringes are excludable from gross income to the extent that the aggregate value of the benefits does not exceed $60 per month (regardless of the total value of the benefits). The $60 and $145 limits are indexed for inflation in $5 increments.

A commuter highway vehicle is a highway vehicle the seating capacity of which is at least 6 adults (not including the driver) and at least 80 percent of the mileage use of which can reasonably be expected to be for purposes of transporting employees between their residences and their place of employment on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of the vehicle (not including the driver). Transportation furnished in a commuter highway vehicle operated by or for the employer is considered provided by the employer. Cash reimbursements made by an employer to an employee to cover the cost of commuting in a commuter highway vehicle also qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement.

A transit pass includes any pass, token, fare card, voucher, or similar item entitling a person to transportation on mass transit facilities (whether publicly or privately owned). Types of transit facilities that qualify for the exclusion include, for example, rail, bus, and ferry. Cash reimbursements made by an employer to an employee to cover the cost of purchasing a transit pass generally qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement. However, cash reimbursements do not qualify for the exclusion if vouchers (or similar items) that are exchangeable only for transit passes are readily available to the employer.

Qualified parking is parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool. However, the exclusion does not apply to any parking facility or space located on or near property used by the employee for residential purposes. Cash reimbursements made by an employer to an employee to cover the cost of qualified parking qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement.

Effective Date

The provision applies to benefits provided by the employer after December 31, 1992.

2. Exclusion of Energy Conservation Subsidies Provided by Public Utilities (sec. 1912 of the bill and new sec. 136 of the Code)

Present Law

Section 8217(i) of the National Energy Conservation Policy Act provided that the value of any subsidy provided by a utility to a residential customer for the purchase or installation of a residential energy conservation measure was excluded from gross income. That exclusion expired on June 30, 1989.

In Technical Advice Memorandum 8924002, the IRS ruled that a cash payment by a utility to a customer to encourage the installation of an alternative hearing system by a third-party vendor was includable in the gross income of the customer. In the ruling, the IRS distinguished the taxable utility subsidy from a nontaxable automobile manufacturer rebate (which is treated as a reduction in the purchase price of the automobile).

Further, in Rev. Rul. 91–36, 1991-2 C.B. 17, the IRS held that if a customer of an electric utility company participates in an energy conservation program for which the customer receives a rate reduction or nonrefundable credit on the customer's bill, the amount of the rate reduction or nonrefundable credit is not included in the customer's gross income. In the ruling, the IRS reasoned that the rate reduction or nonrefundable credit represented a reduction in the purchase price of electricity and, therefore, did not constitute taxable income.

Finally, in Rev. Rul. 78–170, 1978–2 C.B. 24, the IRS held that qualified low-income individuals could exclude from gross income the value of subsidies provided pursuant to State law to reduce the cost of winter energy consumption. In the ruling, the IRS reasoned that the subsidies were not subject to tax because they were in the nature of payments made for the promotion of the general welfare.

Reasons for Change

The committee believes that it is appropriate to provide tax-free treatment for the receipt of subsidies relating to energy conservation measures in order to encourage customers of public utilities to participate in energy conservation programs sponsored by the utilities.

Explanation of Provisions

In general

For taxable years beginning after 1992, the bill provides an exclusion from the gross income of a residential customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to a dwelling unit.

In addition, for taxable years beginning after 1993, the bill provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 80 percent of the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit.

Definitions

The term "energy conservation measure" means an installation or modification of an installation which is primarily designed to reduce consumption of electricity or natural gas or improve the management of energy demand. Energy conservation measures provided with respect to property that is not a dwelling unit includes the purchase or installation of specially defined energy property. "Specially defined energy property" includes a recuperator, a heat wheel, a regenerator, a heat exchanger, a waste heat boiler, a heat pipe, an automatic energy control system, a turbulator, a preheater, a combustible gas recovery system, an economizer, modifications to alumina electrolytic cells, modifications to chlor-alkali electrolytic cells, and other property that the Secretary of the Treasury may specify by regulations, the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

The term "public utility" means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. The term includes regulated public utilities, rural electric cooperatives, and utilities that are owned and operated by the Federal Government or a State or local government of any instrumentality or political subdivision thereof.

The term "dwelling unit" has the meaning given by section 280A(f)(1) of the Code. The value of any subsidy provided with respect to a building or structure that contains both dwelling units and units that are not dwelling units shall be properly allocated between the dwelling units and the units that are not dwelling units.

Other rules

The bill denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer. Thus, if a utility customer receives a subsidy from a utility to acquire energy-effective equipment, the customer's adjusted basis in the equipment will be reduced by the amount of the subsidy that is excluded from the customer's gross income.

The provision applies to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure with respect to a customer of the utility in the same manner as if the subsidy had been provided directly to the customer. If the provision applies to a subsidy received by a third party, the rule described in the paragraph above (i.e., the denial of double benefits for amounts excluded from income) will also apply to the expenditures of the third party. For example, if in a taxable year beginning after 1993, a public utility provides a subsidy to an independent contractor to produce energy-savings with respect to the utility's industrial customers, 80 percent of the amount of the subsidy will be excluded from the gross income of the contractor. The 80 percent exclusion applies in this example because had the subsidy been provided directly to the industrial customers, the customers would have excluded 80 percent of such amount from their gross incomes. In addition, the contractor will reduce the amount of any deduction (or in appropriate cases, reduce the adjusted basis of property) for expenditures incurred in providing the energy-savings to the customer by the amount excluded from gross income under the provision.

The provision applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the taxpayer by the State pursuant to a State-sponsored energy conservation program.[2] For example, assume that under a State program, a State grants investment tax credits to industrial taxpayers that acquire and place in service certain energy-efficient property. The State program provides that a taxpayer may claim the tax credit on its State income tax return or it may sell the credit to a local public utility that may then claim the credit. The provision applies to the payment received by the taxpayer from the utility if the taxpayer sells the credit to utility. The provision does not apply if the taxpayer claims the credit on its State income tax return.

The provision does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

Effective Date

The provision is effective for amounts received after December 31, 1992.

3. Treatment of Clean-Fuel Vehicles and Certain Refueling Property (sec. 1913 of the bill and new secs. 30 and 179A of the Code).

Present Law

In determining taxable income for Federal income tax purposes, taxpayers are allowed deductions for the depreciation of property that is used in a trade or business or that is held for the production of income. The depreciation deductions for tangible property generally are determined under the accelerated cost recovery system as modified by the Tax Reform Act of 1986.

Under the accelerated cost recovery system, the depreciation deductions for automobiles and light general purpose trucks are determined by using a 5-year recovery period and the 200-percent declining balance method (with a switch to the straight-line method beginning with the taxable year that the straight-line method yields a higher depreciation deduction). The depreciation deductions for other tangible personal property generally are determined by using a recovery period that is based on the class life of the property and either the 150-percent declining balance method (for 15-year and 20-year property) or the 200-percent declining balance method (for most other tangible personal property).

A taxpayer may elect, subject to certain limitations, to deduct the cost of up to $10,000 of qualifying property for the taxable year that the property is placed in service. The depreciable basis of the qualifying property is reduced by the amount of the deduction. For this purpose, qualifying property is generally defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.

In general, no deduction is allowed under present law for personal, living, or family expenses.

Reasons for Change

The committee believes that taxpayers should be encouraged to purchase (or convert existing gasoline-powered motor vehicles to) motor vehicles that are propelled by clean-burning fuels and to invest in property that is used to refuel such vehicles in order to reduce the atmospheric pollution caused by motor vehicles and reduce the dependence of the United States on imported petroleum and imported petroleum products.

Explanation of Provision

In general

The bill provides a deduction for a portion of the cost of certain motor vehicles that may be propelled by a clean-burning fuel. In addition, the bill provides a deduction of up to $75,000 per location for the cost of certain property that is used is used in the storage of clean-burning fuel or the delivery of clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel. Finally, the bill provides an income tax credit equal to 15 percent of the cost of certain motor vehicles propelled by an electric motor.

Deduction for qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property

Qualified clean-fuel vehicle property

The bill allows a deduction for a portion of the cost of qualified clean-fuel vehicle property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle property is defined as: (1) a motor vehicle that is produced by an original equipment manufacturer and that is designed so that the vehicle may be propelled by a clean-burning fuel (an "original equipment manufacturer's vehicle"); and (2) any property that is installed on a motor vehicle which is propelled by a fuel that is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel (a "retrofitted vehicle"), but only if the property is an engine (or modification thereof) which may use the clean-burning fuel or only to the extent that the property may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.

In order for property to qualify as qualified clean-fuel vehicle property, the property must be acquired for use by the taxpayer (and not for resale) and the original use of the property must commence with the taxpayer. In addition, the property (or, in the case of a retrofitted vehicle, the motor vehicle of which the property is a part) must satisfy any applicable Federal or State emissions standards with respect to each fuel by which the vehicle is designed to be propelled. Finally, qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 15-percent credit described below.

In the case of an original equipment manufacturer's vehicle,[3] the amount of the deduction is determined based on whether the motor vehicle may be propelled by (1) only a clean-burning fuel (a "dedicated clean-fuel vehicle"), or (2) both a clean-burning fuel and any other fuel (a "fuel-flexible vehicle" or "dual-fuel vehicle").

In the case of an original equipment manufacturer's vehicle that is a dedicated clean-fuel vehicle, the amount of the deduction equals the cost of the motor vehicle, but no more than cost limitation applicable to the vehicle as described below. In the case of an original equipment manufacturer's vehicle that is a fuel-flexible or dual-fuel vehicle, the amount of the deduction equals $1,200, or, if greater, the incremental cost of permitting the use of the clean-burning fuel,[4] but no more than the cost limitation applicable to the vehicle as described below.

In the case of a retrofitted vehicle, the amount of the deduction equals (1) the cost of the engine (or modification thereof) that is installed on the motor vehicle and that permits the motor vehicle to be propelled by a clean-burning fuel, and (2) the cost of any other property that is installed on the motor vehicle for purposes of permitting the motor vehicle to be propelled by a clean-burning fuel but only to the extent that the property is used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.[5] In no event, however, is the amount of the deduction to exceed the cost limitation applicable to the vehicle as described below.

The cost that may be taken into account in determining the amount of the deduction with respect to any motor vehicle is limited based on the type of the motor vehicle. In the case of a truck[6] or van with a gross vehicle weight rating that is greater than 26,000 pounds or a bus which has a seating capacity of at least 20 adults (not including the driver), the limitation is $50,000. In the case of a truck or van with a gross vehicle weight rating that is greater than 10,000 but not greater than 26,000 pounds, the limitation is $5,000. In the case of any other motor vehicle, the limitation is $2,000.

The cost limitations are reduced for qualified clean-fuel vehicle property that is placed in service after December 31, 2001. The otherwise applicable limitations are reduced by: (1) 25 percent for property that is place in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No deduction is allowed with respect to qualified clean-fuel vehicle property that is placed in service after December 31, 2004.

Qualified clean-fuel vehicle refueling property

The bill allows a deduction for the cost of qualified clean-fuel vehicle refueling property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is used for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by the fuel, but only if the storage or dispensing (as the case may be) of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.

In addition, qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is dedicated to the recharging of motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

In order for property to qualify as qualified clean-fuel vehicle refueling property, the original use of the property must commence with the taxpayer and the property must be of a character that is subject to the allowance for depreciation (i.e., unlike qualified clean-fuel vehicle property, qualified clean-fuel vehicle refueling property is required to be used in a trade or business of the taxpayer).

The aggregate cost that may be taken into account in determining the amount of the deduction with respect to qualified clean-fuel vehicle refueling property that is placed in service at any location is not to exceed the excess (if any) of (1) $75,000, over (2) the aggregate amount taken into account under the provision by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years. For this purpose, a person is treated as related to another person if the person bears a relationship to the other person that is specified in section 267(b) or section 707(b)(1).

Definition of clean-burning fuel and motor vehicle

Clean-burning fuel is defined as natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel if at least 85 percent of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

Other rules

The basis of any property with respect to which a deduction is allowed under this provision is reduced by the portion of the cost of the property that is taken into account in determining the amount of the deduction that is allowed with respect to the property. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the benefit of the deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property if the property ceases to be property eligible for the deduction. For example, the committee anticipates that the regulations will require the benefit of the deduction for qualified clean-fuel vehicle property to be recaptured if at any time within three years after the date that the property is placed in service, the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel.

The deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property is not allowed with respect to property that is used predominantly outside the United States or property that is used by governmental units or certain tax-exempt organizations. In addition, the deduction for such property is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.

The deduction for qualified clean-fuel vehicle property is not subject to the luxury automobile depreciation limitations of section 280F (unlike the deduction allowed under section 179).[7] In addition, the deduction for qualified clean-fuel vehicle property is allowed as an adjustment to gross income rather than as an itemized deduction. Consequently, the deduction is not subject to the 2-percent adjusted gross income floor that otherwise applies to miscellaneous itemized deductions or to the limitation on itemized deductions that applies to taxpayers with adjusted gross income in excess of a specified amount ($105,250 for taxable years beginning in 1992).

Income tax credit for qualified electric vehicles

In general

The bill provides an income tax credit equal to 15 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service.[8] A qualified electric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28 and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

Other rules

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle. For example, the committee anticipates that the regulations will require the credit to be recaptured if at any time within three years after the date that the vehicle is placed in service, the vehicle is modified so that it is no longer a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is used by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.[9]

Effective Date

The provision applies to property that is placed in service after June 30, 1993, and before January 1, 2005.

4. Income Tax Credit for Electricity Generated Using Certain Renewable Resources (sec. 1914 of the bill and new sec. 45 of the Code).

Present Law

An investment-type tax credit is allowed against income tax liability for investments in property producing energy from certain specified renewable sources. The nonrefundable credit, which is referred to as the business energy credit, equals 10 percent of the cost of qualified solar or geothermal energy property. Solar energy property that qualifies for this tax credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but in the case of electricity generated by geothermal power, only property used up to (but not including) the transmission stage.[10]

The business energy credit is a component of the general business credit. The general business credit may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of: (1) 25 percent of net regular tax liability above $25,000; or (2) the tentative minimum tax. Any unused general business credit generally may be carried back to the three previous taxable years and carried forward to the subsequent 15 taxable years.

A production-type tax credit is allowed against income tax liability for the production of certain nonconventional fuels. For 1991, the credit amount is equal to $5.35 per barrel of oil or BTU oil equivalent. (This credit amount is adjusted for inflation.) Qualified fuels must be produced for a well drilled, or facility placed in service, before January 1, 1993, and must be sold before January 1, 2003. Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressurized brine, Devonian shale, coal seams, a tight formation, or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

Reasons for Change

The committee believes that the development and utilization of certain renewable energy sources should be encouraged through the tax laws. A production-type credit is believed to target exactly the activity that the committee seeks to subsidize (the production of electricity using specified renewable energy sources). The credit is intended to enhance the development of technology to utilize the specified renewable energy sources and to promote competition between renewable energy sources and conventional energy sources.

Explanation of Provision

The bill provides for a production-type credit against income tax liability for electricity produced from either qualified wind energy or qualified "closed-loop biomass" facilities. The credit equals 1.5 cents (adjusted for inflation) per kilowatt hour of electricity produced from these qualified sources during the 10-year period after the facility is placed in service. In order to claim the credit, a taxpayer must sell the electricity to an unrelated party. The committee intends that a public utility which owns and operates a qualified facility be able to claim the credit to the extent that the utility ultimately sells the electricity generated to unrelated parties. This production credit is part of the general business credit, subject to the carryforward, carryback, and the limitation rules of the general business credit (except that the production credit from closed-loop biomass facilities may not be carried back to a taxable year ending before January 1, 1993, and the production credit from qualified wind energy facilities may not be carried back to a taxable year ending before January 1, 1994).

Closed-loop biomass is defined as the use of plant matter on a renewable basis as an energy source to generate electricity, where the plants are grown for the sole purpose of being used to generate electricity. Accordingly, the credit is not available for the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste) to generate electricity. Moreover, the credit is not available to a taxpayer who uses standing timber to produce electricity.

The credit is proportionately phased out over a three-cent per kilowatt hour range if the national average price of electricity from the renewable source sold in accordance with contracts entered into after December 31, 1989, exceeds a threshold price of 8 cents per kilowatt hour. (This threshold is adjusted for inflation.) Thus, the credit will not be available if the national average price of electricity from the renewable source is greater than three cents per kilowatt hour above the threshold price.

A facility which has received the business energy credit or the investment credit is not eligible for the production credit. In addition, the credit is reduced proportionately for any governmental grants or subsidized financing received (including the use of tax-exempt bonds).

Effective Date

The credit applies to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999, and to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999.

5. Repeal of Certain Minimum Tax Preferences Relating to Oil and Gas Production (sec. 1915 of the bill and secs. 56 and 57 of the Code).

Present Law

Taxpayers who pay or incur intangible drilling or development costs ("IDCs") in the development of domestic oil or gas properties may elect either to expense or capitalize these amounts. If an election to expense IDCs is made, the taxpayer deducts the amount of the IDCs as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are not expensed, but are capitalized, they can be recovered through depletion or depreciation, as appropriate; or at the election of the taxpayer, they may be amortized over a 60-month period.

The difference between the amount of a taxpayer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period is an item of tax preference for the alternative minimum tax ("AMT") to the extent that this amount exceeds 65 percent of the taxpayer's net income from oil and gas properties for the taxable year (the "excess IDC preference"). In addition, for purposes of computing the adjusted current earnings ("ACE") adjustment to the corporate AMT, IDCs are capitalized and amortized over the 60-month period beginning with the month in which they are paid or incurred.

Independent producers and royalty owners generally are allowed a deduction for percentage depletion (generally equal to 15 percent of gross revenue) in computing their taxable income. A taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year. The amount by which the depletion deduction exceeds the adjusted basis of the property is an AMT preference (the "excess percentage depletion preference"). Corporations must use cost depletion in computing their ACE adjustment.

A taxpayer other than an integrated oil company is entitled to an "energy deduction" for certain IDC and depletion items. The energy deduction is the sum of 75 percent of the portion of the IDC preference[11] attributable to qualified exploratory costs and 15 percent of the remaining IDC preference plus 50 percent of the marginal production depletion preference.[12] The energy deduction may not reduce the taxpayer's alternative minimum taxable income by more than 40 percent.

Reasons for Change

The committee believes that it is appropriate to provide relief from the AMT preferences and adjustments to certain taxpayers with oil and gas operations. The committee believes the effectiveness of oil and gas incentives for domestic drilling and production is reduced to the extent that taxpayers in the oil and gas industry are subject to the AMT. Consequently, to increase the effectiveness of certain oil and gas incentives, the committee desires to make these incentives generally applicable to the AMT.

Explanation of Provision

For taxpayers other than integrated oil companies, the bill repeals (1) the excess IDC preference for IDCs related to oil and gas wells and (2) the excess percentage depletion preference for oil and gas. The repeal of the excess IDC preference may not result in the reduction of the amount of the taxpayer's alternative minimum taxable income by more than 40 percent (30 percent for taxable years beginning in 1993) of the amount that the taxpayer's alternative minimum taxable income would have been had the present-law excess IDC preference not been repealed.

In addition, for corporations other than integrated oil companies, the bill repeals the ACE adjustments[13] for (1) IDCs paid or incurred in taxable years beginning after December 31, 1992, with respect to oil and gas wells and (2) percentage depletion for oil and gas.

The bill also repeals the minimum tax energy deduction.

Effective Date

Except as provided above regarding the repeal of the ACE treatment of IDCs, the provision applies to taxable years beginning after December 31, 1992.

6. Increase Excise Tax on Certain Ozone-Depleting Chemicals (secs. 1916–1917 of the bill and secs. 4681–4682 of the Code).

Present Law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to the chemical. Certain chemicals are subject to a reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax amounts applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax amount applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax amount applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

Reasons for Change

On February 11, 1992, President Bush announced that, in response to recent scientific findings, the United States unilaterally will accelerate the phaseout of substances that deplete the Earth's ozone layer. The President announced that the production of major CFCs, halons, methyl chloroform, and carbon tetrachloride generally will be eliminated by December 31, 1995. The President noted that the tax on ozone-depleting chemicals has helped the United States achieve a more rapid reduction in use of such chemicals than that called for under the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol").

In light of the recent scientific evidence, the President's action, and in recognition of the importance of the tax on ozone-depleting chemicals as an economic incentive, the committee believes it is important to enhance the conservation effort and speed the search for safe substitutes by increasing the base rate of tax on ozone-depleting chemicals. The committee believes an increase in the base rate of tax will help market forces in finding substitutes. In addition, the committee is concerned that the market prices for ozone-depleting chemicals currently do not reflect many of the environmental and other social costs associated with their use. As a result, the quantities of these chemicals being produced and used may be greater than optimal. The committee believes the tax on ozone-depleting chemicals helps foster reduced use of ozone-depleting chemicals. However, the committee believes it is appropriate to retain the reduced rates of tax applicable to ozone-depleting chemicals used in foam insulation and halons through 1993.

The committee also is concerned that an increase in the price of ozone-depleting chemicals used as medical sterilants may have an undue effect in discouraging the use of these chemicals and could lead to an increase in staphylococci and other bacterial infections.

Explanation of Provision

Base tax amount.—The bill increases and conforms the base tax amount of both initially listed chemicals and newly listed chemicals. The bill increases the base tax amount of initially listed chemicals by $0.18 per pound for 1992, by $0.10 per pound for 1993, by $1.00 per pound for 1994, and by $1.45 per pound for 1995. The bill increases the base tax amount of newly listed chemicals by $0.48 per pound for 1992, by $1.08 per pound for 1993, by $0.65 per pound for 1994, and by $1.45 per pound for 1995. For each year after 1995, the increase in the base tax amount for both initially and newly listed chemicals is $1.45 per pound. These increases in the base tax amounts are in addition to those currently scheduled to occur under present law, including the $0.45 per pound per year increases for years after 1994 for initially listed chemicals and the $0.45 per pound per year increases for years after 1995 for newly listed chemicals.

Medical sterilants.—The bill provides for a reduced rate of tax for 1992 (for sale or use on or after October 1, 1992) and 1993 for certain ozone-depleting chemicals used to sterilize medical devices. The tax applicable to such chemicals is determined by multiplying the otherwise applicable tax rate by the applicable percentage. The applicable percentage is 90.3 percent for sale or use in 1992 occurring on or after October 1, 1992 and 60.7 percent for calendar year 1993. A taxpayer who has paid tax on ozone-depleting chemicals used to sterilize medical devices at a rate higher than that required will receive a credit or refund (without interest) of such excess.

Rigid foam insulation and halons.—In addition, the bill reduces the applicable percentage used in the computation of the tax applied to chemicals used in rigid foam insulation in 1992 and 1993. The bill reduces the applicable percentage from 15 percent to 13.5 percent for 1992, and reduces the applicable percentage from 10 percent to 9.6 percent for 1993. Similarly, the bill reduces the applicable percentage applied to Halon-1211, Halon-1301, and Halon-2402 in 1992 and 1993. The following table contains the new applicable percentages.

APPLICABLE PERCENTAGE

	1992	1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2402	2.3	1.5

The applicable percentages for 1992 apply only to sale or use after the effective date. The effect of this provision is to continue present-law rates on these chemicals for 1992 and 1993.

Effective Date

The provision is effective for taxable chemicals sold (or used) on or after October 1, 1992. Floor stocks taxes are imposed on taxable chemicals held on the effective dates of changes in the base tax amount.

7. Business Energy Tax Credits for Solar, Geothermal and Ocean Thermal Property (sec. 1918 of the bill and sec. 48(a) of the Code).

Present Law

Nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[14]

The business energy tax credits currently are scheduled to expire with respect to property placed in service after June 30, 1992.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

Reasons for Change

The committee believes it is important to provide tax-based support for the development of alternative energy sources. In this regard, the committee believes that making the credits for investments in solar and geothermal property permanent will provide potential investors in long-term projects an additional degree of certainty as to the availability of the credits that may have been lacking in the past.

The committee further believes that tax incentives should be provided to encourage the production of energy from ocean thermal sources. Thus, the committee believes it is appropriate to provide, as part of the business energy tax credits, a credit for qualified investments in ocean thermal property.

Explanation of Provision

Under the bill, the business credits for qualified investments in solar and geothermal property are made permanent. In addition, the bill adds a credit equal to 10 percent of the cost of qualified ocean thermal property placed in service by a taxpayer after June 30, 1992. For this purpose, qualified ocean thermal property is equipment which converts ocean thermal energy to usable energy. Qualified ocean thermal property is property located at either of two locations designated by the Secretary of Treasury after consultation with the Secretary of Energy.

Effective Date

The provision is effective after June 30, 1992.

8. Repeal of Investment Restrictions Applicable to Nuclear Decommissioning Funds (sec. 1919 of the bill and sec. 468A of the Code).

Present Law

A taxpayer that is required to decommission a nuclear power plant may elect to deduct certain contributions that are made to a nuclear decommissioning fund. A nuclear decommissioning fund is a segregated fund the assets of which are to be used exclusively to pay nuclear decommissioning costs, taxes on fund income, and certain administrative costs. The assets of a nuclear decommissioning fund that are not currently required for these purposes must be invested in (1) public debt securities of the United States, (2) obligations of a State or local government that are not in default as to principal or interest, or (3) time or demand deposits in a bank or an insured credit union located in the United States. These investment restrictions are the same restrictions which apply to Black Lung trusts that are established under section 501(c)(21) of the Code.

Reasons for Change

The committee believes that a nuclear decommissioning fund should be allowed to invest in any asset that is considered appropriate by the applicable public utility commission or other State regulatory body.

Explanation of Provision

The bill repeals the present-law investment restrictions that apply to nuclear decommissioning funds.

Effective Date

The provision applies to taxable years beginning after December 31, 1992.

9. Partial Excise Tax Exemption for Certain Gasoline Mixtures with Ethanol or other Alcohol (sec. 1920(a) of the bill and sec. 4081 of the Code)

Present Law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by motorboats (14.1 cents per gallon). A Federal excise tax also is imposed on diesel fuel used in highway transportation (20.1 cents per gallon).

A 5.4-cents-per-gallon excise tax exemption is allowed from the excise taxes on gasoline, diesel fuel, and special motor fuels for mixtures of any of these fuels with at least 10-percent ethanol. A 6-cents-per-gallon excise tax exemption is allowed for mixtures with at least 10-percent alcohol that is other than ethanol. Because blended fuels are generally 10 percent alcohol, a reduction of 5.4 or 6 cents per gallon of gasohol or other blend is equivalent to a subsidy of 54 or 60 cents per gallon of qualifying alcohol.

For purposes of the partial excise tax exemption, the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 190.

The partial excise tax exemption is schedule to expire after September 30, 2000.

Reasons for Change

Oxygenated agents are required to be added to fuel to meet certain emission targets under the 1990 amendments to the Clean Air Act. The committee intends to provide taxpayers with greater flexibility to mix alcohol with gasoline to meet these mandated targets. The committee does not intend to increase the per-gallon tax subsidy rate for ethanol or other alcohol.

Explanation of Provision

The bill amends the partial excise tax exemption for gasoline that is mixed with ethanol or other alcohol to extend its application to 5.7- or 7.7-percent alcohol blends. The current 5.4- and 6-cents-per-gallon exemptions for alcohol mixtures is pro-rated to maintain the subsidy level of 54 or 60 cents per gallon, respectively, for ethanol or other alcohol that is mixed with gasoline.

Effective Date

The provision is effective for gasoline removed or entered after September 30, 1992.

10. Application of Alcohol Fuels Tax Credit Against Alternative Minimum Tax (sec. 1920(b) of the bill and sec. 38 of the Code).

Present Law

An income tax credit is provided for alcohol used in certain mixtures of alcohol and gasoline (e.g., gasohol), diesel fuel, or any other liquid fuel which is suitable for use in an internal combustion engine if the mixture is sold by the producer in a trade or business for use as a fuel or is so used by the producer (sec. 40). The credit also is permitted for alcohol (e.g., qualified methanol fuel) which is not in a mixture with gasoline, diesel, or other liquid fuel which is suitable for use in an internal combustion engine, provided that the alcohol is used by the taxpayer as a fuel in a trade or business or is sold by the taxpayer at retail to a person and placed in the fuel tank of the purchaser's vehicle. The credit generally is equal to 60 cents for each gallon of alcohol (at least 190 proof) used by the taxpayer in production of a qualified mixture or as a fuel; the credit generally is 45 cents per gallon of 150 to 190 proof alcohol fuel.[15] The credit is scheduled to expire with respect to sales or uses after December 31, 2000.

In addition, a 10-cents-per-gallon income tax credit is allowed to eligible small ethanol producers. For this purpose, a small ethanol producer is any fuel ethanol producer with productive capacity to produce less than 30 million gallons of alcohol per year. This credit is limited to the first 15 million gallons of ethanol for use as a fuel produced per year by such a small producer.

The amount of any taxpayer's alcohol fuels tax credit is reduced to take into account any benefit received with respect to the alcohol under the special reduced excise tax rates for alcohol fuel mixtures of alcohol fuels. For purposes of the credit (other than with respect to the determination of the productive capacity of an ethanol producer), the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 150.

The alcohol fuels tax credit is a component of the general business credit (sec. 38(b)(1)). The alcohol fuels tax credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 of (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

Reasons for Change

The committee believes that the minimum tax liability limitation may conflict with the goal of the Clean Air Act which mandates the use of oxygenated fuel in so called non-attainment areas, and EPA and other governmental restrictions on various types of automobile emissions. This minimum tax limitation may result in taxpayers being unwilling to use alcohol in fuels or construct small ethanol plants. In this regard, the committee believes that it is appropriate to provide some level of relief to those taxpayers from the application of the alternative minimum tax. The committee is concerned, however, that taxpayers not be permitted to completely eliminate their alternative minimum tax liabilities as a result of such incentive provisions. Thus, the committee has placed a limitation on the maximum level of reduction of alternative minimum tax that may be realized as a result of this provision.

Explanation of Provision

The bill provides that taxpayers claiming the alcohol fuels tax credit may utilize that credit to offset a portion of their alternative minimum tax liability. Specifically, the bill allows the alcohol fuels credit to offset up to 50 percent of a taxpayer's pre-credit alternative minimum tax.[16] As under present law, any unused credit would be available for a 3-year carryback and a 15-year carryover.

To illustrate the operation of this provision of the bill, assume a taxpayer has 10 million of regular tax, $8 million of tentative minimum tax, $5 million of alcohol fuels credit, and $3 million of other general business credits. $6 million of the general business credit would be allowed for the taxable year—$2 million by reason of the general rule of section 38(c)(1) allowing the general business credit to offset the excess of the net income tax over the tentative minimum tax and $4 million by reason of the provision added by the bill allowing the alcohol fuels credit to offset 50 percent of the tentative minimum tax. The above result would occur without regard to the taxable years in which the various credits arose (assuming the alcohol fuels credit arose in a taxable year beginning after September 30, 1992).

Effective Date

The provision is effective for taxable years beginning after September 30, 1992. In addition, the provision is limited to alcohol fuels credits actually generated in those years. That is, the provision does not allow an alcohol fuels credit generated in a taxable year beginning on or before September 30, 1992 and carried forward to a taxable year beginning after September 30, 1992 to offset alternative minimum tax in that later year. Similarly, the provision does not allow an alcohol fuels tax credit generated in a taxable year beginning after September 30, 1992 to be carried back and used to reduce alternative minimum tax in a taxable year beginning on or before September 30, 1992.

11. Determination of Independent Oil and Gas Producer (sec. 1921 of the bill and sec. 613A(c) of the Code)

Present Law

Under present law, persons owning economic interests in oil and gas producing properties may deduct an allowance for depletion in computing taxable income. Independent producers and royalty owners are permitted to claim the greater of cost or percentage depletion on the production of up to 1,000 barrels per day of crude oil and natural gas produced from domestic sources. The percentage depletion allowance for oil and gas is computed as a fixed percentage (i.e., 15 percent) of the taxpayer's gross income from the oil or gas property, subject to net income and taxable income limitations.

Also under present law, taxpayers are permitted the option to elect to deduct intangible drilling and development costs (IDCs) in the case of domestically located oil and gas wells (sec. 263(c)). For taxpayers other than independent oil and gas producers (i.e., integrated producers), however, 30 percent of the otherwise deductible amount of IDCs must be capitalized and recovered over a 60-month period.

Present law also provides a deduction from alternative minimum taxable income for a portion of a taxpayer's AMT preferences and adjustments related to IDCs and percentage depletion from marginal properties. This AMT energy deduction is available to independent producers, but not to integrated companies.

A producer of oil or natural gas is considered an independent producer unless that person (or a related person) also is engaged in a significant amount of either retailing or refining activity. A taxpayer meets the retailing exception (sec. 613A(d)(2)), and is thus not considered an independent producer, if the taxpayer directly, or through a related person, sells oil or natural gas (excluding bulk sales of such items to commercial or industrial users) or any product derived from oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense) through a retail outlet operated by the taxpayer (or a related person).[17] The retailer exception does not apply to a taxpayer with combined gross receipts from retail sales of oil, natural gas, or petroleum products for a taxable year of not more than $5 million.

A taxpayer is treated as a refiner, and thus is excluded from independent producer status, if the taxpayer or a related person engages in the refining of crude oil and on any day during the taxable year the refinery runs of the taxpayer (and related persons) exceed 50,000 barrels.

For purposes of the retailer and refiner exceptions, a person is a related person with respect to the taxpayer if a significant ownership interest (i.e., 5 percent or more) in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person.

Reasons for Change

The committee believes that in setting parameters for determining whether a taxpayer qualifies as an independent oil and gas producer, Congress may have excluded certain taxpayers who should qualify for the tax incentives that are allowed to independent producers. For example, in determining whether a taxpayer is engaged in a significant level of retailing activity, the committee believes that taxpayers who only sell natural gas (or related products), the price of which is regulated by public service commissions, at the retail level should be treated as independent producers rather than integrated companies. The committee believes that only the retail sale of oil and oil-related products and the retail sale of natural gas (and related products) in an unregulated environment should be considered relevant in determining whether a taxpayer is an independent producer for these purposes.

Similarly, the committee believes that the requirement that a taxpayer be treated as an integrated company if it refines more than 50,000 barrels of oil on any day during the year may inadvertently exclude certain taxpayers from the benefits of percentage depletion and IDC deductions. It is the belief of the committee that a more equitable approach would be to allow a taxpayer to be treated as an independent producer unless it refines on the average more than 50,000 barrels a day during a taxable year.

Explanation of Provision

The bill amends the operation of both the retailer and refiner exceptions in determining whether a taxpayer is an independent oil and gas producer. With respect to the retailer exception, the bill permits gross receipts from retail sales of natural gas by a regulated public utility to be disregarded in determining whether a taxpayer is a retailer. For example, the bill treats a producer that has retail sales of natural gas by a regulated public utility during a taxable year of $10 million, but has no other retail sales of natural gas or of oil or petroleum product, as an independent oil and gas producer since the taxpayer's regulated public utility retail sales of natural gas are disregarded and thus, its retail sales for the year do not exceed $5 million.[18] As such, the taxpayer would be eligible to claim oil and gas percentage depletion deductions and fully deduct its IDCs for the taxable year.[19] For this purpose, a regulated public utility is as defined in section 7701(a)(33) of the Code, except that the company must generate at least one-half of its gross income for the taxable year from sources described in subparagraphs (A), (B), and (C) of that section.

Under the bill, for purposes of determining significant refining activity under the refining exception, the requirement that a refinery run in excess of 50,000 barrels occur on any day during the taxable year is eliminated. Instead, the bill requires that the taxpayer's average daily refinery runs for the taxable year exceed 50,000 barrels in order not to treat the taxpayer as an independent producer under the refiner exception.

Effective Date

The provision is effective for taxable years beginning after December 31, 1992.

12. Tax-Exempt Bonds for Environmental Enhancements of Certain Governmental Hydroelectric Generating Facilities (sec. 1922 of the bill and sec. 142 of the Code).

Present Law

Interest on State and local government bonds generally is exempt from Federal regular individual and corporate income taxes. However, interest on "private activity bonds" is exempt only if the financed facilities are specified in the Internal Revenue Code (the "Code"). Private activity bonds generally are obligations issued by State and local governmental units acting as a conduit to provide financing for private parties.

A bond is a private activity bond if more than 10 percent of the proceeds are to be used in a trade or business of any person other than a State or local government and debt service on the bonds is directly or indirectly to be paid or secured by payments from such a person. Additionally, a bond is a private activity bond if more than five percent ($5 million, if less) is to be used to make loans to persons other than States or local governments.

Interest on the following private activity bonds qualifies for tax-exemption:

(1) Exempt-facility bonds;

(2) Qualified mortgage and qualified veterans' mortgage bonds;

(3) Qualified small-issue bonds;

(4) Qualified student-loan bonds;

(5) Qualified redevelopment bonds; and

(6) Qualified 501(c)(3) bonds.

Exempt-facility bonds are bonds the proceeds of which are used to finance the following: airports, docks and wharves, mass commuting facilities or high-speed intercity rail facilities; facilities for the local furnishing of electricity or gas; local district heating or cooling facilities; and certain low-income rental housing projects.

Most private activity bonds are subject to annual State volume limitations equal to the greater of $50 per resident of the State or $150 million.

Reasons for Change

The committee believes that new environmental mandates for governmental hydroelectric facilities reflect a deepened concern for the effects of these facilities on their natural surroundings, and that it is appropriate to extend tax-exempt financing to assist in addressing these concerns notwithstanding possible private business use of the output of the hydroelectric facilities. Additionally, because many of the facilities generate electricity to be used in more than one State, the committee believes it appropriate to exempt these bonds from the State private activity bond volume limitation requirement applicable to most private activity bonds.

Explanation of Provision

The bill creates a new category of exempt-facility bonds: environmental enhancements of hydroelectric generating facilities. Bonds for these facilities are not subject to the State private activity bond volume limitations. Environmental enhancements financed with these bonds are limited to property the use of which is related to a Federally licensed hydroelectric facility which is owned and operated by a governmental unit. For purposes of this provision, a pumped storage generating facility is not treated as a hydroelectric generating facility.

All property financed with these bonds must be owned by a State or local governmental unit. Further, at least 95 percent of the net proceeds of each bond issue must be used to finance property which (a) promotes fisheries or other wildlife resources, or (b) is a recreational facility or other improvement required by Federal licensing terms and conditions for the operation of a hydroelectric generating facility described above. Examples of property that will be treated as promoting fisheries include property such as fish ladders, fish by-pass facilities and fish hatcheries.

Qualifying expenditures of these bond proceeds do not include expenditures related to a project of repair, maintenance, renewal, safety enhancement, replacement, or any improvement which increases, or allows an increase in, the capacity, efficiency, or productivity of existing generating equipment.

Finally, at least 80 percent of the net proceeds of each bond issue must be used to finance qualifying property for the promotion of fisheries or other wildlife resources.

Effective Date

The provision is effective for bonds issued after the date of its enactment.

B. Other Revenue-Raising Provisions

1. Deny Deduction for Club Dues (sec. 1931 of the bill and sec. 162 of the Code).

Present Law

No deduction is permitted for club dues unless the taxpayer establishes that his or her use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of the trade or business. Luncheon club dues are deductible to the same extent and subject to the same rules as business meals in a restaurant and are not subject to these special rules for club dues. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.[20]

Reasons for Change

Under present law, taxpayers can obtain a tax deduction for dues for a club (such as a country club) with respect to which a significant element of personal pleasure and enjoyment is present. The committee believes that it is inappropriate to permit a deduction for such expenditures. Denying all deductions for club dues also simplifies present law, in that a strict nondeductibility rule is easier to comly with than the present-law rule requiring an assessment of the primary purpose of the use of the club.

Explanation of Provision

Under the bill, no deduction is permitted for club dues. This rule applies to all types of clubs. Specific business expenses (e.g., meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

Effective Date

The provision is effective for club dues paid after the date of enactment.

2. Excise Tax on Certain Insurance Premiums Paid to Certain Foreign Persons (sec. 1932 of the bill and sec. 4371 of the Code).

Present Law

Under present law, an excise tax generally is imposed on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer to or for or in the name of a domestic corporation or partnership, or a U.S. resident individual with respect to risks wholly or partly within the United States, or to or for or in the name of any foreign person engaged in business within the United States with respect to risks within the United States (sec. 4371). The tax does not apply, however, to any amount effectively connected with the conduct of a trade or business within the United States (unless such amount is exempt from the net-basis U.S. tax under a treaty) (sec. 4373(1)).

The tax is imposed at the following rates: (1) 4 percent of the premium paid on a casualty insurance policy or indemnity bond; (2) 1 percent of the premium paid on a policy of life, sickness, or accident insurance, or annuity contracts on the lives or hazards to the person of U.S. citizen or resident; and (3) 1 percent of the premium paid on a policy of reinsurance covering any of the contracts taxable under (1) or (2).

The tax is waived in United States tax treaties with the United Kingdom, France, Germany, Spain, Italy, Cyprus, India, and certain other countries. These treaty waivers generally include an anti-conduit rule denying the benefit of the exemption to premiums covering risks that are reinsured with a person not entitled to a similar treaty exemption. Notably, however, the U.K. treaty has no anti-conduit rule. However, present law imposes a tax both on any direct insurance transaction with a foreign insurer (not subject to U.S. income tax), and also on any reinsurance transaction with a foreign insurer, is the transaction involved the insurance or reinsurance of a U.S. risk. A policy of reinsurance issued by a foreign insurer covering U.S. risks is subject to the tax imposed on reinsurance policies, whether the direct insurer is a domestic or foreign insurer.[21]

The Code itself (sec. 4373) provides exemptions from the tax in the case of (1) any amount effectively connected with the conduct of a trade or business within the United States (unless such amount is exempt from the net-basis U.S. tax under a treaty), or (2) any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check issued by the United States.

Section 4374 provides that the excise tax imposed by section 4371 shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes, or for whose use or benefit the same are made, signed, issued, or sold. Thus, the liability for the tax falls jointly on all the parties to the insurance or reinsurance transaction.

Under regulations, the tax must be remitted by the resident person who actually pays the premium to a foreign insurer, reinsurer, or nonresident agent, solicitor or broker (Treas. Reg. sec. 46.4374-1(a)). The Treasury has stated that where a treaty permits an exemption from tax to the extent that the foreign insurer or reinsurer does not reinsure the risks covered by the policy with a person that would not be entitled to an exemption from the tax on such policy, the person otherwise required to remit the tax may consider the policy exempt only if, prior to filing the return for the taxable period, such person has knowledge that there was in effect for such taxable period a certain type of closing agreement between the insurer or reinsurer and the IRS (Rev. Proc. 84-82, 1984-2 C.B. 779). Under the required closing agreement, the foreign insurer or reinsurer makes a secured promise to pay to the IRS any excise tax liability non-treaty-protected reinsurer.

Reasons for Change

The committee previously considered changes to the excise tax on insurance policies provided by foreign persons in 1984. Changes were also contemplated by the conferees to the Tax Reform Act of 1986. In March 1990 the Treasury Department issued its *Report to Congress on the Effect on U.S. Reinsurance Corporations of the Waiver by Treaty of the Excise Tax on Certain Reinsurance Premiums*, a study mandated under the 1986 Act in lieu of adopting statutory changes at that time. In light of the analysis provided in that report, the committee is concerned that the purposes of the excise tax are inadequately served by a reinsurance tax rate of only 1 percent, in a case where the primary policy reinsured is of a type that would bear a 4-percent excise tax rate under the statute, and where the foreign reinsurer takes advantage of a tax haven. In such a case, the committee is concerned that the present tax rate differentiation between direct insurance and reinsurance of U.S. casualty risks allows the proper level of excise tax to be avoided by careful structuring of insurance and reinsurance transactions.

The committee is also concerned that certain U.S. income tax treaties (i.e., those without an anti-conduit clause) are used to avoid excise tax on the reinsurance of U.S. risks in transactions between foreign insurers protected under such a treaty and third-country foreign insurers or reinsurers that are not so protected under a treaty between the United States and their country of residence. The Committee is concerned that such third-country reinsurers may under present law obtain a substantial part of the economic benefit of the treaty excise tax waiver. The committee believes it appropriate to enhance compliance with respect to taxes imposed on insurance and reinsurance issued by these third-country persons—taxes which the United States has the power to impose and collect under any U.S. income tax treaty.

Explanation of Provision

The bill raises to 4 percent the excise tax on certain premiums paid to foreign persons for reinsurance covering casualty insurance and indemnity bonds. Such reinsurance premiums are subject to only the existing 1-percent rate, however, if (1) the premiums are paid to a foreign insurer or reinsurer that is a resident of a foreign country, (2) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed under the Code on similar premiums received by U.S. reinsurers, and (3) the insured risk is not reinsured (whether directly or through a series of transactions, which is intended to include for these purposes business relationships or practices having the same effect) by a resident of another foreign country who is not subject to a substantial tax (as defined in condition (2)) on the income. The committee intends that an effective rate of taxation equal to at least 50 percent of the applicable U.S. effective tax rate generally will be necessary for foreign taxation to be considered to be substantial in relation to U.S. taxation.

The bill authorizes the Treasury to issue regulations providing for such procedures as it deems appropriate to ensure that only those premiums actually entitled to the reduced 1-percent rate under the above rules are excused from the bill's 4-percent rate tax. The committee anticipates, for example, that the availability of the reduced (1-percent) excise tax rate will be made subject to compliance requirements analogous to those that apply to waivers of the excise tax under U.S. tax treaties. Thus, the committee anticipates that the bill's anti-conduit condition for obtaining the 1-percent rate could be enforced by entering into closing agreements similar to those under present law. The committee intends that persons liable for the tax will bear the burden of providing that foreign taxes imposed on insurance income are such that premiums are entitled to be taxed at the reduced 1-percent rate.

In addition, the Treasury would be entitled under the bill to waive the above anti-conduit rule in such circumstances and subject to such conditions as it deems to be appropriate. The committee intends that this authority will apply in a situation where a foreign person establishes that it is subject to a substantial tax, but it is later determined that a risk reinsured by that person has been further reinsured by another person not subject to a substantial tax, and the Secretary is satisfied that, in light of all the facts and circumstances, reinsurance by the latter person was not contemplated or anticipated by the first person.

The bill specifies that, in applying rules for the statutory reduced excise tax rate or any treaty excise tax waiver, no person shall be relieved of the requirement to remit the excise tax to the IRS unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which the premium was paid. For example, this provision requires the Secretary to ensure that, when a premium on U.S. risk insurance is paid by a U.S. person to a foreign insurer (including a foreign insurer entitled to treaty benefits under a treaty waiving the excise tax, with or without a treaty anti-conduit clause), and that risk is covered by a policy of reinsurance issued by a foreign reinsurer not entitled to treaty benefits, or not entitled to the 1-percent reduced statutory rate, the U.S. person will satisfy such requirements as will enable the Treasury to collect the U.S. tax imposed on the reinsurance policy. The committee anticipates that the Secretary will apply the same or similar requirements as are currently applied under Rev. Proc. 84-82 to ensure compliance with anti-conduit clauses of waivers of the excise tax under U.S. tax treaties.

The committee understands that the obligation to remit tax is not affected by treaty provisions that may waive the foreign recipient's ultimate liability for the excise tax. This provision of the bill only collects a tax that the United States has the power to impose and collect under any U.S. income tax treaty and, thus, the committee believes that the bill is consistent with all existing U.S. treaty obligations, whether or not the treaty provides an explicit anti-conduit rule.

Taking into account the collection procedures described above, the bill is intended to yield to any existing tax treaties to which the United States is a party. The bill is intended to raise the excise tax rate on certain policies covered by the statute and not protected by treaty. By changing the excise tax rate, the committee does not intend to override prior treaties that preclude imposition of the tax.

Effective Date

The provision applies to premiums paid after the date of the bill's enactment, but only to the extent that they are allocable to reinsurance coverage for periods after December 31, 1992.

C. Health Benefits for Retired Coal Miners (secs. 1941–1943 of the billnd new secs. 9701–9704, 9711–9715, and 9721–9724 of the Code)

Present Law

The United Mine Workers of America (UMWA) health and retirement funds were established in 1974 pursuant to an agreement between the UMWA and the Bituminous Coal Operator's Association (BCOA) to provide pension and health benefits to retired coal miners. The funds have been maintained for this purpose through a series of collective bargaining agreements. The funds created in 1974 were a restructuring of the original benefit fund, which was established in 1946.

The funds consists of four different plans, each of which is funded through a separate trust. The 1950 Pension Plan provides retirement benefits to miners who retired on or before December 31, 1975, and their beneficiaries. The 1950 Benefit Plan provides health benefits for retired mine workers who receive pensions from the 1950 Pension Plan and their dependents. The 1974 Pension Plan provides retirement benefits to miners who retired after December 31, 1975, and their beneficiaries. The 1974 Benefit Plan provides health benefits to miners who retired after December 31, 1975. It also provides benefits to miners whose last employers are no longer in business or, in some cases, no longer signatory to the applicable bargaining agreement. These miners are generally referred to as "orphan" retirees.

Reasons for Changes

The committee believes it is appropriate to provide a statutory means of financing the benefits of certain retired coal miners.

Explanation of Provisions

Retiree health benefits.—The bill creates a Coal Industry Retiree Health Benefit Corporation (the Corporation), a government corporation, to provide retiree health benefits for certain retired mine workers (and their spouses and dependents)—generally retirees whose last employer is out of business or not currently paying for retiree health benefits.

Financing of health plan.—The Corporation's health plan is financed by a per-hour tax on certain coal production, a per-ton tax on imported coal, and a per-participant tax on certain former signatories to bargaining agreements who were the last employer of someone covered under the Corporation plan. The bill also (1) creates a new fund (the United Mine Workers of America (UMWA) 1991 Benefit Fund) to provide retiree health benefits to retirees of current signatories to the UMWA agreements, and (2) authorizes the tax-free transfer of excess assets from UMWA pension trusts to the Corporation and the 1991 Benefit Fund.

Effective Date

The provisions generally are effective on the date of enactment. The taxes imposed under the bill and the benefit payouts under the bill are effective on July 1, 1992.

III. BUDGET EFFECTS OF THE BILL

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the estimated budget effects of the bill (Title XIX) as reported by the Committee on Finance.

The budget effects of the bill (Title XIX) for fiscal years 1992–1997 are shown in the following table:

ESTIMATED REVENUE EFFECTS OF TITLE XIX OF H.R. 776, AS REPORTED BY THE COMMITTEE ON FINANCE—FISCAL YEARS 1992–97

[In billions of dollars]

Item	Effective	1992	1993	1994	1995	1996	1997	1992–97
Revenue-losing provisions:								
1. Utility rebate exclusion for residential, commercial, and industrial customers	(1)		−0.012	−0.145	−0.231	−0.235	−0.240	−0.863
2. Allow a deduction for a portion of the cost of clean-burning motor vehicles and refueling property	7/1/93		−0.019	−0.055	−0.083	−0.118	−0.176	−0.451
3. a. Provide 1.5-cent-per-kilowatt-hour tax credit for wind energy[2]	1/1/94			−0.005	−0.012	−0.022	−0.028	−0.067
3. b. Provide 1.5-cent-per-kilowatt-hour tax credit for biomass energy from "closed loop" systems	1/1/93		−0.001	−0.003	−0.006	−0.009	−0.010	−0.029
4. For independent producers and royalty owners only, repeal percentage depletion preference and ACE adjustments for IDCs and percentage depletion; repeal IDC preference, limiting AMTI reduction to 30% in 1993 and 40% in 1994 and thereafter.	tyba 12/31/92		−0.172	−0.244	−0.222	−0.202	−0.183	−1.024
5. Permanent extension of business energy tax credits (solar, geothermal, and ocean thermal)	7/1/92	−0.011	−0.034	−0.053	−0.063	−0.067	−0.072	−0.300
6. Remove investment restrictions from nuclear decommissioning funds	1/1/93							
7. Tax-exempt bonds for environmental improvements to hydroelectric-generating facilities	bio/a DoE	(3)	(3)	(3)	−0.001	−0.001	−0.001	−0.003
8. a. Proportional excise tax exemptions for alcohol fuels containing 5.7% or 7.7% alcohol	7/1/92		−0.009	−0.014	−0.028	−0.043	−0.057	−0.151
8. b. Allow alcohol fuels tax credits to offset 50% of AMT with carryforward	tyba 9/30/92		(3)	−0.001	−0.002	−0.003	−0.004	−0.011
9. Retiree health benefits for coal miners: Outlays[4]	7/1/92	−0.045	−0.275	−0.282	−0.289	−0.295	−0.302	−1.488
10. a. Allow natural gas retailers to qualify as independent producers	tyba 12/31/92		−0.029	−0.042	−0.031	−0.020	−0.008	−0.130
10. b. Modify 50,000-barrel-per-day refinery run limitation on independent producers to apply on an average-per-day basis.	tyba 12/31/92		−0.008	−0.011	−0.010	−0.006	−0.003	−0.038
Subtotal, revenue-losing provisions		−0.056	−0.559	−0.855	−0.978	−1.021	−1.084	−4.555
Revenue-raising provisions:								
1. Employer-provided transportation benefits[5]	1/193		0.062	0.058	0.035	0.022	0.018	0.195
2. Repeal club dues deduction	7/1/92	0.031	0.268	0.280	0.293	0.306	0.320	1.498
3. Increase excise tax on certain ozone-depleting chemicals[6]	10/1/92		0.057	0.199	0.295	0.253	0.180	0.984
4. Retiree health benefits for coal miners: Net receipts—								
a. Per-beneficiary premiums[4]	7/1/92	0.014	0.089	0.092	0.094	0.096	0.098	0.483
b. Gross labor tax/import	7/1/92	0.041	0.205	0.207	0.214	0.216	0.216	1.099
c. Indirect tax effects	7/1/92	−0.008	−0.018	−0.019	−0.017	−0.015	−0.012	−0.089
d. Payment from pension fund[4]	7/1/92	0.050						0.050
5. Increase excise tax on certain foreign reinsurance policies from 1% to 4%	1/193		0.075	0.110	0.100	0.090	0.080	0.455
Subtotal, revenue-losing provisions		0.128	0.738	0.927	1.014	0.968	0.900	4.675
Grand total		0.072	0.179	0.072	0.036	−0.053	−0.184	0.120

[1] Effective 1/1/93 for residential customers; 1/1/94 for commercial and industrial customers. For commercial and industrial customers, the exclusion is limited to 80 percent of the rebate amount.

[2] Reference price shall be determined with reference to energy sold under contracts entered into after 12/31/89.

[3] Loss of less than $500,000.

[4] Estimates prepared by the Congressional Budget Office.

[5] Estimate [1] does not include an additional gain of $84 million over the period of the Social Security Trust Fund; [2] assumes inflation indexing in $5 increments, certain exclusion of cash reimbursements from transit provision, and $145 parking cap.

[6] Increase base tax rate per pound for originally listed chemicals by $0.18 for 1992, $0.10 for 1993, $1.00 for 1994, $1.45 for 1995 and for each year thereafter. Increase base tax rate per pound for newly listed chemicals by $0.48 for 1992, $1.08 for 1993, $0.65 for 1994, $1.45 for 1995 and for each year thereafter. Exempt chemicals used as medical sterilants from increases for 1992 and 1993. Reduce applicable percentages for chemicals used in rigid foam insulation and for halons.

Note.—Details may not add to totals due to rounding.

Legend for "Effective" column: tyba=taxable years beginning after, bio/a DoE=Bonds issued on or after date of enactment.

IV. REGULATORY IMPACT AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the bill as reported by the Committee on Finance (relating to Title XIX).

The bill provides tax incentives for energy conservation and production, and provides health care provisions for retired coal miners. To make the bill deficit neutral for fiscal years 1992 and 1993 and over the fiscal year 1992–1997 period, the bill includes an increase in the excise tax rate on ozone-depleting chemicals, disallows a deduction for club dues, increases the excise tax on certain foreign reinsurance policies, and provides revenue offsets from the coal industry for the coal miners' health care provisions.

B. Other Matters

Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the committee on the motion to report the committee amendment to the bill (relating to Title XIX). The bill, as amended, was ordered reported by voice vote.

Tax Expenditures

In compliance with Section 308(a)(2) of the Budget Act, the committee states that the bill as amended involves increased tax expenditures with respect to the income tax decrease provisions and a reduction in tax expenditures with respect to the denial of the deduction for club dues. (See revenue table in Part III of this report.)

FOOTNOTES

[1] S. 1220 was the predecessor bill to S. 2166. S. 1220 was reported by the Senate Committee on Energy and Natural Resources on June 5, 1991 (S. Rept. 102–72).

[2] In addition, it is understood that under present law, exclusions for subsidies for energy conservation measures provided to low-income individuals pursuant to State-sponsored programs may be available.

[3] An original equipment manufacturer's vehicle is to include any motor vehicle that is capable of being propelled by a clean-burning fuel prior to the original use of the vehicle. Any motor vehicle that is not capable of being propelled by a clean-burning fuel prior to the original use of the vehicle but is later modified so that it may be propelled by a clean-burning fuel is to be treated as a retrofitted vehicle.

[4] The incremental cost of permitting the use of a clean-burning fuel is the excess of the cost of the vehicle over what the cost of the vehicle would have been had the vehicle been propelled solely by the fuel that is not a clean-burning fuel. It is anticipated that the manufacturer or dealer will provide a certification of such incremental cost to the person that qualifies for the deduction.

[5] For this purpose, the cost of the original installation of the engine or any other such property is to be treated as part of the cost of the engine or such property.

[6] For purposes of the bill, a truck is to include a tractor that is used on public streets or highways to tow a vehicle such as a trailer or semitrailer.

[7] The depreciation deductions allowed with respect to any such property, however, continue to be subject to the limitations of section 280F.

[8] The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit is reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

[9] The credit is to equal 15 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

[10] For purposes of the business energy credit, a geothermal energy deposit is defined as a domestic geothermal reservoir of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

[11] The IDC preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment.

[12] The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess depletion preference and the ACE depletion adjustment related to marginal property.

[13] Under the provision the adjustment described in sec. 56(g)(4)(C)(i) (with respect to the disallowance of deductions for items not deductible for earnings and profits purposes) will not apply to percentage depletion for oil and gas.

[14] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

[15] In the case of any credit with respect to any alcohol which is ethanol, a rate of 54 cents per gallon applies instead of the 60-cent-per-gallon rate, and a rate of 40 cents per gallon applies instead of the 45-cent-per-gallon rate (sec. 40(h)).

[16] Other components of the general business credit would not be permitted to offset the alternative minimum tax under the bill.

[17] In addition, sales by the taxpayer to any person (1) obligated under an agreement or contract with the taxpayer to use a trademark, trade name, or service mark or name of the taxpayer in marketing the oil, natural gas, or product derived therefrom, or

(2) given authority, pursuant to an agreement or contract with the taxpayer (or related person) to occupy any retail outlet owned, leased, or controlled by the taxpayer, are treated as retail sales made by the taxpayer for this purpose.

[18] This example assumes that the taxpayer (or a related person) does not otherwise engage in significant levels of refining.

[19] In addition, the taxpayer would qualify for alternative minimum tax relief under section 1915 of the bill.

[20] *Kenneth D. Smith*, 24 TCM 899 (1965).

[21] See Rev. Rul. 58-612, 1958-2 C.B. 850; see also *American Bankers Insurance Co. of Florida* v. *United States*, 388 F.2d 304 (5th Cir. 1968)

Mr. SARBANES. Mr. President, I commend the very able chairman of the Senate Finance Committee for his leadership on this issue, not only on this bill, but earlier, as we tried to address the pressing problem—the plight, really—facing millions of Americans across the country.

I recall very well the role which the chairman played last summer, as we tried to come to grips with the fact that we were in a recession. We had people unemployed, something the national administration seemed—at that time at least—to recognize.

I very strongly support the legislation that has been brought forward by the Finance Committee. Obviously, we need to extend the unemployment program. The changes that have been made and the trigger are very important. It represents a significant improvement in the way that the system will work.

I just want to make two or three observations, and then I will yield the floor, because I know my distinguished colleague from Florida has an amendment he wishes to offer.

First of all, Mr. President, the unemployment rate last month, at 7½ percent, was the highest—the highest—the unemployment rate has been throughout this recessionary period. On the Thursday night before the unemployment rate was announced, the President held a press conference in which he said the economy was getting better and coming out of the recession, but the American people did not know it. The next morning, we get an unemployment figure reported at 7½ percent, the worst it has been throughout any of this downturn period.

The fact of the matter is that more people were unemployed, and the President did not know it. That is the fact of the matter. At 7½-percent unemployment, everyone says, well, it is a lagging indicator. It is not lagging for the people that are impacted; 7½ percent is 9½ million people unemployed.

When the recession began, we were at 6½ million unemployed. That is an addition of 3 million to the unemployed ranks, plus 6½ million working part time who want full-time employment, plus over another million who have lost or dropped out of the labor force.

So you are talking about 17 million people partially or fully affected by unemployment.

So I commend the chairman of the Finance Committee for acting quickly on this legislation. I notice it covers railroad workers as well, which is, of course, a very important dimension of this problem.

I hope we will be able to act speedily on this legislation, go to conference, agree on the bill between the two Houses, and I very much hope that the President of the United States will sign it and that we will not go through our previous experience of having it vetoed by the President.

I thank the Senator for yielding.

Mr. BENTSEN. Mr. President, I want to acknowledge the leadership role that is played by the chairman of the Joint Economic Committee, as we have fought this issue several times before, and for the support the Senator was able to gain for it, and for his assistance, I am quite appreciative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2433

(Purpose: To retain exemption for temporary foreign agricultural workers from unemployment tax)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2433.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS.

Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1986 is amended by striking "before January 1, 1993,".

Mr. BENTSEN. Mr. President, I think this is a worthwhile amendment. I am a little concerned about the cost estimate on it. I would like to get, if I can, a unanimous-consent agreement that we conclude this within 30 minutes, and that we have a rollcall vote at 8:30.

Mr. GRAHAM. Mr. President, I would be amenable to a 30-minute time limitation.

Mr. BENTSEN. I request that it be equally divided, and I assume the manager of the bill will not utilize his full time. And I will yield additional time to the Senator from Florida, if that is necessary.

Mr. President, I ask unanimous consent that the time allotted to this amendment be 30 minutes, and I will be asking for the yeas and nays for a vote at 8:30, with no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. I suggest that the leadership on both sides advise the membership of a vote at 8:30.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Mr. President, the amendment that I am offering relates to a particular class of agricultural workers, referred to as the H-2A workers. These are workers from foreign countries who have met the test of performing jobs for which there are no American workers prepared or willing to accept.

Most of these workers are employed in various agricultural areas. They are employed in my State of Florida, as well as in States such as Washington, Montana, Wyoming, Virginia, North Carolina, West Virginia, New York, the New England States, and Idaho, in a variety of agricultural pursuits.

Mr. President, for many years these H-2A workers have been exempt from Federal unemployment taxation because they are not eligible to receive unemployment compensation in this country. They remain in this country only for the duration of their work assignment for that particular contractural period and then are returned to their home countries.

U.S. companies which hire H-2A workers from many countries, such as those from the West Indies, are contractually required to contribute to a Social Security program in the worker's home country. Thus many H-2A workers are already qualifying for benefits provided by U.S. employers.

As indicated, Mr. President, this particular exemption has existed for many years and has been extended on several occasions. I believe it now makes sense to make this exemption permanent. If conditions ever change so that it becomes appropriate to subject this employment to the Federal unemployment tax, Congress could repeal the exemption at that time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, we are debating an amendment which I had offered earlier. I indicated my intention to yield back all of my remaining time. I believe that was also the intention of the manager.

Therefore, Mr. President, I would like to use this time to comment on an amendment which I had anticipated offering this evening but which I shall not, after a conversation with the manager of the bill. And I appreciate his desire to focus amendments on those things that are germane to this bill, as is the amendment which is now pending germane.

Mr. BENTSEN. Mr. President, I yield such time as the Senator from Florida wants to discuss the other amendment.

The PRESIDING OFFICER. The Senator may proceed.

TRANSFER OF INTERNATIONAL AIR ROUTES

Mr. GRAHAM. Mr. President, the amendment that I was going to offer tonight—and I would like to use this time to briefly discuss it with the intention of bringing it back before the Senate at another time—would relate to the significant layoffs which have occurred within the aviation industry as a result of the transfer of international air routes. This has been a significant cause of unemployment and thus the necessity for a significant amount of the resources that we are about to appropriate, a requirement which I believe could have been significantly ameliorated had there been a different Federal policy toward employees of international airlines in the context of an air route transfer.

Mr. President, my concern is that many thousands of airline employees have been left, in the era of deregulation, without important safeguards. My fears in the past have now been realized. Thousands of Eastern Airlines employees, for instance, lost their jobs, retirees lost their health insurance, and the Government was forced to take over pension payments.

History is now repeating itself. The collapse of Pan American Airlines in December of last year leaves additional thousands of American employees and retirees in a similar position.

Mr. President, I make the distinction of "American" employees for a reason. Based on information I have received from numerous former Pan American and Eastern employees, what is occurring is that the former non-U.S. national employees of these airlines are keeping their jobs, whereas, American employees are being let go wholesale. And foreign individuals are being offered exclusive opportunities to interview for jobs previously held by Americans.

One gentleman that I met in Miami had worked for 30 years for Pan American, most recently in a significant position in the German-based Pan American maintenance shops. When Pan American went under and another airline began to fly the route, he lost his job. But German nationals working at the same station did not. Why? According to a special study by the Congressional Research Service, a predominance of foreign countries have statutory protections for their citizens when a business changes ownership.

Mr. President, I ask unanimous consent that the report of the Congressional Research Service be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
Washington, DC, January 7, 1992.

To: Hon. Bob Graham, U.S. Senate.

From: Kersi B. Shroff, Senior Legal Specialist.

Subject: Employment protection laws.

In response to your request of January 14, 1992, we have surveyed other countries for employment laws protecting airline employees on the transfer of their carrier or its routes to another owner. No laws specifically relating to airline employees have been located; however, the countries listed below provide general protection, in varying degrees, to all employees of businesses which are sold or transferred.

Argentina. A new owner of a business acquires the legal responsibilities of the original employer; but, in case of substantial changes in the business, the employees may be terminated with compensation.

Belgium.* The employment relationship is transferred to the new employer who is also bound to observe the terms of any collective labor agreement. The new employer may terminate employment on grounds that economic, technical or organizational reasons entail changes in the work force.

Brazil. A change in ownership of an enterprise does not affect employment contracts.

Canada. Employment is deemed to continue upon the sale or merger of a business. Any collective bargaining agreement also survives the transfer.

Chile. Employment contracts are transferred to the new owner of a business, but if a similar job does not exist the employee may be terminated with compensation.

France.* All employment contracts remain in effect as before the transfer of a business.

French-speaking African countries. Employment contracts are continued with the new owner of the business.

Germany.* Employees may not be terminated on account of a transfer of business and can be dismissed only on grounds of economic conditions or reform of methods of production. Close scrutiny is provided by the courts to ensure the validity of dismissals and the observance of principles of social justice. Reinstatement of terminated employees is ordered by the courts in exceptional cases only.

Greece.* Sale of a business does not terminate contracts of employment, and all the rights and obligations of the previous owner are transferred to the new employer. The new owner may terminate employment only on valid economic, technical or organizational grounds.

Ireland.* Rights and obligations under existing contracts of employment are transferred to the purchaser of a business. The new employer may terminate employment only on economic, technical or organizational grounds.

Israel. Employment contracts are terminated by transfer of ownership of a business; however, if the new owner decides to continue the employment of the employees, their legal rights based on seniority continue without interruption. A 1985 bill to allow for an automatic transfer of employees was unsuccessful.

Italy.* There is no automatic termination of employment contracts at the transfer of a business, but legislation to implement the EC Directive still awaits approval.

Japan. In the absence of statutory protective provisions, it is the majority view among jurists that employment contracts survive the transfer of businesses. The opinion is partly based on the analogy of a law specifically safeguarding the employment of seamen.

The Netherlands.* Individual employment relationships are transferred to the new owner of a business. The European Court of Justice has held that the transfer provisions are not applicable to bankruptcies.

Poland. Employment contracts of a business which is merged or sold are automatically transferred to the new owner. The present transition in the Polish economy is resulting in a number of mass dismissals. A 1989 law allows such employees the right to be re-hired when the employer begins to recruit new employees.

Sweden. Laws protecting employment provide that a transfer of a business must take the rights and obligations of all parties concerned into consideration. The transferee must follow the terms of all existing labor contracts.

Switzerland. Employment relations are assumed by the new owner only if an agreement to that effect is reached with the transferor.

Syria. The employment of existing labor is guaranteed on the sale or transfer of a business.

Taiwan. The new owner of a business has no obligation to hire the employees of the previous employer. However, if he does hire any employees, their seniority rights must be recognized.

Turkey. Employment contracts are not terminated on the transfer of a business. All existing employees' rights are protected.

United Kingdom.* The common law rule that employment contracts are terminated on the transfer of a business has been replaced by the provisions in the EC Directive safeguarding employees. Case law has restricted the application of the exception allowing the termination of employments on economic, technical and organizational grounds.

A comparative summary and individual country reports are also attached.

LAWS PROTECTING EMPLOYEES ON THE TRANSFER OR SALE OF A BUSINESS—COMPARATIVE SUMMARY

It is common in many countries to protect the rights of employees of businesses that are sold or transferred. The chief feature of these provisions is the continuation or transfer of contracts of employment with the new owner. In some other countries, a similar result is achieved by means of collective bargaining agreements and other labor relations practices.

The result of both these approaches may be characterized as making the new owners

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*Member states of the European Community generally have common provisions on transfers on employment contracts. These are based on a Directive issued by the Council of Ministers.

"step into the shoes of the old owners," but the transfer of employment in most cases is not a guarantee of the continuation of the employment. As the old owner could have terminated the employment for causes such as loss of business, etc., so can the new employer. The crux of the right provided is that the transfer itself cannot be a good cause for dismissing the employees of the business being acquired. There must be other valid reasons for the dismissals.

The European Community (EC) is an exponent of the automatic transference of contracts of employments to the new owner. As part of its social mandate for providing an improved standard of living for workers, in 1977 the Council of the EC formulated a Directive for safeguarding employees' rights in the event of a transfer of an undertaking.* This Directive has been implemented in the national laws of most of the member states.

The continuity of employment ensured in the EC Directive is predicated on the continuation of the business by the new employer. It does not prohibit dismissals of employees "for economic, technical or organizational reasons entailing changes in the work force." These grounds are subject to careful scrutiny by the courts and their application has been restricted. However, there is no general right of re-employment for those dismissed on valid economic grounds.

Direct rights for the transfer of employment contracts are also granted in Argentina, Brazil, Canada, Chile, Switzerland, Syria, Turkey, and several countries in French-speaking Africa. In Argentina and Chile, if the business of the new employer is substantially changed or previous jobs are eliminated, the employees are entitled to indemnification upon dismissal. The Canada Labour Code also allows the continuation of the bargaining rights of transferred employees but does not provide any right of rehire for terminated employees. Syria guarantees the employment of those transferred to a new owner. Swedish employment protection laws and labor relations practices require the new owners of a business to follow the terms of the labor contract in force at the time of the transfer.

Japan does not provide for the automatic transfer of employment contracts. However, there is a related law that protects the employment rights of seamen after a change in the ownership of their ship. Based on the analogy of this Law and on general notions of the role of employees in an enterprise, the majority view among Japanese jurists is that a contract of employment is deemed to be transferred to the new owner. The new employer may then dismiss surplus employees.

Israeli law considers employment to be a matter of personal contract between parties. A 1985 measure to allow the automatic transfer of employment contracts has not yet been enacted.

(Prepared by Kersi B. Shroff, Senior Legal Specialist, American-British Law Division, Law Library of Congress, January 1992.)

Mr. GRAHAM. What is the American Government doing to assist its citizens?

The Secretary of Labor has provided some retraining money and today the Senate is planning to provide more unemployment benefits.

In a hearing of the Senate Aviation Subcommittee on April 30, 1992, the Department of Transportation claimed that the airline industry is deregulated and, therefore, job protection provisions are inappropriate.

This is not the case. International route authorities are a public franchise granted to air carriers by the Federal Government.

The international airline industry remains highly regulated through bilateral treaties between our governments and those to which our carriers fly.

The very fact that the Department of Transportation must approve an international route transfer is evidence that this industry remains regulated.

But, Mr. President, the sad ending for Eastern Airlines employees does not have to be relived by Pan Am employees or other airline employees.

We must realize the cost to the individual and the cost to the taxpayer of doing nothing as we did in the Eastern case.

Since December 1991, 5,248 former Pan Am workers have filed for unemployment compensation in my State of Florida alone.

The estimated cost for those unemployment benefits to date is $13.5 million.

Another $7 million has been spent by the U.S. Department of Labor to retrain former Pan Am workers in Florida.

In New York State, 4,688 unemployment claims have been filed by former Pan Am workers.

The U.S. Department of Labor has contributed $6 million for retraining these individuals.

Furthermore, the Pension Benefit Guaranty Corporation—itself facing major financial liabilities which Congress must address—has been forced to take over the underfunded pension program for Pan Am retirees at a cost of $900 million.

About $700 million in liability has been absorbed by the PBGC for Eastern retirees.

Is this what Congress intended when it deregulated the airline industry in 1978?

I do not think so.

Let me quote from the Senate Commerce Committee Report which accompanied the 1978 Airline Deregulation Act:

> The Committee believes that the Congress, on behalf of the American people, must insure that the benefits to the public which result from its decision to alter substantially the regulation of air transportation are not paid for by a minority—the airline employees and their families who have relied on the present system.

In addition to committee statements about protecting employees, the bill set up a program in the Department of Labor designed to provide some job protection for those displaced by deregulation.

Unfortunately, that program was never implemented.

Legislation I have introduced—and will be offering at a future date—seeks to ensure protection for airline workers in the event of an international route transfer.

The amendment requires the Department of Transportation to evaluate how many jobs are necessary to run the international route which one carrier is seeking to take over from another.

A commensurate number of employees from the original carrier would then be guaranteed the first right to those jobs when the new carrier began hiring.

This puts teeth into the Department of Transportation's responsibility to ensure that a route transfer is in the best public interest.

According to statements made by the DOT, the Department will not take steps to ensure job protection in an international route transfer unless: First, the stability of the national air transportation system is threatened; or second, special circumstances exist that require protective provisions to encourage fair and equitable working conditions.

Despite the thousands of individuals unemployed as a result of recent airline bankruptcies, mergers, and takeovers, I do not see any sign that the DOT perceives much of a problem.

During the confirmation process for his new position as Secretary of Transportation, Andrew Card stated that the DOT does not even keep information on what is happening to employees when a route is transferred.

This means a carrier can bid on a route and pledge to take so many employees from the original carrier to sweeten the offer, but DOT has no way of knowing if they keep their word.

I wonder if the Secretary of Transportation has even talked to the Secretary of Labor regarding the cost to her agency of DOT's apparent disregard for employees in route transfers.

These jobs are not simply disappearing either.

There seems to be a disturbing trend toward bypassing mature workers with years of valuable experience for younger individuals that bring little liability in terms of salary and benefit demands.

What does that mean to the individuals who have devoted their entire career to the airline industry?

These people made America the leader in international flight.

Now they must find new jobs which provide comparable salaries, health insurance, and retirement benefits—not an easy task in today's economy, especially for the older worker.

What we are talking about, Mr. President, is simple.

The Department of Transportation must reevaluate its sense of responsibility to the individual—if not for simple compassion reasons, for economic reasons—to save the Government money.

Mr. President, at an appropriate time I will offer an amendment which will provide that that protection will be provided to American workers in the case of an international air route transfer, as it is provided today for the nationals of virtually every other country in the world. The failure to have such a provision in our law is resulting in hundreds and thousands of American workers losing their jobs because the rules of the international air route transfer game are stacked against Americans. I hope the Senate will, at an early date, begin to provide us with a playing field which is level and which treats our experienced, mature airline workers fairly.

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*A copy is appended.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I have looked at the amendment offered by the senior Senator from Florida. It is a part of the present law. He is talking about an extension of that, and it is in the House bill with which we will be going to conference. I see no objection to the amendment and would be supportive of it.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, in regard to this amendment, in reviewing the matter with those on this side of the aisle, I believe it is appropriate to go forward with it. At least that indication comes from members of the Finance Committee. Thus we have no objection to the amendment and are ready for the rollcall vote, which has been called.

Mr. MACK. Mr. President, this amendment is a concrete effort to bring fairness to our treatment of the farmers of Florida, Washington, Montana, Wyoming, Virginia, West Virginia, North Carolina, New York, Idaho, and New England who employ H-2A workers to do jobs for which there are now domestic workers available or willing.

Under the H-2A Program, approximately 24,000 Jamaican and Mexican workers come to America for a limited period of time, under bond, for specific tasks. H-2A workers are essential to the harvesting of sugarcane in Florida, since there are virtually no Americans who are willing and able to do the job. Their work is unique and seasonal. They remain here only long enough to perform their jobs, and then are required to return to their home countries. They are never eligible for unemployment compensation benefits in this country.

Presently, employers are exempted from paying unemployment compensation tax for these workers. While the House of Representatives has extended that exemption for 2 years, I urge my colleagues to make it permanent. And since the exemption has now existed for many years, there is no logical reason for maintaining it on only a short-term basis.

There is no danger that we are unwittingly creating a permanent windfall for these farmers. If, in the future, the H-2A Program should be abolished or materially changed so that the exemption is not appropriate, the exemption could simply be repealed at that time. Moreover, I understand that the revenue cost to the U.S. Treasury of continuing the exemption for wages paid to H-2A workers is quite minimal.

But as I said earlier, the issue here is fairness. Why should farmers have to pay unemployment compensation tax on workers who are specifically ineligible ever to collect benefits? Rather than hold our farmers hostage, demanding that the exemption be renewed every 2 years, let us do the right thing now and grant them permanent relief from this unfair tax.

AMENDMENT NO. 2433

The PRESIDING OFFICER. Under the previous order, the hour of 8:30 p.m. having arrived, the question is on agreeing to the Graham amendment No. 2433. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from North Carolina [Mr. SANFORD], the Senator from Colorado [Mr. WIRTH], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—84

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Fowler
Garn
Glenn
Gore
Gorton
Graham
Grassley
Hatch
Heflin
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Riegle
Robb
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—3

Ford
Reid
Simon

NOT VOTING—13

Chafee
D'Amato
Durenberger
Gramm
Harkin
Hatfield
Helms
Jeffords
Kassebaum
Pryor
Sanford
Symms
Wirth

So the amendment (No. 2433) was agreed to.

Mr. BENTSEN. It would be helpful to the leadership and managers of the bill if the Members on both sides would advise us as to any amendments they might have. We would like to get an enumeration of those amendments and possibly agree to a time limitation. I defer to the majority leader for any comments in that regard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. Mr. President, I express my support for the Unemployment Compensation Amendments of 1992.

Just over a year ago, when I arrived in Washington, extending unemployment benefits was the very first issue I pressed in my party's caucus.

As Pennsylvania's secretary of labor and industry, I administered our State's unemployment compensation program. I am familiar with the strengths and shortcomings of the current system. Unfortunately, in times of economic hardship like today, the unemployment compensation system is under great stress and its shortcomings are magnified.

I have long believed and have fought to reform the regular unemployment compensation program. Earlier this year, I introduced the Unemployment Compensation, Reemployment, and Fairness Act of 1992, which offers several ideas to modernize the State unemployment compensation program.

My bill proposes improvements in the unemployment compensation system which encourage job retention and early reemployment, promote procedural fairness for employers, and provide for authority to use benefit funds when they are needed.

I am delighted that this bill—the Unemployment Compensation Amendments of 1992—incorporates one of the touchstones in my reform bill—the adoption of short-time compensation programs—often known as work-sharing.

In my State, and in many other States, employers want to maintain their work force. Employers want to keep their fellow citizens working and their communities thriving.

Work-sharing has proven effective in fighting temporary unemployment. Work-sharing is a type of unemployment compensation. It keeps more people on the job by reducing the hours of employees rather than laying off some workers permanently.

For example, if a plant has a 20-percent reduction in sales it may decrease all workers' hours by 20 percent rather than totally laying off 20 percent of the workers. An employer will prepare a plan and continue to provide health and pension benefits to all employees while the State agency takes care of the paperwork. Workers will receive 80 percent of their normal weekly wages from their employer and 20 percent of their weekly unemployment benefits.

In 1982, Congress allowed States to test work-sharing programs. Seventeen States have implemented work-sharing programs and they have proven to be a viable alternative to temporary layoffs. However, specific Federal authorization expired in 1985 and these programs are operating without statutory authority. This bill clears the path for more States to consider adopting work-sharing programs.

Mr. President, as you know, I am deeply committed to improving the unemployment compensation system. When Franklin Roosevelt and Congress enacted the Social Security Act, they provided for an employment security structure that cushioned the economic impact of joblessness. In June of 1934, President Roosevelt told Congress that "Among our objectives, I place the security of men, women and children of the Nation's first." This legislation will help place that security first.

Over the coming months, I intend to discuss other ideas to promote employment, community service and training. For now, this bill will continue to help out-of-work Americans. I ask my colleagues to join me in supporting this measure.

Mr. PACKWOOD. Mr. President, going on the better part of a year ago, we sat here debating the fine points of the first extension of unemployment benefits. While this body deliberated, unemployed timber workers in my State of Oregon suffered. And families suffered, as workers tried to make ends meet while searching in vain to find work. This recession has lasted longer than anyone anticipated, and it has left tracks on the backs of many workers in my State of Oregon and around the country.

I have supported every effort to extend unemployment benefits starting with the very first bill last year. The last round of emergency unemployment benefits we enacted will expire in less than 3 weeks. The pending bill will make these benefits, which are of vital importance to so many families, available through March of next year. I wholeheartedly support this effort and hope it will be signed into law.

Unfortunately, it looks like this bill will be vetoed by the President. I have been meeting with the leaders of the House and Senate, trying to see if something can be worked out so that benefits due unemployed Americans are not held hostage by the delay that a veto will cause. I truly hope we can avoid this delay.

Getting people back to work is my first priority. In the meantime, we must act quickly to continue to make emergency unemployment benefits available to see Americans through this extraordinarily difficult time. But time is running out. I believe we would be of far more help to unemployed workers across the Nation by passing a bill that the President can actually sign.

Mr. SPECTER. Mr. President, I am pleased to see the progress this evening on its unemployment compensation bill. It now appears that we may be able to near completion of the bill on Friday.

Speaking as a Senator from a major industrial State, the Commonwealth of Pennsylvania, where unemployment is very high, passage of the legislation will indeed be good news to the thousands of Pennsylvanians who are in need of extended unemployment benefits. I know this same situation prevails in many parts of the United States.

I think that it is especially beneficial to see this worked out at a time when there is so much public anxiety about the gridlock in Washington. Earlier today we completed action on the conference report for summer jobs which is another very important piece of legislation, something I had worked on. I had collaborated with many of the mayors in my own State of Pennsylvania and had met with mayors nationally on a meeting arranged by Mayor Rendell of the city of Philadelphia.

We are now on the verge to move toward final passage of this legislation extending unemployment benefits, which is very good news for millions of Americans who need those benefits. I think it especially good for Americans who have been watching Washington, DC, and wondering whether public officials are capable of fulfilling their constitutional duties to act. In all, I think this is a very good sign indeed.

I thank the Chair and yield the floor.

Mr. REID. As the chairman of the Finance Committee knows, Senators BOREN, SIMON, and I, and 13 other cosponsors, including the distinguished chairman himself, have introduced a bill called the Community Works Progress Act, S. 2373. I would like to ask the chairman for his committee to move expeditiously on this matter so that the Senate may take action to pass this important legislation.

Mr. BENTSEN. As a cosponsor of S. 2373, I agree that this legislation is important, and the Senator from Nevada has my assurances that the Finance Committee will consider any parts of the legislation that may be within the jurisdiction of the Finance Committee in an expeditious manner.

Mr. REID. I thank the distinguished chairman.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the only amendments remaining in order to the pending unemployment insurance bill be an amendment by Senator BOND regarding ex-servicemen and reservists on which there be 30 minutes for debate equally divided and controlled in the usual form, a substitute amendment by Senator DOLE, which will be the text of S. 2699, the Dole unemployment bill, on which there be—I will complete the request, and if the staff will check on the number of the bill—on which there will be 90 minutes equally divided and controlled in the usual form; that no second-degree amendments be in order, and that no motions to recommit be in order.

Mr. President, I ask that no action be taken on the request momentarily while we check the accuracy of the number of the pending bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I modify my previous request that the Dole substitute be described as based upon the text of S. 2699, but including other provisions.

The PRESIDING OFFICER. Is there an objection?

Without objection it is so ordered.

Mr. MITCHELL. Mr. President, this will enable us to complete action on this bill tomorrow morning, following the disposition of these two amendments, which will take a maximum of 120 minutes, if all time is used. I have discussed the matter with the chairman of the Finance Committee, the manager of the bill, and the distinguished Republican leader, and we are prepared to act on both of these amendments and on final passage by voice vote, unless some Senator now expresses a demand for a rollcall vote.

If no Senator expresses such demand——

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not at this time express such a desire, but we have no time limit on final passage as yet. We just have the time on the amendments agreed to. In other words, we only have an agreement as to the amendments that are to be called up. We do not have a time limit on the passage. I would like to see the outcome on the amendments before I agree to anything on final passage.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I further modify the request to include the following: That no points of order be in order either against the committee substitute or the bill, and before the Chair approves the request, if no objection is heard, I want to make clear and ask confirmation from the Chair that adoption of this agreement would not preclude a colloquy occurring between the time the listed amendments are disposed of and before final passage of the bill.

The PRESIDING OFFICER. The majority leader's understanding is correct.

Is there objection to the unanimous-consent request?

Mr. BYRD. Mr. President, I have no objection.

In other words, the consent as made would not preclude debate following the adoption or the rejection of either or both amendments?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, since I first presented the request and stated our intention with respect to voting on the measure, no Senator, to my knowledge, on either side has expressed an interest or a demand that there be a recorded vote on either of the amendments or on final passage tomorrow. I take that lack of affirmative expression to mean that we will proceed tomorrow to accomplish these by voice vote and complete action on the bill sometime tomorrow morning.

In that event, and acting upon that understanding, there will be no further rollcall votes this evening and there will be no rollcall votes tomorrow. I do expect that we will complete action, as I have stated, on this bill tomorrow.

Mr. BYRD. Mr. President, are we to anticipate that there may be an amendment dealing with the balanced budget offered to a bill tomorrow?

Mr. MITCHELL. Mr. President, if I may respond on that, I do not believe so. My intention is that we are now on this bill. We have an agreement limiting the amendments to this bill to those specified. It is not my intention to proceed on any other bill tomorrow upon completion of this bill.

Mr. BYRD. I just want to know how long I have to get ready to come to the fray. When will the Senate then be in again?

Mr. MITCHELL. Mr. President, I have not made a decision on that. I have not made a decision on Monday yet. I want to discuss that with the distinguished Republican leader and others, and I will announce the schedule for next week tomorrow.

Mr. BYRD. I take it then that we might expect a balanced budget amendment to be proposed around here, not by the leader, I do not believe, but on Monday or Tuesday or Wednesday. So I do have the Sabbath in which to prepare.

Mr. MITCHELL. The chairman does.

Mr. BYRD. That would be keeping it holy.

Mr. LEAHY. Prayerfully.

Mr. MITCHELL. It is my intention, as I previously stated several times today, upon completion of this measure tomorrow, to then turn to the Government-sponsored enterprises banking bill, and I hope we will be able to complete action on that early next week. That may lead to the amendment about which the Senator has inquired. But that is something that is not within my control.

Mr. BYRD. Mr. President, I thank the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. CRANSTON. I thank the Chair.

(The remarks of Mr. CRANSTON pertaining to the introduction of S. 2876 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate now go into morning business and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF ENGROSSMENT—S. 1623

Mr. FORD. Mr. President, I ask unanimous consent that the engrossment of S. 1623, the Audio Home Recording Act of 1991, be corrected to include the following material, which I send to the desk.

The PRESIDING OFFICER. Without objection, the engrossment will be so modified.

HOUSE CONCURRENT RESOLUTION 331—AUTHORIZING THE USE OF CAPITOL GROUNDS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 331, a concurrent resolution to authorize the use of Capitol Grounds for the Greater Washington Soap Box Derby, just received from the House, that the concurrent resolution and preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 331) was considered and agreed to.

The preamble was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 586. Christian R. Holmes IV, to be an Assistant Administrator of the Environmental Protection Agency;

Calendar 587. Christian R. Holmes IV, to be Chief Financial Officer, Environmental Protection Agency;

Calendar 646. Gen. Charles C. McDonald, to be lieutenant general;

Calendar 647. Gen. Ronald W. Yates, to be general;

Calendar 648. Lt. Gen. Clifford H. Rees, Jr., to be lieutenant general;

Calendar 649. Lt. Gen. John M. Shalikashvili, to be general;

Calendar 650. Maj. Gen. Barry R. McCaffrey, to be lieutenant general;

Calendar 651. Lt. Gen. Donald Snyder, to be lieutenant general;

Calendar 652. Lt. Gen. Charles J. Searock, Jr., to be lieutenant general;

Calendar 653. Lt. Gen. David J. Teal, to be lieutenant general;

Calendar 654. Lt. Gen. Charles McCausland, to be lieutenant general;

Calendar 655. Lt. Gen. Charles A. May, Jr., to be lieutenant general;

Calendar 656. Maj. Gen. James L. Jamerson, to be lieutenant general;

Calendar 657. Maj Gen. Arlen D. Jameson, to be lieutenant general;

Calendar 658. Lt. Gen. Henry J. Hatch, to be lieutenant general;

Calendar 659. Lt. Gen. Jerome B. Hilmes, to be lieutenant general;

Calendar 660. Lt. Gen. Frank F. Ledford, Jr., to be lieutenant general;

Calendar 661. Lt. Gen. John T. Myers, to be lieutenant general;

Calendar 662. Lt. Gen. Charles P. Otstott, to be lieutenant general;

Calendar 663. Lt. Gen. Billy M. Thomas, to be lieutenant general, and

Calendar 664. Lt. Gen. James W. Crysel, to be lieutenant general.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

ENVIRONMENTAL PROTECTION AGENCY

Christian R. Holmes IV, of California, to be an Assistant Administrator of the Environmental Protection Agency.

Christian R. Holmes IV, of California, to be Chief Financial Officer, Environmental Protection Agency.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Charles C. McDonald, xxx-xx-xxxx U.S. Air Force.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 60:

To be general

Gen. Ronald W. Yates, xxx-xx-xxxx U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Clifford H. Rees, Jr. xxx-xx-xxxx U.S. Air Force.

IN THE ARMY

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be general

Lt. Gen. John M. Shalikashvili, xxx-xx-xxxx U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Barry R. McCaffrey, xxx-xx-xxxx U.S. Army.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Donald Snyder, xxx-xx-xxxx U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Charles J. Searock, Jr. xxx-xx-xxxx xx..., United States Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. David J. Teal, xxx-xx-xxxx U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles McCausland, xxx-xx-xxxx U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles A. May, Jr. xxx-xx-xxxx U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James L. Jamerson xxx-xx-xxxx U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Arlen D. Jameson xxx-xx-xxxx U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Henry J. Hatch, xxx-xx-xxxx U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Jerome B. Hilmes, xxx-xx-xxxx U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Frank F. Ledford, Jr., xxx-xx-xxxx U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John T. Myers, xxx-xx-xxxx U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles P. Otstott xxx-xx-xxxx U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Billy M. Thomas, xxx-xx-xxxx U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James W. Crysel, xxx-xx-xxxx U.S. Army.

NOMINATION OF LT. GEN. JOHN M.D. SHALIKASHVILI

Mr. WARNER. Mr. President, it is indeed an honor for me to speak on behalf of the President's nominee to become Supreme Allied Commander Europe, Headquarters Allied Powers Europe, and Commander in Chief U.S. European Command, Lt. Gen. John M.D. Shalikashvili.

Gen. Shalikasvili has been nominated to receive his fourth star and replace Gen. John Galvin, our current commander of forces in Europe. Gen. Galvin has performed in an outstanding manner during a time of cataclysmic and unprecedented change in the world and especially in Europe.

He has provided steady leadership and a reasoned voice during the time when we saw our most dangerous adversary and potential threat recede unbelievably from the scene. He has managed an extraordinary precipitous drawdown of U.S. forces in Europe, returning some 500 service members per day, along with their families, pets, and houshold goods. he has been a strong advocate and spokesman for our continued, meaningful engagement in Europe.

Gen. Galvin has earned our unquestioned gratitude for his dedicated and invaluable service to the Nation, and our sincere best wishes go to him and his family for a well-deserved retirement.

Fortunately not only for us, but for our allies as well, another superbly qualified leader has emerged from the Army's ranks to assume command of allied forces in Europe. Gen. John Shalikasvili—and while that last name isn't as difficult to pronounce as it first appears, I'm informed that most of his close friends call him "Shali"—is scheduled to assume command of allied forces in Europe on June 24, 1992.

John Shalikasvili was born on June 27, 1936, in Warsaw, Poland. he holds a bachelor's degree in mechanical engineering from Bradley University and a master's degree in international affairs from George Washington University.

In August 1958, at the age of 22, Gen. Shalikasvili enlisted in the U.S. Army, undergoing basic training at Ft. Leonard Wood, MO. In January 1959, General Shalikasvili entered Officer Candidate School at Ft. Sill, OK and was commissioned a lieutenant of artillery in July of that year.

General Shalikashvili's career spans over 33 years of commissioned service characterized by a number of high level, challenging assignments. He may be best remembered for his superb performance as the commander of Operation Provide Comfort, where as the Deputy Commander in Chief, U.S. Army Europe, he was sent to take charge of our efforts to provide relief to the Kurds, who were fleeing northern Iraq.

The outstanding manner in which General Shalikashvili carried out this difficult, complex, and sensitive operation is a testament to his extraordinary capabilities and outstanding leadership. As a result of his efforts, the operation resulted in the return of hundreds of thousands of Kurdish refugees to northern Iraq.

I know that all my colleagues join me in wishing General Shalikashvili, his wife Joan, and his son Bryant, who is a student at Washington State University, the very best of success in this most challenging assignment in Europe. We will all depend on General Shalikashvili's judgment and leadership. He deserves our total support and I would like to take this opportunity to pledge him mine.

General Shalikasvili, good luck to you and best wishes in your challenging new assignment.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE HOUSE

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 5 to the bill, and agrees thereto, and it recedes from its disagreement to the amendments of the Senate numbered 1, 2, 3, 7, 9, 11, 12 and 13 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 113. A concurrent resolution concerning the twenty-fifth anniversary of the reunification of Jerusalem.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3448. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated June 1, 1992; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Select Committee on Indian Affairs, and the Committee on Labor and Human Resources.

EC-3449. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the transfer of four naval vessels to the Government of Greece; to the Committee on Armed Services.

EC-3450. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the sixteenth report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC-3451. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Office of Technology Development for fiscal year 1991; to the Committee on Armed Services.

EC-3452. A communication from the President of the United States, transmitting, pursuant to law, notice of his appointment of the Chairman and the Vice Chairman of the United States International Trade Commission; to the Committee on Finance.

EC-3453. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes; to the Committee on Finance.

EC-3454. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, certification under the Horn of Africa Recovery and Food Security Act for Ethiopia; to the Committee on Foreign Relations.

EC-3455. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, notice of the provision of emergency counternarcotics assistance to Ecuador, Belize, Bolivia, Mexico, Jamaica and Colombia; to the Committee on Foreign Relations.

EC-3456. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Agriculture for the six month period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3457. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Justice, for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3458. A communication from the Chairman of the United States Sentencing Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1991; to the Committee on the Judiciary.

EC-3459. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to improve enforcement of the Employee Retirement Income Security Act of 1974, by adding requirements with respect to multiple employer welfare arrangements; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment:

S.J. Res. 221. A joint resolution providing for the appointment of Hanna Holborn Gray as a citizen regent of the Smithsonian Institution (Rept. No. 102-297).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S.J. Res. 275. A joint resolution providing for the appointment of Wesley Samuel Williams, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 102-298).

S.J. Res. 259. A joint resolution providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 102-299).

By Mr. BENTSEN, from the Committee on Finance, with amendments:

H.R. 776. A bill to provide for improved energy efficiency.

By Mr. FORD, from the Committee on Rules and Administration, without amendment and with a preamble:

S. Res. 273. A resolution to amend the Standing Rules of the Senate to provide guidance to Members of the Senate, and their employees, in discharging the representative function of Members with respect to communications from petitioners.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 317. An original resolution relating to the purchase of calendars.

S. Res. 318. An original resolution authorizing the Senate to participate in State and local government transit programs pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991.

By Mr. FORD, from the Committee on Rules and Administration, without amendment and with a preamble:

S. Con. Res. 112. A concurrent resolution to authorize printing of "Thomas Jefferson's Manual of Parliamentary Practice", as prepared by the Office of the Secretary of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID (for himself and Mr. Bryan):

S. 2865. A bill to provide assistance for workers adversely affected by a nuclear testing moratorium; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. Gore, Mr. Akaka, and Mr. Bentsen):

S. 2866. A bill to establish a program, to be known as the "ADEPT" Program, for the provision of international assistance in the deployment of energy and energy-related environmental practices and technologies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 2867. A bill to prohibit the use of United States Government aircraft for political or personal travel, limit certain benefits for senior Government officers, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself and Mr. Brown):

S. 2868. A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN:

S. 2869. A bill to create the Supreme Court of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RUDMAN (for himself, Mr. Kennedy, Mr. Cohen, Mr. Dodd, Mr. Packwood, Mr. Adams, Mr. Wellstone, Mr. Metzenbaum, Mr. Hatfield, and Mr. Harkin):

S. 2870. A bill to authorize appropriations for the Legal Services Corporation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 2871. A bill to clarify enforcement provisions of the Federal Power Act concerning hydroelectric power licensing; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself, Mr. Fowler, and Mr. Mack):

S. 2872. A bill to establish Dry Tortugas National Park in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. Coats, Mr. Daschle, Mr. Lugar, Mr. Nunn, and Mr. Dixon):

S. 2873. A bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits; to the Committee on Finance.

By Mr. FORD (for himself, Ms. Mikulski, and Mr. Sarbanes):

S. 2874. A bill to revise the deadline for the destruction of the United States' stockpile of old lethal chemical agents and munitions; to establish a commission to advise the President and Congress on alternative technologies appropriate for use in the disposal of lethal chemical agents and munitions; to encourage international cooperation on the disposal of lethal chemical agents and munitions; and for other purposes; to the Committee on Armed Services.

By Mr. LEAHY:

S. 2875. A bill to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 2876. A bill to amend the Federal Election Campaign Act of 1971 to make clear that for the purposes of that Act, a general election for the office of President or Vice President includes all proceedings up to and including the selection of the President and Vice President in the electoral college or the House of Representatives and Senate; to the Committee on Rules and Administration.

By Mr. COATS (for Mr. Baucus (for himself and Mr. Coats)):

S. 2877. A bill entitled the "Interstate Transportation on Municipal Waste Act of 1992"; read the first time.

By Mr. KERRY:

S.J. Res. 318. A joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day"; to the Committee on the Judiciary.

By Mrs. KASSEBAUM (for herself, Mr. Adams, Mr. Akaka, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Coats, Mr. Cochran, Mr. Conrad, Mr. Cranston, Mr. D'Amato, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Exon, Mr. Gore, Mr. Gorton, Mr. Hatch, Mr. Hatfield, Mr. Hollings, Mr. Inouye, Mr. Jeffords, Mr. Kasten, Mr. Kennedy, Mr. Kerrey, Mr. Kohl, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. McCain, Mr. McConnell, Mr. Metzenbaum, Ms. Mikulski, Mr. Mitchell, Mr. Murkowski, Mr. Nickles, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Sasser, Mr. Seymour, Mr. Simon, Mr. Specter, Mr. Symms, and Mr. Thurmond):

S.J. Res. 319. A joint resolution to designate the second Sunday in October of 1992 as "National Children's Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 316. A resolution in support of foreign controlled corporations (FCC's) paying their fair share of Federal income taxes; to the Committee on Finance.

By Mr. FORD:

S. Res. 317. An original resolution relating to the purchase of calendars; from the Committee on Rules and Administration; placed on the calendar.

S. Res. 318. An original resolution authorizing the Senate to participate in State and local government transit programs pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991; from the Committee on Rules and Administration; placed on the calendar.

By Mr. MOYNIHAN (for himself and Mr. Pell):

S. Res. 319. A resolution expressing the sense of the Senate concerning the illegality of kidnapping American citizens; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2865. A bill to provide assistance for workers adversely affected by a nuclear testing moratorium; to the Committee on Energy and Natural Resources.

ASSISTANCE FOR WORKERS AFFECTED BY NUCLEAR TESTING MORATORIUM

Mr. REID. Mr. President, approximately 50 Senators now have cosponsored a nuclear testing moratorium bill. I think the testing moratorium is for a lack of a better description a big mistake. It is a mistake in terms of the safety of our arsenal, the survivability of our weapons systems, and the security of this Nation.

The problem, Mr. President, in this world is not nuclear testing, it is nuclear weapons. We have too many of them, and there are too many of them today in the wrong hands. The number of Third World countries with nuclear capabilities seems to be growing daily, and we know within the past months the largest nuclear explosion in recent history was set off in China.

An editorial appeared recently in the Washington Post by Jim Hoagland arguing that since France and Russia have committed to a short-term moratorium, the United States should do the same. First, since when has France been a leader in the area of nonproliferation?

Second, though former President Gorbachev declared a 1-year testing moratorium, President Yeltsin has ordered his Ministry of Nuclear Energy and the military high command to ready the former Soviet test site at Novaya Zemlya for testing. The decree calls for tunnels to be prepared for a resumption of testing at the rate of two to four explosions a year.

Mr. Hoagland also argues that if the United States stops testing, Pakistan and others may follow suit. He has got to be kidding. If cutting off aid to Pakistan has not stopped their nuclear weapons program, setting an example certainly is not going to do much. The United States cannot afford such as symbolic gesture.

The underground test program at the Nevada test site serves several purposes, each vital to maintaining and enhancing the credibility of our nuclear deterrent, which is still the cornerstone of our national security policy.

1. STOCKPILE SAFETY AND RELIABILITY

One of the underlying tenets of nuclear deterrence is a high degree of confidence that nuclear weapon systems will operate reliably, and this confidence must be shared by all potential enemies.

Some proponents of a nuclear test ban say that the stockpile is already safe. We have had a number of examples in the past to show that more must be done in this area. For example, in May 1990, Defense Secretary Cheney acknowledged a safety problem with U.S. nuclear artillery shells in Europe. The defects had been found in hundreds of W79 short-range nuclear artillery shells based in Germany, Italy, and the Netherlands. These are shells that can deliver a 10-kiloton nuclear blast. The safety problems were confirmed through testing at the Nevada test site in 1988. Because the problems were identified through testing, they were fixed, and accidents were prevented.

And there have been a few accidents in which the high explosives in the weapons detonated, resulting in the dispersal of radioactive materials, but never a nuclear explosion. Underground tests are needed both to develop an improved data base on safety-related technology issues and to qualify any improved safety design modifications under consideration for our nuclear weapons systems.

2. WEAPON SYSTEM SURVIVABILITY

Acquisition regulations for nuclear survivable systems require that nuclear survivability must be demonstrated through a combination of underground testing and aboveground simulation. Potential downsizing of nuclear arsenals and military forces in the United States and the former Soviet Union does not negate the need for nuclear survivable systems.

In fact, it can be argued that the nuclear survivability of the remaining weapon systems will be more important since we will have to do more with less. The Desert Storm experience should serve as a warning that future regional conflicts could involve nuclear-capable adversaries. What would have happened if Saddam Hussein had exploded a nuclear device over the battlefield? What would have happened to our tanks, aircraft, missiles, and other systems, many of which are computer driven? I am not sure that anybody really knows for sure. And we need to know.

3. WEAPON EFFECTIVENESS

It is important to understand the effectiveness of our nuclear weapons in a targeting context, from the point of view of imparting the desired damage to a target while at the same time limiting the undesirable collateral damage. There remains a wide range of issues pertaining to weapon effectiveness that have not been adequately addressed in previous tests. These issues could impact both the size and makeup of the future U.S. nuclear arsenal and could serve as the basis for modernizing our nuclear arsenal consistent with the new political world makeup.

4. MAINTENANCE OF CAPABILITIES

As long as nuclear weapons remain on the world scene, the United States needs to maintain a competent cadre of nuclear weapons scientists. The nuclear weapons business is a highly specialized and relatively small community. If we stop nuclear testing for a year due to a moratorium, we will lose these experts. If we decide after that year to begin testing again, we will be lost in the scientific community. The Third World proliferators are dedicating their best and brightest scientists to this pursuit. It is incumbent on the United States to maintain its nuclear expertise.

5. MODERNIZATION OF NUCLEAR WARHEADS

It is highly likely that the deterrence equation will change with the continuing emergency of Third World proliferators. New weapon designs may be required; for example, low-yield penetrators that are highly effective against buried leadership bunkers but minimalize collateral damage. New designs must be qualified by underground testing if they are to have the desired deterrent value.

We need to test. It would be unsafe, impractical, and unwise not to, and it would send a signal of complacency to Third World countries currently developing the bomb.

Nevertheless, I am practical, and I see the handwriting on the wall. At least 51 Senators, and a majority of the House of Representatives, support this ill-advised moratorium. If the Senate of the United States is going to put many families out of work in my State, I think it is the responsibility of the Senate to be compassionate in how it puts these people out of work.

About 9,000 people are employed by the Department of Energy, associated Federal agencies, national laboratories, and support contractors in southern Nevada. Economic data also indicate that for each of these federally funded employees, an additional 1.2 employees, or about 10,800, are employed in the local economy in supporting services. These services range from construction work to the operation of supermarkets. Therefore, almost 20,000 people are employed in southern Nevada as a result of the Nevada test site's activities. This is more than 5 percent of the southern Nevada work force.

The Department of Energy is directly or indirectly responsible for about 7.5 percent of the total income for southern Nevada and 4.5 percent of the entire State. Between procurement and salaries, DOE made an $870 million contribution to Nevada's economy in 1990.

I am introducing a bill today, on behalf of myself and Senator BRYAN, requiring the Secretary of Labor to provide a program of readjustment allowances, job training, and job search and relocation allowances for workers displaced by this moratorium. In addition, the bill calls upon the Department of Energy to provide impact assistance to the communities adversely affected. And it requires that the Department of Energy study ways in which the Nevada test site may be utilized for purposes other than nuclear weapons testing.

This is the least we can do. And there is precedent for it; for example, the timberworkers in the Northwest received similar help when we cut back the harvest.

In these times of economic hardship, political instability, and nuclear proliferation, I am disturbed to see the United States considering the halting of its nuclear program.

Mr. President, I, like my colleagues, was tremendously impressed with the speech that President Yeltsin gave yesterday. It was a good speech. But that does not mean that we should put down our guard, recognizing how tenuous his leadership is in that country. I intend to do what I can to support those efforts by this Congress to bolster President Yeltsin.

But I do not think we should take precipitous action that will hurt the effectiveness, the security, and the stability of this country. I hope this moratorium does not become law. I hope that in fact if the Senate follows what has happened in the House of Representatives that the President will veto this legislation. If this legislation does pass, I hope that the Senate will adopt the legislation presented by me and my colleague to help the thousands of workers who will be without jobs as a result.

Mr. President, I ask how much time I have remaining.

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. REID. Mr. President, this legislation that is being introduced today covers a wide range of areas.

Not later than 90 days after the date of the enactment of this act, the Secretary of Labor shall, by regulation, establish for eligible terminated employees of the Nevada test site—

First, a program of readjustment allowances substantially similar to the trade readjustment allowance program under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), and

Second, a program for job training and related services substantially similar to the program under part II of subchapter B of chapter 2 of title II of such act (19 U.S.C. 2295 and 2296), and

Third, a program for job search and relocation allowances substantially similar to the program under part III of subchapter B of chapter 2 of title II of such Act (19 U.S.C. 2297 and 2298).

The Secretary is authorized under this legislation to enter into agreements with any State to assist in carrying out the programs under this subsection.

A significant number or proportion of the workers so employed by a contractor or the U.S. Government at the Nevada test site have become totally or partially separated, or are threatened to become totally or partially separated as a result of the nuclear test moratorium.

There is authorized to be appropriated for fiscal year 1993, and each of the next following 4 fiscal years, such sums as may be necessary, but not in excess of $50,000,000 for any such fiscal year, to carry out the provisions of this section. Such sums shall remain available until expended.

An application for benefits under this section shall be filed after, on, or before the date that is 4 years after the date of enactment of this act.

IMPACT ASSISTANCE TO COMMUNITIES

The Department of Energy shall provide local impact assistance to communities that are affected by a nuclear test moratorium and coordinate the provision of such assistance with the Secretary of Labor.

First, programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

Second, programs carried out pursuant to the Defense Economic Adjustment, diversification, Conversion, and Stabilization Act of 1990; and

Third, programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965.

There is authorized to be appropriated for fiscal year 1993 such sums as may be necessary, but not in excess of $500,000,000 for any such fiscal year.

DIVERSIFICATION OF THE NEVADA TEST SITE

The Department of Energy shall conduct a study and make recommendations on ways in which the Nevada test site may be used for purposes other than nuclear weapons testing. In conducting this study, the Department of Energy shall consult with other Government agencies within the Federal Government, universities, State government agencies, private sector business, and others. No such study will consider the storage of nuclear waste. The study shall be completed no later than 1 year after the enactment of this act.

There are other provisions in the act.

Mr. President, I ask my colleagues to review this. This is vital legislation not only to this country but to the people of the State of Nevada.

Mr. BRYAN. Mr. President, I rise today to address an issue of critical importance as we adjust to the realities of the post-cold war era.

We must assure, during this time of great transition within our national defense structure, that the workers in our nuclear weapons production network do not themselves become forgotten victims of the victory to which they contributed so much.

These workers, both current and former, through their unselfish devotion to the national defense, contributed greatly during the cold war effort, and their contribution must be recognized by fair treatment.

I am particularly concerned about the future of the Nevada Test Site and its 9,000 dedicated employees.

Even among the defense nuclear facilities, the Nevada test site is unique.

Although the production of new nuclear weapons will end, the ability to test the stockpile of aging weapons will remain essential.

Although the frequency of required tests may decline, the unique testing infrastructure and facilities of the Nevada test site must be preserved.

The Nevada test site's fate will be different from that of other nuclear facilities, however.

The NTS is the only U.S. nuclear facility whose mission may be affected by a politically imposed moratorium.

The other body has already passed a 1 year ban on testing, and although I am hopeful that the Senate will approach the issue in a more reasoned fashion, it would be unfair to let the test site workers alone bear the burden of these changes in the international political winds.

The Nevada communities and their affected citizens cannot impose a 1-year moratorium on their financial obligations, nor should they be made to feel like pawns in a political game.

Therefore I believe that if a moratorium should be enacted, an immediate plan of assistance to affected employees and their communities must also be enacted, and the legislation introduced by my colleague, Senator REID, and I today, is designed to meet that need.

Workers for the Department of Energy's nuclear weapons facilities have been building nuclear weapons for nearly five decades.

Since 1951, the Nevada test site has been the centerpiece of our country's nuclear weapons testing program.

Sometimes it is easy to forget as memories of the cold war recede that the cold war was not only fought in foreign, covert enclaves, but also on this southwestern desert vista of dramatic escarpments and spectacular valleys.

The cold warriors were not only the nameless James Bonds of the intelligence services, but the miners, construction workers, technicians, soldiers, and scientists of the new nuclear era—united in a drive to preserve freedom and democracy, enthused by the victory of World War II, confident in their government, and driven by the high-technology vision first glimpsed when the atomic age dawned at the Trinity site in New Mexico on July 16, 1945.

Some of our greatest technological resources have been devoted to design, production, and testing of our nuclear weapons, to insure that these weapons would be safe and reliable, and would perform as needed in combat.

But after more than 40 years of nuclear brinkmanship, the world has changed.

The arms race between the superpowers now runs in reverse as the dramatic new cuts in the strategic arsenals announced this week indicate.

Our greatest challenge now is not the cold war, but rather restructuring our economy for the competitive challenges in the next century as our defense needs decline.

However, as long as we maintain a nuclear stockpile, the capability to test our remaining weapons must be assured and we must continue those necessary tests.

The Nevada testing facility is a unique resource, and the Nation's investment in it must be protected even if the frequency of testing is reduced due to the smaller number of nuclear weapons in the stockpile and the absence of new warhead designs.

Some appropriate level of testing must be maintained in order to upgrade our current weapons stockpile to the highest standards of safety, and to maintain confidence in the existing stockpile as the weapons age and components are renewed and recycled.

Despite the collapse of the Soviet Union, and advances in arms control agreements with Boris Yeltsin's new Russian state, we should not be blind to reality.

A Communist dictatorship still remains in Beijing, and their nuclear program goes on unchecked by any treaty.

Countries as diverse as North Korea, India, and Libya all have nuclear weapons development programs.

The recent reports out of Iraq should be sobbering to all of us, Saddam Hussein was dangerously close to having a nuclear weapon and may still be pursuing that goal.

As long as dictatorships are striving to acquire weapons of mass destruction, we must be vigilant.

Our nuclear deterrence, tested time and again in the Nevada desert, helped prevent the tensions between the Soviet Union and the West from erupting into a nuclear conflict.

Testing was part of that success, and we should not lightly discard such a proven capability.

However, the test site, like other DOE nuclear facilities, has environmental damage from years of aboveground and belowground testing and it should be a high priority for environmental restoration.

The existing test site work force is ideally suited for conversion to this new cleanup mission, and the vast research capabilities of the DOE laboratories should also be directed to finding innovative methods for restoring the environment at this and other DOE facilities.

Where possible, existing DOE employees should be retrained for these jobs; and job training assistance for those who look to entirely different careers must be guaranteed to all as well.

Because of its size and location, the test site is ideally suited to research in solar energy development, which I believe should have a very high priority in supplying our future energy needs.

Even a small portion of the test site, devoted to solar electric generation, could supply substantial energy resources.

But as the nuclear arsenal shrinks, the United States will no longer be in the business of producing new nuclear bombs and the existing production work force and infrastructure will shrink.

Some facilities, such as Rocky Flats, have simply served the country fully and will be retired.

Thousands of nuclear weapons-related jobs will vanish, and the economic impact on affected workers and their communities will be significant.

We have a national responsibility to acknowledge the debt owed to the nuclear production workers across the country, and I commend our colleagues, Senators WIRTH and GLENN for showing leadership in this area where the administration has been slow to react to the changing circumstances affecting the defense production complex.

I believe the legislation that Senator REID and I are introducing today is consistent with legislation generally applicable to the nuclear weapons production and design employees such as S. 2506, the Wirth-Glenn legislation, but because of the unique mission and nature of the Nevada test site, our legislation is specifically tailored to its needs and should be viewed as complementing, not substituting for, the approach to this issue already advanced by our colleagues.

I believe this new era offers unprecedented opportunities.

With adequate planning the transition to a restructured, smaller nuclear defense establishment can be managed to benefit the national interest, as well as address the concerns of affected employees and their communities.

As the need for new weapons production ends, the Nation can direct its full attention to cleaning up the environmental legacy of the cold war that unfortunately affects nearly every aspect of our defense nuclear facilities.

A crisis-driven atmosphere surrounded most of our nuclear production efforts, and sadly the environmental consequences and cost of that era are only now being realized.

Many of the jobs that once were used to produce weapons components can and should now be converted to restoring the environment around those facilities.

The cleanup effort alone is expected to last for decades and by some estimates will cost over $150 billion.

Although many communities and workers will be affected by our changing defense needs, the impacts on defense nuclear workers is somewhat unique.

Although we must adopt a comprehensive approach to the defense conversion, for defense nuclear workers we have a dual obligation: first to help with the immediate economic transition for workers and their communities; and, as importantly, to provide for the special medical needs of the nuclear work force, both past and present.

The defense nuclear workers have committed their lives to the defense of this country and some have suffered exposure to unique occupational risks.

The health of some workers has been compromised through exposure to plutonium, beryllium, and other toxic substances.

Many have been exposed to levels of radiation that may have long-term health implications.

For some, this prior occupational risk will compromise their ability to find employment in other fields, and may complicate the availability of health insurance.

The essentials of any such comprehensive legislation must provide: first, job training and assistance to displaced DOE production and nuclear testing workers, such as that triggered if a moratorium occurs under the legislation we introduce today; second, assistance to affected communities such as that also triggered by a moratorium under this legislation; third, recognition of the health care needs of all DOE nuclear workers, and collection of the necessary medical data; fourth, protection of our high-technology nuclear-technology base and redirection of the vast research capabilities to new civilian purposes, including environmental restoration and energy research and development.

I look forward to working with my colleagues to fashion legislation that accomplishes these goals. I thank you, Mr. President, and I yield the floor.

By Mr. DOMENICI (for himself, Mr. GORE, Mr. AKAKA, and Mr. BENTSEN):

S. 2866. A bill to establish a program to be known as the "ADEPT" Program, for the provision of international assistance in the deployment of energy and energy-related environmental practices and technologies, and for other purposes; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY NATIONAL LABORATORY INTERNATIONAL ENERGY AND ENVIRONMENTAL TECHNOLOGY DEVELOPMENT ACT

Mr. DOMENICI. Mr. President, I am pleased to introduce legislation, along with Senator GORE, from Tennessee. This legislation is going to establish a program that will be called ADEPT. That stands for assisting deployment of energy and environmental practices and technologies. This bill is going to establish a program that directs and gives the national laboratories of the Department of Energy, 13 of them, authority to take the lead in applying their human and technical resources toward the goals espoused at the recent U.N. Conference on Environment and Development, the Earth summit, in Brazil.

Mr. President, shortly, I am going to send this bill to the desk on behalf of myself and Senator GORE. I merely want to state for the Senate how I feel about it and why I think we ought to adopt it and adopt it quickly.

First of all, there is no more important science institution in the world, believe it or not, than the Department of Energy. That Department, with its 13 laboratories—just to name a few of them, Argonne, Oak Ridge, Los Alamos, Livermore, Sandia, and others—those laboratories have more scientists, engineers, and technical support than any institution in the world, somewhere around 38,000 within those laboratories. They are the crown jewels, as my friend from Tennessee indicated this morning and as I have stated before and others besides the two Senators have said about these laboratories, the crown jewels of American science. They are the best because we assembled the very best for very high, high American purposes.

And, now, in a changing world, we want to make sure, with the adoption of this bill, that that great, versatile, diversified science and technology base represented by the Department of Energy national laboratories, is directed and authorized to focus their strength on energy efficiency environmental cleanup and other environmental technologies for the developing countries of the world. We speak frequently about sharing, about cooperating, about helping, and many times we are using those words to talk about what America should do to help the developing countries to increase their material well-being and to do so with the best most efficient and clean technology.

This, now, is more than verbiage. This is turning loose, with their ingenuity, their ability to organize, these talented laboratories and their people, who without question, have more scientific talent in the fields we are discussing—energy efficiency, environmental cleanup, environmentally conscious manufacturing, and other technologies which will fit within this notion. We are saying to them, go out and find areas where your expertise, human and technological, can match up with a developing foreign country's needs. Think it through. Assemble the resources in a proposal type arrangement—resources can be private, governmental from the country that we are going to help, other governmental agencies of the U.S. Government seek out private business and educational institutions—and begin to work on a package that uses your expertise with the expertise of others to say to foreign countries, "We can help you move in these areas," and prove to the World that development does not have to denigrate, that development can be clean and efficient, and that energy can be clean and efficient. And we are going to ask our laboratories to take the lead.

So you can tell from the way I explain it that I believe this is a very important new mission. I believe that it will begin very shortly to be felt, to be seen, to be heard, to be touched. I believe we are going to see some successes that we can trace back to this day when with great pride as we began to help countries help themselves with our national laboratories taking the lead.

Now, some might ask, how much will it cost? We think this is not going to cost a lot in new money for the laboratories themselves. When we fully fund it in 1997, we would be at about $30 million in my recollection, I say to my friend from Tennessee. But I do not think anybody should think that this is a small amount of money, as we look at the global needs they are in the billions of dollars for environmental and energy efficiency technology, I do not think anyone should think it is small. It is the catalyst money and, who knows, one of the projects worked on by one of our laboratories might even end up being a $500 million program to finance energy in one of these countries. And we will have been there working with them, helping as scientific leaders. We might even have another agency of the Government financing part of it. AID may be in. We might have one of the international banks that we are part of financing it.

The ADEPT Program would coordinate activities at Department of Energy national laboratories with other initiatives to help poorer countries and emerging democracies develop in an environmentally sound manner. Countries participating in such technology cooperation projects would be asked to pay a share of the costs.

The scientists at our national laboratories and their international colleagues have been developing ideas to solve environmental problems for years—but there was no home for this type of project, either in DOE or in the Agency for International Development.

One project I have promoted for years, the Mexico City air quality initiative, is a good example: The Los Alamos National Laboratory had been approached by the Mexican Government about a potential collaborative program to analyze Mexico City's air pollution problems. PEMEX, a Mexican oil company, had offered to contribute half the cost—$4.5 million over 3 years—for a joint project between the Mexican Petroleum Institute and Los Alamos scientists.

This project was a great idea. It took advantage of Los Alamos expertise in computer modeling and high tech sensors; Mexican industry was willing to pay half the cost, and it would help solve a severe environmental problem and would give important input to Mexican energy policy. However, there was no agency in the U.S. Federal Government that had the mission or funds to pay for the Los Alamos half of this project. Eventually, it was funded, but it was by sheer luck, and with far too much effort on two many people's part.

That is when I got the idea that programs like the Mexico City initiative needed to be developed and funded, so they didn't happen just by luck or by accident.

At a meeting of the Senate observer group to the U.N. Conference on Environment and Development, I brought up this idea and Senator GORE, the chairman of the group, agreed with me.

Let me discuss, briefly, why I am confident that this bill will succeed where other foreign aid or international technology transfer projects have failed.

Past attempts to transfer technology to developing countries have often failed because non-governmental entities are not consulted. From the Mexico City initiative for example, I know that joint research and development projects in which participants share the cost and have an equal stake in their outcomes are more successful. Not only do they succeed in the project country, but they can also create new and follow-on markets. For example, based on the Mexico City success, last week in Rio de Janeiro, the administration announced a similar joint project for Sao Paolo, which is a close second to Mexico City for the most polluted air in Latin America. Such projects can also generate jobs in the U.S. Los Alamos has now been approached by a company that is interested in manufacturing the air quality monitors adapted from military technology for the Mexico City project.

I also know that laboratories can learn to team with industry in the development of commercial technologies. But it takes some work—this year we finally began to see the results of the National Competitiveness Technology Transfer Act of 1989. At our national laboratories, hundreds of cooperative research and development agreements have been signed.

We have found that interagency coordination is needed to expedite such joint projects. This bill sets up a mechanism to accelerate and simplify the interagency information transfer and approval.

This bill is not just foreign aid and it's not just technology transfer. Instead, it optimizes elements of both without creating a new bureaucracy.

This bill should not just be considered as only a national laboratory effort. This bill is designed to assist developing countries address the urgent global environmental problems. At the same time, it also promotes our U.S. competitiveness in this expanding world market. Some estimates suggest that this market may reach one-half trillion dollars each year.

I have heard some say that the United States lags behind Germany and Japan in environmental and energy efficiency technology. Well, maybe it's true that we might be getting behind in some, and I emphasize some, of these world markets—but U.S. abilities and skills in research and technology development are second to none.

I believe that the ideas in this ADEPT bill—the idea of using our international scientific network to work with other countries and co-develop technology adapted to their needs and goals—can get us in on the ground floor of these new markets.

While the funding is small, the Department of Energy will contribute a major share of its expertise. The scientists in the national laboratories are the key to the ADEPT program particularly those in the following 13 laboratories: the Los Alamos National Laboratory and the Sandia National Laboratories in New Mexico; the Oak Ridge National Laboratory in Tennessee; the Idaho National Engineering Laboratory; the Argonne National Laboratory in Illinois; the Brookhaven National Laboratory in New York; the Lawrence Berkeley National Laboratory and the Lawrence Livermore National Laboratory in California; the Pacific Northwest National Laboratory in Washington; the National Renewable Energy Laboratory in Colorado; and the Fossil Energy Laboratories in West Virginia, Pennsylvania, and Oklahoma.

Under the bill, the ADEPT management panel will have representatives from these national laboratories and from the Offices of Energy Research, Defense Programs, International and Domestic Policy, Conservation and Renewable Energy, Environment, Safety and Health, Environmental Restoration and Waste Management, and Fossil Energy.

Our universities will also be important ADEPT partners. I expect each of my colleagues can think of good examples of universities in his or her own State. Universities will be partners in almost every ADEPT project. The universities are the largest single element in the international scientific network and the ADEPT program could not work without them.

Other U.S. Government agencies, the Department of Commerce, the Environmental Protection Agency, the Agency for International Development and others will also be key partners. We will also have State and local government partners. Finally, ADEPT must have business partners. If the technology developed under ADEPT is to succeed in helping to solve global environmental problems, it must be commercialized.

As I said earlier, foreign technology transfer programs have failed in the past when the aid was not appropriately targeted. Our scientists will have the most success in working with their peers in those developing and transitional countries with sufficient scientific infrastructure to fully share research activities and project costs. This means most of Central and South American, Eastern European or Asian countries, or the independent states that have emerged from the former Eastern bloc which are making the transition to a market-based economy. The ADEPT program will allow their best scientists to work with the best scientist in our national laboratories and universities, and with the entrepreneurial genius of our U.S. industry.

Another past mistake is to only work with foreign governments. Under our bill, foreign partners also may include appropriate foreign businesses, foreign educational and also international—United Nations, World Bank, et cetera—institutions.

Finally, because I am a New Mexican, I believe I might have some special insight into both the global problem, environmentally sound development—such as that we are trying to promote on our own border with Mexico, and the global solution—advanced technologies such as those developed in our national laboratories.

The national laboratories of the Department of Energy have the kind of expertise, in the areas of energy efficiency, energy supply, and environmental research, urgently needed to promote technological cooperation to protect and improve the global environment. The laboratories will be an important component of the wealth of resources the United States can apply to the energy and environmental problems of the world. The ADEPT program will enhance and focus this resource to support sustainable development abroad while creating new opportunities and new markets for businesses here at home.

Mr. President, I urge the Senate to move rapidly on this important legislation, so that the national laboratories can more easily engage in the kind of technology cooperation envisioned by our negotiators in international environmental agreements. We in the Senate have voted to support the UNCED process in resolutions, but here is our chance to develop and support actions.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Laboratory International Energy and Environmental Technology Development Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The intensification of global concern for energy and environmental issues and the growing recognition of the need for rapid development and application of science and technology in resolving environmental problems is evidenced by proceedings such as the United Nations Conference on the Environment and Development.

(2) The United States has the opportunity to participate in and encourage a new era of global technology cooperation.

(3) The national laboratories of the Department of Energy have demonstrated excellence in the areas of energy efficiency, energy supply, and environmental research, and the experience of the laboratories should be used to promote technology cooperation to protect and improve the global environment.

(4) There is a need for programs to develop and deploy applied technology (including manufacturing processes) and intellectual property (including scientific information, techniques, practices, and knowledge) related to the development of applied technology in areas related to energy production and use and environmental protection.

(5) Ventures that involve the development, adaptation, and transfer of technology to meet energy and environmental needs of developing countries could significantly alter long-term trends in energy consumption and environmental protection.

(6) Vital to the success of the ventures described in paragraph (5) is the early cooperation of the governments of developing countries and qualified foreign organizations.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADEPT PROGRAM.—The term "ADEPT Program" means the program to assist in the deployment of energy and environmental practices and technologies established under section 4.

(2) ADEPT PROGRAM PROJECT.—The term "ADEPT Program project" means any project or research project to adapt, develop and deploy practices, technologies, and programs, under the ADEPT Program.

(3) COOPERATING COUNTRY.—The term "cooperating country" means a developing or transitional country that has sufficient infrastructure to participate in, and benefit from, shared research and technology development.

(4) DEPARTMENT.—The term "Department" means the Department of Energy.

(5) EDUCATIONAL INSTITUTION.—The term "educational institution" means any institution of higher education, secondary school, elementary school, or any other nonprofit organization or professional association that carries out public educational activities.

(6) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning as is provided for the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(7) NATIONAL LABORATORIES.—The term "national laboratories" means the multiprogram national laboratories of the Department of Energy including—

(A) the Los Alamos National Laboratory;

(B) the Sandia National Laboratories;

(C) the Oak Ridge National Laboratory;

(D) the Idaho National Engineering Laboratory;

(E) the Argonne National Laboratory;

(F) the Brookhaven National Laboratory;

(G) the Lawrence Berkeley National Laboratory;

(H) the Lawrence Livermore National Laboratory;

(I) the Pacific Northwest National Laboratory;

(J) the National Renewable Energy Laboratory; and

(K) the Fossil Energy National Laboratories.

(8) NONPROFIT.—The term "nonprofit", as applied to a school, agency, organization, professional association, or institution, means a school, agency, organization, professional association, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) QUALIFIED FOREIGN ORGANIZATION.—The term "qualified foreign organization" means any foreign university, foreign research institute, international organization, or such private foreign commercial enterprise as the Secretary may determine to be appropriate.

(10) SECONDARY SCHOOL.—The term "secondary school" means a school that provides secondary education as determined under State law except that the term does not include any education provided beyond grade 12.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(12) TRANSITIONAL COUNTRY.—The term "transitional country" means any country with an economy in transition from an economy that is not market-based to an economy that is market-based, including any country in Eastern Europe or Asia that was formerly part of the Union of Soviet Socialist Republics, or any other Warsaw Pact country, and which the United States recognizes.

SEC. 4. ESTABLISHMENT OF ADEPT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to be known as the "Assisting Deployment of Energy and Environmental Practices and Technologies Program" to assist in the development and deployment of energy and environmental practices and technologies. The Secretary, in cooperation with the private sector (in any case in which cooperation is feasible), shall promote international technology cooperation through the participation of the national laboratories. The Secretary is authorized to hire additional staff to carry out the ADEPT Program.

(b) PURPOSES.—The purposes of the ADEPT Program are to—

(1) increase the level of participation of national laboratories and the Department in the efforts of the United States to cooperate with foreign countries and qualified foreign organizations in addressing global energy and environmental issues;

(2) enhance the potential of national laboratories as a scientific, technical, and engineering resource in support of—

(A) the security of the United States; and

(B) the economic priorities of the Federal Government related to energy, the environment, and technological progress;

(3) use the capabilities of the national laboratories in coordination with other Federal agencies, private businesses, industries, and educational institutions of the United States in order to ensure practical and cost-effective development and application of science and technology to support sustainable, environmentally sound industrialization, especially in cooperating countries; and

(4) ensure the successful adaptation of energy and environmental technologies and practices by—

(A) establishing a mechanism for the national laboratories to respond to the mutual needs of cooperating countries, qualified foreign organizations, and the United States; and

(B) emphasizing technologies and practices that may lead to the creation of new markets.

SEC. 5. ADEPT PROGRAM PROJECTS.

(a) ADEPT Management Panel.—

(1) In general.—The Secretary shall establish, within the Department, an ADEPT Management Panel to be comprised of the following individuals:

(A) Each Director (or a designee of the Director) of each national laboratory that participates in the ADEPT Program.

(B) The Director of the Office of Energy Research (or a designee of the Director).

(C) The Assistant Secretary for Defense Programs (or a designee of the Assistant Secretary).

(D) The Assistant Secretary for International and Domestic Policy (or a designee of the Assistant Secretary).

(E) The Assistant Secretary for Conservation and Renewable Energy (or a designee of the Assistant Secretary).

(F) The Assistant Secretary for Environment, Safety and Health (or a designee of the Assistant Secretary).

(G) The Assistant Secretary for Environmental Restoration (or a designee of the Assistant Secretary).

(H) The Assistant Secretary for Fossil Energy (or a designee of the Assistant Secretary).

(2) Chairman.—The Secretary shall serve as chairman of the ADEPT Management Panel.

(3) Duties.—The ADEPT Management Panel shall ensure that—

(A) the national laboratories receive sufficient resources to encourage the formation of ADEPT Project proposals;

(B) the participation of the national laboratories in the ADEPT Program involves—

(i) the full use of departmental and laboratory systems;

(ii) cooperation in developing and carrying out ADEPT Program projects; and

(iii) the coordination of the programs and offices of the Department in carrying out the ADEPT Program;

(C) available information within the Department relating to the environment and to energy and environmental issues in cooperating countries is integrated into the ADEPT Program; and

(D) the technology and information developed under the ADEPT Program, including the technological lessons learned from the ADEPT Program, are disseminated properly among the national laboratories and other Federal agencies, and to departments and agencies of State governments, private industry, educational institutions, non-governmental organizations, and the governments of cooperating countries.

(4) Project assessment and selection.—The ADEPT Management Panel shall provide the Secretary with a written assessment of each ADEPT Program project proposal, including a consideration of the risks, costs, and benefits of the proposed project, and shall make recommendations concerning—

(A) which projects should receive funding under the ADEPT Program; and

(B) a suggested level of funding for each ADEPT Program project.

(5) Assistance in establishment of clearinghouse.—The ADEPT Management Panel shall assist the Secretary in the establishment and implementation of the clearinghouse described in subsection (e).

(6) Assistance with oversight and support.—The ADEPT Management Panel shall—

(A) develop procedures for selecting ADEPT Program projects and recommending funding for the projects pursuant to paragraph (4);

(B) assist the Secretary in the implementation of ADEPT Program projects; and

(C) assist in the oversight and support of the management of the ADEPT Program projects pursuant to this subsection.

(7) Technical advice.—In carrying out the duties under this subsection, the ADEPT Management Panel may request such advice as the ADEPT Management Panel determines to be appropriate for making determinations pursuant to this Act.

(b) Project Management.—The ADEPT Management Panel shall ensure that a project manager is appointed by the Secretary for each ADEPT Program project. Each project manager shall be an appropriate official of a national laboratory participating in the ADEPT Program project or a designee of the official.

(c) Negotiations.—To the extent allowable by law, the Secretary shall authorize the members of the ADEPT Management Panel to enter into negotiations with the appropriate officials of cooperating countries and qualified foreign organizations to establish ADEPT Program projects.

(d) ADEPT Projects.—

(1) In general.—Each ADEPT Program project approved under this section shall provide for cooperative activities through the national laboratories. Each ADEPT Program project shall provide for shared research or other cooperative activities between a national laboratory and a cooperating country. The Secretary is authorized to enter into such contracts or agreements as are necessary to carry out the ADEPT Program.

(2) Guidelines.—The Secretary shall adopt and publish guidelines for developing and presenting proposals for ADEPT Program projects. Pursuant to the guidelines, the Secretary, in consultation with the ADEPT Management Panel, shall encourage the development of, and solicit and process ADEPT Program project proposals from—

(A) officials of cooperating countries, including appropriate scientists and planners;

(B) representatives of private industries;

(C) appropriate officials of Federal agencies, including appropriate officials of national laboratories;

(D) appropriate officials of State departments and agencies;

(E) representatives of educational institutions; and

(F) representatives of non-governmental organizations.

(3) Criteria.—A project proposal for an ADEPT Program project may be submitted for any project that will—

(A) support technology cooperation through projects such as—

(i) a technology information and shopping network;

(ii) an in-country energy efficiency center;

(iii) a contact program with potential cooperating entities;

(iv) a project establishing partner laboratory status between national laboratories and the research facilities of a cooperating country; and

(v) any other activity that meets the purposes described in section 4(b);

(B) provide, or facilitate access to, training of technicians of a cooperating country in the operation and maintenance of energy, energy efficiency, and environmental technology systems;

(C) expedite the adaptation of energy and environmental research and development of the Department to meet the needs of developing countries through cooperative activities between national laboratories and laboratories or other research facilities in cooperating countries; or

(D) provide for a study to assist any developing country or transitional country with—

(i) the conducting of a national inventory of carbon dioxide and other greenhouse gas emissions; and

(ii) the development of plans to control emissions pursuant to policies established by the President.

(4) Cooperation.—For each ADEPT Program project proposal that relates to a foreign country, the Secretary shall inform the appropriate officials of the country as soon as is practicable after receipt of the proposal.

(5) Cost-sharing.—

(A) Federal share.—If feasible, the Secretary shall ensure that the Federal share of an ADEPT Program project does not exceed 50 percent of the total cost of the project.

(B) Non-Federal share.—The non-Federal share may be paid in cash or in in-kind contributions, and shall be paid by the non-Federal project participant in a manner determined by the Secretary.

(6) Cooperation with other Federal agencies.—To the extent allowable by law, the ADEPT Program shall be managed by the Secretary, independently of other foreign assistance programs carried out by the Federal Government, except that the Secretary may arrange for cooperative activities and cost-sharing through appropriate agreements and memoranda with—

(A) the Agency for International Development;

(B) the Environmental Protection Agency;

(C) the Department of Commerce; or

(D) any other Federal agency that the Secretary determines to be appropriate to carry out cooperative activities in conjunction with the ADEPT Program.

(7) Industry partnership.—

(A) In general.—The Secretary may authorize an ADEPT Program project that establishes a cooperative agreement to which each of the following is a party:

(i) A cooperating country.

(ii) An industrial representative.

(iii) A national laboratory.

(B) Treatment.—A partnership that qualifies for preference under section 12(c)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701a(c)(4)(B)) shall receive similar preference under the ADEPT Program.

(8) Consultation with manufacturers.—The Secretary shall ensure that each ADEPT Program project that—

(A) involves adapting technology for cooperating countries to achieve energy efficiency and environmental goals; and

(B) requires coordination with manufacturers of energy and environmental technology,

is carried out in a manner that ensures the coordination.

(9) TECHNOLOGY DEMONSTRATION.—The Secretary may authorize an ADEPT Program project that provides for the demonstration of technology that has the potential to achieve the energy and environmental goals described in section 4(b).

(10) TECHNICAL REVIEW.—

(A) IN GENERAL.—The Secretary may request the review of the technical or market potential of a proposed ADEPT Program project by a panel of recognized experts in the field of science or representatives of industry.

(B) PAYMENT.—The Secretary is authorized to compensate each member of the panel at a rate equal to the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day that the panel is engaged in the review.

(e) CLEARINGHOUSE.—

(1) IN GENERAL.—As part of the ADEPT Program, the Secretary shall establish a clearinghouse to provide information concerning energy and environmental technology alternatives to—

(A) the governments of developing and transitional countries;

(B) industries;

(C) educational institutions; and

(D) non-governmental organizations.

(2) COOPERATION.—In establishing the clearinghouse, the Secretary shall cooperate with the heads of other similar clearinghouses, and provide for ongoing cooperative activities with the clearinghouses.

(3) PROPRIETARY INFORMATION.—In establishing the clearinghouse, the Secretary shall take appropriate measures to ensure the protection of proprietary information.

(f) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—There is hereby established an Interagency Working Group to assist and advise the Secretary concerning—

(A) the priority of projects to be funded under the ADEPT Program; and

(B) the integration of information, including technical reviews, relating to energy, environment, and other areas that the group determines to be appropriate to serve the purposes described in section 4(b) with respect to cooperating countries.

(2) MEMBERSHIP.—The Interagency Working Group shall be comprised of the Secretary, who shall serve as the chairman, and representatives of—

(A) the Department of Commerce;

(B) the Environmental Protection Agency;

(C) the Agency for International Development;

(D) the Office of Science and Technology Policy;

(E) the National Security Council; and

(F) other Federal agencies that the Secretary considers to be appropriate.

(3) ADEPT PROGRAM PROJECT APPROVAL.—In making any decision whether to approve or disapprove an ADEPT Program project proposal, the Secretary shall take into consideration the advice of the ADEPT Management Panel and the Interagency Working Group.

SEC. 6. CONSOLIDATED PLAN.

(a) IN GENERAL.—The ADEPT Management Panel, in consultation with the Interagency Working Group, shall submit, at regular intervals (as determined by the Secretary), a consolidated plan for the ADEPT Program for review and approval by the Secretary.

(b) CONTENTS OF CONSOLIDATED PLAN.—The consolidated plan described in subsection (a) shall include the following:

(1) A detailed description of the ADEPT Program projects carried out under this Act, including an analysis and compilation of research activities, results, and funding levels.

(2) A description of planned activities for the future.

(3) Recommendations for priorities for cooperative activities under this Act based on scientific, market, energy, environmental, and geographic considerations.

(4) Recommendations for necessary legislative or administrative changes.

(c) REPORT TO CONGRESS.—Upon approval of a consolidated plan under subsection (a), the Secretary shall submit a copy of the plan to the appropriate committees of Congress.

SEC. 7. RELATIONSHIP TO OTHER DEPARTMENT OF ENERGY PROGRAMS.

(a) IN GENERAL.— Except as provided in subsection (b), the implementation of the ADEPT Program may not affect the activities and funding of qualified cooperative projects of the Department of Energy in existence on the date of the enactment of this Act, including—

(1) the Mexico City air quality initiative at the Los Alamos National Laboratory;

(2) programs for solar technologies in Mexico at the Sandia National Laboratories;

(3) programs at the Oak Ridge National Laboratory (including chlorofluorocarbon emission-reducing refrigerators for India and biomass energy in China); and

(4) programs at the Lawrence Berkeley Laboratory (including the large-scale experiment for Bombay, India, for efficient lighting and the energy efficiency program for China).

(b) SUPPLEMENTAL ACTIVITIES.—Additional and supplemental activities may be carried out in conjunction with the ADEPT Program pursuant to the procedures described in this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Energy to carry out this Act—

(1) $14,000,000 for fiscal year 1993;

(2) $18,000,000 for fiscal year 1994;

(3) $22,000,000 for fiscal year 1995;

(4) $27,000,000 for fiscal year 1996; and

(5) $30,000,000 for fiscal year 1997.

Mr. DOMENICI. I yield the floor to my friend from Tennessee at this point. I want to thank him, before I yield, for his cooperation. We have worked very hard on this bill. Our staff has worked on it. We have some examples in our laboratories that led us to this, but now we make it the law of the land and a directive to the laboratories if and when we pass it. So I yield to my friend from Tennessee.

Mr. GORE. Mr. President, I express my heartfelt thanks to my colleague, the senior Senator from New Mexico, Senator DOMENICI. As he has just stated, our two staffs have worked long and hard in developing this legislation, as Senator DOMENICI and I have done in numerous meetings about their matter.

I share his enthusiasm which he has just so eloquently expressed. We face a global ecological crisis, Mr. President, which will require changes in the way our world does business. There are many causes of this problem and there are many solutions, but one of the solutions will be the accelerated development of new technologies, new techniques, and new processes which accommodate and foster economic progress without concomitant environmental destruction.

When we confront this challenge of developing new technologies and processes, it is natural that we would think, first of all, of the talent, the resources, the capacities, the creativity, the imagination in America's national laboratories. Laboratories like Oak Ridge and Los Alamos, Argonne, Sandia, Livermore, and the others have already contributed so much to America's national security that now, when our national security faces a range of new threats, including threats to our environmental security and economic security, now, in the aftermath of the cold war, punctuated by that magnificent speech by Boris Yeltsin yesterday in this unique period, it is abundantly obvious that we need to give our national labs this new mission in order to unleash the creativity and talent and energy that is assembled at our national labs and focus it on this new endeavor.

Mr. President, I am very excited about this legislation and what it can mean. This bill will establish a program to be known as the ADEPT Program within the Department of Energy to promote the involvement of the national laboratories in the use and spread of technologies and practices and processes that address global environmental and energy issues at home and abroad.

Mr. President, as we do this, we should understand that countries around the world are eagerly seeking partnerships and cooperative efforts, not just with the United States, but with Europe and Japan as well. It is in our national security interests, our environmental interests and our economic interests, to play the leadership role in developing these partnerships. And our national laboratories have already acquired some expertise in how to go about this.

We were talking earlier this morning, Senator DOMENICI and I, about the wonderful efforts that Los Alamos has already made in Mexico, that Oak Ridge has made in China and in India. These are examples of some small start-up programs that we hope will help to provide a blueprint for a much larger and more ambitious effort, such as the one embodied in this legislation.

Twenty years ago many people assumed that new quality in business products could only come at the expense of profits. But some small start-up companies, and some Japanese firms as well, showed that by taking a different approach, asking different questions, moving upstream in the manufacturing process and redesigning the process, we could have simultaneous improvements in quality and in productivity and profits.

As we confront this environmental challenge, we are again burdened with the assumptions, on the part of some, that increased environmental efficiency can only come at the expense of profits and productivity. But we know that new technologies, new breakthroughs, new scientific discoveries, new thinking, new breakthroughs, better design of the entire process can produce the same result that is now so familiar, as a result of the quality revolution.

We can have simultaneous improvements in environmental efficiency and productivity and profits. We can accommodate economic progress without environmental destruction. But we need innovation. We need new thinking. We need scientific and technological expertise, focused on this challenge.

The national labs have the talent and expertise that can be brought to bear. They are chomping at the bit. They are raring to go. They are eager to face this challenge. This legislation, the Domenici-Gore bill, will give the green light to this new mission for the national labs and provide the seed money that will be leveraged with funds from the global environmental facility, the World Bank, the United Nations Environment Program, the United Nations Development Program, the regional banks, the IMF, and other institutions centered on new efforts that have been carefully thought through in a creative way by the men and women at our national labs.

So, Mr. President, I am, as I hope you can tell easily, quite enthusiastic about this legislation, very honored to join with my colleague from New Mexico, and very hopeful and optimistic about the net results of this legislation.

This bill would establish a program, to be known as the ADEPT Program, within the Department of Energy to promote the involvement of national laboratories in the use and spread of technologies and practices that address global environmental and energy issues, both at home and abroad. The Assisting Deployment of Energy and Environmental Practices and Technologies Program would use the national laboratories in coordination with other Government agencies, private businesses, industries, and educational institutions to support sustainable, environmentally sound development both in the United States and abroad. The program will emphasize the development of environmentally sound technologies and practices suitable for the rapidly growing markets in developing countries and countries in transition. In effect, this program will allow the best and brightest minds employed at the national laboratories to help lead the way in identifying the most sensible and profitable opportunities for American technology and industry.

To paraphrase a familiar maxim, "There is nothing as profitable as an idea whose time has come." Our chief competitors, Germany and Japan, have already launched aggressive initiatives similar to this one to stimulate the development of environmentally sound technologies and practices for use at home and abroad. They have already learned the lesson that what is good for the environment can be good for business too. Domestically, environmentally sound practices tend to result in improved cost-effectiveness, and improved competitiveness. Abroad, environmentally sound technologies are the ones most in demand. This demand stands only to be reinforced by the outcome of the recent Earth Summit in Rio de Janeiro—an international commitment to the principles of sustainable development.

We find ourselves today at a turning point in history. National and international priorities are in the midst of profound change. For the last 50 years, much of the work of our national laboratories was oriented toward the military threat perceived from our former enemy, the former Soviet Union. That perceived threat formed a central basis for the research we sponsored and the technologies we paid to have developed at the national laboratories. Today, not only has the Soviet Union collapsed, but communism itself lies in ruins. Defending ourselves and the rest of the free world from that threat can no longer constitute the central organizing principle for our actions. It is now possible for us to perceive the even greater threats that we have ignored until now—the threats to the global environment. The signals are everywhere, Mr. President—the hole in the ozone layer, the greenhouse effect, the loss of entire species due to environmental stresses. The global environment is under siege.

The time is upon us to reorganize the priorities of our major Federal initiatives, starting with the national laboratories, our greatest reservoir of intellectual strength. This bill is the first step in that reorganization. Let us take that first step, Mr. President. Let us demonstrate this act of leadership. American businesses and industry stand ready to follow our lead, but we must pave the way.

Mr. President, I ask unanimous consent to have a summary of the legislation printed in the RECORD at the conclusion of my remarks. I will conclude with a word of thanks, again, to my colleague from New Mexico.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED DEPARTMENT OF ENERGY NATIONAL LABORATORY INTERNATIONAL ENERGY AND ENVIRONMENTAL TECHNOLOGY DEVELOPMENT ACT

Overview (Sections 1 & 2): This "Domenici-Gore" bill establishes the "Assisting Deployment of Energy and Environmental Practices and Technologies" program within the Department of Energy. The bill, which will be referred to the Senate Energy and Natural Resources Committee, authorizes and directs the DOE national laboratories to take the lead in addressing global environmental and energy issues. The program establishes a mechanism to coordinate the laboratories with other government agencies, private businesses, industries and educational institutions, to promote environmentally friendly technology development projects in "cooperating countries."

Section 3. Important definitions: "Cooperating countries" are developing and transitional countries with sufficient scientific infrastructure to share research activities and project costs, such as many countries in Latin America and the former Warsaw Pact; "National laboratory" means a DOE multipurpose laboratory, including the 11 listed; "Qualified foreign organization" means appropriate foreign businesses, foreign educational and international institutions.

Section 4. Summary of purposes: (1) to increase participation in and enhance the potential of the national laboratories in technology cooperation to benefit the global environment (2) to ensure adaptation of ADEPT technologies and creation of new markets by early involvement of and cost sharing with the private sector and foreign partners.

Section 5. How ADEPT projects are encouraged, proposed, reviewed and funded: The Secretary authorizes the national laboratories, in coordination with U.S. and cooperating country partners, to negotiate, develop and present proposals for ADEPT projects. The project proposals should involve the laboratories in developing cost-effective technology to solve environmental and energy related environmental problems in cooperating countries. Projects may also be cooperation supporting activities such as a clearinghouse, or technology demonstrations to provide information on energy and environmental technology alternatives to potential ADEPT partners in the U.S. and abroad. Officials of foreign countries—including appropriate scientists and planners—representatives from industry, educational institutions, non-governmental organizations or any governmental agency may also submit proposals. Small business proposals shall be given preference as in previous technology transfer legislation.

An intra-DOE Management Panel, an Interagency Working Group and non-governmental business and scientific reviewers will advise the Secretary on project assessment and approval. These groups will also help to coordinate projects within the government, with foreign nations and organizations and with U.S. business and educational institutions. The Management Panel, chaired by the Secretary's designee and composed of the national laboratory directors and appropriate DOE officials, will oversee and support the ADEPT program. This Panel will also, as necessary, implement policies to protect intellectual property rights. The Working Group, comprised of the Secretary's designee and representatives from the Department of Commerce, EPA, U.S. A.I.D., OSTP the NSC and other federal agencies the Secretary deems appropriate, is responsible for ranking the project proposals and integrating information from their respective jurisdictions.

In any case feasible, the Secretary is to require 50 percent non-federal funding of ADEPT projects. This non-Federal share may come partially or wholly from any one of the following: foreign government or other qualified foreign organizations, including businesses and educational institutions or international organizations, U.S. business or educational institutions or non-Federal governmental agencies. The bill also encourages coordination and cost-sharing with other federal programs—but it requires that ADEPT programs be managed independently of foreign assistance programs.

Section 6. The Management Panel will prepare a "consolidated plan", with input from the Interagency Group, which evaluates the program and suggests additional legislative or administrative actions.

Section 7. Existing international technology cooperation projects which are qualified to be ADEPT projects may be funded under the ADEPT program.

Section 8. The program is authorized to be funded at $14 million for FY 1993, $18 million for FY 1994, $22 million for FY 1995, $27 million for FY 1996 and $30 million for 1997.

Mr. DOMENICI. While Senator GORE is still on the floor, I ask, if he agrees—I did not mention and I do not think he mentioned that this legislation does not only cover underdeveloped countries but, also and we have purposely focused in on, what we call transitional countries. The countries that are being formed as a result of the fall of Communism, have a lot of expertise in science and technology. If their scientists and engineers team with our scientists to put the packages together to do environmental and energy research we will benefit, they will benefit, and the world will benefit.

I ask Senator GORE to comment a moment on that.

But I want to close by saying this could be an endeavor that produces a lot of jobs for Americans, because our technology and science is better than anyone's in the world. If the United States takes the lead in these type of projects and does it right, it will be American companies that are part of the team that the laboratories put together with their own resources and that they use as part of their catalytic effort.

Would the Senator agree?

Mr. GORE. Mr. President, if the Senator will yield, I agree wholeheartedly with both points. Yes, this is focused on the transitional economies as well as the developing countries of the world. And, yes, it is likely to create a great many new jobs in the United States, not least because it will be accompanied by a subtle shift in emphasis toward applied research as we take these new innovations in the laboratories and look at the practical, real-world problems to which they can be brought to bear immediately and urgently.

So, I agree on both counts. I, too, thank my colleagues on the floor for their forbearance.

By Mr. DECONCINI:

S. 2867. A bill to prohibit the use of U.S. Government aircraft for political or personal travel, limit certain benefits for senior Government officers, and for other purposes; to the Committee on Government Affairs.

SENIOR GOVERNMENT OFFICER BENEFIT LIMITATION ACT

Mr. DECONCINI. Mr. President, recently the American public has been bombarded by reports of abuses and extravagant spending by the Federal Government on the part of both the legislative and executive branches. Article after article in newspapers around the country have provided detailed account of the outlandish misuse of taxpayer money. People are rightfully outraged, and they are having a difficult time accepting that their tax dollars are providing cars and drivers and planes and health clubs for employees of the Federal Government. During a time in this country's history when vital social programs are going unfunded, when violence and drug-related crime is out of control, when the recession is forcing a great number of Americans to forgo necessities, it is out-and-out unacceptable to see Government officials operating as if taxpayers are willing and able to continue supporting their luxurious habits.

It is especially offensive to see expensive-to-operate military and agency-owned or leased aircraft used for personal and political purposes. Accordingly, today I am introducing legislation which will limit the travel on Government aircraft to official Government business only with the sole exception of the President and his immediate family. My bill would also exempt the Vice President and his immediate family if the cost for personal and political travel and operation and maintenance of the aircraft are fully reimbursed. The bill would, therefore, eliminate the use of Government aircraft by executive branch officials for official business when it is combined with personal or political purposes.

Additionally, every 3 months beginning October 1, 1992, agencies using Government aircraft would be required to certify that each traveler uses Government aircraft for official purposes only. For the same 3-month period, agencies must submit a report to the General Services Administration [GSA] on all uses of Government aircraft, including a list of travelers. The bill further requires that the Administrator of General Services certify that the use of these aircraft complies with Office of Management and Budget Circular A-126, which sets guidelines for use of Government aircraft. All of this information will then be made available to the public.

Mr. President, detailed reports on the travel practices of several high-level Government officials have shown us the outrageous costs incurred at public expense for political and pleasure travel. It is unconscionable to expect the American people to foot the bill for ski vacations for Government officials and their families or for trips to the family dentist. I find it equally distressing that taxpayer dollars are financing campaign stumping and political fundraising trips all across the country by Government officials.

The accounts of Governor Sununu's excursions while Chief of Staff are a prime example of the need for the legislation I am introducing today. From April 1989 to April 1991, according to the General Accounting Office, Governor Sununu took 66 trips on military aircraft—35 of which were either strictly personal or political in nature, or mixed with official business. The cost of the 66 trips is estimated at over $774,330. Under current White House policy, Governor Sununu was obligated to reimburse the Government only $61,585 of this amount, the equivalent of a commercial coach fare plus a dollar, leaving over a half a million dollars on the taxpayers' tab. Just one of the Governor's trips—a ski trip to Vail, CO on an Air Force jet with three other passengers—according to an April 21, 1991 Washington Post article, cost the Government more than $30,000 based on standard Air Force charges. The same article went on to say that a commercial flight to the same destination for a single passenger would have cost 90 percent less.

Mr. President, these are the types of expenses we are talking about on a governmentwide basis. I don't mean to pick on Governor Sununu. In his defense, policies regarding use of these aircraft were not clear at that time. Frankly, travel policies are still vague and ill-defined. This bill takes care of that problem by not only limiting the use of Government aircraft, but clarifying the conditions under which they may be used.

Mr. Skinner's travel record while Secretary of the Department of Transportation further confirms the fact that use of Government aircraft is out of control. According to a recent segment of "60 Minutes," Skinner made 150 trips at a cost of over $1 million in his 3 years heading the Department of Transportation, often mixing official business with personal and political occasions. Among the "vital" business conducted by Mr. Skinner on these trips at taxpayer expense were several golf trips as well as numerous political speeches in his hometown of Chicago. I'm not so sure that the American people would agree with Mr. Skinner's explanation that it was official and necessary for him to receive pilot training in an FAA Cessna simulator at a cost of $6,175, or to upgrade his skills in a Citation jet taxpayer-paid at $1,111 an hour for 250 hours.

Cabinet members are also billing the taxpayer for political junkets added to official business trips—a practice endorsed by the White House. According to a May 5, 1991, Los Angeles Times article, during the 1990 elections, "top Cabinet officers were strongly encouraged by Bush's political advisers to arrange political appearances on behalf of Republican candidates whenever they visited a city at government expense." The White House went so far as to provide a list of congressional districts that the officials were to visit to help Republican candidates. The Times reported that the Republican Party reimbursed the Government for a portion of the travel expenses, but this usually ended up being only a tiny fraction of the overall cost. The article cites Interior Secretary Manuel Lujan's attendance at a political event while in Natchez, MS, for the dedication of a historical site. The total cost of his airfare was $445, with the Republican National Committee picking up a mere $47, or one-tenth the charge.

We know that there has been extensive abuse of military and Government-owned or leased civilian aircraft. We have documented evidence that this is so. The General Accounting Office conducted investigations on the misuse and mismanagement of Government aircraft in 1977, 1983, and again in 1989. Each time GAO found the policies to be vague with enormous loopholes opening the door for all kinds of abuses. The information has served as a repeated warning that the system is out of control and something must be done about it. Well, reforms have been slow in coming and now we are forced to face reports in the newspapers and on "60 Minutes" of the outlandish expenditures paid to ferry around Government officials. Trips of every nature, necessary and not, have been allowed and billed directly to the taxpayer. Mr. President, these practices cannot be allowed to continue.

The cost to operate and maintain our Government aircraft is staggering. The 1989 GAO report, "Government Civilian Aircraft: Central Management Reforms Are Encouraging but Require Extensive Oversight" found that the Government owns 1,200 civilian aircraft worth at least $2 billion and costing about $750 million a year to operate and maintain. Additionally, at least $100 million is spent annually to lease or charter about 5,000 more aircraft. These figures do not even include military planes.

To gauge the cost of our military aircraft, GAO issued a second report in April of 1992, "Military Aircraft: Policies on Government Officials' Use of 89th Military Airlift Wing Aircraft." GAO found that 20 of the 22 planes of the 89th Wing are available on a Governmentwide basis for executive and legislative branch officials. The remaining two are Air Force One and Two and are for exclusive use by the President. The cost to operate the 89th Wing, not accounting for aircraft depreciation, was at least $150 million in 1991 alone. According to GAO, this amount includes pay for support personnel, fuel, and maintenance, but does not include the cost of wear and tear on the aircraft, acquiring new aircraft, or the construction of military facilities to house the aircraft. In addition, figures for the aircraft used by the President are not available due to security reasons. I can tell you that OMB estimates that Air Force One costs about $26,000 an hour to operate, and the overall annual cost is in the millions of dollars. GAO reports that the military has another 390 operational support aircraft available for use by Government officials, and no cost estimate has been made on those planes.

For the military and civilian aircraft on which GAO has obtained information, the annual expenses exceed $1 billion. This number probably falls far short of what is actually spent. It is impossible to speculate on the additional expenses incurred by the 390 military support aircraft used for passenger transport.

To repeat: On three separate occasions, the General Accounting Office has called for comprehensive reform of our use and management of Government aircraft. OMB responded to GAO's 1983 recommendations with circular A-126, requiring agencies to study the cost effectiveness of acquiring and maintaining aircraft and to justify the cost of using these aircraft as opposed to commercial means for passenger travel. However, in its 1989 report, GAO found the OMB policies laid out in Circular 126 were ambiguous and easily manipulated. In May of this year, OMB released a revised and strengthened Circular A-126. Just 2 weeks ago, GAO testified before Senator SASSER's Governmental Affairs Subcommittee on General Services, Federalism and the District of Columbia. GAO stated that the revised circular puts the policies in place but still lacks enforcement. Agencies comply if they feel like it, but there is still no one overseeing the process to make sure the regulations are carried out. This bill would, in effect, make adherence to Circular A-126 the law.

Additionally, GAO has consistently recommended that the General Services Administration [GSA] serve as the coordinating agency for collecting information and certifying the use of Government aircraft. GSA has taken steps to set up a framework for these activities but has done little else. There has been no strong effort to make sure that agencies submit information concerning the use of aircraft to GSA and there is no penalty for noncompliance. My legislation reinforces already established recommendations and commitments to have GSA oversee OMB policies. Agencies would have to provide a full report to GSA on the certification of every traveler on Government aircraft and all uses of these aircraft for official business. Such reports would be made available to the Congress and to the public ensuring that travel is valid and official.

Mr. President, I now want to turn to the other perks. There has been a virtual laundry list of perks making the headlines—chauffeur-driven limousines and free prescriptions among others. "There's no such thing as a free lunch" simply doesn't hold true for the U.S. Government. What I have discovered over the past several months is that even the Office of Management and Budget, whose job it is to review the budgets and activities of all executive branch agencies, is having a difficult time trying to identify the perks, calculate their costs, and explain the policies with respect to their use.

I chaired a hearing held before the Appropriations Subcommittee on Treasury, Postal Service, and General Government on April 8, 1992, where OMB Director Darman was the principal witness. We discussed Government travel, use of aircraft, health and fitness facilities, and executive dining rooms. Director Darman promised to provide the information requested by the committee to the best of his ability. Since the hearing, Mr. President, and despite the excellent cooperation from OMB, the information has been slow in coming, particularly from the Department of Defense, and the reliability of the data is questionable. One thing is clear—for many of these privileges there is no Governmentwide policy—the application of rules vary from agency to agency. So do the costs.

Mr. President, I want to take a few minutes to go over the current policies and costs and explain what my legislation will do.

Vehicles and drivers: Currently, 14 executive branch departments and agencies lease approximately 300 luxury vehicles specifically for the purpose of transporting Government executives from place to place, predominantly in the Washington, DC, area. The annual lease and fuel costs for these vehicles total $1.2 million. In addition, the executive branch employs approximately 190 drivers for these vehicles at an annual cost of approximately $4.5 million. The policy appears to be that aside from those individuals who are authorized portal-to-portal service, the cars are available to any high-level officials for attending meetings they define as official. The types of vehicles range from Lincoln Town Cars for chauffeuring Government bigwigs to Mercury Grand Marquis' and Chevrolet Celebrities. Some agencies like DOD have 46 others like VA have 7. And the lease costs vary from agency to agency. My legislation would prohibit the use of appropriated funds for luxury vehicles and drivers, for any officials except assistant secretaries and above, agency heads and their chief deputy. Portal-to-portal service authorized under 31 U.S.C. 1344 would not be affected.

Health and fitness facilities: There are 164 physical fitness facilities for use by Government employees located within GSA-controlled office space throughout the country. The annual cost to operate and maintain these facilities is $15.8 million with $2.6 million being contributed by participating employees. In non-GSA controlled space, there are 187 physical fitness facilities with annual costs of approximately $4.4 million—and this amount does not include the costs for Department of Defense facilities. In addition, many agencies permit appropriated funds to be used to cover the costs of employee memberships in private health club facilities. In this category, there are approximately 13 executive branch agencies which permit Federal funds to be used to pay for memberships costing approximately $1.6 million annually. Employees contribute only $187,500 per year to offset those costs. And this list is not inclusive—Department of Defense information has not been made available.

Policies regarding fees for health club membership vary from agency to agency. For example, the White House has two health and fitness facilities. One, known as the White House Athletic Club, which is open to all Executive Office of the President employees, charges an initiation fee of $35 and annual membership dues of $208. The other, the senior staff fitness center, which is open to deputy assistants to the President and above, charges no fees. In related benefits, according to a General Accounting Office survey of 77 Federal agencies, 25 agencies permit employees to use administrative leave without loss of pay for exercise purposes. Some offer none, others up to 3 hours per week with pay. According to GAO, if 10 percent of all Federal employees were to use 2 hours of administrative leave per week for exercise, it would cost the Federal Government $380 million annually. My legislation would prohibit the use of appropriated funds to pay for either the cost of operating or maintaining these facilities or membership fees for use of such facilities. For those Government agencies which require a physical fitness standard for the performance of certain jobs, that is, law enforcement and the military, exceptions will be made but only to cover the costs for those employees where fitness is a requirement of the job. In addition, no administrative leave will be permitted for employees for exercise purposes.

Executive dining rooms and kitchens: Presently, 11 of 17 executive branch departments and agencies have dining rooms or kitchens for the exclusive use of preparing and serving meals to certain senior Government executives. Annual costs to operate and staff these facilities total $4 million. Reportedly, the cost of food is fully reimbursed by the users. The Department of Defense has five such dining rooms with 95 staff and annual costs totaling $2.8 million. This figure does not include the cost of the White House Mess. The Department of the Treasury has one dining room available to deputy assistant secretaries and above. It is staffed by five individuals with annual costs of $137,900. Again, the cost of food is supposed to be fully reimbursed. Yet, I have a menu here for the Treasury Secretary's dining room which shows that it costs the Secretary $4.75 for a meal consisting of lobster tail, clam chowder, salad bar and dessert. For executive dining rooms, kitchens, and associated staff, my bill would prohibit the use of appropriated funds for operating or maintaining those facilities or for the costs of food. Employee cafeterias will not be affected.

Golf courses: With the assistance of OMB and the research office at Golf Digest magazine, we were able to identify 280 golf courses owned and operated by the Department of Defense, the Veterans' Affairs Administration, the Department of Health and Human Services, and the Department of Transportation. Of this amount, 220 are 18-hole equivalent courses. Not only do these courses not return a profit to the General Treasury, the courses actually cost the American taxpayer $6 million a year to operate. Currently the fees to use these courses vary from course to course and by individual rank. The public does not have access to any of these courses. My legislation will do three things for the taxpayer:

First, it will help reduce the serious shortage of public sector courses by opening all 220 of these facilities to the public.

Second, prohibit the use of appropriated funds to subsidize these courses.

Third, open the courses to the public and require that they be turned over to professional golf management companies to operate through concessionaire contracts. This action would return $100 million a year in revenue to reduce the Federal budget deficit.

There are also approximately 40 additional DOD/VA courses located outside the United States which have been excluded from this legislation.

Mr. President, I have been and will continue to be, a strong supporter of our military. Nevertheless, the American people are demanding that we do away with special perks and these 220 golf courses are a special perk. In addition, if the Federal Government is going to hang on to these courses then let's utilize them in the best possible manner and reduce the Federal deficit in the process.

Medical health units: The Public Health Service operates approximately 175 health units staffed by fulltime nurses and doctors on a limited basis. The annual costs to operate these health units is approximately $48 million. This does not include the costs for those medical services provided by non-Public Health Service personnel. For services which could range from comprehensive physical exams to EKG's and allergy shots, no fees are charged employees. My legislation would be a requirement that employees contribute to the costs of these services by paying a nominal access fee to be established by each agency under guidelines proscribed by the Department of Health and Human Services and the Office of Personnel Management.

Political appointments: Mr. President, I also have concerns about another practice which may not be classified as a "perk," but certainly has costly consequences. I am referring to the Presidential appointment of political or confidential positions throughout executive branch agencies. Since 1980, the number of Presidentially appointed positions known as schedule C's and noncareer Senior Executive Service [SES] positions has grown by 10 percent to 1,742 schedule C's and 761 noncareer SES's. GAO estimates that the annual salary and benefit costs of an average schedule C position is $65,000 and for a noncareer SES position, $133,000. Based on these figures I estimate that for the fiscal year ending September 30, 1991, these positions cost the Federal Government approximately $214,443,000 per year. For Presidentially appointed positions, the bill requires a 5-percent reduction in these positions during fiscal year 1993; an additional 5-percent reduction during fiscal year 1994; and an additional 5-percent reduction during fiscal year 1995.

Mr. President, I was shocked at the full scope and costs of some of these executive branch perks. Let me underscore what I have already said: we have reached a point where these special privileges have gotten out of hand, and something must be done. The legislation I am introducing today will place long overdue restrictions on perks, eliminate some, and ultimately reduce the costs to the taxpayers. I do not believe the provisions in this bill will be onerous on Government executives or other employees of the executive branch. Instead, the measure will curb the potential for abuses and reduce Federal spending at a time when we are forcing Federal agencies to cut back on many of the important services they provide to the American public. The American public is outraged—and rightly so—by what they see as a Government out of touch with the American people, a Government run by perks and above the law officials. When Government tells the American public that we all must sacrifice for the national good, we in Government better make 100 percent certain that we start in our own backyard.

Mr. President, I ask unanimous consent that the accompanying charts be printed in the Record, along with a copy of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Government Officer Benefit Limitation Act of 1992".

SEC. 2. PROHIBITION OF PERSONAL OR POLITICAL USE OF UNITED STATES GOVERNMENT AIRCRAFT.

(a) In General.—(1) Notwithstanding any other provision of law, no aircraft which is owned or leased by the United States Government (including military aircraft) may be used for—

(A) any personal, political, or authorized special use travel; or

(B) any official travel which is mixed with personal or political activities.

(2) For purposes of this section the term "authorized special use" means use of a Government aircraft for the travel of an executive agency officer or employee, where the use of the Government aircraft is required because of bona fide communications or security needs of the agency or exceptional scheduling requirements.

(b) Exception.—Subsection (a) shall not apply to use of aircraft by—

(1) the President or his immediate family (subject to reimbursement as provided under law); or

(2) the Vice President or his immediate family if the full costs, including the costs of operating and maintaining such aircraft, for such travel are reimbursed to the United States Government.

(c) Reports on Use.—(1) Each executive agency which maintains or uses Government owned or leased aircraft (including military aircraft) shall—

(A) require each traveler to certify that any travel on such aircraft is necessary for official purposes; and

(B) beginning on October 15, 1992, and on the fifteenth day of every third month thereafter, submit a report to the Administrator of the General Services Administration with regard to the preceding 3-month period that—

(i) certifies that the use of such aircraft complied with Office of Management and Budget Circular A-126 as modified by the provisions of this Act; and

(ii) identifies each traveler on such aircraft.

(2) After the receipt of each report, the Administrator shall review each certification to ensure that the use of such aircraft complied with Office of Management and Budget Circular A-126 as modified. The Administrator shall make the information in any such report available to the public.

SEC. 3. GOLF COURSES.

(a) Limitation.—No funds appropriated or otherwise made available to any executive agency may be expended to equip, operate, or maintain any golf course owned or operated by an executive agency. Any such golf course shall be operated by concessionaire contract and open to use by the general public.

(b) Exception.—Subsection (a) shall not apply to any golf course located in a remote or isolated area.

SEC. 4. EXECUTIVE DINING FACILITIES.

No funds appropriated or otherwise made available to any executive agency may be expended to subsidize the costs to equip, operate, or maintain dining rooms or kitchen facilities for the exclusive use of senior Government officers or to purchase or prepare food for consumption by such officers. This section shall not apply to dining rooms, facilities, or food for—

(1) the exclusive use or consumption of the President of the United States or his immediate family; or

(2) use to carry out the official representational functions of the President or for those official activities conducted by executive branch departments or agencies for which representation funds have been authorized and appropriated.

SEC. 5. LUXURY VEHICLES FOR TRANSPORTING GOVERNMENT OFFICERS.

(a) Luxury Vehicles.—No funds appropriated or otherwise made available to any executive agency may be expended to acquire, through lease or purchase, luxury vehicles for the purpose of transporting senior Government officers, except for—

(1) a Government officer as authorized under section 1344 of title 31, United States Code;

(2) a Government officer who holds the office of Assistant Secretary or higher; or

(3) the head of any executive agency and the second highest ranking officer in such agency.

(b) Drivers.—No funds appropriated or otherwise made available to any executive agency may be expended to employ drivers for the exclusive use of transporting senior Government officers, except the officers described under subsection (a).

(c) Purchase or Lease of Luxury Vehicles.—The General Services Administration, in consultation with the Office of Management and Budget shall prescribe regulations and uniform guidelines for the purchase or lease of luxury vehicles for or by the United States Government, that shall ensure the least cost to the United States Government. On October 1, 1993, and on October 1 of each year thereafter, the General Services Administration shall submit a report to the Congress on—

(1) executive agency compliance with such regulations;

(2) the number of all vehicles purchased or leased by each executive agency;

(3) the costs of vehicle purchases or leases;

(4) the type of each such vehicle and the purpose for which it is used; and

(5) the identification of Federal officers and employees who used such vehicles.

(d) Definition.—For purposes of this section the term "luxury vehicle" means a class IV or V sedan (as classified under section 101-38.101-1 of title 41 of the Code of Federal Regulations as in effect on the date of the enactment of this Act) or other large sedan-type vehicle with above standard features.

SEC. 6. PHYSICAL FITNESS FACILITIES.

(a) Costs and Fees.—Subject to the provisions of subsection (c), all costs to equip, operate, and maintain physical fitness facilities for use by Federal employees shall be fully paid by the users of such facilities and no appropriated funds made available to any executive agency shall be expended for the costs of membership or other fees for the use of physical fitness facilities, including exercise equipment and classes.

(b) Administrative Leave.—No executive agency may grant administrative leave to Federal employees for the purpose of physical fitness activities, except with regard to a Federal employee described under subsection (c).

(c) Exception.—The provisions of subsections (a) and (b) shall not apply to any executive agency with regard to employees in positions which require such employees to meet physical fitness standards as a condition of employment. Funds for purposes described under subsection (a), may be expended only for the costs of maintaining the physical fitness of such employees.

(d) Definition.—For purposes of this section the term "physical fitness facility" means any facility used for physical exercise that provides equipment and services for such use in addition to lockers and showers.

SEC. 7. MEDICAL SERVICES.

(a) Fees.—The head of each executive agency shall charge a nominal fee established under subsection (b) to any employee of such agency for access to medical services provided by the Public Health Service, the employing agency, any other Federal agency, or other medical service provider for which no charge is otherwise paid by such employee. Such fee shall be retained or paid to the agency providing such medical service to defray the costs of operating facilities for such service.

(b) Establishment of Fees.—The Secretary of Health and Human Services, in consultation with the Office of Personnel Management shall establish the fees to be charged for access to medical services described under subsection (a).

SEC. 8. REDUCTION OF NONCAREER SENIOR EXECUTIVE SERVICE POSITIONS AND SCHEDULE C POSITIONS.

(a) Limitations.—The total number of Senior Executive Service positions in all executive agencies filled by noncareer appointees and the total number of positions in all executive agencies of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations, shall each be reduced—

(1) on no later than October 1, 1992, by 5 percent of the respective total numbers of such positions as existed on September 30, 1991;

(2) on no later than October 1, 1993, by an additional 5 percent of the respective total numbers of such positions as existed on September 30, 1991; and

(3) on no later than October 1, 1994, and thereafter, by an additional 5 percent of the respective total numbers of such positions as existed on September 30, 1991.

(b) Conforming Amendments.—Sections 3133 and 3134 of title 5, United States Code, are amended by adding at the end of each section the following new subsection:

"(f) This section is subject to the limitations of section 8 of the Senior Government Officer Benefit Limitation Act of 1992.".

SEC. 9. DEFINITIONS.

For purposes of this Act the term—

(1) "executive agency" has the same meaning as such is defined under section 105 of title 5, United States Code, and includes the Executive Office of the President; and

(2) "senior Government officer" means any person—

(A) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code;

(B) employed in a position in an executive agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;

(C) employed in an executive agency in a position that is not referred to under paragraph (1) (other than a position that is subject to pay adjustment under section 1009 of title 37, United States Code) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5304 of title 5, United States Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level V of the Executive Schedule; or

(D) appointed by the President to a position under section 105(a)(2) (A) or (B) of title 3, United States Code, or by the Vice President to a position under section 106(a)(1) (A) or (B) of title 3, United States Code.

SEC. 10. REPORT.

(a) IN GENERAL.—No later than September 30, 1993, and on September 30 of each year thereafter the Office of Management and Budget shall submit a report to the Congress on the compliance of the executive branch of Government with the provisions of this Act.

(b) SENIOR POSITION REDUCTIONS.—No later than September 30, 1992, and again on September 30, 1993, the Office of Management and Budget shall submit a report to the Congress on the compliance of the executive branch of Government with the provisions of section 8 of this Act.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall be effective on and after October 1, 1992.

(b) EXCEPTION.—The President, the Office of Management and Budget, and the Office of Personnel Management shall take such necessary actions on and after the date of the enactment of this Act to carry out the provisions of sections 8(1) and 10(b) of this Act.

DOD/VA GOLF COURSES: POTENTIAL REVENUE PRODUCERS OF 220 18-HOLE EQUIVALENTS

Based on following rates: Green fees, 18-holes, $15.00; Cart Rentals, $10.00; Management fee, $75,000.00; Annual Maintenance, $350,000.00.

If a course generated 35,000 rounds/net total income: $250,000.

If a course generated 55,000 rounds/net total income: $750,000.

Actual examples: Andrews AFB, MD, 90,000 rounds (36 holes); Ft. Rucker, AL, 65,000 rounds (18 holes); Ft. Belvoir, VA, 90,000 rounds (27 holes).

Total DOD/VA 18-Hole equivalents in the United States: 220 times 45,000 rounds/net income $500,000 equals possible revenue to the U.S. Treasury of $110 million.

Source: Golf Digest magazine.

SECRETARY OF THE TREASURY'S EXECUTIVE DINING ROOM MENU

April 17, 1992

Breakfast: fresh fruit, English muffins, Danish rolls, toast, various fruit juices, cereals, yogurt, coffee, tea, milk, Price: $2.00.

Lunch: clam chowder, broiled lobster tail, butter/lemon dip, oven roasted Red Bliss Potatoes, buttered fresh asparagus, complete salad bar, poached pear with chocolate and raspberry sauce, Price: $4.75.

This year the taxpayer will eat $126,048 of the Secretary's tab.

Source: The Department of Treasury.

EXECUTIVE DINING FACILITIES—FISCAL YEAR 1992

Department-agency	Executive mess/dining facility	Staff size (FTEs)	Salary costs	Space/utilities rent costs	Miscellaneous costs	Total annual cost to Government
Agriculture	No	(1)	(1)	0	0	o
Commerce	Yes	2	$58,505	$37,523	$1,000	$97,028
DOD/OSD	Yes	23	460,288	42,489	0	502,777
DOD/JCS	Yes	11	217,606	41,046	0	258,652
DOD/Army	Yes	18	343,536	59,635	0	403,171
DOD/Navy	Yes	26	937,000	77,328	0	1,014,328
DOD/Air Force	Yes	17	542,728	49,034	0	591,762
Education	No[2]	1	32,423	0	450	32,873
Energy	No[2]	1	34,835	5,425	0	40,260
HHS	Yes	2	57,500	45,298	0	102,798
HUD	No	(1)	0	0	0	0
Interior	Yes	0.5	13,508	40,416	1,584	55,508
Justice	Yes	1	36,399	20,524	1,000	57,923
Labor	Yes	2	59,990	39,445	540	99,975
State	Yes	Contract	0	61,054	0	61,054
DOT–OST	Yes	5	138,000	58,605	15,000	211,605
DOT-Coast Guard	Yes	2	65,000	38,756	0	103,756
Treasury	Yes	5	122,548	0	3,500	126,048
Veterans[3]	Yes	Contract	0	50,464	2,970	53,434
EPA	No	(1)	0	0	0	0
GSA	No	(1)	0	0	0	0
NASA	Yes	3	77,158	46,204	5,600	128,962
Totals		119.5	3,197,024	713,246	31,644	3,941,914

[1] Not applicable.

[2] The Departments of Education and Energy have a kitchen and steward on staff who will prepare and serve meals to Secretary, Deputy Secretary and senior staff as required, but do not have a separate dining facility.

[3] The VA Executive Dining Room (EDR) has been operating for less than one year in VA's temporary central office building. It is financed by non-appropriated funds (a self-financing revolving fund that supports cafeterias and hospital gift shops throughout the VA system). The Secretary has decided to replace the EDR with a take-out/cafeteria open to all VA employees.

Source: Department and agency staff. OMB did not have sufficient time to verify these data.

TAXPAYER SUPPORTED EXECUTIVE LIMO/CHAUFFER SERVICE

[Total departmental cost of executive transportation $5.7 million]

	No. of cars	Annual cost of cars	No. of drivers	Annual cost of drivers	Total
Justice	29	$441,799	11	$261,328	$703,127
Transportation	22	85,080	7	185,469	270,549
Veterans Affairs	7	32,808	10	262,095	294,903
Commerce	18	73,950			73,950
Agriculture	10	43,283	11	255,064	298,347
Education	14	58,400	11	274,343	332,743
Energy	19	133,818	16	380,208	514,026
HHS	9	42,250	8	201,508	243,758
Interior	11	26,400	2	58,352	84,752
Labor	6	27,108	5	134,374	161,482
State	18	177,027	14	331,000	508,027
Treasury	20	72,864	20	446,037	518,901
Defense	87	641,745	30	731,715	1,400,000
Totals	270	2,000,000	145	3,600,00	5,700,000

Source: OMB.

By Mr. CRAIG (for himself and Mr. BROWN):

S. 2868. A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes; to the Committee on Labor and Human Resources.

DAVIS-BACON REPEAL ACT

• Mr. CRAIG. Mr. President, Last week, the other body narrowly failed to pass the balanced budget amendment to the Constitution. Opponents repeated the mantra, "All we need is the political will, not a constitutional amendment, to balance the budget."

Today, I am introducing a bill that will challenge our colleagues to put their deficit reduction where their mouth is, to see if they have the political will to support, one at a time, the kinds of policy changes that will be absolutely necessary to take us to a balanced budget.

I am pleased to be introducing a bill to repeal the outdated, obsolete, and counter-productive Davis-Bacon Act of 1931. In doing so, I am introducing the Senate companion to bipartisan legislation introduced by our colleagues in the other body, CHARLIE STENHOLM of Texas. H.R. 1755 has 78 cosponsors, a number I hope we can match or exceed in this body. When I was a Member in the other body, I consistently co-sponsored and supported efforts to repeal, provide exemptions from, or reform Davis-Bacon, and I look forward to carrying those efforts forward in the Senate.

Mr. President, it is true, as has often been said in this election year, that there is no line-item in the Federal budget titled "Waste, Fraud, and Abuse." In some small measure, that is because there is no line item labelled, "Davis-Bacon costs".

Davis-Bacon wastes more than $1.5 billion a year of taxpayers' money. That's $1.5 billion that could be used to reduce the deficit. Or, under a budget system of spending caps like the current system, that's $1.5 billion that the Budget Committee and the Appropriations Committee could use for more low-income and public housing, homeless shelters, community development projects, renovating historic buildings, and other projects that we could fund, if that $1.5 billion wasn't wasted because of Davis-Bacon.

Davis-Bacon fraudulently has been sold as protecting local contractors and local labor markets from unfair competition from itinerant contractors who would disrupt local economies and local labor standards. In fact, Davis-Bacon reserves the $50 billion market of Federal contracting—and much more once you factor in State, locally, and privately matched funds—for a small club of large, contractors. This small club of privileged contractors has learned how to milk the Federal contracting system by following Davis-Bacon projects all around the country and benefit from a set of rules and a bureaucratic process that shut the local competition out of the bidding process.

Davis-Bacon abuses the Federal Government's procurement process by discouraging small and minority-owned construction firms from bidding on Federal projects. In so doing, Davis-Bacon closes the door of job opportunity on those entry-level workers who are most in need of help up to the first rung of the economic ladder, by shutting out those employers which, experience shows, are the most likely to bring them into the work force and teach them skills.

The Davis-Bacon Act applies to virtually all construction, alteration, repair, renovation, rehabilitation, and reconstruction that receives any amount—in some cases, even very small matching amounts—of Federal funding. It applies to approximately $50 billion of Federal spending for these purposes, or about a fifth of all construction activity in America. It even applies to tiny contracts for painting and decorating as much as to heavy and highway construction.

In short, this piece of policy pork may be relatively obscure outside of the beltway, but it is one of the most pervasive and pernicious influences in Federal contracting.

Mr. President, repealing Davis-Bacon is a simple issue of economy, efficiency, and competition in Government contracting. It's time to remove this relic of the Great Depression to the legislative museum in which it belongs.

I would ask unanimous consent to include in the RECORD, at this point, a background statement on Davis-Bacon and the text of my bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Davis-Bacon Repeal Act".

SEC. 2. DAVIS-BACON ACT OF 1931 REPEALED.

The Act of March 3, 1931, entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes" (40 U.S.C. 276a—276a—5), commonly referred to as the Davis-Bacon Act, is repealed.

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall take effect 30 days after the date of enactment of this Act but shall not affect any contract in existence on that date or made pursuant to invitations for bids outstanding on that date.

STATEMENT OF THE AUTHORS OF THE DAVIS-BACON REPEAL ACT

The Davis-Bacon Act of 1931 requires that the minimum wage rates paid to each separate classification of worker on federally-financed construction, repair, and alteration contracts be those determined to be locally "prevailing" by the Department of Labor. Often these rates are significantly higher than the actual averages for the locality. The last major amendments to the Act were enacted in 1935.

This was a Depression-era response to reports that unscrupulous, fly-by-night contractors were hauling gangs of "itinerant, cheap, bootleg labor" around the country to under cut local firms on federal public works projects, at a time when there was little other new construction. The Act has come to work counter to its original purpose. Several studies have found that instead of preserving jobs for local contractors, the Act actually makes it more likely that non-local firms will work on public projects. In a study for the Wharton School, Armond Thiebolt found that local contractors perform a higher percentage of private contracts than they do Davis-Bacon jobs. The Act predated virtually all of today's basic worker protections, including the minimum wage, right to bargain collectively, and special construction industry rules.

OBSOLETE WORK RULES IMPOSED ON CONTRACTORS BY DAVIS-BACON

DOL rarely has issued wage determinations for a rate lower than that for a skilled journeyman, regardless of the task to be performed. The same unskilled worker must be classified as a journeyman carpenter to carry lumber one day and reclassified—with all the attendant paperwork—as a journeyman plumber to carry or hold pipe the next day. Thus, labor is allocated inefficiently, costs rise, and semi-skilled workers are denied entry-level jobs. Davis-Bacon has been left behind by the evolution of a more flexible workplace over the last half-century. The utilization of helpers was virtually nonexistant in 1931, but has become a widespread practice in private construction, but NOT on federal jobs. Today, about 75 percent of the construction industry uses helpers for semi-skilled and unskilled tasks to assist on a variety of skilled tasks on private contracts.

The helper classification has been upheld in the federal courts as consistent with long-standing Congressional intent that Davis-Bacon reflect, rather than disrupt, locally prevailing practices. "Helpers" would be defined as semi-skilled workers assisting, and under the direction of, skilled journeymen. However, a rider in H.R. 1281, the Dire Emergency Supplemental of 1991 forbid the Department of Labor from implementing regulations which would have allowed the limited use of helpers on federal and federally-assisted contracts.

Allowing the use of helpers would open up job opportunities to those most in need of help up the first rungs of the economic ladder: Minority, women, disadvantaged, displaced, and entry- and training-level workers.

ANTI-COMPETITIVE EFFECTS OF DAVIS-BACON

The Act discourages many small and minority-owned firms from even bidding on federal work, resulting in a loss of competition that further drives up costs. The anti-small business bias that has developed in the operation of Davis-Bacon becomes especially unconscionable in light of the fact that firms with 9 or fewer people make up about 80% of all construction industry employers.

PAPERWORK REQUIREMENTS

The Copeland Act of 1934 requires that employers on Davis-Bacon contracts submit certified payroll records to the Department of Labor or contracting agency every week. Approximately 11 million payroll reports are submitted annually to contracting agencies, at an estimated cost of 5.5 million hours of industry employee time. An estimated 5.5% of all of DOL's paperwork is generated by Copeland and Davis-Bacon. Copeland requirements for collecting, inspecting, and storing these reports extends to the various contracting agencies. Paperwork costs to contractors, passed on to the taxpayers, have been estimated at $100 million a year by DOL and $50 million by CBO.

The current flood of paperwork discourages small firms, which would have to hire additional clerical personnel and/or invest in new equipment, from bothering to bid even on small subcontracts. The requirement that payroll reports be submitted weekly is especially burdensome to small contractors with a bi-weekly payroll.

BUDGET IMPACT OF DAVIS-BACON

CBO estimates that Davis-Bacon increases total federal construction costs by 3.3% (3.7% prior to regulatory changes proposed in 1982 and approved by the courts in 1985). CBO estimates that the Davis-Bacon Act adds the following "cost premium" to government construction:

SAVINGS FROM CBO BASELINE

[In millions of dollars]

	1993	1994	1995	1996	1997	Cumulative 5-yr
Spending authority	1,746	1,810	1,817	1,872	1,936	9,180
Outlays	377	1,049	1,421	1,612	1,751	6,210

The Department of Defense has estimated its Davis-Bacon-induced cost premium at 5%. GAO's estimates are similar to CBO's. Most estimates place this cost inflation in the 3%–10% range. While total cost estimates reflect an average premium, the impact on individual projects varies dramatically. The impact on some community development projects has been estimated by local officials as high as 20%–50%. An Oregon State University study found Davis-Bacon to inflate costs in rural areas by 26% to 38%. It should be noted that these figures are increases to total construction costs, not just labor costs. Labor costs generally account for well under 50% of total construction costs.

Current budget constraints on all federally financed construction and repair, whether for military construction and family housing, low-income housing, veterans' mortgage guarantees, highways, or community development grants, require that we procure the most and highest quality work for the lowest reasonable cost.

ECONOMIC EFFECT OF DAVIS-BACON

The construction industry has been hit particularly hard by the current recession. Nearly 600,000 jobs have been lost in the construction industry since July, 1990. Davis-Bacon further weakens employment in the construction sector of our economy by increasing costs. A 1980 study by the American Enterprise Institute found that Davis-Bacon "increases frictional unemployment in the construction trades" by reinforcing artificial wage differentials. CBO's 1983 study agreed that Davis-Bacon reduced employment in federally funded construction projects. The CBO study also suggested that Davis-Bacon may have an inflationary impact because the higher wages on federal projects could spill over to private construction as private contractors raise wages to maintain their work force to compete with federal construction.•

By Mr. LIEBERMAN:

S. 2869. A bill to create the Supreme Court of the District of Columbia; to the Committee on Governmental Affairs.

DISTRICT OF COLUMBIA JUDICIAL REORGANIZATION ACT

• Mr. LIEBERMAN. Mr. President, I rise today to introduce the District of Columbia Judicial Reorganization Act of 1992. I am introducing this bill at the request of the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia.

This bill has two titles. The first title creates a supreme court for the District of Columbia, to be the highest court in the District. This court would have an entirely discretionary jurisdiction, and would be the body principally charged with establishing uniform legal interpretations clarifying D.C. law. The second title adds two more judges to the superior court to handle that court's expanding caseload, and directs the Executive Office of the District of Columbia Courts to conduct a study of the feasibility and desirability of creating a night court.

The proposal to create a supreme court for the District of Columbia, thereby giving a three-tiered court system similar to most States, has been around for several years. In 1990, the House of Representatives passed a version of this proposal, but it died in the Senate. Creating a three-tiered judicial system has the support of the chief judges of the D.C. Court of Appeals and Superior Court, the Mayor, the corporation counsel, and the Bar Association of the District of Columbia.

Appellate courts have two generally recognized functions: Error correction and law clarification. Proponents of moving to a three-tiered system argue that because the caseload has grown dramatically, the D.C. Court of Appeals can not longer perform both functions adequately. Because virtually all cases in the D.C. Court of Appeals are being heard on appeal for the first time as of right, the error correction function dominates the court's work. The caseload of the D.C. Court of Appeals has tripled since its creation in 1970, and it now has as many new filings each year as the entire Connecticut appellate court system. Indeed, the District of Columbia Court of Appeals has a larger appellate case load than the appellate systems of 21 other States, including 9 with 3-tiered judicial systems. Despite efforts to speed consideration of routine cases, the D.C. Court of Appeals sits en banc no more than 10 times per year.

This is one of those issues that has been studied to death. Five separate studies have examined whether the District needs a supreme court with discretionary jurisdiction. Four of those five studies, the most recent of which was an exhaustive report completed in 1989, by a special committee of the D.C. Bar, concluded that a three-tiered judicial system was necessary. While the fifth study, a 1982 study by the District of Columbia Court System Study Committee of the District of Columbia Bar, recommended adding temporary judges to the court of appeals as an alternative, the respected chairman of that committee, Mr. Charles A. Horsky, has subsequently stated that his committee's conclusions were based on caseload assumptions that proved incorrect—they were too low—and he has endorsed the creation of a three-tiered court system.

With such broad support and the benefit of a substantial amount of previous study, it is time for the Senate to begin deliberating this issue. Clearly there are issues that still need to be resolved. At present, for example, the bill provides for seven Supreme Court justices. Reducing that number to five would certainly be less costly, but it also may increase the risk that, due to recusals, the court may become too small to function properly. We also need to examine more closely the amount of authorization that should be provided under this legislation.

I realize also, Mr. President, that the Department of Justice has taken the position that creating a Supreme Court is unnecessary and that the appellate process and caseload can be streamlined through other means. My mind is not closed, Mr. President, for it is not my goal to create a new tier of court just to do so. If the appellate process and the time available to the court of appeals for law clarification work can be improved without creating a Supreme Court, then we should do so. But the chief judges, Mayor, corporation counsel, and local bar associations have made a compelling prima facie case that a Supreme Court is needed.

This bill does not include the provisions on judicial magistrates that are contained in the version of this bill now being considered by the House of Representatives Committee on the District of Columbia. I am not rejecting these magistrate provisions at this time. However, the proper scope and shape of these provisions is not sufficiently clear at this time to include them in this bill at the time of introduction. They can always be added later during committee deliberations.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "District of Columbia Judicial Reorganization Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

Sec. 101. Establishment of Supreme Court of the District of Columbia.
Sec. 102. Transition provisions.
Sec. 103. Conforming and other amendments.
Sec. 104. Authorization of appropriations.
Sec. 105. Effective date.

TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

Sec. 201. Designation of chief judge.
Sec. 202. Composition of Superior Court of the District of Columbia.
Sec. 203. Study of feasibility of establishing District of Columbia Night Court.
Sec. 204. Effective date.

TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

SECTION 101. ESTABLISHMENT OF SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Title 11 of the District of Columbia Code is amended by adding after chapter 5 the following new chapter 6:

"CHAPTER 6. SUPREME COURT OF THE DISTRICT OF COLUMBIA.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"Sec.
"11-601. Establishment; court of record; seal.
"11-602. Composition.
"11-603. Justices; service; compensation.
"11-604. Oath of justices.
"11-605. Term; hearings; quorum.
"11-606. Absence, disability, or disqualification of justices; vacancies.
"11-607. Assignment of justices and judges to and from other courts of the District of Columbia.
"11-608. Clerks and secretaries for justices.
"11-609. Reports.

"SUBCHAPTER II. JURISDICTION.

"11-621. Certification to the Supreme Court of the District of Columbia.
"11-622. Review by the Supreme Court of the District of Columbia.
"11-623. Certification of questions of law.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS.

"11-641. Contempt powers.
"11-642. Oaths, affirmations, and acknowledgments.
"11-643. Rules of court.
"11-644. Judicial conference.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"§ 11-601. Establishment; court of record; seal.

"(a) The Supreme Court of the District of Columbia (hereafter in this chapter referred to as 'the court') is hereby established as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11-602. Composition.

"The court shall consist of a chief justice and 6 associate justices.

"§ 11-603. Justices; service; compensation.

"(a) The chief justice and the justices of the court shall serve in accordance with chapter 15 of this title.

"(b) Justices of the court shall be compensated at 90 percent of the rate prescribed by law for justices of the United States Supreme Court. The chief justice shall receive $3,000 per year in addition to the salary of other justices of the court.

"§ 11-604. Oath of justices.

"Each justice, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11-605. Term; hearings; quorum.

"(a) The court shall sit in one term each year for such period as it may determine.

"(b) The court shall sit in banc to hear and determine cases and controversies, except that the court may sit in divisions of 3 justices to hear and determine cases and controversies certified for review under section 11-621 if the court determines that subsection (b)(2) of such section is the exclusive basis for such certification. The court in banc for a hearing shall consist of the justices of the court in regular active service.

"(c) A majority of the justices serving shall constitute a quorum.

"(d) A rehearing before the court may be ordered by a majority of the justices of the court in regular active service. The court in banc for a rehearing shall consist of the justices of the court in regular active service.

"§ 11-606. Absence, disability, or disqualification of justices; vacancies.

"(a) When the chief justice of the court is absent or disabled, the duties of the chief justice shall devolve upon and be performed by such associate justice as the chief justice may designate in writing. In the event that the chief justice is (1) disqualified or suspended, or (2) unable or fails to make such a designation, such duties shall devolve upon and be performed by the associate justices of the court according to the seniority of their original commissions.

"(b) A chief justice whose term as chief justice has expired shall continue to serve until redesignated or until a successor has been designated. When there is a vacancy in the position of chief justice the position shall be filled temporarily as provided in the second sentence of subsection (a).

"§ 11-607. Assignment of justices and judges to and from other courts of the District of Columbia.

"(a) Upon presentation of a certificate of necessity by the chief judge of the District of Columbia Court of Appeals, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia or one or more judges of the Superior Court of the District of Columbia to serve on the District of Columbia Court of Appeals or a division thereof whenever the business of the District of Columbia Court of Appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the District of Columbia Court of Appeals.

"(b) Upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia or one or more judges of the District of Columbia Court of Appeals to serve as a judge of the Superior Court of the District of Columbia.

"§ 11-608. Clerks and secretaries for justices.

"Each justice may appoint and remove a personal secretary. The chief justice may appoint and remove not more than three personal law clerks, and each associate justice may appoint and remove not more than two personal law clerks. In addition, the chief justice may appoint and remove law clerks for the court and law clerks and secretaries for the senior justices. The law clerks appointed for the court shall serve as directed by the chief justice.

"§ 11-609. Reports.

"Each justice shall submit to the chief justice such reports and data as the chief justice may request.

"SUBCHAPTER II. JURISDICTION.

"§ 11-621. Certification to the Supreme Court of the District of Columbia.

"(a) In any case or class of cases in which an appeal has been taken to or filed with the District of Columbia Court of Appeals, the Supreme Court of the District of Columbia, by order of the Supreme Court sua sponte, or, in its discretion, on motion of the District of Columbia Court of Appeals or of any party, may certify the case or class of cases for review by the Supreme Court before it has been determined by the District of Columbia Court of Appeals. The effect of such certification shall be to transfer jurisdiction over the case or class of cases to the Supreme Court of the District of Columbia for all purposes.

"(b) Such certification may be made only if not less than 3 of the justices of the Supreme Court of the District of Columbia determine that—

"(1) the case or class of cases involves a question that is novel or difficult or is of importance in the general public interest or the administration of justice; or

"(2) the case or class of cases was pending in the District of Columbia Court of Appeals on the effective date of this section and, because the justices of the Supreme Court of the District of Columbia were familiar with the case or class of cases while serving as judges of the District of Columbia Court of Appeals, the sound and efficient administration of justice dictates that the case or class of cases be certified for review by the Supreme Court of the District of Columbia.

"§ 11-622. Review by the Supreme Court of the District of Columbia.

"(a) Any party aggrieved by a final decision of the District of Columbia Court of Appeals may petition the Supreme Court of the District of Columbia for an appeal. Such a petition may be granted and appeal be heard by the Supreme Court of the District of Columbia only upon the affirmative vote of not less than 3 of the justices that the matter involves a question that is novel or difficult, is the subject of conflicting authorities within the jurisdiction, or is of importance in the general public interest or the administration of justice. The granting of such petitions for appeal shall be in the discretion of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall not be required to state reasons for denial of petitions for appeal.

"(b) On hearing an appeal in any case or controversy, the Supreme Court of the District of Columbia shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11-623. Certification of questions of law.

"(a) The Supreme Court of the District of Columbia may answer a question of law of the District of Columbia certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if—

"(1) such question of law may be determinative of the case pending in such a court; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon such court's motion or upon the motion of any party to the case.

"(c) A certification order under this section shall—

"(1) describe the question of law to be answered;

"(2) contain a statement of all facts relevant to the question certified and the nature of the controversy in which the questions arose; and

"(3) upon the request of the Supreme Court of the District of Columbia contain the original or copies of the record of the case in question or of any portion of such record as the Supreme Court of the District of Columbia considers necessary to determine the questions of law which are the subject of the motion.

"(d) Fees and costs shall be the same as in appeals docketed before the Supreme Court of the District of Columbia and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(e) The written opinion of the Supreme Court of the District of Columbia stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(f) The Supreme Court of the District of Columbia, on its own motion, the motion of the District of Columbia Court of Appeals, or the motion of any party to a case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals, may order certification of a question of law of another State to the highest court of such State if, in the view of the Supreme Court of the District of Columbia—

"(1) such question of law may be determinative of the case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the appellate courts of the State to which the order of certification is directed.

"(g) The Supreme Court of the District of Columbia may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS.

"§ 11-641. Contempt powers.

"In addition to the powers conferred by section 402 of title 18, United States Code, the Supreme Court of the District of Columbia, or a justice thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11-642. Oaths, affirmations, and acknowledgments.

"Each justice of the Supreme Court of the District of Columbia and each employee of the court authorized by the chief justice may administer oaths and affirmations and take acknowledgments.

"§ 11-643. Rules of court.

"The Supreme Court of the District of Columbia shall conduct its business in accordance with such rules and procedures as the court shall adopt.

"§ 11-644. Judicial conference.

"The chief justice of the Supreme Court of the District of Columbia shall summon annually the justices and active judges of the District of Columbia courts to a conference at a time and place that the chief justice designates, for the purpose of advising as to means of improving the administration of justice within the District of Columbia. The chief justice shall preside at such conference which shall be known as the Judicial Conference of the District of Columbia. Each justice and judge summoned, unless excused by the chief justice of the Supreme Court of the District of Columbia, shall attend throughout the conference. The Supreme Court of the District of Columbia shall provide by its rules for representation of and active participation by members of the unified District of Columbia Bar and other persons active in the legal profession at such conference.".

SEC. 102. TRANSITION PROVISIONS.

(a) ELEVATION OF JUDGES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS JUSTICES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) Except as provided in paragraph (2), beginning on the effective date of this title the chief judge of the District of Columbia Court of Appeals shall serve the remainder of the term to which he or she was appointed as the chief justice of the Supreme Court of the District of Columbia and the associate judges of the District of Columbia Court of Appeals shall serve the remainder of the respective terms to which they were appointed as associate justices of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall conform to the numerical requirements of section 11-602 of the D.C. Code through attrition. Vacancies in the offices of chief judge and associate judge of the District of Columbia Court of Appeals shall be filled in accordance with chapter 15 of title 11 of the D.C. Code.

(2) Any judge of the District of Columbia Court of Appeals may serve the remainder of the term to which he or she was appointed as a judge of that court by providing written notice to the chief judge of the District of Columbia Court of Appeals not less than 30 days after the date of the enactment of this Act.

(b) TRANSITION PERIOD FOR THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) A committee consisting of the chief judge of the District of Columbia Court of Appeals together with 2 other judges of such court and the chief judge of the Superior Court of the District of Columbia together with 2 other judges of such court shall be responsible for the administration of the period of transition prior to the establishment of the Supreme Court of the District of Columbia, including the hiring of necessary staff, the preparation of facilities, and the purchase of necessary equipment and supplies.

(2) Not more than 120 days after the date of the enactment of this Act, the committee referred to in paragraph (1) shall submit to the Committee on Governmental Affairs of the Senate and the Committee on the District of Columbia of the House of Representatives a transition report, consistent with this Act, regarding the establishment of the Supreme Court of the District of Columbia and the filling of vacancies on the District of Columbia Court of Appeals resulting from the elevation of the judges of such Court to positions on the Supreme Court of the District of Columbia pursuant to subsection (a).

(3) This subsection shall take effect on the date of the enactment of this Act.

SEC. 103. CONFORMING AND OTHER AMENDMENTS.

(a) AMENDMENTS TO THE HOME RULE ACT.—

(1) Section 431(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in the first sentence by inserting "Supreme Court of the District of Columbia," after "vested in the"; and

(B) by adding after the fourth sentence the following: "The Supreme Court of the District of Columbia has jurisdiction of appeals from the District of Columbia Court of Appeals and of cases certified to the Supreme Court under section 11-621(a), District of Columbia Code.".

(2) Section 431 of such Act is further amended in subsections (b), (c), and (g)—

(A) by inserting "chief justice or" before "chief judge" each place it appears;

(B) by inserting "justice or" before "judge" each place it appears;

(C) by inserting "justices or" before "judges" each place it appears; and

(D) by inserting "chief justice's or" before "chief judge's" each place it appears.

(3) Section 432 of such Act is amended—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(C) in subsection (a)(1) by striking "law or which would be a felony in the District" and inserting "law or the laws of the District of Columbia".

(4) Section 433 of such Act is amended—

(A) in the heading by inserting "JUSTICES AND" before "JUDGES";

(B) by inserting "justices and" before "judges" each place it appears; and

(C) by inserting "justice or" before "judge" each place it appears.

(5) Section 434 of such Act is amended in subsections (b)(3) and (d)—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by inserting "justices or" before "judges" each place it appears; and

(C) by inserting "justice's or" before "judge's" each place it appears.

(b) AMENDMENTS TO CHAPTER 1 OF TITLE 11, D.C. CODE.—

(1) Section 11-101(2), D.C. Code, is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by adding before subparagraph (B) (as so redesignated) the following:

"(A) The Supreme Court of the District of Columbia.".

(2) Section 11-102, D.C. Code, is amended to read as follows:

"§ 11-102. Status of Supreme Court of the District of Columbia.

"The highest court of the District of Columbia is the Supreme Court of the District of Columbia. Final judgments and orders of the Supreme Court of the District of Columbia and of the District of Columbia Court of Appeals where review is denied by the Supreme Court of the District of Columbia are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28, United States Code.".

(3) The item relating to section 11-102 of the table of contents of chapter 1 of title 11, D.C. Code, is amended to read as follows:

"11-102. Status of Supreme Court of the District of Columbia.".

(c) AMENDMENTS TO CHAPTER 7 OF TITLE 11, D.C. CODE.—

(1) Chapter 7 of title 11, D.C. Code, is amended by striking sections 11-707, 11-723, and 11-744 and by striking the items relating to such sections in the table of contents of such chapter.

(2) Section 11-703(b), D.C. Code, is amended by striking "$500" and inserting "$2,500".

(3) Section 11-708, D.C. Code, is amended by striking "not more than three law clerks for the court." and inserting "law clerks for the court and law clerks and secretaries for the senior judges.".

(4) Section 11-722, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(5) Section 11-743, D.C. Code, is amended by striking "according to" and all that follows and inserting "in accordance with such rules and procedures as it may adopt.".

(d) AMENDMENTS TO CHAPTER 9 OF TITLE 11, D.C. CODE.—

(1) Section 11-904(b), D.C. Code, is amended by striking "$500" and inserting "$2,500".

(2) Section 11-908(b), D.C. Code, is amended to read as follows:

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief justice of the Supreme Court of the District of Columbia the need for an additional judge or judges as provided in section 11-607 and 11-707.".

(3) Section 11-910, D.C. Code, is amended by adding at the end the following new sentence: "In addition, the chief judge may appoint and remove law clerks for the court, who shall serve as directed by the chief judge.".

(4) Section 11-946, D.C. Code, is amended by striking "District of Columbia Court of Ap-

peals" each place it appears in the second and third sentences and inserting "Supreme Court of the District of Columbia".

(e) AMENDMENTS TO CHAPTER 15 OF TITLE 11, D.C. CODE.—

(1) Section 11-1501, D.C. Code, is amended to read as follows:

"§ 11-1501. Appointment and qualifications of judges.

"(a) Except as provided in section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the President shall nominate, from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under section 434 of such Act, and, by and with the advice and consent of the Senate, appoint all justices and judges of the District of Columbia courts.

"(b) No person may be nominated or appointed a justice or judge of a District of Columbia court unless that person—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding nomination or for such five years has served as a judge of the United States or the District of Columbia, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to nomination, and shall retain such residency as long as he or she serves as such judge, except judges appointed prior to December 23, 1973, who retain residency in Montgomery or Prince George's Counties in Maryland, Arlington or Fairfax Counties (or any cities within the outer boundaries thereof) or the city of Alexandria in Virginia shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

"(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

"(5) has not served, within a period of 2 years prior to nomination, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure or of the District of Columbia Judicial Nomination Commission.".

(2) Section 11-1504(a)(1), D.C. Code, is amended by striking the period at the end of the first sentence and inserting the following: ", except that a retired judge may not serve or perform judicial duties on the Supreme Court of the District of Columbia.".

(3) Section 11-1505(a), D.C. Code, is amended in the second sentence by striking "District" and all that follows and inserting "court of the District of Columbia on which the judge serves.".

(4) Subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following new section:

"§ 11-1506. Definitions.

"For purposes of this chapter—

"(1) the term 'judge' means any justice of the Supreme Court of the District of Columbia, or any judge of the District of Columbia Court of Appeals or the Superior Court; and

"(2) the term 'chief judge' means the chief justice of the Supreme Court of the District of Columbia, or the chief judges of the District of Columbia Court of Appeals or the Superior Court, as appropriate.".

(5) Section 11-1526, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(6) Section 11-1528, D.C. Code, is amended in subsection (a)(2)(C) by inserting "the Supreme Court of the District of Columbia or" after "elevation to".

(7) Section 11-1529, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(8) Section 11-1561, D.C. Code, is amended—

(A) in paragraph (1), by inserting "any justice of the Supreme Court of the District of Columbia," before "any judge"; and

(B) in paragraph (2), by inserting "a justice in the Supreme Court of the District of Columbia," before "a judge".

(9) The table of sections for subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following:

"11-1506. Definitions.".

(f) AMENDMENTS TO CHAPTER 17 OF TITLE 11, D.C. CODE.—

(1) Section 11-1701, D.C. Code, is amended—

(A) by amending subsection (a) to read as follows:

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of the chief justice of the Supreme Court of the District of Columbia (who shall serve as chairperson) and two other justices of such court, the chief judge of the District of Columbia Court of Appeals, and the chief judge of the Superior Court of the District of Columbia and two additional judges of such court.";

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:

"(4) Preparation and publication of an annual report of the District of Columbia court system regarding the duties of the courts, the performance of the duties enumerated in this chapter, and any recommendations relating to the courts.", and

(ii) by striking paragraphs (6) and (9) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7); and

(C) in subsection (c)—

(i) by amending paragraph (2) to read as follows:

"(2) formulate and enforce standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system;",

(ii) in paragraph (3), by striking ", and institute such changes" and all that follows through "justice",

(iii) by striking "and" at the end of paragraph (3),

(iv) by striking the period at the end of paragraph (4) and inserting a semicolon, and

(v) by adding at the end the following new paragraphs:

"(5) submit the annual budget requests of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court to the Mayor of the District of Columbia as part of the integrated budget of the District of Columbia court system, except that any such request may be modified upon the concurrence of 5 of the 7 members of the Joint Committee; and

"(6) with the concurrence of the chief justice of the Supreme Court of the District of Columbia and the respective chief judges of the other District of Columbia courts, prepare and implement other policies and practices for the District of Columbia court system and resolve other matters which may be of joint and mutual concern of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court.".

(2) Section 11-1702, D.C. Code, is amended—

(A) in the heading, by inserting "the chief justice and the" after "of";

(B) by redesignating subsections (a) and (b) as subsections (b) and (c); and

(C) by inserting before subsection (b) the following new subsection:

"(a) The chief justice of the Supreme Court of the District of Columbia, in addition to the authority conferred by chapter 6 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b),

consistent with the general policies and directives of the Joint Committee.".

(3) Section 11-1703(a), D.C. Code, is amended—

(A) by striking "He" each place it appears and inserting "The Executive Officer"; and

(B) in the fourth sentence, by striking "judges" and inserting "judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia".

(4) Section 11-1721, D.C. Code, is amended by amending the matter following the heading to read as follows:

"(a) The Supreme Court of the District of Columbia shall have a clerk appointed by the chief justice of that court who shall, under the direction of the chief justice, be responsible for the daily operations of that court and serve as the clerk of the District of Columbia Court of Appeals.

"(b) The Superior Court of the District of Columbia shall have a clerk appointed by the chief judge of that court who shall, under the direction of the chief judge, be responsible for the administration of that court.

"(c) Each such clerk appointed under this section shall receive a level of compensation, including retirement benefits, determined by the Joint Committee on Judicial Administration, except that such level may not exceed the level of compensation provided for the Executive Officer.".

(5) Section 11-1730(a), D.C. Code, is amended—

(A) by striking "Judges" and inserting "Justices and judges";

(B) by inserting "11-609," after "sections"; and

(C) by inserting "chief justice or" after "respective".

(6) Section 11-1731, D.C. Code, is amended—

(A) by striking "or the chief judge" and inserting ", the chief justice, or the chief judges";

(B) in paragraph (7), by striking "the District of Columbia Bail Agency" and inserting "the District of Columbia Pre-trial Services Agency";

(C) by inserting "and" at the end of paragraph (9); and

(D) by striking paragraphs (10) and (11) and inserting the following:

"(10) the Department of Human Services.".

(7) Section 11-1741, D.C. Code, is amended—

(A) by amending the matter preceding paragraph (1) to read as follows: "Within the

District of Columbia courts, and subject to the supervision of the chief justice of the Supreme Court of the District of Columbia (acting in consultation with the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia), the Executive Officer shall—";

(B) by inserting "chief justice or" before "chief" each place it appears in paragraphs (5), (7), and (9);

(C) by striking "and" at the end of paragraph (8);

(D) by striking the period at the end of paragraph (9) and inserting "; and"; and

(E) by adding at the end the following:

"(10) be responsible for the allocation, negotiation for, and provision of space in the courts.".

(8) Section 11–1745(b)(2), D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(9) Section 11–1747, D.C. Code, is amended by striking "him" and inserting "the Executive Officer".

(10) The table of sections for subchapter I of chapter 17 of title 11, D.C. Code, is amended by amending the item relating to section 11–1702 to read as follows:

"11–1702. Responsibilities of the chief justice and the chief judges in the respective courts.".

(g) Amendments to Chapter 25 of Title 11, D.C. Code.—

(1) Section 11–2501, D.C. Code, is amended—

(A) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(B) by amending subsection (c) to read as follows:

"(c) Members of the bar of the District of Columbia Court of Appeals in good standing on the effective date of title I of the District of Columbia Judicial Reorganization Act of 1992 shall be automatically enrolled as members of the bar of the Supreme Court of the District of Columbia, and shall be subject to its disciplinary jurisdiction.".

(2) Section 11–2502, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(3) Section 11–2503, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(4) Section 11–2504, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "other courts of the District of Columbia".

(h) Amendment to Chapter 26 of Title 11, D.C. Code.—Section 11–2607, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(i) Amendment to Chapter 3 of Title 13, D.C. Code.—Section 13–302, D.C. Code, is amended by inserting "the Supreme Court of the District of Columbia," after "process of".

(j) Amendments to Chapter 3 of Title 17, D.C. Code.—

(1) The chapter heading for chapter 3 of title 17, D.C. Code, is amended to read as follows: "Supreme Court of the District of Columbia and District of Columbia Court of Appeals".

(2) Section 17–302, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(3) Section 17–305, D.C. Code, is amend-ed by adding at the end the following new subsection:

"(c) The Supreme Court of the District of Columbia shall apply the same standards regarding the scope of review and the reversal of judgment as the District of Columbia Court of Appeals applies under subsections (a) and (b).".

(4) Section 17–306, D.C. Code, is amended by inserting "Supreme Court of the District of Columbia or the" before "District".

(k) Amendment to Title 5, United States Code.—Section 5102(c)(4) of title 5, United States Code, is amended by striking "the chief judges" and inserting "the chief justice and the associate justices of the Supreme Court of the District of Columbia and the chief judges".

(l) Amendments to Title 18, United States Code.—(1) Section 3006a(k) of title 18, United States Code, is amended in the second sentence by striking "the Superior Court" and all that follows and inserting "the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, or the Superior Court of the District of Columbia.".

(2) Section 6001(4) of title 18, United States Code, is amended by inserting "the Supreme Court of the District of Columbia," before "the District of Columbia Court of Appeals,".

(m) Amendments to Title 28, United States Code.—(1) Section 1257 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(2) Section 2113 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—In addition to any other sums authorized to be appropriated to the District of Columbia, there are authorized to be appropriated to the District of Columbia for costs incurred by the District of Columbia in implementing the amendments made by sections 101 and 103 and in carrying out section 102 the following amounts:

(1) $1,200,000 for fiscal year 1993.
(2) $5,000,000 for fiscal year 1994.
(3) $4,000,000 for fiscal year 1995.
(4) $3,000,000 for fiscal year 1996.
(5) $2,000,000 for fiscal year 1997.
(6) $1,000,000 for fiscal year 1998.

(b) Availability of Funds.—Funds appropriated pursuant to the authorization referred to in subsection (a) shall remain available to the District of Columbia until expended.

SEC. 105. EFFECTIVE DATE.

Except as provided in section 102, this title and the amendments made by this title shall take effect 6 months after the date of enactment of this Act.

SEC. 106. SEVERABILITY.

If any provision of this Act shall be held invalid, the remaining provisions shall not be affected thereby.

TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

SEC. 201. DESIGNATION OF CHIEF JUDGE.

Section 11–1503(a), D.C. Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the chief justice or chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nomination Commission from among the judges of the court in regular active service. A chief judge shall serve for a term of 4 years or until a successor is designated, and shall be eligible for redesignation. A judge may relinquish the position of chief judge, after giving notice to the District of Columbia Judicial Nomination Commission.

"(2) Notwithstanding the first sentence of paragraph (1), the first chief justice of the Supreme Court of the District of Columbia shall be appointed in accordance with section 102(a) of the District of Columbia Judicial Reorganization Act of 1992.".

SEC. 202. COMPOSITION OF SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Section 11–903, D.C. Code, as amended by section 138 of the District of Columbia Appropriations Act, 1990, is amended—

(1) by striking "Subject to the enactment of authorizing legislation, the" and inserting "The";

(2) effective October 1, 1992, by striking "fifty-eight" and inserting "sixty"; and

(3) effective October 1, 1993, by striking "sixty" and inserting "sixty-two".

SEC. 203. STUDY OF FEASIBILITY OF ESTABLISHING DISTRICT OF COLUMBIA NIGHT COURT.

(a) Study.—The Executive Officer of the District of Columbia courts shall conduct a study of the feasibility and desirability of establishing a District of Columbia Night Court as a division of the Superior Court of the District of Columbia.

(b) Report.—Not later than 120 days after the date of the enactment of this Act, the Executive Officer shall submit a report on the study conducted under subsection (a) to the Joint Committee on Judicial Administration in the District of Columbia, which shall forward the study together with any comments and recommendations to Congress not later than 180 days after the date of the enactment of this Act.

SEC. 204. EFFECTIVE DATE.

Except as provided in section 202, the amendments made by sections 201 and 202 shall take effect on the date of the enactment of this Act.•

By Mr. RUDMAN (for himself, Mr. Kennedy, Mr. Cohen, Mr. Dodd, Mr. Packwood, Mr. Adams, Mr. Wellstone, Mr. Metzenbaum, Mr. Hatfield, and Mr. Harkin):

S. 2870. A bill to authorize appropriations for the Legal Services Corporation; to the Committee on Labor and Human Resources.

LEGAL SERVICES REAUTHORIZATION ACT

Mr. RUDMAN. Mr. President, I am pleased today to join Senator Kennedy, the distinguished chairman of the Labor and Human Resources Committee, and Senators Cohen, Dodd, Packwood, Adams, Wellstone, Metzenbaum, Hatfield, and Harkin in introducing legislation to reauthorize the Legal Services Corporation.

The program of providing civil legal services to the poor was last reauthorized in 1977. That authorization expired in 1981. Since that time, the program has been continued and revised in appropriations acts. It is time for this program to be properly reauthorized and the action of the House of Representatives in passing H.R. 2039, the Legal Services Reauthorization Act of 1992 by a vote of 253 to 154 on May 12, clears the way for the Senate to act expeditiously on this bipartisan legislative initiative which builds upon the effective compromise on legal services that has evolved over the last 12 years.

Mr. President, when I came to the Senate in 1981, support for the Legal Services Corporation was at an all-time low. The administration was proposing to abolish the Corporation and legal services programs were being criticized for engaging in political activities that were not central to their primary purpose of providing bread and butter legal services to the poor. Much of my time in the Senate over the last 12 years, has been devoted to ensuring that the program of providing basic legal representation to the poor in family law matters, housing disputes, and so forth was continued. This was accomplished through a multiyear, bipartisan effort to enact reforms in the program and to ensure that the Legal Services Corporation, a nonprofit corporation in the District of Columbia, properly carried out this program of reform. Beginning in 1982 and continuing through the present time, appropriations acts providing funding for the Legal Services Corporation have carried a series of riders specifying the manner in which the Corporation and its grantees would provide legal services to the poor.

Mr. President, these appropriations riders have instituted programmatic reforms by placing restrictions on class action suits, legislative and administrative advocacy, the representation of aliens, and certain training activities previously undertaken by legal services programs. By requiring that a majority of the board of directors of each legal services program be appointed by the bar associations representing a majority of the attorneys in the area served by the program, we have ensured that programs are responsive to the civil legal needs of the poor in their local areas and reflect local priorities.

Unfortunately, the members of the Board of Directors of the Legal Services Corporation and its staff in the past have not always been committed to preserving a system of legal services for the poor. As a result, appropriations riders have also placed controls on the actions of the Corporation itself, which oversees the 325 local nonprofit providers of legal services, along with a series of State support units, 16 national support centers, a national clearinghouse, law school clinics, and other training and technical assistance projects. One rider has subjected Corporation regulations to reprogramming guidelines to provide an opportunity for review of regulatory proposals prior to their implementation by the appropriate committees of Congress. In some instances, Congress, through the appropriations process, has prohibited the Corporation from taking certain actions which would have been detrimental to legal services programs. In other cases, Congress has, within certain parameters, permitted the Corporation to experiment with the development of innovative ways to provide legal services to the poor. For example, law school clinics were developed and implemented under the guidance of the Appropriations Committee as was the current effort under way at the Corporation to assess the value of incentives to spur competition among programs.

The bill Senator KENNEDY and I are introducing today incorporates many of the appropriations restrictions into the Legal Services Act. I ask unanimous consent that a summary of the bill and the changes it makes to the House bill and existing law be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RUDMAN. Mr. President, as I prepare to leave the Senate, I am reassured that the current Board of Directors of the Legal Services Corporation under the leadership of such distinguished attorneys as LSC Chairman George Wittgraf from Iowa, and Board members Howard Dana from Maine, Basile Uddo from Louisiana, and may good friend Tom Rath from New Hampshire, is committed to providing high quality legal assistance to meet the civil legal needs of our Nation's poor. The time has come to reach a bipartisan agreement on the reauthorization of this important program. Senator KENNEDY has set a hearing date of June 23 for consideration of the measure by the Labor and Human Resources Committee. I look forward to working with him and the distinguished ranking Republican member of the Committee, Senator HATCH, who was instrumental in originally helping to develop many of the forms which are incorporated in this important legislation. I am hopeful that we will have an act reauthorizing the Legal Services Corporation signed into law before the 102d Congress adjourns sine die.

EXHIBIT 1

SUMMARY—LEGAL SERVICES CORPORATION REAUTHORIZATION

What the Rudman-Kennedy bill would do: In substantial part, the bill is similar or identical to the bill and codifies many of the riders that are now a part of the annual appropriations for LSC. A section by section analysis of the bill and its changes from the House bill follows:

Sec. 1. Short Title and Table of Contents. Conforming change to table of contents.

Sec. 2. Reference to Legal Services Corporation Act. Technical change to House-passed bill.

Sec. 3. Authorization of Appropriations. Authorizes such sums as may be necessary for each of fiscal years 1993–1997. House bill covers fiscal years 1992–1996.

Sec. 4. Protection Against Theft and Fraud. No substantive changes to House bill which applies federal fraud and embezzlement statutes to LSC and to recipients, grantees or contractors of the Corporation. Clarifies that LSC funds are federal funds for the purpose of all federal criminal laws and subject to federal audit provisions and the False Claims Act, except for quitam provisions. Technical changes to House bill.

Sec. 5. Prohibitions on Lobbying. Maintains the 1984 Congressional compromise on legislative lobbying and participation in administrative rulemaking. Similar to House bill. Same as the Appropriations rider (existing law), except that LSC grantees would be permitted to engage in self-help lobbying on legal services issues, as permitted by House bill.

Sec. 6. Enforcement, Sanctions, and Monitoring. Four substantive changes to House bill outlined below; several technical changes.

(1) The Senate bill deletes the 30-day time limitation in which the Corporation may undertake an investigation following a written request alleging a violation of the LSC statute or a rule, regulation, or guideline of the Corporation. No time limitation is imposed by Senate bill.

(2) The Senate bill restores language in the House Committee-reported bill that was deleted on House floor which provides protections from disclosure in the monitoring and evaluation process of certain private and personal employee records.

(3) The Senate bill modifies the existing law prohibition against legal services employees engaging in any activity in violation of an outstanding court injunction to clarify that the determination of whether an injunction has been violated should be made by the Court. This issue was not addressed by the House bill.

(4) The Senate bill clarifies current law to require that the annual financial audit of local programs must be an independent audit. The language authorizes the Corporation to conduct additional separate audits, the cost of which would be borne by the Corporation. Issue not addressed by the House bill.

Both bills give the Corporation explicit authority to defund grantees for cause (failure to comply with the Act or failure to provide economical and effective legal assistance) after providing notice and an opportunity for a hearing; lay out a process for evaluating and monitoring legal services grant recipients; require the Corporation to look at the grantee performance in terms of the quality of legal assistance provided; and clarify that the Corporation's authority to impose restrictions on the representation of legal services clients does not extend beyond the powers granted to the Corporation by the statute. The Corporation is permitted, as under existing law, to deny an application for refunding; however, provisions have been included to prevent terminations, suspensions or reductions in funding in excess of 5 percent or $20,000 unless the recipient has been afforded reasonable notice and a hearing. This section also provides the LSC Inspector General with the same authority as he has under the Inspector General Act.

Sec. 7. Class Actions. Maintains existing law on class action suits which precludes filing suit against governmental entities unless they have been notified and reasonable efforts to resolve the matter without litigation have not been successful. Senate bill removes one clause in House bill to conform the restrictions on class actions to the appropriations rider (existing law) and clarifies that the section applies to LSC funds.

Sec. 8. Negotiation Requirement. Requires that recipients adopt policies consistent with applicable ethical rules, to encourage staff to attempt to negotiate settlements and to use Alternative Dispute Resolution (ADR) where appropriate and available. Amends the House language on ADR to encourage, rather than require, its use.

Sec. 9. Prohibition on Use of Funds for Redistricting. Continues existing prohibitions on redistricting litigation at local, state or federal levels; deletes House language regarding the timing or taking of a census.

Sec. 10. Restrictions on Use of Funds for Legal Assistance to Aliens. Incorporates the appropriations rider restrictions on the use of LSC funds for representation of aliens and expands the categories of aliens who can be represented to reflect recent amendments to federal law providing for the representation of all aliens authorized to work in the U.S., family unity aliens, aliens eligible for treatment of emergency medical conditions under Medicaid, and aliens in foster care. Provisions affecting aliens in foster care and certain aliens granted INS work authorization are expansions on the House bill. The Senate bill also makes some technical changes to correct drafting errors.

Sec. 11. Governing Bodies of Recipients. The Senate bill makes one change to the House bill which incorporates the appropriations rider on governing bodies into the LSC Act and applies the rider to any LSC recipient which has as one of its purposes the provision of legal assistance. The Senate bill would apply the requirement for one-third eligible clients to those recipients who have their primary purpose the provision of legal assistance (existing law requirement). Several technical changes to House bill are included.

Sec. 12. Professional Responsibilities. No changes to House bill which updates the Act to incorporate changes made in the rules of professional responsibility by the American Bar Association and state bar associations and to require programs to follow rules of ethics and professional responsibility that apply in their local jurisdictions.

Sec. 13. Solicitation. Deletes House section on solicitation. Replaces section with provisions setting forth conditions under which LSC attorneys can engage in the outside practice of law, codifying existing LSC regulation (45 C.F.R. Part 1604) which bans the outside practice of law except under certain conditions.

Sec. 14. Certain Eviction Proceedings. No substantive changes to House bill which prohibits the representation of convicted drug dealers in public housing eviction proceedings. Several technical changes.

Sec. 15. Procedural Safeguards for Litigation. No substantive changes to House bill which requires programs to obtain a written retainer agreement signed by the plaintiffs before engaging in precomplaint settlement negotiations or pursing litigation which requires recipients to disclose plaintiff identify in litigation, absent a court order permitting a "John Doe" complaint. One technical change to fix drafting error.

Sec. 16. Competition Study. Requires LSC to study the feasibility of the use of competition in the delivery of legal services and related activities. Makes minor changes to House bill to permit the Corporation to continue the competition study already underway by the LSC Board of Directors and to expand representation on the competition advisory board.

Sec. 17. Training. Makes minor and technical change to make House bill conform to appropriations rider/existing law.

Sec. 18. Limitation on Use Amendments. No changes to House bill. Eliminates restriction on use of funds for school desegregation litigation.

Sec. 19. Recordkeeping and Non-Corporation Funds. Deletes Section 19 of House bill and replaces it with the following: (1) Under current law, LSC funds are restricted by the LSC Act and the appropriations rider; non-LSC public funds are not subject to any statutory restrictions, and private funds are exempt from the appropriations rider but covered by the LSC Act. The Senate bill continues all restrictions on LSC funding but deregulates private funding. (2) Senate bill replaces House timekeeping provisions with language requiring LSC grantees to follow time and recordkeeping requirements established by the Office of Management and Budget in Circular A–122 (Cost Principles for Nonprofit Organizations).

Sec. 20. Evasion. Prohibits the use of alternative corporations to evade provisions of the LSC Act. The Senate bill makes one modification to clarify that sharing staff does not constitute the establishment of an alternative corporation. Several technical changes are also included.

Sec. 21. Fee-Generating Case Provisions. No changes to House bill which is consistent with existing restrictions on fee generating cases, the Corporation regulation at 45 CFR 1609.5 and the appropriations rider. Language prohibits receipt of attorneys' fees in Social Security retirement and SSI disability cases. Consistent with the Appropriations rider, language prevents the Corporation from taking any action to impose a recapture provision or otherwise offsetting attorney's fees against Legal Services grant or contract funds.

Sec. 22. Attorney's Fees Provisions. Senate bill deletes House provisions permitting courts to assess LSC programs with reasonable costs and attorney's fees incurred by defendants in certain instances. Courts currently have the ability to assess these sanctions. Senate bill has LSC attorneys play by same rules as other attorneys.

Senate bill replaces section with new language defining political activity and clarifying the existing law prohibition against such activity.

Sec. 23. Corporation Board Control Over Policy. No substantive changes to House bill which amends the LSC Act to clarify that the Board of Directors of the Corporation has the responsibility to establish policy and impose grant conditions. One technical change.

Sec. 24. Reprogramming Provisions. No changes to House bill, which is consistent with existing law (appropriations rider) requiring the Corporation to notify committees of Congress fifteen days prior to the publication of final rules or regulations.

Sec. 25. 12-Month Grants. Technical change to House section providing that grants are made on a 12-month basis. Senate change conforms bill to Senate authorization period (FY 1993–1997) established in Section 3.

Sec. 26. Establishment of Local Priorities. No substantive changes to House bill which clarifies that priorities are established by local programs in accordance with the legal services statute. Spells out the process for establishing priorities, which for the most part codifies 45 CFR 1620 of the Corporation's regulations. One technical clarifying change to identify goals referenced.

Sec. 27. Staff Attorneys. No substantive changes to House bill which at the Corporation's request updates definition of a "staff attorney". One technical change to correct drafting error.

Sec. 28. Study on Legal Assistance to Older Americans. No changes to House bill which requires a study of the extent and effectiveness of legal assistance to Older Americans.

Mr. KENNEDY. I am pleased to join my outstanding colleague, the Senator from New Hampshire, in introducing the Legal Services Reauthorization Act of 1992.

For over a decade, Senator RUDMAN has encouraged and led a broad bipartisan consensus in Congress on behalf of continuing support for the Legal Services Corporation.

I cannot think of a more fitting tribute to his outstanding leadership than to enact this important legislation this year.

The Constitution guarantees all persons "the equal protection of the laws."

But those majestic words are an empty promise to millions of Americans too poor to afford a lawyer to assist them in protecting their legal rights. A right without a remedy is no right at all; and without counsel, poor persons are often powerless against the injustices they suffer. It is ironic that those who often pay lip service to the currently fashionable concept of empowerment as the antidote to poverty are so quick to reject it in the case of legal services.

Beginning with the Office of Economic Opportunity in 1965, the Federal Government has given financial support for programs that provide legal assistance to the indigent.

In 1974, Congress passed the Legal Services Corporation Act to establish an independent corporation to administer the Federal legal services program in a manner free from the pressures of partisan politics.

When he signed that historic act President Nixon recognized that the creation of an independent corporation was intended to ensure that the lawyers in the program have the full freedom to protect the best interests of their clients in keeping with the canons of ethics and the high standards of the legal profession.

In recent years, however, that protection has not been sufficient. The Legal Services Corporation has often been bogged down in partisan controversies.

Shortly after he was elected, President Reagan proposed to abolish it. In 1981, LSC funds were cut by 25 percent. These cuts have persisted. Federal funding for legal services today is about 40 percent less than it was in 1981.

State and local governments and private bar initiatives have struggled to fill this gap. But millions of poor persons are denied access to legal services they need in order to protect their most basic rights.

In Massachusetts, one study estimated that legal services programs are able to meet only 15 percent of the legal needs of poor persons. This pattern is repeated throughout the Nation.

In addition, while funding has been reduced, the Corporation itself has frequently shown hostility toward the very legal services it was created to support. Under the guise of monitoring the expenditure of Federal funds, Corporation staff members have harassed overburdened local programs with excessive paperwork and auditing. The Corporation proposed a series of regulations restricting local programs far in excess of what Congress has intended.

As a result of these controversies, the Legal Services Corporation Act itself has not been reauthorized since 1977, and funds have been provided on year-to-year basis in annual appropriations bills.

The bill we are introducing today is a sensible and balanced effort to revitalize the act and provide guidance to the Corporation in administering this important program.

It maintains most of the restrictions that currently apply to the Corporation and its grantees, while strengthening local control and improving the quality and effectiveness of legal services.

The bill also makes numerous substantive changes to address questions that have arisen in the 15 years since Congress last reauthorized the act.

The Committee on Labor and Human Resources will hold hearings on this legislation next week. I look forward to working with Senator RUDMAN and other Senators to move this legislation through the Senate this summer.

The House has already passed similar legislation. Again. I commend Senator RUDMAN for his leadership, and I am hopeful we can pass a bill that will gain President Bush's support and be enacted into law this year.

Mr. HATFIELD. Mr. President, I am pleased to join Senators RUDMAN and KENNEDY and others in introducing a bill to provide reauthorization of the Legal Services Corporation [LSC]. This nonprofit corporation has not been reauthorized since 1977 so that we have had to continuously include provision for these important services in bills under the jurisdiction of the Appropriations Committee. It is time that we take action toward reauthorizing the LSC.

The function of the LSC is to fund nonprofit providers of legal services who deliver these services to poor persons in every county in the United States. These are disadvantaged people who would otherwise not be able to receive help with civil legal problems. Allow me to give you an example from my home State. I am proud to call Willamette University in Salem, OR, my alma mater. The Willamette University College of Law seeks to operate a legal clinic which specializes in providing legal services in divorce and custody proceedings of low-income residents in the area. These are clients that the county legal aid service must currently turn away because of limited resources. Clinics like this all over the country are made possible through the distribution of LSC resources.

The bill we are introducing today attempts to put some safeguards on the use and administration of these funds so that the Federal money provided will be put to its best use. However, I would like to make clear my regret that this bill as introduced will not include existing restrictions on the use of LSC funds for any abortion litigation. This restriction is currently designated by language in the appropriation act which funds the LSC. The restriction on use of funds for abortion litigation was included in the appropriations process because of a legitimate concern that Federal funds be used by legal services programs in a manner that is neutral on the contentious issue of abortion. There is also the desire that scarce resources be used for the more common needs of the poor such as tenant eviction proceedings.

I would like to express my admiration for the Senator from New Hampshire for leading the fight for legal services for the poor over his many years of public service. Now, I look forward to upcoming hearings on this bill that the Senator from Massachusetts has ensured will soon take place.

By Mr. JOHNSTON:

S. 2871. A bill to clarify enforcement provisions of the Federal Power Act concerning hydroelectric power licensing; to the Committee on Energy and Natural Resources.

FEDERAL POWER ACT AMENDMENTS

• Mr. JOHNSTON. Mr. President, I am today introducing an amendment to the Federal Power Act [FPA] to improve the Federal Energy Regulatory Commission's [FERC] ability to ensure that hydroelectric plants produce electricity in a safe and environmentally acceptable manner. The FERC in the last years has progressed tremendously, improving interagency coordination and doing a good job of balancing competing interests in hydroelectric licensing. As with most energy and environmental issues, it is difficult to make everyone happy in every situation. Hydroelectric licensing remains a contentious subject. However, what we can all agree upon is that all hydroelectric facilities should be restricted from unlawful operation.

Under the existing section 31 of the Federal Power Act, which details FERC's enforcement powers concerning hydropower licensing, the FERC may, assuming the necessary procedures are followed and the necessary findings are made, assess penalties against any "licensee, permittee, or exemptee" in violation of part I of the FPA or Commission directives thereunder.

On May 5, 1992, the U.S. Court of Appeals for the D.C. Circuit issued its decision in *Wolverine Power Co.* v. *FERC* (No. 90–1597), a case in which the Commission had assessed a $2,024,000 penalty against Wolverine Power Co. for operating four hydroprojects without a license. The court determined that section 31 of the FPA authorizes the Commission to assess civil penalties only against the holder of a license, permit, or exemption, and not against a person who operates a hydroelectric project without a license or exemption in violation of the FPA. Because Wolverine was not licensed, the court vacated the Commission's orders assessing the civil penalty against Wolverine, and also vacated the Commission's regulations implementing section 31.

This situation presents a gap in FERC's ability to regulate or penalize an unlicensed hydroelectric project developer, that violates directives under the Federal Power Act. In order to give FERC more effective control over all hydroelectric developers, licensed and unlicensed, the bill I have introduced would delete the phrase "licensee, permittee, or exemptee" in section 31 and replace it with "person, State, or municipality". In order to avoid ambiguity concerning the scope of FERC powers, the bill would also clarify that FERC can assess civil penalties for violations of its orders as well as regulations or other directives. I believe that these changes will give FERC more appropriate authority to ensure that hydroelectric projects produce electricity in a safe and environmentally acceptable manner.•

By Mr. GRAHAM (for himself, Mr. FOWLER, and Mr. MACK):

S. 2872. A bill to establish Dry Tortugas National Park in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

DRY TORTUGAS NATIONAL PARK ESTABLISHMENT ACT

Mr. GRAHAM. Mr. President, today I am introducing legislation on behalf of myself and my colleagues, Senators FOWLER and MACK, redesignating Fort Jefferson National Monument as Dry Tortugas National Park.

The Dry Tortugas are a small group of islands located about 70 miles due west of Key West, and completely isolated from land; the only access being privately owned or chartered boats or seaplanes. Initially discovered by Ponce de Leon, and home to Fort Jefferson since its construction in 1846, the area has profited from a long, rich cultural history.

Mr. President, every military engagement in the United States, from the Civil War until the Bay of Pigs used Fort Jefferson and Dry Tortugas as part of the American military activity.

Located on Garden Key, within the Dry Tortugas, Fort Jefferson remains the largest stone fort in the Western Hemisphere, and a wonderful example of 19th century military architecture. With 50-foot high, 8-foot thick outer walls, surrounding an 11 acre compound, Fort Jefferson is truly impressive to behold.

It so impressed President Roosevelt that in 1935, he proclaimed Fort Jefferson a national monument; the status it now enjoys. Presently the monument covers 100 square miles, encompassing not only the fort and Garden Key, but the surrounding islands, including the beautiful Loggerhead Key, coral reefs, and delicate marine ecosystems.

The area of the Dry Tortugas contains a magnificent diversity of animal and plant life, many of which are threatened or endangered. Endangered sea turtles and several species of birds use the relatively untainted shores of the Dry Tortugas for their seasonal nesting grounds. In addition, the islands are lined by a healthy coral reef system, unfortunately and increasingly it is a true rarity in this part of the world.

Unfortunately, because of Fort Jefferson's status as a national monument, the National Park Service has not been able to give it the priority attention it requires. As a result, the fort is vulnerable to deterioration.

It is my hope that by upgrading its status from national monument to national park, the area will receive the enhanced support from the National Park Service needed to restore and preserve its natural and cultural integrity.

Under the designation of a National Park, the Secretary of the Interior would be empowered to acquire lands and interests within the park's boundaries by donation or exchange. The Secretary would similarly be authorized to acquire and operate a site in Key West, FL, for the purposes of properly administering the park.

In addition, this legislation would allow the U.S. Coast Guard to surrender an island, presently located within the monument's boundaries. The Coast Guard no longer uses the island, except to maintain a small lighthouse.

Mr. President, I do not wish my colleagues to be mistaken. This legislation will not alter or modify the existing boundaries of the monument, but merely upgrades its funding status to that of a park in the national park system.

Companion legislation has been introduced in the House by our distinguished colleague, Representative DANTE FASCELL.

Mr. President, Representative FASCELL has recently announced that he will be leaving the Congress at the end of this term, concluding a long, distinguished career in the Congress. In 1959, I had the great honor of serving as an intern in the office of Congressman DANTE FASCELL. From that experience, I know the personification of public service which he represents. He has served his Nation, his State, his congressional district with great distinction.

Mr. President, I call upon my colleagues to approve this measure as a small tribute to our colleague and friend, DANTE FASCELL, and in recognition of the unique natural and national history represented by the Dry Tortugas.

Mr. President, I ask unanimous consent to have printed in the RECORD immediately following my remarks a section-by-section analysis of the legislation, and a full copy of the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dry Tortugas National Park Establishment Act".

SEC. 2. PURPOSE.

The purpose of this Act is to preserve and protect, for the education, inspiration, and enjoyment of present and future generations, nationally significant natural, historic, scenic, marine, and scientific values in Fort Jefferson National Monument in South Florida.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MONUMENT.—The term "Monument" means Fort Jefferson National Monument in South Florida.

(2) PARK.—The term "Park" means Dry Tortugas National Park established by section 4.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT.

(a) IN GENERAL .—Fort Jefferson National Monument, consisting of the lands, waters, and interests in lands and waters described in section 201 of Public Law 96-287, is redesignated as "Dry Tortugas National Park".

(b) ADMINISTRATION.—The Park shall be administered by the Secretary as a unit of the National Park System under the laws applicable to the System and consistent with the purpose of this Act.

(c) MANAGEMENT.—The Park shall be managed—

(1) to protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community;

(2) to protect populations of fish and wildlife, including loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species;

(3) to protect the pristine natural environment of the Dry Tortugas group of islands;

(4) to protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of 19th century masonry fortification;

(5) to preserve and protect submerged cultural resources; and

(6) in a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

SEC. 5. LAND ACQUISITION AND TRANSFER OF PROPERTY.

(a) IN GENERAL.—Within the Park, the Secretary may acquire lands and interests in land by donation or exchange.

(b) EXCHANGE WITH STATE OF FLORIDA.—For the purpose of acquiring property by exchange with the State of Florida, the Secretary may exchange those Federal lands that were excluded from the Monument by section 201 of Public Law 96-287 and that are directly adjacent to lands owned by the State of Florida outside of the Park, for lands owned by the State of Florida within the Park.

(c) COAST GUARD LANDS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Commandant of the United States Coast Guard determines that all or any substantial portion of lands under the administration of the United States Coast Guard located within the Park, including Loggerhead Key, are not needed by the United States Coast Guard, the lands shall be transferred to the Secretary for the purpose of carrying out this Act.

(2) RESERVATION OF RIGHT.—The Commandant of the United States Coast Guard may reserve the right to maintain and utilize the lighthouse on Loggerhead Key that is in existence on the date of enactment of this Act in a manner consistent with the purposes of the United States Coast Guard and the purpose of this Act.

SEC. 6. ADMINISTRATIVE SITE.

The Secretary may acquire and operate an administrative site in Key West, Florida, for Park administration and to further the purpose of this Act. The Secretary may acquire an administrative site in accordance with section 5(a).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act. Any funds available for the Monument shall be made available for the Park.

SECTION-BY-SECTION ANALYSIS

TITLE I

Sec. 101(a) redesignates Ft. Jefferson National Monument as Dry Tortugas National Park.

(b) States purposes for which Park shall be managed, including protection and interpretation of a pristine subtropical marine ecosystem; protection of fish and wildlife populations; protection of the pristine natural environment of the Dry Torgugas island group; protection, stabilization, restoration and interpretation of Ft. Jefferson; preservation and protection of submerged cultural resources; and scientific research.

Sec. 102. LAND ACQUISITION AND TRANSFER OF PROPERTY.—Provides for acquisition by donation or exchange between the United States and the State of Florida and, within the federal government, between the National Park Service and the U.S. Coast Guard. Provides for the Coast Guard to maintain and utilize the existing lighthouse on Loggerhead Key.

Sec. 103. authorizes acquisition of an administrative site in Key West using authority provided in Sec. 102.

Sec. 104. authorizes sums to be made available to carry out the purposes of the act and funds available for the monument shall be made available for the park, along with authorizations of funds.

Mr. MACK. Mr. President, I rise in support of the bill to redesignate Fort Jefferson National Monument as the Dry Tortugas National Park.

The cluster of seven coral reefs that lie almost 70 miles west of Key West known as the Dry Tortugas is home to a myriad of marine, plant, and animal life as well as the largest of the 19th century American coastal forts. Fort Jefferson has been of military strategic importance to the United States from the time it was constructed in 1846 through World Wars I and II and finally in 1962 when it was used as a military outpost during the Cuban missile crisis of 1962. The Dry Tortugas, named for its lack of fresh water and abundance of sea turtles, is home to a dozen endangered and threatened species.

Fort Jefferson National Monument receives an average of 20,000 visitors a year which arrive by private boat, chartered seaplane or chartered sportfishing or dive boat. For those lucky enough to visit this wonderful place they will be treated to a plethora of natural and historical beauty. The shipwrecks on the surrounding reefs constitute one of the Nation's principal ship graveyards and date back to the 1600's. It's over 64,000 acres encompass a striking combination of historic resources and a pristine subtropical marine environment.

Raising the designation of the Fort Jefferson National Monument to the Dry Tortugas National Park will help to focus the appropriate attention on this precious national resource. I urge my colleagues to support this legislation, and to visit this beautiful part of American history.

By Mr. BREAUX (for himself, Mr. COATS, Mr. DASCHLE, Mr. LUGAR, Mr. NUNN, and Mr. DIXON):

S. 2873. A bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits; to the Committee on Finance.

MEDICAL COST CONTAINMENT ACT OF 1992

Mr. BREAUX. Mr. President, I rise to introduce a bill entitled the Medical Cost Containment Act of 1992 and to make a few comments about it.

Mr. President, we had hearings this morning in the Senate Finance Committee where, Chairman BENTSEN and the ranking member, Senator PACKWOOD have held an exhausting series of hearings on major health care reform legislation.

Mr. President, the bill I am introducing today is cosponsored by Senators COATS, DASCHLE, LUGAR, NUNN, and DIXON. I certainly hope others, after they have an opportunity to review the content of the Medical Cost Containment Act of 1992, will, too.

It is a relatively novel approach, Mr. President, one that I think merits our favorable consideration. I would suggest that $4,500 is about what the average employer contributes to each employee that works for him in terms of buying health insurance for that employee and that employee's family.

It is also a fact, Mr. President, that the average person in this country spends less than $3,000 a year in medical expenses for himself and his family.

My suggestion is very simple, Mr. President: That each employer have the opportunity to contribute an amount, for example $3,000, to a medical savings account for his employee, and that that savings account would belong to that employee who would pay his smaller medical bills out of it and if there is anything left after the end of the year, under my legislation that person would then be able to keep those amounts of money, roll them over to the next year, and that would be able to occur every year under this plan.

That person who does not spend the money would actually have title to it, he would own it, he would not pay taxes on it, but he would pay taxes on interest built up in that account. The $1,500 in this example that the employer would save could then be used to buy a catastrophic policy for that employee and his family which would cover any expenses over $3,000.

Two things happen under this plan, Mr. President, which I think are very important.

One, we cut out an incredible amount of bureaucracy, and an incredible amount of paperwork. Studies have shown us that between 20 and 24 percent of all American health care costs now go for administrative costs. If an employee was able to go to the doctor, go to the hospital, pay for the services out of this account, it would eliminate the need for forms and for claims filing to insurance companies and for paperwork from the doctor to the insurance company and from the patient. It would be a lot easier, a lot smoother.

The second thing, the most important thing I think it would do, Mr. President, is that it would put more discipline, more choices in the hands of the employee when he or she is shopping for health care in America. It is clear, I think that the people are not careful when they know that some third party is paying for their health care. They are less careful about how they buy and purchase health care in this country. But if their spending comes out of their savings account which would be created by this legislation, Mr. President, I would suggest that people would be more careful, they would be more cost conscious, they would shop in a more educated fashion, as to which hospital they go to, which physician, which doctor they choose to go to for the services they need. You bring about a greater discipline and I think ultimately you would reduce health care costs in this country.

We had the president of Golden Rule Insurance Co., the chairman of the board, Mr. Pat Rooney, present this concept before the Senate Finance Committee this morning. I think he has an idea that is well worth considering.

We have made some refinements in his proposal which I think will improve the legislation. But, I think, Mr. President, and my colleagues, that after people look at the concept of a medical care savings account that is carefully crafted, they will come to the same conclusion that I have reached; that is, it is an ingredient in an overall health reform package that we in Congress could consider.

I think if you allow individual consumers to be more active in how their health care costs are paid for, they will indeed be wiser consumers, and ultimately bring about some great savings in the health care industry in the United States.

What we are going to propose will place more of the responsibility for purchasing health care services in the hands of those who are best equipped to make rational financial decisions, the individual American consumer.

First, I will explain what I am proposing, then I will provide some background information on the concept. Under this bill, an employer would be able to offer to his employees a new form of medical plan that would have two parts: a high deductible insurance policy with a deductible no greater than $3,000 plus a medical savings account. The amount of money deposited into the medical savings account would be the difference between the employer's cost of providing a high premium policy with a low deductible and the new low premium policy with a high deductible. The employer would be required to contribute at least this amount each year, indexed for inflation.

The funds that are contributed to the savings account each year can be used on a tax free basis for qualified medical expenses. If the employee uses the funds for nonmedical expenses he would have to pay tax on the amount of withdrawal. In addition, to minimize the overall cost to the Federal treasury, the employee would be required to pay tax on the interest build up each year.

The key to my proposal is a change in the Tax Code which would permit employees to keep any of the money that is left over in their medical care savings account at the end of a year. This would encourage individuals to be more cautious about their spending decisions, as if they were spending their own money. Funds left over at the end of each year could either be kept by that individual in the account to pay for long-term care services after retirement, or to pay for health insurance expenses during periods of unemployment.

Under current law, employers can set up "flexible spending accounts" to help employees pay for their health care needs. The problem with these accounts is that an employee must use all the money in their account each year or lose what is left over. This provides a perverse incentive for employees to spend all of the money in their account and to overutilize health care services. What I am proposing turns that perverse incentive around—if an employee knows that he or she will be able to keep any money that is left over at the end of the year, they will be more prudent about how they spend it.

This legislation will allow employers to restructure the health coverage that they provide to their employees in a way that better serves their employees' needs and which promises to save money over the long term. It will lead to savings in two ways: First, through reduced premiums as employees begin to spend more wisely and, second, through administrative savings.

Most people in this country today who have insurance get it through their employer. The most common type of insurance is fee-for-service, like the regular Blue Cross and Blue Shield plans. This system insulates employees from the true costs of their insurance coverage and of the medical services that they purchase. The fact that a third-party payer is responsible for handling health care bills relieves consumers and providers of any sense of obligation to be thrifty when it comes to spending on health care.

We heard interesting testimony in the Finance Committee last Wednesday, May 6, from the Public Agenda Foundation. Most Americans overestimate what they are paying for their health insurance. In focus groups it was found that people thought their out-of-pocket costs and premiums accounted for as much as 70–80 percent of their health care costs. This is exactly wrong. Actually, employers and the Government pay for about 70 to 80 percent of health care costs while individuals only pick up 20 to 30 percent through out-of-pocket payments. This illustrates my point that individuals do not know who is paying or how much is being paid for their health care coverage.

Senators and Senate employees who are covered by Blue Cross's regular plan or under the Kaiser Permanente HMO plan only pay about 25 percent of the premium cost of their coverage while the governments picks up the other 75 percent. I wonder how many Senators and employees around here are aware of this.

Under my proposal, consumers will spend more wisely. This should lead to cheaper premiums in the long run as individuals use fewer unnecessary services and make more of an effort to keep track of where the money is flowing.

The use of medical care savings accounts will also begin to address the problem of excessive administrative costs under our existing private insurance system. Estimates of the amount of potential savings in this area range from $60 to as much as $100 billion annually.

In one sample region of the United States, two-thirds of all claims dollars paid out in a year currently fall into the $3,000 and under category. In this same region, 94 percent of insured individuals do not pay more than $3,000 in a given year for health care services.

I myself do not ever remember spending nearly that much on health care for myself in a given year. I have four kids and had to pay deductibles for each of them. By the time I hit the deductible for my son, John, it was Beth's turn to get hurt and I would have to start all over.

All of these low dollar claims for routine checkups must be handled by doctors' offices and insurance companies in the same way as large claims. A $50 claim costs as much to process as a $500 claim.

My proposal will allow individuals and doctors' offices to avoid these administrative expenses and hassles. They will be able to simply write a check on their medical savings account, hand it to their doctor and be out the door. Claims processing costs for claims under medical savings accounts would be greatly reduced.

Mr. President, what I am proposing is only intended to be one part of the overall debate on health care reform that Congress must tackle. I do not see this proposal as the answer to all of our problems. Rather, it is a way to improve the options that are available to employers and employees under the existing system in this country. I am a cosponsor of S. 1872, the Better Access to Affordable Health Care Act, introduced by the chairman of the Finance Committee, Senator BENTSEN, which will reform the small group insurance market and which will begin the process of reforming rating practices in the insurance industry. I continue to support this legislation and would ideally like to see my proposal enacted in combination with the reforms contained in S. 1872.

I also realize that the enactment of medical care savings accounts will not address the larger question of access to care for the tens of millions of uninsured Americans. I support broader reform efforts in this area and was a cosigner of Senator WOFFORD'S letter to the majority leader urging that the Senate take up broader reform this year. I continue to support these efforts.

Thank you for the opportunity to present this proposal. I urge my colleagues to join me in addressing at least this part of the problem as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Medical Cost Containment Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. MEDICAL CARE SAVINGS BENEFITS.

(a) IN GENERAL.—Section 106 is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"(a) IN GENERAL.—Gross income of an employee does not include employer-provided—

"(1) coverage under an accident or health plan, and

"(2) medical care savings benefits.

"(b) MEDICAL CARE SAVINGS BENEFIT.—

"(1) IN GENERAL.—For purposes of this section, the term 'medical care savings benefit' means an amount equal to the qualified premium differential amount—

"(A) which is credited by the employer to an employee during a plan year to pay for medical care (as defined in section 213(d)) of the employee, the employee's spouse, or any dependent of such employee (as defined in section 152) and,

"(B) to the extent that any amount remains credited to such employee at the end of each plan year, which is contributed to a medical care savings account established under section 408A for such employee.

"(2) QUALIFIED PREMIUM DIFFERENTIAL AMOUNT.—For purposes of paragraph (1), the qualified premium differential amount for an employee is equal to—

"(A) the premium differential amount realized by the employer in the plan year in which the employee elects coverage under a qualified higher deductible health plan, and

"(B) for each subsequent plan year during which such election remains in effect, the amount determined under subparagraph (A) increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the plan year begins, by substituting 'the calendar year preceding the calendar year in which the plan year described in section 106(b)(2)(A) began' for 'calendar year 1989'.

"(3) QUALIFIED HIGHER DEDUCTIBLE HEALTH PLAN.—

"(A) IN GENERAL.—For purposes of paragraph (2), the term 'qualified higher deductible health plan' means a group health plan which provides, for a higher deductible (not to exceed $3,000), similar benefits to—

"(i) other group health plans offered by the employer,

"(ii) other group health plans previously offered by the employer, in the case in which a single group health plan is offered by the employer, or

"(iii) other group health plans for similar employees in the same geographic area, in the case in which the employer has not previously offered any group health plan.

"(B) DEDUCTIBLE LIMITATION ADJUSTED FOR INFLATION.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1992' for 'calendar year 1989'.

"(C) GROUP HEALTH PLAN.—For purposes of subparagraph (A), the term 'group health plan' has the meaning given such term by section 5000(b)(1).

"(4) DETERMINATION OF PREMIUM DIFFERENTIAL.—For purposes of this subsection, in making a determination of a premium differential for any year, the employer shall use only actual premiums charged to such employer, or, in the case of group health plans described in subparagraphs (B) and (C) of paragraph (3), bona fide premium quotes for such year.

"(5) SPECIAL RULES RELATING TO PAYMENTS FROM MEDICAL CARE SAVINGS BENEFIT ACCOUNT BALANCE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), if the employer provides for level installment payments during the year, the employer shall provide that the maximum amount of reimbursement at a particular time during the period of coverage shall be limited to the amount of actual contributions to the medical care savings benefit account.

"(B) ADVANCE EXCEPTION.—An employee may be advanced, interest free, such amounts necessary to cover incurred expenses for medical care which exceed the amount then credited to the employee's account, upon the employee's agreement to repay such advancement from future installments or upon ceasing to be a plan participant.

"(5) REPORTING.—Each employer shall issue to each employee, not less frequently than quarterly, a statement setting forth the amount remaining in such employee's account."

SEC. 3. MEDICAL CARE SAVINGS ACCOUNT.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. MEDICAL CARE SAVINGS ACCOUNTS.

"(a) MEDICAL CARE SAVINGS ACCOUNTS.—For purposes of this section, the term 'medical care savings account' means a trust created or organized in the United States for the exclusive benefit of an individual, the individual's spouse, or the individual's dependents (as defined in section 152), but only if the written instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of the amount described in section 106(b)(1)(B).

"(2) The trustee is a bank (as defined in subsection (d)), life insurance company (as defined in section 816(a)), or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of the account is nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(b) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—The aggregate amount of contributions described in section 106(b)(1)(B) in any medical care savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical care savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE EMPLOYEE ENGAGED IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit any medical care savings account is established, that individual the individual's spouse, or any dependent of such individual (as defined in section 152) engages in any transaction prohibited by section 4975 with respect to such account, such account ceases to be a medical care savings account as of the first day of such taxable year. For purposes of this paragraph the individual for whose benefit any account was established is treated as the creator of such account.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical care savings account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (c) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year of the individual for whose benefit a medical care savings account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(4) COMMINGLING MEDICAL CARE SAVINGS ACCOUNT AMOUNTS IN CERTAIN COMMON TRUST FUNDS AND COMMON INVESTMENT FUNDS.—Any common trust fund or common investment fund of medical care savings account assets which is exempt from taxation under this subtitle does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION IN GROSS INCOME.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of a medical care savings account consisting of contributions described in section 106(b)(1)(B) shall be included in gross income by the distributee.

"(B) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution shall be treated as allocated first to earnings and then to contributions.

"(2) DISTRIBUTIONS FOR MEDICAL CARE.—Paragraph (1) shall not apply to amounts paid directly or indirectly for medical care (as defined in section 213(d)) of the individual for whose benefit such account is maintained, the individual's spouse, or any dependent of such individual (as defined in section 152)).

"(3) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution which shall not be included in the gross income of the distributee if it meets the requirements of subparagraph (A) and (B).

"(A) IN GENERAL.—Paragraph (1) does not apply to any amount paid or distributed out of a medical care savings account to the individual for whose benefit the account is maintained if the entire amount received is paid into a medical care savings account for the benefit of such individual not later than the 60th day after the day on which such individual receives the payment or distribution.

"(B) LIMITATION.—This paragraph does not apply to any amount described in paragraph (A) received by an individual from a medical care savings account if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from a medical care savings account which was not includible in such individual's gross income because of the application of this paragraph.

"(C) DENIAL OF ROLLOVER TREATMENT FOR INHERITED ACCOUNTS, ETC.—

"(i) IN GENERAL.—In the case of an inherited medical care savings account—

"(I) this paragraph shall not apply to any amount received by an individual from such an account (and no amount transferred from such account to another medical care savings account shall be excluded from gross income by reason of such transfer), and

"(II) such inherited account shall not be treated as a medical care savings account for purposes of determining whether any other amount is a rollover contribution.

"(ii) INHERITED MEDICAL CARE SAVINGS ACCOUNT.—A medical care savings account shall be treated as inherited if—

"(I) the individual for whose benefit the account is maintained acquired such account by reason of the death of another individual, and

"(II) such individual was not the surviving spouse of such other individual.

"(d) BANK.—For purposes of subsection (a)(2), the term 'bank' means—

"(1) a bank (as defined in section 581),

"(2) an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act), and

"(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State.

"(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in subsection (d)), a life insurance company (as defined in section 816(a)), or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the account will be consistent with the requirements of this section, and the custodial account would, except for the fact that it is not a trust, constitute a medical care savings account described in subsection (b). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a medical care savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL CARE SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical care savings account (within the meaning of section 408A(a)), or",

(3) by striking out "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL CARE SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical care savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 408A(a)(1) for such taxable year."

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL CARE SAVINGS ACCOUNTS.—An individual for whose benefit a medical care savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical care savings account by reason of the application of section 408A(b)(2)(A) to such account.", and

(2) by inserting ", or a medical care savings account described in section 408A(a)" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON MEDICAL CARE SAVINGS ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "**OR A MEDICAL CARE SAVINGS ACCOUNT**" after "**ANNUITIES**" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 408A(g) to file a report regarding a medical care savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Medical care savings accounts."

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical care savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(3) The table of sections for subchapter B of chapter 68 is amended by inserting "or on medical care savings accounts" after "annuities" in the item relating to section 6693.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1992.

By Mr. FORD (for himself, Ms. MIKULSKI, and Mr. SARBANES):

S. 2874. A bill to revise the deadline for the destruction of the United States' stockpile of old lethal chemical agents and munitions; to establish a commission to advise the President and Congress on alternative technologies appropriate for use in the disposal of lethal chemical agents and munitions; to encourage international cooperation on the disposal of lethal chemical agents and munitions; and for other purposes; to the Committee on Armed Services.

CHEMICAL DEMILITARIZATION PROGRAM REVISIONS ACT

Mr. FORD. Mr. President, for the past decade the Army has been wrestling with the problem of disposal of its chemical agents and munitions stockplies. Located at eight locations throughout the United States, the stockpiles have been stored, in some cases, since World War I. As times have changed, the need for these chemical weapons has disappeared, resulting in the Army's current mission to destroy its stockpiles.

Demographics at the storage sites have also changed over time. Large residential communities have grown within only a few miles of formerly isolated areas, particularly in three places: Kentucky, Maryland, and Indiana. Residents there are extremely concerned about the prospect of having chemical munitions burned in their backyards, and rightfully so.

In undertaking the destruction of the chemical stockpile, the Army was tasked with choosing a method of disposal which would perform the task within a given timeframe, which was environmentally sound, and which was not prohibitively expensive. The Army chose incineration. However, over the intervening years a great deal has been learned about the safe disposal of chemical weapons, and advancements have been made in other disposal areas, all of which have raised questions about the efficacy of incineration.

Just how much progress has been made is not entirely clear. The Army is not even sure, which is why it has asked the National Research Council of the National Academy of Science to undertake a study of alternatives for weapons disposals. The study is due early next year.

Last fall I requested the Office of Technology Assessment to examine alternatives to on-site incineration. That study will be released at the end of June, and I believe OTA will recommend that, as a hedge against certain potential obstacles, the Army should develop a backup plan to its current technological choice.

The idea of alternative technologies is not new, but it should not be ignored. Few would argue it is only right and fair that a thorough and honest look be taken at the possibility of using a different destruction technology. That is why Senators MIKULSKI, SARBANES, and I are introducing today the "Chemical Demilitarization Program Revisions Act of 1992," legislation to form an independent commission to once and for all identify the safest and most effective methods of disposing of the chemical weapons stockpile. Its final report will offer well-based projections on which Congress and the Army should be able to make a definitive decision on the future direction of the Army's chemical weapons disposal program.

Our bill establishes the Chemical Demilitarization Advisory Commission. Slated to be in operation by January 1993, the member Commission is directed to report back to the Congress and the President within 1 year on the cost, timeframe, probability of success, and degree of risk to the public health and safety and the environment of technologies identified as appropriate for munitions disposal. The Commission shall also determine which technologies can be specifically applied to the three sites where public opposition to the incineration technology is the greatest, those with 6 percent or less of the stockpile—Richmond Army Depot in Kentucky, Aberdeen Proving Ground in Maryland, and Newport Army Ammunition Plant in Indiana.

Not later than 180 days after the Commission releases its report, the Secretary of Defense must, in turn, submit to Congress a revised chemical weapons disposal concept plan. The determinations of the Commission shall be central to the Secretary's deliberations.

Legislation similar to this was introduced in the House of Representatives by Congressman TOM MCMILLEN and has already been incorporated into H.R. 5006, the Department of Defense authorization bill for fiscal year 1993; we hope the Armed Services Committee will see fit to do the same over here. It is critical that this provision become law.

As we said earlier, many of our constituents are very, very uneasy at the prospect of having chemical munitions incinerated so close to their homes and schools; how can anyone object to conducting further study to determine if indeed there is a more benign way to destroy the Nation's chemical stockpile?

But perhaps even more compelling is the cold hard fact that the Army has no contingency plan in the event a state denies an environmental permit to build the incinerator, or if cost overruns or technical problems bring the baseline technology to a screeching halt. Both the General Accounting Office in a hearing held Tuesday before House Government Operations and the OTA in the aforementioned report have focused on the shortsightedness of the Army not having a backup plan. This is a problem which will not go away—but which our legislation may cure.

By Mr. LEAHY:

S. 2875. A bill to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula, for the special supplemental food program for women, infants, and children [WIC], and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WIC INFANT FORMULA PROCUREMENT ACT

• Mr. LEAHY. Mr. President, during debate on the budget resolution earlier this year, 92 Senators joined me in recommending a $400 million increase in the WIC Program.

I hope that each of those Senators will join me in my outrage at learning of allegations that the three major infant formula manufacturers have been cheating the WIC Program out of millions of dollars.

On June 11, the Federal Trade Commission ended a 2-year investigation by bringing charges in Federal court against the largest manufacturer of infant formula for bid-rigging under the WIC Program. The two remaining infant formula manufacturers agreed to settlements with the FTC on similar charges.

I introduced legislation in 1989, later signed into law, which required States to buy infant formula for WIC through competitive bidding and other cost containment procedures.

However, according to the FTC, Abbott Laboratories, Mead Johnson & Co. and American Home Products Corp. tried to undermine WIC competitive bidding—a procedure that currently saves enough money to put an additional 1 million mothers and their children on the WIC Program at no additional cost to taxpayers.

We cannot tolerate price fixing that puts corporate profits ahead of hungry infants, children, and pregnant women.

Today, I am introducing the WIC Infant Formula Procurement Act. Under this bill, infant formula manufacturers who swindle the WIC Program could be fined up to $100 million, and be barred from the WIC infant formula market for up to 2 years.

The bill would also heighten competition in the WIC infant formula market, by providing cash incentives and technical assistance to States who increase their buying power by forming blocs to purchase formula.

The special supplemental food program for women, infants, and children [WIC], is universally acclaimed as one of our Nation's most successful nutritional programs.

WIC provides food, nutritional instruction, health assessments, and medically prescribed supplements—and saves taxpayers money.

A 1991 USDA study showed that for every WIC dollar spent on a pregnant woman, between $2.98 and $4.75 was saved in Medicaid costs for the newborn during the first 60 days after birth.

I estimate that the bill I am offering today could save the WIC Program up to $30 million, by requiring infant formula companies to bid for large regions, instead of in 50 separate States. This will promote high-volume discounts and prevent pharmaceutical companies from taking advantage of smaller States.

If these savings are realized under this bill, almost 60,000 more infants, children, and mothers can participate in WIC without costing taxpayers 1 cent.

Let our message today be loud and clear: Hungry children and their mothers are more important than illegal corporate profits.

I ask unanimous consent that the bill, the Infant Formula Procurement Act, be printed in the RECORD, and that there also be included in the RECORD the accompanying documents detailing the actions of the Federal Trade Commission.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "WIC Infant Formula Procurement Act of 1992".

SEC. 2. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this Act to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

SEC. 3. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 4. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall, no more frequently than annually, solicit bids for a cost-containment contract to be entered into by infant formula manufacturers and the State agencies that elect to have the Secretary perform the bid solicitation and selection process on each such State agency's behalf. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall consider whether infant formula manufacturers likely to submit bids can compete effectively and whether the size of the groups is sufficiently small to promote competition.

"(iii) State agencies electing to require the Secretary to perform the bid solicitation and selection process on their behalf shall enter into the resulting containment contract and shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v) The term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be for not less than 2 years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure, to the maximum extent possible, that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(H)(i) In soliciting bids for contracts for infant formula for WIC, the Secretary and State agencies shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited—

"(I) for both types of infant formula (a combined bid for both soy- and milk-based formula) to be supplied by the same manufacturer; and

"(II) for each type of infant formula, separately.

"(ii) The requirements of clause (i) shall not apply if the Secretary, or State agencies, determine for any particular solicitation, that—

"(I) the number of manufacturers and other suppliers eligible to bid will likely be decreased under the approach described in clause (i);

"(II) administrative costs involved in implementing the separate and joint bids would be excessive in relation to the benefits gained; or

"(III) the total rebates or discounts received are likely to decrease under such an approach.

"(iii) State agencies deciding not to accept bids for each type of formula under clause (i) shall advise the Secretary of the basis for the decision, taking into account the requirements set forth in clause (ii).

"(iv) The Secretary shall report to Congress by March 1, 1994, on the decisions State agencies and the Secretary have made regarding bid solicitations under clause (i), along with any recommendations the Secretary may have to increase competition by encouraging the participation of additional infant formula manufacturers in the program established by this section.

"(I) To reduce the costs of any supplemental foods, the Secretary shall—

"(i) promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) encourage and promote the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) encourage the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures;

"(III) the procedures would be consistent with the purposes of the program; and

"(vi) make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one-half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula by two or more state agencies, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) soliciting or accepting bids for each type of infant formula (milk or soy based) under subclauses (I) and (II) of subparagraph (H);

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program established under this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress and for up to 2 years from the date the bids are opened and shall be subject to fines of up to $100,000,000, as determined by the Secretary taking into account potential harm to the program established under this section. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the fine, referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 5. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for which such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 6. INCENTIVE TO ENCOURAGE JOINT PURCHASING OF INFANT FORMULA.

Section 17(h)(2)(A) Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) be designated to provide funds, to the extent funds are not already provided under subparagraph (I)(vii) for the same purpose, to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula by two or more State agencies, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) soliciting or accepting bids for each type of infant formula (milk or soy based) under subclauses (I) and (II) of subparagraph (H);

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.".

SEC. 7. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

FTC Charges Abbott Laboratories With Bid-Rigging in Federal-State Nutrition Assistance Program, and With Conspiring Not To Advertise Infant Formula to Consumers

Abbott Laboratories, the leading U.S. manufacturer of infant formula, was charged by the Federal Trade Commission in federal district court this morning in connection with its bid in a Puerto Rico contract to provide formula to more than 40,000 infants through a federally-subsidized nutrition-assistance program. In a second complaint against Abbott, to be litigated in an administrative proceeding, the FTC alleged that the company conspired with others to refrain from advertising infant formula directly to consumers.

Abbott is based in Abbott Park, Illinois. Its Columbus, Ohio division, Ross Laboratories, manufactures and sells "Similac" and "Isomil" brands of formula, and had more than 50 percent of the U.S. market for infant formula in 1990.

The FTC also announced separate charges and proposed settlement agreements today with Abbott's two leading competitors in the infant formula market—American Home Products and Mead Johnson & Company. (See separate news release).

BID-RIGGING CHARGES

More than a third of the infant formula sales in the United States are subsidized by the federal government through the Special Supplemental Food Program for Women, Infants and Children (WIC), administered by USDA. States solicit bids from manufacturers to supply formula to WIC participants in either of two ways. Under an open-market system, several manufacturers can supply formula. Under the alternative, a sole-source system, the manufacturer who submits a sealed bid with the lowest unit price or highest rebate to the state is selected to supply formula to that state's WIC participants.

In general, under both systems, WIC participants receive vouchers to purchase the supplemental food at a local grocery store. Under the sole-source system, the voucher is good only for the designated manufacturer's product. The grocery store redeems the vouchers received with the state WIC agency for the prevailing retail price. The state then submits the voucher to the manufacturer and receives the agreed upon rebate.

Because under an open market system, all companies—even those who do not offer any rebate—can sell their product through the WIC program, generally the preferred choice from a cost-containment standpoint is sole source. Manufacturers usually offer a large rebate to win such a contract.

According to the FTC complaint against Abbott, Puerto Rico requested bids to supply infant formula for its WIC program in June 1990, giving companies the option of bidding for a sole-source system and an open-market system. Thereafter, the FTC charged, Abbott "conspired or combined with others to fix, stabilize or otherwise manipulate Puerto Rico WIC rebate bids and to guarantee an open market system rather than a sole source system." As a separate count, the FTC charged that Abbott provided information that showed to competing bidders that it preferred the open-market system and would bid in a way to ensure that it would prevail in Puerto Rico—conduct that led to the manipulation of bid results.

These actions reduced competition in the bidding process, the FTC alleged in its complaint against Abbott, and as a consequence, the federal government is losing millions of dollars in rebates each year in Puerto Rico. This, in turn, is raising taxpayer costs and reducing the number of families receiving WIC assistance, the FTC charged.

CONSUMER ADVERTISING CHARGES

According to the FTC administrative complaint, Abbott conspired with others not to advertise to consumers through the mass media. This conduct is alleged to include discussions at meetings of the Infant Formula Council (the industry trade association), held during the 1980's to draft guidelines that would have prohibited the use of mass media advertising directly to consumers. The administrative complaint also alleges that Abbott and other members of the Council agreed to exchange information about their plans with regard to direct consumer advertising through the mass media. Finally, the complaint alleges that Abbott requested health care professionals to ask other infant formula manufacturers to stop consumer advertising.

This conduct deprived consumers of the benefits of competition in the marketplace, the FTC alleged.

If the FTC's administrative charges against Abbot with regard to advertising restrictions are upheld after a trial before an administrative law judge, the Commission could impose cease and desist provisions prohibiting Abbott from engaging in the challenged behavior in the future, subject to civil penalty. As to the charges relating to the bidding in Puerto Rico, the FTC asked the federal district court to prohibit that challenged behavior as well, and to award such other relief as the court may deem appropriate, including restitution of the amounts lost to the federal government by virtue of Abbott's unfair methods of competition.

Note: The Commission issues or files a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. Neither complaint is a finding or ruling that the named party has violated the law. The administrative complaint marks the beginning of a proceeding in which the allegations will be ruled upon after a formal hearing by an administrative law judge.

The district court complaint against Abbott, which contains the Puerto Rico bid-rigging allegations, was filed in U.S. District Court for the District of Columbia this morning. The administrative complaint against Abbott, which contains the allegations relating to restrictions on direct consumer advertising, was issued by the Commission yesterday, June 10. The Commission vote to initiate these actions was 4-0 with Commissioner Roscoe B. Starek, III recused. In voting for the federal district court complaint, Commissioner Mary L. Azcuenaga said she concurred with Court I alleging a conspiracy but dissented with respect to Court II alleging unlawful unilateral conduct. In voting for the administrative complaint, Commissioner Azcuenaga said she concurred only with the allegation that Abbott entered into a conspiracy with others to refrain from advertising to consumers.

FTC SETTLEMENTS WITH TWO LEADING U.S. INFANT-FORMULA MAKERS IN CONNECTION WITH BIDDING PRACTICES NETS 3.6 MILLION POUNDS OF POWDERED INFANT FORMULA AS RESTITUTION TO THE FEDERAL GOVERNMENT

Two of the three leading U.S. manufacturers of infant formula have agreed to settle charges announced today by the Federal Trade Commission. The FTC settled three separate charges against Mead Johnson & Company and one charge against American Home Products (AHP). The charge common to both companies relates to their bidding practices for the Puerto Rico contract to provide formula to more than 40,000 infants through a federally-subsidized nutrition-assistance program. In connection with the Puerto Rico bidding, the settlements, to be filed for approval in federal district court, require these companies to deliver a total of 3.6 million pounds of powdered infant formula to the U.S. Department of Agriculture (USDA), which administers the nutrition assistance program, known as WIC (the Special Supplemental Food Program for Women, Infants and Children).

The FTC also has settled charges relating to the absence of advertising directly to consumers through the mass media by Mead Johnson during a period prior to 1988. The complaint alleges that Mead Johnson exchanged information with competitors about its plans with regard to mass media advertising, and charges that this reduced uncertainty among competitors and injured competition. The complaint also alleges that Mead Johnson participated in the information exchange with no independent legitimate business reason. The proposed settlement prohibits Mead Johnson from engaging in certain information exchanges with its competitors relating to direct consumer advertising through the mass media, although it preserves Mead Johnson's right to decide independently whether or not to advertise. Finally, the FTC settled a charge that Mead Johnson engaged in an unfair method of competition relating to bidding for WIC contracts in 1990 by sending out letters on March 6, 1990 to four states announcing, in advance, the amount of rebates it would offer for what were supposed to be sealed bids. The complaint also alleged that Mead Johnson knew or should have known that its competitors would become aware of the information contained in those letters.

Mead Johnson, an Evansville, Indiana corporation and a wholly-owned subsidiary of Bristol-Myers Squibb Company, manufactures and sells "Enfamil" and "Prosobee" brands of formula and had more than 30 percent of the 1990 infant formula market. AHP is based in New York City and manufactures and sells "SMA" and "Nursoy" brands of formula through its Radnor, Pennsylvania-based Wyeth-Ayerst Laboratories division. Wyeth-Ayerst was the third largest manufacturer of infant formula in the United States in 1990.

According to the FTC, approximately 90 percent of the infant formula market was concentrated among Mead Johnson, AHP and a third company, Abbott Laboratories (against whom the FTC also announced charges today—see separate news release) during the relevant period. The complaint alleges that the market is difficult to enter, and there has been limited competition among brands based on wholesale prices. Throughout the relevant period, there was virtually no advertising through the mass media directly to consumers, the FTC said.

ALLEGED IMPROPRIETIES IN THE 1990 PUERTO RICO WIC BID

More than a third of the infant formula sales in the United States are subsidized by the federal government through the Special Supplemental Food Program for Women, Infants and Children (WIC), administered by USDA. States solicit bids from manufacturers to supply formula to WIC participants in either of two ways. Under an open-market system, several manufacturers can offer rebates and supply formula. Under the alternative, a sole-source system, the manufacturer who submits a sealed bid with the lowest unit price or highest rebate to the state is selected to supply formula to that state's WIC participants.

In general, under both systems, WIC participants receive vouchers to purchase the supplemental food at a local grocery store. Under the sole-source system, the voucher is good only for the designated manufacturer's product. The grocery store redeems the vouchers received with the state WIC agency for the prevailing retail price. The state then submits the voucher to the manufacturer and receives the agreed upon rebate.

Because under an open market system, all companies—even those who do not offer any rebate—can sell their product through the WIC program, generally the preferred choice from a cost containment standpoint is sole source. Manufacturers usually offer a larger rebate to win such a contract.

According to the FTC complaints against Mead Johnson and AHP, Puerto Rico requested bids to supply infant formula for its WIC program in June 1990, giving companies the option of bidding for a sole-source system and an open-market system. Thereafter, the FTC charged, each company provided information showing to its competitors that it preferred the open-market system and would bid in a manner to ensure that it would prevail in Puerto Rico. According to the FTC complaints, Mead Johnson and AHP then submitted identical bids for both the open-market and the sole-source options. The first bid was cancelled and a new request was issued, and the companies submitted the same bids again. The FTC alleged that these bids "were significantly below contemporaneous rebate bids submitted in response to requests from other WIC programs." The bidding resulted in the implementation of an open market system.

The provision of information reduced uncertainty relating to Mead Johnson's and AHP's rebate bids, the FTC alleged, and reduced competition among the defendants' and their competitors for the Puerto Rico

WIC contract during 1990, resulting in substantial injury, including the loss of millions of dollars, to the federal government's WIC program.

CONSUMER ADVERTISING

According to the FTC complaint, at meetings of the Infant Formula Council (the industry trade association), held during the 1980's to draft guidelines that would have prohibited the use of consumer advertising, Mead Johnson exchanged information with competitors about its plans with regard to mass media advertising and other forms of direct-to-consumer promotions. The FTC alleged this conduct by Mead Johnson also injured competition. No consumer advertising violations were charged against AHP.

MARCH 6, 1990 LETTERS

In the final allegation against Mead Johnson, the FTC charged the company with reducing uncertainty among competitors by sending letters in March 1990 to four states announcing the dollar amount it intended to bid when those states requested sealed bids for new WIC contracts. The FTC alleged that Mead Johnson knew, or should have known, that the information would be shared with its competitors. The complaint also alleges that these competitors did become aware of the content of the letters, and that, consequently, competition between the three major formula manufacturers for WIC contracts in 1990 was reduced.

SETTLEMENT AGREEMENTS WITH MEAD JOHNSON AND AHP

Under proposed settlement agreements with Mead Johnson and AHP, which require federal district court approval, the defendants would be prohibited from:

Requesting or encouraging any WIC official to administer bidding in violation of federal or state requirements;

agreeing, attempting to agree, or enforcing an agreement with a competitor regarding rebate bids for WIC programs;

exercising any third-year option on their July 1990 contracts with the Puerto Rico WIC program or exercising any right to protest should Puerto Rico terminate those contracts and issue a new invitation for bids; and

disclosing prior to the date for submission of sealed bids to provide formula through a state WIC program, the amount of their bid for that request or any other WIC program request, or their intention to bid in a manner that will increase the likelihood that an open-market system will prevail over a sole-source system.

The settlement agreement with Mead Johnson would further prohibit that company from: intentionally exchanging information with a competitor about mass media advertising directly to consumers; agreeing or attempting to agree with a competitor to refrain from or restrict marketing practices that are otherwise legal; and from soliciting adherence from competitors to either restrict mass media advertising directly to consumers or to adopt an Infant Formula Council code or the codes of other organizations that would restrict such advertising. Mead Johnson would be permitted to communicate any positions it holds on such practices or codes to entities other than to its competitors, however. Moreover, Mead Johnson remains free to unilaterally decide whether or not to advertise, or to issue its own advertising code, or to engage in certain activity with its competitors which is protected by the first amendment, such as petitioning the government to enact legislation relating to advertising. The proposed consent order also would allow the exchange of technical, scientific, and safety information as long as it does not involve information relating to direct consumer advertising through the mass media.

Note: These proposed consent orders are for settlement purposes only and do not constitute an admission by the defendants of law violations. They require the court's approval and have the force of law when signed by the judge.

Both complaints and proposed settlement agreements were filed in U.S. District Court for the District of Columbia, this morning. The Commission vote to initiate these actions was 3-1, with Commissioner Roscoe B. Starek, III recused and Commissioner Mary L. Azcuenaga dissenting. Commissioner Azcuenaga said that she voted against the complaints because they failed to allege a bid-rigging conspiracy. She stated she would have voted in favor of the complaints and settlements with Mead Johnson and AHP relating to the Puerto Rico bidding if the complaints had alleged a conspiracy. In addition, Commissioner Azcuenaga indicated that she would have voted in favor of the complaint and settlement with Mead Johnson relating to the advertising issue if the complaint had alleged a conspiracy.•

By Mr. KERRY:

S.J. Res. 318. Joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day"; to the Committee on the Judiciary.

VIETNAM VETERANS MEMORIAL 10TH ANNIVERSARY DAY

• Mr. KERRY. Mr. President, in honor of the tenth anniversary of the dedication of the Vietnam Veterans Memorial, I am pleased to introduce today a joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day."

Plans are currently underway for an historic celebration commemorating the tenth anniversary of the most visited monument in Washington—The Vietnam Veterans Memorial. It is fitting that we celebrate the anniversary of The Wall's dedication with activities that allow veterans—and Americans across the country—to remember and reflect upon the events surrounding the Vietnam war.

No one could have imagined the impact this tribute would have on veterans and their families. People from across the country come to visit the Vietnam Memorial and are deeply and personally moved, as I myself have been. Seeing the names of those men and women who lost their lives or were classified as missing in action embedded in the wall touches a part of us, veterans and non-veterans alike, and brings us all a little closer to understanding the personal sacrifices of war.

I hope you will join me—as a cosponsor of this joint resolution—in honoring the role the Vietnam Veterans Memorial has played in bringing out the thoughts and emotions Americans experienced in this very divisive period in our history. I believe the Memorial has played a major role in healing some of the war's wounds and this is a fitting way to acknowledge this contribution. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 318

Whereas on November 13, 1982, the Vietnam Veterans Memorial was dedicated in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War, particularly those who gave their lives or who remain missing;

Whereas the Vietnam Memorial, located on a site in West Potomac Park in the District of Columbia near the Lincoln Memorial as authorized by Public Law 96-297, was construed with funds raised entirely from private sources;

Whereas this memorial, bearing the names of 58,183 men and women, has become the most visited memorial in the Nation's capital;

Whereas November 13, 1992, marks the 10th anniversary of the Vietnam Veterans Memorial, a milestone which will be observed during 1992 through educational seminars, a reading of the names on the Wall, veterans reunions, and other appropriate events;

Whereas the anniversary offers an opportunity for the entire country to reflect on the Vietnam Veterans Memorial and its role in healing the Nation's wounds from the Vietnam era; and

Whereas the anniversary will enable new generations to discuss lessons learned in the decade since the Memorial's dedication: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 13, 1992, is designated as "Vietnam Veterans Memorial 10th Anniversary Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.•

By Mrs. KASSEBAUM, (for herself, Mr. ADAMS, Mr. AKAKA, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GORE, Mr. GORTON, Mr. HATCH, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SASSER, Mr. SEYMOUR, Mr. SIMON, Mr. SPECTER, Mr. SYMMS, and Mr. THURMOND):

S.J. Res. 319. Joint resolution to designate the second Sunday in October of 1992 as "National Children's Day"; to the Committee on the Judiciary.

NATIONAL CHILDREN'S DAY

• Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation to designate the second Sunday in October as National Children's Day. This will be the fourth year that Congress has designated this day as a time to celebrate the joy and promise of our Nation's children.

The recent focus on the troubles of urban areas and the hopelessness felt by so many Americans have caused each of us to reflect on the importance of families as the foundation of our society. In a free society, and particularly one as diverse as ours, individuals are constantly exposed to varied and conflicting ideas and ways of life. One of our most precious God-given rights—and responsibilities—is to choose from among these competing values those which best exemplify the way we hope to live our lives. I believe that one of the primary responsibilities of parenthood is instilling in one's children a sense of moral values. Success or failure rests with the family, which is the single most important influence on the formation of the principles followed by an individual throughout his or her lifetime.

In light of the struggles faced by many American families, it is particularly important to focus on the happiness that children bring to our world. National Children's Day provides us with the opportunity to celebrate the hope that children bring to our families, our communities, and our country; to illustrate their achievements; and to illuminate the challenges which children face in their everyday lives.

As our Nation's greatest resource, children are our Nation's greatest responsibility. National Children's Day provides us with an opportunity to rededicate our energies to improving the lives of children and their families. Government must strive to create innovative programs which are effective and efficient. We must not constrain ourselves by the boundaries of our current system but begin to view children within the context of their lives—their families and their communities.

Please join with me in designating the second Sunday in October as National Children's Day. The strength of a society should not be measured by its capacity to wage war but by its capacity to care for its children.•

By Mr. CRANSTON:

S. 2876. A bill to amend the Federal Election Campaign Act of 1971 to make clear that for the purposes of that Act, a general election for the Office of President or Vice President includes all proceedings up to and including the selection of the President and Vice President in the electoral college or the House of Representatives and Senate; to the Committee on Rules and Administration.

GENERAL ELECTION FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. CRANSTON. Mr. President, our Nation finds itself facing the distinct possibility that the President and Vice President could be chosen by the House of Representatives and the Senate respectively. While the 12th amendment outlines the process by which these choices are to be made, it, of course, does not clarify whether action by the House and Senate is an election for purposes of Federal campaign finance laws.

I am glad the chairman of the Rules Committee happens to be on the floor at the moment, because this is a matter that I think his committee should consider.

The question of whether the 2 months between the general election and action by Congress would be considered an election is critical. If considered an election, current spending limits and other proscriptions would apply to this time period. However, if this period is not considered an election, corporations, labor unions, millionaires, billionaires, and foreigners could be able to contribute unlimited amounts to the candidate of their respective choice.

The campaigns would presumably be aimed not only at Senators and Representatives, but also at their constituents back home, who might influence their votes for President and Vice President.

So I rise to introduce legislation that would make clear that an election for the office of President or Vice President includes all proceedings up to and including the selection of the President and Vice President in the electoral college and in the House of Representatives and in the Senate.

Frankly, I am not sure that this is the best approach. There are many ramifications and many questions raised by this issue. I do not pretend to have all the answers. But my hope is that this bill will prompt us to consider this important issue.

Mr. President, I ask unanimous consent that the text of the bill and an article that caused me to think about this—it appeared in yesterday's Washington Post—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2876

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL ELECTIONS FOR THE OFFICES OF PRESIDENT AND VICE PRESIDENT.

Section 301 of the Federal Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

"(20) The term 'election', in reference to a general election for the office of President or Vice President, includes all proceedings up to and including the selection of the President and Vice President in the electoral college or the House of Representatives and Senate.".

THE MOST EXPENSIVE ELECTION OF ALL

(By Robert P. Charrow and Joseph Onek)

Unnoticed among all the crystal ball gazing about Ross Perot and the electoral college is one deceptively simple issue that may have as much impact on the possible House action as all the arcane intricacies of the 12th Amendment: Is the House's selection of president an "election" for purposes of the statutory and regulatory restrictions that normally govern campaigns for federal office?

To put the issue in context, there would be a two-month hiatus between the general election in November and the House action in early January. During this period the candidates and their supporters would not be sitting by idly. They would undoubtedly unleash a massive campaign unprecedented in our nation's history. Some of these efforts might involve behind-the-scenes wheeling and dealing of an intensity that would make traditional pork-barreling seem saintly. Other efforts might involve media blitzes of the type that normally dog the airwaves during major campaigns. Whatever the ultimate tenor of these efforts, one thing is certain—vast sums of money would be needed. Perot already has his war chest, but what about George Bush and Bill Clinton?

The ease with which either candidate can raise and spend money will turn on whether the November-December race to the White House is an "election." The Federal Election Campaign Act of 1971, as amended, bans contributions by corporations, labor unions and foreign nationals, limits individual contributions to $1,000 per election per candidate, requires candidates to publicly disclose contributions from a single source in excess of $200 and mandates that campaign advertisements indicate the organization that paid for the ad. That law, however, only applies to payments made for the purpose of influencing a federal election. The possibility that a presidential contest would be thrown to the House was never considered when Congress enacted the law.

Instead, the law defines "election" somewhat circularly to mean "a general, special, primary, or runoff election." Would House action, under the 12th Amendment, qualify as either a "special or runoff election?" Probably not, according to the Federal Election Commission, the agency charged with enforcing our campaign finance laws. The FEC's regulations provide that a special election is one held to fill a vacancy in a federal office. Since the House would select the next president about two weeks before Bush's current term ends, there would be no vacancy. Thus the House action is not a "special election." A runoff election is defined as one that is governed by state law, which is not the case here. In short, our fundamental campaign finance laws would probably not apply.

As a result, both Bush and Clinton would be free to accept large donations from corporations, labor unions, wealthy individuals and possibly even foreign nationals. Furthermore, wealthy institutions and individuals would be free to underwrite media campaigns on their own. Without the limitations of our campaign finance laws, the process of selecting the next president could easily degenerate to pre-Watergate standards, giving the rich and powerful the untrammeled opportunity to purchase political favors.

The ramifications of treating the House action as a non-election transcend campaign finance laws. The rules governing access to television and radio are also keyed to the existence of an "election." Under the Communications Act of 1934, broadcasters cannot charge candidates more than they charge their best customers. This statutory discount, though, ends with the general election on Nov. 3. Thereafter, the broadcaster is free to charge whatever the market will bear, thereby placing an even greater premium on raising large sums of cash.

If the 12th Amendment's process for selecting a president is not an "election" for many regulatory purposes, then what is it, and what restrictions, if any, apply? At best, it would appear that the campaign leading up to the final House action is, as a matter of law, little more than good old-fashioned lobbying. And lobbying is subject to relatively few restrictions. A paid lobbyist must register with the clerk of the House and divulge on whose behalf he is operating and how much he or she is spending. These requirements fall far short of the type of protections and openness afforded by campaign finance laws.

The mere possibility that the real campaign for president will be surreptitiously funded by unlimited donations from corporations, labor unions and high-rollers should be disquieting to most Americans. Congress and the White House could seek legislation that would extend the normal election laws to cover the process of selecting a president and vice president under the 12th Amendment. But it is unlikely that they will, because those laws would place greater restrictions on Bush and Clinton than on Perot.

The FEC may be asked to redefine the term "election" to fill the legal void, but it is unlikely that that commission, consisting of three Democrats and three Republicans, would take any action that would handicap the standard bearers of the two major parties. In short, if the 12th Amendment comes into play, get ready for the most expensive "selection" that money can buy.

By Mr. COATS (for Mr. BAUCUS, for himself and Mr. COATS):

S. 2877. A bill entitled the "Interstate Transportation of Municipal Waste Act of 1992"; read the first time.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

• Mr. BAUCUS. Mr. President, I rise today to introduce a bill to give Governors the legal authority to restrict out-of-State municipal waste.

On May 20, the Environment and Public Works Committee favorably reported the reauthorization of the Resource Conservation and Recovery Act. Included in that bill is an amendment authored by myself and Senator CHAFEE to give Governors the authority to restrict out-of-State waste disposal.

The amendment was the result of many meetings and long negotiations to find an acceptable compromise. And while it does not give everyone everything that they wanted, it is a sound and workable solution to the problem of interstate transportation of solid waste.

The bill as reported also includes provisions to comprehensively address a broad range of recycling and solid waste issues. It includes an amendment to expand the reporting requirements under the very successful Community Right-to-Know Program. It includes recycling provisions that for the first time establish the concept that companies, not just local taxpayers, are responsible for recycling some of their paper and packaging. And it includes a number of provisions to address orphan wastes like scrap tires, used oil, and batteries.

As I told the Senate on May 20, it is my hope that the Senate will shortly consider the reported bill. The committee is filing its report today and S. 976 will be on the Senate calendar shortly. I will be working with Senators to further refine and improve the bill for consideration by the Senate.

However, I understand how important it is to many Senators to resolve the interstate waste transportation problem. For more than 2 years, Senator COATS has been seeking legislation to give States the authority to restrict out-of-State waste.

I am also fully aware of the complexity and controversy surrounding the reported RCRA bill, and the time it may take to enact such legislation. Nevertheless, I would like to continue to work with my colleagues to pass such legislation.

But for two principal reasons, I have decided to introduce separate legislation to address the interstate waste issue.

First, two recent rulings by the U.S. Supreme Court on interstate waste signal a renewed urgency to resolve this problem. In these cases, the Court ruled that two State laws which treat out-of-State waste differently than in-State waste violate the commerce clause of the Constitution.

Second, there are a limited number of days left this Congress within which we can pass a comprehensive RCRA bill. Therefore, I have decided that it is in our best interest to proceed with interstate waste legislation now.

I have talked with the majority leader and he has agreed to call up the legislation I am introducing today, as soon as possible. So I believe the chance to enact this bill, this year, is very good.

Let me describe the provisions. For the most part it is the same as the interstate amendment that was adopted by the Environment Committee, with three changes.

First, the Environment Committee provision, while allowing all States to stop new waste shipments, allows only certain States—those importing more than 1 million tons—to freeze shipments at 1991 levels.

The legislation I am introducing today, corrects this problem by extending this freeze authority to all States.

Second, Senator COATS and others have expressed concerns that the committee bill does not protect States whose imports have dropped since 1991.

Under the committee bill, States like Indiana, for example, whose imports this year have dropped, could find them growing back to 1991 levels.

The bill I am introducing today, therefore, gives States the authority to ensure that this does not happen. It allows all States to freeze current shipments of municipal waste at the 1991 or 1992 levels, whichever is less.

Finally, there is some uncertainty about the effect of the language in the committee bill limiting a Governor's authority to restrict out-of-State waste to circumstances that do not result in a breach of a contract.

The bill I am introducing today, clarifies that this applies only to written, legally binding contracts. Additionally, to assist States in administering their interstate authority, the bill authorizes the Governor to require that all such contracts be filed in the State.

I believe that this legislation provides States with the authority necessary to control out-of-State wastes, in an orderly fashion, without seriously disrupting interstate commerce and without creating chaos in our solid waste disposal system. I look forward to working with my colleagues to see that this legislation is considered by the Senate as soon as possible.•

ADDITIONAL COSPONSORS

S. 898

At the request of Mr. LEAHY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 898, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the safety of exported pesticides, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 2064

At the request of Mr. HATFIELD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2064, a bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs, to expand the Job Corps program, and for other purposes.

S. 2624

At the request of Mr. GLENN, the name of the Senator from Rhode Island

[Mr. Pell] was added as a cosponsor of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2656

At the request of Mr. Ford, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2682

At the request of Mr. Bumpers, the names of the Senator from Arkansas [Mr. Pryor], the Senator from Ohio [Mr. Glenn], the Senator from Rhode Island [Mr. Chafee], the Senator from Vermont [Mr. Jeffords], and the Senator from Texas [Mr. Bentsen] were added as cosponsors of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2694

At the request of Ms. Mikulski, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 2694, a bill to limit the authority of the Secretary of the Army to provide for the incineration of lethal chemical agents at Aberdeen Proving Grounds, Maryland.

S. 2697

At the request of Mr. McCain, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 2697, a bill to provide transitional protections and benefits for Reserves whose status in the reserve components of the Armed Forces is adversely affected by certain reductions in the force structure of the Armed Forces, and for other purposes.

S. 2826

At the request of Mr. Kennedy, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2831

At the request of Mr. Dodd, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 2831, a bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

S. 2851

At the request of Mr. Johnston, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes.

SENATE JOINT RESOLUTION 287

At the request of Mr. Simon, the names of the Senator from Texas [Mr. Bentsen], the Senator from North Dakota [Mr. Burdick], the Senator from Arizona [Mr. DeConcini], the Senator from Georgia [Mr. Fowler], the Senator from Florida [Mr. Graham], the Senator from South Carolina [Mr. Hollings], the Senator from Hawaii [Mr. Inouye], the Senator from Louisiana [Mr. Johnston], the Senator from Wisconsin [Mr. Kohl], the Senator from New Jersey [Mr. Lautenberg], the Senator from Georgia [Mr. Nunn], the Senator from Arkansas [Mr. Pryor], the Senator from Nevada [Mr. Reid], the Senator from Missouri [Mr. Bond], the Senator from Indiana [Mr. Coats], the Senator from Missouri [Mr. Danforth], the Senator from Minnesota [Mr. Durenberger], the Senator from Utah [Mr. Garn], the Senator from Washington [Mr. Gorton], the Senator from Utah [Mr. Hatch], the Senator from Mississippi [Mr. Lott], the Senator from Arizona [Mr. McCain], the Senator from Alaska [Mr. Murkowski], the Senator from Oregon [Mr. Packwood], the Senator from South Dakota [Mr. Pressler], the Senator from Alaska [Mr. Stevens], the Senator from South Carolina [Mr. Thurmond], and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of Senate Joint Resolution 287, a joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week".

SENATE JOINT RESOLUTION 293

At the request of Mr. Sasser, the names of the Senator from Connecticut [Mr. Dodd], the Senator from Idaho [Mr. Symms], the Senator from Georgia [Mr. Fowler], the Senator from Louisiana [Mr. Johnston], the Senator from Nebraska [Mr. Kerrey], and the Senator from Idaho [Mr. Craig] were added as cosponsors of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".

SENATE RESOLUTION 303

At the request of Mr. Mitchell, the name of the Senator from Kentucky [Mr. Ford] was added as a cosponsor of Senate Resolution 303, a resolution to express the sense of the Senate that the Secretary of Agriculture should conduct a study of options for implementing universal-type school lunch and breakfast programs.

SENATE JOINT RESOLUTION 305

At the request of Mr. Simon, the names of the Senator from Missouri [Mr. Bond], the Senator from Missouri [Mr. Danforth], the Senator from Washington [Mr. Gorton], the Senator from Florida [Mr. Mack], the Senator from Utah [Mr. Hatch], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 305, a joint resolution to designate October 1992 as "Polish American Heritage Month".

SENATE JOINT RESOLUTION 306

At the request of Mr. D'Amato, the name of the Senator from Colorado [Mr. Brown] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month".

SENATE RESOLUTION 314

At the request of Mr. DeConcini, the names of the Senator from Massachusetts [Mr. Kennedy] and the Senator from Connecticut [Mr. Dodd] were added as cosponsors of Senate Resolution 314, a resolution concerning the provision of humanitarian aid to civilian populations in and around Sarajevo.

SENATE RESOLUTION 316—RELATIVE TO PAYMENT OF FEDERAL INCOME TAXES BY FOREIGN CONTROLLED CORPORATIONS

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Res. 316

Whereas FCC's are evading billions of dollars each year in Federal income taxes by using gimmicks such as transfer pricing to understate their earnings;

Whereas middle-income Americans will continue to carry the burden until we put a stop to the $30 billion per year tax evasion by FCC's;

Whereas statistics show that in some cases United States subsidiaries of foreign firms are reporting average profits on their tax returns of one-tenth of one percent, while United States companies are reporting 8 to 10 percent;

Whereas during the 1980's assets and receipts of FCC's increased at almost 20 percent annually while reported profits were very low and in some years reflected losses;

Whereas during the four year period 1986 to 1989, United States assets of foreign controlled companies increased by 70 percent and receipts increased by 78 percent. During this period, the United States economy as a whole never grew faster than 3 percent;

Whereas Japanese companies as a group grew faster than overall foreign companies. During 1986 to 1989, the assets of Japanese controlled United States companies increased by 142 percent and receipts increased slightly over 100 percent;

Whereas evidence collected over the past two years by congressional committees suggests massive underreporting on Federal income tax returns by FCC's;

Whereas Congressional investigations uncovered companies that have been operating in the United States for years and have never paid "one thin dime" in Federal taxes despite the fact they have sold billions of dollars of cars, stereos, and many other products to United States consumers;

Whereas the companies under investigation are in the electronics, automobile and motorcycle industries. These are areas where foreign companies, especially Japan, hold a large share of the United States market;

Whereas the issues in this Resolution are two fold: First, ensuring, fairness to the United States taxpayer, especially in light of deficit reduction. Second, but not less important, is ensuring fairness to United States businesses and their ability to be competitive against firms that pay low or no taxes: Now, therefore, be it

Resolved, That the United States Senate urges the Secretary of the Treasury to support its Internal Revenue Service agents in the field and vigorously take enforcement action against foreign companies who continue to defraud the United States Government and the American people by their blatant evasion of taxes.

Mr. D'AMATO. Mr. President, I rise today to urge my colleagues to support me in an effort to bring tax fairness to this country by demanding that foreign companies start paying their fair share. Over the years numerous articles have been written, most recently by the London Sunday Times, chronicling the blatant tax evasion perpetrated by foreign corporations, mostly Japanese, operating in the United States.

These are companies operating in the automotive, electronic and motorcycle industries. From 1986 to 1989—the most recent data available—U.S. assets of foreign controlled companies increased 70 percent from $841 billion to $1.429 trillion and receipts increased 78 percent from $543 billion to $967 billion. During this same period, the U.S. economy as a whole never grew faster than 3 percent. Within the overall commercial activity of foreign companies operating in the United States, Japanese companies as a group grew even faster. Their assets increased 142 percent from $132.8 billion to $322 billion and receipts increased over 100 percent from $126.1 billion to $253 billion.

Mr. President, would you believe that with assets and receipts going through the roof, these companies paid little or no taxes during those years. As a matter of fact, investigations conducted by congressional committees have found massive underreporting of Federal income taxes by foreign-controlled corporations operating in the United States. And the worst part about it is, nobody seems to care because to date, nothing substantial has been done about it.

Mr. President, now is time for us to do something about this massive fraud; a fraud that would be prosecuted if it were committed by a U.S. citizen. We must see to it that these foreign companies pay their fair share, and in the process relieve the tax burden that has been riding far too long on the backs of the American people.

On March 24, 1992, my colleague, Senator HELMS, issued a statement calling for a stop to the tax manipulation being perpetrated by foreign companies. Such manipulation has been estimated in the billions and could total approximately $30 billion each year. You can bet that it will continue to rise each and every year until we take appropriate action. It's appalling to know that in a 4-year period, although assets and receipts substantially increased, the Government is being asked to believe that profits have declined. Do you think our intelligence has been insulted long enough?

Mr. President, we need to fully support the IRS in its attempts to crack down on this tax fraud, because that is exactly what it is. At the same time, we must also ensure that the IRS puts more emphasis on stopping this fraud by expanding its manpower and examinations of foreign companies. There are currently 45,000 foreign-controlled companies operating in the United States, and believe it or not, 70 percent of them do not pay U.S. taxes. Worse yet, the IRS has only 2,500 or 5 percent of them under audit. It is an outrage to think that even 20 percent of foreign companies could be defrauding the American people and the Government, let alone 70 percent.

Mr. President, it is time to send a message to foreign tax cheats that they must pay their fair share or face the same threat of penalties and interest and if appropriate criminal charges, that hang over the head of the ordinary American taxpayer. By doing so we will send a positive message to the taxpayers of this country, because the issues in this resolution is twofold: First, there is a need to provide fairness to the U.S. taxpayer, especially in light of deficit reduction. Second, we must provide fairness to U.S. businesses and enhance their ability to be competitive against firms that pay little or no taxes.

Therefore, Mr. President, I urge every Senator to support this resolution, and I urge the Treasury Department to provide the necessary support to the Internal Revenue Service that will allow vigorous enforcement action against egregious offenders.

SENATE RESOLUTION 317—ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 317

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $74,880 for the purchase of one hundred and four thousand 1993 "We the People" historical calendars. The calendars shall be distributed as prescribed by the committee.

SENATE RESOLUTION 318—ORIGINAL RESOLUTION REPORTED AUTHORIZING SENATE PARTICIPATION IN STATE AND LOCAL GOVERNMENT TRANSIT PROGRAMS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 318

Resolved, That (a) the Senate shall participate in State and local government transit programs to encourage employees of the Senate to use public transportation pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991.

(b) The Committee on Rules and Administration is authorized to issue regulations pertaining to Senate participation in State and local government transit programs through, and at the discretion of, its Members, committees, officers, and officials.

SENATE RESOLUTION 319—SENSE OF THE SENATE CONCERNING THE ILLEGALITY OF KIDNAPING AMERICAN CITIZENS

Mr. MOYNIHAN (for himself and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 319

Whereas, the Iranian Parliament has approved legislation authorizing Iranian officials to seize Americans anywhere in the world if they are alleged to have violated Iranian law;

Whereas, there have been incidents in the past where persons in the United States have been abducted to stand trial abroad;

Whereas, as a result of certain actions taken by United States officials and the recent decision of the United States Supreme Court in the case of United States v. Alvarez-Machain other nations may believe that the United States accepts the international legality of kidnaping;

Whereas, the United States has a strong interest in strengthening respect for the rule of law and the system of international extradition treaties so as to more effectively combat crime, including drug trafficking: Now, therefore, be it

Resolved by the Senate, that:

(1) Anyone who attempts to kidnap a person in the United States for the purpose of bringing that person to trial abroad should be deemed to have committed a crime in the United States and dealt with accordingly;

(2) The United States should vigorously pursue drug traffickers and any person involved in the murder of United States Drug Enforcement Agency officials through the existing international legal framework, including extradition treaties; and,

(3) United States officials should refrain from committing the crime of kidnaping which weakens international cooperation against crime, encourages the abduction of American citizens and subverts respect for the rule of law.

Mr. MOYNIHAN. Mr. President, in 1826 James Kent, New York lawyer, Federalist, appointed master in chancery by John Jay, and professor at Columbia College, published the first of his four-volume "Commentaries on

"American Law," part I of which was titled "Of the Law of Nations." The first lecture, "Of the Foundation and History of the Law of Nations" began:

> When the United States ceased to be a part of the British empire and assumed the character of an independent nation, they became subject to that system of rules which reason, morality, and custom had established among the civilized nations of Europe, as their public law.

That is the first sentence of the first book on American law, read by law students to this day. Chancellor Kent made it clear that the Continental Congress immediately accepted the requirements of international law:

> During the war of the American revolution, Congress claimed cognizance of all matters arising upon the law of nations, and they professed obedience to that law. * * *

Congress accepted international law—made this very clear—and surely assumed that the executive branch would also adhere to the law of nations. And, as the lawyers would say, Mr. President, a fortiori assumed that the courts would enforce this law. Yet we have just had from the Supreme Court a decision which Mr. Justice Stevens has referred to as "monstrous"; a decision which states that the United States has the power to kidnap the citizens of other countries—even countries with which we have comprehensive extradition treaties—and bring them back here to the United States for trial. In this case, a Mexican citizen.

Mr. President, in 1928, Justice Brandeis wrote:

> Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

It is a matter of profound concern that this is a view that the chief law enforcement officials of the United States apparently either do not understand or do not embrace. Today, thanks to these officials, the United States officially supports a practice—kidnaping—denounced by the overwhelming majority of nations, but endorsed by Iran. We have done what no civilized nation in modern history has ever done: To assert the lawless right to invade another country's sovereignty and bring someone back to try them here. Not as a matter of special circumstance, but as a general rule.

I am speaking, of course, of the behavior of the Government of the United States in defending the legality of kidnaping a Mexican citizen to stand trial in the United States.

The salient facts in the Mexican case are few and not in serious dispute. It is alleged that Humberto Alvarez-Machain, a citizen and resident of Mexico, participated in the torture and murder of DEA agent Enrique Camarena-Salazar and a Mexican pilot working with him. DEA agents allegedly arranged for Alvarez-Machain to be kidnaped, placed aboard a private plane, and flown to the United States where he was promptly arrested. The Government of Mexico immediately protested these actions, demanded that Alvarez-Machain be returned and offered to try him in Mexico. The United States has refused to comply, despite the existence of a comprehensive extradition treaty between the United States and Mexico and a clear rule of customary international law forbidding state kidnaping.

Canada has supported the Mexican protest. The Canadian Ministry of External Affairs, their State Department, has declared—by way of warning us—that "any attempt by foreign officials to abduct someone from Canadian territory is a criminal act." Our neighbors to the north have put us on notice: Do not try it here; do not try with us what you tried with our neighbors to the south.

In a 6-3 decision handed down on Monday, the Supreme Court has ruled that Alvarez-Machain need not be returned to Mexico and may be tried in the United States. The dissent, written by Justice John Paul Stevens, is stinging. It may be the first time that an Associate Justice of the U.S. Supreme Court has described an opinion authored by the Chief Justice as "monstrous." I am aware of no other such instance. Justice Stevens writes:

> The Court's admittedly "shocking" disdain for customary and conventional international law principles * * * [is] entirely unsupported by case law and commentary.
>
> As the Court observes at the outset of its opinion, there is reason to believe that respondent participated in an especially brutal murder of an American law enforcement agent. That fact, if true, may explain the Executive's intense interest in punishing respondent in our courts. Such an explanation, however, provides no jurisdiction for disregarding the Rule of Law that this Court has a duty to uphold.
>
> * * * * *
>
> I suspect most courts throughout the civilized world * * * will be deeply disturbed by the "monstrous" decision the Court announces today.

I will not discuss at length the question of whether the majority's decision that the United States-Mexico extradition treaty does not implicitly outlaw state-sponsored abduction, although I think it manifest that no government—and certainly no Mexican Government—would have agreed to an extradition treaty if it was understood that the United States Government considered the request to extradite a mere supplement to the right to abduct.

Prof. Lori Fisler Damrosch of the Columbia University School of Law has said that the majority opinion amounts to saying that if I have a contract to sell widgets to another party I also have to add a specific clause which says that they cannot break into my warehouse and steal them.

Any American President who consented to the right of a foreign state to abduct American citizens would be subject to impeachment proceedings.

Mexico has now requested that the United States grant its request to extradite DEA officials believed to have been involved in the kidnaping so that they can stand trial in Mexico. If the United States refuses, do we agree that Mexico has the right to abduct them?

I see the distinguished chairman of the Committee on Foreign Relations has risen.

Mr. PELL. Mr. President, I wanted to ask the Senator a question. And it is: Is not the offense even more egregious if the one kidnaped should be a chief of government?

Mr. MOYNIHAN. We recognize a basic equality of all persons before the law, but some have a higher rank even in civil law societies. Yes, the proposition is particularly disturbing when applied to a head of state. I should not like to see this President or any other kidnaped by some thug of the ayatollah. We should not engage in or defend conduct which would grant a patina of legality to such brazen conduct.

I would like to take a moment of the Senate's time to discuss the question of whether this abduction violated customary international law and treaties which, under the Constitution, are the supreme law of the land. Justice Stevens joined by Justices Blackmum and O'Connor found that the abduction "unquestionably constitutes a flagrant violation of international law, and * * * also constitutes a breach of our treaty obligations." The majority demurs, but does not disagree, on this point, noting with startling nonchalance that "Respondent and his amici may be correct that respondent's abduction was 'shocking' * * * and that it may be in violation of general international law principles."

Mr. President, the third edition of the highly respected "Restatement of the Foreign Relations Law of the United States," published by the American Law Institute, is succinct and unequivocal on this point. Section 432(2) states that "[a] state's law enforcement officers may exercise their functions in the territory of another state only with the consent of the other state. * * *" and comment (c) adds that—

> [i]f a state's law enforcement officials exercise their functions in the territory of another state without the latter's consent, that state is entitled to protest and, in appropriate cases, to receive reparation from the offending state. If the unauthorized action includes abduction of a person, the state from which the person was abducted may demand return of the person, and international law requires that he be returned.

Oppenheim's "International Law," a leading treatise, states simply:

> "It is * * * a breach of International Law for a State to send its agents to the territory of another State to apprehend persons accused of having committed a crime.

Mr. President, there may be circumstances which permit no alternative to self-help. Legitimate authority may have completely collapsed in another state or that state may refuse to fulfill its international legal obligations. There are also special cases with special rules, such as the universal jurisdiction to try those who commit acts of piracy and the absolute legal obligation to help bring to justice one who has committed crimes against humanity. However, this is not a case where there was no authority able to respond. Mexico did not move as swiftly in this case as the DEA or I would like, but it has already prosecuted persons involved in this specific murder, one of whom is even now serving a 40-year prison sentence. The United States cannot and does not argue that this is a case where law and order had completely disappeared in a given area such that there was no effective legal authority or no internationally recognized sovereign in control. There are serious questions about the political independence of the Mexican courts. I have raised just such concerns. But I do not believe that the United States has even argued in this case that Mexico was unwilling or unable to try Alvarez-Machain.

Nor is it a case where there was an on-going crisis which required instant reaction as in the celebrated *Caroline* affair. In that case, Canadian militia entered the State of New York in 1837, seized the vessel *Caroline* which had been used to ferry rebels and weapons across the border and set it afire. In the end, Daniel Webster agreed that the British Government had satisfied his dictum that such a violation of United States sovereignty could only be justified if "the necessity of that self-defense is instant, overwhelming, and leaving no choice of means, and no moment for deliberation." Clearly in this case there were both alternative means and ample time for deliberation.

It is not a case where the United States can appeal to the board, unusual legal principles involving crimes against humanity, such as those documented by an international tribunal at Nuremberg. All states are under a legal obligation to assist in bringing such criminals to justice wherever they are found.

This is a case, Mr. President, where the United States could have proceeded legally, but choose not to do so. It represents an adventurism that is not in our best interests. One might have hoped that with the end of the cold war we might once again recognize that the United States supports the rule of law because it is in our interests to do so, not because it is a nice thing to do. Law authorizes and legitimates the use of force; it does not prohibit it. If the excellence of U.S. arms made the Persian Gulf war successful, it was the Charter of the United Nations and the customary international law of collective self-defense which made it legitimate and which, therefore, made it possible to mobilize the world community to support U.S. actions.

The cry will be raised that those who draw the line at kidnaping are somehow soft on crime or indifferent to the crisis of epidemic drug use in this country. It is with just such arguments that the enemies of constitutional and legal order always advance their cause. That in this case or at that time the rule of law is a luxury that we cannot afford. The particular crises come and go, but the argument is always much the same. In the 1950's it was the Red Menace; today it is narcoterrorism. But then as now the Constitution affords all the means needed to defend without subverting our own commitment to law. Which is what the Constitution is all about.

Justice Stevens notes that in a recent decision, the courts of South Africa—citing earlier United States decisions—ruled that a defendant kidnaped by agents of South Africa must be released. As of Monday last, the United States no longer offers such a standard to the world. And it seems to me no coincidence that within a matter of a few days after the current Attorney General testified in defense of the legality of kidnaping that the Parliament of Iran approved a bill allowing Iranian officials to arrest Americans anywhere in the world if they violate Iranian law. I cannot conceive that an Attorney General would defend this kind of conduct as legal. I cannot conceive that a Solicitor General would take the legal arguments to the Court. It is conceivable, to avoid chastising the Government, but Justices Stevens, O'Connor, and Blackmun clearly have the right of it. I do not know how we reverse the Court, but I think the Senate should stand up and put other nations on notice that, if the PLO starts kidnaping in Brooklyn, if the Syrians start kidnaping in Washington, if Saddam Hussein starts kidnaping on military bases, if Iran passes a law declaring its right to kidnap, they will have the Senate to deal with. I have to assume based on its arguments before the Court that the executive branch will think that this is all right. I do not.

Mr. President, we have put our own people at risk. We have declared that countries have a right to do this, that Colonel Qadhafi has a right to do it. His agents—as far as we can tell—blew up a Pan American plane filled with students from the University of Syracuse and other Americans over Lockerbie, Scotland. Is it so difficult to imagine that he might attempt to kidnap an American here in this country? Is it difficult to imagine that Saddam Hussein might attempt such a thing or hire someone here to do so?

It is particularly because of the Iranian Parliament's reported action that I am introducing today a sense-of-the-Senate resolution which would state to the World that the United States will not accept any attempt to kidnap American citizens to stand trial abroad. The resolution further states that it is in the interests of the United States to likewise refrain from kidnaping persons in order to bring them to trial in the United States. Such actions may seem appealing, but in the long run they weaken support for the rule of law and discourage international cooperation in the fight against drug trafficking. I ask unanimous consent that the text of the resolution be printed in the RECORD at the conclusion of these remarks.

Justice Stevens concluded his opinion with a quote from Thomas Paine which I would like to repeat for the benefit of my colleagues. Paine warned that an "avidity to punish is always dangerous to liberty" because it leads officials to "stretch, to misinterpret, and to misapply even the best of laws." He advises that—

> He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty he establishes a precedent that will reach to himself.

Mr. President, I hope we will pass this resolution, which, of course, will be referred to the Committee on Foreign Relations.

Mr. PELL. One further question to the Senator. That is: Would not the kidnaping of Noriega in Panama fall within the same terms of reference?

Mr. MOYNIHAN. I think it is a pattern of state conduct which we have commenced and which we may regret.

Mr. PELL. Exactly.

Mr. MOYNIHAN. Mr. President, I do not want to see President Bush disappear the night before a debate with Governor Clinton. That is at the level of levity. At the level of dead seriousness, there are terrorists the world over prepared to see Americans killed, and we have legitimated the proposition that a foreign government can send agents into this country or find agents in this country which will take Americans out of the jurisdiction, leave them defenseless in foreign lands, and they will say to us, "You did it, and we are doing it. What is the difference?"

Mr. President, I send to the desk a sense-of-the-Senate resolution and ask that it be referred to the proper committee, which is, of course, the committee of the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. MOYNIHAN. I thank the distinguished chairman of the Committee on Foreign Relations.

AMENDMENTS SUBMITTED

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1992

WELLSTONE AMENDMENT NO. 2432

Mr. WELLSTONE proposed an amendment to the amendment of the House to the amendment of the Senate numbered 1 to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

At the appropriate place, insert the following:

For emergency disaster assistance payments made available to the Federal Emergency Management Agency, the Small Business Administration, and the Department of Agriculture that are necessary to provide for expenses related to recent tornado-related damage in the Midwest designated as presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assist Act, an additional amount for disaster relief, $50,000,000, to remain available until expended, which funds shall be available only after submission to the Congress of a formal funding request by the President designating such funds as an "emergency requirement" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

GRAHAM AMENDMENT NO. 2433

Mr. GRAHAM proposed an amendment to the bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS.

Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1986 is amended by striking "before January 1, 1993,".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 18, 1992, at 2:30 p.m. to hold a hearing on competition policy and the global economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 18, 1992, at 2 p.m. to hold a hearing on the nomination of Norman H. Stahl, to be U.S. court of appeals judge for the first circuit, Thomas K. Moore, to be U.S. district court judge for the District of the Virgin Islands, Eduardo C. Robreno, to be U.S. district court judge for the Eastern District of Pennsylvania, and Gordon J. Quist, to be U.S. district court judge for the Western District of Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. FORD. Mr. President, I ask unanimous consent that the Foreign Commerce and Tourism Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 18, 1992, at 2 p.m. on United States and foreign commercial service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 18, 1992, at 2:30 p.m., in open session, to receive testimony on Pacific Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 18, 1992, at 9:30 a.m. to hold a hearing on comprehensive health care reform proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. FORD. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, June 18, 1992, at 9:30 a.m. to hold a hearing entitled "Aging Artfully: Health Benefits of Art and Dance."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 18, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on S. 2044, the Native American Languages Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 18, 1992, to hold a hearing on Asian Organized Crime: The New International Criminal.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TV VIOLENCE CAUSES AGGRESSIVE BEHAVIOR

• Mr. SIMON. Mr. President, I have been catching up on my reading now that the balanced budget amendment is temporarily behind us, and I came across the testimony of Dr. Leonard N. Eron, research professor emeritus at the University of Illinois at Chicago, in behalf of the American Psychological Association, on violence in the media.

It is superb testimony that is solidly done.

My colleagues will recall that a couple of years ago, you passed a bill of mine making an exemption in the antitrust law so that television industry people could get together to establish standards that would reduce violence without violating the antitrust laws. As you may recall, that was passed over the objection of the broadcast industry.

They have been meeting some on it, and the cable industry has hired a distinguished researcher, Prof. George Gerbner, from the University of Pennsylvania. My hope is that we're going to get more than pious words from the television industry on this. I would urge my friends in television to read the testimony of Dr. Eron. I'm taking the liberty of sending this to some of them.

In his testimony, he says, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime and violence in society. The evidence comes from comes from the laboratory and real-life studies."

In his testimony, Dr. Eron also says that the effect of television violence—

> Is not limited to children who are already disposed to being aggressive and is not restricted to this country. The fact that we get this same finding of a relation between television violence and aggression in children in study after study, in one country after another, cannot be ignored.

He adds:

> Practically it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually.

He does not suggest, nor does anyone I know, that television violence is the sole cause of violence in our society. It is one factor, one piece of a mosaic. But it is one that the television industry can do something about now, if they have the will and the good sense to look at something more than the profits that the industry can make.

Clearly, the reason for the use of so much violence is that it does attract viewers. But if standards are adopted so that all of television voluntarily follows certain standards, no part of the industry will be hurt, and our society will benefit.

It is also interesting to read in Dr. Eron's statement about the "Yes I Can" program.

I believe that my colleagues and others interested in this subject will find the testimony of Dr. Eron, who chairs the American Psychological Association of Commission on Violence and Youth, of great interest.

Mr. President, I ask to insert his testimony into the RECORD at this point.

The testimony follows:

TESTIMONY OF LEONARD D. ERON, PH.D.

Mr. Chairman and members of the Committee, thank you for inviting me to appear before you. I am Leonard Eron, Research Professor Emeritus at the University of Illinois at Chicago, and Chairman of the Commission on Violence and Youth of the American Psychological Association. It is in both of these capacities that I address you today. In regard to the former, I have been asked by committee personnel to discuss my research on the relation between television violence and aggression. For the past 35 years I have been engaged in research on aggression and violence. My specific interest has been in how children, in their formative years, learn to be aggressive. One of the factors implicated in the development of aggressive and violent behavior is the amount of television violence to which a youngster is exposed.

There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socio-economic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. The fact that we get this same finding of a relation between television violence and aggression in children in study after study, in one country after another, cannot be ignored. The causal effect of television violence on aggression, even though it is not very large, exists. It cannot be denied or explained away. We have demonstrated this causal effect outside the laboratory in real-life among many different children. We have come to believe that a vicious cycle exists in which television violence makes children more aggressive and these more aggressive children turn to watching more violence to justify their own behaviors. Statistically this means that the effect is bidirectional. Practically it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually.

Over 30 years ago, when I started to do research on how children learn to be aggressive, I had no idea how important T.V. was as a determinant of aggressive behavior. I thought it was no more influential than the Saturday afternoon serial westerns that I used to attend, or the fairy stories my parents used to read to me before I went to bed or the comic books I pored over instead of doing my lessons. These, certainly, were very violent. But I grew up OK. I didn't enter a life of crime. I was not very violent. So I was skeptical about the effects of television violence. And I think most people come to this subject matter with this same sort of set, unconvinced that television can have such deleterious effects. However, in 1960, we completed a survey of all third grade school children in a semi-rural county in New York State. We interviewed 875 boys and girls in school and did separate interviews with 80 percent of their parents. We were interested in how aggressive behavior, as it is manifested in school, is related to the kinds of childrearing practices parents use. An unexpected finding was that for boys there seemed to be a direct positive relation between the violence of the TV programs they preferred and how aggressive they were in school. Since this was not more than a contemporaneous relation we didn't have too much confidence in the finding by itself. You couldn't tell by these data alone whether aggressive boys liked violent television programs or whether the violent programs made boys aggressive—or whether aggression and watching violent television were both due to some other third variable. However, because these findings fit in well with certain theories about learning by imitation, a cause and effect relation was certainly plausible.

Ten years later, however, in 1970, we were fortunate in being able to reinterview over half of our original sample. Our most striking finding now was the positive relation between viewing of violent television at age eight and aggression at age 19 in the male subjects. Actually the relation was even stronger than it was when both variables were measured at age eight.

By use of a variety of statistical techniques it was demonstrated that the most plausible interpretation of these data was that early viewing of violent television caused later aggression. For example, if you control how aggressive boys are at age eight, the relation does not diminish. As a matter of fact those boys who at age eight were low aggressive but watched violent television were significantly more aggressive ten years later than boys who were originally high aggressive but did not watch violent programs.

Similarly we controlled for every other third variable that we could think of and had data on, which might account for this relation—IQ, social status, parents' aggression, social and geographical mobility, church attendance. None of these variables had an effect on the relation between violence of programs preferred by boys at age eight and how aggressive they were ten years later.

Then twelve years after that when the subjects were 30 years old, we interviewed them again and consulted archival data such as criminal justice records and found that the more frequently our subjects watched television at age 8 the more serious were the crimes for which they were convicted by age 30; the more aggressive was their behavior while under the influence of alcohol; and, the harsher was the punishment they administered to their own children. There was a strong correlation between a variety of television viewing behaviors at age 8 and a composite of aggressive behavior at age 30. These relations held up even when the subjects' initial aggressiveness, social class and IQ were controlled. Further, measurements of the subjects' own children, who were now the same age as the subjects when we first saw them, showed that the subjects' aggressiveness and violence viewing at age 8 related to their children's aggressiveness and their children's preferences for violence viewing 22 years later, when the subjects themselves were 30 years old. What one learns about life from the television screen seems to be transmitted even to the next generation!

Now it is not claimed that the specific programs these adults watched when they were 8 years old still had a direct effect on their behavior. However, what it probably does mean is that the continued viewing of these programs contributed to the development of certain attitudes and norms of behavior and taught these subjects when they were youngsters ways of solving interpersonal problems which remained with them over the years.

As I pointed out earlier, this finding of a causal link between the watching of violent television and subsequent aggressive behavior is not an isolated finding among a unique or nonrepresentative population in one area of the U.S., at a particular time. Seventeen years after our original data collection, we studied another large group of youngsters in a different geographical section of the U.S., a heterogeneous suburb of Chicago, following them for three years, and we obtained essentially the same results (Huesmann, Lagerspetz & Eron, 1984). Further, this three year follow up was replicated in four other countries, Australia, Finland, Israel, and Poland (Huesmann & Eron, 1986). The data from all five countries investigated in the study clearly indicate that more aggressive children watch more television, prefer more violent programs, identify more with TV characters, and perceive violence as more like real life than do less aggressive children. Further, it became clear that the relation between TV habits and aggression was not limited to boys as we had found in our original study. Girls, too, are affected. And generally the causal relation was bidirectional, with aggressive children watching more violent television and the violent television making them more aggressive.

Of course we do not contend that television violence is the only cause of aggression and violence in society today. Aggression is a multiple determined behavior. It is the product of a number of interacting factors—genetic, perinatal, physiological, neurological, and environmental. It is only when there is a convergence of factors that violent behavior occurs. No one factor is necessary or sufficient to produce long term anti-social behavior. Thus, media violence alone cannot account for the development of serious anti-social behavior. It is, however, a potential contributor to the learning environment of children who eventually go on to develop aggressive behavior. Furthermore, research support the view that the effect of violence viewing on aggression is relatively independent of other likely influences and is of a magnitude great enough to account for socially important differences. The current level of interpersonal violence has certainly been boosted by the long term effects of many persons' childhood exposure to a steady diet of TV violence.

We have been considering a number of variables which define the limits within which the effect of viewing television on the subsequent social behavior of children is operative. We turn now to a consideration of a likely model to explain how this effect comes about.

One aspect of the model has to do with arousal effects. Researches have alluded to this process as important in activating aggressive behaviors. It has been hypothesized that a heightened state of tension including a strong physiological component, results from frequent observation of high action sequences. Arousal here is seen as both a precursor and consequence of aggression (Huesmann, 1982). Another aspect of the model has to do with the rehearsal of the behaviors the child observes on the part of his favorite TV characters. The more frequently the child rehearses the sequence by continued viewing, the more likely is it to be remembered and reenacted when the youngster is in a situation perceived to be similar. Further, by consistently observing aggressive behavior, the youngster comes to believe these are expected, appropriate ways of behaving and that most people solve problems in living that way. Norms for appropriate behavior are established and attitudes are formed or changed by observation of other persons' frequent behavior, especially if that behavior is sanctioned by authority figures (Tower, Singer, Singer and Biggs, 1979). The child who has been watching programs with primarily aggressive content comes away with the impression that the world is a jungle fraught with dangerous threats and the only way to survive is to be on the attack.

However, television's influence cannot be explained solely in terms of arousal or observational learning and the setting of norms of behavior. Aggressive behavior is overdetermined, and the variables we've been discussing all contribute their effects. The process, however, seems to be circular. Television violence viewing leads to heightened aggressiveness which in turn leads to more television violence viewing. Two mediating variables which appear to play a role in this cycle are the child's academic achievement and social popularity. Children who behave aggressively are less popular and, perhaps because their relations with their peers tend to be unsatisfying, less popular children watch more television and view more violence. The violence they see on television may reassure them that their own behavior is appropriate or teach them new coercive techniques which they then attempt to use in their interactions with others. Thus, they behave more aggressively which in turn makes them even less popular and drives them back to television. The evidence supports a similar role for academic failure. Those children who fail in school watch more television, perhaps because they find it more satisfying than schoolwork. Thus, they are exposed to more violence and have more opportunity to learn aggressive acts. Since their intellectual capacities are more limited, the easy aggressive solutions they observe may be incorporated more readily into their behavioral repertoire. In any case, the heavy violence viewing isolates them from their peers and gives them less time to work toward academic success. And of course, any resulting increase in aggression itself diminishes the child's popularity. Thus, the cycle continues with aggression, academic failure, social failure and violence viewing reinforcing each other.

CHICAGO INITIATIVE IN PREVENTION OF CHILDHOOD AGGRESSION

One need go no farther than the nearest city newspaper to learn of the challenges that beset our city schools today. The country is undergoing major demographic shifts. Schools now enroll greater numbers of students who are members of linguistic or cultural minorities and/or who present educational and behavioral challenges. Additionally, many of these students come from low income families. Dramatic shifts have also been witnessed in family configuration. Increasingly large numbers of children come from single parent families, many headed by teenage mothers. Associated with these changes are increased risks for school failure and the development of serious aggressive and antisocial behavior.

Schools and families often lack the resources to meet the demands of these students. Yet, greater and greater responsibility is placed on the school personnel to provide for the social and emotional development of the children in their classrooms. Complicating these demands is the fact that teachers are increasingly confronted with students whose expectations, social behaviors, and values differ significantly from their own. The classroom teacher must decide how best to allocate scarce resources (time, attention, materials) to an increasingly diverse and often at-risk population of students. Far too often teachers have not been provided adequate training to accomplish this task.

Until recently, very few prevention and intervention programs have included consideration of the multiple contexts in which aggressive and antisocial behaviors are learned. While the school context is critical because of the amount of time and the number of years the child spends at school, there are many other important socializing influences. These influences include the peer, family and community context, as well as exposure to media violence.

In working with inner city children the community context is of particular relevance, because of the extreme environmental conditions which often exist there and which place entire populations of children at risk for the development of aggressive and violent behavior. Intervention programs are doomed to failure if they do not take into account the extreme and persistent environmental constraints such as violence, hopelessness, and limited social resources which surround these children twenty-four hours a day. It is naive to believe that we can change the attitudes and behavior of young people growing up under these conditions with any type of brief, single-focus program, such as public service announcements, classroom management strategies for teachers, or a few weekly lectures and exercises designed to change children's social skills or cognitions about aggression. In order to effect behavioral change, a more complex and sustained approach carried out more frequently over a number of years and affecting several psychosocial contexts and settings of development is necessary.

As part of a recent initiative in prevention research by the National Institute of Mental Health, The University of Illinois at Chicago has been awarded a large grant to conduct and evaluate a comprehensive program to prevent the development of antisocial behavior in children at risk. A team of professionals from the areas of psychology, education, and juvenile justice, with extensive experience in working with children and families, has been brought together to develop this program.

The Metropolitan Area Child Study is a large-scale (N=4,546), comprehensive, long range program in which interventions are being conducted throughout the school year in 16 schools with the same children over a period of two years and across a variety of contexts. These children will then be followed for a number of years to determine the long range effects of these efforts at preventing the emergence of antisocial aggression and violence. The contexts for intervention are the classroom, peer group, and family. However, because an important, but basically unanswered question, is how much intervention in which of these domains is necessary to prevent violence and aggression in the highest risk portion of this population, we are employing an additive model of program evaluation.

Utilizing this model, we begin with the most cost-effective and least intrusive method of intervention, a general enhancement, classroom-based primary prevention program. All children (except no treatment control children) are included in this general enhancement classroom-based program. This program consists of 80 classroom lessons utilizing the Yes I Can social responsibility training materials. The Yes I Can program focuses on promoting development in five areas of social cognition: Self-understanding; self as part of a community; social norms about violence/TV viewing habits; sense of control and hopefulness; social problem solving. Teachers participate in 30 hours of teacher training focusing on cultural diversity, development of prosocial and cooperative behaviors and classroom management.

A large group of children from grades 2, 3, and 5 who have been identified as being at high-risk for developing violent and aggressive behavior (N=975) are divided into two additional treatment groups. Both of these groups also receive more intensive cognitive training in small groups of high-risk peers. Only one of these groups of children also receives 22 sessions of family training during the first year of the program and monthly boosters during the second year. In this regard, it is important to examine the extent to which corresponding gains justify the social and economic costs of identifying children as high-risk, and the expenditure of resource necessary to involve multiple systems in treatment programs. This focus also addresses the concern of whether prevention programs should single out high-risk children for special attention, or should be limited to general enhancement programs for all children.

We believe that focusing on the child's cognitions as the critical locus of change holds promise for long-term generalized effects. However, since these cognitions are learned and maintained in multiple settings, we also believe that the conditions for the learning of aggression present in at least some of these settings must also be altered. The need for a comprehensive approach is most critical in inner city communities, where the environmental risk factors are so extreme that they placed entire populations of children at risk and can exacerbate the impact of individual risk factors.

APA COMMISSION ON VIOLENCE AND YOUTH

As part of my remarks today, I also want to give a brief report on the American Psychological Association Commission on Violence and Youth, of which I am the Chair. A year ago the Commission was established to bring psychology's expertise to bear on the problems of young people who are victims, witnesses, or perpetrators of violence or who live under the constant threat of violence.

The APA has asked the Commission to (1) review psychological knowledge related to violence and youth, (2) describe applications of that knowledge to prevent or stop violence and to temper its negative consequences, and (3) recommend promising directions for public policy, research, and program development.

We have solicited ideas and materials from many people who are concerned about violence and youth. Last fall we conducted 2 days of hearings in which we heard testimony from researchers and program staff in the areas of sexual assault, law enforcement, health care, and community services, as well as representatives of the religious community and state and federal government agencies.

Speakers repeatedly urged APA to bring a scientific perspective to public policy on violence, and they underscored the urgent need for immediate, sound interventions.

Other participants at the hearings outlined the special vulnerability of racial and ethnic minorities, young people with disabilities, and lesbian and gay youth. Young people who appeared vividly described their experiences of living with the constant threat of violence in their schools and neighborhoods.

The Commission's work is supported by a cadre of experts made up of APA members and other professionals whose expertise complements that of the twelve Commission members. These volunteers are contributing materials and ideas for the Commission to consider, and some of them will participate in developing and reviewing the Commission's report to the Association.

The Commission will present its findings and recommendations in a report scheduled for release in December 1992. Besides advancing the understanding of violence and youth by psychologists, we want the report to offer practical help to communities and institutions coping with issues related to violence and youth. For this reason, we decided to make preventive and rehabilitative interventions the focus of the report. We also will discuss the relation between violence and culture, as well as social and historical issues that underly the context for our society's current violence.

I am confident that material from these hearings will be germane to the work of our Commission. Moreover, I trust that our Commission's final conclusions and recommendations will be valuable well beyond organized psychology. We want our report to be a springboard for developing programs and polities that can help to stop the tidal wave of violence that is harming our young people nationwide.

Thank you for this opportunity to summarize these issues. I would be happy to respond to any questions you might have.•

IN RECOGNITION OF RT. REV. MSGR. JOHN F. SAMMON

• Mr. SEYMOUR. Mr. President, I rise today in recognition of Msgr. John F. Sammon upon the 50th anniversary of his ordination to the priesthood. Monsignor Sammon has been an extraordinary fixture in Orange County, CA, as well as loved tremendously by all.

Monsignor Sammon was born in Pittsfield, MA. He attended St. Joseph School and St. Joseph High School in Pittsfield. He continued his education at the Holy Cross College in Worcester, MA, and attended St. Mary's Seminary in Baltimore, MD. Monsignor Sammon was ordained on May 30, 1942 for the Archdiocese of Los Angeles and served the Archdiocese until 1960 when he was appointed to St. Cecilia Catholic Church in Tustin. On May 7, 1974, he received the title of monsignor.

Monsignor Sammon has served as chaplain of many organizations such as the Catholic Daughters of America, First Friday Friars, the Holy Family Retreat Association, the Orange County Chapter of the Knights of Columbus, the Rams Football Team and the Serra Club. Monsignor Sammon also serves as a board member of the Christian Service Council on Aging, Concern Counseling, Inc., Emergency Medical Services, Florence Crittenton Services, Meals on Wheels and the Women's Transitional Living Center, just to name a few.

Monsignor Sammon has been honored with many awards from Man of the Year for the First Friday Friars for 1977 to the George Washington Award presented by the Valley Forge Freedom Foundation in 1973. He is the second priest to ever receive this award. Monsignor Sammon has received many more honors worthy of mentioning, however, we would probably be here all day.

Mr. President, I ask my colleagues to join me today in recognizing this extraordinary man for his exceptional service to not only his first and foremost commitment, God, but to the community as well.•

ANTICOMPETITIVE PRACTICES IN THE RETAIL GASOLINE MARKET

• Mr. DECONCINI. Mr. President, recently I chaired a hearing in the Judiciary Committee's Subcommittee on Antitrust, Monopolies and Business Rights that focused on anticompetitive practices in the retail gasoline market. This is an issue I have been concerned about for some time.

Consumers benefit from strong competition in the retail gasoline marketplace. Unfortunately, over the years, anticompetitive practices have developed in this sector.

For some time now, several major oil refiners have attempted to control the gasoline retail market. To achieve this objective, major oil companies have undertaken an effort to systematically eliminate independent dealers from business.

Through discriminatory wholesale pricing, burdensome supply contracts, and the direct operation of retail gas stations, the major oil companies are gradually squeezing the independent dealer from the market.

Their strategy has been successful. The Department of Energy reports that the number of dealer-operated outlets declined from 91,000 in 1981 to 42,000 in 1990. The result has been reduced competition leading to higher gas prices, fewer full service pumps, and inadequate emergency and repair facilities for motorists.

Both distributors and retailers are being harmed by the current practices that are conducted by refiners. The historic structure of the gasoline market—which has served the American consumer so well—is quickly fading.

Hundreds or thousands of small businessmen competing for business through fair competition and services better serves consumers than the situation that is developing—a situation where a few major oil companies control the market and set prices from their corporate boardrooms in Los Angeles, New York, or Houston.

It is clear that existing law is inadequate to resolve the anticompetitive practices that are occurring in this industry.

It is for that reason that I introduced S. 790, the Motor Fuel Consumer Protection Act. This is a bipartisan measure that has the support of both the chairman of the Antitrust Subcommittee, Senator METZENBAUM, and the ranking Republican, Senator THURMOND. S. 790 will return price competition to the retail gasoline market.

Divorcement legislation has passed the Senate Judiciary Committee before—the last time in 1986. Since that time, however, the need for this legislation has increased dramatically. The Judiciary Subcommittee on Antitrust, Monopolies and Business Rights has now held two hearings on S. 790. Last week, the subcommittee overwhelmingly passed this bill and sent it to the full Judiciary Committee.

This is important consumer legislation that I hope will eventually be acted upon by the full Senate.•

IN RECOGNITION OF LT. GEN. ROBERT D. BECKEL

• Mr. SEYMOUR. Mr. President, I rise today in recognition of Lt. Gen. Robert Beckel, commander of 15th Air Force, March Air Force Base in California upon his retirement from service to the U.S. Air Force.

General Beckel earned a bachelor of science degree from the U.S. Air Force Academy in 1959 as a member of its first class. Upon his graduation from the academy, he was commissioned as a second lieutenant. He received pilot wings in June 1960 at Vance Air Force Base. OK, where he was the outstanding graduate of his class. He continued to earn a master of science degree in international affairs from George Washington University in 1971 and completed the naval command and staff course in 1971 as well as the National War College in 1975.

In August of 1961, General Beckel was assigned to the 49th Tactical Fighter Wing, Spangdahlem Air Base, West Germany, where he flew F–100's and F–105's. General Beckel then became a member of the U.S. Air Force Aerial Demonstration Squadron, the Thunderbirds, from 1965 to 1967. He also flew the solo position for the "Ambassadors in Blue" in demonstrations throughout the world.

He served as flight commander of the 614th Tactical Fighter Squadron, South Vietnam, and flew 313 combat missions in the F–100 from December 1967 until January 1969. General Beckel was assigned to the Office of Legislative Liaison, Secretary of the Air Force, Washington, DC, in 1971 and then became chief aide to Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff.

Mr. President, this is just a few of the accomplishments General Beckel has made in his career with the U.S. Air Force. I ask that my colleagues join me today in congratulating and commending General Beckel on his many achievements over the years and to wish him much deserved rest, relaxation and good health in months and years to come. Thank you, General Beckel, for your commitment to the United States of America.•

ECONOMIC SANCTIONS MUST REMAIN IN FORCE

• Mr. DECONCINI. Mr. President, I was flabbergasted by an article which appeared in yesterday's New York Times that efforts are underway here in Washington seeking rulings from the Treasury Department to exempt the Belgrade-based ICN-Galenika Pharmaceutical Co. from these sanctions. By coincidence, Galenika is owned by Milan Panic, an American who has been nominated to serve as Prime Minister of the rump Yugoslavia. Apparently, the company is feeling the pinch of U.N.-imposed economic sanctions against Serbia and Montenegro in response to the war Belgrade has waged against the independent country of Bosnia-Hercegovina.

An exemption is presumably being sought because the company supplies certain pharmaceuticals to neighboring countries, including Bosnia-Hercegovina. A number of Washington insiders are reportedly pushing for a waiver for Galenika. I suspect that the real reasons for the request have more to do with profits than altruism. If this should prove to be the case, an exemption would certainly be out of the question. If Mr. Panic and others are so concerned about the humanitarian situation, perhaps they could use their influence to get Serbia and her allies to stop the fighting around Sarajevo long enough so that convoys of desperately needed food and medicine supplies can reach people of that besieged capital.

The U.N.-approved economic sanctions must remain in force until Serbia and Montenegro fully comply with Security Council resolutions. Mr. President, I request that the text of the New York Times article be included in the RECORD.

The article follows:

[From the New York Times, June 17, 1992]

AMERICAN OFFERED POST IN BELGRADE

IT REMAINS UNCLEAR WHETHER SERBIAN-BORN INDUSTRIALIST WILL TAKE PREMIERSHIP

(By Michael T. Kaufman)

BELGRADE, YUGOSLAVIA, June 18.—The ruling Socialist Party formally proposed today that the post of Prime Minister of Yugoslavia be given to a Serbian-born naturalized American pharmaceuticals magnate.

At a time when Yugoslavia is reeling under United Nations economic sanctions intended to punish the Belgrade Government for its support of ethnic fighting in Bosnia, the party said that Milan Panic, a millionaire industrialist from California, offers the best hope of leading the country from its crisis.

"With Mr. Panic's selection as Prime Minister, our country would come out of this economic and social crisis much quicker," said Borislav Jovic, the chairman of the Socialist Party of Serbia, as quoted by the official Tanyug press agency.

IS THE CANDIDATE WILLING?

But it could not be learned if Mr. Panic was willing to take the job. The public affairs office at the Costa Mesa, Calif., headquarters of Mr. Panic's company, ICN Pharmaceuticals, said today that Mr. Panic was sticking by a statement he issued on Sunday listing a number of conditions for accepting the Yugoslav premiership.

In his statement, Mr. Panic (whose name is pronounced PAHN-itch) said that while "it would be a great honor for me to have the opportunity to help the people of my native country," he would consider taking the post only if he gets the backing of all political parties as well as of businessmen and intellectuals. Those conditions have not yet been met.

There appeared to be other potential obstacles to his candidacy. Should he accept the premiership, he would presumably lose his United States citizenship under American laws that prohibit citizens from taking posts in foreign governments. He might also face prosecution under a June 8 executive order by President Bush imposing sanctions against Serbia. The order prohibits Americans from assisting the authorities in Belgrade.

AN INTEREST IN ENDING SANCTIONS

One of ICN's most profitable holdings, the ICN-Galenika pharmaceutical company in Belgrade, would be helped by the lifting of the international sanctions.

At a shareholders' meeting last April, Mr. Panic said that ICN had increased first-quarter earnings by 30 percent, mainly on the strength of Galenika's performance. But two-thirds of the raw materials used by Galenika in the manufacture of pharmaceuticals have come from the United States.

Galenika's American vice chairman, John Scanion, formerly United States Ambassador to Belgrade, is in Washington this week seeking rulings from the Treasury Department on Galenika's operations in light of the sanctions. Mr. Scanion said he had pointed out that Galenika supplies a major portion of the needs for penicillin to Serbia, Montenegro, Macedonia and Bosnia and Hercegovina.

Officials at Galenika said today that Mr. Panic was expected here on Thursday.

DOMESTIC OPPOSITION GROWS

In turning to the American millionaire, the Serbs who dominate the Belgrade Government appeared to be trying to deflect and mute mounting anti-Government protests by students, churchmen and proponents of peace and greater democracy. The demonstrations, all of which emphasize the Government's Communist past and totalitarian habits, have focused around demands for the resignation of Slobodan Milosevic, who dominates Yugoslav politics as the President of Serbia.

On Monday the Socialists went outside their party to choose Dobrics Cosic, a widely respected and popular writer, as President of the Yugoslav federation, now composed only of Serbia and Montenegro. Mr. Cosic is a passionate Serbian nationalist, and in this area his views may be expected to parallel those of Mr. Milosevic. But Mr. Cosic was expelled from the Communist Party in 1968, while Mr. Milosevic was the party chief in Serbia until 1989, and it was unclear whether the new federal President will try to undermine the old guard in control of Serbia.

Whatever Mr. Cosic's intentions, he would seem to have far less political power than Mr. Milosevic. But several Western diplomats said today that the moral authority he brought to the post gave him greater prerogatives than did the Constitution. Were he to urge new elections, Mr. Milosevic would almost have to comply, they said.

The nomination of Mr. Panic was also replete with Balkan complexities, beyond the obvious clash of having men who until very recently upheld Communism choosing someone who is probably the world's richest and most capitalistic Serb.

TIES WITH MONTENEGRO STRAINED

The selection is certain to strain relations between Serbia and its only remaining ally, Montenegro. The leaders of Montenegro had been promised that the Presidency would go to one of their people. When that pledge was broken with the selection of Mr. Cosic, the Montenegrins then felt that they would at least get to fill the post of Prime Minister, particularly since the new Constitution recommends that the two positions not be held by people from the same republic. Mr. Panic was born in Serbia.•

U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

• Mr. MCCONNELL. Mr. President, the so-called Earth summit has come to a close. Touted as a historic effort to rescue a world teetering on the brink of self-destruction, it was at times difficult to discern what the priority was: rhetoric or substantive progress.

There was lots of talk. Lots of politicking. Lots of hot air—which, by the way, contributes to global warming.

President Bush braved the barrage of predictable criticism from the liberal media, the developing world, the developed world, and the Democrats in Congress. The President was unfairly bashed for opposing fixed targets and timetables to the Framework Convention on Climate Change, and an inartfully drafted biodiversity treaty.

Sustainable international development requires not only environmental protection, but also a realistic consideration of economic ramifications. In the face of enormous political pressure from critics with their own agendas, President Bush reaffirmed his commitment to both the environment and sustainable development. His leadership in this area belies unjustified and inaccurate criticism. The President did not succumb to the cacophony of the pressure groups and commit the United States to wrong-headed proposals which could have wreaked havoc on our economy and on the lives of millions of working Americans.

Steeped in politically correct doublespeak, and lacking any sound scientific basis, the press relentlessly hammered President Bush on the issue of global climate change. The President stood firm against legally binding targets and timetables for greenhouse gases. This may not be a fashionable position in some circles. It is the only position supported by the facts, and is farsighted in its regard for real long-term prosperity and environmental protection. Yet the naysayers self-righteously insist we should risk shackling our economy, putting Americans out of work, and determine later whether carbon dioxide emissions in fact present substantial risks of potential climate change.

Mr. President, there is no conclusive evidence of significant long-term global warming. Our understanding of the Earth's climate is quite primitive and does not take into account the dynamic interaction of such factors as water vapor, sunspots, volcanic activity, variations in the Earth's orbit around the Sun, and the effect of oceans and ocean currents.

While these forces have been at work for eons, some self-proclaimed environmental saviors can only cite the latest weather report, and prepare 30-second political ads.

While I agree with many in the environmental community that measures must be taken to minimize the potential for climate change, these measures should be the least cost alternatives in light of the many uncertainties. We must target our limited economic resources to the most pressing environmental risks, not those which are unclear or remote. The United States and the world should take steps to mitigate the possibility of global climate change through carefully calculated efforts to produce the greatest environmental benefits with the least harmful economic impacts.

That is exactly what President Bush accomplished in Rio. The President led the way in crafting a thoughtful, reasoned response in the face of shrill rhetoric. In the end, the President's initiative was adopted by the rest of the world. It requires nations to submit action plans to stabilize greenhouse emissions at 1990 levels. It provides for technology cooperation and commits funding. It does not bind the United States or any other nation to firm targets which have uncertain environmental benefits, but portentous economic impacts.

Mr. President, I will ask that an editorial from Roll Call entitled "Bush Finally Takes a Stand Against Enviro-Hysteria" be placed in the RECORD following my remarks.

The President was also widely criticized for his hang-tough stance on the biodiversity treaty. It is somewhat amusing that the same Democrats that whined the loudest and most often about the recession are the same ones who are willing to sell one of the most promising sectors of our economy down the river for short-term political gain.

The American biotechnology industry is the world's most advanced. The reason we are No. 1 in high-technology industries in general, and biotechnology in particular, is because the United States has made a long standing commitment to the protection of intellectual property rights. This has encouraged investment in research and development that ensures our Nation's position as a leader in fostering new technology. But the critics would prefer that the President give the shaft to intellectual property, and would no doubt later criticize him loudly for the resulting loss in American jobs.

Mr. President, international cooperation on biodiversity is imperative. It is my hope that the United States will continue to work in the international community to forge such cooperation. However, we should not sign a bad agreement just to appease Third World nations and political critics with their respective agendas. The President stood firm against this criticism, and he was absolutely justified. Mr. President, I will ask that following my remarks an editorial from USA Today supporting President Bush's opposition to the biodiversity treaty appear in the RECORD.

President Bush has taken significant steps to protect biodiversity by aggressively pursuing policies to slow world deforestation. At a 1990 summit of industrial nations, the President called for an international convention to address this matter, and has moved ahead on this policy despite international sluggishness. The international community has been slow to follow President Bush's lead in this area, and hopes for a forests convention at Rio was dashed. President Bush has challenged the developed countries to put their money where their prolific mouths are by doubling U.S. assistance to bilateral forestry projects. The international efforts being pursued by the President will have a positive impact in slowing the destruction of rainforests, which contain over half of the world's species of plants and animals.

The President has also implemented an innovative strategy to encourage conservation by relieving the debt burdens of Third World nations. Over a quarter of a billion dollars in debt is expected to be reduced in this effort.

The President has been a leader in the world regarding the serious problem of deforestation. He has committed money to help developing countries devise and implement advanced forest management practices to sustainably manage the Earth's forests. This is an important step for impoverished countries whose economies depend on revenue from timber, but whose forestry practices threaten the world's biodiversity.

Add to that the President's request of $734 million in environmentally related foreign assistance in fiscal year 1993, up from $293 million in 1990. Real policies. Real money. Real leadership.

Looking back at the summit, there were four major groups who delighted in bashing the administration, but whose true interests appear to be far from that of sustainable environmental development.

First, there was the cynical rhetoric of diplomats appeasing their strong green lobbies back home: many of our best allies. These nations theatrically cried alligator tears, with their pecuniary interests foremost in mind. Carbon dioxide targets and timetables would give these countries an enormous competitive advantage over the United States which relies on its natural endowment of coal.

Second, there were the emotionally charged pleas of environmental groups trying to pump up their membership rolls. Their simplistic positions and catchy sound bites make great direct mail, but poor environmental policy.

Third, the supposedly unbiased media, whose self-imposed need to summarize complex scientific issues into pithy bromides, come at the expense of exploring the legitimate positions of the United States throughout the negotiating process. With an MTV slickness, they blamed President Bush for every disagreement, every bracket, and every sticking point.

And finally, of course, the politically driven diatribes of liberal politicians in the United States, for whom environmentalism appears to their best bet at getting off the political endangered species list.

The rhetoric has been strident, inaccurate, and down right annoying. "The President needs to be a leader on world environment issues" all the critics declared. I agree with this statement, but when the representatives of Third World countries said this they meant, "The President needs to give us more money with fewer strings attached." When the environmental extremist said this they meant, "The President needs to blindly commit to policies without regard to scientific proof or economic impacts." And when the Democrats said this they meant, "The President needs to lose in November."

All of these groups had agendas tangential to reasonable environmental protection. But then there were those critics without hidden agendas: The apologists for U.S. policies who fail to recognize that no nation has done more, or spent more, on environmental protection than the United States.

In this year of sloganeering and poll watching, it may be an irresistible urge to gloss over the facts, and smear prudent policies in favor of environmental extremism. It is my hope that the one-sided coverage of the Rio summit will not undermine the level-headed policies advanced by President Bush.

The article earlier referred to follows:

[From USA Today, June 9, 1992]

BUSH IS RIGHT NOT TO SIGN ENVIRONMENTAL TREATY

Biodiversity treaty may sound good, but it demands too much of the USA and too little of others.

President Bush may be all alone this week in refusing to sign an Earth Summit treaty aimed at protecting endangered wildlife species.

He also happens to be right.

The so-called biodiversity treaty is long on good intentions. It offers underdeveloped countries economic aid in exchange for limiting the environmental damage they cause. It would protect dying species that might someday provide new medicines and foods.

But the price demanded of the USA is too high, and the promise of meaningful results is too low. The treaty would:

Deny the USA and other industrial nations control of the dollars they donate to conservation.

If the USA is going to spend money on conservation, it should be able to assure that the money is spent effectively.

Unwisely and unnecessarily force the emerging U.S. biotechnology industry—the undisputed world leader—to share confidential information and property rights with other countries.

Lead to international regulation of the genetic-engineering industry, impeding progress and endangering U.S. leadership in the field.

The treaty does all this without setting firm requirements for saving species.

Too much sacrifice; too few results. Bush should resist pressure from home and abroad to sign the treaty and work for changes.

Other developed countries pressing Bush to sign have less at stake. In fact, some could gain by opening up U.S. biotech efforts.

They also make weak arguments. Britain and Japan, for instance, say they share some of the same concerns but plan to sign anyway. If they have doubts, they should work for change.

President Bush should take the lead in advancing programs to prevent species from dying out. He should be willing to spend U.S. money and expertise to help avert environmental devastation.

But he should keep his name off this document until rightful U.S. concerns are addressed.

[From Roll Call, June 15, 1992]

BUSH FINALLY TAKES A STAND AGAINST ENVIRO-HYSTERIA

(By Morton M. Kondracke)

Much of the American press, the Democratic party, and the public is seized with a hysteria over global warming that may waste billions of dollars that could be better spent on other things, including saving human lives.

It's almost universally accepted in print and on television that global warming is an imminent menace to the earth—in total disregard of the fact that scientists are deeply divided over whether there is any danger at all.

Democratic Sen. Al Gore (Tenn) has made it onto the bestseller list with an apocalyptic book declaring that the so-called greenhouse effect is "the most serious threat that we have ever faced." Yet, the most-cited United Nations study on the subject says that warming of the atmosphere may amount to no more than two degrees over the next 35 years and may be primarily attributable to natural causes.

In a debate last February in New Hampshire, every single Democratic candidate for president agreed with Paul Tsongas's assessment that global warming is "the most serious environmental threat to this country."

Bill Clinton said, "I don't know if we're going to make any news tonight or not, but I think we have just all said something that we ought to say together right now: Every one of us believes that the President should go to the Rio conference and say, 'The United States has been lagging on agreeing to global standards on a global warming and we are going to agree right now with the Europeans on reducing CO_2 emission . . . and meet a common standard.'"

The Democrats' alarm is based on computer models predicting that increased CO_2 emissions from the burning of fossil fuels like coal and gasoline will so heat the atmosphere that crops will die and polar icecaps will melt, destorying coastal cities in floods.

But the Intergovernmental Panel on Climate Change, a U.S.-appointed agency, reported in 1990 that the average temperature of the earth has risen only one degree over the last 100 years and is still two degrees below its high point since the last Ice Age.

The Bush Administration's refusal to agree to specific standards for CO_2 emissions or sign a biodiversity treaty guaranteeing massive payments from the developed to the developing world sent foreign governments and the U.S. press into an orgy of America- and Bush-bashing at the Rio earth summit.

For weeks, virtually every TV and print story out of Rio focused on American "isolation" at the summit, without any exploration of what American aims were or the merits behind them. The media also lavished time and space on Gore, retiring Sen. Tim Wirth (D-Colo), and leaders of the world "green" movement, who repeatedly denounced Bush as an enemy of the environment.

It was not until two days before Bush left for Rio that the Administration roused itself to a spirited defense—and then only because a State Department official got fed up with European and Japanese environmental hyprocrisy.

"Bob Zoellick pulled a 'Murphy Brown,'" said a White House official, referring to the Undersecretary of State for economic affairs, whose denunciations of the Europeans and Japanese in a background briefing won front-page headlines for his and a colleague's defense of the Administration's record.

Even then, much of the press ignored the record itself—which includes everything from passage of the Clean Air Act to speeded-up phase out of ozone-depleting chlorofluorocarbons and action to protect dolphins from drift nets—and concentrated its attention on the fact that a booklet reviewing that record was "glossy."

After debate within the White House over whether Zoellick's approach might not have been "too provocative"—one of those saying so was National Security Advisor Brent Scowcroft—President Bush finally issued a moderately tough statement as he departed for Rio, declaring that "environmental protection and a growing economy are inseparable."

That statement, scheduled for repeating in Rio, is in keeping with Bush's moderate policy on global warming and on environmental issues in general.

Democrats, greens, and the press like to portray Bush's policies as dominated by conservative developmentalists, de-regulators, and tree-cutters like Vice President Dan Quayle, Interior Secretary Manual Lujan, and former chief of staff John Sununu.

Inside the Administration, though, Bush is considered part of the "green gang," which includes EPA Administrator William Reilly, White House environmental chief Michael Deland, and Bob Grady, associate director of the Office of Management and Budget.

Zoelick and OMB Director Richard Darman are considered middle-of-the-roaders who have tried to steer a course between Quayle and Reilly. Quayle's office is suspected of leaking Reilly's memo from Rio urging signing onto the biodivesity treaty in spite of the costs involved.

On global warming, the Administration has taken a distinctly centrist position, hiking research budgets on climatology and advocating cuts in CO_2 emissions as insurance against the possibility that the greenhouse effect is real, while rejecting hard numerical standards for reductions while the issue is being studied.

The Administration's chronic inability to explain what it's up to, though, has allowed it to become a punching bag for the greens, the media, and the Democrats.

They have all willfully ignored evidence that the computer models predicting global destruction from the greenhouse effect have severe flaws. Some of this evidence finally made it into the press—notably, in a Washington Post article by Boyce Rensberger and a Newsweek piece by Gregg Easterbrook—but the facts have been drowned out by a roar of apocalypticism.

As Rensberger's piece pointed out, "For at least two million years, the climate has been swinging wildly between ice ages and interludes of warmth—often far more warmth than the planet is now experiencing." Between 2,000 and 500 years ago, he wrote, the Earth was about one degree warmer than it is now. "From about the 10th Century through the 13 Century, for example, Europe was so warm that Greenland was, in fact, green with plants."

The key danger created by the clamor about global warming is that the most favored remedy of environmentalists—a reduction in use of fossil fuels—will mean a slowdown in economic growth around the world. This is a "cost" of billions of dollars which could be used to feed, employ and provide medicine to poor people both in the United States and elsewhere.

Democrats, of all people, should be especially attentive to the tradeoff between environmentalism and development. They presume to care about America's and the world's needy, but they are risking their chance to prosper on the basis of a crisis theory that is, to put it mildly, not proved.

In Arkansas, Bill Clinton has shown that he understands the need for balance between the environment and economic development. As a result, environmentalists are screaming at him for letting industry pollute the state's water. He ought to understand Bush's position and not assail him blindly.

One Democrat who does understand the costs of runaway environmentalism is Lawrence Summers, a Harvard professor, former top economic advisor to Michael Dukakis, and now chief economist at the World Bank.

Summers told the New York Times: "Poverty is already a worse killer than any foreseeable environmental distress," ending 34 million lives per year around the world. "Nobody should kid themselves that they are doing Bangladesh a favor when they worry about global warming." Al Gore and Bill Clinton are not doing people in Watts or Harlem any favor, either.•

IN RECOGNITION OF TONY WONG

• Mr. SEYMOUR. Mr. President, I rise today in recognition of Mr. Tony Wong, president and CEO of KaWES and Associates, Inc. upon his receipt of the 1992

Minority Lifetime Achievement Award presented to him by the U.S. Small Business Administration.

Mr. Wong has, for the past four decades, focused not only on his own business, but has carefully paved the way for other minority business persons beginning their own journeys. Mr. Wong started out as a non-English-speaking immigrant working at odd jobs while attending school, now Mr. Wong heads KaWES and Associates, a multidiscipline civil engineering firm which performs services for both private and public work projects, in site and land development, transportation and traffic engineering, as well as surveying.

Mr. Wong has also been very active in the promotion of minority, disadvantaged and women-owned business enterprises. He is also more than active in community interest programs as well as a member of numerous civic and professional organizations such as the Asian-American Architects and Engineers, the Asian Business Association, the American Society of Civil Engineers, and the American Public Works Association, just to name a few.

Mr. Wong's receipt of this prestigious award does not top his minority business advocacy. As past president of the Asian Business Association, he is well-known in the Asian/Pacific islander community as a powerful champion of important community issues such as the needs of immigrant communities and mainstream corporate entities. He is well-known and works effectively as a bridge among such diverse interest groups.

Mr. President, I ask that my colleagues join me today in recognition of this outstanding citizen and the tremendous achievements he has made throughout his life in America. I congratulate and commend Mr. Wong for his extraordinary strides and dedication to this great Nation and his community.•

MINOT: ALL-AMERICA CITY

• Mr. CONRAD. Mr. President, I rise today to pay tribute to the city of Minot, ND. Minot was recently named All-America City by the National Civic League, and it's an honor the city richly deserves.

Minot competed against 140 communities from across the country for this award, and was 1 of only 10 recognized as all-America cities. The National Civic League honored Minot for its strong, cohesive community. I can only second that conclusion here on the floor. The people of Minot have proven time and time again their ability to work as a community to get results.

I've worked with city leaders, university officials, business people, and countless others on issues of importance to the Minot community. I've watched the community pull together to keep the city growing and commerce flourishing. The city's unique international flood agreement caught the attention of the National Civic League, and I would add that my experience working with the city to bring Choice International Hotels to Minot certainly showed the city at its finest.

Minot is one of the most enjoyable, pleasant cities in the State of North Dakota, and now can boast that it is one of the best cities in the country. On behalf of all North Dakota's communities, I congratulate Minot on being named an All-America City. It honestly is a magical community.•

SALUTE TO "PASSAGES"

• Mr. SEYMOUR. Mr. President, I am honored to rise today to bring to your attention a very special group of constituents. I am speaking about the thousands of Southeast Asian refugees that make the courageous journey to this Nation, fleeing life-threatening persecution in their native countries. They come to the United States in search of freedom—freedom from persecution, freedom of thought, and freedom of religion. They have experienced first hand, life in a society devoid of the basic freedoms that we, as Americans, sometimes take for granted.

Kimberly Chin, a student at California State University at Fresno, has adapted an anthology of refugee experiences into an 80-minute theater presentation entitled "Passages." "Passages" is based on a compilation by Katsuyo Howard and is being directed by Dr. Edward EmanuEl. Complete with music, song and slides, "Passages" tells the story of Southeast Asian children and their struggle for freedom. The cast is comprised entirely of Hmong, Vietnamese, Laotian, and Chinese actors. Never before has a performance such as this been presented to the public.

"Passages" puts the struggle for freedom in human terms and helps bridge the gap between East and West. Understanding other people and their culture is the key to tolerance.

The cast leaves Fresno, CA, on June 25 for performances in Hawaii and then will go on to various universities in Japan. "Passages" cooperates with President Bush's request for increased cultural exchange between the United States and Asian countries. The proceeds from the performances will benefit the Southeast Asian Foundation for International Understanding.

I commend Dr. EmanuEl and all those involved with "Passages" for their hard work and dedication to increasing cultural awareness and understanding. I wish them the best of luck on this exciting and important tour.•

STUDENTS FOR A BETTER ENVIRONMENT

• Mr. SIMON. Mr. President, I rise with pride today to recognize Students for a Better Environment [SBE] from Willowbrook High School in Villa Park, IL, for its commitment to the environment and the community.

Students for a Better Environment is a group of 50 to 100 students who for the last 6 years have continually worked to improve the environment on the local, State, and national levels. It has promoted efforts in recycling, preservation of forests and animals, and the fight against global warming.

A sampling of SBE's numerous achievements demonstrates its commitment to a cleaner world: making Willowbrook the first school in DuPage County with a recycling program; encouraging local grocery stores to provide the choice of paper or plastic bags; petitioning State road authorities for the planting of wild flowers within highway off-ramp partitions; and continual petitioning to government officials for the passage of environmental causes.

In 1991, Students for a Better Environment was honored by a number of national magazines. Because of this recognition, SBE has become the model for student environmental groups across the country. Earthcare, a monthly newsletter, and an instructional video tape were created by SBE to spread the word and aid other schools in developing their organizations. I would like to submit an article from Earthcare as an example of the environmental awareness that SBE fosters in our young people.

Students for a Better Environment has promoted and continues to promote a safer, cleaner world. By instilling into our youth a sense of environmental responsibility, SBE has become a positive example to all citizens.

As we all know, Mr. President, working to improve the environment is of critical importance to our own well-being, and the well-being of future generations. I am, therefore, proud to recognize these young people from my State of Illinois who are so committed to a better future.

The article follows:

OIL CRISES

(By Steve Stone)

The crises involving Americans, to this day, continue to add up and bombard them. The most recent crisis involves oil and the pollution of the environment by oil. The source of this pollution: American drivers who change their own oil and discard the waste needlessly.

Right now, at this very moment, there are people changing their oil somewhere in the United States. They could be either at home or in stations. Quart by quart this repulsive sludge adds up every two weeks to the equivalent of 10 million gallons spilled by the Exxon Valdez off the coast of Alaska.

Due to the contaminants that get into used oil while in an automobile's engine, it is potentially more damaging to the environment than crude oil. Used oil can contain numerous toxins. Some toxins that can be included are lead, which can eventually cause brain damage; and benzene, a known carcinogen and an ingredient found in gasoline.

If this oil is continuously thrown into the trash, streams, or on the ground, we can look ahead for the deaths of plants, animals, and human beings. Oils can reduce the oxygen levels of lakes, streams, and even oceans, thus harming fish and other marine wildlife. Oil can also block out the essential sunlight needed by underwater plants. This oil contaminates water which can eventually find its way into public drinking supplies, thus affecting us.

To help solve these problems of oil and oil pollution we can propose possible laws and restrictions regarding the disposal of oil. We could possibly reduce the price of oil. We could probably reduce the cost of oil changes at stations so people won't change their own oil, thus more used oil would be recycled. Another possibility would be to invent something that uses used oil.

If nothing is done to solve this problem of oil pollution, I believe Americans will begin to ignore other crises that add up, such as air pollution and water pollution. As a result, the environment will not be a clean, healthy, and safe place to live in; instead it will be a poisoned place to live or die in.•

TRIBUTE TO HARTFORD

• Mr. McCONNELL. Mr. President, I rise today to recognize the town of Hartford, situated in western Kentucky.

Hartford, located in Ohio County, is a pleasant community. The townspeople described Hartford as one big happy family. This is a simple community that does not attract much tourism, and it appreciates the uncomplicated life of a small town.

Hartford offers its citizens entertainment that is community oriented. The Courthouse Players, an amateur acting group, entertain the townspeople by performing skits in the old courthouse building. There is also a building dedicated to the U.S. Constitution and Bill of Rights. Area schoolchildren visit the exhibit to learn how these documents have played a profound role in the development of our great country.

Coal mining used to be the dominant industry in Ohio County. Depletion of that resource has caused the community to look in other directions for employment. This community was determined to overcome its misfortunes and proceed into new markets.

Applied Recovery and D&D Manufacturing are the most recent employers in Hartford. Hartford is constantly trying to bring in new industry and business to the community to absorb the loss from the coal industry.

Hartford is a community focused on family and hospitality. I pay tribute to Hartford and recognize it as one of Kentucky's finest towns.

Mr. President, the following article from the Louisville Courier-Journal is submitted for the CONGRESSIONAL RECORD.

The article follows:

HARTFORD

(By Cynthia Crossley)

If you've ever been to Hartford, you probably know about its Soreheads.

"Home of 2,000 Happy People and a few Soreheads," say the signs at the city limits.

In truth, the signs are not quite accurate. When the phrase was coined in the 1970s, Hartford's population was 1,868. In 1990, 2,532 people lived there. Hartford's population increased by only 30 in the 1990s, no big deal by itself. So it might be more accurate to say there are about 2,500 happy people, plus the Soreheads.

Why are there happy people in Hartford? Aside from the fact that it's a pleasant Western Kentucky community, residents offer reasons such as:

"The Courthouse Players," a dedicated group of amateurs who put on plays for an equally dedicated audience in an old courtroom. The company has a strong following, even though the theater lacks air conditioning and heat.

A small, rural hospital that is thriving, despite its location in an economically depressed area. Ohio County's 24-hour emergency room is usually busy until 1 a.m., and its obstetrics staff delivers about 130 to 140 babies per year.

A permanent exhibit building dedicated to the U.S. Constitution and Bill of Rights. Developer Eddie Hendricks gives talks there to schoolchildren about the Bill of Rights and other amendments.

When it's not being used for an event connected with the Constitution or the state of Kentucky, "The Hartford House" can be rented. Last December, a family rented the building. Their farflung offspring were coming back to visit, and Hendricks said the parents didn't feel their home could hold everyone. So on Christmas Day, folks brought their presents and their casseroles over to The Hartford House.

Hartford also has two water tanks towering over town side by side. They are a traveler's first sight of Hartford from the Green River Parkway.

"I suggested to the mayor that those twin water towers be labelled 'hot' and 'cold' but he hasn't done it," joked Dorothy Gentry, a local historian.

Actually, water is the focus of Hartford's major project. The city is building a $2.5 million plant that will be able to treat up to a million gallons of water per day from the Rough River. Daily capacity is now 435,000 gallons. That covers the town's "essential needs," said Mayor Earl Russell, but leaves no room for the additional demand a new industry might have.

And, of course, the need for new industry—preferably a large number of small factories—is the major theme these days in Hartford and Ohio County, just as it is in many other places.

Once, in the late 1980s and early 1970s, coal was king in Ohio County. And as for other industries, Ohio County didn't feel the need for them. People without highschool diplomas could get jobs that paid $25,000 per year in the strip mines. Coal-severance money, as well as revenue-sharing funds, poured into the country.

Ohio County was so flush that a former county judge-executive could afford the luxury of installing a security system in his office. Now, only one camera—a remnant—stares blindly at visitors. The rest of the system has been removed to save money. And Ohio County, along with the rest of the state, struggles to replace lost mining jobs.

Jerry Grooms, executive director of Ohio County's Industrial Foundation, says the community has had some success. Ohio gained two new—but small—industries within the last year. One is the 30-employee Applied Recovery, which processes medical waste and which has plans to expand. The other is D&D Manufacturing, a brand new plant with 17 employees who make a nonwoven material for tobacco-plant beds. (Both industries are in Beaver Dam, where the county's industrial parks are. But that's not really a loss for Hartford, since the two towns are only four miles apart.)

Grooms said the industrial foundation also is working hard to share a poultry-processing company. The foundation also is looking for plants that might supply the $500 million Scott Paper plant coming to neighboring Daviess County.

The foundation is being guided in that endeavor by a Tennessee Valley Authority study. The TVA and Western Kentucky University's Institute for Economic Development also are helping Ohio by offering the "SouthLink 2000" leadership-development program for the first time this year. The program, developed by the Southern Growth Policies Board, brings together a cross-section of a community to assess its assets and needs and to start addressing ways to improve things.

One situation the group may be considering is the drumbeat for Interstate 66, a federal highway proposed to cross Kentucky along the route of the Western Kentucky Parkway, or further south, along the Cumberland Parkway and U.S. 68-Ky. 80. Towns along both routes want the interstate for its economic development potential.

Says Grooms: "If I-66 goes through Bowling Green to Hopkinsville, it will be over my dead body."

However, just a few miles southeast of Beaver Dam and Hartford, the Green River Parkway intersects the Western Kentucky Parkway. That's prompted Ohio County to promote itself as "at the crossroads of Western Kentucky."

Yet that transportation bonus has lured only a Jerry's Restaurant and a BP gas station to a nearby parkway service area. The rest of the "crossroads" is empty farmland.

As the I-66 proposal develops, more than a few meetings may be held in Hartford's gleaming community center. Finished in 1980, the three-story building includes a 450-seat auditorium, offices for social-service agencies and modern, spacious courtrooms.

By blending the office needs of groups as disparate as the courts and the local health department, said attorney Frank Martin—former chairman of the Green River Area Development District and former Ohio County attorney—civic leaders could raise money for the center from equally disparate funding sources. As a result, the $1.6 million building is paid for.

Now, "when politicians come to town we let them perform here," Mayor Russell said, as he stood on the auditorium stage.

About two blocks over from the community center is a historical center. An old house has been refurbished by the Ohio County Historical Society and turned into the Ohio County Museum.

One room represents a parlor from the late 1800s; another, a bedroom from the same era. There's a room devoted to early medical practices, and another that's kind of a hodge-podge of Ohio County bluegrass-music items and memorabilia from the county's old community schools.

On the museum's front lawn are four small buildings. One houses old farming implements. Another is a log cabin filled with "frontier" furniture. And a third is a tiny old country store, again stuffed with old merchandise and advertising signs.

The fourth is crammed with all the items the society can't fit into the museum or the other three buildings.

Russell said much of the historical society's possessions—and knowledge—reflect the work of Gentry, the local historian. She has also researched the history of numerous homes around Hartford, worked to get some of its buildings on the National Register of Historic Places, developed a walking-tour route around town and generally pushed Hartford to cherish its past.

Gentry said her goal is to have Hartford make its downtown over into a quaint collection of shops. She said Ohio County has dozens of crafts people and antique dealers who could fill those shops.

Russell considers people like Gentry an asset. Or maybe a Sorehead. Being a Sorehead is an honor in Hartford. One earns the title through community service.

Once the city council agrees to name someone a Sorehead, the name goes on the city's Sorehead inventory, which is used as the need arises. Russell, reviewing the list recently, said that the "few" Soreheads actually translated into "about 150 to 160 or so."

But, he added, "We don't give 'em to just anybody."

FAMOUS FACTS AND FIGURES

How did Hartford, and before it, Fort Hartford, get its name? No one's sure, so take your pick among three possible sources: One, the site served as a crossing on the Rough River for deer. (Male deer were once called harts and crossings were called fords.) Two, a settler named Hart lived by the ford. And some accounts pose the possibility that Hartford was named for the city in Connecticut.

McCreary Court is named after the town's first doctor, Charles McCreary. In 1813 he performed "the first known successful removal of an entire collarbone," the historical market in front of the town library says. This was done on a 14-year-old Muhlenberg County boy named Irvin. Some accounts say that Irvin endured the operation without anesthesia. In any case, he recovered and went on to live for another 36 years.

Some relatively famous folks from Hartford: Radio and Hollywood film producer Z. Wayne Griffin, whose stars include Clark Gable, Claudette Colbert and Fred MacMurray, Internationally known painter Charles Courtney Curran (1861–1942), whose paintings tended to be seashore scenes with children, young women and water nymphs; the Rev. William Downs, who baptized Abraham Lincoln's father, Thomas Lincoln, when Downs was preaching near the Lincoln home on Knob Creek.

One very famous person from nearby Rosine is Bill Monroe, the father of bluegrass music. Monroe's uncle Pendleton Vandiver is buried in the Rosine Cemetery, and the fancy headstone includes the words from Monroe's famous song "Uncle Pen." Monroe's son has since moved Uncle Pen's cabin to Beanblossom, Ind., but the home where Monroe was born still stands, albeit in a somewhat hidden spot. Just outside Rosine, Rosine has country and bluegrass bands playing in its little community park in June. And Bratcher's Store often hosts country-, bluegrass- and gospel-music groups on weekends.●

INTRODUCTION OF THE EXPORT ENHANCEMENT ACT

● Mr. MACK. Mr. President, I am pleased to be an original cosponsor of S. 2864, the Export Enhancement Act of 1992, which was introduced by Senator SARBANES and others yesterday. The bill renews the charter of the Export-Import Bank until September 30, 1997, and helps streamline our export promotion programs.

This bill includes a number of important measures, in addition to the renewal of the Bank charter. Most importantly, it extends the tied aid credit fund—the so-called war chest—authority for 3 years and authorizes appropriations of $500 million for each fiscal year.

The war chest will help put teeth in the recent tied aid credit agreement successfully negotiated by the administration in the OECD. Many exporters have pointed out that the agreement, while a major step in the right direction, depends on vigilant enforcement by the United States, and that credible enforcement depends on continued creative and aggressive use of the war chest.

I have been impressed with Eximbank's aggressive use of the war chest in the past and am confident that the Bank will not simply rest on its laurels and will not be hesitant to use the war chest to enforce the new agreement, should that become necessary.

The bill also includes language that provides for Eximbank to consider, in determining whether to support a transaction with its loan, guarantee, or insurance program, to take into account not only the subsidy cost of the transaction under credit reform, but also the need to involve private capital in support of U.S. exports. I believe this language will encourage continued use of guarantees and serve as a desirable counterbalance to the shift in the subsidy cost calculation in favor of direct loans under credit reform.

I am also supportive of the language in the bill authorizing Eximbank to provide similar compensation and benefits as do the Federal bank regulatory agencies.

It would be a false economy to expect Eximbank to support our exporters at a world-class level if we do not compensate at a level that can maintain experienced personnel.

On the export promotion side, this bill takes important steps toward making U.S. export promotion programs better coordinated and more accessible to exporters. It establishes in statute the Trade Promotion Coordinating Committee [TPCC] created by President Bush and requires the TPCC to submit a Governmentwide export promotion strategy to Congress. It also requires Commerce's U.S. Foreign and Commercial Service field offices to act as one-stop shops to help U.S. exporters to access all U.S. Government export promotion programs.

As many have pointed out, the export sector has been one of the most robust sectors of the U.S. economy. I am hopeful that this bill will help make our export sector even more competitive and clear the path of business, including small business, through the maze of Government programs devoted to export promotion.●

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 222, 93d Congress, appoints the following Senators to serve as ex officio members of the Committee on Commerce, Science, and Transportation for the purpose of participating in the National Ocean Policy Study: The Senator from South Carolina [Mr. THURMOND], the Senator from California [Mr. SEYMOUR], and the Senator from Maine [Mr. COHEN].

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL READ FOR THE FIRST TIME—S. 2877

Mr. COATS. Mr. President, on behalf of myself and Senator BAUCUS, I send a bill to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2877) relating to the Interstate Transportation of Municipal Waste Act of 1992.

Mr. COATS. Mr. President, I now ask for its second reading.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard. The bill will be laid before the Senate on the next legislative day for its second reading.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, June 19; that following the prayer, the Journal of Proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that immediately after the Chair's announcement, the Senate then resume consideration of Calendar No. 483, H.R. 5260, the Unemployment Compensation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate tonight, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:36 p.m., recessed until Friday, June 19, 1992, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 18, 1992:

ENVIRONMENTAL PROTECTION AGENCY

CHRISTIAN R. HOLMES IV, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

CHRISTIAN R. HOLMES IV, OF CALIFORNIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CHARLES C. MCDONALD, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. RONALD W. YATES, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CLIFFORD H. REES, JR. [redacted] UNITED STATES AIR FORCE.

ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. JOHN M. SHALIKASHVILI, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. BARRY R. MCCAFFREY, [redacted] UNITED STATES ARMY.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DONALD SNYDER, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES J. SEAROCK, JR., [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DAVID J. TEAL, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES MCCAUSLAND, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES A. MAY, JR. [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES L. JAMERSON, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ARLEN D. JAMESON, [redacted] UNITED STATES AIR FORCE.

ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HENRY J. HATCH, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JEROME B. HILMES, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. FRANK F. LEDFORD, JR. [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JOHN T. MYERS, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES P. OTSTOTT, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. BILLY M. THOMAS, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES W. CRYSEL, [redacted] UNITED STATES ARMY.

HOUSE OF REPRESENTATIVES—*Thursday, June 18, 1992*

The House met at 10 a.m.

The Reverend Dr. Harrison D. Bonner, pastor, Mt. Olive A.M.E. Zion Church, Waterbury, CT, offered the following prayer:

God of our weary years, God of our silent tears, Thou who has brought us thus far along the way.

We thank Thee for Thy goodness and mercy.

We pray for the President and Congress, that he who governs us and they who legislate for us will promote the welfare of all our people. Give them a right understanding, a pure and noble purpose. Give them the courage and wisdom to do Thy will. Fill them with truth and righteousness. Govern their hearts and minds, that law and order, justice and peace will prevail.

Bless our country that it may be a blessing to the world. Grant us sound government, just laws, good education, a free press, simplicity and justice in our relations with one another; and above all, a spirit of service which will abolish pride of place and inequality of opportunity; through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RAMSTAD. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RAMSTAD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 107, not voting 43, as follows:

[Roll No. 204]

YEAS—284

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Bennett
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Scheuer
Schulze
Serrano
Sharp
Shaw
Sisisky
Skaggs
Skeen
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weiss
Wheat
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—107

Allard
Allen
Armey
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Clay
Coble
Coughlin
Cunningham
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McEwen
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nussle
Paxon
Porter
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf

NOT VOTING—43

Alexander
Anthony
Barton
Beilenson
Bonior
Chandler
Coyne
Crane
Dickinson
Dornan (CA)
Edwards (TX)
Engel
Feighan
Ford (MI)
Gaydos
Glickman
Hefner
Hertel
Hubbard
Hunter
Jones (GA)
Kolter
Lowey (NY)
Nichols
Nowak
Perkins
Pickett
Quillen
Ray
Reed
Savage
Schumer
Skelton
Slattery
Traxler
Washington
Weber
Whitten
Williams
Wilson
Young (AK)
Zeliff
Zimmer

□ 1026

Mr. LENT changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). Will the gentleman from New York [Mr. McNULTY] please come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1985. An act to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes.

TRIBUTE TO REV. HARRISON BONNER

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, it gives me great pleasure to welcome the Reverend Dr. Harrison Bonner to the House of Representatives. He and his lovely wife Marge can truly be looked upon as being personal friends.

In June 1958, Harrison Bonner was named pastor of his first church at the tender age of 18. Reverend Bonner has served as pastor of the Mt. Olive A.M.E. Zion Church in my hometown for nearly 20 years. His honors and achievements as a minister and civic leader are numerous.

They include being a former president of the local NAACP, a former chairman of the board of Connecticut's only African-American-controlled lending institution, as well as being on the advisory board of the city's only 4-year college.

Also, one would be hard-pressed to find someone in Connecticut who has worked as hard as Reverend Bonner and his wife to help African-American senior citizens. Reverend Bonner developed 118 elderly housing units; Marge Bonner founded and operates one of the area's largest senior citizen centers.

Reverend Bonner has been the presiding elder of the Hartford District of the New England Conference since 1984, and he will soon be elevated to the bishop's position.

□ 1030

Mr. Speaker, when I first ran for office there were some people who were quick to say that I did not have a chance. They said that because I was black, white people would not vote for me, and because I was Republican, black people would not vote for me.

Reverend Bonner made it his personal task to address the latter. He said, and I quote, "We have to educate our people," and educate he did. Because of his help I was able to carry seven of the eight predominantly black precincts in Waterbury. My only regret, and I am sure I have shared this feeling with my fellow Waterburyans, is that Mr. Bonner will be leaving Connecticut. He will be missed. He has made a difference in the lives of a number of people.

Once again, I thank him for giving us those inspiring words today, and may God continue to be with him.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair announces there will be only seven 1-minute statements on each side of the aisle, and at the end of this business day 1-minute statements will be continued.

URGING SUPPORT FOR HOUSE CONCURRENT RESOLUTION 192

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, later today the House will have a chance to vote on House Concurrent Resolution 192, which would establish a joint committee to study the operations and functions of the Congress. It is a bicameral, involving the Senate and the House, and a bipartisan committee, and it has as its goal to make the House more efficient and more effective in its work.

I had the opportunity and the pleasure to testify before the Committee on Rules 2 weeks ago on behalf of House Concurrent Resolution 192, and suggested that the committee ought to have a very wide authority to study everything from the size of committees, the jurisdiction of committees, the size of the staff, whether or not membership on a committee should be rotated, or the chairmanship rotated. The only thing that the committee may not have before it, that I think it should, would be some work in the area of campaign finance reform.

I hope that House Concurrent Resolution 192 is voted up. I believe that this committee could have a very powerful and a very positive effect on how the Congress operates.

COUNTDOWN TO FATHER'S DAY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, 4 days to Father's Day—and more questions for the administration on its stance on fathers.

While we celebrate fatherhood, thousands of deadbeat dads continue to avoid paying child support. While the Bush administration and Vice President QUAYLE waste time telling a TV character to get the father involved, millions of real women are trying to do just that—but getting nowhere except deeper in debt.

Unfortunately, the Family Support Act of 1988 just is not doing enough. Every year, only one-half of child support obligations are paid in full, and 25 percent are never even made. The result: millions of kids—the generation that we expect to take care of us when we are senior citizens—are living in poverty without the basics to ensure that they grow up healthy and wise.

We can do something about this right now. First, let's tighten the loopholes that enable noncustodial parents to not pay a dime of child support. My Child Economic Security Act of 1992 will make the child support system more efficient by providing additional mechanisms for locating deadbeats and closing the loopholes through which they hide their money.

For the past 4 years, this administration has been calling for family values, while millions of kids remain in poverty because their fathers have been allowed to slink out of paying child support. How can the administration say it supports traditional family values and then not value the family enough to fix the child support system?

H.R. 5055—COAST GUARD AUTHORIZATION

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, there is a saying that money may be the husk of many things, but not the kernel. It may bring servants, but not faithfulness. A good phrase for describing the situation of the Coast Guard—faithful servants to the core, but continually short on resources to do their job.

Each year the Coast Guard is asked to operate on a shoestring budget, and yet each year we pile more and more on its plate.

When Congress told the Coast Guard to enforce a new recreational boat tax, no new resources were provided. In fact, the boat tax costs the Coast Guard time, resources, and good will. Now the Coast Guard is also being asked to patrol the Windward Passage to enforce U.S. policy regarding those fleeing oppression. It is extra missions such as these, mandated on the Coast Guard without the benefit of additional resources, that dilute its ability to perform traditional safety and drug interdiction functions.

When we consider the Coast Guard authorization later this week, let us not forget to prioritize the duties of the Coast Guard so we can assign appropriations wisely.

THEY SAY FORMER PRESIDENT RONALD REAGAN DID NOT KNOW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in Iran-Contra, Poindexter said "The buck stops here, and Reagan did not know." Ollie North said "The Contras got the money, and Reagan did not know." Secord said "I didn't get any money, and Reagan did not know." Meese said "I didn't see any money, and Reagan didn't know." Shultz said "Hell, I was Secretary of State and Reagan did not know." The Contras said "What money?" and "Reagan didn't know." Caspar Weinberger said "I am indicted, but Ronald Reagan didn't know."

I think the kicker is Mr. McFarlane said "I tried to commit suicide. I tried to take my own life, because Ronald Reagan didn't know." Ronald Reagan said "When I was President I didn't know anything and I didn't do anything, and look out for all the Communists."

I think the only one telling us some parts of the truth is former President Ronald Reagan.

SUPPORT LEGISLATION TO LIMIT U.S. CONTRIBUTION TO U.N. DEVELOPMENT PROGRAM

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, yesterday I introduced legislation to reduce by nearly $13 million and limit the United States' contribution to the U.N. Development Program [UNDP]. My research into the use of taxpayer money by the UNDP reveals completely unacceptable appropriations to tyrannically governed nations, and the United States contributes about 10 percent of the funds of the UNDP.

In its next 5-year cycle the UNDP plans to send hundreds of millions of dollars to countries that support terrorism and suppress religious and political freedom: For example, Cuba, China, Iran, Libya, Syria will get United States funds through the UNDP. This funding only strengthens the power of oppressive elites and ultimately impedes economic development and opportunity in these countries.

I am sick and tired of hard-working Americans serving as providers for unappreciative, despotic tyrants and their minions around the world. I ask that all the Members join me in supporting this legislation to stop the UNDP from sending our taxpayers' money to these tyrannical nations, and the $13 million saved would be used to reduce the U.S. deficit.

CONGRATULATIONS TO GREATER NEW ORLEANS SPORTS FOUNDATION HOST TO THE U.S. OLYMPIC TRACK AND FIELD TRIALS

(Mr. JEFFERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFERSON. Mr. Speaker, New Orleans will host the U.S. Olympic track and field trials today through June 28. While New Orleans has long been a popular tourist destination, the site of seven Super Bowls, and two final four champions, there has been no major track and field event in 25 years. The Greater New Orleans Sports Foundation, turned to Tad Gormley Stadium, a 55-year-old, underutilized facility in need of repair, and with private donations, local and State funds, and $1 million in Federal funding, transformed the stadium into a world-class, multipurpose facility. This event will add to the reputation of New Orleans as a city with international appeal and a showcase for our country. I congratulate this Congress for its wise investment in the future of New Orleans and our country, and the people of New Orleans and the foundation for tapping a new resource, amateur sports, which provides an opportunity for New Orleans to become a major competitor in the amateur sports market in America and the world.

□ 1040

REWARDS FOR EVIDENCE OF POW'S IN RUSSIA

Mr. McCOLLUM. Mr. Speaker, yesterday we were all excited to hear President Yeltsin's declaration that he would work vigorously to unearth any facts related to United States prisoners of war existing in the former Soviet Union. At this juncture, we need as a Congress to be bold in helping to solve this highest national priority.

First, Congress should pass a resolution which I am introducing today calling on the President to use his contingency funds to offer rewards to any Russian or former Soviet citizen who can offer conclusive evidence of any live United States POW's on former Soviet territory. Second, this offer should be broadcast on the Voice of America and Radio Liberty immediately.

Third, the joint United States-Russian Commission headed by Malcolm Toon should be empowered to offer these rewards.

And President Bush should ask President Yeltsin to make this search the highest national priority and to use all radio, TV, and print media in Russia and the rest of the former Soviet Union to broadcast this reward as well.

Mr. Speaker, the American people feel that the issue of missing American servicemen has been clouded by red tape and an uncaring and cynical bureaucracy. Let us cut through the years of doubt and suspicion and take action.

INTRODUCTION OF RESOLUTIONS DISAPPROVING OF DISTRICT OF COLUMBIA OMNIBUS BUDGET SUPPORT TEMPORARY ACT

(Mr. MORAN asked and was given permission to address the House for 1 minute.)

Mr. MORAN. Mr. Speaker, today, I rise to introduce a resolution disapproving of the District of Columbia Omnibus Budget Support Act of 1992. This resolution has been cosponsored by Representatives MORELLA and WOLF.

While I remain a strong supporter of home rule, I do not, and cannot ever support, any efforts by the District of Columbia to levy taxes on the residents of Virginia and Maryland.

Last month, the District of Columbia passed the Omnibus Budget Support Temporary Act of 1992. Through certain provisions of this act, the District of Columbia City Council has sought to tax nonresidents by imposing a new payment in lieu of taxes on the suburban users of the Blue Plains Waste Water Treatment Facility.

This payment violates the home rule agreement and the Home Rule Act of 1973 in a number of ways:

It imposes a new fee on the users of the Blue Plains facility without the expressed consent of Maryland and Virginia; and

It imposes a new fee which goes directly to the District treasury rather than the operating fund of the Blue Plains facility. Thus, suburban users of Blue Plains are being forced to fund District programs that do not directly benefit the customers of Blue Plains.

This payment in lieu of taxes, walks like a commuter tax and talks like a commuter tax. It is a commuter tax, one that is being unlawfully levied by the District of Columbia on the residents of Virginia and Maryland. The District of Columbia Omnibus Budget Support Temporary Act violates home rule and violates prior agreements between the District of Columbia and its neighbors. This budget should be disapproved by this Congress.

I urge my colleagues to cosponsor this legislation.

LACONIA SCHOOL DISTRICT ADULT DIPLOMA PROGRAM

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, one of the most exciting events I have had the pleasure to be involved in is to be the commencement speaker at the graduation ceremonies of Laconia Academy in Laconia, NH. on June 5. 1992.

This program is a special adult high school diploma program which is partially funded by the Federal Adult Education Act. After seeing this program in action, I am very pleased to see such an effective use of Federal dollars.

This year 31 students received their high school diplomas, bringing the total in the 20 years of the program to 490 people. This year's graduates ranged in age from 18 to 69 years old. All members of this graduating class are proud to now become very active members of their community committed to make a difference in society.

I particularly salute Mr. John Robert Sheehan. He is a graduate who had been encouraged over the years by his two children to return and complete his high school education. After reading an article about Laconia Academy's graduation last year, John made the decision to enroll. Following a year of intense course work, he graduated at the age of 69, with, I might add, the tremendous support of family and friends.

The residents of the Lakes region of New Hampshire are fortunate to have access to this special program, the success of which is due in major part to Ms. Peggy Selig.

Again, this program receives partial funding from the Federal Adult Education Act and as such is an outstanding example of a Federal program that really works.

PERMISSION FOR REPUBLICAN MEMBER TO BE COUNTED AGAINST DEMOCRAT QUOTA OF 1-MINUTE SPEECHES

Mr. DORNAN of California. Mr. Speaker, could I be counted in the quota on the Democratic side since they did not fill out their quota?

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman is asking a question. Is the gentleman saying he is going over to the Democratic Party?

Mr. DORNAN of California. Mr. Speaker, I have about had it with country clubs, but not just yet. I just wanted to know if I could ask unanimous consent to be counted against the quota of seven on the Democratic side?

The SPEAKER pro tempore. Let the Chair finish on the Republican side, and then the Chair will attempt to implement the gentleman's request within the announced limit.

Mr. DORNAN of California. And if any Member shows up to fill the quota, I will defer, of course.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON THE LEGISLATIVE BRANCH APPROPRIATIONS ACT AND FOREIGN OPERATIONS APPROPRIATIONS ACT FOR FISCAL YEAR 1993

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, last night Mr. BEILENSON made an announcement regarding the Rules Committee plans for two appropriations bills. This morning I would like to repeat the announcement for the benefit of Members who were not present at 11 p.m. last night.

The Rules Committee is scheduled to meet Monday, June 22, to grant a rule for the Legislative Branch Appropriations Act and on Tuesday, June 23, for the Foreign Operations Appropriations Act. Requests may be made for structured rules on these bills. The committee has circulated two "Dear Colleague" letters that request all amendments to the bills be submitted to the Rules Committee no later than 12 noon, on Monday June 22, 1992 for legislative branch and 5 p.m. Monday for Foreign Operations.

In order to ensure Member's rights to offer amendments under the rules that may be requested, they should submit those amendments, together with a brief explanation of the amendment, to the committee office at H-312, the Capitol.

A draft of the bills and reports will be available immediately following the appropriations committee markup this morning. The Office of Legislative Counsel will also have copies of the bills.

To repeat, amendments to the legislative branch appropriations bill should be submitted by Monday at noon and amendments to Foreign Operations should be submitted by 5 p.m. Monday.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I have only a minute, but I will yield part of my minute to the gentleman from New York.

Mr. SOLOMON. I am sure they will stretch the gentleman's minute, I say to my good friend, one of the most powerful men in the House. If the gentleman would yield, I just spoke to your staff a little bit earlier, I will say to the chairman of the Rules Committee, and just to alert them to the fact that it is very unusual to even have a rule on an appropriations bill, and sometimes we do just to waive points of order, perhaps, but never for cutting amendments.

The gentleman is asking for prefiling on the legislative branch appropriations and for the foreign operations appropriations, yet he is not asking for it on military construction. Of course, Members on our side of the aisle do not normally offer cutting amendments to military construction. I would just point out to the gentleman and to the House that it is one thing perhaps to prefile on complex issues dealing with foreign operations that perhaps reach outside the United States. It is quite another thing to ask for a prefiling on amendments that deal with elevator operators, with office allowances and things of that nature.

I just call that to the attention of the House because I would hope that this would not continue in the future. And I would like to discuss it with the gentleman and the Speaker at the appropriate time.

Mr. MOAKLEY. I thank the gentleman very much.

FOREIGN LANGUAGE ECONOMIC ENHANCEMENT ACT

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, of the 500,000 American troops we sent to the Persian Gulf, only 5 soldiers knew enough Iraqi Arabic to translate Iraqi intelligence documents. That is right, five. And now the State Department reports that virtually no one at State has a working knowledge of 15 local languages spoken in the former Soviet Republics.

Clearly our foreign language needs are not being met. And no wonder. Thirty-five States are experiencing shortages of foreign language teachers.

That is why today I am introducing the Foreign Language Economic Enhancement Act. This bill will help recruit and train elementary and secondary school foreign language teachers, help train foreign language translators for government and business, and help support the study of less commonly used foreign languages.

I urge my colleagues to join in cosponsoring and supporting this legislation.

□ 1050

REVELATIONS FROM THE RUSSIAN ARCHIVES

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today to pay a tribute to James Billington, the Librarian of Congress. He has worked extremely hard to bring a special and timely exhibit to Washington. An exhibit called "Revelations from the Russian Archives."

This exhibit opens today and is the first public display of materials from the key working files of Communist officials in the former Soviet Union. It features approximately 300 secret Soviet documents from the October Revolution of 1917 to the failed coup of August 1991.

This exhibit is a must see for all Members of Congress. It will help each of us understand just how far Boris Yeltsin and all the people of the former Soviet Union have come.

The fact that this exhibit is open just across the street from the United States Capitol—the symbol of democracy—represents a new Russia, anxious to affirm the core democratic value to open access to information.

Revelations From the Russian Archives opens today in the Madison Gallery and will remain on view through July 16. I commend James Billington and the Library of Congress staff for all their hard work and efforts to make this exhibit possible.

GULF OF MEXICO ENVIRONMENTAL AND ECONOMIC RESTORATION AND PROTECTION ACT OF 1992

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Mr. Speaker, I am proud to unveil the Gulf of Mexico Environmental and Economic Restoration and Protection Act of 1992.

Having grown up on the Gulf and representing the district in Texas with the most coastline on the Gulf of Mexico, I have long been committed to lifting the priority of the Gulf of Mexico.

This legislation has been developed over one year and is the product of meetings with all of the relevant Federal agencies, the States, and congressional committee staff.

The bill formally establishes the Gulf of Mexico Program.

In doing this, our legislation places all Federal agencies with jurisdiction over the Gulf of Mexico, all Gulf States and the citizens advisory committee on an executive board with the EPA, each one having an equal vote.

I believe that local citizens and the States have a much better idea of what is going on in the Gulf of Mexico than inside-the-beltway bureaucrats.

Our legislation ensures that those who deal with the gulf everyday are included in the decisionmaking process.

This bill is designed to tackle real problems in the form of implementation grants.

The bill also provides research grants which are to be carried out in Gulf States to the maximum extent possible. The Gulf of Mexico makes an incredible economic contribution to the Nation and it is high time its value was formally recognized. That is why I am introducing this legislation today.

I would like to thank the other cochair of the Gulf task-force, my distinguished colleague and friend Sonny Callahan and all of the other members of the Gulf of Mexico task force who have worked so hard in developing this legislation.

I would also like to give a special thanks to the sunbelt caucus without whose help we would not be introducing this legislation today.

INTRODUCTION OF THE GULF OF MEXICO ENVIRONMENTAL AND ECONOMIC RESTORATION AND PROTECTION ACT

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I am pleased to join today with the gentleman from Texas [Mr. LAUGHLIN] and others in introducing the Gulf of Mexico Environmental and Economic Restoration and Protection Act.

This bill establishes the Gulf of Mexico Program under the Environmental Protection Agency's Office of Water. It sets up a Gulf of Mexico executive board which consists of representatives of the EPA, the Soil Conservation Service, the Corps of Engineers, the National Oceanic and Atmospheric Administration, the Fish and Wildlife Service, the Coast Guard, a representative from each Gulf Coast State, and the chairperson of the citizens advisory committee. It directs the board to establish technical steering committees as necessary. It also directs the board to prepare a comprehensive joint plan for Federal, State, interstate, local, and nongovernmental development of economic, ecological and aesthetic resources of the Gulf of Mexico. This plan is binding upon the agencies represented on the board. The bill will authorize $30 million for fiscal year 1993 and $300 million for fiscal years 1994–98. It directs the administrator to ensure that these funds are allocated among board members to carry out joint plan activities and to award grants to the gulf States, nonprofit research organizations or universities for research or for implementing measures contained in the plan.

The Gulf of Mexico is one of the Nation's greatest treasures and it does not just belong to those of us who live on it. The gulf feeds the Nation, offers tremendous recreational opportunities, and contributes greatly to our Nation's energy needs. I think a particular focus of the year of the gulf should be to inform the "inland" public of the benefits they receive from the gulf and of the responsibility they should assume in preserving it for the future.

PRESIDENT YELTSIN'S VISIT AND HIS PROMISES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, since I was sworn in as a freshman Congressman here the first Monday in January 1977, I have never witnessed such a piece of history as President Boris Yeltsin's speech yesterday.

Again, the headlines today talk about the fact that he has promised never again to lie to his own countrymen, to the world, to anybody, and including this tragedy of American POW's from World War II, Korea, Vietnam, and all the dozens of incidents where Soviet fighters have shot down and murdered and, in some cases I am sure, there have been survivors of planes shot down during the very bloody cold war.

Mr. Speaker, I think for the sake of the families, we had better consider where we are going with this. I think we are going to go through a decade or more of the remains of unknown Americans coming through Vladivostok to Hawaii to the Central Investigative Laboratory to have their sacred bones laid out to try and identify who these brave souls were.

The Americans with Russian or German surnames, hundred of them that were kept behind, all of these brave air crews, officers, and enlisted men from all our branches of service, may be, God willing, remains from the 007 Korean airliner shot down, may be the remains of our colleague, Larry McDonald, a Democrat from Georgia, a Navy commander and a doctor.

We are going to go through a horrible period. If one live person comes out, he becomes a living symbol of everything that happened in the 75 years of the evil empire that Mr. Yeltsin so forthrightly described yesterday.

Brace yourselves. It is going to be tough, but I think we can handle it.

ESTABLISHING A JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 481 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 481

Resolved, That during consideration of the concurrent resolution (H. Con. Res. 192) to establish a Joint Committee on the Organization of Congress, it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the concurrent resolution, said amendment shall be considered as having been read, and all points of order against the amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. The concurrent resolution and the amendment shall be debatable for not to exceed one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. The previous question shall be considered as ordered on the concurrent resolution and amendment thereto to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 481 is the rule providing for the consideration of House Concurrent Resolution 192, to establish a Joint Committee on the Organization of Congress.

The rule makes it in order to consider the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the concurrent resolution. The substitute shall be considered as read and the rule waives points of order against the substitute for failure to comply with clause 7 of rule XVI, which prohibits nongermane amendments.

The rule provides for 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

Mr. Speaker, today we consider a measure, House Concurrent Resolution 192, which may be one of the most important pieces of legislation that the House will consider this session.

The goal of this legislation is simple—to reform Congress—to make it more effective and more responsive to the needs of the American people.

Ultimately, we who support this measure seek to streamline our operations, to improve our relations with other branches of Government, to strengthen our oversight of Federal agencies and to devise a more efficient process to consider legislation.

To achieve this goal, the bill would create a joint committee with a sweeping mandate to recommend reforms regarding the organization and operation of Congress—something which has not been done since 1965.

It is far easier, and perhaps more politically advantageous, to stand outside and carp about Congress. It is far more difficult to take responsibility and rebuild anew. But history will judge all of us harshly if we do not take this responsibility to start afresh.

As the U.S. Congress begins its third century, this is the proper time for self-examination and regeneration. The recent metamorphosis in world politics and the evolution of our post-industrial economy are challenging all of our Nation's institutions.

In 1945, Congress found itself in a similar situation. The Depression and World War II had transformed the world and greatly expanded the responsibilities of the national government. But the institution of Congress was ill-prepared to take on the responsibilities being thrust upon it. It was criticized for its inability to manage its workload and to oversee the executive branch.

In a model for the current resolution, Congress set up the LaFollette-Monroney Joint Committee on the Organization of Congress. Its recommendations, embodied in the Legislative Reorganization Act of 1946, are the foundation of the modern Congress.

Forty-six years later, it is again time to step back, to examine Congress's role, and to ask whether institutional changes could help it perform better. House Concurrent Resolution 192 will establish one forum for this self-examination.

As amended by the bipartisan substitute recommended by the Rules Committee, House Concurrent Resolution 192 will establish a bipartisan committee with 12 Senators, 12 House members and the majority and minority leaders of both Houses. The joint committee is charged with reporting its findings and recommendations to each House no later than December 31, 1993.

The resolution provides limited committee staffing, but encourages utilization of the services of legislative agencies such as the Congressional Research Service, the General Accounting Office, the Congressional Budget Office and the Office of Technology Assessment. In addition, the committee is expected to make use of a comprehensive private foundation-sponsored study of Congress which is currently in progress.

As evident from its creation as a joint committee, the committee's primary focus will be on Congress's overall organization and its relationships with the executive and judicial branches of government. It will not preempt current reform mechanisms such as the Director of Nonlegislative Services and the Inspector General recently established by the House. Similarly the joint committee will complement ongoing House reform efforts such as that of the Democratic Caucus Committee on Organization, Study and Review, which I chair.

Mr. Speaker, I ask my colleagues to support this rule, reported unanimously by the Rules Committee, so that we may proceed with consideration of the merits of this important legislation.

□ 1100

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly thank the gentlewoman for her strong support for both the rule and the legislation.

Mr. Speaker, House Concurrent Resolution 192, which establishes a Joint Committee on the Organization of Congress, is privileged for consideration in the House as a joint rule of the House and Senate. That means that ordinarily it would not even need a special rule from the Rules Committee to come to this floor.

However, the amendment in the nature of a substitute reported by the Rules Committee extends the final reporting deadline for the joint committee from the end of this Congress to the end of the first session of next Congress. By doing so, the substitute is nongermane to the introduced resolution. So this special rule simply waives the germaneness rule against the substitute so that we can consider it.

Mr. Speaker, I regret that it is even necessary to extend this joint committee on reforming Congress into the next session. Had we acted on this when it was introduced last July, we could be voting on its final report within the next few months. That would have been ideal in terms of having the reforms in place when the new Congress convenes on January 4 of next year.

However, for a long time, some in the majority leadership resisted this proposal. The attitude seemed to be that this would detract from other important legislative business. And besides, it was argued, Congress does not really need to be reformed. Nothing is broke, so why fix it?

Regrettably, Mr. Speaker, it took a couple of scandals to awaken the leadership to the need for overhauling the Congress. I think it is a shame that is what it takes for the majority leadership to recognize that we just might have some problems.

For one thing there is a tendency, when we are reacting to scandals, to act too hastily in trying to set things right.

We often rush to judgment and overreact without carefully thinking about what really needs to be done. It seems more important to be able to tell the people we have done something in response, and then hope that will satisfy them.

For another thing, we tend to think that by taking action in the wake of a scandal we will somehow magically restore the confidence of the American people in the institution. We build up false expectations, both with our own Members and the public, about just what reform can accomplish in terms of our standing and effectiveness.

I think that was the mistake that was made with the hastily patched-together House administrative reform resolution that was churned out and adopted in just 2 weeks. But prompt action was considered to be more important than sound policy and consequences. And in politics, perceptions often are everything—at least until they run up against reality.

Mr. Speaker, I do not think this joint committee proposal will fall prey to the same problem. For one thing, it was conceived before the scandal panic set in. For another, it is based on the tried and tested bipartisan joint reform committees established in 1945 and 1965, with equal representation from both parties.

And for another, it will have plenty of time to study and recommend changes—a year and one-half to be precise. And those recommendations will then be run through the appropriate committees of jurisdiction before being brought to the floor.

In short, Mr. Speaker, this is not one of those spur-of-the-moment, ad hoc, back room, task forces designed to deal with an urgent crisis without the benefit of due deliberation and orderly process. This joint committee will operate in the open, in an orderly manner, and its recommendations will be brought back through the normal legislative process.

Finally, I would point out that this rule and the amendment in the nature of a substitute it makes in order, have both been developed and agreed to by the bipartisan leadership and membership of the Rules Committee. I think this augurs well for the prospects of the joint committee.

I therefore urge adoption of this rule and the concurrent resolution it makes in order to create this joint committee. Let this be the first step in what will hopefully be another historic, congressional reform milestone.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. GRADISON], one of the original sponsors of the legislation, and commend the gentleman for the great work he has done and hopefully for the results that will come out of this joint committee.

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 192 and the bipartisan substitute offered by Chairman MOAKLEY and Mr. SOLOMON. I would like to complement the bipartisan leadership of the House, Mr. MOAKLEY, and Mr. SOLOMON for their cooperation in, and their contribution to, improving the resolution.

House Concurrent Resolution 192 would establish a temporary, bipartisan Joint Committee on the Organization of Congress. The mandate of the joint committee would be to study and recommend reforms in the operations of Congress. The substitute improves on the original version of the resolution which I introduced with Mr. HAMILTON last year.

The expansion of the joint committee to 28 members, with 14 appointed from the House, will ensure a broad representation of views from both bodies on the critical issues before the joint committee. The substitute also provides for the inclusion of the majority and minority leaders of both bodies as ex officio voting members, thereby providing an important role for the leadership in the deliberations of the joint committee.

We introduced this legislation last July, well before the current spate of scandals in the House that have contributed to public dissatisfaction with this institution. It is my sense that all Members are increasingly concerned about the capacity of Congress, as presently organized, to deal effectively with the challenges the Nation faces. While this proposal emerged from that concern, there is also little question that meaningful reform of the Congress can also aid in restoring the public's confidence in the institution.

The proposed Joint Committee is modelled on the two most significant bipartisan and bicameral reform efforts of the post-World War II period. On two previous occasions in the last half-century, the Congress established similar panels to assess the organization and operation of the Congress. In each previous case, there were serious undertakings which led to significant changes in the manner in which the Congress conducts the people's business.

The Legislative Reorganization Act of 1946 and the Legislative Reorganization Act of 1970 were born in the deliberations of temporary bipartisan and bicameral committees established in 1945 and 1965. By and large, the changes brought about by these efforts were positive in that they responded to the needs of the Congress, as an institution, to deal more effectively with the problems of those times. It has been nearly 30 years since the House and the Senate have initiated a comprehensive examination of Congressional operations and the relationship between the first branch of Government and the executive and judicial branches.

In June 1946, a fellow Cincinnatian, Senator Robert A. Taft, told his colleagues that "I believe that we must begin on a complete reorganization of Congress if Congress is to operate efficiently under modern conditions." Taft was right then. This House would be right now to proceed with comprehensive reform.

Then, as now, times dramatically changed. The 79th Congress, of which Taft was a member, witnessed the dawn of the Cold War. This Congress must deal with the victory of the West and its aftermath—abroad and at home. The Congress and the nature and complexity of the people's business have changed. This concurrent resolution is a timely response to the real and perceived problems of the Congress.

Critics of the Congress, and there are many, both inside and outside the institution, claim there are too many staffers, too many committees and subcommittees, and too many turf battles. They may be right. I believe that these and other concerns of the membership, including reform of institutional rules and procedures and the protection of minority rights, are significant reasons, in and of themselves, to undertake comprehensive Congressional reform.

Beyond issues of efficiency, however, it is clear that procedural and other questions are impeding the consideration by Congress of important national issues. For myself, I am exceedingly concerned about the appallingly low national savings rate, dangerously high Federal budget deficits, and the state of health care in the Nation. Other Members have spoken often about different concerns. Yet, irrespective of the public policy issue, I am concerned that short-term thinking, driven by the necessities of electoral and partisan politics and exacerbated by the structure and procedures of the Congress, is distorting the ability of the institution to address urgent long-term national problems in a deliberate fashion.

No one can remove politics completely from the public policy debate. Nor should we try. Neither should our goal be to make Congress mechanically efficient—despte the views of a leading undeclared Presidential candidate. I agree with those Members who have stated that Congress should not, and cannot, merely serve as a completely efficient processor of the law. While recognizing the diversity of opinion and interest between and among the States and the people, we can, however, remove many of the institutional impediments that contribute to the gridlock that critics rightly bemoan.

Many of the reforms that the Joint Committee may ultimately recommend may not be new. Some, such as biennial budgeting, have been around for awhile. Others may emerge from a careful examinations of the historical record. In studying previous reforms and their effects on the House, particularly those of the post-Watergate period, the joint committee will be in a better position to recommend needed changes. Still others will result from careful and thorough consultation with Members on both sides of the aisle. Over 140 separate and specific reform proposals have already been introduced in either the House or the Senate. I believe the membership is prepared to begin a thorough examination of this institution.

As important as individual and specific reform ideas are, the joint committee proposal is significant in one other respect: 254 Members of the House, including a majority of both parties, and 58 Senators support House Concurrent Resolution 192. In my view, despite the poisonous partisan and political mood on Capitol Hill that has been noted by Members and observers alike, it is clear that Members of this institution, from the Speaker, to senior committee chairmen, to Members of the freshman class, have come to accept the logic of both bicameralism and bipartisanship as the proper structure in which to undertake this task.

In conclusion, Mr. Speaker, I am convinced the bipartisan and bicameral joint committee would be in the best position to consider comprehensive reform. We should not undertake expedient reform solely for the sake of reform to salve the press or the popular passion of the moment. The joint committee, in my judgment, is the only body capable of undertaking a coherent and integrated reform effort which could effectively assess changes in institutional procedures, the budget process, jurisdictional questions, and strengthening the oversight role of Congress.

Congress is the first, and most important, branch of our constitutional Government. As Members and as citizens, all of us, Democrats, Republicans, and Independents, have a deep and abiding interest in a strong legislative branch capable of addressing the Nation's problems. Reform, in and of itself, is no panacea; it is no substitute for political will; and it will not, on its own, restore the confidence the public has lost in this institution. Only Congress, by forcefully addressing the Nation's problems, can do that; but Congress will only be able to do that if it undertakes the difficult process of institutional reform.

I urge my colleagues to support the establishment of the joint committee and trust that broad support for it will move the other body expeditiously to concur in this bipartisan resolution.

□ 1110

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for his explanation of the bill itself. He certainly has been a leader in this reform process, and we really commend him.

Mr. Speaker, I reserve the balance of my time at this point.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only I yield 2½ minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. I thank the gentlewoman from New York for yielding this time to me.

Mr. Speaker, I rise today in support of this resolution and the subsequent resolution which we will debate very shortly.

Mr. Speaker, last year, the American people saw Congress at its finest—a thoughtful, bipartisan debate over the use of force in the Persian Gulf. One year later, our democratic institutions are under attack, and public confidence in our ability to govern has sharply declined. It concerns me that most solutions that have been offered—such as term limits—weaken the democratic process rather than strengthen it. Any reform of the legislative branch must be geared toward enhancing our role, and maintaining the balance of powers that has sustained our Nation for over 200 years.

The entire legislative branch spends only a fraction spent by the executive, yet it is the branch of Government that is closest to the people. We must take a serious look at what obstacles we face in the legislative process—overlapping committee jurisdictions, the numbers and allocation of committee staff, and fair treatment of all Members of the majority and the minority—and learn to operate more efficiently. In the process, we must ensure the American people continue to have access to their Government through their elected representatives.

Mr. Speaker, over a 4-year period, I devoted much time, thought, and hard work to another organizational matter—defense reorganization. That 4-year effort culminated in the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Despite the initial opposition to our effort in the Pentagon, those of us who believed in our work were able to create a bipartisan coalition that crafted an important piece of legislation. Since its enactment, civilian and military leaders of the Defense Department have come to view it in a very positive and very good piece of work fashion, and believe it contributed to our success in the Persian Gulf. Correspondingly, a review of legislative operations can improve our ability to govern, and renew public confidence in the Congress.

Mr. Speaker, the reorganization would be good for the people we represent, good for Congress, and good for America. I encourage my colleagues to support the resolution offered by the gentlewoman from New York as well as the subsequent resolution which it will afford.

Mr. SOLOMON. Mr. Speaker, the gentleman from California [Mr. DREIER] is another member of the Committee on Rules who has been a leader in the legislative reform process and the processes of this House.

Mr. Speaker, he was here until almost midnight handling rules. We recognize and commend him for his hard work, and I yield such time as he may consume to the gentleman from California.

Mr. DREIER of California. I thank the gentleman for yielding to me.

Mr. Speaker, I should say my work until midnight last night was clearly a labor of love, as is most everything we do here, including dealing with this issue here.

Clearly, Mr. Speaker, the reigning political cliche of the season is "change." And "reform." Everyone wants to see us bring about very good, positive reforms.

But I was approached about an hour ago by my good friend, the gentlewoman from New Jersey, MARGE ROUKEMA, who said to the gentleman from New York, Mr. SOLOMON, and me, "We don't want to bring about change simply for the sake of change." She is absolutely right.

I hope that as my friend from Missouri, Mr. SKELTON, said, that we can have clearly a bipartisan effort to reform this institution in a positive way. When I mentioned to Mrs. ROUKEMA some of the proposed changes that this committee would consider, she was very enthused.

□ 1120

Mr. Speaker, if we could begin addressing some of the problems like the fact that some Members of this House serve on as many as seven subcommittees and we have this process of proxy voting whereby Members could be on the other side of the globe and have their votes counted in committee, when we look at these kinds of things that have gone on, I believe that Members on both sides of the aisle should want to bring about change.

Now, it is true that committees similar to what will be known as the Hamilton-Gradison committee have been formed in the past, in past Congresses. It has been over a decade since we saw this type of a reform effort move forward, but the track record of actually implementing the changes these committees have come forward with is, frankly, abysmal. We have seen business as usual continue following these sweeping proposals for reform.

So it is my hope that when we move ahead with this, Mr. Speaker, we will be able to actually accomplish something. I do not want to see us just report out a bill. I do not want to send a lot of Members in committee and spend hours going over recommendations and have those recommendations ignored by Members of the House and the Senate. I am very supportive of the process because I believe we have great, great room for improvement here.

Mr. Speaker, I support the rule, and I support the resolution.

Mr. SOLOMON. Mr. Speaker, if the gentlewoman from New York [Ms. SLAUGHTER] has no further requests for time, I yield back the balance of our time.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up the concurrent resolution (H. Con. Res. 192) to establish a Joint Committee on the Organization of Congress, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 192

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(A) ESTABLISHMENT AND MEMBERSHIP.—There is established a Joint Committee on the Organization of the Congress (hereinafter referred to as the "Committee") to be composed of—

(1) 8 Members of the Senate—

(A) 4 to be appointed by the Majority Leader; and

(B) 4 to be appointed by the Minority Leader; and

(2) 8 Members of the House of Representatives

(A) 4 to be appointed by the Speaker; and

(B) 4 to be appointed by the Minority Leader.

(b) ADVISORY MEMBERS.—The Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives shall each name 1 person to the Committee, to serve as an advisory, non-voting, member of the Committee. Advisory members may be former Members of Congress as well as leading private citizens.

(c) ORGANIZATION OF COMMITTEE.—(1) A chairman from each House shall be designated by the Majority Leader of the Senate and the Speaker of the House of Representatives. A vice chairman from each House shall be designated by the Minority Leader of the Senate and the Minority Leader of the House of Representatives. The Committee may establish subcommittees comprised of only Members from one House.

(2) No recommendation shall be made by the Committee except upon a majority vote of the Members representing each House, taken separately.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The Committee shall—

(1) make a full and complete study of the organization and operation of the Congress of the United States; and

(2) recommend improvements in such organization and operation with a view toward strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and improving the orderly consideration of legislation.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, including the employment of personnel by the Members and the committees of the Congress and the structure of, and the relationships between, the various standing, special, and select committees of the Congress;

(2) the relationship between the 2 Houses; and

(3) the relationship between the Congress and the Executive branch of the Government.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The Committee, or any duly authorized subcommittee thereof, is authorized to—

(1) sit and act at such places and times during the sessions, recesses, and adjourned periods of the 102d Congress;

(2) require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, take such testimony, procure such printing and binding; and

(3) make such expenditures,

as it deems advisable.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—The Committee is empowered to appoint and fix the compensation of such experts, consultants, technicans, and clerical and stenographic assistants as it deems necessary and advisable. The Committee may utilize such voluntary and uncompensated services as it deems necessary and is authorized to utilize the services, information, facilities, and personnel of the departments and agencies of the Government.

(c) EXPENSES.—The Committee shall spend such sums as it requires.

(d) APPROPRIATED FUNDS.—All funds necessary to carry out this section are subject to appropriations.

SEC. 4. COMMITTEE REPORT.

The Committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than the adjournment sine die of the 102d Congress. If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be. All reports and findings of the Committee shall, when received, be referred to the Committee on Rules and Administration of the Senate and the appropriate committees of the House of Representatives.

Mr. MOAKLEY (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

Strike out all after the resolving clause and insert the following:

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—There is established an ad hoc Joint Committee on the Organization of the Congress (hereinafter referred to as the "committee") to be composed of—

(1) 12 Senators, of whom 6 shall be appointed by the majority leader and 6 of whom shall be appointed by the minority leader; and

(2) 12 Members of the House of Representatives, 6 of whom shall be appointed by the Speaker, and 6 of whom shall be appointed by the minority leader.

(b) EX OFFICIO MEMBERS.—The majority leader and the minority leader of the Senate and the majority leader and the minority leader of the House of Representatives shall be ex officio members of the committee, to serve as voting members of the committee. Ex officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the committee.

(c) ORGANIZATION OF COMMITTEE.—(1) A cochairman from each House shall be designated from among the members of the committee by the majority leader of the Senate and the Speaker of the House of Representatives.

(2) A co-vice-chairman from each House shall be designated from among the members of the committee by the minority leader of the Senate and the minority leader of the House of Representatives.

(3) The committee may establish subcommittees comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House.

(4)(A) No recommendation shall be made by the committee except upon a majority vote of the members representing each House, respectively.

(B) Notwithstanding subparagraph (A), any recommendation with respect to the rules and procedures of one House which only affects matters related solely to that House may only be made and voted on by the members of the committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the committee. Once such recommendation is adopted, the full committee may vote to make an interim or final report containing any such recommendation.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The committee shall—

(1) make a full and complete study of the organization and operation of the Congress; and

(2) recommend improvements in such organization and operation with a view toward strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with, and oversight of, other branches of the Government, and improving the orderly consideration of legislation.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, including the employment of personnel by Members and committees and the structure of, and the relationship between, standing, special, joint, and select committees;

(2) the relationship between the 2 Houses; and

(3) the relationship between the Congress and the Executive branch of the Government.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The committee, or any duly authorized subcommittee thereof, is authorized to—

(1) sit and act at such places and times within the United States during the sessions, recesses, and adjourned periods of Congress; and

(2) require the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, take such testimony, procure such printing and binding as it deems necessary.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—(1) The committee may appoint and fix the compensation of such staff as it deems necessary, but not to exceed ten, and shall utilize existing staff to the extent possible.

(2) The committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Office of Technology Assessment, the Congressional Budget Office, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(3) The members and staff of the committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the committee, other than expenses in connection with meetings of the committee held in the District of Columbia.

(c) EXPENSES.—

(1) SENATE.—[TO BE SUPPLIED].

(2) HOUSE OF REPRESENTATIVES.—Notwithstanding any law, rule, or other authority, there shall be paid from the contingent fund of the House of Representatives such sums as may be necessary for one-half of the expenses of the committee, with not more than $250,000 to be paid with respect to the second session of the One Hundred Second Congress. Such payments shall be made on vouchers signed by the House of Representatives cochairman of the committee and approved by the Committee on House Administration of the House of Representatives. Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration of the House of Representatives.

SEC. 4. COMMITTEE REPORT.

The committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than December 31, 1993. The committee may make such interim reports as it considers necessary. If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be. All reports of the committee shall, when received, be referred to the appropriate committees of the Senate and the House of Representatives.

SEC. 5. REPORT TO HOUSE PARTY CAUCUS AND CONFERENCE.

Notwithstanding any other provision of this resolution, the House membership of the committee is authorized to report to the respective party caucus and conference of the House of Representatives not later than November 6, 1992, any such findings and recommendations for changes in the Rules of the House as it may deem appropriate in connection with the organization of the One Hundred Third Congress.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 481, the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes, and the gentleman from New York [Mr. SOLOMON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers House Concurrent Resolution 192—better known as the Hamilton-Gradison bill on congressional reform. The measure proposes the establishment of a Joint Committee on the Organization of Congress to study and recommend reforms in the operation of this institution.

The committee would be comprised of 14 Members of the House and 14 Members of the Senate, equally divided between Republicans and Democrats. The committee would look for ways to improve the effectiveness of Congress—simplify its operations, improve its relationship with and oversight of other branches of Government, and improve the orderly consideration of legislation.

While the committee's main task would be to find reforms that apply to both the House and the Senate, the joint committee would be authorized to establish subcommittees comprised of only Members from one House, which would consider matters-related solely to that House.

Historically, committees of the House have adopted rules to govern their procedures. House Rule 11, clause 2(a) requires such rules to be consistent with the rules of the House. In this spirit, I would anticipate that the joint committee would adopt rules consistent with the rules of the House and the Senate so far as they are applicable.

The committee would have no legislative jurisdiction of its own. All of its recommendations for action would be referred to the appropriate committees of jurisdiction for consideration. The committee's final reporting deadline would be December 31, 1993. However, the resolution anticipates interim reports and specifically authorizes House members of the committee to report to the Democratic caucus and the Republican conference of the House no later than November 6, 1992. Any findings or recommendations for changes in the House rules that they may deem appropriate in connection with the Organization of the 103d Congress.

Mr. Speaker, while I know it is fashionable these days for some Members to take to the well and bash this institution until they're red in the face—I would respectfully suggest that we're not all bad and neither are all our processes and procedures. So, in that spirit, we must be very careful with how we proceed. We must make sure that the changes we implement in the future are good ones; ones that make this institution more accountable, and more representative of the people. We must try to be objective—and not political.

And we must be careful not to get caught up in the hysteria that "any change is a good change." The fact is that not all change is good.

I think the legislation before the House today takes into consideration all these concerns and sets forth a process that is both responsible and objective.

I have often wondered whether the frustrations that many Members currently feel stem more from the fact that we have a divided Government—rather than from technical or procedural inefficiencies in the way we do business. Let us face it, when you have a Republican President that wants to go in one direction and a Democratic Congress that wants to go in another there are bound to be problems. Quite frankly, I don't know whether you can fix that unless you elect a President who is of the same party affiliation as the majority of those in the Congress.

I know, too, there have been some complaints that Congress moves too slowly and that there are too many subcommittees. Perhaps that's true. But let's remember this is not "Federal Express" that has overnight delivery. This is the U.S. Congress that has the difficult task of implementing sound, fair, and responsible legislation.

Sometimes we want to take our time; we want to weigh all the pros and the cons; and we want to make sure we're doing the right thing. I say this not to justify the proliferation of subcommittees; I, for one, believe they should be streamlined. But I say this just to remind people that faster isn't always better.

Mr. Speaker, the Rules Committee held some very lengthy hearings on this matter. We heard from experts both in and out of Government. And, if I may, I would like to commend the ranking republican on the committee, my good friend JERRY SOLOMON, for his very constructive participation in these hearings.

The issue of "Congressional Reform" is ripe for exploitation and political pontification by both Democrats and Republicans. I am happy to say that Mr. SOLOMON, as well as others on the Rules Committee, approached this issue in a responsible and objective manner. There were no 30-second political sound-bites for the C-SPAN audience; instead, there were only serious and legitimate questions for the various panels. And the minor changes that were made to the bill in committee—were all done in a bipartisan fashion.

Mr. Speaker, the Hamilton-Gradison bill enjoyed strong bipartisan support in the Rules Committee and I expect the same in the full House. I want to commend both Mr. HAMILTON and Mr. GRADISON for their steadfast and tireless efforts on this matter. Their respect for this institution and their desire to make it better are genuine. And they deserve our enthusiastic support.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me at the outset call to the attention of the House the effort of my good friend and chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], in facilitating this bipartisan resolution that hopefully is going to really do something about reforming this House. JOE MOAKLEY has been a real leader, and without him I do not think we would have this bipartisan effort being made here today. So I truly commend him.

Mr. Speaker, let me just say this: Someone once said that you must reform in order to preserve. You reform in order to preserve. Over the last two centuries the Congress has demonstrated an amazing ability to adapt and change with the times, to reform itself in order to preserve.

What is it through all these decades that we have tried to preserve here in this House and in the other body? I think it is the notion that we are and should always be the people's branch of government. That is the first branch. The first branch of government is right here. Yet I fear this idea is sometimes lost on us, and maybe, just maybe that is why our standing with the American people today is so low in the public opinion polls and in our own sidewalk polls that we take every weekend as we travel around our districts.

□ 1130

The people have a feeling that we are out of touch, that we no longer really represent or relate to them, and that we no longer act in the national interest. They see a Congress that no longer is coming together or working together, but rather an institution that is fragmented and paralyzed, a Congress that is literally falling apart.

But I think we would be blind not to recognize that a large part of this public perception is really due to the way we organize, or disorganize, I guess you could say, and operate this institution. And we have it within ourselves to set things right and to start doing that here today.

The Constitution clearly lays responsibility at our doorstep when it says that each House may determine the rules of its proceedings and discipline itself. "Discipline" is really the key word, and that is exactly why we are here today debating this resolution to create a Joint Committee on Congressional Reform.

The time has come once again for us to set things right, to exercise some self-discipline, to reform, in order to preserve this body that you and I, all of us together, love.

Make no mistake about it, Mr. Speaker, the Congress is in urgent need of a clean sweep, with broad brush strokes of the reform broom. Mr. Speaker, I need not go into great detail about what needs to be done. We all know what needs to be done around here.

Most of the witnesses who appeared before the Committee on Rules that the gentleman from Massachusetts [Mr. MOAKLEY] and I serve on were at least in general agreement on the need for certain reforms. Members and academics alike said much the same thing. Even former Members who have served in this House agreed.

To put it bluntly, Mr. Speaker, we have become so fragmented and so weakened by the proliferation of subcommittees, subgroups, and the overabundance of staff that attends to them, that we have become musclebound. Musclebound is a good term. We just cannot function.

It is not unusual anymore for major bills to be referred to eight or nine committees and scores of subcommittees. Issues dealing with illegal drugs are liable to come before 54 subcommittees of this House, and that illustrates why we cannot get legislation on the floor to deal with that important issue. That is just one example; there are hundreds of others.

Out of this mess, we somehow expect the miraculous that coherent and rational public policy will emerge in a timely way. Who are we trying to kid? All Members know that cannot happen under the existing subcommittee system which has proliferated so much over the last 20 years.

Mr. Speaker, in conclusion, the reform effort to be undertaken by this joint committee is indeed a tall order, but it is an absolute order. We must reform in order to preserve this body. We must preserve a true Congress, a Congress that is coming together once again as the people's branch of government, so it can effectively carry out the people's business.

Mr. Speaker, I just hope that we will overwhelmingly adopt this resolution and give the joint committee that charge. The people expects no less of us; the interest and survival of this Government and this Nation demand it of us.

Mr. Speaker, let us pray that something really meaningful comes out of this task force 6 months from now when it will issue an interim report, prior to our caucus meetings in December. And then again a year and a half from now, the committee will issue its final report. Then we may have the opportunity to make some real reforms.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. MICHEL], our Republican leader, who has been one of the leading forces in bringing this legislation to the floor.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I certainly rise in support of House Concurrent Resolution 192, to establish a Joint Committee on the Organization of Congress. I commend my two colleagues, the gentleman from Indiana [Mr. HAMILTON] on the Democratic side and the gentleman from Ohio [Mr. GRADISON] on our side, for their commitment to the ideal of reform. Without their bipartisan cooperation, I doubt the bill would have made it to the floor.

Mr. Speaker, we must make the House more accountable. We have been saying that now for years. Elections ought to be more competitive and Representatives more responsive and responsible.

We need to simplify our committee structure, to rationalize committee jurisdictions, to streamline and professionalize our support staff, and to depoliticize our legislative process. And we ought to start today.

We have got an army of candidates all across the country, not running so much as Republicans and Democrats, but, frankly, as reformers. This is the time for true reform. The impetus is there, the need is there, and the timing is right. Now, all we need is the will.

We must not wait for the committee to complete its work. In my judgment we should be ready to accept some recommendations as soon as they are presented and move them through the legislative process.

Mr. Speaker, I know that there is a termination date here of 1993, but the new Congress will begin in January of 1993 and prospects are that in this body we will have more new Members than we have seen in my tenure in this body, and probably as many as were brought in in the early 1930's. So there is going to be that move, regardless, and we ought to take advantage of it.

We must reform in an ongoing manner rather than attempt to do it all at once somewhere down the road.

Mr. Speaker, I would like to mention just a few areas of reform right now, and at the end of my speech include for the RECORD the entire gambit.

Mr. Speaker, as I mentioned, we must streamline the committee system and rationalize committee jurisdiction. This is not a new problem. In 1974 the Select Committee on Committees concluded that "Procedures must exist which assure a continuous review of jurisdiction assignments."

Well, that continuous review is long overdue. Reviewing this system should be the top priority of the Hamilton-Gradison joint committee.

We have got to end proxy voting around here. We should dismantle the budget process and then rebuild it in the context of a balanced budget constitutional mandate.

We have got to bring the committee and staff ratios in the range of simple fairness as we reduce overall staff members.

Mr. Speaker, we must reduce the number of subcommittees, which have simply proliferated around here over the years. I believe that each committee could eliminate one subcommittee and no one would notice the difference, except maybe the taxpayer. We should eliminate almost all our select committees.

We need to restrict closed rules. We have said that time and time again. We need to turn campaign reform into a truly bipartisan endeavor.

Mr. Speaker, this is my opening round of recommendations. I have got more. I challenge anyone to suggest these matters do not demand extraordinary attention only a special commission with substantial powers can give them. But give the Nation a good, solid commission, and provide the commission the tools it needs to perform, and then hopefully we will get some real honest to goodness reform around here.

Mr. Speaker, I include for the RECORD my expanded list of reforms I have been touting I guess ever since I was first elected leader back in 1981. We hope that then this is the first real significant step that will be taken to get us where we eventually want to go.

REFORM PROPOSALS

ROBERT H. MICHEL

(1) Committee Jurisdiction. The current system of committee jurisdiction is the source of much of the political gridlock from which the House now suffers. A far-reaching plan to extricate the House from this confusing and confounding committee system must be a priority for this commission.

(2) Bill referral process: The process for referring bills to Committees, having vetoed bills considered before the House, and sending bills passed by the Congress to the President should be handled in a timely and professional manner. It should not be subject to the political whims of the Majority Party.

(3) Oversight and Coordination with Executive Branch: We need to have a better working relationship between the Executive and Legislative branches, especially in terms of oversight of executive agencies and programs. Performance-based accounting should be implemented. The reports of the Chief Financial Officers of these agencies should be studied and acted upon.

(4) Authorization and Appropriations: The trend of the House over the last several years has been for it to approve unauthorized appropriations. We need a biannual budget process or some other mechanism that will reverse this trend.

(5) House/Senate Conferences: There are too many conferees and the Conference process has become a mystery to too many people. We should limit the number of conferees, and we should educate the public to give them a better understanding of how it works.

(6) Debt Limit: The process for increasing the debt limit must be examined. It is inefficient and needs to be revamped.

(7) Budget Process: A complete reform of the budget process is necessary. We need to tear it down and then rebuild it in the context of a balanced-budget constitutional mandate.

(8) Commemorative Bills: A new process for considering commemoratives that is divorced from the normal legislative process should be formulated. A commemorative calender should be created, and objections by two or more members would remove a commemorative from that calender.

(9) Select Committees: Select Committee should be curtailed to the greatest extent possible. They serve as platforms, but have no legislative purpose. The useless ones must be eliminated.

(10) Joint Committees: These Committees are obscure and powerless. Steps should be taken to either enhance their visibility and authority or eliminate them.

(11) Legal Counsel: A Constitutional scholar who has the interests of the House as an institution at heart should be appointed. Political patronage has no place in this vital position.

(12) Bipartisan Representation on Committee on House Administration: There is no reason why the House Administration Committee should be partisan. We should make it a committee that has equal representation of both the Majority and Minority Parties.

(13) Office of the Architect: We need a better understanding of the funds available to the architect of the Capitol. An independent review of its mandate and its commitment to quality would be a good start.

(14) Printing Facilities of the Congress: As the Congress generates more paper, in the form of Dear Colleague Letters, mass-mailings, and other informational activities, it has become apparent that the facilities need to move into the modern era to reduce cost, to recycle, and to streamline the process.

(15) Legislative Appropriations: There should be a limit of one year for legislative branch appropriation bills. This will give the House a better handle on year-to-year expenses.

(16) Committee Staff Ratios: Staff ratio should be based not on the whims of the Majority, but on the basis of actual House representation. The current ratios are unfair and undemocratic.

(17) Cost of House Operations: We must look into the cost of the operations of the House. I have proposed a dramatic decrease in Committee staffing as one cost-cutting measure.

(18) Congressional Support Groups: We must examine those support agencies of the Congress to insure that they are fulfilling their original functions. Agencies such as the General Accounting Office and the Office of Technology Assessment have been criticized for the lack of objectivity. These agencies must be reorganized to insure their credibility.

(19) Proxy Voting Ban: The habit of ghost or "proxy voting" is anti-democratic. It should be discontinued.

(20) Rules Committee Reform: To maintain a strong and vibrant democracy, the House must insure that all voices are heard in debate. The trend over the last several years has been towards less debate and less rights for the Minority party. A complete overhaul of the Rules Committee would include a prohibition of any rules which preclude a motion to recommit with instructions to be offered, a limitation on self-executing rules, and a limitation on the Chairman of the Rules Committee ability to issue a closed rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, this is the people's House and these reforms that we are looking at today should be for all the people of this country.

I would like to start my remarks by saluting and commending the dean of my delegation, the gentleman from Indiana [Mr. HAMILTON], and also the gentleman from Ohio [Mr. GRADISON], for propelling the winds of change. Even before many of the scandals broke in this body, these two gentlemen knew that we needed substantive and real changes in the House of Representatives. It has been a pleasure to work with both gentleman.

Mr. Speaker, I would also like to say, because there is the need for this, there is an outcry of criticism on the outside, there is a great deal of frustration here on the inside, that I would like to give some of the credit for the hopeful passage of this proposal to the freshman class that has worked in a bipartisan way from the grassroots up for support.

□ 1140

The purpose of this bill has been stated many times on the floor of this House this morning. The purpose is to study good, efficient reorganization of how we do business in this body, to keep up with the changes in the world.

We will look at curtailing the diffusion of power to break the gridlock. We will look at the budgetary process. We will look at how to utilize technology in this place. We will look at the staff size, the committee structure, a host of reforms, but underlying all these reforms should be this: that we emphasize bricklayers with constructive changes and positive reforms and not the brick throwers that want to tear this great institution apart.

Finally, the real challenge ahead of us, Mr. Speaker, the real emphasis, is 8 studies have been performed in the last 30 years, only 2 have succeeded. As Mr. Yeltsin said in this body yesterday, we must stay the course, however painful, so that change could be carried through.

Let us continue to carry through changes for the people of this country.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, the noted American philosopher, Woody Allen, once wrote a parody of a graduation speech with a peroration as follows:

> America is at a crossroads. One road leads to hopelessness and despair and the other to total destruction. Let us hope that we shall have the wisdom to make the right choice.

Today, Congress seems faced with similarly bleak alternatives. On the one hand, November elections may result in a continuation of the divided Government of the last decade which brought us impasse, stalemate and drift. Or, November may bring us President Ross Perot who considers Congress unnecessary, irrelevant and promises to govern thru electronic town meetings of the Nation or perhaps the world. Some choice.

Conventional wisdom inside the beltway says that Ross Perot will self-destruct or at least be reduced to human size once he becomes a candidate and takes positions on the issues. To which Ross Perot replies, "The people don't give a damn about my position on the issues. They just like my principles." I fear he may be right. My guess is that people are fed up with politicians, issues, and positions in that order. For years now they have watched with increasing dismay as Congress endlessly debates legislation. But nothing ever happens. Or rarely, anyway. So people ask themselves, if nothing ever happens and problems continue to mount, why care who stands where on which issue. After a decade of drift, they want action, any action, and they turn to a man who says he'll give it to them and say to him, "Just do it!"

Divided Government has much to do with the legislative gridlock and national frustration but so does the outmoded, inefficient and unproductive way Congress operates in the present era and at the end of the day, we are not going to control whether or not the electorate decides to continue divided Government or elects a President, like Ross Perot, who I believe disdains and distrusts representative Government. All we can do is hope to improve our own performance, even if only modestly. And we can make a start by adopting this resolution. It's the third option.

And even it will be doomed to failure if the Members selected to consider reforms are not fair-minded men and women of good will rather than ideologues of either the left or the right. There will be no time for partisan posturing if the Commission is to accomplish anything meaningful before we adjourn sine die this fall. If each Member approaches the task with a view to seeking what is good for the institution and how best to restore credibility to the institution rather than what's good for their party or their committee then maybe—just maybe—real reform can be achieved.

Time is running out. But we do have time to agree upon reforms to substantially improve the operation and productivity of this place and have them in place when Congress reconvenes next January.

There is, of course, a risk in voting for this resolution. If the Commission fails to agree on a program of reform or if, having agreed, the Congress fails to adopt the reforms it will be yet another example of congressional impotence to act and confirm the already abysmally low regard in which the people hold us. So there is a risk but it is a risk we cannot afford not to take.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, many months ago, I signed on as a cosponsor of this resolution, and I rise today to urge its adoption.

As a high school teacher, I spent a lot of hours at the blackboard talking with students about this great country.

At the core of its greatness is our system of representative Government—the House of Representatives—Congress.

Recent events have eroded the bond of trust and accountability upon which that system depends.

In many meetings across my district, I sense a feeling among the people of disconnectedness to their Congress, a feeling that we are failing on basic issues of public policy. Our children scoring in the lower one-quarter percentile of international tests of math and science, our health care system failing to serve 40 million of our people, an infrastructure base that is crumbling, financial institutions that are being bailed out to the tune of hundreds of billions of dollars of taxpayers' money, a manfacturing base that is leaving our country.

We in this body are responsible for the public policy to guide these institutions. In order to pass effective policy, we need effective change in the way we operate.

This resolution is a meaningful and timely effort to bring about that change.

My colleagues, we should never forget what has been done on this floor and within this building, to fight injustice, to support freedom, to protect our natural resources, and improve the quality of life in this country.

But even great institutions such as ours must be willing to adapt and change.

By agreeing to this resolution we begin a new chapter in the history of this Congress.

Today we truly begin to put the strife behind us—freeing us to move forward on the issues we all came here to address—reducing the deficit and providing health care, education, and jobs for the American people.

I urge its adoption and look forward to working with my colleagues to implement its suggestions.

Mr. SOLOMON. Mr. Speaker, other than our minority leader, the gentleman from Illinois [Mr. MICHEL], the gentleman from Missouri [Mr. EMERSON] probably knows more about the history of this Congress than any other sitting Member. He was a page when for the last time the Republicans had control of this House, in 1954, under the Eisenhower administration.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding time to me and for his kind introduction.

Mr. Speaker, over the past many years, I have given a great deal of thought to the nature and the workings of this great institution in which we serve, and I am pleased to rise in support of the Hamilton-Gradison resolution to establish a temporary, bipartisan joint committee to examine all aspects of the operations of Congress and make recommendations.

Mr. Speaker, I have had what I consider a wonderful opportunity to see and participate in and around this institution from just about all perspectives. In the 1950's, I had the honor to serve as a page in the House of Representatives. During the decade of the 1960's, I was congressional staff person. During the decade of the 1970's, I was a Government relations executive. And since 1980, I have had the privilege of representing the Eighth Congressional District of Missouri in the House of Representatives. I have watched carefully throughout my life as our country and the world have gone through incredible changes: changes in world and national politics; changes in technology; improvements in communications and travel. These and other factors have changed the way America does business, and they have changed the needs of the people and have significant impact on how Congress does or should do its business. I believe we should take a closer look at how the Congress, charged with governing the people, might better respond to those changing needs and, indeed, opportunities.

On two occasions since the conclusion of World War II, the Congress established similar panels to assess the organization and operation of this great body. Each of these resulted in substantial changes in the manner in which the Congress conducted the people's business. I believe the time has come to take another look. Popular opinion of the Congress and of the Government as a whole is at a low, and many people do not trust and do not believe in their Government. It is difficult for a representative democracy to thrive in such a climate, when leaders are constantly eyed with suspicion and distrust. Still, I believe that this institution is worthy of great respect, and one of the tasks that lies before us is to restore public confidence in our Government. This bipartisan joint committee is a step in the right direction. It is time for us to take a close look at the institution and to think about making changes for the future, at how we go about our business and what we may do to improve it.

□ 1150

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise in support of House Concurrent Resolution 192. I was an early cosponsor of this measure and believe that the proposed Joint Committee on the Organization of Congress will enable the Congress to improve its operations and address the Nation's needs more effectively.

The timing of past major reorganization efforts—the Legislative Reorganization Acts of 1946 and 1970, and the partially successful attempt to restructure House committees in 1974—suggests that the time has come for a reassessment of congressional operations and the development of a contemporary reform agenda. But we face not merely the need for periodic institutional reappraisal: We also confront governmental gridlock and failure in a range of critical policy areas and a level of public disdain for Congress rarely seen over our country's history. It is a difficult and troubling time that calls for a careful assessment of Congress' strengths and shortcomings and of how our performance can be improved.

Not all the criticisms of Congress are equally plausible. It is important to understand how irrational jurisdictional divisions contributed to our embarrassing failure last year on banking reform, but also to appreciate how such barriers were largely overcome in our production of an energy bill this year. We rightly decry governmental gridlock on economic recovery and tax policy and our failure to get our fiscal house in order or to develop a consensus for health care reform, but we should also take considerable satisfaction at the passage of far-reaching surface transportation, higher education, and energy measures. And we need to understand the degree to which congressional policymaking has fallen victim to presidential intrasigence on issues like family and medical leave, unemployment benefits, campaign finance reform, medical research, pregnancy counseling, and human rights in China.

We must transcend the indiscriminate views of the Congress-bashers and institutional patriots alike, objectively assessing how our institution functions and how well its operations are suited to the demands of the 1990's. This the Joint Committee proposed by Representatives HAMILTON and GRADISON will enable us to do.

Our goal throughout must be, as the resolution states, to "strengthen the effectiveness" of Congress. We seek to create a more efficient Congress turning out an improved policy product. Unfortunately, that task is complicated these days by the presence of a pseudo-reform agenda headed by such nostrums as term limits and the line-item veto—an agenda, one suspects, inspired not by a desire for strength and competence in the Congress as much as for pliability and subservience to the executive.

Much current Congress-bashing actually helps prevent positive change. We need to consider what distributions and concentrations of power will make the institution work effectively, but the Congress-bashers tend to stigmatize all exertions of power as personal aggrandizement. We need to consider what shorts of support services Congress needs to function effectively, but these critics portray such accouterments indiscriminately as perks. We need to strengthen the incentives of Members to devote substantial time and energy to the work of the institution, but these pseudo-reformers often view legislative dealings with a jaundiced eye and encourage a righteous aloofness. All this fuels one's suspicion that some of the most vociferous contemporary critics of the Congress—some deliberately, others inadvertently—are aiming not for a more assertive and effective institution, holding its own in the constitutional balance of power, but rather for the opposite.

The Joint Committee on the Organization of Congress, by contrast, must develop a performance-based critique of the Congress and finds ways to empower and revitalize the institution. This is the sort of agenda that I remember from my time as a Senate aide in the 1960's and my work as a young political scientist. It was an agenda that inspired books with titles like "Obstacle Course on Capitol Hill" and "House Out of Order," by our own Richard Bolling. That stream of reform led to numerous positive changes, the reining in of a House Rules Committee that had become a power unto itself, enhanced leadership responsibility for bill referrals and floor proceedings, the instituting of a Democratic Steering and Policy Committee with responsibility for committee assignments, procedures to make committee chairs more accountable to the majority caucus, and so forth. These changes made the House less vulnerable to obstruction, more responsive to majority will, and better able to address the country's needs. It will be the task of the Joint Committee, and of ancillary efforts already underway in the party caucuses, to develop analogous reforms equal to the challenges of our own day.

It is important, Mr. Speaker, not to oversell the potential of institutional reform to resolve our difficulties. As Thomas Mann and Norman Ornstein, distinguished political scientists, told the House Rules Committee last month:

> The problems of governance in America today go well beyond the internal organization of Congress, or the manner of election to the Congress. They encompass every branch and every level of government and many institutions outside government. They involve members of the public as well as our political leaders. They reflect an extraordinarily complex set of economic and social challenges.

Congressional reorganization will not remove the frustrations of divided party control of Government, nor will it heal deep divisions in society or resolve contradictions in public opinion. Certainly it will not compensate for failures of leadership, vision, and resolve at either end of Pennsylvania Avenue. But it is precisely because the full array of challenges we face is so daunting that we must make certain that our legislative machinery is in optimal working order.

House Concurrent Resolution 192 will enable us to undertake this process of institutional reappraisal and change in a systematic, cooperative, and expeditious way. I urge its adoption so that the work of the Joint Committee on the Organization of Congress might begin immediately.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from across the river in Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise today to share my thoughts about establishing a joint committee on the organization of Congress. I believe the time has come to make a thorough evaluation of the operation of Congress with the sincere intent to implement subsequent recommendations of reform. The American people demand and deserve no less.

I don't have to inform the Memebers of this body of the dissatisfaction the American people have with our Government, particularly the Congress. While there has historically been no shortage of critics of Congress, the present mood is overwhelmingly negative, which makes the task of legislating increasingly difficult. Members and staffs are frustrated by legislative gridlock, partially attributable to negative public opinion. We must respond to the need for congressional reform.

Skeptics may argue that congressional reform is not needed or they may address the issue in a perfunctory manner, claiming that the issue has been blown out of proportion and is not worthy of close scrutiny. Public perceptions, however, in our democratic form of government, translate into political will. And when perceptions are negative, political will is anemic and legislating becomes very difficult. Both parties experience this debilitating gridlock. We can not govern without the consent and will of the people. It is not just our prerogative to make the Congress more responsive to the people, it is our obligation. By enhancing the operations and effectiveness of Congress, I believe that we can strengthen public confidence in this institution.

Mr. Speaker, I am a cosponsor of House Concurrent Resolution 192, a concurrent resolution to establish a joint committee on the organization of Congress because, as I've stated, a thorough review of congressional operations and implementation of needed reforms will help regain the respect, consent, and political will of the American people. I feel, however, that the resolution can be improved, and I testified to that effect when the Rules Committee held hearings on this measure.

I introduced the first House resolution on congressional reform back in January 9, 1991, because of my hope that this House would begin the process of introspection and self-improvement. House Resolution 26, which has 70 cosponsors, would establish a House commission on congressional reform composed of 12 former Members of the House of Representatives appointed by the Speaker and minority leader, and would be charged with developing recommendations that would enhance the efficiency and effectiveness of the House, and improve its capacity for lawmaking, oversight, and representation. I believe that elements of my proposal should be incorporated into the Hamilton proposal, thereby improving the analysis and recommendations of the committee.

I have some concern about the current proposal because, as history is our guide, past committees on committees or committees on the organization of Congress did not accomplish the laudable goals with which they started. Difficult questions were avoided because protection of personal interests predominated the reform proposals. This was the experience of members of the Bolling committee, the Obey commission, and the Patterson committee, all of which evaluated the operation of Congress during the 1970's. Most Members would agree that the budget process must be improved and committee jurisdiction must be simplified, but past experience illustrates that when it comes down to depriving one or another of committee jurisdiction and power, the process of reform screeches to a grinding halt.

I am skeptical about what we are about to do here today, and I am merely echoing the skepticism levied on this body by my and every Member's constituents. We need to make a bold move and take a fresh look at the operation of this institution, and having former Members of Congress participate would help.

Former Members can greatly enhance the effectiveness of a review committee because they don't have a vested interest in their decisions or maintaining the status quo as sitting Members do. This is not meant to be construed as a criticism of sitting Members of Congress. Retrenchment and maintenance of the status quo are characteristic of all institutions and organizations. Moreover, I have great respect for the qualifications and commitment, the dedication and sense of duty, of the Members of this body. I have been privileged to serve with men and women who have made great contributions to this Nation, both individually and collectively. I do, however, have these reservations based on the congressional reform attempts of the 1970's, and believe that former Members can provide the impartiality that is so desperately needed to be successful in this reform effort.

Former Members are uniquely qualified to assist in this reform effort because of their experience both on and off the Hill. Former members have a perspective only obtained through service in this body: They would understand the imperatives of the election process, the operation of committees, procedures on the floor, legislative time pressures, and the many other facets of the job of U.S. Representative or Senator. Some former Members have experienced the successes and failures of past efforts to enhance the operations of the Congress, and could bring this to bear on an analysis of Congress.

Mr. Speaker, I would like to enter into the record at this time copies of two letters I received from two highly respected former Members of the House, the Honorable Robert N. Giaimo and the Honorable Richard H. Ichord, both of whom support the concept of having former Members participate in reforming the institution they hold in such high regard.

Mr. Speaker, I believe the time has come for an independent review of the Congress. Even though the Rules Committee dropped the concept of having former Members sit on this joint committee, even as advisory members, I will support this proposal with the hope that Members are committed to true reform and are ready to make some tough choices in order to restore the integrity of this body, and the confidence of the American people.

WASHINGTON, DC,
February 4, 1991.

Hon. FRANK WOLF,
Member of Congress, Washington, DC.

DEAR FRANK: Thank you for your letter of January 15 asking for my thoughts in regards to your proposal to establish a commission on congressional reform for the House of Representatives. I believe your idea is an excellent one and I wholeheartedly endorse the proposal. It is high past time for reform and it is my opinion that no group of citizens would be better qualified to serve on the commission than a bi-partisan body of members who have served in the House. In addition the recommendations of such a commission would undoubtedly be more persuasive to the House than the recommendations of a commission without the experience of congressional service.

Frank, I agree with you. The fact that a large percentage of the American electorate believe that they can improve the Congress by restricting their own powers is evidence of how dangerous the situation is. Reform is accomplished not by changing our structure of government as defined by the constitution but by adding to, detracting from, or redistributing the powers of the governing. Trying to accomplish reform by taking away the right of the electorate to elect an incumbent is absolutely inane. The electorate already has the power every election to vote out the incumbent if it desires. Term limitations have not worked well in the case of the executive. Legislative term limitations would be disastrous.

Almost any scheme of financing elections would be an improvement over the present method. Spending one million dollars to be elected to the House of Representatives is obscene. The present system of financing is corrupting our political processes and should be changed. It will be difficult to come up with a system without deficiencies but almost any system is better than what we have now.

It is my sincere wish that your good and worthwhile endeavors are crowned with success. Best regards to you always.

Sincerely yours,

RICHARD H. ICHORD,
Attorney at Law.

Washington, DC, February 4, 1991.

Hon. FRANK R. WOLF,
U.S. House of Representatives, Washington, DC.

DEAR FRANK: Thank you for your interesting letter dealing with the establishment of a House Commission on Congressional Reform. I think your belief that people are dissatisfied with Congress is well taken. Many people are indeed unhappy with their Government and especially with their Congress. I, too, find myself increasingly disenchanted with the institution which I revered and respected from my earliest days. I am especially saddened to see the institution which was clearly the bastion of freedom and hope and democracy now reduced to an almost impotent, frequently ineffective but still posturing giant.

The average American, especially, is terribly frustrated and senses a general feeling of unease and concern but does not really know how to remedy the situation. And so we learn of suggestions such as term limitations, public financing and other good sounding quick cure alls. Perhaps they are cures, perhaps not—but we should find out. Maybe the role of money (Campaign contributions, honoraria, excessive war chests, etc.) should be considered as the most serious contributing factor to the diminution of Congress as an institution.

I am repulsed by the evil which hundreds and hundreds of thousands of dollars in campaign war chests have brought to Congressional affairs since I left Congress at the end of 1980. I left with no money in my campaign accounts. Since 1980, very few can make that statement. I find the role of excessive money unhealthy for the institution as a whole, to say nothing about its corrupting effects on individual members of congress.

I am concerned about the citizen legislator; the person who goes to Washington for some years and participates as a legislator but does not make it a lifetime vocation; does not depend on it for his or her main source of income security. The House reforms of the mid-1970's, in which I unfortunately participated, contributed to the demise of the citizen legislator and gave rise to the ascendancy of the professional and permanent legislator. It is my belief that many bad consequences have followed. One is the exclusion from Congress of some of our best citizens because of the outside earnings limitations: another, the exclusion, of many good people because of the lack of campaign financing—the smart money goes to the incumbent; Others involve the evils of micromanagement which the professionalization of the membership and overblown staffs have brought to the permanent government, the agencies and departments reduced to inaction and ineffectiveness. I could go on and on.

I believe it will be very hard for Congress to reform itself. The incumbent has such a tremendous edge in all ways; money, staffs, exposure, public relations experts, media experts and on and on. It would be naive to expect them to change a good thing. A commission could do some possible good. I know from my contacts with other former members that many feel as I do and are sadly disenchanted with their beloved institution. I think many of us believe your ideas are good ones and would like to help.

This will not be an easy undertaking for you and will not earn you accolades from many of your colleagues. You will however render a great and much needed public service. Please feel free to use this letter in any way you wish.

With kindest personal regards to you.

Sincerely,

ROBERT N. GIAIMO,
U.S. Representative (Retired).

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in strong support of House Concurrent Resolution 192, to set up a Joint Committee on the Organization of Congress to develop a bipartisan plan for improving legislative operations. The mandate of the joint committee would be to examine thoroughly all aspects of the operations of Congress, and to make recommendations to the appropriate standing committees of the House and Senate for consideration and action. The joint committee would disband upon the conclusion of its work, no later than December 1993.

Time after time I have heard from third district residents who have sent one message loud and clear: That this Congress should use today's frustration with the institution as a springboard for fundamental Congressional reform. I wholeheartedly agree. That's why I cosponsored this bill last year and urge the leadership to act on it. I hope it will help restore public trust and confidence in this institution, so that this chamber is truly the people's House, as our Founding Fathers envisioned.

We've already passed legislation to make a number of important reforms in the administrative structure of the House. This was a good start. But, clearly, more needs to be done to improve overall operations and increase the respect and credibility of this Chamber. House Concurrent Resolution 192 is the next best step. It should substantially strengthen the legislative process. That is what the American people have called for.

The bill will help us find ways of improving the operations of the Congress and allow us to take a comprehensive look at whether this Chamber is currently organized and equipped, as it ought to be, to address the tremendous challenges that face us at home and abroad. With important issues such as health care, education, economic development, and job creation at the forefront, this measure couldn't be more timely. I hope it will help us make progress on issues such as these, and on other matters, that have been bogged down in the legislative process for far too long and are in need of action.

House Concurrent Resolution 192 would establish a bipartisan joint committee to develop ways to reorganize Congress, make it more effective and efficient, and improve legislative decisionmaking, representation, and oversight. These are goals I strongly support. The task of the committee would be to look for ways of improving the overall operations of Congress, such as simplifying its operations, improving the orderly consideration of legislation, and improving its relationship with the executive branch. With the last major overhaul along these lines taking place several decades ago, I believe it's time for another comprehensive look at the operations of Congress. I urge my colleagues to join with me in supporting House Concurrent Resolution 192.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I thank the chairman for recognizing me, and I rise, Mr. Speaker, in strong support of this resolution. I am saddened by the words of my friend and colleague, the gentleman from Virginia [Mr. WOLF], with his pessimism toward this resolution and the outcome thereof.

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I think that this is a tremendous opportunity for this body to reform itself along the lines as we did in 1946 and 1970.

I think that this body, which is established under the first article of the U.S. Constitution, the one that is closest to the people, can respond to the feelings and concerns of all Americans across our country.

I would like to point out as an example, back in 1986, we culminated 4 years of very difficult and at times bitter attempt to reorganize the Pentagon and the military and the chain of command. We did so. It was successful. It is known today as the Goldwater-Nichols bill. I had a very interesting and fulfilling role in those 4 years of putting that together. It was not easy. Reorganization never is easy.

But we in this House under our constitutional jurisdiction and the constitutional duties of article I of the Constitution can do it, and we must do it, and I think that in so doing we will respond and create a new era of confidence in the Congress of the United States.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SANTORUM], one of the reformers of the House.

Mr. SANTORUM. Mr. Speaker, I rise in support of the Hamilton-Gradison bill.

CONGRESSIONAL REFORM: SELECTED ISSUES AND OPTIONS FOR THE HOUSE OF REPRESENTATIVES

CONGRESSIONAL REFORM: SELECTED ISSUES AND OPTIONS FOR THE HOUSE OF REPRESENTATIVES

Summary

Former House Speaker Thomas Reed once described congressional reform situations as times when "an indefinable something is to be done, in a way nobody knows how, at a time nobody knows when, that will accomplish nobody knows what".

As the Congress considers congressional reform, there appears to be general consensus on the need to change, but little agreement on what to change, when to change, and how to change. Some broad topics, perennial targets for reform discussions, have been mentioned: committee system, floor procedure, management and administration, and staffing and allowances.

CONGRESSIONAL REFORM: SELECTED ISSUES AND OPTIONS FOR THE HOUSE OF REPRESENTATIVES

This report has been prepared at congressional request. In conformance to the guidelines set by the requester, it covers the following topics: committee system, floor procedure, management and administration, and staffing and allowances. It does not cover questions relating to "quality of life," ethics, legislative-executive relations, and congressional documents.

I. COMMITTEE SYSTEM

The committee and subcommittee system is central to the legislative process. Committees are the initial point of reference for measures introduced and often the place where the fate of a measure is determined in part because most measures must be reported by committees before they are considered by the full chamber.

Although the contemporary committee system is primarily a product of the Legislative Reorganization Act of 1946, which among other things streamlined the committee system, codified committee jurisdictions, and instituted a professional committee staffing structure, modifications to the system have since occurred. The Legislative Reorganization Act of 1970, the Committee Reform Amendments of 1974 (Bolling-Hansen Committee), the Congressional Budget and Impoundment Control Act of 1974, and the work of the Commission on Administrative Review (Obey Commission) in 1977 and the Select Committee on Committees (Patterson Committee) in 1979, each altered aspects of the House committee system. For example, the Bolling Committee focused primarily on organizational and structural issues such as committee jurisdiction, while the Obey Commission addressed primarily management and administrative reforms. Finally, many decisions affecting committee and subcommittee organization and operations (such as assignment procedures and limitations), and some policies related to floor procedure (such as limitations on use of suspension of the rules), are within the purview of the respective party caucuses; they too have modified party and House rules on several occasions since 1946.

Notwithstanding periodic change, there is momentum in the 102d Congress for a comprehensive review of congressional organization and operations, including the committee system. Such a review would undoubtedly address committee assignments, numbers, sizes, and ratios, jurisdiction and referral, staff and funding, and committee procedures.

Organization and membership

Member appointment to committees is essentially a party rather than a chamber function, with the Democratic Caucus' Steering and Policy Committee and the Republican Conference's Committee on Committees having primary responsibility for making committee assignments. The majority party has the further responsibility of determining party ratios on each panel. The committee assignments Members initially receive are often retained throughout their legislative service (although some Members will seek appointment to a committee with greater relevance to their constituency, or to more prestigious "exclusive" committees when a slot becomes available). By remaining on a committee Members accrue seniority and eventually may be elected subcommittee or even full committee chairs or ranking minority members. Since each party imposes limitations on the number of committees and subcommittees on which a Member can serve (generally two committees and three subcommittees for Democrats and one committee and three subcommittees for Republicans although waivers for temporary additional assignments are occasionally granted), Members gain expertise in the issue areas handled by their committees. Therefore, specialization among Members has been viewed as one of the hallmarks of the House committee system.

As the number of committees, subcommittees and informal groups and task forces have increased and an expanding number of waivers and temporary assignments have been granted, so too have the number of assignments per Member. Further, as party caucuses attempt to accommodate Member's requests for specific assignments, committee sizes have been increased often to provide the requested assignment. Relatedly, the majority party has occasionally altered ratios to reflect political realities on some committees. All this has created workload problems, as well as the concern that as the number of assignments increase Members become spread too thin, minority members are often underrepresented because of the ratios on some committees, and generally there are too many committees and subcommittees. Further, specialization among House Members is no longer seen as important as once believed.

Some Members have called for removing the decisions on committee size and ratio from the party caucuses and making them full chamber decisions. Others have called for strict adherence to caucus committee assignment limitations by not granting waivers or temporary assignments, while others have suggested rotating committee assignments and/or rotating chairmanships. Some have even suggested allowing committee sizes to be set by accommodating requests by Members. Republicans seek guaranteed parity on some committees and proportional representation to be required in roles on all others. Some critics have advocated more reliance on subcommittee government, while others have advocated less. Finally, some have called for the abolition of non-legislative select and special committees and task forces, while others have suggested abolishing standing committees with limited jurisdiction. The value of joint committees has also been questioned, on occasion, promoted.

Jurisdiction and referral

The subject jurisdictions of House committees have not been comprehensively revised in almost fifiy years since being codified by the Legislative Reorganization Act of 1946. Although modest modifications in formal Rule X jurisdictional alignments have been made since then, they have not been as sweeping as some have recommended, e.g., the Boiling Committee, or others would have liked. Relatedly, informal agreements based on bill referral and precedent have been formulated which affects the official jurisdictional responsibilities of committees but which are not mentioned in Rule X. As such, critics charge that formal jurisdictions have not sufficiently shifted a committee's focus toward emerging policy areas. As of 1975, the Speaker may refer bills to more than one committee, either simultaneously or sequentially, when the subject of the measure overlaps several panels' jurisdiction. Some view multiple referrals as creating, rather than solving, policy problems. Accordingly, specialization can be lost and competition between committees' differing policy approaches can occur. In addition, as committees seek to retain jurisdiction prerogatives, often at the expense of expeditious and necessary policy consideration, turf battles and legislative gridlock can occur.

Nevertheless, if the House were to adopt restrictive guidelines on the use of multiple referrals, the conflicting jurisdictional claims of House committees may increase in severity. However, if the House acted to reduce jurisdictional overlap among its committees, the need for bills to be referred to more than one committee might be reduced. Accordingly, most believe that changes in jurisdiction and referral procedures must be made in tandem to be effective in solving the problem. Relatedly, it should be considered if a new jurisdictional alignment would necessarily enhance or further impede effective consideration of emerging policy issues.

Proposals relating to jurisdiction and referral have been seen as sweeping, incremental, or cosmetic. Some have suggested a system of numerous committees with relatively narrow jurisdictions, while others have advocated having a few committees with relatively broad jurisdiction. Proposals to correspond House and Senate committee jurisdiction, or correlate them with federal agency responsibilities or budget functions have also been forwarded. Some Members have suggested merely clarifying Rule X by making the terms more explicit or representative. Some have also called for codifying informal precedents and agreements in the Rule. Still other Members have recommended making Rule X reflect programmatic responsibilities by reflecting specific legislative terms rather than the terminology currently used. Some members are merely seeking a more definitive listing of subject responsibilities among committees. Relatedly, some Members have called for abolishing multiple referrals, while others advocate limiting their use.

Staff and funding

Relatedly, because of an increasing number of assignments per Member, notwithstanding the limitations, and an increasing number of both formal and informal panels, it has been charged that Members have relied more on committee staff. Some have charged that specialization has now become the hallmark of staff rather than of Members.

Critics have charged that there are too many committee staff, and a misallocation of them between committees (too many) and Members (not enough) and between the majority and the minority, who contend that they are not afforded an equitable or proportional number of staff or resources. Relatedly, as workload increases yet policy outcomes do not keep pace, there is little consensus on whether congressional staff are part of the problem as some suggest or part of the solution as others contend. Some critics charge that staff have too much power and in order to justify their positions, contribute to the increased workload. Conversely, staff have only the extent of power granted by their Member and reflect the expressed needs of that Member. Finally, staff have few job protections and generally are not covered by federal, civil rights and labor laws.

Proposals have been forwarded which would reduce the number of staff or redistribute existing staff. Republicans have sought a more equitable proportion of staff. Questions about autonomous subcommittee staff and loaned agency staff have also been raised. Some have recommended altering the committee funding process, both in its formulation and in its consideration by the House Administration Committee and the full chamber; for example, by allowing specific amendments to be offered. Relatedly, there have been calls for abolishing the current funding process and creating a different system, such as zero based budgeting.

Committee procedure

Finally, House rules, especially Rule XI, provide direction and impose certain requirements on committees regarding how they shall conduct their business. Committees also are required by House rules to adopt their own internal operating procedures within the constraints of House rules but with latitude for adaptations to account for the political, procedural and policy needs of the panel. As concerns are raised about perceived problems and inefficiencies in floor procedures, many similar questions are also raised in connection with committee procedures.

Critics complain about the prevalent use of proxies for voting in committee which are not permitted during floor consideration. When taken in relation with concerns about inequitable committee ratios, some members charge that proxies compound the problem by allowing so-called "ghost voting". Proposals to end proxy voting are repeatedly offered, especially by the minority in their omnibus rules package.

Committee reports, especially policies regarding the inclusion of separate minority, additional or supplemental views have also proven controversial. Proposals have been forwarded to allow greater input into reports by all committee Members, both junior majority and all minority members. As well, there is sentiment for requiring subcommittee reports and subcommittee Ramseyers in recognition of the increased autonomy of subcommittees. Committee hearings are not always printed and some Members have advocated requiring such printing, in part because hearings, generally, are not well attended by Members. Conversely, if some panels were abolished, attendance at hearings and meetings might increase, thereby mitigating the need to print hearing transcripts. Some have suggested reviewing the list of committee documents that are currently required by the Rules and assessing the need for all of them.

The relationship between subcommittees and their parent committee regarding such things as autonomy, rules of procedure applicability, and staff and funding have sometimes proven contentious. Periodic attempts to clarify or codify the relationship have met with limited success in the past and many have suggested undertaking yet another review.

JURISDICTION

No characteristic of the committee system is more critical than its jurisdictional structure—the way in which it divides and distributes control over policy subjects. Since the last comprehensive reorganization of the committee system in 1946, the House has made few and relatively minor changes in jurisdictional alignments, most recently in 1974. Critics charge that despite these changes, Congress has not sufficiently shifted the system's focus toward policy areas newly emerged since World War II. Questions are raised concerning duplication, overlap, or neglect of some issues, and the resultant enhancement or impediment to policy making. In addition, the continued use of nonlegislative select committees or task forces seemingly highlights the jurisdictional problems among committees by adding an additional layer of consideration and duplication of effort, and their existence often fosters turf battles and legislative gridlock.

Options

1. Realign jurisdictions to equalize workload or unify responsibility over major subject areas, while retaining the existing committees.
2. Realign jurisdiction to parallel budget function categories.
3. Realign jurisdiction to parallel Federal agency organization.
4. Realign jurisdiction to correspond House-Senate committee jurisdictions.

5. Realign jurisdiction along broad policy areas, i.e. health, energy.

6. Create a system of numerous committees with relatively narrow jurisdictions.

7. Create a system of a few committees with broad and integrated jurisdictions.

8. Relate any revised jurisdictional language to possible changes in the referral process.

9. Relate any revised jurisdictional language to possible changes in the creation of select committees or task forces.

10. Eliminate some committees, combine others, and realign jurisdictions accordingly.

Pending legislation (102nd Congress)

1. H. Res. 127 introduced on 4/17/91 by Rep. Edwards (OK) would require the Rules Committee to study committee jurisdiction.

2. H. Res. 52 introduced on 2/5/91 by Rep. Solomon and H. Res. 80 introduced on 2/20/91 by Rep. Paxon would create a Standing Committee on Drug Abuse and Control.

Literature citations

King, David C. *Congressional Committee Jurisdictions and the Consequences of Reforms.* Apr. 8, 1991. Prepared for delivery at Annual Meeting of Midwest Political Science Association. 34p.

REFERRAL

Related to the issue of jurisdictional overlap is committee referrals. Multiple referrals, allowed in the House since 1975, have enabled many committees to become involved in issues which may not be apparent in their traditional Rule X jurisdiction. There are several types of multiple referrals: joint, or simultaneous, to more than one committee; split, or divided and referred according to its component parts; or sequential, to additional panel(s) after the first committee(s) has reported. Sequential referrals are often limited to issues within the committee's jurisdiction, and usually have an imposed time limitation with an automatic discharge if the deadline comes with no action taken by the committee. Authority is vested in the Speaker to determine multiple referral conditions. The requirement that all committees receiving a referral must act prior to the bill going to the floor often kills the legislation.

Proponents of multiple referrals ever that they serve as avenues for flexibility, as facilitators of intercommittee cooperation, and allow for input and differing viewpoints to be considered on a measure. Critics charge that the process is too complex, leads to too much duplication of effort, opens the process too much to pressure groups, and causes substantial delay, even breakdown, in the legislative process. It should also be noted that the 1975 allowance of multiple referrals was recommended simultaneously with a restructuring of committee jurisdiction (Bolling reform). It was believed that such restructuring would minimize the need for multiple referrals. However, the accompanying major rework of committee jurisdiction fell by the wayside.

Options

1. Eliminate all multiple referrals.

2. Eliminate joint referrals, maintain sequential referrals.

3. Eliminate sequential referrals, yet maintain joint referrals.

4. Limit the scope of sequential referrals, including possibly specific citations to sections of measures or issue to review, rather than to items "within their jurisdiction" which could be seen as quite openended.

5. Impose a deadline for seeking a multiple referral (especially sequential referral).

6. If joint referrals are maintained, designate a lead committee.

7. Impose time deadlines for all multiple referrals and an automatic discharge if the deadline is not met. Relatedly, if one committee reports a measure, require the other committees to report within a specified time frame or be discharged.

8. Eliminate extensions granted on sequential referrals, or require written justification for an extension.

9. Maintain status quo but make changes in jurisdictional alignments to hold down on the number of multiple referrals.

10. Maintain status quo.

11. Relate any changes in referral process to changes in committee jurisdiction language.

12. Prohibit committees from multiply referring bills among their subcommittees.

Pending legislation (102nd Congress)

1. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK), Republican leadership omnibus Rules package, would among other things, ban joint referrals.

2. H. Res. 419, introduced 4/3/92 by Rep. Michel. Republican Reform Task Force proposal would end joint referrals.

Literature citations

U.S. Congress. House. Select Committee on Committees. Final Report. 96th Cong. 2d sess. Washington, U.S. Govt. Print. Off., 1980. p. 463-477.

NUMBERS, SIZES, AND RATIOS

In the 1st session of the 102nd Congress, there were 22 standing committees with 135 subcommittees, and five select committees with 11 subcommittees. House Rules identify the standing and permanent select committees. For each new Congress party leaders generally set the size of each committee, which currently range from 12 to 69 members, and determine the ratio of majority to minority members on each committee. Each standing committee (except Standards) must have at least three Democrats for every two Republicans, under Democratic Caucus Rules.

Each standing committee (except Budget) with more than 20 members must establish at least four subcommittees, and most panels are capped at six, seven, or eight under Caucus Rules. Within the guidelines of House and party caucus rules, the Democrats on each legislative committee determine the number of subcommittees and the size of each. No subcommittee may exceed 70% of the full committee's size under Caucus Rules. They also largely determine each subcommittee's party ratio, which under Caucus Rules must be no less favorable than the full committee ratio.

At issue are the optimum number, size, and party ratio on committees and subcommittees. Reformers charge that there are too many panels and that panels are too large, which result in too many assignments per Member; unwieldy panel and fragmented, difficult to aggregate policymaking. Some have also argued that party ratios on panels are too favorable to the majority party. Defenders of the present system argue that current arrangements give each Member the opportunity to formulate policy in many areas and to lead panels, and that ratios reflect the desire of Americans for the majority party to have the upper hand in policymaking.

Options

1. Establish fewer panels, through the creation of only major, policy committees, or the creation of two categories of committees—major and non-major.

2. Eliminate select and joint committees. Alternatively, create joint committees for all or many areas of policy.

3. Create parallel committee systems in the House and Senate, or with the executive agencies.

4. Abolish subunits of all committees. Alternatively, impose a small cap on total subunits for all committees, and limit the number of subcommittees each committee can have to a fixed number, (except Appropriations). Relatedly, prohibit committees from establishing subunits other than subcommittees. Perhaps allow creation of ad hoc subcommittees as needed.

5. Take control of the subcommittee structure away from full committees, and require House action to establish any subunits. Alternatively, require each committee to submit its proposed subcommittee structure to the House (or the Rules Committee or the Democratic Caucus) for approval.

6. Set the size of committees in House Rules; determine whether and under what conditions they can be altered. Relatedly, limit the size of each committee to a fixed number. Alternatively, establish uniform sizes across committees.

7. Allow Members' interest in assignment to panels to determine their size.

8. Limit in House Rules the size of each subcommittee to a fixed percentage of the full committee size. Alternatively, establish uniform subcommittee sizes across committees.

9. Give designated committees and/or subcommittees an equal number of Democrats and Republicans, such as those responsible for House operations (e.g. House Administration) and for oversight (e.g. Government Operations).

10. Require the membership of each committee and subcommittee to reflect the ratio of Democrats to Republicans in the House. Ensure at least a one vote margin on each panel for the majority party.

11. Increase the majority's allotment of seats on committees and subcommittees, e.g., by establishing a two to one plus one ratio on each. Extend only to additional exclusive or most important panels, such as Appropriations and Ways and Means.

12. Adopt regulations governing how Members from third parties will be counted in the committee and subcommittee ratios. Relatedly, count the Resident Commissioner and Delegates in committee and subcommittee ratios.

Pending legislation

1., 2. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK) and H. Res. 419, introduced 4/3/92 by Rep. Michel. Both generally require each standing committee (except Budget) with more than 20 members to establish between four and six subcommittees (except Appropriations), and the membership of committees (except Standards) and their subunits to reflect the ratio of majority to minority party members in the House. H. Res. 419 also eliminates current select committees other than Intelligence.

3. H. Res. 418, introduced 4/2/92 by Rep. Snowe. Limits the size of each committee to 25 members.

Literature citations

Dannemeyer, William E. Reforming Committee Ratios. *Congressional Record,* Daily Edition, v. 131, January 3, 1985. p. E103.

Preamble and Rules of the Democratic Caucus. One Hundred Second Congress. January 9, 1991.

ASSIGNMENTS

Each party uses a panel to recommend its members for assignment to, and leadership of, committees. The pertinent full party conference reviews and votes on the nominees, then the slates are sent to the House for pro forma approval. In general, the Democrats on a committee choose subcommittee slots and chairmanships based on full committee seniority; in practice each panel's Republicans often choose similarly although full committee ranking members have discretion in this area. Issues include whether to further limit the current number of panels which Members can serve on and head; whether to place tenure limits on Members' service on, and leadership of, panels; the extent to which seniority is used in determining committee and subcommittee leaders; the roles of the assignment panels and party conferences and leaders in determining committee assignments; and the roles of committee members and leaders in making subcommittee assignments.

Options

1. Group committees into categories with assignment limits applicable to all Members. Relatedly, limit the assignments of each Member to one committee and to a fixed number of (between three and five) subunits.

2. Conversely, remove restrictions on the number of committees and subcommittees on which a Member can serve and chair, and allow each Member to serve on panels of his or her choice.

3. Place a fixed tenure limit on Members' service on and leadership of all, or only prestige, committees six to 12 years for service, and four to eight for leadership positions. Rotate Members among committees, possibly rotating one-third of a panel's members at a time, but allowing for later reassignment to a panel. Alternatively, encourage Members to switch committees, such as by calculating committee seniority based on all or part of a Member's House seniority. Also, permit Members to swap assignments by voluntary agreement.

4. Prohibit temporary leaves of absence from committees. Alternatively, encourage such leaves, perhaps by according Members favorable seniority rankings on their temporary assignments.

5. Allow assignment panels to nominate multiple individuals for either chair or ranking member, regardless of seniority. Relatedly, in choosing the leaders weigh equally with seniority such factors as merit, prior service record, future promise, regional representation, and loyalty to party leaders. Alternatively, require nominations for chair and ranking minority member strictly in order of committee seniority.

6. Allow minority members to chair panels, in proportion to their House strength or based on a lower, fixed percentage, e.g. 10%–25%.

7. Allow the Speaker and Minority Leader to nominate party colleagues for assignment to all, or to additional, key committees, subject to conference and House approval or only to House approval. Alternatively, allow each party conference to nominate and choose its committee members and leaders, without subsequent House approval.

8. Apply the procedures for assignments to standing committees to select and joint committees. Alternatively, authorize in Rule the Minority Leader to assign minority members to select and joint panels.

9. Require committee memberships to mirror the House membership, e.g., in terms of region and ideology of Members. Similarly, make the assignment panels more representative of the House.

10. Establish a joint panel of Democrats and Republicans to assign all members to, and to choose leaders of, all committees. Alternatively, make assignments by random drawing.

11. Establish a uniform procedure for determining subcommittee assignments and leadership positions. For example, require all committee members to bid on subcommittee leadership and membership slots based on subcommittee seniority, or based on full committee seniority (as Democrats do currently). Alternatively, allow each chair and ranking member to choose their respective party's subcommittee members and leaders.

12. Following assignment of committee members, allow members of each party on each committee to choose their full and subcommittee leaders, through open elections.

Pending legislation

1. Several measures have been submitted limiting the number of panels on which a Member may serve, including: II. Res. 127, introduced 4/17/91 by Rep. Edwards (OK) and H. Res. 419, introduced 4/3/92 by Rep. Michel, precluding a Member's service on more than four subunits of House committees; and H. Res. 418, introduced 4/2/92 by Rep. Snowe, prohibiting a Member's service on more than one standing committee (except Standards).

2. Several measures have been submitted limiting tenure as a member or leader of a committee or subcommittee, including 1) H. Res. 215, introduced 8/2/91 by Rep. Shaw, (limiting service as member to 12 years); 2) H. Res. 273, introduced 11/7/91 by Rep. Kyl (limiting service as a member, and as chair or ranking minority member, of a standing committee to 12 and 4 years respectively); 3) H. Res. 312, introduced 11/26/91 by Rep. Owens (limiting service as chair of a standing committee or subcommittee to eight years); 4) H.R. 4224, introduced 2/14/92 by Rep. Fawell (limiting a Member's standing committee service to six years, but providing for reassignment to a panel); and 5) H. Res. 312, introduced 11/26/91 by Rep. McCurdy (limiting service as chair or ranking minority member of a standing committee to four of six successive Congresses). H. Res. 312 also provides for election of committee leaders by party leaders.

Literature citations

Preamble and Rules of the Democmtic Caucus. One Hundred Second Congress. January 9, 1991.

Republican Conference Rules. One Hundred Second Congress.

Smith, Steven S. and Christopher J. Deering. Committee Assignments: Agendas, Environments, and Members' Goals. In their Committees in Cong. Washington, Congressional Quarterly, Inc., 1990. p. 61–117.

SUBCOMMITTEES

Pursuant to Rule XI, clause 1, the rules of the House are the rules of its committees and subcommittees, to the extent applicable. Each subcommittee is subject to the direction of its parent committee and to the rules of the parent committee to the extent these rules are applicable. However, various provisions within Rule XI are not expressly applicable to both committees and their subcommittees. Questions have occasionally arisen with regard to interpreting subcommittee authority: if House Rule XI does not make a procedure specifically applicable to subcommittees, does the general proviso that House Rules are applicable to both committees and subcommittees govern any apparent variability in the remainder of House Rule XI?

Options

1. Make all rules regarding committees expressly applicable to all subcommittees of the House.

2. Require the approval of the House (or of the party caucuses) for the establishment of all subcommittees within a committee, and approval of the legislative and oversight jurisdiction assigned to each.

3. Require subcommittees to adopt written rules of procedure and end variable subcommittee procedures within the same committee.

4. Establish in House Rules a maximum number of subcommittees per committee.

5. Require review or approval by the House, or by a committee of the House (such as House Administration or House Rules), of all House committee or subcommittee rules to assure that they are "consistent" with House Rules.

6. Require formal election of subcommittee chairs and ranking members by the House as is now the case for full committee leaders; alternatively, require such approval by the relevant party caucus or conference. Because of their importance, require the election of Appropriations (or other unique committees) subcommittee chairs and ranking members by the House.

7. Specify to what degree the following House rules apply to subcommittees: regular meeting day; calling additional or special meetings; presiding officer in absence of chair; separation of committee records from personal office records and preservation of such records; public access to subcommittee records including journals and transcripts; subcommittee meetings during 5-minute rule debate; and minority rights to summon witnesses.

8. Review the authority of legislative subcommittees over measures: should all legislation be referred for initial action to a subcommittee; should the subcommittees have authority to mark-up legislation referred to it; should a subcommittee have the authority to request a sequential referral of a bill reported from a sister subcommittee; what parliamentary standing at the full committee is a subcommittee reported measure to have (must the full committee consider the subcommittee vehicle; may the full committee chair offer a "chairman's mark" instead); and should subcommittees be required to file written reports on legislation in a manner similar to that of full committees? Alternatively, should some or all subcommittees be limited to holding hearings and conducting oversight, with authority to mark-up and report bills reserved to the full committee?

9. Require subcommittees to prepare some or all of the following documentation to accompany a measure reported to full committee: statement of majority, minority, supplemental and additional views; Ramseyer print; cost, inflationary, and regulatory statements; oversight findings; recapitulation of quorum establishment and votes on amendments, motions, and reporting actions.

Pending legislation

None.

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Deering, Christoper J. and Steven S. Smith. Subcommittees in Congress. In *Congress Reconsidered*. Edited by Lawrence C. Dodd and Bruce I. Oppenheimer. 3d Edition. Washington, Congressional Quarterly Press, 1985. pp. 189–210.

Hall, Richard. Committee Decisionmaking in the Post Reform Congress. In *Congress Reconsidered*. Edited by Lawrence C. Dodd and

Bruce I. Oppenheimer. 4th Edition. Washington, Congressional Quarterly Press, 1989. pp. 197–223.

PROXY VOTING IN COMMITTEES

Voting by proxy in committees allows one committee member, in practice often the chairman and ranking minority member, to cast a vote on behalf of an absent member. Most committee rules specifically authorize a proxy voting although some, including the Appropriations Committee and the Rules Committee, do not.

Proxy voting generally favors the majority party which tends to see the practice as a prerogative of majority rule (although, in 1973, it was defended by House Minority Leader Gerald R. Ford). Defenders of the rule argue that a Member's time is at a premium and that proxies are one way to mitigate the demands placed upon a Member's often hectic schedule. An argument has also been made that proxies may more accurately reflect a subcommittee or committee's intent than would otherwise be possible. Opponents of the rule point to its inherent unfairness, allowing a majority to control a vote though those casting the votes may, in fact, be absent. Moreover, it has been argued that Congress has never chosen to allow floor votes by proxy, yet a Member's vote in a closely divided subcommittee or committee may be far more significant than the floor vote of the Member on the same bill. During the era of strong committee chairmen, it was argued that the power of the chairmen to dominate their panels was enhanced by their capacity to trade favors for proxies.

In the 1970 Legislative Reorganization Act the House prohibited proxy voting unless each committee adopted its own rule. In late 1974, the House voted to ban proxy voting entirely, but the ban was modified by the Democratic Caucus at the start of the 94th Congress in 1975. The present rule permits proxies on specific actions and requires that they be signed and dated and that the member assert he is absent on official business. General committee proxies are permitted only for certain procedural matters such as motions to recess and adjourn but they may not be counted for a quorum.

Options

1. Ban all proxy voting in committees.

2. Allow proxies during the amending process, but not for final committee approval.

3. Permit Members a limited number of proxies for each session of Congress. When those are used up, they must appear in person to vote.

4. Permit proxies for certain types or classes of votes.

5. Distinguish between proxy use in committees and subcommittees.

6. Further clarify what should be included in each proxy if allowed.

7. Make proxies available for inspection by all committee members.

Pending legislation

1. H. Res. 127, introduced 4/17/91, by Rep. Edwards (OK). Republican omnibus rules package. Sec. 11 prohibits proxy voting in committee "with respect to any matter."

2. H. Res. 419, introduced 4/3/92, by Rep. Michel and others. Sec. 207 bans voting by proxy in committees.

Literature citations

Hall, Richard L. Committee Decision Making in the Postreform Congress. In *Congress Reconsidered*, 4th ed., Dodd, Lawrence C. and Bruce I. Oppenheimer, eds. Washington, CQ Press, 1989. p. 204.

Rhodes, John J. *The Futile System*. New York, EPM Publications, Inc., 1976.

U.S. Congress. Congressional Research Service. *Voting by Proxy in Congressional Committees*, by Richard C. Sachs. [Washington] Apr. 28, 1983. 17 p.

QUORUMS IN COMMITTEES

House rules determine how many committee members must be present to transact committee business. These quorum requirements vary depending on the nature of the business. Unless committee rules set a higher number, not less than two Members must be present to take testimony, one-third of the membership is required to conduct other committee business, including marking up legislation, and a majority must be present for a vote to report a bill to the House and for certain other actions.

Some reformers have long argued that the one-third rule is unfair and should be changed to the same quorum required for reporting a measure, one-half. They argue that amending legislation is just as important, if not more so, than reporting it and should be accorded the same quorum status. Moreover, the claim is made that, since quorum rules are not self-enforcing, committee chairmen may disregard the rule and take up business with less than the required number of Members present. A majority quorum rule would increase committee attendance. Defenders of current practice say that the one-third rule provides Members some relief from scheduling conflicts while the requirement of a majority quorum to report legislation assures integrity in the legislative process. Politically, the issue is related to proxy voting because it rests upon the inherent advantage in numbers enjoyed by the majority party.

Another issue is the matter of the two member quorum for hearings. Some say this discourages attendance at one of the most public facets of committee business, one that directly involves citizens in the legislative process. Further, a mostly empty dias portrays a poor image of Congress at work. Defenders of current practice say, again, that Members are faced with scheduling conflicts and so there must be some allowance for relief, and further, that the policy process rarely suffers because the hearing record is available for study by absent committee members. Additionally, the issue of uniformity among committees regarding quorum requirements has been raised.

Options

1. Require a quorum of a majority of the committee members to conduct all business.

2. Allow the committee leadership to negotiate quorums, or the committee itself to decide what its quorum shall be at the start of consideration of a bill.

3. Change the quorum for hearings to encourage more attendance; or alternatively, adopt a system similar to the Senate's where a single Senator may hear testimony.

Pending legislation

1. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Sec. 13 amends the House Rules to require a majority of committee or subcommittee members to be present to transact any kind of business, including markup of legislation.

2. H. Res. 419, introduced 4/3/92 by Rep. Michel, et al. Sec. 209 amends the House Rules to require a majority of a committee or subcommittee for the transaction of any business, including markup of legislation.

Literature citations

Jones, Gordon S. and John A. Marini. The Imperial Congress; Crisis in the Separation of Powers. New York, Pharos Books, 1988. p. 220.

Oleszek, Walter O. Congressional Procedures and the Policy Process, 3d ed. Washington, CQ Books, 1989. p. 122–123.

COMMITTEE DOCUMENTS OTHER THAN REPORTS

Committees prepare and print a variety of documents, including prints, hearings, staff reports, calendars, and activity reports. Issues include whether to require committee approval of each product; access to, and availability of, committee products; and the differences among the types of documents and the required content of each.

Options

1. Require a committee or subcommittee vote, as appropriate, to approve any document containing the views, findings, or recommendations of a panel. Require full committee approval of all documents, including those produced by subcommittees. Include in each document the total votes in favor and against its approval, as well as a record of how each committee member voted. Permit the release of documents lacking such approval, if they display a disclaimer to that effect on their covers.

2. Require all committee documents to be available for a certain time period to all Representatives, or perhaps just to members of the pertinent committee, before distribution to the public.

3. Require all hearings to be printed. Relatedly, make all printed hearings verbatim accounts of proceedings, and allow only technical, grammatical, and typographical corrections, or with unanimous consent of the pertinent committee or subcommittee, for the deletion of unparliamentary remarks.

4. Require publication of a complete record of proceedings of each open committee or subcommittee meeting. For each committee, publish summaries of all such sessions on a periodic basis. Alternatively, require publication of committee journals detailing procedural activity.

5. Establish stricter limits on how many documents committees may print, and the quantity and length of each, to reduce printing costs.

6. Make committee documents available to Members and staff in automated form for easy access.

7. Specify the appropriate matters that may be addressed by each type of committee product, including documents, prints, and reports not on legislative measures. Clearly differentiate among them, and require uniform content and uniform numbering system of each type.

8. Reassess the need for committees to prepare and print both calendars and activities reports. If both are desired, differentiate between them and establish criteria for uniform content of each type. Relatedly, require first session editions of one or both.

9. Allow all Members to include supplemental, minority, or additional views in published documents containing views, findings, and recommendations.

10. Define the legal status or importance of each type of document.

11. Give more authority to the House, presumably the Clerk, to publish committee calendars or other documents.

Pending legislation

1., 2. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK) and H. Res. 419, introduced 4/3/92 by Rep. Michel. Both generally require committee or subcommittee approval of prints, documents, or other materials other than reports on bills, prior to their public distribution, and opportunity for inclusion in them of supplemental, minority, or additional views. Material not approved in this manner must carry a disclaimer on its cover, may contain only the name of the committee or subcommittee chair releasing the product, and must be available to all members of the pertinent committee at least three calendar days before being made public.

Literature citations

Zwirn, Jerrold. Congressional Publications and Proceedings. Englewood, Colo., Libraries Unlimited, 1988. 299 p.

COMMITTEE REPORTS

Requirements imposed on committees in reporting legislation or other matters are contained in House Rule XI, clause 2(l). The rule governs filing of written reports, specifies the inclusion of certain policy impact statements, permits the filing of written views in addition to those of the majority, and requires identification of changes in current law. The rule language predates the enhanced formal role for subcommittees, and governs only the filing of full committee reports and not documents prepared by subcommittees. Historically, the courts have relied on committee report language (instead of congressional debate) as the key determinant of legislative intent, although this standard is now under review.

House Rules do not now require that all reports contain the same information. Report requirements different from those imposed on other House committees are set for measures reported from the Appropriations Committee and Rules Committee. Committees themselves appear to issue oversight reports in a less formal manner than they do legislative reports. House and Senate rules differ on the procedures for issuing committee reports and the contents required in these reports. The required contents of conference committee reports also differ substantially from bill reports from legislative committees.

The issues are the degree to which reports can be made more consistently informative to House members and executive agencies, the procedures to be followed in issuance of committee reports, and the degree to which there should be uniformity of report styles and contents between legislative and oversight reports and between House and Senate (and conference) committee reports.

Options

1. Establish firm deadlines for filing written reports; committee chairs are now only required to file reports in a "timely fashion" or within seven days when instructed to do so by committee majority.

2. Require each committee report to provide names and votes of all members on committee rollcall votes and members present for non-rollcall votes.

3. Require committee reports to identify by name the members present who constituted the required quorum.

4. Reconsider required impact statements. Except for five-year cost estimates, most impact statements could be viewed as methodologically unsound and consider each bill on its own rather than as part of a session- or congress-long aggregate. Impact statements could be abolished; they could be prepared by a single entity for all committees; or the methodology used could be fully specified. Alternatively, require 4 additional impact statements; for example, on revenue implications of tax measures, or sectoral economic impact of legislation.

5. Evaluate rules on minority, supplemental, and additional views. Rules could be expanded to include such statements in reports accompanying rules from the Rules Committee; deadline for filing could be changed to match the more expeditious rule of the Senate; or rule could be left unchanged.

6. Require different report data on original bills and committee substitutes. Typically, committee reports identify only votes taken on ordering a committee substitute or clean bill reported. Earlier votes on a preliminary legislative vehicle are omitted because they technically did not occur on the vehicle the committee actually reported. Rule might be changed to require vote results and members' names on all votes associated with the preparation of the measure reported as well as preliminary versions.

7. Make committee report requirements applicable to subcommittees. Since 1975, subcommittees have become the initial House legislative venue, but written report and report contents requirements only apply to full committee action. Alternatively, the rule could require written subcommittee reports with just some of the items required in full committee reports.

8. Require committee reports to indicate supporting members. Conference reports now have such a requirement; but, a legislative report need not identify by name the members who supported it. An identification requirement would also constitute prima facie evidence of a quorum.

9. Allow additional points of order against committee reports. The only points of order which now can be lodged against a report are for failure to provide a Ramseyer, improper denial of the opportunity to file minority views, and for meeting improperly during 5-minute rule debate. Other procedural violations are cured now if a bill is ordered reported properly.

10. Require Ramseyer in reports on appropriations bills changing permanent law and on measures from the Rules Committee and House Administration Committee changing House rules or House administrative practices.

11. End oversight findings report requirement, or transfer requirement from Government Operations Committee to House Administration.

Pending legislation

1. H. Res. 315, introduced 11/26/91 by Rep. Saxton, would require maritime industry impact statement on certain legislation.

2. H. Res. 108, introduced 3/7/91 by Rep. Weldon, would require statements of beneficiaries and revenue losses on certain tax measures.

Literature citations

Biskupic, Joan. Congress Keeps Eye on Justices as Court Watches Hill's Words. Congressional Quarterly. Vol. 45, 10/5/91. p. 2863–2867.

Tiefer, Charles. Congressional Practice and Procedure: A Reference, Research and Legislative Guide. New York, Greenwood Press, 1989. ch. 3.

Why Learned Hand Would Never Consult Legislative History Today. Harvard Law Review. Vol. 105. Mar. 1992. p. 1005–1024.

COMMITTEE STAFF AND FUNDING

Each standing committee (and Select Intelligence) receives funds according to a permanent authorization, covering salaries for 30 "statutory staff" for each such committee except Appropriations and Budget, which set their own staffing levels. Standing and other select committees, also receive funds through periodic authorizations covering salaries of "investigative staff" and other expenses. Issues include whether to (1) reduce the cost of committee operations and levels of staff; (2) modify the funding process; (3) disclose more fully staff and funding information; and (4) distribute a committee's staff and funds differently among its members.

Options

1. Reduce the total number of staff and the aggregate level of funds, by a determined amount, through an immediate or phased-in reduction, and across-the-board or selected cuts to specific panels. Relatedly, limit staff tenure.

2. Cap total staff and staff of each committee. Alternatively, increase staff, to better compete with staff of executive agencies.

3. Reduce certain committee costs, such as 1) staff salaries, by reducing top salaries, or 2) travel funds, by requiring a committee's approval for foreign travel or by limiting the size of traveling delegations.

4. For each committee (including Appropriations and Budget) and for House costs of joint committees provide funds for all salaries and expenses through one periodic resolution (simultaneously abolishing the distinction between statutory and investigative staff).

5. Require a separate funding resolution for each committee, or allow an omnibus one, either to be open to amendment. Also, allow each committee to prepare and bring its own funding resolution to the floor, without the prior approval of any other committee.

6. Establish a biennial or other multi-year funding cycle. Relatedly, permit committees to carry-over unexpended funds from year to year.

7. Establish separate budget categories for "recurring" and "non-recurring costs," with "non-recurring" covering one-time budget needs.

8. Use a "zero-base" funding policy so that prior year's budget would not be the basis for the next. Alternatively, link a panel's level of staff and funds more directly to its activity and workload.

9. Require agency staff to be detailed on a reimbursable basis only; alternatively, require their employment on a non-reimbursable basis only, or to the maximum extent possible. Relatedly, require agency detailees and staff not on a committee's payroll to work for both parties; alternatively, allow each party to employ their own.

10. Encourage hiring short-term consultants in lieu of full time staff.

11. Require public disclosure of each committee's (1) level of statutory funds; (2) annual expenditure figures, for total expenses and for costs of separate items, such as travel; (3) total staff, including non-salaried ones, because sources such as the Clerk's Report list only salaried ones; and (4) use of reprogrammed funds affecting committees. Alternatively, ban transfer of legislative branch appropriations funds relating to committees.

12. Give minority party members on a committee complete control over a fixed proportion of all committee funds for hiring staff and/or for other expenses.

13. Relatedly, establish on each panel a majority to minority staff ratio that reflects the party ratio in the House or on the panel. Or, across committees, establish another uniform ratio of staff to members. Also require committees to employ a certain proportion of non-partisan staff.

14. Extend to members of all committees the privilege to employ an "associate staff" member.

15. Reduce subcommittee staff, perhaps by an overall cap and a maximum for each subunit. Relatedly, prohibit separate subcommittee staff; loan from full committee as needed. Alternatively, enhance subcommit-

tee staff levels and make comparable reductions to full committee levels.

16. For all committees, establish uniform, written job descriptions; salaries by position; and benefit policies, e.g. vacation, sick and family leave, and retirement. Alternatively, require each committee to adopt its own.

Pending legislation

1., 2. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK) and H. Res. 419, introduced 4/3/92 by Rep. Michel. Both prohibit consideration of an expense resolution until a committee staff ceiling is established. H. Res. 127 caps staff in the 102nd Congress at 90% of the 101st Congress level, while H. Res. 419 caps the 103rd Congress level at no more than 50% of the 102nd Congress level. H. Res. 419 also equates the ratio of majority to minority staff, consultants, detailees, and funding for committees with the House party ratio.

Literature citations

U.S. Library of Congress. Congressional Research Service. *Congressional Committee Staff and Funding*. Issue Brief No. IB82006, by Carol Hardy Vincent, May 12, 1992, (cont. updated). Washington, 1992.

II. FLOOR PROCEDURE

Floor procedure has not yet been a central emphasis of current reform efforts. However, a number of proposals in this area that have attracted some interest in recent years have drawn new interest in the context of current discussions. Most of these proposals divide into two categories:

Those that would protect and enhance the ability of Members to offer and consider a broad range of legislative choices on the floor, including by ensuring adequate notice of and information about attempts to restrict such choices; and

Those intended to bring further restraint and control into the budgeting and spending process.

A third theme, which runs through many of the remaining proposals, including some of those related to the budget process, is that of managing workload and work flow. Finally, a few proposals address issues that fall into none of these categories. Many of the current proposals addressing floor procedure, particularly among those directed at broadening the range of choice, but also including some of those for restraining the budget process, have been actively advocated principally by members of the minority.

Range of Legislative Choice

Some procedures that restrict the policy choices available to the House do so by precluding a direct vote on certain alternatives. For example, a special rule providing for consideration of a committee substitute may omit to restore the ability to include instructions in the motion to recommit. In other cases, a vote couched explicitly in procedural terms actually constitutes a simultaneous, but indirect, vote on the policy question. For example, a motion to table by its terms forecloses a straight vote on the underlying measure, and adoption of a "self-executing rule" explicitly also adopts a specified substantive proposition. Various proposals to broaden the range of legislative choice address each of these forms of restriction.

A key focus of efforts to preserve and extend the range of legislative choice has been the functioning of the Committee on Rules and of special rules. In recent years it has become increasingly common for the Committee on Rules to report, and the House to adopt, special rules that are less than "open;" in other words, that prevent the offering of at least some amendments that the general rules of the House would permit Members to offer. Special rules may impose constraints of this kind not only by directly restricting the amendment process, but also, for example, by forbidding a motion to recommit with amendatory instructions, or by providing that adoption of the rule simultaneously constitutes adoption of specified amendments or of the underlying measure itself.

In almost all cases, the House can adopt special rules by an ordinary majority vote. Accordingly, as with some of the other procedures currently subject to proposals for change, such restrictions operate particularly to close off opportunities for positions advanced by a numerical minority to receive floor consideration. Several of the proposals for change accordingly take the approach of requiring a supermajority vote to impose one or more of the kinds of restriction just mentioned. Another approach to the same restrictions is simply to prohibit any special rule that would impose them. A third would be to require any such special rule to contain a justification of the restriction.

Proposals with similar intent have also been offered in relation to suspension of the rules, discharge procedure, and other proceedings. Suspension of the rules has been increasingly used in recent years for House consideration of measures, especially the less complex, less controversial, and less broad. Because this procedure permits but forty minutes' debate and precludes floor amendments, it too may be seen as a means of restricting the floor consideration of policy alternatives. Accordingly, proposals have been made to permit suspension of the rules only with the consent of a majority of the committee or of the ranking minority member, and to preclude its use for constitutional amendments or for measures costing more than $50 million in a fiscal year.

Correspondingly, the difficulty of successfully using the House's procedure for discharging committees also presents an obstacle to securing floor consideration of a range of policy proposals broader than that favored by reporting committees. These difficulties include that signatures of half the House membership must be obtained under conditions of confidentiality, and that discharge action can be preempted by a committee of jurisdiction reporting the measure, or by the Committee on Rules securing adoption of an alternative special rule for its consideration. Proposals in this area would accordingly reduce to one-third of the House the number of signatures required to support a discharge motion or require their publication after specified levels are reached.

The ability of the House to consider veto messages from the President may also be considered to raise similar issues. Current House practice permits it not to reconsider a vetoed bill immediately, or indeed at all; it may send the measure back to committee or omit to call it up. These practices may be viewed as vitiating Members' opportunity to consider the policy questions raised by the veto. Proposals have accordingly been made to require a vote, or even an immediate vote, on such override attempts.

Information for effective choice

Another consideration that has drawn the attention of change advocates is that of providing adequate information about, and notice of the occurrence of, several of the procedures just discussed. The presumable rationale of proposals in these areas is that adequate information about efforts to limit the range of alternatives will make the House better aware of such attempts, and accordingly better able in practice to decide whether to accept them.

One such proposal would require a two-thirds vote to consider a special rule on the calendar day reported; current rules, which require such a majority only on the same legislative day, permit the House to vitiate the requirement by adjourning temporarily to create a new legislative day. Another would require written or oral notice, during the previous week, of any intention to consider a measure by suspension of the rules. A third would require the Rules Committee to provide justification in writing for any provision in a special rule that would waive a requirement of the congressional budget process. A fourth would broaden the circumstances under which a motion to recommit with instructions may be debated for a full hour.

Budgetary restraint

Several proposals for changes in the budget process, although addressed to divergent components of congressional spending practices, share a focus on facilitating restraint or reduction in government outlays. Such proposals include those to grant the President item veto authority or strengthen his rescission authority, to limit the ability of Congress to waive budget enforcement procedures, and to structure the budget itself in ways that facilitate deficit control.

Item veto proposals, which might require a constitutional amendment, would grant the President authority to reject (or, in some cases, reduce) individual provisions in appropriation measures. Congress could restore the appropriation only by overriding the veto, which requires a two-thirds vote in each chamber. However, certain proposals to strengthen the President's authority to rescind appropriations already enacted could yield similar results. Today, such rescissions take permanent effect only if Congress enacts legislation confirming them. Some current proposals facilitate such enactments by requiring Congress to vote rescission measures; others reverse the burden of action, permitting the rescission to take effect unless Congress votes to reject it (and, presumably, overrides a veto of the rejection measure). Some of these proposals permit the President to initiate a rescission of funds under such conditions only within a specified short period immediately after he signs the bill in which those funds are appropriated. Such a proceeding would permit actions much like those that would take place under an item veto authority.

Proposals to prohibit waivers of points of order under the Budget Act, or to require a supermajority vote for such waivers, are also intended to facilitate restraint in spending by making it more difficult to set aside the procedural mechanisms established toward that end. Similarly, spending levels allowable under the Budget Enforcement Act are currently set in terms of current policy levels, which allows for increases in the cost of carrying out activities now mandated; proposals to set these "baseline" levels in terms of current spending instead would tighten the constraints on such spending.

Other proposals would limit funding provided by any continuing resolution covering less than 30 days to the lowest amounts in specified corresponding pending regular appropriation legislation or enacted for the previous fiscal year. Corresponding proposals applying to longer-term continuing resolutions focus on protecting the ability of the House to consider amendments providing further reductions.

Proposals to restore a deadline for committees to report authorizing measures or for the enactment of such measures, or to require multiyear authorizations, may also be intended to aid Congress in restraining government spending. Any of these mechanisms might aid in ensuring that most authorizations were in place in time to be taken into account in the making of budgetary decisions, so that levels of potential spending could be foreseen and budgeting actions carried out to accommodate those levels. Such constraints on authorizations would make it harder for Congress, late in a budgeting cycle, to develop and enact new legislation requiring spending that could disrupt previous budgetary plans.

Another set of proposals would affect reconciliation bills, measures whose purpose is to make reductions in funding levels required to meet constraints set in a budget resolution or other budget enforcement process. Current House rules, unlike those of the Senate, do not restrain the House from including in such legislation provisions unrelated to the achievement of that goal. Extending such a prohibition to the House could enhance Congress' ability to focus on the task of achieving required budgetary reductions. Corresponding results might be expected from treating continuing resolutions as general appropriation bills, which would mean applying to such measures the prohibition against provisions altering authorizing legislation that now applies to the regular annual appropriation bills.

Proposals to impose additional informational requirements on the consideration of continuing resolutions might presumably facilitate the control of spending in the same way that the informational requirements discussed above, related to forms of floor consideration, could aid the House in preserving its opportunities to consider alternative proposals on the floor. Similarly, requirements to alter the presentation of the budget, such as by separating out a capital budget, may be intended to facilitate the effective control of spending by improving Members' ability to focus on distinctions among the effects of reductions in various categories of spending.

Legislation to eliminate the so-called "firewalls" under the Budget Enforcement Act, on the other hand, would enhance congressional flexibility in budgeting by removing a constraint on spending. The "firewalls" set separate caps for domestic, international, and defense spending; the companion "PAYGO" mechanism provides a different form of constraint for entitlement spending. Similarly, altering the "budgetary treatment" of trust fund spending by designating it "off budget" would increase flexibility in spending levels for categories remaining "on budget." The spending now most often proposed for transfer to "off budget" status is the administrative expenses of Social Security.

Finally, proposals for a constitutional amendment to require a balanced budget, though not constituting a congressional reform in a narrow sense, must be considered in this context. In a sense, such proposals represent an approach converse to the procedural reforms so far described. Instead of providing actual means to facilitate congressional action to control spending, their effect on the process would be to tend to strengthen the imperatives for Congress to exercise such control, and to find such means.

Workload management and other issues

Proposals to shift to a biennial schedule of budgeting and spending appear directed primarily at managing and limiting the workload of the House. A biennial cycle would require certain kinds of budgetary action—a budget resolution, reauthorization, appropriation, reconciliation, or some combination—only once per Congress. Such changes could reduce the extent to which Congress has recently been preoccupied with budgetary issues, and could allow it to give more adequate attention to program and policy issues and to oversight.

Another area in which improving the House's control of its time and workload appears to be the chief concern of change proponents is that of commemorative legislation. Such control is proposed to be achieved either by requiring a higher level of support before any such measures may be considered, by further routinizing their consideration, or by prohibiting them altogether and turning such decisions over to some noncongressional body.

Proposals that the Speaker develop and announce a floor agenda and schedule of recesses at the outset of each session also represent attempts to enhance the predictability and regularity of legislative activity. The further possibility of scheduling and staging major debates on salient issues of concern, which could be presented during prime television viewing hours, may be viewed as an aspect of, or even as dependent on, the existence of an established legislative agenda and schedule in this broader sense.

Questions of managing television coverage of the House also continue to attract the attention of change advocates. The issue in this connection continues to be the circumstances under which video images of the entire chamber, rather than only of the Members speaking, should be transmitted: whether only during special order speeches, or during legislative debate as well.

Finally, some sentiment favors formalizing the recently developed practice of reciting the Pledge of Allegiance at the beginning of each session of the House.

MOTION TO RECOMMIT

Since 1909, House precedents have consistently upheld the right of a member of the minority party to offer a motion to recommit a bill. House Rule XI, clause 4(b) guarantees that right, by preventing the Rules Committee from reporting a special rule prohibiting the offering of the motion. In recent years, however, controversy has arisen over whether the right to offer a motion to recommit extends to the motion to recommit with instructions. The House Rules Committee has increasingly begun to report, and the House to adopt, special rules which preclude the motion to recommit with instructions while still permitting the simple motion. Also at issue is the amount of debate permitted the motion. The simple motion to recommit remains nondebatable in most circumstances, while the motion to recommit with instructions had been-debatable for 10 minutes until 1985. In that year, House Rule XVI, clause 4, was amended to allow the majority, but not the minority, floor manager to extend debate time from the usual 10 minutes to one hour. The question of the right to extend debate time on the motion to recommit with instructions and the trend toward restriction of the minority's right to choose whether to offer a motion to recommit with or without instructions might be addressed.

Options

1. Amend the rules of the House to preserve the right of the minority to select which form of the motion to recommit to offer: the straight motion or one with instructions. Prohibit the Rules Committee from reporting a rule precluding a motion to recommit with instructions. Alternatively, require a super majority on a rule that limits the motion to recommit.

2. Establish a fixed one hour of debate time on the motion to recommit with instructions; or, extend to the minority floor manager the right to extend the customary 10 minutes of debate on the motion to one hour.

3. Institute debate time on the simple motion to recommit which is now nondebatable in most circumstances.

Pending legislation (102d Congress)

1. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Republican omnibus rules package. One provision would prohibit the Committee on Rules from reporting any rule precluding a motion to recommit with instructions.

Literature citations

Nickels, Ilona B. The Motion to Recommit in the House: The Minority's Motion. CRS Report 89-641, November 28, 1989.

Solomon, Gerald (R-NY). Point of Order. Congressional Record, June 4, 1991: 13171-13174.

Wolfensberger, Don. The Motion to Recommit in the House: The Rape of a Minority Right. Congressional Record, June 4, 1991: 13174-13185.

SUSPENSION OF THE RULES

The House has relied on its suspension of the rules procedure for acting on between one-third and one-half of the measures it has passed during the past several Congresses. Although this procedure is convenient, Members have expressed concern that it is sometimes used for passing measures that require more debate and some opportunity for amendment, and that Members, especially minority party Members, do not always receive sufficient notice of what measures are to be considered in this way.

Options

1. Require authorization by a committee rollcall vote or a written statement by the committee's ranking minority member before a measure can be considered under suspension.

2. Require notice in the CONGRESSIONAL RECORD or oral notification on the House floor during the week preceding the day on which a measure is to be considered under suspension.

3. Prohibit consideration under suspension of constitutional amendments or measures with a cost in excess of $50 million in any fiscal year.

4. Permit certain points of order to be raised during consideration of measures brought up under suspension.

Pending legislation

1. H. Res. 127, submitted 4/17/91 by Rep. Edwards (OK). Republican leadership omnibus reform resolution for the 102d Congress.

Literature citations

Bach, Stanley. Suspension of the Rules in the House of Representatives. CRS Report No. 92-185 S, February 14, 1992.

Preamble and Rules of the Democratic Caucus. 102d Congress. January 9, 1991.

SPECIAL RULES

The Rules Committee often proposes and the House adopts special rules that limit the rights and opportunities that Members would enjoy under the normal operation of House rules. Most important, special rules may restrict the floor amendments that Members can offer in Committee of the

Whole. Such rules sometimes have enjoyed bipartisan support; others have divided the House largely along party lines. The minority party also has expressed concern about special rules that limit its ability to propose a final amendment to a bill as part of a motion in the House to recommit that bill with instructions, as well as the interpretation of the requirement that a two-thirds vote is required for the House to consider a special rule on the same day the Rules Committee reports it.

Options

1. Prohibit the Rules Committee from reporting special rules that prohibit or limit the motion to recommit with instructions in the form of an amendment.

2. Require a two-thirds vote to adopt a special rule containing a "selfexecuting" provision by which adoption of the resolution also constitutes action on a measure.

3. Restrict the ability of the Rules Committee to report, or require an extraordinary majority vote of the House to adopt, a special rule that limits the rights of Members to propose germane amendments to a measure.

4. Require a two-thirds vote for the House to consider a special rule on the same calendar day the Rules Committee reports it.

5. Require a written justification for a special rule that contains any waivers of the congressional budget process.

Pending legislation

1. H. Res. 127, submitted 4/17/91 by Rep. Edwards (OK). Republican leadership omnibus reform resolution for the 102d Congress.

Literature citations

Bach, Stanley. Special Rules in the House of Representatives. CRS Report No. 91-730 S, October 3, 1991.

Bach, Stanley and Steven S. Smith. Managing Uncertainty in the House of Representatives: Adaptation and Innovation in Special Rules. Washington, DC: The Brookings Institution, 1988.

DISCHARGE PROCEDURE

The discharge procedure is the only means by which a majority of the House can bring a measure to the floor with the cooperation of neither the committee of jurisdiction, the Speaker, or the Committee on Rules. The procedure is hard to use successfully because, among other reasons:

Half the Membership of the House must sign a petition before the motion can be considered,

Signatures may not be disclosed to the public until the requisite number sign,

The motion may be offered only on certain days, before which the matter may be dealt with by other means,

When a petition is completed the Rules Committee now routinely reports its own special rule for considering the measure, which it calls up before the discharge motion can be offered, and which provides that further action under the discharge procedure be vitiated, and

The House may be reluctant to support a measure which has seen no committee consideration and on which no report is available.

Under a recent rule change, special rules coming to the House floor by discharge are debated under the hour rule (and amendable if the previous question is not ordered) just as those reported.

Options

1. Discharge petition signatures:

a. Provide for publication at specified levels.

b. Remove the prohibition on disclosure.

c. Provide for disclosure of all signatures on all petitions at end of a Congress.

2. Number of signatures required:

a. Lower to 145 (1/3 of House), as during 1931–1935.

b. Raise the proportion of the House required to pass the measure on which discharge is sought (i.e., 2/3 for constitutional amendments).

3. Protecting discharge proceedings after a petition is entered:

a. Prohibit or restrict the Rules Committee from reporting a special rule superseding procedure under the discharge rule and vitiating a completed discharge petition (Committee could be permitted to present its rule as a substitute for a discharged special rule).

b. Shorten or eliminate the period between entry of a discharge petition and the time the motion may be made.

c. Eliminate the option for a committee to vitiate a discharge petition by reporting the measure.

4. Require initiators of a discharge petition to provide, at an appropriate point, a surrogate for a committee report or equivalent information.

Pending legislation

1. H. Res. 419, submitted 4/3/92 by Rep. Michel. Comprehensive Republican reform proposal includes provision (sec. 225) that signatures and withdrawn signatures to a discharge petition be published in Congressional Record weekly after 100 Members have signed.

2. H. Res. 421, submitted 4/7/92 by Rep. Armey. Sec. 7 of "Bring Democracy to Congress Resolution" would reduce to one-third of the House the requirement for discharge petition signatures.

Literature citations

Beth, Richard S. The Discharge Rule in the House of Representatives: Procedure, History, and Statistics. CRS Report for Congress 90-84 GOV, March 2,1990. 112 p.

Cannon, Clarence. The Calendar of Motions to Discharge Committees. Chapter 215 in Precedents of the House of Representatives of the United States. v. 7. Washington, U.S. Govt. Print. Off., 1935. sections 1007–1023.

Deschler, Lewis. Discharging Matters from Committees. Chapter 18 in Deschler's Precedents of the United States House of Representatives. v. 5. Washington, U.S. Govt. Print. Off., 1977. (94th Congress. 2d session. H.Doc. 94-661).

———and William Holmes Brown. Discharging Measures from Committees. Chapter 18 in Procedure in the U.S. House of Representatives. 97th Congress (with supplements). Washington, U.S. Govt. Print. Off., [1982].

RECORDED VOTES AND ACCOUNTABILITY

Constituents have a harder time holding their members accountable for their positions on important policy issues when those issues are decided by voice vote or are decided by an indirect recorded vote, e.g., on ostensibly procedural votes such as the motion to table or a special rule containing either a "self-executing" or "king of the hill" clause. In recent months, the privileged resolutions offered by minority members as matters of the question of the privileges of the House, and entitled to one hour of debate under House Rule IX, have been indirectly defeated through motions to table. Tabling has also had the effect of preventing any debate on the issues involved. In recent years, the Committee on Rules has begun to report, and the House to adopt, more self-executing (or "hereby") rules which automatically trigger the passage of a series of amendments or even the passage of a separate piece of legislation. The Committee on Rules has also regularly reported king of the hill rules which permit a series of amendments to be offered, and even adopted, but with the stipulation that only the last amendment adopted prevails. Such a rule renders ineffective any earlier votes in the affirmative.

Options

1. Mandate that votes on specified categories of key legislation must be recorded and must be directly on passage.

2. Either restrict or prohibit the Committee on Rules from issuing self-executing or king of the hill rules.

3. Guarantee a minimum period of debate on questions of privilege before subjecting them to a motion to table.

Pending legislation (102d Congress)

1. H.R. 354, introduced 1/3/91 by Rep. Lagomarsino. Provides that no increase in pay for Members of Congress shall take effect without a recorded vote in each House.

2. H.R. 999, introduced 2/20/91 by Rep. Long. Requires that any bill or resolution or any amendment which would adjust Members' pay may be adopted only by a recorded vote.

3. H. Res. 20, introduced 1/3/91 by Rep. Hammerschmidt. Amends the rules of the House to require a roll-call vote on passage of any measure making appropriations or providing revenue.

4. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Republican omnibus rules package. One provision amends House Rule XV to provide for an automatic roll call when the Speaker puts the question of final passage on (1) any bill, joint resolution, or conference report making general appropriations, providing revenue, or adjusting the statutory pay rate of Members of Congress; or (2) any concurrent resolution or conference report on the budget which provides an increase in the statutory debt limit.

5. H. Res. 332, introduced 4/7/92 by Rep. Gunderson. Amends the rules of the House to require a recorded vote on final passage of any legislation making appropriations or providing direct spending authority or new credit authority.

6. H. Res. 421, introduced by Rep. Armey. Proposes extensive revisions to the rules of the House. One provision prohibits self-executing rules unless adopted by a ⅔ recorded vote. Another provision amends Rule XV to provide for an automatic roll call when the Speaker puts the question of final passage on (1) any bill, joint resolution, or conference report making general appropriations, providing revenue, or adjusting the statutory pay rate of Members of Congress; or (2) any concurrent resolution or conference report on the budget which provides an increase in the statutory debt limit.

Literature citations

Edwards, Mickey. Congressional Reform. Congressional Record, August 3, 1989: H5078–H5085.

Gunderson, Steven. House Spending Accountability Act. Congressional Record, January 28, 1992: 686.

COMMEMORATIVES

Almost 35% of all public laws enacted thus far in the 102d Congress establish commemorative observances of special days, weeks, months, or years. The dramatic increase in the number of these observances over the last decade has prompted and continues to prompt proposals which would reform the process for considering this type of legislation. Proponents of reform believe that the high cost of enacting commemorative legislation as well as the inordinate amount of Member and staff time consumed by these measures necessitate changes in the process. Opponents, on the other hand, maintain that commemorative legislation provides a constituent service and assists interests so designated with their fundraising and official activities.

Options

1. Establish a Commission which would review all proposals for commemorative observances and recommend to the President or Congress whether those observances should be approved or disapproved.

2. Prohibit the Congress from considering commemorative legislation.

3. Fine-tune the current commemorative process by developing more discipline within the Congress for considering these measures in an efficient and cost-effective manner, i.e., establish a calendar for commemorative legislation which would be called twice a month; increase the number of cosponsors required for consideration of commemorative legislation; establish a rule in the House, similar to the existing Senate rule, under which commemorative legislation may be considered during only three months out of the year.

Pending legislation

1. H. Res. 30, introduced 1/11/91 by Rep. Holloway. Amends Rule XXII of the Rules of the House of Representatives (covering petitions, memorials, bills, and resolutions) to provide that no bill or resolution, and no amendment to any bill or resolution, establishing or expressing any special interest commemoration may be received or considered in the House. Defines "special interest commemoration" to mean any commemoration or recognition of any individual, group or organization, commercial endeavor, or political or geographical subdivision.

2. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK); H. Res. 419, introduced 4/3/92 by Rep. Michel; H. Res. 436, introduced 4/9/92 by Rep. Lowery. Amends Rule XIII of the Rules of the House of Representatives to create a commemorative calendar which would be comprised of unreported bills and resolutions respecting commemorative holidays and celebrations which were referred to the Committee on Post Office and Civil Service. Such legislation would be placed on the calendar by written request of the chairman and ranking minority member of that Committee and be considered on the first and third Tuesdays of each month. Measures would be removed from the calendar if two or more members objected. Such measures, if considered, would be considered in the House. This proposal was also considered by the House of Representatives as Sec. 218 of an amendment in the nature of a substitute to H. Res. 423, but was rejected by a yea-and-nay vote of 159 yeas to 254 nays on April 9, 1992.

3. H.R. 68, introduced 1/3/91 by Rep. Boehlert. National Commemorative Advisory Act; H.R. 1882, introduced 4/17/91 by Rep. McCurdy and S. 1112, introduced 5/21/91 by Sen. Hollings. National Commemorative Events Advisory Act; establishes the President's Advisory Commission on National Commemoratives to (1) develop criteria for recommending to the President that a proposed national observance be approved or disapproved; (2) review proposals for national observances submitted in accordance with procedures published by the Commission; and (3) issue recommendations to the President concerning each proposal reviewed. H.R. 1882 and S. 1112 would terminate the Commission within five years after the date of its first meeting. S. 1112 would also prohibit the Commission from issuing a recommendation to the President for approval of certain commemorative events (events currently excluded from consideration by Committee rules), provide that the specified period of time designated by the Commission for a commemorative event may not be designated for a date or time period which begins more than one year after such designation is made, and prohibit the Commission from designating the same commemorative event more than once within a single calendar year.

Literature citations

Brafman, Michelle. Mushroom Month Lives. Roll Call, July 4, 1991: 8.

Dewar, Helen. A Day (or Month or Year) in the Sun. Washington Post, January 13, 1992: A15.

Johnson, Jason B. Congress Plagued by Special Days. Los Angeles Times, March 10, 1990: A21.

Pechta, Beth. Proposals Would Revise How Congress Picks Special Days. Congressional Quarterly Weekly Report, v. 46, February 24, 1990: 570.

U.S. Library of Congress. Congressional Research Service. Commemorative Legislation, by Stephen W. Stathis and Barbara L. Schwemle. January 2, 1991. Report No. 91-5 GOV.

TELEVISION COVERAGE OF HOUSE FLOOR PROCEEDINGS

House floor proceedings have been televised since 1979. House Rule 1, clause 9 gives authority over broadcasting House proceedings exclusively to the Speaker. The House Recording Studio operates the cameras and controls the broadcast signal under the Speaker's direction. Although television coverage of the House has been mostly free of controversy, critics have recently begun to point out the inconsistency between the chamber-wide camera angle used during the special order speech period and the camera angle during regular legislative consideration which remains focused on the Member speaking. In 1984, the Speaker directed that the cameras show the entire chamber during special orders to make clear to the viewing public that few Members were present and that regular legislative business had ended for that day. He did so in response to what he deemed an overly partisan use of those speeches by minority Members.

On another subject, critics have asserted that the House has failed to fully use the potential of television to attract the interest of the growing C-SPAN audience. Some have suggested the House leadership deliberately schedule debate on important national issues during prime-time viewing hours.

Options

1. Mandate cameras show the entire chamber consistently throughout the legislative day.

2. Mandate cameras remain consistently focused on the Member speaking throughout the legislative day.

3. Create an advisory committee to work with the Speaker to determine policy regarding television coverage.

4. Direct the Speaker, after consultation with the Minority Leader, to schedule periodic debates on issues of importance to the Nation during prime-time evening hours.

Pending legislation (102d Congress)

1. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Republican omnibus rules package. One provision would require the Speaker to provide for visual coverage of floor proceedings on a uniform basis through each day's session.

2. H. Res. 28, introduced by Rep. Owens. Amends the rules of the House to provide for debate on major policy issues.

3. H. Res. 439, introduced 4/29/92 by Rep. Taylor. Proposes to eliminate the televising of special order speeches as part of the proceedings of the House.

Literature Citations

Bates, Stephen and Moore, Jonathan. The Media and the Congress: A Project of the Harvard Institute of Politics at the John F. Kennedy School of Government. Columbus, Ohio, Publishing Horizons, Inc., 1987: 111-113.

Granat, Diane. The House's TV War: The Gloves Come off. Congressional Quarterly Weekly Report, May 19, 1984: 1166-1167.

Hamilton, Lee. Improving Information About Congress. Congressional Record, January 29, 1992: 895-896.

PLEDGE OF ALLEGIANCE

Daily recitation of the Pledge of Allegiance on the House floor began on September 13, 1988. It has become an accepted part of House procedure and has not been at issue since 1988. The practice began as a response to the Pledge of Allegiance becoming a test of patriotism during the 1988 presidential election contest. On September 9, 1988, the Speaker announced to the House that the Pledge would be recited daily. Earlier that day, Republican members had attempted to mandate a daily Pledge of Allegiance. Their resolution, presented as a question of the privileges of the House, was ruled out of order. The House took an indirect vote on the issue—on appealing the ruling of the Chair—but no direct vote was taken. On September 13, 1988, the Majority Leader stated to the House the intention of the leadership to incorporate the Pledge of Allegiance into the Rules of the House in the 101st Congress. However, its status remains that of informal practice. Recitation of the Pledge of Allegiance is neither codified in the rules nor addressed in the precedents of the House.

Options

1. Amend the rules of the House to include a requirement that the Pledge of Allegiance be recited daily.

2. Allow the current daily recitation of the Pledge to continue as informal practice, subject to the Presiding Officer's discretion to recognize a Member for the purpose of leading the House in the Pledge.

Pending legislation (102d Congress)

1. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Republican leadership omnibus rules package. One provision would amend Rule XXIV to revise the daily order of business of the House to include the Pledge of Allegiance.

Literature citations

Wright, Jim. Recitation of the Pledge of Allegiance. CONGRESSIONAL RECORD, September 9, 1988: H7343.

Rowland, John G. Privileges of the House—Recitation of the Pledge of Allegiance Each Legislative Day in the House of Representatives. CONGRESSIONAL RECORD, September 9, 1988: H7331.

McMillan, J. Alex. The History of the Pledge of Allegiance. CONGRESSIONAL RECORD, October 11, 1988: H9958.

Foley, Thomas S. Pledge of Allegiance Intended To Be Made A Permanent Part of House Proceedings. CONGRESSIONAL RECORD, September 13, 1988: H7430.

CONGRESSIONAL BUDGET ACT

One focus of proposals for changes in the budget process is the Congressional Budget Act of 1974. The Budget Act (codified at 2

U.S.C. 601-688) is the permanent law by which Congress establishes and enforces its budget priorities. Although it is codified in the U.S. Code, much of the Budget Act rests on the rulemaking authority granted to each chamber under the Constitution. As a result, a number of practices are different in the House and Senate. These differences have historically attracted attention as possible targets of reform.

For example, in the House Section 313 of the Budget Act prohibits reconciliation bills in the Senate from containing matters not directly related to achieving the purposes of reconciliation instructions.

Another difference is that in the Senate most points of order under the Budget Act can only be waived by adopting a motion or resolution with a majority of three-fifths, while only a majority is necessary in the House.

Options

1. Eliminate extraneous provisions in reconciliation measures.

2. Eliminate or restrict the use of Budget Act waivers.

a. Require either a three-fifths or two-thirds vote for waivers in the House.

b. Allow a separate vote in the House for any waivers included in a special rule. After the previous question was ordered any such waiver could be the subject of a nondebatable motion to strike.

c. Require that any special rule waiving a provision of the Budget Act be accompanied by a report justifying the waiver and providing a cost estimate of the provision to which the waiver applies.

Pending legislation

1. H. Res. 127, introduced 4/19/91 by Rep. Edwards (OK). Amends the Rules of the House broadly, including provisions which would eliminate extraneous matters in reconciliation bills and limit the use of Budget Act waivers.

2. H. Res. 419, introduced 4/3/92 by Rep. Michel. Amends the Rules of the House broadly, including provisions which would eliminate extraneous matters in reconciliation bills and limit the use of Budget Act waivers.

Many of the proposals in H. Res. 127 and H. Res. 419 were also included in the Republican alternative to H. Res. 5, and were discussed in Special Order speeches by Representatives Michel, Solomon, and Mickey Edwards (OK) on 01/30/92.

Literature citations

None.

BUDGET ENFORCEMENT ACT

A second focus of proposals for changes in the budget process is the Budget Enforcement Act. Passed in 1990 (as Title XIII of the Omnibus Budget Reconciliation Act of 1990), the Budget Enforcement Act established in law a working agreement between Congress and the President concerning restrictions in the growth of Federal spending over the period FY1991-FY1995. The Budget Enforcement Act divided all discretionary spending into three categories: international, defense, and domestic. The "so-called" firewalls in the form of prohibitions against using decreases in funding in one category from offsetting increases in another for FY1991-FY1993.

Two other budgetary issues directly related to the Budget Enforcement Act are budgetary treatment and baselines.

The term "budgetary treatment" is often identified with making an entity (such as a department, agency, bureau or even a program) "off-budget," but the term can also refer to a number of other issues. These include whether the entity is included in the President's presentation of the unified Federal budget, whether it is used in calculating the Federal deficit, or whether it is exempt from the sequestration procedures established by the Balanced Budget and Emergency Deficit Control Act (also known as Gramm-Rudman-Hollings or GRH) or the Budget Enforcement Act.

In recent years the Postal Service and Social Security benefits have been excluded from the President's presentation of the unified Federal budget, and from calculations of the Federal deficit, and exempted from any sequester order. Several types of expenditures, notably designated emergency spending and funding for Operations Desert Shield/Desert Storm, are exempted from procedures established under the Budget Enforcement Act. Numerous proposals have been made to add various trust funds or programs to the list of entities receiving one or more types of special budgetary treatment. Especially prevalent have been proposals to specify that the administrative expenses of the Social Security Administration receive the same off-budget treatment that Social Security benefit expenditures do.

Baselines are projections of spending or revenue levels from which changes between fiscal years can be measured. The BEA requires a current policy (or current law) baseline which projects spending and revenues at levels consistent with current law, as well as accounting for expected inflation. That is, it includes previously enacted changes in type or extent of costs or benefits that are set either to become effective or to expire. This means that revenue from a temporary tax increase, or expenditure for a temporary increase in a particular Federal benefit program will not be counted in projections involving years beyond their statutory life. There has been criticism from a number of sources, including President Bush, of the use of this type of baseline on the grounds that it builds in an assumption of growth in Government expenditures. Such criticisms sometimes are coupled with proposals that spending be based on the current spending level only with either no assumed increase or only a limited increase.

Options

1. Eliminate the firewalls between spending categories allowing decreases in one category to offset increases in another.

2. Change the budgetary treatment of selected agencies or programs.

3. Modify the baseline used for budgeting mandatory programs.

Pending legislation

1. H.R. 3732, introduced 11/7/91 by Rep. Conyers. A proposal to eliminate the division of discretionary spending into three categories. Reported by the House Committee on Government Operations 2/27/92 (H.Rpt. 102-446, Part I) and the House Rules Committee 3/4/92 (H.Rpt. 102-446, Part II) Failed to pass in the House 3/31/92, 187-238.

2. H.R. 2898, introduced 07/16/91 by Rep. Conyers. A measure to specify that the administrative expenses of the Social Security Administration receive the same off-budget treatment that Social Security benefit expenditures do. Reported by the House Committee on Government Operations 7/3/91 (H.Rpt. 102-174, Part I). Thus far no action has been taken by the House Rules Committee, which received a joint referral of the bill.

3. S. 2399, introduced 3/24/92 by Sen. Sasser. A proposal to revise the discretionary spending categories established by the Budget Enforcement Act.

Literature citations

CRS Report 90-520 GOV Budget Enforcement Act of 1990: Brief Summary, by Edward Davis and Robert Keith.

CRC Report 91-902 GOV Manual on the Federal Budget Process, by Allen Schick, Robert Keith and Edward Davis.

BUDGET PROCESS REFORM

The 102d Congress has seen a continuation of interest in budget process reform as demonstrated by the introduction of myriad measures on the subject. These proposals cover a diverse set of issues, but they share a focus on facilitating restraint or reduction in Government expenditures.

Options

1. Ratification of a balanced budget amendment to the Constitution

One of the most persistent political issues in recent years has been the question of a requirement to balance the Federal budget. Although there have been some proposals which take a statutory approach to instituting such a requirement, most of the measures introduced in recent years have been in the form of constitutional amendments. Such measures usually would simply require that outlays not exceed receipts. Variations address the circumstances under which the requirement would not apply (for example, upon enactment of a specific excess by three-fifths majority in each chamber, or if a declaration of war is in effect), or whether the budget the President is required to submit must likewise be balanced. Some amendments would also have provisions which would limit expenditures to a set percentage of some economic indicator such as national income or the GNP or to limit the rate of increase in revenues to some preestablished formula.

2. Establish a biennial budget.

Biennial budgeting refers to the use of a two-year budget cycle, which can embrace a number of legislative processes. It might refer to any or all of the following: (1) two-year budget resolutions, (2) two-year authorizations, or (3) two-year appropriations. Most measures introduced in recent years have been comprehensive, proposing to adopt biennial authorizations, appropriations, and budget resolutions.

Two main approaches have been proposed, commonly referred to as the "stretch" and "split-sessions" models. The "stretch" model stretches the current budget process to prepare a two-year budget over a two year period. The "split-sessions" model concentrates all budgetary activity in one year or session of Congress, and oversight and non-budgetary matters in the other. Proposals of this type can have either the budgetary or non-budgetary year as the first session of a Congress. A third approach used in some recent proposals has been termed the "summit" model. Less comprehensive than the other two types, these measures would institutionalize budget agreements between the President and Congress, usually by requiring a two-year joint budget resolution, while continuing under the status quo for authorizations and appropriations.

3. Regulate the use of continuing resolutions.

Continuing resolutions are joint resolutions enacted by Congress to continue funding for Federal activities when one or more regular appropriations bills are not enacted by the beginning of a new fiscal year. They can be of varying duration, ranging from several days to an entire fiscal year. Although they were first used over one hundred years ago, these measures have recently come under increased criticism, especially long-term resolutions that are used as a substitute for regular appropriations bills. As a result some Members of Congress have introduced proposals to regulate continuing resolutions. Three basic types of proposals have been made: (1) those which provide for automatic continuing resolutions (thereby avoiding the threat of a Government-wide shutdown), (2) those which would restrict the use of continuing resolutions to short periods of time; and (3) those which would allow long-term continuing resolutions, but impose significant limitations, such as requiring a super-majority for their enactment or, alternatively, granting the President special rescission authority over them.

Pending legislation

1. H.J. Res. 290, introduced 6/26/91 by Rep. Stenholm. Constitutional amendment to require a balanced budget.

2. H.J. Res. 248, introduced 5/8/91 by Rep. Barton. Constitutional amendment to require a balanced budget and to limit the rate of increase in revenues to the rate of increase in the national income.

3. S.J. Res. 18, introduced 1/14/91 by Sen. Simon. Reported by the Senate Judiciary Committee 7/9/91, with an amendment (S. Rpt. 102–103). Constitutional amendment to require a balanced budget.

4. S. 1667, introduced 8/2/91 by Sen. Ford. A proposal to establish a two-year budget cycle.

5. H.R. 1889, introduced 4/18/91 by Rep. Patterson. Amends the Congressional Budget Act of 1974 to reform the budget process broadly, including provisions to establish a two-year budget cycle and to regulate continuing resolutions.

6. H. Res. 127, introduced 4/19/91 by Rep. Edwards (OK). Amends the Rules of the House broadly, including provisions to regulate continuing resolutions.

7. H. Res. 419, introduced 4/3/92 by Rep. Michel. Amends the Rules of the House broadly, including provisions to regulate continuing resolutions.

AUTHORIZING COMMITTEE REPORTING DEADLINES

In theory, the budget, authorization, and appropriations processes are separate and distinct. In practice, however, the distinctions often are not so clear. Generally, authorizations are supposed to be completed before appropriations can be considered. To facilitate this, the Congressional Budget Act of 1974 (P.L. 93–344, Section 402(a)) originally instituted a May 15 deadline by which legislative committees were to have reported authorizing legislation.

While this deadline was intended to encourage committees to report legislation early in a session, the practical result was that most authorizing committees would report the bulk of their bills on or near this date. Clustering the reporting of these bills so near the deadline often made it difficult to complete floor action before the consideration of appropriations bills began in late spring and early summer.

With this and other problems in mind, the House Rules Committee Task Force on the Budget Process (known as the Beilenson Task Force) recommended in 1984 that this deadline be abolished. The Task Force called on legislative committees to begin to work on authorizations well in advance of their termination, perhaps in the fall or winter of the session before they expire (Task Force Report, p. 33). This recommendation, along with others, became law as a result of their incorporation into the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177, Gramm-Rudman-Hollings I). The current situation, then, is that no explicit deadline for the reporting of authorizing legislation exists.

Options

1. Require multiyear authorizations—This would cut down on the time spent on hearings, markup, floor debate, etc. for authorizing legislation. However, Congress could lose some of the flexibility and oversight controls that annual authorizations provide.

2. Adopt an earlier reporting deadline—Some have argued that a deadline earlier than May 15 would allow legislators to get all authorization bills passed before the appropriations process gets under way. Others, however, believe that moving the deadline up would do little to ease the crush of reporting at the deadline or contribute to more deliberate legislation.

3. Adopt an enactment deadline—This would require Congress to complete action on authorizing legislation by a certain date and would prohibit the consideration of any bill not enacted in time. This provision was originally included in an early version of the Congressional Budget Act of 1974, but was later replaced with a reporting deadline before the legislation was enacted into law.

4. Adopt a biennial budget cycle—Under one approach, authorization measures could be enacted in one session, and appropriations in the following session. However, this assumes that appropriations will be placed on a two-year cycle, a plan with possible drawbacks for congressional oversight.

Pending legislation (102nd Congress)

1. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Republican leadership omnibus rules package. Section 26 reinstates May 15th as the reporting deadline for authorizing legislation. This provision makes it out of order for the House to consider any authorizing legislation reported after this date.

2. H. Res. 419, introduced 4/3/92 by Rep. Michel. Section 222 of H. Res. 419 contains the same language as that offered in H. Res. 127.

Literature citations

The Congressional Budget Process: A General Explanation. Committee on the Budget, U.S. House of Representatives. 99th Congress, February 1985.

Report of the Task Force on the Budget Process of the Committee on Rules. 98th Congress, May 1984.

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Schick, Allen. Congress and Money: Budgeting, Spending and Taxing. (Washington, D.C.: The Urban Institute, 1980)

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U.S. Library of Congress. Congressional Research Service. Budget Process Measures Introduced in the 102nd Congress, 1st Session. Report No. 92–61, by James Saturno. Washington, 1992.

EXPANDED RESCISSION

The Impoundment Control Act (ICA) of 1974 (Title X of the Congressional Budget and Impoundment Control Act, P.L. 93–344, 88 Stat. 297, 2 U.S.C. 601–688) established a new framework for congressional oversight of impoundments by the President. Under the 1974 law, "rescission" refers to a proposal by the President to cancel permanently funding previously enacted in appropriations laws. The President must inform Congress of proposed rescissions and furnish specified data regarding each such action. The funds must be made available for obligation unless both the House and Senate act to approve of the rescission within a 45-day period.

The President's role in the process would be strengthened by the establishment of expedited procedures that would require Congress to act on measures to approve proposed rescissions ("expedited rescission"). Similar results would flow from empowering the President to rescind appropriations unless Congress acted to disallow the rescission ("enhanced rescission"). Some proposals would grant the President enhanced authority to rescind appropriations, or to propose rescissions under expedited procedures, only within a fixed period immediately after signing the measure appropriating the money. This form of expanded rescission authority would permit Presidential action essentially comparable in effect with an item veto.

Options

1. Enact expedited rescission procedures, attempting to ensure a vote by Congress on the President's rescission proposals, but still allowing the funds to become available absent congressional action.

2. Amend the ICA to provide for enhanced rescission authority, reversing the burden of action and allowing rescissions to take effect unless Congress disapproves them.

3. Amend the ICA to provide for enhanced rescission authority under only immediately after the signing of the pertinent appropriations bill, or under other specified circumstances.

Pending legislation

Expedited Rescission option:

1. H.R. 617, introduced 1/23/91, by Rep. Johnson. Provides that the President may submit special rescission messages on the same day as signing an appropriation bill, with expedited procedures for congressional action, but rescission takes effect only if approved by Congress.

2. H.R. 1889, introduced 4/17/91, by Rep. Patterson. Title III, "Expedited Rescissions," allows for submission of special rescission messages within 3 days of signing appropriation bill, but rescission takes effect only if approved by Congress.

3. H.R. 2164, introduced 5/1/91, by Rep. Carper. Establishes procedures for expedited consideration in Congress of certain rescission proposals from the President. Funds proposed for rescission must be made available for obligation "after the date on which the Congress fails to pass the bill or joint resolution [conveying approval] transmitted with that special message."

Enhanced Rescission:

4. H.R. 687, introduced 1/29/91, by Rep. Dornan. Provides that any rescission proposed by the President takes effect unless Congress takes specific action to disapprove it.

Limited Enhanced Rescission:

5. Legislative Line Item Veto Act (several identical bills): H.R. 28, introduced 1/3/91, by Rep. Wylie; H.R. 78, introduced 1/3/91, by Rep. Duncan; H.R. 146, introduced 1/3/91, by Rep. McEwen; S. 196, introduced 1/14/91, by Sen. Coats. Provides the President with enhanced rescission (termed "item veto") authority by amending the Impoundment Control Act to allow transmission of a special rescission message within 10 days of enactment of appropriations measures or accompanying the President's January budget submission.

Budget authority so rescinded remains canceled unless Congress disapproves within 20 days.

6. H.R. 298, introduced 1/3/91, by Rep. Cox (CA). Budget Process Reform Act. Title III, Subtitle B provides for enhanced rescission authority limited to spending above limits of congressional budget law.

Literature citations

McMurtry, Virginia A. The President and the Budget Process: Expanded Impoundment and Item Veto Proposals. Library of Congress, Congressional Research Service, Issue Brief 89148 [updated continuously].

Middlekauff, Wm. Bradford. Twisting the President's Arm: The Impoundment Control Act as a Tool for Enforcing the Principle of Appropriation Expenditure. *Yale Law Journal*, v. 100, 1990: 209–228.

LINE ITEM VETO

Governors in 43 States can exercise some form of item veto, allowing them to eliminate individual provisions or reduce amounts in legislation presented for their signature. In contrast, the President, traditionally (and in the view of most, constitutionally), may only sign a bill into law or veto the measure in its entirety. In the opinion of some, the lack of item veto authority encourages pork barrel spending and decreases congressional accountability in the appropriations process.

Options

1. Adopt a resolution encouraging the President to exercise an item veto, to test the limits of existing constitutional provisions.

2. Enact law providing for separate enrollment of each item in an appropriations bill.

3. Approve a constitutional amendment granting the President item veto authority in appropriation bills (various provisions possible).

4. Approve a constitutional amendment granting the President authority to veto or reduce items of spending authority (various provisions possible).

Pending legislation

1. H. Res. 152, introduced 1/15/91, by Rep. Campbell. Encourages the President to exercise the line-item veto in order to test its constitutionality.

2. S. 165, introduced 1/14/91, by Sen. Hollings. Amends the Impoundment Control Act of 1974 to direct the enrollment of each item of a bill or joint resolution containing appropriations as a separate measure.

3. Allow the President to exercise an item veto in appropriations acts.

A. H.J. Res. 4, introduced 1/3/91, by Rep. Wylie; H.J. Res. 5, introduced 1/3/91, by Rep. Archer; H.J. Res. 12, introduced 1/3/91, by Rep. Bennett; H.J. Res. 16, introduced 1/3/91, by Rep. Emerson; H.J. Res. 245, introduced 5/2/91, by Rep. Marlenee.

B. H.J. Res. 55, introduced 1/3/91, by Rep. Stump. Allows the President to veto any item of appropriation or any provision in any act or joint resolution containing an item of appropriation.

C. H.J. Res. 89, introduced 1/23/91, by Rep. Solomon. Allows item veto in appropriation acts; exempts from item veto, appropriations for national defense.

D. H.J. Res. 213, introduced 4/10/91, by Rep. Penny. Allows the President to disapprove any item of appropriation, excepting those for the legislative or judicial branches.

E. S.J. Res. 14, introduced on 1/14/91, by Sen. Thurmond. Allows the President to veto items of appropriations.

4. At least 4 proposals for pending constitutional amendments allow the President to reduce amounts as well as to veto items.

A. H.J. Res. 52, introduced 1/3/91, by Rep. Poshard. Allows the President to disapprove or reduce an item of appropriations.

B. S.J. Res. 4, introduced 1/14/91, by Sen. Specter. Allows the President to disapprove or reduce any item of appropriation; simple majority of each House of Congress could override such an item veto or reduction.

C. S.J. Res. 11, introduced 1/14/91, by Sen. Symms. Allows the President, when any measure containing spending authority is presented to him, to separately approve, reduce, or disapprove any provision, or part of any provision contained in it.

D. S.J. Res. 54, introduced 1/30/91, by Sen. Dixon and Sen. Simon. Allows the President to disapprove or reduce an item of appropriations, except for items in appropriations for the legislative branch.

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Cooper, Charles J. et al. Pork Barrels and Principles: The Politics of the Presidential Veto. Washington, National Legal Center for the Public Interest, 1988, 62 p.

Line Item Veto. Congressional Digest, v. 69, June-July 1990: entire issue.

POCKET VETOES

Under Article I, Section 7, Clause 2 of the Constitution, if a President neither approves or disapproves a bill within the ten day period, it becomes a law without his signature, unless, in the language of the Constitution, "the Congress by their adjournment prevent its return, in which case it shall not be law." This latter circumstance is popularly called a pocket veto.

The President's authority to exercise the pocket veto continues to elicit confusion and controversy. Presidents Ford and Carter agreed to exercise the pocket veto authority only at the end of a Congress. President Reagan, however, declined to limit himself in this way, claiming he could exercise the pocket veto between sessions of Congress. President Bush has gone yet farther by insisting that he may pocket veto anytime Congress is recessed or adjourned for three days or more. Congressional leadership has taken the position that only bills in the hand of the President after the end of a Congress may be pocket vetoed. At any other time, Congress will consider a veto message accompanied by the returned bill to be a regular veto and subject to possible congressional override. If the bill is not returned, the Congress will consider the bill to have become law without the President's signature after ten days (except Sundays), as provided under Article I, Section 7 of the U.S. Constitution.

Options

1. Allow for pocket vetoes anytime Congress is in recess or adjournment for 3 days or more.

2. Pass legislation restricting the pocket veto to the end of a Congress.

3. Hold special sessions of Congress, forcing the President to return vetoed legislation or keep Congress in *pro forma* session during recess periods until the expiration of its term.

4. Withhold enrolled bills from the President during recess or adjournment, except at the end of a Congress.

Pending legislation

1. H.R. 849, introduced 2/6/91 by Rep. Derrick. Amends Title I of the U.S. Code to define the type of adjournment that prevents the return of a bill by the President and authorizes the Clerks of the House and Senate to receive vetoed bills from the President when their respective Houses are not in session.

2. S. 422, introduced 2/19/91 by Sen. Kohl. Amends Title I of the U.S. Code to define the type of adjournment that prevents the return of a bill by the President and authorizes the Clerks of the House and Senate to receive vetoed bills from the President when their respective Houses are not in session.

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U.S. Congress. House. Committee on Rules. Subcommittee on the Legislative Process. *Pocket Veto Legislation; Report to Accompany H.R. 849.* Mar. 12, 1990. Washington, U.S. Govt. Print. Off., 1990. (101st Congress, 2d session. House Report no. 101–417, Part 1.)

—H.R. 849. *Hearings*, 101st Congress, 1st session, on H.R. 849. July 26, 1989. Washington, U.S. Govt. Print. Off., 1989. 144 p.

Watson, Richard A. The President's Veto Power. *Annals of the American Academy of Political and Social Science*, v. 499, September 1988: 36–46.

VETO OVERRIDES

Article I, section 7, clause 2 of the Constitution provides that if a President vetoes a bill, it is to be returned to the House in which it originated, and be reconsidered. "If after such reconsideration two-thirds of that House shall agree to pass the bill," it is then sent to the other House for reconsideration, and if approved by two-thirds of that House as well shall become law.

The Constitution is silent regarding exactly what constitutes reconsideration. At least since 1917, the House has adhered to the constitutional mandate to "proceed to reconsider" a vetoed bill one of four ways: (1) by laying it on the table, (2) postponing consideration to a day certain, (3) referring it to a committee, or (4) voting on reconsideration (Cannon Precedents, VII, section 1106) (Deschler-Brown, Procedure in the U.S. House of Representatives, chapter 24, section 15.8). Recently, this procedure has become a question of concern because several Members have argued that it precludes the minority in the House from forcing an override vote on vetoes likely to be sustained.

Options

1. Alter House rules to provide only for the immediate vote on reconsideration of vetoed bills by eliminating intervening motions.

Pending legislation

1. H. Res. 419, introduced 4/3/92 by Rep. Michel. Amends the Rules of the House of Representatives to require an immediate vote on reconsideration of vetoed bills, among other purposes.

2. H. Res. 127, introduced 4/17/91 by Rep. Edwards (OK). Amends the Rules of the House of Representatives to bring about an immediate vote on reconsideration of a vetoed measure, and for other purposes.

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Towell, Pat. Veto of Defense Bill Ups the Political Anti. Congressional Quarterly Weekly Report, v. 46, no. 32, Aug. 6, 1988: 2143–2145.

Michel, Robert H. National Defense Authorization Act, Fiscal Year 1989—Veto Message From the President of the United States. Remarks in the House. Congressional Record, v. 134, Aug. 3, 1988: 20281–20293.

III. MANAGEMENT AND ADMINISTRATION

During the 102d Congress, a number of management-related problems have surfaced in the House. The House Bank scandal, indictments for drug trafficking and embezzlement in the House Post Office, and allegations of interference in ongoing criminal investigations brought House management practices under scrutiny. In April, the House agreed to H. Res. 423, the Administrative Reform Resolution, establishing the posts of House Director of Non-Legislative Services, Auditor, and General Counsel; transferring certain non-legislative functions from the Clerk and Sergeant at Arms to the new Director; and modifying the role of the House Administration Committee and of the party leaders in directing the management of the House.

The Administrative Reform Resolution was designed quickly to address the most pressing management problems. However, unaddressed issues remain.

House and Senate management practices have not been broadly studied since the mid-1970s. The House, in 1976, established the Commission on Administrative Review (Obey Commission) which proposed a sweeping reorganization of the management and operations of the House of Representatives. In addition to proposing the creation of new positions of House Administrator and House Comptroller, the Commission called for substantial readjustment in the duties of all the officers of the House. In 1977 the House refused to agree to the rule making the Obey Commission recommendations (H. Res. 766) in order and the package never came to a vote. Fifteen years later many, but by no means all, the Obey Commission recommendations were incorporated into the Administrative Reform Resolution of this Congress.

The year before, the House had established the Commission on Information and Facilities, chaired by Rep. Jack Brooks, to study and report on the allocation of space in the House side of the Capitol and in House office buildings, and to review the variety of information resources available directly or indirectly to the Congress. Some space was reallocated by the House Office Building Commission or the Speaker as a result of this inventory. No systematic House study of this type has been undertaken since. Although, substantial new space has come under House control since the Brooks Commission study with the acquisition of the Ford Building (Annex II) and a major space reallocation in the O'Neill Building (Annex I).

In 1975, the Senate established a Commission on the Operation of the Senate based on a proposal sponsored by Sen. John Culver and chaired by former Senator Harold Hughes. The management studies undertaken by the Culver-Hughes commission were similar to those undertaken by the Obey Commission. Similarly, there was no immediate Senate action to implement Commission Recommendation. However, certain agreements about eliminating overlapping management duties and formal sharing of other functions were worked out between the Secretary of the Senate and the Senate Sergeant at Arms in the early 1980s. These agreements came in the wake of recommendations by an informal Senate management board formed at the request of Senate leaders and the Senate Rules and Administration committee. No studies of Senate management practices have been systematically undertaken since.

Owing to incomplete publicly available information about current management practices in the House and Senate, a comprehensive list of potential management reforms cannot be developed. The Administrative Reform Resolution directs the House Administration Committee to supervise the development of new management practices over non-legislative services. Until these new management guidelines are promulgated, management reform topics are likely to remain fluid.

Fragmented management responsibilities

The divided management responsibilities which prompted the Obey Commission to issue its proposal still remain. Financial management responsibilities are divided between the newly established (and as yet unappointed) Director of Non-Legislative Services and the Committee on House Administration, and the other officers retain control of funds appropriated to their offices and for certain House accounts. Procurement is similarly divided with Members and committees free to enter into their own equipment or service contract arrangements with vendors without the formal intervention of House officers and management committees.

Financial accountability

Certain financial operations of the House are not subject to regularized audit. The General Accounting Office routinely audits certain aspects of House operations, and other audits are to be performed by the new office of Non-Legislative Services, but audits of all House expenditures are not now required. Under longstanding statutory authority, expenditures from the contingent account of the House (when approved by the Committee on House Administration or its chairman) are declared to be final and conclusive, and not subject to audit by routine processes either by House staff or staff of the General Accounting Office.

Under current law, funds under the administrative supervision of the Clerk of the House may be transferred for appropriate purposes to another with the concurrence of the House Appropriations Committee. (Presumably, this statute will soon be changed to grant that authority to the new Director of Non-Legislative Services). Since FY1990, House funds have been "no-year money;" that is, unexpended appropriated funds may be carried over and used in subsequent fiscal years. These practices have not been the subject of much press attention or much public discussion among House Members. The few published official reports on these subjects have been quite general; proposals might be considered for preparing more specific reports on a more regular and routine basis on these policies.

Expenditures of so-called "Joint Items" (such funds expended by the Office of the Architect of the Capitol, among others) are not routinely published in either the Report of the Clerk of the House or in the Senate companion volume, the Report of the Secretary of the Senate. The issue of public accountability might require better and more frequent reporting on these topics. Alternatively, uniform reporting requirements could be imposed on these joint entities, and their reports (rather than being published separately as now) could be included in the Clerk's and Secretary's reports.

Management in a political environment

The officers of the House of Representatives are elected at the beginning of each Congress. Historically, their nominations have been approved by the majority party caucus, and election is generally on a party-line basis, with the minority fielding a slate of candidates who, upon their defeat, form the nucleus for staff assistance to the minority leader although these staff take no formal part in the management of the House.

Some claim that biennial elections place officers (and patronage employees under them) in a position of accommodating the needs of Members of Congress first, and fulfilling their duties as managers second. There seems to be no constitutional prohibition against permitting officers to serve for more than two years (the Clerk serves from one Congress to the next until reelected or until a replacement is in order chosen to supervise the organization of the new House and the election of a Speaker).

Procedures for removing an officer of the House are described as cumbersome and contentious. The House might wish to consider rules changes permitting the Speaker or a collective management group to demand the resignation of a sitting officer before a major public controversy arises. Of course, this also raises the issue of officers' independence from control by political leaders of the House. Perhaps some compromise position ensuring a necessary degree of independence, yet maintaining official accountability could be reached.

The new Director of Non-Legislative Services is to be appointed by the Speaker on the joint recommendation of the Majority and Minority Leaders. Although the Director is not officially recognized as an officer of the House, the bipartisan selection process reflects an unprecedented step in the professionalization of senior House management. However, in the event of a deadlock in the bipartisan selection process, the Speaker remains free to name an acting Director (as he recently did in naming an acting Postmaster and acting Sergeant at Arms). Conceivably the designation of an Acting Director for an entire Congress could undermine the recent bipartisan accommodation in the Administrative Reform Resolution.

Professional personnel management

Most employees of the officers of the House (and Senate) were initially hired on the basis of political recommendations. The vast majority of these staff are professionally qualified for the positions they hold, but the role of political recommendations in hiring and promotion within the Congress cannot be overlooked. Speaker Foley has suggested that patronage employment among House administrative staff may become a thing of the past. The Director of Non-Legislative Services (when ultimately selected) will be charged with developing a position classification system for his or her staff, under the supervision of the House Administration Committee. Consideration is likely to be given to proposals to establish position descriptions, salary levels, work performance standards, and other professional personnel management standards. Attention is likely to have to be given to the role of a professional personnel chief in a political work environment, and the means by which employment standards can be effectively isolated from political influence.

Assessing the need for certain functions or services

Certain historic perquisites and benefits provided to Members have caused frequent or even continuous controversy. It might be appropriate to consider whether or not the House should continue to provide these services, or if continued, whether these services could be provided by private contractors more economically or in a manner which might subject the House to less criticism. Such services reviewed could include: the Post Office (transferring its operation to US postal employees); the Capitol Police (transferring security operations to other law enforcement entities in Washington); and reassessing other services, such as barber and beauty shops, building cleaning and maintenance, elevator operators, and other labor positions which could be provided by a private contractor.

Worker benefits and protection standards

The House and Senate have generally exempted congressional staff (as well as staff of state and local legislative bodies) from coverage under various employee protection laws. The exemption is predicated on the perceived need to keep legislative branch operations free from interference from the executive branch agencies charged with enforcement of the employee protection laws. The House and Senate have acted in a piecemeal fashion to bring some form of employee protection standards to their own staff. But, the staff protection benefits differ significantly between the House and Senate, and in many cases these protections do not match those available to executive branch or private sector employees. Congressional management studies may address the need for better and more uniform employee protection in the House and Senate, and for enforcement procedures more in line with those elsewhere.

Coordination of House and Senate management services

The two chambers have evolved very different management structures. The lack of parallel responsibilities can lead to management inefficiencies and unnecessarily conflicting policies between the chambers.

Joint management efforts—such as those associated with the Capitol Police—have often been characterized by continuing disagreements between officers of the House and Senate charged with overseeing such operations. The Architect of the Capitol, a presidential appointee, is in many ways effectively removed from managerial control by officers of either the House or Senate. The House and Senate have separate central computer facilities, some parts of which are duplicative and others of which are incompatible with those in the other chamber. Separate Page Schools exist in the House and Senate. Steps could be taken in the future find some regular coordinating mechanisms between the House and Senate which might minimize opportunities for interchamber management conflict, service duplication, and service inefficiencies.

FINANCIAL ACCOUNTABILITY

Reprogramming authority

Reprogramming authority allows the House to move unobligated funds from one appropriations heading to another appropriations heading within an appropriations account. Appropriations may be reprogrammed within the general purpose of the appropriations account, unless prohibited.

In the FY92 Legislative Appropriations Act, Congress authorized reprogramming of funds in eight headings within the House appropriations account for "Salaries and Expenses." The headings are House Leadership Offices; Members' Clerk Hire; Committee Employees; Contingent Expenses of the House (Standing Committees, Special and Select); Contingent Expenses of the House (House Information Systems); Official Mail Costs; Contingent Expenses of the House (Allowances and Expenses); and Salaries, Officers and Employees.[1] Congress also authorized reprogramming among activities within the latter two headings.

Authority to move funds was first authorized in FY81 and has been renewed on a regular basis since then. By providing transfer authority, the House gave itself the same spending flexibility available to executive agencies. From FY81 through FY88, transfer authority was allowed among six House accounts. Effective with FY89, the six former House accounts subject to transfer were made headings within a new, single account of the House, "Salaries and Expenses." As a result, funds appropriated for these headings were subject to reprogramming since movements of funds among the headings are movements within an account.

Even though the House is not required to authorize reprogramming by statute, it has statutorily authorized reprogramming. The House has further included language requiring approval of all reprogramming actions by the House Appropriations Committee. This language allows the Committee to retain its authority to review and move appropriations among appropriations headings as it determines necessary.

The Clerk of the House, as principal financial officer of the House of Representatives, serves as administrator of reprogramming requests and submits such requests with justification to the Appropriations Committee.[2] Upon approval by the Appropriations Committee, the Clerk implements reprogramming as directed by the Committee.

The House, effective FY89, has one single account for salaries and expenses. The House Appropriations Committee, however, has retained management control beyond that which exists in executive agencies by statutorily authorizing reprogramming of funds among headings within the "Salaries and Expenses" account, subject to the Committee's approval of all reprogramming.

References in congressional documents indicate that the primary justifications for transfer and reprogramming authorities are flexibility in the management of House accounts and possible savings in funds appropriated for the Legislative Branch, obviating in some cases the necessity of additional funding in supplementals.

For the past two fiscal years, Congress provided that appropriations in the House account "Salaries and Expenses" are to be no-year appropriations; that is, they are to remain available until expended. There are two restrictions on no-year appropriation availability. Any unobligated balance is not to be made available and is to be withdrawn if the responsible entity in Congress determines that the original purposes for which the appropriation was made have been met, or if disbursements from the appropriation have not been made for two full consecutive fiscal years. All funds are to remain available for the purposes for which originally appropriated until they are spent, subject to these two restrictions.

Currently, information on reprogrammings is reported in the Report of the Clerk of the House and has been placed in the Record as recently as February 1992 by the chairman of the Legislative Branch Appropriations Subcommittee.

Contingent expenses of the House

Appropriations for House contingent expenses presently are made to meet costs of administrative and salary expenditures of the House, including Members, committees, and officers. The appropriation Contingent Expenses of the House is a heading within the House account "Salaries and Expenses." Within the heading Contingent Expenses of the House are three sub-headings: (1) Standing Committees, Special and Select; (2) Committee on House Administration, House Information Systems; and (3) Allowances and Expenses. The appropriation is commonly called the "contingent fund," although there is no contingent fund of the House per se, and is so referred to in this discussion.

The Committee on House Administration has jurisdiction and responsibility over payments of all appropriations from the contingent fund. These responsibilities are recognized in House rule, statute, practice, and precedent, including a ruling of the Speaker. Authority of House Administration over the fund can be traced to 1803, when one of its predecessor committees, the Committee on Accounts, was created and given authority over contingent fund expenditures.

Specifically, the Committee has jurisdiction over all appropriations and expenditures from the fund, the auditing and settling of all accounts which may be charged to the fund, and measures relating in general to House accounts. The Committee is responsible for approving all vouchers for payments from the fund, for adjusting certain allowances of Members, officers, and the leadership, and for ensuring that expenditures are correct. By law, vouchered expenditures of the contingent fund approved by the Committee are deemed to be "conclusive" upon government financial offices, including the General Accounting Office.

While House Administration has jurisdiction over expenditure of the contingent fund and resolutions proposing to create a charge against the contingent fund are routinely referred to it, the House Appropriations Committee is charged with reporting appropriations measures setting the funding levels for House accounts, including House contingent expenses.

Usually, House Administration reports House resolutions which provide for immediate disbursements of funds for certain House activities to be charged against the contingent fund. Such disbursement authorizations are made before funds are appropriated in the normal appropriations process. If disbursements are made for non-recurring items, House action on the resolution is sufficient to authorize contingent funds for that purpose. When, however, the charges are recurring or are to become permanent, the resolution normally is converted into permanent law.

Current and previous fiscal year appropriations for all sub-headings in the contingent expenses heading are included in the committee reports accompanying the regular annual and supplemental legislative appropriations. Additionally, discussions on the contingent fund can be found in the legislative appropriations hearings on the regular annual bill.

Options

1. Require detailed reporting of all reprogramming activities, including dollar amounts and reasons for reprogramming.
2. Require that all reprogramming activities be published not only in the Report of the Clerk but also annually in the Congressional Record and be available for viewing in the Clerk's Office.
3. Require that the new Office of Inspector General regularly audit all accounts subject to reprogramming and make all findings public.
4. Require coherent and detailed annual reporting of all expenditures from the contingent fund heading.

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[1] Public Law 102-90, 105 Stat. 454, August 14, 1991, section 101, Legislative Branch Appropriations, FY92.

[2] The Clerk receives receipts and disburses appropriations for all expenses of the House, with three exceptions. Members' salaries, mileage (to and from each congressional session), and payments to survivors of deceased Members are disbursed by the House Sergeant at Arms. The House Finance Office maintains records of House accounts and administers financial transactions for the Clerk.

5. Require that the new Office of Inspector General regularly audit and make public all findings on use of the contingent fund.

Pending legislation

1. H. Res. 376, introduced 2/25/92 by Rep. Hefley. To limit availability of money for House "Salaries and Expenses" to one year; to require excess amounts of such appropriations to be used to purchase openmarket, interest-bearing obligations of the Government.

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U.S. Congress. House. Committee on Appropriations. Subcommittee on Legislative Branch Appropriations. Legislative Branch Appropriations for 1992. Hearings, 102nd Cong., 1st Sess., Part 2, Feb. 5, 1991. Washington, U.S. Govt. Print. Off., 1991:35. Includes reference by House Clerk to accountability for appropriations within the Contingent Expenses heading.

OFFICE SPACE AND FACILITIES

Congressional space is not limited to the Capitol. House operations are concentrated in five office buildings (Cannon, Longworth, Rayburn, O'Neill, and Ford), with the Senate in three main buildings (Russell, Dirksen, and Hart), two subsidiary buildings owned by the Congress (the Plaza and Immigration Buildings), and rental space at 400 North Capitol Street. Substantial office space is also used by legislative branch entities: the three Library of Congress buildings (plus rental Library space at GSA facilities in Landover and Suitland, and overseas branch offices); the GAO building at 4th and G Streets, N.W., plus GAO branch offices world-wide; Office of Technology Assessment offices in rental space at 6th and Pennsylvania SE; the main Government Printing Office building on North Capitol Street; and the St. Cecilia School buildings recently acquired at 6th and East Capitol Streets SE. The Architect of the Capitol has responsibilities over the Botanic Garden and its structures, as well as the Capitol Power plant. The Congress also provides office space in Federal buildings or in privately owned office space as State and District offices for Representatives and Senators.

The apportionment of space in the House has not been reviewed by a special entity since the Commission on Information and Facilities studies of 1976. A comparable, public study of space has not been undertaken in the Senate, but space needs and space apportionment were clearly undertaken when the Hart Building opened in the early 1980s. In 1980, the House Select Committee on Committees recommended that utility space above Statuary Hall be converted to a study room where Members could work near the floor during House sessions; before the House could formally consider the proposal, an amendment to that year's Legislative Branch Appropriations bill banned the use of any congressional funds to implement such a plan. More recently, the Architect of the Capitol began to consider plans to construct an underground visitors center beneath the East Front Capitol plaza, but further actions were shelved when estimated costs proved too high.

Options

1. Leave office space and facilities as they are. Possible costs associated with major renovations and reconfigurations are unacceptable in current era of fiscal constraints.

2. Conduct comprehensive study of space allocations in all congressional buildings; develop inventory and cost estimates associated with rental space (State and District offices, support agency rental space, congressional rented space in Washington) the costs of which are paid from legislative branch funds.

3. Ban rental of privately-owned facilities by legislative entities; require location of such operations in government-owned buildings.

4. Study effective uses of high technology devices to improve office operations within legislative branch; consider pilot or demonstration projects; employ qualified consultants to suggest appropriate uses of new technology in legislative environment.

5. Centralize procurement of equipment for the Congress; require procurement or leasing through General Services Administration as cost control measure.

6. Study differences in House and Senate space and facilities policies to eliminate conflicting or costly operating differences.

7. Consolidate staff in satellite Washington facilities into principal congressional buildings; ban or review more closely the need for rental space for congressional activities.

8. Abandon or demolish O'Neill, Plaza, and Immigration Buildings as outmoded or unsafe for further use as offices.

9. End practice of providing space in congressional buildings for private sector services, executive agency liaison offices, and news media; alternatively, charge appropriate commercial rates for such services.

10. Study reconfiguration of congressional buildings (including structural modifications and use of newer furnishings and equipment) to increase usable square footage.

Pending legislation

1. H.R. 5019, introduced 4/29/92 by Rep. Packard. In part, requires Congress to enter into contracts with the lowest qualified bidders.

2. S. Amdt. 1769 (to S. Con. Res. 106, concurrent budget resolution), offered by Sen. Seymour 4/9/92, agreed to 4/9/92 as amended by Sen. Sasser amendment 1770. Cut operating costs in the legislative and executive branches by 25%.

3. H.R. 4199, introduced 2/7/92 by Rep. Kolter. Require GSA administrator to review existing House motor vehicle leasing, with future leasing to be done through GSA.

4. H. Res. 238, introduced 10/3/91 by Rep. Lancaster. Set aside a section of the House Gallery for use of scholars and permit them to take notes.

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APPLICABILITY OF LAWS TO CONGRESS

Congress has been widely criticized for being exempt from various laws, particularly equal employment opportunity and labor legislation, but also other measures, including the Freedom of Information Act, the Privacy Act of 1974, and certain provisions of the Ethics in Government Act of 1978. Critics often fail to note the policy considerations and constitutional grounds (i.e., the separation of powers doctrine and speech or debate clause immunity) that may explain such exemptions. Both the House and Senate have acted in the last few years to apply certain civil rights and labor laws to their employees, but some have called for additional legislative action to address several issues. (1) House and Senate employees are not covered by the rights and protections of the same laws, and some laws are still not applicable to either body. (2) To the extent that they are covered, House employees are limited to in-House enforcement procedures with no right of judicial review and are entitled only to the remedies specified in the House Fair Employment Practices Resolution. (3) Senate employees must follow the internal Senate enforcement procedure (but they do have a right of appellate judicial review) and are entitled to the remedies in certain statutory provisions incorporated in the Civil Rights Act of 1991.

Options

1. Maintain the status quo, allowing both bodies time to implement and assess their recently adopted reforms.

2. Extend to House employees the right of appellate judicial review and the statutory remedies granted to Senate employees in the Civil Rights Act of 1991. Make Members of the House personally liable for payment of awards in discrimination cases, as are Members of the Senate under the 1991 law.

3. Grant both House and Senate employees a right to a jury trial after exhausting administrative remedies.

4. Extend to House and Senate employees rights and protections under all civil rights and labor laws that apply to the executive branch, with remedies and internal enforcement procedures for congressional employees similar to those now available to other Federal employees.

5. Extend to House and Senate employees rights and protections under all civil rights and labor laws that apply to the executive branch, with enforcement authority vested in an independent entity.

Pending legislation (102d Congress)

1. Accountability in Government Act of 1992, transmitted to Congress 4/9/92, by President Bush. Extends to Congress and the White House relevant portions of various civil rights, labor, information, and ethics laws. Except with regard to criminal penalties, enforcement would be by private suit or by the General Accounting Office.

2. H.R. 895, introduced 2/6/91, by Rep. Jacobs. Extends to Congress provisions of the Civil Rights Act of 1964, the National Labor Relations Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, the Freedom of Information Act, and the Privacy Act of 1974.

3. H.R. 3532, introduced 10/9/91, by Rep. Boehner. Applies the Freedom of Information Act to Congress, but exempts from disclosure casework files and constituent correspondence.

4. H.R. 3799, introduced 11/18/91, by Rep. Klug. Extends title VII of the Civil Rights Act of 1964 to the legislative and judicial branches. Establishes an Employment Review Board composed of senior federal judges to adjudicate discrimination claims.

5. S. 2089, introduced 11/26/91, by Sen. Nickles. Extends to Congress, its instrumentalities, and certain executive branch employees the provisions of the National Labor Relations Act, the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1967, the Age Discrimination Act of 1975, the Occupational Safety and Health Act, the Equal Employment Opportunity Act of 1972, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Privacy Act of 1974, and title VI of the Ethics in Government Act of 1978.

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MANAGEMENT AND ACCOUNTABILITY

The Congress of the United States is, in most respects, the most intensely scrutinized component of the Federal Government. Earlier reforms dating from 1946 have made information about congressional operations more accessible to the public and the press. Chamber sessions are televised daily; committee meetings are generally open to the public and press; Members and senior staff are required to file annual statements of income, assets, and liabilities; congressional operating expenditures are reported quarterly by the House and semi-annually by the Senate. Annual reports of activities are prepared by congressional support agencies and by the Architect of the Capitol.

Despite this greater public accountability, many internal operations of the Congress have developed by custom and are not governed by strict lines of management accountability. While arguably legislative and political organizations should be more flexible and less formal than government bureaucracies, many congressional observers believe that clearer lines of authority, removal of duplicative or unnecessary services, stronger management controls, and more comprehensive review and accountability are required in congressional operations.

Congressional management issues are further complicated by bicameral relationships. Essentially every congressional management issue has three components to it. There is a chamber specific component: are formal authorities and accountability sufficiently strong and clear; are essential functions fragmented or divided among different officers or administrators; and are the linkages between managers and relevant House or Senate committees sufficiently strong to ensure effecting congressional control over its own operations? There is an inter-chamber component: if the House and Senate provide different management services or structures, is that difference justifiable or could more efficiency be achieved by agreeing to identical management structures for both chambers? There is also a bicameral component: certain congressional functions are jointly supervised by House and Senate units (the Architect of the Capitol, Capitol Police, the four legislative support agencies). Essentially the management units for each are different. Do different management units achieve justifiable benefits, or could better management and accountability for joint entities be achieved by supervision by just one congressional committee or unit?

Options

1. Abolish House Doorkeeper's Office as unnecessary in wake of shifting of non-legislative services to new post of Director and concentrating legislative functions in the Clerk of the House.

2. Abolish unnecessary separate House and Senate services or functions, and provide services jointly: for example, there are now separate House and Senate Page Schools; separate House and Senate Computer Centers; separate House and Senate Libraries and Document Rooms; and separate press and media galleries, among others.

3. Centralize oversight of the four support agencies into one joint committee, or possibly into a joint subcommittee of the House Administration and Senate Rules and Administration Committees. Consider unifying support agencies and technical services into one omnibus entity.

4. Centralize management of congressional security forces: abolish separate House and Senate "details" for Capitol Police; merge security personnel of Library of Congress and other support units into central force; give police personnel responsibility for chamber security instead of civilian doorkeepers; alter composition and management authority of the Capitol Police Board to make it more accountable to congressional leaders.

5. Make financial reporting more accessible: publish employment and expenditure data in *Congressional Record;* make payroll data open to inspection by public and press; or publish data in *Clerk's and Secretary's Report* more frequently.

6. Review statutory authorities of the officers (and senior managers) of the House and Senate; eliminate archaic provisions; reduce overlapping responsibilities; revise statutes in light of actual, current management practices.

7. Review need for party secretary positions in the Senate in light of overall management reviews. Review work of the "five minority employees" in the House, and consider reclassification of positions.

Pending legislation

1. S. 1649, introduced 8/2/91 by Sen. DeConcini, to establish congressional Constituent Services Office to investigate citizen complaints and grievances about Federal agency action.

2. S. Res. 273 introduced 3/19/92 by Sens. Mitchell and Dole, to amend Senate Rules to provide guidance in Senators and staff in responding to constituent inquiries and in communicating with Federal agencies.

3. H. Res. 435, introduced 4/9/92 by Reps. Camp and Upton, to limit expenditures of House employee salaries and House official expenses accounts to one year.

4. H. Res. 438, introduced 4/9/92 by Rep. James, to appoint a bipartisan search committee to locate candidates for House Sergeant at Arms.

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IV. STAFFING AND ALLOWANCES

The salaries, allowances, and benefits paid or available to Members of Congress have been matters of frequent controversy throughout history. Recent action to approve the 27th Amendment to the Constitution focused public attention again on the issue of appropriate congressional salaries. Press and public criticism of the Congress, especially the House of Representatives, has brought renewed attention to benefits, services, and other perquisites available to the Members.

Earlier this year, the House adopted the Administrative Reform Resolution establishing new management duties and authorities over non-legislative operations of the House. As part of this reform, preliminary steps have been taken to end certain benefits or to impose some fees to help defray benefit costs. However, the full range of such benefits and services have not been reviewed in depth since 1977. A study of these issues is likely to focus on the following components: appropriate levels of personal and committee staff assistance; the relative importance of locating personal staff in Washington versus home district or State offices; methods of improving management of staff and other resources; appropriate levels of allowances to cover "official" expenses, and appropriate use of official expense funds; provision of ancillary services to Members of Congress and staff, and the degree to which these services should be continued at current levels, eliminated altogether, or provided on something approaching a fee-for-service basis.

Staffing

Congressional staffs grew substantially during the 1970's, in part, as a means to give Members and Committees access to more information on pending legislation and to make available more information independent of the executive branch. Committee and personal staff numbers did not grow appreciably during the 1980's, and there are now proposals offered to reduce the level of staff in both Members' offices and in committees. The questions on this subject are primarily related to the appropriate and necessary level of staff required for Congress to exercise its constitutional role effectively, whether such staff are suitably trained and compensated for the services they perform, and whether the declining volume of legislative work in the Congress will permit a significant reduction in staff levels.

Allowances

The 1970s was also a period in which the expense allowances of Members were substantially increased. Not only did the absolute dollar amount available to Members grow, the House (and Senate) acted to increase the range of purposes for which such expense funds could be used. Members were authorized to transfer funds between their staff salary accounts and their official expense allowance accounts (within certain limits), thereby giving each Member more flexibility in determining their support services priorities.

In general, studies are likely to focus on a basic issue: are expense allowances too generous, or should they be enlarged further. Relatedly, there may be questions raised about re-instituting certain expense limitations which were phased out during the 1970s. For example, the number of trips home which could be charged against the expense allowance was once set at an absolute maximum; now there is no limit, and some suggest it be reinstated. Some have also questioned the need to continue to permit the allowances to be used for certain purposes; for example, should the allowance be used for leasing mobile offices or for leasing automobiles, should Members be permitted to lease their own specialized office equipment (computers, fax machines, copiers, and cellular phones, for example), or should each office be provided a standard basic allotment of equipment? House and Senate allowance structures are significantly different, and questions may be raised about whether they can be brought into greater uniformity.

Services

A number of historic services provided to Members of Congress and staff either free of charge or at reduced charges have recently come under closer examination. A Task Force of the House Administration Committee has undertaken a review of these perquisites, but has not yet come to any final conclusions on them. A reform study could review any recommendations from this Task Force, or consider other benefits not examined by it.

Some have suggested that all services and facilities provided Members and staff of the Congress (other than those essential in discharging legislative and representational duties) be provided by private vendors charging market rates. Others have argued that most private businesses and executive branch agencies provide specialized services for their executives and staff, and that Members and congressional employees should not be treated in a worse manner than their executive branch and private sector counterparts merely because they are part of the legislature. There is, of course, the underlying issue of defining precisely what services are not essential to the discharge of legislative and representational duties.

Among the services coming under suggested review are: health services and facilities, athletic facilities, food services and catering staffs, transportation services, media resource centers and staff, barber and beauty shops, and gift shops, among others.

Miscellaneous topics

Services and facilities of the Congress are provided by the leaders and officers of each House, and by a bicameral officer, the Architect of the Capitol. Questions have been raised about the degree to which the Architect is subject to effective supervision by the bicameral leadership.

The House and Senate have historically employed teenagers as congressional pages and messengers. The House and Senate have different rules for the employment of pages, and each provides separate educational programs for their pages. Questions have arisen about the utility of maintaining the page system, and about establishing uniform page educational, residential, and employment requirements.

ALLOWANCES, SUPPLIES, PERKS, AND EQUIPMENT

Members of the House have three allowances available to them: (1) the Clerk Hire Allowance; (2) the Official Expenses Allowance; and (3) the Official Mail Allowance. These allowances are available to support official and representational duties to the districts from which elected. The allowances are not to be used to defray any personal, political, or campaign-related expenses. Additionally, each Representative is personally responsible for payment 'of any expenses incurred which exceed the set allowances.

Each Member is entitled to an annual Clerk Hire Allowance of $537,480. Each Member's Official Mail Allowance is based on formula. A base allowance of $122,500 is authorized each Member for his/her Official Expenses Allowance. This base allowance is in addition to sums for travel and district office space both based on formula. The average Expenses Allowance is $193,537. It may be used for expenses of travel, office equipment lease, district office lease, stationery (including paper, envelopes, and other supplies), telecommunications, printing, postage, computer services, and other official expenses. Expenses that cannot be paid from the allowance are detailed in law and by the House Administration Committee. Vouchers for expenditures must be approved by the Committee, and members are required to file quarterly reports showing their use of expense allowances.

Members also are entitled to a public document envelope allowance, a mileage allowance to and from each session of Congress, and a travel allowance for organizational caucuses and conferences.

In addition, there are chargeable services available to Members, including those of the Barber and Beauty Shops, party photographers, printers, Botanic Garden (plants), Recording Studio, Stationery Room, gym, Office of Attending Physician, military hospitals, among others. Other services are available such as furnishings for offices (on loan), file storage assistance, credit union, parking spaces at area airports, National Gallery painting reproductions.

In 1971, the House authorized the House Administration Committee to review and make appropriate adjustments in various Member allowances without requirement of House approval or disapproval. Any action was required to be published in the Congressional Record. In 1976, the House revised this authority to require adoption of resolutions by the House for adjustments in allowances and to limit the Committee's authority to make adjustments except to reflect changes in price of materials, changes in technology, and changes in cost of living.

Concerns with allowances and services focus primarily on the types and propriety of various allowances, perquisites, and benefits, those personal services provided at less than market value, and methods by which allowances are adjusted.

Options

1. Require action by the House to authorize any adjustment in congressional allowances and benefits.
2. Repeal the House Administration Committee's authority to make such adjustments, or to require any adjustment by that Committee to be approved by the House to take effect.
3. Require a roll call vote on any proposal affecting Member perquisites.
4. Require Members to pay market rates for various benefits, including some or all of the following: medicine, hospital care, ambulance service, meals, flowers, plants, pictures, picture framers, haircuts, or other items, services, or privileges.
5. Bring congressional benefits in line with those received by other Federal employees.
6. Make public any adjustments in allowances, services, benefits for Members and their staffs.
7. Conduct a thorough study of existing allowances, services, and benefits requiring the House to decide which to retain or eliminate as unnecessary.

Pending legislation

1. H.R. 3610, introduced 10/22/91 by Rep. Kostmayer. To require Members to pay for medical services and medications obtained from the Office of Attending Physician. Related: S. 1830, H.R. 3724, H.R. 4057.
2. S. Res. 238, introduced 11/27/91 by Sen. Specter. To require to the Committee on Rules and Administration to report no later than June 30, 1992, on a plan to deal with Senators' perquisites with a view toward having them pay full market value for such perquisites or having their value included in a Senator's overall compensation.
3. H. Res. 291, introduced 11/21/91 by Rep. Hughes. To eliminate perquisites for Members of the House. See also H. Res. 406.
4. S. 2174, introduced 1/31/92 by Sen. Daschle. To preclude Members and staff from receiving any benefit not available to other persons unless determined necessary to the performance of duty; require the House and Senate Sergeants at Arms to compile a list of all services and benefits not available to other persons and report these to the House Rules and Senate Rules and Administration Committees for them to determine which are necessary to performance of duty and which are not but appropriated should be available at fair market rates to Members and staff, with any profits therefrom to go towards deficit reduction; all perks determined unnecessary be eliminated.
5. H.R. 4199, introduced 2/7/92 by Rep. Kolter. To require GSA Administrator to review existing House motor vehicle leasing; future leasing to be done through GSA.
6. H.R. 4294, introduced 2/25/92 by Rep. Nussle, et. al. To privatize the House gym and barber shops; eliminate reserved parking at National Airport for Members; terminate free in-House prescription service for Members, among other provisions.
7. H. Res. 405, introduced 3/20/92 by Rep. Hunter. To require Representatives to pay for certain medical or personal goods and services.
8. H.R. 4612, introduced 3/26/92 by Rep. Solomon. To repeal and prohibit all privileges and gratuities for Members of the House.
9. H. Res. 408, introduced 3/26/92 by Rep. Wylie. To have GAO study the nature, extent, and cost of perquisites available to House Members and to reform such perquisites before the end of the 102d Congress.
10. H. Res. 416, introduced 4/1/92 by Rep. Taylor (MS) et. al. To prohibit assignment of Government motor vehicles and drivers to political party whips in the House.
11. H. Res. 423, introduced 4/8/92 by Rep. Gephardt. Democratic management reform proposal (adopted April 9) which included a provision authorizing the House Administration Committee to take necessary action, in accordance with directives from the Speaker, to eliminate House perks.
12. H. Res. 424, introduced 4/8/92 by Rep. Oakar. To eliminate a number of House perks, among them, car wash service, picture framing, assignment of government vehicles and drivers for exclusive use of a Member, use of military aircraft for domestic and for-

eign travel unless less costly than use of commercial aircraft, no-cost flowers from the Botanic Garden, subsidy for purchase of certain calendars, free parking at area airports; to require certain supplies and services be made available only at full market pricing; and to privatize all printing services offered by the majority and minority printers.

13. H. Res. 437, introduced 4/9/92 by Rep. Roberts. To privatize designated House operations and reduce staff accordingly.

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CLERK HIRE

Representatives and Senators each receive appropriated funds to pay for clerk-hire. In the House a Member may hire no more than 18 fulltime and 4 part-time staff, for which he is authorized about $598,000 per year. Members seldom hire the full complement of authorized staff and seldom spend the entire authorized allowance even when they do hire up to the ceiling.

By contrast, a Senator's clerk-hire allowance is based on the size of the State's population. It can range from as low as $1.3 million per year to as high as $2.3 million. However, three-fourths of Senators qualify only for the least amount available. On average Senators employ 40 personal staff, with the range being from the mid 20s to the mid 70s. As in the House, Senators frequently do not spend their entire clerk-hire allowance.

Members of both the House and Senate make extensive use of interns (mostly unpaid) and fellows (paid by outside sources) to supplement the 12,000 or so staff hired with appropriated funds (roughly 8,000 in the House and 4,000 in Senate). Another practice that is growing is for Members from the same State and, usually, same party to share staff.

Yet a third contemporary trend has been to place increasing numbers of personal staff in district and State offices. Collectively the 435 House Members have about 900 district offices and house about 40 of their staff in them, while the 100 Senators have 975 State offices and place more than a third of their staff in them.

Key issues include the numbers of staff, the appropriate ratio between personal and committee staff, the types of staff hired by Members and whether they are used effectively, the influence of staff, the effects of staff turnover, pay equity among staff doing comparable work, and the rules for hiring employees and employee rights.

Options

1. Reduce the number of congressional staff, especially committee staff, either by percentage cuts in the number of staff or by reductions in funding for them. Relatedly, centralize more operations, e.g., constituency service.

2. Institute rules for the hiring of staff that correspond more closely to those under which other Federal Government employers must operate yet retain appropriate hiring flexibility for Members. Relatedly, inquire into and assure pay equity among congressional staff doing similar work.

3. Upgrade recently enacted employee rights for congressional staff to conform them more closely to those granted other Federal employees, including the right to judicial remedy for alleged discrimination or mistreatment.

4. Impose limits on the tenure of congressional staff. Contrarily, explore ways in which to lengthen the period of time, which is quite low, that personal staff remain in positions and on the Hill.

5. Augment training programs for congressional staff in order to increase their knowledge, skills, and ability to be of optimal assistance to Members.

6. Define more clearly appropriate and inappropriate official conduct by staff so as to curb misuse of authority and train staff accordingly.

Pending legislation

1. Constituent Service. Senate Amendment 269, offered by Sen. Dole 5/23/91 to S. 3 (withdrawn), would require Federal agencies to log and report written and unwritten congressional inquiries about enforcement matters and contract award proceedings. S. 1649, introduced by Sen. DeConcini on 8/2/91, would establish an Office of Constituent Services to investigate constituent complaints and grievances about Federal agency actions referred to it by a Member or committee. S. Res. 273, introduced 3/19/92 by Senate Majority Leader Mitchell and Republican Leader Dole, would provide guidelines for, enumerate acceptable forms of intervention by, and require the avoidance of connections between campaign contributions and interventive action by Senators and Senate employees in discharging the representative functions of Members with respect to communications with Federal agencies on behalf of petitioners.

2. Employee Rights. H.R. 3555, introduced 10/11/91 by Rep. Bennett, would, inter alia, apply various provisions of selected civil rights and labor laws to Congress. Similar bills and resolutions include: H.R. 895, introduced 2/6/91, by Rep. Jacobs. Extends to Congress provisions of the Civil Rights Act of 1964, the National Labor Relations Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, the Freedom of Information Act, and the Privacy Act of 1974; H.R. 3734, introduced 11/7/91 by Rep. Dannemeyer et al; H.R. 3799, introduced 11/18/91, by Rep. Klug. Extends title VII of the Civil Rights Act of 1964 to the legislative and judicial branches. Establishes an Employment Review Board composed of senior federal judges to adjudicate discrimination claims; H.R. 3880, introduced 11/22/91 by Rep. Gillmor; H.R. 4224, a multiple reform bill, introduced 2/14/92 by Rep. Fawell; H.R. 4284, introduced 2/20/92 by Rep. Gillmor; H.R. 4294, introduced 2/25/92 by Rep. Nussle et al; H.R. 4347, introduced 4/9/92 by Republican Leader Michel on behalf of the Bush Administration; H.R. 4894, introduced 4/9/92, by Rep. Chandler; H. Con. Res. 225, introduced 10/23/91 by Rep. Goss; H. Res. 127, Republican Rules reform resolution, introduced 4/17/91 by Rep. Edwards (OK) et al; H. Res. 419, introduced 4/3/92 by Republican Leader Michel et al; H. Res. 421, a multiple reform resolution, introduced 4/7/92 by Rep. Armey; S. 1937, introduced 11/7/91 by Sen. Coats; S. 2089, introduced 11/26/91 by Sen. Nickles, Packwood, and Mikulski; and S. 2366, introduced 3/18/92 by Sen. Coats and Seymour.

3. Pay Equity. H. Con. Res. 222, introduced 10/16/91 by Rep. Snowe, would establish a Commission on Employment Discrimination to investigate pay inequity in the legislative branch and develop a plan for eliminating it.

4. Staff Size, Funding, or Tenure. H.R. 1897, introduced 4/17/91 by Rep. Thomas (CA) et al, would limit staff growth in each branch of the Federal Government. Similar legislation includes: H.R. 2595, introduced 6/7/92 by Rep. Thomas (CA), to require a 5% workforce reduction in each branch of Government; and H. Con. Res. 288, introduced 3/4/92 by Rep. Edwards (OK), to limit House and Senate personal and committee employee positions to those available at the end of the first session of the 102d Congress and to reduce committee funding over the next three Congresses by 30%. H.R. 4555, introduced 3/24/92 by Rep. Nichols, would limit the number of years that a staffer can be employed by the House to 12 years.

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DOMESTIC TRAVEL

Members of Congress are authorized public funds for domestic travel (foreign travel is separately discussed in this report) for three purposes: to come to Washington for the convening of a session of Congress and to return to their District or State upon adjournment sine die, to travel to, from, and within their districts and States during a session, and for trips in connection with committees on which they serve or as part of chamber delegations. In addition, each Representative-elect is paid for the round-trip from his residence to Washington, D.C. to attend the party organizational meetings held after each general election and before the next convening of Congress.

House Members are authorized to pay for their during-session travel from their official office expense allowance according to a formula (distance from D.C. to farthest point in district x 64 x 23¢ to 39¢ per mile depending on distance between district and D.C., but at least $6,200). Senators are authorized to pay for such travel, and for other travel for official business—but not for commuting, from their official office expense allowance. The amount authorized a Senator varies depending on the State's distance from Washington, D.C. Both Senators and Representatives determine the extent to which they will spend from these allowances for travel and for the other purposes for which the allowance may be used. Accordingly, the number of such trips and their overall cost is not readily ascertainable. Any travel costs incurred by Members beyond these must be met from personal or campaign funds. Calculating per Member costs of domestic travel incurred for committee or chamber related activities is difficult because of its sporadic nature.

In addition, and as available, Members may travel on Government-owned airplanes for official purposes. An ambiguous area relates to the extent that Members may accept travel paid for by other sources. Federal law and House and Senate rules authorize outside payment of, or reimbursement for, travel expenses related to Members making appearances. In a gray zone is "no cost" travel accorded Members for other reasons.

Issues related to domestic travel include whether: (1) the number of publicly funded trips are too many or too few, (2) travel occurs at the most economical cost, (3) seating upgrades, other airline discount privileges accorded to Members for travel, and free travel not specifically authorized by law may constitute a "gift," and (4) it is appropriate for Members to travel on Government-owned airplanes and, if so, for what purposes and, collaterally, how the cost of such travel should be estimated. Few bills related to travel have been introduced in the 102 Congress.

Options

1. Significantly reduce the amount of publicly paid for travel whether from funds directly provided to Members or on Government-owned planes.
2. Study Member travel of all kinds (official, speech and appearance related, funeral delegations, campaigning related, etc.) and set forth detailed guidelines and standards for each type and how it is to be accounted, reported, and paid for.
3. Either set rules and standards for, or curtail or eliminate, "free travel" and airline discounts.
4. Subject all travel by whatever means to full disclosure.
5. Tighten authorization rules for official travel.
6. Require all travel tickets to be issued by a central office in each chamber at the most economical rate.
7. Enact a standard and uniform formula for calculating the costs for travel for official purposes by Senators and Representatives.

Pending legislation

1. S. 1855, introduced 10/22/91 by Sen. Grassley, would require all Federal travel, including congressional, to be as economical as possible, and to be fully reported and justified.
2. H.R. 4530, introduced 3/20/92 by Rep. Kanjorski, would require advance approval and greater disclosure of and accountability for all Federal Government travel.
3. H.R. 4199, introduced 2/7/92 by Rep. Kolter, would require the GSA Administrator to review existing House motor vehicle leasing policy and would require leasing in the future to be done through GSA.
4. H. Res. 347, introduced 2/5/92 by Rep. Santorum et al, would limit congressional mileage rates to those accorded other Government employees.

Literature citations

Salaries and Allowances: The Congress, CRS Report 92-86 GOV, by Paul E. Dwyer, revised April 27, 1992, 12 p.

FOREIGN TRAVEL

Members and staff participate in foreign travel on official House business primarily through their official duties as members of committees and as participants in delegations appointed by the leadership. Additionally, Members and staff travel at the request of the executive branch. Only House Members who have been defeated for reelection or have resigned or retired are prohibited from participating in foreign travel at government expense.

Funds used to pay for congressional foreign travel include appropriations for the legislative branch, appropriations for State and Defense, and counterpart funds. The latter funds are those local currencies held by the United States in a foreign country and made available to congressional committees and delegations to meet local expenses while engaged in official business in that country.

Committees and delegations are required to file foreign travel expenditure reports on a quarterly basis. Reports must be submitted within 30 days after completion of travel to the Clerk of the House. Further, reports are periodically published in the CONGRESSIONAL RECORD and be open in the Clerk's Office for public inspection within ten legislative days after receipt. In addition to the statutory requirements, provision is also made in House Rules governing delegation travel authorized by the Speaker and relating to use of and accounting for counterpart funds by House committees. Not all foreign travel expenditures paid from Defense and State budgets are reported and publicly available.

Transportation may be either commercial or military. Present law permits congressional travel on military aircraft when necessary. For this, the Defense Department makes available use of the 89th Airlift Wing, stationed at Andrews Air Force Base. The Department retains authority to determine proper use. The 89th Wing also is available for executive branch foreign travel.

While the merits of foreign travel have been debated since the early 1800s critics of late have directed attention not so much on the alleged dubious benefits of such travel as on the need for greater accountability of expenditures and justifications for such travel. Also at issue are alleged inappropriate uses of military aircraft on legislative business. Suggestions have been made to eliminate the discretionary authority by Defense to determine purposes for which military planes are to be made available to Members and to require Congress to authorize theirs use.

Options

1. Require detailed, public reports of all foreign travel providing itineraries, expenses, purposes of travel, and accomplishments.
2. Require the majority and minority leadership to authorize as necessary for official purposes the use of military aircraft or any other flights provided by the executive branch for Congress, and, eliminate any presumed authority by Defense or any other executive agency to provide such services on a discretionary basis.
3. Require a separate appropriation for all foreign travel by delegations and committees of Congress.
4. Require congressional use of State and Defense appropriations to be itemized in detail and made publicly available in a timely manner.
5. Require use of least expensive transportation mode particularly if that means use of commercial over military aircraft.
6. Require clarification on policies governing use of military aircraft for both congressional and executive travel.
7. Require House approval for all foreign travel by Representatives and staff except in cases where joint leadership determined national security to be at issue.
8. Alternatively, require House approval for all delegation travel and a vote in full committee for all travel related to the committee's business.

Pending legislation

1. H.R. 4985, introduced 4/9/92 by Rep. Wise. To require a separate appropriation for all congressional foreign travel.
2. H.R. 461, introduced 1/7/91 by Rep. Kanjorski. To apply the legislative branch foreign travel rules and requirements to the executive and judicial branches of the Federal Government.
3. S. 1855, introduced 10/22/91 by Sen. Grassley. To require all Federal travel, including congressional, to be as economical as possible and to be fully reported and justified.

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Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the Member from Dutchess County who shares the Hudson Valley with me, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I view today as an opportunity to move forward legislation to contribute to the examination of the congressional operations and the recommendations of reforms.

Mr. Speaker, as a result of House bank and post office scandals, the focus on congressional perks, runaway Government spending and a Federal budget deficit of nearly $400 billion, gridlock between Congress and the President—it is not surprising that public approval of Congress stands at an all-time low.

The public demands that Congress improve its performance and responsiveness. Today we have the opportunity to move forward legislation to establish a joint committee charged with thoroughly examining congressional operations and recommending reforms to make the institution more effective and efficient.

I expect this joint committee will address many of the recent criticisms of Congress—that there are too many committees and too many staff, too much partisanship, too little oversight, and a lack of communication between Chambers and branches.

Issues before us are far more complex than they were when Congress last conducted a comprehensive review of its procedures—nearly 30 years ago. Many of the problems confronting this institution have changed, and its operations must be reformed to respond to new issues and new demands.

We have acted on campaign financing reform. Now is the time to streamline our operations to be more responsive to the people's agenda. While it may not cure all that ails this institution, I hope this legislation will be a step in the journey toward restoring public confidence in Congress.

I want to thank the members of the Rules Committee for their hard work in expeditiously reporting this bill to the floor. The process of reform and change in Congress is continuous and evolutionary. Times are rapidly changing and Congress must change with it. I urge my colleagues to support this important resolution. We can and must do better.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS], our ranking member of the Committee on House Administration.

Mr. THOMAS of California. Mr. Speaker, as the ranking member on the Committee on House Administration I strongly encourage passage of this resolution. In doing so, I urge you to consider what it is that the Joint Committee on the Organization of Congress should accomplish. Will the Legislative Reorganization Act of 1993 fundamentally restructure the organization of Congress? Or will it be another dismal failure?

The framers of the Legislative Reorganization Act of 1946, which is universally regarded as the most ambitious reorganization in history of Congress, had three basic objectives: to streamline the committee structure, to develop professional staff, and to enhance legislative control of the Federal budget process. The act basically succeeded in the first two objectives, at least in the short term, and failed in the third.

However, the most significant feature of the 1946 act, reducing the number of committees and clarifying their jurisdictions, was subsequently undermined by the proliferation of subcommittees. Today there are over 240 of them. In 1947, the standing committees of the House had 167 employees, 40 years later they had 2,024 employees. Over the same period, the ratio of bills passed to bills introduced fell from 22.8 percent to 16.9 percent.

Every attempt at comprehensive reform of this organization since 1946 has largely failed. There have been numerous attempts at institutional reorganization, including the 1965 Joint Committee on the Organization of Congress, and two different House Select Committees on Committees, which produced little more than window dressing. Why? Because Congress refused to accept any comprehensive changes.

In each case, the ostensible endorsement of reform was followed by an erosion of support. During innumerable hearings, legislators had plenty of suggestions on how to reform the structure and procedures in Congress. But those who would have lost the most as a result of the changes possessed a disproportionate amount of power to resist them.

We need to spend some time reviewing the reasons why previous efforts at reorganization have failed in order to gain an understanding of how we might now succeed. Before the committee can suggest changes, it must research and understand the incentives embodied in the existing structure. Any suggested changes must be brought up and presented in a way that enhances their chance for passage.

Only those who are immersed in the process can engage in the introspection and self-evaluation that is needed. Surely you would not expect a college freshman to revise the curriculum. If this committee is to propose realistic changes, the members of the committee must have a day-to-day working knowledge of the current structure.

In 1945, the Joint Committee on the Organization of Congress sought to systematize and reorganize the committee system by eliminating obsolete committees and consolidating others. We need to rekindle this effort—perhaps our theme could be "Renew in '92." Ultimately, the goal must be a more efficient and responsive people's branch of Government. This can only be accomplished through a thorough and systematic examination of the structure and procedures of this institution. We need to construct a committee system of carefully defined and distinct jurisdictions, in which membership does not overlap, and meeting times do not conflict.

As a final point, I would like to commend the drafters of this resolution for succeeding where the resolution creating the House Administrator failed so miserably. Nowhere in the universe of parliamentary procedure does a tie vote move a measure forward, except in the new Subcommittee on Administrative Oversight which was created by that resolution. Any real reform must be truly bipartisan, perhaps the structure created by this resolution will permit real reform.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Massachusetts for yielding the time.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 192 of which I am a proud cosponsor. This resolution has been primarily authored by two of the most estimable Members of this body, the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Ohio [Mr. GRADISON].

I do not know, Mr. Speaker, whether there is something about the air and the ambience of the Ohio River, but the gentleman from Indiana and the gentleman from Ohio both represent districts along the Ohio River, as mine is.

I had the pleasure of testifying before the gentleman from Massachusetts' committee in behalf of House Concurrent Resolution 192. I mention several things which this committee, when formed, could take under consideration. None of my suggestions were new and startling, as no suggestions that will reach this committee will be new and startling. But they involve everything from the size of committees, to the size of staffs, to the jurisdiction of our committees, to whether or not membership on the committees or chairs of the committees ought to be rotated and budgeting that we have to study periodically. All of these things will come before the committee.

I hope at some point perhaps campaign finance reform might also come to the committee, but that may have to go to another committee.

I believe as many of the speakers earlier today have said that there has been a history of recommendations which have not been adopted or have not come to fruition. What gives me real encouragement about House Concurrent Resolution 192 are the two likely leaders of that panel, the gentleman from Indiana and the gentleman from Ohio. I think that they have the talent, they certainly have the intelligence, and they have the drive and determination to bring this very heavy challenge off. So I join in supporting this resolution and offering my support to these two gentlemen and the committee.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I thank the gentleman for yielding me the time and I too rise today in strong support. It is a love feast we have going here today. Everybody is in support of this, and I hope we are as we go through this process, because it is going to be a painful process.

The relationship between the American people and its Government is somewhat like a marriage that has gone sour. The voting public is fed up with the game playing and the broken promises and the feel-good rhetoric. They want a government they can believe in and support in good times and bad.

This is the people's House, Mr. Speaker, and yet the people want nothing to do with us. It is funny, when the world is looking to us for guidance about how to put together a government that works, our own Nation is very discouraged and disillusioned about its Government.

Unfortunately, Congress has been too busy dodging the latest scandal to notice how warped the relationship has become with the very people we represent. The House leadership has been too consumed with partisan bickering to stop and listen to what the people are saying.

Well, the American people are not happy, and they are not going to be fooled again. Unless Congress improves the way it conducts business, this institution is in serious, serious trouble. Changing the cost of haircuts is not the answer. It is much deeper, much more systemic than that.

To restore the public trust, we need to pass this resolution and take a good look at the way this place operates. There has got to be a better way. What we have now is a bloated bureaucracy that has mastered the art of partisan politics. The result is deadlock and frustration.

There are so many changes that need to be made that would greatly improve the way Congress functions. Voting in favor of this resolution will show that we truly do support congressional reform. Let us restore America's pride in its legislative branch of Government. This is a start toward doing that.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of Gradison-Hamilton.

The freshman class has been for positive reform. It has been difficult because it usually deals with power.

When the November election is past, 130 to 150 new Members here are going to be fighting against the inadequacies of this body, and I think positive change is in order. If you do not do it, as the gentleman from Virginia [Mr. WOLF] stated, we will. And I hope, as the gentleman from Missouri [Mr. SKELTON] said, that we will have positive change.

The American people are saying why let rank lead when ability can do it better? I think the Gradison-Hamilton amendment is an attempt at leadership, to let the rest of us follow, and I pray that it is, but if it is not, with leadership comes accountability, and if you do, we will follow and we will support you 100 percent.

It is like the British fighter pilot saying: "Hark, there we must go.

"Hark, there they go again.

"I must harken after them, for I am their leader."

If you rendezvous with us, we will follow.

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Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER], who is, as one of our new Members, a reformer in the House.

Mr. BOEHNER. Mr. Speaker, Albert Einstein once said:

> The significant problems we face cannot be solved at the same level of thinking we were at when we created them.

Mr. Speaker, I think those words are very relevant to the action we are about to take.

There can be no question as to whether or not the House has a problem. Clearly we do.

Nor can there be any question about our continued attempts to try to operate under a structure established to deal with the problems of the 1940's or the 1970's. We are, and it is not working well.

It is now our obligation to rise up and anticipate the challenges of the next generation and restructure ourselves so that we can better meet those challenges.

Today let us focus on positive change and come together for the betterment of this body and this Nation.

I rise to support passage of this legislation, introduced by our senior colleagues BILL GRADISON and LEE HAMILTON, to create a Joint Committee on Congress.

This committee would focus on ways to increase the effectiveness and efficiency of the Congress thereby restoring our credibility, and with it, hopefully the respect of our Nation.

Some argue that this type of reform is not necessary or that the systems in place have worked well through time and we should not be fiddling with precedent.

I respectfully disagree with this status quo mentality. Clearly something needs to be done.

This call for reform is not based on a new idea. Throughout history this body has responded to the need for change by forming similar committees and implementing their recommendations—the latest being in 1946 and 1970.

I, as well as Members of my class, do not wish to take part in mindlessly criticizing this body.

We want to contribute positively to the debate. Though others may characterize our actions otherwise, our motives and desire have always been to make this a better institution, one that is more responsive to the needs of our Nation, more accountable to the constituents we represent and thus more credible in our actions.

Last summer the bipartisan freshman class nearly unanimously endorsed and cosponsored this legislation—at that point some of us initiated discussions with outside groups and the Congressional Research Service to develop a blueprint for congressional reform—earlier today we presented the first product of this effort—authored by CRS.

Clearly, by our actions, we have demonstrated our sincere interest in positive reform and want to be a part of the process. As such, we respectfully ask the leadership of this body to assure that our class is represented on the committee.

As Champ Clark, former Speaker of the House once said when engaged in a similar battle:

> This is a fight against a system. It does not make any difference to me that it is sanctified by time. There has never been any progress in this world except to overthrow precedents and take new positions. There never will be—we are fighting to rehabilitate the House of Representatives and to restore it to its ancient place of honor and prestige in our system of government.

Mr. Speaker, in the best interest of this Nation and this body, let us move forward immediately and begin to address this challenge. Let us move quickly so that this committee may offer reform proposals that can, and will be, implemented for the beginning of the 103d Congress.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. RIGGS], another freshman Member.

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this bipartisan resolution. I think it is particularly appropriate that it comes to the House floor during the week of the 20th anniversary of the Watergate break-in.

We have an opportunity, a window of opportunity perhaps unrivaled since that time period, to bring about real reform in the House of Representatives, the House of the people, and to let the sun shine in, frankly, on any dark little corners or dirty little secrets regarding how this Congress works. One of the areas that needs to be reformed, one of the areas, one of the reforms that will lead to the elimination of intense partisan bickering that we see on a daily basis and one of the contributing causes of the legislative gridlock we have today is closed rules, closed rules waiving all points of order that do not allow those of us on the minority side to offer our ideas in constructive debate on the issues before the American people.

We also know that the committee and subcommittee structure needs reorganization. I think we can trust that task to the distinguished bipartisan leadership that will be heading up this task force so that we can have the Congress run on a more efficient and more smooth basis and perhaps bring important legislation to the House floor in a more expeditious fashion.

Mr. Speaker, I commend the leaders of both parties for bringing this legislation to the forefront, bringing it to the House floor today, and can simply conclude by saying that our hands on this side of the aisle are extended in a spirit of bipartisanship. We would like to see real reform, real accountability in the House of the people.

I urge swift passage of this legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of this legislation, which would establish the Joint Committee on Organization of Congress.

I particularly wish to thank our fine colleagues from Indiana, Mr. HAMILTON, for his leadership and vision on this issue.

Mr. Speaker, 216 years ago the Government of the United States was born of a commitment to become a responsive republic unlike any the world had known. And so it has.

As has been true throughout our history, part of remaining a responsive government is a constant commitment of self-examination. That is why there has never been a second American revolution. We are still living in the first.

Today, when an American corporation becomes stagnant or mired in business as usual—instead of better business—its products suffer, confidence declines, and that corporation runs the risk of being driven out of business.

And today, it is Congress that has become organizationally stagnant—perhaps near paralysis.

Fortunately, we have the capability, responsibility and duty to put this House in order for the 1990's and the early 21st century.

The House of Representatives is the most directly representative body in the world. No one may be appointed to the House. Members must be elected by the people—unlike the Senate, even unlike the President of the United States.

That means that the House can and must continue to be the most responsive institution to wishes and needs of the American people.

Since the end of the Second World War, Congress has twice established joint committees to study the structures of the House and the Senate. The last time was a generation ago.

As America has adapted and matured in the last 20 years, so, too, must Congress adapt and mature.

Increasingly in that time, the executive branch has fallen down on its job as America's cop on the beat.

More and more it is left to Congress to ensure that the laws enacted here are, in fact, carried out in the letter and spirit we intended on behalf of the American people.

Given that truth, the Congress of the 1990's might wish to have committees better reflect the organization of the executive branch so that we could speak and act for the American people more quickly, and with greater effectiveness and oversight.

The Joint Committee on Organization of Congress will be charged with determining how such a goal, and others, could best be accomplished.

Mr. Speaker, the American people demand and deserve nothing less than foresight from this institution.

That is why I encourage all my colleagues to support this legislation and to begin the process of reorganization as soon as possible.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation. I think it is long past due for the Congress to think in terms of structural reorganization.

I think it would be important for us to focus on the real impediments to progress and an end to gridlock rather than simply work on the margins, politicizing our criticism of Congress.

It is time for this House to move on the deep and complex problems of this Nation. We need to do something to jump-start this economy. We need to do something about the skyrocketing cost of health care. We need to reduce the deficit. To most effectively confront these and other major issues of the day, I have come to believe that a responsible reorganization of Congress is in order.

For that reason, I support this legislation, which would set up a bipartisan and bicameral body specifically charged with determining how we might conduct the public's business in a more efficient manner.

This Congress has shown that it can make important reforms in its own operations that make a real difference for the public interest. To name just a few recent steps forward, in 1989 we abolished honoraria. That same law also put the principle of the Madison constitutional amendment on congressional pay into law, and eliminated the grandfather clause, immediately ending the option of all but those Members elected before 1980 to convert campaign funds to personal use after their retirement, and permanently banning the practice for all Members beginning next year. That Congress also enacted the first significant restrictions and public disclosure requirements for the use of franked mail, changes which have produced tens of millions of dollars in savings for the taxpayer. In the current Congress, House and Senate Democrats passed the most significant campaign finance reform measure in a generation, only to see it vetoed.

These reforms and attempted reforms have not made the Congress a perfect place. There are further changes we should make to ensure that this is the most responsive and decisive legislature possible.

Tasking a joint committee to arrive at such suggestions makes sense. The suggestions that it makes may be just the oil needed to loosen the gridlock which all too often grips this city.

In order to focus and constructively direct concerns about the internal workings of the House, and to put real issues like the economy, and health care and unemployment reform back on the front burner, I urge my colleagues to support this study of congressional reform.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time just to say to the Members that 14 years ago there was a problem in this House and in the other body. Fourteen years ago the leadership in both the Democrat and Republican Parties in both Houses appointed a committee. It was called the Select Committee on Committees, and in our House it was headed up by Jerry Patterson, a Democrat from California, a very fine gentleman. I happened to serve on that committee as a freshman Member of this body, a very naive freshman Member.

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We worked for over a year during 1979 and 1980 and we put together the reforms that we thought were needed. We had unanimous agreement on both sides of the aisle in our select committee. Every single Republican, every single Democrat was willing to deal with the problems as we understood them.

You know, we brought a bill to the floor of the House—and what do you think happened? We got 42 votes out of 435—42. The members of the committee voted for it and everybody else voted against it. All the Democrat chairmen, all the Democrat subcommittee chairmen, all the Republican ranking members of full committees, all the Republican ranking members of subcommittees: all voted against it to protect their little fiefdoms.

Now, Mr. Speaker, the problems are even greater today, 14 years later. Nothing has been done. As a matter of fact, things have gotten worse. These subcommittees have proliferated. The number of staff has proliferated. And I do not mean to knock the staff. They are all good people. They do good work, but we are muscle-bound around here. We are in gridlock.

The joint committee proposed by House Concurrent Resolution 192 is a bipartisan committee, comprised of 28 Members—including 14 Members from this House, 7 Democrats and 7 Republicans.

Mr. Speaker, we can do something about reform. We can make the American people proud of this institution stead of having to tolerate the low esteem in which they hold us today. Let us stand up and do something. Let us create this committee today and then let us go out and show the American people that we can work together and make them proud of us.

Mr. Speaker, I urge support for the resolution. and yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, and to sum up, I yield such time as he may consume to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I appreciate the opportunity to speak today in favor of the resolution Congressman GRADISON and I introduced last July, House Concurrent Resolution 192. This resolution would set up a temporary Joint Committee on the Organization of Congress. Senators BOREN and DOMENICI introduced a similar resolution (S. Con. Res. 57) in the Senate.

I would like to thank a number of people for their help. Speaker FOLEY and Minority Leader MICHEL have been very supportive. Both were instrumental in bringing this resolution to the attention of the full House.

Chairman MOAKLEY of the House Committee on Rules conducted 2 days of highly useful hearings on the resolution, enabling over 20 Members from both parties to air their views about the need for congressional reform. Representative SOLOMON, ranking Republican on the committee, also played an invaluable role in maintaining the spirit of bipartisanship that has characterized this resolution from the start.

It has been a great pleasure to work with my cosponsor, the gentleman from Ohio [Mr. GRADISON]. He has been helpful and cooperative in every way.

I also would like to thank the many Members—both Democrats and Republicans—who cosponsored and worked to pass the resolution, particularly Members of the current freshman class. They were among our earliest and strongest supporters.

1. PURPOSE OF COMMITTEE

The purpose of the proposed Joint Committee on the Organization of Congress would be to study the operations of Congress and to recommend reforms to improve its efficiency and effectiveness. The aim is to help restore public confidence in Congress by enhancing this institution's ability to respond to an increasingly complex agenda.

2. NEED FOR COMMITTEE

I believe we need to establish the joint committee for three main reasons:

First, Americans have a very low opinion of Congress. They believe it is not working well.

In poll after poll, members of the public describe Congress as inefficient, and complain of legislative gridlock. In a recent New York Times poll, only 17 percent of those surveyed approved of the way Congress is handling its job. In a recent Washington Post poll, the approval rating was just 16 percent.

Political activists and insiders have become increasingly discouraged, and academic critiques of Congress have proliferated.

Acrosss the country, candidates for Congress are calling for serious congressional reform. It is likely that a very large class of new Members will arrive in Washington this December eager to change the way this institution operates. Many, if not most, current Members of Congress share their concerns.

Too many people have simply lost faith in Congress. The joint committee would help ensure that the widespread demands for reform lead to prudent and effective action.

Second, the nature and complexity of the issues facing Congress have changed a lot since this institution was last reorganized in the early 1970's. Congress has not kept up with a changing world.

Congress now faces:

Issues of enormous scientific and technological complexity, ranging from arms control verification and environmental protection to telecommunications policy;

An increasing array of issues that are both domestic and international, and no longer fit neatly into existing organizational boundaries;

Deep-seated problems that require a longer-term perspective for policymakers;

Important new issues regarding this country's foreign and domestic policy now that the cold war is over.

Congress has not performed well in recent years. For example:

Congress seems bogged down, unable to tackle the main issues that Americans are concerned about such as jobs and crime and health care.

In the last 15 years, Congress has passed all 13 appropriations bills only once.

Since 1985, there have been three major budget agreements, all attempting to control the deficit, but the deficit has almost doubled.

Members of Congress often complain that they are poorly scheduled; that they lack the time necessary to think through difficult policy issues.

I am realistic about the limits and possibilities of reform, but I believe we can do better.

Third, as with all institutions, Congress needs to stand back, and take stock of itself from time to time. The process of reform in Congress is a continuous, evolving one. Times change, and the responsibilities and duties of Congress change as well. The last two House/Senate reform efforts took place in 1946 and 1970, based upon the work of the 1945 and 1965 congressional reorganization committees. I believe it is time for another comprehensive look at the operations of Congress.

3. STRUCTURE OF COMMITTEE

The Joint Committee on the Organization of Congress is modeled upon the successful 1945 and 1965 reform committees of the same name. Under our recommended plan, the joint committee would be composed of 28 members.

The Speaker and minority leader in the House and the majority and minority leaders in the Senate each would appoint 6 sitting Members of Congress to the committee.

The majority and minority leaders in both the House and Senate would be ex officio voting Members.

Several points about the proposed joint committee should be emphasized.

First, the joint committee would be bipartisan. The most wide-ranging reforms in recent years resulted from bipartisan committees. In particular, the 1945 and 1965 joint committees had equal majority/minority representation.

Second, the joint committee would be bicameral. Many of the problems that need to be addressed relate to the institution as a whole rather than just one Chamber. Separate House and Senate subcommittees would look at Chamber-specific reforms.

Third, the joint committee would have no legislative jurisdiction. All of its recommendations would be referred to the appropriate standing committees in the House and Senate for their consideration.

Fourth, the joint committee would be representative. The size of the proposed reform panel has been increased from 20 persons to 28, so that it would better reflect the membership as a whole.

Fifth, the joint committee would be comprised of sitting Members of Congress. In the resolution as introduced, the joint committee was to have included four non-Members of Congress in an advisory role. However, this section of the resolution was changed to keep the joint committee from becoming too large. Past reform committees and commissions composed entirely of sitting Members tended to be the most successful.

Sixth, the joint committee would include the leadership of both parties from the House and Senate to facilitate their active participation in the panel's deliberations.

Seventh, the joint committee would have a very small staff, and total costs to the House this year from the committee would not exceed $250,000. Rather than create more congressional bureaucracy, the joint committee would relay extensively on expertise in existing legislative support agencies, as well as from around the Nation.

Finally, the joint committee would be temporary. It would make its final recommendations as soon as possible, but certainly by the end of 1993, and then go out of existence.

4. SUPPORT FOR RESOLUTION

The resolution to set up the joint committee has broad, bipartisan support:

It has 254 cosponsors in the House—155 Democrats, 98 Republicans, and 1 Independent.

The cosponsors include 13 chairmen of full or select committees and 57 subcommittee chairman (and similar numbers of ranking minority members).

The Senate version has 58 cosponsors.

Representatives FOLEY and MICHEL and Senators MITCHELL and DOLE all support the resolution.

President Bush has endorsed the measure.

5. BACKGROUND RESEARCH EFFORT

The joint committee would be assisted by a wide range of organizations and foundations from both the public and private sectors. Major research efforts are now underway that would provide the joint committee and the Congress with valuable advice about possible reform alternatives and the potential consequences of these alternatives:

A joint project by the Brookings Institution and the American Enterprise Institute will get the perspectives of congressional scholars nationwide about what's wrong with Congress and what can be done to enhance the institution's capacity to govern.

Experts on Congress at the Congressional Research Service are writing some 35 briefing papers on issues that the joint committee might look at.

Work is underway at the Center for Congressional and Presidential Studies at American University, at the National Association of Public Administrators, and at the National Conference of State Legislatures, among others.

6. HOUSE REFORM EFFORTS

Reform in the House is now proceeding on several separate, but complementary, tracks:

A bipartisan task force recently examined the Internal management of the House, and the House agreed to a reorganization of its administrative operations.

The House Democratic Caucus is looking at possible changes in House rules, as it does every Congress, to be considered during the organizing caucus in December. The Democratic Study Group will also contribute to the reform effort. The House Republican Conference has identified several major reorganization topics.

The Joint Committee on the Organization of Congress would look at the larger picture of how Congress does its job. Hopefully, the panel will be set up within a few weeks, and do some preliminary work in the ensuing months, such as holding hearings and getting the input of other Members of Congress about their reform interests. Formal deliberation would begin later this year.

The joint committee may offer some interim recommendations before November 6, 1992 for consideration by the Democratic Caucus and Republican Conference. As mentioned, final recommendations would be provided no later than the end of 1993.

7. POSSIBLE JOINT COMMITTEE AGENDA

The mandate of the joint committee would be very broad. I do not have a set list of specific changes that I believe should be made. But here are some general areas the committee could look at:

Improving the ability of Congress to focus on the big issues and think longer term. This could include looking at ways to improve the agenda-setting ability of Congress, as well as reforms, such as GNP budgeting and multiyear budgets, that could help lengthen the planning horizons of Congress.

Evaluating committee jurisdictions. Major issues no longer cut neatly across organizational lines set decades ago, and important legislation often gets bogged down in a maze of overlapping jurisdictions.

Removing procedural impediments to effective legislative action. This could include everything from looking at filibusters and holds in the Senate to reviewing the three-layered authorization, appropriations, and budget process.

Improving the ability of Congress to deal with the explosion of scientific and technical information that now confronts the institution.

Reducing barriers to cooperation between the House and Senate; for example, by streamlining conference procedures.

Improving the interface between Congress and the executive branch, perhaps by considering structural changes that would enhance congressional oversight.

Increasing public understanding of the work of Congress; for example, by improving the way congressional proceedings are televised. Few institutions make less of an effort to explain themselves to their constituents than do the House and Senate.

The resolution was purposely drafted so broadly that any reform proposal could be considered. Most likely, however, the Joint Committee would focus on a few key reform areas, thoroughly examine the proposals in these areas, and then provide specific recommendations to the House and Senate committees with jurisdiction.

8. STRUCTURAL REFORM NOT PANACEA

I sometimes hear that the problems we face are not procedural or organizational, but instead reflect a lack of political will in Congress to tackle the tough issues. I also hear that these problems arise from inadequate presidential leadership, or weak political parties, or divided government.

There is some truth to these claims. The joint committee is no panacea. I am realistic about what reform can accomplish. Congress is never going to be a tidy institution or a model of efficiency. There will always be contentious debate, strong disagreements, fractious partisanship, and tedious hearings. Indeed, by acting deliberately, Congress prevents the adoption of bad legislation. And, moreover, the problems in governance in America extend far beyond Congress, to other branches and levels of government and many institutions outside government.

So I do not overestimate the importance of structural reform in Congress. But I do not underestimate it either.

Too often, inefficient procedures and structures block effective action on national issues as legislation is subjected to unnecessary obstacles and hurdles. Certainly, progress can be made in a variety of areas, from streamlining congressional rules and procedures to better informing the American people about what we do. Simply putting all the blame on political will, divided government, and the like, is a prescription to do nothing to improve the workings of Congress until constraints we do not control are removed.

More political will and less divided government would be nice. But we must deal with the situation as it is and try to make Congress as responsible as possible. There is a large consensus among Members that we should try to reform Congress. All of its problems will not be solved, but we can make progress one step at a time.

9. NOW IS TIME TO ACT

Some warn that now is not the time to consider major reforms of Congress because the institution is in such public disrepute and partisan tensions are high. I disagree. I believe that a serious reform effort is imperative.

First, despite current partisan tensions, a majority of Members of Congress have cosponsored this resolution, which explicitly provides for a bipartisan reform panel. Also, the joint committee will not make any recommendations until after the election in November.

Second, major reform can occur when the public is upset about Congress. We should remember that a landmark Legislative Reorganization Act of 1946 occurred in part because the public was angry about congressional perks and privileges. In the middle of World War II, Members of Congress voted to increase their pension benefits, as well as their access to gasoline. The public outrage was intense and immediate. The media was very critical. But the end result was one of the most significant and constructive reorganizations of Congress this century.

Third, the joint committee would have significant leverage for passing its recommendations. The American people are dissatisfied with Congress. The vast majority of House Members and Senators have endorsed the resolution calling for reform, and the effort is supported by the leadership of both parties. Most of next year's large class of freshman Members will have campaigned on a platform of reform and renewal.

We face a unique window of opportunity to consider major changes in the way Congress does business. We should take advantage of this opportunity.

10. CONCLUSION

The best way for Congress to enjoy public trust is to earn it. A systematic and thorough review of the operations of Congress can demonstrate that we are serious about improving its effectiveness. Congressional reform is, I believe, long overdue.

I do not take the view that Congress is in shambles or that it is collapsing. But we can do better. We must prepare for the challenges and opportunities of a new century.

□ 1230

Mr. SOLOMON. Mr. Speaker, if I may, I would like to reclaim the 1 minute that I yielded back.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection the gentleman from New York [Mr. SOLOMON] is recognized for 1 minute.

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me.

Let me just offer my congratulations to the gentleman from Indiana [Mr. HAMILTON] for his superb work. I just want to tell him that I came to the Congress as part of the post-Watergate class, and it is time to take a long, hard, serious look at the operations of the Congress.

We can do far better than we have done in bringing the Congress into the 21st century. The gentleman from Indiana has the kind of credibility, the knowledge, the insight required basically to make the kind of transformation that is needed here in the Congress, to make it a much more effective instrumentality of the people.

Mr. Speaker, I thank the gentleman for his work, and I look forward to working with him in the weeks and months ahead in developing the very best recommendations we can for change around here.

And I thank again the gentleman from New York [Mr. SOLOMON] who I know shares my enthusiasm for this work.

Mr. HUGHES. Mr. Speaker, I rise in strong support of House Concurrent Resolution 192, to establish a temporary Joint Committee on the Organization of Congress. I wish to commend my colleagues LEE HAMILTON and BILL GRADISON for their outstanding work in developing this resolution and bringing it to the floor for consideration.

The need for a reorganizational study, such as this resolution proposes, is probably greater today than ever. It's no secret that in recent months, Congress has faced a barrage of criticism over the House bank, congressional perquisites, and other concerns.

In most cases, these are not new issues. Rather, they are related to services or practices which have been part of this institution for decades. Nevertheless, they are indicative of the need to do a thorough and systematic review of the past and current operations of Congress, to identify and end those practices which are no longer needed or justified.

Moreover, we need to take a good hard look at the day-to-day operations of the Congress, to develop some recommendations for improving the efficiency and effectiveness of this body.

For example we need to reexamine the committee and subcommittee structure, to try to reduce the overlapping jurisdiction and turf battles which often result in legislative gridlock, tying up even the most important legislation.

We need to consider new ways to improve the budget process, and in particular, to provide greater oversight of the tens of thousands of Federal programs which are funded each year. We also need to look at staffing levels on the Hill, and to consider new technological innovations which might help us do a better job of addressing the myriad of complex issues and demands which Congress and its individual Members face every day.

Mr. Speaker, it has been more than 20 years since the last committee was formed to study the structure and operation of Congress. I am confident that this resolution will go a long way toward improving the effectiveness of Congress, and just as importantly, toward rebuilding public confidence in our elected officials and institutions of government.

Mr. BACCHUS. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 192, which will establish a Joint Committee on the Organization of the Congress. I applaud the efforts of our colleagues, Mr. HAMILTON and Mr. GRADISON, on behalf of this resolution. I believe that approval of this resolution is an important step toward restoring public confidence in the Congress and toward making the Congress more responsive to the needs and realities of our country today. The Joint Committee on the Organization of the Congress will allow us to take a bipartisan, deliberative approach to streamlining and modernizing our committee structure and improving the work of the Federal Government as a whole.

This legislation explicitly calls for an examination of the organization and operation of each House of the Congress; the relationship between the two Houses; and the relationship between the Congress and the executive branch. I hope that the Joint Committee on the Organization of the Congress interprets this mandate broadly to include two reforms that I believe are critical to regaining the people's trust.

One reform pertains to open meeting and open record rules as they are applied to committees of the Congress, and the other reform pertains to financial disclosure requirements for Members of Congress and candidates for Congress. While there have been laudable improvements in these areas in recent years both our open meeting and financial disclosure rules are riddled with loopholes that tend to erode public confidence in this body. Closing these loopholes and increasing the openness of the Congress, in my view, are essential to our efforts to regain the trust and support of the people we represent.

Let me first address the issue of our open meeting rules. The Congress in the last two decades has made remarkable progress in opening up hearings and markups that previously had routinely been closed to the public. However, our current rules still contain a giant loophole in that committee members can vote to close meetings for any reason. Mr. ZIMMER and I have filed legislation, House Resolution 310, to allow meetings to be closed only for two reasons: if disclosure of matters to be considered would endanger the national security; or if evidence or testimony at an investigative hearing would defame, degrade, or incriminate any person.

I believe that the public's right to know is fundamental and overrides any other reason for a closed meeting. After all, it is the public's business we are conducting. Secrecy can be especially dangerous at a time when there is so much public concern that government is working for special interests and not for the people. One way to help restore public faith in the integrity and accountability of the Congress is to improve our rules governing open meetings and open records.

My second concern involves our financial disclosure rules. Currently, members of Congress are required only to list assets and liabilities within broad categories of value. The ranges are so broad, in fact, that it is impossible to tell from a report whether a member received a large increase in income from particular sources. I have filed legislation, H.R. 2348, cosponsored by Mr. ZIMMER, to require much more detailed financial disclosure by Members and candidates for Congress. This bill calls for the listing of exact amounts and sources of all assets and liabilities. It also would require Members and candidates to file an annual statement of net worth and copies of their tax returns from the previous year.

These changes would provide the public with information that ensures that Members of Congress are not benefiting financially from holding office. The public deserves to know what we own, what we owe, and who we owe. Only then will they know that we are working for them and not for ourselves or for some special interests.

When we appeared before the Rules Committee last week, Mr. ZIMMER and I were assured by the chairman and the ranking Republican member that they considered the mandate of the joint committee to be broad enough to consider these two reform proposals. I hope that the Joint Committee on the Organization of the Congress concurs and includes these two proposals in its deliberations. I look forward to hearing the committee's report and to enacting reforms to make the Congress more responsive to the needs of our country today.

Mr. HOAGLAND. Mr. Speaker, the bill before us today, House Concurrent Resolution 192, establishing a committee to examine the organization of Congress, recognizes that we, the Congress, need to take a hard look at the way we work—and do not work. It recognizes that all is not well in Congress and that change must come from within. I hope to be a part of the reform effort, following on a Nebraska tradition started by former Nebraska Representative and Senator George Norris, who led several reform efforts to bring fairness to Congress' proceedings.

Today's bill is not the first effort to reform Congress. We have, with my support, closed the House bank. We have, with my support, created a new House Administrator position. The House has passed, with my support, campaign finance reform legislation, limiting the influence of special interests.

But there are many additional areas we must examine. We must look at the number and jurisdiction of committees, particularly those that have unnecessary jurisdictional overlap. We must analyze the scheduling of legislative business in Washington. What is the right balance to get the country's work done and to be in our districts attending to our constituents' needs? We must discuss how the Congress' agenda is set and whether an agenda-setting mechanism can be created to better respond to the Nation's problems. And we must improve our outreach to our constituents, particularly in explaining what the Congress is doing and why. While cable television has brought Congress into the living rooms of many Americans, our procedures and terminology must seem arcane and it is difficult for many people to understand congressional deliberations. How can we translate better?

As the legislative body created by our Constitution, we are the institution to which many new democracies are looking as a model. There are many good features of the Congress. In many respects, Congress is a better institution than it was two decades or four decades ago. Congress must grapple with many complex problems not envisioned 200 years ago. Those drafting the Constitution did not have to contemplate hazardous waste, nuclear weapons, aeronautical research, intermodal transportation, or endangered species. Nonetheless, we are all troubled when experienced, effective Members take to the microphones and lament the ineffectiveness of the Congress. What is driving people out? Do those resignation and retirement announcements signal a widespread infection in the system? Indeed, one of the reasons I am supporting this bill is to help in the search to answer that question and to help mold an institution that attracts the best and most committed of our citizens to public service.

Real change is never easy, but real change is needed. This year the public is demanding change; the public is demanding institutions that address their everyday problems. With many new Members entering the next Congress, the time is ripe to capitalize on the new ideas they will bring and to implement reforms.

Today's vote represents a big step toward making the Congress the dynamic, responsive institution that the writers of our Constitution intended.

Mr. COSTELLO. Mr. Speaker, it's time for serious changes to the way Congress operates.

That's the message that the House expressed today. By an overwhelming vote, we passed a bill—House Concurrent Resolution 192—to make our Congress more effective, so that it responds to the real needs of this country and the American people.

Last October I cosponsored the legislation passed today by the House. This bill creates a committee to study how Congress operates, to make it more responsive to the American people. My hope is that this reform will accomplish for the institution what I have tried to do for the people of my own district, by coming home every weekend, holding townhall meetings and having a congressional office in every county in the congressional district—make it more responsive to our citizens.

Unfortunately, Congress as a whole has lost touch with the needs of average Americans. People are frustrated by the gridlock in Washington, the huge budget deficits, and the lack of attention to important issues, like health care, education, and our economy. That is why House Concurrent Resolution 192 is so important.

In 1946, when Congress studied its structure, it made dramatic changes to its operations, by cutting in half the number of committees and requiring the registration of lobbyists. And, in 1970, Congress made its operations more open to the public.

It is my hope that the legislation passed today will result in even more dramatic changes. By streamlining our legislative process, and studying ways to work more effectively with the executive branch, we can make historic changes in our Congress to enact reforms to make it more accountable to our Citizens.

Mrs. OAKAR. Mr. Speaker, I rise in support of House Concurrent Resolution 192, the measure which will create a temporary House-Senate committee to study and recommend reforms in the operation of Congress.

House Concurrent Resolution 192 would create an ad hoc Joint Committee on the Organization of Congress to study and recommend reforms in the operation of Congress. In general, the committee would look for ways to improve the overall operation of Congress—simplify its operations, improve its relationship with, and oversight of, other branches of the Government, and improve the orderly consideration of legislation.

While the main task of the committee would be to find reforms that apply to both the House and Senate, separate House and Senate subcommittees would be authorized to look at House-specific reforms.

Mr. Speaker, I became chair of the Subcommittee on Personnel and Police at the beginning of the 101st Congress. Since that time, the subcommittee has been instrumental in instituting reforms related to the House of Representatives and the U.S. Capitol Police Force.

For example, based upon the Speaker's request, the subcommittee, in consultation with the Employee Assistance Office [EAP] drafted a drug and alcohol policy booklet and made recommendations for its implementation for employees of the House.

The subcommittee conducted two extensive food quality surveys of the House restaurant system, and then provided recommendations for its improvement. The subcommittee reviewed the policies, rules, and procedures for the employees of the House beauty shop and House barber shop.

In reference to the Capitol Police, the subcommittee held a hearing in March 1990, to hear from the members of the police force. It was clear that reforms were necessary in order to place the Capitol Police on a more level playing field with other surrounding law enforcement agencies. The subcommittee recommended the passage of the Capitol Police Retirement Act (Pub. L. 101–428); created the position of Director of Employment Practices or Ombudsman; reviewed and revamped the Capitol Police grievance procedure; made special technician positions competitive; instituted sensitivity training and educational assistance programs; created 114 civilian position; and, instituted pay compression.

Finally, Mr. Speaker, pending before the Committee on House Administration is H.R. 5269, a measure cosponsored by my colleagues from both sides of the aisle, which will accomplish several things. The Capitol Police's geographic jurisdiction will be expanded; their arrest authority will be enhanced; there will be a change in the composition of the Capitol Police Board; a joint payroll will be established, and a lump sum payment will be provided for retiring members of the Capitol Police Force.

Mr. CLAY. Mr. Speaker, I rise to address House Concurrent Resolution 192 which will establish a temporary House-Senate committee to study and recommend reforms in the operation of Congress.

Under the resolution, a subcommittee comprised of only the Members representing the House may be established to consider and recommend proposals relating solely to the House. The House Members of the committee are authorized to report to the House Democratic caucus and House Republican Conference no later than November 6, 1992, any recommendations for changes in the House rules that they may deem appropriate in connection with the organization of the 103d Congress.

These provisions of the resolution provide a unique opportunity to address one of the more frustrating problems that I and other chairmen of authorizing committees of the House are forced to deal with each year. This problem is the persistent practice of the Senate of including legislative provisions in general appropriation bills. This practice, while clearly contrary to the rules of the House, nevertheless often succeeds in undermining the normal legislative process by circumventing the jurisdiction of the authorizing committees. The Members of the House who are most knowledgeable and experienced in a given area of the law are deprived of the opportunity to fully consider and shape the proposal in question.

Our colleague, Chairman JOHN DINGELL, has been pressing the need to address this problem over the past several years and has developed a proposal which, I believe, represents a reasonable approach to dealing with this issue. I strongly urge the House Members of the joint committee to give serious consideration to Chairman DINGELL's proposal and to any other proposal that seeks to remedy this frustrating problem.

Another area of concern to me is the suggestion that wholesale changes must be made in the procedures for considering commemorative resolutions. Critics argue that the Congress wastes too much valuable time on such insignificant matters. I disagree.

As chairman of the committee that has jurisdiction over holidays and celebrations, I have been intimately involved in this body's consideration and establishment of commemorative observances. Over the years, our committee has established an effective, fair, and efficient method of considering these resolutions. Resolutions are not even brought before the House unless cosponsored by a majority of the Members of the House.

I firmly believe the present system of handling commemorative resolutions serves the best interests of all the Members of the House, and I would strenuously oppose any proposal that would significantly alter the present procedures or that would divest our committee of its jurisdiction over such resolutions.

Mr. BEREUTER. Mr. Speaker, this Member wishes to express his commendations and appreciation to the distinguished gentleman from Indiana [Mr. HAMILTON] and to the distinguished gentleman from Ohio [Mr. GRADISON] for introducing House Concurrent Resolution 192 which provides for the establishment of a Joint Committee on the Organization of Congress to conduct a complete study of the organization and operation of Congress.

In addition, this Member wants to extend appreciation to the chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY], and the ranking minority member of the Rules Committee, the gentleman from New York [Mr. SOLOMON], for bringing this measure to the House floor.

As a cosponsor of this legislation, this Member rises in support of this measure despite some serious misgivings regarding the expansion of the Joint Committee to 28 members. It is simply too large. This Member would have preferred the Hamilton-Gradison smaller size of only 16 members. There is an old saying that "too many cooks spoil the broth," and it's this Member's fear that that's what we are doing by increasing the coordination, convening, and inconvenience problems through a much larger joint committee. This Member hopes the legislation is finally moving because of a sincere effort to reform Congress instead of a phony embrace of the excellent Hamilton-Gradison initiative. Are we really going to reform or are we just paying lipservice to a public that demands reform?

Clearly, real reform is sorely needed in the way the U.S. House of Representatives conducts its business. This Member has supported numerous congressional reform efforts and has cosponsored a number of reform measures that focus primarily on the House of Representatives during numerous sessions of Congress—before it became popular to be a reformer.

Many have argued that relatively minor changes in the management of the day-to-day operations of the House are sufficient. However, a few simple housekeeping measures are not sufficient. This Member believes that the House must change the very way it legislates. The tasks assigned to the Joint Committee go to the very heart of the House's constitutional duties to determine its own rules of proceeding. Until these fundamental changes in the House are adopted, real reform of the House of Representatives will not be achieved.

However, this Member believes that House Concurrent Resolution 192 is indeed an important step toward real Congressional reform, and urges his colleagues to support this legislation.

Mr. PENNY. Mr. Speaker, I support creation of the so-called Hamilton-Gradison Reform Commission. Certainly, a bipartisan panel can make an important contribution to the debate regarding reorganization of the operations of the Congress.

Fundamentally, this Congress is not organized for action. There are too many committees and too much overlap of committee jurisdiction. There is seldom a set agenda and almost never are deadlines met—even those established by law.

Little coordination exists between authorizing and appropriating committees. Even less coordination occurs between the House and the Senate.

The same issues—and the same witnesses—may be brought before as many as 6 or 10 committees. That represents an unnecessary and expensive duplication and only serves to confuse those who attempt to understand how this place works. The obvious answer is that in many ways the legislative process does not work.

And so, yes, we need reforms in the way this Congress is organized. This Commission can serve as a useful forum to discuss and review various proposals which would improve the operations of Congress.

My only objection is that the final report date for this Commission is December 1993. We need to act sooner. Frankly, most of us are already aware of the kinds of reforms that are needed. We should take action to implement significant reforms in December 1992 when we meet in caucus to organize for the 103d Congress. I trust that we can and will take this earlier action on reform and I intend to devote my efforts toward that end.

Ms. SNOWE. Mr. Speaker, I rise to express my support for House Concurrent Resolution 192, to establish a Joint Committee on the Organization of Congress.

As a cosponsor of this measure, I am pleased that the Rules Committee was able to bring this resolution to the floor with bipartisan support. Congressional reform can only come from the inside, and I believe that the committee established in this bill will provide us with the ability to carefully and comprehensively make changes in the system to make it more accountable to the public and more efficient.

As the sponsor of a bill, House Resolution 418, to limit the number of members who can serve on a committee, I am hopeful that the Joint Committee will make an effort to reform the committee process by cutting the size of both the committees and the staff. I am also a cosponsor of House Resolution 419, introduced by the distinguished minority leader, Representative MICHEL, that includes several good ideas on reforming the committee process.

House Concurrent Resolution 192 is an important step in improving the way in which we do business. I hope my colleagues will join me in supporting its passage.

Mr. WELDON. Mr. Speaker, as a cosponsor of House Concurrent Resolution 192, I rise today to reaffirm my support for this measure and urge my colleagues to join in an overwhelming endorsement of this long overdue legislation.

Since coming to office, I have been speaking out against business as usual on Capitol Hill and abuses of the legislative process. It was easy to ignore those calls when they were only coming from Members of the minority party. But now the American people have caught on to the act and are demanding reform. It is time to act. While most of us realize that House Concurrent Resolution 192 is not a complete solution to the public confidence crises, nor is it necessarily the last word on reform in this body, it is a positive step in the right direction.

Enactment of this legislation will provide us with the framework to put aside our partisan differences and work for reforms that benefit our system and the people we serve. For too long, we have taken our frustration to the well of this floor, to the press, and to our own constituents. But those piecemeal efforts have not produced the kind of comprehensive overhaul necessary to ensure fairness and democracy in this body. House Concurrent Resolution 192 will at last bring together Members of all parties to tackle a comprehensive overhaul of House operations.

Passage of this legislation will give us the steam we need to get the ball rolling on institutional reform. The first step is to get Members involved in reform. The second step, in my opinion, is to give citizens a greater role in this process.

Recently, I introduced a measure along with my Democratic colleague from New Jersey, Mr. ANDREWS, which would establish a 14 member Commission on Congressional Ethics composed of private citizens, while eliminating most responsibilities of the House Committee on Standards of Official Conduct. Not only will this remove Members' conflict of interest in policing their colleagues, but it will give people a role in shaping all administrative operations of the House. I believe the best way to reform the people's House is to get more of the people involved. I will press for adoption of this proposal in the House and before the newly established Joint Committee on the Organization of Congress, and urge my colleagues to vote for House Concurrent Resolution 192 as a first step toward achieving this goal.

Mr. DINGELL. Mr. Speaker, I take this opportunity to rise to speak on the adoption of this resolution, which I generally support. I am a cosponsor of the resolution and I believe it has been improved since its original introduction.

I particularly want to commend the chairman of the Rules Committee, Congressman MOAKLEY, and the other members of the committee for making these improvements, and in taking into consideration the comments I expressed to the Rules Committee—particularly in deleting provisions for subpoena power since this is a study committee constituted to make recommendations, and not to conduct investigations.

I note that the resolution does not indicate clearly what rules apply to the joint committee. I presume that the House and Senate rules, as appropriate, would apply to the joint committee and that such rules, practices, and precedents of the joint committee would not be inconsistent with the rules and precedents of either House and the Democratic caucus.

Despite these improvements in the resolution, I remain concerned about its breadth. This joint committee could study such a wide range of matters that I must question whether it will effectively and meaningfully improve the great institution of the House of Representatives and the entire Congress. Indeed, I think the resolution and the joint committee should concentrate on matters and procedures involving both Houses that can be improved to facilitate our consideration of appropriations and legislation. I strongly urge that the committee not get bogged down in trying to deal with jurisdictions of the committees of either House or in the administration of the Congress.

As for the question of the relationship between the Congress and the executive branch, I do not understand what this committee will examine, taking into consideration our respective duties and powers under the Constitution.

Many of us over time have advocated reform of the House of Representatives and of the Congress. In most cases, our support for reform has been motivated by a desire to improve the functioning of the body. I believe that was the clear objective of many of those who came to the Congress in the 1970's and sought reform following the Watergate scandal. As a younger Member, I was part of the reform in 1970 and 1974, and I believe we did much to improve this institution and to ensure that real policy changes could be achieved for the benefit to our Nation.

Prior to 1970, many environmental matters were considered only by the Interior and Insular Affairs Committee and Merchant Marine and Fisheries Committee. There was no cross-checking by other committees. Indeed, that process allowed the then-chairman to bottle up many environmental and other bills. The reforms of the 1970's changed that. They helped to spring loose environmental, health, and safety bills, as well as consumer bills that before this rarely saw the light of day. Some of this progress derived from jurisdictional changes. Some came from changes in chairmen. Some resulted from a change in the Speaker's ability to refer bills jointly and sequentially. These changes also encouraged greater oversight by the Congress. All improved the body and helped in the enactment of major legislation, without undoing the protections afforded by the House rules to the minority of the House—Democrat or Republican—opposed to legislation. As we all know, it is easier to block legislation that to pass it. That is as it should be to protect the public interest in a democratic process.

At the same time, some believe we may have made it more difficult for the leadership of the Congress, on the majority and minority side, to lead. I am concerned that in the rush to adopt this resolution, driven not by real concern for policy, but by such management problems as the House bank and the post office we may, once again, further weaken the ability of the leadership of both sides of the aisle to lead. I hope that is not the case.

I am particularly concerned that this resolution does not adequately recognize that the responsibility for running the Congress and for moving legislation lies with whichever party is in the majority. I think it is useful, and potentially beneficial, that we achieve a bipartisan consensus for changes in our procedures and our organization to the greatest extent possible. However, in the final analysis the responsibility lies with the majority party. Those who are in the minority may not accept the responsibility as proper. But if the majority assumes that responsibility, it must have the powers to exercise that responsibility effectively and fairly.

In this regard, I note that the new committee will be evenly composed of Republicans and Democrats, which is unusual for most congressional committees. Indeed, I had hoped that the resolution would have been further modified to provide for more Members from the majority party. That could make it difficult to achieve consensus. I understand that my Republican colleagues would oppose that. I do not believe an even number of Members from each party is sound or workable. That could lead to deadlock. I am, however, willing to be proven wrong and look forward to working with the House chairman who, I hope, will be strong and steeped in the knowledge of the history of the House.

In this regard, I note with great interest that the ranking Republican on the Rules Committee is hopeful that this joint committee will make recommendations to our respective caucuses this fall with the goal of addressing rule changes next December. He suggests that we must "reduce subcommittees, staff, and multiple bill referrals, and give Members fewer and more focused responsibilities if we are to legislate in a truly conscientious, deliberative, and responsive fashion."

That suggestion may well be appropriate and one that deserves careful study. However, I believe Members from legislative or appropriations committees who must, day in and day out, address many thorny legislative and oversight problems for which consensus is often difficult to obtain ought to be consulted about such a suggestion and its impact. Clearly, we should look to see whether we have too many subcommittees, and whether our referral system needs some responsible modification without going back to the time when legislation could be bottled up in one committee. However, I do not believe, in this election year and in these few election months remaining, that we will be ready in December to address those difficult problems through this committee. Too many Members will be unable to focus their attention because of the press of legislative business and the election. Again, however, I am open to persuasion.

I observe that the Rules Committee urges that the joint committee "consult" frequently with that committee. I think that is good advice. I suggest that the joint committee follow that advice and also consult with the other standing committees as well.

In my comments to the Rules Committee, I noted that about a dozen years ago we established with great enthusiasm the "Patterson committee" to do much of what this joint committee seeks to do, but only for the House. That committee sought to be independent and to ignore the standing committees. When the product of that committee reached the House, the enthusiasm for its reform efforts dwindled and opposition to its proposals grew significantly, due in large part for its failure to regularly consult with the committee chairmen and their members.

In closing, this Institution has a long and glorious history. I take great pride in having had the honor of serving my constituents here for so many years, to have followed my father who labored in the Congress. I hold great respect and affection for this deliberative body, the people's House.

It has its warts and its problems, but it has survived and it has had many fine hours—most recently during the debate over the United States entering into the war with Iraq. I urge my colleagues to be wary of those who want to dramatically change the House or Congress. Some change may be appropriate. Every institution deserves careful scrutiny from time to time, and that is why I support this resolution and want to be an active part of this process. However, drastic changes at a time when the Congress is under attack by those who include partisan critics with little tenure or knowledge of the institution could well be disastrous for the public interest. They are not likely to change the public's image of the Congress; in fact, they would seek, for partisan purposes, to further tarnish the Congress' image. A scalpel, not a meat ax is needed. I hope all agree.

Ms. LONG. Mr. Speaker, I support the resolution and commend by colleague from Indiana [Mr. HAMILTON], the distinguished dean of our delegation for his efforts in this regard.

We know that confidence in government is low. It is low because a large number of people believe that government does not address their needs. Confidence is low because the government too often imposes cumbersome restrictions on individuals and businesses. And confidence is low because people believe their taxes are too high.

Increasingly, I am asked why government does not address the important issues of the day—the economy, health care reform, or Federal spending.

Part of the reason that government does not move more rapidly is inherent in our democracy. Our Founding Fathers designed it that way. They did so in order to ensure a full airing of views prior to enacting substantive changes. This deliberative process is fully in effect when one party controls the Congress and another party controls the executive branch. There are positive and negative aspects of this situation. I believe that one of the negative aspects is the inability to sometimes move legislation in a timely manner—some would call this a text book example of gridlock.

But, just because we have this situation doesn't mean that we should not—as the legislative body—seek to ensure that the operations of the Congress move legislation as thoughtfully and swiftly as possible. Which brings us to the resolution at hand.

Some of the problems that bog down our legislative process are also inherent in a democratic system where 535 Members of Congress may have 535 different opinions on an issue. However, the operations of Congress could be reformed to run more efficiently and effectively.

Since the Congress was first created, the diversity and complexity of the issues it considers has increased dramatically. And throughout its history, the Congress has attempted to adapt to these changes through a series of congressional reforms. Thomas Jefferson wrote in a letter to James Madison that "The tree of liberty must be refreshed from time to time * * *" It is time, again that we refresh that tree of liberty so that it is better suited to the current climate.

I am one Member who believes that we cannot continue to cite examples of waste and bureaucracy in other areas of the Federal Government without subjecting ourselves to the same scrutiny. We should serve as examples of good government by passing this resolution, evaluating the current process, and implementing needed recommendations in a timely manner.

However, we should not look at this measure as a means to greatly reduce costs in the legislative branch. A report determined that between 1979 and 1989, appropriations to the legislative branch decreased by 3 percent, while appropriations to the executive branch increased by 28 percent, and appropriations to the judicial branch increased by 66 percent.

While we may continue to have differences between the executive branch and the Congress, which hinder the swift enactment of legislation, we must ensure that the Congress—as an institution—operates in the most efficient and effective manner possible. This resolution moves us forward in this regard, and I strongly urge its passage.

Mr. REED. Mr. Speaker, I rise today in support of House Concurrent Resolution 192, legislation to establish a Joint Committee on Organization of Congress. I am a cosponsor of this long overdue measure and believe that it deserves the support of Members from both sides of the aisle.

In my conversations with people across Rhode Island, one message comes through loud and clear: a mandate for change in policy and politics as usual. I doubt that the call for new direction is any less in most other States.

But real change means a willingness by Congress to look seriously at the way we do business—the methods of crafting policy and the process of reviewing and acting on legislative proposals. The resolution before us today takes that first step. This measure calls for a thorough study of the organization of Congress and directs a bipartisan committee to make recommendations on simplifying operations and improving orderly consideration of legislation.

It has been more than 25 years since Congress thoroughly examined its own operations through the joint committee. In the years since, both bodies have made periodic changes in administrative and legislative operations. But now, in this session of Congress, more than 250 bills, covering 75 different topics that touch on some aspect of congressional organization have been introduced either in the House or Senate.

The leadership in this House made an effort to assure a bipartisan approach to this review. I would encourage the committee to be exhaustive in their inquiry and innovative in their recommendations. Such proposals may be bold, but the level of frustration with Government calls for boldness. As I've stated before, if we are going to make the tough decisions required to control the deficit, create jobs, and reform the current health care system, Congress must first get its own house in order.

I commend Mr. HAMILTON and Mr. GRADISON for their leadership and ask my colleagues to support this resolution.

Mr. SANTORUM. Mr. Speaker, I have been down to this floor many times calling for reform of the way the House is operated. This resolution is a step in the right direction. I think this day is long overdue.

I fully support this resolution, especially the provision that authorizes a report to this body by November. We should not have to wait until next year or the year after to reform the way the House is run. In a few months there will be over 100 new Members arriving in Congress. They will demand change.

We have a unique opportunity to provide a framework for that change. A framework that will make Congress work better, eliminate government waste and mismanagement, and make Congress accountable to the American people. For many months, the Republican Members of the freshmen class have been calling for the reform of Congress. During this time, we have had efforts underway to provide a basis for this reform. I submit this report from the Congressional Research Service [CRS] as the first installment in our effort to provide for the substantive reform of the House of Representatives.

Last winter, we formally requested IRS to prepare this study of selected congressional reform issues. This is the product of that request and contains a wealth of information on congressional reform. The study addresses the House committee system, floor procedures, management and administration, and staffing and allowances. We are certain that the study will establish a starting point for serious and significant reform.

The unique features of this study are the concise statement of each issue and the many options provided for reform. For each topic, this report provides a summary paragraph describing the current status of the issue; a list of possible options for reform; citations to the 102d Congress proposals on the topic; and selected reference items.

Many Members of Congress are calling for immediate reform in response to the lagging timetable of current efforts in the House of Representatives. It is essential that we provide some constructive proposals to fundamentally reform the House before the beginning of the next Congress. We will address many other potential areas of reform over the next few months. We have established a foundation with this study and are continuing to build a comprehensive package timed for November 1992. In addition, it is our intention that these efforts will produce a congressional reform platform for incoming Members of Congress in the class of 1993. This platform will provide the framework for organization of the 103d Congress.

In the next few months, I will provide a concise pro-con analysis on each of the options listed in this study. Additional reform issues still need to be addressed, such as: ethics, scheduling, legislative-executive relations, the budget process, and oversight.

Mr. KYL. Mr. Speaker, the Hamilton-Gradison resolution is a good place to start. But it is only that: A starting point. Congress must require the committee to report promptly, before the November elections. The American people deserve to hear how their representatives plan to handle congressional reform before they cast their votes.

Moreover, the House should immediately pass the Michel resolution. This would:

Create a chief financial officer to oversee the Post Office and other administrative functions;

Cut committee congressional staff by 50 percent;

Apply to Congress existing employment laws—from which Congress exempted itself. These include the National Labor Relations Act, the Civil Rights Act of 1964, the Equal Pay Act of 1963, and many others;

Prohibit the use of franking mail outside a Member's district; and

Ensure open debate by limiting the use of rules which curtail popular amendments.

It is only by passing comprehensive reforms like these that Congress can regain the confidence of the American people. It would be a travesty if the Hamilton-Gradison committee were used as a way to avoid reform rather than enact it.

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 481, the previous question is ordered on the concurrent resolution and on the committee amendment in the nature of a substitute.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 4, not voting 18, as follows:

[Roll No. 205]

YEAS—412

Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade

McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—4

Abercrombie
Gonzalez
Rangel
Washington

NOT VOTING—18

Alexander
Bonior
Chandler
Crane
Glickman
Guarini
Hefner
Hubbard
Jenkins
Jones (GA)
Moran
Nichols
Quillen
Schumer
Slattery
Traxler
Whitten
Young (AK)

□ 1257

Mr. WASHINGTON changed his vote from "yea" to "nay."

Mr. LAGOMARSINO and Mr. GILCHREST changed their vote from "nay" to "yea."

So the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 205 on House Concurrent Resolution 192 I was unavoidably detained. Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 192, the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

CONCERNING 25TH ANNIVERSARY OF REUNIFICATION OF JERUSALEM

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 113) concerning the 25th anniversary of the reunification of Jerusalem, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to afford the gentleman from Indiana [Mr. HAMILTON] an opportunity to explain the resolution.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Indiana.

□ 1300

Mr. HAMILTON. Mr. Speaker, I rise in support of Senate Concurrent Resolution 113, a resolution concerning the 25th anniversary of Jerusalem in 1967.

The resolution is similar to House Concurrent Resolution 316 which was introduced by my colleagues on the Committee on Foreign Affairs, Mr. SOLARZ and Mr. GILMAN of New York. The resolution was modified slightly during consideration in the Senate. The small changes were acceptable to the House sponsors. I commend my colleagues for their leadership on this resolution.

It is important to recognize what this resolution is and what it is not. This resolution recognizes important facts. It recognizes the progress which has occurred in Jerusalem since the city was reunified. It recognizes the importance of Jerusalem for peoples of the world's three great monotheistic religions—Judaism, Christianity, and Islam. It recognizes the importance of maintaining the unity of the city and access to it for all religious groups. Free and fair access for all religious groups is essential in this historic and sacred place.

Finally, this resolution is a tribute to the life and work of Mayor Teddy Kolleck, whose leadership in Jerusalem over many years has proved so vital. Jerusalem cannot be removed from the political conflicts of the Middle East, but Mayor Kolleck over many years has tried to keep the city an island of calm in a sea of conflict. Mayor Kolleck has devoted his life to religious tolerance, reconciliation, and maintaining Jerusalem as a place of personal reflection and worship.

It is also important to recognize what this resolution is not. This resolution does not address issues which must be addressed in peace talks. It does not prejudge what can or should happen in those peace talks. The resolution focuses on religious rights and their preservation in the city. The resolution does not deal with political rights, which is a subject for the parties in Middle East peace talks. A comprehensive peace in the Middle East must deal with the political issues involving Jerusalem.

Mr. Speaker, I urge the adoption of this resolution.

Mr. BROOMFIELD. Mr. Speaker, further reserving my right to object, I yield to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, this resolution, which enjoys broad bipartisan support, takes note of a great and historic event which occurred 25 years ago this month. I am referring, of course, to the reunification of Jerusalem as a result of which members of all the great religious faiths which have their holiest shrines located in that city have been able to enjoy all of the religious rights to which they are entitled.

This resolution takes note of that development and expresses the strong support of the United States for the continued and permanent reunification of the holy city.

Mr. BROOMFIELD. Mr. Speaker, further reserving my right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 113, a resolution concerning the 25th anniversary of the reunification of Jerusalem. I commend our distinguished and eloquent colleague from New York, Mr. SOLARZ, for introducing this measure, and I am pleased to join him as an original cosponsor. I would also like to commend the Distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, as well as our distinguished ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD]. The distinguished chairman of our subcommittee, the gentleman from Indiana [Mr. HAMILTON], and Mr. SOLARZ for their outstanding work on this measure. I am pleased and proud to support him as an original cosponsor.

Since 1967, Moslems, Christians, and Jews alike have had access to the holy sites in Jerusalem. This year marks the 25th anniversary of the unification of the holy city of Jerusalem, a unification that has protected the rights of access to that city for people of all faiths.

This resolution congratulates the residents of Jerusalem, as well as the people of Israel on the 25th anniversary of the reunification of that historic city.

Mr. Speaker, many of us believe that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected, just as they have been protected by the Israeli Government for the past 25 years.

As we take a moment to reflect on the tumultuous history of the city, I commend President Bush and Secretary Baker for the outstanding job they have done in bringing Arabs and Jews to the bargaining table.

I have said for years that neither the United States, nor any other third party, can impose peace on the belligerents to this conflict. We must continue to prod, to push and to be aware of when to sit back. We must continue to try to catalyze this very difficult process.

Accordingly, Mr. Speaker, I urge our colleagues to support this resolution.

Mr. BROOMFIELD. Mr. Speaker, I support this resolution.

Mr. Speaker, I wish to commend the distinguished chairman of our Asia and Pacific Subcommittee, Mr. SOLARZ, for introducing this important and timely measure, as well as the ranking Republican member of the Europe and Middle East Subcommittee, Mr. GILMAN, for his outstanding work in bringing this measure before us today.

For 25 years, ancient and historic Jerusalem has been a united city. Jerusalem is a holy city for three of the world's great religions: Judaism, Christianity, and Islam. Since 1967, Jerusalem has remained undivided, with its religious sites equally accessible to all who wish to pray.

I join my colleagues in congratulating the residents of Jerusalem and the people of Israel on the 25th anniversary of the unification of this historic city, and I support the adoption of this measure.

Mr. RAHALL. I am in opposition to Senate Concurrent Resolution 113 which calls for a reversal of long-standing U.S. foreign policy concerning the status of Jerusalem. Past and present U.S. Presidents have reiterated that Jerusalem's final status should be decided through negotiations, not proclamations, as this resolution suggests. President Bush stated on March 3, 1990, that East Jerusalem is occupied territory. For that reason, the U.S. Embassy is in Tel Aviv, not Jerusalem.

Additionally, Senate Concurrent Resolution 113, in supporting Israel's premise that Jerusalem is one city under Israeli sovereignty, is directly in conflict with U.N. resolutions. These resolutions call specifically for the internationalization of the city of Jerusalem, and condemn the forced annexation of the East Jerusalem Arab area, which was the result of the 1967 war.

Clauses 8 and 9 of this proposed resolution state that every ethnic and religious group has been protected by Israel during the past 25 years. The facts, however, do not agree. Over the years, many Palestinian Arabs have been evicted from their homes in East Jerusalem neighborhoods. The State Department itself has requested that the Israeli Government control those Israelis who have seized Palestinian property and are "bent on destroying the prospects for peace." Another example of how the rights of Palestinians are not protected by Israel was the deaths of 22 Palestinians in the streets of Jerusalem on October 8, 1990. These deaths were the result of a clash between Moslem Palestinians and Israeli police. The U.N. Security Council condemned Israel's actions in a resolution and sent an investigative team to Jerusalem with whom Israel refused to cooperate.

Furthermore, Senate Concurrent Resolution 113 would almost certainly sabotage the promising opportunity for peace which has been fomented by the Middle East Peace Conference. While hostility and violence abound as the above examples demonstrate, Palestinian and other Arab delegations feel Israeli sovereignty over all Jerusalem is unacceptable.

I realize after the fact that the distinguished gentleman from Indiana [Mr. HAMILTON] secured unanimous consent to discharge our House Foreign Affairs Committee from further consideration of the Senate passed version. All was said and done by voice vote in a very short time and with no advance scheduling. This is understandable knowing the extreme sensitivities surrounding this issue. However, it is not the House in its best form. I regret the process and I regret the action which I fear will alienate participants involved in the precious peace process. This resolution may thwart the search for justice and lasting peace that many parties have sought for many years.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 113

Whereas for three thousand years Jerusalem has been the focal point of Jewish religious devotion;

Whereas Jerusalem is also considered a holy city by the members of other religious faiths;

Whereas the once thriving Jewish community of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

Whereas in 1967 Jerusalem was reunited during the conflict known as the Six Day War;

Whereas since 1967 Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas this year marks the twenty-fifth year that Jerusalem has been administered as a unified city in which the religious rights of all faiths have been respected and protected;

Whereas in 1990 the United States Senate and House of Representatives overwhelmingly declared that Jerusalem, the capital of Israel, "must remain an undivided city";

Whereas United Nations Security Council Resolutions 681 and 726 have raised understandable concern in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens of all faiths and Jewish citizens of other states; and

Whereas such concerns inhibit and complicate the search for a lasting peace in the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the residents of Jerusalem and the people of Israel on the twenty-fifth anniversary of the reunification of that historic city;

(2) strongly believes that Jerusalem must remain an undivided city in which the religious rights of every ethnic and religious group are protected as they have been by Israel during the past twenty-five years; and

(3) calls upon the President and the Secretary of State to issue an unequivocal statement in support of these principles.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REPORT ON H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

Mr. FAZIO, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–579) on the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. LEWIS of California reserved all points of order on the bill.

REPORT ON H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1993

Mr. THOMAS of Georgia, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–580) on the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. LOWERY of California reserved all points of order on the bill.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 5132, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1992, FOR DISASTER ASSISTANCE TO MEET URGENT NEEDS BECAUSE OF CALAMITIES SUCH AS THOSE WHICH OCCURRED IN LOS ANGELES AND CHICAGO

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 491 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 491

Resolved, That upon adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House an indivisible motion: (1) to adopt the conference report to accompany the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes; (2) to agree to the motions printed in the joint explanatory statement of the committee of conference to dispose of disagreements reported from conference on Senate amendments numbered 3, 5, 7, 9, 11, 12, and 13; and (3) to agree to the motions printed in the report of the Committee on Rules accompanying this resolution to dispose of disagreements reported from conference on Senate amendments numbered 1 and 2. The conference report and the printed motions described in this resolution shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations or their respective designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 491 is a rule providing for the consideration of the conference report on H.R. 5132, the Dire Emergency Supplemental Appropriations for Disaster Assistance. The rule makes in order one indivisible motion to be considered in the House. The motion would include: First, adoption of the conference report; second, agreeing to motions printed in the joint explanatory statement to dispose of disagreements on seven Senate amendments; and third, agreeing to motions printed in the report to accompany the rule to dispose of disagreements on Senate amendments numbered 1 and 2.

The rule also provides for 1 hour of debate, equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee, or their designees. Finally, the conference report and the motions printed in the joint explanatory statement and the Rules Committee report would be considered as read.

In summary the rule provides for 1 hour of debate on a single motion to adopt the conference report and dispose of all of the amendments in disagreement. Following this will be an up or down vote on the motion.

Mr. Speaker, H.R. 5132 is a bill making dire emergency supplemental appropriations for disaster assistance. The bill provides needed funding to address the calamities which occurred earlier this year in Chicago and Los Angeles.

The conference report as modified includes funding for FEMA and SBA contained in the original House-passed bill but does not retain provisions added by the Senate dealing with Head Start and compensatory education. The modified conference report would also add $500 million for summer youth employment of which $100 million would be earmarked for the 75 largest cities.

Finally the modified conference report includes a sense-of-Senate provision deleted by the conference agreement urging Congress to adopt Federal enterprise zone legislation. Overall the bill would provide $1 billion in assistance to urban areas.

Mr. Speaker, House Resolution 491 is a carefully crafted rule that will speed consideration of this important legislation. We are already in the summer months and it is imperative that Congress distribute this funding as quickly as possible to the cities. I urge my colleagues to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not want to be accused of attempting to hold up a dire emergency supplemental appropriations bill, so I intend to support this rule.

I do so, however, with one major reservation. After the motion to adopt the conference report is debated, the rule stipulates that the previous question shall be considered as ordered on the motion to final adoption, without intervening motion. In other words, we are being denied an opportunity to offer a motion to recommit the conference report back to the conference.

Although with conference reports such a motion is not required to be provided under House rules, this is one more example of a growing trend toward denying the minority the opportunity to fully participate in developing legislation with major international policy implications.

□ 1310

I do, however, intend to vote against the conference report itself. Mr. Speaker, while we all want to assist our Nation's inner cities, and particularly my riot-ravaged Los Angeles, I believe that funneling hundreds of millions of dollars without reform would be a mistake. Since 1965 we have spend $2.1 trillion to deal with urban problems. Yet what has it gotten us?

H.R. 5132 does not get to the root of these problems, which is the alienation that confronts so many in our society. There is little in the legislation, for example, to stimulate private-sector job creation. The legislation merely pays lip service to enterprise zones, even though most Members on both sides of the aisle claim to support the concept.

The conference report states: "Congress should adopt Federal enterprise zone legislation." What are we waiting for; another decade to pass while urban economic activity becomes extinct? Peter Ueberroth, who leads the rebuilding effort in Los Angeles, said that jobs would be created within 48 hours of enactment of that legislation.

What about the President's HOPE Program to allow public housing residents to own and manage their units? Mr. Speaker, the 1990 housing bill authorized $1 billion for the program, but funding has been virtually nonexistent, and this conference report continues that trend.

In addition, Mr. Speaker, the conference report ignores the biggest vehicle at the Government's disposal for creating jobs and entrepreneurs in the inner cities.

Our so-called minority set-aside programs should be geared towards areas with high unemployment so that they serve a more useful purpose other than to line the pockets of wealthy business owners.

Mr. Speaker, I do, however, want to commend the conferees, including their leader, the gentleman from Kentucky [Mr. NATCHER], who did a wonderful job before the Committee on Rules yesterday, for including language to deny any of the assistance authorized in the legislation to anyone convicted of committing a riot-related crime in Los Angeles. It is important that we do not reward those who took part in the looting and destruction of that city.

But overall, this legislation takes the wrong approach. I cannot support this business-as-usual tack, but I do want to encourage my colleagues to support the rule so that the process can move forward.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in favor of the rule, but I do have some concerns about the base bill that this rule talks about, because I am concerned about the fact that at least one feature in the bill creates a $500 million social welfare program that was not asked for by the administration, and is now being brought to us.

Understand, this is being brought to us the day after an evening debate on eliminating $482 million for the superconducting super collider. That is a program of the future, designed to have jobs and improve the technology of the future. What we were told last night was the reason why they eliminated this project for the future is because we need to bring down the deficit. Understand, that was in a bill that was already under budget, and it was in a bill where the appropriations were such that we were not going to add to the deficit.

In this bill, because of the emergency nature, the $500 million of social welfare is going to be added on to the deficit. The President signs it in, it is an emergency, it is an emergency dire supplemental, it is added on to the deficit, so it is over and above. We exceed and go over. So everything we saved last night is being spent away in one fell swoop today.

I am a little chagrined that Congress consistently talks about the fact that every time we are out here saving money at the expense of the future, that somehow we are doing something about the deficit, and then turns around the next day and spends it for social welfare programs that basically suit our political needs right now.

I will tell the Members, a country and a Congress that fail to address the future in order to meet the present political needs is a Congress and a country that will be cursed by future generations. I am disturbed that this pattern is very, very clear in this particular instance. We are canceling out the future in a project and then turning around the very next day and spending away the money in absolute deficit add-on. I just think we ought to be very careful about our language when we come to the floor with some of these cuts that supposedly are going for deficit reduction.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I believe the gentleman is right when he talks about the super collider being the mechanics of the future, but what we are dealing with in this bill is the problem of the present. We are dealing with a need to provide jobs for youth in the cities who do not have a place to go to work. That is what this bill does. It is an immediate problem that requires our attention.

Mr. WALKER. Mr. Chairman, reclaiming my time, I would say to the gentleman, I think that is fine. Then why didn't we find some room within the budget to do this high priority for the present? Why does it have to be deficit add-on?

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I would say in response to my good friend, the gentleman from Illinois [Mr. YATES], we have tried desperately to have components included which would create jobs immediately. As I said in my statement, Peter Ueberroth, the former baseball commissioner, said down in the Oval Office with the President that if we could have the enterprise-zone concept implemented here, within 48 hours, 48 hours, jobs would be created, because that would provide an immediate signal that there is going to be a commitment to provide incentives for the private sector to create jobs in the inner city.

So I agree with my friend, that we are looking at what clearly is a present problem, but we have some very good solutions which, unfortunately, are not included in this package.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his statement, because I think it points out a real difference here. The fact is that we are part way through the summer now, that we are creating the summer jobs program. It is going to probably take until the middle of July to gear up these programs for young people. It will be the middle of August, and they are supposed to be going back to school.

The question is whether or not we create any jobs that have real consequence at all, whereas with the enterprise zones, we would create real permanent jobs for the future and would assure that private enterprise will be creating those jobs, not some Government bureaucracy that comes up with make-work projects.

We do not seem to be able to address that kind of situation. Instead, what we do is deficit add-on, more bureaucracy, and more problems that nobody knows how to deal with.

Mr. Speaker, I think that it is high time that we deal in the realities of the situation. Let us create real jobs. They do not have to be at public expense. Let us do something about this deficit, and let us at the same time keep in place those programs which help produce the jobs of the future. If we do not begin to think about the 21st century in some of what we do here, I think we are a nation that is destined to have a failed economy in the world economy which is emerging.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say that I agree wholeheartedly with what the gentleman from Pennsylvania [Mr. WALKER] has said. I also recognize that within this bill there is this statement: "Congress should adopt Federal enterprise zone legislation." It is just that a number of us who have in a bipartisan way cosponsored and encouraged the establishment of this legislation for a long period of time, we have seen President Bush push this forward for several years, feel as if only lip service is being paid to this issue. That is why we would like to actually implement the legislation.

Mr. Speaker, I would like to compliment our representatives on the Committee on Appropriations, the gentleman from Pennsylvania [Mr. McDADE], the gentleman from Kentucky [Mr. NATCHER], the gentleman from Indiana [Mr. MYERS], and others who have, as I said yesterday, the gentleman from Kentucky [Mr. NATCHER], up in the Committee on Rules actually brought in the profligate spending pattern that the U.S. Senate had. They took a bill which was in the hundreds of millions of dollars and put it to $2 billion, and it has been the vigilance of our conferees from this body who played a role in bringing back that level. So I would like to go on record, Mr. Speaker, complimenting them.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 759

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 759.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

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GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motions to dispose of the conference report to accompany H.R. 5132, and motions to dispose of amendments in disagreement, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON H.R. 5132, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1992, FOR DISASTER ASSISTANCE TO MEET URGENT NEEDS BECAUSE OF CALAMITIES SUCH AS THOSE WHICH OCCURRED IN LOS ANGELES AND CHICAGO

Mr. NATCHER. Mr. Speaker, pursuant to House Resolution 491 just adopted, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. NATCHER moves:

(1) To adopt the conference report to accompany the bill (H.R. 5123) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes;

(2) To agree to the motions printed in the joint explanatory statement of the committee of conference to dispose of disagreements reported from conference on Senate amendments numbered 3, 5, 7, 9, 11, 12, and 13; and

(3) To agree to the motions printed in the report of the Committee on Rules accompanying House Resolution 491 to dispose of disagreements reported from conference on Senate amendments numbered 1 and 2.

The SPEAKER pro tempore. Pursuant to House Resolution 491, the conference report and the printed motions described in the rule are considered as read.

(For conference report and statement see Proceedings of the House of Wednesday, June 17, 1992 at page 15229.)

The texts of the several motions described in the above motion are as follows:

AMENDMENT NUMBERED 1

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 1, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $169,650,000, to remain available until expended, of which $50,895,000 shall be available only to the extent that a Presidential designation of a specific dollar amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress, to subsidize additional gross obligations for the principal amount of direct loans not to exceed $500,000,000, and in addition, for administrative expenses to carry out the disaster loan program, an additional $25,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), $70,325,000, to remain available until expended, and in addition, for administrative expenses to carry out the business loan program, an additional $2,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

In addition, for the cost of direct loans authorized under the Microloan Demonstration Program (15 U.S.C. 636(m)), $5,000,000, to remain available until expended, and in addition, for grants in conjunction with such direct loans, $4,000,000, to remain available until expended and to be merged with appropriations for "Salaries and expenses": *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AMENDMENT NUMBERED 2

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services", $500,000,000, to be available for obligation for the period July 1, 1991, through June 30, 1992, to carry out part B of title II of the Job Training Partnership Act: *Provided*, That notice of eligibility of funds shall be given by July 1, 1992: *Provided further*, That the Secretary, to the extent practicable consistent with the preceding proviso, shall utilize the 1990 census data in allocating the funds appropriated herein: *Provided further*, That, for the purposes of this Act, of the funds appropriated herein, the first $100,000,000 will be made available by the Secretary to the service delivery areas containing the seventy-five cities with the largest population as determined by the 1990 Census data, in accordance with the formula criteria contained in section 201(b)(1) of the Job Training Partnership Act: *Provided further*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,500,000 for law enforcement training activities of the Center, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,500,000 for the hiring, training and equipping of additional full-time equivalent positions for violent crime task forces and for increased costs associated with the Los Angeles riot, to remain available until expended.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $3,400,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $500,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $800,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,765,000 are rescinded.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,000,000 are rescinded.

SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES

(a) FINDINGS.—The Senate finds that:

(1) The crisis of poverty and high unemployment in America's inner-cities and rural areas demands an appropriate and timely response from Congress;

(2) Manufacturing and industry has largely disappeared from many United States inner cities which, in turn, led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) Encouraging small and medium-sized businesses, which create the majority of new jobs in the United States economy, to locate and invest in poor neighborhoods is one of the keys to revitalizing urban America;

(4) Enterprise Zones will help convince businesses to build and grow in poor neighborhoods; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful, having generated capital investments in poor neighborhoods in excess of $28,000,000,000 and having created more than 258,000 jobs; and

(6) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Enterprise Zones are a vital, proven tool for inner-city revitalization; and

(2) Congress should adopt Federal enterprise zone legislation and that such legislation should include the following provisions:

(A) Competitive designation which will maximize State and local participation;

(B) Tax incentives addressing both capital and labor costs;

(C) Tax incentives aimed at attracting investment in small businesses; and

(D) Tax incentives to encourage the hiring and training of economically disadvantaged individuals.

AMENDMENT NUMBERED 3

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

For fiscal years 1992 and 1993, funds provided under section 9 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102–240.

AMENDMENT NUMBERED 5

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 5, and concur therein.

AMENDMENT NUMBERED 7

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 7, and concur therein with an amendment, as follows:

In lieu of the section number "103", insert: "102".

AMENDMENT NUMBERED 9

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows:

In lieu of the section number "105", insert: "103".

AMENDMENT NUMBERED 11

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows:

In lieu of the section number "107", insert: "104".

AMENDMENT NUMBERED 12

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 105. (a) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who is convicted of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992.

(b) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who—

(1) is under arrest for, or

(2) is subject to a pending charge of:

committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992: *Provided*, That the prohibition on the use of funds in (b) shall not apply if a period of 90 days or more has elapsed from the date of such person being arrested for or charged with such crime: *Provided further*, That should such person be convicted of a riot-related crime of violence cited in (a) and (b), such person shall provide to the agency or agencies which provided such assistance, payments equivalent to the amount of assistance provided.

(c) All appropriate Federal agencies shall take the necessary actions to carry out the provisions of this section.

(d) APPLICANT CERTIFICATION.—Any applicant for aid provided under this Act shall certify to the Federal agency providing such aid that the applicant is not a person described in subsection (a) or acting on behalf of such person.

(e) DEFINITION.—For purposes of this section, the term "riot-related crime of violence" means any State or Federal offense as defined in Section 16 of title 18, United States Code.

AMENDMENT NUMBERED 13

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 13, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 106. HUMANITARIAN ASSISTANCE TO BOSNIA-HERCEGOVINA.

Notwithstanding any other provision of law, up to $5,000,000 of the funds made available for foreign operations, export financing, and related programs in Public Laws 102–145, as amended by Public Laws 102–163 and 102–266, and previous Acts making appropriations for foreign operations, export financing, and related programs, shall be made available for humanitarian assistance to Bosnia-Hercegovina: *Provided*, That such assistance may only be made available through private voluntary organizations, the United Nations and other international and nongovernmental organizations: *Provided further*, That funds made available under this paragraph shall be made available only through the regular notification procedures of the Committees on Appropriations.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the House a modification to the conference agreement to the Dire Emergency Supplemental Appropriations Act for 1992 for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago. The rule just adopted, as Members know, makes in order a motion that I have just offered that, if agreed, to, will modify the conference agreement on this supplemental appropriations bill. This modified conference agreement would provide urgent assistance to those suffering from the devastation that occurred in Los Angeles and Chicago, and will provide summer youth jobs for disadvantaged young people.

Mr. Speaker, as Members will recall, when this dire emergency supplemental bill was before the House we adopted and approved the sum of $494,650,000 to be used by SBA for disaster loans and FEMA to provide for requests from Chicago and Los Angeles and for other requests that were pending. We sent that bill to the other body.

The Senate, as Members will recall, added $250 million for Head Start. They added additional money for chapter I in the amount of $250 million. For weed and seed, they added $250 million, and for summer youth employment they added $675 million.

We had problems with this in conference on both sides of the aisle, to some extent. We have now resolved this matter, Mr. Speaker, on both sides of the aisle. Under the leadership of my good friend, the gentleman from Pennsylvania [Mr. MCDADE], and others on his side and on our side, Mr. Speaker, we bring back to the House the modified conference agreement which includes $494,650,000 for FEMA and SBA for Chicago and Los Angeles, and in addition to that $500 million for summer youth employment. This will go with the amount in the regular appropriations bill of $682 million for this year. This additional $500 million, Mr. Speaker, will aid and assist in the employment of summer youth throughout the large cities and the other areas in this country and will employ as many as 400,000 additional young people. This is in addition to the 565,000 jobs that have already been financed by the regular appropriations act.

Mr. Speaker, of the $500 million provided to the Department of Labor for summer youth jobs for disadvantaged young people, the first $100 million will be allocated to the 75 largest cities as determined by the 1990 census in accordance with the formula in the Job Training Partnership Act. The remaining $400 million will be allocated among the 50 states in accordance with the basic law. The states in turn will allocate the money down to the local areas in accordance with the JTPA formula. The funds must be allocated by June 30, and we believe that the Labor Department can do it sooner than that if this bill can be passed this week.

Mr. Speaker, it is our understanding that for the purposes of the allocation of the first $100,000,000 to the 75 largest cities, the term "area of substantial unemployment" shall refer to the city.

Mr. Speaker, we recommend this to the Members of the House. We are in agreement on both sides. And, as I understand from my friends on the other side of the aisle, this modified conference report, or this bill will now be signed by the President.

Summer is upon us, Mr. Speaker. We need to pass this bill today and get it down to the President. The young people in our Nation deserve no less.

At this point I will insert a table in the RECORD that provides details of this modified agreement, and I urge its adoption by the House.

FY 1992 DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 5132)

Doc No.		Supplemental Request	House	Senate	Final Action 1/	Final Action compared with House	Final Action compared with Senate
	FY 1992 SUPPLEMENTAL APPROPRIATIONS						
	SMALL BUSINESS ADMINISTRATION						
	Disaster loans program account		169,650,000	118,755,000	169,650,000		+50,895,000
	(Limitation on direct loans)		(500,000,000)	(350,000,000)	(500,000,000)		(+150,000,000)
	Administrative expenses		25,000,000	20,000,000	25,000,000		+5,000,000
	Total, Disaster loans program account		194,650,000	138,755,000	194,650,000		+55,895,000
102-191	Business loans program account	53,350,000		46,895,000	70,325,000	+70,325,000	+23,430,000
102-191	(Limitation on guaranteed loans)	(1,100,000,000)		(966,000,000)	(1,450,000,000)	(+1,450,000,000)	(+484,000,000)
	Micro-Loan program			5,000,000	5,000,000	+5,000,000	
	Micro-Loan grants			4,000,000	4,000,000	+4,000,000	
102-191	Administrative expenses	2,000,000			2,000,000	+2,000,000	+2,000,000
	Total, Business loans program account	55,350,000		55,895,000	81,325,000	+81,325,000	+25,430,000
	Total, Small Business Administration	55,350,000	194,650,000	194,650,000	275,975,000	+81,325,000	+81,325,000
	FEDERAL EMERGENCY MANAGEMENT AGENCY						
	Disaster relief		300,000,000	300,000,000	300,000,000		
	Disaster assistance direct loan program account (limitation on direct loans)		(22,000,000)	(22,000,000)	(22,000,000)		
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	Administration for Children and Families						
	Human development services			250,000,000			-250,000,000
	DEPARTMENT OF EDUCATION						
	Compensatory education for the disadvantaged			250,000,000			-250,000,000
	DEPARTMENT OF LABOR						
	Employment and Training Administration						
	Training and employment services			675,000,000	500,000,000	+500,000,000	-175,000,000
	COMMISSION ON NATIONAL AND COMMUNITY SERVICE						
	Program activities			25,000,000			-25,000,000
	DEPARTMENT OF JUSTICE						
	General Administration						
	Emergency weed and seed program fund			250,000,000			-250,000,000
	DEPARTMENT OF THE TREASURY						
	Federal Law Enforcement Training Center						
	Salaries and expenses			1,500,000	1,500,000	+1,500,000	
	Bureau of Alcohol, Tobacco and Firearms						
	Salaries and expenses			5,500,000	5,500,000	+5,500,000	
	United State Customs Service						
	Operation and maintenance, Air and Marine interdiction program (rescission)			-3,400,000	-3,400,000	-3,400,000	
	United States Mint						
	Salaries and expenses (rescission)			-500,000	-500,000	-500,000	
	Bureau of the Public Debt						
	Salaries and expenses (rescission)			-800,000	-800,000	-800,000	
	United States Secret Service						
	Salaries and expenses (rescission)			-1,765,000	-1,765,000	-1,765,000	
	Total, Department of the Treasury			535,000	535,000	+535,000	
	EXECUTIVE OFFICE OF THE PRESIDENT						
	Office of National Drug Control Policy						
	Salaries and expenses (rescission)			-1,000,000	-1,000,000	-1,000,000	
	Grand total:						
	New budget (obligational) authority	55,350,000	494,650,000	1,944,185,000	1,075,510,000	+580,860,000	-868,675,000
	(Appropriations)	(55,350,000)	(494,650,000)	(1,951,650,000)	(1,082,975,000)	(+588,325,000)	(-868,675,000)
	(Rescissions)			(-7,465,000)	(-7,465,000)	(-7,465,000)	
	(Limitation on direct loans)		(522,000,000)	(372,000,000)	(522,000,000)		(+150,000,000)
	(Limitation on guaranteed loans)	(1,100,000,000)		(966,000,000)	(1,450,000,000)	(+1,450,000,000)	(+484,000,000)

1/ Final action reflects a motion made in order by the rule (H. Res. 491).

Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 5132 as modified by the rule. And before I begin, I want to compliment the manager of the bill, the gentleman from Kentucky [Mr. NATCHER]. As usual, he has done the right thing. He has taken the high road to reach an agreement that can be signed into law and get assistance out to people in need in our cities and across the country. And I know if it were up to him and the distinguished gentleman from Mississippi [Mr. WHITTEN], the chairman of the committee, this bill would have been worked out a month ago.

Mr. Speaker, this is an agreement that has come back from the brink. Originally proposed to provide additional funding to disaster assistance programs, it had all of the makings of a disaster in its own right. But at the last minute, reason has prevailed.

When it became clear last week that the conference was headed to Hades in a handbasket, I introduced and urged the speaker to bring up my substitute, H.R. 5342, which presented a reasonable and acceptable compromise. What we are considering today, Mr. Speaker, is my substitute in substance, if not in name.

Mr. Speaker, H.R. 5132 as originally passed by the House on May 14 included $495 million in funding to provide FEMA and SBA disaster relief grants and loans totaling $800 million. The idea was to pass on an urgent basis the funding only for immediate crisis needs and couple it with enterprise zone legislation so that we could begin to solve the problems that exist in urban America.

Well, somebody forgot to tell the other body. They took that short-term response and on May 21, immediately quadrupled it up to $2 billion. They added good programs, important programs, but programs that needed to be worked into an overall strategy of opportunity, of education, community support, and of course the overriding question that faces all of us in the House and in the Nation, how to pay for it.

On June 5, the conferees took that product and made it worse. The conference originally proposed to keep all of the funding in there and to insist that the President declare all of it an emergency or be able to spend none of it. They took the regular small business loan program, unrelated to disaster needs, but very much needed, and insisted that the President agree to declare an emergency even though, Mr. Speaker, there was room to fund it under the budget caps in the budget agreement.

And to add insult to injury, Mr. Speaker, they dropped the sense-of-the-Senate language calling on Congress to enact enterprise zone legislation, even though in my motion to instruct on June 3, the House endorsed that language by a vote of 372 to 21.

By Tuesday, June 9, the Washington Post knew what was going on and was disparaging it on their editorial page.

□ 1330

The crisis in Los Angeles and the need to provide help was being used to create a confrontation with the President. It was back to politics as usual.

Mr. Speaker, suffice it to say that I could not stand for that in good conscience, and I began to do what I could to get the bill back on the right track. I introduced my substitute last Tuesday, June 9, as a separate bill, the same as the alternative that I proposed in the conference on June 5. It called for three basic changes, first, provide a half-billion dollars for summer youth programs jobs, the one program that, if it is to be done, Mr. Speaker, must be done promptly with $100 million targeted to the 75 largest cities in the Nation; second, take $75 million for the SBA regular loan program out from under the emergency designation that the conferees on the other side have insisted upon, and fund them under the budget caps, since we have the room to pay for them; and, third, Mr. Speaker, restore the sense of the Senate on enterprise zones to assure the Congress and the country that we are serious about structural reform in urban America.

Mr. Speaker, miracle of miracles, in the agreement that was reached yesterday, that is exactly and precisely where we have ended up. Two words were changed, Mr. Speaker, and they do have some significance: The June 15 date for the release of the summer youth funding in the bill I filed was changed to July 1, an admission of just how much time we have lost.

Mr. Speaker, we are back on track in getting assistance to those in need and not using them to create political confrontation with the President or engage in partisanship.

The question now is: Should the Congress approve this modified report of the conference? Mr. Speaker, I urge my colleagues to vote "yes". The modified conference report provides up to $800 million in additional funding for disaster programs to assure funding for disasters all over the Nation.

Mr. Speaker, the conference report provides $75 million additional funding for regular small business loan program, enough to fund $1.4 billion in additional small business loans around the country. As I said, Mr. Speaker, this funding is provided under the spending caps, offset by the rescissions that the Committee on Appropriations passed earlier in the year. Without this funding, the SEA would have to close its loan window in July.

The modified conference report provides $500 million in summer youth jobs, $100 million, as I said, targeted to the 75 largest cities. Together with the nearly $700 million already available, this will provide nearly 1 million jobs to put young citizens of the Nation to work this summer in productive employment and help take them off the streets. If we pass this bill today, the money can be put to use. If we delay, Mr. Speaker, the money will be wasted, inefficient and cannot be put to use.

This modified conference report contains the sense of the Senate calling on the Congress to pass enterprise zone legislation, holding out the promise of real economic opportunity for people in urban America and the rural America.

Mr. Speaker, I believe that we now can, and we should, respond to people in need. In Los Angeles, the statistics are that there are 44,000 people unemployed because of the damage caused by the riots; 19,000 people have filed for FEMA disaster assistance; 15,000 applications have been distributed by the SBA for disaster loans.

Mr. Speaker, we are the land of hope and opportunity where everyone gets a chance if they are ready and willing to put their shoulder to the wheel. We cannot, and we ought not, turn our backs to people in need. We ought to act responsibly, and we now have the opportunity to do that and to do it right.

Mr. Speaker, this bill passed the House on May 14. It is now more than 1 month later that we are in a position finally to clear this bill. It could have been done a month ago, Mr. Speaker, and it should have been done a month ago.

Mr. Speaker, I urge my colleagues to adopt it today.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, the two principal disasters we are addressing today, and it is just two of the disasters, occurred something like 7 weeks ago. I emphasize that the disaster funding in this bill is not just for Chicago and Los Angeles but instead replenishes the disaster loan fund for any declared disasters.

We would not even be here today if the revolving fund for the disaster loan program had not been abolished. But for that, relief would have been forthcoming immediately and we would not be here today.

The revolving fund which was set up and operated so well for 13 to 14 years was abolished in the summit budget agreement in 1990, and but for that action that was taken as a part of that summit agreement, the victims could have had relief the next day when it was promised by the President, and we would not have been in this tug of war with the Senate adding on other programs and with the complications we are going to have in this bill. That disaster revolving loan fund operated 14 years. It worked well and should not have been abolished. Unlike other credit programs, this program was triggered by acts beyond the control of Congress.

We had the eligibility requirements set up in advance and the benefits could be explained and applications taken without delay, even when Congress is not in session. Time was very important with some of these destroyed businesses that want to get back into operation. Here we are 7 weeks later, some businesses will never go back into operation because they could not wait 7 weeks to find out if they could obtain the loan to rebuild or start up again. We should not even be here today because the revolving fund should not have been frozen.

We could relieve ourselves of the mistake that was made at that summit agreement. There is a bill in the Committee on Rules that could be released today which would reinstitute that fund. The administration opposes it, and while it was supported unanimously in the Small Business Committee there are a few, I am sorry to say, here in the Congress that oppose that bill also. If that bill were passed, we would not be back here on these kinds of bills again following another disaster.

If we were going to have this bill, though, it certainly should include 7(a) loan guarantees. They are needed and these bank loans would result in 100,000 new jobs and for a total of $70 million, where for $500 million under this bill, we are going to get 360,000 temporary jobs. So the 7(a) program is the one that should have been in this bill to start with.

In addition to that, the Weed and Seed Program has been mentioned. That program should be in this bill but it was eliminated. If protection is not provided for these people rebuilding their businesses in these areas through Weed and Seed Programs and overcoming problems like that, the rebuilding will not occur.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I wanted to point out to the gentleman that Weed and Seed is available beginning on June 1. There are about $700 million, in addition to the $500 million emergency job training program; on July 1, $700 million roughly is available, and that is one of the programs that is tapped by Weed and Seed, along with Head Start, educational programs, virtually every program the gentleman and I vote for in the Labor/HHS bill offered by the gentleman from Kentucky.

Mr. SMITH of Iowa. They are not in this bill and when in the regular 1993 bill the outlays come out of the drug and crime enforcement fund of 1993. That is the problem with that.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I rise to congratulate the chairman and ranking member for the job they have done.

Mr. Speaker, I am pleased that the conferees have agreed to include in the conference report a provision that restates congressional intention regarding the use of highway funds for billboard removal.

In the Intermodal Surface Transportation Efficiency Act of 1991, Congress permitted the use of highway funds for removal of nonconforming billboards, but left it within the States' discretion as to whether funds would be used for this purpose. Much to the surprise of the Members of Congress who considered this issue, the Federal Highway Administration developed preliminary guidance contrary to this intention that would have required States to remove all nonconforming signs within 2 years. Conferees on ISTEA on both sides of the billboard question have agreed that this reading of the law by FHWA is completely contrary to congressional intention.

As a result, we in the House developed language for inclusion in a package of technical amendments that would clarify, once and for all, congressional intention that removal of nonconforming billboards is purely a matter of State discretion. In the bill before us today, the Senate included and the House conferees agreed to this clarification, as well as a couple of other technical changes that are needed to maximize the job creation benefits of ISTEA.

By permitting highway funds to be used for sign removal, Congress has provided States with the means to carry out sign removal if they so choose. States may elect to remove all or some of their nonconforming signs, or they may decide not to remove signs but instead to use funds for construction and rehabilitation projects.

Unfortunately, bureaucrats at the Federal Highway Administration have a history of pursuing their own agenda in pressuring States to remove nonconforming signs. Many examples could be cited, but let me give you just one. FHWA recently issued a notice of proposed rulemaking that replaced its earlier guidance requiring billboard removal. Although the guidance had set a June 18 deadline for States to submit plans for billboard removal, the NPRM clearly provides that the deadline is postponed until 60 days after a rule is issued, if it is issued at all. In spite of this clear delay, we received reports of the FHWA pressuring States to still meet the June 18 deadline. Only after congressional intervention did FHWA correct the mistake.

Based on this past practice, I am concerned that the Federal Highway Administration might attempt to influence States in their decisionmaking on this issue. I would simply like to state in the strongest terms, once again, that each State has complete discretion under the law as to whether to use its highway funds for billboard removal, and that the Federal Highway Administration should not in any way interfere with the decisionmaking process of the States on billboard removal.

Mr. McDADE. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. MICHEL], the distinguished Republican leader.

Mr. MICHEL. Mr. Speaker, common sense has prevailed, and we have a supplemental which addresses the real emergency needs for which it was intended without all the add-ons thrown on by the other body.

I guess this version before us today is, in essence, the McDade solution. It is strongly supported by the administration.

The agreement basically provides emergency funding for Los Angeles and Chicago contained in the original supplemental passed by the House, plus the additional $500 million for summer youth jobs, and also included is a sense-of-Congress language urging adoption of enterprise zone legislation.

I should say at this juncture that in my earlier conversation in the day with the distinguished majority leader, recognizing that we have less than 50 votes on our side of the aisle when this measure originally passed the House of Representatives, and wanting to have more, obviously with this kind of agreement, that we wanted to have assurance on this side we would have at least an opportunity for a straight up or straight down vote before the July 4 recess on the issue of enterprise zones legislation. The majority leader said that we do have that commitment from him.

I was hoping we might be able to have a brief dialog here on the floor to confirm that, but I think Members know my word well enough that what I have just said was, as a matter of fact, a conversation with the distinguished majority leader, and that were he here, he would have subscribed to that.

Mr. Speaker, I am not sure if the gentleman from Kentucky is on his feet to ask me to yield for any corroboration of that or not, but if so, I would be happy to do that.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I wanted the gentleman to yield to me for this purpose: The gentleman who is now speaking on the Republican side, the minority leader, and one of the best Members in the House, served for a number of years as the ranking minority member on our subcommittee that appropriates the money for the Departments of Labor, Health and Human Services, and Education. I say to the distinguished gentleman from Illinois, this modified agreement is a result of what takes place when you do it right.

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Mr. MICHEL. Well, I thank the gentleman.

Mr. NATCHER. That is exactly right, under the leadership of the gentleman from Pennsylvania [Mr. MCDADE] and the Members on the other side and on this side, I say to the gentleman from Illinois [Mr. MICHEL], we did it right.

Mr. MICHEL. Well, Mr. Speaker, let me add to that by simply saying that those were some of my more enjoyable days in this body when I guess I was not carrying the burdens of the leadership role I now have, but rather could do my thing that I thought I did best in the daily work that consumed so much time on that Appropriations Committee.

We did work on both sides of the aisle from the top of the committee down to the bottom and across that table with one another on a day-to-day basis to produce a bipartisan product. That then gives everybody an opportunity to contribute to the process and makes service in this House a very worthwhile venture when you know that you are really producing something in a very positive way.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, the gentleman talks about the enterprise zones. Enterprise zones cannot work if we do not provide a weed and seed program as a part of it.

I would solicit the support of the gentleman for putting weed and seed into that bill.

Mr. MICHEL. I shall certainly take the gentleman's recommendation there in good stead.

Mr. Speaker, I noticed the distinguished majority leader is on the floor. I would be happy to yield to him so that we might extend our phone conversation here in public.

Mr. Speaker, I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Let me first say that the efforts here on the supplemental, and I will speak a little later in the debate about the supplemental in particular, has been to try in a timely manner to get something done that is important to people.

We have engaged in a series of communications to come to this agreement that we are talking about today.

It is also our intention to have on the floor the week after next week, in other words, the week before the Fourth of July, legislation on urban enterprise zones, which are being discussed actively now within the Committee on Ways and Means and in the other body.

It would be my hope that we could reach an agreement on the outline and the specifics of urban enterprise zones. That is my goal and I know it is the goal of the distinguished minority leader.

The SPEAKER pro tempore (Mr. HAYES of Illinois). The time of the gentleman from Illinois [Mr. MICHEL] has expired.

Mr. MCDADE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. MICHEL. In turn, Mr. Speaker, I yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

If we are not able to come to an agreement, and I obviously hope we do and we can, it would be our obvious intention to bring this bill in a manner that the minority could offer alternatives. The exact way that would be done obviously would have to be subject to coming to an agreement on scoring, and I hope that we can do that, but we will make every effort, and I want the gentleman to know that, to see that we have a full, a fair, and a free debate of alternative approaches, as well as the approach we can work out.

I hope that we can work out a common approach that will gain a consensus between the parties on enterprise zones.

Mr. MICHEL. Mr. Speaker, I would agree with the gentleman that the ultimate solution is one in which both sides in a preliminary sort of way by committee get agreement before we come to the floor. In the absence of that, however, we want to be absolutely sure, and it gets to be a controversial subject, no question about it, people have different approaches. The gentleman from Iowa just made a suggestion there that he feels strongly about.

I guess the ultimate would be that if we had free and unfettered debate in which amendments would be offered from whatever source, we ultimately come to a consensus and then we either rise or fall depending upon the votes that are cast.

What we want and what I was asking the gentleman, and I think he has pretty well assured the gentleman from Illinois, is that we will have that opportunity in any case for a clear expression of our feelings with respect to how we perceive a good piece of legislation having to do with enterprise zones ought to be crafted.

Is that correct?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, the gentleman is stating what has been our intention all along, which is to come to an agreement on this, and if we cannot, to structure a debate that is seen by all the Members to be fair, to allow alternatives to be done in a way that is fair to both sides.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader.

May I just make the point that jobs represent one of the best ways of keeping kids off the streets and from getting into trouble during the summer. I think we will have to agree with that. The Summer Jobs Program will help to bridge the time period between now and when the Enterprise Zone Program, assuming enactment, can provide private sector jobs.

Obviously, as the gentleman from Pennsylvania pointed out, time is running short for getting the summer youth job money to the cities and developing the jobs.

Let me say just a final word about the entire process of providing such aid.

We know that our cities need a mixture of individual responsibility, government aid and private sector job building, but no one can say with certainty the exact proportion that each necessary part must contribute to solving the varied problems.

I mention this only to underscore the fact that what we in the Congress really need from time to time is a bit of humility and some patience and some discipline as we try to solve some of our urban problems.

What we have here now, finally, as what the gentleman from Kentucky has said, is a good compromise proposal, advocated by the President, which will direct funds to several of our more urgent needs; but unless there is a commitment to individual responsibility in our communities, and private sector help as well, no government aid alone is going to solve our problems.

I know there are a significant number of Members on both sides of the aisle who have some reservation about the original impact about what this was to be about. There ought not to be a reward out there in any sense or a presumed reward for simply unrulyness and tearing down our cities with the prospect that somebody is going to come to their aid later on and rebuild the damage that they have done. That cannot be countenanced, but we have to face up from time to time on a daily basis here what we are up against, and I think the manner in which we have arrived at this compromise is one in which this Member can give his wholehearted support.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I thank my chairman for yielding this time to me.

I rise in support of this conference report.

I guess most of us on this floor feel that the report is either too much or too little. This bill as it left this House provided for one thing. I do not know why Members on this floor and the press cannot get it right. It did not provide money for Los Angeles nor Chicago. It provided a replenishment of money that was being used in Los Angeles and Chicago.

The gentleman from Pennsylvania [Mr. McDADE] has said it, the gentleman from Iowa [Mr. SMITH] has said it, but still the perception as it left here was that it provided money for Los Angeles and Chicago.

Was it too much to ask this Congress to replenish the loans that were used in those communities, not to reward rioters or an unforeseen accident in Chicago, but to provide small business loans and FEMA grants to those people who were innocent in the whole affair?

I doubt if there is one person in Los Angeles who is going to apply for a small business loan who was arrested in the riots. I doubt if small business people, the merchants, were out rioting, but rather protecting their property, yet in our conference we spent a lot of time dealing with someone who may have been arrested and prohibiting them from getting a loan for something they had no intention to do.

The conference report now provides for $500 million additional for the Job Partnership Act, not for Chicago, but this entire Nation. It provides for additional moneys for jobs for this entire Nation and each State.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. DIXON] has expired.

Mr. NATCHER. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. DIXON. And each State will share in this additional $500 million.

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If you do not need jobs and training in your communities, then you do not have to use it. But a lot of those States and those cities who have high unemployment, who have been impacted by a riot, whose people have been placed out of work, allow them an opportunity to work this summer.

Mr. Speaker, there is no one in this House that is happy with this. There is no one here who sees clearly what an urban enterprise zone is. I hope that the leaders on both sides can work constructively for an urban enterprise zone. That is like saying "motherhood."

My distinguished friend, the gentleman from California, a member of the Committee on Rules, suggests that Peter Ueberroth has a bunch of jobs in his pocket and all he needs is 48 hours. He does not even have that kind of talent. He has not even announced his committee. So let us get down to business. This is the first step in a long process to bring some order to our urban community.

Mr. McDADE. Mr. Speaker, I yield 4 minutes to my distinguished friend, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I regret I must rise in opposition to this conference agreement. First, 5 weeks ago today this bill passed the House. I disagreed back then, not that we did not want to help the people in need. At that time I offered a motion to recommit. I think I got two votes for it here on the House floor, a motion to take away the grant money.

Do not give money, but provide the loans that my friend from Los Angeles just mentioned here. Provide the loans that would be repaid. But the $300 million out-and-out grant, I positively do not understand how anybody can justify giving this kind of money away when we do not have it.

We had a big row here yesterday about the half-billion dollars for investment in our future. Now, when we went to conference with that other body, right away they added all the money that Mr. McDADE has talked about. I asked the question of several of our colleagues from the Senate on both sides of the aisle, "How are we going to pay for this?" "Don't worry about it, it is outside of the budget." "Don't worry about it, it is outside of the budget."

Last night they asked why we are in the condition we are in, and that is the reason we are in it. We do not worry about it if we can get it and do not have to be accountable for it.

Now, this has been added here in the agreement, and I would like to know how the agreement was made. I was a conferee. I understand now there is a conference agreement. I was not part of that agreement. Who made the agreement to bring this bill today? The conferees, as far as I know, at least this conferee was not invited back to the conference. True, I walked out on it because I do not want to see the taxpayers' money of this country wasted.

It provides for half a billion dollars to be available for obligation for the period July 1, 1991, through June 30, 1992. I have been advised this means that the money will have to be obligated in about 12 days. Now, Mr. DIXON just said Mr. Ueberroth in the center of Los Angeles says he does not have jobs in his pocket. How are you going to administer half a billion dollars? How are you going to get it properly spent in 10 or 12 days?

No one is opposed to summer employment, of course not. But it is a little bit late here to come in the last part of June talking about summer employment for kids that are going back to college about the middle of August. How can we really spend the taxpayers' money wisely at this late date? Certainly, I do not oppose it, but I would like to ask a few questions.

I am sorry we do not have enough time to adequately talk about this $1 billion-plus supplemental appropriation. But who is going to administer this program, what kind of people are going to qualify? What is a summer youth program? Who is going to qualify for these jobs? What kind of jobs are we going to have for them here in the remaining month and about 10 or 12 days? Who is going to get the jobs: Is it going to be college students, is it going to be hard-core unemployed youth in the inner cities? What kind of jobs are we going to have?

My friends, I hate to oppose something here. I do not oppose the loans to the inner cities or to the city of Los Angeles or Chicago to replenish the funds that will be used as the chairman has talked about here. But at this late date, at this time of the summer when just last night we decided not to spend $483 million on an investment in our future, how can we now come along with $1 billion-plus, it could run $1.5 billion, for something that no one can answer the question: Who is going to get the jobs? How is it going to be administered? Who is going to administer the program, even? We have wasted enough money. Let us not do it again.

Mr. Speaker, I urge a "no" vote on this conference report, send it back. Let us get a decent bill. It is all right to help those people who need to be helped, but at least we can help the taxpayers by reconsidering this bill and turning it down today, the conference report.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, unfortunately, some of the most important items added by the Senate were killed in order to make the bill palatable to President Bush, who really displayed a fighting spirit as he dealt with this bill.

He fought passionately against adding funds for Head Start. He went to the mat to take a Justice Department Weed and Seed Program out of the bill.

First, he recommended a weed and seed bill, and then he did not even want to see it in the bill. The only thing left in this bill, in addition to replenishment that Mr. DIXON talked about, really is the summer jobs money, which I am very pleased to see.

But the President should have supported measures to combat the hopelessness in our cities, which is clearly due to a 60-percent cut in urban aid since Ronald Reagan became President in 1981. Since that time, Federal aid for States and cities was cut by $78 billion, while the Pentagon budget increased by $579 billion.

You know, the Los Angeles crisis brought us together for a brief moment, a moment to put the politics of hate and fear behind us, a moment to get to the root causes of urban problems.

But what comes about today is basically more of the status quo; but it is all we can get done right now. I am glad to vote for picking up the shattered glass, but what about the shattered dreams? We had a moment. It will take new leadership or a veto-proof Democratic Congress, because what we get today is blaming Lyndon Baines Johnson for the troubles in the cities, blaming Murphy Brown for the troubles in the cities, blaming each other for the troubles in the cities, and that just will not cut it.

Let me be clear: I will not vote to help Mr. Yeltsin in Russia, although I would like to do that, until I can help the people of our United States of America.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, last month when this bill came before the House, I strongly opposed its passage because of the money that would be sent to Chicago for fixing up the tunnel leak that was caused by the negligence of the city of Chicago and its employees. That money is still in there and the authority is still in there for the Federal Emergency Management Agency to pay Chicago up to $50 million for its share of fixing up the tunnel leak.

The gentleman from California [Mr. DIXON] said that we should be sending money to people who are innocent in the whole affair, and he is right on that. But insofar as Chicago is concerned, we are going to be sending money to the city of Chicago for fixing up a tunnel that the leak was caused because their employees and agents did not recognize what was happening down there in time to stop it. For that reason, I reluctantly oppose this money. I think it is a shame we are using many good programs to drag along this very bad one.

Mr. NATCHER. Mr. Speaker, before yielding to the next gentleman, I would like for the Members of the House to know that this gentleman from Chicago, IL, has been here a long time. He is chairman of the Subcommittee on Interior of the Committee on Appropriations. Realizing that we have 50 States in this Union—when I got here, we had 48, and when this gentleman arrived, we had 48—the gentleman from Illinois [Mr. YATES] has helped people throughout the 50 States in this Union every day that he has been here.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. YATES].

□ 1400

Mr. YATES. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for his warm introduction. I certainly look forward to the opportunity of having the gentleman introduce me around election time. I would love to have him at my campaign meetings.

But, Mr. Speaker, I have just listened to the gentleman from Wisconsin [Mr. SENSENBRENNER]. Here we go again. The gentleman from Wisconsin continues relentlessly his feud against the city of Chicago. On two earlier occasions he attacked the funds in this bill which will help the city of Chicago repair the devastation caused by the floods from the Chicago River. The House properly rejected his arguments.

Mr. Speaker, the flood waters have receded, but the damage remains. What happened in Chicago was a disaster, and it is perfectly proper for the Federal Government, just as the Federal Government has intervened to help victims of hurricanes, to help victims of floods in other parts of the country, to help victims of cyclones, and winds, and other disasters, to help the people of Chicago get back on their feet and repair the damage caused by the flood waters.

I do not think there is anything more to say about it. The House has rejected the gentleman's arguments properly, and I look forward to the House again rejecting the gentleman's argument and approving this bill.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I want to thank the gentleman from Kentucky [Mr. NATCHER]—my colleague, friend, and dean of our delegation—for yielding this time to me.

Mr. Speaker, I rise in very strong support of the gentleman's measure, and I am pleased that it does contain $500 million for summer jobs programs for youth.

Just this past Saturday I spent several hours going through many of the neighborhoods of the inner city of my hometown of Louisville. To a person, the ministers, the social workers, the business people, the passers-by said that we need—and we need desperately—summer jobs for our inner city youth. And, while this bill does target primarily the communities of Los Angeles and Chicago, I am proud to support the bill, and I am looking forward to working with my colleague, the gentleman from Kentucky [Mr. NATCHER], with whom I will soon share Jefferson County, in fashioning a broader based and a comprehensive bill for urban America.

So, Mr. Speaker, today's step is one step in the overall direction of helping America's cities and helping cities like Louisville. In helping them we help America.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise today in support of this modified conference report. I support this legislation because it is the only thing the President would agree to, and the money needs to get out to the cities of America. My colleague, the gentleman from Indiana [Mr. MYERS] said that it might be too late now at this point to get this money out to the people of the cities, to the youth of the cities. I submit that the reason it is coming so late is because we have been waiting for the White House and the President to give us an agreement as to what they would not veto. That is why we are now in the middle of June, rather than at the end of May, in getting this legislation to the floor. The President held the veto over our heads like a guillotine. Either go along—or we lose our heads.

We cannot—we must not—bow to this type of pressure when we adopt a long-term urban package. We need to deliver a strong, comprehensive set of programs to revive urban America.

Mr. Speaker, what happened in Los Angeles last month was truly a tragedy—a tragedy as real and dramatic as any hurricane, tornado, drought, or flood.

But it was a disaster that is not limited to L.A. It didn't start in Los Angeles and it doesn't end in Los Angeles. There have been echoes here in Washington, in Chicago, my home city of Philadelphia, and throughout urban America.

Mr. Speaker, I founded and chaired the congressional urban caucus. I did it because our cities and the people who live in them are hurting. They suffer from a 12-year conspiracy of neglect.

Every time a teenager is killed in drug war crossfire—it is a national tragedy.

Every time a baby is born to a drug-addicted mother—it is a national tragedy. Every time a patient dies in a city hospital emergency waiting room—it is a national tragedy. These are fundamental failures of our Nation and its values.

Let's put an end to the suffering.

This emergency legislation is the right thing to do today. But the clock is ticking.

Across the country, schools are letting out as we speak. Too many young people in our cities will be on the streets with nothing to do.

I am pleased that this bill includes additional funding for youth summer jobs.

I advocated this $500 million increase to nearly double the program. This will put a total of 1 million young adults to work in cities across the country—this summer.

But our vote today cannot signal the end of our efforts to rescue Philadelphia, New York, Miami, and Chicago.

It has been 43 days since the L.A. riots. Now, we must finish work on our comprehensive long-term urban plan. We must pass it.

And the President must sign it. The cities of America cannot afford to endure another election year ping-pong game along Pennsylvania Avenue.

They need help and they need it now.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, yesterday we witnessed an historic moment as the President of Russia addressed a joint session of Congress. Mr. Yeltsin's eloquent request moved us all, and his portrayal of Russia's dire need for economic assistance was poignant and persuasive.

No less painful and poignant, however, is the plight of our Nations cities. The riots in Los Angeles and other cities brought national attention to the terrible suffering, injustice, and neglect of our cities.

Let me tell you how people are suffering in New Haven—one of the 10 poorest cities in the Nation. Last week, a school bus was hit by a barriage of bullets as it passed through the path of a shootout, an all-too-common occurrence in our city. A 6-year-old boy in the bus named Cesar Sandoval was hit in the head and nearly killed. Then, when his family went to the hospital to be with him, their house was robbed.

This atmosphere of cynicism and violence is the result of years of neglect of our cities. Our former centers of industry and culture are now war zones where drugs, guns, AIDS, and poverty have taken over. People fear for their lives. There is little hope for the future, no jobs, little economic opportunity, little chance for decent education, health care, or affordable housing.

Mr. Speaker, I am supporting the legislation before us today, and I urge my colleagues to join me. The critical summer jobs funding, in addition to the emergency aid to Los Angeles and Chicago, are vital, and this aid will send a message that we are committed to change here at home. But we must commit ourselves today to developing a long-term comprehensive policy that attacks the problems that afflict urban areas. We must support programs like Head Start and others that we know work. We must create greater incentives for investment and economic revitalization. We must develop better strategies for fighting drugs and getting the guns off our streets.

We are suffering from a lack of leadership, a lack of vision, and a lack of compassion in the White House. We cannot return to business as usual.

Mr. McDADE. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I rise in support of the supplemental as one who opposed it when if first came through this House, and I want to say at the beginning, at the outset, that the likelihood of our passing a supplemental that the President can sign is, in no small measure, due to the efforts of the ranking Republican on the committee, the gentleman from Pennsylvania [Mr. McDADE]. When I first came to Congress, I was privileged to serve on the Committee on Small Business. I have always felt that the gentleman from Pennsylvania [Mr. McDADE] is one of the genuine masters of this institution, and he worked his magic again today by sending us a bill that we can pass and the President can sign.

Having said that though, as a participant in the Urban Initiative Task Force I have to say, although I support the bill and urge my colleagues on both sides of the aisle to vote for it, I am deeply concerned about what we are not going to do today, 7 weeks after the L.A. riots. Let us remember what the President asked us for in his urban initiative: a law and order initiative we call weed and seed, HOPE in the housing area, enterprise zones, America 2000, educational choice initiatives, welfare reform, youth apprenticeship and job training 2000, a six-point program, all of them long term in nature. What are we doing today on those six initiatives?

Mr. Speaker, with the exception of a little money for the so-called Weed and Seed Program we are doing absolutely nothing. The President called on us to deal with these initiatives in an emergency fashion. This emergency is going to drag on all the way through the summer with no resolution whatsoever.

Mr. FOGLIETTA. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. Mr. Speaker, we did have a program. The original conference report, which we sent to the White House for their approval, included money for Weed and Seed. It included money for Head Start and many other programs.

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Mr. WEBER. Mr. Speaker, reclaiming my time, it included some Weed and Seed money, as this bill does, but it included no money for enterprise zones, for HOPE, for America 2000 education.

I understand it included some other initiatives the Democrats want, and I am not critical of them. I am pointing out in terms of what the President asked for, he is not getting anything. We are passing a bill today which I am proud to support, but this is not the proposal that the President put before the country. This is not the proposal the President challenged us to act on.

My point is the urban initiative task force has met on this subject. We started out talking about how many of the President's initiatives could we pass perhaps by the Fourth of July. We hope we can do maybe a majority of them. Welfare reform is too conscientious; educational choice is too controversial; the other things are too difficult. There is controversy over the housing initiative.

The one thing we said we would try to do was enterprise zones, and that is not in this bill either. What we have instead is a promise for the majority leader that we will take it up before the Fourth of July. Not an agreement on the substance of the proposal or the procedure, but just the general agreement that we are going to take it up and debate it, which means the proposals of the President are probably going to be delayed in their entirety until the end of the summer.

Ms. WATERS. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Speaker, I think it is important for us to set forth what has happened in a way that people can understand and appreciate what has been going on.

There is a consensus that the supplemental appropriation would be first, and then the package would start all over again with two or three other items. Enterprise zones were never contemplated in this supplemental appropriation. As Members will recall, the supplemental appropriation that we passed from the floor was basically SBA and FEMA. When it went to the Senate side, the Senate side added Head Start and compensatory education and Weed and Seed. It came back to the conference committee and we accepted that. We never had enterprise zones under consideration.

Mr. WEBER. Mr. Speaker, reclaiming my time, I only have time to correct one point the gentlewoman from California [Ms. WATERS] has made. There was not a consensus that the supplemental would come first. The Republicans wanted a consensus about moving the supplemental and enterprise zones down the same track, and the Democrats refused to agree to that.

As a confidence building measure, which the majority leader has been calling for in good faith, we are today going to pass a supplemental appropriations bill. But the Republicans hoped we would have a two-track strategy moving at the same time which would give us both the supplemental and enterprise zones. Unfortunately, there is no short track for enterprise zones.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I support this bill, but it is only a very inadequate first step. We cannot rely on summer jobs cleaning streets and maintaining schools. We are never going to compete in this world with people from the developing world on the basis of low paying, low-skilled jobs.

People in the developing world will always work harder, work longer, and work cheaper than our people who do not have the requisite skills. We have to have a massive program in this country, sending every kid who desperately needs it to a Head Start Program, radically rejuvenating and upgrading our vocational education programs, so that these young people have the skills to man a sophisticated, demanding work force. There has to be a better relationship between business and schools so that young people can go from the world of education to the world of work, know what the demands and the requirements are going to be, and be capable of filling them.

We have got to get away from the syndrome of McDonald's and Burger King employing young people with pictures of a hamburger or a malted milk on the cash register. If our people cannot read and write and count, if they have to rely on pictures of hamburgers on the keys to the cash register, our country is going to be faced with many, many more Los Angeleses, tomorrow and in years to come.

Mr. NATCHER. Mr. Speaker, before yielding 2 minutes to my chairman, the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], I would like for the Speaker and Members of the House to know, as Members do at this time, that no Member has ever served in this body and established a better record than my chairman, JAMIE WHITTEN of Mississippi. He has 50 years and 5 months service as of January 6, 1992.

Mr. Speaker, every Member in this House on both sides of the aisle at one time or another has been benefited and assisted by my chairman, Mr. WHITTEN of Mississippi. I am substituting for the gentleman, Mr. Speaker, and it is a pleasure to do it.

Mr. WHITTEN. Mr. Speaker, I rise in support of this agreement on H.R. 5132, the dire emergency supplemental. On June 3, 1992, you appointed me and my other committee colleagues to the committee of conference. I was chairman of the conference. We worked hard to reach an agreement that would produce a bill acceptable to the House, the Senate, and the administration.

It has long been accepted that our Federal Government responds to the people of the Nation to meet dire emergencies which arise because of disasters which endanger the economy, and if not corrected, will result in economic disaster to the Nation.

This agreement provides funds for FEMA for grants to those affected by disasters in all parts of the country. It provides Small Business Administration disaster assistance to those businesses affected by disasters in all parts of the country. We also provide $500 million for summer youth jobs all across the country—to every State and every area within each State—rural areas and urban areas.

Mr. Speaker, the conference agreement includes language which calls for the administration to release the $755 million already appropriated as an emergency requirement for agricultural disasters during the 1990-92 crop years. The administration should exercise this authority to make emergency designations for rural agricultural disasters as is being doné for Chicago and Los Angeles.

Mr. Speaker, on May 6, 1992, I introduced H.R. 5069 which served as the basic text for H.R. 5132 which was marked up in full committee on May 12, 1992, and passed the House on May 14. We responded quickly to meet the needs of the Nation.

It is important to remember that the disaster assistance funds provided in this agreement replenish accounts which would run out before the end of this fiscal year. These funds will be available for assistance to all those affected by disasters all across the country—such as the tornadoes that recently occurred in Minnesota, Wisconsin, and Illinois.

Mr. Speaker, this is a good agreement, and I urge it be adopted.

Mr. McDADE. Mr. Speaker, I am pleased to yield 1½ minutes to my distinguished friend, the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I want to urge support of the conference report and to congratulate the leadership on both sides of the aisle for coming to this point. It is a point we could have been at maybe 7 weeks ago. Certainly, many weeks ago we could have been at this point. When the President declared that emergency funds were necessary as a result of what happened in Los Angeles and Chicago, those funds would be outside the budget caps. But the entire process of this legislation through the House and through the Senate and through the House-Senate conference was how much could we load into the legislation and still be outside of the budget caps.

Now, today, we are finally back where we should have been, where the only thing outside of the budget caps are the things requested by the President, the things that were actually emergency funds.

Mr. Speaker, I urge the House to accept this compromise because these are emergency funds that were requested by the President that are outside the budget caps. Other funding, as it should be, will remain inside the budget caps.

Mr. NATCHER. Mr. Speaker, at this time I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I commend the chairman of the Committee on Appropriations and both sides of the aisle who have come together to put together what I consider to be a package that represents for us the first floor of a staging process.

Mr. Speaker, all of us realize that we would like for this bill to do much more than it does. However, given that this is before us at this hour, I stand in support of it, as I hope my colleagues will.

Over the last few days we have heard much discussion as we have from the leadership of Russia talk about investments, humanitarian aid, and loan guarantees.

I would suggest to Members today that we must understand as we make various arguments for urban America that we cannot relegate it to just social legislation by the limited definition that we give it, but also in urban legislation we must think in terms like investment, humanitarian aid, and loan guarantees.

Mr. Speaker, this bill does a bit, but it does not do enough. It speaks to the conditions of the moment, but it does not give us guarantees for the future.

There are so many of our young people who would love to be able to be in a position where they could have permanent jobs rather than summer jobs. There are so many adults who would love to be in a position to have permanent jobs. This bill does not guarantee that.

Mr. Speaker, it is my hope that in the future when we come before this body with an urban program that we will make such guarantees, because our Nation needs it. If we talk about investment in the future, we cannot just talk about things, we must talk about people. We must talk about investments in human beings who will ultimately give a return to this Nation by virtue of their work and the contribution they make.

Mr. Speaker, we hear it said that we must invest in Russia because it guarantees for us peace abroad. I would say that we must invest in America because it guarantees for us peace at home.

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The SPEAKER pro tempore. (Mr. HAYES of Illinois). The Chair would like to advise that the gentleman from Kentucky [Mr. NATCHER] has 7 minutes remaining, and the gentleman from Pennsylvania [Mr. McDADE] has 3½ minutes remaining.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in support of this legislation. I think it is very much needed.

I think, however, the thing that penetrates my head mostly at this point is the fact that it is just a scratch on the surface compared to what we ought to be doing. I have open office hours, stretching into days, when I go back home. And a lot of people ask me about jobs. Not just summer jobs, not just young people, but people today are needing jobs in America.

We must turn this corner and make it available. We must fight the urban decay, inner-city decay, and presence of apathy and distress in the cities by making the job opportunities the first order of business of this country.

I introduced legislation earlier this year in this field. I sincerely hope we will look forward to a program to make job opportunities our first order of business.

Mr. McDADE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong opposition to the supplemental appropriation emergency request.

Mr. Speaker, I rise this afternoon in strong opposition to the conference report on the supplemental appropriations for disaster relief for Los Angeles and Chicago.

Yes, we all watched in horror as whole neighborhoods of Los Angeles erupted into a firestorm of rioting, murder, and looting. Over the past 6 weeks, we have heard sociologists, civil rights advocates, psychologists, police officials, talk show hosts, amateur pundits, and professional politicians all develop and expound on the root causes of the violence.

But whether the riots were caused by decades of neglect, the failure of our social safety net and our welfare system, or an explosion of base lawlessness, I am not here this afternoon to engage in an extended debate on the reasons behind this disaster.

I am here to raise the red warning flag—we cannot continue to mortgage our children's future with continued deficit spending. And that's exactly what this is: $1.1 billion in new spending—because it is designated a so-called emergency—do not have to be offset by any corresponding budget cut.

I am astonished by this procedure. Today's vote comes exactly 1 week—to the hour—after this House debated the balanced budget amendment, complete with everyone's pious declarations that we must start making the tough decisions.

Yes, the cities need attention. Let's give it to them. But let's pay for it.

I would submit, however, that the taxpayers across this country should not be paying for the negligence and the incompetence of city officials in Chicago. I believe there is a body of evidence that clearly shows that city officials knew—or should have known—weeks before the flood, that such a disaster was possible. In this case, Chicago should foot the bill for such mismanagement and incompetence.

Second, this bill includes FEMA funds for riot disaster relief. This is establishing a precedent for those funds which are designated as natural disasters. This is a precedent which will open the Federal purse for all urban riot disturbances.

I also stress how deeply troubled I am by the removal of the Weed-and-Seed funds from this legislation. Weed and Seed is a promising program which would combine vigorous law enforcement with viable economic development strategies in order to return our inner-city neighborhoods to the law-abiding, hard-working, tax-paying citizens who used to live and work there.

In the short run, what our cities need are a combination of an expanded Weed-and-Seed program, comprehensive welfare reform, and early childhood intervention—all programs that we can and must pay for today.

In the long run, what our cities need is a reduction in our budget deficit and our national debt. Without this, any action we take today will only set the stage for further neglect.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, I am simply astounded that this bill is even being considered today. I should not be astounded though. The same Members voting against a balanced budget amendment will support this bill's fiscal irresponsibility.

Think about it. We are discussing a gift of hundreds of millions of dollars to Chicago. No one seems to mind that this is plainly and simply a reward for local government incompetence.

We are also talking about giving millions of dollars to Los Angeles. Has anyone asked why we are rewarding the negligence of the State of California and the local police department in their inadequate response to this crisis?

Finally, I voted last night to slash one-half of a billion dollars from money to advance science. I cannot imagine how we cannot afford the one-half of a billion dollars for advancement of science, but can afford more than one-half of a billion dollars for the advancement of incompetence.

I urge my colleagues to vote against this bill. It rewards incompetence and wastes money that we just do not have.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, this country is in trouble. We are in trouble because of the neglect that we have seen over the past 12 years or so. Our people are crying out for jobs. Unemployment numbers keep rising.

It is not only in the inner cities and urban America, it is in rural America, it is in suburbia. Many people who have worked 10, 15, and 20 years find that their jobs are lost, exported to Third World countries for cheap labor.

It just happens to be worse in inner cities. We have a structural problem. We have young males all over this country 17 to 30 years old, some of whom have never been employed in their lives, some of whom have dropped out of school, others whose lives stopped after high school. Many of them are fathers, hanging out on America's corners with nothing to do.

They want to work. They want a better quality of life.

This bill does not begin to get at that. I do not support the rule because it does not allow me the opportunity to amend the legislation, but I must accept that the President will only support FEMA, SBA, and a little bit of money for the summer youth program.

We extended this legislation. We put some money in for Head Start. We had some money in for compensatory education. We would have given him his Weed and Seed. He said he wanted that. But he told us he would not support our legislation that came back from the conference committee.

He said, "Send me a bill that is only worth $1.1 billion, with FEMA, SBA, and a little bit of money for summer youth."

It does not go very far. It does not begin to get at the root problem. We are in trouble.

What are we going to do? Over in the Committee on Banking, Finance, and Urban Affairs they are going to vote for $12 billion to go to Russia to support Russia by way of the IMF. I wish we could get $12 billion for our cities. They are going to pass that legislation out. I guess they are going to reward Russia for not being at war with us.

Let us do something for our cities. Support this but ask for more.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I supported this supplemental bill when it was passed by the House, but once again, the darned embarrassing thing is that when it comes back from the Senate, what do we find, another one-half billion dollars that is to be spent. And that is why I cannot support it at this time.

It is good to talk about, and we all should talk about, the fact that we have some great problems in this country. But we are talking about an emergency supplemental bill here. We zeroed in on that in the House of Representatives, and then the Senate, or in conference at least, we come back with a bill like this.

We just cannot have it both ways. We cannot talk about the fact that we all want to cut and then we just add what under the regular formula of the summer's program, employment program, this is not geared to Los Angeles. It is not geared to Chicago. It is geared to all the Nation. Everybody gets something from it in their particular community.

That is the wrong way to go about it. This is the very group that turned down $7 billion of the Presidential rescission bills that would give us the money to do what we have to do.

Mr. McDADE. Mr. Speaker, I yield my final 1½ minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding time to me.

I want to compliment my colleague, the gentleman from Pennsylvania, JOE McDADE, as well as the gentleman from Kentucky [Mr. NATCHER] for an outstanding job on this very, very difficult legislation. It is not unusual for us to initiate a supplemental to deal with an emergency and have it become a Christmas tree for additional spending. That is exactly what we discovered in the conference committee.

That bill that the House initiated could have been moved with money in hand helping people today if the other body had not used the process to fund additional programs.

I would speak to the gentlewoman for just a moment, my friend from the

California Legislature. There is little question that there is a very, very serious need here. We're attempting to help innocent people, who have had their buildings and businesses burned down through no fault of their own. To suggest that we ought to make it a Christmas tree for additional spending is mistaken.

I would submit that attempts to add other programs can only interrupt the flow of real help to the very people who need it most at this point in time. The committee has worked very hard to be responsive. I have worked with the administration to get a bill that can be signed. That is most important, as we go forward here.

To those who say we have not done enough, I simply say that there are many Members who think this is more than we need to spend.

Mr. NATCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], our majority leader.

Mr. GEPHARDT. Mr. Speaker, I rise in support of this supplemental legislation. In my view, it is not enough. I wish that we could have gotten an agreement that included the money for Head Start and chapter 1 for the summer and for weed and seed and even more.

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Even more, the reason we are on the floor with this supplemental appropriation is because there are lots of places and lots of people in this country that are in real trouble, and not that money or programs are the whole answer, they are not, but they are part of the answer.

One of the greatest leaders in the area of civil rights was in my office right after Los Angeles. He said to me in private and with great sincerity, "Do not misunderstand the depth and the severity of the problem we face all across the country, not just in Los Angeles." He said "There are thousands of young adults standing on street corners in our cities who are unemployed and many unemployable." He said "Because of the recession that has now gone on for almost 2 years, they have given up. There is no hope." That is why there are going to increasingly be problems of civil unrest across this country. We have to respond.

This bill is a response. It is not nearly as much as I would have wanted it to be, but at least it is something to begin to respond to the people, to get young people off of the streets, to get them into meaningful jobs and occupations, to be a beginning for them to become part of the mainstream of this economy.

Chapter 1 would have been terrific to keep the kids in school this summer, wouldn't that have been a good thing to do, and Head Start, so they do not have to be standing out on the streets and they can be part of an activity that would give them hope and give the feeling that they could be part of this country and part of this economy?

However, we can do this, and we need to do this today. I urge Members who are worried about the deficit, and I know there are many of them, and it is sincere, this is a time and an issue in which we must not give into our fears about the deficit. There are lots of other places where we are going to address that problem, and I hope we will. But this is an emergency. The President has said it is an emergency. We have said it is an emergency. That is why we have that clause in this Budget Act. This is the time to declare that emergency.

A final word. This has been an effort to come together to do something. We are not today deciding that we will remain in disagreement with the Republicans and with the President. We cannot get anything done if we just remain in disagreement. I am disappointed in the compromise. I am sure there are others on the other side that are disappointed as well. But this is a time to do something. It means nothing to those young people in Los Angeles, or St. Louis, or in New York if we just have a good old continuing argument in this place. We have got to get something done, and I hope this is the beginning of getting something done.

I have never been much for enterprise zones, but I am willing to try to get some. I would like to see if they work. I hope we will not remain in disagreement over enterprise zones. If we even get 10 of them out there in the next 6 months, if they really work and they mean something in people's lives, by God, let us do it. Let us put them out there. Let us not just have an argument in this place. Let us do something for the people we represent and that count on us to take concrete actions to change their lives for the better and the good.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to express my support for the conference report to H.R. 5132, and to urge my colleagues to vote for this emergency legislation.

While I would have liked to see funding for the vitally important Head Start Programs included in this legislation, it is urgent that we get a bill across the President's desk that he will sign, and I am pleased to see that a mutually agreeable compromise was worked out with the administration. Just over 2 months ago, I would remind Members, residents, and businesses in the heart of my congressional district awoke to find the Chicago River flowing through their basements after the wall of a little used freight tunnel stretching under the city collapsed. Property damage alone has been estimated at over $300 million, and it has been estimated that, when all is accounted for, total losses will top $1 billion.

No other disaster has so paralyzed America's second city since the Great Fire of 1871. Hundreds of thousands of Chicagoans were forced to stay home from work for nearly a week while hundreds of buildings and businesses in Chicago's Loop were closed due to flood damage. Many of these businesses remain closed today, and regardless of whether or not negligence is to blame for the flood, businesses in Chicago are entitled to these disaster relief funds under the criteria in our basic disaster law.

Mr. Speaker, the hard-working people of Chicago have already been soaked enough this year. I urge my colleagues not to soak them again and to please support this legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 5131, the supplemental appropriations for disaster relief.

The devastating damage that resulted from the massive flooding in downtown Chicago, and the riots that took place in Los Angeles, are well documented. I have personally visited the flooded areas in downtown Chicago, and I am familiar with the magnitude and scope of the city's urgent needs.

The Chicago and L.A. events, combined with other disasters that have occurred across the country, threaten to deplete current disaster relief reserves. These reserves are now at dangerously low levels. Indeed, the estimated cost of assistance to Los Angeles alone could break the bank.

This bill before us today provides an infusion of $1.1 billion for disaster relief and the Summer Youth Unemployment Program. Although just a first step in a much needed urban initiative, Congress is demonstrating to the American people that when disasters occur, the Federal Government will respond with emergency actions.

This bill appropriates $195 million for the Small Business Administration Disaster Loan Program. Additionally, the Federal Emergency Management Agency will receive $300 million for disaster relief to meet the urgent needs of communities devastated by the Los Angeles riots, the Chicago flood, and any other disaster that may occur in the future.

I am also pleased that this measure contains $500 million for the Summer Youth Employment Program. In the city of Chicago alone, this program employs 14,000 youths. Unfortunately, there are 9,500 young people on a waiting list hoping for work. Funding for the Summer Youth Program can provide jobs for these young people who want to work but just can't find jobs.

The supplemental appropriations bill before us today enables us to ensure communities across the country that when unforeseen disasters occur, the Federal Government can respond with emergency action. I urge my colleagues to pass this essential legislation.

Mr. PENNY. Mr. Speaker, 2 years ago, President Bush and the Congress agreed to a new budget discipline. Separate spending caps were imposed on domestic, defense, and foreign aid accounts. No new spending was to proceed unless offset by cuts in other areas.

This dire emergency supplemental appropriations bill violates the basic principles of that budget agreement. No attempt was made to identify spending cuts in order to pay for this emergency assistance to Los Angeles and Chicago. Clearly, most Americans would not quarrel with some sort of aid to these cities in the aftermath of the destruction caused by rioters, in the case of Los Angeles, and flooding, in the case of Chicago. But most Americans would object to increasing the budget deficit by $1 billion in order to provide this help.

We must honestly pay for the programs of this Government, even when we are responding to an emergency situation. We could have, and should have, cut other programs by $1 billion in order to finance this aid package. Our unwillingness to do so, simply confirms in the mind of many voters that Congress and the President really aren't serious about eliminating the Federal budget deficit.

Mr. EMERSON. Mr. Speaker, I rise today in opposition to this so-called emergency funding measure. I agree, there are some good initiatives contained in this legislation, but overall, its concept does not go far enough. Specifically, it—by and large—ignores the needs of rural America. Furthermore, this final measure includes one-half billion dollars more than we discussed in this Chamber a month ago. Didn't we, as a body of Government, learn anything from our exchanges last week on the balanced budget amendment? The American people don't want the Congress to spend money it doesn't have, especially if it is not going to have beneficial ramifications for all of our Nation's folks. That's what I'm hearing from my constituents in southern Missouri, and I'm sure many of my colleagues who are in touch with their districts are hearing similar anthems.

Going into this process a little more than a month ago, I was hopeful we could use this appropriations measure to actually serve as a streamlined economic growth package. It failed then to accomplish this purpose, and it falls short again this time around.

Of all of the inclusions in this measure—or in this case not specifically included—is discussion of enterprise zones. We definitely need Federal enterprise zone legislation to help spur growth and create jobs. Although we do not address enterprise zones here today, I am encouraged by the earlier words of my colleague from my home State, the majority leader, that we will take up the issue before the Independence Day break. While I'm on this subject, I'd like to offer a suggestion to all of my colleagues: Please quit using the term "Urban" enterprise zones, rather let's push for "Federal" enterprise zones. In this way, we erase that overt division in helping one group and ignoring another. I agree our cities do need economic assistance, but so do our rural communities. By establishing enterprise zones in all areas of America that need an economic boost, we can satisfy our goals of economic stimulus and sustained growth. Furthermore, in changing our terminology, we can help pull our citizens together as one in overcoming our current economic conditions.

Mr. Speaker, as I close, I'd like to restate my opposition to this emergency appropriations measure. The bottom line is: It costs too much and helps too few. As I have said before, if we really intend to rebuild our Nation's infrastructure, attracting new business and industry, and putting people to work with all Americans footing the bill, then all Americans should get a piece of that pie.

Mr. RAMSTAD. Mr. Speaker, I rise today in opposition to the conference report.

I do so with some regret. There are certainly some important programs in the bill—such as funding for the Credit Crunch Relief Act—which should be passed immediately by Congress as a separate measure.

But Congress does not legislate in a logical manner. Instead, the majority loads up projects—good and bad—in one massive omnibus bill.

This forces us to choose between voting for a budget-busting trainload of goodies or voting against programs that serve our national interest.

But this shouldn't surprise anyone; it's more politics as usual. And the American people are sick of it. They're sick of a Congress that can't hold the line on spending borrowed money. They're sick of a Congress that can't balance the Federal budget. And they're sick of a Congress that shells out disaster relief funds for State and local officials that dropped the ball on law and order.

Mr. Speaker, everyone here was shocked by the tragic events that occurred in Los Angeles. But instead of increasing the deficit by $1 billion, we should be passing legislation to restore our inner cities. Programs like Operation Weed and Seed, enterprise zones, and Secretary Kemp's Hope project ought to be the foundation of our urban policy—not deficit spending.

Last week, the House held a historic debate on Government spending, the size of Government, and a balanced budget amendment to the Constitution. What I learned from the debate was how completely out-of-touch the ruling elite in Congress is from the rest of the country.

Over three-quarters of the American people support a balanced budget amendment and oppose continued deficit spending. Yet, the House refused to pass a balanced budget amendment.

For those who asked last week, why we need a balanced budget amendment, the answer is before you today.

My colleagues, please remember the taxpayers of this country. Remember that every time we vote for more spending, we are shackling our children and grandchildren with debt.

As Thomas Jefferson said, "Public debt is the greatest of dangers to be feared * * * to preserve our independence, we must not let our rulers load us with perpetual debt."

Mr. Speaker, I urge my colleagues to vote against the conference report.

Mr. WASHINGTON. Mr. Speaker, I rise in reluctant opposition to the conference committee report on H.R. 5132, The dire emergency supplemental appropriations bill. On May 14, 1992, I rose in opposition to the same when it was debated before this House and my comments appear at H. 3266 on the CONGRESSIONAL RECORD for that day and are set forth as follows:

> Mr. Speaker, I am here to inform the people whom I serve in the Congress of the United States why I shall vote against the bill presently pending.
>
> In my view, Mr. Speaker, pain lives in the heart of the American cities, and I agree with the gentleman from Illinois [Mr. MICHEL] that this ought to be the first step, and there ought to be others following it, but my theory is: Once this bill is passed, having been in politics for 20 years, the pressure is going to be relieved, and there will be nothing done about Los Angeles, and New York and the other cities in this country, nothing meaningful.
>
> We have pain in the heart of the American cities, and radical surgery is required, but, instead of radical surgery, this bill is, at best, an inoculation against a disease that is already present in that body. We are treating it with a salve, a balm, because it hurts. But we are not going to stop the hurt. We are going to cover up the hurt, and we will go back to business as usual, and we will be about the business of doing other things.
>
> Mr. Speaker, in the 2 years I have been in Congress I have come to believe that there are great minds, and they do not necessarily exit on one side of the aisle. They are men and women who are willing to roll up their sleeves and work on the great American problems, to solve the problems of our cities. But we are not going to solve them because the pressure will be relieved when we pass this money, and we will dust our hands off, and we will go back to business as usual. And a year from now, the problems that existed that did not start in Los Angeles the week that the verdict came in, but have been existing in Los Angeles and the other cities in this country for many, many years will continue to exist.
>
> So, Mr. Speaker, let there be one lone voice who votes against this, and I note my exception because I believe that I will be able to say, "I told you so," and about this, Mr. Speaker, I hope I have never been more wrong.

Mr. Speaker, the remarks that I made at that time are as true now, and they were then, and my fears have been borne out. The record of events since that day will reflect that little has been done except the wringing of hands to address the underlying problems which face our American cities. This conference committee report, as I suspected, is merely a Band-Aid on a growing cancer and nothing is likely to change.

Mr. CONYERS. Mr. Speaker, I rise in strong support of H.R. 5132, and to express my outrage at the response—or lack thereof—of the Bush administration to our urban crisis. We are now entering the seventh week since the civil disturbances in Los Angeles and we have yet to send a single dollar's worth of assistance to our cities.

The reason for this gridlock? Yet again, the Bush administration is refusing to negotiate with Congress on a package that won't be veto bait. Seven weeks ago, I recall the President talking a good line to the stunned masses of Los Angeles, saying he heard the anguished voices of our cities. Now, 7 weeks later, his true colors come forth as he nickles-and-dimes at the negotiating table over a desperately needed urban aid bill. While the President deliberates how small this bill should be, he mortgages the future of our cities and our children.

This body very quickly passed an emergency response to Los Angeles—just to get some emergency FEMA and Small Business Administration funds to L.A. to clean up and rebuild its damaged areas. The Senate passed a large package, which included funds for summer youth programs, and summer Head Start Programs, for a total of about $2 billion, which was agreed to in conference.

This package has now been reduced to $1.1 billion out of fear of a President veto. The new deal will provide precious little funding for an emergency response to L.A. and for funding of Summer Youth Programs. Funding for Head Start and other programs for the summer have now been dropped.

This is no substitute for an urban policy. If the President thinks this legislation will suffice as his repsonse to the simmering rage in our cities, then his urban policy is a joke. Mr. Speaker, my hope is that the urban aid legislation being developed by the leadership will go much further than the bill we are debating here today.

Mr. Speaker, If we are to properly address our urban crisis after a decade of neglect and decay, caused by the policies of the President and his predecessor, it is going to cost some money. President Bush needs to take a lesson from New York Mayor David Dinkins, who pointed out that we have the choice of paying for Head Start now or the National Guard later.

If the President truly wants to aid our cities and provide some hope of a future for our urban youth, he will show his willingness to finally commit some long-overdue dollars to them.

If the President truly wants to aid our cities and provide some hope of a future for our urban youth, he will stop treating his urban policy czar like the whelp of their litter and encourage some real urban policy development.

If the President truly wants to aid our cities and provide some hope of a future for our urban youth, he will come to the table with us to negotiate a real urban policy, and not just a pittance that will slide by his veto pen.

Mr. Speaker, I urge my colleagues to join in passing this legislation, and to join in supporting our leadership as it negotiates a national urban aid package with our reluctant President.

Ms. PELOSI. Mr. Speaker, I rise today in support of the conference agreement on H.R. 5132, which would provide supplemental appropriations this year for disaster relief.

I support this bill with some reluctance, however, because it is not the best bill we could pass. While the House version of the bill would have provided $495 million for disaster assistance programs run by the Small Business Administration and the Federal Emergency Management Agency.

The House wanted to deal only with cleaning up the remnants of the Los Angeles riots and the flooding in the aftermath of the Chicago tunnel debacle. The other body wanted more. To the simple House measure, they added about $1.45 billion for an array of other urban aid programs. Good programs that badly need money.

They put in $675 million for summer jobs and training. This would have reached 500,000 young people aged 14 to 19, in addition to the 530,000 youths currently served.

They put in $250 million for a Head Start Summer Program, which would have helped 200,000 children; $250 million for a chapter I summer school program to target 550,000 disadvantaged children, and $250 million for the administration's proposed Weed and Seed Program to help those blighted urban areas riddled with crime and drug activity.

The House and Senate conferees on the supplemental appropriations bill agreed to fund these programs. They reached a compromise after weeks of negotiations. It was a good agreement.

It was not good enough for the White House, however, which interceded to block the compromise. The President would agree only to the SBA and FEMA money in the House bill plus $500 million for the summer jobs program. Not a penny more.

I support this bill, Mr. Speaker, because if we do not move it now and move it quickly, there will be no additional money for the Summer Jobs Program. The hour already is late. The money is badly needed. I wish we were doing more.

Mr. NATCHER. Mr. Speaker, I urge support of this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Pursuant to House Resolution 491, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McDADE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 168, not voting 17, as follows:

[Roll No. 206]

YEAS—249

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
English
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gingrich
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Ireland
Jacobs
Jefferson
Johnson (CT)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Pelosi
Perkins
Pickle
Porter
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rinaldo
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Serrano
Sharp
Sikorski
Skaggs
Skeen
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Vento
Vucanovich
Walsh
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zeliff

NAYS—168

Allard
Allen
Andrews (TX)
Applegate
Archer
Armey
Bacchus
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Boucher
Brewster
Broomfield
Browder
Bunning
Burton
Callahan
Camp
Carper
Carr
Chapman
Coble
Coleman (MO)
Combest
Cox (CA)
Cramer
Cunningham
Dannemeyer
Darden
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
Erdreich
Ewing
Fawell
Fields
Gallegly
Gekas
Geren
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Huckaby
Hughes
Hunter
Hutto
Inhofe
James
Johnson (SD)
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Lewis (FL)
Lightfoot
Livingston
Marlenee
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moody
Moorhead
Murphy
Myers
Nussle
Olin
Orton
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pursell
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tauzin

Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Valentine
Vander Jagt
Visclosky
Volkmer
Walker
Washington
Weldon
Wolf
Wylie
Young (FL)
Zimmer

NOT VOTING—17

Bonior
Chandler
Crane
Feighan
Glickman
Hefner
Hubbard
Hyde
Jenkins
Jones (GA)
Kolter
Nichols
Quillen
Schumer
Slattery
Traxler
Young (AK)

□ 1456

The Clerk announced the following pair:

On this vote:

Mr. Schumer for, with Mr. Quillen against.

Messrs. ANDREWS of Texas, CRAMER, SHAW, and HUGHES changed their vote from "yea" to "nay."

Mrs. VUCANOVICH and Mr. BENNETT changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KOPETSKI. Mr. Speaker, I was unavoidably detained on official business in my district for the vote on rollcall No. 206. If I had been present, I would have voted "aye" on rollcall No. 206.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TO FILE A PRIVILEGED REPORT

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, to file a privileged report to accompany a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

Mr. EDWARDS of Oklahoma reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4484, MARITIME ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–582) on the resolution (H. Res. 493) providing for the consideration of the bill (H.R. 4484) to authorize appropriations for fiscal year 1993 for the Maritime Administration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2637, WITHDRAWING LANDS FOR THE WASTE ISOLATION PILOT PLANT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–583) on the resolution (H. Res. 494) providing for the consideration of the bill (H.R. 2637) to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5095, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–584) on the resolution (H. Res. 495) providing for the consideration of the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1500

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3221

Mr. DICKS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3221.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Washington?

There was no objection.

EXTENDING THROUGH SEPTEMBER 30, 1992, TIME AVAILABLE FOR OBLIGATION OF CERTAIN AMOUNTS APPROPRIATED FOR BUREAU OF INDIAN AFFAIRS

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 509) to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools, and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 509

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding Public Law 101–512, amounts appropriated in such Public Law for the Bureau of Indian Affairs for school operations costs of Bureau-funded schools shall remain available for obligation through September 30, 1992.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 1 hour.

Mr. YATES. Mr. Speaker, I shall not take the hour.

This is a bill that is filed for the purpose of correcting some accounting errors in the school system of the Bureau of Indian Affairs. It has been discovered that the accounting system indicates that funds are over-obligated. The BIA has the opinion, however, that its funds have not been overobligated, but as a result of the accounting system being in error the BIA cannot pay its teachers, it cannot pay its debts.

For that reason this bill seeks to have an extension from June 30 until September to provide the opportunity to the BIA to correct its accounting system.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, the minority has no objection. This is a necessary extension because of the problems connected with the system. We have no problem with it.

Mr. YATES. Mr. Speaker, this matter has been cleared with the majority and minority leaders.

Mr. Speaker, I yield back the balance of my time.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CENTRAL VALLEY PROJECT REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 486 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5099.

□ 1502

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5099) to provide for the restoration of fish and wildlife and their habitat in the Central Valley of California, and for other purposes, with Mr. CARDIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House will consider today H.R. 5099, the Central Valley Project Reform Act of 1992.

H.R. 5099 is an historic compromise that will benefit all Californians, and all Americans.

The central tenets of H.R. 5099 are:

Reauthorization of the Central Valley project to include fish and wildlife restoration and mitigation as fundamental project purposes;

Guarantees of real water and real funding to assure that real restoration and mitigation goals are achieved within a realistic timeframe; and

Allowing for the transfer of water from irrigation to municipal and industrial and environmental purposes, under reasonable terms and conditions, consistent with the diverse economy and needs of modern California.

I want to thank the members of the Interior Committee who have worked to achieve this compromise, and who voted unanimously to report this legislation to the House, and particularly the ranking member of the Water Subcommittee, Mr. HANSEN of Utah, who offered great support in keeping this process moving along.

This legislation is the culmination of a decade and a half of sometimes angry effort to eliminate abuses, reduce unwarranted subsidies, modernize the operations, and ameliorate the damages caused by the Federal Central Valley project.

I also want to thank the Members of the House who have repeatedly and consistently voted to insist upon reform of costly, outdated and wasteful water projects. Over the past decade, Members of the House have voted by large margins to force change in this area that was so long protected from accountability.

In 1982, we passed Reclamation Reform Act to end subsidy abuses by irrigators who evaded the acreage limitations in reclamation law.

In 1986, we enacted the Coordinated Operating Agreement Act to improve the coordination of the Central Valley project and the State water project, and that included important pricing and contract reforms and environmental improvements.

In 1987, we passed reclamation reform II to close loopholes exploited by large California growers and allowed by the Department of the Interior.

In 1990, we approved a major water projects reclamation reform bill to make projects more fiscally and environmentally responsible and to require enforcement of the law by a recalcitrant Department that has consistently done the bidding of the big growers. Unfortunately, the Senate was prevented from completing action on this bill in the 101st Congress.

Last year, the House approved H.R. 429, the same water projects reform package we passed in 1990, and we waited until earlier this year for the Senate to act.

Also last year, a strong majority of the House voted to bar the Secretary of the Interior from signing any water contracts for longer than 3 years, until we stopped the abuses, ripoffs and environmental destruction that have characterized the Central Valley project. We needed two-thirds to add that provision to a conference report, but the message sent by the House went out loud and clear.

And this is the message.

Every other State has accepted the fact that this is 1992, not 1892, and the world of water must change. Utah accepts it. Arizona accepts it. North Dakota and South Dakota have accepted it. Nebraska accepted it. Wyoming accepted it. The list goes on.

This House will not, and must not, continue to vote for heavily subsidized, environmentally destructive, financially irresponsible projects. Through the reforms you have demanded, we have saved billions of dollars for taxpayers, and have created environmentally responsible water projects. We have brought reclamation into the modern age.

Today, hopefully for the last time, it is California's turn.

For decades, the Central Valley project has been operated with a disregard for economic concerns, environmental consequences, and political reality.

Massive subsidies and lax enforcement by the Bureau of Reclamation have made a mockery of the principles and provisions of Federal reclamation law. While tens of thousands of reclamation farmers in 16 States live within the scope of the law, a small number of agribusinesses in my State have flagrantly violated the letter and the intent of congressional mandate after mandate, usually with the complicity of officials of the Department of the Interior.

The impact of that past policy has been tragic, and costly, to the State of California and to taxpayers nationwide. The Central Valley project has had a very detrimental impact on California's fish and wildlife habitat and populations, decimating rivers and bays, jeopardizing thousands of jobs in commercial fishing and recreational industries, polluting wetlands and slaughtering migratory waterfowl. Massive irrigation subsidies have encouraged the overirrigation of marginal lands, the growing of surplus crops, and the creation of a drainage contamination nightmare we have just begun to remedy.

California's population has tripled and become overwhelmingly urban; aviation has evolved from propeller to spaceship; music has moved from swing to rock to rap. And yet, like Old Man River, the Central Valley project has just kept rolling along, decade after decade, oblivious to change, enriching the few and ignoring the many, and sending the unpaid bills to the taxpayer.

Today, that long history of abuse comes to a screeching halt. Today, the Central Valley project at last confronts reform, and reform wins. The taxpayer wins. The environment wins. Agriculture wins. And millions of Californians, north and south, who have been excluded from the benefits of the Central Valley project, win.

An extraordinary coalition supports this reform effort: urban and agricultural water districts from San Francisco to the metropolitan water district that serves over 16 million southern Californians; every major newspaper throughout our State; environmental and wildlife organizations. A tremendous grassroots effort throughout California has generated widespread support for major Central Valley project reform, and the bill we will pass today should meet with their approval.

In the past, views on water policy in our State have been divided between the north, where water is, and the south, where most of the people are. With H.R. 5099, we bridge that gap.

Here is what the two leading newspapers of California say about the bill we consider today.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield before he goes much further?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I just want to know, what does "should meet there approval" mean? I am not sure what that phrase means.

Mr. MILLER of California. Well, like every compromise, not everybody is happy on either side.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman.

Mr. MILLER of California. Mr. Speaker, the San Francisco Chronicle article states:

> After two decades of debate, six years of drought and three years of legislative gridlock, Congress is nearing agreement on what could prove the most significant California water policy overhaul in nearly half a century.—San Francisco Chronicle, May 17, 1992.
>
> What [H.R. 5099] would do is relax agriculture's iron grip on the biggest single block of California water so that it can be used where society thinks it can best breed prosperity.—Los Angeles Times, May 26, 1992.

This bill is the product of unprecedented negotiations and agreements. It is not everything I want, it is not everything the advocates of all sides would like. But it is the product of sincere negotiation and genuine compromise, and I stand by that agreement.

The Senate has passed a bill, and is awaiting a conference. Dozens of Members of this House and the Senate also have water project reauthorizations that waited for 3 years while we have worked out these issues in California. We must move forward together, and we must move forward now. Delay serves only the narrow interests who have resisted change in the past, who resist it today, and who will continue to resist any substantive change in the status quo for as long as their privileged subsidies endure.

We in this House have a larger interest. We have a broader responsibility. To the taxpayer. To the environment. To the millions of Californians, and businesses, and workers, that have been effectively shut out by the Bureau of Reclamation for the benefit of a few hundred farmers for a half century.

Passage of H.R. 5099 today will serve that broad national interest, and I ask for your overwhelming support of this legislation today.

□ 1510

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Central Valley Project Reform Act.

The primary purpose of this bill is to reform the operations of the Central Valley project in California. The Central Valley project is a collection of numerous individual project units authorized by Congress over the past 50 years. The CVP, as it is called, collects and distributes water from rivers north of the Sacramento delta to irrigated farmland and communities in the Central Valley and San Francisco Bay areas.

California currently uses about 40-45 million acre feet of water each year to meet its agricultural, municipal, and industrial needs. Approximately 60 percent of this water comes from surface sources. Agriculture is responsible for about 83-85 percent of the State's water use and the remainder of the water is used by commercial, residential, other municipal, and industrial purposes. The Central Valley project generates about 7 million acre feet of water per year or approximately 20 percent of the total State's water supply.

The CVP is partly responsible for the tremendous agricultural production out of the State of California, perhaps the greatest producing farming area in the world. The total crop value in California is approximately $11 billion per year and 85 percent of the State's water generates this $11 billion.

Of even greater significance, I believe, is the fact that the other 15 percent of California's water supplies produce a gross economic product of $760 billion, a GNP which rivals the economic power of many advanced industrialized countries. I think this is one of the reasons why the metropolitan water district of southern California, the major water wholesaler is southern California with some 17 million customers has supported this bill.

California is growing. In recent years California has grown by approximately 2,000 people per day. This generates the additional population of one major metropolitan area each year. The water supplies in California are not limitless. They are scare. Growth in the West will be one of the major issues of the next century.

Today we seek to make changes in the operation of the Central Valley project. This process has been going on for many years. Ultimately, I believe the resolution of the many reform issues in this bill will probably occur in conference. The important issue contained within the compromise language approved by the committee is what we are talking about.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in opposition to H.R. 5099. I do so somewhat reluctantly, though I am strongly opposed to the bill as it is written. When this bill was originally introduced, it was my hope that eventually we could work out some type of consensus, a compromise, by the time this bill reached the floor. Unfortunately, we have not been able to, and we will have to wait for a conference if that is ever to be achieved.

The bill before us today has been approved substantially over the bill Mr. MILLER introduced, but it falls far short of what is needed. When H.R. 5099 was introduced in May of this year, it was seen immediately as a declaration of war on the San Joaquin Valley's economy.

Designed to restore fish and wildlife habitat in California's Central Valley, the bill instead would wreak havoc on the economy, the farming economy in the area, destroy our local municipalities and cost billions of dollars in losses to agriculture.

In response to my criticism and the criticism of others, Mr. Miller agreed to sit down to negotiate a compromise alternative to that bill. After many weeks of negotiation, we presented the outlines of a compromise to the Interior Committee, with the understanding that the outline would need additional changes before it could be acceptable to either side. After the committee reported the bill, those changes never came to fruition. Therefore, I am left with no alternative but to oppose this bill today.

The bill makes needed improvements over the original draft; most important is the removal of a requirement that water contractors permanently forfeit up to 50 percent of the water they now receive to fish and wildlife needs. This proposal added insult to injury, especially since most contractors are now receiving just 25 percent of the contracted supply due to California's 6 year drought. This proposal would have created an indefinite drought in California if you are a farmer.

Farmers and environmentalists alike have problems with the current version of the bill; it is still in need of a good deal of work. One can oppose this bill on environmental grounds and on the grounds that it remains anti-agriculture. My charge is to help craft legislation that the farmers in my district can live with and that realistically establishes a process for restoring fish and wildlife habitat. With H.R. 5099, however, a balance between competing needs has yet been struck.

I take issue with the chairman's comment concerning the activities of the Central Valley project. I think it has meant a great deal to the economy of our State and this Nation.

For nearly two decades, through my tenure as an assemblyman in California's State legislature and as a Member of Congress, I have been one of the strongest advocates for sound and reasonable water policy. Water is the most valuable resource in the area I represent because, without water, there is no economy, and no community. California's Central Valley is graced by one of the Nation's most spectacular public works projects, the Central Valley project. This project, conceived in the early parts of this century, has helped California build a $17 billion agricultural economy and helped supply the Nation with a good portion of its fruits and vegetables. I have always believed that sound water policy was essential to support the sustainable development of the Central Valley and the rest of California.

For years, the Central Valley project has been criticized by Members of Congress who would prefer to see it disappear, arguing that it is a relic of the past, supported by too much Government subsidy. This is just flat wrong. The CVP is one of the best investments this country has ever made, having created millions of dollars of economic income for each dollar spent on it. The CVP is now linked to a diverse economy that sustains over a million people. Reform of the CVP, if it is to change, must be done carefully.

Since I came to Congress, the CVP has already undergone enormous change. In 1982, we passed the Reclamation Reform Act, to dramatically overhaul the eligibility requirements for recipients of CVP and other Bureau of Reclamation-supplied water. In 1986, we passed the Coordinated Operations Agreement [COA], to coordinate and make more efficient the interaction of California's two biggest water projects, the CVP and the State water project. I along with Mr. MILLER played an active role in both of these endeavors.

Believing that reform was imminent and necessary, we urged our constituents to help us develop legislation that would more effectively address problems associated with declining fish and wildlife habitat in the Central Valley. We introduced the bill, H.R. 3876, the Central Valley Project Fish and Wildlife Act of 1991, and its companion bill passed the Senate as part of the omnibus reclamation projects bill, H.R. 429.

Bills to reauthorize the Central Valley project for fish and wildlife purposes have been around for a number of years and only this year does it seem likely that a bill will go to conference. We sat down to negotiate with Mr. MILLER with hopes of developing a process that would bring us to compromise. We were successful at beginning this process, but were unsuccessful at carrying through with it. This process needed more time, but we did not have it. Now our time will have to come in conference where the opportunities to develop a reasonable solution seem more limited.

I have a great deal of respect for my chairman, the gentleman from California [Mr. MILLER]. I know that our disagreement on this issue is sincere and profound. I am still hopeful, however, that there will be a possibility to reach an agreement and get a bill that the President of the United States can eventually sign. We go to conference now with a bill offered by Mr. DOOLEY, Mr. CONDIT, and myself in this House, supported by the Senator from California, having passed that body, that will be placed against this bill if it passes today. However, because this bill does not yet meet the standards necessary to sustain the economy of the San Joaquin Valley, I am opposing it today and asking for a "no" vote.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. I thank the gentleman for yielding this time to me.

Mr. Chairman, I find myself in the position of rising in support of the Central Valley Project Improvement Act. This is a large step from where I was when the bill was originally introduced. However, I believe, through the work mostly of the members of the California delegation, a significant improvement has taken place in the crafting of this bill and the reporting out of this bill from the Committee on Interior and Insular Affairs to the full House.

Negotiations have continued since the bill was reported, and even now are continuing. It is a measure of the fact that Mr. LEHMAN finds himself in a position of having to oppose the bill that in fact those negotiations have not been successfully completed.

However, there will be time between now and the time that the conference committee can be appointed and a conference committee can meet so those negotiations can continue.

The very nature of a conference is to negotiate and to reach compromise.

□ 1520

Mr. Chairman, I think that, as I said, significant improvement has taken place in the structure of this bill.

For example, the bill, as introduced, added fish and wildlife enhancement and mitigation as an authorized purpose for the Central Valley project and designated 1.5 million acre-feet off the top of the Central Valley project water supply for those purposes. If in a very short year Central Valley project only had available 1.5 million acre-feet of water under the bill as introduced, all of that 1.5 million acre-feet would have to go to fish and wildlife mitigation.

The chairman has agreed to maintain enhancement and mitigation as a project purpose, but not to designate an amount of water which leaves the allocation process in place. That alone, I think, is one of the most significant improvements in the bill that has been agreed to.

The chairman said in a truth that was never truer in this particular case that the compromise is something that makes everybody unhappy, and, in dealing with this bill and those who are particularly interested in it, it is my impression that in truth everybody is unhappy about this bill. But I do believe in the good faith of the parties that are involved, and I believe that a conference with the Senate can make these matters more palatable to most of the people who are affected.

Mr. Chairman, there are two things that are important. Central Valley project is not just a California project because of the fruits, and vegetables and foodstuffs that are grown as a result of the Central Valley project and are consumed by all Americans. And the Central Valley project has made it possible for America to consume reasonably priced fruits and vegetables, and other foodstuffs, and for that purpose Central Valley project is important to all of us, and reformation of Central Valley project that has an impact upon the cost of food in this country makes this bill important to all of us and is the reason that so many of us who are not Californians are involved in this process.

But the second important point that needs to be emphasized for the benefit of the other States in the reclamation was that Central Valley project is an extraordinarily unique project. This is not a cookie cutter, rubber stamp reclamation project. The solutions to Central Valley project's problems that will be made by this legislation are not solutions that can be picked up and moved intact to apply in an onerous way to a reclamation project in another State. Central Valley project is unique to California. This bill is unique to California. The solutions that it intends to impose on Central Valley project, the changes in operations it intends to impose on Central Valley project are unique to Central Valley project. Those of us who live in reclamation States in the rest of the West need not be concerned that precedent will be set here that can willynilly be applied to us at some future time.

So, Mr. Chairman, I am pleased to have been part of the process. I am going to support the bill, and I am going to be offering an amendment that is unique to Arizona, which I believe will be accepted, and I am going to participate in the conference, and I hope that we can bring a conference report back to the House before we adjourn that the President can sign.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise in opposition to H.R. 5099. As most of my colleagues know all too well, water is a divisive issue among Californians.

The House has endured many—too many—intense battles within the California delegation over the allocation of water within our State. Those fights are always about the Central Valley project—how it's operated, who benefits, who pays and how much.

And so it is today. The question now before Congress is how to allocate the Central Valley project's limited resources among the competing needs of farmers, cities and the environment.

I represent an area of the Central Valley that is the most productive agricultural region in the World. It owes its productivity to the water of the Central Valley project. The entire economy of my district and the livelihoods of my constituents—whether they work in agriculture or not—depend upon the adequate and certain supply of irrigation water from the Central Valley project.

For those of us who represent the Central Valley, there is no more important issue than the one before us now. It's no exaggeration to say that H.R. 5099, in whatever form, will determine the future of the Central Valley for generations.

Several weeks ago, I and other representatives of the Central Valley, Mr. LEHMAN of California, Mr. FAZIO, and Mr. CONDIT, met with the chairman of the Interior Committee, Mr. MILLER of California, to begin a process that we all hoped would result in a consensus on the CVP.

The negotiations that followed were long and intense. But they were also productive, in large part due to Chairman MILLER'S willingness to craft a bill that would meet the needs of all parties.

I commend him for his leadership, his hard work, and his good faith.

Our discussions produced what we believed to be a solid framework for an equitable allocation of CVP water among agricultural, urban, and environmental uses. That's why I supported the agreement approved by the Interior Committee and sent to the House as the amendment before us now.

But I supported that agreement with the understanding that several outstanding issues, large and small, would be resolved before we brought the bill to the floor.

Unfortunately, those issues have not been resolved.

With more time and more constructive leadership on the part of the State of California, we probably could have reached final agreement.

But as it stands now, the bill in its present form is unacceptable to the agricultural communities of the Central Valley. As it stands now, the bill is not a compromise. As it stands now, this is not a bill that I can support. I will vote no on H.R. 5099 and urge my colleagues to do the same.

I had genuinely hoped to stand here in support of a Central Valley Project bill, to say that compromise acceptable to all parties had been reached, that we had at last found a fair and workable solution to some of California's most intractable water problems.

I still hope that I will be able to do that sometime in the near future. I remain willing to work with Chairman MILLER, my colleagues from California on both sides of the aisle and in the Senate to achieve a consensus.

We have made progress. The process is continuing. I urge my colleagues to express their support for that process by voting against amendments that will only create further divisiveness.

These include some of amendments to be offered by the Merchant Marine Committee relating to allocation of water for fish and wildlife. They are not constructive. And the water-pricing amendment to be offered by the gentleman from Connecticut [Mr. GEJDENSON] is particularly contentious and will only retard resolution of this difficult issue.

I urge a "no" vote on both amendments.

Mr. MILLER of California. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise today to oppose H.R. 5099 as reported from the committee. During the hearings held in May, I, along with my colleagues, the gentleman from California [Mr. DOOLEY], the gentleman from California [Mr. LEHMAN], and the gentleman from California [Mr. FAZIO], expressed reservations on specific issues which had to be resolved before H.R. 5099 would be acceptable. Despite our efforts to work productively toward resolving these issues, there has been no resolvement, and I might add that, along with my colleagues, we worked very hard with the chairman and his staff, and I am hopeful that we are still going to be able to resolve these issues.

In the last few years, Mr. Chairman, the agriculture industry in California has been hurt by a variety of natural and man-made problems. The 6-year drought and the 1990 freeze are beyond the power of government to solve. But government, by its planning and preparation, can mitigate problems associated with the needs of California, in addition to the environment. There is no doubt California agriculture and the millions of people who depend on it would not have survived the 6 consecutive years of drought we are now facing without the construction of the Central Valley project.

Unfortunately, Mr. Chairman, many groups and individuals see the water issue as it relates to the Central Valley in simplistic terms. Many people ignore the vital importance of water to the Valley residents and stereotype them as gritty corporate farmers who do not care for the future of our environment.

The truth is quite opposite. Why would the farming community people who have lived in the area for many generations want to destroy the environment they must produce from every day?

□ 1530

I want to express my commitment to support public policy that addressed concerns about the impact of the CVP upon the environment as long as such a policy accounted for the needs and concerns of those who depend upon the CVP as well. H.R. 5099 as reported to the House floor does not represent this equal balance. Specifically, H.R. 5099 will:

Impose unreasonable limitations on new contracts for any purpose other than fish and wildlife;

Allocate 100,000 acre-feet of water from the existing project yield for auction to the highest municipal or industrial bidder;

Reduce contracts for CVP contractors from 40 to 20 years;

Require expensive environment studies, both on a programmatic basis for the entire CVP and for each contractor; and

And to allocate a contractor's water supply for fish and wildlife purposes, without any clear standards as to how or why or when this wholesale grab of water will take place.

Let's look at this in realistic terms. The economic vitality of the Central Valley is directly related to agriculture and agriculture is directly related to the availability of water. Hundreds of thousands of jobs will be directly impacted on the decision you will be making today on H.R. 5099. Representatives of the environmental community and contractors from the CVP have been working hard to agree on compromise legislation, but that opportunity has been forestalled by H.R. 5099's coming to the floor today.

Mr. Chairman, I hope that we can continue this dialog and in the future resolve these problems. Today I will be voting against the bill and urging my colleagues to do the same.

Mr. THOMAS of California. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in reluctant opposition to the bill. Reluctant, because we are close to a breakthrough that I could enthusiastically support.

While I supported Chairman MILLER's efforts to move the bill out of committee, I did so with the understanding that my colleagues and I who represent districts in the Central Valley would be able to continue to work with Chairman MILLER to make additional improvements in the measure prior to its consideration by the full House.

For a variety of reasons, all of which were well beyond the control of Chairman MILLER, we have been unable to make additional progress on the measure. Most notably, the untimely intervention into the process of the Governor of California, precluded the Valley delegation and Chairman MILLER from bringing to this floor a proposal with broader support.

As a result of the Governor's intervention, key members of the Central Valley project water user community withdrew from negotiations with the environmental community, and, as a result, pulled the rug out from under negotiations that had led to the historic agreement in principle between the major environmental groups and the water users.

We have lost the momentum on this historic agreement and that is a shame.

Governor Wilson advocates the transfer of the project to the State of California as the means for solving the environmental protection problems that we are trying to address in this process and bill. It is not possible to solve the environmental problem by a simple transfer of ownership or control. These are not mutually exclusive issues. The transfer of the project is not a substitute for reforming the operation of the Central Valley project. Both proposals can and should be considered independent of one another, and enacting much needed reforms in project operations that protect fish and wildlife will not prejudice any future decision by this body on the question of the transfer of the Central Valley project to the State of California.

Mr. LEHMAN, Mr. DOOLEY, Mr. CONDIT, and I have spent considerable amounts of time and energy working with Chairman MILLER to draft consensus Central Valley project legislation. And, we remain firmly committed to working with Chairman MILLER to reach a compromise that will provide certainty for our State's vital agricultural economy as well as address the very legitimate environmental problems associated with the current operation of the project.

By the time this measure emerges from conference, I am confident that, working with the able chairman of the committee, we can achieve a balanced and fair compromise. And, I am hopeful that with a change in the Governor's position, our water user community will be able to come back to the table to restart these negotiations with the environmental community so that we can bring back to this House a conference report that represents a California solution to this problem. One that other reclamation States can support and this entire Congress can pass with pride.

Key improvements to H.R. 5099 proposed by the water user-environmental community compromise (Somach-Graff product) include the following: a preference for transfers among Central Valley project users within the area of origin; imposition of the restoration fund charge on an acre-foot basis, allowing the size of the fund to be reduced in drought years; recognition of ability to pay in the assessment of the restoration fund; linkage between the fish and wildlife mitigation and restoration activities authorized in the bill, and the stated goal of doubling the fish population; and, language which seeks to minimize the impact of the bill on existing Central Valley project users. The provision is recognition of what we all believe, and that is that we don't want to harm the existing Central Valley project users, we simply want to ensure that the project is operated more effectively to protect fish and wildlife.

Mr. HANSEN. Mr. Chairman, I yield 8 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I think I just saw an extraordinary event. Parading to the microphone were a series of Members, including this current Member, who represent all of California from the Tehachapis to the Sacramento Valley, five Members of Congress representing more than 3 million people, who have all exhorted the efforts to try to reach a compromise, but have been unsuccessful.

Mr. Chairman, I especially enjoyed my friend and colleague, the gentleman from California [Mr. FAZIO] in his attempt to shift the blame to the Governor of California, since this legislation from day one contained as one of its purposes an attempt to study the transfer of the CVP to California, and everyone has that as part of their understanding of a compromise. But more importantly was what the gentleman said about where he was on the measure. He is opposed. All of us are opposed. All of us are opposed. Yet the chairman would have Members believe that there has been a compromise reached and that we should go forward.

Take a look at the "Dear Colleague" put out. Listen to his remarks. Everybody is on board, including the metropolitan water district.

Mr. Chairman, let me tell Members, as someone who represents Inyo County, as someone who represents the people who were raped by the metropolitan water district and remembered in the movie "Chinatown," as someone who realizes that the appetite of the metropolitan water district for water from anywhere at any cost, the idea that the metropolitan water district is part of this grand compromise indicates that the chairman believes that Don Rickles should be brought to a sensitivity session.

Mr. Chairman, if you will examine the bill, and believe me, examine it, because it will change on a daily basis, this compromise is like trying to carry water in a sieve. As recently as 2 days ago additional language was added to the bill in the Committee on Rules which certainly did not make technical corrections.

For example, did you know now that the Secretary of the Interior does not control the water decisions in California? It is now the Federal Department of Fish and Wildlife and the California Department of Fish and Game. The Secretary of the Interior is an instructed operator through these individuals.

In addition to those amendments, the word "existing" was stricken from the bill, which now means that the CVP would not only have to meet existing California regulatory and judicial requirements, but it would also have to meet any future regulatory and judicial requirements. That is, the contract would have to be changed as facts and circumstances change. You know how valuable that kind of a contract is.

Mr. Chairman, the gentleman from Utah [Mr. HANSEN] indicated that agriculture in California producing about $11 billion, which, incidentally, is a major contributor to the balance of payments efforts in this country, consumes about 85 percent of the water supply. I think we have to underscore that that is 85 percent of the developed water supply. There is significantly more water in California that could be available for use. But the self-same coalition that wants to make it away from the agricultural interests wants to lock that water up so that other people cannot use it.

Mr. Chairman, they cannot have it both ways. Either there is not enough water, or there is too much water. If they are willing to put all of the water in California on the table we could reach an agreement about the distribution of that water in a relatively short period in time.

When you talk about compromise, is it not interesting that two of the Democrats who spoke representing the area are on the subcommittee and the committee, and they oppose it? All of the Members of the area oppose it.

□ 1540

What is occurring is a typical tactic that we have seen time and time again out of this same coalition. "Just go along with me to get it out of committee; just go along with me to get it off the floor; just go along with me to get it out of conference."

I am here to tell my colleagues that the version of the bill that is in front of us, if it winds up on the President's desk, is going to be vetoed. So if my colleagues do not have the ability to stand up at some time and say, enough is enough, then a Presidential veto perhaps will put it in focus.

Now, I know I have got friends from Arizona and Utah and other places who are anxious to see the forced package that was created for the purposes of being a Trojan horse to move this aspect of the package forward, anxious to make sure that no one disrupts the movement. As a matter of fact, dated June 17 is a "Dear Colleague" from the chairman of the committee and the ranking member extolling the virtues of the compromise about the Central Valley project, in which the gentleman from Utah praises the compromise, I am sure, as outlined by the chairman. But I have to assure my colleagues that just as we watch captured fliers in the hands of our enemies saying things on television that we know they really do not mean because it is under duress, rest assured that the gentleman from Utah falls in that category.

I appreciate the difficulty that he faces in trying to get his own project through. It is not his fault. It is the fault of the people who packaged the program as it is currently packaged.

Let me just tell my colleagues the typical compromise was, for example, the transfer tax. That was the way to fund a slush fund that is in this bill. The 100,000 acre-feet that my colleague from California talked about, a forced sale for no reason until we examine where the money goes from that forced sale, it goes to the slush fund as well. That transfer tax is not in the bill. A major compromise will be bragged about in terms of the transfer tax not being in the bill.

The reason the transfer tax is not in the bill is that the committee exceeded its jurisdiction, and it would have been stricken on the floor on a question of a point of order.

These are the only kinds of compromises that tend to take place. I tell my colleagues that when they examine this package in terms of the efforts of my colleagues, I applaud them in terms of trying to wash away stone with tears. We have not made any major compromises. There have been no major advances. If a similar kind of compromising tactics survive conference and come back here, this package will be vetoed.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, the gentleman, I think, referred to my trying to cast some blame on the Governor. Does not the gentleman agree that we really could deal with the environmental problems in the Central Valley and the question of transfer, as this study included in the bill attempts to do, as separate items? And does the gentleman not believe that it would be important to bring the water users—that the gentleman and I represent—to the table, and keep them involved in the negotiating process?

Mr. THOMAS of California. Mr. Chairman, I think the gentleman has to understand that the process which we have experienced and which we can anticipate is not one of true compromise. It is not one of an attempt to bring all interests to the table and resolve the problem.

It is an attempt to do the same thing that the gentleman of the Committee on Interior and Insular Affairs has tried to do through other avenues. It was an attempt to change the land policy through the 960-acre negotiation, which failed.

We are now utilizing fish and wildlife in an attempt to fundamentally change the economic structure of the Central Valley. I appreciate where the gentleman is coming from. I appreciate his talent.

I also appreciate the fact that if it were a true effort at compromise, if all of the parties were at the table and there was an honest attempt to resolve all of the difficulties in the true compromise way, that is a half-a-loaf, two-thirds of a loaf coming together without the smoke screen of the Utah project or the other projects attempting to sweeten the pie, and we all sat down with the understanding and the coordination of the California projects and the Federal projects are to the benefit of California, if all those elements were present, I would agree with the gentleman.

Unfortunately, all of those elements are not present. Witness all you folks in opposition to the bill.

Mr. HANSEN. Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, as the gentleman from California Chairman MILLER, has said, Utah does realize that the time for reformation of water policy has come. I am very proud to say that the Central Utah Water project—which is a principal part of this omnibus act before us today—has become a model, really, for water conservation and reform.

We spent 5 years rewriting the Central Utah project to make sure that it was a model which could lead the Nation in terms of water conservation. We have involved in the rewriting of this bill all of the environmental community, all of the water development community, all of those who deal with the natural resources in Utah have been a part of this act.

Out of it has come a marvelous piece of legislation, which coming from Utah, the second most arid State in the Nation, is in fact a model of water conservation.

There is not really any turning back to the old days, when the only concern in Western water use was getting water to farmers cheaply, no matter how destructive or wasteful that policy might be.

I commend very sincerely the gentleman from California, Chairman MILLER and the gentleman from California, Mr. LEHMAN, and others for their efforts to find a compromise that satisfies all of the parties involved.

The negotiations obviously are still continuing and will during conference. But I believe that the remaining conflicts can be resolved.

I think that we saw the future of water use in the West during negotiations on this Central Utah project, and we adjusted what was once an outdated, one-sided water project bill into a bill that reflected the new ethic in water use, an ethic that balances the needs of agriculture, cities, and Fish and Wildlife. I think it is time for the Central Valley project to do the same. I join my colleagues in rising in support of this important bill today.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I simply rise to recognize the unique problems that exist in California and to give some sympathy to the kinds of problems there that are getting folks together.

My main point in rising is there is a considerable amount of difference between water programs in the West. It makes a difference whether we are dealing with Central California or whether we are dealing with a 7,200 foot elevation ranch in Wyoming.

So I am just simply saying, I hope we do not set some precedents here in terms of reclamation and acreages and those kinds of things that are later expected to apply in quite a different situation.

Mr. HANSEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I have no additional requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment and each section is considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Central Valley Project Reform Act".

The CHAIRMAN. Are there any amendments to section 1?

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. PURPOSES.

The purposes of this Act shall be—

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley basin of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation; and

(e) to study transfer of the Central Valley Project to non-Federal interests; and for other purposes.

SEC. 3. DEFINITIONS.

As used in this Act:

(a) The term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean.

(b) The terms "artificial propagation" and "artificial production" mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production.

(c) The term "Central Valley Habitat Joint Venture" means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California.

(d) The terms "Central Valley Project" or "project" mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of September 28, 1976 (90 Stat. 1324), and Act of October 27, 1986 (100 Stat. 3050).

(e) The term "Central Valley Project service area" means that area of the Central Valley and San Francisco Bay Area where water serv-

ice has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project.

(f) The term "Central Valley Project water" means all water is diverted, stored, or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange contracts" and Sacramento River settlement contracts.

(g) The term "Fish and Wildlife Advisory Committee" means the Central Valley Project Fish and Wildlife Advisory Committee established in section 9 of this Act.

(h) The term "full cost" has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

(i) The term "natural production" means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes.

(j) The term "Reclamation laws" means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto.

(k) The term "Refuge Water Supply Report" means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the United States Department of the Interior entitled Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989).

(l) The term "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d) and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended.

(m) The terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this Act.

(n) The term "Secretary" means the Secretary of the Interior.

SEC. 4. LIMITATION ON CONTRACTING AND CONTRACT REFORM.

(a) NEW CONTRACTS.—Except as provided in subsection (b) of this section, the Secretary shall not enter into any new short-term, temporary, or long-term contracts or agreements for water supply from the Central Valley Project for any purpose other than fish and wildlife before—

(1) the provisions of subsections 6(b)–(e) of this Act are met;

(2) the California State Water Resources Control Board concludes its current review of San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards and determines the means of implementing such standards, including any obligations of the Central Valley Project, if any, and the Administrator of the Environmental Projection Agency shall have approved such standards pursuant to existing authorities; and,

(3) at least one hundred and twenty days shall have passed after the Secretary provides a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives explaining the obligations, if any, of the Central Valley Project system, including its component facilities and contracts, with regard to achieving San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards as finally established and approved by relevant State and Federal authorities, and the impact of such obligations on Central Valley Project operations, supplies, and commitments.

(b) EXCEPTION TO LIMIT ON NEW CONTRACTS.—In recognition of water shortages facing urban areas of California, and subsection (a) of this section notwithstanding, the Secretary is authorized to make available one hundred thousand acre-feet of Central Valley Project water for sale through water service contracts not to exceed twenty years in length to any California water district, agency, member district or agency, municipality, or publicly regulated water utility, without discrimination among them, for municipal and industrial purposes, except that no water shall be made available under this subsection until the State of California has entered into a binding agreement with the Secretary concerning the cost allocations set forth in section 6 of this Act. In carrying out this subsection, the Secretary shall—

(1) provide public notice of the availability of such water and be available to receive offers for such water for a period not to exceed one week in duration beginning not less than sixty days after enactment of this Act;

(2) make all such offers public immediately upon completion of the period for submission of bids established under paragraph (1) of this subsection;

(3) take such measures as are necessary to ensure that prospective agency purchasers do not engage in anti-competitive behavior;

(4) accept the offers of the water agency or agencies offering the greatest monetary payments per acre-foot of water made available by the Secretary, except that—

(A) such payment must be greater than $100 per acre-foot of contractual commitment annually and, in addition, cover all Federal costs associated with the proposed sale and delivery;

(B) delivery under the contract must be feasible using existing facilities; and

(C) the proposed use of the water must be consistent with State and Federal law.

All revenues collected by the Secretary from the contract or contracts authorized by this subsection, other than actual operation and maintenance costs, shall be covered into the Restoration Fund.

(c) RENEWAL OF EXISTING LONG-TERM CONTRACTS.—Notwithstanding the provisions of the Act of July 2, 1956 (70 Stat. 483), the Secretary may renew any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project for a period not exceeding twenty years, except that the Secretary shall first analyze the impacts of such proposed contract pursuant to Federal and State environmental laws.

(d) ENVIRONMENTAL REVIEW OF PROPOSED CONTRACT RENEWALS.—Not later than three years after the date of enactment of this Act, the Secretary shall prepare a programmatic environmental impact statement analyzing the impacts of the potential renewal of all existing Central Valley Project water contracts, including impacts within the Sacramento, San Joaquin, and Trinity river basins, and the San Francisco Bay/Sacramento-San Joaquin River Delta and Estuary.

(e) INCLUDING RESULTS OF ENVIRONMENTAL STUDIES.—The provisions of any contract renewed under authority of subsection (c) of this section shall be subject to further modifications by the Secretary based on modifications required as a result of any environmental impact statements carried out under subsection (c) or (d) of this section.

(f) WATER IDENTIFIED FOR FISH AND WILDLIFE PURPOSES.—Any Central Valley Project water service or repayment contract entered into, renewed, or amended under this section shall provide that the Secretary may, under procedures specified in this Act, allocate a portion of the water supply contained in such contract for the purposes specified in section 6 of this Act.

(g) CHANGE IN THE APPLICATION OF THE 1956 ACT.—Notwithstanding any provision to the contrary in any existing contract, the provisions of the Act of July 2, 1956 (53 Stat. 1187, U.S.C.) shall not apply to any Central Valley Project water service or repayment contract entered into, renewed or amended under any provision of the Federal Reclamation law after December 31, 1995. After December 31, 1995, the Secretary shall not be under any obligation to enter into, renew, or amend any water service or repayment contracts in the Central Valley Project with any district or individual who has previously had such a contract prior to the date of enactment of this Act. Any Central Valley Project water service or repayment contract entered into, renewed or amended after the date of enactment of this Act and prior to December 31, 1995, shall contain the renewal provisions of the Act of July 2, 1956, for the term of such contract, and any additional renewals.

SEC. 5. WATER TRANSFERS, IMPROVED WATER MANAGEMENT AND CONSERVATION.

(a)(1) WATER TRANSFERS.—Subject to review and approval by the Secretary, all individuals or districts who receive Central Valley Project water under water service or repayment contracts entered into prior to or after the date of enactment of this Act are authorized to transfer all water subject to such contract to any other California water user or water agency, State agency, or private non-profit organization for project purposes or any purpose recognized as beneficial under applicable State law. Except as provided herein, the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

(2) CONDITIONS FOR TRANSFERS.—Transfers of Central Valley Project water authorized by this subsection shall be subject to the following conditions:

(A) No transfers shall be made in excess of the average annual quantity of water under contract actually delivered to the contracting district or agency between 1985 and 1989.

(B) All water under the contract which is transferred to any district or agency which is not a Central Valley Project contractor at the time of enactment of this Act shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates, or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No water transfers authorized under this section shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No water transfer authorized under this section shall be approved unless the transfer is consistent with State law, including but not limited to, the provisions of the California Environmental Quality Act.

(E) All transfers authorized under this section shall be deemed a beneficial use of water by the transferor.

(F) All transfers in excess of 20 percent of the water in any district contract shall be approved by such district based on reasonable terms and conditions. Any review and approval of such transfer by a district shall be undertaken in a public process similar to those provided for in section 226 of Public Law 97–293.

(G) All transfers entered into pursuant to this subsection between Central Valley Project water contractors and entities outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the transfer.

(H) Any water transfer approved pursuant to this subsection shall not be considered as con-

ferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97–293 (43 U.S.C. 390(cc)).

(I) No transfer shall be approved unless the Secretary has determined that the transfer will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(J) The agricultural water subject to any water transfer undertaken pursuant to this subsection shall be that water that would have been consumptively used on crops had those crops been produced during the year or years of the transfer or water that would have otherwise been lost to beneficial use.

(K) No transfer shall be approved unless the Secretary determines that the program will have no significant long-term adverse impact on ground water conditions.

(b) Metering of Water Use Required.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with volumetric water meters or equally effective water measuring methods within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the volume of surface water delivered within its boundaries.

(c) State and Federal Water Quality Standards.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries.

(d) Water Conservation Standards.—The Secretary shall establish and administer an office on Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982.

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this Act and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency achievable by project contractors using best available technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or suitable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within eighteen months following enactment of this Act all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action proposed in the Final Report of the San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(e) Increased Revenues Applied to Reimbursable Costs.—Except as otherwise provided in this section, all revenues received by the Secretary under paragraph (a) of this section shall be covered to the Restoration Fund.

SEC. 6. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) Amendments to Central Valley Project Authorizations—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting "and mitigation, protection, restoration and enhancement of fish and wildlife," after "Indian reservations,";

(2) in the last priviso of subsection (a), by striking "domestic uses;" and inserting "domestic uses and fish and wildlife mitigation, protection and restoration purposes;" and by striking "power" and inserting "power and fish and wildlife enhancement";

(3) by adding at the end the following: "The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be concurrent with such activity and shall be based on the replacement of ecologically equivalent habitat."; and

(4) by adding at the end the following:

"(e) Nothing in this Act shall limit the State's authority to condition water rights permits for the Central Valley Project to make water available to preserve, protect, or restore, fish and wildlife and their habitat.".

(b) Fish and Wildlife Restoration Activities.—The Secretary, in consultation with the Central Valley Project Fish and Wildlife Advisory Committee established under section 9 of this Act (hereafter "Fish and Wildlife Advisory Committee") and in cooperation with other State and Federal agencies, is authorized and directed to:

(1) Develop and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustained, on a long-term basis, at levels not less than twice the average levels attained during the period of 1981–1990:

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through direct and indirect habitat restoration actions, modifications to Central Valley Project operations, and implementation of the measures mandated by this subsection.

(B) As needed to achieve the goals of the program, the Secretary is authorized to modify Central Valley Project operations to provide from project facilities flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish.

(C) With respect to mitigation or restoration of upper San Joaquin River fish, wildlife, and habitat, the Secretary is directed to participate in the San Joaquin River Management Program under development by the State of California. In support of the objectives of the San Joaquin River Management Program and the Stanislaus and Calaveras Basin Environmental Impact Statement, and in furtherance of the purposes of this Act, the Secretary, in consultation with the Fish and Wildlife Advisory Committee and affected counties and interests, shall evaluate in-basin needs in the Stanislaus River basin, and shall investigate alternative storage, release, and delivery regimes for satisfying both in-basin and out-of-basin needs. Alternatives to be investigated shall include, but shall not be limited to, conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows to assist in efforts to restore fish and wildlife populations and riparian habitat values in the San Joaquin River. Nothing in this Act or the amendments to the Act of August 26, 1937, shall be construed as requiring a re-establishment of flows between Gravely Ford and Mendota Pool for mitigation or restoration of fish, wildlife and habitat.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures;

(2) Develop and implement a program for the acquisition of a water supply adequate to meet the purposes and requirements of this section. Such a program should identify how the Secretary will secure this water supply, utilizing the following options in order of priority: improvements in or modifications of the operations of the project; conservation; transfers; conjunctive use; purchase of water; purchase and idling of agricultural land; reductions in deliveries to Central Valley Project contractors.

(3) Develop and implement a program to mitigate fully for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(4) Develop and implement a program to mitigate fully for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(5) Install and operate a structural temperature control device at Shasta Dam to control water temperatures in the Upper Sacramento River in order to protect all life stages of anadromous fish in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(6) Meet flow standards and objectives and diversion limits set forth in all existing State regulatory and judicial decisions which apply to Central Valley Project facilities.

(7) Investigate the feasibility of using short pulses of increased water flows to increase the survival of migrating juvenile anadromous fish in the Sacramento San Joaquin Delta and Central Valley rivers and streams. Costs associated with implementation of this subparagraph shall be reimbursed in accordance with the following formula; 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be

considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(8) Develop and implement a program which will eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations cause by the operation of any Central Valley Project storage facility. The program shall be patterned after the agreement between the California Department of Water and Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex.

(9) Develop and implement measures to correct fish passage problems for adult and juvenile anadromous fish at the Red Bluff Diversion Dam. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main for its efficient operation at all project flow release levels. The operation of Coleman National Fish Hatchery shall be coordinated with all other mitigation hatcheries in California. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula; 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(11) Develop and implement a program to restore the natural channel and habitat values of Clear Creek, construct new fish passage facilities at the McCormick-Saeltzer Dam, and provide flows in Clear Creek to provide optimum spawning, incubation, rearing and outmigration conditions for all races of salmon and steelhead trout. Flows shall be provided by the Secretary from Whiskeytown Dam as determined by instream flow studies conducted jointly by the California Department of Fish and Game and U.S. Fish and Wildlife Service. Costs associated with providing the flows required by this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. Costs associated with channel restoration and passage improvements required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent of the State of California.

(12) Develop and implement a program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the rivers impounded by Central Valley Project facilities. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(13) Develop and implement a program which provides, as appropriate, for closure of the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(14) Construct, in cooperation with the State of California, a barrier at the head of Old River to be operated on a seasonal basis to increase the survival of young out migrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants. The cost of constructing, operating and maintaining the barrier shall be shared equally by the State of California and the United States. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered as nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(15) In support of the objectives of the Central Valley Habitat Joint Venture, deliver firm water supplies of suitable quality to maintain and improve wetland habitat on units of the National Wildlife Refuge System in the Central Valley of California, the Gray Lodge, Los Banos, Volta, North Grasslands, and Mendota state wildlife management areas, and the Grasslands Resource Conservation District in the Central Valley of California.

(A) Upon enactment of this Act, the quantity and delivery schedules of water for each refuge shall be in accordance with Level 2 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or two-thirds of the water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be delivered until the water supply provided for in subparagraph (B) of this paragraph is provided.

(B) Not later than ten years after enactment of this Act, the quantity and delivery schedules of water for each refuge shall be in accordance with level 4 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or the full water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation, 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(C) The Secretary is authorized to construct such water conveyance facilities and wells as are necessary to implement this paragraph. The increment of water required to fulfill subparagraph (B) of this paragraph shall be acquired by the Secretary through voluntary water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocation of project yield. The priority or priorities applicable to such incremental water deliveries for the purpose of shortage allocation shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment.

(16) Establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section. Of the costs associated with implementation of this paragraph, 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(17) Develop and implement a plan to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California.

(18) If requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a reimbursable expenditure and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditure.

(19) Evaluate and revise, as appropriate, existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity river reservoirs sufficient to protect and restore the anadromous fish of the Sacramento and Trinity rivers in accordance with the mandates and requirements of this subsection.

(20) Participate with the State of California and other Federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. Of the costs associated with implementation of this paragraph, 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(21) Install a temperature control device on Lewiston Dam to converse cold water for fishery protection, provided that the cost of such device shall not exceed $1,500,000. Such devices, with the same cost restriction, may also be installed on the Trinity and Whiskeytown dams if the Secretary deems it appropriate. Of the costs associated with implementation of this paragraph, 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

If the Secretary and the State of California determine that long-term natural fishery productivity in the Sacramento River, American River, and San Joaquin River resulting from implementation of this section is better than conditions that existed in the absence of Central Valley Project facilities, any enhancement provided shall become credits to offset reimbursable costs associated with implementation of this section.

(c) ADDITIONAL HABITAT RESTORATION ACTIONS.—Not later than five years after enactment of this Act, the Fish and Wildlife Advisory Committee shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the following subjects:

(1) Alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies.

(2) Water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on one hundred twenty thousand acres supplemental to the acreage referenced in paragraph (b)(15) of this section and feasible means of meeting that water supply requirement.

(3) Measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tribu-

taries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and restoring riparian forests.

(4) Opportunities for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available.

(5) Measures to eliminate losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, and in the Sacramento-San Joaquin Delta, including measures such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas.

(6) Measures to eliminate barriers to upstream migration of adult salmonids in the Central Valley, including removal programs or programs for the construction of new fish ladders.

(7) Construction of temperature control structures on Trinity, Lewiston, and Whiskeytown dams to conserve cold water for fishery protection.

(d) REPORT ON PROJECT FISHERY IMPACTS.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Secretary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than one year after the date of enactment of this Act.

(e) ECOSYSTEM AND WATERSYSTEM OPERATIONS MODELS.—The Secretary, in cooperation with the State of California and in consultation with the Fish and Wildlife Advisory Committee, and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity river watersheds. The primary purpose of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this Act through improved scientific understanding concerning, but not limited to, the following:

(1) A comprehensive water budget of surface and ground water supplies, considering all sources of inflow and outflow available over extended periods.

(2) Water quality.

(3) Surface-ground and stream-wetland interactions.

(4) Measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats.

(5) Development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values.

(6) Implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats.

(7) Measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights.

(8) Opportunities to protect and restore wetland and upland habitats throughout the Central Valley.

(9) Measures to enhance the firm yield of existing Central Valley Project facilities, including improving management and operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration.

In implementing this subsection, all studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this Act or by any other State or Federal law, statute, or regulation. One-half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost, the other half shall be borne by the State of California.

SEC. 7. RESTORATION FUND.

(a) RESTORATION FUND ESTABLISHED.—There is hereby established in the Treasury of the United States the "Central Valley Project Restoration Fund" (hereafter "Restoration Fund") which shall be available for deposit of donations from any source and revenues provided under this Act. Funds made available to the Restoration Fund are authorized to be appropriated to the Secretary to carry out the provisions of sections 8(c), section 8(i), and the habitat restoration, improvement, and acquisition (from willing sellers) provisions of this Act.

(b) MAXIMUM SURCHARGE ON WATER AND POWER SALES.—The Secretary shall impose an annual operations and maintenance charge on all sales of project power and water sufficient to generate $15,000,000 (October 1991 price levels) to be deposited in the Restoration Fund. The amount of the charge paid by Central Valley Project water and power users shall be assessed in the same proportion as their cost allocation.

(c) FUNDING TO NON-FEDERAL ENTITIES.—If the Secretary determines that the State of California or an agency thereof, or other nonprofit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is best able to implement an action authorized by this Act in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity to implement the identified action.

(d) LIMITATION OF EXPENDITURES.—The Secretary shall not expend any funds on construction of capital facilities authorized under section 6 of this Act as to which the State of California is required to contribute a share of total costs until the State of California has agreed to meet such cost sharing requirement.

SEC. 8. ADDITIONAL AUTHORITIES.

(a) REGULATIONS AND AGREEMENTS AUTHORIZED.—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes, and provisions of this Act.

(b) USE OF ELECTRICAL ENERGY.—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this Act, including that used for ground water development, shall be deemed as Central Valley Project power and shall be repaid by the user in accordance with Reclamation law and at a price not higher than the lowest price paid by or charged to Central Valley Project contractors.

(c) ACQUISITION OF ADDITIONAL WATER SUPPLY.—In order to carry out the intent, purposes, and provisions of this Act, the Secretary is authorized to obtain water supplies from any source available to the Secretary, including, but not limited to direct purchase from willing sellers of water, acquisition of land and associated ground and surface water rights, water made available from conjunctive use projects, and implementation of on-farm water conservation practices where water conserved thereby will be made available to the Secretary.

(d) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—The Secretary is authorized to enter into contracts pursuant to Reclamation law and this Act with any Federal agency, California water user or water agency, State agency, or private nonprofit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and nonproject water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

(e) USE OF PROJECT FOR WATER BANKING.—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to applicable State laws.

(f) LIMITATION ON CONSTRUCTION.—This Act does not and shall not be interpreted to authorize construction of water storage facilities.

(g) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of the first full fiscal year after enactment of this Act, and annually thereafter, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this Act and progress toward achievement of the intent, purposes, and provisions of this Act. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes, and provisions of this Act.

(h) RECLAMATION LAW.—This Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(i) LAND RETIREMENT.—(1) The Secretary is authorized to purchase from willing sellers at fair-market-value land and associated water rights and other property interests identified in subsection (2) which receives Central Valley Project water under a contract executed with the United States.

(2) The Secretary is authorized to purchase, under the authority of subsection (i)(1), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to the recommendations contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, ground water withdrawals, or other causes.

(j) WATER CONSERVATION.—(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed

to meet the requirements of this Act. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved by such projects or measures shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this Act, including the requirements of section 6(b)(2). Such projects or measures must be implemented fully by the end of fiscal year 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1997 $—— million to carry out the provisions of this subsection. Funds appropriated under this subsection shall be a nonreimbursable Federal expenditure.

(k) CITIZEN SUITS.—(1) Any person may commence a civil suit in his or her own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under sections 4, 5, 6, 7, 8, and 12 of this Act which is not discretionary with the Secretary.

(2) The court may award costs of litigation (including reasonable expenses and attorney and expert witness fees) to any party other than the United States whenever the court determines such award is appropriate.

(3) The relief provided by this section shall not restrict any right which any person (or class of persons) may otherwise have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(4) The district courts shall have jurisdiction to prohibit or prevent any violation of this Act, to compel any action required by this Act, and to issue any other order to further the purposes of this Act. An action under this section may be brought in any judicial district where the alleged violation occurred or is about to occur, where fish or wildlife resources affected by the alleged violation are located, or in the District of Columbia.

SEC. 9. CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Fish and Wildlife Advisory Committee," hereafter referred to as the "Fish and Wildlife Advisory Committee".

(b) DUTIES.—The Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the fish, wildlife, and environmental restoration actions identified in section 6. Such recommendations shall be advisory in nature and shall not be binding on the Secretary, however, the Secretary shall give substantial deference to such recommendations in carrying out responsibilities under this Act. Should the Secretary not implement any recommendations made by the Fish and Wildlife Advisory Committee, the Secretary shall notify the Committee in writing and explain the reasons for rejecting the recommendation.

(c) APPOINTMENT AND MEMBERSHIP.—The Fish and Wildlife Advisory Committee shall be comprised of the Secretary and the Governor of California, or their designees, and twenty additional members appointed by the Secretary in consultation with the Governor to represent, in equal numbers; the California environmental and conservation interests' agricultural water users; urban water users; a representative of Central Valley Project power users; and, a representative of the Hoopa Valley Tribe.

(d) TERMS.—The term of a member of the Fish and Wildlife Advisory Committee shall be five years, except that three members each from the environmental and conservation interests, agricultural water users, and urban water users shall be appointed for an initial term of three years. Any vacancy on the Committee shall be filled in the same manner as the original appointment.

(e) CHAIRMANSHIP AND VOTING.—The Fish and Wildlife Advisory Committee shall be cochaired by the Secretary and the Governor of California, or their designees. The Committee shall meet at the call of the cochairs or upon the request of a majority of its members. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Fish and Wildlife Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Fish and Wildlife Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Fish and Wildlife Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided in this section, the terms and provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended, (5 U.S.C. App. 2), shall apply to the Fish and Wildlife Advisory Committee.

(j) TERMINATION.—The Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 10. CENTRAL VALLEY PROJECT TRANSFER ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Transfer Advisory Committee," hereafter referred to as the "Transfer Advisory Committee."

(b) MEMBERSHIP.—The Transfer Advisory Committee shall be comprised of sixteen individuals, appointed as follows:

(1) Eight appointed by the Governor of California, one to represent each of the following organizations and interests:

(A) California Resources Agency;

(B) California State Water Resources Control Board;

(C) Central Valley Project agricultural water contractors;

(D) Central Valley Project municipal and industrial water contractors;

(E) Central Valley Project power contractors;

(F) environmental organizations;

(G) waterfowl conservation organizations; and

(H) fishery conservation organizations.

(2) One appointed by the president pro tempore of the California State Senate.

(3) One appointed by the Speaker of the California State Assembly.

(4) Two appointed by the Secretary of the United States Department of the Interior to represent individually the United States Fish and Wildlife Service and Bureau of Reclamation.

(5) The Inspector General of the Department of the Interior or his or her designee.

(6) The Administrator of the Environmental Protection Agency of his or her designee.

(7) the Comptroller General of the United States or his or her designee.

(8) One appointed by the Hoopa Valley Tribe.

(c) DUTIES.—The Transfer Advisory Committee shall prepare a report to Congress and the President on all issues associated with transfer of all Central Valley Project facilities and assets, assuming, first, that the transfer would be to the State of California, assuming, second that the transfer would be to Central Valley Project contractors, and assuming, third, that the transfer would be to a Commission with the members appointed by the Governor of California and the Secretary that would jointly operate the California State Water Project and the Central Valley Project. The Transfer Advisory Committee shall provide recommendations on which of these transfer options best serves the interests of the United States and the State of California, and on legislative and administrative measures required to execute such transfer which would ensure that—

(1) the fish and wildlife protection and restoration goals of this Act are achieved;

(2) the reserved fishing and water rights of affected Indian tribes are preserved, and the ability of the United States to meet its trust obligations with respect to such tribal assets is maintained;

(3) the Secretary's contractual obligations and rights associated with the Central Valley Project are fulfilled;

(4) the operations of the Central Valley Project and the California State Water Project are integrated to the maximum extent practicable; and

(5) Federal expenditures associated with the Central Valley Project are minimized.

(d) CHAIRMANSHIP AND VOTING.—The Transfer Advisory Committee shall be cochaired by the Inspector General of the U.S. Department of the Interior and any individual selected by the Governor of California from among the Transfer Advisory Committee members appointed by the Governor of California pursuant to paragraph (a)(1) of this section. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided herein, the terms and provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), shall apply to the Advisory Committee.

(f) ADMINISTRATOR.—The Secretary, in cooperation with the State of California, shall provide the Transfer Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Transfer Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or tech-

nical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Transfer Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(i) REGULAR MEETINGS REQUIRED.—The Transfer Advisory Committee shall meet at the call of the cochairs and, in any event, not less than once every three months following enactment of this Act.

(j) DEADLINE FOR SUBMISSION OF REPORT.—The Transfer Advisory Committee shall submit the report as required by subsection (c) of this section not later than December 31, 1993. The report shall be submitted to the President of the United States, the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Appropriations of the House of Representatives.

(k) TERMINATION.—The Transfer Advisory Committee shall terminate ninety days after submission of such report.

SEC. 11. SAN FRANCISCO BAY AND DELTA WETLAND RESTORATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary, in cooperation with the Secretary of the Army, and in consultation with the State of California, San Francisco Bay area port authorities, fishery and waterfowl conservation interests, and the Fish and Wildlife Advisory Committee shall investigate and, if feasible, develop and implement a program using dredged material to restore, protect, and expand San Francisco Bay and Delta wetlands for the purposes of recruitment and survival of waterfowl, fish, and other wetland dependent species, flood control, water quality improvement, and sedimentation control.

(b) SPECIFIC CONSIDERATIONS.—The program developed under this section shall consider a broad range of upland disposal and give emphasis to restoration, protection, and expansion of wetlands supporting abundant and diverse wetland ecosystems, including, but not limited to—

(1) high primary productivity and functioning food chains;

(2) seasonal values for waterfowl breeding, nesting, staging, and wintering;

(3) habitat values for migrating anadromous fish; and

(4) protection from predation and disease.

(c) QUALITY OF DREDGE MATERIALS.—The program developed under this section shall ensure that dredge materials used for wetland restoration, protection, or expansion shall be of appropriate quality for such purposes.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Funds appropriated under this section shall remain available until expended.

AMENDMENT OFFERED BY MR. RHODES

Mr. RHODES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RHODES: At the end of the bill add the following new title:

TITLE .—SIPHON REPAIR AND REPLACEMENT

SEC. 01. FINDING.

Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aqueduct purposes and must replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsor.

SEC. 02. NONREIMBURSABILITY.

Notwithstanding any other provision of law or contract, costs incurred in the repair modification or replacement, together with associated costs, of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Agua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable.

Mr. RHODES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

□ 1550

Mr. RHODES. Mr. Chairman, this amendment is for the purpose of recognizing that six siphons on the Hayden-Rhodes Aqueduct of the central Arizona project have been found to be defective, inadequate, and unsuitable for aqueduct purposes, and must be replaced or substantial repairs completed before the transfer of the project to its local sponsor.

These defects occurred during design and construction and were of no fault or burden of the local sponsors to the State of Arizona. Therefore, the amendment directs that the repairs or replacement take place, and that the costs associated therewith shall not be designated as reimbursable costs of the State of Arizona.

Mr. Chairman, I know of no controversy connected to the amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have had a chance to examine the amendment. As the gentleman quite correctly states, some very, very serious mistakes were made during the design and construction of the CAP water delivery system. If these repairs are not made immediately we risk the chance of catastrophic failure of this siphon system. We support the amendment of the gentleman from Arizona [Mr. RHODES].

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, the minority has looked at the amendment also, and we find no objection, and we accept it on this side.

Mr. RHODES. I thank the gentleman.

Mr. Chairman, I urge adoption of the amendment, and I yield back the balance of my time.

MODIFICATION TO AMENDMENT OFFERED BY MR. RHODES

The CHAIRMAN. The gentleman has sent to the desk an amendment which was not the amendment that was printed in the report. The Chair wants to make sure we have the right amendment. Does the gentleman desire to have considered the amendment that he submitted to the desk?

Mr. RHODES. Mr. Chairman, I ask unanimous consent that the amendment that was sent to the desk be considered as the amendment which was printed in the report.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The text of the amendment, as modified, is as follows:

At the end of the bill, insert the following new section:

SEC. . SIPHON REPAIR AND REPLACEMENT.

(a) Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aqueduct purposes and must be replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsor.

(b) Notwithstanding any other provision of law or contract, costs incurred in the repair, modification or replacement, together with associated costs, or the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Agua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Arizona [Mr. RHODES].

The amendment as modified was agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer amendments en bloc.

The Clerk reads as follows:

Amendments en bloc offered by Mr. JONES of North Carolina:

1. On page 4, line 18, strike the words "Committee on Interior and Insular Affairs" and insert the words "Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries".

2. On page 7, line 3, strike the words "modifications required as a result of".

3. On page 8, line 19, before the words "25 percent" insert "As determined by the Secretary.".

4. On page 14, line 5, after the word "develop" insert the words "within 18 months of enactment".

5. On page 14, strike lines 13–16 and insert the following:

"(B) As needed to achieve the goals of the program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish. Instream flow needs for all CVP controlled streams and rivers shall be determined jointly by the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

6. On page 15, after line 13, insert the following new paragraph (2) and renumber subsequent paragraphs accordingly:

"(2) Upon enactment of this Act, and after implementing the operational changes authorized in subsection (b)(1)(B), make available project water for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this section, except that such water shall be in addition to that required to implement subsections (b)(6) and (b)(15)(A). This water may be assigned immediately to supplement instream flows. The U.S. Fish and Wildlife Service shall conduct studies and monitoring activities as may be necessary to determine the effectiveness of such flows in meeting the goal established in subsection (b)(1). At the end of the initial five year period, the Secretary shall adjust the quantity or water assigned as necessary to meet the goal.

7. On page 17, line 2, strike the word "existing".

8. On page 25, line 4, strike the word "adult" and insert before the word "migration" the words "and downstream".

9. On page 25, line 17, strike the words "one year" and insert the words "two years".

10. On page 30, line 2, strike the words "Committee on Interior and Insular Affairs" and insert the words "Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries".

11. On page 33, strike lines 3 through 13, and insert the following:

"(c) APPOINTMENT AND MEMBERSHIP.—The Fish and Wildlife Advisory committee shall be comprised of the Director of the U.S. Fish and Wildlife Service and the Governor of California, or their designees, and twenty additional members appointed by the Secretary in consultation with the Governor to provide—

"(1) ten representatives of environmental and conservation interests (including one representative of the Hoopa Valley Tribe); and

"(2) ten representatives of agricultural and urban water users (including one representative of Central Valley Project power users)

"(d) TERMS.—The term of a member of the Fish and Wildlife Advisory Committee shall be five years, except that five of the members appointed pursuant to subsection (c)(1) and five of the members pursuant to subsection (c)(2) shall be appointed for an initial term of three years. Any vacancy on the Committee shall be filled in the same manner as the original appointment."

12. On page 33, line 15, strike the word "Secretary" and insert the words "Director of the U.S. Fish and Wildlife Service".

13. On page 39, line 1, strike the words "Committee on Interior and Insular Affairs" and insert the words "Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries".

Mr. JONES of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MODIFICATION OF AMENDMENT EN BLOC OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that amendment No. 1 as printed in the report of the Committee on Rules be revised to reflect the page and line numbers in the printed bill, and I further ask unanimous consent that the amendment so revised be considered as read and printed in the RECORD.

The CHAIRMAN. Without objection, the reading of the modification will be dispensed with.

There was no objection.

The CHAIRMAN. Is there objection to the initial request of the gentleman from North Carolina that the amendments en bloc be modified?

There was no objection.

The text of the amendments en bloc, as modified, is as follows:

Amendments en bloc as modified offered by Mr. JONES of North Carolina:

1. On page 6, lines 22–23, strike the words "Committee on Interior and Insular Affairs" and insert the words "Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries".

2. On page 9, lines 19–20, strike the words "modifications required as a result of".

3. On page 18, line 4, after the word "Develop" insert the words "within 18 months of enactment".

4. On page 18, strike lines 18–23 and insert the following:

"(B) As needed to achieve the goals of the program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined jointly by the U.S. Fish and Wildlife Service and the California Department of Fish and Game."

5. On page 20, after line 5, insert the following new paragraph (2) and renumber subsequent paragraphs accordingly:

"(2) Upon enactment of this Act, and after implementing the operational changes authorized in subsection (b)(1)(B), make available project water for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this section, except that such water shall be in addition to that required to implement subsections (b)(6) and (b)(15)(A). This water may be assigned immediately to supplement instream flows. The U.S. Fish and Wildlife Service shall conduct studies and monitoring activities as may be necessary to determine the effectiveness of such flows in meeting the goal established in subsection (b)(1). At the end of the initial five year period, the Secretary shall adjust the quantity of water assigned as necessary to meet the goal."

6. On page 22, line 4, strike the word "existing".

7. On page 32, line 17, insert before the word "migration" the words "and downstream" and strike the word "adult".

8. On page 33, line 11, strike the words "one year" and insert the words "two years".

9. On page 38, line 25 and page 39, line 1, strike the words "Committee on Interior and Insular Affairs." and insert the words "Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries.".

10. Beginning on page 42, strike line 23 through line 13 on page 43, and insert the following:

"(c) APPOINTMENT AND MEMBERSHIP.—The Fish and Wildlife Advisory Committee shall be comprised of the Director of the U.S. Fish and Wildlife Service and the Governor of California, or their designees, and twenty additional members appointed by the Secretary in consultation with the Governor to provide—

"(1) ten representatives of environmental and conservation interests (including one representative of the Hoopa Valley Tribe); and

"(2) ten representatives of agricultural and urban water users (including one representative of Central Valley Project power users).

"(d) TERMS.—The term of a member of the Fish and Wildlife Advisory Committee shall be five years, except that five of the members appointed pursuant to subsection (c)(1) and five members appointed pursuant to subsection (c)(2) shall be appointed for an initial term of three years. Any vacancy on the Committee shall be filled in the same manner as the original appointment."

11. On page 43, line 15, strike the word "Secretary" and insert the words "Director of the U.S. Fish and Wildlife Service".

12. On page 50, lines 2–3, strike the words "Committee on Interior and Insular Affairs" and insert the words "Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries".

Mr. JONES of North Carolina. Mr. Chairman, my committee received a joint referral of H.R. 5099. However, because time is so short in this session, and because Mr. MILLER has been very gracious in accommodating our committee's interest, I have agreed to forgo committee action.

My amendment addresses several issues that require technical correction and clarification. It makes a few additional changes which will enhance restoration of fish and wildlife populations.

The amendment provides that the California Department of Fish and Game and the U.S. Fish and Wildlife Service shall jointly establish the instream flows needed to meet the objective of doubling migratory fish populations by the year 2002. It also provides the Secretary with the discretion to supplement those flows as needed to meet the overall fish, wildlife, and habitat restoration purposes of the bill. I want to emphasize that this authority to supplement flows is entirely discretionary.

The amendment also changes the Fish and Wildlife Advisory Committee established in section 9. As it currently stands, this committee cannot be fairly characterized as a Fish and Wildlife Advisory Committee since a full two-thirds of the members represent water users.

My amendment would split the membership equally between fish and wildlife conservation interests and water user interests. This will provide for much better advice to the Secretary on this crucial issue.

My amendment attempts to improve the bill. I think it does so, and I ask for support from my colleagues.

Mr. Chairman, I yield back the balance of my time.

Mr. THOMAS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have a question on the amendment on page 14 that strikes lines 13 and 16 and inserts the following, where it says that "the Secretary is authorized and directed." It indicates that the "instream flow for the CVP control streams and rivers shall be determined jointly by U.S. Fish and Wildlife Service and the California Department of Fish and Game."

Is that authorization and direction of the Secretary mandatory or discretionary; that is, does the Secretary control the project, or does the U.S. Fish and Wildlife Service and the California Department of Fish and Game, when they decide jointly, control the Secretary?

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think this is reflective of what now has become the current situation. As the gentleman knows, in the water-short years over the last 6 or 7 years, we find that we are unable any longer to operate this project in a vacuum. The Secretary in fact now is operating the project, especially in the northern part of the State, in conjunction with trying to avoid a court-imposed directive to do so, in conjunction with these two agencies, to try to determine those instream flows, time of release, offstream storage, time of year of release, if you will.

This is to reflect that, because it does what we are afraid the court eventually is going to do through court order. We would rather do it legislatively than have the court impose that effort on the system. It is mandatory.

Mr. THOMAS of California. Does the gentleman's answer mean that the Secretary is directed?

Mr. MILLER of California. That is correct.

Mr. THOMAS of California. He has no discretion over the information given him by a State agency; if they agree jointly with another Federal agency, the Secretary is a directed agent to carry out their request?

Mr. MILLER of California. Yes.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from North Carolina [Mr. JONES].

The amendments en bloc, as modified, were agreed to.

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS of Wyoming: At the end of the bill, insert the following new section:

SEC. . BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM, WYOMING.

There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities: *Provided*, that such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

Mr. THOMAS of Wyoming. Mr. Chairman, in case there is confusion, I further ask that the amendment at the desk be the one considered, rather than the one in the report, and that it be considered as read, the difference being only the placement in the bill.

The CHAIRMAN. Is there objection to the request of the gentlemen from Wyoming?

There was no objection

Mr. THOMAS of Wyoming. Mr. Chairman, I appreciate the opportunity to present this amendment. H.R. 5099 will be amended to H.R. 429, the omnibus water package, which was originally a bill to authorize the completion of work on Buffalo Bill Dam in Wyoming. H.R. 429 contains language that would authorize the completion money that has already been appropriated to complete this dam. Buffalo Bill Dam is a textbook example of cooperation between the State and Federal Government. The total project costs about $135 million. The State of Wyoming made a contribution of $52 million.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I am glad to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have had an opportunity to examine the gentleman's amendment, and again, the State of Wyoming has been in the forefront of providing realistic and real cost sharing, and we accept this amendment. We do not think that they should be penalized as a result of the delay that has taken place within the Congress. We urge support of his amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, on the minority side, we have looked at the amendment and we would also accept it.

The CHAIRMAN. The question is on the amendment as modified, offered by the gentleman from Wyoming [Mr. THOMAS].

The amendment as modified, was agreed to.

□ 1600

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. PELOSI: At the end of the bill, insert the following new section:

SEC. . DEMONSTRATION PROJECT.

The Secretary is authorized and directed to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse in accordance with the Title 22 standards of the California Water Code. "Advanced ecologically engineered technology" refers to a greenhouse-based, ecologically engineered technology which employs highly populated pond and marsh ecosystems to produce water for reclamation and reuse. One half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the other half shall be borne by the State of California and the City and County of San Francisco."

Ms. PELOSI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Chairman, I am pleased to offer this amendment to H.R. 5099 with Mr. STUDDS today. Hearings were held on this technology last month.

The technology that would be made available by our amendment is based on a greenhouse system to purify water naturally by simulating small-scale pond and marsh ecosystems. Toxic elements and other concentrated elements are broken down symbiotically to produce quality water for reclamation and reuse.

Because of the severe drought that has plagued California for the past 6 years and put San Francisco's water curtailment as high as 50 percent, the possibility that an environmentally sound technology could be devised for the purpose of reclaiming wastewater is an extremely important idea to pursue. This reclamation process could provide water that is now unavailable to maintain parks and landscaping and could also substitute for the water used in fire fighting.

The city of San Francisco is committed to water reclamation. Last year, the board of supervisors enacted an ordinance which requires all new buildings and building renovations of more than 40,000 square feet located in our commercial and financial areas to install dual plumbing to carry reclaimed water in the buildings for nonpotable uses. The mandatory use of reclaimed water is now law in San Francisco and every effort must be made by the city's clean water enterprise to provide reclaimed water of the quantity and quality required.

Solar aquatics will enable us to experiment with a new, natural-based treatment to produce much-needed water for our communities. The savings anticipated from such a project, compared to the expensive conventional technologies, would be tremendous for our cities.

Chairman STUDDS has been a leader on this issue and I applaud his efforts to pursue new technologies with models that use natural elements in an environmentally sound manner. This is the type of technology that will serve us well—in reaping economic benefits and in protecting our environment.

Mr. STUDDS. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Massachusetts who, as I said, has been a leader on this particular kind of technology.

Mr. STUDDS. Mr. Chairman, I thank the gentlewoman for yielding. I simply want to compliment the gentlewoman for her imagination and leadership in this. As she said, this is exciting, innovative technology with important water reclamation and reuse applications in the West. I think it is genuinely exciting, and I commend the gentlewoman.

Mr. Chairman, today I join Congresswoman PELOSI in introducing an amendment to the Central Valley Project Improvement Act. This amendment weds exciting innovative technologies developed in Massachusetts with an important water reclamation and reuse application in the West.

Nowhere is the value of water and the wonderful resources and uses it supports more apparent than in our western States. The Central Valley Project Improvement Act is evidence of that recognition. The Southwest continues to lead the way as our country begins—not soon enough—to reassess how it protects and uses this precious natural resource. Water purification, reclamation, and reuse, together with pollution control and prevention, must be essential elements of a forward-looking national water conservation strategy.

San Francisco has already committed itself to just such a water conservation strategy. Mandatory water reclamation is now the law. The demonstration project authorized by our amendment will enable this city to examine the effectiveness of using innovative, biologically sound technologies to reclaim and reuse water in concert with conventional water handling systems.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from California, chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I want to commend the gentlewoman for offering this amendment, which is again in the vanguard of efforts in the State of California to try to use our water resources as wisely and as efficiently as we can. The committee has had a chance to look at the amendment and we agree with it, and we would urge the adoption of the amendment.

Ms. PELOSI. I thank the gentleman.

Mr. HANSEN. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I am pleased to yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I thank the gentlewoman for yielding. I think the gentlewoman has come up with an excellent amendment. I support it, and on this side we accept this amendment.

Ms. PELOSI. I am very pleased to accept the gentleman's support for the amendment.

I also want to express my support for H.R. 5099 and commend the chairman for bringing this important legislation to the floor.

Mr. GILCHREST. Mr. Chairman, I rise today in support of the amendment to H.R. 5099 from the gentlewoman from California.

Cities and towns all across the United States are struggling to clean their rivers, lakes, and bays. One of the major obstacles blocking attainment of that goal is the monumental cost associated with adequate sewage treatment. Conventional sewage treatment plants are expensive and unpopular. Many small communities cannot even afford the infrastructure needed for construction of these plants.

But recent advances in complex biological treatment systems or solar aquatics promise an alternative. These systems depend on plants and animals in a marsh-like setting to digest harmful and polluting compounds that enter the solar aquatic system. The Fisheries and Wildlife Subcommittee recently held hearings on this remarkable new technology, and witnesses repeatedly testified how underutilized the concept is.

These systems provide a nonpolluting natural purification treatment system which is inexpensive and energy-efficient. The system can be used for sewage treatment or for the reclamation of wastewater. The applications of this system are nearly limitless because the system uses the self-correcting mechanism of a natural ecosystem.

Our communities are in crisis trying to find the necessary resources to meet the clean water and clean air standards that we have passed. Solar aquatics will offer a cost-effective opportunity to clean our waters. Witnesses before the subcommittee testified that solar aquatic systems can surpass current water standards at less that cost than conventional water treatment facilities.

This project is a long-term investment. For the small amount spent today, we will ultimately save the money that would otherwise go toward more expensive forms of wastewater treatment.

I urge my colleagues to support this amendment and encourage development of this promising new technology.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. PELOSI].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON:

On p. 15, line 6, (section 5) insert the following new subsection and renumber subsequent sections accordingly:

(d) WATER PRICING REFORM.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on an inverted block rate structure with the following provisions.

(1) the first rate tier shall apply to a quantity of water up to 60 percent of the contract total and shall be not less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 60 percent and under 80 percent of the contract total at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 80 percent of the contract total and shall not be less than full cost;

(4) rates shall be adjusted annually for inflation; and,

(5) the Secretary shall charge contractors only for water actually delivered.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I am offering an amendment that would add a pricing reform provision to H.R. 5099 which goes a long way I think in supporting the excellent work done by Chairman MILLER.

This program has had massive subsidies. The reclamation program has cost somewhere between $10 and $70 billion, depending on who makes the calculation. When the Congressional Budget Office did it, they found between $33 and $70 billion. According to the Bureau of Reclamation, the total historic subsidy for this project, as the one in Central Valley, is a $5.1 billion program with a $460 million annual subsidy. This is $400 million as a direct cost to the taxpayers. It comes out of their pocket every April 15.

My amendment would only affect new contracts or renegotiated contracts.

The tier pricing system is a modest attempt to bring some cost reality to this program. It would provide that the first 60 percent would be at the subsidized cost, between 60 and 80 percent, that 20 percent would be at the median between the subsidized cost and the full cost, and between 80 and 100 percent would be at full cost.

This proposal will save the taxpayers money. It will help the farmers become more efficient in the use of their water. It will make the elasticity in demand help conservation.

Mr. Chairman, the amendment I am offering would add pricing reform provisions to H.R. 5099. This section was included in the bill as introduced, but was dropped as a result of negotiations between the various parties. Now it appears that those negotiations and the agreement that was supposed to have been reached is no longer operative.

The history of the reclamation program is a history of massive subsidies. In 1989, as chairman of the Interior Subcommittee on Oversight and Investigations, I undertook an investigation into a coverup by the Interior Department over a request we made to determine the level of that subsidy.

What we uncovered in the course of our investigation shows why Members should support my amendment.

The investigation revealed that the total subsidy provided by the taxpayers to the reclamation program varied between $10 and $70 billion depending on who makes the calculations. While the official estimate of the cost of providing federally subsidized water to reclamation farmers was only $9 billion since the program began, economists within the Interior Department, who were asked by the Department to prepare the analysis estimated the cost of the subsidies at $24.2 billion. The Congressional Budget Office calculated the subsidy at between $33.7 and $70 billion.

H.R. 5099 is intended to reform the largest western water project, the Central Valley project. But as reported, this legislation does not address the most important issue with regard to the project; that is the subsidy. According to the Bureau of Reclamation, the total historical subsidy for this project is $5.1 billion, and the annual subsidy is $460 million.

That means that agriculture producers in California start out each year with a $460 million advantage over competitors in the other States. Farmers in the Northeast, the Midwest, the South, and even other farmers in the Western United States, produce the same crops, compete in the same markets, yet they are placed at an automatic competitive disadvantage because they do not have the advantage of a $460 million subsidy. And this $460 million comes directly out of the taxpayers' pockets every April 15.

Mr. Chairman, my amendment is hardly onerous. What it says is that if you sign a new contract with the Bureau of Reclamation in the future, the contract must provide for a tiered pricing system. That system would increase the rate from the subsidized rate for the first 60 percent of the water up to the unsubsidized rate for the last 20 percent. In other words, water districts would be able to receive the first 60 percent of their allocated water at the contract or subsidized rate. The second tier, the quantity of water over 60 percent but less than 80 percent would be provided at a rate halfway between the subsidized contract rate and the full cost rate; and the third tier price which is the full cost rate will apply to the quantity of water over 80 percent.

This amendment will encourage farmers to use less water, an already scarce commodity. It will save the taxpayers money. It will encourage farmers to produce higher value crops and by irrigators using less, it will free up water for higher uses like protecting fish and wildlife.

This amendment would not apply to any existing contracts. It would only apply if the water district or municipality came to the Federal Government and requested a new contract or a renewal of an existing contract. It would also ensure that water districts and farmers only pay for the water that they actually use.

Water like energy, is price elastic. The more you pay, the less you use. For the past 8 years, California has been facing the worst drought in history, yet farmers in that area, continue to receive highly subsidized water, often to irrigate surplus crops, while cities must ration water or pay hundreds of dollars for the same water when they can get it. It doesn't make sense that we would take our most precious and scarce resource and price it at unconscionably low rates.

Under the current laws, all but a tiny fraction of the Central Valley project's construction costs will be paid for by the taxpayers, not the agribusinesses who benefit. Measured in today's dollars, the CVP capital cost is about $3.77 billion. Yet CVP water users will repay only about $203 million, approximately 5 percent of these costs. In other words, about $3 billion of the project's construction costs will be paid by the taxpayer. The CVP repayment will amount to only 13 to 16 percent of the costs normally repayable by other reclamation project irrigators throughout the West.

Now these subsidies might be justifiable if the CVP were a poor project. But it is anything but poor. Central Valley farmland is some of the most productive in the world and Central Valley agribusinesses are enormously profitable. In 1989 alone, CVP growers reaped over $3.5 billion in gross crop value, while repaying the U.S. taxpayers only $29.3 billion—$2.2 million less than it cost the Bureau of Reclamation to run the project.

Mr. Chairman, and my colleagues, we have an opportunity to bring some reality into this program. In light of the $200 billion budget deficit that we are facing, we have an opportunity to bring some sanity to this program, we have an opportunity with this amendment to set the foundation for future water contracts that are realistic.

Mr. Chairman, this amendment is not a partisan issue and it is not a regional issue. This amendment is good for farmers, it is good for the taxpayers, and it is good for the environment since it will promote efficient use of water, a precious resource, especially in the West.

I urge my colleagues to join us today and inject some sanity into western water policy.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, is this amendment identical to or very similar to a provision that was in the bill that was originally introduced and that was removed in committee by agreement among the parties?

Mr. GEJDENSON. It is an identical amendment to it. And when the proposal was removed there was a time where there was agreement. There is no agreement at this stage, and that is one of the reasons, but I thought it was a good amendment then.

Mr. RHODES. Will the gentleman yield for 1 additional minute?

Mr. GEJDENSON. I am happy to yield to the gentleman from Arizona.

Mr. RHODES. I just want to assure the gentleman those of us who agreed to remove it are not now agreeing to have it replaced.

Mr. GEJDENSON. That is fine.

If Members will take a look at this, it is a simple choice for people. A farmer who makes $300,000 is now paying $18,000 for his water, $18,800. This would bring him to $28,000, a $10,000 increase. But the real cost is $50,000. A farmer who is now bringing in, in another section, $800,000 in crops is paying $15,000. We only raise that to $25,000. And a farmer who in one case makes $1 million is now paying $10,000 for his water and will pay $17,500 for his water.

This gives farmers, even who continue to use 100 percent of their water, a very easy way to pay for it. But it does give them an incentive to reduce.

In 1985, it was estimated that 4 percent of the cost of the Central Valley project was repaid. It is an action that Congress has continuously supported. It is something that makes sense for the farmers, for the taxpayers and for the country.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to this amendment, but I have to tell you, it is difficult to take an amendment like this to a bill like this that comes up at the last moment all that seriously. This bill is dead. This bill, as the chairman knows, has to be completely rewritten in some form to ever stand muster to come back to this House in the form of a conference report.

There is no one in support of this bill as presently written. Environmentalists do not like it and have ravaged it. The farmers do not like it and have ravaged it, and the newspapers in our State have condemned it as well.

The gentleman from California [Mr. MILLER] is trying to get a vehicle to go to conference here, and it is a bit of a rickety ship, and he has taken on all the baggage that everybody has tossed on board today to take it to that point, to perhaps sit down then to a conference committee and we can all try to make some sense out of this.

The Gejdenson amendment is just one more insult added to injury here. The bill proposed by the gentleman from California [Mr. MILLER] on the floor today already sets up a $15 million fund for farmers to contribute to these various things. The bill proposed by the gentleman from California [Mr.

MILLER] on the floor today already has massive water conservation measures in it, many of which have been agreed to by Members on the other side.

The gentleman from Connecticut [Mr. GEJDENSON] is adding nothing to this except additional costs to the farmers and absolutely no improvement on the water conservation side of the equation. I seriously doubt the gentleman from Connecticut [Mr. GEJDENSON] has been to the San Joaquin Valley to see the type of water conservation that is already in effect there, and he makes a serious mistake in that regard by trying to lump farmers on the west side of the valley together with farmers on the east side of the valley, to lump permanent crops with nonpermanent crops, by taking the north and the south. And it is very curious why in this measure the gentleman from Connecticut has limited application only to the Central Valley project. If this is such a good idea, why does the gentleman from Connecticut not offer it as a West-wide proposition so that everybody in here will have to stand for the rigors that he is trying to place on one particular project in California.

□ 1610

Maybe the gentleman from Connecticut [Mr. GEJDENSON] will entertain that.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I know that the gentleman is sincere in his questions. But the Central Valley project takes the largest taxpayer subsidies. That is why we focused in on that. This was part of the discussions in the committee, and it is not as if it just appeared on the floor.

Environmentalists do like this provision. The taxpayers do like this provision.

When you take a look at a farmer who brings in a million dollars in revenue, to raise his costs from $10,000 to $17,500 for all the water is not a killer amendment.

Mr. LEHMAN of California. Reclaiming my time, the gentleman is ignoring all of the other provisions in the bill including the Reclamation Reform Act, changes that the gentleman from California [Mr. MILLER] and I agreed to last year that changes the whole mechanism as far as being able to obtain any subsidy out there at all is concerned. We have attempted to address all of these problems in the context of the committee and in the context of the negotiated consensus.

As far as reclamation is concerned, many of them have been addressed, but for the gentleman from Connecticut to just parachute in out of the blue here and say, well, that is not enough, what you guys negotiated or have agreed to or what is in this bill that everybody knows is going to change anyway, let us just tack this on top of it today. Part of me says maybe we ought to let this go ahead, because it makes a bad bill absolutely terrible. I think it probably increases the chances that it is not going to go anywhere.

But if we are going to be serious on this floor and seriously attempt to adopt legislation that is workable, we ought to reject this.

Mr. THOMAS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to compliment the gentleman from Connecticut. I wish that he would check his pocket to see if he has any more similar amendments that he might want to offer, because, frankly, this makes my job much easier, and I urge him to continue this line of amendment, because in his own inimitable fashion, he continues to plow forward despite what everyone has said here today.

However, there is one discrepancy in his description, and that is that he only has this covering the California Central Valley project, because it is the largest. I am not accustomed to the gentleman from Connecticut leaving any crumbs on the table.

Certainly in his pursuit of helping the taxpayer, he ought to take a look at the other projects as well.

What I would urge him to do, however, if he really wants to get serious, is examine the energy subsidy that the Northeast is receiving, because they refused to allow Alaskan oil to find its economic home, but continued to require it to come into the United States at enormous expense to his selfsame taxpayers.

It is very difficult to do, but the gentleman once again is crying crocodile tears out of only one eye.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Gejdenson amendment to H.R. 5099, the Central Valley Project Improvement Act. This amendment would add a critical new tool to water management for the CVP. This new tool is as old as our free enterprise system. It is, quite simply, the use of prices to make more rational decisions about water use.

Incredibly enough, after 40 years of water service, and 6 years of drought in California, current reclamation law makes no provision to assure the effective use of price signals for water from the Central Valley project. We do not expect food, clothing, shelter, or any other basic commodity to be distributed without regard to prices, but this is the way the Federal Government has doled out water in the West—particularly water for irrigation.

The Gejdenson amendment would begin to change this. Currently, most contracts to deliver water from the CVP to water users allow the Secretary of the Interior to charge a stipulated amount of money, regardless of the amount of water actually delivered and used. Under these so-called take-or-pay arrangements, there is no incentive for irrigation districts or individual farmers to conserve water, even during periods of drought. The Gejdenson amendment would require that all new, renewed, or amended contracts stipulate that water users are only charged for water actually delivered. It is my understanding that the Bureau may make reasonable charges for conveyance losses as well, without undermining the intent of this amendment.

The other key provision of the Gejdenson amendment is the establishment of a tiered system of pricing. Electric utilities, telephone companies, and other businesses have decades of experience with this concept, but once again, the reclamation program must play catch-up ball. Under the amendment, higher levels of use would be priced at a higher water rate. Specifically, usage above 60 percent of a district's total amount of water available under its contract would be priced with Federal subsidies partially removed, and usage above 80 percent would be priced with Federal subsidies fully removed. Again, this new rate structure would be a requirement of all new, renewed, or amended contracts to receive water from the CVP. This structure will provide immediate rewards for those districts that act to conserve their water use.

Taken together, Mr. Chairman, the provisions of this amendment mark a sensible step toward a more rational management of water resources, and an expression of confidence in our free market system. Of course, this bill does not establish a completely free market for water in California, and I am disappointed that the bill does not go further in that regard. Nevertheless, this amendment is a crucial recognition of the valuable role of pricing mechanisms, and on that basis alone it deserves our support.

I urge the adoption of the Gejdenson amendment.

Mr. DOOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, rise in strong opposition to the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

Mr. Chairman, as we have been involved in trying to develop a compromise for this legislation and trying to reform the CVP, we have included many provisions that have gone at the heart of trying to encourage greater conservation both in the operation of the project, requiring the Secretary of the Interior to participate with the water districts and also local farmers in implementing conservation practices. We have also explored different opportunities in which we could use pricing as a mechanism to encourage greater conservation, and those talks are continuing.

I think the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] would do a disservice to those ongoing delicate negotiations.

In addition, the bill that the gentleman from California [Mr. MILLER] is offering today also includes $230 million in project fixes of which farmers are paying almost 40 percent of that cost.

We are also, the farms and the agricultural contractors, are also responsible for 15 million dollars' worth in annual costs for restoration of the environment. These costs are significant additional obligations that agricultural contractors are going to have to bear.

The amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] only adds insult by further tacking on additional dollar amounts which the farmers are going to have to be responsible for.

There has been a lot of alluding to farmers with a million dollars in gross receipts, and farmers that have $300,000 in net farm income. The bottom line is that the average farm size on most of the water projects out there, and certainly the Kern project, is 100 acres. These are not rich people. These are people who are struggling, hard-working families, that oftentimes have incomes which are below the median incomes.

I also would have to note that this subsidy that people who draw so much attention on is really only the interest on the capital cost of building the project.

The gentleman from Connecticut [Mr. GEJDENSON] was a strong and articulate proponent of the *Seawolf* submarines that we are building. These *Seawolf* submarines are going to be basically costing our country $6 billion in costs this year. That is a capital cost. The annual subsidy which would be the interest component on the $6 billion cost of those *Seawolf* submarines is $480 million a year.

This is not any different than the capital cost of building many of the reclamation projects, and I challenge anyone to tell me what has greater economic utility. Is it two attack *Seawolf* submarines out there, or is it a water project that is allowing for the productive utilization of a resource in an economic activity? Clearly there is a double standard here, and I hope that the Members of this body will understand that and vote against the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, agriculture uses 82 percent of the water in the Central Valley project. Yet, agricultural producers pay only a small portion of the real cost of this water.

Prices for water supplied through the Bureau of Reclamation Central Valley project in California range from $1.50 to $30.86 per acre-foot.

□ 1620

In contrast, water available to metropolitan areas through the Greater Los Angeles area typically range from $192 to $261 per acre-foot.

In total, the Central Valley project receives a subsidy of $60 million each year from American taxpayers.

It is worth noting that other California farmers in State water projects pay as much as five times more than those in the Central Valley project.

The bottom line is that subsidized water encourages farmers to grow water-intensive, but low-value crops, such as wheat and alfalfa. If farmers in California paid the true cost of the water, they would be forced to respond to market conditions and they would then raise crops that could offset the price of water. It is basic supply and demand. It is basic economic forces, and they are not at play when you have this kind of excessive subsidy going to these producers.

Worse yet, many of the crops that are raised on subsidized water are also surplus crops and the Federal Treasury experiences a double hit when these farmers receive Federal farm program payments. We cannot afford the folly of subsidizing both the production and the storage of crops that are in surplus.

The Gejdenson amendment would save $40 million through a three-tiered pricing system. That system has this basic principle: The more water you use, the more you pay per unit of water. It is fair. It is reasonable. It is in the taxpayer's interest. Vote yes on the Gejdenson amendment.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment of the gentleman from Connecticut [Mr. GEJDENSON].

This is in fact a serious amendment. It does have serious ramifications for the taxpayers of this country and it will also clearly lead to the more efficient and the better use of water resources within the State.

Mr. Chairman, I urge adoption of the amendment.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I just want to clarify the point that the gentleman from Minnesota made, so that people who are not familiar with the kind of agriculture that is grown in the Central Valley do not assume that we have the waving fields of wheat that he apparently described and is perhaps more familiar to his home.

For example, if you looked at the 10 top crops that are produced in my area, some of it with Central Valley project water, you find crops like almonds, pistachios, citrus, kiwi fruit, products that are not subsidized in the farm program, like the wheat, for example, grown in Minnesota.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I would amend my remarks to include cotton.

Mr. THOMAS of California. And the gentleman should continue to amend to include grapes, table and wine grapes.

Mr. MILLER of California. Mr. Chairman, I reclaim my time, and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HERGER

Mr. HERGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HERGER: At the end of the bill, insert the following new section:

SEC. . RECREATION.

The first section of the Act of August 27, 1954 (16 U.S.C. 695d), is amended by inserting "and also for the use and enjoyment of the lands, waters, and related facilities thereof for recreation," after "fish and wildlife purposes,".

Mr. HERGER. Mr. Chairman, I would like to point out that the Central Valley project is one of the only projects of its kind in the Nation which does not have recreation as one of its purposes of the project.

This amendment is designed to ensure that public recreation does receive consideration in the management of the Central Valley project.

My amendment would amend section 1 of the act of August 27, 1954, to direct the Secretary of the Interior to also consider the needs of providing public recreation when making decisions regarding the management of the project.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding to me.

We have examined the amendment to require the Secretary to recognize the importance of recreational facilities at the Central Valley project and we would concur in the amendment and support the amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I think the gentleman from California comes with an excellent amendment. We have looked at it. We think it is absolutely one of the best we have seen so far, and we agree with it.

Mr. HERGER. Mr. Chairman, I appreciate that, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Herger].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McNulty) having assumed the chair, Mr. Cardin, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5099) to provide for the restoration of fish and wildlife and their habitat in the Central Valley of California, and for other purposes, pursuant to House Resolution 486, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MILLER of California. Mr. Speaker, pursuant to the provisions of House Resolution 486, I move to take from the Speaker's table the bill (H.R. 429), with a Senate amendment thereto, and concur in the Senate amendment with an amendment consisting of the text of the bills H.R. 429 and H.R. 5099 as passed by the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment and the House amendment to the Senate amendment.

The texts of the Senate amendment and the House amendment to the Senate amendment are as follows:

Senate amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

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Sec. 1. Short title.
Sec. 2. Definition and table of contents.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

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Sec. 200. Short title and Definitions for titles II–VI.
Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
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TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(a) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE AND DEFINITIONS FOR TITLES II–VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) DEFINITIONS.—For the purposes of titles II–VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(13) The term "State" means the State of Utah, its political subdivisions, or its designee.

(14) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for the design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow.

(B) The Deep Creek pumping plant.

(C) The North Fork pumping plant.

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals.

(B) Draining of Benjamin Slough.

(C) Diking of Goshen or Provo Bays in Utah Lake.

(D) Ute Indian Unit.

(E) Leland Bench development.

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety to the District and the Commission as provided for pursuant to the provisions of this Act.

(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this Act and may not delegate his responsibilities under this Act to the Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Jaub, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act:. Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.

Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in Section 207(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:

(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady State conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize section 8 funds which may be available from fiscal year 1992 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available funds, the United States Geological Survey is directed to consult with the District in the preparation of the study identified in subparagraph (5)(A)(I)..

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, T. 3 S., R. 12 W., and sections 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43–3825 (Application No. A36642) and Water Right No. 43–3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total reimbursable costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by section 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Within 120 days of enactment of this Act, the Secretary shall execute a cost sharing agreement which binds the District to provide annually such sums as may be required to satisfy the non-Federal share of the separate features authorized and approved for construction pursuant to this Act. The Secretary is not authorized to broaden the scope of the cost sharing agreement beyond assuring that the non-Federal interests will satisfy the cost sharing provisions as set forth in this section. Any feature to which this section applies shall not be initiated until after the non-Federal interests enter into a cost sharing agreement with the Secretary to provide the share required by this section. The District may commence any study authorized herein prior to entering into a cost sharing agreement, and upon execution of a cost sharing agreement the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, federally appropriated funds may not be obligated or expended by the District for construction of the features authorized in section 202(a)(1) or 203 until—

(1) the District completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to the District until the District enters into a binding agreement with the Secretary to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act. The Secretary shall execute such binding agreement within 120 days of enactment of this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make sums available to the District as required by the District, for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses; or

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Jaub counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally acceptable measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.

Not less than 90 days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account—

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) Recovery of all costs, including a reasonable return on investment, through water and wastewater service charges.

(B) Seasonal rate differentials.

(C) Drought year surcharges.

(D) Increasing block rate schedules.

(E) Marginal cost pricing.

(F) Rates accounting for differences in costs based upon point of delivery.

(G) Rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of ground water resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and ground water supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) Metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)

(B) Elimination of declining block rate schedules from any system of water or wastewater treatment charges.

(C) A program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less.

(D) Low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction.

(E) Requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities.

(F) Requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction.

(G) Requirements for the insulation of hot water pipes in all new construction.

(H) Requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems.

(I) Standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices.

(J) Elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be—

(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within 12 months after the first determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before 60 days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The Court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the members of the House of Representatives representing the State.

(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the members of the Senate representing the State.

(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) 1 from a list of residents of the State submitted by the District.

(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within 90 days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be one year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermit-

tent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) Implementation of Mitigation and Conservation Measures.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) Reallocation of Section 8 Funds.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) Funding for NEPA Compliance.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.

(4) Contracting Authority.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Comission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(g) Planning and Reporting.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) Final Plan.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) Public Involvement and Agency Consultation.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than 90 days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) Reporting.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least 60 days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) Discretionary Duties and Powers.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act—

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A non-consumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within 30 days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Herber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company Water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within 30 days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April; and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. Of the amounts authorized to be appropriated by section 201, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Current Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment

for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanville Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: Title III, and 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102-267).

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102-267).

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies and ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	*Appropriations (Thousands of 1990 Dollars)*			
	TOTAL	*FY93*	*FY94*	*FY95*
Instream flows				
1.a Lease of Daniels Creek water rights	*$500*	*$500*	*$0*	*$0*
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	*$10,000*	*$10,000*	*$0*	*$0*
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	*$15,000*	*$5,000*	*$5,000*	*$5,000*
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	*$4,000*	*$500*	*$1,500*	*$1,500*
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	*$500*	*$100*	*$100*	*$100*
Subtotal	*$30,000*	*$16,100*	*$6,600*	*$6,600*
	FY96	*FY97*	*FY98*	
Instream flows				
1.a. Lease of Daniels Creek water rights	*$0*	*$0*	*$0*	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	*$0*	*$0*	*$0*	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	*$0*	*$0*	*$0*	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	*$500*	*$0*	*$0*	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	*$100*	*$100*	*$0*	
Subtotal	*$600*	*$100*	*$0*	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	*$1,300*	*$0*	*$100*	*$200*
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	*$750*	*$0*	*$0*	*$250*
Subtotal	*$2,050*	*$0*	*$100*	*$450*
	FY96	*FY97*	*FY98*	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	*$500*	*$500*	*$0*	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	*$250*	*$250*	*$0*	
Subtotal	*$750*	*$750*	*$0*	
	TOTAL	*FY93*	*FY94*	*FY95*
Wetland acquisitions rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	*$14,000*	*$1,000*	*$2,600*	*$2,600*
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	*$7,000*	*$300*	*$1,200*	*$1,500*
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	*$1,500*	*$250*	*$250*	*$250*
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	*$16,690*	*$1,690*	*$3,000*	*$3,000*
Subtotal	*$39,190*	*$3,240*	*$7,050*	*$7,350*
	FY96	*FY97*	*FY98*	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	*$2,600*	*$2,600*	*$2,600*	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	*$2,000*	*$2,600*	*$0*	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	*$250*	*$250*	*$250*	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	*$3,000*	*$3,000*	*$3,000*	
Subtotal	*$7,850*	*$7,850*	*$5,850*	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	*$750*	*$50*	*$0*	*$100*
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	*$4,000*	*$0*	*$400*	*$600*
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	*$1,000*	*$200*	*$200*	*$200*
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	*$1,500*	*$300*	*$300*	*$300*
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	*$1,000*	*$150*	*$150*	*$200*
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	*$1,000*	*$0*	*$0*	*$0*
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	*$475*	*$50*	*$50*	*$75*
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	*$1,150*	*$0*	*$0*	*$100*
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	*$5,000*	*$0*	*$0*	*$0*
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	*$22,800*	*$100*	*$3,500*	*$4,200*
Subtotal	*$38,675*	*$850*	*$4,600*	*$5,775*
	FY96	*FY97*	*FY98*	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	*$200*	*$200*	*$200*	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	*$1,000*	*$1,000*	*$1,000*	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	*$200*	*$200*	*$0*	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	*$300*	*$300*	*$0*	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	*$150*	*$150*	*$200*	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	*$100*	*$500*	*$400*	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	*$100*	*$100*	*$100*	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	*$300*	*$400*	*$350*	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	*$500*	*$2,000*	*$2,500*	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	*$5,000*	*$5,000*	*$5,000*	
Subtotal	*$7,850*	*$9,850*	*$9,750*	
Watershed Improvements				

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	*Appropriations (Thousands of 1990 Dollars)*			
	TOTAL	*FY93*	*FY94*	*FY95*
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	*$2,500*	*$0*	*$500*	*$500*
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	*$1,125*	*$125*	*$200*	*$200*
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	*$4,000*	*$500*	*$700*	*$700*
Subtotal	*$7,625*	*$625*	*$1,400*	*$1,400*
	FY96	*FY97*	*FY98*	
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	*$500*	*$500*	*$500*	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	*$200*	*$200*	*$200*	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	*$700*	*$700*	*$700*	
Subtotal	*$1,400*	*$1,400*	*$1,400*	
	TOTAL	*FY93*	*FY94*	*FY95*
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	*$750*	*$0*	*$250*	*$250*
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	*$250*	*$0*	*$0*	*$50*
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	*$350*	*$0*	*$0*	*$50*
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	*$8,500*	*$500*	*$1,000*	*$1,500*
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	*$400*	*$50*	*$75*	*$75*
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	*$750*	*$75*	*$75*	*$150*
Subtotal	*$11,000*	*$625*	*$1,400*	*$2,075*
	FY96	*FY97*	*FY98*	
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	*$250*	*$0*	*$0*	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	*$100*	*$100*	*$0*	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	*$100*	*$100*	*$100*	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	*$1,500*	*$2,000*	*$2,000*	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	*$75*	*$75*	*$50*	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	*$150*	*$150*	*$150*	
Subtotal	*$2,175*	*$2,425*	*$2,300*	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	*$2,000*	*$125*	*$275*	*$400*
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	*$750*	*$50*	*$100*	*$150*
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	*$1,000*	*$0*	*$75*	*$75*
4. Provo River corridor development [Sec. 311(e)]	*$1,000*	*$0*	*$75*	*$75*
Subtotal	*$4,750*	*$175*	*$525*	*$700*
Total Additional	*$133,290*	*$11,115*	*$25,175*	*$24,350*
	FY96	*FY97*	*FY98*	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	*$400*	*$400*	*$400*	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	*$150*	*$150*	*$150*	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	*$200*	*$300*	*$350*	
4. Provo River corridor development [Sec. 311(e)]	*$200*	*$300*	*$350*	
Subtotal	*$950*	*$1,150*	*$1,250*	
Total Additional	*$21,575*	*$23,525*	*$20,550*	
	TOTAL	*FY93*	*FY94*	*FY95*
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	*$2,700*	*$900*	*$900*	*$900*
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	*$3,990*	*$666*	*$803*	*$790*
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	*$3,000*	*$600*	*$600*	*$600*
Subtotal	*$9,690*	*$3,966*	*$1,403*	*$1,390*
	FY96	*FY97*	*FY98*	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	*$0*	*$0*	*$0*	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	*$453*	*$604*	*$674*	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	*$600*	*$600*	*$0*	
Subtotal	*$1,053*	*$1,204*	*$674*	
	TOTAL	*FY93*	*FY94*	*FY95*
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	*$160*	*$160*	*$0*	*$0*
Subtotal	*$160*	*$160*	*$0*	*$0*
	FY96	*FY97*	*FY98*	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSE.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), a well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b)(1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year

in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) Audit by Inspector General.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) Findings.—The Congress finds the following:

(1) The unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the tribe negotiated, but did not implement, a compact to quantify the tribe's reserved water rights.

(2) There are other unresolved tribal claims arising out of an agreement dated September 20, 1965, where the tribe deferred development of a portion of its reserved water rights for 15,242 acres of the tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indian and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) Purpose.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) Bonneville Unit Tribal Credits.—(1) Commencing one year from the date of enactment of this Act, and continuing for 50 years, the tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the tribe under this title shall be utilized by the tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the tribe.

(b) Bonneville Unit Tribal Waters.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the tribe and shall only apply when the tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) Election to Return Tribal Waters.—Notwithstanding the authorization provided for in subparagraph (b), the tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) Ratification of Revised Ute Indian Compact.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) The Indian Intercourse Act.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) Restriction on Disposal of Waters Into the Lower Colorado River Basin.—None of the waters secured to the tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) Use of Water Rights.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) Rules of Construction.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to be appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the tribe to develop over a three-year period—

(1) a 7,500-acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) Repair of Cedarview Reservoir.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to the Secretary, in cooperation with the tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the result-

ant surface area of the reservoir is two hundred and ten acres.

(b) Reservation Stream Improvements.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) Bottle Hollow Reservoir.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) Minimum Stream Flows.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) Land Transfer.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) Recreation Enhancement.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the tribe, to permit the tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) Municipal Water Conveyance System.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) Establishment.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the tribe.

(b) Adjustment.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) Tribal Development.—The tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the tribe. The financial consultants shall be selected by the tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) General Authority.—The tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) Description of Claims.—The tribe shall waive, upon receipt of the section 504, 505, and 506 moneys, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) Resurrection of Claims.—In the event the tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. AUTHORIZATION.

The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.

SEC. 702. COSTS NONREIMBURSABLE.

Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.

SEC. 703. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal authorized by this title. The Secretary may contract for these services.

SEC. 704. APPROPRIATIONS AUTHORIZED.

There is hereby authorized to be appropriated beginning October 1, 1989, for construction of a water treatment plant for water flowing from the Leadville Mine Drainage Tunnel, including sludge disposal, and concrete lining the rehabilitated portion of the tunnel, the sum of $10,700,000 (October 1988 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works authorized by this title, including but not limited to $1,250,000 which shall be for a program to be conducted by the Colorado Division of Wildlife to monitor heavy metal concentrations in water, stream sediment, and aquatic life in the Arkansas River.

SEC. 705. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel.

SEC. 706. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 701, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA 89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO 0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 707. FISH AND WILDLIFE RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the terms of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation.

(b) Prior to implementing the fish and wildlife restoration program, the Secretary shall submit a copy of the proposed restoration program to the President Pro Tempore of the Senate and the Speaker of the House of Representatives for a period of not less than 60 days.

SEC. 708. WATER QUALITY RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, the Administrator of the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining-related and other develop-

ment in the Upper Arkansas River basin, to develop corrective action plans, and to implement corrective action demonstration projects. Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act for costs or damages as a result of actions taken or omitted in the course of implementing an approved work plan developed under this section: Provided, That this subsection shall not preclude liability for costs or damages which result from negligence on the part of such persons. The Secretary shall have no authority under this section at facilities which have been listed or proposed for listing on the National Priorities List, or are subject to or covered by the Resource Conservation and Recovery Act. For the purpose of this section, the term "Upper Arkansas River basin" means the Arkansas River hydrologic basin in Colorado extending from Pueblo Dam upstream to its headwaters.

(b) The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Administrator of the Environmental Protection Agency.

(c) The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans. The Federal share of costs associated with corrective action plans shall not exceed 60 percent.

(d) Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(e) Nothing in this title shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

(f) There is authorized to be appropriated such sums as may be required to fulfill the provisions of sections 707 and 708 of this title.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

SEC. 801. AUTHORIZATION.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT.

(a) The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) All project costs for verification, design preparation, and construction management (estimated to be approximately 33 percent of the total project cost) shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) The Secretary shall, upon entering into a mutually acceptable agreement with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) At any time following the first advance of funds by the Authority, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 percent of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, and reimbursement of Federal costs pursuant to subsection 804(b) of this title, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements, or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds. Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 805. APPROPRIATIONS AUTHORIZED.

There are hereby authorized to be appropriated to carry out the provisions of this title the sum of $3,000,000 (October 1989 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuation in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION.

The Secretary, pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(a) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(b) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, water sales, fish, wildlife, and recreation purposes; and for other purposes.

SEC. 902. CONTRACT.

The Secretary is authorized to enter into a contract with the State of Kansas for the sale, use, and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT.

(a) The Secretary is authorized to enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0–07–70–W0064. After the reformulation of the Cedar Bluff Unit authorized by this title, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale of water from the Cedar Bluff Unit shall be paid to the United States and covered into the Reclamation Fund to the extent that an operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) The Secretary is authorized to transfer title of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation of fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary is authorized to transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 905. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this title shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 906. ADDITIONAL ACTIONS.

The Secretary is authorized to take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—SALT-GILA AQUEDUCT, ARIZONA

SEC. 1001. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1002. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1001 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XI—VERMEJO PROJECT RELIEF, NEW MEXICO

Section 401 of the Act of December 19, 1980, (94 Stat. 3227) is amended by striking the text that begins: "Transfer of project facilities to the district shall be without . . ." and ends with ". . . shall be maintained consistently with existing arrangements" and inserting in lieu thereof "Effective as of the date of the written consent of the Vermejo Conservancy District to amend Contract 178r–458, all facilities are hereby transferred to the district. The transfer to the district of project facilities shall be without any additional consideration in excess of the existing repayment contract of the district and shall include all related lands or interest in lands acquired by the Federal Government for the project, but shall not include any lands or interests in land, or interests in water, purchased by the Federal Government from various landowners in the district, consisting of approximately 2,800 acres, for the Maxwell Wildlife Refuge and shall not include certain contractual arrangements, namely Contract No. 14–06–500–1713 between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, and concurred in by the district, dated December 5, 1969, and the lease agreement between the district and the Secretary dated January 17, 1990, and expiring January 17, 1992, for 468.38 acres under the district's Lakes 12 and 14, which contractual arrangements shall be maintained consistent with the terms thereof. The Secretary, acting through the United States Fish and Wildlife Service, shall retain the right to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge in accordance with Contract No. 14–06–500–1713 and in a manner that does not interfere with operation of the Lake 13 dam and reservoir for the primary purposes of the Vermejo Reclamation Project.".

TITLE XII—GRAND CANYON PROTECTION

SEC. 1201. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1992".

SEC. 1202. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) In General.—The Secretary shall operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in section 1204 and exercise other authorities under existing law in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including, but not limited to natural and cultural resources and visitor use.

(b) Compliance With Existing Law.—The Secretary shall implement this section in a manner fully consistent with and subject to the Colorado River Compact, the Upper Colorado River Basin Compact, the Water Treaty of 1944 with Mexico, the decree of the Supreme Court in Arizona v. California, and the provisions of the Colorado River Storage Project Act of 1956 and the Colorado River Basin Project Act of 1968 that govern allocation, appropriation, development, and exportation of the waters of the Colorado River basin.

(c) Rule of Construction.—Nothing in this title alters the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or affects the authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including, but not limited to, the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1203. INTERIM PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) Interim Operations.—Pending compliance by the Secretary with section 1204, the Secretary shall, on an interim basis, continue to operate Glen Canyon Dam under the Secretary's announced interim operating criteria and the Interagency Agreement between the Bureau of Reclamation and the Western Area Power Administration executed October 2, 1991, and exercise other authorities under existing law, in accordance with the standards set forth in section 1202, utilizing the best and most recent scientific data available.

(b) Consultation.—The Secretary shall continue to implement Interim Operations in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian Tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) Deviation From Interim Operations.—The Secretary may deviate from interim operations upon a finding that deviation is necessary and in the public interest to—

(1) comply with the requirements of section 1204(a);

(2) respond to hydrologic extremes or power system operation emergencies;

(3) comply with the standards set forth in section 1202;

(4) respond to advances in scientific data; or

(5) comply with the terms of the Interagency Agreement.

(d) Termination of Interim Operations.—Interim operations described in this section shall terminate upon compliance by the Secretary with section 1204.

SEC. 1204. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) Final Environmental Impact Statement.—Not later than two years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Audit.—The Comptroller General shall—

(1) audit the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

(2) report the results of the audit to the Secretary and the Congress.

(c) Adoption of Criteria and Plans.—(1) Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall—

(A) adopt criteria and operating plans separate from and in addition to those specified in section 602(b) of the Colorado River Basin Project Act of 1968; and

(B) exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 1202.

(2) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act.

(3) In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968 and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including—

(A) representatives of academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) Report to Congress.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to the Congress the environmental impact statement described in subsection (a) and a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, and cultural resources of the Colorado River downstream of Glen Canyon Dam.

(e) Allocation of Costs.—The Secretary of the Interior, in consultation with the Secretary of Energy, is directed to reallocate the costs of construction, operation, maintenance, replacement and emergency expenditures for Glen Canyon Dam among the purposes directed in section 1202 of this Act and the purposes established in the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 170). Costs allocated to section 1202 purposes shall be nonreimbursable.

SEC. 1205. LONG-TERM MONITORING.

(a) In General.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with that of section 1202.

(b) Research.—Long-term monitoring of Glen Canyon Dam shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1204(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) Consultation.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1206. RULES OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act (16 U.S.C. 1531 et seq.).

SEC. 1207. STUDIES NONREIMBURSABLE.

All costs of preparing the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205 shall be nonreimbursable. The Secretary is authorized to use funds received from the sale of electric power and energy from the Colorado River Storage Project to prepare the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205, except that such funds will be treated as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 170).

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 1209. REPLACEMENT POWER.

The Secretary of Energy in consultation with the Secretary of the Interior and with representatives of the Colorado River Storage Project power customers, environmental organizations and the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming shall identify economically and technically feasible methods of replacing any power generation that is lost through adoption of long-term operational criteria for Glen Canyon Dam as required by section 1204 of this title. The Secretary shall present a report of the findings, and implementing draft legislation, if necessary, not later than 2 years after adoption of long-term operating criteria. The Secretary shall include an investigation of the feasibility of adjusting operations at Hoover Dam to replace all or part of such lost generation. The Secretary shall include an investigation of the modifications or additions to the transmission system that may be required to acquire and deliver replacement power.

TITLE XIII—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

SEC. 1301. SHORT TITLE.

This title may be cited as the "Lake Andes-Wagner/Marty II Act of 1992".

SEC. 1302. DEMONSTRATION PROGRAM.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and with the assistance and cooperation of an oversight committee consisting of representatives of the Bureau of Indian Affairs, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water Systems, Inc., carry out a demonstration program (hereinafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study", dated May 1990, a copy of which is on file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) The objectives of the Demonstration Program shall include—

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements and providing reliable estimates of drainage return flow quality and quantity with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving preference to crops that are not eligible for assistance under programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) Rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor.

(2) The Secretary shall—

(A) supply all water, delivery system, pivot systems and drains;

(B) operate and maintain the irrigation system;

(C) supply all seed, fertilizers and pesticides and make standardized equipment available;

(D) determine crop rotations and cultural practices; and

(E) have unrestricted access to leased lands.

(3) The Secretary may contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed as prescribed by the Secretary.

(4) No grazing may be performed on a study site;

(5) Crops grown shall be the property of the United States.

(6) At the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their pre-leased condition at no expense to the lessor.

(d) The Secretary shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary. Any crops not sold shall be disposed of as the Secretary determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. Each such study site farm will, during the demonstration phase of the Demonstration Program, annually receive planted and considered planting credit equal to the crop acreage base established for the farm by use of crop land ratios when it became a separate farm without regard to the acreage actually planted on the farm. Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Energy and Natural Resources of the Senate, to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriate for the Demonstration Program, shall transfer to the other Federal agencies funds appropriate for their expenses.

SEC. 1303. PLANNING REPORTS-ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 1302, the Secretary, with respect to the Lake Andes-Wagner Unit and the Marty II Unit, shall comply with the study and reporting requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof. Using feasibility methodologies consistent with those employed in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement, filed Septem-

ber 17, 1985, the final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency. The final report for the Lake Andes-Wagner Unit shall constitute a supplement to the Lake Andes-Wagner Unit report referred to in the preceding sentence.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention, correction, or mitigation of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the unit to which the report pertains and shall be accompanied by findings by the Secretary and the Administrator of the Environmental Protection Agency that the unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards.

(c) The construction of a unit may not be undertaken until the final report pertaining to that unit, and the findings referred to in subsection (b) of this section, have lain before the Congress for not less than 125 days and the Congress has appropriated funds for the initiation of construction.

SEC. 1304. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

Subject to the requirements of section 1303 of this title, the Secretary is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program. The units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 1305. CONDITIONS.

(a) The Lake Andes-Wagner Unit shall be constructed, operated and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 1303 of this title. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately 3,000 acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the final report for the Marty II Unit prepared pursuant to section 1303 of this title.

(c) The construction costs of the Lake Andes-Wagner Unit allocated to irrigation of non-Indian owned lands (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repaid no later than 40 years following the development period. Repayment of the construction costs of the Lake Andes-Wagner Unit apportioned to serving Indian-owned lands and of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; 25 U.S.C. 386a).

(d) Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation laws, be acquired by exchange for land or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) as amended by subtitle A of title XI of the Food, Agriculture, Conservation and Trade Act of 1990 the crop acreage base determined under title V of that Act as so amended and the program payment yield determined under title V of that Act as so amended shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each unit is initiated. For any successor programs established for crop years subsequent to 1995, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the units.

(f) Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the facilities authorized by this section shall be concurrent with the construction of the unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that unit may be utilized to provide fish and wildlife benefits beyond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance or replacement allocable to irrigation or impairing the efficiency of that unit for irrigation purposes.

SEC. 1306. INDIAN EMPLOYMENT.

In carrying out sections 1302, 1304, and 1305 of this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions, training and employment opportunities shall be provided to members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 1307. FEDERAL RECLAMATION LAWS GOVERN.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this title, except as otherwise provided in this title.

SEC. 1308. COST SHARING.

(a) IN GENERAL.—The proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Energy and Natural Resources of the Senate and with the Committee on Interior and Insular Affairs of the House of Representatives), pursuant to which the State of South Dakota (hereafter in this section referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereinafter in this section referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit, and the District would also assume certain responsibilities with respect thereto, is approved subject to the provisions of subsections (b) and (c) of this section. The Secretary shall promptly enter into negotiations with the State and District to conclude an agreement between the United States, the State, and the District implementing the proposal.

(b) The agreement shall include provisions for—

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that construction of the ring dike shall not commence earlier than the sixth year of full operation; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States but any such excess remains reimbursable, subject to the conditions that—

(A) construction of the closed drainage system shall commence not earlier than the 6th year of full operation of the unit and shall continue over a period of 35 years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions;

(B) the District, in addition to such annual assessment as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after issuance by the Secretary of a notice that construction of the unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance, not to exceed $36,000,000, the construction of the closed drainage system; and

(C) in the event the detailed plan of the Lake Andes-Wagner Unit referred to in subsection (b) of section 1303 reduces the irrigated acreage of the Lake Andes-Wagner Unit to less than 45,000, the District's maximum obligation hereunder shall be reduced in the ratio that the reduction in acreage bears to 45,000.

(c) Notwithstanding any other requirements of this section, the Secretary shall require that the agreement to be negotiated pursuant to this section shall provide that the total non-Federal share of the costs of construction allocable to irrigation of the facilities of the Lake Andes-Wagner Unit to be constructed pursuant to subsection (a) of section 1304 of this title (other than the costs apportionable to serving Indian-owned lands and the facilities described in the second sentence of that subsection) shall be 30 percent. The 30 percent non-Federal share shall include—

(1) funds to be deposited in the non-Federal fund referred to in paragraph (1) of subsection (b) of this section and interest earned thereon;

(2) savings to the United States by reason of paragraph (2) of subsection (b) of this section;

(3) savings to the United States by reason of administering the design and construction of any other feature or features of the Lake Andes-Wagner Unit, and of any feature or features of the Marty II Unit, the design and construction

of which is administered by the district pursuant to an agreement with the Secretary;

(4) all funds heretofore or hereafter made available to the United States by non-Federal interests, or expended by such interests, for planning or advance planning assistance for the Lake Andes-Wagner Unit or for the Marty II Unit; and

(5) any feature to which this section applies shall not be initiated until after the district and the State have entered into the cost-share agreement with the United States required by this section.

SEC. 1309. AUTHORIZATION OF APPROPRIATIONS.

(a) Lake Andes-Wagner Unit.—There are authorized to be appropriated—

(1) $175,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 1305 of this title) less the non-Federal contributions as provided in subsections (b) and (c) of section 1308 of this title; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 1305 of this title, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) Marty II Unit.—There are authorized to be appropriated $24,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved.

(d) Demonstration Program.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(e) Operation and Maintenance.—There are authorized to be appropriated such amounts as may be necessary for the operation and maintenance of each unit.

SEC. 1310. INDIAN WATER RIGHTS.

Nothing in this title shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux tribe.

TITLE XIV—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1992".

SEC. 1402. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1405 of this title;

(2) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(3) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(4) the term "summer electrical season" means May through October of each year;

(5) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(6) the term "Western" means the Western Area Power Administration;

(7) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report; and

(8) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990.

SEC. 1403. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) In General.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) Service Area.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies; mitigation of wetland areas; and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) Terms and Conditions.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) Amount of Grants.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc., and water conservation measures consistent with section 1405 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1412 of this title.

(e) Loan Terms.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc., under the provisions of this title shall be repaid, with interest, within 30 years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than 90 days.

(g) Coordination With the Department of Agriculture.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1404. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) Initial Development.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) Operation and Maintenance.—The Secretary shall make a grant, not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) Nonreimbursement.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1405. WATER CONSERVATION.

(a) Withholding of Funds.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) Purpose of Programs.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) Description of Programs.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following:

(1) Low consumption performance standards for all newly installed plumbing fixtures.

(2) Leak detection and repair programs.

(3) Metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers).

(4) Declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study).

(5) Public education programs.

(6) Coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1406. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1407. USE OF PICK-SLOAN POWER.

(a) In General.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and en-

ergy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.;

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1408. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1409. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 1410. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1411. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There is authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1403, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1404; and

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1404;

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1411.

TITLE XV—SAN LUIS VALLEY PROTECTION

SEC. 1501. PERMIT ISSUANCE PROHIBITED.

(a) No agency or instrumentality of the United States shall issue any permit, license, right-of-way, grant, loan or other authorization or assistance for any project or feature of any project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or export to any portion of another State, unless the Secretary of the Interior determines, after due consideration of all findings provided by the Colorado Water Conservation Board, that the project will not—

(1) increase the costs or negatively affect operation of the Closed Basin Project;

(2) adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area withdrawal located in the San Luis Valley, Colorado; or

(3) adversely affect the purposes of the Great Sand Dunes National Monument, Colorado.

(b) Nothing in this title shall be construed to alter, amend, or limit any provision of Federal or State law that applies to any project or feature of a project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or another State. Nothing in this title shall be construed to limit any agency's authority or responsibility to reject, limit, or condition any such project on any basis independent of the requirements of this title.

SEC. 1502. JUDICIAL REVIEW.

The Secretary's findings required by this title shall be subject to judicial review in the United States district courts.

SEC. 1503. COSTS.

The direct and indirect costs of the findings required by section 1501 of this title shall be paid in advance by the project proponent under terms and conditions set by the Secretary.

SEC. 1504. DISCLAIMERS.

(a) Nothing in this title shall constitute either an expressed or implied reservation of water or water rights.

(b) Nothing in this title shall be construed as establishing a precedent with regard to any other federal reclamation project.

TITLE XVI—IRRIGATION ON STANDING ROCK INDIAN RESERVATION

SEC. 1601. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

Section 5(e) of Public Law 89–108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986, is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation".

TITLE XVII—SOUTH DAKOTA WATER PLANNING STUDIES

SEC. 1701. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516). Section 3(b)(1) of the Mni Wiconi Project Act of 1988 is amended by striking "shall" and inserting "may".

TITLE XVIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 1801. FINDINGS AND DECLARATIONS.

The Congress finds that and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States and the District (Contract No. I1r–1529, as amended); and

(C) determine such one-time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and maintaining a minimum stream flow as provided in section 1802(d) of this title.

SEC. 1802. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the district in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. I1r–1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam, and Reservoir under Federal and State law; and,

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such contract No. I1r–1529, as amended, necessary to facilitate the intended operations of the project by the District. All ap-

plicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) Conditions Imposed Upon the District.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The district will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases of bypass from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the district for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: Provided, however, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to regularly monitor operation of Platoro Reservoir, including releases from it for instream flow purposes, and to enforce the provisions of this subsection (d).

(e) Flood Control Management.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) Compliance With Compact and Other Laws.—The transfer under section 1802 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof; and

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

SEC. 1901. SHORT TITLE.

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and Facilities Act".

SEC. 1902. GENERAL AUTHORITY.

(a) The Secretary of the Interior, acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.

(c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

SEC. 1903. APPRAISAL INVESTIGATIONS.

(a) The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provision thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Appraisal investigations undertaken pursuant to this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, state and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to this title.

(d) Costs of such appraisal investigations shall be nonreimbursable.

SEC. 1904. FEASIBILITY STUDIES.

(a) The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 1903 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 percent of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 percent of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) The Federal share of feasibility studies, including those described in sections 1906 and 1908 through 1910 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) In addition to the requirements of other Federal laws, feasibility studies authorized under this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) measures and technologies available for water reclamation, distribution, and reuse;

(4) public health and environmental quality issues associated with use of reclaimed water; and,

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies, or

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers.

SEC. 1905. RESEARCH AND DEMONSTRATION PROJECTS.

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 percent of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96-480) as amended by the Technology Transfer Act of 1986 (Pub. L. 99-502).

SEC. 1906. SOUTHERN CALIFORNIA COMPREHENSIVE WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of this title, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernadino, Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(b) The Secretary shall conduct the study authorized by this section in cooperation with the State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on En-

ergy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than six years after appropriation of funds authorized by this title.

SEC. 1907. SAN JOSE AREA WATER RECLAMATION AND REUSE PROGRAM.

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1908. PHOENIX METROPOLITAN WATER RECLAMATION STUDY AND PROGRAM.

(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, ground water recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the city of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 percent of the total. The Federal share of the costs associated with the project described in subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1909. TUCSON AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term "Southern Arizona" means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management Hydrologic Area as defined by the Arizona Department of Water Resources.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1910. LAKE CHERAW WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on ground water resources or the waters of the Arkansas River.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1911. SAN FRANCISCO AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

(b) The Federal share of the cost of the study authorized by this section shall not exceed 50 percent of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1912. SAN DIEGO AREA WATER RECLAMATION PROGRAM.

(a) The Secretary, in cooperation with the city of San Diego, California or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1913. LOS ANGELES AREA WATER RECLAMATION AND REUSE PROJECT.

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for operation or maintenance of the project.

SEC. 1914. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility: Provided, That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1915. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1901 through 1914 of this title.

SEC. 1916. GROUNDWATER STUDY.

(a) In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), the Secretary of the Interior, acting through the Bureau of Reclamation and the Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on ground water, and

(3) the Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a ground water management and technical assistance program in the Department of the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

(c) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 1917.

SEC. 1917. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 1916.

TITLE XX—SALTON SEA RESEARCH PROJECT

SEC. 2001. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 50 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

SEC. 2101. CLARIFICATION OF COST-SHARE REQUIREMENTS.

Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of *the Flood Control Act of 1948 (Public Law 80–858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 81–516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: Provided, however, That the Federal property benefits exceed 50 percent of the total project benefits.*

TITLE XXII—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

SEC. 2201. SALE OF BUREAU OF RECLAMATION LOANS.

(a) The Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to, sell, or accept prepayment on, loans made pursuant to the Small Reclamation Projects Act (43 U.S.C. 422a–4221) to the Redwood Valley County Water District.

(b) Any sale or prepayment of such loans, which are numbered 14–06–200–8423A and 14–06–200–842A Amendatory to the Redwood Valley County Water District, shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2202. SAVINGS PROVISIONS.

Nothing in this title, including prepayment or other disposition of any loans, shall—

(a) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the applications of the provisions of Federal Reclamation Law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment; or

(b) authorize the transfer of title to any federally owned facilities funded by the loans specified in section 2201 of this title without a specific act of Congress.

SEC. 2203. FEES AND EXPENSES OF PROGRAM.

In addition to the amount to be realized by the United States as provided in section 2201, the Redwood Valley County Water District shall pay all reasonable fees and expenses incurred by the Secretary relative to the sale.

SEC. 2204. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIII—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

SEC. 2301. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this title as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7–07–20–W0615 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 442a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2302. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 2301(b)—

(1) the District's obligation under the loan contract described in section 2301(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and,

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 2303. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIV—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 2401. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project rate setting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau.

(2) The credit is effective on the date the pumps were delivered to the Bureau for installation at Folsom Dam.

TITLE XXV—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2501. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to,

a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 2701. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 2703, to the interstate compact, described in section 2702, relating to the waters of the Sabine River and its tributaries.

SEC. 2702. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 2703. AMENDMENT.

The amendment referred to in section 2701 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

SEC. 2801. PICK-SLOAN PROJECT PUMPING POWER.

(a) The Secretary of the Interior, in cooperation with the Secretary of Energy, shall make available, as soon as practicable after the date of enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944") to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

(b) Power made available under this section shall be at the firm power rate.

TITLE XXIX—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

SEC. 2901. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 2902. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 2903. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall affect any right, title, interest or claim to land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.

TITLE XXX—RECLAMATION RECREATION MANAGEMENT ACT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Reclamation Recreation Management Act of 1992".

SEC. 3002. FINDINGS.

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet public demand, in partnership with non-Federal interests.

(6) Nothing in this title changes the responsibility of the Bureau to meet the purposes for which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

SEC. 3003. DEFINITIONS.

For the purposes of this title:

(1) The term "Reclamation lands" means real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term "Reclamation program" means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

(3) The term "Reclamation project" means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 3004. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) ALLOCATION OF COSTS.—Section 2(a) of the Federal Water Project Recreation Act (16 U.S.C.460l–13(a)) is amended, in the matter preceding paragraph (1), by striking "all the costs of operation, maintenance, and replacement" and inserting "not less than one-half the costs of operation, maintenance, and replacement".

(b) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3(b)(1) of the Federal Water Project Recreation Act (16 U.S.C. 460l–14(b)(1)) is amended—

(1) by striking "within ten years"; and

(2) by striking "all costs of operation, maintenance, and replacement attributable" and inserting "not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable".

(c) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 460l–15) is amended by striking "costs of operation, maintenance, and replacement of existing" and inserting "not less than one-half the costs of operation, maintenance, and replacement of existing".

(d) EXPANSION OR MODIFICATION OF EXISTING FACILITIES.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 460l–14) is amended by adding at the end the following new subsection:

"(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

"(A) the facility is inadequate to meet recreational demands; and

"(B) a non-Federal public body executes an agreement which provides that such public body—

"(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that is approved by the agency with administrative jurisdiction over the project; and

"(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

"(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.".

(e) LIMITATION.—Section 7(a) of the Federal Water Project Recreation Act (16 U.S.C. 460l–18(a)) is amended—

(1) by striking "purposes: Provided," and all that follows through the end of the sentence and inserting "purposes"; and

(2) by striking "subsection 3(b)" and inserting "subsection (b) or (c) of section 3".

SEC. 3005. MANAGEMENT OF RECLAMATION LANDS.

(a) ADMINISTRATION.—(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 3006;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) INVENTORY.—The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses made of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) PLANNING.—(A) The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) NONREIMBURSABLE FUNDS.—Funds expended by the Secretary in carrying out the provisions of this title shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 3006. PROTECTION OF AUTHORIZED PURPOSES OF RECLAMATION PROJECTS.

(a) Nothing in this title shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this title shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project.

SEC. 3007. MAINTENANCE OF EFFORT.

Prior to making an expenditure for the construction, operation, and maintenance of any expansion of a recreation facility under section 3004(d) of this title at any project, the Secretary must determine that the expansion will not result in a delay or postponement of, or a lack of funding for, the repair, replacement, or rehabilitation of the water storage or delivery features which are necessary for the authorized purposes of such project.

TITLE XXXI—WESTERN WATER POLICY REVIEW

SEC. 3101. SHORT TITLE.

This title may be cited as the "Western Water Policy Review Act of 1992."

SEC. 3102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Nation needs an adequate water supply for all states at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(11) the Secretary of the Interior, given his responsibilities for management of public land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, has the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SEC. 3103. PRESIDENTIAL REVIEW.

(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Interior and Insular Affairs and Appropriations of the House of Representatives.

(b) Such report shall be submitted within five years from the date of enactment of this Act.

(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3104 of this title, and may request the Secretary of the Interior or other Federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

SEC. 3104. THE ADVISORY COMMISSION.

(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the "Commission") to assist in the preparation and review of the report required under this title.

(b) The Commission shall be composed of 18 members as follows:

(1) Ten members appointed by the President including—

(A) the Secretary of the Interior or his designee;

(B) at least one representative chosen from a list submitted by the Western Governors Association; and

(C) at least one representative chosen from a list submitted by tribal governments located in the Western States.

(2) In addition to the 10 members appointed by the President, the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives shall serve as ex officio members of the Commission.

(c) The President shall appoint one member of the Commission to serve as Chairman.

(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3105. DUTIES OF THE COMMISSION.

The Commission shall—

(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

(2) examine the current and proposed Federal programs affecting such States and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the problems of rural communities relating to water supply, portable water treatment, and wastewater treatment;

(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law;

(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation and those agencies whose deci-

sions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

SEC. 3106. REPRESENTATIVES.

(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title;

(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian tribes and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

SEC. 3107. POWERS OF THE COMMISSION.

(a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for level II of the Executive Schedule.

(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel can not be obtained from the Secretary of the Interior or by detail from other Federal agencies. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) The Secretary of the Interior shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

SEC. 3108. POWERS AND DUTIES OF THE CHAIRMAN.

(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3107(a).

(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

SEC. 3109. OTHER FEDERAL AGENCIES.

(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3107(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

SEC. 3110. APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this title.

TITLE XXXII—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

SEC. 3201. PAYMENT BY MOUNTAIN PARK MASTER CONSERVANCY DISTRICT.

(a) IN GENERAL.—The Secretary shall conduct appropriate investigations regarding, and is authorized to accept prepayment of, the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city, and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs.

(b) PAYMENT AMOUNT.—Any prepayment made pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining repayment obligation by the interest rate determined acccording to this section.

(c) INTEREST RATE.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) INVESTIGATIONS.—In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) TAX-EXEMPT FINANCING.—If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) LIMIT ON INTEREST RATE.—Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any prepayment made pursuant to this title.

(h) TERMINATION OF AUTHORITY.—The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

(i) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "city" means the city of Frederick, Oklahoma; the city of Snyder, Oklahoma; or the city of Altus, Oklahoma;

(2) the term "District" means the Mountain Park Master Conservancy District of Mountain Park, Oklahoma; and

(3) the term "project" means the Mountain Park Project, Oklahoma.

SEC. 3202. RESCHEDULE OF REPAYMENT OBLIGATION.

(a) The Secretary shall conduct appropriate investigations regarding the ability of the District to meet its repayment obligation.

(b) If the Secretary finds that the District does not have the ability to pay its repayment obligation, then the Secretary shall offer the District a revised schedule of payments for purposes of meeting the repayment obligation of the District: Provided, That such schedule of payments shall—

(1) be consistent with the ability to pay of the District, and

(2) have the same discounted present value as the repayment obligation of the District.

(c) The Secretary shall conduct the investigations and make any offer of a revised schedule of payments pursuant to this section no later than 12 months after the date of enactment of this section.

TITLE XXXIII—SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST

SEC. 3301. SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST.

(a) The Secretary, subject to appropriations therefore and the provisions of subsection (d) of this section, shall make an annual Federal contribution to a South Dakota Biological Diversity Trust established in accordance with subsection (b) of this section and operated in accordance with subsection (c) of this section. Contributions from the State of South Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary. The total Federal contribution pursuant to this section, including subsection (d), shall not exceed $12,000,000.

(b) A South Dakota Biological Diversity Trust shall be eligible to receive Federal contributions pursuant to subsection (a) of this section if it complies with each of the following requirements:

(1) The trust is established by non-Federal interests as a nonprofit corporation under the laws of South Dakota with its principal office in South Dakota.

(2) The trust is under the direction of a board of trustees which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the trust.

(3) The board is comprised of five persons appointed as follows, each for a term of five years:

(A) 1 person appointed by the Governor of South Dakota;

(B) 1 person appointed by each United States Senator from South Dakota;

(C) 1 person appointed by the United States Representative from South Dakota; and

(D) 1 person appointed by the South Dakota Academy of Science.

(4) Vacancies on the board are filled in the manner in which the original appointments were made. Any member of the board is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office. Members of the board shall serve without compensation.

(5) The Corporate purposes of the trust are to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity, its rare species, exemplary examples of plant and animal communities and large-scale natural ecosystems.

(c) A South Dakota Biological Diversity Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

(1) The trust is operated to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity; its rare species, extraordinary examples of plant and animal communities and large-scale natural ecosystems in accordance with its corporate purpose.

(2) The trust is managed in a fiscally responsible fashion by investing in private and public financial vehicles with the goal of producing income and preserving principal. The principal will be inviolate, but income will be used to accomplish the goals of the trust.

(3) Proceeds from the trust are used for the following purposes:

(A) $10,000 per year or 5 percent of the total funds expended by the trust (whichever is larger) will be provided to the South Dakota Natural Heritage Program (currently as part of the South Dakota Game, Fish, and Parks Departments), in order to do the following:

(i) maintain and update the South Dakota Biodiversity Priority Site List;

(ii) conduct inventory to discover and survey new sites for the Priority Site List; and

(iii) manage data to maintain the Natural Heritage databases needed to produce and document the Priority Site List.

(B) Up to 5 percent of the costs of each project are used for preserve design or site planning to ensure that sites are selected for funding which are well-designed to maintain the long-term viability of the significant species and communities found at the site.

(C) Proceeds from the trust may be used to complete land protection projects designed to protect biological diversity.

(D) Projects may include acquisition of land, water rights or other partial interests from willing sellers only, or arranging management agreements, registry and other techniques to protect significant sites.

(E) Ownership of land acquired with trust proceeds will be held by the public agency or private nonprofit organization which proposed and completed the project, or another conservation owner with the approval of the board. The land will be managed and used for the protection of biological diversity. If the property is used or managed otherwise, title will revert to the trust for disposition.

(F) Projects eligible for funding must be included on the South Dakota Biodiversity Priority List and located within the borders of South Dakota.

(G) At the discretion of the board, trust proceeds may be used for direct project costs including direct expenses incurred during project completion. Land project funding may also include the creation of a stewardship endowment subject to the following terms:

(i) Up to 25 percent of the total fair market value of the project may be placed in a separate endowment.

(ii) The proceeds from the endowment will be used for the ongoing management costs of maintaining the biological integrity and viability of the significant biological features of the site.

(iii) Endowment funds may not be used for activities which primarily promote recreational or economic use of the site.

(iv) The endowment for each site will be held in a separate account from the body of the trust and other endowments. The endowments will be managed by the trust board but the owner or manager of the site may draw upon the proceeds of the stewardship endowment to fund management activities with approval of the board. Additional management funds may be secured from other public and private sources.

(H) Should the biological significance of a site be destroyed or greatly reduced, the land may be disposed of but the proceeds and any stewardship endowment will revert to the Trust for use in other projects.

(I) Proceeds from the trust may be used for management of public or private lands, including but not restricted to lands purchased with trust funds, except that only those management projects that result in the maintenance or restoration of statewide biological diversity are eligible for consideration.

(d) For each fiscal year after 1992, 2 percent of the Federal contributions for the same fiscal year, determined pursuant to subsection (a) of this section, shall be used by the Secretary in order to do the following:

(1) Restore damaged natural ecosystems on public lands and waterways affected by the Reclamation program outside South Dakota.

(2) Acquire from willing sellers only other lands and properties or appropriate interests therein outside South Dakota with restorable damaged natural ecosystems and restore such ecosystems.

(3) Provide jobs and suitable economic development in a manner that carries out the other purposes of this subsection.

(4) Provide expanded recreational opportunities; and

(5) Support and encourage research, training and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties (or appropriate interests therein) where repair of compositional, structural and functional values will do the following:

(1) Reconstitute natural biological diversity that has been diminished.

(2) Assist the recovery of species populations, communities and ecosystems that are unable to survive on-site without intervention.

(3) Allow reintroduction and reoccupation by native flora and fauna.

(4) Control or eliminate exotic flora and fauna which are damaging natural ecosystems.

(5) Restore natural habitat for the recruitment and survival of fish, waterfowl and other wildlife.

(6) Provide additional conservation values to state and local government lands.

(7) Add to structural and compositional values of existing preserves or enhance the viability, defensibility and manageability of preserves.

(8) Restore natural hydrological effects including sediment and erosion control, drainage, percolation and other water quality improvement capacity.

(f) The Secretary shall annually report on activities under this section to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Interior and Insular Affairs and the Committee on Appropriations of the House of Representatives.

(g) There are authorized to be appropriated not to exceed $12,000,000 for the purposes of this title.

TITLE XXXIV—CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Fish and Wildlife Act of 1992."

SEC. 3402. STATEMENT OF PURPOSE.

The purposes of this title are—

(a) to protect, restore, and enhance fish and wildlife habitat in the Central Valley of California as specifically provided for within this title;

(b) to partially mitigate the impacts of the Central Valley Project on fish and wildlife habitat by requiring the implementation of specific habitat restoration actions;

(c) to provide for the continued orderly operation of the Central Valley Project by resolution of fish and wildlife issues impacts;

(d) to establish a joint Federal and state advisory committee to identify, develop and assist the Secretary of the Interior in the implementation of habitat restoration actions identified in this title and a Federal task force to assist the Secretary of the Interior in the identification and development of additional habitat restoration actions that would provide means by which the mitigation of Central Valley Project impacts on fish and wildlife habitat and cost effective protection, restoration, and enhancement of fish and wildlife habitat and resources in the Central Valley of California may be accomplished;

(e) to encourage, through cost sharing and other related actions, the cooperation and contribution by the State of California and other non-Central Valley Project entities toward the protection, restoration and enhancement of fish and wildlife habitat within the Central Valley of California;

(f) to increase the benefits provided by the Central Valley Project to California through the expanded use of water conservation and water transfers;

(g) to achieve the purposes of this title through implementation of projects, procedures and programs which do not result in further degradation of resources, including, but not limited to, groundwater, of the areas presently served by the Central Valley Project; and

(h) to coordinate the efforts and actions authorized in this title with other activities being undertaken within the State of California to ensure that work is not unnecessarily duplicated and is coordinated to minimize inconsistent and counter-productive results and maximize the benefits to be obtained.

SEC. 3403. DEFINITIONS.

As used in this title:

(a) The term "anadromous fisheries" includes runs of salmon, striped bass, steelhead trout, sturgeon, and American shad that ascend the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in the San Francisco Bay and/or the ocean.

(b) The terms "artificial propagation" and "artificial production" include spawning, hatching, incubating, and rearing fish in a hatchery or other facility constructed for fish production.

(c) The term "Central Valley" means the watershed of the Sacramento and San Joaquin Rivers and their tributaries including the Sacramento-San Joaquin Delta.

(d) The term "Central Valley Project" means the Central Valley Project, California, as au-

thorized in the Act of August 26, 1937 (50 Stat. 850) and all acts amendatory thereto.

(e) The term "Central Valley Project Fish and Wildlife Advisory Committee" means the Committee established in section 3405 of this title.

(f) The term "Central Valley Project Fish and Wildlife Task Force" means the Task Force established in section 3406 of this title.

(g) The term "Central Valley Project Service Area" means that area where water service has been authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project.

(h) The term "Central Valley Project water" means all water that is diverted, stored or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange" and Sacramento River settlement contracts.

(i) The term "Central Valley Project Water Contractor" means any entity which contracts for Central Valley Project water.

(j) The term "Central Valley Project Water Contractors Fund" means the fund established in section 3404(h) of this title.

(k) The term "Central Valley Refuges" includes the Sacramento, Delevan, Colusa, Sutter, Kesterson, San Luis, Merced, Pixley, and Kern National Wildlife Refuges, the Grassland Resource Conservation District, the Gray Lodge, Los Banos, Volta, and Mendota State Wildlife Areas, and those National Wildlife Refuges and State Wildlife Areas identified in the Bureau of Reclamation's report entitled San Joaquin Basin Action Plan/Kesterson Mitigation Plan (1989).

(l) The term "critically overdrafted groundwater basin" means those areas defined by the California Department of Water Resources, in its Bulletin No. 118–80, to have a critical groundwater overdraft problem.

(m) The term "natural production" means fish produced to adulthood without the direct intervention of man in the spawning or rearing processes.

(n) The term "Refuge Water Supply Report" means the report entitled Report on Refuge Water Supply Investigations, published in March 1989 by the Bureau of Reclamation, Department of the Interior.

(o) The term "transfer" means—

(1) all conjunctive use programs that provide for the transfer of all or a portion of the surface water made available by the use of groundwater as a substitute supply to another water use;

(2) exchanges between water users;

(3) groundwater storage programs that provide for transfer of all or a portion of the stored water to another water user directly or through exchange;

(4) conservation programs that provide for all or a portion of the water conserved to be transferred to another water user; or

(5) purchase of water through fallowing programs that allow water to be moved from a Central Valley Project contractor to another water user on a short or long-term basis.

SEC. 3404. PROTECTION, RESTORATION, AND ENHANCEMENT OF CENTRAL VALLEY FISH AND WILDLIFE HABITAT.

(a) GENERAL AUTHORITY.—The Secretary shall—

(1) implement the actions established by section 3404(b);

(2) develop, select, and implement actions, using the criteria established in section 3404(e), that address the fish and wildlife habitat issues listed in section 3404(c);

(3) as provided in section 3405, establish a "Central Valley Project Fish and Wildlife Advisory Committee" that will make recommendations to the Secretary with respect to the actions set forth in section 3404(b) and 3404(c) using the criteria established in section 3404(e); and

(4) as provided in section 3406, establish a "Central Valley Project Fish and Wildlife Task Force" that will identify additional actions that would protect, restore, and enhance the Central Valley fish and wildlife habitat, develop the technical information needed to evaluate these actions, determine the economic and biological feasibility of these actions using the criteria established in section 3404(e), and report the findings to Congress for implementation authorization.

(b) INITIAL ACTION.—Subject to limitations contained in sections 3404(f)(6) and 3404(f)(7), the following fish and wildlife habitat protection, restoration, and enhancement actions shall be implemented by the Secretary.

(1) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1992, which, when implemented, will mitigate the direct fishery losses associated with the operation of the Tracy Pumping Plant. Direct losses are defined as fish lost after they enter the Tracy Pumping Plant intake channel, taking into account numbers of fish that survive and are returned to the Sacramento-San Joaquin Delta. The cost of this action shall be allocated under section 3404(f)(1).

(2) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1994, which, when implemented, will mitigate for direct fishery losses associated with the operation of the Contra Costa Canal Pumping Plant No. 1. Direct fishery losses are defined as fish lost after they enter Rock Slough. The cost of this action shall be allocated in the same manner as costs associated with the Contra Costa Canal are currently paid.

(3) Installation and operation of a structural temperature control device at Shasta Dam and development and implementation of modifications in Central Valley Project operations, if needed, by December 31, 1995, to allow for control of water temperatures in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam sufficient to protect salmon. The cost of this action shall be allocated under section 3404(f)(1).

(4) The Coleman National Fish Hatchery shall be rehabilitated and expanded by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan by December 31, 1995. The Secretary shall negotiate and execute a contract for the operation of the hatchery by the California Department of Fish and Game. The contract shall provide that its operation shall be coordinated with all other mitigation hatcheries in California. In addition, the Keswick Dam Fish Trap shall be modified to provide for its operation at all project flow release levels. The cost of this action shall be allocated under section 3404(f)(1).

(5) The negotiation and execution of an agreement with the California Department of Fish and Game, within one year after the enactment of this Act, which, when implemented, will eliminate, to the extent practical, losses of salmon and steelhead trout due to flow fluctuations caused by the operation of Keswick, Nimbus, and Lewiston Regulating Dams. The agreement shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex. Any costs associated with this Agreement shall be nonreimbursable.

(6) A gravel replenishment program shall be developed and implemented by December 31, 1993, for the purpose of restoring and replenishing, on a continuous basis, spawning gravel lost due to the construction and operation of Shasta, Folsom and New Melones Dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream of Nimbus and Goodwin Dams, respectively. The cost of this action shall be allocated under section 3404(f)(2).

(7) A Delta Cross Channel monitoring and operational program shall be developed and implemented, within one year after the enactment of this Act, for the purpose of protecting striped bass eggs and larvae as they approach the Delta Cross Channel gates. This program includes, but is not limited to, closing the Delta Cross Channel gates during times when significant numbers of striped bass eggs and larvae approach the Sacramento River intake to the Delta Cross Channel. Since this action will, by its nature, also restrict pumping at the Tracy Pumping Plant, other restrictions on the operation of the Delta Tracy Pumping Plant, which may currently exist to protect striped bass eggs and larvae, shall be modified, relaxed or eliminated to comport with this action. The cost of this action shall be allocated under section 3404(f)(1).

(8) The Secretary shall, either directly or through an agreement with the State of California, provide dependable water supplies of suitable quality to the Central Valley Refuges in accordance with Level 2 quantity and delivery schedules of the "Dependable Water Supply Needs" table for that refuge, as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. If the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then the Secretary shall impose shortages on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors. The Secretary shall implement the actions authorized herein without a reduction in the pumping and/or conveyance capacity needed to serve other Central Valley Project purposes. The Secretary shall encourage the conjunctive use of surface water and groundwater and the multiple use of water supplies as a means to facilitate the purposes and intent of this subsection. The dependable water supplies provided to the Central Valley Refuges pursuant to this subsection shall be delivered until the firm water supplies provided for in section 3404(c)(13) are available to these refuges, and shall be provided pursuant to agreements between the Secretary, the California Department of Fish and Game, and the Grasslands Resource Conservation District which shall be executed within one year after the enactment of this Act. Fifty percent of the cost of providing water to private refuges shall be paid for by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(2).

(9) The Secretary, in coordination with the California Department of Fish and Game, shall, within one year after the enactment of this Act, establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section and section 3404(c). The cost of this action shall be allocated under section 3404(f)(2).

(c) HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f)(6) and 3404(f)(7), and utilizing the criteria in section 3404(e), the Secretary shall develop, evaluate, select, and, unless otherwise specifically provided, by December 31, 2000, implement actions that will address the following fish and wildlife protection, restoration and enhancement issues:

(1) The Secretary shall develop and implement a program to eliminate the need to reduce Keswick Dam releases every Spring to place the An-

derson-Cottonwood Irrigation District Diversion Dam into operation, and every Fall to take the Dam out of operation. Additionally, the program will include structural measures needed to address upstream migrating adult salmon passage problems at the Diversion Dam due to inadequate ladder attraction flows. The cost of this action shall be allocated under section 3404(f)(3).

(2) The Secretary shall develop and implement a program to minimize fish passage problems for salmon at the Central Valley Project Red Bluff Diversion Dam. The cost of this action shall be allocated under section 3404(f)(4).

(3) The Secretary shall develop and implement a program to augment natural production of salmon and steelhead trout population levels in the San Joaquin River system in above normal water years through means of artificial production. The cost of this action shall be allocated under section 3404(f)(2).

(4) The Secretary shall construct and operate a new satellite hatchery to augment the single and dual purpose channels at the Tehama Colusa Fish Facility and to further mitigate the impact of Shasta Dam on fishery resources. The new satellite hatchery shall be located at a suitable location upstream of the Red Bluff Diversion Dam. This new hatchery shall be operated by the California Department of Fish and Game under contract with the Secretary. The cost of this action shall be allocated under section 3404(f)(2).

(5) The Secretary shall construct a salmon and steelhead trout hatchery on the Yuba River. The Secretary shall negotiate and execute a contract with the California Department of Fish and Game to operate the hatchery. The objective of such hatchery is to assist in California's efforts to realize the full potential of salmon and steelhead trout natural production on that river and to assist in maintaining the existing runs of salmon and steelhead trout and create enhancement potential for natural production in above normal water years. The cost of this action shall be allocated under section 3404(f)(3).

(6) The Secretary shall negotiate and execute an agreement with the California Department of Fish and Game by December 31, 1993 that requires the release of the minimum flows necessary to take full advantage of the spawning, incubation, rearing and outmigration potential of the upper Sacramento River and the Lower American River for salmon subject to the physical capabilities of the Central Valley Project facilities involved. The Agreement shall provide for less than these minimum flows in dry and critical water years if the Secretary determines that in so doing the Secretary can minimize the impacts of providing the fishery flows on other Central Valley Project authorized purposes, provided the fishery benefits lost in those years are offset by enhancing spawning, incubation, rearing and outmigration conditions in other water years. The cost of this action shall be allocated under section 3404(f)(1). The Secretary is authorized to assist in the funding of biological studies, in cooperation with the California Department of Fish and Game and the California State Water Resources Control Board, focused on furthering the scientific understanding of the salmon fishery in these rivers and to provide the information needed to verify that the intended fishery benefits are being provided by the minimum fishery requirements in this agreement and to allow for adjustments to the flow requirements in the future, if needed. If the Secretary and the California Department of Fish and Game determine that the flow conditions in the upper Sacramento River and the lower American River provided by the Central Valley Project under this agreement are better than conditions that would have existed in the absence of the Central Valley Project facilities, the enhancement provided shall become credits to be provided Central Valley Project water and power contractors to offset future mitigation responsibilities identified pursuant to section 3404(d).

(7) The Administrator of the Environmental Protection Agency is directed to expedite and by no later than December 31, 1995, complete efforts to clean up mines causing intermittent releases of lethal concentrations of dissolved metals from the Spring Creek Debris Dam. In the interim, the Secretary shall provide water from Keswick Dam sufficient to dilute the Spring Creek Debris Dam discharges to concentration levels that allow survival of fish life below Keswick Dam except when the United States Corps of Engineers' flood control criteria for Shasta Dam limit that capability. The cost of this action, not including the cost of EPA actions, shall be allocated under section 3404(f)(3). If the Administrator of the Environmental Protection Agency fails to complete such efforts by December 31, 1995, all such costs shall be assumed by the Agency.

(8) The Secretary shall provide flows to allow sufficient spawning, incubation, rearing and outmigration conditions for salmon and steelhead trout from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. The cost of providing the required flows shall be allocated under section 3404(f)(1). Any Federal cost associated with the restoration of the Clear Creek or in the construction of a fish ladder at the McCormick-Saeltzer Dam shall be allocated under section 3404(f)(3).

(9) The Secretary is authorized to construct, in partnership with the State of California, a barrier at the head of Old River in the Sacramento-San Joaquin Delta, by December 31, 1995, to partially mitigate the impact of the Central Valley Project and State Water Project pumping plants in the south Sacramento-San Joaquin Delta on the survival of young outmigrating salmon that are diverted from the San Joaquin River to the pumps. The cost of constructing, operating and maintaining the barrier shall be shared 50 percent by the State of California and 50 percent by the Federal government. The Federal share shall be allocated under section 3404(f)(1).

(10) The Secretary shall evaluate and implement a program to correct a defective fish screen at the Glenn-Colusa Irrigation District's Sacramento River diversion which was constructed with Federal and state funding and which does not function due to design errors. The cost of this action shall be allocated under section 3404(f)(3).

(11) The Secretary shall assist in the funding, in coordination with the California Department of Fish and Game, of enforcement measures that will reduce the numbers of striped bass illegally taken from the San Francisco Bay Estuary. The cost of this action shall be allocated under section 3404(f)(3).

(12) The Secretary shall provide such assistance as may be requested by the State of California to develop and inplement fishing regulations that will protect the older more productive striped bass females in order to maintain a viable reproducing striped bass population.

(13) The Secretary shall develop and implement measures that will provide additional dependable water supplies of suitable quality. The conveyance capacity needed to deliver this water and associated refuge facilities to permit full habitat development of the Central Valley Refuges and the water provided shall be up to the level 4 quantity and delivery schedules in the "Dependable Water Supply Needs" table as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. Water for this purpose shall be provided by: (1) the Secretary providing Central Valley Project water supply on a firm basis equal to the amount currently delivered by the Central Valley Project on a nonfirm basis, provided that if the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then shortages shall be imposed on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors; (2) voluntary water conservation or conjunctive use purchases provided the surface water being made available through conjunctive use does not come from an area in a critically overdrafted groundwater condition and the conserved water being purchased would not be available to another user of Central Valley surface or groundwater in the absence of the water conservation purchase; and (3) voluntary water purchases from existing Central Valley Project water contractors provided the water being purchased would have been consumptively used in the absence of the specific water purchase. Neither additional Central Valley Project water shall be made available for this purpose nor should any Central Valley Project conveyance capacity be made available for this purpose if that conveyance capacity is needed to convey water to existing Central Valley Project water contractors. Fifty percent of the cost of providing water to private refuges shall be paid by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(3).

(d) ADDITIONAL HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f)(6) and 3404(f)(7) and utilizing the criteria in section 3404(e), the Central Valley Project Fish and Wildlife Task Force established in section 3406 of this title shall identify additional actions that would provide mitigation of Central Valley Project impacts on Central Valley fish and wildlife habitat and would protect, restore, and enhance Central Valley fish and wildlife habitat. The task force shall develop the information needed to evaluate these actions technically, determine the economic and biological feasibility using the criteria established in section 3404(e), determine appropriate cost allocations specific to each action, and select actions to recommend to Congress for authorization to implement. The task force shall make its first report to Congress no later than December 31, 1995, and shall report every five years thereafter, at a minimum, until the year 2010, when the task force shall cease to exist. Fish and wildlife habitat issues to be evaluated by the task force shall include, but not be limited, to the following:

(1) Determination of the flows and habitat restoration measures needed to protect, restore and enhance salmon and steelhead trout in the San Joaquin River below the confluence with the Merced River, Mokelumne River, and Calaveras River and in the Butte, Deer, Mill, and Battle Creeks, which are tributary to the Sacramento River, and development of feasible means of maintaining those flows and implementing the habitat restoration measures identified.

(2) Investigation of actions allowing closure or screening of the Delta Cross Channel and Georgiana Slough to prevent the diversion of outmigrating salmon and steelhead trout through those facilities.

(3) Investigation of the need to expand existing wildlife refuges and/or develop additional wildlife refuges in the Central Valley beyond

what is included in the Refuge Water Supply Report. The task force shall also determine the water supply and delivery requirements, above level 4, necessary to permit full habitat development of existing wildlife refuges and determine feasible means of meeting that water supply requirement.

(4) Investigation of alternative means of improving the reliability of water supplies currently available to privately owned wetlands in the Central Valley.

(5) As a means of increasing survival of migrating young fish, investigation of the feasibility of using short pulses of increased water flows to move salmon, steelhead trout, and striped bass into and through the Sacramento-San Joaquin Delta.

(6) Investigation of ways to maintain suitable temperatures for young salmon survival in the lower Sacramento River and in the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent.

(7) Investigation of the need for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available or where hatchery production would enhance efforts to increase natural production of a particular species.

(8) Investigation of measures available to correct flow pattern problems in the Sacramento-San Joaquin Delta created by the operation of the Central Valley Project and the California State Water Project as well as San Francisco Bay inflow pattern changes caused by the operation of water development projects in the Central Valley.

(9) Evaluation of measures to avoid unquantified losses of juvenile anadromous fish due to unscreened or inadequately screened diversions on the Sacramento and San Joaquin Rivers, their tributaries, and in the Sacramento-San Joaquin Delta such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing nonfunctioning screens, and relocation of diversions to less fishery-sensitive areas.

(10) Elimination of barriers to upstream migration of salmon and steelhead trout adults to spawning areas downstream of existing storage facilities in the Central Valley caused by agriculture diversions and other obstructions reduce the natural production of these species as well as removal programs or programs for the construction of new fish ladder.

(e) SOCIAL, ECONOMIC AND BIOLOGICAL CONSIDERATIONS.—In fulfilling their responsibilities as specified in sections 3404(c) and 3404(d), the Secretary, the Central Valley Project Fish and Wildlife Advisory Committee, and the Central Valley Project Fish and Wildlife Task Force shall consider the following criteria and factors, and issue findings thereon, when determining which alternate programs, policies or procedures should be implemented to protect, restore and/or enhance fish and wildlife conditions. The alternative programs available to implement specific actions in sections 3404(c) and 3404(d) that best meets all of the following criteria shall be selected:

(1) Natural production alternatives shall be given priority over artificial production alternatives.

(2) Alternatives that have the highest biological probability of achieving the desired objective shall be preferred.

(3) Alternatives that provide a greater magnitude of potential benefits shall be given priority over alternatives which have a lesser magnitude of potential benefits.

(4) Alternatives that are determined to be the most cost effective, measured in economic terms considering impacts within the Central Valley Project service area's water and power resources and related industries.

(f) COST ALLOCATIONS.—The fiscal cost of implementing actions listed in section 3404(b) and selected pursuant to section 3404(c) shall be allocated as follows:

(1) Costs specified within sections 3404(b) and 3404(c) as allocated under this subsection shall be first allocated among Central Valley Project purposes, with reimbursable costs then allocated between Central Valley Project water and power contractors pursuant to applicable statutory and regulatory procedures and assessed pursuant to the provisions of section 3404(h) of this title.

(2) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 37.5 percent to the Central Valley Project, 37.5 percent as a nonreimbursable Federal expenditure, and 25 percent payable by the State of California. Central Valley Project costs shall be first allocated among Central Valley Project purposes with reimbursable costs, then allocated between Central Valley Project water and power contractors and assessed pursuant to the provisions of section 3404(h) of this title. Central Valley Project costs determined to be nonreimbursable shall be added to the nonreimbursable Federal expenditure.

(3) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 50 percent as a Federal nonreimbursable cost and 50 percent to the State of California.

(4) Costs associated with actions that are determined to be a Central Valley Project responsibility under sections 3404(f)(1) and 3404(f)(2) that pay for the replacement of existing Central Valley Project facilities that have not properly mitigated the effects of the Central Valley Project on the environment because of design errors by Federal agencies, shall be allocated as a Federal nonreimbursable cost.

(5) Central Valley Project power shall be used to supply the capacity and energy needs of actions identified in sections 3404(b) and 3404(c) where the costs or a portion of the costs have been allocated to the Central Valley Project as a reimbursable cost pursuant to subsections (1) and (2) of this section. The value of the Central Valley Project power, calculated as the cost of obtaining dependable power from other available sources, shall be credited against the Central Valley Project power contractors' share of the cost of actions that are mitigating the effects of the Central Valley Project and the effects of others on Central Valley fish and wildlife habitat as determined pursuant to section 3404(f)(2).

(6) Notwithstanding any other provisions of this title, the Secretary shall not undertake any action authorized herein unless the State of California makes appropriate commitments to participate in the actions identified in this title, provides relevant state approvals for identified actions, and agrees to participate in the cost sharing provisions of this title. Where local agency action or appoval is required within this title, the Secretary shall not proceed unless that local agency approval or participation is secured: Provided, however, That nothing herein is intended to require Central Valley Project water or power contractors' approval or participation as a condition on the Secretary's ability to proceed with the mandated actions.

(7) Notwithstanding any other provisions of this title, no actions authorized in this title shall be implemented unless such actions are consistent with State water law and will not constitute an unreasonable use of water as that term is used within article X, section 2, of the Constitution of the State of California.

(g) ADDITIONAL AUTHORITIES.—

(1) The Secretary is authorized to promulgate such regulations and enter into such agreements as may be necessary to implement the purposes and provisions of this title.

(2) In order to carry out the purposes and provisions of section 3404(c)(12), the Secretary is authorized, consistent with State law, to obtain water supplies from any source available to the Secretary: Provided, That such acquisition shall be pursuant to State law and any purchases shall be from willing sellers only. The Secretary, however, except as specifically provided herein, shall not diminish water supplies available to Central Valley Project contractors without compensation.

(3) The Secretary shall determine and implement the actions mandated by sections 3404(b) and 3404(c) in the most efficient and cost effective means available. Should the Secretary determine that the State of California or a local agency of the State of California is best able to implement an action authorized by this title, the Secretary shall negotiate with the State of California or a local agency of the State of California an agreement which would allow the State of California or a local agency of the State of California to undertake the identified action. In the event no such agreement can be negotiated, the Secretary shall proceed to implement the action through means available to him.

(4) The Secretary is hereby authorized and directed as an integral part of this title, to initiate studies of any and all facilities that would assist in fully meeting the fish and wildlife purposes of this title. The Secretary shall, for each facility identified, also study the feasibility of these facilities for other purposes, including, but not limited to, water and power supplies. Cost allocations for identified multiple purpose facilities should be in accordance with the allocation of water developed or conveyed or otherwise made available by those facilities.

(h) FUNDING.—

(1) AUTHORIZATON.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of this title. Funds appropriated under this section are authorized to remain available until expended.

(2) CENTRAL VALLEY PROJECT WATER CONTRACTORS REPAYMENT.—The amount to be repaid by water contractors under sections 3404(f)(1) and 3404(f)(2) of this title shall be collected as follows:

(i) Notwithstanding the provisions of section 105 of Public Law 99–546, the amount to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall be capitalized for a period necessary to ensure repayment, consistent with the provisions of subsection 3404(h)(ii).

(ii) Annual payment of the capitalized costs to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall not exceed $1.00 an acre-foot for each acre-foot of water delivered under contract to such contractors.

(iii) The annual payments set forth in subsection 3404(h)(ii), together with interest thereon, shall be placed into a Central Valley Project Water Contractors Fund to be established by the Secretary. The first assessment shall be collected as part of water charges during the first water year which commences at least ninety days after enactment of this Act. The Central Valley Project Water Contractors Fund shall be utilized exclusively to repay costs of Central Valley Project water contractors incurred under sections 3404(f)(1) and 101(f)(2). The Secretary is authorized to use the funds within the Central Valley Project Water Contractors Fund, for these purposes, without further authorization, but subject to appropriation.

(iv) The provisions of this subsection 3404(h)(2)(i) shall apply only to Central Valley Project water delivered to Central Valley water contractors for water delivered under contract

with the Bureau of Reclamation pursuant to which additional payments for such water are required.

(3) CENTRAL VALLEY PROJECT POWER CONTRACTORS REPAYMENT.—The amount to be repaid by Central Valley Project power contractors, pursuant to sections 3404(f)(1) and 3404(f)(2), shall be collected by the Secretary in accordance with existing law, policy, and practices for the repayment, by Central Valley Project power contractors, of operation and maintenance and capital costs allocated to those power contractors.

(4) COST SHARING.—The State of California and other parties identified in sections 3404(f)(2) and 3404(f)(3) shall pay an amount equal to the amount allocated within those sections each year. In addition to cost outlays or payments to the Treasury of the United States, the Secretary may consider as a financial contribution by the State of California, Central Valley Project contractors, or other parties identified in sections 3404(f)(2) and 3404(f)(3) the value of contributions of personal or real property or personnel which the Secretary determines is beneficial to the achievement of the objectives of this title. Such contributions may include the provisions of water or water conveyance capacity to meet the requirements of this title.

(5) REMAINING COSTS.—The remaining costs shall be considered nonreimbursable costs as a Federal contribution for preserving, protecting, restoring and enhancing fish and wildlife resources within the Central Valley of California.

SEC. 3405. ESTABLISHMENT OF THE CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—In order to carry out the purposes of section 3404 of this title, there is hereby established the Central Valley Project Fish and Wildlife Advisory Committee (hereinafter referred to as the "Committee").

(b) FUNCTIONS.—The Central Valley Project Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the actions set forth in sections 3404(b) and 3404(c). Such recommendations shall be strictly advisory in nature and shall not be binding on the Secretary.

(c) MEMBERSHIPS AND APPOINTMENTS.—The Central Valley Project Fish and Wildlife Advisory Committee shall be composed of the Secretary and the California Secretary of Resources and 21 additional members appointed jointly by them, as follows:

(1) A nonfishery representative of the Upper Sacramento River Fisheries Task Force.

(2) A representative of the California commercial salmon fishing industry.

(3) A representative of the California sports fishing interests.

(4) A representative of the California Department of Fish and Game.

(5) A representative of the California Department of Water Resources.

(6) A representative of the California State Water Resources Control Board.

(7) A representative of the United States Bureau of Reclamation.

(8) A representative of the United States Fish and Wildlife Service.

(9) A representative of the United States Bureau of Land Management.

(10) A representative of the United States National Marine Fisheries Service.

(11) A representative of the United States Army Corps of Engineers.

(12) A representative of the Western Area Power Administration.

(13) A representative of California wildlife interests.

(14) A representative of the Central Valley Project agriculture contractors.

(15) A representative of the Central Valley Project urban contractors.

(16) A representative of the State Water Project agriculture contractors.

(17) A representative of the State Water Project urban contractors.

(18) A representative of environmental interests in California.

(19) A representative of the Central Valley Project power users.

(20) A representative of agriculture who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(21) A representative of urban water users who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(d) TERMS AND VACANCIES.—

(1) The term of a member of the Committee shall be for the life of the Committee.

(2) Any vacancy on the Committee shall be filled through appointment jointly by the Secretary and the California Secretary of Resources.

(e) TRANSACTION OF BUSINESS.—

(1) CHAIRMEN.—The Committee shall be cochaired by the Secretary and the California Secretary of Resources.

(2) MEETINGS.—Except as provided in paragraph (3), the Committee shall meet at the call of the Chairmen or upon the request of a majority of its members.

(3) RECOMMENDATIONS OF THE COMMITTEE.—All recommendations of the Committee shall be through a two-thirds majority vote.

(f) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATION SUPPORT.—The Secretary, in cooperation with the State of California, shall provide the Committee with necessary administrative and technical support services.

(2) INFORMATION.—The Secretary, in cooperation with the State of California and to the extent practicable, shall furnish the members of the Committee with all information and other assistance relevant to the functions of the Committee.

(3) ORGANIZATION.—The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions under subsection (b). The Committee may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) MEMBERS WHO ARE FEDERAL OR STATE EMPLOYEES.—Any Committee member who is appointed to the Committee by reason of his employment as an officer or employee of the United States or the State of California shall cease to be a member of the Committee on the date on which that member ceases to be so employed.

(h) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of service for the Committee members and their technical representatives shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or the State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this paragraph.

(i) COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Committee and technical representatives who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(j) TERMINATION.—The Central Valley Project Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3406. ESTABLISHMENT OF CENTRAL VALLEY PROJECT FISH AND WILDLIFE TASK FORCE.

(a) ESTABLISHMENT.—The Secretary shall, within 30 days after enactment of this title, establish a Task Force to review, evaluate and make recommendations with respect to matters identified; and in the manner provided for in section 3404(d) of this title. A minority report may be submitted if consensus recommendations cannot be achieved on any matter studied or reported on by the Task Force.

(b) SELECTION OF TASK FORCE MEMBERS.—The Task Force shall be comprised of fifteen members. The Secretary shall select the members of the Task Force as follows:

(1) The Secretary shall include on the Task Force six members recommended by the Governor of the State of California.

(2) The Secretary shall include on the Task Force three members recommended by each of the following:

(i) Chairman of the Senate Committee on Energy and Natural Resources; and

(ii) Chairman of the House of Representatives Committee on Interior and Insular Affairs.

(3) The Secretary shall also include on the Task Force three members of his own selection.

(4) With respect to the recommendations and selections set forth in sections 3406(b)(1), 3406(b)(2) and 3406(b)(3), the Task Force shall be comprised of, but not limited to—

(i) members of the general public;

(ii) representatives of the Central Valley Project Water Contractors;

(iii) representatives of the State Water Project Contractors;

(iv) representatives of the Central Valley Project power contractors;

(v) representatives of other affected water and irrigation organizations and entities; and

(vi) representatives of fish and wildlife organizations.

(c) ORGANIZATION AND OPERATION OF THE TASK FORCE.—The Secretary shall appoint a Task Force Chairman who will set the dates of hearings, meetings, workshops and other official Task Force functions in carrying out the purposes of this title. The Secretary is authorized and directed to finance from funds available to the Secretary the reasonable costs and expenses of the Task Force and its members in carrying out the mandate of this section. This shall include all reasonable travel and related expenses. The Task Force shall dissolve on December 31, 2010.

SEC. 3407. PROVISIONS FOR TRANSFER OF CENTRAL VALLEY PROJECT WATER.

(a) TRANSFERS WITHIN THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements among Central Valley Project contractors and between Central Valley Project contractors and noncontractors involving Central Valley Project water within the authorized Central Valley Project service area.

(b) TRANSFERS WHICH RESULT IN NO NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements between Central Valley Project contractors and parties outside of the Central Valley Project service area upon the determination that as a result of the proposed transaction over the term of the transfer agreement there is no net export of water out of the Central Valley Project service area of the transferor.

(c) TRANSFERS WHICH RESULT IN A NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Except for transactions authorized under sections 3407(d) and 3407(e) and subject to the provisions of section 3407(f), the Secretary is authorized to approve

all transfer between Central Valley Project water contractors and parties outside of the Central Valley Project service area where the Secretary determines that as a result of the proposed transaction over the term of transfer agreement there will be a net export of water out of the service area of the transferor, provided that the transfer meets the following conditions:

(1) The water being transferred would not otherwise be available to other consumptive beneficial uses absent implementation of the program; and

(2) Over the term of the agreement in question, the transfer will have no significant, long-term, adverse impact on groundwater conditions in the transferor's service area.

(d) Transfers of Water Developed Through Temporary Fallowing or Permanent Land Fallowing.—Subject to the provisions of section 3407(f), the Secretary is authorized and directed to approve transfers of Central Valley Project water within or outside of the authorized Central Valley Project service area where the water to be transferred is available for transfer because of the implementation, by the transferor or landowner, of a temporary fallowing or permanent land fallowing program, including land retirement, provided that the involved Central Valley Project water contractor determines that the following conditions are satisfied:

(1) The program will have no significant long-term adverse impact on groundwater conditions.

(2) The water developed under the program shall be that water that would have been consumptively used on crops had those crops been produced during the year(s) of the transfer or water that would have otherwise been lost for beneficial use (i.e. wet water).

(3) No more than 80 percent of the water developed under such transfer shall be made available for export out of the transferor's service area with 10 percent distributed within the transferor's service area to assist in the protection of groundwater resources and 10 percent applied to fish and wildlife purposes within the Central Valley Project service area pursuant to a program approved by the Secretary.

(4) In order to avoid adverse third party impacts the total quantity of water exported under all such transfers by the transferor or landowner shall not exceed 20 percent of the total annual water supply delivered by the Central Valley Project that otherwise would have been available in any particular year for use within the service area of the transferor or 3,000 acre-feet, whichever is greater.

(5) The program will have no unreasonable impacts on water supply, operations or financial condition of the water contractor or its water users.

(e) Transfers Outside of the Central Valley Project Service Area During Certain Critical Years.—Notwithstanding the provisions of sections 3407(c) and 3407(d) and subject to the provisions of section 3407(f), the Secretary is authorized to approve both long-term and short-term contracts for the transfer of Central Valley Project water outside of the Central Valley Project service area during dry and critically dry years, as determined by the California Department of Water Resources, where the water is to be transferred to a water district or other public agency which the Secretary determines, in the absence of the transfer, would have been required, after the imposition of water conservation measures, to impose a twenty-five percent or greater deficiency on its customers.

(f) General Provisions.—The following provisions shall also apply to any transfer:

(1) No program and/or agreements authorized under this title shall be approved unless the action is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon;

(2) No program and/or agreements authorized under this title shall be approved unless the proposed action is consistent with State law including, but not limited to, the provisions of the California Environmental Quality Act.

(3) All programs and/or agreements authorized under this title involving Central Valley Project water, shall be deemed a beneficial use of water by the transferor.

(4) All programs and/or agreements authorized under this title must include a Central Valley Project water contractor as a transferor and as a contracting party. The criteria established within section 3407(d) are intended to govern the exercise of a Central Valley Project water contractor's approval of a transfer proposed by a landowner within the service area of the Central Valley Project water contractor. The provisions of this title are only intended to govern the transfer of Central Valley Project water.

(5) Notwithstanding any contrary provisions contained within Central Valley Project water contracts, in implementing programs and/or agreements authorized under this title, there shall be no limitations on the use of agricultural water for municipal and industrial purposes or municipal and industrial water for agricultural purposes. All transferees of Central Valley Project water shall strictly comply with acreage and pricing requirements of reclamation law applicable to the actual use of Central Valley Project water by the transferee, rates for the applicable uses of water by the transferee shall apply to the transferee during the year or years of actual transfer and shall not be applied to the transferor.

(6) All agreements entered into pursuant to this title between Central Valley Project water contractor and entities outside of the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the agreement.

(7) Agreements entered into pursuant to this title shall not be considered as conferring new, supplemental or additional benefits, and shall not be otherwise subject to the provisions of section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(8) No programs and/or agreements authorized under this title shall be approved unless the Secretary has determined that the action will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(g) The Establishment of Central Valley Project Water Contract Transfer Security and Certainty.—

(1) All existing and future contracts for Central Valley Project water shall be deemed to allow for the transfers and exchanges provided for within this section.

(2) In order to encourage and aid in the transfer and exchange of water, as provided for within this title, all Central Valley Project contractors who are parties to a long-term transfer or exchange contract shall be entitled to renew its water contract for, at a minimum, a term equal to the remaining term of the transfer or exchange agreement at the time that the underlying contract is to be renewed.

(3) All agreements entered into under sections 3407(b)-(e) of this title shall provide that, during the year(s) of actual transfer, Central Valley Project water subject to transfer shall be repaid at "full cost" as that term is defined at 43 U.S.C. 390(bb).

SEC. 3408. AGRICULTURAL WATER CONSERVATION FEASIBILITY STUDIES.

(a) General.—The objective of this section is to encourage implementation of financially feasible water conservation practices. Water conservation practices include those practices which make water available that would not otherwise have been available to Central Valley streams or which do not worsen groundwater conditions. Water conservation, for the purposes of this title, does not include land fallowing.

(b) Water Conservation Feasibility Studies.—All existing Central Valley Project agricultural contractors shall submit a report to the Secretary which identifies water conservation practices within two years after enactment of this Act. For such practices identified, the report shall analyze the cost and benefits to that entity and its customers of implementing each of the water conservation practices listed in this section, to the extent they apply to that entity, and any additional practices the Secretary determines should be analyzed.

(1) Water management:

(i) monitoring water supplies, deliveries and accounting;

(ii) providing farmers with crop evapotranspiration information; and providing scheduling procedures for ordering water which correspond with demand for irrigation water to the extent practical;

(iii) monitoring of surface water qualities and quantities;

(iv) monitoring of groundwater elevations and quality; and

(v) monitoring of quantity and quality of drainage waters within facilities the district owns or controls.

(2) District facility improvements:

(i) improving the maintenance or upgrading of water measuring devices;

(ii) automating canal structures;

(iii) lining or piping ditches and canals;

(iv) modifying distribution facilities to increase water delivery flexibility;

(v) constructing or lining regulatory reservoirs;

(vi) developing recharge basins, implementing in lieu recharge programs or other means of recharging groundwater basins when adequate supplies are available; and

(vii) evaluating and improving pump efficiencies of district pumping facilities.

(3) District institutional adjustments:

(i) improving communications and cooperation among districts, farmers and other agencies;

(ii) adjusting the water fee structure to provide incentives for efficient use of water and to reduce drainage discharges;

(iii) increasing flexibility in the ordering and timing of deliveries to meet crop demands; and

(iv) increasing conjunctive use of groundwater and surface water.

(4) District water user water management programs:

(i) assisting the facilitation of the financing of physical improvements for district and on-farm irrigation systems;

(ii) providing educational seminars for staff and farmers; and conducting public information programs, which seminars and programs shall address the following subjects, to the extent applicable to the area; and

(A) improving existing on-farm and district-wide irrigation efficiency;

(B) monitoring of soil moisture and salinity;

(C) promoting of efficient pre-irrigation techniques;

(D) promoting of on-farm irrigation system evaluations;

(E) constructing tail-water deliveries;

(F) improving on-farm irrigation and drainage systems; and

(G) evaluating and improving water user pump efficiencies.

(iii) providing water users with crop evapotranspiration data and information.

(c) BENEFITS AND COSTS.—The benefits and costs of implementation of specific water conservation practices shall be evaluated through analysis of, but not limited to, the impact on the following:

(1) water usage;

(2) electrical energy usage;

(3) labor and equipment required, including costs of training personnel;

(4) crop yields;

(5) reduction of increase in drainage related problems;

(6) fish and wildlife habitat conditions;

(7) costs of construction;

(8) costs of operation and maintenance;

(9) costs of water information programs; and

(10) costs of computer equipment and software.

SEC. 3409. IMPLEMENTATION.

(a) AGRICULTURAL CONTRACT WATER CONSERVATION REQUIREMENTS.—All Central Valley Project agricultural contractors shall develop a plan for implementation of water conservation practices determined by the entity within the water conservation report required under section 3408 of this title to be financially and otherwise feasible for the specific entity. The entity shall complete the plan for implementation within one year after completion of the report required in section 3408. Financially feasible conservation practices which will cause environmental harm, including, but not limited to, adversely affecting groundwater conditions, or are inconsistent with other requirements of law, shall not be required to be implemented.

(b) ON-FARM WATER CONSERVATION INCENTIVE PROGRAM.—There is hereby established a Water Conservation Incentive Program, which shall be administered by the Secretary to encourage and assist with the on-farm implementation of the water conservation practices set forth in section 3408(b)(4). Said program shall be a Guarantee Loan Program, and the Secretary may enter into a Memorandum of Understanding with the Secretary of Agriculture to administer such program in conjunction with other programs offered through the United States Department of Agriculture.

(c) MUNICIPAL AND INDUSTRIAL CONTRACT WATER CONSERVATION REQUIREMENTS.—The Secretary shall require all Central Valley Project municipal and industrial water users, to the extent they provide retail, municipal and industrial water service, to comply with the provisions of the September 19, 1991, Memorandum of Understanding regarding Urban Water Conservation in California.

(d) SECRETARIAL REVIEW.—The Secretary shall evaluate the benefits and cost analysis for each of the water conservation practices found by the specific water user preparing the water conservation reports required by section 3408 of this title to be not feasible and determine the following:

(1) Which water conservation practices, if implemented, would make additional water available to Central Valley streams or to a usable groundwater basin that would not otherwise be available in the absence of implementation of the water conservation practice.

(2) For each water conservation practice identified in section 3409(d)(1), the benefit/cost ratio of implementing that water conservation practice if that water were used to fulfill wildlife refuge water supply obligations established by this title; or made available to other water agencies through the transfer provisions established by this title.

(e) WATER CONSERVATION PRACTICES.—The Secretary may implement those water conservation practices identified which conserve water, are economically feasible, and which the Secretary determines are prudent, through implementation of the identified water conservation practice with the entity holding the contractual right to the water conserved and then making that water available for use by Central Valley refuges as required by provisions of this title, provided that an agreement is entered into between the entity and Secretary that ensures the entity and its water users are not damaged by such measures, including, but not limited to, increasing cost to the entity or its water users or interferes with the ability of the entity water users to produce crops.

The Secretary shall fund the implementation of a specific water conservation practice in exchange for the use of the saved water. If the Secretary determines that purchasing water for the Central Valley refuges by implementing specific water conservation practices found to meet the requirements of section 3409(d)(1) is not feasible, the Secretary shall make that water available to other California water agencies by negotiating and executing agreements between the United States, the entity holding the Central Valley Project contractual right to the saved water, and entities interested in obtaining the conserved water in exchange for funding the implementation of the water conservation practice.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM

SEC. 3501. SHORT TITLE.

This title may be cited as the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act."

SEC. 3502. DEFINITIONS.

As used in this title, the term—

(1) "Three Affiliated Tribes" means the Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation, a Federal reservation established by treaty and agreeement between the Tribes and the United States;

(2) "Standing Rock Sioux Tribe" means the members of the Great Sioux Nation that reside on the Standing Rock Indian Reservation, established by treaty between the Tribe and the United States; and

(3) "Joint Tribal Advisory Committee" means the commission established by the Secretary on May 10, 1985, for the purpose of assessing the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

SEC. 3503. FINDINGS; DECLARATIONS.

(a) FINDINGS.—In recognition of the findings, conclusions, and recommendations of the Secretary's Joint Tribal Advisory Committee, Congress finds that the Three Affiliated Tribes and the Standing Rock Sioux Tribe should be adequately compensated for the taking, in the case of the Three Affiliated Tribes, of 156,000 acres of reservation lands and, in the case of the Standing Rock Sioux Tribe, 56,000 acres of reservation lands, as the site for the Garrison Dam and Reservoir, and the Oahe Dam and Reservoir. Congress concurs in the Advisory Committee's findings and conclusions that the United States Government did not justly compensate such Tribes when it acquired those lands.

(b) DECLARATIONS.—(1) The Congress declares that the Three Affiliated Tribes are entitled to additional financial compensation for the taking of 156,000 acres of their reservation lands, including thousands of acres of prime agricultural bottom lands, as the site for the Garrison Dam and Reservoir, and that such amounts should be deposited in the Recovery Fund established by section 3504(a) for use in accordance with this title.

(2) The Congress declares that the Standing Rock Sioux Tribe is entitled to additional financial compensation for the taking of over 56,000 acres of its reservation lands, as the site for the Oahe Dam and Reservoir, and that such amounts should be deposited in the Standing Rock Sioux Tribe Economic Recovery Fund established by section 3504(b) for use in accordance with this title.

SEC. 3504. FUNDS.

(a) THREE AFFILIATED TRIBES ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Three Affiliated Tribes Economic Recovery Fund" (herinafter referred to as the "Recovery Fund").

(2) Commencing with fiscal year 1993, and each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Three Affiliated Tribes pursuant to this paragraph and paragraph (3) exceed $149,200,000.

(3) For payment to the Three Affiliated Tribes of amounts to which they remain entitled pursuant to the Act entitled "An Act to make certain provisions in connection with the construction of the Garrison diversion unit, Missouri River Basin project, by the Secretary of the Interior," approved August 5, 1965 (79 Stat. 433), there is authorized to be appropriated to the Recovery Fund established by subsection (a) for fiscal year 1993 and each of the next following nine fiscal years, the sum of $6,000,000.

(4) Only the interest received on moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Three Affiliated Tribes for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(b) STANDING ROCK SIOUX TRIBE ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Standing Rock Sioux Tribe Economic Recovery Fund."

(2) Commencing with fiscal year 1993, and for each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Standing Rock Sioux Tribe pursuant to this paragraph exceed $90,600,000.

(3) Only the interest on the moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Standing Rock Sioux Tribe for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(c) LIMITATION.—During fiscal years 1993, 1994, and 1995, the interest described in subsections (a)(4) and (b)(3) shall not exceed the savings generated by the bill.

SEC. 3505. ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.

No payments pursuant to this title shall result in the reduction, or the denial, of any Federal services or programs that the Three Affiliated

Tribes or the Standing Rock Sioux Tribe, or any of their members, are otherwise entitled to, or eligible for, because of their status as a federally recognized Indian tribe or member pursuant to Federal law. No payments pursuant to this title shall be subject to Federal or State income tax, or affect Pick-Sloan Missouri River Basin power rates in any way.

SEC. 3506. PER CAPITA PAYMENTS PROHIBITED.

No part of any moneys in any fund under this title shall be distributed to any member of the Three Affiliated Tribes or the Standing Rock Sioux Tribe on a per capita basis.

SEC. 3507. STANDING ROCK SIOUX INDIAN RESERVATION.

(a) Irrigation.—The Secretary of the Interior is authorized to develop irrigation within the boundaries of the Standing Rock Indian Reservation in a 2,380 acre project service area, except that no appropriated funds are authorized to be expended for construction of this project unless the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Act of July 1, 1932 (25 U.S.C. 386a).

(b) Specific.—There is authorized to be appropriated, in addition to any other amounts authorized by this title, or any other law, to the Secretary of the Interior $4,660,000 for use by the Secretary of the Interior in carrying out irrigation projects for the Standing Rock Sioux Tribe.

(c) Disclaimer.—This section shall not limit future irrigation development, in the event that such irrigation is subsequently authorized.

SEC. 3508. TRANSFER OF LANDS.

(a) Former Tribal Lands.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Three Affiliated Tribes by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949 and which are within the external boundary of the Fort Berthold Indian Reservation and located at or above contour elevation 1,860 feet mean sea level.

(b) Four Bears Area.—All rights, title, and interest of the United States in the following described lands (including the improvements thereon) and underlying Federal minerals are hereby declared to be held in trust by the United States for the Three Affiliated Tribes as part of the Fort Berthold Indian Reservation:

(1) approximately 142.2 acres, more or less, lying above contour elevation 1,854 feet mean sea level and located south of the southerly right-of-way line of North Dakota State Highway No. 23, in the following sections of Township 152 North, Range 93 West of the 5th principal meridian, McKenzie County, North Dakota:

Section 15: South half of the southwest quarter;

Section 21: Northeast quarter and northwest quarter of the southeast quarter;

Section 22: North half of the northwest quarter; and

(2) approximately 45.80 acres, more or less, situated in the east half of the southwest quarter and the east half of the west half of the southwest quarter of section 15, lying at or above contour elevation 1,854 mean sea level, located north of the northerly right-of-way line of North Dakota State Highway No. 23 and southeasterly of the following described line:

Commencing at a point on the west line of said section 15, said point being 528.00 feet northerly of the existing northerly right-of-way line of North Dakota State Highway No. 23; thence north 77 00′ 00″ east to the west line of said east half of the west half of the southwest quarter of section 15, and the point of beginning of such line; thence northeasterly to the northwest corner of the east half of the southwest quarter and the point of termination.

(c) Former Nontribal Lands.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are—

(A) those Federal lands acquired from individual Indian owners by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949; and

(B) those lands acquired from non-Indian owners by the United States for such Project (either by purchase or condemnation);

and which are within the external boundary of the Fort Berthold Reservation, and located at or above contour elevation 1,860 feet mean sea level.

(d) Right of First Refusal.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Three Affiliated Tribes, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to such Tribes, owners, heirs, or assigns, to purchase at fair market value any land, in the case of the Three Affiliated Tribes, described in subsection (b), and in the case of individual Indian and non-Indian owners, described in subsection (c), which was so acquired. If any such former owner, or his or her heirs or assigns, refuses or fails to exercise his or her right to repurchase, and option to purchase such land shall be afforded to the Three Affiliated Tribes.

(2) Lands purchased from the Secretary of the Interior by former owners, or their heirs or assigns, under this subsection shall not be sold by former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Three Affiliated Tribes has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribes—

(A) 30 days from such notification to inform the prospective seller whether the Tribes intend to exercise their right of first refusal to purchase such lands at the price of the bona fide offer; and

(B) 1 year from such notification to complete the purchase of such lands under their right of first refusal.

(e) Consideration.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevations 1,860 feet mean sea level (for subsections (a) and (c)) and 1,854 feet mean sea level (for subsection (b)) by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(f) Reservations.—The United States hereby reserves the perpetual right, power, privilege, and easement permanently to overflow, flood, submerge, saturate, percolate, and erode the land described in subsections (a), (b), and (c) in connection with the operation and maintenance of the Garrison Dam Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris, and natural obstructions which, in the opinon of the Secretary of the Army, may be detrimental to the Project. The Three Affiliated Tribes, and the owners or their heirs or assigns who reacquired such lands pursuant to this title may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easements hereby reserved.

(g) Prohibitions.—With respect to any lands described in this section that are below 1,860 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land, and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(h) Excavation.—With respect to lands described in subsections (a), (b), or (c), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(i) Disclaimer.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a), (b), and (c) prior to the date of the enactment of this title.

(j) Trust Lands.—(1) All rights, title, and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Three Affiliated Tribes.

(2) The improvements and facilities referred to in paragraph (1) are the Red Butte Bay Public Use Area and the Deepwater Bay Public Use Area. The recreation facilities include those facilities located both above and below contour elevation 1,860 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair, or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

SEC. 3509. TRANSFER OF LANDS AT OAHE DAM AND LAKE PROJECT.

(a) Former Tribal Lands.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Standing Rock Sioux Tribe by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915)—

(A) which extend southerly from the south shore of Cannonball River, in Sioux County, North Dakota, to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(b) Former Nontribal Lands.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands acquired from individual

Indian owners by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85–915), and from non-Indian owners (either by purchase or condemnation), and—

(A) which extend southerly from the south shore of the Cannonball River, in Sioux County, North Dakota to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(c) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Standing Rock Sioux Tribe, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to the Standing Rock Sioux Tribe, owners, heirs or assigns, to purchase at fair market value any land, in the case of the Standing Rock Sioux Tribe, described in subsection (a), and in the case of individual Indian and non-Indian owners, described in subsection (b), which was so acquired. If any such owner, or his or her heirs or assigns, refuses or fails to exercise their right to repurchase, an option to purchase such lands shall be afforded to the Standing Rock Sioux Tribe.

(2) Lands purchased from the Secretary of the Interior by such former owners, or their heirs or assigns, under this subsection shall not be sold by the former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Standing Rock Sioux Tribe has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribe—

(A) 30 days from such notification to inform the prospective seller whether the Tribe intends to exercise its right of first refusal to purchase such lands at the price of the bona fide offer, and

(B) 1 year from such notification to complete the purchase of such lands under its right of first refusal.

(d) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevation 1,620 feet mean sea level by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(e) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege and easement permanently to overflow, flood, submerge, saturate, percolate and erode the land described in subsections (a) and (b) in connection with the operation and maintenance of the Oahe Dam and Lake Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the Secretary of the Army may be detrimental to the Project. The Standing Rock Sioux Tribe, and the owners or their heirs and assigns, who reacquired any such lands pursuant to this title, may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easement hereby reserved.

(f) PROHIBITIONS.—With respect to lands described in this section that are below 1,620 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(g) EXCAVATION.—With respect to lands described in subsections (a) or (b), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(h) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a) and (b) prior to the date of the enactment of this title.

(i) TRUST LANDS.—(1) All rights, title and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Standing Rock Sioux Tribe.

(2) The improvements and facilities referred to in paragraph (1) are the levee around the City of Fort Yates, North Dakota, and the recreation facilities located at the Fort Yates Recreation Area, the Walker Bottoms Recreation Area, and the Grand River Recreation Area, including those recreation facilities located both above and below contour elevation 1,620 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

(j) EXCEPTION.—Notwithstanding subsection (i), the transfer of such improvements and facilities pursuant to subsection (i) does not include the improvements and facilities located at the Indian Memorial Recreation Area and the Grand River Fish Spawning Station, unless and until the State of South Dakota consents in writing and then only upon amendment of the "Agreement Between the United States and the State of South Dakota for Recreation and Fish and Wildlife Development at Lake Oahe, South Dakota" entered into on September 2, 1983, which amendment shall specifically provide for such transfer.

(k) FISH AND WILDLIFE.—Notwithstanding any other provision of law, the lands transferred under subsection (a) which, prior to the date of enactment of this title, were designated by the Corps of Engineers as mitigation lands for purposes of fish and wildlife conservation in accordance with the Fish and Wildlife Conservation Act of 1958, shall be included in any subsequent determination of the Corps' compliance with the fish and wildlife mitigation requirements of the Fish and Wildlife Conservation Act of 1958. The Standing Rock Sioux Tribe shall use its best efforts to conduct fish and wildlife conservation and mitigation of such lands. Notwithstanding the provisions of the Fish and Wildlife Conservation Act of 1958, the State of South Dakota shall have no claim, right, or cause of action pursuant to Federal law to compel designation of additional lands currently under the jurisdiction of the Corps of Engineers, for purposes of fish and wildlife conservation in lieu of the lands transferred by subsection (a).

SEC. 3510. CONFORMING AMENDMENT.

Section 10(a)(2) of Public Law 89–108 is amended by striking "$67,910,000" and inserting "$7,910,000."

SEC. 3511. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 3504 of this title.

TITLE XXXVI—WETLAND HABITAT RESTORATION PROGRAM

SEC. 3601. DEFINITIONS.

(1) The term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota; and

(2) The term "wetland trust" means a trust established in accordance with section 3602(b) and operated in accordance with section 3602(c).

SEC. 3602. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—Subject to appropriations therefore the Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: Provided, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 3603. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $7,000,000 for the Federal contribution to the wetland trust established under section 3602.

TITLE XXXVII—SAN JOAQUIN NATIONAL VETERANS CEMETERY, CALIFORNIA

Notwithstanding any other provisions of law, the Secretary of the Interior and the Secretary of Veteran Affairs are authorized to enter into a contract to provide for the delivery in perpetuity of water from the Central Valley Project in quantities sufficient, but not to exceed 850 acre-feet per year, to meet the needs of the San Joaquin National Cemetery, California.

TITLE XXXVIII—SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT

SEC. 3801. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within 6 months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of on-site improvements, shall be completed within 10 months of the date of the enactment of this Act.

(C) THIRD PHASE.—The Third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to—

(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

House Amendment to Senate Amendment:

(At this point appears the text of H.R. 429 and of H.R. 5099, as amended, as passed by the House. The bills referred to will be printed in the RECORD at a later date.)

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER].

The motion was agreed to.

Mr. RIGGS. Mr. Chairman, H.R. 5099 would provide significant new protections for California's fish and wildlife resources that have been affected by Federal operation of the Central Valley Project [CVP], but would do so consistently with State law and policy and without destroying rural economies dependent on CVP irrigation deliveries. The bill provides the Secretary of the Interior with additional authorities to achieve its purposes, and establishes two advisory committees of appropriately diverse composition, thereby promoting cooperation among the various interests served and affected by the CVP that is consistent with the compromises this bill represents.

H.R. 5099 would also benefit depressed communities in my district that depend on the ocean harvest of salmon that originate in the Sacramento and Trinity River basins. The bill recognizes the CVP operations significantly affect the fishery in the Trinity River by providing that such impacts will be reviewed as part of future CVP planning. The bill also recognizes the needs of several Indian tribes who rely on fish harvest for survival needs.

In addition, H.R. 5099 would insure both that the valuable Trinity River fishery, which is of critical importance to the ocean commercial fishing industry and to Indian tribes, will not be sacrificed, and that the CVP's Trinity River Division will still be integrated into the revised CVP purposes to the same extent provided under existing law.

Mr. CONDIT. Mr. Chairman, I rise today in opposition to H.R. 5099 as reported from the Committee on Interior and Insular Affairs. During hearings that were held on May 28, 1992, I, along with my colleagues CAL DOOLEY and RICK LEHMAN, expressed reservations on specific issues which had to be resolved before H.R. 5099 would be acceptable. Despite our every effort to work productively toward resolving these issues, there has been no resolution.

Section 4 of H.R. 5099 imposes unreasonable limitations on new contracts for any purpose other than fish and wildlife. Even temporary contracts for terms shorter than 1 year which are typically utilized to put unstorable flood waters to beneficial use, and interim contracts which are used to allocate supplies more efficiently to municipal and industrial and agricultural water users will be prevented until fish and wildlife purposes that will take 10 or more years are met. This absolute moratorium will also continue until the San Francisco Bay/Sacramento San Joaquin Delta Estuary water quality standards are implemented and approved by the Environmental Protection Agency.

Section 4 also allocates 100,000 acre feet of water from the existing project yield for auction to the highest municipal or industrial bidder. Coupled with H.R. 5099's reallocation of water to fish and wildlife, this provision takes away from existing contractors for municipal purposes. Such contractors in my district face losing a portion of their contract supplies and being forced to repurchase their water in competition with the Metropolitan Water District of Los Angeles—let us face it—we will not be able to compete.

One of the benefits of a central valley project has been a stable water supply for a period long enough to repay capital investments necessary to put the water to beneficial use. H.R. 5099 takes away the 40-year contract rights from the water contractors and substitutes a one-time renewal for 20 years. Twenty year contracts are the very minimum time needed for agriculture and municipal uses. If a city or water district needs to fund water improvements, it must act at the moment of contract renewal. If the need for capital improvements exists 10 years later, water districts and municipality will not be able to finance them because there will be no assurance of a water supply for the full time needed to make repayment. This same scenario can be used for the farmer who wants to plant permanent crops.

To make matters worse, H.R. 5099 requires expensive environmental studies, both on a programmatic basis for the entire CVP and for each contractor. This bill creates unrealistic time tables for these environmental studies and does not guarantee that a contract which expires before the CVP EIS can be completed will be renewed. The enormous costs of these studies will substantially increase the price of water and the contract renewal limit casts doubt on the ability of a city or district to finance its own EIS.

Probably the single most destructive provision of section 4 allows the Secretary of the Interior to allocate a contractor's water supply for fish and wildlife purposes, without any clear standards as to how or why or when this wholesale grab of water will take place. How can cities in our rapidly developing valley plan for their needs, if from year to year their water supply will be altered? How can any farmer convince a lender to finance his or her operation if he or she may be unable to complete the crop year because that very year's water supply can be stripped away? It is easy. The cities and farmers that rely on the CVP will not be able to plan for the future or finance any long-term projects, and that simple fact will devastate large areas in my district.

Section 5 of H.R. 5099 should have been a progressive provision allowing transfer of CVP water around the State to maximize efficient use of the State's water resources. Instead, it discourages transfers that have always occurred among CVP contractors by imposing a 25-percent fish and wildlife tax. It allows an individual to sell of publicly developed water at a profit and without any responsibility to pay back costs associated with developing that water. With this in mind, H.R. 5099 does not provide a wise and workable framework for water transfers.

The fish and wildlife restoration sections of H.R. 5099 are also unacceptable. Language in this bill to amend the project purpose raises questions as to whether or not the Secretary of Interior will be able to implement goals of doubling anadromous fish populations and to carry out specified project improvements. Making fish and wildlife a project purpose on an equal footing with municipal/industrial and agricultural purposes without providing any clear direction to the Secretary of Interior will mean that CVP contractors and environmentalists will take H.R. 5099 to the courts while real fish and wildlife improvements in the CVP languish.

In the last few years, the agriculture industry in California has been hurt by a variety of natural and manmade problems. The 6-year drought and the 1990 freeze are beyond the power of Government to solve, but Government, by its planning and preparation, can mitigate problems associated with the needs of California in addition to the environment. There is no doubt California agriculture, and the millions of people who depend on it, would not have survived the 6 consecutive years of drought we are now facing without the construction of the Central Valley project. Unfortunately, many groups and individuals see the water issue as it relates to the Central Valley in simplistic terms. Many people ignore the vital importance of water to valley residents and stereotype them as greedy, corporate farmers who do not care for the future of our environment. The truth is quite opposite. Why would the farm community, people who have lived in this area for many generations, want to destroy an environment they must produce from every day?

Earlier I expressed my commitment to support public policy that addresses concerns about the impact of the CVP upon the environment as long as such a policy accounted for the needs and concerns of those who depend upon the CVP as well. H.R. 5099 as reported to the House floor does not represent this equal balance. Let us look at this in realistic terms. The economic vitality of the Central Valley is directly related to agriculture and agriculture is directly related to the availability of water. Hundreds of thousands of jobs will be directly impacted on the decision you will be making today. Representatives of the environmental community and contractors from the CVP have been working hard to agree on a compromise legislation, but that opportunity has been forestalled by H.R. 5099's coming to the floor today. As proposed H.R. 5099 does not merit support, and I urge you to join me in opposing this bill.

APPOINTMENT OF CONFEREES ON H.R. 5099

Mr. MILLER of California. Mr. Speaker, pursuant to the provisions of House Resolution 486, I move that the House insist its amendment to the Senate amendment to H.R. 429, and request a conference with Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER].

The motion was agreed to.

The SPEAKER pro tempore. The Speaker will appoint conferees at a later time.

□ 1630

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF AMENDMENT TO H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. MILLER of California. I ask unanimous consent that the Clerk be authorized to make technical and conforming changes in the engrossment of the amendment to H.R. 429 to reflect the actions taken by the House.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on H.R. 5099 and H.R. 429.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minutes while we are awaiting arrival of the leadership in the Chamber to announce the schedule for next week.

AMERICA NEEDS JOBS IN THE INNER CITIES

Mr. BENNETT. Mr. Speaker, since we have a period where I may say something I would like to add to what I have already said today regarding job opportunities. Mr. Speaker, I think at this particular time in our history America needs jobs in the inner cities very desperately, and I think we must meet that demand. In order to meet that realistically, we have to get the funds for it.

Mr. Speaker, I see the chairman of the Committee on the Budget on his feet right now, and I hope we can find those funds. But I myself feel like there are programs like foreign aid, on which we spend $25 to $30 billion, where we can get the needed funds, and I think we should find the money there:

also in Foof Stamps Program and a good number of other programs which are overfinanced. The desperate need for jobs in the inner cities is something we cannot pass over. I hope we can find a way to answer this and do it promptly.

I include here a copy of my bill on this subject.

H.R. 4149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be cited as the "Job Opportunities to Benefit Society (JOBS) Act of 1992".

TITLE I—PROGRAMS FOR THE UNEMPLOYED

SEC. 101. JOB CREATION FOR THE UNEMPLOYED.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall establish in the Department of Labor an employment program involving grants to the States for purposes of creating employment programs for unemployed individuals in those States where the unemployment rate equals or exceeds 5 per centum.

(b) STATE PLAN REQUIRED.—In order to receive an allotment of funds under this section, the Governor of a State shall submit to the Secretary, on an annual basis, a State plan detailing programs and activities that will be assisted with the funds provided under this section.

(c) CONTENTS OF PLAN.—Each State plan shall contain provisions demonstrating to the satisfaction of the Secretary that the State will comply with the requirements of this section and that—

(1) employment under this title shall be provided only to persons within the State who have been unemployed for at least six months and would otherwise qualify for unemployment compensation;

(2) a specific number of jobs will be made available under the State program;

(3) the State will complete a study (or demonstrate a commitment to conduct a study not later than one year after the allotment of funds to the State) concerning the number of unemployed individuals within the State and of those how many are potentially capable of performing some type of work;

(4) the State will disseminate information throughout the State on the availability of services and activities under this title; and

(5) the State will operate a monitoring, reporting, and management system which provides an adequate information base for effective program management, review, and evaluation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such funds as are provided by appropriations laws for each fiscal year and/or by the establishment of an account in the Treasury to be known as the "Job Opportunities To Benefit Society Account", consisting of donations to the account by private individuals and/or corporations.

SEC. 102. ALLOTMENT.

ALLOCATION BASED ON NUMBER OF INDIVIDUALS EXPECTED TO BE EMPLOYED.—Upon approval by the Secretary of a State plan, the State may receive annual grants based upon the number of individuals the State expects to employ. The amount of such grants will be determined by the Secretary.

SEC. 103. SUNSET PROVISION.

Authorization for this Act shall end thirty-six months from the date of enactment.

TITLE II—DEFICIT REDUCTION

SEC. 201. USE OF EXCESS FUNDS FOR DEFICIT REDUCTION.

Any grant funds not expended by the Secretary at the end of each fiscal year shall be converted to the United States Treasury for purposes of deficit reduction.

COLLOQUY RE WATSONVILLE SUBAREA OF THE SAN FELIPE DIVISION OF THE CENTRAL VALLEY PROJECT

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, the purpose of this 1 minute is to engage in a colloquy with the chairman of the Committee on Interior and Insular Affairs with regard to H.R. 5099, the bill just passed.

This colloquy is to clarify what the status of the Watsonville subarea of the San Felipe Division of the Central Valley project would be under H.R. 5099.

Mr. Speaker, ground water monitoring wells have confirmed the presence of seawater intrusion inland. Continued overdraft and seawater intrusion threaten Pajaro Valley agriculture, which is the economic base of this valley.

Currently, the Bureau of Reclamation is conducting a study to determine the feasibility of obtaining water from the CVP for the Watsonville subarea. This study has been underway for a number of years and was undertaken with the expectation that the Pajaro Valley Water Management District would have the option to enter into a contract with the Bureau of Reclamation to receive CVP water for agricultural purposes.

The study is expected to be completed in December. Upon completion of the study, the district expects to want to contract for CVP water for agricultural purposes. I understand that under H.R. 5099 the Pajaro Water District will not be able to enter into a CVP contract for agricultural purposes due to the temporary moratorium on new contracts.

However, I want to clarify that the Pajaro Valley Water Management District will be eligible to enter into a CVP contract for municipal and industrial water. I want to further clarify that upon completion of the requisite studies and requisite revitalization of fish and wildlife under H.R. 5099, the water district would be eligible to enter into a contract to receive CVP water for agricultural purposes.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct, the moratorium on new contracts is not a permanent moratorium. Rather, the moratorium is in effect until the restoration of fish and wildlife populations is met under the requirements of this legislation.

Mr. PANETTA. I thank the chairman.

House amendment to Senate amendment: In lieu of the matter by Senate amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1991".

SEC. 2. DEFINITION OF SECRETARY.

For the purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM.

Title I of Public Law 97–293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows:

"RECREATIONAL FACILITIES, CONSERVATION, AND FISH AND WILDLIFE";

and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE FOR TITLES II–VI; TABLE OF CONTENTS FOR TITLES II–VI; AND DEFINITIONS FOR TITLES II–VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles II through V of this Act is as follows:

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin replacement project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.

Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Crops for which an acreage reduction program is in effect.
TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION
Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased project water capability.
Sec. 303. Stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation schedule.
TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT
Sec. 401. Findings, purpose, operation and administration.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.
TITLE V—UTE INDIAN RIGHTS SETTLEMENT
Sec. 501. Findings and purpose.
Sec. 502. Provision for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.
TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

(c) DEFINITIONS.—For the purposes of titles II–VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $922,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in table 2 of the report accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

(e) STATUS OF PARTICIPATING PROJECTS.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than April 15, 1992, on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommendation.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab,

Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in section 107(e)(2) for related purposes.

(C) The feasibility study and the project construction authorization shall be subject to the non-Federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) STRAWBERRY-PROVO CONVEYANCE STUDY.—(A) $2,000,000 for the District to conduct a feasibility study, with public involvement, of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The study shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, township 3 south, range 12 west, and sections 7 and 8, township 3 south, range 11 west, Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water construction within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43–3825 (Application No. A36642) and Water Right No. 43–3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available, upon appropriation by Congress.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6–05–01–00143, as last revised on September 18, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in section 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by sections 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be cost shared until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section. The District may commence such studies prior to entering into binding agreements and upon execution of binding agreements the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 202(a)(1) or 203 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make such sums as are necessary available to the District for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(a)(1)(B) of this Act.

(b) Local Development Option.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) Purposes.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) Water Management Improvement Plan.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) Elements.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be 30,000 acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab Counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) Evaluation of Conservation Measures.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory." For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) Implementation.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be in the public interest.

(4) Use of Saved Water.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) Status Report on the Planning Process.—Prior to January 1, 1993, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) Water Conservation Pricing Study.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Sec-

retary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made first available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b).

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Prior to March 31, 1992, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.);

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air-conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Prior to January 1, 1993, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated by January 1, 1994, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after ninety days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any deter-

mination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir by January 1, 1993.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, and prior to October 1, 1992, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. CROPS FOR WHICH AN ACREAGE REDUCTION PROGRAM IS IN EFFECT.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to crops for which an acreage reduction program is in effect until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge an acreage reduction program production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949 if the stocks of such commodity held in storage by the Commodity Credit Corporation exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the acreage reduction program crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) One from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) One from a list of residents of the State submitted by the District.

(E) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member

may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS–15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise of final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall give due consideration to all substantive recommendations and measures received pursuant to section 301(g)(3)(A), and shall incorporate recommendations received from Federal and State resource agencies, county and municipal entities, and the appropriate Indian tribes, unless the Commission, in its sole judgment, determines that doing so would be inconsistent with the purposes of this Act or would interfere with or prevent the Commission from fulfilling the duties and responsibilities assigned to it in this Act, or result in inefficient or impractical resource management practices. The Commission shall include in its plan a written description of the recommendations received and adopted. In addition, the Commission shall include in its detailed report to Congress required under paragraph (g)(5) a summary of the recommendations received with a written finding explaining why such recommendations were adopted or rejected. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) AGENCY CONCURRENCE.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be subject to review and concurrence by the Secretary of Agriculture.

(6) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act, (A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and, (B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah Counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within thirty days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or streambed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(12) The Commission is authorized to compensate out of funds available in section 201 landowners adjacent to the Utah Lake Wetlands Preserve who experience provable economic losses attributable to the establishment of the Preserve or provable economic losses directly resulting from Preserve management practices contrary to the provisions of this subsection or from the manipulation of water levels within the

Preserve. Total compensation for claims pursuant to this subsection shall not exceed $2,000,000: Provided, That the amount of funds available from the Commission for such compensation shall be adjusted according to the mechanism provided in section 201. The filing of a claim for compensation pursuant to this subsection shall not preclude an affected adjacent landowner from seeking other remedies or damages otherwise available under State or Federal law.

(13) Valuation of interests acquired under this subsection shall be independently determined as though the Preserve had not been established.

(14) Any property acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the Commission to the Utah Division of Wildlife Resources.

(d) Provo Bay.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2,000 feet out into the bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and (B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond River and Sixth Water Creek drainages.

(7) $475,000 for fish habitat restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) Revision of Plan.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary of the Wasatch-Cache National Forest to a level of practical necessity. For purposes of this subsection, the Lakes Management Area shall be defined as depicted on the map in the Wasatch-Cache National Forest Land and Resource Management Plan.

(b) Costs of Rehabilitation.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) Fish and Wildlife Habitat.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) In General.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream, access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed rehabilitation, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) Study of Impact to Wildlife and Riparian Habitats Which Experience Reduced Water Flows as a Result of the Strawberry Collection System.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in the following sections shall be treated as expenses under section 8: all sections of title III, and section 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) Fisheries.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) Riparian Habitat Rehabilitation.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) Wetlands.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multiagency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) Recreational Facilities.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(e) Provo River Corridor.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) Habitat Improvements in Certain Drainages.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) Small Dams and Watershed Improvements.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) Fish Hatchery Production.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase produc-

tion of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, 3 percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to State and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows				
1.a Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	$5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600
	FY96	FY97	FY98	
Instream flows				
1.a. Lease of Daniels Creek water rights	$0	$0	$0	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
	TOTAL	FY93	FY94	FY95
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,600	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,790	$3,240	$7,050	$7,350
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	*Appropriations (Thousands of 1990 Dollars)*			
	TOTAL	*FY93*	*FY94*	*FY95*
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	*$3,000*	*$3,000*	*$3,000*	
Subtotal	*$7,850*	*$8,450*	*$5,850*	
	TOTAL	*FY93*	*FY94*	*FY95*
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	*$750*	*$50*	*$0*	*$100*
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	*$4,000*	*$0*	*$400*	*$600*
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	*$1,000*	*$200*	*$200*	*$200*
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	*$1,500*	*$300*	*$300*	*$300*
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	*$1,000*	*$150*	*$150*	*$200*
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	*$1,000*	*$0*	*$0*	*$0*
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	*$475*	*$50*	*$50*	*$75*
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	*$1,150*	*$0*	*$0*	*$100*
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	*$5,000*	*$0*	*$0*	*$0*
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	*$22,800*	*$100*	*$3,500*	*$4,200*
Subtotal	*$38,675*	*$850*	*$4,600*	*$5,775*
	FY96	*FY97*	*FY98*	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	*$200*	*$200*	*$200*	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	*$1,000*	*$1,000*	*$1,000*	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	*$200*	*$200*	*$0*	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	*$300*	*$300*	*$0*	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	*$150*	*$150*	*$200*	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	*$100*	*$500*	*$400*	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	*$100*	*$100*	*$100*	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	*$300*	*$400*	*$350*	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	*$500*	*$2,000*	*$2,500*	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	*$5,000*	*$5,000*	*$5,000*	
Subtotal	*$7,850*	*$9,850*	*$9,750*	
	TOTAL	*FY93*	*FY94*	*FY95*
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	*$2,500*	*$0*	*$500*	*$500*
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	*$1,125*	*$125*	*$200*	*$200*
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	*$4,000*	*$500*	*$700*	*$700*
Subtotal	*$7,625*	*$625*	*$1,400*	*$1,400*
	FY96	*FY97*	*FY98*	
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	*$500*	*$500*	*$500*	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	*$200*	*$200*	*$200*	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	*$700*	*$700*	*$700*	
Subtotal	*$1,400*	*$1,400*	*$1,400*	
	TOTAL	*FY93*	*FY94*	*FY95*
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	*$750*	*$0*	*$250*	*$250*
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	*$250*	*$0*	*$0*	*$50*
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	*$350*	*$0*	*$0*	*$50*
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	*$8,500*	*$500*	*$1,000*	*$1,500*
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	*$400*	*$50*	*$75*	*$75*
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	*$750*	*$75*	*$75*	*$150*
Subtotal	*$11,000*	*$625*	*$1,400*	*$2,075*
	FY96	*FY97*	*FY98*	
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	*$250*	*$0*	*$0*	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	*$100*	*$100*	*$0*	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	*$100*	*$100*	*$100*	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	*$1,500*	*$2,000*	*$2,000*	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	*$75*	*$75*	*$50*	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	*$150*	*$150*	*$150*	
Subtotal	*$2,175*	*$2,425*	*$2,300*	
	TOTAL	*FY93*	*FY94*	*FY95*
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	*$2,000*	*$125*	*$275*	*$400*
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	*$750*	*$50*	*$100*	*$150*
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	*$1,000*	*$0*	*$75*	*$75*
4. Provo River corridor development [Sec. 311(e)]	*$1,000*	*$0*	*$75*	*$75*
Subtotal	*$4,750*	*$175*	*$525*	*$700*

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	*Appropriations (Thousands of 1990 Dollars)*			
	TOTAL	*FY93*	*FY94*	*FY95*
	FY96	*FY97*	*FY98*	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	*$400*	*$400*	*$400*	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	*$150*	*$150*	*$150*	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	*$200*	*$300*	*$350*	
4. Provo River corridor development [Sec. 311(e)]	*$200*	*$300*	*$350*	
Subtotal	*$950*	*$1,150*	*$1,250*	
Total Additional	*$21,575*	*$23,525*	*$20,550*	
	TOTAL	*FY93*	*FY94*	*FY95*
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	*$2,700*	*$900*	*$900*	*$900*
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	*$3,990*	*$666*	*$803*	*$790*
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	*$3,000*	*$600*	*$600*	*$600*
Subtotal	*$9,690*	*$2,166*	*$2,303*	*$2,290*
	FY96	*FY97*	*FY98*	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	*$0*	*$0*	*$0*	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	*$453*	*$604*	*$674*	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	*$600*	*$600*	*$0*	
Subtotal	*$1,053*	*$1,204*	*$674*	
	TOTAL	*FY93*	*FY94*	*FY95*
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	*$160*	*$160*	*$0*	*$0*
Subtotal	*$160*	*$160*	*$0*	*$0*
	FY96	*FY97*	*FY98*	
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	*$0*	*$0*	*$0*	
Subtotal	*$0*	*$0*	*$0*	
	TOTAL	*FY93*	*FY94*	*FY95*
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	*$226*	*$100*	*$126*	*$0*
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	*$1,050*	*$525*	*$525*	*$0*
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	*$900*	*$900*	*$0*	*$0*
Subtotal	*$2,176*	*$1,525*	*$651*	*$0*
Total DPR	*$12,026*	*$5,651*	*$2,054*	*$1,390*
Grand Total	*$145,316*	*$27,266*	*$23,729*	*$25,740*
	FY96	*FY97*	*FY98*	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	*$0*	*$0*	*$0*	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	*$0*	*$0*	*$0*	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	*$0*	*$0*	*$0*	
Subtotal	*$0*	*$0*	*$0*	
Total DPR	*$1,053*	*$1,204*	*$674*	
Grand Total	*$22,628*	*$24,729*	*$21,224*	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified

in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive—

(A) all amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) all interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) The unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing on July 1, 1992 and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary

is authorized to take all actions necessary to implement the Compact.

(b) The Indian Intercourse Act.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) Restriction on Disposal of Waters Into the Lower Colorado River Basin.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) Use of Water Rights.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) Rules of Construction.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to be appropriated by section 201, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) Repair of Cedarview Reservoir.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) Reservation Stream Improvements.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) Bottle Hollow Reservoir.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) Minimum Stream Flows.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek of 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,000 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) Land Transfer.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) Recreation Enhancement.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) Municipal Water Conveyance System.—Of the amounts authorized to be appropriated in section 201, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) Establishment.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) Adjustment.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) Tribal Development.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) General Authority.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) Description of Claims.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) Resurrection of Claims.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. TREATMENT PLANT AND RELATED WORK.

(a) AUTHORIZATION.—The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by the treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, Colorado, in order that water flowing from the Leadville Tunnel shall meet water quality standards.

(b) COSTS NONREIMBURSABLE.—Construction, operation, and maintenance costs of the works authorized by this section shall be nonreimbursable.

(c) OPERATION AND MAINTENANCE.—The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this Act. The Secretary may contract for services to carry out this subsection.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated beginning October 1, 1989, to carry out this title $20,000,000 (based on January 1989 prices), $2,000,000 of which shall be for the fish and wildlife restoration program authorized in section 704 of this title. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by this Act.

SEC. 703. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel, Colorado.

SEC. 704. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, is authorized, in consultation with other Federal entities and the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River Basin impacted by the effluent discharge from the Leadville Mine Drainage Tunnel, Colorado. The formulation of the program under this section shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO CONGRESS.—At least sixty days prior to implementing a program under subsection (a), the Secretary shall submit a report outlining a proposed program for carrying out subsection (a), including estimated costs, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 705. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the provisions of subsection (e) of this section, the Secretary is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal, local, and private entities, to conduct investigations of water pollution sources and impacts attributed to mining and other development in the Upper Arkansas River Basin, to develop corrective action plans for such basin, and to implement corrective action demonstration projects for such basin. The Upper Arkansas River Basin is defined as the hydrologic basin of the Arkansas River in Colorado extending from Pueblo Dam upstream to the headwaters of the Arkansas River.

(2) LIMITATION.—The Secretary shall have no authority to implement corrective action demonstration projects under this section at facilities which have been listed or proposed for listing on the national priorities list or are subject to or covered by the Solid Waste Disposal Act.

(b) LIABILITY.—Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for costs or damages as a result of actions taken or omitted in the course of implementing an action developed under this section. This subsection shall not preclude liability for costs or damages as the result of negligence on the part of such persons.

(c) FUNDING.—In carrying out this section, the Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans required in subsection (a). The Federal share of costs for the implementation of corrective action plans as authorized in subsection (a) shall not exceed 50 percent.

(d) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects under this section shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations issued under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(e) SUBMISSIONS OF PLANS TO CONGRESS.—At least sixty days prior to implementing any corrective action demonstration project under this section, the Secretary shall submit a copy of the proposed project plans, including estimated costs, to the Speaker of the House of Representatives and President pro tempore of the Senate.

(f) EFFECT ON CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601). The development of corrective action plans and implementation of corrective action demonstration projects shall be exclusive of all enforcement actions under such Act. It is not the intent of this title to relieve non-Federal potentially responsible parties of their liability under such Act.

SEC. 706. DEFINITION.

As used in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VIII—LAKE MEREDITH PROJECT

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 902. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0-07-70-W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 905. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT

SEC. 1001. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

SEC. 1002. AUTHORIZATION FOR LONG-TERM CONTRACT FOR WATER DELIVERY.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary of the Interior is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation Laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XI—SALTON SEA RESEARCH PROJECT

SEC. 1101. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 25 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85-78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIII—NAME CHANGE

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—EXCESS STORAGE AND CARRYING CAPACITY

SEC. 1401. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

TITLE XV—AMENDMENT TO THE RECLAMATION PROJECT ACT OF 1939

SEC. 1501. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

TITLE XVI—WATER RECLAMATION AND REUSE

SEC. 1601. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the city of San Diego, California, in the *conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 percent of the total cost of the study.*

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1601 of this title.

TITLE XVII—RECLAMATION REFORM ACT OF 1982

SEC, 1701. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1991".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97–293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 1702. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition after paragraph 2, and redesignating the subsequent paragraphs accordingly:

"(3)(A) The term 'farm' or 'farm operation' means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof.

"(B) The following arrangements and transactions, if negotiated at arms length between unrelated parties, shall not be factors for the purpose of determining the existence of a farm or farm operation:

"(i) Participation in a bona fide cooperative;

"(ii) Entering into an agreement in which each party bears the risk of loss individually for: (I) the use of equipment or labor; (II) processing, handling, brokering, or packing crops; (III) ginning cotton; (IV) purchasing seed; (V) purveying water; or (VI) other similar agreements;

"(iii) Entering into financial transactions involving land or crop loans, in which the lender has no interest in providing farm services of any kind (except in a fiduciary capacity as trustee), including, but not limited to, the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interests in a crop or land solely for the purposes of obtaining repayment of a loan;

"(iv) Entering into (or exercising rights under) an agreement to assure or require bona fide quality control measures and/or the right to take control of farming operations in order to ensure quality control; or

"(v) Entering into an agreement for custom farming or farm management services if the custom farmer or farm manager does not bear a direct risk of loss in the crop.

"(C) With respect to activities between 'related parties', as defined in section 267(b) of the Internal Revenue Code of 1986, the Secretary shall certify that a farm or farm operation does not exist based on information supplied by such parties if such information indicates that all such activities were entered into and performed at arms length."

SEC. 1703. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 1704. TRUSTS.

Section 214 of the Act is amended by adding the following new subsections.

"(c) The ownership and pricing limitations of this Act and the ownership limitations of any other provision of Federal reclamation law shall apply to a beneficiary of a trust in the same manner as any other individual.

"(d) The ownership and pricing limitations of this Act and the ownership limitations in any other provisions of Federal reclamation law shall apply to lands which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the land served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title, as follows:

"(1) For trusts established on or before June 14, 1990 and benefitting 25 individuals or less, the ownership limitations shall go into effect nine years after enactment of these amendments, and the pricing limitations shall go into effect pursuant to sections 203 and 205, as applicable;

"(2) For trusts established on or before June 14, 1990 and benefitting more than 25 individuals, one hundred and eighty days after enactment of these amendments; and

"(3) For trusts established subsequent to June 14, 1990 upon the enactment of these amendments."

Section 205 is amended by adding a new subsection (d) as follows:

"(d) Any trust benefitting 25 individuals or less shall not, under any circumstances, be eligible to receive water at less than full cost on more than 960 acres of Class I land or the equivalent thereof. Full-cost pricing resulting from the application of this subsection shall be phased in over three years, that being of the difference between the applicable nonfull cost rate and the then existing full-cost rate for the first, second, and third calendar years, respectively, following the effective date of these amendments.".

SEC. 1705. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law. Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

SEC. 1706. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 1707. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(1) inserting "(a)" after "SEC. 219"; and

(2) inserting at the end the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: Provided, That the entity or organization directly uses the proceeds of the lease only for charitable purposes: Provided further, That the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 1708. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(8) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(10) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

SEC. 1709. ASSESSMENT REVIEW.

The Secretary shall review on a case-by-case basis the full cost charges applied to prior law recipients who filed irrevocable elections pursuant to section 203(b) of the 1982 Act between May 13, 1987 and January 1, 1988. Upon completion of such review, the Secretary shall determine, taking into account all relevant information, whether or not the full cost charges assessed of said prior law recipients are appropriate. Based upon such determination, the Secretary may reduce or rescind said charges accordingly: Provided, That the Secretary shall inform by letter report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of any intent to reduce or rescind such charges and that such reduction or rescission shall not take place until after the passage of ninety calendar days after the receipt by the respective Committees of the letter report. The Secretary shall consult with the Office of the Inspector General of the Department of the Interior in the preparation of such report.

SEC. 1710. APPLICATION TO INDIAN LANDS.

The Act (43 U.S.C. 390aa et seq.) is amended by adding at the end the following new section:

"SEC. 231. APPLICATION TO INDIAN LANDS.

"Nothing in this title shall apply to trust or restricted Indian lands.".

TITLE XVIII—GRAND CANYON PROTECTION

SEC. 1801. SHORT TITLE.

This title may be cited as the "Grand Canyon Protection Act".

SEC. 1802. FINDINGS.

The Congress finds the following:

(1) Current operating procedures at Glen Canyon Dam, including fluctuating water releases made for the production of peaking hydroelectric power, have substantial adverse effects on downstream environmental and recreational resources, including resources located within Grand Canyon National Park. Flood releases from Glen Canyon Dam have damaged beaches and terrestrial resources. Damage from flood releases can be reduced if the frequency of flood releases is reduced, as has been the practice in recent years.

(2) The Secretary announced on July 27, 1989, the preparation of an environmental impact statement to evaluate the impacts of Glen Canyon Dam operations on downstream environmental and recreational resources. Based in part on information developed during the environmental impact statement process, the Secretary will be in a position to make informed decisions regarding possible changes to current operating procedures for Glen Canyon Dam.

(3) The adverse effects of current operations of Glen Canyon Dam are significant and can be at least partially mitigated by the development and implementation of interim operating procedures pending the completion of an environmental impact statement, the Glen Canyon Environmental Studies, and the adoption of new long-term operating procedures for Glen Canyon Dam.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "Colorado River Compact" means the compact consented to by the Act of August 19, 1921 (chapter 72; 42 Stat. 171) and approved by section 13(a) of the Act of December 21, 1928 (45 Stat. 1064);

(2) the term "Upper Colorado River Basin Compact" means the compact consented to by the Act of April 6, 1949 (63 Stat. 31); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 1804. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures in such a manner as to protect, mitigate adverse impacts to, and improve the condition of, the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, under operating procedures that are subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to the allocation of the Colorado River.

(b) AMENDMENT OF CRSP.—The Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.; commonly referred to as the "Colorado River Storage Project Act"), is amended as follows:

(1) In section 3, by adding at the end the following: "It is the further intention of Congress that the Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures, so as to protect, mitigate damages to, and improve the condition of the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to allocation of the Colorado River.".

(2) In the first sentence of section 7, by striking "Acts." and inserting "Acts, nor shall the Secretary operate the hydroelectric powerplant at Glen Canyon Dam in a manner which causes significant and avoidable adverse effects on the environmental, cultural, or recreational resources of Glen Canyon National Park or Glen Canyon National Recreation Area downstream of Glen Canyon Dam.".

(c) PROMULGATION OF OPERATING PROCEDURES.—The Secretary shall promulgate interim and long-term operating procedures for Glen Canyon Dam as set forth in sections 1805 and 1806, which procedures shall be consistent with the requirements of this section, and, if necessary, shall take other reasonable mitigation measures.

(d) DISCLAIMER.—Nothing in this title alters or may be construed to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or to affect in any manner the authority and responsibility of the Secretary with respect to the management and administration of such areas, including natural and cultural resources, and visitor use, as provided by laws applicable to such areas, including (but not limited to) the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1805. INTERIM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and pending compliance by the Secretary with the requirements of section 1806, the Secretary shall, not later than October 1, 1991, or upon cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989, whichever is earlier, develop and implement interim operating procedures for Glen Canyon Dam. Such procedures shall—

(1) not interfere with the primary water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River;

(2) minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam;

(3) adjust fluctuating water releases caused by the production of peaking hydroelectric power and adjust rates of flow changes for fluctuating flows that will minimize, to the extent reasonably possible, adverse downstream impacts;

(4) minimize flood releases, consistent with the requirements of section 1804 of this title;

(5) maintain sufficient minimum flow releases at all times from Glen Canyon Dam to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and to protect fishery resources; and

(6) limit maximum flows released during normal operations to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam and to protect fishery resources.

(b) CONSULTATION.—The Secretary shall develop and implement the interim operating procedures described in subsection (a) in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) affected Indian tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) SCIENTIFIC DATA.—The Secretary shall develop and implement the interim operating procedures referred to in this section using the best and most recent scientific data available, including the scientific information collected and analyzed as part of the Glen Canyon Environmental Studies.

(d) TERMINATION.—The interim operating procedures described in this section shall terminate upon compliance by the Secretary with the requirements of section 1806 of this title.

(e) DEVIATION FROM PROCEDURES.—The Secretary may deviate from the interim operating procedures described in this section upon a finding that such deviation is necessary and in the public interest in order to—

(1) comply with the requirements of section 1806(a) of this title;

(2) respond to hydrologic extremes or power system operating emergencies; or

(3) further reduce adverse impacts on environmental, cultural, or recreational resources downstream from Glen Canyon Dam.

SEC. 1806. GLEN CANYON ENVIRONMENTAL STUDIES; GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; AND LONG-TERM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) EIS.—The Secretary shall, not later than December 31, 1993, complete the final Glen Canyon Dam Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and in addition shall complete the Glen Canyon Environmental Studies. In preparing the environmental impact statement, the Secretary shall consider the views and conclusions of all cooperating government agencies, affected Indian tribes, and the general public. The Secretary shall make use of the best and most recent scientific data and studies in preparing the environmental impact statement, including the scientific information collected and analyzed as part of the Glen Canyon Environment Studies.

(b) REVIEW.—The Comptroller General of the United States shall review, in accordance with the standards set forth in the United States Water Resource Council's March 10, 1983, Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the draft of the environmental impact statement referred to in subsection (a). The Comptroller General shall report the results of the review to the Secretary and the Congress within one year after publication of the draft environmental impact statement.

(c) IMPLEMENTATION.—(1) Based on the findings, conclusions, and recommendations made in the studies, the statement prepared pursuant to subsection (a), and the review performed pursuant to subsection (b), the Secretary shall, within ninety days following completion of the final environmental impact statement or completion of the Comptroller General's review, whichever is later, implement long-term operating procedures for Glen Canyon Dam that will, alone or in combination with other reasonable mitigation measures, ensure that Glen Canyon Dam is operated in a manner consistent with this Act. Such procedures shall not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River.

(2) Upon completion of the requirements of paragraph (1), the Secretary shall submit to the Congress—

(A) the studies and the statement completed pursuant to subsection (a); and

(B) a report describing the long-term operating procedures for Glen Canyon Dam and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural, and recreational resources of the Colorado River downstream of Glen Canyon Dam.

(d) Annual Report.—Annually after the date of the implementation of the procedures under subsection (c)(1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), on the operation of the Glen Canyon Dam during the preceding year and the projected year operations undertaken pursuant to this title. In the process of preparing the long-term operating procedures, the annual plans of operation described in this section, and the annual report specified in section 602(b) of the Colorado River Basin Project Act, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1807. LONG-TERM MONITORING.

The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with the requirements of section 1804 of this title. Such long-term monitoring shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1806(c)(1) of this title upon the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area. These monitoring programs and activities shall be established and implemented in consultation with the Secretary of Energy; the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; affected Indian tribes, and the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry and the contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 1809. SAVINGS.

Nothing in this title shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or, except as provided in section 1805, of this title, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or other existing laws relating to environmental or natural resources protection, with regard to the operation of Glen Canyon Dam.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1991".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota;

(3) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(4) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(5) the term "Secretary" means the Secretary of the Interior;

(6) the term "summer electrical season" means May through October of each year;

(7) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(8) the term "Western" means the Western Area Power Administration;

(9) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report;

(10) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990; and

(11) the term "wetland trust" means a trust established in accordance with section 11(b) and operated in accordance with section 11(c).

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) In General.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) Service Area.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetland areas, and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) Terms and Conditions.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) Amount of Grants.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) Loan Terms.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) Coordination With the Department of Agriculture.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) Initial Development.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) Operation and Maintenance.—The Secretary shall make a grant, providing not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) Nonreimbursement.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) Withholding of Funds.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) Purpose of Programs.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) Description of Programs.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more

than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre for acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) In General.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) Conditions.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.,

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1911. WETLAND TRUST.

(a) Federal Contributions.—The Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) Establishment of Wetland Trust.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) Operation of Wetland Trust.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: Provided, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) Investment of Wetland Trust Funds.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) Coordination With the Secretary of Agriculture.—

(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities

under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 1912. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There are authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available until expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904;

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904; and

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1911.

TITLE XX—LAKE ANDES-WAGNER, SOUTH DAKOTA

SEC. 2001. DRAINAGE DEMONSTRATION PROGRAMS.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, in coordination with the Secretary of Agriculture and with the assistance and cooperation of an oversight committee (hereafter "Oversight Committee") consisting of representatives of the Bureau of Indian Affairs, Agricultural Research Service of the Department of Agriculture, Soil Conservation Service of the Department of Agriculture, Extension Service of the Department of Agriculture, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water System, Inc. carry out a demonstration program (hereafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such Demonstration Program shall be conducted in accordance with the environmental analysis and documentation requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The objectives of the Demonstration Program shall include—

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements, and providing reliable estimates of drainage return flow quality and quantity, with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water, and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of agricultural commodities for which an acreage reduction program is not in effect under the provisions of the Agriculture Act of 1949 (7 U.S.C. 1462 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions—

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply all water, delivery system, pivot systems and drains;

(B) operation and maintenance of the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment;

(D) Secretary of Agriculture to determine crop rotations and cultural practices; and

(E) Secretary and Secretary of Agriculture to have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may, in accordance with the Demonstration Program contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their preleased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary of Agriculture. Any crops not sold shall be disposed of as the Secretary of Agriculture determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Interior and Insular Affairs, the Committee on Agriculture, and the Committee on Merchant Marine and Fisheries of the House of Representatives, to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out in the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare in coordination with the Secretary of Agriculture a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds in amounts sufficient to offset expenses incurred under this title.

SEC. 2002. PLANNING REPORTS—ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2001, the Secretary shall comply with the study and reporting requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof with respect to the Lake Andes-Wagner Unit and Marty II Unit. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Department shall not recommend that any such Unit be constructed unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid all adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

SEC. 2003. INDIAN EMPLOYMENT.

In carrying out this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions training and employment opportunities shall be provided members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2004. FEDERAL RECLAMATION LAWS.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof).

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program authorized by this title.

Of the amounts appropriated pursuant to this section, 5 percent of the total shall be utilized by the Director of the United States Fish and Wildlife Service to fund projects on Western National Wildlife Refuges designed to mitigate the adverse effects of selenium on populations of fish and wildlife within such refuges.

TITLE XXI—INSULAR AREAS STUDY

SEC. 2101. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these insular areas require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2102. AUTHORIZATION OF STUDY.

The Secretary of the Interior is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of these insular areas.

SEC. 2103. REQUIREMENTS OF STUDY.

Such study shall include for each jurisdiction, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and

(5) specific recommendations for the role of the Federal Government and each insular government in solving the needs.

SEC. 2104. THE INSULAR AREAS ENERGY ASSISTANCE AMENDMENT OF 1991.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96–597, as amended by Public Law 98–213 (48 U.S.C. 1492), is amended by adding the following subsection:

"(g)(1) There are hereby authorized to be appropriated $500,000 to the Secretary of Energy for each fiscal year for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) The ease and costs of operation and maintenance of any facility contemplated as part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section; and

"(D) whether the measure will contribute significantly to the quality of the environment in the insular area.".

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO DAM AND RESERVOIR, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. I1r–1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) In General.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. I1r–1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) Title.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) Amendments to Contract.—The Secretary is authorized to enter into such other amendments to such Contract Numbered I1r–1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) Conditions Imposed Upon the District.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: Provided, however, That if necessary to maintain the winter instream flow provided in subparagraph (3), the perma-

nent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of at least 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to monitor operation of Platoro Reservoir regularly including releases from it for instream flow purposes and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) Flood Control Management.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) Compliance With Compact and Other Laws.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—SLY PARK UNIT, CENTRAL VALLEY PROJECT

SEC. 2401. SHORT TITLE.

This title may be cited as the "Sly Park Unit Sale Act".

SEC. 2402. SALE OF THE SLY PARK UNIT.

(a) In General.—The Secretary shall, as soon as practicable after the date of enactment of this title, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) Sale Price.—The sale price shall not exceed—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852) up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (14-06-200-949) between the United States and the El Dorado Irrigation District.

(c) Terms of Payment.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semiannual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) Conveyance.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2403. DEFINITIONS.

For purposes of this title, the term:

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means the Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852).

TITLE XXV—COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES

SEC. 2501. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) two years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) four years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3)(A) The Secretary shall credit against any additional payment obligation established by this subsection 70 percent of the costs incurred by individuals or districts subject to the provisions of this subsection during the period beginning on the date of enactment of this subsection and ending on December 31, 1996, up to a maximum cost of $100 per irrigated acre, for the installation of water conservation measures approved by the Secretary. The Secretary shall grant such credit only upon finding that installation of such measures, and any mitigation pursuant to subparagraph (B), have been completed. Credit that exceeds such repayment obligation in any one year shall be applied in each succeeding year until fully utilized. Within one year from the date of enactment of this subsection, the Secretary shall promulgate rules to carry out the provisions of this paragraph.

"(B) Mitigation for fish and wildlife habitat losses, if any, incurred as a result of the installation and operation of such water conservation measures shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with installation of such conservation measures, and shall be the responsibility of the individual or district served by such measures.

"(4) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(5) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), 100 Stat. 418; and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g-1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$34,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—SOLANO PROJECT TRANSFER AND PUTAH CREEK IMPROVEMENT

SEC. 2701. SHORT TITLE.

This title may be cited as the "Solano Project Transfer and Putah Creek Improvement Act".

SEC. 2702. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Solano Project is a Federal reclamation project located in Solano, Yolo, and Napa Counties, California. The project was constructed by the United States between 1953 and 1958 for the purposes of providing water supply and incidental flood control benefits;

(2) the Solano Project supplies approximately 65 per centum of Solano County's public water supply;

(3) the California State Water Resources Control Board has granted, pursuant to California law, water rights permits to the Bureau of Reclamation for the Solano Project which establish that Solano County is the place of use for Solano Project water, with the exception of four thousand acre-feet used annually by the University of California-Davis in Yolo County pursuant to contract, and with a provisional reservation of up to thirty-three thousand acre-feet for the Putah Creek watershed above Monticello Dam;

(4) repayment of the Solano Project's reimbursable capital costs is the exclusive obligation of the Solano County Water Agencies, and said agencies have repaid more than half of these costs;

(5) the Solano County Water Agencies perform all operation and maintenance for the Solano Project under contract with the United States, and they have paid all operation and maintenance costs of the project;

(6) the Solano Project has no financial or physical interconnection with any other local, State, or Federal water project;

(7) the Solano Project impounds and diverts the waters of Putah Creek, which support riparian habitat, including a riparian reserve operated by the University of California, and both a cold water fishery and a warm water fishery;

(8) the United States Fish and Wildlife Service currently is preparing a Putah Creek Resource Management Plan; and

(9) interested local public agencies and private organizations in Solano and Yolo Counties have formed an advisory group to provide advice regarding Putah Creek enhancement activities.

(b) PURPOSES.—The purposes of this title are—

(1) to convey to the Water Users fee title to the water supply facilities of the Solano Project upon payment to the United States by the Water Users of the sum calculated in accordance with section 2704 of this title;

(2) to provide for continuation of all public benefit purposes of the Solano Project;

(3) to protect Putah Creek fisheries, wildlife and riparian habitat, ground water recharge and diversion rights downstream of the Putah Diversion Dam in conformance with all applicable decisions and orders of the California State Water Resources Control Board and courts of competent jurisdiction, and all applicable State laws;

(4) to provide for enhancement of Putah Creek fisheries, wildlife and riparian habitat;

(5) to provide the Water Users with local ownership over their principal public water supply facilities;

(6) to eliminate significant Federal liabilities; and

(7) to benefit the Federal Treasury from such payment and title transfer.

SEC. 2703. DEFINITIONS.

For the purposes of this title, the term:

(a) "Book value" of the water supply facilities means an amount which equals the product of the depreciable facilities costs and the applicable depreciation factor.

(b) "Capital/O&M adjustment" means the amount in arrears, if any, of capital repayments or operation and maintenance expenses due pursuant to the water service contract, plus accrued interest.

(c) "Construction defect and dam safety adjustment" means $7,270,000 for purposes of this Act.

(d) "Depreciable facilities costs" means the reimbursable capital costs of the water supply facilities of the Project which are to be transferred.

(e) "Depreciation factor" means a percentage derived by calculating the number and fraction of years between the date of purchase and the year 2033 and then dividing by 75.

(f) "Interim water releases" means: (1) releases into Lower Putah Creek of water owned by the Water Users, or any constituent entity thereof, in an amount not to exceed 2,700 acre-feet in 1991 and 3,000 acre-feet in 1992; and (2) releases into lower Putah Creek of water owned by the Yolo County Entities, or any member thereof, in an amount not to exceed 3,000 acre-feet in either 1991 or 1992.

(g) "Lower Putah Creek Coordinating Committee" means an advisory committee established to assist the Secretary in coordinating Federal, State and local efforts to protect and enhance the habitat of Putah Creek. This Committee is to consist of a maximum of fourteen members, up to seven of which are to be appointed by the Water Users and up to seven of which are to be appointed by the Yolo County Entities. The Committee is not an agency or establishment of the United States.

(h) "Lower Putah Creek" means that portion of Putah Creek extending from the Putah Diversion Dam to the Yolo Bypass in Yolo County, California.

(i) "Reimbursable capital costs" means the original reimbursable costs of the Solano Project, as set forth in the Bureau of Reclamation document entitled "Solano Project Statement of Project Construction Cost and Repayment," dated September 30, 1989 ("Solano Project Statement") attached as Appendix "A" in the report accompanying H.R. 429.

(j) "Remaining indebtedness" means the remaining balance of the reimbursable capital costs of the Solano Project, as set forth in the Solano Project Statement, and as adjusted thereafter to reflect any payments made prior to the date of transfer.

(k) "Secretary" means the Secretary of the Interior.

(l) "Solano County Water Agencies" means one or more public agencies in Solano County which have used water from the Solano Project and who are member agencies of the Water Users.

(m) "Solano Project" means the reclamation project described in House Document Numbered 65, Eighty-first Congress, first session (1949).

(n) "Water service contract" means the contract between the United States and the Solano County Flood Control and Water Conservation District for water service and for operation and maintenance of certain works of the Solano Project, dated March 7, 1955 (Contract No. 14-06-200-4090).

(o) "Water supplies facilities" means—

(1) the Monticello Dam and spillway;

(2) Lake Solano, its lands and facilities, and the Putah Diversion Dam;

(3) the Putah South Canal; and

(4) all appurtenant facilities, lands, easements and rights-of-way.

This term does not include Lake Berryessa, its shoreline or any recreational features of the Solano Project, excepting recreational facilities leased and operated by Solano County on lands surrounding Lake Solano.

(p) "Water Users" means a public agency formed under the laws of the State of California duly organized and existing—

(1) including all member public agencies of the Solano Water Authority and the Solano County Water Agency, public agencies formed under the laws of the State of California;

(2) having a governing board in which a majority of the members are representatives of those local entities holding contracts for water from the Solano Project on the date of enactment of this title; and

(3) approved by both the Solano Water Authority and the Solano County Water Agency.

(q) "Yolo County Entities" means a group consisting of authorized representatives of the county of Yolo, the Yolo County Flood Control and Water Conservation District, the city of Davis, the city of Winters, the University of California at Davis, and the Putah Creek Council.

(r) "Uncontrolled Releases" means water bypassed or released at the Putah Diversion Dam which is not required to be released pursuant to section 2706(c) of this title, or to meet contract or state-law requirements.

SEC. 2704. TRANSFER OF THE SOLANO PROJECT WATER SUPPLY FACILITIES, OPERATIONS AGREEMENT AND PAYMENT.

(a) AGREEMENT.—The Secretary shall, as soon as practicable after the date of enactment of this title, enter into an agreement with the Water Users for the implementation of section 2705(b) of this title.

(b) The Secretary shall, upon execution of the agreement described in section 2704(a) of this title and payment of the sum calculated in accordance with section 2704(c) of this title, and subject to the provisions of sections 2706(a) and 2707(a) of this title, transfer to the Water Users all right, title and interest in and to the water supply facilities of the Solano Project described in section 2703(o).

(c) PRICE.—The price paid by the Water Users for the water supply facilities of the Solano Project shall be the amount which is the total of—

(1) the remaining indebtedness;

(2) the book value of the water supply facilities;

(3) any capital/O&M adjustment amount; and

(4) all administrative costs incurred by the United States in effectuating the agreement and the transfer, less

(5) the dam safety and construction defect adjustment: Provided, however, That in no event shall the sum determined in subparagraphs (1)-(5) of this subsection above be less than 66 per centum of the original reimbursable capital costs of the water supply facilities of the Solano Project which are to be transferred.

SEC. 2705. RESPONSIBILITIES OF THE WATER USERS.

(a) Upon transfer of the water supply facilities, the Water Users shall, except as provided in this title: (1) assume all liability for administration, operation, and maintenance of said facilities and continue to provide for the operation thereof for the authorized Solano Project purposes including (but not limited to) all water supply contracts heretofore entered into by the Secretary; (2) protect Putah Creek fisheries, wildlife, riparian habitat, ground water recharge, and downstream diversion rights, including adhering to minimum water release schedules for Putah Creek downstream of Monticello Dam and Putah Diversion Dam in conformance with all applicable decision and orders of the State of California Water Resources Control Board and courts of competent jurisdiction and all applicable State laws; and (3) continue to provide the incidental flood control benefits currently enjoyed by downstream property owners on Putah Creek.

(b) The Water Users shall cooperate with the United States and the Lower Putah Creek Coordinating Committee to implement the supplemental releases for Putah Creek enhancement purposes mandated by section 2704. Such cooperation may include releasing Solano Project water from Monticello Dam and past the Putah

Diversion Dam into Lower Putah Creek in exchange for water provided by the Secretary from other sources: Provided, That the Secretary shall pay the Water Users any actual costs that they may incur as a result of such exchange, less any savings that result from such exchange.

SEC. 2706. RESPONSIBILITIES OF THE UNITED STATES

(a) PRETRANSFER CONFIRMATION.—The Secretary may not transfer title to the water supply facilities of the Solano Project unless the Secretary confirms that all of the Solano Project member units have executed an agreement addressing their respective contractual entitlements. These member units are the city of Fairfield, Maine Prairie Water District, Solano Irrigation District, city of Suisun City, city of Vacaville, city of Vallejo, California Medical Facility, and University of California, Davis.

(b) RECREATION.—(1) The Secretary shall be responsible for, and retain full title to and jurisdiction and control over the surface of Lake Berryessa and Federal lands underlying and surrounding the Lake, and shall retain full title to all Lake Berryessa recreational facilities, exclusive of those properly constructed by concessionaires under applicable contracts; concessionaire contracts, interests in real property associated therewith; and similar associated rights and obligations. The Secretary shall consult with the State of California and local governments in Napa County, California, prior to implementing any change in operating procedures for such lands. The Secretary is authorized to enter into contracts or other agreements with Napa County, California, regarding land use controls, law enforcement, water supply, wastewater treatment, and other matters of concern within the boundaries of lands surrounding Lake Berryessa that were originally included in the lands acquired from the Solano Project.

(2) The Secretary, acting through the Bureau of Reclamation, is authorized to obtain water from Lake Berryessa consistent with its existing State water rights permit for recreational or other resource management purposes at Lake Berryessa, including that required for concession operation, in the manner, amounts, and at times as may be determined by the Bureau of Reclamation.

(3) The Secretary, acting through the Bureau of Reclamation, is authorized to make available, subject to appropriation, funds collected from recreation entrance and user fees, to local and/or State law enforcement agencies to enforce rules and regulations as are necessary for regulating the use of all project lands and waters associated with Lake Berryessa, and to protect the health, safety, and enjoyment of the public, and ensure the protection of project facilities and natural resources.

(4) The Secretary is hereby authorized to enter into joint future projects with Lake Berryessa concessionaires to develop, operate, and maintain such short-term recreational facilities as he deems necessary for the safety, health, protection, and outdoor recreational use by the visiting public, and, to amend existing concession agreements, including extending terms as necessary for amortization of concessionaire investments, to accommodate such joint future projects.

(5) The Secretary is authorized to assist, or enter into agreements with the State of California, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the planning, development and construction of water and wastewater treatment systems, which would result in the protection and improvement of the waters of Lake Berryessa.

(6) Funds collected from recreation entrance and user fees may be made available, subject to appropriation, for the operation, management and development of recreational and resource needs at Lake Berryessa.

(7) No activities upon the recreational interests hereby reserved to the United States shall, as determined by the Secretary after consultation with the Water Users, burden the Water Users' use of the water supply facilities of the Solano Project, reduce storage capacity or yield of Lake Berryessa, or degrade the Solano Project's water quality, except that, as described in subsection (b)(2) of this section, water will be made available for recreational and resource management purposes: And provided further, That this subsection will not apply to the particular Lake Berryessa recreational uses and operating procedures in existence on the date of the enactment of this legislation.

(8) Notwithstanding any provision in subsection (b) of this section, before the Secretary takes any action authorized by this subsection, including but not limited to the selection and/or approval of the Reservoir Area Management Plan (RAMP) for Lake Berryessa and surrounding lands, the Secretary shall consult with the County of Napa and determine that the proposed action is consistent with the Napa County General Plan, as amended.

(c) PUTAH CREEK ENHANCEMENT.—(1) The Secretary is authorized and directed to participate in a program to enhance the instream, riparian and environmental values of Putah Creek. Such program shall be at full Federal cost, shall cause no reduction in Solano Project supplies, and shall include but need not be limited to the following—

(A) the Secretary shall consult with the Lower Putah Creek Coordinating Committee and the Water Users and take appropriate actions to implement the recommendations contained in the United States Fish and Wildlife Service's Putah Creek Resource Management Plan;

(B) in order to enhance flows in Putah Creek which are prescribed by the California State Water Resources Control Board or courts of competent jurisdiction, arrangements as are necessary shall be made to provide at no net cost to any other party 3,000 acre-feet of supplemental water supply for releases into Putah Creek during "normal years," and 6,000 acre-feet of supplemental water supply for releases into Putah Creek during "dry years." "Normal years" are water years in which the total inflow into Lake Berryessa is greater than or equal to 150,000 acre-feet. "Dry years" are water years in which the total inflow into Lake Berryessa is less than 150,000 acre-feet. For the purposes of this paragraph, "water year" means each twelve month period beginning on October 1 and ending on the next September 30. These amounts to be released shall be in addition to any uncontrolled releases. The schedule for said supplemental releases shall be developed by the Secretary after consultation with the Lower Putah Creek Coordinating Committee. The Secretary is hereby authorized to enter into such agreements as may be necessary to effectuate this subsection;

(C) for purposes of more efficiently conveying and distributing to Lower Putah Creek such supplemental supplies and any additional amounts that the California State Water Resources Control Board or courts of competent jurisdiction may deem appropriate, the Secretary is authorized to construct water conveyance and distribution facilities at a cost of approximately $3,000,000; and

(D) to compensate for the cost associated with the 1991–1992 interim water releases, as defined in subsection 3(f), the Secretary is authorized and directed to supply to the Water Users and/or Yolo County Entities, or any member entities thereof providing the interim water releases, water in an amount equal to those interim water releases actually made or, in the alternative, to reimburse the parties making such releases for all costs associated with such releases.

(2) There are hereby authorized to be appropriated such sums as may be necessary to implement subsections (B), (C), and (D) of this section.

SEC. 2707. PAYMENT.

(a) PAYMENT.—The Secretary shall transfer all right, title, and interest in and to the water supply facilities of the Solano Project to the Water Users after the Secretary has received notification that the Water Users have made the payment specified in section 2704(b).

(b) DISPOSITION OF PAYMENT.—(1) All proceeds from the transfer of the Solano Project will be dedicated to environmental purposes. Eighty percent of the price paid for the water supply facilities of the Solano project as specified in section 4(c) shall be deposited in a separate account by the Secretary. Interest from such account shall be utilized by the Secretary for matching grants with nonprofit organizations and institutions in California for fish and wildlife conservation. The remaining 20 percent paid for the water supply facilities shall be expended by the Secretary for the purpose of protecting and enhancing Lower Putah Creek, and may include expenditures for the purposes of acquiring property, including water rights, making improvements to property, and conducting studies and wildlife management activities. The portion of sale proceeds designated for Lower Putah Creek protection and enhancement shall thereafter be maintained by the Secretary in a separate account. Monies and interest from such account may be expended by the Secretary for the sole purpose of funding projects designed for Lower Putah Creek protection and enhancement purposes, including the payment of direct costs associated with meeting with Secretary's responsibilities under section 2706(c)(1)(B) of this title, in accordance with criteria developed by the Secretary in consultation with the Lower Putah Creek Coordinating Committee.

(2) All funds under this section shall be available only to the extent provided in an annual appropriation for such purposes.

SEC. 2708. VESTED RIGHTS AND STATE LAWS UNAFFECTED.

Nothing in this title shall—

(a) be construed as affecting or intending to affect or to interfere in any way with the State laws relating to the control, appropriation, use, or distribution of water used for the Solano Project, or any vested right acquired thereunder; and

(b) in any way affect or interfere with State laws relating to the protection of fish and wildlife or instream flow requirements, or any right of the State of California or any landowner, appropriator, or user of surface water or ground water in, to, from or connected with Putah Creek or its tributaries.

TITLE XXVIII—DESALINATION

SEC. 2801. TECHNICAL ASSISTANCE.

The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalination projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an

amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) Conditions.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau of Reclamation.

(2) The credit is effective on the date the pumps were delivered to the Bureau of Reclamation for installation at Folsom Dam.

TITLE XXX—TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

SEC. 3001. INSTREAM RELEASES FROM THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, FOR FISHERY RESTORATION AND FULFILLMENT OF FEDERAL TRUST RESPONSIBILITIES.

(a) Instream Releases.—In order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to achieve the fishery restoration goals of the Act of October 24, 1984 (98 Stat. 2721, Public Law 98–541), for water years 1992 through 1996, the Secretary of the Interior, through the Trinity River Division of the Central Valley Project, shall provide an instream release of water to the Trinity River for the purposes of fishery restoration, propagation, and maintenance of not less than 340,000 acre-feet per year. For any water year during this period for which the forecasted inflow to the Central Valley Project's Shasta Reservoir equals or exceeds 3,200,000 acre-feet, based on hydrologic conditions as of June 1 and an exceedance factor of 50 percent, the Secretary shall provide an additional instream fishery release to the Trinity River of not less than 10 percent of the amount by which forecasted Shasta Reservoir inflow for that year exceeds 3,200,000 acre-feet.

(b) Completion of Study.—By September 30, 1996, the Secretary, with the full participation of the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.

(c) Study Recommendations.—Not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subsection (b) of this section, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established in subsection (a) and the operating criteria and procedures referred to in subsection (b) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established in subsection (a) shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe.

TITLE XXXI—BUY AMERIÇAN PROVISIONS

SEC. 3101. BUY AMERICAN PROVISIONS.

(a) The Secretary shall insure that the requirements of the Buy American Act of 1933, as amended, apply to all procurements made under this Act.

(b) Determination by the Secretary.—(1) If the Secretary, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(3) Report to Congress.—The Secretary shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(4) Buy American Act Defined.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(c) Restrictions on Contract Awards.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(d) Prohibition Against Fraudulent Use of "Made in America" Labels.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds authorized under this title pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

TITLE XXXII—LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3201. LIMITATION.

Notwithstanding any other provision of law, amounts expended, or otherwise made available, pursuant to this Act when aggregated with all other amounts expended, or otherwise made available, for projects of the Bureau of Reclamation for fiscal year 1992 may not exceed 102.4 percent of the total amounts expended, or otherwise made available, for projects of the Bureau of Reclamation in fiscal year 1991.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT

SEC. 3301. TRANSFERS.

The Secretary of the Interior is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande Project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assumes the responsibility for operating and maintaining their portion of the project. Title to, and management and operation of, the reservoirs and the works necessary for their protection and operation shall remain in the United States until otherwise provided by an Act of Congress.

TITLE XXXIV—CENTRAL VALLEY PROJECT REFORM ACT

SEC. 3401. SHORT TITLE.

This Act may be cited as the "Central Valley Project Reform Act".

SEC. 3402. PURPOSES.

The purposes of this Act shall be—

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley basin of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;

(e) to study transfer of the Central Valley Project to non-Federal interests; and for other purposes.

SEC. 3403. DEFINITIONS.

As used in this Act—

(a) the term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

(b) the terms "artificial propagation" and "artificial production" mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production;

(c) the term "Central Valley Habitat Joint Venture" means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California;

(d) the terms "Central Valley Project" or "project" mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts

amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of September 28, 1976 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

(e) the term "Central Valley Project service area" means that area of the Central Valley and San Francisco Bay Area where water service has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project;

(f) the term "Central Valley Project water" means all water that is diverted, stored, or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange contracts" and Sacramento River settlement contracts;

(g) the term "Fish and Wildlife Advisory Committee" means the Central Valley Project Fish and Wildlife Advisory Committee established in section 9 of this Act;

(h) the term "full cost" has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982;

(i) the term "natural production" means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes;

(j) the term "Reclamation laws" means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto;

(k) the term "Refuge Water Supply Report" means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the United States Department of the Interior entitled Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989);

(l) the terms "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d) and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended;

(m) the terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this Act; and,

(n) the term "Secretary" means the Secretary of the Interior.

SEC. 3404. LIMITATION ON CONTRACTING AND CONTRACT REFORM.

(a) New Contracts.—Except as provided in subsection (b) of this section, the Secretary shall not enter into any new short-term, temporary, or long-term contracts or agreements for water supply from the Central Valley Project for any purpose other than fish and wildlife before—

(1) the provisions of subsections 6(b)–(e) of this Act are met;

(2) the California State Water Resources Control Board concludes its current review of San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards and determines the means of implementing such standards, including any obligations of the Central Valley Project, if any, and the Administrator of the Environmental Protection Agency shall have approved such standards pursuant to existing authorities; and,

(3) at least one hundred and twenty days shall have passed after the Secretary provides a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives explaining the obligations, if any, of the Central Valley Project system, including its component facilities and contracts, with regard to achieving San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards as finally established and approved by relevant State and Federal authorities, and the impact of such obligations on Central Valley Project operations, supplies, and commitments.

(b) Exception to Limit on New Contracts.—In recognition of water shortages facing urban areas of California, and subsection (a) of this section notwithstanding, the Secretary is authorized to make available 100,000 acre-feet of Central Valley Project water for sale through water service contracts not to exceed twenty years in length to any California water district, agency, member district or agency, municipality, or publicly regulated water utility, without discrimination among them, for municipal and industrial purposes, except that no water shall be made available under this subsection until the State of California has entered into a binding agreement with the Secretary concerning the cost allocations set forth in section 6 of this Act. In carrying out this subsection, the Secretary shall—

(1) provide public notice of the availability of such water and be available to receive offers for such water for a period not to exceed one week in duration beginning not less than sixty days after enactment of this Act;

(2) make all such offers public immediately upon completion of the period for submission of bids established under paragraph (1) of this subsection;

(3) take such measures as are necessary to ensure that prospective agency purchasers do not engage in anti-competitive behavior;

(4) accept the offers of the water agency or agencies offering the greatest monetary payments per acre-foot of water made available by the Secretary, except that—

(A) such payment must be greater than $100 per acre-foot of contractual commitment annually and, in addition, cover all Federal costs associated with the proposed sale and delivery;

(B) delivery under the contract must be feasible using existing facilities; and

(C) the proposed use of the water must be consistent with State and Federal law.

All revenues collected by the Secretary from the contract or contracts authorized by this subsection, other than actual operation and maintenance costs, shall be covered into the Restoration Fund.

(c) Renewal of Existing Long-Term Contracts.—Notwithstanding the provisions of the Act of July 2, 1956 (70 Stat. 483), the Secretary may renew any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project for a period not exceeding 20 years, except that the Secretary shall first analyze the impacts of such proposed contract pursuant to Federal and State environmental laws.

(d) Environmental Review of Proposed Contract Renewals.—Not later than three years after the date of enactment of this Act, the Secretary shall prepare a programmatic environmental impact statement analyzing the impacts of the potential renewal of all existing Central Valley Project water contracts, including impacts within the Sacramento, San Joaquin, and Trinity river basins, and the San Francisco Bay/Sacramento-San Joaquin River Delta and Estuary.

(e) Including Results of Environmental Studies.—The provisions of any contract renewed under authority of subsection (c) of this section shall be subject to further modifications by the Secretary based on any environmental impact statements carried out under subsections (c) or (d) of this section.

(f) Water Identified For Fish and Wildlife Purposes.—Any Central Valley Project water service or repayment contract entered into, renewed, or amended under this section shall provide that the Secretary may, under procedures specified in this Act, allocate a portion of the water supply contained in such contract for the purposes specified in section 6 of this Act.

(g) Change in the Application of the 1956 Act.—Notwithstanding any provision to the contrary in any existing contract, the provisions of the Act of July 2, 1956 (53 Stat. 1187, U.S.C.) shall not apply to any Central Valley Project water service or repayment contract entered into, renewed or amended under any provision of the Federal Reclamation law after December 31, 1995. After December 31, 1995, the Secretary shall not be under any obligation to enter into, renew, or amend any water service or repayment contracts in the Central Valley Project with any district or individual who has previously had such a contract prior to the date of enactment of this Act. Any Central Valley Project water service or repayment contract entered into, renewed or amended after the date of enactment of this Act and prior to December 31, 1995 shall contain the renewal provisions of the Act of July 2, 1956 for the term of such contract, and any additional renewals.

SEC. 3405. WATER TRANSFERS, IMPORTED WATER MANAGEMENT AND CONSERVATION.

(a)(1) Water Transfers.—Subject to review and approval by the Secretary, all individuals or districts who receive Central Valley Project water under service or repayment contracts entered into prior to or after the date of enactment of this Act are authorized to transfer all water subject to such contract to any other California water user or water agency, State agency, or private non-profit organization for project purposes or any purpose recognized as beneficial under applicable State law. Except as provided herein, the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

(2) Conditions For Transfers.—Transfers of Central Valley Project water authorized by this subsection shall be subject to the following conditions:

(A) No transfers shall be made in excess of the average annual quantity of water under contract actually delivered to the contracting district or agency between 1985 and 1989.

(B) All water under the contract which is transferred to any district or agency which is not a Central Valley Project contractor at the time of enactment of this Act shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No water transfers authorized under this section shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No water transfer authorized under this section shall be approved unless the transfer is consistent with State law, including but not limited to, the provisions of the California Environmental Quality Act.

(E) All transfers authorized under this section shall be deemed a beneficial use of water by the transferor.

(F) All transfers in excess of 20 percent of the water in any district contract shall be approved by such district based on reasonable terms and conditions. Any review and approval of such transfer by a district shall be undertaken in a public process similar to those provided for in section 226 of Public Law 97–293.

(G) All transfers entered into pursuant to this subsection between Central Valley Project water

contractors and entities outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the transfer.

(H) Any water transfer approved pursuant to this subsection shall not be considered as conferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97–293 (43 U.S.C. 390(cc)).

(I) No transfer shall be approved unless the Secretary has determined that the transfer will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(J) The agricultural water subject to any water transfer undertaken pursuant to this subsection shall be that water that would have been consumptively used on crops had those crops been produced during the year or years of the transfer or water that would have otherwise been lost to beneficial use.

(K) No transfer shall be approved unless the Secretary determines that the program will have no significant long-term adverse impact on groundwater conditions.

(b) METERING OF WATER USE REQUIRED.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with volumetric water meters or equally effective water measuring methods within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the volume of surface water delivered within its boundaries.

(c) STATE AND FEDERAL WATER QUALITY STANDARDS.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries.

(d) WATER PRICING REFORM.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on an inverted block rate structure with the following provisions—

(1) the first rate tier shall apply to a quantity of water up to 60 percent of the contract total and shall be not less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 60 percent and under 80 percent of the contract total at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 80 percent of the contract total and shall not be less than full cost;

(4) rates shall be adjusted annually for inflation; and,

(5) the Secretary shall charge contractors only for water actually delivered.

(e) WATER CONSERVATION STANDARDS.—The Secretary shall establish and administer an office on Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982:

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this Act and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency achievable by project contractors using best available technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or suitable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within 18 months following enactment of this Act all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action proposed in the Final Report of the San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES APPLIED TO REIMBURSABLE COSTS.—Except as otherwise provided in this section, all revenues received by the Secretary under paragraph (a) of this section shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting "and mitigation, protection, restoration and enhancement of fish and wildlife," after "Indian reservations,";

(2) in the last proviso of subsection (a), by striking "domestic uses;" and inserting "domestic uses and fish and wildlife mitigation, protection and restoration purposes;" and by striking "power" and inserting "power and fish and wildlife enhancement";

(3) by adding at the end the following: "The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be concurrent with such activity and shall be based on the replacement of ecologically equivalent habitat." and

(4) by adding at the end the following:

"(e) Nothing in this Act shall limit the State's authority to condition water rights permits for the Central Valley Project to make water available to preserve, protect, or restore, fish and wildlife and their habitat.".

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, in consultation with the Central Valley Project Fish and Wildlife Advisory Committee established under section 9 of this Act (hereafter "Fish and Wildlife Advisory Committee") and in cooperation with other State and Federal agencies, is authorized and directed to—

(1) develop within 18 months of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustained, on a long-term basis, at levels not less than twice the average levels attained during the period of 1981–1990:

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through direct and indirect habitat restoration actions, modifications to Central Valley Project operations, and implementation of the measures mandated by this subsection.

(B) As needed to achieve the goals of the program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined jointly by the United States Fish and Wildlife Service and the California Department of Fish and Game.

(C) With respect to mitigation or restoration of upper San Joaquin River fish, wildlife, and habitat, the Secretary is directed to participate in the San Joaquin River Management Program under development by the State of California. In support of the objectives of the San Joaquin River Management Program and the Stanislaus and Calaveras Basin Environmental Impact Statement, and in furtherance of the purposes of this Act, the Secretary, in consultation with the Fish and Wildlife Advisory Committee and affected counties and interests, shall evaluate in-basin needs in the Stanislaus River basin, and shall investigate alternative storage, release, and delivery regimes for satisfying both in-basin and out-of-basin needs. Alternatives to be investigated shall include, but shall not be limited to, conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows to assist in efforts to restore fish and wildlife populations and riparian habitat values in the San Joaquin River. Nothing in this Act or the amendments to the Act of August 26, 1937 shall be construed as requiring a re-establishment of flows between Gravely Ford and Mendota Pool for mitigation or restoration of fish, wildlife and habitat.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures;

(2) upon enactment of this Act, and after implementing the operational changes authorized in subsection (b)(1)(B), make available project water for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this section, except that such water shall be in addition to that required to implement subsections (b)(6) and (b)(15)(A). This water may be assigned immediately to supplement instream flows. The United States Fish and Wildlife Service shall conduct studies and monitoring activities as may be necessary to determine the effectiveness of such flows in meeting the goal established in

subsection (b)(1). At the end of the initial five year period, the Secretary shall adjust the quantity of water assigned as necessary to meet the goal;

(3) develop and implement a program for the acquisition of a water supply adequate to meet the purposes and requirements of this section. Such a program should identify how the Secretary will secure this water supply, utilizing the following options in order of priority: improvements in or modifications of the operations of the project; conservation; transfers; conjunctive use; purchase of water; purchase and idling of agricultural land; reductions in deliveries to Central Valley Project contractors;

(4) develop and implement a program to mitigate fully for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(5) develop and implement a program to mitigate fully for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(6) install and operate a structural temperature control device at Shasta Dam to control water temperatures in the Upper Sacramento River in order to protect all life stages of anadromous fish in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(7) meet flow standards and objectives and diversion limits set forth in all State regulatory and judicial decisions which apply to Central Valley Project facilities;

(8) investigate the feasibility of using short pulses of increased water flows to increase the survival of migrating juvenile anadromous fish in the Sacramento-San Joaquin Delta and Central Valley rivers and streams. Costs associated with implementation of this subparagraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(9) develop and implement a program which will eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage facility. The program shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex;

(10) develop and implement measures to correct fish passage problems for adult and juvenile anadromous fish at the Red Bluff Diversion Dam. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels. The operation of Coleman National Fish Hatchery shall be coordinated with all other mitigation hatcheries in California. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(12) develop and implement a program to restore the natural channel and habitat values of Clear Creek, construct new fish passage facilities at the McCormick-Saeltzer Dam, and provide flows in Clear Creek to provide optimum spawning, incubation, rearing and outmigration conditions for all races of salmon and steelhead trout. Flows shall be provided by the Secretary from Whiskeytown Dam as determined by instream flow studies conducted jointly by the California Department of Fish and Game and United States Fish and Wildlife Service. Costs associated with providing the flows required by this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. Costs associated with channel restoration and passage improvements required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California;

(13) develop and implement a program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the rivers impounded by Central Valley Project facilities. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(14) develop and implement a program which provides, as appropriate, for closure of the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(15) construct, in cooperation with the State of California, a barrier at the head of Old River to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants. The cost of constructing, operating and maintaining the barrier shall be shared equally by the State of California and the United States. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(16) in support of the objectives of the Central Valley Habitat Joint Venture, deliver firm water supplies of suitable quality to maintain and improve wetland habitat on units of the National Wildlife Refuge System in the Central Valley of California, the Gray-Lodge, Los Banos, Volta, North Grasslands, and Mendota State wildlife management areas, and the Grasslands Resource Conservation District in the Central Valley of California:

(A) Upon enactment of this Act, the quantity and delivery schedules of water for each refuge shall be in accordance with Level 2 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or two-thirds of the water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be delivered until the water supply provided for in subparagraph (B) of this paragraph is provided.

(B) Not later than ten years after enactment of this Act, the quantity and delivery schedules of water for each refuge shall be in accordance with Level 4 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or the full water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation, 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(C) The Secretary is authorized to construct such water conveyance facilities and wells as are necessary to implement this paragraph. The increment of water required to fulfill subparagraph (B) of this paragraph shall be acquired by the Secretary through voluntary water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocation of project yield. The priority or priorities applicable to such incremental water deliveries for the purpose of shortage allocation shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment;

(17) establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(18) develop and implement a plan to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California;

(19) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Coats associated with implementation of this paragraph shall be allocated 50 percent to the United States as a reim-

bursable expenditure and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditures;

(20) evaluate and revise, as appropriate, existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity river reservoirs sufficient to protect and restore the anadromous fish of the Sacramento and Trinity rivers in accordance with the mandates and requirements of this subsection;

(21) participate with the State of California and other federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(22) install a temperature control device on Lewiston Dam to conserve cold water for fishery protection, provided that the cost of such device shall not exceed $1,500,000. Such devices, with the same cost restriction, may also be installed on the Trinity and Whiskeytown dams if the Secretary deems it appropriate. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

If the Secretary and the State of California determine that long-term natural fishery productivity in the Sacramento River, American River, and San Joaquin River resulting from implementation of this section is better than conditions that existed in the absence of Central Valley Project facilities, any enhancement provided shall become credits to offset reimbursable costs associated with implementation of this section.

(c) ADDITIONAL HABITAT RESTORATION ACTIONS.—Not later than five years after enactment of this Act, the Fish and Wildlife Advisory Committee shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the following subjects:

(1) alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies;

(2) water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on 120,000 acres supplemental to the acreage referenced in paragraph (b)(15) of this section and feasible means of meeting that water supply requirement;

(3) measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tributaries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and restoring riparian forests;

(4) opportunities for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available;

(5) measures to eliminate losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, and in the Sacramento and San Joaquin Delta, including measures such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas;

(6) measures to eliminate barriers to upstream and downstream migration of salmonids in the Central Valley, including removal programs or programs for the construction of new fish ladders; and

(7) construction of temperature control structures on Trinity, Lewiston, and Whiskeytown dams to conserve cold water for fishery protection.

(d) REPORT ON PROJECT FISHERY IMPACTS.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Secretary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than two years after the date of enactment of this Act.

(e) ECOSYSTEM AND WATER SYSTEM OPERATIONS MODELS.—The Secretary, in consultation with the State of California and in consultation with the Fish and Wildlife Advisory Committee, and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity river watersheds. The primary purposes of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this Act through improved scientific understanding concerning, but not limited to, the following:

(1) a comprehensive water budget of surface and groundwater supplies, considering all sources of inflow and outflow available over extended periods;

(2) water quality;

(3) surface-ground and stream-wetland interactions;

(4) measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats;

(5) development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values;

(6) implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats;

(7) measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights;

(8) opportunities to protect and restore wetland and upland habitats throughout the Central Valley;

(9) measures to enhance the firm yield of existing Central Valley Project facilities, including improved management and operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration. In implementing this subsection, all studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this Act or by any other state or federal law, statute, or regulation. One-half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost, the other half shall be borne by the State of California.

SEC. 3407. RESTORATION FUND.

(a) RESTORATION FUND ESTABLISHED.—There is hereby established in the Treasury of the United States the "Central Valley Project Restoration Fund" (hereafter "Restoration Fund") which shall be available for deposit of donations from any source and revenues provided under this Act. Funds made available to the Restoration Fund are authorized to be appropriated to the Secretary to carry out the provisions of section 8(c), section 8(i), and the habitat restoration, improvement and acquisition (from willing sellers) provisions of this Act.

(b) MAXIMUM SURCHARGE ON WATER AND POWER SALES.—The Secretary shall impose an annual operations and maintenance charge on all sales of project power and water sufficient to generate $15,000,000 (October 1991 price levels) to be deposited in the Restoration Fund. The amount of the charge paid by Central Valley Project water and power users shall be assessed in the same proportion as their cost allocation.

(c) FUNDING TO NON-FEDERAL ENTITIES.—If the Secretary determines that the State of California or an agency thereof, or other nonprofit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is best able to implement an action authorized by this Act in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity to implement the identified action.

(d) LIMITATION OF EXPENDITURES.—The Secretary shall not expend any funds on construction of capital facilities authorized under section 6 of this Act as to which the State of California is required to contribute a share of total costs until the State of California has agreed to meet such cost sharing requirement.

SEC. 3408. ADDITIONAL AUTHORITIES.

(a) REGULATIONS AND AGREEMENTS AUTHORIZED.—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes and provisions of this Act.

(b) USE OF ELECTRICAL ENERGY.—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this Act, including that used for groundwater development, shall be deemed as Central Valley Project power and shall be repaid by the user in accordance with Reclamation law and at a price not higher than the lowest price paid by or charged to Central Valley Project contractors.

(c) ACQUISITION OF ADDITIONAL WATER SUPPLY.—In order to carry out the intent, purposes and provisions of this Act, the Secretary is authorized to obtain water supplies from any source available to the Secretary, including, but not limited to direct purchase from willing sellers of water, acquisition of land and associated ground and surface water rights, water made available from conjunctive use projects, and implementation of on-farm water conservation practices where water conserved thereby will be made available to the Secretary.

(d) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—The Secretary is authorized to enter into contracts pursuant to Reclamation law and this Act with any Federal

agency, California water user or water agency, State agency, or private non-profit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and non-project water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

(e) USE OF PROJECT FOR WATER BANKING.—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to applicable State laws.

(f) LIMITATION ON CONSTRUCTION.—This Act does not and shall not be interpreted to authorize construction of water storage facilities.

(g) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of the first full fiscal year after enactment of this Act, and annually thereafter, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this Act and progress toward achievement of the intent, purposes and provisions of this Act. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes and provisions of this Act.

(h) RECLAMATION LAW.—This Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(i) LAND RETIREMENT.—(1) The Secretary is authorized to purchase from willing sellers at fair market value land and associated water rights and other property interests identified in subsection (2) which receives Central Valley Project water under a contract executed with the United States.

(2) The Secretary is authorized to purchase, under the authority of subsection (i)(1), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to the recommendations contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, groundwater withdrawals, or other causes.

(j) WATER CONSERVATION.—(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed to meet the requirements of this Act. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved by such projects or measures shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this Act, including the requirements of section 6(b)(2). Such projects or measures must be implemented fully by the end of fiscal year 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1997 $0 to carry out the provisions of this subsection. Funds appropriated under this subsection shall be a nonreimbursable Federal expenditure.

(k) CITIZEN SUITS.—(1) Any person may commence a civil suit in his or her own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under sections 4, 5, 6, 7, 8, and 12 of this Act which is not discretionary with the Secretary.

(2) The court may award costs of litigation (including reasonable expenses and attorney and expert witness fees) to any party other than the United States whenever the court determines such award is appropriate.

(3) The relief provided by this section shall not restrict any right which any person (or class of persons) may otherwise have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(4) The district courts shall have jurisdiction to prohibit or prevent any violation of this Act, to compel any action required by this Act, and to issue any other order to further the purposes of this Act. An action under this section may be brought in any judicial district where the alleged violation occurred or is about to occur, where fish or wildlife resources affected by the alleged violation are located, or in the District of Columbia.

SEC. 3409. CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Fish and Wildlife Advisory Committee", hereafter referred to as the "Fish and Wildlife Advisory Committee".

(b) DUTIES.—The Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the fish, wildlife, and environmental restoration actions identified in section 6. Such recommendations shall be advisory in nature and shall not be binding on the Secretary, however, the Secretary shall give substantial deference to such recommendations in carrying out responsibilities under this Act. Should the Secretary not implement any recommendations made by the Fish and Wildlife Advisory Committee, the Secretary shall notify the Committee in writing and explain the reasons for rejecting the recommendation.

(c) APPOINTMENT AND MEMBERSHIP.—The Fish and Wildlife Advisory Committee shall be comprised of the Director of the U.S. Fish and Wildlife Service and the Governor of California, or their designees, and twenty additional members appointed by the Secretary in consultation with the Governor to provide—

(1) ten representatives of environmental and conservation interests (including one representative of the Hoopa Valley Tribe); and

(2) ten representatives of agricultural and urban water users (including one representative of Central Valley Project power users).

(d) TERMS.—The term of a member of the Fish and Wildlife Advisory Committee shall be five years, except that five of the members appointed pursuant to subsection (c)(1) and five of the members appointed pursuant to subsection (c)(2) shall be appointed for an initial term of three years. Any vacancy on the Committee shall be filled in the same manner as the original appointment.

(e) CHAIRMANSHIP AND VOTING.—The Fish and Wildlife Advisory Committee shall be co-chaired by the Director of the United States Fish and Wildlife Service and the Governor of California, or their designees. The Committee shall meet at the call of the co-chairs or upon the request of a majority of its members. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Fish and Wildlife Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Fish and Wildlife Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per-diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Fish and Wildlife Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided in this section, the terms and provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended, (5 U.S.C. App. 2), shall apply to the Fish and Wildlife Advisory Committee.

(j) TERMINATION.—The Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3410. CENTRAL VALLEY PROJECT TRANSFER ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Transfer Advisory Committee", hereafter referred to as the "Transfer Advisory Committee".

(b) MEMBERSHIP.—The Transfer Advisory Committee shall be comprised of 16 individuals, appointed as follows:

(1) 8 appointed by the Governor of California, one to represent each of the following organizations and interests:

(A) California Resources Agency;

(B) California State Water Resources Control Board;

(C) Central Valley Project agricultural water contractors;

(D) Central Valley Project municipal and industrial water contractors;

(E) Central Valley Project power contractors;

(F) environmental organizations;

(G) waterfowl conservation organizations; and

(H) fishery conservation organizations.

(2) 1 appointed by the President Pro Tempore of the California State Senate;

(3) 1 appointed by the Speaker of the California State Assembly;

(4) 2 appointed by the Secretary of the United States Department of the Interior to represent

individually the United States Fish and Wildlife Service and Bureau of Reclamation;

(5) the Inspector General of the Department of the Interior or his or her designee;

(6) the Administrator of the Environmental Protection Agency or his or her designee;

(7) the Comptroller General of the United States or his or her designee; and,

(8) 1 appointed by the Hoopa Valley Tribe.

(c) DUTIES.—The Transfer Advisory Committee shall prepare a report to Congress and the President on all issues associated with transfer of all Central Valley Project facilities and assets, assuming, first, that the transfer would be to the State of California, assuming, second that the transfer would be to Central Valley Project contractors, and assuming, third, that the transfer would be to a Commission with the members appointed by the Governor of California and the Secretary that would jointly operate the California State Water Project and the Central Valley Project. The Transfer Advisory Committee shall provide recommendations on which of these transfer options best serves the interests of the United States and the State of California, and on legislative and administrative measures required to execute such transfer which would ensure that—

(1) the fish and wildlife protection and restoration goals of this Act are achieved;

(2) the reserved fishing and water rights of affected Indian tribes are preserved, and the ability of the United States to meet its trust obligations with respect to such tribal assets is maintained;

(3) the Secretary's contractual obligations and rights associated with the Central Valley Project are fulfilled;

(4) the operations of the Central Valley Project and the California State Water Project are integrated to the maximum extent practicable; and

(5) Federal expenditures associated with the Central Valley Project are minimized.

(d) CHAIRMANSHIP AND VOTING.—The Transfer Advisory Committee shall be co-chaired by the Inspector General of the United States Department of the Interior and any individual selected by the Governor of California from among the Transfer Advisory Committee members appointed by the Governor of California pursuant to paragraph (a)(1) of this section. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided herein, the terms and provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended, (5 U.S.C. App. 2), shall apply to the Advisory Committee.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Transfer Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Transfer Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per-diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Transfer Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their services on the Committee.

(i) REGULAR MEETINGS REQUIRED.—The Transfer Advisory Committee shall meet at the call of the co-chairs and, in any event, not less than once every three months following enactment of this Act.

(j) DEADLINE FOR SUBMISSION OF REPORT.—The Transfer Advisory Committee shall submit the report as required by subsection (c) of this section not later than December 31, 1993. The report shall be submitted to the President of the United States, the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Appropriations of the House of Representatives.

(k) TERMINATION.—The Transfer Advisory Committee shall terminate 90 days after submission of such report.

SEC. 3411. SAN FRANCISCO BAY AND DELTA WETLAND RESTORATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary, in cooperation with the Secretary of the Army, and in consultation with the State of California, San Francisco Bay area port authorities, fishery and waterfowl conservation interests, and the Fish and Wildlife Advisory Committee shall investigate and, if feasible, develop and implement a program using dredged material to restore, protect, and expand San Francisco Bay and Delta wetlands for the purposes of recruitment and survival of waterfowl, fish, and other wetland dependent species, flood control, water quality improvement, and sedimentation control.

(b) SPECIFIC CONSIDERATIONS.—The program developed under this section shall consider a broad range of upland disposal and give emphasis to restoration, protection, and expansion of wetlands supporting abundant and diverse wetland ecosystems, including, but not limited to—

(1) high primary productivity and functioning food chains;

(2) seasonal values for waterfowl breeding, nesting, staging, and wintering;

(3) habitat values for migrating anadromous fish; and

(4) protection from predation and disease.

(c) QUALITY OF DREDGE MATERIALS.—The program developed under this section shall ensure that dredge materials used for wetland restoration, protection, or expansion shall be of appropriate quality for such purposes.

SEC. 3412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Funds appropriated under this section shall remain available until expended.

SEC. 3413. SIPHON REPAIR AND REPLACEMENT.

(a) Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project Designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aqueduct purposes and must be replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsor.

(b) Notwithstanding any other provision of law of contract, costs incurred in the repair, modification or replacement, together with associated costs, of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Aqua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable.

SEC. 3414. BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM, WYOMING.

There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities. Provided, That such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

SEC. 3415. DEMONSTRATION PROJECT.

The Secretary is authorized and directed to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse in accordance with the title 22 standards of the California Water Code. "Advanced ecologically engineered technology" refers to a greenhouse-based, ecologically engineered technology which employs highly populated pond and marsh ecosystems to produce water for reclamation and reuse. One half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the other half shall be borne by the State of California and the City and County of San Francisco.

SEC. 3416. RECREATION

The first section of the Act of August 27, 1954 (16 U.S.C. 695d), is amended by inserting "and also for the use and enjoyment of the lands, waters, and related facilities thereof for recreation," after "fish and wildlife purposes.".

LEGISLATIVE PROGRAM

(Mr. LEWIS of California asked and was given permission to address the House.)

Mr. LEWIS of California. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the information for the balance of this week's schedule and next week's schedule.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding. Mr. Speaker, votes are, obviously, finished today and there will not be votes on tomorrow.

On Monday, June 22, the House will meet at noon. We will have nine bills under suspension.

Mr. LEWIS of California. I wonder if I might interrupt and have the majority leader yield for just a moment. I am curious, just by way of information for this side, a number of my Members who live in the West were a little concerned about the celebrations for Father's Day on Sunday. I assume that may be part of why Friday was cleared. But they would like to know at the beginning of the week so that they might make arrangements.

Could we work on that, maybe, over time?

Mr. GEPHARDT. If the gentleman will yield further——

Mr. LEWIS of California. Mr. Speaker does come from the West. I would think he would understand.

Mr. GEPHARDT. I understand. I understand the problem. But I would say to the gentleman that we did publish a calendar earlier in the month, even last month, that laid out a schedule that included votes on this Monday. I know Members are troubled by the need to be here on a Monday after Father's Day, and I would have preferred not to do that. We have a schedule to meet, and, as the gentleman knows, there are few days left in this year in order to be able to finish our legislative schedule. And we are trying to complete appropriation bills, get them done on time.

Mr. LEWIS of California. I do appreciate the gentleman's expression of apology to my daughter. But the reality is that we had a light schedule last week, a relatively light schedule earlier this week. Some consideration ahead of time would be very helpful.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Speaker, the calendar the gentleman referred to, I would ask the majority leader: On that calendar, what was scheduled for tomorrow?

Mr. GEPHARDT. If the gentleman would yield, my understanding was that the calendar said there would be votes.

Mr. THOMAS of California. And so the calendar is to be relied upon as the definitive determiner and, if we had referred to the calendar, we would have seen votes on Monday, but as a matter of fact we also saw votes tomorrow and there are now no votes tomorrow. So what is the secondary document that we refer to, to determine whether or not the calendar and the days that are etermined in terms of votes are, in ct, going to be vote days?

Mr. LEWIS of California. If I might e back my time by way of yielding, first by way of saying that the rea- I am doing this in this fashion is f I am not a little more gentle in rocess, they may not ask me to again.

to the gentleman.

OMAS of California. With all s, I am anxious to find out termine whether the printed —when they say they have they are going to have

RDT. If the gentleman hat we try to do is to lar to put Members on likely could be votes we say on the calendar that there will be votes. Obviously, as we go along, there has to be adjustment in the schedule as there are many, many vagaries and facts and circumstances that come into making up this schedule. This is a dynamic body, many different committees, many different requirements.

I would just say to the gentleman, I understand his concern and criticism. I would say as to next Monday, votes will not start until about 2:30, if there are votes. If we can avoid a vote on the rule, it is an open rule, it could be even later than that before there are votes. There may not be votes, if any, on this bill. I cannot assure Members, I cannot guarantee any Member that if they have a perfect voting record and cannot miss any votes, that there would be no votes on Monday. But indeed we will do everything in our power to see that the votes are late and the votes are few.

☐ 1640

Mr. THOMAS of California. Mr. Speaker, I want the gentleman to understand that I stand ready to vote at anytime that we are here and voting. I will do my best, having my district and family 3,000 miles away.

I guess I am gently nudging the majority leader to indicate that referring to a calendar which is more often accurate in the breach of that calendar than in the honoring of it probably is not the best defense and that we, maybe, need to create a communicative structure that has a 1-week or 2-week lead time to it to reaffirm, with an understanding that, when we do make a commitment, if it is on paper, then we do honor it and that we fight to make sure that the open days are in fact open and that the voting days are open.

Mr. Speaker, I know that is very difficult to do, and I appreciate the difficulty surrounding it. It is just that it seems we have been able to accommodate some of our Members' athletic prowess, and some of us believe that something like Father's Day ought to stand at least equal to some of the events that have been seemingly scheduled even on what otherwise would have been work days, and I appreciate the gentleman's time.

Mr. LEWIS of California. Mr. Speaker, I continue to yield to the gentleman from Missouri [Mr. GEPHARDT], and I express my appreciation for his patience.

Mr. GEPHARDT. I thank the gentleman from California. The recorded votes of the suspensions will be postponed until after the debate on all suspensions, but I want to reiterate that we intend to take up the Coast Guard bill about 1:30, and there may be a vote on the rule after an hour of debate. There may not be a vote on that rule. It is an open rule, and, hopefully, not a controversial rule.

We will take up H.R. 1624, to establish a World War II memorial; H.R. 3711, the WIC Supplemental Benefits Act; H.R. 5412, to authorize the transfer of certain Naval vessels to Greece and Taiwan; House resolution to designate the Federal building located at 200 Federal Plaza in Paterson, NJ, as the "Robert A. Roe Federal Building"; a House resolution to designate a Federal building and U.S. courthouse located in Fayetteville, AR, as the "John Paul Hammerschmidt Federal Building and U.S. Courthouse"; S. 2703, to authorize the President to appoint Gen. Thomas Richards to the office of FAA Administrator; H.R. 4771, designating the Esel D. Bell Post Office Building; H.R. 4786, to designate the "Abe Murdock U.S. Post Office Building"; H.R. 4505, to designate the "Arthur J. Holland U.S. Post Office Building."

Then, as I mentioned, H.R. 5055, the Coast Guard Authorization Act of 1992, open rule, 1 hour of debate.

On Tuesday the House will meet at noon to consider House resolution on legislative branch appropriations for fiscal year 1993, subject to a rule, and on Wednesday, June 24, and the balance of the week, the House will meet at 10 a.m. to take up the resolution on foreign operations appropriations for fiscal year 1993, subject to a rule; House resolution on military construction appropriations for fiscal year 1993, subject to a rule; H.R. 4996, Jobs Through Exports Act of 1992; H.R. 5059, the Intelligence Authorization Act for fiscal year 1993, subject to a rule; and H.R. 3247, the National Undersea Research Program Act of 1992, open rule, 1 hour of debate. In addition, H.R. 4310, the National Marine Sanctuaries Reauthorization Improvement Act of 1992, open rule, 1 hour of debate; and H.R. 2637, WIPP land withdrawal, subject to a rule.

Conference reports can be brought up at any time.

Mr. LEWIS of California. Mr. Speaker, does the gentleman from Missouri [Mr. GEPHARDT] have specific information yet as to when we may take up the NIH veto, which we anticipate will come back on Tuesday?

Mr. GEPHARDT. Mr. Speaker, if the gentleman would yield, we do not have the definite information that the bill has been vetoed. We will try to make a determination as soon as we get that information, if it happens, and we will obviously give advanced notice and warning of going forward with that bill.

Mr. LEWIS of California. One more item, Mr. Speaker.

The conference report on the alcohol and drug abuse is hanging around somewhere. Can the gentleman give us an idea when we are going to do something about that?

Mr. GEPHARDT. Mr. Speaker, if the gentleman would yield, it is my understanding the committee has not requested scheduling of that matter, and we are not certain at this point exactly when it will come forward.

Mr. LEWIS of California. All right. So, we are where we have been relative to that conference report. What about a Friday session next week?

Mr. GEPHARDT. If the gentleman would yield, we again noted on that calendar, and we do want to reserve that day, if, as this week, we can finish the business we have scheduled and not have votes on Friday. Then we will do that.

However, Mr. Speaker, we are in the tough appropriations season. We are trying to move three more appropriations bills next week, and, if we move quickly and there are not a lot of amendments and difficulties, we can finish up on time. If we cannot, we will be here.

Mr. LEWIS of California. So, if my Members should ask me about next Friday, I should say, "Well, if we get through Monday, maybe there's a 50-50 shot you might make plans," or could we let them know earlier than Thursday?

Mr. GEPHARDT. If the gentleman would yield, I think Wednesday we should have a pretty good feel of whether we are moving quickly enough to be able to finish on Thursday night or not.

Mr. LEWIS of California. Mr. Speaker, I appreciate the majority leader's assistance.

ADJOURNMENT TO MONDAY, JUNE 22, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, June 22, 1992.

The SPEAKER pro tempore (Mr. BROWDER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMERICA CAN NO LONGER IGNORE COMMUNISM IN BELGRADE

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. ROHRABACHER. Mr. Speaker, yesterday President Yeltsin inspired us tremendously. Communism is indeed dead in what was the Soviet Union, yet one Communist regime clings to power on the European Continent, and it is no coincidence that the Communists still hold power in Belgrade, and that terrorism and aggression still plague the people of the Balkans.

The continuing slaughter can no longer be ignored by the Western democracies and by the decent men and women in Europe and in the United States and in the rest of the world. The ethnic purification campaign being conducted, or at least being sponsored, by the Communist thugs in Belgrade is not only a crime against the people of Slovenia, Croatia, Bosnia-Herzegovina, and others, but it is also a crime against humanity.

Today I am introducing a resolution encouraging the President of the United States to confer with our NATO allies and the United Nations about the possibility of a joint military operation to end the aggression and gangsterism being committed by the last Communist regime on the European Continent in Belgrade. I ask my colleagues to join me, and ask America to stand tall.

H. CON. RES.—

Whereas violence continues to escalate in the former state of Yugoslavia;

Whereas there have been more than 15,000 deaths and over 1,000,000 refugees as a result of fighting in the former state of Yugoslavia;

Whereas the Serbian regime is the last communist regime in power on the European continent and has declared its disdain for the norms of international law;

Whereas the Serbian military, and irregular paramilitary forces controlled by the Belgrade regime, have engaged in murderous and inhuman acts in all the regions of the former Yugoslav state, especially in Croatia, Bosnia-Hercegovina, Slovenia, Kosova, Sanjak and Vojvodina;

Whereas human rights abuses continue to plague the territory of the former Yugoslav state;

Whereas the Serbian regime is conducting a self-proclaimed campaign of "ethnic purification";

Whereas the United States, the United Nations, European states, and others have made strong efforts to negotiate an equitable resolution to this aggression;

Whereas recent demonstrations in Belgrade against the current Serbian regime suggest that the regime's policies do not reflect the will of a sizable number of the Serbian people;

Whereas the Serbian regime has ignored all pleas for peaceful or democratic change in the Balkans region, thus making it an outlaw regime in the affairs of nations; and

Whereas President Bush recently stated that the conflict in this area is a threat to the economic and national security interests of the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President should express to the United Nations Security Council and the North Atlantic Treaty Organization the willingness of the United States to participate in any sanctioned joint military effort to end the aggression, terrorism, and transgression of human rights perpetrated on its neighbors by the communist Serbian regime in the former state of Yugoslavia.

AUDIO HOME RECORDING ACT OF 1992 (H.R. 4567)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, recently, the House Subcommittee on Commerce, Consumer Protection and Competitiveness reported Audio Home Recording Act of 1992, which finally puts to an end the legal battles over digital audio recording by adopting a compromise worked out by the manufacturers, recording industry, songwriters, and artists. The bill sets the stage for the widespread introduction of this remarkable technology.

Digital audio technology has been around for several years. Compact discs and compact disc players are examples of this innovative technology; and the superior sound quality that digital technology produces has revolutionized the recording industry.

Even more exciting than the compact disc and the compact disc player, is the digital audio recorder. Unlike the familiar analog recorder, digital audio recorders are able to make virtually perfect copies of source music. With analog recorders, as one makes generational copies, the sound quality of the music eventually deteriorates. On the other hand, with digital audio recorders multigovernmental copies do not change the sound quality of the music, so that a 100th generation copy will sound as good as the original version.

These digital recorders were on exhibit at the Consumer Electronic Show held in Chicago last month.

American consumers have been deprived of overall access to this innovative recording technology due to litigation and disputes between the electronics industry, recording industry, songwriters and music publishers in the United States. The dispute stems from the music industry's fear that once consumers get access to this technology, home copying will increase and this will lead to reduced sales and royalties.

The parties have now reached an agreement, one that addresses issues of concern to the interested parties. This agreement is embodied in the Audio Home Recording Act of 1992 (H.R. 4567), which I introduced.

There are three basic provisions of the legislation. First, it prohibits the bringing of any copyright infringement suit based on the use of a recorder to make copies for noncommercial use.

Second, it requires all manufacturers and importers to pay a small royalty fee for digital audio recorders and media made available to American consumers. This money is eventually distributed to copyright holders via the U.S. Copyright Office.

The payment is very small and only applies to digital recorders and media, not the current analog tapes and players. For example, where a recorder has a retail price of $250, the royalty fee would be about $2.50. Where a blank tape has a retail price of $6.00, the royalty fee would only be about nine cents.

Third, it requires all digital audio recorders to incorporate the serial copy management system, which permits unlimited copying of original material, but prohibits copies of copies.

Mr. Speaker, the Audio Home Recording Act of 1992 is crucial to ensuring that the American music and electronics industries remain competitive and that American consumers obtain access to technology on the cutting edge.

Mr. John V. Roach, the chairman of the board and chief executive officer of Tandy Corp., the largest American consumer electronics company and retailer employing 27,000 people nationwide, testified that unlike the current generation of recorders that are mechanically complex, the American manufacturers have been concentrating on digital oriented products. In this area, Mr. Roach says, American companies are fully competitive, and can once again establish manufacturing jobs here in the United States.

Both American electronics companies and the music industry have been harmed by the current stalemate.

Ms. Dionne Warwick testified: "The bill allows today's songwriters and others in the music community to continue turning out great music without fear of endless loss of revenues due to copying. At the same time, it offers the consumer the choice of whatever format he or she chooses on the same level of quality that we hear in the studio, while offering definitive protection from copyright infringement charges." She reiterated Ms. Gladys Knight's words to the Congressional Arts Caucus last week that as an artist, she is show business and the business part of show business needs this legislation.

Mr. Ed Murphy, president and CEO of the National Music Publishers' Association, Inc. testified: "As domestic industry after domestic industry have fallen victim to increasingly rigorous international competition, American musical products remain a flagship of American exports and one of the few consistent areas of trade surplus."

However, American songwriters, music publishers, recording artists are not able to benefit from foreign royalty payments on home taping because the United States does not have a similar royalty provision. The lack of reciprocity denies the American music industry millions of dollars worth of foreign home taping royalties. This legislation will be a first step toward reclaiming those royalties and improving our balance of trade.

Most importantly, American consumers, who to date are being denied access to this important technology, will be the big winners.

The Audio Home Recording Act of 1992 is a model compromise that combines benefits for consumers and industry. It can lead the way in improving competitiveness while providing consumers with access to exciting technology.

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LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. MICHEL), for today from 2:30 p.m., on account of family medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. COLLINS of Illinois) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. MILLER of Washington.
Mrs. VUCANOVICH.
Mrs. MORELLA.
Mr. PETRI in two instances.
Mr. BROOMFIELD.
Mr. FIELDS.
Mr. RINALDO.

(The following members (at the request of Mrs. COLLINS of Illinois) and to include extraneous matter:)

Mr. LEVINE of California.
Mr. RICHARDSON.
Mr. BROWN.
Mr. BLACKWELL.
Mr. NEAL of Massachusetts.
Mr. GEJDENSON.
Mr. LEHMAN of California.
Mr. KILDEE.
Mr. ANTHONY.
Mr. LIPINSKI.
Mr. TRAFICANT.
Mr. MAZZOLI.
Mr. HALL of Ohio.
Mr. DYMALLY in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1985. An act to establish a commission to review the Bankruptcy Code, to amend the Bankruptcy Code in certain aspects of its application to cases involving commerce and credit and individual debtors and add a temporary chapter to govern reorganization of small businesses, and for other purposes; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTION

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 470. Joint Resolution to designate the month of September 1992, as "National Spina Bifida Awareness Month."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 250. An act to establish national voter registration procedures for Federal elections, and for other purposes.

ADJOURNMENT

Mrs. COLLINS of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 55 minutes p.m.) under its previous order, the House adjourned until Monday, June 22, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3770. A letter from the Secretary, Department of Agriculture, transmitting the animal welfare enforcement report covering fiscal year 1991, pursuant to 7 U.S.C. 2155; to the Committee on Agriculture.

3771. A letter from the Secretary, Department of Agriculture, transmitting the 1991 Youth Conservation Corps [YCC] Program, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

3772. A letter from the Assistant Secretary—Indian Affairs, U.S. Department of the Interior, transmitting a copy of a semiannual report on tribal self-governance demonstration project, pursuant to Public Law 100-472; to the Committee on Interior and Insular Affairs.

3773. A letter from the Assistant Secretary—Indian Affairs, U.S. Department of the Interior, transmitting a copy of a supplement to the semiannual report on self-governance demonstration project; to the Committee on Interior and Insular Affairs.

3774. A letter from the Secretary, Department of Energy, transmitting a 5-year management plan for environmental restoration and waste management activities of DOE, pursuant to Public Law 101–510, section 3135(b) (104 Stat. 1833); jointly, to the Committees on Armed Services and Energy and Commerce.

3775. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the second quarter of fiscal year 1992, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

3776. A letter from the Secretary, Department of the Interior, transmitting a copy of the annual report for fiscal year 1991 covering the Outer Continental Shelf [OCS] Natural Gas and Oil Leasing and Production Program, pursuant to 43 U.S.C. 1343; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

3777. A letter from the Secretary of the Interior, transmitting the April 1992 Proposed Final Comprehensive Outer Continental Shelf [OCS] Natural Gas and Oil Resource Management Program for 1992–97, pursuant to 43 U.S.C. 1344(a); jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FAZIO: Committee on Appropriations. H.R. 5427. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102–579). Referred to the Committee of the Whole House on the State of the Union.

Mr. HEFNER: Committee on Appropriations. H.R. 5428. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes. (Rept. 102–580). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 5343. A bill to make technical amendments to the American Technology Preeminence Act of 1991 and the Fair Packaging and Labeling Act with respect to their treatment of the SI metric system; with amendments (Rept. 102–581, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 493. Resolution providing for the consideration of the bill H.R. 4484 to authorize appropriations for fiscal year 1993 for the Maritime Administration (Rept. 102–582). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 494. Resolution providing for the consideration of the bill H.R. 2637 to withdraw lands for the waste isolation pilot plant, and for other purposes (Rept. 102–583). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 495. Resolution providing for the consideration of the bill H.R. 5095 to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 102–584). Referred to the House Calendar.

Mr. OBEY: Committee on Appropriations. H.R. 5368. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes; with an amendment (Rept. 102–585). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAZIO:

H.R. 5427. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. HEFNER:

H.R. 5428. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

By Mr. JACOBS:

H.R. 5429. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such act; to the Committee on Ways and Means.

By Mr. ANTHONY:

H.R. 5430. A bill to suspend until January 1, 1994, the duty on Benzisothiazoline; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. Anderson, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. de Lugo, Mr. Savage, Mr. Borski, Mr. Kolter, Mr. Valentine, Mr. Lipinski, Mr. Traficant, Mr. Lewis of Georgia, Mr. DeFazio, Mr. Hayes of Louisiana, Mr. Clement, Mr. Payne of Virginia, Mr. Costello, Mr. Pallone, Mr. Jones of Georgia, Mr. Parker, Mr. Laughlin, Mr. Geren of Texas, Mr. Sangmeister, Mr. Poshard, Mr. Swett, Mr. Brewster, Mr. Cramer, Ms. DeLauro, Ms. Horn, Mrs. Collins of Michigan, Mr. Peterson of Florida, Ms. Norton, Mr. Blackwell, Mr. Hammerschmidt, Mr. Shuster, Mr. Clinger, Mr. Petri, Mr. Packard, Mr. Boehlert, Mrs. Bentley, Mr. Inhofe, Mr. Ballenger, Mr. Emerson, Mr. Duncan, Mr. Hancock, Mr. Cox of California, Ms. Molinari, Mr. Hobson, Mr. Riggs, Mr. Taylor of North Carolina, Mr. Nichols, Mr. Zeliff, Mr. Ewing, Mr. Gillmor, Mr. Rinaldo, Mr. Hughes, Mr. Guarini, Mr. Smith of New Jersey, Mr. Dwyer of New Jersey, Mrs. Roukema, Mr. Torricelli, Mr. Saxton, Mr. Gallo, Mr. Payne of New Jersey, Mr. Zimmer, and Mr. Andrews of New Jersey):

H.R. 5431. A bill to designate the Federal building located at 200 Federal Plaza in Paterson, NJ, as the "Robert A. Roe Federal Building"; to the Committee on Public Works and Transportation.

By Mr. SHUSTER (for himself, Mr. Roe, Mr. Clinger, Mr. Anderson, Mr. Petri, Mr. Mineta, Mr. Packard, Mr. Oberstar, Mr. Boehlert, Mr. Nowak, Mrs. Bentley, Mr. Rahall, Mr. Inhofe, Mr. Applegate, Mr. Ballenger, Mr. de Lugo, Mr. Emerson, Mr. Savage, Mr. Duncan, Mr. Borski, Mr. Hancock, Mr. Kolter, Mr. Cox of California, Mr. Valentine, Ms. Molinari, Mr. Lipinski, Mr. Hobson, Mr. Traficant, Mr. Riggs, Mr. Lewis of Georgia, Mr. Taylor of North Carolina, Mr. DeFazio, Mr. Nichols, Mr. Hayes of Louisiana, Mr. Zeliff, Mr. Clement, Mr. Ewing, Mr. Payne of Virginia, Mr. Gillmor, Mr. Costello, Mr. Pallone, Mr. Jones of Georgia, Mr. Parker, Mr. Laughlin, Mr. Geren of Texas, Mr. Sangmeister, Mr. Poshard, Mr. Swett, Mr. Brewster, Mr. Cramer, Ms. DeLauro, Ms. Horn, Mrs. Collins of Michigan, Mr. Peterson of Florida, Ms. Norton, and Mr. Blackwell):

H.R. 5432. A bill to designate the Federal building and U.S. courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, AR, as the "John Paul Hammerschmidt Federal Building and United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. BEREUTER (for himself and Mr. Wylie):

H.R. 5433. A bill to increase the amount of credit available to fuel economic growth by reducing the regulatory burden imposed upon community banks and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BERMAN (for himself, Mr. Rinaldo, Mr. Gilman, Mr. Hunter, Mr. Levine of California, Mr. McCloskey, and Mr. Kasich):

H.R. 5434. A bill to provide for the imposition of sanctions against persons or foreign countries that transfer to Iran or Iraq goods or technology contributing to that country's efforts to acquire certain weapons; jointly, to the Committees on Foreign Affairs, Ways and Means, Banking, Finance and Urban Affairs, and Agriculture.

By Mr. COLORADO (for himself, Mr. Rangel, Mr. Scheuer, Mr. Towns, Mr. Serrano, and Mr. Richardson):

H.R. 5435. A bill to amend the Social Security Act to increase the limit on Federal matching funds available for the Medicaid Program in Puerto Rico and to make improvements in the furnishing of and payment for equipment and related supplies furnished to Medicare beneficiaries; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WILLIAMS:

H.R. 5436. A bill to assist small communities in the construction of facilities for the protection of the environment and human health; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. DICKINSON (for himself, Mr. Armey, Mr. Barnard, Mr. Barrett, Mr. Bateman, Mr. Bennett, Mr. Bilirakis, Mr. Boehlert, Mr. Broomfield, Mr. Callahan, Mr. Coble, Mr. de Lugo, Mr. Donnelly, Mr. Doolittle, Mr. Dornan of California, Mr. Downey, Mr. Dymally, Mr. Fawell, Mr. Gallegly, Mr. Gilchrest, Mr. Gillmor, Mr. Gingrich, Mr. Guarini, Mr. Hammerschmidt, Mr. Hansen, Mr. Harris, Mr. Hayes of Louisiana, Mr. Hefley, Mr. Herger, Mr. Horton, Mr. Hunter, Mr. Hutto, Mr. Hyde, Mr. Ireland, Mr. Jefferson, Mr. Kasich, Mr. Lagomarsino, Mr.

LEVIN of Michigan, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. McCANDLESS, Mr. McCRERY, Mr. McGRATH, Mr. MARTIN, Mrs. MEYERS of Kansas, Mrs. MINK, Mr. MOORHEAD, Mr. MORAN, Mr. MURPHY, Mr. NATCHER, Ms. NORTON, Mr. OLIN, Mr. ORTIZ, Mr. OWENS of Utah, Mr. OXLEY, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. PICKETT, Mr. PICKLE, Mr. PURSELL, Mr. RAVENEL, Mr. RITTER, Mr. ROBERTS, Mr. ROTH, Mr. SARPALIUS, Mr. SAVAGE, Mr. SAXTON, Mr. SCHIFF, Mr. SPENCE, Mr. TANNER, Mr. TAYLOR of Mississippi, Mr. THOMAS of Georgia, Mr. THOMAS of California, Mr. TRAXLER, Mr. UPTON, Mr. VISCLOSKY, Mr. WOLF, Mr. YATRON, and Mr. YOUNG of Florida):

H.R. 5437. A bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict; to the Committee on House Administration.

By Mr. FRANK of Massachusetts:

H.R. 5438. A bill to exclude from income amounts received under part E of title IV of the Social Security Act for the purposes of determining the amount of benefits to be provided under the Food Stamp Act of 1977 and the United States Housing Act of 1937; jointly, to the Committees on Agriculture and Banking, Finance and Urban Affairs.

By Mr. HATCHER:

H.R. 5439. A bill entitled "Food Stamp Quality Control System Amendments of 1992"; to the Committee on Agriculture.

By Mr. JENKINS (for himself, Mr. ARCHER, Mr. ANTHONY, Mrs. KENNELLY, Mr. LEVIN of Michigan, Mr. CARDIN, and Mr. McGRATH):

H.R. 5440. A bill to amend the Internal Revenue Code of 1986 to repeal the special depreciation rules applicable under the adjusted current earnings provisions of the minimum tax; to the Committee on Ways and Means.

By Mr. LAUGHLIN (for himself, Mr. ANDREWS of Texas, Mr. BILIRAKIS, Mr. BROOKS, Mr. BROWDER, Mr. BRYANT, Mr. CALLAHAN, Mr. CHAPMAN, Mr. COLEMAN of Texas, Mr. CRAMER, Mr. DE LA GARZA, Mr. FASCELL, Mr. FIELDS, Mr. FROST, Mr. GEREN of Texas, Mr. HARRIS, Mr. HAYES of Louisiana, Mr. HUTTO, Mr. JEFFERSON, Mr. LIVINGSTON, Mr. ORTIZ, Mr. PARKER, Mr. PETERSON of Florida, Mr. PICKLE, Mr. PALLONE, Mr. SARPALIUS, Mr. TAYLOR of Mississippi, Mr. TAUZIN, Mr. THOMAS of Georgia, Mr. VALENTINE, and Mr. WILSON):

H.R. 5441. A bill to establish a Gulf of Mexico environmental and economic restoration and protection program; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Science, Space, and Technology.

By Mr. MILLER of Washington (for himself, Mr. PANETTA, Mr. EMERSON, Mr. KOPETSKI, Mr. PENNY, Mr. SANGMEISTER, and Mr. TOWNS):

H.R. 5442. A bill to establish Federal grant programs to identify and address the foreign language needs within the United States for the purpose of enhancing economic competitiveness, ensuring national security, and promoting the national interest; jointly, to the Committees on Education and Labor and Foreign Affairs.

By Mr. PETRI:

H.R. 5443. A bill to amend the Fair Labor Standards Act of 1938 relating to the minimum wage and overtime exemption for employees subject to certain leave policies; to the Committee on Education and Labor.

By Mr. SCHULZE:

H.R. 5444. A bill to provide for the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of former nonmarket economy countries that have implemented, or are in transition to, market economies; to the Committee on Ways and Means.

By Mr. WILLIAMS:

H.R. 5445. A bill to amend the Safe Drinking Water Act to ensure that the Nation's small towns and rural counties are able to comply with safe drinking water regulations in a flexible manner which protects public health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. YATES:

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools; to the Committee on Appropriations; discharged; considered and passed.

By Mr. MORAN (for himself, Mrs. MORELLA, and Mr. WOLF):

H.J. Res. 510. Joint resolution disapproving the action of the District of Columbia Council in approving the Omnibus Budget Support Temporary Act of 1992; to the Committee on the District of Columbia.

By Mr. TRAFICANT:

H.J. Res. 511. Joint resolution proposing an amendment to the Constitution of the United States to provide for the direct popular election of the President and the Vice-President; to the Committee on the Judiciary.

By Mr. KOLBE (for himself, Mr. RANGEL, Mr. COUGHLIN, and Mr. RICHARDSON):

H. Con. Res. 334. Concurrent resolution expressing the sense of the Congress that the President should take prompt diplomatic action to ensure that joint efforts by the United States and Mexico to combat illegal drug trafficking continue at the high level of cooperation that exists currently; to the Committee on Foreign Affairs.

By Mr. ROHRABACHER:

H. Con. Res. 335. Concurrent resolution concerning the conflict in the former state of Yugoslavia; to the Committee on Foreign Affairs.

By Mr. BROWN:

H. Res. 496. Resolution to amend the Rules of the House of Representatives to further reform the administrative operations of the House; jointly, to the Committees on Rules and House Administration.

By Mr. DYMALLY:

H. Res. 497. Resolution relating to ongoing violence connected with apartheid in South Africa; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DELLUMS introduced a bill (H.R. 5446) to waive certain repayment requirements under the Public Works and Economic Development Act of 1965 with respect to the Acorn Shopping Center, Oakland, CA; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 200: Mr. McMILLEN of Maryland.

H.R. 840: Mrs. BOXER.

H.R. 911: Mr. SKEEN.

H.R. 1385: Mr. BOEHLERT, Mr. MFUME, Mr. GORDON, and Mr. SUNDQUIST.

H.R. 1456: Mrs. LLOYD.

H.R. 2464: Mr. BLILEY and Mr. MILLER of Washington.

H.R. 3109: Mr. TAUZIN, Mr. SHAW, Mr. VANDER JAGT, and Mr. GUARINI.

H.R. 3236: Mr. BILBRAY.

H.R. 3360: Mr. ROHRABACHER, Mr. BACCHUS, Mr. LEACH, Mr. BATEMAN, Mr. NEAL of North Carolina, Mr. CONDIT, Mr. CAMP, Mr. GLICKMAN, Mr. PRICE, Mr. HOLLOWAY, Mr. WOLPE, Mr. COBLE, Mr. LANCASTER, Mr. CHANDLER, Mr. JONTZ, Mr. GEJDENSON, and Mr. HUTTO.

H.R. 3484: Mr. KOSTMAYER.

H.R. 3986: Mr. BUSTAMANTE.

H.R. 4170: Mr. ANNUNZIO.

H.R. 4175: Mr. ENGEL and Mr. MATSUI.

H.R. 4228: Mr. BRUCE.

H.R. 4275: Mr. ANDERSON.

H.R. 4430: Mr. ALLEN

H.R. 4490: Mr. MURTHA.

H.R. 4507: Mr. TORRICELLI, Mr. HANSEN, Mrs. LOWEY of New York, and Mr. RITTER.

H.R. 4539: Mr. CAMPBELL of California and Mr. WALSH.

H.R. 4761: Mr. SMITH of New Jersey.

H.R. 4974: Mr. JONES of Georgia, Mr. EVANS, Mr. FALEOMAVAEGA, Mrs. MINK, Mr. GILMAN, Mr. JEFFERSON, Mr. SPENCE, Mr. McNULTY, Mr. ANDERSON, Mr. TOWNS, Mr. HORTON, Mr. BEREUTER, Mr. FROST, and Mr. BUSTAMANTE.

H.R. 5070: Mr. WELDON, Mrs. BOXER, and Mr. LAUGHLIN.

H.R. 5100: Mr. PETERSON of Minnesota, Mr. FORD of Michigan, Mr. DORGAN of North Dakota, and Mr. REGULA.

H.R. 5156: Mrs. MORELLA.

H.R. 5208: Mr. CAMPBELL of California and Mr. ENGEL.

H.R. 5257: Mr. STUDDS, Mr. MONTGOMERY, and Mr. ANNUNZIO.

H.R. 5282: Mr. COX of California.

H.R. 5294: Mr. FASCELL.

H.R. 5320: Mr. FASCELL and Mr. FALEOMAVAEGA.

H.R. 5321: Mr. FRANK of Massachusetts, Mr. HYDE, Mr. McCOLLUM, Mr. BOUCHER, Mr. FISH, and Mr. COBLE.

H.R. 5322: Mr. NAGLE and Mr. BOUCHER.

H.R. 5360: Ms. PELOSI, Mr. MFUME, Ms. KAPTUR, Mr. WOLPE, Mr. ENGEL, and Mr. MORRISON.

H.R. 5396: Mr. EVANS.

H.J. Res. 271: Mr. DICKS, Mr. KOSTMAYER, Mr. MAZZOLI, Mr. ORTIZ, Mr. SCHEUER, Mr. WHEAT, Mr. SAVAGE, Mr. LEACH, Mr. SMITH of New Jersey, Mr. CARPER, Mr. AuCOIN, Mr. SWIFT, Mr. CLINGER, Mr. HUGHES, and Mr. BILIRAKIS.

H.J. Res. 380: Mr. LIPINSKI, Mr. KOPETSKI, Mr. MORRISON, Mr. RAHALL, Mr. PERKINS, Mr. CONYERS, Mr. RAMSTAD, Mr. CLEMENT, Mr. NATCHER, and Mr. RHODES.

H.J. Res. 399: Mr. LAGOMARSINO, Mr. EVANS, Mr. LEWIS of Florida, and Mr. BROWDER.

H.J. Res. 411: Mr. BAKER, Mr. SARPALIUS, and Mr. BUSTAMANTE.

H.J. Res. 433: Mr. AuCOIN, Mr. BOEHLERT, Mr. HOYER, Mrs. LOWEY of New York, and Mr. REED.

H.J. Res. 450: Mr. FISH, Mr. MARTIN, Ms. OAKAR, Mr. HORTON, Mr. RICHARDSON, and Mr. APPLEGATE.

H.J. Res. 455: Mr. ROYBAL, Mrs. ROUKEMA, Mr. SISISKY, Mr. SAVAGE, Mr. SAWYER, Mr. LENT, Mr. TALLON, Mr. TAUZIN, Mr. TOWNS, Mrs. UNSOELD, Mr. YATRON, Mr. BROOMFIELD, Mr. McDADE, Mr. HALL of Ohio, and Mr. CONYERS.

H.J. Res. 459: Mr. SHAW, Mr. BERMAN, Mr. BROWN, Mr. GALLEGLY, Mrs. KENNELLY, Mr. REED, Mr. STARK, Mr. WHEAT, Mr. BACCHUS, Mr. CARPER, Mr. COSTELLO, Ms. DELAURO, Mr. ERDREICH, Mr. JACOBS, Mr. PASTOR, Mr. SIKORSKI, and Mr. WASHINGTON.

H.J. Res. 478: Mr. SUNDQUIST and Mr. MARTINEZ.

H. Con. Res. 256: Mr. FISH.

H. Con. Res. 316: Mr. PAXON, Mr. DARDEN, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. RAVENEL, Mr. ZIMMER, Mr. VALENTINE, Mr. HOBSON, Mr. SARPALIUS, and Mr. HAYES of Louisiana.

H. Con. Res. 329: Ms. NORTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 759: Mr. MAVROULES.

H.R. 3221: Mr. DICKS.

EXTENSIONS OF REMARKS

LAWRENCE UNIVERSITY AWARDS DOCTOR OF LAWS DEGREE TO FTC CHAIRMAN JANET STEIGER

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. PETRI. Mr. Speaker, I am pleased to report that Federal Trade Commission Chairman Janet Steiger, a distinguished native of my district, was honored with a doctor of laws degree during commencement ceremonies at Lawrence University this past Sunday. Janet Steiger was an honors graduate of Lawrence in 1961. President Carter nominated her to the Postal Rate Commission, where she served as Chairman for 8 years by appointment of President Reagan.

As our colleagues know, for the past 3 years, Chairman Steiger has been leading the FTC with considerable distinction. I note that one journalist recently dubbed her "the iron pixie" and another who covers the FTC has commended President Bush for naming her its Chairman.

During the commencement in Wisconsin this past weekend, Lawrence University President Richard Warch afforded the graduates a few insights on Janet Steiger as a young scholar.

For the benefit of my colleagues I include in the RECORD the remarks of President Warch and the responding remarks of Chairman Steiger:

REMARKS BY RICHARD WARCH, PRESIDENT OF LAWRENCE UNIVERSITY

Janet Dempsey Steiger, for those who knew you as an undergraduate at Lawrence, your life of distinguished public service has come as no surprise. From your first days in Freshman Studies, you showed rare and precocious insight into the great questions of Plato and Thoreau. The brilliance and scope of your contributions in Sophomore Studies, exemplified in a paper on Van Gogh's "Night Café," dazzled your classmates and teachers alike. And although it is reported that you once accidentally dropped your copy of Proust in the bathtub, you brought to that and other works in Douglas Knight's Senior Seminar a probing intelligence which distinguished all your work at the college. Indeed, you were one of a very few in the history of Lawrence to graduate with no grade below A; Phi Beta Kappa and the Fulbright and Woodrow Wilson Fellowship Committees only confirmed what we already knew.

But the distinction you earned in your academic achievements was matched by your exemplary service to the college and to your fellow students as campus leader, freshman counselor, and friend. Indeed, the citation of one of your many honors was prophetic when it referred to your "great promise of distinguished service in the promotion of human progress."

That promise has been fulfilled. If a commitment to informed public service was rooted in your family's values and nurtured at Lawrence, it blossomed in your marriage to young congressman William Steiger. A lawyer's daughter, a politician's wife, you experienced the realities of public life, accumulating resources and skills in management and administration which prepared you to answer the invitation of two presidents to serve this country.

As a member and then as Chair of the Postal Rate Commission, you dealt efficiently with complex issues, understanding and interpreting technical details and proposals, respecting the counsel of your colleagues, yet taking responsibility for the results of the Commission's actions. When President Bush appointed you to chair the Federal Trade Commission 1989, you determined to re-establish that agency's reputation as a protector of consumer interests and free-market economies, and to restore public confidence in the agency's work. As you focus on the "area most likely to harm," to use your words, you bring to bear intelligence, insight, imagination, and integrity, which assure us that individuals' rights and concerns are still looking after in an increasingly impersonal world.

You have long honored Lawrence as a member of our community, as a distinguished alumna, and as a recent trustee. Today we are pleased and proud to return the honor.

By the authority vested in me, I now confer upon you the degree of Doctor of Laws, honoris causa, and admit you to its rights, its privileges, and its obligations.

REMARKS OF JANET D. STEIGER

President Warch, Members of the Faculty, Members of the Class of 1992, families and friends.

I am pleased to share this special day with you. I will be brief.

Recently Secretary of State James Baker gave the commencement address at the College of William and Mary. He recalled that, as a parent, he has sat proudly in many a commencement audience, and that, as one in public life, he has sat on a few platforms. Having had both perspectives, he said, I can tell you two things: one, no matter where you sit, the chairs are uncomfortable—and two, everybody claps louder if you keep it short.

The only certainty Lawrence graduates of 1992 will be able to count on is unforeseeable change.

Last fall a Roper poll of 1200 full-time undergraduates on 100 campuses found a pervasive feeling of pessimism and for a sizeable number of students a sense that the American dream is no longer viable. Uncertainly abounds about job prospects and security, the economy, the environment, race relations, healthcare and education. Sounds exactly like the year I graduated. But, there is much that is positive. In every corner of the globe, democratic values are being seized upon. We are hearing calls for human rights, for free-market economies. My Commission in the past two short years have been asked for technical assistance in the formation of competition policy from formerly state-controlled economies in the Baltics, Eastern Europe, and South America. We are witnessing high-risk and highly courageous efforts to establish democracies and to sustain them in the face of awesome odds.

It is a world landscape that would have been unthinkable at the time you entered Lawrence and it is a landscape that offers you hope. Freer trade, more open borders, and a growing consensus for democracy will have an impact on your futures that is dynamic and positive.

In the course of these dizzying changes, hope that the center holds—that a modern-day Yeats will not be able to say:

Turning and turning in the widening gyre
The falcon cannot hear the falconer;
Things fall apart; the center cannot hold;
Mere anarchy is loosed upon the world,
* * * The best lack all conviction, while the worst
Are full of passionate intensity.

You are among the best and from you will come both intensity and conviction. You, graduates of the second oldest coeducational liberal-arts institution in America, are uniquely equipped to affect the course of change today.

This University has gifted you with the ability to think for yourself, to address problems clearly, critically, and analytically. It has introduced you to what eternal verities there are across every academic discipline and it has opened doors to the joys of art, music, and literature—joys that will enrich your life and your very soul even in the darkest moments.

What your liberal-arts education will enable you to do is to confront the unexpected. It is an education that will enable you—as it has me—to face dramatic changes in both your personal and professional lives. Your education is centered in human values, and focused on the critical need for ethical conduct, both individual and collective ethical conduct.

Your four year study of human history should have instilled a belief in the strength of the individual—a belief that will be your compass in unchartered landscapes.

My hope for you is that you will come to believe with Emerson there is no knowledge that is not power and that you will recognize your years here to have been years of empowerment even in the face of change and lack of certitude.

My thanks for this high honor. Godspeed.

NATIONAL WIRELESS TELECOMMUNICATIONS MONTH

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. LEHMAN of California. Mr. Speaker, when disaster strikes, every minute counts. Communications is vital. And the landline telephone network may be affected.

Time after time during the cellular telephone industry's brief history, local, State and Federal authorities have relied on cellular for emergency operations.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Cellular carriers have provided crucial communication links to the outside world during such recent natural disaster situations as the San Francisco earthquake, Hurricane Hugo and the Yosemite forest fires. In each case, carriers volunteered dozens of cellular phones for use by rescue teams at the disaster site, and when necessary actually constructed temporary cell sites to provide better signal coverage.

One dramatic safety story that developed just a couple months ago involved a series of underground gas explosions that left 200 dead in Guadalajara, Mexico. Telephone service to approximately 100,000 residents was severed. Hospital personnel, however, were able to use cellular phones to coordinate emergency response efforts. Within hours, a coordinated effort to supply fixed cellular units to the relief effort also was underway. And by the afternoon of the next day, equipment had been supplied to various relief agencies, including the International Red Cross.

Even more recently, cellular showed its value during the riots that broke out in Los Angeles. California carriers rushed loaner cellular units to public service and law enforcement agencies, and the phones proved invaluable during the crisis.

According to the Los Angeles Police Department, the cellular phones were instrumental in helping them communicate with the National Guard. In addition, the Red Cross used car phones to coordinate the logistics of running the emergency relief shelters in places such as schools. Also, cellular phones in shelters gave refugees a means of communicating with their loved ones.

Looking forward, a commitment of cellular phones already has been made to rebuild the Los Angeles project.

On a daily basis, cellular telephones play an important communications function, helping to make business and our personal lives far more efficient. This is certainly true in my congressional district, located in the heart of the fertile San Joaquin Valley, where area farmers have come to rely on cellular telephones to more efficiently run their farming businesses.

This June has been designated as "National Wireless Telecommunications Month" to give us a chance to look at how far we've come with telecommunications, and where we're going. Providing a link to the world when disaster strikes is one incredible part of that story and I salute the industry for its contributions.

CONGRESSIONAL SALUTE TO MRS. BETTY MacKENZIE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. ANDERSON. Mr. Speaker, on Thursday, June 25, 1992, the Soroptimist International of Bellflower will hold its 40th annual installation of officers dinner and dance. It is with great pleasure that I rise today to pay tribute to an exceptional woman, their outgoing president Mrs. Betty MacKenzie.

Born in Atlanta, GA, Betty moved with her family to Downey, CA, when she was 8 years old. Her family resides in Downey to this day. While a student at Downey High School, Betty was employed by the Los Angeles County Sheriff's Department. Following her graduation, Betty transferred to the district attorney's office and completed her 25-year government service career as the head secretary of the Norwalk Superior Court Office.

As Betty's career began to blossom, so did her personal life. Betty met and married Lyle MacKenzie, a private attorney in Bellflower. Following their marriage, Lyle and Betty purchased a home from Med Cogburn. This purchase began a long and lasting friendship with the Cogburns resulting in a new career path for Betty. Betty enjoys her new position as a real estate agent for Cogburn Realty Co., Inc. The real estate profession allows her the time to devote to her family, especially son, John, and her many community interests.

Betty and Lyle have always been involved in Bellflower community activities and organizations. In addition to her exemplary service as president of the Soroptimist International of Bellflower, Betty is a member of the southeast district law auxiliary. She is also a member of the Rancho-Los Cerritos Board of Realtors. Lyle was president of the Bellflower Noon Lions and the chamber of commerce. He has been actively involved with the local Bar Association and was appointed commissioner of the Los Cerritos Municipal Court.

As Betty's term as president draws to a close, she is secure in the knowledge that president-elect, Judy Cleveland, will continue the fine traditions established in 1953 by the Soroptimist International of Bellflower. Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Mrs. MacKenzie. We wish Betty, her husband Lyle, and their son, John, all the best in the years to come.

YVONNE ALBRITTON AND LUCIA ROJAS-BUTLER HELP NEIGHBORHOODS BUILD FUN PARKS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the achievements of two groups of south Florida neighbors who are building their communities while providing safe places for children to play.

Yvonne Albritton, at Acadia Park in northwest Miami, and Lucia Rojas-Butler at the Gwen Cherry Housing Complex, organized groups of neighbors to clean up and add playground equipment to their neighborhood parks. Each project was planned to compete for a $1,000 "Good Neighbors" Contest sponsored by the Junior League of Miami and the Miami Herald, with the money to be used for the playground equipment. The Good Neighbors Contest is designed to bring together neighbors of different backgrounds to solve a community problem.

In each of these projects, people have become involved in their neighborhood not only in developing and carrying out the project, but as parents who meet each other while their children use the park. Children like Keisha Hall and Shannetta Robinson gather at the park every day, and bring their parents with them. Sandra Cannon, site manager at the Gwen Cherry Housing Complex, said that the interest and involvement of the residents in cleaning up the park was a major factor in Dade County's decision to add more than $19,000 for landscaping and new equipment. Richard Fosmoen, planning director for Dade County's Department of Housing and Urban Development, said that the neighborhood involvement helps motivate the Department to get things done, because "Instead of doing for folks, we prefer to do with folks."

The Miami Herald published an article on the work of the two groups of neighbors which I would like to include in the RECORD:

$1,000 TURNS LOTS INTO LOTS MORE FUN

(By Alina Matas)

Two neighborhood groups each took $1,000 and transformed two barren parks into thriving playgrounds.

Acadia Park, a five-acre facility at Northwest 196th Street and 55th Avenue, got a new set of swings. At the Gwen Cherry Housing Complex on Northwest 18th Terrace and 20th Avenue, the money went to clean a one-acre, debris-covered playground.

The results have been noticed.

"The park is more fun," said 10-year-old Keisha Hall, who lives near Acadia Park. "Before, it only had the slide and it used to be boring."

Since the swings were installed April 20, Keisha said she comes "every single day." She comes with the "gang"—a group of about 10 friends who flock to the swings every afternoon.

"Before the swings were here, I would come and I would leave in five minutes," said Shannetta Robinson, 10. "Now I come every day. I come like at four, and I leave before it gets dark."

Kids swarming the swings was what they wanted, said Yvonne Albritton, who with a group of six other residents submitted the idea for the new swings.

She submitted the idea to the Good Neighbors Contest, which is sponsored by the Junior League and The Miami Herald. It is aimed at bringing together neighbors of diverse backgrounds in a project to solve a problem in their community.

"It's like Field of Dreams," Albritton said. "You just put it there and you see them there on Saturdays dragging their parents."

A similar scene soon will take place at the Gwen Cherry Housing Complex, where the $1,000 paid a local company to clear a playground many residents didn't even know was there.

Cleaning the playground was just a start. The Dade County Department of Housing and Urban Development has set aside $19,500 for new playground equipment and landscaping. The park now only has a slide, monkey bars and a basketball court.

"The interest and the involvement helped move that along," said Sandra Cannon, site manager at Gwen Cherry. "The residents really have gotten interested."

To spruce up the playground after the company removed heavy debris, neighbors in the area gathered one Sunday morning to clean litter and paint the slide, monkey bars and basketball backboards. Local vendors supplied lunch for all who came and prizes for the two kids who collected the most garbage.

About 70 adults and children showed up. "To get people up on a Sunday morning—it's remarkable," said Lucia Rojas-Butler a resident who led the group effort.

The work on the playground should begin before the end of the year, said Richard Fosmoen, HUD's planning director.

"It helps motivate us to get things done," Fosmoen said. "Instead of doing for folks, we prefer to do with folks."

Mr. Speaker, I commend the Junior League of Miami and the Miami Herald for sponsoring the Good Neighbor Contest. I commend, Yvonne Albritton, Lucia Rojas-Butler, and all those involved in this project. They show the type of cooperation and neighborliness which is the surest antidote to the fear and crime plaguing our cities.

TRIBUTE TO CHIEF CARL H. STEINMULLER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mrs. LOWEY of New York. Mr. Speaker, today I rise to pay tribute to a man who has dedicated 42 years to serving the people of Bronxville, NY, Chief of Police Carl H. Steinmuller.

Chief Steinmuller's commitment and leadership truly have been instrumental in enhancing the special quality of life in Bronxville. In Chief Steinmuller, the people of that community have been served by someone who has made their safety and well-being his life's work and who has always found time to be attentive to the very human aspects of law enforcement—the needs of the people. He has responded willingly and effectively to the many needs of his community, showing compassion and understanding as well as the strength necessary to successfully fulfill his responsibilities.

Chief Steinmuller's distinguished career began 42 years ago when he joined the Bronxville Police Department as a probationary police officer. And, throughout more than 4 decades, he has been ready and able to respond to problems, large and small, of the people of Bronxville. He worked his way up through the ranks and in doing so, he has literally put his life on the line for his neighbors on several occasions.

As I have worked in Congress to give greater priority to the fight against crime and to support local efforts to ensure the safety of our community, Chief Steinmuller has worked tirelessly to pursue these goals throughout the village of Bronxville. Chief Steinmuller's special contributions have left a lasting and positive mark on Bronxville. I know that my colleagues join me in congratulating him on his accomplishments and wishing him well.

TRIBUTE TO THE MOST REVEREND ANDREW G. GRUTKA, D.D.

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to an exceptional individual, the Most Reverend Andrew G. Grutka, D.D., on the 35th anniversary of his consecration, and also his lifelong involvement with the church and northwest Indiana.

Bishop Grutka's life is truly an American success story. Born of immigrant parents who came to America from the village of Stara Ves in Slovakia, Bishop Grutka worked diligently to receive an education. He then followed his intentions to serve God and fellow man.

On February 25, 1957 in the Cathedral of Holy Angels, Bishop Grutka was consecrated as the first bishop of the newly created Diocese of Gary. He was chosen by Pope Pius XII.

During Bishop Grutka's service to the Catholic church and northwest Indiana, 22 churches, 11 parishes, 15 elementary schools, and two high schools, including my alma mater, Andrean High School, were spawned. Bishop Grutka is also responsible for purchasing and developing Camp Lawrence, a diocesan youth camp. Internationally, he was instrumental in building the Institute of Saints Cyril and Methodius in Rome for the education of young men for the priesthood.

Bishop Grutka's achievements do not stop here. He has often been nicknamed the "Bishop of the Steel Mills," and rightly so. His avid support for community service is truly outstanding. Soon after he came to East Chicago during World War II, he became interested it the social and economic problems of the working class. His interest turned toward the Association of Catholic Trade Unionist. He also became associated with the Gary Urban League and became a member of the board of directors in 1947, later holding office of treasurer. In 1956 he became vice-president of the Gary Re-development Commission. Bishop Grutka has also been active in civil rights causes, serving as chairman of the Human Rights Committee, and in recent years he received the Ellis Island Medal of Honor.

I wholeheartedly commend and honor the Most Reverend Andrew G. Grutka. His impact is felt nationally, internationally, and particularly in my own district. The Most Reverend Andrew Grutka's achievements will always serve as a constant reminder of his inherent dedication to God and fellow man. He is clearly a model and inspiration for us all.

CHANGE OF COMMAND IN THE AIR FORCE

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. RAY. Mr. Speaker, I would like to bring to the attention of my colleagues an important change of command which will occur in the Air Force.

Gen. Charles C. McDonald, commander of Air Force Logistics Command [AFLC], will be retiring on June 30, 1992. General McDonald has had a long and distinguished career in the Air Force. He entered the Air Force in 1957, and has flown B–47's and B–52's. General McDonald has numerous decorations and service awards including the Distinguished Service Medal, the Bronze Star, the Combat Readiness Medal, the National Defense Service Medal, the Air Force Longevity Service Award Ribbon with seven oak leaf clusters, and the Republic of Vietnam Campaign Medal.

General McDonald has been AFLC commander during a time of great change for our Nation's Armed Forces, and the Air Force in particular. General McDonald has faced a great many challenges as AFLC commander. His budget has been reduced significantly, his logistics centers, like all bases, have been considered for closure, and he led a massive logistics support effort for Operations Desert Shield/Desert Storm. He has also been placed in the unfortunate situation of having to execute a reduction in force [RIF], and he has guided our Nation's air logistics centers through sweeping management reforms.

I have had the opportunity to get to know General McDonald personally by working with him throughout these difficult times. He has appeared before the Armed Services Committee on several occasions. I have always found him to be honest, openminded, forthright, and fair. Under his leadership, the ALC's of this country have flourished and remain an important national security asset. He has served our Nation proudly and he will be sorely missed.

General McDonald leaves the Air Force at a crucial time. The Air Force Logistics Command [AFLC] has merged with the Air Force Systems Command [AFSC] to become the Air Force Materiel Command [AFMC]. Taking the helm of this new command is Gen. Ronald W. Yates. Currently General Yates is commander of Air Force Systems Command at Andrews Air Force Base, MD.

General Yates assumes this new command during uncertain times. While it is true that the Soviet Union ceases to exist, numerous international tyrants continue to plague the security of the world. General Yates has an impressive record in the Air Force. He graduated from the U.S. Air Force Academy in 1960, and has a master of science degree in systems management from the University of Southern California. He has directed numerous aircraft programs, and has received the Distinguished Service Medal, the Distinguished Flying Cross, the Air Force Commendation Medal with oak leaf cluster, and many other decorations and service awards.

I salute both of these fine gentlemen.

TRIBUTE TO SGT. ROBERT L. DARNELL

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. LEVINE of California. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Sgt. Robert L. Darnell of the Los Angeles Police Department [LAPD]. Sergeant Darnell will be retiring on July 25, 1992, and will be honored at the Culver City Elks Lodge on June 25, in appreciation for over 21 years of dedicated service to the field of law enforcement.

The LAPD has benefited tremendously from the strong leadership and tireless efforts of

Sergeant Darnell, an individual who has led by example. Highlighting an already impressive career, he once rescued several citizens from the lobby of the Foothill Station as a sniper fired multiple rounds into the building. He was also one of several officers called to a scene where a crazed man was holding a small child hostage, pressing a butcher knife to her chest. While holding the child, the man attacked two motorists with the knife. Sergeant Darnell's actions enabled the suspect to be apprehended while the child and the other victims were rescued. For these selfless acts of bravery, he was the recipient of the Medal of Valor and awarded a major commendation.

Among his many accomplishments, Sergeant Darnell is a distinguished Vietnam veteran who participated in several battles in the A Fhau Valley, Chu Lai Province, Du Pho Province, and the jungles of the Laotian border. For his services, this dedicated veteran received the Bronze Star and the Silver Star.

Sergeant Darnell is a 1969 graduate from San Fernando State College, with a degree in political science and an emphasis on pre-law. He has also helped to educate others, through his participation in the drug prevention program—a program that helped lay the groundwork for the Los Angeles Police Department's current DARE Program.

Throughout his endeavors, Sergeant Darnell has enjoyed the love and support of his family, including his wife of 20 years, Marilyn, and his two boys, Brian, age 14, and Craig, age 11. He plans to retire to San Luis Obispo, CA, and start a small business. His long-term goal is to travel and reside upon a sailing yacht.

The city of Los Angeles and its police department have been extremely fortunate to have had the leadership of an individual as dedicated, experienced, and successful as Robert L. Darnell. I ask that the Speaker and Members of this body join me in saluting Sergeant Darnell on the occasion of his retirement from the law enforcement field, and to wish him and his family continued success.

SANDERS SEND OFF

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. DYMALLY. Mr. Speaker, I rise today to express the sorrow of the city of Compton at the passing of City Treasurer Wesley Sanders on Saturday, May 30, 1992. My condolences to my friend Jean Sanders and family members.

On Saturday, May 30, 1992, at 7:22 a.m., a gray cloud of smoke covered the city of Compton. It was not caused by financial devastation nor destruction, but rather by the spirit of Compton's own City Treasurer Wesley Sanders, Jr., ascending to his heavenly home.

Wes is the third of four children born to the union of Julia Mae Saddler and Wesley Sanders, Sr., on February 7, 1933, in Los Angeles, CA. He was born and raised in Watts, where he attended Grape Street Elementary School and Jordan High School. When Sanders was young he worked to help support his family and to send his sister through UCLA. After graduation, he enlisted in the Air Force, advanced to staff sergeant and received an honorable discharge in 1956. Shortly thereafter, he married Bernice Lanell Jackson and during this union six children were born.

In 1966 Wesley was employed by the John Morrell Packing Co. as the first black meat salesman. Because of his prowess in financial matters, he opened his own successful Triple Quality Meat Co. in the city of Compton in 1961.

Wesley attended Harbor College, majoring in business administration while employed at Morrell's Packing Co. In 1975, he enrolled in a program instituted for city treasurers to become certified at the University of California. He was the only black person certified among the first 10 treasurers in California.

In 1977 Wesley met and later married Iris Jean Adkins; they have a combined family of eight children from previous marriages.

In April 1973, Wesley was elected treasurer for the city of Compton. In these 19 years the city revenues have been protected by his prudent management. During this tenure his investment decisions have increased revenue to the city in excess of $20 million. He had the acclaim of directing an office which reflects a high degree of integrity, accountability, and honesty.

Wesley became the first black person to run for State treasurer. Recently, Wesley was appointed by the speaker of the assembly, the Hon. Willie Brown, Jr., to the State Board of Funeral Directors and Embalmers. He was a member of the Central and West Basin Water Replenishment District, the California Municipal Treasurers Association, as well as the Municipal Treasurers of the United States and Canada. Wesley was also a member of Prince Hall Mason, B.F. Talbot Lodge No. 8, and president of the Compton Mosquito Abatement Board. In 1990, Wes joined Business and Professional Women/U.S.A. and was active with the local Compton chapter.

With all of his professional responsibilities, Wesley still found time to regularly attend Zion Missionary Baptist Temple and be a husband and father.

Mr. Speaker, Wesley Sanders, Jr., left a great legacy in both the city of Compton as well as the State of California. He will be sorely missed. We are all blessed to have been associated with Wes.

THE RACE FOR THE CURE

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mrs. VUCANOVICH. Mr. Speaker, today I would like to invite this body and those who work in the Halls of Congress to participate in a very important event occurring this weekend in Washington, DC. This Saturday, Washingtonians and visitors from all walks of life are going to participate in the Race for the Cure—a 5K run and walk and a 1-mile fun walk to benefit breast cancer prevention.

Today, the statistics remain startling. 180,000 women will be diagnosed with breast cancer this year and 46,000 will lose the fight against this disease. Many of these women may have had a chance, had they only known about early detection.

Now is our chance to help—to race for the cure. Run or walk, but do not miss this opportunity to help women of the Washington area fight this disease. Seventy-five percent of the moneys raised locally will remain in this community to fund local breast cancer projects.

Mr. Speaker, I encourage all my colleagues and their staffs and families to join me, the Quayles, and Mayor Sharon Pratt Kelley at 14th and Constitution at 8 a.m. this Saturday to run or walk in the Race for the Cure. In a course of a lifetime, breast cancer will put one in every nine women and their families in a race for their lives. Now is the time to join them in this race.

DEPARTMENT OF EDUCATION FLIP-FLOPS WHILE LOS ANGELES BURNS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. MARTINEZ. Mr. Speaker, according to the U.S. Department of Education the Upward Bound Program at East Los Angeles College [ELAC] is one of the Nation's best. In May of 1990, the Department recognized this program as one of the Nation's "10 exemplary educational opportunity programs." The Department reconfirmed its judgment of the high quality of this program just last October by providing funds to expand the program.

Now the "Education President" is taking actions that will shut down one of the best programs in the Nation.

The Upward Bound Program works to identify high potential young people from disadvantaged backgrounds, works to open horizons and raise expectations. It has built a record by helping students from disadvantaged backgrounds successfully complete college. The President himself has highlighted the importance of Upward Bound and other TRIO programs as keys to opening educational opportunity in America. The President has spoken of Jaime Escalante as a hero because of his effective work in putting disadvantaged and often troubled youth on the path to college and successful careers and better lives. Mr. Escalante's success has been built in part on close involvement with East Los Angeles College programs for disadvantaged youths.

For 18 years the East Los Angeles College has operated an Upward Bound Program funded by the U.S. Department of Education. The ELAC Program's strategy has been to seek out the marginal student—the underachiever whose standardized test scores and/or grades at an earlier level indicate high potential—the "C" and "D" student who should be getting "A's" and "B's". By helping these student improve achievement and academic skills, and by raising their own expectations, the program is succeeding in changing lives.

The Department has recognized the high quality of this program for good reason: 95 percent of entering ELAC Upward Bound students complete the program; 99 percent of the student who complete the program go on to postsecondary education; and 75 percent of these students go to 4-year institutions; most of the rest go to community colleges and subsequently transfer to 4-year institutions. Graduates of the ELAC Upward Bound Program have gone on to attend some of the leading universities in the Nation—including the University of California at Berkeley, Yale, Columbia, and MIT.

This record of success is particularly impressive in view of the great need in the area served by East Los Angeles College. The campus is located near the scene of the recent troubles in LA. This campus of over 13,000—which is over 88-percent minority—serves an area where 46.5 percent of the students live below the poverty level. The dropout rate in the target schools ranges from 39 percent to 54 percent. These students are overwhelmingly Hispanic, Asian American and African American. The program plays a particularly important role in helping the children of immigrant families move into the American mainstream.

Since 1977, ELAC applications have consistently been ranked in the top one-fourth of all applications by the Department's peer review process. This time the application was ranked near the bottom. Instead of focusing on what works and a record of outstanding results, the Department's redtape review focused on grantsmanship in the application rather than on real world results. As the Department admits, "there are a few instances where the readers made what might seem to be inappropriate comments.

One of the two readers writes: "However, during the summer program, courses such as philosophy, chemistry, and data processing seem extensive when we are trying to make students successful." This comment suggests that the reviewer may have very low expectations for the future education opportunities open to these minority students. Moreover, the comment is at odds with the record of what works—as demonstrated by nearly two decades of education achievement by the graduates of this program.

At another point, a reviewer raises concerns regarding program effectiveness in view of gang influences in area schools. Since the effectiveness of this program is already clearly documented by program outcomes, this raises concerns that the reader is focusing on stereotypes of gang infested barrios rather than on education realities.

There are additional comments that suggest that the readers are seriously out of touch with the student population being served. For example, one of the two readers states that "more time and effort should be placed in the high schools without a junior high component." This ignores the data and a long history of program evaluations. Hispanics have the highest dropout rates in the Nation, and a large proportion of these students—many of them gifted and talented—are dropping out in junior high. High school is too late. The ELAC Upward Bound Program has lead the way in upgrading the quality of TRIO programs by reaching out to junior high students. Given what we know about effective pedagogy and dropout prevention, this component should receive strong support rather than being counted as a minus.

In addition, there are numerous comments that suggest hurried or careless reading by the two reviewers. To take just one of many instances, the application is criticized for not providing data on dropout rates for each participating high school. The fact is that the data are hard to miss: the figures are presented on page 3 of the application.

In any competitive grant program, such as Upward Bound, there are winners and losers each grant cycle. The final success of the program depends critically on the quality, validity, reliability, and fairness of the application review process. Statistically, this year's reduction of the number of readers per application to just two significantly increases the risk of unreliability in scoring and amplifies the impact of any lack of knowledge or bias on the part of one or both readers. Big changes in the scoring for successful programs which are essentially the same from one cycle to the next is a tip-off that there may be serious problems with the reliability of the evaluation.

This reflects a broader problem. For example, while the number of Hispanic students in our Nation's schools grows rapidly, testimony before Congress has suggested that Hispanic students appear to be seriously underserved by the TRIO Program. The Department's proposal to end funding for this program will make that problem worse. Other statistical aberrations—such as the fact that while roughly one out of every eight Americans lives in California, there is not a single TRIO educational opportunity center in California—suggest serious flaws in the way that this program is now being implemented by our education President.

It is precisely for such reasons that pending legislation reauthorizing the Higher Education Act, will make major changes in the TRIO application review program. This includes a requirement for an expanded number of readers and a requirement that there be greater diversity among reviewers in order to assure a better informed and more balanced assessment of applications.

In sum, the Department's denial of funding ignores this program's nearly two decades of outstanding success in putting disadvantaged youths on track to college success and opportunity. East Los Angeles College has one of the strongest upward bound programs in the Nation—as recognized by the Department and as demonstrated by results. Today, when the census tells us that there are all time highs in the number of limited English proficient students, this program which is providing a nationally recognized model for effective education of bilingual and bicultural youth to bring them into the American mainstream is of national interest. Eliminating this program at a time when recent events in Los Angeles have drawn national and world attention, simply makes no sense.

If the administration does not care about what works to build education success in our Nation's great cities, what does it care about? It is stunning and shocking that the Bush administration proposes to dismantle this highly effective program at this critical time. The Department's action leads one to think that the "Secretary of Education's Report Card" recently published in Phi Delta Kappan was right on target when its headline asked "Where in the World is Lamar Alexander?" Perhaps the next issue should inquire, "Where in the World is the 'Education President'"? It is precisely due to insensitivity to real world problems in educating all Americans that the President said he issued an Executive order creating the initiative for excellence in Hispanic education. Decisions such as this raise doubts about whether that initiative will prove to have real substance for improving education, or is merely stage setting for the administration's real agenda. I urge that the administration continue to fund this high quality program.

IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. BERMAN. Mr. Speaker, along with my distinguished colleagues Mr. GILMAN of New York, Mr. RINALDO of New Jersey, Messrs. LEVINE and HUNTER of California, Mr. MCCLOSKEY of Indiana, and Mr. KASICH of Ohio, I rise today to introduce a bill entitled the Iran-Iraq Arms Non-Proliferation Act of 1992. This is a somewhat modified version of legislation introduced earlier this Congress in the other body by the distinguished Senator from Arizona [Mr. MCCAIN] and his colleagues, Senators GORE, THURMOND, and HELMS. I am honored to join with them in this extremely important effort to advance the vital security interests of the United States, its allies in the Middle East and Persian Gulf region, and indeed the world as a whole.

If any lesson was learned from the gulf war, it was that the unchecked accumulation of arms is very dangerous, gravely so in the case of countries with a history of aggression. One month after the end of the gulf war, President Bush said, "It would be tragic if the nations of the Middle East were to embark on a new arms race." It is bitterly ironic that since that war, this country has transferred more than $2 billion in arms to the Middle East alone. These sums render the President's talk of a new arms race cheap. It is time to reject the administration's hypocrisy and stand up for meaningful, binding arms control.

The Iran-Iraq Arms Non-Proliferation Act offers a way to put teeth into arms control through a fundamental and effective mechanism: raising the costs for companies and countries of making transfers which contribute to the militarization of Iran or Iraq. It sends a perfectly clear message to countries and companies alike, in language they will immediately understand. This is the message: "There are specific costs—detailed in this bill's mandatory sanctions—which you will incur if you contribute to the acquisition by Iran or Iraq of nuclear, chemical, biological and advanced conventional weapons."

Ultimately, for a company, a calculated choice must be made between maintaining a foot in the United States market and making sanctioned transfers to Iran and Iraq. For a country, if it is beholden to the United States for assistance, or if it relies either on U.S. munitions transfers or support in international financial institutions, there is a risk of losing these advantages.

Mr. Speaker, if there is to be anything fundamentally new about the much-touted new world order, we must see that the egregious proliferation of deadly arms which characterized the cold war order is brought to an end. I call upon you and our distinguished colleagues to join in this vital task, beginning with the troubled Middle East region. I commend the proposed legislation as a meaningful first step in the process, opposing the transfer of goods and technology which enable Iran and Iraq to acquire lethal biological, chemical, nuclear and advanced conventional weapons.

SUMMARY OF THE BILL

Section 1. Gives the title of the Bill as the "Iran-Iraq Arms Non-Proliferation Act of 1992."

Section 2. Requires that the U.S. oppose transfers of any goods or technology which contribute to the acquisition by Iran and Iraq of nuclear, chemical, biological and advanced conventional weapons. It also calls for the public identification of any country, company or person which transfers contrary to this policy.

Section 3. Extends to Iran in the same manner and extent the sections of paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990, prohibiting FMS, commercial arms, dual-use, and nuclear technology and materials sales.

Section 4. Outlines mandatory and discretionary sanctions against foreign *individuals and corporations* or their affiliates which transfer technology to Iran and Iraq contrary to the policy stipulated in section 2. *Mandatory* sanctions include suspension for 2 years of any export license to, or U.S. Government procurement with, that company. *Discretionary* sanctions allow the President to suspend importation of any articles produced by such individuals or corporations.

Section 5. Outlines mandatory and discretionary sanctions against *countries* which transfer technology contrary to the above policy. *Mandatory* sanctions include one year suspensions of exportation and codevelopment of Munitions List items, and U.S. Government assistance. They further mandate, in certain circumstances, opposition within international financial institutions to the extension of financial and technical assistance as may be under consideration. *Discretionary* sanctions may include suspension by the President of MFN trade status, and the exercise of authorities stipulated by the International Emergency Economic Powers Act.

Section 6. States that the President may waive execution of a mandatory sanction if, in a specific and detailed report to the Congress, a rationale is given as to why its imposition jeopardizes national security interests.

Section 7. Stipulates that the President report to the Congress in classified or unclassified form first, on an annual basis, all transfers subject to sanctions undertaken during the previous year and the responses of the President thereto; and second, to report within 30 days of their occurrence, individual sanctioned transfers and the intended actions of the President.

Section 8. Defines the following key terms of the Bill: advanced conventional weapons, cruise missiles, goods or technology, persons, sanctioned countries, sanctioned persons, and U.S. assistance.

SAM MOSLEY RETIRES AS HUMBLE INDEPENDENT SCHOOL DISTRICT ATHLETIC DIRECTOR

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. FIELDS. Mr. Speaker, I have always believed that athletic competition can build character and heighten the maturity of young men and women. Healthy competition can instill in young people a determination to try their hardest, give their best, and to face—and overcome—adversity on the sports field, in the classroom, and in life.

A friend of mine, Sam Mosley, also believes athletics can teach young people important lessons that stay with them all of their lives. Sam is retiring as athletic director of the Humble Independent School District, and I wanted to take a moment to salute him both for the successes he has enjoyed as athletic director, and for the example he has set as a mentor and as an example for young people in Humble and Kingwood.

There's no disputing that Sam Mosley is a highly talented coach and athletic director. This year, Sam's last as Humble ISD athletic director, Kingwood High School's athletic program has been recognized—again—as the best in the State. For the second time in 4 years, the school has received the Houston Chronicle Texas All-Sports Award, which is presented to the high school whose overall athletic program is determined to be the best in the State. Kingwood is the only two-time winner of the award, and most Humble and Kingwood residents give much of the credit for Kingwood's prowess to Sam Mosley for his unwavering commitment to athletic excellence.

Sam came to Humble High School as football coach from Corpus Christi's King High School in 1972. He took the coaching job because Humble ISD officials promised him that after a few years' service as football coach, the post of Humble ISD athletic director would be his. I'm proud that my own father, Jack Fields, Sr., served on the board of the Humble ISD at the time Sam was hired. I know my father was impressed with Sam as a person, and was equally impressed with his coaching skills. Sam apparently was favorably impressed with the men and women—and young people—in the Humble area.

As a result of Sam's efforts, the athletic programs at Kingwood High School and Humble High School have enjoyed tremendous successes and have undergone significant expansion over the years.

Kingwood High School, for instance, won the State championship this year in women's golf. The Kingwood men's and women's gymnastics teams were district champions this year, and the women won the sport's State title—for the third consecutive year.

Today, both high schools offer 10 sports for men and 10 sports for women, as well as team tennis—which has men and women on the squad.

But just as impressive as his teams' successes on the field of athletic competition is Sam's success in instilling in young men and women with the kind of Texas values our society needs so badly these days. I know personally that many, many students in the Humble ISD look up to Sam Mosley as someone who—whatever sport it might be—competes and plays hard but competes fairly; who knows how to handle victory as well as disappointment; and who maintains in his own life, and expects others to maintain, high moral standards.

Student athletes, parents, school officials, and his colleagues agree that Sam is a man whose intrinsic sense of fairness and decency have earned him universal respect. Indeed, Clear Creek ISD athletic director Larry Glover summed up how many of his colleagues feel about Sam when he said, "I hate to see Sam get out because he is one of the good guys. He's done a great job at HISD. It's a good way for him to leave: Tops in the State. Whatever he does, he does the right way."

Sam Mosley is, as Larry Glover pointed out, a good guy. And Sam is proof that good guys can finish first.

Those of us who know Sam Mosley, and who have followed his remarkable career for the last 20 years, will miss him, of course. But we also understand that Sam wants to take some time to hunt and fish and relax and spend time with his family. We wish him and his lovely wife, Libba, much happiness in the years ahead.

VOICE OF CANADA

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Ms. KAPTUR. Mr. Speaker, I am pleased to call the following NE–MW Economic Review article by Eric Hartman to the attention of my colleagues. It raises some important concerns about recent one-sided attacks on United States trade policy with Canada.

[From the NE–MW Economic Review, June 1992]

VOICE OF CANADA

(By Eric Hartman)

A remarkably one-side picture of U.S.-Canadian trade relations has emerged in the U.S. press of late, casting Canada as a nice-guy neighbor and the U.S. government as the neighborhood bully. By and large, America's editorial pages have echoed and amplified Canadian complaints. Studiously ignored in the process have been the facts, which do not fit a simplistic, morality-play version of U.S. trade relations with the world.

The Canadian public-relations offensive had begun months before Prime Minister Brian Mulroney came to Washington in May to complain of American "harassment" on trade. But the immediate provocation came from actions taken by the U.S. government in early March. First the U.S. Customs Service announced a preliminary audit finding that Honda Civics from Ontario had fallen short of the North American content needed to enter the United States duty-free under the rules of the 1988 U.S.-Canada Free Trade Agreement. Then U.S. officials announced a preliminary decision to impose a countervailing duty on allegedly subsidized Canadian lumber exports.

Mulroney's response: "If this kind of behavior came from a tin-pot dictator, we'd say 'What else is new?' But coming from the United States of America, this is unworthy." Canada's ambassador spoke darkly of the "corrosive effect of all these disputes" on Canadian public opinion.

Canada's chief negotiator of the bilateral FTA added a few pungent words of his own. "The Americans are bastards," Simon Reisman told a Canadian interviewer. "They're behaving like real thugs these days in protecting their interests."

Another former FTA negotiator, Gordon Ritchie, summed up the Canadian indictment in a comment reported by Washington Post columnist Hobart Rowen. Referring to the Honda audit finding, Ritchie said: "In Canada, this is not a technical trade issue. This is a political issue."

Rowen's column, typical of most U.S. press coverage of the Canadian offensive, excoriated the U.S. government's "Canada-bashing" and concluded: "The underlying premise of the FTA, as Ritchie says, was to allow foreign investors to look at the whole of North America and decide where to locate on the basis of straightforward, competitive economic factors. It seems painfully evident that President Bush * * * is going back on America's word to Canada."

This portrayal of U.S. trade policy would be damning—if it were accurate. Consider:

For years Canada has enjoyed a sizable surplus in its merchandise trade with the United States—$6 billion last year, even with U.S. import demand dampened by recession. The U.S. market absorbs more than 70 percent of Canada's exports, the bilateral trade flow is the world's biggest, and most of it is duty-free and dispute-free.

One reason for Canada's steady surplus with the United States is its government's unapologetic use of trade and investment distortions to induce automotive assemblers to produce vehicles in Canada for export to the United States. Canada has used local content requirements and conditional tariff reductions for decades to pull Big Three production north of the border. More recently Canada started using tariff-reduction incentives to lure producers from Japan and Korea to build vehicles in Canada to serve the U.S. market.

Part of the deal Canada made to keep these distortions intact in the 1988 FTA was a rule limiting duty-free entry to the United States to automotive goods with at least 50 percent of their manufacturing costs traceable to either Canadian or U.S. parts and labor—a level lower than that sought by the United States. Applying that rule in the Honda case, the U.S. Customs Service concluded that the company could not count as wholly North American its Civic engines made mostly of Japanese parts added to an engine block cast in Ohio.

Honda has plenty of avenues of appeal, both within the U.S. legal system and through bilateral dispute resolution established under the FTA. Canadian interests have fared well in both systems.

The lumber-subsidy fight also will be decided under FTA procedures if it is not settled sooner. It dates back to 1986, when Canada agreed to impose an export tax to cancel out the benefit of cut-rate sales of timber on public lands to Canadian lumber exporters. The lumber agreement helped win crucial support for the U.S.-Canada FTA talks from members of Congress from western states. Canada unilaterally abrogated that agreement last October, claiming the subsidies had ended—a claim hotly disputed by U.S. lumber producers. It was that unilateral move by Canada that triggered the new U.S. subsidy charges.

Canadian officials can be excused for making their case one-sidedly; that is their job. What's more, Canada's government faces a public agitated by prolonged recession, unemployment over 10 percent (due mainly to monetary stringency but widely blamed on the FTA), and the potential breakaway of Quebec. The political logic of a nationalistic attack on U.S. trade policy at a time of national disunity and economic discontent is clear.

But why is the Canadian caricature of U.S. trade policy reported so uncritically and even embellished by the U.S. press? Part of the answer may be the common mistake American observers make about Canada—considering Canadians to be just "like close relatives down the road," as sociologist Seymour Martin Lipset has put it. In fact, Canada's political culture and institutions depart markedly from the American model, countenancing far more government intervention in the economy, including a strategic use of subsidies and trade measures to foster domestic production. Seen in this light, U.S. enforcement of rules of origin and rules against subsidies and dumping is not "procedural protectionism," as some would have it, but a sensible way to let trade proceed while providing a buffer between two economies run by different rules.

Acknowledging this reality, however, would force many an American op-ed writer to reconsider a treasured preconception: that U.S. government intervention in trade is mainly guided by concern for "special interests" at the expense of both American consumers and upstanding competitors. This notion is a potent amalgam of laissez-faire ideology and the classic American journalistic predisposition to suspect government motives. Canada's government has tapped into it skillfully. The ironic result: American critics of assertive trade policy have been deployed in support of Canada's right to enjoy the fruits to exactly such a policy. Somebody at the Canadian embassy or back in Ottawa deserves a bonus.

A TRIBUTE TO THE JERSEYDALE FIRE CREW

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. LEHMAN of California. Mr. Speaker, it is truly an honor to stand before you to pay tribute to six heroic firefighters. Four of these brave men lost their lives in the line of duty, and two were critically injured. Thomas J. Foley, Martin F. Giorgi, John Vaun Rasch, and Raymond St. Pierre of the Jerseydale fire crew were killed, and Kent Stoel and Roy Chapin were injured while trying to contain a fire which had broken out along Ponderosa Way.

On August 2, 1962, the day was very hot, with a slight southwest wind. A fire had broken out in Midpines, moved in a northern direction along Bear Creek and Highway No. 140, and then moved along Carstens Road and Ponderosa Way. The Jerseydale fire crew moved in to catch a spot fire which had broken out on the east side of Ponderosa Way. West of, and below Ponderosa Way, an area ignition or blow up occurred and caught the entire Jerseydale fire crew in the middle of the fire. This explosion left four dead and two critically injured.

It is important to remember that each and every day firefighters all over this country put their lives on the line and we must recognize the achievements and gallant efforts of these men and women. It is with a great sense of honor and respect that I am here to pay tribute to the brave men of the Jerseydale fire crew.

I would also like to applaud the efforts of the community and the late Father Francis Walsh in their tireless efforts to construct a memorial in honor of these firefighters who gave their lives in the line of duty.

A CONGRESSIONAL SALUTE TO COMMISSIONER JUN MORI

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. ANDERSON. Mr. Speaker, on Wednesday, June 24, 1992, the Los Angeles Board of Harbor Commissioners will be honoring their vice president and commissioner, Jun Mori. Mr. Mori will retire after 15 years of distinguished service to the Harbor Commission. It is with great pride and pleasure that I rise today to pay tribute to this remarkable man.

Born and raised in the bay area, Mr. Mori ventured to Japan where he received his law degree from Waseda University in 1951. While studying in Tokyo, Jun served as an interrogator with the 6004th Air Intelligence Service Squadron. Upon returning to the United States, Jun enrolled in ULCA and received a Bachelor's degree in 1955. Following graduation, he entered the University of Southern California where he earned his juris doctorate degree in 1958. Shortly thereafter in 1959, Mr. Mori was appointed deputy commissioner of corporations for the State of California. Highlighting an already illustrious career, in May of 1980, Jun was appointed by President Carter to the Export Council, a most prestigious organization consisting of a 40-member panel that advised the President on U.S. export expansion.

We look to Mr. Mori today in recognition of his 15 years on the Los Angeles Board of Harbor Commissioners and his 5 terms as board president. During his tenure, the Los Angeles harbor has witnessed dramatic growth, $34.7 million net income in 1977 to $81 million in 1981, and an everlasting impact on WORLDPORT LA. Jun was instrumental in establishing a major expansion program that will broaden business opportunities and create jobs. Under his strong leadership, WORLDPORT LA has experienced an increase in minority/women participation in port activities.

His dedication to the harbor should not overshadow Mr. Mori's contributions to the civic community. He served in 1967 as chairman of the Los Angeles-Nagoya Sister City Affiliation and from 1965 to 1966 as its legal counsel. In addition, he is a UCLA Foundation Board of Trustees member and a UCLA Japan Advisory Committee participant.

Mr. Speaker, my wife, Lee, joins me in extending our thanks to Jun Mori for his many contributions to the harbor and the community. WORLDPORT LA is losing a valuable personality and mentor. We wish Jun, his wife, May, and their three children all the best in the years to come.

SALUTE TO DOLORES TERRY FLEMING

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. HOYER. Mr. Speaker, it is with pleasure that I rise today to salute Mrs. Dolores Terry Fleming of St. Mary's County, MD, for her dedication to educating children.

For over three decades Mrs. Fleming's career has spaned from that of teacher; educating our children to that of supervisor of instruction of English and foreign languages; implementing administrative policy. With each position Mrs. Fleming has demonstrated undying commitment and dedication to herself, her coworkers and to the children.

Mrs. Fleming's commitment to education does not end at the end of her work day, after work, she is involved with numerous professional organizations such as the National Education Association, the Maryland State Teachers Association, the Modern Language Association, and The Maryland Association of Affirmative Action Officers. In addition to her work with professional organizations, Mrs. Fleming is a member of Alpha Kapa Alpah Sorority, the National Association for the Advancement of Colored People [NAACP] and the Southern Maryland Chain of Links, Inc.

Mrs. Fleming's love for children and education started while a student at Armstrong High School in Richmond, VA. This love was nutured to maturity at the University of Maryland College Park, and the George Washington University. Although Mrs. Fleming is retiring, her faith in the opportunities for educated children will not.

Mr. Speaker, it is with pleasure that I recognize the accomplishments of Mrs. Dolores Terry Fleming whose faith in education as being the American way will not be forgotten.

STATEMENT OF THE COORDINATING COMMITTEE OF THE OPPOSITION PARLIAMENTARY PARTIES OF CROATIA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. TRAFICANT. Mr. Speaker, I enter the following statement of the Coordinating Committee of the Opposition Parliamentary Parties of Croatia for the consideration of my colleagues into the CONGRESSIONAL RECORD:

STATEMENT OF THE COORDINATING COMMITTEE OF THE OPPOSITION PARLIAMENTARY PARTIES OF CROATIA

To: President of the Republic of Croatia, President of the Parliament of the Republic of Croatia, President of the Government of the Republic of Croatia, and President of the Electoral Commission of the Parliament of the Republic of Croatia.

Demands of the Coordinating Committee of the Opposition Parliamentary Parties from its May 20, 1992, meeting regarding the conditions for holding elections in the Republic of Croatia.

1. Control of the election process:

Keeping in mind the conditions under which elections will be held, and the possibility of irregularities during that time, we believe that election control will be necessary, and in regard to that, we demand that representatives of all opposition parties from Parliament be equally represented in election committees and in all other election-related bodies on all levels. Parties must be represented in all such bodies.

We also demand that secrecy in voting be secured, namely, that closed booths for voting be provided, and where this is not enforced, that ballots be declared invalid.

Parties seek a precise establishment of the papers of voters based on citizenship and the registration of permanent registration of voters of the Republic of Croatia as a precondition to holding elections.

This particular demand should be regulated by the law, either by amending existing law or its official interpretation, but either way, it should be done before election campaigns are proclaimed open.

2. Financing elections:

As regards reimbursement of electoral expenses, we seek that one portion of the reimbursement be paid out prior to elections being held, in the form of an advancement, and that the second portion be paid out once elections are over.

We believe that beside membership fees and publicly made donations, limits must be placed on all parties, that each must not spend more on elections than the amount of debt decided on to be incurred for this purpose in the budget.

The relative extent of costs would be established such that the ratio of an advancement and the total amount of the grant is 1:5.

3. Codex of election behaviour

We demand that a codex be established which would regulate the behaviour of parties in the election.

The codex should include the following rules:

a) an equal amount of air time on television and radio and space in the press for all parties which would be regulated by a special contract with all media houses;

b) equality in using public gathering places in pre-election campaigning of all parties;

c) the possibility of publicly posting campaign advertising under equal conditions for all parties only on certain designated places.

The Opposition parties once again express their dissatisfaction with the election code and emphasize that, among numerous amendments to this code which have been suggested so as to secure greater democracy, control, equality and respectability in the upcoming elections, not one of them has been accepted. Therefore, the requests stated herein represent a minimum which, if not adopted, could consequentially bring about a reconsideration of the sense in holding elections and the participation of Opposition parliamentary partisans in such elections.

Croatian Democratic Party, Croatian Christian Democratic Party, Croatian National Party, Croatian Peasant Party, Croatian Social Liberal Party, Croatian Party of Rights, Social Democratic Party of Croatia, Socialist Party of Croatia, Social Democratic Party of Croatia—Party of Democratic Changes.

ZAGREB, *June 3, 1992.*

THE VETERANS' HEALTH CARE AMENDMENTS OF 1992

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. RAY. Mr. Speaker, in the near future the House of Representatives will be considering H.R. 5192, the Veterans' Health Care Amendments of 1992.

One provision of this bill has become particularly controversial. This provision would allow veterans to smoke in a segregated, well-ventilated area that is inside veterans' hospitals.

Currently, veterans who live in veterans' hospitals must go outside in order to smoke. They have to go outside regardless of the weather. Many of these veterans are older and have difficulty moving around. Many require the assistance of canes, walkers, or wheelchairs.

I have been approached by veterans of the Third Congressional District of Georgia about this matter. They have told me stories of fellow veterans who have seriously injured themselves while trying to go outside to smoke in inclement weather.

I myself am not a smoker, nor would I ever try to encourage anyone to smoke. However, I respect the rights of those who have chosen to smoke, as long as it does not compromise the rights of non-smokers. This matter is one of dignity and safety. Frail, elderly, disabled veterans cannot be expected to go outside in the rain or the snow in order to smoke. It is not safe. Many of these veterans took up smoking years ago before we became aware of the health risks associated with using tobacco products. For some veterans, smoking is now one of the few pleasures they have left in life.

Many compelling arguments are being made on both sides of this issue. I ask my colleagues to take the time to consider this issue with care and compassion.

TRIBUTE TO BARBARA ENGBERG

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. LAUGHLIN. Mr. Speaker, I rise today to pay tribute to Barbara Engberg, this year's recipient of the O.P. Schnabel Award. This award is given each year to a Texan worthy of the recognition as Texas' premier citizen in beautification efforts.

O.P. Schnabel founded Keep Texas Beautiful, Inc., and Mrs. Engberg founded its subsidiary, Keep West Columbia Beautiful, Inc. Mrs. Engberg will be honored at the 25th anniversary convention of Keep Texas Beautiful in the beautiful city of San Antonio in early July.

Mrs. Engberg's efforts to beautify my hometown of West Columbia far exceed the maintenance of kept yards and eye-catching landscapes. As founder of Keep West Columbia Beautiful, and its chairwoman for 2 years, Mrs.

Engberg has contributed her time and money towards beautifying the community. An example of her generosity is her recent donation to keep West Columbia Beautiful to provide the community with new stainless steel trash receptacles—but one example in a long and unselfish history of doing for and giving to her community.

Because of her efforts, West Columbia has been officially designated a "Keep Texas Proud Community." This distinction, having fallen on less than a 100 other communities across the vast State of Texas, is truly an honor and a distinction which does me proud as a resident of West Columbia.

I ask that this body join me and my fellow residents of West Columbia in honoring Barbara Engberg—the Lady Bird Johnson of West Columbia.

TRIBUTE TO DR. JAMES A. MAYS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. DYMALLY. Mr. Speaker, I rise before you today to recognize a truly deserving individual who has unselfishly served his community for well over a decade: Dr. James A. Mays. The JAGME Foundation—James Abnor Goodson Minority Education Foundation—will be saluting Dr. James A. Mays as their "1992 Role Model" on Friday, June 26, 1992, at the Proud Bird Restaurant, 110022 Aviation Boulevard, Los Angeles, CA.

Dr. Mays—who won combat medals as a physician in the helicopter corps on the front lines in Vietnam—is well known throughout Los Angeles. He is the former chief of cardiology at Martin Luther King, Jr. Hospital; a former member of the board of directors for the American Heart Association and the Watts Health Foundation; chancellor of Technical Health Care Schools; chairman of the board: H.E.L.P. Public Service Foundation; medical director for the United and Compton High Blood Pressure Foundation; medical advisor to the Los Angeles Homeless—Justiceville; and JAGME Foundation's Board of Directors and Advisory Committee. He was also appointed by President Reagan to his Steering Committee on Tax Reform.

Dr. Mays has written several recorded songs, including Bill Cosby's "Happy Birthday, Mama" and songs for the group Heavy, created by he and H.B. Barnum.

Dr. Mays has written numerous medical papers and is an internationally acclaimed lecturer and authority on both the heart and high blood pressure. In cooperation with C. Thomas Vangsness, assistant professor of orthopedic surgery and chief of sports medicine at the University of Southern California [USC], Dr. Mays' volunteer efforts have resulted in over 600 inner-city high school football players receiving free EKG's—heart and blood pressure tests—since last year. Dr. Mays also serves as advisor to Leon Watkins—Inter-City Missions and L.A. County Youth Gang Services—as an expert on drug dependency and AIDS. Through the nationally acclaimed "Nocturnal Walks for AIDS," Dr. Mays actually goes out with and sends homeless men and women and streetwise youth out with flyers and pamphlets warning about the dangers of AIDS and providing prevention tips.

Radian and Radiance, comic book heroes created by Dr. Mays to give ethnic youth role models in their own image, continue to inspire young people with personal appearances throughout the Nation.

The unique "Adopt-A-Family" concept has brought national recognition to Dr. Mays, including presentations before the U.S. House and Senate, culminating in a meeting with President Ronald Reagan at the White House. Dr. Mays was also cited by President and Mrs. Reagan in T.V. Guide and Reader's Digest. Notable for matching Anglo-American, Latino-American families, as well as African-American families, with caring medical and corporate professionals, Adopt-A-Family is helping people in both rural and urban areas. Patterned after the Hollywood Walk-of-Fame, Adopt-A-Family's "Promenade of Prominence" has brought honor and recognition to community leaders in Watts, Inglewood and Lynwood, CA. Now, other cities are clamoring for the Promenade in their own communities.

Mr. Speaker, I know my colleagues will want to join me in saluting Dr. James A. Mays for his continuing commitment and service to our communities.

JOHN VAN BUREN SULLIVAN REMEMBERED

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise today to share with my colleagues the stirring eulogy of John Van Buren Sullivan delivered by my good friend, William O'Shaughnessy. John Van Buren Sullivan was indeed a reflection on the life of New York: Its compassion, its flair, its vibrancy. Throughout his years at WNEW he touched many lives in the New York area. He will be missed, but his inspiration will live on.

JOHN VAN BUREN SULLIVAN

"The last, great Philosopher—Statesman of the radio broadcasting profession . . ." Les Brown, former editor, Variety.

JVBS. John Van Buren Sullivan!

What a unique, singular, vivid, colorful man he was. What great style he brought to all of it. What great love he brought to all of us.

Before I came over here to be with Joan and the girls and Mike * * * I had the station provide me with a very important statistic ("the station" being Jack Sullivan's hometown station * * * the one he merely "used" for mundane things like the weather). I am informed, and you will be pleased, I think, to know * * * it is 77 degrees * * * and sunny. In Paris.

We're glad you came. Joan is glad you came. Mandy and Sheila Lady Sullivan and Rosemary and Michael are pleased you're here on this night in spring. They will retire soon from our presence and go off to share stories with each other * * * stories only they know about Jack * * * stories of love and courage and giving * * * of things we cannot know, the kind known only to children and a wife and grandchildren.

Joan Dillon Sullivan: you know you must do this again. There is not enough time to reflect on all of this, to savor all Jack was, to celebrate him. Especially for someone of meagre and limited gifts like me, whose only claim to fame is that he was thrown out of Jack's office with greater frequency than all but Jonathan Schwartz!

If it is to be about Jack Sullivan it must be done in a saloon. A high class saloon and I was thinking "21" would be just fine. It should come with music and jazz and Sinatra and Steve and Eydie and Basie cranked up to the rafters, to Heaven itself. This is Jack Sullivan you're talking about. He was, as I've said, a man of great style, vivid and joyful and loving. Joan called him "Jack" or "Himself". Adrianne and Evelyn called him "JVBS". A lot of us knew him as "Mr. Sullivan". Nat Asch and Buddy Hackett called him "Mr. Solomon".

Jack was a broadcaster. He was the best of what we are. In case you didn't see it in the New York Times or the Gannett papers, I will presume to tell you what he did for a living. He went to advertisers and advertising agencies and got them to put up money so he could hire disc jockeys to play music. The music they played was by Frank Sinatra, William "Count" Basie, Edward Kennedy "Duke" Ellington, Benny Goodman, Ella Fitzgerald, Nelson Riddle, Matt Dennis, Rosemary Clooney, David Allyn, Jackie and Roy, Dinah Shore, Bobby Short, Sylvia Syms, the other Les Brown, Peggy Lee, Margaret Whiting, Tony Bennett, Michael Carney, Al Hibbler, the Four Freshmen, Daryl Sherman, Jack Jones, Vic Damone, Blossom Dearie, June Christy, Stanley Newcombe Kenton, Steve Lawrence, Eydie Gorme, John Mercer, Joe Williams, Melvin Howard Torme, George Shearing, Julius La Rosa, Jonathan Schwartz, Susannah McCorkle, Mabel Mercer, Marian McPartland, Glenn Miller, Hal Kemp, Skinnay Ennis, Ted Straeter, Peter Duchin, Marlene VerPlanck, Richard Rodney Bennett, Teddi King, Anita Ellis, Dick Haymes, Bing Crosby, Louis Armstrong and the incomparable Fred Astaire. They performed songs by Cole Porter, Richard Rodgers, Lorenz Hart, Alec Wilder, Bart Howard, Vernon Duke, Harold Arlen, Jerome Kern, Irving Berlin, Sammy Cahn, Jimmy Van Heusen, Burt Bacharach, Vincent Youmans and Hoagy Carmichael. And he put all of this on a radio station in America known as WNEW. That's what he did for a living.

He was of us and ours. "The last, great Philosopher-Statesman of the radio profession", according to our neighbor Les Brown. "Most radio and tv executives are always telling me something sells—but never what it stands for. Jack, and very few others, are able to articulate the loftier goals and objectives of the medium. "He was to radio what Kennedy was to Democrats (with a little Adlai thrown in) and what Nelson Rockefeller was to Republicans. He was a man of Moet champagne and double breasted suits from John Reyle with pick stitching on peak lapels.

It is 1992 and Jack Sullivan died a few days ago and on Fifth Avenue now there are peddlers and beggars where once he came down the street in a camels hair coat with a Dunhill cigar in his pocket, a WNEW lighter, and a flower on his lapel. Sullivan was about elegant saloons, good red wine and beautiful daughters, a handsome son, fresh, beamish grandchildren and a wife beloved above all others. He was of Basin Street East, turkey hash at "21", the Friars Club, the old Miramar, napoleons at Christ Cella (and napoleons delivered direct to the office from Christ Cella) and he had, always, and at all times, a boutoniere. And how he loved the New York Giants.

He moved around New York and he knew the haze of an evening in establishments run by Jerry Berns, Pete Kreindler, Thomas Margittai, Paul Kovi, Sirio Maccioni, Jimmy Neary, Jimmy Weston, Danny Lavezzo, Jilly Rizzo and Mr. Bernard Shor Himself. He faded maitre'd's all over town and the news boys hawking the Journal-American on Vanderbilt Avenue were always glad to see him heading for the Express to Larchmont. Jack once called Ambassador John Hay Whitney "kiddo", which is what he also called Mr. Arthur Ochs Sulzberger.

He was a man of words and a teacher, too. He taught us grammar and precision and how to make our living with words. In this he failed only with me. He taught us how to love with words. And with music. He read Jimmy Cannon and the strong, muscular sentences of Pete Hamill and Breslin and he knew about Mario Cuomo 10 years before the rest of us. Jack was probably not a member of the parish council here, Monsignor * * * but Father Raymond Rigney told me he fed a lot of priests in his day and he knew about the Franciscans on 31st street (3 Hail Marys for a homicide!). Jack would stride right by St. Patricks, but I once saw him on his knees at St. Agnes. He did a lot of things we know about: educator, vice chancellor, in fact, at the City University. He stepped in and ran the New York State Broadcasters Association in Albany during a difficult period of transition. He presided over WHN, but Mickey Gilley was not his kind of singer. JVBS then supervised all the Metromedia radio stations when they made him take that title: president of Metromedia Radio. He also had some fun as president of Playbill, which was all about broadway and the theatre. But most of us here tonight remember Jack in the big corner office at 46th and Fifth at his beloved WNEW. Jack helped make the station. Jack and WNEW were made for each other.

Those were the glory days * * * and our minds, blurred by the sadness of this night, drift back to the radio station called by Variety "the greatest sound coming out of radio in America." There was Klavan. And Finch. And Gene Rayburn who is here tonight. And Jack Lazare and the "Milkman's Matinee". We remember Lonny Starr, Bob Landers, Bob Howard, Dick Shepard, Big Wilson, Jim Lowe, John Dale, whose real name was John Flora, Mike Rich, Joe Hasel, Marty Glickman, the late Pete Myers, gentle, kindly Kyle Rote, Jim Van Sickle, who wrote for radio better than anyone except Charles Osgood, Bob Fitzsimmons, Ted Brown, Rudy Ruderman, Steven Osborne, Martin Weldon, Lee Hanna who never smiled, Ike Pappas, Jim Gash, Mike Eisgrau, Wally King, Bob Jones, Bobby Hodges, Elmore Jones and Chuck Robinson in the mailroom, Dave Pound, Mary Toritto, Jack Pluntze and Millie the switchboard operator who wore tight blouses. Sullivan presided over a stable filled with talented souls on and off the air: Bill Persky, Sam Denoff, in Hollywood this night surrounded by their oscars, were there. And Mark Olds, Not Asch, The Admiral—Frank Young, David Schoenbrun, Varner Paulsen, Earl Ubell, Martin Caidin, America's first space correspondent, and Alex Webster and handsome Frank Gifford who spent Christmas Eve with Joan and Jack back then. And Well Mara (And how nice to see Mrs. Mara here tonight). And there was also in those days the greatest of them all: William Bernard Breitbard. Everyone called him William B. Williams, Jack called him "Billy". Our tribe also included Jonathan Schwartz, Adrianne Gluckman and Evelyn, and Tom Tracy, Kay Reed and Billy Reilly. Skitch Henderson was around then and Art Ford would come by and I once saw Martin Block and Ray Ross. There was Al De Rogatis and Bobby Goldsholl. I remember Bud Neuwirth came to town during a taxi strike and Jack allowed me the unique privilege of carrying Neuwirth's luggage and his golf clubs, 30 blocks north to the Carlyle! Jack Beaton was the best salesman then, after Jack himself. Beaton drove a Rolls-Royce which had gold fixtures. He parked it on 46th street near our fleet of 5 Chrysler station wagons. Kermit Moss, another power hitter from the advertising department, once let me go with him on a sales call to see the legendary Eve Nelson, who handled the E.J. Korvette account, She was mad at Kermit about something and I heard words I had never learned in Westchester or heard since! Dick Barry was there. And Dick Kelliher and George Duncan and Kevin Cox and Reid Collins who is now on television. Carl Ally did our ads and I used to keep him waiting in the lobby while Jack and John Reyle were "in conference" discussing an important, new, blue blazer. Carl has since made millions and is a great icon of Madison Avenue. He is here tonight and I hope his memory is not as good as mine. WNEW had all the best radio personalities. But Jack, who was their champion and advocate, their definer, protector and promoter—was the one everyone wanted to see. The record pluggers, the singers, the musicians who came calling on the jocks always wanted a word with the man in the corner.

I remember another day of tears in that place. It was November 22, 1963. I was a private in the U.S. Army and I had an appointment with Jack to discuss getting my job back after a stint as a newspaper editor at Fort Wadsworth. As no one quite knew what the hell I ever did there anyway, it was to be a fairly easy meeting. (I wore my uniform anyway.) As Adrianne led me down the hall, we heard a commotion in the newsroom. And I remember John Van Buren Sullivan almost bodily throwing everybody out of there. And I saw him standing alone over the wire machines (we had AP, UPI and Reuters). And, almost 30 years later, I can still see the tears streamng down Jack's face as the terrible bulletins came from Dallas. "Son of a bitch", said this elegant man as tears ran down his cheeks. "Son of a bitch!" He went into his office and closed the door. I went to the Miramar to drink.

He loved politics and he loved Jack Kennedy. And few will recall * * * but JVBS actually ventured into politics himself. It happened right here in Westchester. The local Democrats, desperate to drive the Republicans from office on the high council of the village of Larchmont, came up with a brilliant scheme. They would take Jack Sullivan, great titan of broadcasting—and team him up with Phil Gilbert, Jr. who was president of Rolls-Royce/America. And Jack and Phil would run with a man named Ben Ginsberg. (Ginsberg, of course, had the money.) And the "dream ticket" would thus be known as "Gilbert and Sullivan * * * and Ginsberg, too". Need I tell you, they lost. But Ginsberg ran ahead of the ticket. They're still looking for all those absentee ballots for Gilbert and Sullivan. Phil Gilbert, who knew and loved Jack too, is here tonight. He will confirm this glorious chapter in the political history of our nation.

So much then for Jack's professional life in New York and in politics. There was another Jack Sullivan * * * here in this neighborhood, at the Corner Store where he would pick up the Times and Paris Match and the International Herald Tribune. He had a life here too with the greengrocer, the cobbler, at the gas station, over at that restaurant near the train station when it had a French menu. Not all these people—the shopkeepers—knew what he did for a living. But they knew he was special. They knew from his walk, from his clothes, from the smile on his face. They knew about him. And over at our local station where we have a studio named for him—the "John Van Buren Sullivan" studio—we recall the day he drove up and summoned the office boy to help carry hundreds of records (Jack's "private" collection) into our library. "You'll know what to do with these * * *" said JVBS. In recent years * * * if he heard a fledgling announcer who was wobbly on our airwaves, Jack would call and merely say, "Tell him I'm coming over." And he would sit with the youngster and go over pacing and breathing and delivery. And on the way out he would give me a few messages and some none too subtle advice to be delivered directly to the Governor of New York at the very earliest opportunity.

I've intruded far too long on your evening. I've told you, Joan, we should do this again. With music. With Chauncey Olcott. And Mabel Mercer. Hugh Shannon should sit at a piano with velvet slippers. Tony Bennett should sing. And Julie LaRosa. And Ella. You can forget Ellington or Dorsey. Just get the Basie band to crank up "Cool as a Moose". Or "April in Paris".

Before I mercifully yield, I want to leave you only with Jack's own words. They were written so long ago, on a day in May during another springtime. He typed these words on WNEW stationary to a young man who I think was counting the days till he was out of the Army and back in Jack's care and keeping at WNEW.

"I've just written a promo spot for our INDY 500 contest, a rewrite on Jim Lowe's blurb in the personality sheets used by the salesmen, and a very cute note (if I do say so) to Val Adams of the Daily News.

"If I thought I could do half as good a job writing you a cheerful note I'd feel a lot better—but at least I wanted to reach out with a little courage and warmth.

"So be of good cheer and stiff upper lip. Besides, today in Paris the city is alive with fleur-de-lis and the frothy whiteness blooms in stalls and in flower-sellers' carts, and school children offer a franc's worth for a good cause * * * and everyone feels better on the first of May because more people than usual are thinking of others. And maybe that can help you, too. Toujours."

"JVBS"

So go now to your homes and be of good cheer.

Its 77 degrees * * * and sunny * * * in Paris.

And this planet, this place, this profession, this village, this family—all of us—had Jack Sullivan for 78 years.

All those songs. All the music. All the love.

Toujours, Jack. And, bravo!

INTRODUCTION OF LEGISLATION REGARDING SAFE DRINKING WATER

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. WILLIAMS. Mr. Speaker, I am today introducing two bills which are designed to assist small towns in meeting the national goal of assuring safe drinking water in our rural towns and communities. One bill will establish a program of grants to communities of under 5,000 people to help build facilities. The second bill will establish a moratorium on compliance deadlines for small towns under the Safe Drinking Water Act, while requiring that EPA study the problems small public water systems have with the drinking water regulations. EPA will then make both regulatory and legislative recommendations about how we can make the safe drinking water effort work for all Americans, not just those in large cities who can afford compliance.

The first bill I am introducing, the Small Community Environmental Infrastructure Grants Act of 1992, establishes the mechanism that works—direct grants—to help small towns and rural counties come into compliance with Federal requirements for solid waste landfills, wastewater treatment, and safe drinking water.

Mr. Speaker, we often hear about cities and towns using one form or another of creative financing for the purpose of building some public facility. There is a fundamental problem, though, when a town has only a few hundred people and Federal regulations are requiring a new subtitle D landfill, or a surface water filtration system under the drinking water regulations. In the past 6 or 7 years small towns in America have been levied a number of well-intentioned environmental mandates, each of which has the good purpose of protecting public health and the environment; but those mandates ignore the fact that local financial resources to comply are simply not available.

The Small Community Environmental Infrastructure Grants Act will establish an infrastructure fund within each State. States would be required to match 20 percent of the Federal funds with State funds. The fund would then be used to provide 85 percent or more of the cost of drinking water, wastewater treatment, and solid waste landfill facilities in towns of 5,000 people or less.

The bill would establish within EPA an office of small community technical assistance and outreach. The functions of this office would be to manage the grant program, and to provide guidance to small communities regarding the financing, feasibility, regulatory compliance, and ongoing management of environmental facilities in small towns.

And finally, the bill would direct that 5 percent of the funds appropriated under the act be directed to help address the environmental infrastructure needs of Indian tribes.

The second bill I am introducing, entitled the Drinking Water Regulatory Relief Act of 1992, establishes a 2-year moratorium on the compliance deadline under the Safe Drinking Water Act. During this moratorium, EPA would be required to study the difficulties small public water systems are having with regulatory compliance under the act. Based on the study, the bill would require that EPA make recommendations—for either changes in the regulations or in the statute—as to how the program should be changed to solve the problems identified in the study.

Here's the problem. Under the drinking water regulations, small towns are treated the same be they in Florida or Alaska. Thus, towns are required to test for substances that may not even exist in their locality. Towns of 500 persons utilizing a surface water source, from which there may have never been any contamination, illness, or other concern have, under current regulations, virtually no way to continue using that source unless they install an expensive filtration system. Trailer parks of 30 units face the prospect of throwing people out on the street because they cannot afford the monitoring tests required under the regulations. To pay for testing alone, many small towns are raising their water rates five, six, or seven times the level they were 6 years ago.

My point, Mr. Speaker, is that there must be better ways to achieve our important goals. All of us in Congress want to do what is right to assure that all Americans use drinking water that meets a basic level of safety, and there is nothing in my bill that departs from that good goal. Under the current system, small towns will simply not be able to comply, leaving us in a situation where rural people will not be protected. None of us knows the answers, but we can all tell the current plan isn't working. My bill simply asks that we take the time to review the problem, fix it, and then move forward on this effort to assure our Nation's drinking water supply is safe.

WORKPLACE LEAVE FAIRNESS ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. PETRI. Mr. Speaker, today, I am introducing the Workplace Leave Fairness Act to provide that employees who take leaves of absence for less that a day to take care of family or other personal needs are no longer penalized by the Labor Department.

The Department of Labor has pursued all the way to the Supreme Court a policy that effectively prohibits employers from giving salaried employees a leave of absence if the leave is less than a full day. For example, a salaried employee may have exhausted vacation leave, sick leave, and all other leave time normally provided by the employer. If this employee still needs to take a few hours off one afternoon to take her child to the doctor or help an ailing parent, the employer might want to give her a leave of absence without pay. Under the Department's rulings, however, if the employer has what is called a partial day docking policy, all of the employer's salaried employees automatically lose their exempt status under the Fair Labor Standards Act. This means that all salaried employees, both former and present, must be paid overtime for all hours worked over 40 in any workweek going back at least 2 years.

As strange as it may sound, the Department has no problem with employers who give a leave of absence for a full day without pay. In such case, the employee will still be considered salaried. To avoid violating DOL's policy, therefore, an employer must either deny the employee's request for a partial day leave or force the employee to take the whole day off without pay. At a time when workers are demanding more flexible workplace policies, the Labor Department's partial day docking rule seems to me an example of government at its worst.

I'm also troubled that this policy can be used to increase executive pay. There is considerable concern today that American executives are overcompensated. We read in the newspapers about American CEO's making multimillion dollar salaries while workers struggle to keep their jobs in the middle of a recession. I am alarmed, therefore, that the Department of Labor is seeking to increase executive pay even more by using its partial day docking policy to require high salaried executives to be paid overtime. If a company has a partial day docking rule, DOL compliance officers demand that all salaried employees—regardless of the size of their income or their position in the company—receive overtime.

Nowhere in the Labor Department's regulations is the partial day dock policy clearly stated or, for that matter, stated at all. It is an interpretation of a regulation which states that whole days can be taken without pay but does not specify that partial days are allowed. It is not a regulation published in the Code of Federal Regulations that small businessowners around the country could read for guidance.

The Fair Labor Standards Act was passed in 1935 to provide a minimum wage for American workers and to establish a standard 40-hour workweek. According to its chief Senate sponsor, Senator Hugo Black, the bill was intended to protect the little fellows who work long hours, to the destruction of their health, at wages inadequate for them to support themselves and their children. For this reason, the act exempts employees from its overtime requirements if they can be classified as executive, administrative, or professional employees with certain duties. The law has required that these employees be paid on a salary basis.

During the intervening years, however, the statute has been slowly reshaped by DOL interpretations such that in 1992 when the country is demanding regulatory relief, DOL is reading the law to mean that an employee who is absent for less than 1 day and whose pay is docked because there is no accrued leave is not being paid on a salary basis. One Federal court has even taken the policy to a logical extreme and held that merely charging the partial day absence to available paid leave extinguishes the exemption. As a result, the Fair Labor Standards Act is being misused to deny an important benefit to working parents—a partial day leave of absence.

The consequences of this policy could be devastating for small businesses who unknowingly may have violated the law. For example, several employers in Ohio, California, and Pennsylvania have been targeted by the Labor

Department, including Linda Froehlich, the owner of a 14-employee women-owned consulting firm in Ohio. She was cited for violating the Fair Labor Standards Act because she docked employees earnings as much as $72,000 for taking partial days off. Ms. Froehlich thought that not only was she in compliance with the law because her employees were salaried, she thought her policy of allowing her employees, most of whom are women, to take leave without pay at any time for any reason was considered a benefit. Instead, the Department of Labor has told her to pay $19,000 if she wants its investigators and litigators to leave her alone.

The Department's policy is not only painful for the private sector, it has become a major financial crisis facing several State and local governments around the country. The State of California alone is looking at a back pay liability of at least $3 billion according to Governor Pete Wilson. For the past 2 years, the public sector has been asking the Department for relief, and last September DOL proposed regulations. They provide that public sector salaried employees do not lose their exempt status under the FLSA even though their salary may have been reduced for absences of less than a day. Yet, the Department has still not finalized those rules.

Mr. Speaker, my hope is that the Labor Department will act immediately, eliminate its partial day docking rule, and make that elimination retroactive to avoid a public and private sector liability crisis. There is no reason for it not to do so. The issues are clear, and the liabilities astronomical. The President of the United States has made it clear that he expects each federal agency to develop a regulatory reform package, and DOL's partial day docking policy is an excellent example of why the President's initiative is so important.

My purpose in introducing the Workplace Leave Fairness Act is to encourage the Department of Labor to act quickly to correct the problem for both the public and private sector. If no action is forthcoming, however, I will be forced to seek a legislative solution.

At this point, I ask that the text of the Workplace Leave Fairness Act be placed into the RECORD.

H.R. 5443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Workplace Leave Fairness Act".

SEC. 2. EMPLOYEES SUBJECT TO CERTAIN LEAVE POLICIES.

Section 13(a)(1) (29 U.S.C. 213(a)(1)) is amended by adding before the semicolon at the end the following: "and an employee shall not be disqualified for an exemption under this paragraph on the basis that such employee is subject to reductions—

"(A) in accrued leave of any type, or

"(B) in pay because of an absence of the employee and because—

"(i) such employee's accrued leave was exhausted, or

"(ii) such employee chose to be absent without charging the employee's accrued leave, regardless of the length of absence for which such reductions are to be made".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall apply to an employee (described in the amendment) before, on, and after the date of enactment of this Act unless—

(1) an action was brought in a court involving the application of section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)) to the employee; and

(2) a final judgment has been entered in the action on or before the date of enactment of this Act.

BOY SCOUT TROOP 7 CELEBRATES ITS 75TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. VISCLOSKY. Mr. Speaker, I rise to commemorate the 75th anniversary of Boy Scout Troop 7 of East Chicago, IN. On Friday, June 19, 1992, the troop will be celebrating the 75th year of its founding by the late Father Michael Gadacz.

More than 2,000 boys have passed through the ranks of this distinguished troop. Of those, 94 have earned the Ad Altare Dei Awards, 14 have received the Pope Pius Award, and 59 have earned the coveted rank of Eagle Scout.

The Eagle Scouts of Troop 7 have earned 2,229 merit badges and many of them have taken part in national jamborees, world jamborees, Philmont training, Baden Powell, Jr., leader training, and region and national Order of Arrow conclaves. These Eagle Scouts have gone on to become doctors, lawyers, and leaders of their communities and businesses.

Scoutmaster Edward Szczepanski is the current leader of Troop 7. Members of his troop include: Louis Arona, Xavier Almeda, David Flores, Darryll Gray, Joe Kraus, Joe Markovich, Joshua Wooden, and John Zwierz.

The troop committee is comprised of many distinguished members of our community who serve as excellent role models for the troop members. They have served not only at troop level, but also district and council committees, executive and advisory boards, Catholic scouting committees, and as council presidents. The current members, some of which have been active in scouting for more than 30 years are: Michael Czapla, Samual Lula, Susan Brown, William Brown, Antoinette Grzych, Edmund Kenar, Rev. Joseph Niezgoda, Joseph Bolsega, Edward Kmiecik, Paul Klocek, Adam Marszalek, Judge William Obermiller, Daniel Tkacz, and present leader Edward Szczepanski.

Many current council members, as well as past council members, have earned district council and national acclaim. Seven of the leaders have earned the Scouter's Key Award, 5 have received the Silver Beaver Award, 13 are recipients of the Catholic Scouting St. George Award, 9 have received the Order of Arrow Vigil Award, 2 have earned the Wood Badge Award, and others have received the George Meany Award, the Governor's Sagamore of the Wabash Award, and 1 earned the Scoutmaster of the Year for the 7-State east central region.

It is my privilege to commemorate the 75th anniversary of Boy Scout Troop 7. I commend the dedication and commitment of the council and the members of Troop 7 for their service to the community as well their promotion of good citizenship.

A TRIBUTE TO J. HART CLINTON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. LANTOS. Mr. Speaker, J. Hart Clinton, the retired editor and publisher of the San Mateo Times newspaper, died on Tuesday, June 16, 1992, at the age of 87. I ask my colleagues to join me in paying tribute to this relentless champion of free speech.

Born on April 3, 1905, in Quincy, MA, Hart was a man of many talents and interests. Upon completion of his legal studies at Harvard in 1929, Hart moved to San Francisco where he became a partner in the firm Morrison, Foerster, Holloway, Clinton & Clark. But he was to make his mark in the field of publishing.

In 1937, Hart began his publishing career when he assumed the helm of Amphlett Printing Co., the Times' parent organization. He became president of the company and publisher of the newspaper in 1943. He was named editor of the paper, San Mateo's only daily, in 1959.

Under his management, the Times thrived. The publication grew from 6 pages to its daily average of 44 pages. In addition to publishing the Times, Hart oversaw numerous other company-owned publications, including the San Bruno Herald, the Recorder-Progress in Millbrae, the Daly City Record, the Coastside Chronicle, the Enterprise Journal in South San Francisco, the Peninsula Mid-Week and the Brisbane Bee.

Perhaps because of his legal background, Hart was strongly committed to the concept of the first amendment and the free press. While he and I, at times, were at odds on a particular issue, our positions on the subject of the freedom of speech were in perfect harmony. Our concurrence of opinion was reflected in his solid support of a bipartisan resolution I introduced designating August 4, 1985, as "Freedom of the Press Day."

As George Mason said, the free press is one of the great bulwarks of liberty. Hart understood this essential truth and never shied away from the responsibilities of his profession. Intellectually honest, hard-working, and an upstanding member of the peninsula community, J. Hart Clinton's contribution to the newspaper business cannot be overstated.

Mr. Speaker, I ask my colleagues to join me in paying tribute to J. Hart Clinton and in expressing my deepest sympathies to his family.

TWENTY-FIRST ANNUAL FREEDOM FUND DINNER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. PALLONE. Mr. Speaker, on Friday, June 19, 1992, the New Brunswick, NJ, area branch of the National Association for the Advancement of Colored People will hold its 21st Annual Freedom Fund Dinner at the Ramada Renaissance in East Brunswick, NJ.

This year's event will be a particularly memorable one, with the keynote address being presented by Dr. Benjamin L. Hooks, the executive director of the NAACP. Dr. Hooks is well known to all of the Members of this body, and indeed to most Americans and people around the world, for his ongoing work as a champion of civil rights and mutual respect among people of all races, creeds, and colors.

Friday evening's event will also pay tribute to Dr. George Patterson of Somerset, NJ, Ms. Carol Floyd of Bridgewater, NJ, the Crossroads Theater Co. of New Brunswick, and the Inroads Program of New Brunswick. These outstanding individuals and organizations will be recognized for their sustained leadership and support for building a better community.

The Freedom Fund Dinner not only is an occasion to pay tribute to the current leaders of the community. This is also an occasion for providing support to some of our future leaders. Four scholarships will be presented to outstanding high school graduates to assist them with their college education. I take special pride in paying tribute to these outstanding young men and women.

Malika Zillay Husbands, the daughter of Lenore Davis, is a graduating senior at Franklin High School, Somerset, NJ. Malika has been accepted at North Carolina Central University where she plans to major in psychology. She will receive a $1,000 scholarship.

Stephany A. Bailey, the daughter of James and Jackie Gabriel, is a graduating senior at Hillsborough High School in Belle Mead, NJ. Stephany has been accepted at Central State University, where she plans to study law. She will receive a $1,000 scholarship.

Gerald Edward Alston, Jr., the son of Mr. and Mrs. Gerald Alston, Sr., is a graduating senior at Piscataway High School, Piscataway, NJ. Gerald has been accepted at North Carolina A&T State University and plans to study mathematics. He will receive a $500 scholarship.

Diesha Lavonne Averette, the daughter of Susie Averette and Jackie Bell, Jr., is a senior at Franklin High School, Somerset, NJ. Diesha has been accepted at Norfolk State University and plans to study computer science. She will receive a $500 scholarship.

All four of these scholarship awardees are members of the New Brunswick area branch of the NAACP.

The New Brunswick branch of the NAACP takes in an area that extends well beyond the city of New Brunswick into some 14 municipalities in the Middlesex County area. Friday's event represents their major annual fundraising event, providing much needed financial support for the many excellent programs the New Brunswick branch sponsors. I wish them continued success in all their many good works.

TRIBUTE TO FERNANDO RODRIGUEZ

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding success of Fernando Rodriguez, a remarkable example of the American dream.

Fernando Rodriguez was born in 1926 in Cardenas, Cuba. He left school after fourth grade, and began work on his father's farm. At the age of 15, he went to work in a foodshop owned by a Spanish family in Varadero. By the time he was 22 he was able to open his own store there, and adopted Varadero as his hometown.

When Fidel Castro seized power, Fernando Rodriguez immediately developed a plan to escape to the United States. In 1961, he fled to Islamorda. After working in a laundry and a sugarmill, he was able to open a small grocerystore in the Little Havana section of Miami in the 1960's. With hard work, he was able to build his business up, and he now has six Varadero supermarkets, named after his hometown in Cuba.

The Miami Herald published an article about this remarkable success story, which I would like to include in the RECORD:

FROM SCHOOL DROPOUT TO SUPERMARKET CHIEF

(By Alfonso Chardy)

As a child in Cuba, Fernando Rodriguez had to drop out of school after the fourth grade to help his father on the family farm.

Today, Rodriguez, 66, owns Varadero Supermarkets, a powerhouse among Hispanic grocery chains in the United States.

The stores are named after the famed beach resort in Cuba, which Rodriguez, a native of Cardenas; adopted as his hometown at age 22.

He began his career there in 1941 as a grocer working in a food shop owned by a Spanish family. Seven years later, Rodriguez opened his store, La Mia, Spanish for "Mine."

"It was a small operation," Rodriguez said. "I barely cleared $3,000 a month in sales."

As soon as Fidel Castro seized power in 1959, Rodriguez began planning his escape from Cuba. In 1961, he stole a boat and fled to Islamorada.

"I thought I would only be in Florida for three months and then go back home, but it soon became obvious I would be here for a while," he said.

After working in a laundry shop and a sugar mill, Rodriguez opened a small grocery store in Little Havana in the mid-1960s. He plowed the profits back into the business, which eventually became the Varadero supermarket empire.

Today, he owns six Varadero supermarkets in Dade County, with sales of about $90 million last year.

His dream? To expand his chain to Cuba, opening an outlet in Varadero itself, as soon as Castro is gone.

Mr. Speaker, I commend Fernando Rodriguez for his hard work and perseverance, and I congratulate him on his remarkable success.

A TRIBUTE TO A TRUE PUBLIC SERVANT

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. GEREN of Texas. Mr. Speaker, I would like to give tribute today to a fellow Texan, Mr. Gregory Watson. Currently an aide to Texas State Representative Ric Williamson of Weatherford, Gregory Watson moved to Texas from his home State of Michigan while in high school. Little did he or anyone else then realize that he would one day make history by helping to enact the 27th amendment to the U.S. Constitution.

While studying government at the University of Texas in 1982, 20-year-old Gregory Watson discovered that the 193-year-old Madison amendment, which prohibits Members of Congress from voting themselves a pay raise between elections, had never been ratified. Believing that this amendment would instill greater accountability and responsibility on Congress, Mr. Watson set out to obtain the two-third State majority necessary to ratify the 27th amendment.

Twenty-nine of the necessary thirty-eight States had not yet ratified the amendment, and Mr. Watson took his case directly to the lawmakers in those States. When they asked for information on the ratification efforts of other States, he provided that information to them. When lawmakers in these States needed assistance in writing resolutions to place before their own legislatures, he stood ready with pen in hand. When existing ratification resolutions needed to be edited or corrected, Mr. Watson contributed hours-and-hours combing over these old documents to ensure that they were ready for consideration.

Ten years ago and $6,000 of Mr. Watson's own money later, in the early morning hours of May 7, the State of Michigan became the 38th State to ratify the 27th amendment, and this effort begun by a 20-year-old government student finally achieved its goal.

Gregory Watson never stopped believing that he could make a difference. He believed because he had made a difference before, once convincing local transportation officials in his hometown of Detroit, MI, to change for the better the design of city bus schedules. But most of all, he believed in our democratic process, a system that strives to hear all of the voices within our society and especially the voice of an individual calling for change.

Mr. Watson's government professor gave him a "C" for his term paper in which he argued that the 27th amendment should be ratified. I, however, give him an "A+" for his tireless efforts to make this dream a reality. Without his efforts, the Madison amendment would have continued to gather dust in history's attic. With his resourcefulness and his determination, Mr. Watson made a piece of American history and forever altered for the better, the greatest political document ever created.

I would like to commend Gregory Watson for his work and for this act of public service.

KALA KAMDAR AND NHI NGUYEN: TWO OUTSTANDING YOUNG WOMEN FROM LOUISVILLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. MAZZOLI. Mr. Speaker, I rise today to bring to the attention of our colleagues the accomplishments of two remarkable young women from Louisville, KY. Both are extraordinary people who have achieved great academic and personal success, and both are credits to their families, schools, and indeed, the entire community.

Kala Kamdar is a recent graduate of Seneca High School where she was a member of the debate team, the math club, the Hi-Q team, and the National Honor Society. In her spare time she also served as president of Seneca's senior class.

Recently, Kala was selected as one of only two Presidential scholars from the State of Kentucky. She was selected for this honor on the basis of her grade point average, SAT scores, and community and extracurricular activities.

What really set her apart from what were surely other fine applicants, however, was the subject matter she chose for her application essay. When asked to create a conversation with any living or dead American, Kala did not chose anyone from American history or politics. Instead, she chose to create a conversation with Jack Kevorkian, inventor of the now well-known suicide machine. She chose to examine one of the most difficult bioethical problems that face humans today. This topic illustrates a maturity and intellectual depth of someone far beyond her 17 years of experience. On this basis, it is not surprising that she was selected as a Presidential scholar. Kala will be attending the University of Louisville on a National Merit Scholarship in the fall.

The second student I wish to commend is Nhi Nguyen. She graduated as the valedictorian of Iroquois High School in Louisville, and is planning to attend Centre College in Danville, KY, on a full scholarship. What is remarkable about Nhi is her journey to Centre. It culminated in Louisville, but it originated in Vietnam. Nhi was a refugee of the Vietnam war; she came to this country via Cambodia and Thailand. She escaped from a Cambodian prison to flee Southeast Asia on a boat; her family remains in Southeast Asia.

She reached Louisville in 1987, at age 12. Soon thereafter, she enrolled in the English as a second language program at Iroquois High School. Now fluent in English, she excelled through her high school career. Last year she was selected as a Governor's Scholar for the State of Kentucky, and this year has taken and excelled in college level classes at the University of Louisville. The obstacles she has overcome demonstrate first hand that the human spirit is indomitable. She is, in short, a remarkable young woman.

Mr. Speaker, Louisville can be proud to have spawned two outstanding young people like Kala and Nhi. There is no question that they represent the best of our community and of our country.

IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. RINALDO. Mr. Speaker, along with my distinguished colleagues, Mr. GILMAN of New York and Mr. BERMAN of California, I rise today to introduce a bill entitled the Iran-Iraq Non-Proliferation Act of 1992 to reduce the arms race in one of the world's most volatile regions.

The Iran-Iraq Arms Non-Proliferation Act of 1992 seeks to halt the flow of sophisticated weaponry by applying sanctions against individuals, companies, or entire countries who contribute to the militarization of Iran and Iraq. This bill is a modified version of legislation that was introduced last year in the other body by the distinguished Senator from Arizona, Mr. MCCAIN, and by Senators THURMOND, HELMS, and GORE.

With the end of the cold war, many countries find themselves with huge inventories of advanced weaponry—weaponry that can be sold to willing customers to raise needed currency at home. There is clear evidence that former Soviet bloc countries have sold and are seeking to sell excess arms at bargain prices to the regimes in Iran and Iraq. In addition, there is very legitimate concern that both Iran and Iraq are seeking to attract unemployed nuclear scientists and other weapons specialists from the former Soviet Union to build their own weapons-producing programs.

The Iran-Iraq Arms Non-Proliferation Act of 1992 requires that the United States oppose the transfer of any goods, technology, or expertise which contribute to the acquisition by Iran or Iraq of nuclear, chemical, biological, or advanced conventional weapons. It also calls for the public identification of any country, company, or person which conducts arms transfers contrary to this policy. The bill specifies mandatory and discretionary sanctions against these entities, including suspensions of Government contracts, U.S. military and financial assistance, multilateral development bank assistance, and MFN trade status.

Saddam Hussein has vividly demonstrated his willingness to use weapons of mass destruction, even against his own people. The Kurdish population in Iraq has suffered the consequences of Hussein's chemical weapons program, and it was the ever-present threat of chemical attack which caused enormous anxiety for our troops in the gulf. For the sake of humanity, as well as peace and stability in this extremely volatile area of the world, we must do everything possible to stop the flow of these sophisticated weapons.

In addition to nuclear, biological, and chemical weapons, this legislation also targets the proliferation of advanced conventional weapons. These include long-range precision guided munitions, fuel-air explosives, cruise missiles, low-observable and other technologically advanced military aircraft, submarines, military satellites, electro-magnetic weapons, and laser weapons.

Both Iran and Iraq have acquired advanced fighter aircraft, such as MiG–29 fighters and Su–24 fighter bombers, from the former Soviet Union, and there are reports that Iran may have also acquired Soviet-designed Kilo-class diesel-powered submarines. The former Soviet Union, China, and North Korea have also contributed Scud tactical ballistic missiles to the arms inventories of both Iran and Iraq, and Iran reportedly deploys Chinese-built Silkworm antiship cruise missiles which are capable of effectively shutting off shipping traffic through the strategic Strait of Hormuz.

Unfortunately, our troops, those of our allies, and the people of Israel were on the receiving end of those Scuds during our war against Iraq last year. It is time that this country take a tough stand against the arms merchants of the world to head off another bloody conflict in this region down the road. I strongly urge my colleagues in the House to pass this important legislation.

CONGRATULATIONS TO KATIE McGRATH, CHRISTA McAULIFFE FELLOW

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. STEARNS. Mr. Speaker, I rise today to offer my congratulations and praise for Katie McGrath, an elementary schoolteacher at Shady Elementary School in my hometown of Ocala. She recently was named a Christa McAuliffe Fellow by Secretary of Education, Lamar Alexander.

This is a remarkable accomplishment since only 66 teachers across the United States were given this honor and only two from the State of Florida.

This fellowship will allow Katie to be trained as a leader in the activities that integrate math and science programs and to serve as a district science specialist. It also will help fund a super science resource lab which will do much to spur her student's curiosity and interest in science.

Katie McGrath's Super Science Resource Lab will provide hands-on science training for almost 700 students, kindergarten through fifth grade. Rather than simply watching a teacher do an experiment—or reading about it in a book—these students will have the opportunity to do a wide variety of experiments themselves, giving them invaluable hands-on experience. This lab will also emphasize how science relates to the student's world, sparking an interest that hopefully will last a lifetime.

Mr. Speaker, President Bush has said that we need to make America first in science by the year 2000. Ocala's Katie McGrath is doing her part from a true grassroots level.

A TRIBUTE TO PROF. MELVIN DRIMMER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. STOKES. Mr. Speaker, recently, students and faculty members of Cleveland State University mourned the loss of an outstanding and dedicated professor. I rise today to pay tribute to Mr. Melvin Drimmer who passed away on June 17, 1992, at the age of 57.

Mr. Drimmer has dedicated his life to enriching the minds of college students about the importance of African history, civil rights, and racial equality. Mr. Drimmer's universal message reached students at Cleveland State University, Spelman College, Hunter College, and New York University.

It was Mr. Drimmer's strong willingness to help students and his fellow man alike which made him a unique gentleman. I will always remember Mr. Drimmer as a compassionate and concerned individual who cared deeply about everyone, particularly minorities, the poor, and dispossessed individuals within our society.

Mr. Speaker, at this time I would like to share with my colleagues the obituary notice of Mr. Melvin Drimmer. He was a good friend, a dedicated professor, and extraordinary individual. I extend my sincere condolences to his wife Lillian, his family, and many friends. He will be missed greatly.

[From the Plain Dealer, June 18, 1992]

MELVIN DRIMMER, 57, TAUGHT BLACK, AFRICAN HISTORY AT CSU

(By Zina Vishnevsky)

CLEVELAND.—Cleveland State University history professor Melvin Drimmer was never at a loss for words, nor was he one to mince them.

In a quote he provided to Who's Who in America, Mr. Drimmer said, "The example of Martin Luther King led me to think about the fact that one's life should not be passed in isolation or without commitment and that if you believe in your ideas, then you should act on them and take a stand on them as a man."

Mr. Drimmer taught black and African history and specialized in racial issues between blacks and Jews. In 1987, he agreed with former Cleveland City Council President George L. Forbes' accusation that CSU was "a racist institution."

In 1963, Mr. Drimmer, a Jew, was the first person to teach black history at Spelman College, a prestigious black women's school in Atlanta. He was arrested and jailed a year later in connection with an Atlanta civil-rights demonstration. He was chairman of Spelman's history department from 1970 through 1972, until he was hired as CSU's history department chairman.

He held the CSU department chairmanship for two years before losing faculty, support and being replaced by trustees.

Mr. Drimmer enjoyed breaking stereotypes. On the first day of his black history courses, he would arrive late to get his students' attention. "After looking over the class, I give my name and tell the students that this is a course in Black American history. I pause and then say, 'I know what you are thinking. Who is this big white guy standing in front of this class?' The students roar with laughter. The ice is broken. And off we go," he wrote.

Mr. Drimmer, 57, of Cleveland, died of a stroke yesterday at Metro-Health St. Luke's Medical Center two days after undergoing open heart surgery.

Mr. Drimmer began teaching at Hunter College in New York in 1960. During his years at Spelman and CSU, he traveled to Africa 21 times as director of the American Forum for International Study.

He also was a visiting professor at New York University, Colgate University and Dillard University. He was a post-doctoral fellow at Harvard University's W.E.B. DuBois Institute from 1981 to 1984.

He was a Phi Beta Kappa graduate of City College of New York and attended Oxford University. He earned his doctorate in history at the University of Rochester in 1965.

Over the years, he published numerous articles and books. He was the author of "Black History. A reappraisal" and "Issues in Black History." Both are widely used as college textbooks.

Mr. Drimmer was the academic adviser to the CSU Vikings, spending countless evenings tutoring basketball players during coach Kevin Mackey's tenure. He also was the local NAACP's liaison with CSU and was honored by the Cleveland chapter of the NAACP in a ceremony Friday.

He was an unsuccessful candidate for the 19th District Congressional seat in 1982. In 1985, he sought a seat on the Cleveland Board of Education. When The Plain Dealer, citing harmony on the school board, endorsed the incumbents, Drimmer fired off one of his frequent letters to the editor and referred to the last-minute conciliation among the strife-torn board: "Death-bed repentances cannot make us forget the sorry record of this and earlier school boards."

He is survived by his wife, Lillian; his mother, Nettie Drimmer of Los Angeles; son Alan Stessin of Washington, D.C.; and daughter, Barbara of Cleveland.

THE HEALTH CARE CRISIS

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. HATCHER. Mr. Speaker, I would like to share with my colleagues a number of my observations on the difficult and complex issue of health care. As elected officials, we are all familiar with the statistics that broadly outline the problem: As many as 40 million Americans are without health insurance, and many more are underinsured. Health care consumes 13 percent of our gross national product, far more than in any other country. This expenditure increases the cost of American goods and services and weakens our ability to compete in the international marketplace.

But these numbers do not begin to express the health care crisis in human terms. To better my understanding of the problem and to learn the thoughts of my constituency, I recently polled the people of south and middle Georgia. In a newsletter, I described as objectively as possible the three most signficiant proposals for health care reform.

The three plans that I summarized were national health insurance, the play or pay proposal, and President Bush's tax-credit approach. Representative MARTY RUSSO'S H.R. 1300 served as the model for single-payer national health insurance. I also described the play or pay proposal (S. 1227) developed by Senators MITCHELL, ROCKEFELLER, and others. Finally, I outlined the tax-credit proposal set forth by President Bush on February 6, 1992.

Mr. Speaker, I asked my Georgia constituents to review these proposals closely and to provide me with their thoughts and concerns. Today, I rise to share with my colleagues what I have learned from reading these letters and reflecting upon this critical issue.

In his response to my newsletter, Gary Blackburn of Richland discussed the health insurance coverage at his workplace. "The small southwest Georgia bank at which I am employed has 19 full-time employees. The bank pays all employees through payroll deduction. Over the past 5 years, the cost of this coverage has risen over 250 percent. Continued increases in the premiums will result in the elimination of medical insurance coverage for the bank's employees."

Mr. Blackburn continued, "All Americans should have the right to adequate medical coverage. If we provide such a system, we will be a healthier America. If we do not provide a solution to the problem, medical costs will continue to increase, bankruptcy filings will increase, and the economy will continue to remain sluggish. It is up to Congress to find the solution."

Obtaining health insurance is of special concern to the self-employed, such as the small businessmen and farmers who sustain the economy in rural Georgia. Dave Wills of Preston commented, "I sincerely hope Congress can find a real solution that will allow all Americans to be covered with health insurance. As a farmer, I struggle just to repay my indebtedness. I simply cannot afford $200–$300 per month for insurance. I, and many like me, need some assurance that an illness or accident within our families will not leave us destitute. I trust that health care will one day be guaranteed to all people, regardless of their situation in life."

The perspective of those without health coverage was described well by Boyce Wilkes of Ashburn. Mr. Wilkes wrote, "We of the uninsured group are not uninsured by choice. We simply cannot afford to pay the premiums for insurance coverage and we have found it necessary to risk our health in order to buy food, pay rent, utilities, taxes, etc. We always seem to earn too much money to qualify for the various safety-net programs but not enough to fully provide for ourselves." This sentiment was expressed by many others, including the Hayslip family of Cordele.

Janice Hayslip wrote, "My husband was hurt on the job 5 years ago. When he was dismissed because of his problem, we lost our health insurance where he worked. The plant where I worked did have insurance. But it is a seasonal job and when the plant closed I had no insurance. I am laid off from work now and with the economy the way it is I do not look to get called back."

In reading the responses, I concluded that the public, like Congress, has not reached a clear consensus on a course of action. From Thomasville, David Beckwith's comments were representative of a considerable number of responses: "I can understand the feeling in our society for a national health care plan that enables more people to use the hospitals yet at the same time be affordable for all. Even though a plan like this sounds good to people and would benefit them, the question still remains—who is going to pay for it? It's wrong for Congress to force people to spend their money for health care. I am against socialized medicine."

Mr. Speaker, in this process, I have confirmed that the people of Georgia's Second Congressional District have a deep and abiding interest in the issue of health care. The letters that I received in response to my request for comment were thoughtful and very helpful to me. My constituents understand that, although a simple answer to our health care problems does not exist, Congress must act to improve the current system. I strongly encourage my colleagues to undertake a similar process of seeking comments from their constituency. Health care is too important an issue to leave unaddressed.

In the coming weeks, I will continue to study and discuss this issue as we work toward a solution to our health care problems. Our solution must expand access to quality, affordable, health care. It must protect the individual's right to visit the physician of his or her choice. The solution cannot weaken our economy by imposing excessive burdens on businesses. I look forward to prompt action on this important public concern.

THE POSTAL SERVICE ON A FIRST CLASS JUNKET

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. BROOMFIELD. Mr. Speaker, we've finally found out why the Postal Service needed the last 4 cent increase in the price of a first class stamp.

It's going to pay for 300 luxury hotel rooms they've rented this summer in Barcelona.

When you and I are sitting in our living rooms watching the Summer Olympics on TV, top postal officials will be there in person—toasting the health of some of their biggest customers with fine Spanish wines and gourmet meals.

The cost to the American people for these 300 rooms? 3.3 million bucks. That figures out to the price increase on 82 million first-class stamps. And that's just the room charges.

It's time we take a long, hard look at the postal system to see whether the American people are getting their money's worth.

IN HONOR OF THE 100TH BIRTHDAY OF MRS. ANNIE CORA RENFROW GARY

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to introduce my colleagues to one of my most venerable constituents, Mrs. Annie Cora Renfrow Gary, on the occasion of her 100th birthday.

Mr. Speaker, Mrs. Gary was born on this day in 1892, in Sandersville, GA, to Lewis and Visan Renfrow. At the age of 21, she married Ras Gary, and was blessed with a half-century of wedded bliss. In 1925, the Garys migrated north to Philadelphia, where they resided until Ras's passing in 1970. Today, Mrs. Gary lives with her daughter, Viola, and her baby brother, the 92-year-old Harper Renfrow.

Her family knows her as a woman on a constant quest for knowledge. Despite her lack of formal education, Mrs. Gary is an avid reader and a lover of mathematics. Her children and grandchildren remember that, when they were young, she would encourage them to read anything they could get their hands on. These days, she provides black newspapers for her great-grandson, inviting him to read and learn about his people.

Mr. Speaker, although she is a century old, Annie Cora Renfrow Gary still holds membership on the missionary committee of the Zion Hill Baptist Church, loves shopping, and enjoys good health. She is a compassionate mother, grandmother, and great-grandmother, but most of all, she is a devoted Christian woman. I ask my colleagues to join with me in celebrating the birthday of Mrs. Annie Cora Renfrow Gary, and wishing her all the best for her next century.

A TRIBUTE TO FIFTH GRADER JEFFREY CHOATE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize Jeffrey Choate, a fifth grade student from my congressional district. Jeff is 1 of 44 students receiving a Jefferson Award for community service.

The Jefferson Awards were established in 1972 by Jacqueline Kennedy Onassis and Senator Robert Taft, Jr., to recognize the dedication, sacrifice, and accomplishments of individuals serving the American people. Awards are also given in an effort to develop new leadership.

Beginning in 1990, the Jefferson Awards Program began a new program with the school publication Weekly Reader. Weekly Reader is read by over 9 million students across the United States. Readers were invited to help their neighbors by involving themselves in some type of community service. Jefferson Awards would be presented to no more than one student per State in recognition of community service activities.

Jeff Choate demonstrated his concern for the safety of others by heading a campaign to have stop signs installed in his neighborhood. He started a petition, illustrated his idea with maps, and attended the village board meeting to make his case. Two new stop signs were installed only 2 weeks later.

I know my colleagues from Illinois and the entire Nation will join me in honoring the Illinois Jefferson Award recipient, Jeffrey Choate. His concern for others should be a model for all Americans, children, and adults alike. I hope his commitment to community service will continue in the years to come.

INTRODUCTION OF THE FOREIGN LANGUAGE ECONOMIC ENHANCEMENT ACT

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. MILLER of Washington. Mr. Speaker, as we approach the 21st century, America faces a new challenge: To increase our international competence and awareness in a changing and interdependent world. Our businessmen and women, government workers, and other Americans will increasingly be working in the international forum. To be successful, a knowledge of other country's languages is essential. With proficiency in language comes the understanding of others. This will benefit us in the areas of trade, defense and diplomacy. That is why I am introducing the Foreign Language Economic Enhancement Act, which present a four-tier, cost-effective way to address our foreign language needs in government, business, and education.

Foreign language competency is considered a priority in most other nations of the world, particularly by those who are our toughest economic competitors. Foreign language study is mandatory in continental Europe, starting in the seventh grade. The Japanese have made notable efforts to learn English, requiring it be taught from elementary school on. However, in the United States, fewer than 5 percent of elementary school students receive foreign language training, and only 17 percent of American public elementary schools offer any form of language instruction. As this new and increased language instruction becomes necessary, educators to teach these languages are becoming more difficult to find. In fact, more than 35 States are experiencing shortages of foreign language teachers. My bill establishes a grant program to recruit and train qualified individuals as elementary and secondary schoolteachers.

Our institutions of higher education need to place a higher premium on foreign language instruction. Currently, only 8 percent of our universities require foreign languages for admission, and only 5 percent of our college graduates are fluent in any language other than English. This bill encourages colleges and universities to require at least 2 years of foreign language instruction as a condition for admission or graduation.

Whether we speak of maintaining our economic competitiveness in the world market, assisting the developing nations of the third world, or stabilizing the fledgling democracies of Eastern Europe and the former Soviet Union, foreign language competency becomes imperative. However, America is ignoring languages outside of Western Europe and Japan. Operation Desert Storm is a case in point. Of the 500,000 American troops we sent to the Persian Gulf, only five soldiers could translate Iraqi intelligence documents.

This bill will support the study of lesser known and studied languages representing potential markets and regions vital to U.S. security. My legislation also establishes a translation needs assessment council and makes grants to universities for developing degree and certificate programs to train interpreters.

America cannot prosper in isolation. Our national security and future economic competitiveness depends upon our ability to communicate and do business with our neighbors overseas. States need the resources to develop and expand export opportunities in potential and emerging foreign markets. This bill provides grants to State economic and trade development groups to be used for cultural education and business translation. I urge my colleagues to join me in cosponsoring this measure.

A TRIBUTE TO THE SIXTEEN ACRES LIONS CLUB

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to praise the Sixteen Acres Lions Club of Springfield, MA, for 45 years of outstanding dedication and devotion to the Sixteen Acres community.

The club was organized on April 25, 1947, in an old brick schoolhouse, with 53 members joining. Since its establishment, the club has provided great service to the Sixteen Acres community.

In the 1950's the club would show movies on Saturday afternoons in an old schoolhouse building. The purpose of this entertainment was to give the younger children something to do during the winter months. No child was turned away even if he or she could not afford the 10 cents that was charged to help defray the cost of the film.

The Sixteen Acres Lions Club has continued its devotion to the children in the community, with the organization of several sports programs under the direction of Fred Hoarle. Today, there are soccer, softball, basketball, and baseball teams representing the club, that give the kids a chance to participate in sports.

Through the years, the Sixteen Acres Lions Club has also dedicated itself to both the ailing and needy. An orthoptic clinic was set up by Russell Koch, a past president of the club, in 1951. This clinic, still active today, offers treatment for eye problems that have been referred by local ophthalmologists, with a charge made in accordance with the patient's ability to pay. Very rarely do we find a medical clinic that charges based on the patient's ability to pay.

The club has sponsored glaucoma and diabetes testing clinics, paid for eye examinations and eyeglasses for needy families, and supported the eye research, emergency sight and hearing fund, and various other projects. The club has provided exceptional medical service to those in need.

For 17 years, the club has given food baskets to needy families during the holiday season. The club raises its money by selling raffle tickets for a gift certificate for food at a local market. Enough money is made so that in addition to the food baskets, small toys for the children can be provided. This has been a very successful and much appreciated endeavor.

Over the years, the Sixteen Acres Lions Club has been able to bring much happiness to members of its community through its various projects. Without the dedication and hard work of its president, Dick Messier, and all of its members, this success would not have been possible. The Sixteen Acres Lions Club is proud to have had four of its members, Robert Scott, Fred Hoarle, John Ingalls, and Dick Leary elected district governor.

Mr. Speaker, I commend the Sixteen Acres Lions Club for 45 years of fine service, and only hope to see its success continue for 45 more years.

THE BOOK OF WOMEN

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. GEJDENSON. Mr. Speaker, today I rise to acknowledge the accomplishment of Ms. Lynne Griffin of Norwich, CT. Her first book, "The Book of Women", subtitled "300 Notable Women History Passed By," was recently published.

In the book, Ms. Griffin and her coauthor, Kelly McCann, identify 300 women whose participation in many celebrated achievements went unnoticed by mainstream historians. In the introduction, the coauthors note that "books, magazines, newspapers, and innumerable other sources that shape our sense of popular history tend, even today, to focus more on the opinions, objectives and accomplishments of men than on those of women."

The book is the first step toward addressing that inequality. Included in the edition are several familiar feats which we have traditionally attributed to male colleagues—instead of the women who actually accomplished them.

"The Book of Women" aims to set the record straight on many important world events and Ms. Griffin should be commended for her efforts. I wish her luck on her next endeavor.

A TRIBUTE TO RABBI JACK LUXEMBURG

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to Rabbi Jack Luxemburg, recipient of the American Jewish Congress Leadership Award. His invaluable leadership will be honored at the annual meeting of the National Capital region of the American Jewish Congress on June 18.

Rabbi Jack Luxemburg's pastoral and spiritual leadership of Temple Beth Ami in Rockville, MD, has elevated his congregation to local and national prominence. For 5 of his 11 years at Temple Beth Ami, he served as regional president of the National Capital region of the American Jewish Congress where he spearheaded efforts to bring this new chapter to a national status. As president, he diligently struggled to secure the civil and political rights of all Americans as a fervent advocate of the Civil Rights Act, the Family and Medical Leave Act and the Religious Freedom Restoration Act. The annual "Congress-to-Congress" Policy Conference, initiated during Rabbi Luxemburg's tenure, where American Jewish Congress members meet with Members of Congress, is a tremendous success. Rabbi Luxemburg also has been actively involved as a member of the task force on bioethics and serves on the national governing council.

For the 11 years he served his congregation at Temple Beth Ami, Rabbi Luxemburg displayed qualities of leadership, dedication, and compassion that raised the community to new heights. I am proud that he resides in the district that I represent in Congress, and I am honored to add my voice to the praise of friends and colleagues who gather to salute him.

TRIBUTE TO HOMER H. PIRTIE

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. ANTHONY. Mr. Speaker, I rise today to pay tribute to a special individual, a dedicated public servant, and a very good friend. Mr. Homer H. Pirtie is retiring June 30, 1992, after many years of serving his country and his State.

Mr. Pirtie is a World War II veteran who was awarded the Purple Heart after being injured at the Normandy invasion. He worked at the Arkansas State Revenue Department and was a congressional aid to Congressman Oren Harris in Washington, DC. He was a constable in El Dorado and served as Union County sheriff for six terms. Mr. Pirtie was appointed to the Arkansas Law Enforcement Training Academy board of directors and served as the president of the Arkansas Sheriffs Association.

A native Arkansan, Mr. Pirtie is active in his community of El Dorado, AR, where he resides with his wife, the former Evelyn Atwell. He is a lifetime member of the Arkansas Boys and Girls Ranch board of directors, and he served on the Cerebral Palsy board of south Arkansas, where he was chairman of the annual telethon for several years.

Along with these accomplishments come a strength of character and a kind heart that have been a rock to me in times of trouble. Mr. Pirtie is a true friend with the ability to be honestly blunt when necessary and yet remains loyal and caring always. His work with me may be ending, but our friendship never will. I ask my colleagues to join me in honoring this remarkable man. He will be greatly missed.

POW-MIA'S IN RUSSIA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. RICHARDSON. Mr. Speaker, President Yeltsin's startling disclosure of the possible detention of POW–MIA's in Russia must be investigated to the fullest extent. I urge my colleagues to support any and all efforts made to determine the veracity of these claims.

To this day, the plight of the POW–MIA's remains unresolved. There are 2,266 Vietnam soldiers classified as MIA's, 8,000 MIA's from the Korean war, and 78,000 MIA's from World War II. These wars have affected the Nation tremendously. Last week, Yeltsin sent a letter to our colleagues on the Senate Select Committee on POW–MIA Affairs admitting that 12 Americans shot down on spy missions over the Soviet territory during the cold war were detained in Soviet prisons and psychiatric hospitals. As a member of the House Intelligence Committee, I have urged the committee to initiate a full scale investigation. It is imperative to the Nation that we do everything in our power to speed the homecoming of these brave and unforgotten soldiers.

Mr. Speaker, these soldiers deserve a dignified return to the United States. I strongly believe that we have a responsibility to ensure that every effort is made to determine the truth of President Yeltsin's claims.

HOPE LUTHERAN CHURCH BUILDS COMMUNITY WHILE REBUILDING CHURCH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I want to congratulate the members of Hope Lutheran Church in South Miami on completing the restoration of their church.

Over a year ago, in April 1991, an arsonist smashed one of the stained-glass windows to break in and set a fire behind the altar. Fortunately, Police Sergeant Bill Fatool and Officer Charles Eades were patroling 2 blocks away. They smelled the smoke, and quickly located its source. They were able to call the fire department in time to prevent much worse damage to the building.

Helen Johnson, president of the Hope Lutheran congregation, believes that the church community has grown stronger while the church was being repaired. During the rebuilding of the church, services were held in a small room behind the church. Members of the congregation worked to rebuild the main church. June Perretta, a member of the congregation for 38 years, said "I think we've come together as a group because of this. If anything good came out of this I'd say that was it."

The Miami Herald published an article on this triumph of community vision and spirit, which I would like to include in the RECORD:

CHURCH RESTORED AGAIN AFTER ARSON

(By Anthony Faiola)

The faint smell of smoke still lingers in the halls of Hope Lutheran Church in South Miami. It's the last remnant of a blaze that devoured the altar of the church more than a year ago.

"Since the fire, we've held our services in a little room behind the church," said Helen Johnson, congregation president, who helped unveil the restored church during its rededication ceremony this week.

"During that time, we grew closer," she said. "Maybe because we were almost on top of each other with 50 to 60 of us crammed into that room for Sunday service. Whatever the reason, we've grown together. We've healed together."

On April 12, 1991, an arsonist smashed a stained-glass window of Jesus to enter the church at 6330 Bird Rd. and set a fire behind the altar. The church's ornate wooden cross, a hymn book and the altar cloth covers were used to fuel the blaze.

Desecration was the only thing on the arsonist's mind—nothing was stolen from the church, Johnson said.

Bruce Snyder, spokesperson for the U.S. Bureau of Alcohol, Tobacco and Firearms, said his department is still investigating the fire.

It has ruled out Patrick Lee Frank, a mentally ill homeless man charged with setting 27 church fires in the South—most of them in Florida. Frank was in Tennessee at the time, Snyder said.

Today, the church's damaged areas have been repaired or replaced with $70,000 in insurance money and a lot of elbow grease.

"We're joyful we have our church back," said June Perretta, a South Miami resident and a Hope Lutheran member for 38 years. "I think we've come together as a group because of this. If anything good came out of this, I'd say that was it."

The damage to Hope Lutheran could have been worse if South Miami police Sgt. Bill Fatool and officer Charles Eades hadn't smelled smoke while on patrol two blocks away at Southwest 65th Avenue and Bird Road. They found the source of the smoke and quickly called the fire department, said Perry Turner, South Miami police chief.

There still are sobering reminders of the fire: reinforced stained-glass windows and a new alarm system.

"Can you imagine, an alarm system in God's house," Johnson said. "I remember when I was growing up, the doors to church were never even locked. It's sad. You know, it's just so sad."

Mr. Speaker, I commend South Miami Police Sergeant Bill Fatool and Officer Charles Eades for their outstanding performance in saving this church from much greater destruction. And I commend Helen Johnson, June Perretta, and the congregation of Hope Lutheran Church for their preseverance and their ability to turn adversity into an opportunity to build a closer, stronger community of faith.

INTRODUCTION OF ETHICS IN GOVERNMENT INITIATIVE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. BROWN. Mr. Speaker, I was one of three Democratic members of this House to oppose the House Administrative Reform Resolution (House Resolution 423) when it was approved by the House of Representatives last April 9 on a 269–81 vote.

While I think that resolution was a good start toward improving the internal management of this House in the wake of the House bank fiasco, I concluded it was deficient on several counts.

First, it created two new highly paid executive positions within the House administrative structure in addition to the operations already budgeted this year for the Doorkeeper, Sergeant at Arms, and Clerk. Only the Postmaster job was abolished in favor of U.S. Postal Service substations in each House office building. That response feeds the public's cynical belief that the customary Washington response to scandal is to add yet another layer of high-paid bureaucrats to clean up the mess rather than firing anybody or calling to account those persons who mismanaged operations in the first place. The public dismay is compounded by the news that $25,000 is to be spent for an outside firm to find someone suitable to take the new job of Director of Non-Legislative and Financial Services.

Second, while professional managerial experience and skills will be required for persons assuming the two new posts—Director of Non-Legislative and Financial Services and Inspector General—it does not apply the same merit and professional tests to the Sergeant at Arms, Doorkeeper, and Clerk. Under that resolution, those posts will remain patronage positions subject to popular election by the Members of the House.

Third, the minority leader's approval will be required for persons appointed to the two new positions, but not for the persons holding the posts of Sergeant at Arms, Doorkeeper, or Clerk.

Fourth, the Sergeant at Arms, Doorkeeper, and Clerk ultimately will remain unaccountable and not subject to dismissal by the new officers for non-performance or other job deficiencies.

For these reasons, I am today introducing new legislation to overcome these shortcomings and to put the internal management of the House on a more professional and bipartisan footing. My resolution would make several administrative changes that could easily be achieved before the new officers assume their posts.

First, regarding the Director of Non-Legislative and Financial Services, my resolution would change his title to House Administrator and have him appointed with the approval of the Speaker, majority leader, minority leader, and minority whip. He could be removed by the House or by the Speaker and minority leader acting together and his salary would be higher than that of subordinate officers of the House.

Furthermore, the new House Administrator would be hired strictly on the basis of professional expertise in an open, competitive process and must possess extensive managerial and financial expertise.

Finally, he would be given hiring and firing authority over his subordinates (Sergeant at Arms, Doorkeeper, and Clerk) who must be selected competitively and strictly on the basis of professional competence and managerial experience. The salaries of the subordinate officers would be reduced in comparison to that of the House Administrator to reflect the change in their job responsibilities and, in the aggregate, the salaries of the two new officers and the remaining officers are not to result in any increased outlays to the already approved fiscal year 1992 operating budget for the House of Representatives.

Second, regarding the new Inspector General, he would be appointed with the approval of the Speaker, majority leader, minority leader, and minority whip acting together. This new officer of the House could be removed by the whole House or by the Speaker and minority leader acting together. He is to be hired strictly on the basis of professional expertise in an open, competitive process that places a premium on extensive auditing, financial, and investigative expertise. Again, he would be paid a salary that does not entail any net increase in expenditures above the amount already appropriated in fiscal year 1992 for operation of the House.

Opportunities to making lasting internal reforms to boost the efficiency and effectiveness of the administrative operations of the House come along once in a great while. We should make the most of the historic opportunity that presents itself during the remainder of this session. I hope that my colleagues will join me in support of this initiative that is designed to rebuild public confidence that this House can better manage its own internal affairs.

TRIBUTE TO EASTERN OHIO-WESTERN PENNSYLVANIA BAPTIST ASSOCIATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. TRAFICANT. Mr. Speaker, I rise here today to pay tribute to the Eastern Ohio-Western Pennsylvania Baptist Association [EOBA] on its celebration of its diamond jubilee 75th anniversary.

The EOBA was founded in October 1917 by Rev. I.R. Hall, Ira Brown, and Frank Thomas of Second Baptist Church, East Liverpool, OH. Its first auxiliaries were the missionary department, the Sunday school, and the Baptist Young People's Union. Since then, membership has grown to include 41 churches and other auxiliaries have been formed including the youth department and the deacon's union. The EOBA has become a very influential group within the area communities.

The anniversary party will be held on July 20 at Mr. Anthony's Banquet Hall in Youngstown. The guest speaker on this festive occasion will be Dr. Caesar A.W. Clark, vice president at large of the National Baptist Convention USA Inc.

Mr. Speaker, the EOBA has been an inspiration and benefit to its surrounding community for 75 years. I wish to extend my congratulations on their achievements and wish them many more productive years.

CONGRESSMAN KILDEE HONORS THE PONTIAC AREA TRANSITIONAL HOUSING FAMILY SERVICE CENTER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise today before my colleagues in the House of Representatives to pay tribute to an organization that is serving on the frontlines in the war against homelessness, Pontiac Area Transitional Housing [PATH]. With the support of the Junior League of Birmingham and others, PATH has been able to build the Family Service Center at its headquarters in Pontiac, MI.

On Sunday, June 21, 1992, PATH and the Junior League of Birmingham will celebrate the grand opening of all of PATH's facilities with a dedication ceremony, unveiling the name of the building and recognizing over 150 benefactors who have helped make this vision a reality.

The construction of the Family Service Center has helped PATH realize its goal of providing much-needed assistance to homeless women and children. PATH helps young women and single mothers make the transition from a life of homelessness and poverty into a lifestyle of independence and security. The program provides a safe, structured, and nurturing environment for homeless women, fostering the development of their economic autonomy, self-esteem, and self-sufficiency. Residents of PATH work at the Junior League Bargain Box, which provides them with valuable employment training and work experience.

PATH currently houses 17 women and 33 children in its residential building, with an additional single-family home located directly behind the residential building. Furthermore, a day care center is also located in the building.

The Family Service Center houses PATH's latchkey program, a vital support service for working parents. It is this integration of services that will allow social services to be more effective. The center contains several different offices, including counseling, classrooms, a library, community room, and laundry facilities. The center is also connected to the residential building through spacious corridors on the main floor and the basement level providing both convenience and security. Since many of the women housed at the center are victims of domestic violence, providing a secure environment is extremely important.

Mr. Speaker, it is with great pride that I rise before you today to honor Pontiac Area Transitional Housing for the crucial services it provides to homeless women and children. I ask that you and my fellow Members of Congress join me in saluting this wonderful organization. PATH has taken on the monumental task of reintegrating homeless women and children into the mainstream of American society. We should take note of what is being accomplished in Oakland County, MI, and rededicate ourselves to fighting homelessness throughout the United States.

A TRIBUTE TO JUDGE HARRY HAZELWOOD

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today to bring to the attention of my colleagues in the U.S. House of Representatives the retirement of a close friend of mine, the Honorable Harry Hazelwood, Jr.

Judge Hazelwood was born in Newark, NJ, on October 8, 1921, to Harry and Josephine Hazelwood. He has one sister, Jane, who is also a Newark resident.

Harry Hazelwood attended and graduated from South Side High School in Newark in 1939. At the time of his graduation, he was vice president of the Student General Organization. He received an award for debating at South Side High School and was a member of the National Honor Society.

He attended Rutgers University in New Brunswick, NJ, and received his B.A. in 1943. He was awarded a New Jersey State scholarship at Rutgers University, New Brunswick, NJ, 1939–1943. Subsequent to his graduation he received the Loyal Sons Award which is given to graduates for significant service to their alma mater, from the university. He was one of a select group to receive the Class of 1931 Award, based on service to the university, and to the community. Judge Hazelwood is also past president of the Rutgers University Club of Essex County.

Harry graduated from Cornell Law School receiving his LL.B. degree in 1945. He was the first African-American to graduate from that institution and served as president for the Cornell Law School Students Association at the time of his graduation. He has been a past member of the executive board of the Cornell Law Association, and Advisory Council of Cornell Law School. He continues as an active member of the Cornell Club of New York City.

He was admitted to the New Jersey Bar in 1948, and to the U.S. Supreme Court in 1954. He is a member of the Essex County, New Jersey State (40+ year member), National Bar (life member), and American Bar Associations.

Judge Hazelwood worked to help elect African-Americans to public office. He served as a member of the Charter Study Commission to revise the Charter of the City of Newark in 1954, which was known as the Falkner Act. This commission recommended the change from commission form of government to mayor and council which is still in effect today. This act assisted Mr. Irvine Turner to become the first African-American central ward council member in Newark. Judge Hazelwood was a member of the U.S. Commission of Civil Rights Advisory Committee for the State of New Jersey from 1960–1962.

Harry Hazelwood, Jr. served as a law clerk for Edward Gaulkin, Esq. in his Newark offices after he completed law school. A clerkship with a practicing attorney was then required of a law school graduate before admission to practice law.

He was the first African-American to be appointed as an assistant Essex County Prosecutor and served from 1956 to 1958. He was also one of the first members of the judiciary to be of African descent and was appointed to the bench in the State of New Jersey. He was appointed to the Newark Municipal Court in 1958 and was the presiding judge of that court from 1969–1974.

He was associated with the late Seymour Kobeetz, Esq., with offices at the Military Park Building, 60 Park Place, Newark, NJ, from 1948 to 1974. He was engaged in civil practice with an emphasis primarily on commercial, real estate, general negligence, probate and corporate law. He served as a member of the board of directors of a publicly traded international corporation.

He is a past member of the New Jersey Supreme Court Committee on Municipal Courts and the American Bar Association's Standing Committee on Traffic Courts of America. As such, he lectured at seminars throughout the country given by the American Bar Association pertaining to traffic courts.

Judge Hazelwood is past president for the Newark chapter of the National Association for the Advancement of Colored People [NAACP], and during his tenure with the NAACP, he was in continuous contact with Roy Wilkins and Thurgood Marshall.

After being appointed to the Essex County Court in 1974, he was subsequently elevated to the Superior Court of New Jersey in 1978 and he remained a superior court judge sitting in Essex County until his retirement in 1991.

He is a former trustee and church counsel for Metropolitan Baptist Church, Newark, NJ. Prior to becoming a member of this church, Judge Hazelwood attended Mt. Zion Baptist Church in Newark where both of his parents were involved.

He was the recipient of the 1968 Brotherhood Award of the National Conference of Christians and Jews for northern New Jersey.

He is a former member of the board of directors, Newark chapter, American Red Cross; former trustee of the New Jersey Symphony Orchestra; former trustee, Symphony Hall of Newark; former member of the Board of Trustees for United Hospital in Newark, NJ; former neighborhood commissioner for the Newark area Boy Scouts of America; associated with the Newark Boys Club for over 25 years; and past president of the Newark chapter of the Alpha Phi Alpha Fraternity.

Additionally, he was a member of the Urban League of Essex County; member of the New Jersey Historical Society; and a member of the Interracial Council for Business Opportunities in New Jersey.

Judge Hazelwood is married to a wonderful woman, Ruth E. Hazelwood. I had the pleasure of working with Mrs. Hazelwood during my years as teacher for the Newark School District. Mr. and Mrs. Hazelwood have two sons, Harry Hazelwood, III and Stephan E. Hazelwood.

Mr. Speaker, I know my colleagues will join me in congratulating Judge Hazelwood on his retirement and recognizing the invaluable contributions he has made to New Jersey. I am proud of my friendship with Harry, and wish him the best.

THE PUERTO RICO MEDICAID IMPROVEMENT ACT OF 1992

HON. ANTONIO J. COLORADO

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. COLORADO. Mr. Speaker, today I introduced legislation with the purpose of bringing much needed medical assistance to Puerto Rico. I speak of the Puerto Rico Medicaid Improvement Act of 1992. This bill, drafted by the administration, is a good example of what we can accomplish when we all work together for a common good.

My bill seeks to address the current and unfair Medicaid situation in Puerto Rico. Puerto Rico has participated in the Medicaid Program since it was first authorized by title XIX of the Social Security Act in 1965. Initially, there was no ceiling on Federal matching funds for Puerto Rico. Federal matching was open ended, as it is with the States, and the island's Federal medical assistance percentage [FMAP] was 55 percent. In 1965, Congress limited Federal payments to a $20 million ceiling and reduced the FMAP to 50 percent.

In the 25 years the ceiling has been in place, it has been raised by only $59 million. While the Federal contribution has remained more or less level, local health care delivery costs have soared, as they have throughout the rest of the Nation. In addition, Puerto Rico has the fourth highest rate of new AIDS cases in the United States, as well as a drug addition problem on the same scale as any metropolitan area in this country.

In just a decade, AIDS has become the leading cause of death in Puerto Rico for men between the ages of 25 and 44 years and for women between the ages of 25 and 34 years. With a population of 3.6 million people, 4 people are diagnosed with AIDS and 3 others die of AIDS-related complications every day.

The San Juan AIDS Institute reports that annual patient costs—in 1987 dollars—average $15,118; just to provide a patient with AZT costs $5,000 per year. If hospital use continues to grow at the same rate as it has during the past 5 years, by the year 2000 each public hospital in Puerto Rico will have to dedicate more than half of its budget to the care of HIV and AIDS patients.

Even before the AIDS epidemic, Puerto Rico's public health system was overburdened and underfunded. Now the system is truly under pressure to guarantee access to routine health care to the more than 1.2 million Puerto Rican Medicaid beneficiaries, nearly 1 out of 3 people on the island. More than half of those eligible are children.

This year alone, Puerto Rico's Medicaid Program will cost nearly $600 million. The $79 million Federal contribution accounts for only 13 percent of the total; the Commonwealth must provide the balance.

The last time Congress considered the issue of the Medicaid cap was in the Omnibus Budget Reconciliation Act of 1987, which increased the Medicaid cap for Puerto Rico and the territories. In 1987—when Puerto Rico received $63.4 million—the ceilings were set to increase as follows:

Fiscal year:	*Millions*
	Millions
1988	$73.4
1989	76.2
1990 and subsequent years	79.0

Mr. Speaker, there is no question regarding Puerto Rico's need for additional Medicaid funds. I believe that many of my colleagues in Congress agree with me that the dire need for additional Medicaid funds is more than well documented. The report on the concurrent resolution on the budget for fiscal year 1992 included language stating Puerto Rico's need to receive additional Federal funds to enable its Medicaid Program to continue providing its citizens access to basic health care.

My bill indeed provides the opportunity to address this and other problems regarding the Medicaid issue in Puerto Rico. I am aware that this bill has room for improvement. For example, not included in this bill, but of vital importance to the Medicaid Program in Puerto Rico, is the need to address the issue of the absence of an allowance to provide for inflationary adjustments in Puerto Rico's Medicaid Program. I strongly believe that, like many programs in health and other areas, the Medicaid Program in Puerto Rico should be increased by percentage increase in the medical care component of the consumers price index for all urban consumers, as published by the Bureau of Labor Statistics.

I feel that if we address this issue, there will be a humane and more appropriate adjustment to the already low amount the Puerto Rico Medicaid Program receives.

Another issue that interests me is including the territories in this legislation. I believe that while we consider this legislation in the Energy and Commerce Committee, we can include an increase in the Medicaid Program for American Samoa, Guam, and the Virgin Islands.

Mr. Speaker, I thank you for your support and interest in this issue and look forward to your continued support, as well as that of other Members, as we move to consider this issue in Congress.

CIVIC AND CHARACTER VALUES: TEACH THEM

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. HALL of Ohio. Mr. Speaker, some time ago, I introduced legislation calling for a national commission to examine the teaching of commonly held civic and character values in our schools. Educators and public officials told me to stay away from the subject. It was allegedly too controversial and would open up a can of worms.

Mr. Speaker, thanks to Bill Clinton and DAN QUAYLE, the can is now open. Values is on the table, and people want to discuss the subject.

This country has a tradition of values including honesty, respect, tolerance, and love of country. Let's be proud of these values, and let's start promoting them.

Children are not born with values, but they need to be taught. An article in the Washington Post of June 17, 1992, entitled "Children of the Tuned-In Find Politics a Turnoff," described how children of the sixties generation are generally bored by government and do not vote. It said,

> In less than 20 years, the percentage of all 18- to 24-year-olds who said they only occasionally followed politics and civic affairs has nearly doubled, with six out of 10 young adults now saying they pay scant attention to what's going on in government.

Mr. Speaker, we cannot expect children to act responsibility as adults if we are afraid to teach them as children. Age-old values are integral to the foundation of this country. If we want good citizens who know the difference between right and wrong, we need to teach commonly accepted values in our schools.

CONGRESSMAN KILDEE CONGRATULATES NEW MOUNT MORIAH MISSIONARY BAPTIST CHURCH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1992

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to congratulate the members of New Mount Moriah Missionary Baptist Church and their pastor, Rev. William H. Murphy, Jr., upon the dedication of their new church edifice which will be celebrated this Sunday, June 21, 1992 at 4 p.m. in Pontiac, MI.

On April 9, 1989, the New Mount Moriah Missionary Baptist Church was formally organized with approximately 100 members. The ceremony was conducted at the Bowen Community Center in Pontiac, MI. William H. Murphy, Sr., pastor of the Greater Ebenezer Missionary Baptist Church of Detroit was the moderator.

On Sunday, April 16, 1989, the New Mount Moriah Missionary Baptist Church held its first official order of worship service at the Offender Aid and Restoration [OAR] building at 210 North Perry Street. After 1 month the congregation moved to 67 Oakland Avenue, Pontiac, MI. The church will hold its first service in its new home at 68 West Walton Boulevard, this Sunday, June 21, 1992.

Over the past 3 years the membership of New Mount Moriah, under the leadership of Pastor William H. Murphy, has grown physically and spiritually. From a group of 100 people meeting in a community center, the congregation has grown to 350 active members. New Mount Moriah's official staff include Pastor William H. Murphy, Jr.; Deacon Conway Thompson, chairperson of the deacon board; Sister Elaine Miller, trustee chairperson; Deacon Leon McDonald, Jr., treasurer; Sister Phillis Williams, church clerk and Sister Juliette Cotton, secretary.

Mr. Speaker, without a doubt, the Pontiac community is a much better place to live because of the service, love, and spiritual support from New Mount Moriah Missionary Baptist Church. Because their hard work strengthens my commitment to the role of government to promote, protect, defend, and enhance human dignity, I urge my House colleagues to join me in congratulating this outstanding parish on the occasion of their wonderful milestone.

SENATE—*Friday, June 19, 1992*

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"* * * The Senate of the United States, devoutly recognizing the Supreme Authority and Just Government of Almighty God, in all the affairs of men and of nations, has, by a resolution, requested the President to designate and set apart a day for National prayer and humiliation. * * *" (A Proclamation for a Day of Humiliation, Fasting, and Prayer, Abraham Lincoln.)

With those words, President Abraham Lincoln designated April 30, 1863, as a day of national humiliation and prayer and called for "* * * all the People to abstain on that day from their ordinary secular pursuits, and to unite, at their several places of public worship and their respective homes, in keeping the day holy to the Lord. * * *" Obviously, Lincoln took prayer seriously, as did our Founding Fathers when they opened both Senate and House with prayer the first day they met in 1787. To them, prayer was not a formality but sheer necessity upon which they depended all through the critical colonial days. Whether it was George Washington kneeling in prayer at Valley Forge, or Ben Franklin calling for the Constitutional Convention to open with prayer, turning to God in a critical hour was natural for them.

Gracious God our Father, these are critical days in the life of America and the world. May we take prayer as seriously as our heroes of the past did. At a time when massive problems exceed human ability to respond, give us grace to look to God for remedies which only the God of the impossible can provide.

For the glory of the Lord and the renewal of the Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 19, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL—LEADERSHIP TIME

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

Mr. MITCHELL. Mr. President, it is my understanding that, under the previous order, the Senate will now resume consideration of the extension of the Emergency Unemployment Compensation Program.

The ACTING PRESIDENT pro tempore. The Senator is correct.

The clerk will report the bill.

The bill clerk read as follows:

A bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President and Members of the Senate, under the order agreed to by all Senators last evening and governing the disposition of this bill, there will be two amendments in order to the bill, one to be offered by Senator DOLE in the nature of a substitute and one amendment by Senator BOND. Upon the disposition of those amendments, the Senate will complete action on this bill today.

I thank all of my colleagues for their cooperation in making such expeditious action by the Senate possible. This is an important bill. The unemployment benefits for millions of Americans will soon expire, and this extension of those insurance benefits is necessary. Our ability to act on this measure now and then to reconcile the differences between the Senate and House bill and the administration's position, an effort which is ongoing and I hope will soon produce successful results, is important.

So I thank all of my colleagues, and I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, in drafting this legislation, one of the concerns was, as we looked to the benefits, that we wanted to be sure this was accomplished within the jurisdiction of the Finance Committee and that we were not burdening the Appropriations Committee. The chairman of that committee has problems enough on the question of discretionary spending. I am prepared to enter into a colloquy with the chairman of the Appropriations Committee.

Mr. BYRD. Will the Senator yield?

Mr. BENTSEN. Yes.

Mr. BYRD. Mr. President, there is a provision in H.R. 5260, as reported by the Finance Committee, that directs the Secretary of the Treasury to transfer from the general fund of the Treasury to the extended unemployment account such sums as are necessary to enable States to pay emergency unemployment benefits.

I understand that without this language there would be insufficient funds in the unemployment account to make the payments authorized in the bill. However, I would like to make clear that from the perspective of the chairman of the Appropriations Committee, this provision should not be regarded as a precedent for future legislation by the Committee on Finance, or by any other authorizing committee. Does the chairman of the Finance Committee share that view?

Mr. BENTSEN. I certainly agree with the chairman of the Appropriations Committee. I thank him for working with the Finance Committee to make sure that the benefits we are providing in this bill will actually be paid.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

As the Senator knows, the Finance Committee bill raises the revenues needed over the next 5 years to pay for the benefits that are authorized. The effect of the language the Senator refers to is to assure that under the Budget Enforcement Act both outlays for benefits, as well as revenues, will be scored against the Finance Committee. The Appropriations Committee will not be affected. By no means does the Finance Committee want to make the work of the Appropriations Committee any more difficult than it already is.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Texas for his comments.

I understand there may be a problem with the scoring of the administrative costs in this bill that would result in the Appropriations Committee's being scored with an additional $120 million in the fiscal year 1993. As the distinguished manager of the bill knows, this creates an additional burden on domestic discretionary funding, a burden that we cannot meet. Therefore, I would like his assurances that this situation will be taken care of in conference.

Mr. BENTSEN. The chairman of the Appropriations Committee may be assured that I will do everything I can to resolve this issue in conference. In fact, I will not bring the bill back from conference unless the problem raised by Senator BYRD is solved.

Mr. BYRD. I thank my friend. The word of Senator BENTSEN is solid gold, as far as this Senator is concerned. I can go to the bank with his word. I have the utmost faith and confidence in his good intentions. I know he will do what he can. I appreciate the Senator saying he will not bring the conference report back if this matter is not resolved in accordance with what we have said here today.

I deeply appreciate his words, and he is always most cooperative and understanding and thoughtful. He is one of the Senators whom I most honor in this body.

Mr. BENTSEN. Well, Mr. President, I guess we have ourselves a mutual admiration society. I have been seated next to the distinguished Senator, the chairman of the Appropriations Committee, for quite some time, and I value his friendship. He has one of the most distinguished records that I have seen in this body.

Mr. BYRD. I thank the Senator.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am going to submit an amendment and a statement on behalf of Senator BOND that has been cleared on both sides and is ready, I believe, to be accepted. He is unavoidably in Missouri today. I ask unanimous consent that the floor statement be inserted after I offer the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2434

(Purpose: To ensure that ex-service members and reservists are not denied trade adjustment assistance because they are fulfiling their active duty requirements)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. BOND, proposes an amendment No. 2434.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, insert the following section:

SEC. . EFFECT OF CERTAIN MILITARY SERVICE ON TRADE ADJUSTMENT ASSISTANCE.

(a) TRADE ADJUSTMENT ASSISTANCE.—Paragraph (2) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by inserting "or" at the end of subparagraph (C),

(3) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is 'Federal service' as defined in 5 U.S.C. 8521(a)(1),", and

(4) by striking "paragraph (A) or (C), or both," and inserting "subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to weeks beginning after August 1, 1990.

• Mr. BOND. Mr. President, more than 1,000 Missourians served their country as members of the Missouri Army and Air National Guard in Operation Desert Storm. While these members of the Guard were on active duty status, Brown Shoe Co., a major State employer, shut down many plants in Missouri.

After the plant closings, the Department of Labor certified former employees of Brown Shoe Co. as eligible to apply for trade adjustment assistance. My colleague, JACK DANFORTH, and I urged approval of this application and we are grateful that the Department of Labor made this decision. The trade adjustment assistance funding will enable workers to search for new jobs, relocate, and retrain if necessary, and provide weekly benefits while they look for new work. Since many of Brown Shoe's workers had made the company a lifetime career, this assistance is essential to help workers find new jobs and to help entire regions remain economically viable.

But there is a problem with the eligibility of Missouri Army and Air National Guard members who served their country in Desert Storm during the first year. The Department of Labor has declared these members of the Guard ineligible for full assistance because their service to their country took them away from the plant during the time considered for eligibility.

As Missouri Senator and national cochairman of the National Guard caucus, I urgently requested that the Department of Labor reconsider this eligibility determination. My constituents willingly answered their country's call to duty in time of war. They should be honored for their service, not punished for it.

I know the determination affects employees of Brown Shoe in Bernie, MO, because workers have told me so. Seven other Brown Shoe plants have been designated for trade adjustment assistance in Missouri, and there have been several other companies in our own State which have trade adjustment assistance certifications. Since 1,300 Missouri Guard men and women were called to active duty during Desert Storm and since several companies have been granted trade adjustment eligibility, this problem conceivably could affect many Missourians. And this is a nationwide problem because more than 75,000 Guard members were called to active duty across the country.

The problem has arisen as a result of the interpretation of TRA eligibility regulations which require an employee to work for at least 26 weeks during a specified time period for the adversely affected employer. Because my constituents served their country in Operation Desert Storm during the qualifying time period, the Department has determined that they are not eligible for full benefits. In 1981, Congress specifically provided an exception for up to 7 weeks of Guard training. While there may not be a specific exception for service during wartime in excess of 7 weeks, it is clear that Congress had no intention of discriminating against those who serve in the military.

Guard members who served in Desert Storm and Desert Shield should not be penalized by dening them full benefits under trade adjustment assistance. It is happening in Missouri and must be happening in other States across the Nation. And that is just plain wrong.

My amendment is designed to specifically address this narrow problem, and

I want to thank the Department of Labor, as well as my colleagues on the Finance Committee for working with me to handle this problem. Special thanks should also go to the Finance Committee staff for making sure this amendment will work.

Mr. President, we guarantee job protection and prohibit discrimination against our veterans and this amendment insures that trade adjustment assistance eligibility is also protected.●

Mr. PACKWOOD. Mr. President, this is a very unique situation. There were about 1,000 Missourians who served their country as members of the Missouri Army and Air National Guard in Operation Desert Storm. While these members of the Guard were on active duty status in Desert Storm, Brown Shoe Co., a major State employer, shut down many plants in Missouri. They do not quite fit into the normal trade adjustment assistance mold, and this amendment will take care of it.

Mr. BENTSEN. Mr. President, I think the amendment offered by the distinguished manager of the bill for the Senator from Missouri is a good amendment. What it does is say that those servicemen called up for active duty will not lose the trade adjustment benefits that they would have otherwise received. Apparently, as my colleague stated, this happened to some of those serving in Desert Storm. Looking at the cost of the amendment, it is less than $1 million. I support the amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2434) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as I understand, under the order, I am allowed, I guess, an hour and a half, equally divided.

The ACTING PRESIDENT pro tempore. The minority leader is correct. Under the previous order, the time for debate on this amendment is limited to 90 minutes, equally divided between the minority leader and the Senator from Texas.

Mr. DOLE. Let me indicate at the outset that it will not take 90 minutes.

AMENDMENT NO. 2435

(Purpose: To provide a substitute amendment)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2435.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Mr. President, I know the fate of this substitute, and I accept that, because of an indication last evening that I would not have the votes to pass the amendment. But I wanted to make the RECORD, because it seems to me there are a number of things we are trying to get done and I am still of the opinion that we ought to do it from one package so we do not have numerous packages.

So what we have tried to do in the substitute amendment is to take care of the unemployment problem—not quite as generous as the chairman's Senator BENTSEN'S proposal—the extenders for 12 months, which include education assistance; group legal; mortgage revenue bonds; small issue IDB's; orphan drug credit; low-income housing credit; targeted jobs credit; AMT for charities, we expanded that; 25-percent reduction for the health insurance for self-employed. We were not able to increase that because we could not find additional money.

Other extenders would be the vaccine excise tax for 2 years; retirement transfer, make that permanent.

The cost on the extenders would be about $3.775 billion. Our unemployment benefit package is about $2.8 billion, according to CBO. The estimates for extenders were prepared by the Joint Committee on Taxation.

We would also repeal luxury tax on everything effective January 1, 1992, except repeal of the tax on autos, which would be effective on June 19, 1992. The estimate of the luxury tax is $2.183 billion.

In addition, we include a provision on enterprise zones. The estimate for enterprise zones is $2.313 billion, from Treasury. The total package is $11.076 billion.

And I will include in the RECORD where we get the revenue. We do pay for it. It is in fact the total revenues raisers, with the S&L double-dip, is about $13 billion; without it about $12.3 billion.

Now, it seems to me if we want to get this done and avoid a lot of legislative wrangling and move the program forward, there is still an opportunity to put this package together. The administration very much wants enterprise zones. I know there are some disagreements on how we put that package together. I understand the administration is making an effort now to satisfy concerns on both sides of the aisle in both the House and the Senate on the enterprise zone package.

On luxury taxes, I think we are pretty much in agreement, except some of us would like to repeal the tax on everything including automobiles rather than just indexing as it is coming out later in the luxury tax repeal reported by the Senate Finance Committee.

On the extenders, the provisions in the Senate Finance Committee package is 18 months; ours is 12 months. But again, trying to put something together that would cover everything and still be over $11 billion package, it seems to me we have made an effort. We pay for it.

At first blush, it appears to me that the unemployment package by itself is headed for another veto, the same track that we had on the supplemental. We finally worked out the supplemental. The emergency extension of unemployment benefits is about to expire, and it does seem that we ought to be able to agree that the program should be extended. Everybody wants to extend it. So it makes sense to go ahead and extend the program now and argue over reforms only after we assure people their benefits will continue.

I must say we are prepared to even look at some of the reforms proposed by the chairman of the Senate Finance Committee. They are not included in our package. They could have been included in our package. There are a number of areas where we think we can find agreement.

On the unemployment compensation portion of our amendment, benefits would be extended as set forth in S. 2699, which was the package introduced over a month ago by myself and Senator PACKWOOD, cosponsored by 26 other Republican Senators, and endorsed by President Bush.

The extension represents an extension of current law programs—programs we passed last November and most recently extended in February.

This means that unemployed Americans exhausting their regular 26 weeks of benefits between June 14 and January 2 would get 20 or 13 weeks of benefits making for a total of 46 or 39 weeks. And those exhausting benefits between January 3 and March 6 would receive 10 or 7 weeks of extended benefits making for a total of 36 or 33 weeks depending on their State's unemployment rate.

While I know the benefits are somewhat more generous in the package sponsored by the distinguished chairman of the committee, I repeat that the benefit levels in this proposal are identical to current law which also provides 20 or 13 weeks of benefits. I would hope that we could avoid a bidding war on this issue.

In addition, the proposal mandates that the report of the first Advisory Council on Unemployment Compensation—which we created last year—be submitted no later than February 1, 1993—or 1 year earlier than current law provides.

So we are looking at dealing with some of the recommendations made by that Council.

I am well aware of the fact that the proposal of the chairman contains a number of reforms to the Permanent Extended Benefits Program—including a new alternative trigger option for States. I agree that these reforms are likely good reforms, but I am concerned about legislating in the dark.

The reason we all agreed to create an Advisory Council was to study these issues so that Congress could act based on their careful study and, hopefully, their objective findings, and not without some indication as to which way we should go.

Now, we are legislating permanent changes in the law before the Council has even had an opportunity to meet. And we know there has been some foot dragging on that, but we are going to mandate they get a report out here by February 1993, and that would take care of that.

So I think my point is that we are not going to have many opportunities to have a tax measure on the floor. It seems to me we ought to do as much as we can to take care of these important issues that might otherwise get left behind in the package. We can avoid a lot of amendments. We can agree there are not going to be amendments offered to every tax bill that comes out here because they are very attractive to a number of members who have legitimate concerns and legitimate amendments. Of course you have to pay for them these days and that makes it difficult. And we ought to have to pay for them. But unemployment is not the only issue on which we can or should be able to reach agreement—there are a number of others which I have mentioned several times—including repeal of the luxury tax, extension of the expiring extenders, and some version of an enterprise zone bill.

Given the limited number of opportunities we are going to have to take a tax measure to the floor, it seems to me we ought to do as much as we can to take care of these important issues that might otherwise get left behind, in a package. This one package should be paid for in full. All of us know we cannot afford to simply add to the deficit or find more phoney revenues.

There are a number of options available to us that are relatively noncontroversial. We are prepared to offer a package that contains provisions which extend—in fact we have offered that package—expiring unemployment benefits, 12 months, provides for the extenders and repeal of the luxury tax, and the administration's enterprise zones—and, importantly, it is paid for—paid for with real revenues, that in large part are acceptable to most of us.

I believe we can pass this kind of a package. And I, most importantly, believe it would be signed by the President. When it has mattered, we have a fairly good track record of working together—the previous unemployment extended benefits compromises attest to that and the extender package is another example of where we have stayed focused and together. Clearly, both parties can work together and Congress and the administration can work together. It has been done before, and frankly, I think this is an opportunity to show ourselves and the American people we can do it again.

I hope, knowing my package is not going to pass today, there is still an opportunity for Democrats, Republicans, and the administration to sit down at the appropriate committees with the appropriate committee chairmen and ranking members to try to hammer out a package and get it done in the next few days before the July break.

So it is clear we do not have the votes today, but we still have a chance to negotiate prior to the bill being sent to the President. I hope the final package will look somewhat like ours. Obviously, there is room for improvement. There has to be compromise. We are certainly prepared to do that.

Mr. President, I ask unanimous consent to have printed in the RECORD additional information which in effect is a summary of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF AMENDMENT

REVENUE LOSERS

1. *Unemployment:*

EUC benefits (continuation of current law):

a. June 14–Jan. 2, 1993—20 or 13 weeks.

b. Jan. 3–Mar. 6, 1993—10 or 7 weeks.

Estimate for unemployment benefits: $2.805 billion (CBO).

2. *Extenders:*

a. 12-month extensions:

Educational assistance;

Group legal;

Mortgage revenue bonds;

Small issue IDBs;

Orphan drug credit;

R&E credit;

Low income housing credit;

Targeted jobs credit;

AMT for charities (expanded);

25 percent deduction for health insurance (self employed).

b. Other extensions:

Vaccine excise tax (2 years);

Railroad retirement tier II transfer (permanent).

Estimate for extenders: $3.775 billion (JCT).

3. *Luxury Tax:* Repeal on everything effective January 1, 1992, except repeal of tax on autos is effective June 19, 1992.

Estimate for luxury taxes: $2.183 billion (JCT).

4. *Enterprise Zones:* Revised Administration proposal.

Estimate for enterprise zones: $2.313 billion (Treasury).

Estimate of total package: $11.076 billion.

REVENUE RAISERS

1. From Finance Committee unemployment and extender bills:

a. Mark to market for security dealers—$2.460 billion (JCT);

b. Taxable years of partnerships—$.159 billion (JCT);

c. Increase corporate estimated tax payments to 96 percent permanently—$3.730 billion (JCT);

d. Intangible asset simplification and settlement proposal—$2.413 billion (JCT);

e. Reporting of seller financed mortgage interest—$.588 billion (JCT);

f. Prohibit double dipping by S&Ls—$.695 billion (OMB).

2. From vetoed tax bill (H.R. 4210):

a. Individual estimated tax 115 percent safe harbor (permanent)—$3.0 billion (JCT).

Total raisers (with S&L double dip)—$13.044 billion (JCT/OMB).

Total raisers (without S&L double dip)—$12.349 billion (JCT).

CHART A.—SUMMARY OF REVENUE EFFECT OF AMENDMENT

[In millions of dollars]

	1992	1993	1994	1995	1996	1997	1992–97
Unemployment compromise (CBO est.)	695	2,110	0	0	0	0	2,805
Administration enterprise zones (Treas. est.)	0	32	215	466	722	878	2,313
12-month extension of expiring prov.—see chart B (JCT est.)	394	1,206	840	464	449	422	3,775
Repeal luxury tax, effective Jan. 1, 1992 except autos effective June 19, 1992 (JCT est.)	41	333	423	441	462	483	2,183
Total losers	1,130	3,681	1,478	1,371	1,633	1,783	11,076
Total raisers—see chart C	1,720	4,417	2,060	95	−220	4,972	13,044

CHART B.—12-MONTH EXTENSION OF EXPIRING PROVISIONS

[In millions of dollars]

	1992	1993	1994	1995	1996	1997	1992–97
Educational assistance	62	179	0	0	0	0	241
Group legal	27	85	0	0	0	0	112
25-Percent health insur. dedn. self-employed	58	182	132	0	0	0	372
Mortgage revenue bonds	4	39	71	77	73	69	333
Small-issue IDB's	2	30	52	56	51	47	238
R&E tax credit	184	472	264	75	40	17	1,052
Low income housing credit	11	64	148	210	247	266	946
Targeted jobs	39	110	118	66	30	17	380
Orphan drug	1	5	1	0	0	0	7
AMT-charity (expanded)	6	40	54	+20	8	6	94
Vaccine tax (2-yr. ext.)	0	0	0	0	0	0	0
RR retirement (permanent)	0	0	0	0	0	0	0
Total	394	1,206	840	464	449	422	3,775

Note.—This chart does not include: 1. R&D allocation for multinationals (Treasury has been asked to resolve this by regulations). 2. Two expiring provisions dealt with in the energy bill: a. Business energy credits (solar and geothermal). b. Sec. 29 nonconventional fuels credit.

Source: Joint Committee on Taxation (June 11, 1992).

CHART C.—RAISERS

[In millions of dollars]

	1992	1993	1994	1995	1996	1997	1992–97
Tax years of partnerships	129	310	−92	−192	3	1	159
Incr. corporate est. tax to 96 percent (permanent)	0	799	−173	16	16	3,072	3,730
Mark-to-mark secur. dealers	118	354	482	492	502	512	2,460
Indiv. est. tax 115 percent safeharbor (permanent)	400	0	0	0	0	2,600	3,000
Intangible asset proposal approved by Finance Comm.	715	2,483	1,735	−295	−798	−1,428	2,413
Reporting of seller-financed mortgages	23	91	107	114	122	131	588
Subtotal	1,385	4,037	2,059	135	−155	4,888	12,349
S&L double dip (OMB estimate)	335	380	1	−40	−65	84	695
Total raisers	1,720	4,417	2,060	95	−220	4,972	13,044

Source: Joint Committee on Taxation (Items 1–6), June 1992.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, the minority leader has offered a very major amendment. There is no question about that. There are many things in that amendment I would support, and other Members of the Senate would support. But I must oppose this amendment at this time.

I find it interesting that these amendments would be put together in a package. In all candor, it would make the job of the chairman of the Finance Committee a lot easier if we could do them in a package. But the problem is trying to legislate without having an opportunity to further evaluate some of the major proposals that are being made. The unemployment compensation benefits begin running out this month, and the benefits expire entirely on July 4. It is imperative that we take care of this problem.

It is interesting to look at an op-ed piece done by the Secretary of Labor on June 9 in the Washington Post. Talking about the unemployment compensation proposal, it says the President and the congressional leadership "have up front stated they want to extend the emergency benefits. Indeed, we have offered a solid proposal." It goes on to make this point, that: "It meets several critical requirements in addition to providing needed assistance. First, it maintains the fiscal discipline of the bipartisan budget agreement that is essential to long-term economic growth."

Certainly, I want to see that. But then it goes on to say: "Finally, it does not contain other amendments related to or extraneous to the Emergency Unemployment Compensation Program, which would simply delay a quick extension of these important benefits."

I must say, I certainly agree with the Secretary of Labor on that point. Therefore, I think it is important that we keep this bill clean.

I might make the point, too, that the extension of the expiring provisions, and the luxury tax items, were included in a bill that passed the Congress in March. Unfortunately, the President chose to veto that bill.

Now, as the Senator knows, the Finance Committee has once again acted to correct this problem. Earlier this week we reported out a bill that would provide for 18 months' extension of expiring provisions, and for repeal of the luxury tax on airplanes, boats, and other items.

We are also going to be considering enterprise zones. I think there is general support for enterprise zones. But the problem is in trying to define them and see how far we go. We have other important tax matters in the coming weeks. And we will be bringing a bill to the floor as soon as possible.

This proposal contains the President's enterprise zones. I do not want to get into an extended debate on that particular issue, but I would point out a couple of problems that I think we face with the President's proposal.

First, we just received the statutory language yesterday. We are still in the process of reviewing it.

Second, as I look at it, this is essentially an entitlement program. I do not want to pass something in haste and repent in leisure. The President's proposal, originally, as I looked at it, proposed some 50 zones; 2 weeks ago they proposed 100 to 150 zones. Now I am informed that the proposal would allow nearly 300 zones.

Despite the rhetoric surrounding this issue, the economic literature regarding the potential effectiveness of this program warns us to proceed carefully and not just put the pedal to the metal. Let us be sure we have something that works.

We have been through model cities and Job Corps and all the rest of it. Let us see that we truly address the problems of these inner cities and these areas of extraordinarily high unemployment. I think Republicans and Democrats alike are concerned about these problems.

So we cannot throw caution to the wind as we try to decide how the proposal for enterprise zones should work, as we consider what I look on as a nationwide entitlement program. I think my colleagues on both sides of the aisle might have some problems with that.

Third, I have serious concerns about the incentives provided in the administration's zone proposal. They are calling for a 100 percent capital gains exclusion, a $50,000 deduction for stock purchases, a $10,000 exception to the passive loss rules, industrial development bonds for zone business—all capital incentives. What concerns me is they have cut back on the one labor incentive that was contained in their proposal—their wage credit now applies only to single individuals with no children. Since this credit goes to the employee, not the employer, the business does not have any real incentive to hire these individuals.

The thing I want to be sure of, as we talk about some of these tax benefits, is that they are not just siphoned off to the outside of the zone, but a substantial amount of them accrues to the individuals within that zone. I am concerned that the proposal, as it is presented now, would bring back a real growth in the tax shelter industry.

The goal of this proposal should be to create jobs for residents, not jobs for tax attorneys, accountants, and syndicators.

Fourth, we do not have an estimate from the Joint Tax Committee. It looks to me like a blank check here. The Treasury estimates that the proposal, when they are assuming 100 to 150 zones, would cost $2.3 billion, only $500 million more than the original proposal calling for 50 zones. I do not see how you get that kind of an increase, from 50 to 100–150, by just increasing the cost by 28 percent, when you double or triple the number of zones, and make the incentives more generous.

I think, maybe, I recognize part of it. I assume they are pushing some of the cost attributable to capital gains out beyond the 5-year budget window.

We are dealing here with issues of enormous importance to the American people, involving billions of the taxpayers' dollars. These issues deserve the full consideration by all Senators and certainly by the committee of jurisdiction. And I just do not believe they should be voted on today as part of the urgent unemployment bill.

Unless we take action on this bill within the next 2 weeks, there are going to be no emergency benefits for hundreds of thousands of long-term unemployed workers across this Nation.

I do not think we can risk holding up this bill while we debate issues that may not be—in fact, probably will not be—resolved before the current emergency benefit program expires on July 4.

And I recall, when the Secretary of Labor, Lynn Martin, was testifying before the committee, she was insisting then that we push an unemployment bill, as clean as possible, as quickly as possible, citing the deadline set by the expiration of the current program. But I think the substitute moves in the opposite direction. It adds on legislative items, whose language we have not seen, that have not been acted on by the House, and which will probably require additional work to refine.

All these things are important. As I stated, I support many things that the minority leader has talked about and proposed. But others we have really not studied. I think they will delay this bill, and they are in direct contrast to the plea of the Secretary of Labor such a short while ago, who at that time, I thought, was speaking on behalf of the administration. The victims of delay will be the unemployed whose benefits will expire in 2 short weeks.

In my view, the provisions of the substitute that extend emergency unemployment benefits are inadequate. Last February, when the Senate approved the current benefit levels, providing 33 weeks of emergency benefits in high unemployment States and 26 weeks in all others, the unemployment rate stood at 7.1 percent. I heard my colleague state that what they were doing in the way of benefits, was present law. He is technically correct because the other benefits expired on June 13, and the old provisions went into effect.

But when you had 7.1 percent unemployment, we had 33 weeks and 26 weeks of benefits, and now you have 7.5 percent unemployment. With higher unemployment now than last winter, how can you justify cutting back in the number of weeks for extended benefits? If you recall, that unemployment bill passed the Senate by a vote of 94 to 2 and had the full support of the President. I do not know how you can justify reducing that number of weeks as the unemployment rate goes up.

I think we should phase down the number of weeks of benefits as quickly as we reasonably can, and the committee bill will do just that. As soon as the national unemployment rate falls below 7 percent for 2 consecutive months, the number of weeks of benefits will drop to 15 and 10, and when it falls below 6.8 percent, then the weeks of benefits will drop to 13 and 7.

So this proposal is carefully crafted to reflect actual, not someone's projected, not someone's subjective estimate as to what unemployment rates are going to be. And if it turns out that the unemployment rate drops faster than CBO's estimates, of course the bill's cost is going to be correspondingly reduced.

So, Mr. President, we do have a serious problem on our hands with the expiration of these benefits, with thousands and thousands who are losing their unemployment benefits. Time is very much of the essence. We will be addressing the additional concerns that have been discussed by the minority leader, and we will be coming with a composite piece of legislation.

So I strongly urge that we not accept the amendment proposed by my friend, the minority leader, and that we get on with this piece of legislation to see that these benefits to the unemployed are taken care of.

I retain the remainder of my time and yield time to the Republican leader since I heard my colleague yield back his time.

Mr. DOLE. Mr. President, I wanted to underscore what the chairman said in reference to enterprise zones and entitlements. We do not want to make it an entitlement program. If anybody else does, they are going to have difficulty on both sides of the aisle.

Mr. BENTSEN. I was listening to one member of the administration—and I am sure you can guess who—who really looked on it as an entitlement. I hope that is not the feeling of the administration.

Mr. DOLE. It seems to me, with all the uncertainties about enterprise zones, there ought to be some capping of the number, too, at some reasonable level. So I think we are going to find agreement on this side in many of the things the chairman has just stated.

But I think the point is we did say on April 29, after the Los Angeles riots, we would move quickly. This may not be the answer. It is certainly not the only answer to some of the problems. That is why I included enterprise zones in the package, knowing it would need a great deal of refinement and discussion and, hopefully, some negotiation, but still hoping that it might be done before we leave here on July 2 or 3.

I thank the chairman for yielding.

The PRESIDING OFFICER (Mr. WOFFORD). All time is yielded back?

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the Dole substitute amendment.

The amendment (No. 2435) was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, we may be less than a week away from the beginning of summer, but the economic recovery in America is still glacial. The national unemployment rate appears to be frozen above 7 percent, and the unemployment rate in my home State of Michigan has hovered around 9 percent for months. So the recession has not receded in Michigan. It is tragically real for 400,000 people who are unemployed, and that figure does not include 16,000 people who are exhausting their State benefits each month.

The bill we are passing today keeps in place the additional 33 weeks of benefits that were provided during this recession for States like Michigan with high unemployment. The bill also extends those additional 33 weeks to some people who were not previously covered. The result is that about 180,000 people in my State of Michigan will get some degree of assistance from this bill.

Ironically, the current program ends on July 4, unless we act to renew it. That should remind us just how much our people need freedom from fear of the loss of their jobs, and it also should give our unemployed some hope and some sustenance. But July 4 has great meaning for everybody in this country, and July 4 is the deadline we now face to get a bill passed, into the hands of the President and signed, so that we can keep some hope alive in the hearts of our unemployed people.

I am pleased that the Senate today is considering H.R. 5260, which will provide up to 33 weeks of additional unemployment benefits for those individuals who are exhausting the 26 weeks of regular State benefits. Individuals who have already received extra weeks of benefits under previous extensions will be eligible for additional weeks so that they, too, can receive up to a total of 33 weeks additional unemployment benefits. In Michigan, this bill means some degree of assistance for 178,000 people and a total of $500 million coming into the State. It will help provide a bridge of hope over troubled times as people continue their earnest, but still too often fruitless, search for a new job.

But as important as this legislation is, we cannot stop here. In particular, we must bring to the Senate floor legislation that will allow us to open foreign markets by making clear that we will treat them no better than they treat us. The jump in the trade deficit that was reported yesterday only highlights this need for action. We must make clear that shutting the door in the face of our products will mean, with a greater degree of certainty, that their products will face equivalent restrictions when they try to enter our market. Month after month and year after year of unfulfilled promises of progress have coincided with millions and millions of lost American jobs.

The legislation that we are considering today will temporarily help the victims of our all-too-weak trade policy. But we must go beyond it if we are to save jobs and our manufacturing base in this country. That is our next order of business.

(At the request of Mr. MITCHELL, the following statement appears in the RECORD.)

• Mr. DECONCINI. I rise in support of this measure to extend emergency unemployment insurance benefits for the thousands of American workers who are still in search of a job. While the latest unemployment figures are down slightly, there is still a significant number of Americans who are unable to find work.

In Arizona, the economic picture remains uncertain. With an unemployment rate of 7.2 percent in May, that translates to nearly 120,000 Arizonans without jobs. Nationally there are 9.2 million unemployed workers who need assistance due to fewer available job opportunities. New claims for unemployment insurance are also rising. In April 1992, there were an estimated 1,648,000 new claims filed nationally, with 12,844 of those filed in Arizona. These figures demonstrate that the need for unemployment assistance still exists and needs to be dealt with in this legislation.

While unemployment insurance is not a solution to unemployment, it does provide a safety net for workers who cannot find a job. This legislation allows States greater flexibility in determining the eligibility criteria for emergency benefits. One important modification allows the Governor of a State with areas of exceptionally high unemployment rates to waive the job search requirement. Workers affected by mass layoffs or plant closings, particularly in rural areas, find it difficult to comply with job search requirements when there are no jobs available. They should not be penalized because the bottom has fallen out of the job market.

This bill also provides automatic assistance to those workers who are hardest hit by the recession—the long-term unemployed. Beginning in March 1993, States would have the option of providing up to 13 weeks of benefits if the State's total unemployment rate for the most recent 3 months is at least 6.5 percent. They wouldn't have to wait for Congress to struggle through another emergency extension, and could immediately provide additional benefits if they are needed.

Should we see a miraculous recovery in the economy and should unemployment figures drop consistently, this bill provides for the phaseout of the Emergency Unemployment Compensation Program. The phaseout provisions require that if the national unemployment rate falls below 7 percent for 2 consecutive months, the level of benefits would be reduced to 15 or 10 weeks, depending on the State's unemployment rate. If the unemployment rate falls below 6.8 percent for 2 months, those weeks would be reduced to 13 and 7, respectively.

I am hopeful that as this bill goes to conference, the differences in how we provide a system of emergency benefits to the States can be resolved quickly. It is important that we send a bill to the President before the provisions of the last emergency extension bill expire on July 4.

I would also encourage President Bush to reconsider his threat of a veto of this bill. Last year, it took two bills and several months before the President signed an emergency extension bill. Thousands of unemployed workers were left without benefits while Congress and the administration haggled over what to do to provide an extension of benefits. Let's not make that mistake again this year. Too many Americans are depending on us to put political differences aside and do what's best for the working people of this country.

Mr. RIEGLE. Mr. President, 2 weeks ago, we learned that the national unemployment rate jumped from 7.2 percent in April to 7.5 percent in May 1992. These statistics are evidence of the continuing seriousness of unemployment problem in our country and urgent need to revitalize our economy and create new jobs.

Last week the Finance Committee responded to this crisis by passing an unemployment compensation extension and reform package which is important to the 16 million Americans who are out of work. I appreciate Chairman BENTSEN's willingness to work with me to include provisions from legislation that I introduced in early 1992 and in 1991 in the chairman's bill.

In January 1992, I introduced S. 2143, one of the first bills to extend the Emergency Compensation Act of 1991 and provide emergency benefits for millions of unemployed Americans through March 1993. In 1991, I authored S. 1296, the Unemployment Insurance Reform Act, which was designed to help cure the problems in our Nation's unemployment insurance systems and assist unemployed works in Michigan.

The chairman included a provision similar to one in S. 1296 to make permanent repairs to the Extended Benefit [EP] Program in his bill. This provision would change the EB Program's trigger so that the payment of extended benefits would be based upon a State's total unemployment rate. Under U.S. law, the EB trigger is based on the insured unemployment rate, which corresponds to the number of unemployed workers who are currently collecting basis unemployment benefits, not the true unemployment rate many of our States face. This innovative EB trigger reform and its flexibility will help people who live in States with high unemployment.

Up until now, our unemployment insurance system has looked at too small a segment of the work force to determine whether extended benefits are necessary. As a result, many Americans have been denied benefits they desperately need. The system must be redesigned to prevent workers from being abandoned by the Federal Government in a time of economic crisis. The unemployment insurance package we are considering today is an important step toward this end.

I encourage my colleagues to support this reasonable package. Some 16 million unemployed Americans are counting on the Congress to approve and the President to sign this measure before the current extension expires on July 4.

Mr. SYMMS. Mr. President, I oppose this unemployment compensation package. I voted against the unemployment compensation extension in February because I believe the American people deserve better than what they are getting out of their Federal Government.

Part of the reason this unemployment package is being considered today is that Congress enacted a luxury tax in 1990, purportedly in an effort to make the rich pay. Guess what. The basic laws of free market economics won out over Congress. The rich didn't pay. They simply bought their higher priced goods in other countries or made do with what they already had, and the people who paid were the workers whose jobs depended on having a market of buyers for the products they made.

According to a Joint Economic Committee study prepared for Senator MACK, the luxury tax on boats has cost Rhode Island alone 7,600 jobs. Which makes better fiscal sense—repeal a tax that is costing thousands of jobs or put an even heavier load on taxpayers with a bill that will cost them $5.4 billion over 5 years? You make the call. I am pleased that the Finance Committee has reported a bill to repeal the luxury tax. That's the right way to go; this extension of unemployment benefits is precisely the wrong way.

I recognize a genuine need for unemployment compensation. There are those who need temporary assistance when they're laid off work. The question is, how many months can the taxpayers provide assistance and still call it temporary? This bill could potentially extend emergency unemployment compensation until March 6, 1993. That's an additional 38 weeks, or 9½ months on top of the 23 to 30 weeks of regular State unemployment that people receive before they even tap into the Federal Government. This bill is completely undesirable.

The problem is we're taxing and regulating business out of business and workers into unemployment lines. I have said before and I'll say again that what Congress should do is freeze all spending across the board. We then could reduce the payroll tax and give middle-income Americans and businesses additional cashflow.

Mr. President, I oppose this bill not because I lack compassion for Americans in need. I oppose it because America cannot afford it, and it seems to me that the numbers say this for themselves; 38 weeks is too long to qualify as temporary assistance, and $5.4 billion is too much money when we're debating how to balance a budget that currently stands at a $400 billion deficit. I urge my colleagues to vote "no" on final passage of this bill.

Mr. HATFIELD. Mr. President, today we are considering yet another extension of emergency unemployment compensation and I would like to lend my support to this effort.

As my colleagues know, last month the national unemployment rate rose 0.3 percent to a total of 7.5 percent. In Oregon, our seasonally adjusted unemployment rate dropped 0.5 percent for the second consecutive month to a seasonally adjusted rate of 7 percent. This significant drop has brought Oregon's unemployment rate below the national average for the first time since last December.

Despite this drop, there were still approximately 106,500 Oregonians who were looking for work last May in my home State. This is nearly 19,000 more people seeking employment than in May 1991, when our unemployment rate stood at 5.9 percent.

Although I am encouraged that Oregon's unemployment rate has dropped a full 1 percent in the last 2 months, I am still very concerned about the thousands of people in Oregon, and the literally millions of people across this country, who are desperately looking for work.

I would like to thank Senators BENTSEN and PACKWOOD for bringing this important legislation to the floor so promptly. I believe that enactment of this bill is vitally important to those people who's unemployment benefits are due to expire in the next few weeks.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5260), as amended, was passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BENTSEN. Mr. President, I now ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CELEBRATING WEST VIRGINIA'S 129TH BIRTHDAY

Mr. ROCKEFELLER. Mr. President, today I rise to speak to you in honor of the people of the great State of West Virginia in recognition of our State's 129th birthday.

On the 20th of June in 1863, the State of West Virginia was born. The product of a crisis between the States, West Virginia earned its place as the 35th State to join the Union, through incredible bravery and initiative.

This spirit of initiative has remained with our fair State since its inception. The proud people of West Virginia have consistently served this country through the good times and the bad. We have fought valiantly for our country, we have provided for our families through hardship and prosperity, and we have worked to establish the greatest community, State, and country that we possibly could.

Mountaineer pride is evident still today, throughout the State. This pride has attracted hundreds of thousands of vacationers to our fair State. They have fallen in love with our majestic mountains ideal for skiing, our raging white water rivers, and our beautiful national parks. One only needs to open any local West Virginia newspaper to see the numerous letters written from vacationers commending the State on both its attractions and its people.

This feeling has led many people to continue to visit the Mountain State, and has brought many more to relocate permanently in our fair State for good. Thanks to the hospitality and kindness of West Virginia's native residents, our Mountain State quickly becomes home for her new citizens, and remains a place where pride and hard work thrive.

So, on this, the 129th birthday of our State, I ask you, Mr. President, and my other colleagues, to join me in recognizing this important day for West Virginia, and for all her citizens who have made West Virginia a State that I am proud to represent and call home.

TRIBUTE TO DARWIN SCHENDEL

Mr. KOHL. Mr. President, I rise today to pay tribute to Darwin Schendel of Oakdale, WI. Mr. Schendel is retiring this Friday as the general manager of the Oakdale Electric Cooperative, a member-owned organization which he has served over the past 33 years. Mr. Schendel is in Washington this week representing the Wisconsin Electrical Cooperative Association, and at this time I would like to take a moment to highlight the rich contributions the Mr. Schendel has made to his cooperative and to his community.

Mr. Schendel was born and raised in Monroe County, WI. After graduating from high school in 1948 he farmed for a year, then worked for 3 years as a mechanic for the Ford Motor Co.

In 1959, Mr. Schendel went to work for the Oakdale Electric Cooperative, where he has been employed ever since. He started as an appliance repairman, but over the years he has risen considerably within the cooperative. He served as appliance foreman, staff assistant, and assistant manager, and in 1980, he became general manager of the cooperative.

Mr. Schendel has served his community in many capacities. He is vice president and secretary of the Monroe County Agricultural Society, a board member of the Wisconsin Association of Fairs, a member of the Farmers and Merchants Bank board of directors, and chairman of the Monroe County Housing Authority Board. He has also served as fire chief of the Oakdale Fire Department, on the advisory board for the area vocational schools, and as a board member of St. Michael's Catholic Church.

Mr. Schendel and his wife Rosella have three daughters, Dianna, Sandra, and Sue, and three grandchildren. I join his family, his friends, and his colleagues in the Wisconsin Electrical Cooperative Association in wishing Mr. Schendel the happy retirement that he so richly deserves.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,946,500,252,226.04, as of the close of business on Wednesday, July 17, 1992.

On a per capita basis, every man, woman, and child owes $15,364.46—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

TRIBUTE TO BERNICE KIZER

Mr. PRYOR. Mr. President, I rise today to pay tribute to one of the most dedicated public officials in recent Arkansas history. Bernice Kizer of Fort Smith is my former colleague in the Arkansas House of Representatives, a 33-year public servant, and lifetime friend to the State of Arkansas. Later this year, Bernice retires from what she says will be her last public office—the city council of Fort Smith.

In 1947, Bernice was one of the five first women to obtain a law degree from the University of Arkansas. She began her illustrious career in 1957 when she began to litigate in Fort Smith and surrounding areas. In 1959, her private practice turned into public service as she and I were simultaneously elected to our first term in the Arkansas House of Representatives.

Once a member of the House, Bernice set many precedents. She became the first woman chairman of any legislative committee when she began to chair the labor committee. She was also the vice chairman of the joint budget committee and served on the rules committee, savings and loan committee, and the banking committee. While serving her 14 years in the House, Bernice also became the first woman appointed to the legislative council.

In 1974, Bernice returned to Fort Smith and was elected in the 12th Judicial Circuit as a chancery/probate judge, adding to her precedent setting accomplishments as the first woman elected to a judgeship in Arkansas. Bernice served two 6-year terms as a judge while also serving on the Arkansas Judicial Council Executive Board from 1982–86.

All the while fulfilling the duties of these various elected roles, Bernice volunteered countless hours to both charitable and educational organizations. She was the president of the PEO, president of the Girls' Club, and president of the Business and Professional Womens' Club. Bernice also has given time as a board member of Cottey College, City National Bank, Sparks Regional Hospital, St. Edwards Hospital, and Western Arkansas Planning and Developing, just to name a few.

Along the way, Bernice has been the recipient of many special tributes. She received the University of Arkansas Law School Outstanding Alumnae Award, the First Outstanding Woman of Achievement award by the Southwest Times Record, chosen 1 of 100 outstanding women in Arkansas, and Employer of the Year by the Legal Secretaries Association.

Bernice's latest achievement was being elected to serve on the Fort Smith Board of Directors in 1988. That office has a term of 4 years. I am sad to say that the term has almost reached its end, and Bernice will retire from public service. Her accomplishments are so numerous.

The appreciation that Arkansans feel toward all her efforts in public service is immeasurable. The sadness we will feel when she leaves is only natural because she blazed so many trails for women in public service.

Mr. President, I wish Bernice all the best in this new phase of her retirement. She is an inspiration to all of us.

PLACIDINO "DINO" ZAGAMI: 1914–92

Mr. DOLE. Mr. President, I would like to inform the Senate of the passing of Dino Zagami on Monday of this week.

Placidino "Dino" Zagami, 78, a native Washingtonian and retired staff member of the U.S. Senate, died on June 15 of congestive heart failure at his home in Hyattsville, MD.

Born the first of January 1914, in the southeast part of the city, Mr. Zagami resided in Washington, DC, and the metropolitan area his entire life. His only absence occurred from 1942–46, when he left to become a member of the 4th Armored Division, 3d Army, during the Second World War. He participated in the D-day invasion landing at Utah Beach and then fought with his division through Europe into Germany under the command of the late Gen. George S. Patton. He earned five battle stars while serving in the European-African-Middle Eastern Theatre. Among the major campaigns he fought in were the Battle of the Bulge, the Battle of Bastogne, and the battle to free the city of Auranches, during which time he and three other soldiers captured more than 600 enemy prisoners. For his wartime efforts and gallantry, Mr. Zagami was awarded numerous medals and commendations, including the Bronze and Silver Stars, the Purple Heart, the French Fourragere with cluster, and the World War II Victory Cross.

Upon the conclusion of World War II, Mr. Zagami returned to the Nations Capital where he was admitted to the old Mount Olivet Veterans Hospital for the treatment of wartime injuries from which he had not yet fully recovered. After his military discharge and hospital release, Mr. Zagami married his wartime sweetheart, the former Rosemary Anastasi, also a native Washingtonian. He then returned to Government service, this time working for the U.S. Senate, where he remained for the duration of his career. He worked in the Senate Chamber as a Special Assistant to the Secretary of the Senate assigned to the Official Reporters of Debates until his retirement in June of 1972. After his retirement, he continued to reside with his family in the Washington, DC, area.

Mr. Zagami is survived by his wife, Rose, of their Hyattsville home, two brothers Joseph and Adam both of Annapolis, MD, a sister Josephine Comisso of Gaithersburg, MD, two sons Michael D. and Anthony J. also of Hyattsville, a daughter Mary Nata Mix of Thousand Oaks, CA, a second daughter Dena Marie Cicoria of Olney, MD, six grandchildren, and four great-grandchildren.

I am sure all my colleagues join me in deep sympathy for his wife and family.

HONORING SELFRIDGE AIR NATIONAL GUARD BASE

Mr. LEVIN. Mr. President, I rise today to commemorate the 75th diamond jubilee celebration of the Selfridge Air National Guard Base located in Mount Clemens, MI.

The first flight by Wilbur and Orville Wright in 1903 swept a wave of aviation enthusiasm through the Nation that had a profound impact on a local realtor in Mount Clemens.

In 1914, Mr. Henry Joy set out to transform 600 acres of marsh, located north of the city, into Joy Aviation Field. On July 1, 1917, the field was officially activated as a military installation and renamed Selfridge Field in honor of 1st Lt. Thomas E. Selfridge, the first military officer to pilot a motor-driven aircraft while flying with aviation pioneer Orville Wright at Fort Meyer, VA.

The Federal Government eventually bought the field and renamed it Selfridge Air Force Base. By the end of World War II, Selfridge Air Force Base was home to many important general officers and noted aviation heroes, including: Charles Lindbergh, Capt. Eddie Rickenbacker; generals, Curtis LeMay, Emmett "Rosie" O'Donnell, Carl "Tooey" Spaatz, Earl Partridge, Jimmy Doolittle, and Joseph Cannon.

Many units had trained at Selfridge, including the 332d Fighter Group, an all-black unit commanded by Col. Benjamin O. Davis, Jr. One of Davis' trainee pilots was Daniel "Chappie" James, who later attained the rank of four-star general and commanded the Air Defense Command.

As times changed, so did Selfridge. The Air Force Base was changed into a National Guard Base that now houses branches of all five armed services, Reserve units of the Army, Navy, Marines, and Air Force and the State National Guard. Selfridge units again distinguished themselves in service to our country during the recent conflict in the Middle East.

Over the past 75 years, the face of Selfridge has continually changed to meet the defense needs of our Nation. It is a familiar and secure face. It is a well-worn face that has served Michigan and the Nation well and will continue to serve as it looks to the future.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Pennsylvania, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ADDITIONAL COSPONSORS

S. 781

At the request of Mr. SARBANES, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1988

At the request of Mr. COHEN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1988, a bill to amend title XVIII of the Social Security Act to provide for improved standards to prevent fraud and abuse in the purchasing and rental of durable medical equipment and supplies, and prosthetics and orthotics, and prosthetic devices under the Medicare program, and for other purposes.

SENATE JOINT RESOLUTION 238

At the request of Mr. RIEGLE, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 238, a joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week."

SENATE JOINT RESOLUTION 307

At the request of Mr. MCCAIN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 307, a joint resolution designating the month of July 1992 as "National Muscular Dystrophy Awareness Month."

SENATE JOINT RESOLUTION 319

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 319, a joint resolution to designate the second Sunday in October of 1992 as "National Children's Day."

SENATE RESOLUTION 303

At the request of Mr. MITCHELL, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Resolution 303, a resolution to express the sense of the Senate that the Secretary of Agriculture should conduct a study of options for implementing universal-type school lunch and breakfast programs.

AMENDMENTS SUBMITTED

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

BOND AMENDMENT NO. 2434

Mr. PACKWOOD (for Mr. BOND) proposed an amendment to the bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes, as follows:

At the end of title I, insert the following section:

SEC. . EFFECT OF CERTAIN MILITARY SERVICE ON TRADE ADJUSTMENT ASSISTANCE.

(a) TRADE ADJUSTMENT ASSISTANCE.—Paragraph (2) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by inserting "or" at the end of subparagraph (C),

(3) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is 'Federal service' as defined in 5 U.S.C. 8521(a)(1),", and

(4) by striking "paragraph (A) or (C), or both," and inserting "subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to weeks beginning after August 1, 1990.

DOLE AMENDMENT NO. 2435

Mr. DOLE proposed an amendment to the bill H.R. 5260, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—EXTENSION AND MODIFICATION OF UNEMPLOYMENT BENEFITS

Subtitle A—Extension of Unemployment Benefits

SEC. 101. EXTENSION OF PERIOD FOR PAYMENT OF EMERGENCY UNEMPLOYMENT BENEFITS.

(a) EXTENDED PERIODS.—

(1) IN GENERAL.—Clause (ii) of section 102(b)(2)(A) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by inserting ", and ending on or before January 2, 1993" after "June 13, 1992".

(2) REDUCTION FOR WEEKS AFTER JANUARY 2, 1993.—Section 102(b)(2)(A) of such Act is amended by striking the flush paragraph at the end thereof and adding the following new clauses:

"(iii) REDUCTION FOR WEEKS AFTER JANUARY 2, 1993.—In the case of weeks beginning after January 2, 1993, and ending on or before March 6, 1993—

"(I) clause (i) of this subparagraph shall be applied by substituting '10' for '33', and by substituting '7' for '26', and

"(II) subparagraph (A) of paragraph (1) shall be applied by substituting '40 percent' for '130 percent'.

"(iv) LIMITATION ON REDUCTIONS.—In the case of an individual who is receiving emergency unemployment compensation for the week which immediately precedes the first week for which a reduction applies under clause (ii) or (iii) of this subparagraph, such reduction shall not apply to such individual for the first week of such reduction or any week thereafter in a period of consecutive weeks for each of which the individual meets the eligibility requirements of this Act."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 102(b)(2) of such Act is amended by striking "subparagraph (A)(ii)" and inserting "subparagraph (A)(iv)".

(2) The heading for clause (ii) of section 102(b)(2)(A) of such Act is amended by inserting ", AND BEFORE JANUARY 3, 1993" after "JUNE 13, 1992".

(3) Sections 102(f)(1)(B), 102(f)(2), and 106(a)(2) of the such Act are each amended by striking "July 4, 1992" and inserting "March 6, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning after June 13, 1992.

SEC. 102. AUTHORIZATION OF ADVANCES TO THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Section 905(d) of the Social Security Act is amended—

(1) by striking "There are hereby authorized" and inserting "(1) There are hereby authorized", and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In the absence of sufficient advances under paragraph (1) of this subsection (as determined by the Secretary of the Treasury in consultation with the Secretary of Labor), the Secretary of the Treasury is directed to advance from time to time from the Federal unemployment account to the extended unemployment compensation account, as repayable advances (without interest), such sums as may be necessary—

"(i) to make payments of emergency unemployment compensation under title I of the Emergency Unemployment Compensation Act of 1991, and

"(ii) to carry out the purposes of the Federal-State Extended Unemployment Compensation Act of 1970.

"(B) The aggregate sum of all repayable advances made under subparagraph (A) shall be repaid by transfers from the extended unemployment compensation account to the Federal unemployment account, at such times as the amount in the extended unemployment compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose. Repayments under the preceding sentence shall be made whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount in the extended unemployment compensation account exceeds the amount necessary to meet the anticipated payments from such account during the next 3 months. Any amount transferred as a repayment under this subparagraph shall be credited against, and shall operate to reduce, any balance of advances repayable under this paragraph."

(b) EFFECTIVE DATE AND SUNSET.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUNSET DATE.—The authority to make repayable advances to the extended unemployment compensation account under section 905(d)(2)(A) of the Social Security Act (as added by subsection (a)) shall terminate, and the provisions for making such repayable advances shall not apply, after the end of the calendar month in which the last compensable week under title I of the Emergency Unemployment Compensation Act of 1991 ends. If, at the end of such calendar month, there is an outstanding balance of repayable advances, such balance shall be repaid in accordance with subparagraph (B) of section 905(d)(2) of the Social Security Act (as so added) as soon thereafter as is possible.

SEC. 103. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

(a) STUDY TOPICS.—Subsection (b) of section 908 of the Social Security Act is amended—

(1) by striking "FUNCTION" in the heading and inserting "FUNCTIONS",

(2) by striking "It shall be" and inserting "(1) IN GENERAL.—It shall be", and

(3) by adding at the end thereof the following new paragraph:

"(2) FIRST COUNCIL.—In addition to the functions specified in paragraph (1), the first Council established under subsection (a) of this section shall study and evaluate, and make recommendations to the President and the Congress concerning the following:

"(A) The change or retention of the point at which State 'on' and 'off' indicators under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 are activated.

"(B) The relative desirability and feasibility of using total unemployment rates and adjusted insured unemployment rates (which include exhaustees) as alternative measures for triggering extended benefit periods 'on' and 'off'.

"(C) The introduction of a multi-tiered extended benefit program, with different trigger rates for each tier and different periods of duration for each tier.

"(D) The elimination or material modification of the special eligibility requirements in paragraphs (3), (4), and (5) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970.

"(E) The desirability and feasibility of determining eligibility for extended benefits on the basis of unemployment statistics for regions, States, or subdivisions of States."

(b) REPORT OF FIRST COUNCIL.—Paragraph (2) of section 908(f) of the Social Security Act, is amended to read as follows:

"(2) REPORT OF FIRST COUNCIL.—The report of the first Council established under subsection (a) shall be submitted not later than February 1, 1993, and shall include the items described in subsection (b)(2)."

TITLE II—EXTENSION OF EXPIRING TAX PROVISIONS AND REPEAL OF LUXURY TAX

Subtitle A—Extension of Certain Expiring Tax Provisions

SEC. 201. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 202. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 203. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 204. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

SEC. 205. EXTENSION OF TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 206. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "June 30, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 207. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended by striking "June 30, 1992" each place it appears and inserting "June 30, 1993".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "July 1, 1993",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "June 30, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "June 30, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "July 1, 1995".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to periods ending after June 30, 1992.

SEC. 208. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 209. TEMPORARY REPEAL OF PREFERENCE FOR CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) TEMPORARY REPEAL.—

(1) IN GENERAL.—Paragraph (6) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(C) APPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any contribution made after December 31, 1991, and before July 1, 1993."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 57(a)(6) is amended by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 1991.

(b) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, recommendations for legislative action needed to implement the proposed procedure.

SEC. 210. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 211. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 212. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

Subtitle B—Repeal of Luxury Excise Tax

SEC. 221. REPEAL OF LUXURY EXCISE TAX.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by striking subchapter A and by redesignating subchapters B and C as subchapters A and B, respectively.

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "subchapter A or C of chapter 31" and inserting "section 4051".

(2) Subsection (a) of section 4221 is amended by striking the last sentence.

(3) Subsection (c) of section 4221 is amended by striking "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)" and inserting "section 4053(a)(6)".

(4) Paragraph (1) of section 4221(d) is amended by striking "taxes imposed by subchapter A or C of chapter 31" and inserting "the tax imposed by section 4051".

(5) Subsection (d) of section 4222 is amended by striking "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)" and inserting "sections 4053(a)(6)".

(6) Section 4293 is amended by striking "subchapter A of chapter 31,".

(7) The table of subchapters for chapter 31 is amended to read as follows:

"SUBCHAPTER A. Special fuels.

"SUBCHAPTER B. Heavy trucks and trailers."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1992.

(2) PASSENGER VEHICLES.—With respect to passenger vehicles (as defined in section 4001(b) of the Internal Revenue Code of 1986, as in effect on December 31, 1991), the amendments made by this section shall take effect on June 19, 1992.

TITLE III—ENTERPRISE ZONES

Subtitle A—Overview

SEC. 301. SHORT TITLE.

This title may be cited as the "Enterprise Zone-Jobs Creation Act of 1992".

SEC. 302. PURPOSE.

It is the purpose of this Act to provide for the designation of economically distressed urban and rural areas, including Indian reservations, as enterprise zones in order to stimulate the creation of new jobs in the enterprise zones, particularly for disadvantaged workers and long-term unemployed individuals, to enhance the availability and delivery of local goods and services to residents and businesses in the enterprise zones, and to promote revitalization of the enterprise zones through meaningful entrepreneurial activity primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved availability and delivery of local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SEC. 303. EFFECTIVE DATE.

The amendments made by this Act shall apply as of the date of the enactment of this Act.

Subtitle B—Designation of Enterprise Zones

SEC. 311. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 of subtitle F (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7880. Designation.

"SEC. 7880. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments or the State or States in which it is located for designation as an enterprise zone (hereafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development designates as an enterprise zone.

"(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

"(3) LIMITATION ON DESIGNATIONS.—

"(A) PUBLICATION OF NOTICE.—Before designating any area as an enterprise zone, but not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe a notice in the Federal Register setting forth—

"(i) the procedures for nominating an area, and

"(ii) the procedures for designation of an area as an enterprise zone.

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the first day of the first month following the month in which the notice described in subparagraph (A) is published in the Federal Register.

"(C) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

"(i) the State or local governments in which the nominated area is located have the authority to—

"(I) nominate the area for designation as an enterprise zone,

"(II) make the State or local commitments under subsection (d), and

"(III) provide reasonable assurances to the Secretary of Housing and Urban Development that such commitments will be fulfilled, and

"(ii) a nomination therefor is submitted by the State or local governments in such a manner and in such form, and containing such information, as the Secretary of Housing and Urban Development shall prescribe by the notice described in subparagraph A.

"(b) TIME PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date specified by the State or local governments as provided in the nomination submitted in accordance with subsection (a)(3)(C)(ii),

"(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

"(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, may revoke the designation of an area if the Secretary of Housing and Urban Development determines that—

"(A) a State or local government in which the area is located is not complying substantially with the agreed course of action for the area, or

"(B) changed circumstances have resulted in the failure of the designation to further the purposes of the Enterprise Zone-Jobs Creation Act of 1992.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the area—

"(A) is within the jurisdiction of the State or local governments nominating the area;

"(B) has a continuous boundary; and

"(C) does not include a central business district (as described by the most recent census of retail trade defining such term.

"(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the area is a base area, an adjoining area, a connecting area, or a high public assistance area as defined in paragraphs (4), (5), (6), or (7), respectively. For purposes of this subsection, the terms 'unemployment rate', 'poverty rate', and 'public assistance rate' shall have the meanings assigned to them in the 1990 Census.

"(4) BASE AREA.—A base area or an area which, based on the 1990 census—

"(A) has a population of not less than—

"(i) 3,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

"(ii) 1,000 in any other case, and

"(B) consists of one or more contiguous census tracts, each of which has

"(i) an unemployment rate of at least 10 percent;

"(ii) a poverty rate of at least 50 percent; and

"(iii) a welfare rate of at least 10 percent.

"(5) ADJOINING AREA.—An adjoining area is an area which includes a base area as described in paragraph (4) and one or more additional census tracts, each of which adjoins the base area ('adjoining tracts') if—

"(A) each of the adjoining tracts meets the requirements of paragraph (4), substituting "40 percent" for "50 percent" in subparagraph (B)(ii) thereof, and

"(B) the area would qualify as a base area within the meaning of paragraph (4) if it were treated as a single census tract, substituting '45 percent' for '50 percent' in subparagraph (B)(ii) thereof.

"(6) CONNECTING AREA.—A connecting area is an area which includes—

"(A) two or more areas, each of which is described in paragraph (4) or (5), and

"(B) one or more census tracts connecting such areas ('connecting tracts') if—

"(i) each connecting tract meets the requirements of paragraph (4), substituting '20 percent' for '50 percent' in subparagraph (B)(ii) thereof,

"(ii) each connecting tract is geographically situated on a straight line between the portion of such areas described in paragraph (4) and which, when taken together, connects such areas, and

"(iii) the area would qualify as a base area within the meaning of paragraph (4) if it were treated as a single census tract, substituting '45 percent' for '50 percent' in subparagraph (B)(ii) thereof.

"(7) HIGH PUBLIC ASSISTANCE AREA.—A high public assistance area in an area which, based on the 1990 census data—

"(A) has a population of not less than—

"(i) 3,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

"(ii) 1,000 in any other case, and

"(B) consists of one or more contiguous census tracts, each of which has—

"(i) an unemployment rate of at least 10 percent,

"(ii) a poverty rate of at least 35 percent, and

"(iii) a public assistance rate of at least 30 percent.

Notwithstanding the foregoing, an area may qualify as a high public assistance area only if it is located within the jurisdiction of a local government which does not include any areas that would qualify under paragraph (4), (5), or (6) and which has not nominated any other area under paragraph (7) unless such other area has been denied designation by the Secretary of Housing and Urban Development.

"(8) AUTHORITY TO DEPART FROM 1990 CENSUS DATA.—The Secretary of Housing and Urban Development may apply the eligibility requirements of subsection (c) on the basis of data other than the 1990 census data if, as a result of materially changed circumstances, such data fail to appropriately reflect population and unemployment, poverty and welfare rates for the area. The Secretary may use this authority to qualify an area that would otherwise not be eligible or to disqualify an area that would otherwise be eligible.

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the State or local governments nominating the area agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action, approved by the Secretary of Housing and Urban Development, designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may include, but is not limited to—

"(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

"(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone, including requirements which apply to the construction or rehabilitation of housing,

"(C) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention, and drug use prevention and treatment,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the enterprise zone, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the enterprise zone,

"(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone,

"(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people,

"(G) linkages to—

"(i) job training,

"(ii) transportation,

"(iii) education,

"(iv) day care, and

"(v) other social service support,

"(H) provision of supporting public facilities, and infrastructure improvements,

"(I) encouragement of local entrepreneurship, and

"(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

"(e) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) LOCAL GOVERNMENTS.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.

"(3) INDIAN RESERVATIONS.—In the case of an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(f) CROSS REFERENCES.—For—

"(1) definitions, see section 1391,

"(2) treatment of employees in enterprise zones, see section 32,

"(3) treatment of investments in enterprise zones, see sections 1392, 1393 and 1394, and

"(4) exclusion of gain from disposition of principal residence located in enterprise zone, see section 1395.".

(b) CONFORMING AMENDMENTS.—

(1) The table of subchapters for chapter 80 of subtitle F is amended by adding at the end thereof the following new item:

"Subchapter D—Designation of Enterprise Zones"

(2) The table of subchapters and sections for subtitle F is amended by adding after the item relating to subchapter C the following new item at the end of chapter 80:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7880. Designation".

SEC. 312. REPORTING REQUIREMENTS.

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 313. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) COORDINATE WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7880 of such Code shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle C—Federal Income Tax Incentives

SEC. 321. DEFINITIONS, DISCLOSURE, AND REGULATORY AUTHORITY; ENTERPRISE ZONE STOCK EXPENSING; ENTERPRISE ZONE INVESTOR GAIN AND LOSS; ENTERPRISE ZONE BUSINESS GAIN AND LOSS; ENTERPRISE ZONE GAIN FROM SALE OF A PRINCIPAL RESIDENCE.

(a) GENERAL RULE.—Chapter 1 of subtitle A (relating to normal tax and surtax rules) is amended by adding the following new subchapter after subchapter T and before subchapter V:

"Subchapter U—Enterprise Zones

"Sec. 1391. Definitions, disclosure, and regulatory authority.

"Sec. 1392. Expensing of enterprise zone stock.

"Sec. 1393. Enterprise zone investor gain and loss.
"Sec. 1394. Enterprise zone business gain and loss.
"Sec. 1395. Enterprise zone gain from sale of principal residence.

"SEC. 1391. DEFINITIONS, DISCLOSURE, AND REGULATORY AUTHORITY.

"(a) Enterprise Zone.—

"(1) In general.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

"(2) Termination of enterprise zone.—An area will cease to constitute an enterprise zone once its designation as such terminates (or is revoked) under section 7880(b).

"(b) Enterprise Zone Business.—

"(1) In general.—For purposes of this subchapter, the term 'enterprise zone business' means a corporation, partnership, or proprietorship engaged in the active conduct of a trade or business that the taxpayer establishes to the satisfaction of the Secretary as having a significant business presence in an enterprise zone. A trade or business has a significant business presence only if—

"(A) at least 80 percent of its gross income (without taking the exclusions under this subchapter into account) in each calendar year is derived from the active conduct of the trade or business within an enterprise zone,

"(B) substantially all of its intangible assets are—

"(i) used in, and exclusively related to, the active conduct of the trade or business within an enterprise zone, or

"(ii) held for use by a transferee in, and directly related to, the transferee's conduct of, the transferee's enterprise zone business,

"(C) substantially all of its tangible property (whether owned or leased) is—

"(i) located within an enterprise zone, and

"(ii) used in, and directly related to, the active conduct of a trade or business within an enterprise zone,

"(D) no more than 5 percent of its property (as measured by unadjusted basis) constitutes—

"(i) collectibles (as defined in section 408(m)(2)), unless the collectibles constitute property held primarily for sale to customers in the ordinary course of the trade or business, and

"(ii) nonqualified financial property, and

"(E) with respect to its employees—

"(i) except as otherwise provided in regulations, at least one-third are enterprise zone residents, and

"(ii) substantially all services are performed within an enterprise zone, and compensation paid directly relates to work performed within an enterprise zone.

In order to constitute an enterprise zone business, the trade or business must be the sole activity conducted by the proprietorship, partnership, or corporation conducting the trade or business.

"(2) Limitations.—

"(A) Rental real property.—For purposes of subsection (b), real property held for use by customers shall be treated as the active conduct of a trade or business if—

"(i) the use is directly related to the conduct of the customer's enterprise zone business, or

"(ii) the real property is residential rental property that has been substantially improved by the enterprise zone business.

"(B) Rental of personal property.—Any trade or business of holding of personal property for use by customers shall not be treated as an enterprise zone business unless substantially all the customers are enterprise zone businesses or residents.

"(C) Leasing or creating intangibles.—Any trade or business of holding or creating intangibles for use by customers shall not be treated as an enterprise zone business unless substantially all the customers are enterprise zone businesses or residents.

"(D) Government-related activities.—Any trade or business conducted by, or principally for the benefit of, the Federal Government, any State government or subdivision thereof, or any local government (as defined in section 7880(e)) shall not be treated as an enterprise zone business.

"(E) Contribution to the zone.—A trade or business shall not be treated as having a significant business presence in an enterprise zone unless the potential Federal tax benefits resulting from treatment as an enterprise zone business are commensurate with the contribution of the trade or business to achieving the purposes of the Enterprise Zone-Jobs Creation Act of 1992. In determining the contribution of the trade or business, the following are among the factors taken into account—

"(i) the extent to which the equity interests in the trade or business are owned by residents of an enterprise zone,

"(ii) the extent to which the trade or business derives its income from the provision of goods and services in an enterprise zone,

"(iii) the extent to which the trade or business employs disadvantaged workers and long-term unemployed individuals,

"(iv) the extent to which the trade or business enhances the availability and delivery of local goods and services (including housing) to residents and businesses in the enterprise zone,

"(v) the extent to which the trade or business contributes to the revitalization of economic activity in an enterprise zone through meaningful entrepreneurial activity, and

"(vi) the extent to which the trade or business is conducted in a manner that is consistent with the manner conducting such a trade or business outside of an enterprise zone.

"(3) Termination of enterprise zone business.—

"(A) In general.—Once a trade or business ceases to constitute an enterprise zone business for any reason, it shall not subsequently be treated as an enterprise zone business without the consent of the Secretary.

"(B) Inadvertent terminations.—If—

"(i) within a reasonable time after discovery of the event resulting in such termination steps were taken so that the business was once more an enterprise zone business,

"(ii) the Secretary determines that the termination was inadvertent, and

"(iii) the business, or owner in the case of a sole proprietorship, agrees to make such adjustments as may be required by the Secretary with respect to such period,

then, notwithstanding the terminating event, such business shall be treated as continuing to be an enterprise zone business during the period specified by the Secretary.

"(c) Related Persons.—For purposes of this subchapter, a person shall be treated as related to another person if—

"(1) the relationship of such persons is described in section 267(b) or 707(b)(1),

"(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52), or

"(3) such persons are acting pursuant to a plan or arrangement.

For purposes of paragraph (1), section 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent.'

"(d) Enterprise Zone Property.—For purposes of this subchapter, the term 'enterprise zone property' means any asset that, for the period of at least 24 full calendar months (60 full calendar months in the case of real property) immediately preceding the determination as to the status of the asset, is used in, and directly related to (or, in the case of intangible property, exclusively related to), the active conduct of a trade or business while the business is an enterprise zone business.

"(e) Enterprise Zone Employee.—The term 'enterprise zone employee' means an individual if—

"(1) the individual renders services during the taxable year that are directly related to the conduct of an enterprise zone business,

"(2) substantially all the services described in paragraph (1) directly relate to work performed within an enterprise zone, and

"(3) the employer for whom the services described in paragraph (1) are performed is not the Federal Government, any State government or subdivision thereof, or any local government.

"(f) Wages.—The term 'wages' has the meaning given by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

"(g) Qualified Wages.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in subsection (e).

"(h) Nonqualified Financial Property.—The term 'nonqualified financial property' means all debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities and other similar property as provided by regulations, except—

"(1) reasonable amounts of working capital held in cash, cash equivalents or debt instruments having a term of 18 months or less, or

"(2) debt instruments described in section 1221(4).

"(i) Enterprise Zone Resident.—The term enterprise zone resident means an individual whose sole residence is in an enterprise zone and who has spent at least 183 nights at his or her residence in the enterprise zone during the calendar year.

"(j) Disclosure Requirement.—A taxpayer claiming benefits provided under section 1392, 1393, 1394, or 1395, or under section 305 of the Enterprise Zone-Jobs Creation Act of 1992 must make appropriate disclosure to the Internal Revenue Service of the benefits so claimed. The Secretary shall prescribe regulations as to the time and manner of the required disclosure.

"(k) Regulatory Authority.—The rules of this subchapter must be applied in a manner that is consistent with and reasonably carries out the purposes of the Enterprise Zone Jobs-Creation Act of 1992. The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out these purposes, including (but not limited to) regulations—

"(1) providing that Federal tax benefits are available only to persons that contribute to the purposes of the Enterprise Zone Jobs-Creation Act of 1992,

"(2) providing guidance for determining the Federal tax benefits that are commensurate with the contribution to the zone for purposes of section 1391(b)(2)(E),

"(3) providing rules for determining when—

"(A) gross income is derived within an enterprise zone,

"(B) property or employees are located in an enterprise zone,

"(C) property is used in, and directly related to, an enterprise zone business,

"(D) services are performed, and compensation relates to the performance of services performed, within an enterprise zone,

"(E) employees are enterprise zone residents, and

"(F) substantially all of the customers of a trade or business are residents of an enterprise zone,

"(4) limiting the amount of Federal tax benefits to ensure that the benefits are commensurate with the contribution,

"(5) preventing circumvention of the purposes of the Enterprise Zone Jobs-Creation Act of 1992, including regulations to address—

"(A) combining assets that contribute to the purposes with unrelated assets that do not contribute,

"(B) separating, directly or indirectly, the ownership or disposition of interests in related assets that constitute enterprise zone property, and

"(C) related persons, pass-thru entities, and other intermediaries or similar arrangements.

"(6) providing for limitation of tax benefits or other appropriate coordination where other Federal programs might, in combination with the enterprise zone program, enable activity within enterprise zones to be more than 100 percent subsidized by the Federal Government,

"(7) attributing gain or loss to property for the period that the property was directly related to, and used in, the enterprise zone business, including transitional rules with respect to the designation of an area as an enterprise zone,

"(8) treating references to a trade or business or to a person as including a reference to a predecessor or successor, and

"(9) identifying employee activities that are sufficiently connected with an enterprise zone business and an enterprise zone to qualify the employee as an enterprise zone employee.

"SEC. 1392. EXPENSING OF ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such individual during the individual's taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) TREATMENT OF ENTERPRISE ZONE INVESTOR GAIN AND LOSS.—

"(1) IN GENERAL.—If a taxpayer makes an election under subsection (a) with respect to stock acquired by the taxpayer, such stock shall not be treated as stock in an enterprise zone business for purposes of section 1393.

"(2) CERTAIN RESIDENTS AND OWNERS.—Paragraph (1) shall not apply in the case of a taxpayer who was—

"(A) an enterprise zone employee with respect to the corporation issuing the stock and rendered at least 1,500 hours of service to the corporation during the calendar year the stock was acquired, or

"(B) an enterprise zone resident for the calendar year that the stock was acquired.

"(c) LIMITATIONS.—

"(1) CEILING.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed $50,000 for any taxable year, nor $250,000 during the taxpayer's lifetime. If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph—

"(A) the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(B) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) RELATED PERSONS.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in paragraph (1).

"(3) ALLOCATION OF EXCESS AMOUNTS.—The limitations described in paragraph (1) shall be allocated among the taxpayer and related persons in accordance with the amount of their respective purchases of enterprise zone stock.

"(4) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

"(d) DISPOSITION OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—

"(A) GENERAL RULE.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

"(B) SPECIAL RULE FOR TAXPAYERS TO WHICH PARAGRAPH (b)(2) APPLIES.—In the case of a taxpayer to which subsection (b)(2) applies, the amount treated as ordinary income under subparagraph (A) shall not exceed the amount of the deduction that was allowed to the taxpayer under subsection (a).

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If an enterprise zone stock of a taxpayer is redeemed or repurchased by the issuer of such stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined in subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer, and

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under subsection (a) with respect to the stock so disposed of.

"(e) DISQUALIFICATION.—

"(1) ISSUER OF STOCK CEASES TO QUALIFY.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and the issuer fails or ceases to satisfy the requirement of subsection (f)(2)(A)(i) and (ii), then, notwithstanding any provision of this subtitle (other than paragraph (2)) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

"(2) SPECIAL RULES.—

"(A) LIQUIDATION.—Where property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

"(B) TERMINATION OF ENTERPRISE ZONE.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

"(3) ADDITIONAL AMOUNT.—If income is recognized pursuant to paragraph (1) at any time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

"(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under subsection (a) with respect to the stock so disqualified.

"(f) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE STOCK.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance is used by such issuer no later than 12 months following issuance to acquire and maintain an equal amount of newly tangible property described in section 1391(b)(1)(C).

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any subchapter C corporation—

"(i) which has only one class of stock,

"(ii) which is an enterprise zone business, and

"(iii) which does not own or lease more than $5,000,000 of total property (including money), as measured by the unadjusted basis of the property.

"(B) LIMITATION ON TOTAL ISSUANCES.—A qualified issuer may issue no more than an aggregate of $5,000,000 of enterprise zone stock.

"(C) AGGREGATION.—For purposes of applying the limitations under this paragraph, the issuer and all related persons shall be treated as one person.

"(3) AMOUNT PAID.—For purposes of subsection (a), the amount paid by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

"(g) ISSUANCES IN EXCHANGE FOR PROPERTY.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of chapter 1 of subtitle A to the contrary—

"(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

"(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

"(h) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

"(i) LIMITATIONS ON ASSESSMENT AND COLLECTION.—If a taxpayer elects the deduction under subsection (a) for any taxable year—

"(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before 1 year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

"(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

"SEC. 1393. ENTERPRISE ZONE INVESTOR GAIN AND LOSS.

"(a) GENERAL RULE.—Gross income does not include any amount of gain constituting enterprise zone investor gain. Any enterprise zone investor loss is treated as ordinary loss.

"(b) ENTERPRISE ZONE INVESTOR GAIN OR LOSS.—

"(1) IN GENERAL.—The term 'enterprise zone investor gain' means long-term capital gain, and the term 'enterprise zone investor loss' means any loss recognized with respect to the disposition of stock or a partnership interest in an enterprise zone business held by the taxpayer for at least 24 full calendar months immediately preceding the disposition, to the extent the taxpayer establishes that the amount is attributable to enterprise zone property for the period that the property was directly related to, and used in, the enterprise zone business. For this purpose, a 'disposition' means any event in which gain or loss is recognized, in whole or in part.

"(2) SPECIAL RULES.—

"(A) RELATED PARTY TRANSACTIONS.—Gain or loss is not treated as enterprise zone investor gain or loss if attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

"(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—For purposes of this section, notwithstanding termination of the treatment of a trade or business as an enterprise zone business, the gain or loss recognized with respect to stock or a partnership interest following the termination shall be treated as enterprise zone investor gain or loss to the extent the taxpayer establishes that the amount of gain or loss is the amount that would have been so treated if the interest had been disposed of immediately before the termination for its fair market value immediately before the termination. In no event may the cumulative amount treated as enterprise zone investor gain or loss exceed the net amount that would have been so treated if all of the taxpayer's interests in the enterprise zone business had been disposed of immediately before the termination for their fair market value immediately before the termination.

"(C) RECAPTURE OF GAIN OR LOSS.—Gain (or loss) for any year shall not be treated as enterprise zone investor gain (or loss) to the extent such gain (or loss) does not exceed the cumulative excess (if any) of loss (or gain) previously recognized over gain (or loss) previously recognized with respect to the disposition of stock or a partnership interest in an enterprise zone business. For this purpose, except as otherwise provided in regulations, all related persons are treated as one person.

"(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE BUSINESS GAIN AND LOSS.

"(a) GENERAL RULE.—Gross income does not include any amount of gain constituting enterprise zone business gain. Any enterprise zone business loss is treated as ordinary loss.

"(b) ENTERPRISE ZONE BUSINESS GAIN OR LOSS.—

"(1) IN GENERAL.—The term 'enterprise zone business gain' means long-term capital gain, and the term 'enterprise zone business loss' means any loss, recognized with respect to the disposition by an enterprise zone business of enterprise zone property, to the extent the enterprise zone business establishes that the amount is attributable to the period that the property was directly related to, and used in, the enterprise zone business. For this purpose, a 'disposition' means any event in which gain or loss is recognized, in whole or in part.

"(2) SPECIAL RULES.—

"(A) RELATED PARTY TRANSACTIONS.—Gain or loss is not treated as enterprise zone business gain or loss if attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

"(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—For purposes of this section, notwithstanding termination of the treatment of a trade or business as an enterprise zone business, the gain or loss recognized by the trade or business with respect to an asset following the termination shall be treated as enterprise zone business gain or loss to the extent the taxpayer establishes that the amount of gain or loss with respect to that asset is the amount that would have been so treated if all of the enterprise zone property had been disposed of immediately before the termination for its fair market value immediately before the termination. In no event may the cumulative amount treated as enterprise zone business gain or loss exceed the net amount that would have been so treated if all of the enterprise zone property had been disposed of immediately before the termination for its fair market value immediately before the termination.

"(C) RECAPTURE OF GAIN OR LOSS.—Gain (or loss) for any year shall not be treated as enterprise zone business gain (or loss) to the extent such gain (or loss) does not exceed the cumulative excess (if any) of enterprise zone business loss (or gain) previously recognized over enterprise zone business gain (or loss) previously recognized with respect to enterprise zone property. For this purpose, except as otherwise provided in regulations, all related persons are treated as one person.

"(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the enterprise zone business.

"SEC. 1395. ENTERPRISE ZONE GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include any amount of gain constituting enterprise zone gain from a principal residence.

"(b) ENTERPRISE ZONE GAIN FROM A PRINCIPAL RESIDENCE.—

"(1) IN GENERAL.—The term 'enterprise zone gain from a principal residence' means gain recognized by a taxpayer from the sale or exchange of real property that—

"(A) is located in an enterprise zone, and

"(B) during the period of the designation as an enterprise zone, the property has been owned and used by the taxpayer as his principal residence for the 5-year period ending on the date of the sale or exchange.

"(2) DOLLAR LIMITATIONS.—

"(A) LIFETIME LIMITATION.—Subsection (a) shall not apply to any sale or exchange by the taxpayer to the extent that such application, when combined with other elections by the taxpayer and his spouse under subsection (a), exceeds $200,000 ($100,000 in the case of a separate return by a married individual). Such amounts shall be adjusted annually as provided in regulations to reflect the increase in the consumer price index.

"(B) ATTRIBUTION TO PERIOD FOLLOWING ZONE DESIGNATION.—Gain shall be treated as enterprise zone gain from a principal residence only to the extent that the taxpayer establishes that it is attributable to the period that the area in which the property is located is designated as an enterprise zone.

"(c) ELECTION.—An election under subsection (a) may be made or revoked at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this chapter for the taxable year in which the sale or exchange occurred, and shall be made or revoked in such manner as the Secretary shall by regulations prescribe. In the case of a taxpayer who is married, an election under subsection (a) or revocation thereof may be made only if his spouse joins in such election or revocation.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—If property is held by a husband and wife as joint tenants, tenants by the entirety, or community property, only one spouse must satisfy the requirements of subsection (b)(1).

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

"(A) the ownership requirements of subsection (b)(1) shall be applied to the holding of the stock, and

"(B) the remaining requirements of subsection (b) shall be applied to the unit which the taxpayer was entitled to occupy as the stockholder.

"(3) INVOLUNTARY CONVERSIONS.—The destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of the property.

"(4) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—If the ownership and use requirements of subsection (b) are satisfied with respect to only a portion of the property, this section shall only apply with respect to so much of the gain from the sale or exchange of the property as is attributable to the portion of the property so owned and used.

"(5) DETERMINATION OF MARITAL STATUS.—The determination of whether an individual is married shall be made as of the date of the sale or exchange, and an individual legally separated from his spouse under a decree of divorce or separate maintenance is not considered as married.

"(6) APPLICATION OF SECTIONS 121, 1033, AND 1034.—This section shall apply before the application of sections 121 (relating to one-time exclusion of gain from sale or exchange of residence), 1033 (relating to involuntary conversions), and 1034 (relating to rollover of gain from sale or exchange of residence). For purposes of applying those sections, the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(7) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined, in whole or in part, under subsection (b) of section 1033 (relating to basis of property acquired through involuntary conversion) then the ownership and use by the taxpayer of the converted property shall be treated as ownership and use by the taxpayer of the property sold or exchanged.

"(8) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.".

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1392(h), in the case of stock with respect to which a deduction was allowed or allowable under section 1392(a).".

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters and sections for subtitle A is amended by adding the following new subchapter after subchapter T and before subchapter V of chapter 1:

"SUBCHAPTER U—ENTERPRISE ZONES

"Sec. 1391. Definitions and regulatory authority.
"Sec. 1392. Expensing of enterprise zone stock.
"Sec. 1393. Enterprise zone investor gain and loss.
"Sec. 1394. Enterprise zone business gain and loss.
"Sec. 1395. Enterprise zone gain from sale of principal residence."

(2) The table of subchapters for chapter 1 is amended by adding the following new subchapter after subchapter T and before subchapter V:

"SUBCHAPTER U—ENTERPRISE ZONES."

(3) Section 121 (relating to one-time exclusion from gross income of gain from sale of a principal residence) is amended by adding the following cross reference at the end thereof:

"(e) CROSS REFERENCE.—For exclusion from gross income of gain from sale of a principal residence located in an enterprise zone, see section 1395."

(4) Section 1034(l) (relating to cross reference for purposes of rollover of gain from sale of principal residence) is amended to read as follows:

"(l) CROSS REFERENCE.—For other rules excluding from gross income gain with respect to sale of principal residence—

"(1) see section 121, with respect to a one-time election for individuals who have attained age 55, and

"(2) see section 1395, with respect to principal residences located in enterprise zones."

SEC. 322. QUALIFIED ENTERPRISE ZONE BONDS.

(a) GENERAL RULE.—Parts IV and IX of subchapter B (relating to computation of taxable income) of chapter 1 of subtitle A (relating to normal tax and surtax rules) are amended as follows:

(1) AMENDMENT OF SECTION 142(a).—Section 142(a) (relating to exempt facility bonds) is amended by adding the following new paragraph at the end thereof:

"(12) Qualified enterprise zone facilities."

(2) ADDITION OF NEW SECTION 142(j).—Section 142 is amended by adding the following new subsection at the end thereof:

"(j) QUALIFIED ENTERPRISE ZONE FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), except as otherwise provided in this paragraph (1), the term 'qualified enterprise zone facilities' means tangible property (within the meaning of section 1391(b)(1)(C)) located within an enterprise zone (as defined in section 1391(a)(1)) that is or will be used with respect to an enterprise zone business within the meaning of section 1391(b). Facilities used for the provision of housing (rental or otherwise) are not qualified enterprise zone facilities. Facilities that are qualified enterprise zone facilities are deemed to be used for a public use.

"(2) LIMITATION ON AMOUNT OF BONDS.—This subsection (j) shall not apply if, at any time, the aggregate amount of any outstanding bonds used or to be used with respect to any single enterprise zone business exceeds $5,000,000. For purposes of this $5,000,000 limitation, with respect to an issue that refunds another issue the proceeds of which were used to finance qualified enterprise zone facilities, only that portion of the refunding issue that exceeds the portion of the issue being refunded is taken into account.

"(3) REASONABLE EXPECTATION REQUIREMENT.—This subsection (j) shall not apply to any issue unless, as of the date of issue of the bonds, the persons or entities operating the trade or business reasonably expect the business to qualify as an enterprise zone business all times during the 5-year period immediately succeeding the later of the date of issue of the bonds or the date of commencement of business operations. In the event the business ceases to qualify as an enterprise zone business within the 5-year period, any expectation of compliance for the requisite 5-year period is presumed not to be reasonable unless it is shown to the satisfaction of the Secretary that noncompliance occurred for bona fide reasons unrelated to tax-exemption of the bonds."

(b) ADDITION OF NEW SECTION 147(h)(3).—Section 147(h) is amended by adding the following new paragraph at the end thereof:

"(3) BONDS FOR QUALIFIED ENTERPRISE ZONE FACILITIES.—Subsections (c) and (d) shall not apply to any bonds the proceeds of which are used to finance qualified enterprise zone facilities."

(e) AMENDMENT TO SECTION 265(b)(3)(B)(ii)(I).—Section 265(b)(3)(B)(ii)(I) is amended to read as follows:

"(I) Any qualified 501(c)(3) bond (as defined in section 145) and any bonds elected not to be treated as private activity under subsection (b)(3)(B)(iii) of this section, or".

(f) ADDITION OF NEW SECTION 265(b)(3)(B)(iii).—Section 265(b)(3)(B) is amended by adding the following new clause at the end thereof:

"(iii) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—An issue the proceeds of which are used to finance qualified enterprise zone facilities (as defined in section 142(j)) is not treated as a private activity bond if, on or prior to the date of issue of the bonds, the issuer irrevocably elects not to treat the bonds as private activity bonds for purposes of subsection (b)(3)(B)(ii)(I) of this section."

SEC. 323. ENTERPRISE ZONE EMPLOYEE TAX CREDIT.

(a) Section 32(b) (relating to the computation of the earned income tax credit) is amended by adding the following new paragraph at the end thereof:

"(3) ENTERPRISE ZONE EMPLOYEE CREDIT.—An enterprise zone employee (as defined in section 1391(e)) who, but for this paragraph, would not be an eligible individual within the meaning of subsection (c)(1) is deemed to be an eligible individual with one qualifying child solely for purposes of the basic earned income credit computed under subsection (b)(1)."

(b) Section 32(c)(2) (relating to the definition of earned income) is amended by adding the following subparagraph at the end thereof:

"(C) In the case of a person made eligible for the basic credit under section 32(b)(3), earned income shall not exceed the person's qualified wages (as defined in section 1391(g))."

SEC. 324. ENTERPRISE ZONE BUSINESS EXPENSING ALLOWANCE.

Section 179(b)(1) (relating to limitations on the amount of investment in depreciable business property that may be expensed) is amended by adding at the end the following: "In the case of an enterprise zone business (as defined in section 1391(b)), the limitation applied under this paragraph shall be $20,000."

SEC. 325. ENTERPRISE ZONE ACTIVITY PASSIVE LOSS.

(a) Paragraphs (1) and (2) of section 469(i) (relating to offset against limitations on losses and credits from passive activities) are amended to read as follows:

"(i) OFFSET FOR RENTAL REAL ESTATE ACTIVITIES AND ENTERPRISE ZONE ACTIVITIES.—

"(1) IN GENERAL.—In the case of any natural person, subsection (a) shall not apply to that portion of the passive activity loss or the deduction equivalent (within the meaning of subsection (j)(5)) of the passive activity credit for any taxable year which is attributable to—

"(A) all rental real estate activities with respect to which such individual actively participated in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year), and

"(B) all enterprise zone passive activities, but only to the extent that such loss or credit arose in the taxable year.

"(2) DOLLAR LIMITATION.—The aggregate amount to which paragraph (1)(A) applies shall not exceed $25,000. The aggregate amount to which paragraph (1)(B) applies shall not exceed $10,000."

(b) Subparagraph (A) of section 469(i)(3) is amended by inserting before the comma "to which paragraph (1)(A) applies".

(c) Subparagraph (A) of section 469(i)(5) is amended by striking the word "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and" and by adding at the end thereof the following new clause:

"(iv) '$5,000' for '$10,000' in paragraph (2)."

(d) Subparagraph (B) of section 469(i)(5) is amended by striking "This" and by inserting "Except in the case of a taxpayer to which subsection 469(i)(1)(B) applies, this".

(e) Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) ENTERPRISE ZONE ACTIVITY.—The term 'enterprise zone activity' means a rental activity or a trade or business activity that consists exclusively of one or more interests in an enterprise zone business (as defined in section 1391(b))."

(f) Paragraph (4) of section 469(j) is amended by striking "amount" and inserting "and $10,000 amounts".

SEC. 326. ALTERNATIVE MINIMUM TAX.

Section 56(g)(4)(B) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

"(iii) EXCLUSION OF ENTERPRISE ZONE CAPITAL GAIN.—Clause (i) shall not apply to any amount treated as enterprise zone investor gain (as defined in section 1393) or enterprise zone business gain (as defined in section 1394), and such gain shall not be included in income for purposes of computing alternative minimum taxable income."

SEC. 327. ADJUSTED GROSS INCOME DEFINED.

Subsection (a) of section 62 (relating to the definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1392."

Subtitle D—Regulatory Flexibility

SEC. 331. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONE FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any unit of government that nominated an area which the Secretary of Housing and Urban Development designates as an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 1392(b)(1) of such Code).".

SEC. 332. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of any government which nominated an area that the Secretary of Housing and Urban Development has designated as an enterprise zone under section 7880 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If such a request is made to any agency other than the Department of Housing and Urban Development, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety, or of environmental pollution.

"(e) If a request is disapproved, the agency shall inform all the requesting governments, and the Department of Housing and Urban Development, in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of applicability of such waiver or modification.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(i) No waiver or modification of a rule under this section shall remain in effect with respect to an enterprise zone after the enterprise zone designation has expired or has been revoked.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The analysis for chapter 6 of title 5, United States Code, is amended by redesignating the items relating to sections 611 and 612 as items relating to sections 612 and 613, respectively, and by inserting after the item relating to section 610 the following new item:

"611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 611" immediately before "means".

(d) Section 613 of such title 5, as redesignated by subsection (a), is amended—

(1) in subsection (a) by inserting "(except section 611)" immediately after "chapter"; and

(2) in subsection (b) by inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence.

SEC. 333. FEDERAL AGENCY SUPPORT OF ENTERPRISE ZONES.

In order to maximize all agencies' support of enterprise zones, the Secretary of Housing and Urban Development is authorized to convene regional and local coordinating councils of any appropriate agencies to assist State and local governments to achieve the objectives agreed to in the course of action under section 7880 of the Internal Revenue Code of 1986.

Subtitle E—Establishment of Foreign-Trade Zones in Enterprise Zones

SEC. 341. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

Subtitle F—Repeal of Title VII of the Housing and Community Development Act of 1987

SEC. 351. REPEAL.

Title VII of the Housing and Community Development Act of 1987 is hereby repealed.

TITLE IV—OTHER PROVISIONS

Subtitle A—General Provisions

SEC. 401. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) General Rule.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) General Rule.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) Exceptions.—

"(1) In general.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale,

"(C) any security acquired by a floor specialist (as defined in section 1236(d)(2)) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, and

"(D) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

Except as provided in regulations, subparagraph (D) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) Identification required.—A security shall not be treated as described in subparagraph (A), (B), (C), or (D) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) Securities subsequently not exempt.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) Special rule for property held for investment.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) Definitions.—For purposes of this section—

"(1) Dealer in securities defined.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) Security defined.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Such term shall not include any contract to which section 1256(a) applies.

"(3) Hedge.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) Special Rules.—For purposes of this section—

"(1) Certain rules not to apply.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) Improper identification.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(e) Regulatory Authority.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) Change in method of accounting.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

(3) Underpayment of estimated tax.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 402. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) General Rule.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC Assistance.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) Exceptions.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 403. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) General Rule.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) in subparagraph (B)(ii), by striking "100 percent" and inserting "115 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) Effective Date.—

(1) In general.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

(2) Special rule for 1st installment in 1992.—The amendment made by subsection (a) shall not apply for purposes of determining the amount of the 1st or 2nd required installment for any taxable year beginning in 1992. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 3rd required installment by the amount of such reduction.

SEC. 404. CORPORATE ESTIMATED TAX PROVISIONS.

(a) General Rule.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "96 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "96 PERCENT", and

(3) by striking paragraph (3).

(b) Conforming Amendments.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	**The applicable percentage is:**
1st	24
2nd	48
3rd	72
4th	96."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "96 percent".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after June 30, 1992.

SEC. 405. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) General Rule.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) Identifying Information Required With Respect to Certain Seller-Provided Financing.—

"(1) Payor.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) Recipient.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) Furnishing of information between payor and recipient.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) Seller-provided financing.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

(b) Penalty.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(f) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Alternative Taxable Years

SEC. 411. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) Limitations on Taxable Years Which May Be Elected.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) Taxable Year Must Be Same as Reporting Period.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) Period of Election.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) Period of election.—

"(A) In general.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) Change not treated as termination.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) Exception for Trusts.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception for certain structures that include trusts.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) Regulations.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 412. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) Additional Required Payment.—

(1) In general.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) Required Payment.—For purposes of this section—

"(1) In general.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) Additional payment for new applicable election years.—

"(A) In general.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) New applicable election year.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) Additional amount.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) Required payment.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) Due date.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) Due date.—

"(A) In general.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) Special rule where new applicable election year adopted.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) Penalties.—

(A) In general.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) Failure to pay additional amount.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) Conforming amendment.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) Refunds.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) Conforming amendments.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Other Definitions and Special Rules.—

(1) Refund.—Paragraph (3) of section 7519(c) (relating to date on which refund payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) Deferral ratio.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) Net income.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) Excess applicable payments for base year.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) Deferral period.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) Deferral period.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) Base year.—

(A) In general.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) Base year.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) Conforming amendment.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) Interest.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) Interest.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 413. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) Carryover of Nondeductible Amounts.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) Carryover of Nondeductible Amounts.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) Minimum Distribution Requirement.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) In general.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) Disallowance of NOL Carrybacks.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) Conforming Amendment.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 414. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1992.

Subtitle C—Provisions Relating to Intangibles

SEC. 421. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) General Rule.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) General Rule.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 16-year period beginning with the month in which such intangible was acquired.

"(b) No Other Depreciation or Amortization Deduction Allowable.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) Amortizable Section 197 Intangible.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) Exclusion of self-created intangibles, etc.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) Anti-churning rules.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) Section 197 Intangible.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment, "(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) Customer-based intangible.—

"(A) In general.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) Special rule for financial institutions.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) Supplier-based intangible.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) Exceptions.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) Financial interests.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

"(2) Land.—Any interest in land.

"(3) Computer software.—

"(A) In general.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) Computer software.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the otherwise qualifying computer software.

"(4) Certain interests or rights acquired separately.—Any of the following not acquired in a transaction (or series of related transactions) referred to in paragraph (3)(A)(ii):

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 16 years, or

"(ii) is fixed as to amount and, without regard to this section, would be amortizable under a unit of production or similar method.

"(5) Interests under leases and debt instruments.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) Treatment of sports franchises.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) Mortgage services.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than such right or similar rights) constituting a trade or business or substantial portion thereof.

"(8) Property acquired from a qualified research entity.—At the election of the taxpayer, any property acquired by the taxpayer from a qualified research entity (as defined in subsection (g)), but only if substantially all of the assets acquired in the transaction (or series of related transactions) in which the property was acquired—

"(A) were created by the qualified research entity, or

"(B) were acquired by the qualified research entity in a transaction (or series of related transactions) to which this paragraph would have applied (without regard to subsection (c)(1)(A)) if an election had been made.

"(f) Special Rules.—

"(1) Treatment of certain dispositions, etc.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) Treatment of certain transfers.—

"(A) In general.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) Transactions covered.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) Treatment of amounts paid pursuant to covenants not to compete, etc.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) Treatment of franchises, etc.—

"(A) Franchise.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) Treatment of renewals.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) Certain amounts not taken into account.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) Treatment of certain reinsurance transactions.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) Treatment of certain subleases.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) Treatment as depreciable.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) Treatment of certain increments in value.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) Anti-churning rules.—For purposes of this section—

"(A) In general.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) Exception where gain recognized.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) Related person defined.—For purposes of this paragraph—

"(i) Related person.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) Time for making determination.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) Acquisitions by reason of death.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) Special rule for partnerships.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) Anti-abuse rules.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) Qualified Research Entity.—For purposes of this section—

"(1) In general.—The term 'qualified research entity' means any person which meets—

"(A) the value requirement of paragraph (2),

"(B) the receipts and research expenditures requirements of paragraph (3), and

"(C) the ownership requirements of paragraph (4).

"(2) Value requirement.—

"(A) In general.—The requirement of this paragraph is met with respect to any person if the excess of—

"(i) the fair market value of the assets of such person, over

"(ii) the aggregate of the adjusted issue prices (as determined under section 1272) of indebtedness of the person with a maturity of one year or less at the time of issuance,

does not exceed $50,000,000.

"(B) Special rule for sole proprietors.—In the case of a sole proprietor, only assets and indebtedness allocable to trades or businesses of the proprietor shall be taken into account under subparagraph (A).

"(3) Receipts and research expenditures.—

"(A) In general.—The requirements of this paragraph are met with respect to any person if—

"(i) the person did not have any gross receipts during any period preceding the 5-year period ending on the acquisition date, and

"(ii) during the person's entire period of existence on or before the acquisition date, the aggregate amount of expenditures for research or experimentation (within the meaning of section 174) which are technological in nature is greater than—

"(I) $500,000, and

"(II) 30 percent of the person's aggregate gross receipts during such period.

"(B) Earnings on short-term investments.—For purposes of subparagraph (A)(i), gross receipts shall not include earnings on any short-term investment of amounts held to meet the reasonable business needs of the person for working capital.

"(C) Special rule for sole proprietorships.—In the case of a sole proprietorship, this paragraph shall be applied only with respect to receipts and expenditures in connection with one or more trades or businesses of the sole proprietor from which the property to which the election under subsection (e)(8) applies was acquired.

"(D) Gross receipts; predecessor.—For purposes of this paragraph, rules similar to the rules of subparagraphs (C) and (D) of section 448(c)(3) shall apply.

"(4) Ownership requirements.—

"(A) In general.—The requirements of this paragraph are met with respect to any person if, at all times during the period of existence of the person on or before the acquisition date—

"(i) at least 50 percent of its fair market value is held directly by 5 or fewer persons other than corporations, and

"(ii) at least 50 percent of its fair market value is held by individuals.

"(B) Attribution rules.—For purposes of subparagraph (A)(ii), the constructive ownership rules of subparagraphs (A) and (B) of section 318(a)(2) shall apply.

"(C) Exception.—This paragraph shall not apply to any sole proprietor.

"(5) Other definitions and rules.—For purposes of this subsection—

"(A) Acquisition date.—The term 'acquisition date' means the date of the acquisition to which the election under subsection (e)(8) applies.

"(B) Aggregation rules.—All persons treated as a single taxpayer under section 41(f) shall be treated as 1 person for purposes of this paragraph. This subparagraph shall not apply to a sole proprietor for purposes of paragraph (3).

"(h) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to—

"(1) prevent avoidance of the purposes of this section through related persons or otherwise, and

"(2) prevent the avoidance of the $50,000,000 limitation under subsection (g)(2) through the sale, spin-off, or other disposition of assets prior to a sale, through covenants not to compete or employment contracts, or through the manipulation of short-term indebtedness."

(b) Modifications to Depreciation Rules.—

(1) Treatment of certain property excluded from section 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Certain Property Excluded From Section 197.—

"(1) Computer software.—

"(A) In general.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) Computer software.—For purposes of this section, the term 'computer software' has the meaning given to such term by the last sentence of section 197(e)(3); except that such term shall not include any such software which is an amortizable section 197 intangible or any such software acquired in a transaction to which subsection (e)(8) applies.

"(2) Certain interests or rights acquired separately.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) Allocation of basis in case of leased property.—Subsection (c) of section 167 is amended to read as follows:

"(c) Basis for Depreciation.—

"(1) In general.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) Special rule for property subject to lease.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) Amendments to Section 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) Other payments.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) Renewals, etc.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) Amendment to Section 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) Amendments to Section 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going con-

cern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTION TO CLARIFY TREATMENT OF PROPERTY ACQUIRED IN ALL OPEN YEARS.—

(A) IN GENERAL.—If an election under this paragraph applies to any taxpayer—

(i) in the case of—

(I) any open-year intangible acquired during a return year, 75 percent of the applicable adjusted basis of the intangible shall be treated for purposes of the Internal Revenue Code of 1986 in the same manner as on the taxpayer's Federal income tax return for such year, and

(II) any open-year intangible acquired during an open year which is not a return year, the amendments made by this section shall apply to 75 percent of the applicable adjusted basis of the intangible, and

(ii) 25 percent of the applicable adjusted basis of the intangible shall be treated for purposes of the Internal Revenue Code of 1986 as goodwill with respect to which a deduction for depreciation or amortization is not allowable.

(B) OPEN-YEAR INTANGIBLE.—For purposes of this paragraph—

(i) IN GENERAL.—The term "open-year intangible" means any property—

(I) which is acquired by the taxpayer during the period beginning on the first day of the first taxable year in a series of consecutive taxable years all of which are open years and ending on the date of the enactment of this section,

(II) which is an amortizable section 197 intangible under section 197(c) of the Internal Revenue Code of 1986 (without regard to paragraph (1)(A) thereof), and

(III) in the case of property acquired during a return year, which the taxpayer treated on its Federal income tax return for such year as property with respect to which a deduction for amortization was allowable.

(ii) OPEN YEARS.—A taxable year is an open year if—

(I) the period prescribed by section 6501 of such Code for the assessment of any tax for such taxable year has not expired before June 16, 1992 (determined without regard to subparagraph (D)(iii)) and no closing or settlement agreement has been entered into before June 16, 1992, with respect to the Federal income tax treatment for such year of property described in clause (i)(II), or

(II) as of June 16, 1992, a claim for refund is pending with the Internal Revenue Service (or a refund suit is pending in a Federal district court or the Court of Claims), but only if such claim or suit involves the proper Federal income tax treatment for such year of property described in clause (i)(II).

(C) APPLICABLE ADJUSTED BASIS.—For purposes of this paragraph, the term "applicable adjusted basis" means—

(i) in the case of property acquired during a return year, the adjusted basis (for purposes of determining gain) allocated to such property as reflected on the Federal income tax return for such year, and

(ii) in the case of property not acquired during a return year, its adjusted basis (for purposes of determining gain) as determined under the Internal Revenue Code of 1986.

(D) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

(i) RETURN YEARS.—A return year is a taxable year for which a Federal income tax return has been filed before June 16, 1992.

(ii) AMENDED RETURNS.—In the case of a return year, any determination under subparagraph (A)(i)(I), (B)(i)(III), or (C)(i) as to the treatment of an item on a Federal income tax return shall be made on the basis of the return, taking into account only amendments to such return filed on or before July 25, 1991.

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act, or at any time within the 2-year period beginning on the date the election is made, by any law or rule of law, such deficiency may, nevertheless, be assessed within the 2-year period.

(iv) UNDERPAYMENTS.—If an election under this paragraph results in any underpayment of tax for a return year, such election shall not be treated as valid unless the taxpayer pays such tax (and any interest thereon) before January 1, 1993.

(v) ANTI-CHURNING RULES.—In the case of property to which subparagraph (A)(i) applies which was acquired in an open year other than a return year—

(I) subsection (f)(9) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(II) in applying such subsection to property acquired after July 25, 1991, and before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(E) ELECTION.—

(i) IN GENERAL.—An election under this paragraph shall be made before January 1, 1993, and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

(ii) CONTROLLED GROUPS.—In the case of 2 or more persons under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Internal Revenue Code of 1986), an election under this paragraph shall be made by the common parent corporation (or equivalent person) and shall apply to all such persons. The Secretary of the Treasury or his delegate shall prescribe rules for the application of the election to persons which were not under common control for all open years, including rules allowing persons to make an election under this paragraph for open years in which such persons were not under common control.

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act, and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 422. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, June 19, beginning at 10 a.m., to conduct a hearing to examine the U.S. Fish and Wildlife Service's administration of the National Wildlife Refuge System, and S. 1862, the National Wildlife Refuge System Management and Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DESALINIZATION

• Mr. SIMON. Mr. President, for the past several years, I have promoted the Federal Government's involvement in funding basic research and development of low-cost desalinization technology. Legislation I introduced last year has been marked up by the Environment and Public Works Committee and should be ready for full Senate consideration shortly.

My commitment to this technology is rooted in the belief that widespread application at home and abroad could play a critical role in reducing the possibility of conflict over scarce water resources. Water scarcity already exists, as the article entitled "Just Deserts" articulately explains. As the tag line following the title states: We didn't plan beyond the cold war; now we find that our next battleground may not be for hearts, minds, land, or air superiority, but for water.

The United States shortsightedness is catching up with us: steps need to be taken now to avert a crisis. Breakthroughs in this technology could provide hope to water-poor areas that may otherwise be forced to take drastic measures.

When this legislation comes to the floor, I hope my colleagues will take a minute to consider the tremendous benefits to be obtained and approve it quickly.

I ask that the attached article be inserted in the RECORD.

The article follows:

JUST DESERTS

(By Avigdor Haselkorn)

The recent Gulf War confirmed that free access to relatively cheap oil supplies continues to be a source of potential conflict in the international system. However, this reality can soon be overshadowed by the growing competition for water resources in many places around the world. Moreover, while oil has been traded for years, there is hardly an international market for water (except perhaps for the Perrier variety). Thus, the 1990s could well be marked by increasing international tensions regarding this precious commodity.

The combined influence of the world's population growth global, climatic changes and the effect of man-made pollutants are contributing to making water supplies more scarce and expensive. However, access to adequate supplies of clean water affects not only the health and general development of the population, but has far-reaching consequences for human productivity, food production (both crop cultivation and livestock) and small-scale industry. Consequently, the depletion of water resources and the decline in the quality of available water supplies is already influencing political calculations around the world.

In fact, before the collapse of communism, the world water situation has even become part of the East-West intelligence competition. For example, Maj. Gen. E.N. Yakovlev, at the time chief of the KGB intelligence analysis subdivision, told Pravda on December 20, 1990:

"In 1985, the analysis service obtained data that Western intelligence services were showing interest in the problem of sources of fresh water and its utilization. In this connection we prepared an analytical document which showed that, in the view of Western experts, clean fresh water was becoming an important strategic material and would soon be in short supply in many parts of the world."

There are two processes which threaten the water-supply picture in South Africa. One is urbanization; the other is the growth of the shantytowns. The continuing migration from rural areas to the cities in South Africa will increasingly test the country's water distribution plans. For example, in 1989 alone, some 320,000 new squatters settled in Cape Town. Although there was only a slight increase in the water demand immediately thereafter, the picture soon changed as squatters upgraded their homes and began using more water for domestic purposes.

While government officials are reluctant to discuss just how many people South Africa's water resources could support (some have put the figure at 80 million, but many disagree), critical areas could feel the crunch long before this quota is reached.

For example, with nearly half the urban population living in the PVW (Pretoria, Witwatersrand, Vereeniging) complex, the area supplied by the Vaal River is the most important in South Africa. According to the publication "Management of the Water Resources of the Republic of South Africa," the population of the Vaal River supply area will increase at 2.6 percent a year—from 5.8 million in 1980 to 12.8 million in 2010—with water demand increasing 294 percent.

Moreover, is some parts of South Africa, whites drink ten times as much water as blacks. The whites' facilities were provided long ago when money was "cheap." Providing facilities for blacks in new squatter townships is becoming too expensive. Whites feel threatened that "their" water is being used by blacks, and blacks are resentful that the whites have taken all the "cheap" water and used all the best sites for their dams. This could become a political hot potato.

As in other parts of the world with increasing industrialization, urbanization and irrigation, as well as greater use of fertilizers and pesticides, rivers and waterways are becoming increasingly polluted. But a special problem in South Africa is the population explosion in the shantytowns. In Natal, pollution by giant riverside shantytowns along the Umgeni and Umzinduzi rivers, which supply water to Durban and Maritzburg, is so serious that the water may become "unusable," according to an Umgeni Water report.

Warnings about inadequate water supplies have also been heard in Zimbabwe and Angola. The Harare paper Financial Gazette on September 8, 1989, warned that the country's sugar production faces "an extremely serious outlook" due to a water shortage. Already there has been a reduction in the cane hectarage, and the area cut will not be replanted until water supplies are "secure."

Elsewhere, the use of the Nile waters is a potential irritant in the relationship between Egypt, Sudan and Ethiopia. The Nile runs through seven African countries, and its two main users, Egypt (where desert covers 96 percent of the territory) and Sudan, have jealously guarded the way its waters are shared. In 1959, the two countries signed an agreement, including arrangements for settling disputes, designed to oversee the use of the Nile's waters.

The agreement is facing new strains. Although the Egyptians deny it, their present irrigation plans will, by the mid-1990s, require more than their agreed share of Nile water. Ethiopia, where the Blue Nile headwaters supply 85 percent of the river flow, has announced plans to dam and cut its flow northwards. In 1990 Egypt reacted swiftly with protests when reports reached Cairo that Ethiopia had begun surveying possible dam sites. Simultaneously, the Sudanese government was seeking to complete a channel through the immense swamp called the Sudd, to increase the White Nile's flow by cutting evaporation. Since water that goes up must come down, that will reduce somebody's rainfall, but nobody knows whose.

ASIA

Jordan's King Hussein reportedly stated recently that he could foresee only one possible scenario for another war with Israel—a clash over the waters of the Jordan River Basin. Dire forecasts have predicted that the Middle East, which averages 3 percent population growth a year, will face an annual water shortfall of some 100,000 million cubic meters by the end of the 20th century. Yet, none of the Middle East's major rivers is governed by a negotiated accord accepted by all parties who claim rights.

Last July it became known that the Arab Affairs Committee of the Egyptian People's Assembly had completed a study on the "water crisis in the Arab region." The study said that the problem facing the Arab countries is that they only have 44 percent of the water they need, and the eight non-Arab counties control over 85 percent of these countries' water resources.

In addition to Israel, which the committee blamed for wanting to "steal" more water to supply "the huge number of emigrants entering the country," the study singled out Turkey as engaging in a "nascent water struggle [which] directly threatens Syrian and Iraqi interests and [constitutes] a new threat to pan-Arab security." Ankara often complains that Syria is sponsoring Kurdish terrorism inside Turkey to maintain leverage in water talks. The Syrians say Turkey is using water as a weapon to expand its influence in the region.

At issue are the ambitious projects that would change the geography of Mesopotamia undertaken by Turkey. At present the Euphrates carries about 7,000 billion gallons of water across the border into Syria every year—60 percent of the country's water supply. However, Turkey's planned Ataturk dam project is expected to divert as much as half of that into Turkish dams and irrigation canals. Much of the water will get back into the Euphrates; but after irrigating Turkish fields, it will be saltier when it reaches the Iraqi and Syrian farmland downstream.

Syria's water emergency is also due to mismanagement, pollution and population growth. Syria's growing water needs could thus reinforce its claim for the province of Alexandretta (Hatay in Turkish), where the Orontes river runs. The province was annexed by Turkey in 1938 on the eve of WWII, and Damascus is concerned that any comprehensive agreement on water sharing would be taken in Ankara as recognition that the Orontes is Turkish. In addition, the water emergency is likely to strengthen Syria's resolve to regain the relatively water-rich Golan Heights held by Israel.

Moreover, Syria's own ambitious irrigation plans would take about 3,500 billion gallons or so of water a year out of the Euphrates at Iraqi expense. In 1975, after Syria built its Thawrah dam, the Iraqis claimed that the loss of water put the livelihood of 3 million Iraqi farmers at risk. The argument brought the two countries to the verge of war.

Syria's water plans also include the Yarmuk river. The completion of the Maqarin Dam in the Al-Yarmuk gorge might enable the Syrians to dry out, with the help of the Al-Ghawr Canal, that part of the

Yarmuk which falls into the Jordan River, shared by Israel and the Jordanian Kingdom. It might be recalled that in 1965 Syria tried to divert the headway of the Jordan river. The result was the "war over the water" with months of tank and artillery duels with Israel.

The Israeli water economy is constantly worsening and the expected shortfall toward the end of the century may be as much as one-fourth of annual consumption. Already the quotas for agriculture have been cut by 200 million cubic meters in 1985. Significantly, nearly a third of the water supply consumed by Israel originates in the West Bank. Simply put, he who controls the water sources in the West Bank can literally dry up Israel's coastal strip. Under these circumstances, Israel's reluctance to withdraw from the West Bank, aside from the weighty security considerations, is not surprising. (From the perspective of water resources the opposite is true regarding the Gaza Strip.)

Elsewhere in Asia, the water situation in China is increasingly precarious. According to an August 1991 report in the China Water Resources News, a paper sponsored by the Ministry of Water Resources in Beijing, some 300 Chinese cities are faced with a shortage of water supplies as a result of the rapid economic growth and population boom of some 10 million per year in recent years. One hundred cities were described as suffering "severe" water shortages and 30 "did not even have any water resources worth exploiting."

EUROPE

The political ramifications of water poverty are also beginning to be felt in Eastern Europe. Here the problem is not lack of water resources but mostly their diminished quality due to mismanagement and manmade pollution. The most serious situation apparently exists in Poland where unofficial estimates maintain that due to the pollution of 95 percent of the rivers, the country will be left without drinking water by the year 2000 unless drastic preservation measures are taken forthwith. However, the situation in Czechoslovakia is not much better. Jan Mikolas, deputy minister in charge of the Czech Federal Environment Committee, was quoted in the Bratislava paper Pravda on June 7, 1991, as revealing that only 18 percent of his country's inhabitants are supplied with microbically pure water. According to Prague Radio on February 12, 1990, "the negative consequences" of the industrial program of the former communist regime on the health of the population, "have in fact been concealed and distorted."

In southern Hungary much of the available drinking water is seriously contaminated with arsenic. Similarly, according to the Ministry of Public Health in Sofia, the drinking water does not meet the Bulgarian state standard in at least 296 centers of population due to "inefficient treatment centers." As a result of deforestation during the past 30 years, river water levels in Bulgaria have shown an absolute fall with many springs and rivers drying up for increasingly longer periods.

Significant water-supply problems exist also in the new federal Lander of Germany—formerly the GDR. In particular, these areas are prone to a much higher incidence of pollution of surface water due to the introduction of inadequately purified waste water, soil decontamination from the abandoned toxic waste dumps, from the low connection level to the sewerage system, and from the over-use of fertilizers in agriculture. According to some estimates, only 3 percent of the lakes in the former GDR now have drinkable water and one third of the country's rivers are biologically dead because of toxic waste from chemical plants. As a result, there is 1,470 cubic meters of water available per inhabitation per year in the east—around 45 percent less than in western Germany. The disparity could add to the social tensions which have already brought charges by citizens of the ex-GDR of being "second-class citizens" in Germany.

Interestingly, it has become known that the KGB has used the conclusion of Western intelligence services regarding water use and misuse to influence policy in the former U.S.S.R. Gen. Yakovlev revealed that the KGB adopted the Western assessment that gigantic projects to irrigate waterless areas and particularly to divert rivers are not cost-effective. "We had to survive several unpleasant moments after we submitted this memorandum to the Council of Ministers," recalled Yakovlev. However, the KGB's warnings were not heeded in time to save the Aral Sea in the former Soviet republics of Kazakhstan and Uzbekistan, which some environmentalists have recently dubbed the single worst ecological disaster on the planet.

The growing competition for water resources around the world will add to the political instabilities of the 1990s. Unlike oil, exports of water are rare and little has been done anywhere in the world so far to establish the infrastructure (pipelines, tankers, etc.) to facilitate international trade in this crucial commodity. While Western aid to Asian, African and now East European countries is normally discussed in terms of credit lines and access to hi-tech knowhow, much needs to be done to face the growing water emergencies there. Without a doubt, helping restore, conserve, and expand (for instance through desalination) the water resources of these countries could enhance political stability in key world areas.

(Avigdor Haselkorn is a strategic analyst and defense consultant specializing in Soviet and Middle Eastern affairs.)●

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I have been asked by the distinguished majority leader to take care of routine business.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination:

Calendar 639. Karl A. Erb, to be an Associate Director of the Office of Science and Technology Policy.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Karl A. Erb, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. DOLE. Mr. President, I ask unanimous consent that on Friday, June 19, Senate committees may file reported Legislative and Executive Calendar business until 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

YELTSIN'S VISIT TO KANSAS

Mr. DOLE. Mr. President, June 18, 1992, is a day that has earned a special place in Kansas history following yesterday's extraordinary visit of President Boris Yeltsin to Wichita.

To say that President Yeltsin was a hit would be the understatement of the year: he took Kansas by storm, from the moment he touched down at McConnell Air Force Base to his last handshake at a family farm.

From his dramatic speech at Wichita State University, to his turn behind the wheel of a combine, Boris Yeltsin was the man of the hour. Even more importantly, given his powerful message of peace and partnership for our two countries, Boris Yeltsin can truly be the man of the century if he can pull off his democratic revolution in the former Soviet Union.

I was moved by the hospitality and genuine friendship the people of Kansas extended to President Yeltsin, Mrs. Yeltsin, and the entire Russian delegation.

It was a day of handshakes and smiles, of cheers and applause, and of crowds straining to catch a glimpse of the man whose moment on the world stage has come.

It was also a day of hope for every American and Russian citizen who prays that the days of the cold war are really over.

No doubt about it, bringing a world leader to Wichita was no small logistical challenge. Hundreds of people worked long and hard to make the trip the success that it was and I would like to take just a moment to say thank you to all of them. I cannot list everyone, but I want the people of Wichita to know how much I appreciated their generosity and support.

Certainly, Wichita Mayor Bob Knight has earned a salute for his leadership, heading up the areawide effort to make President Yeltsin's trip as smooth and productive as possible.

I also want to make special note of two very symbolic gestures that perhaps as much as anything else demonstrate this new era of Russian-American friendship.

Wichita State University and its president, Warren Armstrong, presented President Yeltsin yesterday with two $10,000 scholarships to be given to deserving Russian students so that they can come to Wichita State to study business at the Frank Barton School of Entrepreneurship, the kind of education the Russian President says his country needs to catch up with the United States.

Also, Kansas State University President Jon Wefald announced that his school was offering four graduate scholarships for Russian students to study agriculture and agribusiness for the 1993 and 1994 school years.

I want to salute these schools and their presidents for their leadership.

Mr. President, Kansas will never forget the historic visit of President Yeltsin. I am proud and thankful that Kansas will forever be a part of this exciting chapter in world history.

ORDERS FOR TUESDAY, JUNE 23, 1992

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m., Tuesday, June 23; that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, that there be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each, Senator GORTON to be recognized for up to 10 minutes and Senator BOND recognized for up to 20 minutes; that at 11 a.m. on Tuesday, the Senate begin consideration of Calendar No. 464, S. 2733, a bill to improve the regulation of Government-sponsored enterprises; that on Tuesday the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the regular party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M., TUESDAY, JUNE 23, 1992

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 12:06 p.m., recessed until Tuesday, June 23, 1992, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 1992:

DEPARTMENT OF STATE

RICHARD H. SOLOMON, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES.

THE JUDICIARY

RAYMOND L. FINCH, OF THE VIRGIN ISLANDS, TO BE A JUDGE FOR THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF 10 YEARS VICE DAVID V. O'BRIEN, DECEASED.

CONFIRMATION

Executive Nomination Confirmed by the Senate June 19, 1992:

EXECUTIVE OFFICE OF THE PRESIDENT

KARL A. ERB, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, June 22, 1992*

The House met at 12 noon.

Msgr. Andrew McGowan, director of community relations, Mercy Hospital, Scranton, PA, offered the following prayer:

Water is seen in our religious history as an element of cleansing, of refreshment, of deliverance, and as a symbol of new life. On this day 20 years ago in a force known as Hurricane Agnes, it proved to be a source of devastation and destruction and left Pennsylvania's Wyoming Valley with an unprecedented loss of homes and institutions.

We offer in this opening prayer the valley's word of gratitude for so many individuals who responded to our needs with such generosity, to so many institutions, industries, and religious groups who continued this concern, and for the leadership of then Congressman Dan Flood and now PAUL KANJORSKI, and, indeed, for this Congress, this United States Government, that made us all proud to be American.

Thank you, and God bless America.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. THOMAS of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The gentleman from California [Mr. THOMAS] objects to the vote on the ground that a quorum is not present and makes the point of order that a quorum is not present.

Pursuant to clause 5 of rule I, further proceedings on the question will be postponed until the end of the legislative day.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will recognize the gentleman from Wyoming [Mr. THOMAS] to lead us in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TRIBUTE TO MSGR. ANDREW McGOWAN AND THE WYOMING VALLEY

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I am honored today to be the Member who represents the district that has the pleasure of having as one of its constituents Msgr. Andrew McGowan, who gave our opening prayer today. I requested Monsignor McGowan to give this prayer because too often as we go through life here in Congress we forget that in fact we do accomplish some major things for a lot of American citizens who suffer problems.

This day 20 years ago around midnight the waters of the Susquehanna River were meeting the top of the dikes in Wilkes-Barre, PA, and throughout the Wyoming Valley. Thousands of young students and other citizens from across the valley were attempting to sandbag the dikes and save the valley. But along about 5 o'clock in the morning of June 23, it was recognized that nature would not be held back and it took its wrath on Wilkes-Barre. The Susquehanna became a river 40 feet deep and 5 miles wide. It affected 37,000 residences, thousands of businesses, and tens of thousands of employees.

Mr. Speaker, after the flood, the Congress of the United States recognized the importance of what this United States means. The people of this country came together and helped the citizens of the Wyoming Valley.

Twenty years has gone by. There are still remnants of the flood throughout the Wyoming Valley, but we are back. We are back because all the American people came to our aid when we needed them, and we are back because the citizens of Wyoming Valley reflect the true nature of Americans everywhere. We are never down and out. We will always get up and we will always solve our problems.

It is a lesson in 1992 that we could all learn from.

☐ 1210

TOO MUCH REGULATION

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to again talk about regulation, overregulation. I rise to talk about it today because, as usual, I have been home for the weekend.

Over the last two weekends I have had the occasion to meet with six different statewide groups that represent industries in our State. In each instance, overregulation was the issue that they talked about the most and were most concerned about.

Specifically, I would like to mention the provisions that have to do with medical providers, bankers, and mining people. I think there is no question but what overregulation has enhanced the cost of health care.

Up to 25 percent of health care is lost on administration and does not reach the people that we are seeking to help with health care. Part of it is regulation. Part of it is paperwork that is unnecessary.

Bankers, of course, we have a responsibility when we insure deposits to have some regulation, but we do not need to tell them the kind of carpet that they can have in the lobby.

A small bank in Jackson, WY, was asked to have a full-time person to talk about the community investment aspect of regulation. That is unnecessary.

In the mining area, we are struggling constantly with multiple-use regulations, with regulatory provisions that have to do with regional competition.

We need to change those kinds of things. A Presidential candidate yesterday is talking about spending $50 billion to increase the economy, to increase jobs. I suggest to my colleagues, we can do a lot of that right here in the Congress if we will take a look at the regulatory impact each time we pass a bill and know what it will do to hold down jobs and business in this country.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 19, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, June 19, 1992 at 9:10 a.m.: That the Senate agreed to the Conference Report on the bill H.R. 5132 and the amendments in disagreement.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, June 19, 1992:

H.R. 5132. An act making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes.

THE COURAGE OF BILL CLINTON

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, yesterday, democratic Presidential candidate Bill Clinton announced a major economic plan to rebuild America and revitalize this economy. He proposed massive investment in transportation, technology, and conversion of defense industries from building cold war weapons to meeting civilian needs.

He wants to revive our cities through worker training, education, and apprenticeship programs. He wants to create jobs and train workers to fill them. He wants to make cities safer by putting more police on the street.

And this is not fiscal fantasy. He proposes paying for this investment by increasing taxes on people making over $200,000 a year and corporations, closing tax loopholes enjoyed by foreign corporations, and reducing Government bureaucracy. He also will provide tax relief for middle-class workers and families with children.

Bill Clinton is facing the issues head on. He has a plan to put the country back on track. In a campaign in which one candidate has no plans, and the other will not reveal his, it's good to see someone with the courage to present a program to the voters.

IT IS TIME TO RETIRE JOE CAMEL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, old Joe Camel should be retired. The gentleman from Kentucky and three of his esteemed colleagues, including the gentleman from Colorado, who is on the floor today, 3 weeks ago wrote RJR-Nabisco Co., which makes Camel cigarettes, asking that company to show social awareness and retire Joe Camel, whose ads are targeted at young people and children.

Just yesterday, the American Medical Association, at its meeting in Chicago, joined with Surgeon General Antonia Novello and paraded against Joe Camel, again urging that that ad campaign be discontinued.

All of this, Mr. Speaker, comes on the heels of the Environmental Protection Agency's warnings in a long, lengthy study saying that there is health risk to young children and infants who are exposed to downwind or secondhand smoke.

Mr. Speaker, the future is in our children. Anything which jeopardizes that future should be discontinued and banned. Joe Camel should be retired.

TRADE WIMPS ANONYMOUS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan is in a recession. So Japan is now passing Buy Japan legislation, and they are doing just that.

Uncle Sam is not so wise. In fact, we have dropped from second in the world to No. 5 for economic competitiveness. And we are now second to last in education, 21st in the world. But Uncle Sam still purchased 1.6 million dollars' worth of Japanese snowmobiles; 1.2 million dollars' worth of Japanese paper-punching machines; 6 million dollars' worth of Japanese film.

I ask my colleagues, Mr. Speaker, what is wrong with Kodak?

I think the three Presidential candidates should all recommend a new fund for Congress, a TWA school known as Trade Wimps Anonymous. That is exactly what Congress is, and we will be lucky we have a job left before this is all over.

COMMITTEE ON THE JUDICIARY STILL ATTEMPTING TO OBTAIN THE FACTS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last week, as we had Premier Yeltsin here, I think all of us started thinking back over the past year. A year ago, I do not think any of us would have thought that Gorbachev would have been outlived in office by Saddam Hussein. Yet indeed, that happened.

Gorbachev, the great reformer, is gone; Saddam Hussein is still there.

One of the reasons we think that Gorbachev may be gone and Saddam Hussein is still there could possibly be our Government's policy toward Iraq before Desert Storm. It is very possible that we gave more aid to Iraq than we did to the Soviet Union, as it was trying to deal with its reforms.

Therefore, it did not deal very well and had this huge upheaval.

Tomorrow the Committee on the Judiciary is going to make one more attempt to try to get to the bottom of this. On June 2, we had four committee chairmen testify that they have been trying to find out about America's pre-Desert Storm policy toward Iraq and have been stopped at every turn.

Our committee then asked for the two witnesses they said they really needed to hear from, Nicholas Rostow and C. Boyden Gray.

The White House has refused to send those two. I think that is very tragic, but we will take the two Committee on the Judiciary people that they are sending us and hope that we get to the bottom of it.

I think it is very sad this coverup that is going on about the pre-Desert Storm Iraq policy that this Government had.

INTRODUCTION OF HEALTH CARE FRAUD PROSECUTION ACT OF 1992

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, health care fraud costs our country between $50 to $80 billion a year—an estimated 10 percent of our overall health care costs. With health care costs expected to surpass $800 billion this year, fraud is taking money out of the pockets of working middle-class families, food out of the mouths of seniors, and jobs from workers when small businesses are forced to close their doors. Health care crooks are getting rich while average Americans are paying the price.

Health care fraud takes many forms. Doctors submit false bills for procedures they never conducted; they pay kickbacks to lawyers and others to steer patients to them; or they write fraudulent prescriptions to patients who then sell the drugs on the black market. While the vast majority of all health care providers are honest professionals that give this country the highest quality care in the world, a growing number of dishonest individuals are wreaking financial havoc on the system.

Today, I am introducing legislation, along with Chairman SCHUMER of the Crime and Criminal Justice Subcommittee, to attack health care fraud. The Health Care Fraud Prosecution Act of 1992 would increase penalties for health care fraud, require health care cheats to pay restitution, establish a civil and criminal asset forfeiture procedure, and improve the Federal Government's ability to identify and prosecute fraud.

As we look for ways to reduce skyrocketing health care costs, we must confront the problem of fraud and abuse.

□ 1220

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after consideration of H.R. 5055, the Coast Guard authorization bill.

ESTABLISHING A WORLD WAR II MEMORIAL

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1624) to provide for the establishment of a memorial on Federal land within the District of Columbia to honor members of the Armed Forces who served in World War II, and to express the sense of Congress concerning the United States' participation in that conflict, as amended.

The Clerk read as follows:

H.R. 1624

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The American Battle Monuments Commission is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

(c) HANDICAPPED ACCESS.—The plan, design, construction, and operation of the memorial pursuant to this section shall provide for accessibility by, and accommodations for, the physically handicapped.

SEC. 2. ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—There is hereby established a World War II Memorial Advisory Board, consisting of 12 members, who shall be appointed by the President from among veterans of World War II, historians of World War II, and representatives of veterans organizations, historical associations, and groups knowledgeable about World War II.

(b) APPOINTMENTS.—Members of the Board shall be appointed not later than 3 months after the date of the enactment of this Act and shall serve for the life of the Board. The President shall make appointments to fill such vacancies as may occur on the Board.

(c) RESPONSIBILITIES OF BOARD.—The Board shall—

(1) in the manner specified by the Commission, promote establishment of the memorial and encourage donation of private contributions for the memorial; and

(2) upon the request of the Commission, advise the Commission on the site and design for the memorial.

(d) SUNSET.—The Board shall cease to exist on the last day of the third month after the month in which the memorial is completed or the month of the expiration of the authority for the memorial under section 10(b) of the Act referred to in section 1(b), whichever first occurs.

SEC. 3. PRIVATE CONTRIBUTIONS.

The American Battle Monuments Commission may solicit and accept private contributions for the memorial.

SEC. 4. FUND IN THE TREASURY FOR THE MEMORIAL.

(a) IN GENERAL.—There is hereby created in the Treasury a fund which shall be available to the American Battle Monuments Commission for the expenses of establishing the memorial. The fund shall consist of—

(1) amounts deposited, and interest and proceeds credited, under subsection (b);

(2) obligations obtained under subsection (c); and

(3) the amount of surcharges paid to the Commission for the memorial under the World War II 50th Anniversary Commemorative Coins Act.

(b) DEPOSITS AND CREDITS.—The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under subsection (a). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(c) OBLIGATIONS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(d) ABOLITION.—Upon the final settlement of the accounts of the fund, the Secretary of the Treasury shall submit to the Congress a draft of legislation (including technical and conforming provisions) recommended by the Secretary for the abolition of the fund.

SEC. 5. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance in the fund created by section 4, the Chairman of the American Battle Monuments Commission shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

PARLIAMENTARY INQUIRIES

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Speaker, I am here in opposition to the bill. I believe both of these gentlemen are in support of it.

The SPEAKER pro tempore. Is the gentleman from Arizona [Mr. STUMP] in support of the motion?

Mr. STUMP. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. Then the gentleman from Alabama [Mr. DICKINSON] will be recognized for 20 minutes.

Mr. DICKINSON. Mr. Speaker, will the gentleman from Mississippi [Mr. MONTGOMERY] yield for an inquiry?

Mr. MONTGOMERY. I will be glad to yield to the gentleman from Alabama, if this does not come out of my time now. I only have 10 minutes.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY] for 20 minutes.

Mr. MONTGOMERY. I will be glad to yield to the gentleman. However, I ask unanimous consent to yield 10 minutes to the gentleman from Alabama [Mr. DICKINSON].

The SPEAKER pro tempore. The gentleman from Alabama has 20 minutes.

Mr. DICKINSON. I have my time, Mr. Speaker. I am trying to establish a point to see whether or not the gentleman from Mississippi could agree not to bring the bill to the floor. I want to ask a question of the gentleman.

Mr. MONTGOMERY. This will be out of the gentleman's time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] has asked the gentleman from Mississippi [Mr. MONTGOMERY] to yield. The gentleman from Mississippi refuses to yield.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. I will be glad to take whatever time might be consumed out of the time allotted to me.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for such time as he may consume.

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Speaker, let me say, it is my understanding that on June 5 the gentlewoman from Ohio [Ms. KAPTUR], who is a prime sponsor of the bill, which was less than 2 weeks ago, in a colloquy with the chairman of the Committee on Veterans' Affairs, stated, and I quote, "Mr. Speaker, I assume also it was the intention of the gentleman to preserve prerogatives of other House committees such as the Committee on House Administration?" It was my understanding, according to the CONGRESSIONAL RECORD, that the answer was in the affirmative.

It is my understanding now, being a member of the Committee on House Administration, that this bill was not presented in subcommittee and voted on; it was pending, it was not submitted to the full committee and voted on by the full committee. I am told that there was an informal poll taken by telephone in which the minority was not consulted, as far as I can tell. At least, there was no affirmative vote.

If that is so, and I do not know if the gentleman from Mississippi [Mr. MONTGOMERY] can respond to this, I would like to know if the bill that is being presented now has been amended or is it exactly as it was introduced and pending before the Committee on House Administration?

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am pleased to yield to the gentleman.

Mr. MONTGOMERY. Actually, Mr. Speaker, the gentleman would have to take up his statement about what action was taken in the Committee on House Administration, he would have to take that up with the gentleman from North Carolina [Mr. ROSE]. As the gentleman says, he is on that committee. We agreed with several amendments that the committee on House Administration wanted to put in the bill of the gentlewoman from Ohio [Ms. KAPTUR], the bill before us today. Actually, the amendments are, in effect, what the gentleman wanted: There will be no public funds used in this legislation taken out of the Treasury of the country, and it would be done by private funds and by selling of coins. There will be a bill tomorrow that will come up that I believe will clear up what the gentleman wanted.

Mr. DICKINSON. Mr. Speaker, let me say from the gentleman's response I have to assume that the bill that we are now debating here has been amended from the bill that was originally pending before the Committee on House Administration, is that correct?

Mr. MONTGOMERY. If the gentleman will continue to yield, that is correct.

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Speaker, it is my understanding that H.R. 1624 is being brought to the floor today revised by a poll of the Committee on House Administration, not a vote in committee. If a bill has not been amended in committee or full committee, can it be brought to the floor amended? It is within the rules of the House to amend legislation through polls without a vote within the committee?

The SPEAKER pro tempore. Under suspension of the rules the bill as amended is properly before the House. The manager may include an amendment in his motion.

Mr. DICKINSON. A bill may be amended by a telephone inquiry whether or not all the members were polled, is that the ruling of the Chair?

The SPEAKER pro tempore. The manager may include an amendment in his motion.

Mr. DICKINSON. Mr. Speaker, I do not understand the last statement.

The SPEAKER pro tempore. The manager may include an amendment in his motion, to suspend the rules, whether or not it has been formally approved by a committee.

Mr. DICKINSON. Mr. Speaker, will you please restate that? I misunderstood the Chair.

The SPEAKER pro tempore. The manager may include an amendment in his motion whether or not it has been formally approved by a committee.

Mr. DICKINSON. Mr. Speaker, I have a further parliamentary inquiry, if I may.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DICKINSON. Mr. Speaker, if the bill can be amended by poll, how can the poll be valid when the chairman of the Committee on House Administration waived the right to jurisdiction over the bill?

The SPEAKER pro tempore. The Chair cannot comment on any formality by the committee leading up to this proceeding. The bill is properly before the House, under the Speaker's discretionary authority.

Mr. DICKINSON. I thank the Chair.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1624, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume, and I yield 10 minutes to the gentleman from Arizona [Mr. STUMP].

The SPEAKER pro tempore. Without objection the gentleman from Arizona [Mr. STUMP] will be recognized for 10 minutes.

There was no objection.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Mississippi [Mr. MONTGOMERY] for such time as he may consume, up to 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, H.R. 1624, as amended, was introduced on March 22, 1991, by a former member of our committee, MARCY KAPTUR, of Ohio. For many years, she has been leading the effort to establish a memorial to honor members of the Armed Forces who served in World War II and to honor the United States involvement in that conflict. The bill was considered and passed by our committee on July 23, 1991. I want to congratulate Ms. KAPTUR for the many hours she has devoted to this bill—for getting it out of the two committees and to the floor of the House.

I want to also express my appreciation to Chairman CHARLIE ROSE and members of his committee for allowing this bill to be taken up today. It is important that we move this legislation swiftly and get it enacted before Congress adjourns this year.

H.R. 1624, as amended, would authorize the American Battle Monuments Commission to establish the memorial. The bill would require that the Commission build the memorial in accordance with standards contained in the Commemorative Works Act of 1986. We believe the Commission is the proper body to oversee the establishment of the memorial. It operates and maintains monuments throughout the world and is currently involved in building the Korean Memorial. The Commission is accountable to the President and the Congress. It understands its job as a guardian of memorials around the world.

. No public funds would be used in designing and constructing the memorial. The Commission would be authorized to solicit funds and accept private donations. All costs would come from these private donations and from revenues derived from the sale of commemorative coins as set out in H.R. 1623.

H.R. 1624, as amended, would authorize the establishment of an advisory board of 12 members whose primary function would be to promote and encourage donations. In addition, when asked to do so by the Commission, the board could act as an advisory body in the site selection and design for the memorial, but I would hasten to point out that it would only become involved in that aspect of the memorial when asked to do so by the Commission. Members of the board would be appointed by the President from among veterans of World War II, historians of World War II and representatives of veterans organizations, historical associations, and others knowledgeable about World War II.

Mr. Speaker, since December 7 of last year, ceremonies have been held throughout the world honoring events that occurred during this long and critical war. It is time that we paid tribute to those who defended America during this time, and I am pleased to support Ms. KAPTUR in her efforts to get this memorial established in our Nation's Capital.

□ 1230

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR], the author of this legislation.

Ms. KAPTUR. Mr. Speaker, this bill today has been 50 years in the making, from the moment Japan bombed Pearl Harbor on December 7, 1941, to the days that victory was declared in Europe and in the Pacific in 1945.

As we move this bill today toward House passage, I would like the RECORD to show that the idea for its creation came from a humble veteran from Ohio's Ninth District, Mr. Roger Durbin, who served with the 90th Reconnaissance Unit of the 10th Armored Division during World War II. He is currently a resident of Richfield Township, in Lucas County outside Toledo, OH. His dream was to commemorate all those Americans, 16 million of them, who fought in defense of freedom at its most compelling moment in this century. His desire was a simple one, to help create a place in America where he could bring his grandson to explain the ideals for which he and others fought, and where Americans in years hence could visit and pay homage and tribute to those who preserved freedom for the Western World.

I will read from the original letter that he sent me over 4 years ago.

> I think it is kind of ironic for me to * * * ask you for a World War II memorial. If it had not been for the World War II veterans [Congress] would not be sitting today representing the American people in this, the best form of government in the world.
>
> Wouldn't it be nice to honor the World War II veterans with the memorial they deserve in our Nation's Capital while one-half of them are still living.

The passage of this bill has been complicated by the fact that it was referred to three committees. So I am especially grateful and commend Chairman MONTGOMERY of Mississippi for his vigilant support over the 4 years it has taken to move this bill to passage. I also want to congratulate the gentleman from Arizona [Mr. STUMP] a Navy veteran himself and the ranking member who knows the value of recognizing those who have served. When I chaired the veterans' subcommittee charged with memorial affairs their steadfast support kept this dream alive.

The gentleman from West Virginia, Mr. HARLEY STAGGERS, the new chair of the subcommittee, reported this bill again over 1 year ago, and America's veterans thank him too. The gentleman from Missouri, Mr. BILL CLAY, chairman of the Libraries and Memorial Affairs Subcommittee of the House Administration Committee, advised me over 3½ years ago that this bill would be moved concurrently by the House Administration Committee, and so it has. I am most grateful to the chairman of the full House Administration Committee, the gentleman from North Carolina, Mr. CHARLIE ROSE, for his support and willingness to move these bills concurrently and to assure that it complies with the Commemorative Works Act.

I also want to extend a sincere hand of gratitude to all of the veterans' organizations across our country who have worked so diligently to help gain cosponsorship for this bill, now over 240 Members of the House, and who have waited through the public hearing process, and through that process of finetuning the legislation to assure that this memorial's construction will have proper oversight and proper accountability of funds. And so we thank today the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Military Order of the Purple Heart, the Polish Legion of American Veterans, the Normandy Foundation, and the Paralyzed Veterans of America.

In taking this important step toward constructing this memorial, let us remember during World War II countries representing over half the world's population went to war. More civilians and military personnel were killed, more money spent, more property damaged and more sweeping political changes resulted than in any other war during this century. Over 16 million American men and women served this Nation in uniform. Over 406,000 Americans sacrificed their lives in defense of freedom. American GI's fought heroically on all fronts, in the Pacific, the Atlantic, in Europe, Asia, the Mediterranean, and North Africa. The names and places are familiar to us all: Pearl Harbor, Midway, Coral Sea, Bataan Death March, Battle of the Bulge, Normandy, Omaha Beach, and dozens of other battles.

Please let us move forward in passage of this memorial to pay tribute to those who gave their lives to the enduring values to which our participation in that struggle is dedicated.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1624, as amended, a bill to establish a World War II memorial.

As 1 of 59 World War II veterans in this body, I am proud to take part in the establishment of such a long overdue memorial.

This bill would authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces who served in World War II. The memorial would also commemorate the United States participation in that conflict.

H.R. 1624 also establishes an advisory board to promote establishment of the memorial, encourage donations, and assist and cooperate with the ABMC in the selection of the site and design for the memorial.

The total cost of the memorial would come from private contributions and revenues derived from the sale of commemorative coins.

This measure is the result of over 4 years of hard work and I would like to commend its sponsor, MARCY KAPTUR, for her perseverance and determination.

My good friend, SONNY MONTGOMERY, the chairman of the Committee on Veterans' Affairs, should also be commended for his leadership in moving this legislation.

Mr. Speaker, I would also like to recognize HARLEY STAGGERS, chairman of the Subcommittee on Housing and Memorial Affairs, and DAN BURTON, the ranking member of the Subcommittee on Housing and Memorial Affairs for their work on H.R. 1624.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of a long overdue measure, House Resolution 1624, as amended, a bill to provide for the establishment of a memorial to honor members of the Armed Forces who served in World War II. I wish to thank the sponsor, the gentlewoman from Ohio [Ms. KAPTUR], the distinguished chairman of the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member of the Veterans' Affairs Committee, the gentleman from Arizona [Mr. STUMP], for bringing this measure before us today.

Mr. Speaker, while our Nation is at peace after the recent Persian Gulf war, let us never forget the supreme sacrifice that was made by those young people who have served our Nation so valiantly in the defense of democracy and freedom. While there are those of us who have experienced the horrors of war firsthand, many Americans today are poorly informed of the tremendous chaos, tragedy, and atrocities associated with the dark period in human history of World War II. How many young Americans, today are aware that over 400,000 servicemen gave their lives in the fight against the inhumane oppression of totalitarianism? How many remember the 16 million Americans who valiantly served in the U.S. Armed Forces during this period? How many are aware of the immense destruction, of the revolutions, and of the vast migrations that worldwide war caused?

Mr. Speaker, this resolution represents but a small token of the gratitude that our Nation feels for those who died in the defense of freedom. During this time of remembrance as the 50th anniversary of World War II, it is only befitting that we provide a tangible symbol for America's bitter-sweet victory. Although there are well-warranted memorials commemorating other conflicts, unfortunately, at this point, there is no lasting tribute to the veterans of World War II.

This memorial, to be built by the American Battle Monuments Commission, is to be funded by private donations and through the sale of World War II commemorative coins.

It is the duty of those of us who lived through the war to ensure that America remains strong in its defense and unfailing in its support of democracy. Let this memorial provide us with a sobering reminder of the tragic cost of bloodshed and the destructive power of hate. But let it also proclaim the bravery and valiant heroism of the ones we remember and let it symbolize the gratitude we feel for those were willing to put their lives on the line to make certain that their families and children would live in a world free of tyranny and full of freedom. In this way let us thank not only the martyrs but also those who survived to enjoy the many privileges and fruits of freedom that we all possess.

☐ 1240

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with some reluctance today, because it was not my intent to appear today. I thought that the matter would be brought up in the Committee on House Administration.

I do not oppose, in fact, I very strongly favor, erecting a monument in the memory of those who fought in World War II. I think it is unconscionable that we have gone nearly 50 years without an adequate commemoration of those who fought, died, bled, and sacrificed so much so that we could be here today to enjoy the fruits of freedom for which they paid the price.

I am proud to have been a veteran of that war, as is my good friend, the gentleman from Arizona [Mr. STUMP], and the gentleman from Mississippi [Mr. MONTGOMERY].

I am not here in opposition to erecting a monument. I am here strongly in favor of a commemoration and a commemorating monument to those who gave so much in World War II.

My opposition is in how do we pay for it. I have discussed this with the gentlewoman from Ohio [Ms. KAPTUR], and I think I have discussed it briefly with the gentleman from Mississippi [Mr. MONTGOMERY].

I think that probably the best way is to not do it with Federal funds but through private contributions which can readily be attained, in my opinion, as an organization that is set up for this purpose. I have met with them. They have met with Senator THURMOND. They have met with Gen. P.X. Kelley, who is chairman of the American Battle Monuments Commission. There is a difference of opinion about how the best way would be to fund it.

In my conversation with the gentlewoman from Ohio [Ms. KAPTUR] at first I thought she was amenable to the idea. Then later she said no, that she held fast to the idea that it should best be paid for by the sale of commemorative coins.

I do not think that is the way to go. I think it will take too long. I communicated to the gentlewoman from Ohio [Ms. KAPTUR] that I talked to Senator THURMOND, who had introduced and passed the bill in the Senate. I thought that was the best way to go, and if she did not want to support that bill, that I felt obligated to introduce, and did introduce, a companion bill to that introduced by Senator THURMOND.

I have introduced a bill for private funds to build such a memorial. It is cosponsored, Mr. Speaker, by over 90 Members of the House today.

It was waiting to be heard in the Committee on House Administration tomorrow, Tuesday, to be compared with the bill that is being debated today. I thought that the matter would be before the subcommittee that has jurisdiction over these matters to compare. I thought that the committee itself would vote and report out the bill.

I have now learned that there was no such meeting. The subcommittee met, and by having the members of the subcommittee; the four Democrats approved it, and the two Republicans did not approve it. It was scheduled for a full committee meeting. It was pulled from the full Committee Calendar tomorrow and comes up here under suspension, so we do not have any chance to amend it, to discuss it, to offer what I think is a better plan.

I do not oppose the building of a monument. I say that it is a better idea to finance it privately. That is the only difference between the bill under discussion and my bill.

So, as I said, I have over 90 cosponsors of the bill. I think that it is best to go under the regular order by going through the committee before we come to the floor under suspension where we cannot amend it.

It is for that reason that I am here today in opposition to this particular bill at this particular time.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am happy to yield to the gentlewoman from Ohio.

Ms. KAPTUR. I noticed that the gentleman has stated several times that he believes that this should be funded privately. Well, sir, do you not accept the fact that if someone sells commemorative coins that, in fact, those are private contributions and not publicly appropriated dollars? Does the gentleman understand that is what is in the bill, not in this bill, but in the companion bill in the Committee on Banking, Finance and Urban Affairs?

Mr. DICKINSON. Mr. Speaker, reclaiming my time, let me respond if I may then.

The original bill provided, the bill reported by the Committee on Veterans' Affairs, authorizes the appropriation of such funds as are necessary to establish a World War II——

Ms. KAPTUR. But that is no longer in the bill. Is that correct, sir?

Mr. DICKINSON. I will continue on my own time, and I will yield to the gentlewoman if she asks for it when I finish my statement.

This is one of the things I objected to. This is one of the things that was amended by a telephone conversation, I am told, but never came before the committee. But even with that language out, the version of the bill that is on the floor today employs Federal funds through the following: First, the authorization of a Federal commission to establish the memorial; second, the minting of commemorative coins, and this is at the cost of Federal funds; and third, establishment of a fund in the Treasury for memorial expenses, managed and invested by the Treasury. All of these things call for Federal funds. I do not care how you try to get around it. Federal funds are involved in this bill.

So I think it would be the proper way to proceed, it would be the fair way, it would be the commonsense way to let the committee that has jurisdiction compare the two versions, report out to the floor whichever version would be selected by the committee, and have it subject to an amendment on the floor to give the entire House an opportunity to speak to this.

Under the bill as it is presented now under suspension, you cannot amend it. It is a take-it-or-leave-it proposition. I think it is not wise, and it is for this reason I object to it.

I think we should build the monument, finance it privately.

Ms. KAPTUR. If the gentleman will yield further, when the gentleman says it should be financed privately, does the gentleman support proper Federal oversight of the construction and the accountability of funds, or is he suggesting that coins be minted by some private group and then sold with no Federal accountability? What type of accountability does the gentleman support?

Mr. DICKINSON. I will be glad to say that I am not for striking a coin by any group. I am not for selling of coins. I think the money can be solicited privately from veterans, from people interested in veterans, and it can be totally done without Federal dollars, and this is the way I think would be the best way to go.

So I think we are premature in the way it is being brought to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the gentleman from Arizona [Mr. STUMP] be allowed to yield me 4 of his 6 minutes, that he keep 2 of those minutes, and that I be allowed to yield that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] now controls a total of 6 minutes.

☐ 1250

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from

Ohio [Mr. APPLEGATE], a member of the committee.

Mr. APPLEGATE. Mr. Speaker, I thank my chairman for yielding me this time.

Mr. Speaker, I do not care how it is going to be financed. I am just happy with the fact that it will be financed, because at long last we are going to recognize the veterans from the big one, from Pearl Harbor to Guadalcanal and Bataan to Midway, to Iwo Jima, to South Africa, to Italy, to Normandy, the Battle of the Bulge, to unconditional surrender of Germany, Italy, and Japan in 1945, brother, it has been a long time in coming.

To those 16½ million veterans who served, 406,000 of which who died in service, 130,000 who were prisoners of war and nearly 80,000 missing in action, to the millions who were injured and to the millions who were disabled and to the 8½ million who are still living amongst us, this memorial is for you, but also for all Americans to remember the sacrifices of those who preserved precious freedoms for all of us.

Mr. DICKINSON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Alabama for yielding me this time, and join my colleague, the gentleman from Ohio.

He forgot, though, that the 10th and 11th Battalions of marines helped MacArthur retake the Philippines.

I served in the Marine Corps with the 11th Battalion 155-millimeter gun battalion in those years, and as a veteran of World War II, I commend the Members of the House, the gentleman from Alabama [Mr. DICKINSON], the gentlewoman from Ohio [Ms. KAPTUR], and the gentleman from Arizona [Mr. STUMP] for bringing this measure before the House.

I think it is only fitting that after 50 years that we now commemorate the veterans of World War II with a monument in the Nation's Capital, something we have been remiss in doing; however, I have the same hesitancy as my colleague, the gentleman from Alabama, in saying that by the time we go the route that the sponsors of this legislation are going by the issuing of a coin, the selling and advertising of those coins, appealing to the Battle Monuments Commission, cooperating with the Corps of Engineers, that we will become enmeshed in the Federal bureaucracy,. We will become enmeshed in the Federal congressional appropriations process and that we may delay the construction of that monument beyond August or September of 1995, which will be the final limits of the action in World War II.

I would hope that as the sponsors meet with their Senate colleagues to work out a bill that will finally fund this monument that we will look toward expediting it by private funding.

I believe that if we would use the private funding source, properly monitored by the Battle Monuments Commission, properly monitored by a Presidential commission, which is what the bill of the gentleman from Alabama [Mr. DICKINSON] does for the expenditure of these funds, that the private sector could raise the funds much more rapidly than we can by the selling of individual coins throughout the country.

Perhaps I might suggest to the sponsors and to the gentleman from Alabama [Mr. DICKINSON], who may be serving in conference with the Senate, that we merge the two concepts, that we sell coins, and for those of us who want to have some small participation in the financial construction of this monument, but that we also look out into the private sector where corporations, where foundations, may be willing, instead of buying 10,000 coins, they may be willing to contribute their funds, expedite the funding of this and bring the monument within the time constraints.

I hope that we do not have to look at you in 1995 and say that you took the wrong approach by delaying the funding mechanism.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. STAGGERS], who reported this bill out of the subcommittee.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1624, the bill introduced by my friend from Ohio, my colleague MARCY KAPTUR, which would authorize the establishment of a World War II Memorial in the District of Columbia. Ms. KAPTUR has been working diligently to bring this project to fruition since 1987. In order not to spend taxpayers' dollars, she has also been working simultaneously on a coin bill, H.R. 1623, to fund this memorial.

No one Member could have been more dedicated to this cause and I commend her for her efforts. My subcommittee has held numerous hearings on this matter. The bill is strongly supported by veterans organizations and the Congress. H.R. 1624 currently has over 240 cosponsors.

In essence, the bill directs the American Battle Monuments Commission—which oversees American cemeteries and memorials worldwide—to establish the World War II Memorial in the District of Columbia or its environs. The Commission would be responsible for the planning, designing, and construction. H.R. 1624 also provides for an advisory board appointed by the President to promote the establishment of the memorial and to encourage contributions for its construction.

Mr. Speaker, I believe a fitting tribute to the 16 million Americans who served their country and the over 400,000 who died in service during World War II is long overdue and I urge favorable consideration of this bill.

Mr. DICKINSON. Mr. Speaker, I yield myself the balance of the 6 minutes.

In closing, Mr. Speaker, let me reiterate and I hope it is not necessary, I am not opposed to the building of a memorial for those who fought and died and sacrified in World War II. I am a strong advocate of it. I believe in it. I think it is shameful that it has not already been done.

The question is, How do you finance it? Do we sell coins? Do we go through a Federal bureaucracy? Do we have to raise money and use Federal funds, or can we do this privately? If so, how can the moneys be audited and properly accounted for?

Mr. Speaker, many millions of people have had the opportunity to go down on The Mall not very far from here and look at the Vietnam Memorial that is most impressive. It has made all the news over the Father's Day weekend and look at the thousands of names of those who gave their lives there. It is a beautiful memorial, a very fitting memorial. I think it is probably one of the most emotion-evoking memorials that is in existence today.

Mr. Speaker, this monument was built and put in place and totally funded with no Federal funds involved. That is what I would propose to do in this instance.

The question is, well, What is the accountability?

Well, under the bill of Senator THURMOND and under my companion bill introduced in the House, we provide for the raising of funds by the National World War II Memorial Fund, and there is accountability.

My bill addresses the intent of the Commemorative Works Act, the CWA, which says the Congress may authorize a memorial. Then the National Capital Memorial Commission, the Commission on Fine Arts and Interior to approve the site, design and contruction, and generally 501(c)(3) organizations which are subject to IRS regulations are authorized to establish memorials.

Now, that is the authorization. That is the accountability. That is what is in the Federal law today.

□ 1300

This is the accountability of the funds that will be used, that will be raised by the National World War II Memorial Fund, and, if such an organization can build and put in place, and in a relatively short time, with no Federal funds, the Vietnam Memorial, I feel like that they can meet the deadline, which incidentally the deadline is September of 1995, which is the 50th anniversary. I do not believe that the bill presently on the floor will meet that deadline. I am convinced that without Federal funds we can meet that deadline. I think that every other thing that would be in control, that would be in control of the project, whether it be going through the Battle Monuments Commission, and they would be part of it, would insure, just as it did in the Vietnam Memorial, that what we have would be adequate, would be proper, would be fitting in every way, without costing the taxpayers a cent.

Mr. Speaker, I am standing here today because I did not get the opportunity to do this in committee, where it should have been done, where we could compare the two and come up with the best result. I am not opposing the capital bill per se because I believe the intent is good, and I support such an intent. I just do not think selling coins and going about it in that way will do it in time, and it is definitely using Federal funds to bring about what is sought to be accomplished here.

So, as I have said before, I have introduced a companion bill to the one already passed in the Senate by Senator THURMOND. I have introduced it in the House; it is the same as already passed over there, so we do not have to worry about that hurdle. I had over 90 cosponsors already when I filed the bill. It does not use Federal funds, it has all the accountability that is necessary, and, if we can do it for the Vietnam veterans, we can do it for World War II, and, by going this route, we can accomplish it by the deadline, the 50th anniversary, which is what we are all seeking to do. Otherwise I think we will meet with interminable delays.

Mr. Speaker, I really object to the procedure here. It should have gone through committee. No committee met and decided this, either full committee or subcommittee, and I serve on the full committee where I thought I would have had the opportunity to present it. The bill was pulled and brought over here under suspension where it cannot be amended, and it catches everybody who has an interest in the bill very much by surprise. Here it is the first bill on Monday, noon, when most Members are not back, and certainly I was only apprised about the fact that this was going to be on suspension after the last vote Thursday when everybody had left town.

So, Mr. Speaker, I think in all fairness, and comity and in an orderly process we should vote it down today, bring it through the committee system, and then let the House work its will by amendment, if it so desires.

Mr. STUMP. Mr. Speaker, I yield myself 1 minute, and then yield the balance of my time to the gentleman from Mississippi [Mr. MONTGOMERY], my friend and chairman of the Committee on Veterans' Affairs.

Mr. Speaker, I think we all know that it is very difficult to strike a perfect balance between private funding and Government or Federal oversight, but I think we have attempted to do that in this bill, and we did so to try to avoid some of the problems that arose during the construction of the Vietnam Memorial and the Korean War Memorial, and I think this bill will take care of those problems.

Mr. Speaker, I urge passage of H.R. 1624.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR], the sponsor of this bill.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Mississippi [Mr. MONTGOMERY] for yielding this time to me, and I just want to state, as we close, that 4 years of action by the various committees of this House is truly sufficient, and in fact, I think it is time we move the bill, or consideration by the committees will take longer than the war itself.

I think it is also important to point out that H.R. 1624 does provide for private contributions to be solicited and accepted by the American Battle Monuments Commission. That is extremely important, but where our bill differs from some of the other proposals that are being talked about is our bill provides for proper Federal oversight and accountability of funds so the people of this country do not run into the same trouble as they did in prior years with certain private interest groups, seeing the patriotism of American people, taking advantage of them.

So, Mr. Speaker, I want to commend the chairman of the full committee, the gentleman from Mississippi [Mr. MONTGOMERY] for his leadership, the gentleman from Arizona [Mr. STUMP], the ranking member, and all of those, the gentleman from West Virginia [Mr. STAGGERS], the chairman of the subcommittee, for their full support, and I thank the veterans of this country.

Mr. MONTGOMERY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to again compliment the gentlewoman from Ohio [Ms. KAPTUR] for the great work she has done; we are very proud of the women Members in Congress. I point out that the gentlewoman from Ohio [Ms. OAKAR] was the chief sponsor of the Korean Memorial. That memorial is going very, very well. The gentlewoman from South Carolina [Mrs. PATTERSON], the gentlewoman from Indiana [Ms. LONG], the gentlewoman from California [Ms. WATERS] serve on the Committee on Veterans' Affairs and have been very supportive of veterans legislation. On the Committee on Armed Services we are proud that the gentlewoman from Colorado [Mrs. SCHROEDER], the gentlewoman from Maryland [Mrs. BYRON] and the gentlewoman from Tennessee [Mrs. LLOYD] are also very supportive of measures for veterans such as the bill we are considering today.

Let me point out once more that the bill calls for the use of private funds, and there will be no public funds used to build this World War II Memorial. In section 3 of the bill it says that the "American Battle Monuments Commission may solicit and accept private contributions for the memorial."

This is similar to the procedure we used in establishing the Korean Memorial. It was successful. Veterans organizations will come forward. They will give money to the Battle Monuments Commission to build this memorial. The money will go directly into the Treasury of the U.S. Government, and the money will be there for the architecture and for the planning and for the construction.

Let me say, Mr. Speaker, this memorial is long, long overdue. Over 400,000 Americans lost their lives. There was only one other war where we lost more lives, and we did not have an accurate count, and that was the Civil War during which an estimated 620,000 Americans lost their lives fighting each other. Mr. Speaker, 16 million Americans were called to active duty in World War II. This memorial is long overdue.

The gentleman from Alabama [Mr. DICKINSON] is a combat veteran of World War II, 3 years in the Navy. The gentleman from Arizona [Mr. STUMP] served 3 years in the Navy, in the Pacific, one of the young persons that marched or sailed off to war at 18 years of age. I am very proud that I have on today the Combat Infantry Badge that I earned in World War II.

We need this memorial. The time has passed us, and I certainly hope that we will get the full support of the House of Representatives, and pass this bill today and pass it on a unanimous vote.

□ 1420

Mr. DORNAN of California. Mr. Speaker, I just wanted to say how important this World War II Memorial is in an educational sense. We have a frightening situation approaching us that President Reagan mentioned when he was leaving office of forgetting our history and forgetting the women and men who actually gave the full measure of devotion and died for freedom.

The abysmal lack of knowledge about World War II in our high schools, if not our universities, is just absolutely appalling. This is not just a watershed event or a seminal event that history seems to evolve from. It is the cataclysmic event of this entire century. Maybe since the Battle of Waterloo in 1815 which changed European history, there has never been an event such as this.

Today is the 50th anniversary of the fall of Tobruk, where Rommel and his African Corps captured 30,000 British soldiers, the most ever in the history of the empire—except for Singapore a few months before on New Year's Day when 60,000 British soldiers were taken.

The Africa Corps picked up half a million gallons of gasoline, 3 million rations, and were able to drive all the way to El Alamein. It could have turned the war.

This is also the 51st anniversary of the Stalin-Hitler pact, being broken by Hitler, attacking Russia under Operation Barbarosa, which probably cost the war for Nazi Germany.

These kind of events must be taught in school, and this memorial is a physical reminder of the 300,000-plus men and women who gave their lives and the 63 million that died in that war, including tens of millions of civilians, in concentration camps and as deliberately targeted people around this world.

So I obviously rise in support of the World War II Memorial.

So, obviously, I rise today in strong support of H.R. 1624 to establish a World War II memorial. For 50 years now, we have enjoyed freedom from the oppression of tyranny, tyranny that threatened to destroy the world half a century ago. Thanks to our brave World War II veterans, we were able to defeat the combined Axis forces of Germany-Japan-Italy, Axis powers that had to be forcibly defeated in combat with great loss of life. One needs only to look back at today's date, June 22, to realize how dangerous the Axis threat was 50 years ago and how brave our service men and women were during the greatest mass killing of all history.

June 22, 1941: 51 years ago, The Nazis launch operation "Barbarossa," the invasion of the Soviet Union, their allies since the Stalin-Hitler pact signed August 23, 1940. The German Army would later surround Leningrad and fight to the very outskirts of Moscow before the Russian winter and later Russian T-34 tanks drove Hitler back. The failure of this invasion operation gave the United States and Great Britain desperately needed time to prepare our forces for combat, combat that would cost 11 million Allied and Axis military lives but ultimately result in victory over Nazi Germany. The unprecedented horror was the 42 million men, women, and children murdered in labor, concentration, and death camps in Japan, Manchuria, China, and throughout Nazi-occupied Europe.

June 22, 1944: President Roosevelt signs the GI bill, which provided a range of benefits to help American servicemen returning from war adjust to civilian life. The GI bill, of course, is similar to the bill guided into law by my distinguished Mississippi colleague SONNY MONTGOMERY, the current Montgomery GI bill.

June 22, 1945: The ferocious fighting on the tiny but heavily fortified Japanese-occupied island of Okinawa ends as United States forces achieve victory. This victory, however, is not without great cost: 12,500 Americans dead and 35,600 wounded—over 100,000 Japanese forces killed in action. The stage is set for final and complete victory over the war lords of Japan, with the end of World War II, just a few short months ahead.

And today, June 22, 1992, I can think of no better day than today to pass legislation to establish a memorial to the brave fighting men and women of World War II. I urge my colleagues to vote unanimously for this small but fitting tribute to those who gave so much yet asked for so little in return. From the heartland of our country and from sea to shining sea, our Nation gave the blood of youth so that millions and millions, including generations not yet born, would know the joy and fruits of freedom.

Mr. KANJORSKI. Mr. Speaker, I rise in strong support of H.R. 1624, a bill to establish a memorial honoring Americans who led the United States to victory in the Second World War.

Fifty years ago, this Nation accepted its duty to protect liberty. Tyrants were locking their grip on the world. For a time it seemed that nothing could stop the domination of free peoples by ruthless dictators.

But the enemies of freedom did not count on the bravery of the men and women of the United States. After Pearl Harbor, our Armed Forces were deluged with volunteers willing to risk life itself to defend their families, their country, and precious human liberty.

History will forever record the valor of these great Americans. They fought at Guadalcanal, Midway, Sicily, Normandy, in the press across Europe, at the Battle of the Bulge, in Iwo Jima, Okinawa, and countless other bloody engagements. Also important to the war effort were the Americans who built barracks, typed documents, fed the troops, worked in the mines and on the production lines here at home, and performed all the other tasks necessary to Allied victory.

Americans went overseas knowing there was danger. Nearly 700,000 were wounded in action.

Many never returned; 400,000 Americans died in the service of their country.

The time has come to honor all who contributed to America's success.

H.R. 1624 will establish a memorial to honor members of the Armed Forces who served in World War II, and it will express the sense of Congress that we should hold appropriate 50th anniversary commemorations of U.S. participation in the Second World War.

I cosponsored H.R. 1624, and I testified in support of this legislation when hearings were held last year.

There is at present no monument to the war effort. We have made sure the bill will not require Federal spending, only the appreciation of all Americans willing to contribute to a memorial fund. Tomorrow we will consider another bill, H.R. 1623, which will provide for the sale of a commemotive coin to pay for the building of this memorial without increasing the deficit. I am sure my colleagues will support that effort. In short, there is no reason we should not pass H.R. 1624.

Mr. Speaker, we are voting today to raise a memorial honoring the Americans who helped the allies win World War II. I urge my colleagues to stand behind veterans of that war.

More importantly, I hope we honor veterans every day we live in freedom. When we vote; when we criticize our leaders; when we love our families; and every time we are reminded that we live in the greatest land on Earth—I hope we remember the brave men and women who protected this country in its hour of need.

Mr. POSHARD. Mr. Speaker, I rise in strong support of this bill and in support of the veterans of World War II.

The World War II Veterans earned a special place in history by fighting the forces which threatened democracy and freedom around the world.

Thousands of brave men and women from my home State of Illinois contributed to that effort. We are thankful for those who returned home alive, and eternally grateful for the ultimate sacrifice of those who did not.

It was a defining moment in history, one which showed the strength and courage of this Nation, and I believe we owe those families an appropriate remembrance.

Memorials, such as the one proposed for our World War II veterans, serve many purposes. They comfort those who lost someone dear, they are a source of pride for those who survived, and they provide an important historical resource for the generations to come.

I am pleased to join my colleagues in this effort and pledge my continued support to the veterans of this Nation.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 1624, as amended.

The question was taken.

Mr. DICKINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

WIC FARMERS' MARKET NUTRITION ACT OF 1992

Mr. KILDEE. Mr. speaker, I move to suspend the rules and pass the bill (H.R. 3711) to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "WIC Farmers' Market Nutrition Act of 1992".

SEC. 2. PURPOSE.

~~The purpose of this Act is to authorize grants to be made to State programs designed to provide resources to women, infants, and children who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruit and vegetables) from farmers' markets.~~

The purpose of this Act is to authorize grants to be made to State programs designed to—

(1) provide resources to women, infants, and children who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at such markets.

SEC. 3. WIC FARMERS' MARKET NUTRITION PROGRAM.

Subsection (m) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended to read as follows:

"(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) ensure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program, which may be satisfied from State contributions that are made for similar programs.

"(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each approved State plan, and need not award grants to each State that submits a State plan.

"(5) Each State that receives a grant under this subsection shall ensure that the program for which the grant is received complies with the following requirements:

"(A) Individuals who are eligible to receive Federal benefits under the program shall only be individuals who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

"(i) the highest concentration of eligible individuals;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary and that maximize the availability of benefits to eligible individuals.

"(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the program; and

"(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program in any fiscal year not more than 15 percent of the total amount of program funds.

"(ii) During the first fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i). During any fiscal year other than the first fiscal year for which a State receives assistance under this subsection, upon the showing by the State of financial need, the Secretary may permit the State to use not more than 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i).

"(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds for the administration of the program shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

"(6)(A) Each State that received assistance under the demonstration program authorized by this subsection in a fiscal year ending before October 1, 1991, shall receive assistance under this subsection if the State complies with the requirements established by this subsection, as determined by the Secretary.

"(B)(i) Subject to the availability of appropriations, if a State provides the amount of matching funds required under paragraph (3), the State shall receive assistance under this subsection in an amount that is not less than the amount of such assistance that the State received in the most recent fiscal year in which it received such assistance.

"(ii) If amounts appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $50,000 or the amount that the State received for the prior fiscal year if that amount is less than $50,000.

"(C) In providing funds to serve additional recipients in a State that received assistance under this subsection in the previous fiscal year, the Secretary shall consider—

"(i) the availability of any such assistance not spent by the State during the program year for which the assistance was received;

"(ii) documentation that justifies the need for an increase in participation; and

"(iii) demonstrated ability to satisfactorily operate the existing program.

"(D)(i) A State that desires to receive a grant under this subsection shall submit, for each fiscal year, a State plan to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(ii) Each State plan submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

"(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

"(F) In approving and ranking State plans submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with this or similar programs;

"(ii) favorably consider a State's operation of a similar program with State or local funds that can present data concerning the value of the program;

"(iii) require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not reduce in any fiscal year the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

"(iv) give preference to State plans that would serve areas in the State that have—

"(I) the highest concentration of eligible persons;

"(II) the greatest access to farmers' markets;

"(III) broad geographical area;

"(IV) the greatest number of recipients in the broadest geographical area within the State; and

"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

"(v) take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.

"(G)(i) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

"(ii) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States that desire to serve additional recipients, and whose State plans have been approved.

"(iii) In any fiscal year, any funds that remain unallocated after satisfying the requirements of clauses (i) and (ii) shall be reallocated in the following fiscal year according to procedures established pursuant to paragraph (10)(B)(ii).

"(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

"(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(8) For each fiscal year, the Secretary shall collect from each State that receives a grant under this subsection information relating to—

"(A) the number and type of recipients served by both Federal and non-Federal benefits under the program for which the grant is received;

"(B) the rate of redemption of coupons distributed under the program;

"(C) the average amount distributed in coupons to each recipient; and

"(D) when practicable, the impact on the nutritional status of recipients by determining the change in consumption of fresh fruits and vegetables by recipients;

"(E) the effects of the program on the use of farmers' markets and the marketing of agricultural products at such markets and when practicable, the effects of the program on recipients' awarness regarding farmers' markets; and

"(D) (F) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a compilation of the information collected under paragraph (8).

"(B) The compilation required by subparagraph (A) shall be submitted on or before April 1, 1994.

"(10)(A) There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and $8,000,000 for fiscal year 1994.

"(B)(i)(I) Except as provided in subclause (II), each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unexpended funds shall be returned to the Secretary by February 1st of the following fiscal year.

"(II) Notwithstanding any other provision of this subsection, a total of not more than 5 percent of funds made available to a State for any fiscal year may be expended by the State to reimburse expenses incurred for a program assisted under this subsection during the preceding fiscal year or may be retained by the State to reimburse expenses expected to be incurred for such a program during the succeeding fiscal year.

"(ii) The Secretary shall establish procedures to reallocate funds that are returned under clause (i). Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner.

"(11) For purposes of this subsection:

"(A) The term 'coupon' means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

"(B) The term 'program' means—

"(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

"(ii) the farmers' market nutrition program authorized by this subsection.

"(C) The term 'recipient' means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection, or who is on a waiting list to receive such benefits.

"(D) The term 'State agency' has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State.".

SEC. 4. EFFECTIVE DATE.

The amendment made by section 3 shall be effective as of October 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

□ 1310

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3711 establishes as a permanent part of the Special Supplemental Food Program for Women, Infants, and Children [WIC], the demonstration program that provides WIC participants with supplemental coupons for the purchase of fresh fruits and vegetables at farmers' markets.

The title of H.R. 3711 is the WIC Farmers' Market Nutrition Act of 1992. This bill has been developed in close coordination with the Republicans and with the Senate staff to arrive at a bipartisan, bicameral agreement.

This legislation, Mr. Speaker, is designed to strengthen and approve the existing demonstration program under WIC by removing the 10-State participation limit, providing a sufficient administrative expense allowance, and establishing criteria for ensuring expansion of existing programs in States, while awarding grants to new States, and by making other clarifying and technical changes.

This program is designed to work in conjunction with WIC and its goals of supplementing the diets of nutritionally at-risk women, infants, and children, while permanently improving the health of those people through nutrition education.

Mr. Speaker, WIC is a highly successful program credited with reducing the incidence of low birth weight, which is the leading cause of U.S. infant death. A May 1992, General Accounting Office report estimates that 1990 prenatal WIC benefits cost the Federal Government $296 million—but avoided over $472 million in expected Medicaid expenditures.

H.R. 3711 establishes the WIC Farmers' Market Nutrition Program as a means by which nutritionally at-risk women and children can gain access to fresh produce, thereby enhancing WIC's ability to improve their nutritional status.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN], the ranking member of the Committee on Agriculture and a ranking member on this committee also.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise is support of H.R. 3711, a bill that authorizes grants to States for the WIC Farmers' Market Nutrition Program. This is a good program, through which needy families can purchase fresh fruits and vegetables at farmers' markets.

The farmers' market demonstration project was authorized in the 1988 Hunger Prevention Act and has been operating in 10 States. Through the demonstration projects, $3.5 million in coupons for the purchase of fruits and vegetables has been provided each year to more than 250,000 women, infants, and children. Approximately 2,500 farmers participated in more than 250 markets.

H.R. 3711 continues and expands upon the demonstration projects by establishing the WIC Farmers' Market Nutrition Program. Grants are authorized to States through fiscal year 1994 to provide assistance to needy persons in the form of coupons to purchase fresh, nutritious foods from farmers' markets. States must contribute 30 percent of the costs of the program, which may include local and private funds. Participants will receive from $10 to $20 per year to purchase fruits and vegetable at farmers' markets.

The WIC Farmers' Market Nutrition Program will continue to assist in improving human nutrition and the marketing of fresh fruits and vegetables. The dietary guidelines issued by the U.S. Department of Agriculture and the U.S. Department of Health and Human Service include recommendations to eat a variety of foods and to choose a diet with plenty of fruits and vegetables. H.R. 3711 provides the means for needy families to take steps toward achieving the goals of improved, nutritious diets.

Mr. Speaker, I urge my colleagues to support H.R. 3711.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Michigan [Mr. KILDEE], the subcommittee chairman, and the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor, and the ranking minority member of the Committee on Agriculture, the gentleman from Missouri [Mr. COLEMAN], for bringing the measure to the floor at this time.

Mr. Speaker, the WIC Program has been a highly successful and meritorious program. It has helped to bring important nutritional benefits to young mothers throughout the Nation by providing resources to women, infants, and children who are nutritionally at risk just as this measure does in providing fresh, nutritious, unprepared foods such as fruits and vegetables from farmers' markets throughout the Nation for mothers in the WIC Program. This not only helps our farmers but, more importantly, helps those prospective mothers and those who are mothers to improve their basic nutritional intake.

This measure provides an important supplement to the WIC program, and I want to commend our colleagues who have sponsored it and the respective committees for their work in bringing this measure to the floor at this time.

Mr. Speaker, I urge full support for the measure.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank the chairman, the gentleman from Michigan [Mr. KILDEE], for his perseverance in this program. The Women, Infants, and Children Program is perhaps one of the most successful programs we have had in our Nation in dealing with impoverished and underprivileged children. Through the distribution of milk, medicine, medical care, and counseling, our WIC Program has been extremely successful.

Mr. Speaker, I am sure that the expansion of this program nationwide, providing America's underprivileged and impoverished very young children with the ability to receive fresh fruits and vegetables, will be a great stride forward in combating some of the basic poverty we have. This wealthy Nation of ours can certainly afford extending these fruits and vegetables that are so plentiful in our Nation to those young people and their mothers who very much need them.

Mr. Speaker, I commend the chairman and ranking member from my State, Mr. GOODLING, for this very important program.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3711, the WIC Farmers' Market Nutrition Act of 1992. A unique feature of this bill is that it simultaneously responds to two important public policy concerns. Even as it seeks to significantly improve the nutrition of the mothers and children participating in the Special Supplemental Food Program for Women, Infants, and Children [WIC], it also serves to preserve and expand the use of farmers' markets, which very often are the principal marketing outlet for the fresh fruits and vegetables grown by small family farmers.

Fortunately, my State was among the 10 initially selected to participate in the demonstration project which was authorized to test the basic concepts of this unique policy initiative. I know that those Members whose States shared this experience with Pennsylvania have received the same very positive feedback on the project that I have from both WIC participants and State farmers' associations. As the expiration of the project's authorization at the end of this fiscal year has approached, both of these constituencies in the participating States have urged not just a continuation of the project but its expansion into a permanent program.

On the latter request, the project States have been joined by 15 additional States seeking participation in such an expanded program: Arkansas, California, Georgia, Illinois, Indiana, Kentucky, Minnesota, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oregon, Virginia, and Wyoming. H.R. 3711, Mr. Speaker, responds to this interest in and enthusiasm for an expansion of this program even as it seeks to strengthen and improve its operation and administration.

I urge my colleagues to give it their support.

Mr. KILDEE. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Women, Infants, and Children Program is, as my friend, the gentleman from Pennsylvania [Mr. GOODLING], just stated, perhaps the most successful of the programs that we delve in and use to send money back to people throughout the United States, because you need good health, both physical and mental, and it is dependent upon nutritious foods that are available. To too many people, it is not available, or at least it was not.

Mothers cannot care properly for their children and children cannot learn if they are not healthy. They cannot play if they are not healthy. It is important to America, to the future of this country, that our young children are going to be able to grow and grow properly.

Mr. Speaker, so I say this is an extremely important program. I am very happy to rise in support of it, and I ask all Members to give their unanimous support.

Mr. FORD of Michigan. Mr. Speaker, I rise today in support of H.R. 3711, the WIC Farmers' Market Nutrition Program. This legislation provides fresh nutritious fruits and vegetables to recipients of the Special Supplemental Food Program for Women, Infants, and Children [WIC], a program which benefits low-income pregnant women, nursing mothers, infants, and preschool children considered to be at health risk because of poor nutrition.

H.R. 3711 extends the WIC Farmers' Market demonstration project which has been in existence since 1988. The program currently operates in nine States and offers coupons to WIC recipients for purchases of fresh fruits and vegetables at farmers' markets. The coupons supplement the normal food package items provided to WIC recipients. States participating in the project have included Connecticut, Iowa, Maryland, Massachusetts, Michigan, New York, Pennsylvania, Texas, Vermont, and Washington. Michigan dropped the program in 1991 after it became difficult for the State to provide the required State funds—30 percent of the cost.

This legislation makes possible the continuation of the programs in States where they currently exist and also provides for an expansion of the program in other States. The program is authorized through 1994.

The program authorized in this legislation is associated with the WIC Program which has long been lauded as one of the most popular and cost-effective programs in Congress today. The WIC Program was created in 1972 for the purpose of linking health and food assistance. Since the inception of the WIC Program, study after study has shown the effectiveness of the program in terms of preventive intervention. Moreover, it has also been shown that for every $1 invested in the WIC Program, $3 is saved in later medical costs.

The most recent WIC national evaluation documents even more successes than anyone ever imagined. For an example, children ages 4 and 5 who began WIC benefits in utero had significantly better vocabulary scores, and those whose benefits were first received after the first birthday had significantly better digit memory than control children. In 1990, the U.S. Department of Agriculture conducted a study of Medicaid and WIC in five States. The study showed that prenatal participation in WIC resulted in substantial savings in Medicaid costs for newborns and mothers during the first 60 days after birth. This study found that each dollar spent on WIC in the States under review saved Medicaid costs ranging from a $1.77 to $3.13 for newborns and mothers, and from $2.84 to $3.90 for newborns alone.

Moreover, many highly respected national organizations have called for full funding of the WIC Program. The Congressional Budget Office [CBO] estimated that a total of 8.5 million persons would be eligible for WIC in 1991, and further estimated that only approximately 55 percent of all those eligible could be served by the WIC Program at the fiscal year 1991 appropriations level.

In view of the many valuable benefits and successes demonstrated as a result of the benefits of the WIC Program and the sound investment of Federal funds that saves billions of dollars in health expenditures by preventive intervention, I urge my colleagues to support this measure.

Mr. DE LA GARZA. Mr. Speaker, I am pleased to support passage of H.R. 3711, the WIC Farmers' Market Nutrition Act of 1992, a bill that was reported by both the Agriculture and the Education and Labor Committees.

H.R. 3711 authorizes the WIC Farmers' Market Nutrition Program to provide vouchers to women, infants, and children who are nutritionally at risk to be exchanged at farmers' markets for fresh, unprepared foods such as fruits and vegetables and to enhance the awareness and use of farmers' markets. This program is intended to continue and expand State programs established under the farmers' market coupons demonstration project authorized in the Hunger Prevention Act of 1988.

As the Committee on Agriculture learned from the testimony of witnesses at a public hearing held by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, the demonstration project has served two very significant purposes in improving both human nutrition and the marketing of fresh fruits and vegetables.

For participating women, infants, and children, the pilot project has provided a new source of agricultural commodities for an improved diet with an emphasis on fresh fruits and vegetables. In terms of better nutrition, consumption of fruits and vegetables is higher among WIC women who receive farmers' market coupons and this trend continues even after participation ceases.

For farmers, the project has meant new opportunities for marketing their products. The project has helped expand sales at farmers' markets, in some cases dramatically. In addition, the project has fostered the opening of new farmers' markets. A recent Department of Agriculture study found that 90 percent of participating farmers favor continuation of the project.

The purposes of this demonstration project have been well met, and a WIC farmers' market nutrition program should be authorized and established.

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of H.R. 3711, a bill that authorizes grants to States so that benefits, in the form of fresh fruits and vegetables, may be provided to needy families through farmers' markets.

Last month the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee held a hearing on the WIC Farmers' Market Program. The subcommittee received testimony from Representatives from Connecticut, Iowa, and Massachusetts about the success of the WIC Farmers' Market Program in those States. According to a report issued by USDA in April 1991 all projects were operating successfully and meeting Federal grant requirements; participants consumed more fruits and vegetables; and farmers, although the projects had a small impact on their income, were generally supportive of these projects.

H.R. 3711 builds on several demonstration projects that were authorized in the 1988 Hunger Prevention Act. Through this bill, States can receive grants to administer farmers' market nutrition programs and must provide 30 percent of the cost of the program from State, local, or private funds. Participants will receive from $10 to $20 per year to purchase fresh fruits and vegetables at farmers' markets.

The bill authorizes $3 million for 1992, the amount currently appropriated, and increases the authorization up to $8 million for 1994.

This bill represents a partnership between the Federal Government and States to provide nutritious food to needy families. I note that USDA has been encouraging States to inform food stamp participants that they may purchase food at farmers' markets. Almost 7,000 produce stands and routes are authorized to redeem food stamps and as of January 1992 over $13 million in food stamps has been used at these facilities.

I urge my colleagues to support the WIC Farmers' Market Nutrition Act of 1992.

Mrs. MINK. Mr. Speaker, I rise in strong support of H.R. 3711, the Women, Infants and Children Farmers' Market Nutrition Act of 1992 which was passed by the House yesterday. This bill builds upon the successful Women, Infants and Children Program [WIC], which provides valuable nutrition supplements to at-risk pregnant women and children under the age of 5.

The WIC Farmers' Market Nutrition Act will allow WIC participants to purchase fresh fruits and vegetables at farmers markets in addition to the packaged goods obtained with WIC coupons at supermarkets and grocery stores.

Currently operating as demonstration programs in 10 States, the WIC Farmers' Market Nutrition Program has served over 270,000 nutritionally at-risk women and children nationwide while providing additional income to small fruit and vegetable growers.

H.R. 3711 will help expand this successful program into all States who wish to provide this beneficial service to needy women and help support local farmers.

In Hawaii, farmers markets are popular shopping areas, especially for those women living in rural areas that do not have access or transportation to supermarkets and grocery stores. For many women, shopping at a farmers market also means a larger variety of ethnic fruits and vegetables that may not be available in the large supermarket chains.

Mr. Speaker, needy women and small farmers will benefit from the expansion of this program. And I am confident that many States will gladly participate and contribute a matching share to the Federal dollars allocated for this program.

The benefits of the WIC Program and its emphasis on early childhood nutrition are well documented. By providing nutritional supplements to at-risk children and mothers, WIC has helped to improve the cognitive and physical development of children, reduce the incidents of anemia and low birthweight, and reduce infant mortality rates.

Mr. Speaker, H.R. 3711 will continue the trend toward taking proper care of our children and I urge all of my colleagues to vote in support of this legislation.

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Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the bill, H.R. 3711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING TRANSFER OF CERTAIN NAVAL VESSELS TO GREECE AND TAIWAN

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5412) to authorize the transfer of certain naval vessels to Greece and Taiwan, as amended.

The Clerk read as follows:

H.R. 5412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE CERTAIN VESSELS TO GREECE.

(a) IN GENERAL.—The Secretary of the Navy is authorized to lease the "KNOX" class frigates VREELAND (FF–1068), TRIPPE (FF–1075), and CONNOLE (FF–1056) to the Government of Greece. A lease under this section may be renewed.

(b) APPLICABLE LAW.—Any such lease shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to the Congress) shall apply only to renewals of the lease.

(c) CONSIDERATION FOR LEASE.—Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a ship pursuant to this section may provide, as part of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Greece.

(d) COSTS OF TRANSFERS.—Any expense of the United States in connection with a lease authorized by this section, including any liabilities of the United States based on its ownership of a vessel arising during the period of the lease, shall be charged to the Government of Greece.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section to lease a ship described in subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease is entered into during that period.

SEC. 2. AUTHORITY TO TRANSFER EXCESS VESSEL TO GREECE.

(a) IN GENERAL.—The Secretary of the Navy is authorized to transfer the excess "CHARLES F. ADAMS" class guided missile destroyer BERKELEY (DDG–15) to the Government of Greece.

(b) APPLICABLE LAW.—Such transfer shall be in accordance with section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers to excess defense articles), except that subsection (c) of that section (relating to notifications to the Congress) and any similar provision shall not apply.

(c) COSTS OF TRANSFERS.—Any expense of the United States in connection with the transfer authorized by this section shall be charged to the Government of Greece.

(d) EXPIRATION OF AUTHORITY.—The authority granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. AUTHORITY TO LEASE CERTAIN VESSELS TO TAIWAN.

(a) IN GENERAL.—The Secretary of the Navy is authorized to lease the "KNOX" class frigates BREWTON (FF-1086), ROBERT E. PEARY (FF-1073), and KIRK (FF-1087) to the Coordination Council for North American Affairs (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act). A lease under this section may be renewed.

(b) APPLICABLE LAW.—Any such lease shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to the Congress) shall apply only to renewals of the lease.

(c) CONSIDERATION FOR LEASE.—Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a ship pursuant to this section may provide, as part of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Coordination Council for North American Affairs.

(d) COSTS OF TRANSFERS.—Any expense of the United States in connection with a lease authorized by this section, including any liabilities of the United States based on its ownership of a vessel arising during the period of the lease, shall be charged to the Coordination Council for North American Affairs.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section to lease a ship described in subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease is entered into during that period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5412, as amended, authorizing the transfer of certain navel vessels to Greece and to Taiwan. This legislation was requested by the executive branch and enjoys broad bipartisan support.

I would like to clarify some jurisdictional issues involved with this legislation. The underlying statute of title 10 of the United States Code falls within the jurisdiction of the Committee on Armed Services. In that regard, I would acknowledge that we have worked closely with the Armed Services Committee to expedite this legislation because of its time-sensitive nature. In fact, the distinguished chairman of the Subcommittee on Seapower, my good friend from Florida, Mr. BENNETT, fully supports the substance of this H.R. 5412, as amended. I am sure that the Committee on Foreign Affairs and the Committee on Armed Services will continue to work closely on transfers of this nature.

Mr. Speaker, separate legislation authorizing the transfer of ships is required under title 10 of the United States Code if the ships are in excess of 3,000 tons. The ships covered by this legislation fall into that category. In addition, the ships in question are scheduled to be decommissioned on June 30 after 22 years of service. These ships will be transferred to the Governments of Greece and Taiwan pursuant to the leasing authority contained in the Arms Export Control Act.

While two of these ships are not essential to the defense of the United States and not needed for public use during the period of the lease, those ships are fit for further service. Therefore, during the period of the lease those ships will be retained on the Naval Vessel Register while under the operational control of the Hellenic Navy and the Coordination Council for North American Affairs. Should those ships be needed in a future national emergency they can be recalled at any time.

One ship will be transferred to the Government of Greece under the southern region amendment relating to transfer of excess defense articles. The guided missile destroyer *Berkeley* was found unfit for further service to the United States and will be stricken from the Naval Vessel Register and declared excess. All costs associated with the transfer of the *Berkeley* will be covered by the Government of Greece. The activation costs and a training package are estimated to cost approximately $16 million. At this time, I would like to insert into the RECORD a list of ship transfers under section 516 to the Government of Greece and the Government of Turkey.

SHIPS TRANSFERRED UNDER SECTION 516, FAA (SRA)

GREECE

Following ships were leased to the Government of Greece, declared excess, and subsequently transferred under SRA:

Ship SRA transfer date: 18 April 88.
MSL 33—minesweep.
MSL 35.
MSL 39.
MSL 40.

TURKEY

Following ships were leased to the Government of Turkey, declared excess, and subsequently transferred under SRA:

Ship SRA transfer date: 17 August 87.
DD 886—destroyer.
DD 827.
DD 825.
DD 842.
DD 822.
SSAG 567—aux. submarine.
SS 563—submarine.
LST 1167—landing ship tank.
LST 1170.
AD 17—repair ship.
ARS 25—salvage ship.
ARD 12—drydock.
APL 47—living barge.
APL 53.
PG 97—patrol gunboat.
PG 95.

PORTUGAL

The AGS 25 had been transferred to the Government of Portugal under an old grant aid loan arrangement. The ship was declared excess and transferred under SRA on 2 November 88.

GREECE

The PG 99 and PG 101 were transferred to the Government of Greece under SRA from the Inactive Ship Facility, Yorktown, Va. in 1989. These ships did not meet the criteria for special enabling legislation and were notified under the SRA requirements.

On the budgetary side, I would note for my colleagues that the lease of these ships will result in no cost to the United States. In fact the United States will receive $10.9 million under the terms of the lease for Greece and for Taiwan the total rental will be $14.5 million. All repairs and maintenance work on these ships will be done at dry docks in the United States. In addition, all training will be conducted by the U.S. Navy in the United States.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to be a cosponsor with Chairman FASCELL of H.R. 5412, which authorizes the transfer of four naval vessels to Greece and three naval vessels to Taiwan.

The administration has assured me that these six *Knox*-class frigates, *Vreeland*, *Trippe*, *Connole*, *Brewton*, *Kirk*, and *Robert E. Peary*, and one *Charles F. Adams*-class guided-missile destroyer *Berkeley* are no longer needed in the U.S. active inventory.

Further, the U.S. Navy strongly supports the transfer of these vessels to advance the valuable, cooperative relationship that we have developed with both the Hellenic Navy and the Taiwan Navy.

Over the period of the initial 5-year leases, the United States Government will receive in rent $10.9 million from Greece and $14.5 million from Taiwan. In addition, all costs associated with the leases, including maintenance, repairs and training are to be borne by the Governments of Greece and Taiwan, respectively.

The U.S. Navy estimates that by proceeding with these leases, the United States will accrue nearly $80 million in training, supplies, support and repair costs over the period of the leases.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise to support this legislation, authorizing the transfer of four ships to Greece and three ships to Taiwan.

As our distinguished chairman, the gentleman from Florida [Mr. FASCELL] and the ranking Republican of our Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD] indicated, these seven vessels are no longer needed in the U.S. active inventory.

As Mr. BROOMFIELD indicated, this transfer is strongly supported by the Department of the Navy, and will certainly serve to enhance the already strong military cooperation we have with the Greek and Taiwanese Navies.

Moreover, I have been informed that the U.S. Treasury will receive over $25 million from this transaction. In addition, each and every single cost associated with the lease will be borne by the Governments of Greece and Taiwan.

Mr. Speaker, this lease represents nothing short of an excellent arrangement for the United States. Accordingly, I strongly urge the unanimous adoption of this measure.

Mr. FASCELL. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLARZ], chairman of the Subcommittee on Asian and Pacific Affairs.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman from Florida [Mr. FASCELL], my very good friend and the extraordinarily distinguished chairman of the Committee on Foreign Affairs, for yielding time to me.

Over the years I have had differences of opinion from time to time with my friends on the other side of the aisle, the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from New York [Mr. GILMAN] concerning American foreign policy in the eastern Mediterranean. But we stand shoulder to shoulder in support of this important legislation, not only because we all believe that Greece can benefit from this transfer of American naval vessels but also, and most importantly, because we both believe that Greece is a valued ally of the United States and a country whose security is very much in the American national interest.

Indeed, Greece is the country which gave birth to the very concept of democracy upon which our own great Republic was founded over two centuries ago. And over the course of time, in many differing circumstances, we have been able to rely on the friendship and support of Greece, which is one of the most important members of the North Atlantic Treaty Organization.

Particularly at a moment when there is considerable trouble and tension in the Balkans and in the eastern Mediterranean, I believe that the transfer of these vessels to Greece will serve a very significant, symbolic purpose by making it clear to all other countries in the region that Greece continues to enjoy the friendship and the support of the United States.

In addition, I think it is worth noting, Mr. Speaker, that we now have a government in Greece which is clearly very friendly to the United States. We have a significant interest in strengthening the Mitsotakis administration, and it is my hope that the expeditious enactment of this legislation will be seen by the people of Greece as a timely reaffirmation of the eternal friendship, not only between our two peoples but between our two countries.

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As a consequence, I strongly support this legislation, as I have other legislation, which makes it clear that the United States considers Greece to be a good friend, a strong ally, and a political and strategic partner in a very important part of the world.

I would also like to take this opportunity to state my strong belief that in addition to providing these vessels, the United States should redouble its efforts to facilitate a resolution of the problems on Cyprus, a peaceful, negotiated resolution of that longstanding conflict would be in the interests not only of the United States but of all the parties to the conflict.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from New York for his most cogent and articulate presentation on a very important issue of foreign policy, and I reserve the balance of my time.

Mr. BENNETT. I rise in support of the bill H.R. 5412, permitting the lease and transfer of seven U.S. naval ships to Greece and Tiawan, including six *Knox* class frigates and a guided missile destroyer. I am pleased to work with my colleague, Mr. FASCELL, to act promptly on this bill in order to allow the transfer of the vessels to proceed in a timely fashion.

This legislation is necessary because, under section 7307 of title 10, United States Code, the sale, lease, or transfer of a naval vessel that displaces more than 3,000 tons or is less than 20 years old, can only be accomplished by legislation. Each of the vessels that are proposed for lease or transfer displace more than 3,000 tons or are less that 20 years old.

Section 7307 was enacted to ensure that the transfer of large and/or modern naval vessels from the U.S. Navy could only be done after consideration of all relevant matters by the Congress before such a transfer is made. In the present case, the six frigates are still fit for service, are not excess to Navy requirements, and may be needed in a future national emergency. The proposed transfer will provide that the ships may be reclaimed by the United States if necessary. The recipients would be required to maintain the vessels at no cost to the United States.

Under the present plans of the Navy the ships to be transferred would not be maintained in the active fleet because of reductions in the fleet and budget limitations. By transfer of the ships to Greece and Taiwan, the ships will be maintained and see active service in those navies, rather than being moth-balled and an expense to maintain to the U.S. Navy.

Ship transfers have historically provided a basis for fostering alliances with friendly nations, and the present transfer offers the opportunity to continue that tradition. I strongly support the legislation and urge its adoption.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 5412, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING APPOINTMENT OF GEN. THOMAS C. RICHARDS TO THE OFFICE OF FAA ADMINISTRATOR

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2703) to authorize the President to appoint Gen. Thomas C. Richards to the office of Administrator of the Federal Aviation Administration.

The Clerk read as follows:

S. 2703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General Thomas C. Richards, United States Air Force, Retired, to the Office of Administrator of the Federal Aviation Administration. General Richards' appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Air Force, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, General Richards shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Air Force, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Air Force, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, General Richards shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Air Force.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation now before us would allow Maj. Gen. Thomas C. Richards to serve as Administrator of the Federal Aviation Administration while remaining on the retired list of the U.S. Air Force.

The legislation is necessary because of a provision in the 1958 law establishing the Federal Aviation Administration which requires that the FAA administrator be a civilian and not on the active or retired list of the armed services. This law is important in the interests of establishing civilian primacy over the regulation of the Nation's airspace.

While it is important to retain generally this provision regarding the Office of FAA Administrator, I believe the requirement should be waived in this instance so that General Richards can be appointed and not lose any of the military retirement benefits he has earned. Without this bill, he would have to resign his commission and be removed from the retirement list of the Army in order to be appointed administrator which would harm his pension benefits.

The Aviation Subcommittee held hearings on this legislation on June 2 and received testimony from General Richards. General Richards is very much aware of the need for civilian control of the airspace, and I do not expect undue military influence to creep into his management of the airspace just because he is a retired officer.

The Congress has passed similar legislation on a number of previous occasions. It is important that we do so again today so that General Richards can take office and this important agency can regain leadership it has been without since last December.

Also, I would note that the Senate bill we are considering is virtually identical to a bill, H.R. 5292, which I introduced 3 weeks ago along with JAMES L. OBERSTAR, our Aviation Subcommittee chairman, JOHN PAUL HAMMERSCHMIDT, our full committee ranking Republican member, and BILL CLINGER, our subcommittee ranking Republican member.

Finally, last week our investigations and Oversight Subcommittee Chairman ROBERT BORSKI and I met with General Richards to discuss a matter which has been under the review of the committee—namely, the safe operations of some foreign air carriers in U.S. airspace. It was reassuring to hear of General Richards' commitment to make this issue a top priority during his leadership of the FAA.

In that meeting, General Richards also addressed the recently strained relationship between some offices at the FAA and the General Accounting Office. He pledged to rectify this problem upon his being sworn in as Administrator. It was evident that General Richards realizes the important contribution the GAO can make toward aviation safety and I am confident that this situation will be satisfactorily resolved.

Mr. Speaker, I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to join the distinguished chairman of the Committee on Public Works and Transportation, the chairman of the Subcommittee on Aviation, the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], and all the members of the Committee on Public Works and Transportation in support of this legislation.

Mr. Speaker, this bill would permit Gen. Thomas Richards to serve as FAA Administrator.

I had the pleasure of serving with General Richards on the Aviation Security Commission. During the Commission's deliberations, General Richards was always very thoughtful, sensitive, and reasonable. No doubt he will bring the same traits to his new position as Administrator of the Federal Aviation Administration.

We look forward to having General Richards at the FAA to fill a slot which has been vacant far too long. At the same time, we do appreciate the excellent job of Acting Administrator Barry Harris has done during the interim.

No doubt General Richards is leaving an interesting life in Texas. We appreciate his willingness to make this sacrifice in order to serve in Washington.

Technically, the purpose of this legislation is to permit General Richards' appointment to the FAA, notwithstanding his retired military status. If legislation is not enacted, the general would be required to resign his commission and lose his pension benefits. Obviously, there is no reason why he should have to pay such a high price in order to serve as FAA Administrator.

Therefore, I support this legislation and look forward to working with General Richards in his new capacity at the FAA. May his tenure there be a long one.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California, Mr. NORMAN MINETA, chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I appreciate the chairman of our full Committee on Public Works and Transportation yielding me this time.

Mr. Speaker, I rise in support of S. 2703, legislation which authorizes the President to appoint Gen. Thomas C. Richards to the Office of Federal Aviation Administrator.

The Subcommittee on Aviation held a hearing on this nomination which provided us with the opportunity to learn more about General Richards and his plans and priorities as Administrator of the FAA.

Mr. Speaker, it is crucial that we have a strong leader at the FAA. This is especially important at this time when Americans from coast to coast and the entire Congress are finally focused on the future of our Nation's transportation infrastructure.

The next FAA Administrator will be implementing policy that will affect issues which promise to be some of the most important transportation issues of the decade.

Mr. Speaker, General Richards has outstanding credentials. Both the Aviation Subcommittee Chairman JIM OBERSTAR and Congressman JOHN PAUL HAMMERSCHMIDT worked with General Richards as members of the President's Commission on Aviation Security and Terrorism; a monumental challenge for which all three should be highly commended.

Mr. Speaker, I urge the approval of S. 2703. I look forward to working with General Richards as we continue to develop and improve the national aviation system that the United States needs and deserves; a system which can bring us safely and smoothly into the 21st century.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it gives me great pleasure to see the legislation concerning General Richards reach the House floor, and soon to be passed by this body, as it was just last week by the other body.

Mr. Speaker, General Richards is a person who comes with great qualifications to serve as head of the Nation's Federal Aviation Administration. The gentleman from Arkansas [Mr. HAMMERSCHMIDT], ranking member of the full committee, and I came to know General Richards during about a 10-month period when we served with him as members of the Presidential Commission on Aviation Security and Terrorism, the so-called Pan Am 103/Commission, inquiring into the terrible tragedy at Lockerbie.

During that period of time we saw General Richards as a man of great compassion, great understanding of aviation, a person of great insight into the problems of security who understood the magnitude of that tragedy, its impact on people, and the consequences for not only ours but the world's aviation system.

In that period of time we watched General Richards analyze facts, respond thoughtfully, patiently, with searching questions to the issues that were brought before us, and bring to bear his considered judgment, not hastily but measured, in a measured fashion.

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So, in conclusion on that point, I would just say his contribution to the final product of the Commission, our report and its 64 recommendations, was a very considerable and very thorough one. So when he was nominated for the position of FAA administrator it gave me great confidence, as I am sure it did the gentleman from Arkansas [Mr. HAMMERSCHMIDT] that we would have at the helm of the FAA a person who would understand security and make sure that the law we enacted, based upon the Commission's recommendations, would be fully and thoroughly carried out, and that no gap would be left standing.

General Richards came before our subcommittee for the hearings on this legislation and I asked him, "What is the central role or mission, in your judgment, of the FAA?" Without hesitation, his response was to maintain safety at its highest level. I asked about the progress that had been made in recent years in bringing us a national focus and moving away from the extraordinary decentralization and harmful decentralization of the FAA. He made it very clear that he wanted to maintain the central focus of the agency, that he wanted to be informed, that he wanted to be sure that there would be uniformity in all of the regions of the FAA, and that he would take full responsibility.

When I asked him what are your top priorities for safety in the FAA, I know what mine are but I wanted to know what his were, he said first maintaining the highest level of technical competence in the air traffic control system and among our air traffic controllers, keeping the health of the industry, and within the FAA on the inspector system in the matter of aging aircraft, paying especial attention to the rising issue of commuter airlines, and to keep an ever higher level of vigilance over maintenance throughout the aviation network among our air carriers, commuter, regional and general aviation system. I think that speaks to the kind of Administrator we need in the FAA whose focus is on safety, whose eye is on the central objective of this agency to maintain safety at its highest possible level, and who with the firmness of purpose and with the solidness of character will keep this agency on track toward its central mission of maintaining safety, and then keeping the rest of the responsibilities of the FAA Administrator high on his list. That is maintaining our progress and expanding airport capacity and improving the technology of aviation through the $25 billion mass plan modernization program that will carry us through the balance of this century.

In short, I rise with great confidence in General Richards as a person who will carry out the responsibilities of the Office of Administrator in the highest and the best traditions and with real firmness of purpose and sincerity of objectives.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. PACKARD], a member of the committee.

Mr. PACKARD. Mr. Speaker, I wish to extend my thanks for the leadership of the committee that has followed through with this appointment, and I want to render my full support and great confidence in General Richards' appointment as the Administrator of FAA.

Never before have I felt a great need for leadership in our aviation industry, and certainly with his experience and with his leadership capabilities and his interest in this field I think it is a very crucial and a very timely appointment, and I look forward to the opportunity of working with him as we in the Congress work through some very significant airport and aviation issues for the coming several years. And I want to extend my support for his appointment.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me extend my thanks and compliments to the distinguished gentleman from Minnesota [Mr. OBERSTAR], the chairman of the subcommittee and the gentleman from Pennsylvania [Mr. CLINGER], the ranking member for the hearings they held on General Richards, and without going into it any further, the gentleman from Minnesota [Mr. OBERSTAR] has already expressed our fine working relationship previously on the Commission with General Richards, and I know that we are all looking forward to working with him.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding for a brief observation which I intended but neglected to make earlier.

As I look at my committee folder on FAA Administrator, it says "Busey, Curry, Richards." This is the fifth administrator of the FAA in the time that I have been involved with aviation in our committee, Mr. Speaker, and I am taking this opportunity to serve notice, as I did in the hearings, that this constant turnover in the highest position in aviation cannot be tolerated any longer. It must not be. We have to have continuity in the position of administrator of the FAA.

The chairman of the Aviation Subcommittee in the other body has expressed the same concern. I think my colleagues on the subcommittee expressed the same concern, and I am just making it clear that it will continue to be my intention to press for legislation at the appropriate time to establish a fixed term for Administrator of the FAA so that we can induce people of the highest caliber to take that position and to remain in that position, to give this agency the stability and the long view that it needs.

I thank the chairman for yielding for that observation.

Mr. BORSKI. Mr. Speaker, I rise in support of S. 2703, legislation providing for the appointment of Gen. Thomas C. Richards to be Administrator of the Federal Aviation Administration.

I am pleased to be able to join my colleagues from the Public Works and Transportation Committee in supporting this legislation. I have confidence that General Richards will be able to effectively deal with the challenges confronting the FAA.

The Subcommittee on Investigations and Oversight, which I chair, has been exploring our Government's longstanding policy of solely relying on the host government of a foreign airline to ensure that operations are being conducted safely in U.S. airspace. It is our concern that some developing countries lack adequate resources or experience to properly surveil its aircraft.

Last week, I had the opportunity to meet with General Richards and Chairman ROE to discuss this matter. I was pleased that General Richards shares my concern and promised to make the safety of foreign airline operations a top priority under this administration.

Additionally, I also raised with General Richards my concerns over reports detailing a divisive relationship that apparently exists between certain FAA offices and those responsible for monitoring their activities, such as the General Accounting Office and the Department of Transportation's Office of Inspector General.

General Richards strongly pledged that under this leadership there would be better cooperation between the FAA and these groups. I am convinced that General Richards fully realizes the important benefits the Agency can derive from receiving input from the GAO or the inspector general.

It is with these assurances that I support General Richards' nomination to become FAA Administrator. I look forward to his leadership in ensuring that the Congress, the relevant oversight agencies and the FAA will work in harmony to improve aviation safety and our aviation infrastructure. In conclusion, I wish to include in my statement the letter I received from General Richards following our meeting which relays his assurances.

FEDERAL AVIATION ADMINISTRATION,
Washington, DC, June 18, 1992.

Hon. ROBERT A. BORSKI,
House of Representatives, Washington, DC.

DEAR MR. BORSKI: It was a pleasure to meet with you and Chairman Roe to discuss your concerns over the certification of foreign airlines.

As I have stated, safety will be my first priority as FAA Administrator. I will pursue the issues you raised until I am satisfied that there are no safety concerns.

You raised concerns about FAA's cooperation on this issue with the General Accounting Office (GAO). I assure you that under my leadership, FAA will cooperate fully with GAO on this very important matter. I understand the important work GAO performs on behalf of the Congress. I have in fact taken steps to meet with Ken Meade of GAO after I am confirmed.

An identical letter has been sent to Chairman Roe.

Sincerely,
THOMAS C. RICHARDS,
Administrator Designate.

Mr. CLEMENT. Mr. Speaker, I am pleased to join my chairman in supporting S. 2703, which will permit retired Air Force Gen. Thomas Richards to be Administrator of the Federal Aviation Administration while retaining his rights to his military pension.

During the subcommittee's hearing on this measure, I was impressed with General Richard's response to questions raised by committee members. I was particularly impressed by his willingness to review, with an open mind, the Metropolitan Nashville Airport Authority's application to expand its part 150 noise compatibility program.

Mr. Speaker, there are many issues confronting the FAA. They all will be challenges for the Administrator and the agency. But among the most serious of issues is the noise airport neighbors suffer from airport and aircraft operations. General Richards acknowledged this fact during his testimony.

To solve this problem, we will need creative solutions. Relying on the introduction of the quieter stage 3 aircraft will not be enough. In fact, it is unfair to tell individuals that they only need to wait for quieter aircraft before they can enjoy the solitude of their home and yards. The question the FAA needs to answer is what residents should do in the meantime.

In Nashville, the community and the airport authority have worked together to devise a hopeful, albeit imperfect, solution to the noise problem. Using the experience gained during implementation of its current part 150 noise compatibility program, the neighbors and the authority together have proposed some refinements and expansions to the program. These refinements and expansions where formally submitted to the FAA last Wednesday.

In a meeting with neighborhood and airport representatives, Senators SASSER and GORE and myself, the FAA promised to thoroughly and promptly review the proposal. I think this is an important indication of the FAA's willingness to entertain new solutions to this problem. It is an attitude also reflected by General Richards to our subcommittee hearings.

Mr. Speaker, at our meeting last week with the FAA, the neighborhood representatives made concise but forceful arguments in support of the expanded part 150 program. I will submit their statements inasmuch as they demonstrate the level of concern of airport neighbors everywhere.

And I urge my colleagues to join in supporting passage of S. 2703.

PRESENTATION OF GAYLA COMBS

Thank you for allowing Audrey, Brian, and me to speak on behalf of the Nashville Airport Community. This community is comprised of many diverse neighborhoods. They share one important characteristic. They all suffer from the illness known as airport expansion.

We are here in Washington, today, seeking cures for this illness. Cures do exist within the FAA medicine cabinet. There are specific prescriptions for specific forms of this disease but they are difficult to diagnose as the symptoms vary from neighborhood to neighborhood. Our proposal identifies and describes the characteristics of each area that is suffering in hopes that a cure or solution may ultimately be found.

There is a chronic form of this disease which persists for years. It is largely ignored by healthier segments because of its gradual onset. The symptoms are often perceived as imaginary. This form begins long before Part 150 Programs or even the identification of stage 3 aircraft. Neighborhoods located at the ends of old runways suffer most from this form. Their situations are worsened by the spread of commercial zones. This infection weakens the heart of the neighborhood leaving behind few owner-occupied properties.

A few neighborhoods have suffered so long from the chronic form that there is serious doubt if they will be able to survive the progression into an acute phase. This occurs with the extension or addition of a runway. Already infected and diseased, neighborhoods are weak and fragile. A timely cure must be urgently sought.

The acute form strikes suddenly. It is precipitated by the addition of a hub and/or the construction of a new runway. Healthy areas suddenly experience interrupted sleep, difficulty communicating, visual clouding, and a general sense of anxiety. The areas are often located some distance from the airport, giving them a false sense of protection. The protection is quickly stripped away as the air born illness is transported into their areas by carefully selected flight tracks. If an area has been weakened by commercial infection, survival is difficult.

Some areas suffer daily. Others suffer only when the winds change. Some experience mild symptoms, easily dismissed because the pain-level is judged by others to be tolerable. There are never pain-free days for these areas which are often located between the noise contours. The irritation of ground noise, over-flights, and the presence of clear and approach zones leave the areas inflamed and hurting.

There is hope. There are cures available. We seek aggressive treatment. The amputation of areas through acquisition may seem severe. We hope it leaves behind a healthier, stronger community. Band-aid solutions like sound insulation and sales assistance do not cure acute forms of this disease. They are, nonetheless, vitally important to the milder forms and we seek their inclusion.

Just as in the real world of medicine, there is not an answer for each person that is suffering. There is not a cure or solution for each neighborhood. There should be and we continue to look for answers through research and legislation. Please examine carefully the symptoms identified in our proposal. As John Wesler says, relief is often spelled M-O-N-E-Y. Please be liberal in your prescription.

NASHVILLE HOMEOWNERS' PRESENTATION TO THE FAA

(By T. Brian O'Neal)

My name is Brian O'Neal. I am a homeowner and resident in one of the "afflicted" areas Gayla Combs spoke of. Thank you for hearing us today.

T.M. "Mac" Ackerman, who is the Noise & Environment Officer for the Planning & Development Branch of the Airports' Division of the FAA has said that he prefers airports to submit their Part 150 plan, implement it, then come back and request revisions as needed. The original Part 150 for Nashville has been implemented and has been found wanting, so we are here today requesting its revision to cover original oversights, needs that have developed, and to consider problems arising with existing plans. We believe we are justified in these requests, and that careful consideration will prove the wisdom of this proposal before you.

All of this was facilitated by the 1984 decision to build a beautiful new terminal in Nashville with easy access to downtown, a terminal capable of facilitating a major hub operation. This was a bold venture which was the first step in opening Nashville and the entire middle Tennessee area to the world. However, this decidedly ambitious venture was built in the middle of a densely populated area. The building of the new terminal facility and subsequent American Airlines' hub directly impacted over 5000 homes. Nashville was not typical in the decision to build an international airport in a well-established densely populated residential area.

The original Noise Compatibility Program (the NCP) declares that non-compatible land uses in Nasvhille would be reduced by acquisition of homes in the extended approach zones for each runway, and a sales assistance/sound insulation program would be applied to the remaining noise impacted areas. The lines for the land and clear zones and noise contours were laid down on top of neighborhoods and implementation of the program simply "cut along the dotted lines". Very little, if any, consideration was given to geographic and topographic boundaries—to consider neighborhoods as sole entities not to be divided.

That was a huge mistake. The integrity of neighborhoods has not been sufficiently emphasized. As a result, the acquisition program is far too limited and sales assistance/sound insulation has not been extended to neighborhoods as a whole. The proposal we place before you today recognizes the integrity of individual neighborhoods. It addresses the unique circumstances of each neighborhood area and proposes the appropriate response to achieve the desired goal of compatibility and to keep neighborhoods intact or considered as a whole—equitably and uniformly.

Initially it was thought that 50 million dollars would fund the entire program. Once the program was implemented it became clear that twice this much was necessary. Now the program is three years underway and it is woefully apparent that a doubling of the funds is necessary again. The lesson is: An international airport cannot be placed in the middle of a metropolitan area without impacting a substantial number of people's homes and lives, and it cannot be done without great expense to compensate those impacted!

Everyone, and I mean everyone, agrees mistakes were made and programs came up short. Realizing this, the Nashville Metro Council has initiated a commendable but inadequate attempt to insulate homes outside of the program areas. The effort being put forward by local government in financially troubled times such as these testifies to the fact that the current program is short-sighted.

But what of the future? The Metropolitan Nashville International Airport will continue to grow. One runway is currently being extended to accommodate non-stop overseas flights, while construction is just beginning on the relocation of the General Aviation runway. Another north/south runway has been proposed for construction in the not-too-distant future. In fact, MNAA has nothing but plans for long term expansion vigorously mapped out! All of these are exciting prospects for Music City. But will our current NCP provide the compatible land use to expedite these projects? No—it doesn't even provide current relief! The proposal we present to you today takes significant steps in clearing the way for future expansion plans by addressing the noncompatible land use question head on! Recognition of program shortcomings and the hindrance it creates for future expansion has resulted in a united plea from the MNAA, the community, and all levels of government (as is evidenced today by the participation of Congressman Clement, Senator Gore, and Senator Sasser).

It is undeniable that the airport's impact on several neighborhoods can only be remedied by expanding the acquisition program—these neighborhoods are so close and so impacted the current programs don't work! It is equally undeniable that other neighborhoods must receive sales assistance and sound insulation to remain viable as neighborhoods, rather than being treated as leftovers.

Nashville, TN is not Everywhere, USA. Our community is not typical. Decisions have been made in Nashville and concerning Nashville that have not been made anywhere else. While some of these decisions have put Nashville on the cutting edge of implementation of these federal programs, some have contributed to the undesirable situation hampering compatibility in Nashville today. The overwhelming outcry of Nashville neighborhoods requesting additional funding cannot be denied. We are only asking that adequate funds be appropriated at this time to provide the forms of relief already called for by the Federal Part 150 guidelines and the acquisition laws.

REMARKS OF AUDLEY JONES

Immediately, with the June '85 announcement of airport expansion the life of our neighborhoods, and the economic and physical life of our real property were shorted twenty years. Twenty important years which may otherwise have made the airport and neighborhood relationship more compatible at the later date.

Also immediately, substantial growth began to occur along airport corridors and commercial encroachment began to squeeze some of our neighborhood boundaries where it hurt. Seems everyone wants to set up shop near the airport, but residents are all over the place * * * just sitting out there in everyone's way. While residents may be a predicament for the airport and the business community, no one is more harmed, or better understands the predicament of being in the way of airport expansion than the residents themselves.

So, it is for that reason that we have joined Nashville airport representatives here today to request FAA consideration and approval of the revision to Nashville's part 150 as it has been presented to you.

On August 25, 1989, six years after San Francisco's program was first to receive approval, Nashville became approval No. 52. In just 2 years following, another more than 50 airports received part 150 approvals. Such momentum build-up would seem to indicate a need to find viable solutions to probably new and many on-going airport and airport community concerns not only in Nashville but across the nation. Quite frankly, we would like to see Nashville in a position to enhance its program and become a role model for the rest of the county.

Nashville part 150 is a good program as far as it goes, but until it offers an option to every homeowner it falls short of being what it should be. The proposal being presented for FAA sanction goes a long way toward accomplishing that objective; with its recommended expanded acquisition and program inclusion areas.

Some of the areas offered for consideration represent: subdivision fragmentation; separation of contiguous neighborhoods; narrow non-program areas sandwiched in between other program areas; non-program areas exposed to arrival and departure noise events; ground noise; overflights of jet and general aviation aircraft; and close-in areas directly under two flightpaths.

Latest expansion brought residents such experiences as: Lengthening of operational day by approximately 3½ to 4 hours. Extraordinary ground noise events which are every bit as loud as and generally of much longer duration than overhead flights. Impact of constant neighborhood change. Stripping away of residential appeal, neighborhood stability. Neighborhoods that have quadrupled in rentals in the past 7 years, loss of neighbor recognition, neighborhoods reduced to around 50% owner-occupied properties. Concerns for what will eventually become of the unsold MNAA (Sales Assistance) properties. An uncertainty that dimishes pride in home ownership. A 255% increase in average daily flights between 03/86 (244) and 03/92 (622). Greater noise, air and visual pollution * * * increased health and safety risks. Restricted use of property.

Within the densely populated airport area neighborhoods, less than one percent (1%) of the properties have been acquisitioned. Many of the remaining contour homeowners are existing under airport control; some without other option. Many of the neighborhoods surrounding the airport are 30–40 years old * * * built during the 50's when this area was the second fastest growing area in the country * * * so this population includes a goodly number of mortgage-free homeowners on fixed incomes. It is these residents who are finding it difficult to participate in the sales assistance program, if it is a lateral move they are trying to make.

In the overall Nashville part 150 program, Sound Insulation continues to run between 5 & 6 to 1 choosing sales assistance. The averages within the various neighborhoods very from one area to another.

The appraisal process has been the most devastatingly vicious culprit the homeowner has had to deal with; both in the Sales Assistance and Acquisition programs.

On behalf of Nashville's airport area residents, we appeal for FAA approval of the proposal submitted as a revision to the Nashville part 150 Noise Compatibility Program originally approved on August 25, 1989.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempo (Mr. MCNULTY). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 2703.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from new Jersey?

There was no objection.

ESEL D. BELL POST OFFICE BUILDING

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4771) to designate the facility of the U.S. Postal Service being constructed at FM 1098 Loop in Prairie View, TX, as the "Esel D. Bell Post Office Building," as amended.

The Clerk read as follows:

H.R. 4771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, is designated as the "Esel D. Bell Post Office Building".

SEC. 2 LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Esel D. Bell Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4771, to designate the facility of the

Postal Service being constructed at FM 1098 Loop as the "Esel D. Bell Post Office Building." The amendment changes the words "under construction" to "being constructed" as requested by the postal service.

Esel D. Bell served the postal service in Prairie View, TX, for nearly 40 years. She rose through the ranks from clerk of postmaster during that time taking full advantage of all the post office has to offer. Besides her exemplary experience with the Postal Service, Ms. Bell is an outstanding member of the community having held leadership positions in numerous organizations in Prairie View. She also is an active alumni of Prairie View University.

□ 1350

Mr. Speaker, her name will be a great asset to the FM 1098 Loop Post Office in Prairie View.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4771. It is certainly an appropriate way to recognize people who have contributed to the service of their country through the Postal Service or others, as our chairman has said.

This lady has served a good many years in every capacity, finally being postmaster of her hometown, as I understand it is her hometown, and this legislation was introduced by the gentleman from Texas [Mr. Laughlin]. This is most appropriate.

There are some reservations, and I had some questions.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Gilman], the ranking member of our committee.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 4771, to designate the postal facility, which is under construction in Prairie View, TX, as the "Esel D. Bell Post Office Building".

I want to commend the chairman of our Postal Operations Subcommittee, Mr. McCloskey, for so expeditiously bringing this measure to the floor. I should also compliment the gentleman from Texas, [Mr. Laughlin], the sponsor of H.R. 4771.

My colleague for 38 years Esel Bell served the U.S. Postal Service, her community, and the Nation. She retired as the postmaster for Prairie View in January 1989, and resides there today.

I urge my colleagues to join with me in supporting H.R. 4771.

I would also like to note that both the majority and minority in the committee had some concerns with regard to the fact that this measure had not come before our full committee for a hearing and also noted that we have been informed that Ms. Bell is still alive. However, because of the time constraints, the committee, both majority and minority, have withdrawn any objections.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Mr. Speaker, I yield to the gentleman from Indiana [Mr. McCloskey] with regard to the procedural aspects of our concerns.

Mr. McCLOSKEY. Mr. Speaker, I understand the gentleman's concern. I might say, yes, there was somewhat of a waiver granted, I say to the gentleman from New York [Mr. Gilman], as there was a major community event coming up very soon in Prairie View with the A&M Alumni Association that is going to substantially honor Ms. Bell.

Mr. LAUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. For further background, I am happy to yield to the gentleman from Texas [Mr. Laughlin], chief sponsor of the measure.

Mr. LAUGHLIN. Mr. Speaker, I very much appreciate the concern expressed by the gentleman from Indiana [Mr. Myers] and the gentleman from New York [Mr. Gilman].

We had this bill pending before the committee. Realizing that this national alumni association convention was taking place on campus this year, and something happened within the committee that caused the committee, the full committee markup to be postponed; I got greatly concerned that before I could have a hearing on this bill, our alumni association convention would be completed, and we would lose this opportunity for the students who went to school with Ms. Bell to have the opportunity to honor her during the convention. That is the reason I made the request for this extraordinary procedure.

I very much appreciate your compassion and understanding.

Mr. GILMAN. Reclaiming my time, I thank the gentleman for his explanation and I withdraw any reservation. I support the measure.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

I will not object, but I hope this procedure would be one that we will not follow very often. It seems to me there are two exceptions here to common procedure: First, a living person, naming a post office after them, and, second, a procedure by our committee. I think it is both, and maybe the living part we can waive more often, but the procedure used by the committee to expedite is one I hope we will not exercise too often or in the future we may have to object. I have no objection.

I congratulate the lady who is going to be honored by naming this post office facility in her town and the gentleman from Texas [Mr. Laughlin] for offering this action.

Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might also commend the gentleman from Texas [Mr. Laughlin] for his community concern in wanting to honor Ms. Bell. I appreciate the concerns of the minority, but at the same time, let us wish Ms. Bell a full and normal life and go on with this and work together in the future.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Laughlin].

□ 1400

Mr. LAUGHLIN. Mr. Speaker, today I rise in strong support of H.R. 4771, legislation I recently introduced to designated a new post office in Prairie View, TX, as the Esel D. Bell Post Office Building.

It is certainly an honor to call your attention to Esel D. Bell. It is always a pleasure to have the opportunity to recognize individuals for the hard work and dedication to service they portray in their jobs.

Ms. Esel D. Bell is extremely deserving of this dedication. She has worked diligently to upgrade the policies, procedures, and standards within the postal system in Prairie View.

Ms. Bell's 40 years of service to the Postal Service demonstrates her exemplary, relentless, and longstanding pursuit of excellence in her profession. This pursuit of excellence Ms. Esel D. Bell demonstrated is recognized in the community where she resides, and Prairie View A&M University, where she received both her undergraduate and graduate degrees.

Mr. Speaker, Ms. Bell is not only a dedicated worker and a credit to her job, but she is a credit to her community. She has had various positions in organizations and affiliations in both the community and the job, including: the National Association of Postal Supervisors, the National Association of Postmasters, and the U.S. Postal Service.

She also is an active member in the Negro Woman Council, the NAACP, the Prairie View Alumni Association, and a host of other organizations. Mr. Speaker, Ms. Bell's influence is deeply rooted in the hearts and minds of the citizens in Prairie View.

The new post office in Prairie View has just been completed. This is the post office that students at Prairie View A&M University and citizens of Prairie View have sought for more than 40 years.

A committee of local citizens of Prairie View met and determined that they wanted their post office named after this wonderful lady, and the dedication ceremony is set for July 17, 1992.

I cannot possibly imagine a more fitting time to have this presentation for

Ms. Esel D. Bell. The National Alumni Association of Prairie View A&M University, of which Ms. Bell is a member, is holding their annual convention on campus that day.

The dedication ceremony for Ms. Esel D. Bell will take place at a time when her closest friends and classmates can be there to share with her in a most joyous occasion.

Therefore, Mr. Speaker, you can understand why I rise in such strong support of H.R. 4771, a bill which names the post office in Prairie View, TX, as the Esel D. Bell Post Office Building.

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 4771, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, as the 'Esel D. Bell Post Office Building'."

A motion to reconsider was laid on the table.

ABE MURDOCK UNITED STATES POST OFFICE BUILDING

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4786) to designate the facility of the U.S. Postal Service located at 20 South Main in Beaver City, UT, as the "Abe Murdock United States Post Office Building", as amended.

The Clerk read as follows:

H.R. 4786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 20 South Main Street in Beaver, Utah, is designated as the "Abe Murdock United States Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Abe Murdock United States Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4786, to designate the facility of the U.S. Postal Service located at 20 South Main Street in Beaver, UT, as the "Abe Murdock United States Post Office Building."

Mr. Abe Murdock was a Member of the U.S. House of Representatives from 1932 until 1940 when he was elected to the U.S. Senate. He was well known for his devotion to working people and organized labor. He served on the National Labor Relations Board in the 1950's.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this authorization authorizing the facility of the Post Office in Beaver, UT, to be named after Abe Murdock, as the chairman said, a member who served in this body as well as the Senate for a good many years.

Mr. Murdock was probably best remembered in this body as being the person who contributed greatly to irrigation in the Western States, something we know now is vital to the ability of those States who are arid in most ways to be protective.

He did serve in both bodies and has made a contribution to his country and it is most appropriate that we name this facility after this long date, long standing, after the person who served so faithfully in both the Senate and the House here in Washington.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I want to thank our good subcommittee member, the gentleman from Indiana [Mr. MYERS] for yielding me this time to comment on Abe Murdock. A former Member of this body from Utah from 1933 to 1941 and a Member of the U.S. Senate from 1941 until 1947.

Abe Murdock moved with his family to Beaver, UT, in 1898 and attended the public schools there as well as the University of Utah. Prior to holding national office and between the years, 1920 and 1933, Abe Murdock served on the Beaver city council; was county attorney for Beaver County, and the city attorney for the town of Beaver.

With a well-earned reputation as an expert in irrigation law, a must in the early days of developing our western states, he did much to ensure that the State of Utah received its share of much needed water from the Colorado River. His influence in this area contributed greatly to the State of Utah's becoming a leading State in the West today.

After serving in the Congress he went on to serve for 10 years on the National Labor Relations Board to which President Truman had appointed him in 1949 and in 1960 President Kennedy appointed him to a Presidential panel studying labor relations in the atomic energy industry.

I want to commend our colleague, Congressman JIM HANSEN, for introducing this measure and giving us the opportunity to honor this fine American and good Democrat, I might add, in this fashion.

I also want to urge my colleagues to join me in supporting the McCloskey amendment to H.R. 4786 which simply corrects the name of the community and clarifies the street address. Once that is moved by the chairman I urge my colleagues to support the bill, as amended, on final passage.

Mr. HANSEN. Mr. Speaker, I rise today about H.R. 4786, which designates the facility of the U.S. Postal Service in Beaver, UT, as the "Abe Murdock United States Post Office Building." I graciously recognize the efforts of my colleagues on the Post Office and Civil Service Committee in their attempt to see this legislation passed as quickly as possible. Now, the citizens of Beaver, UT, may begin to prepare a celebration to honor Mr. Abe Murdock, who served this country and represented Utah with distinction.

Abe Murdock was born July 18, 1893, to Orrice Abram Murdock and Lucinda Robinson. His heritage is richly embedded in the early settlement of southern Utah. Abe Murdock's grandfather, John R. Murdock, was sent to Beaver by State leaders to establish the town in the early 1800's. From that time forward, strength, respect, and leadership have been connected to this family name.

Abe Murdock married Mary Violet Yardley in 1913 and they raised six children. He passed the Utah Bar exam in 1922 after studying at the University of Utah and was immediately elected as Beaver County attorney that same year. Along with practicing law, Mr. Murdock was actively engaged in raising livestock, farming the land, and mining operations in the surrounding area. This experience contributed greatly to his knowledge and expertise throughout his political career.

In 1932, Abe Murdock was elected to the House of Representatives. During his tenure as a Congressman, he defended the rights of working people and organized labor. In 1940, after four terms in the House, he won a seat in the Senate. His involvement as a Senator brought him great respect as he worked to ensure that Utah's water rights were protected. As a member of the Senate Committees on Public Lands and Surveys, Territories and Insular Affairs, Post Offices and Post Roads, as well as Banking and Commerce, he led Utah with strength. This leadership helped Utah become a prominent Western State.

In 1948, President Harry S. Truman appointed Abe Murdock to the National Labor Relations Board. After two 5-year terms, he was then appointed to a Presidential panel which addressed labor-management relations in the atomic energy industry. Throughout his political career, he supported Utah by protecting grazing rights and ensuring the conservation of both water and soil. Abe Murdock

planted the seeds of Utah's success. We continue to benefit from his great influence today.

I thank the House for their support in placing Abe Murdock's name on a U.S. post office facility. This man exemplifies a true statesman; he was friendly to all, dedicated to service, and brought honor to Utah. Respectfully, I join the citizens of Beaver, UT, in their efforts to honor a very distinguished man.

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 4786, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the facility of the United States Postal Service located at 20 South Main Street in Beaver, Utah, as the 'Abe Murdock United States Post Office Building'.".

A motion to reconsider was laid on the table.

ARTHUR J. HOLLAND U.S. POST OFFICE BUILDING

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4505) to designate the facility of the U.S. Postal Service located at 20 South Montgomery Street in Trenton, NJ, as the "Arthur J. Holland United States Post Office Building."

The Clerk read as follows:

H.R. 4505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, is designated as the "Arthur J. Holland United States Post Office Building."

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Arthur J. Holland United States Post Office Building."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4505, to designate the facility of the U.S. Postal Service at 20 Montgomery Street in Trenton, NJ, as the "Arthur J. Holland United States Post Office Building."

Mr. Holland was the mayor of Trenton, NJ, for 27 years. He was best known for his devotion to ethics in government. He was a member of the board of directors for the National League of Cities and a past president of the U.S. Conference of Mayors.

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH], the author of this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me this time, and I thank the chairman as well.

I would like to take this opportunity to urge my colleagues to support my legislation, H.R. 4505, to designate the facility of the U.S. Postal Service located at 20 South Montgomery Street in Trenton, NJ, as the "Arthur J. Holland United States Post Office Building."

There can be no doubt, Mr. Speaker, that Mayor Holland left an indelible mark on Trenton, the city he served so capably for 27 years. His passing in 1989 was mourned by all of us who knew of his unyielding devotion to the city and of his many achievements as mayor. His bipartisan approach to policymaking allowed him to institute many much needed programs designed to assist city residents most in need.

Mr. Speaker, I had the privilege of working closely with Mayor Holland on many issues of joint interest, such as health care, housing, and crime prevention projects. He testified at many House and Senate hearings regarding these and other issues of importance to Trenton. And beyond official business, Mr. Speaker, I found Art Holland to be a kind and compassionate man.

Mayor Holland's record of public service clearly illustrates his commitment to bettering both the local government and the community. He worked his way up in State and local government, serving at both the State Department of Public Affairs and the State Department of Parks and Public Property before being named mayor in 1959. He served until 1966, when he went to work for the U.S. Department of Housing and Urban Development. His second stint as the city's chief executive began in July 1970 and lasted until his death in 1989.

Mayor Holland's accomplishments were recognized by an array of New Jersey groups, including the Knights of Columbus and the American Cancer Society. This respect and recognition was underscored by his fellow mayors when in 1988 he was elected president of the U.S. Conference of Mayors, a position he held until June 1989.

Mr. Speaker, Mayor Holland's honesty was well known. After his death, Rutgers University honored him by instituting the Arthur J. Holland Program on Ethics in Government. Mayor Holland is a worthy recipient of this honor. He was honest, hardworking, and possessed the necessary integrity to be effective in dealing with the many factions of local government. The program is designed to counter the growing cynicism the public feels toward elected officials by teaching those most involved in the process to work so that government is more responsive to the needs of the public. Such a goal is consistent with the traits of Mayor Holland.

The Trenton City Council unanimously passed a resolution late last year urging the designation of this facility in Mayor Holland's name. The council, in its resolution, referred to Mr. Holland's "honesty and fairness in government" and his "exemplary public service" as reasons for this honor. I echo these sentiments and join the council and Trenton's postmaster, Jack Crossen, in honoring a man who guided Trenton through difficult times.

Finally, Mr. Speaker, knowing Mayor Holland as I did as a genuinely likable, soft-spoken, and humble man, who if here to witness this recognition would be very pleased and happy, but probably a tad embarrassed over any fuss being made about him, I consider it an honor to request this designation and ask for the approval of the House.

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the ranking member of the committee.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 4505, to designate the postal facility on 20 South Montgomery Street in Trenton, NJ, the "Arthur J. Holland Post Office."

I want to thank the distinguished chairman of our Subcommittee on Postal Operations and Services, of the Committee on Post Office and Civil Service, the gentleman from Indiana [Mr. MCCLOSKEY], for so expeditiously bringing this measure to the floor.

Mr. Speaker, from July 1970 until his death on November 9, 1989, Arthur J. Holland was mayor of the city of Trenton, NJ. He not only served as a highly regarded mayor, but also served as a third vice president of the New Jersey State League of Municipalities, was a member of the board of directors of the National League of Cities, and was a past president of the U.S. Conference of Mayors.

All of this led to Mayor Holland being highly regarded as a civic leader not only in New Jersey but across the Nation as well. Accordingly, I urge my colleagues to join in supporting this measure and its author, the gentleman from New Jersey [Mr. SMITH], by honoring the memory of Mayor Arthur Holland in this fashion.

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Mr. MYERS of Indiana. Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill H.R. 4505.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4771, H.R. 4786, and H.R. 4505, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COAST GUARD AUTHORIZATION ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 482 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 482

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5055) to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with section 302(f) of the Congressional Budget Act of 1974 are waived. After general debate, which shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. All points of order against the committee amendment in the nature of a substitute for failure to comply with section 302(f) of the Congressional Budget Act of 1974 and clause 8 of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. McEWEN], and pending that, I yield myself such time as I may consume. During consideration of this resolution, all time yielded shall be for the purposes of debate only.

Mr. Speaker, House Resolution 482 provides an open rule for the consideration of H.R. 5055, the Coast Guard authorization bill for fiscal year 1993.

The rule provides 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Merchant Marine and Fisheries Committee.

The rule also waives section 302(f) of the Congressional Budget Act and clause 8 of rule 21 against the committee amendment in the nature of a substitute now printed in the bill.

The waiver of section 302(f) of the Budget Act is necessary because of a provision in the bill which exempts vessels used in training at the State maritime academies from a Coast Guard inspection fee.

This is a noncontroversial provision which was met with no objection in the committee. The waiver of clause 8 of rule 21 is needed because a CBO cost estimate was not available and therefore not printed in the bill as introduced or as reported by the committee.

However, the required CBO cost estimate is now printed in the bill to be considered following the adoption of this resolution.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 5055, the Coast Guard reauthorization bill is important legislation which authorizes $3.6 billion for fiscal year 1993. Since 1915 the U.S. Coast Guard has performed many important duties on the high seas for the United States.

Its primary functions are to promote safety at sea, to enforce maritime laws, and to provide for the safety and security of vessels in U.S. ports and waterways.

Beyond these tasks the mission of the Coast Guard has grown substantially.

Coast Guard personnel now play an important role in naval readiness both in war time and in peace and they have taken a high profile role in the war against drugs by stepping up efforts in airborne and waterborne interdiction.

Mr. Speaker, H.R. 5055 authorizes funding for these important tasks and many others.

Funding is authorized to update and maintain the vessels of the Coast Guard's aging air and sea fleet and for the establishment of two marine oil-spill management simulators.

These simulators will be located in Galveston, TX, and at the Massachusetts Center for Marine Environmental Protection at the Massachusetts Maritime Academy.

These facilities will improve methods to contain and prevent oilspills which can be devastating to our precious marine environment.

Finally, Mr. Speaker, I would like to point out that this resolution was adopted in the Rules Committee with bipartisan support by a voice vote. I urge its adoption and adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the rule for the consideration of H.R. 5055, the Coast Guard Authorization Act of 1992. House Resolution 482 is a good rule, an open rule, a fair rule.

I would like to thank the chairman of the Rules Committee, the distinguished gentleman from Massachusetts, for bringing this open rule to the floor. I would also like to pay tribute to the gentleman from Louisiana [Mr. TAUZIN], the chairman of the Subcommittee on Coast Guard and Navigation, and also my friend, the gentleman from Texas [Mr. FIELDS], the ranking member of the subcommittee, for requesting this open rule.

The chairman of the Rules Committee has thoroughly explained this rule. It establishes an hour of general debate for H.R. 5055, and then allows amendments to be considered under the five minute rule.

As always, it is a great pleasure to be able to rise and join with the chairman of the Rules Committee in calling for support for an open rule. Open rules make for an open, and successful legislative process. They allow the peoples representatives to work their will.

H.R. 5055 authorizes $3.6 billion for Coast Guard programs in fiscal year 1993, which is equal to the President's request. As we know, the Coast Guard uses these funds to perform a number of important roles, including the enforcement of customs laws, the provision of navigation and safety assistance to boaters, the regulation of vessel traffic, and the inspection of foreign tankers.

Mr. Speaker, the administration has a number of concerns with H.R. 5055 as reported by the committee. I would like to insert the Statement of Administration Policy on the bill at this point, which details their reasons for opposing the bill. This open rule certainly offers the House the best opportunity to address those concerns.

The statement referred to is as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 11, 1992.

STATEMENT OF ADMINISTRATION POLICY

(H.R. 5055—Coast Guard Authorization Act of 1992—Tauzin of Louisiana and Five Others)

The Administration strongly opposes enactment of H.R. 5055 unless it is amended to delete:

A committee amendment to divert $80 million during FYs 1993–1997 from the high priority Sports Fish Restoration program to expand the Coast Guard's existing Boat Safety program. The Sports Fish Restoration program enables States to improve fishing habitats and access on rivers and lakes. The Administration is on record as opposing any diversion of funds from the Sports Fish Restoration program.

Section 109, which would arbitrarily limit competition in the procurement of buoy chain by the Coast Guard. This provision could both increase costs to the Coast Guard and invite retaliation by America's trading partners.

The exemption for State Maritime Academy vessels from certain vessel inspection fees without an offset from the resulting reduction in receipts (Section 301).

Provisions described in the Attachment that micromanage the Coast Guard in a manner that will unjustifiably increase costs.

PAY-AS-YOU-GO SCORING

At least one provision of H.R. 5055 would also reduce receipts. Therefore, H.R. 5055 is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. No offsets to the revenue loss resulting from this provision is provided in the bill.

A budget point of order applies in both the House and Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the House waives any such point of order that applies against H.R. 5055, the effects of enactment of this legislation would be included in a look back pay-as-you-go sequester report at the end of the Congressional session.

OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 5055 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to the Congress.

ESTIMATES FOR PAY-AS-YOU-GO

[In millions of dollars]

	1992	1993	1994	1995	1996	1997	1992–97
Receipts	....	(1)	(1)	(1)	(1)	(1)	(1)

[1] Less than $500,000.

OTHER OBJECTIONABLE PROVISIONS OF H.R. 5055

The Administration also strongly opposes the following provisions of H.R. 5055:

Section 304, which requires the Coast Guard to enter into an agreement with the Department of Commerce to require fisheries enforcement practices and procedures. This is inappropriate because the Coast Guard exercises no responsibility or control over these practices and procedures.

A Committee amendment that would require the Secretary of Transportation to intervene in the resolution of a contract dispute between a contractor and subcontractors. The dispute should be resolved in a judicial forum. H.R. 5055 creates the potential for a second payment by the Federal Government under a contract for which payment has already been made as legally required.

Several provisions that would unnecessarily restrict the Coast Guard's ability to expend funds in the most cost effective manner. These include sections 104 (Shore Facilities Improvements at Group Cape Hatteras) 105 (Prepositioned Oil Spill Cleanup Equipment), 106 (Training Simulators), 204 (Federal, State, and Local Coordination Demonstration Projects), and 303 (Study of the Application of Tiltrotor Aircraft Technology to Coast Guard missions). They also include committee amendments requiring: (1) a study of the usefulness of night vision technology, and (2) installation of Radar Navigation Aid at Eckholms Island Coast Guard Installation near Sitka, Alaska.

Sections 107 and 108, which would prematurely designate certain structures as obstructions to navigation, making them eligible for certain Federal assistance. Instead, procedures already prescribed by law to evaluate the extent to which they are in fact obstacles to navigation should be completed.

Section 202, which would mandate, at the Federal level, boater education requirements that are more appropriately the concern of States.

Section 203, which would unnecessarily require the Coast Guard to study ways to study ways enlarge the mission of the Coast Guard Auxiliary. A balance in the roles of the Coast Guard and the Coast Guard Auxiliary has already been achieved as a result of the 1988 Report on the Coast Guard Auxiliary.

I would like to take a moment to refer to a concern expressed by the chairman of the Ways and Means Committee regarding the procedure leading to the granting of this rule. In a letter to the chairman of the Merchant Marine and Fisheries Committee, a copy of which was sent to both the chairman and ranking member of the Rules Committee, the gentleman from Illinois expresses concern with the fact that the Rules Committee granted a rule for H.R. 5055 before the Merchant Marine Committee had filed its report on the bill.

There are apparently some jurisdictional concerns which Ways and Means has with the bill. The Rules Committee's consideration of the rule before the report was printed, according to the letter of the chairman of Ways and Means, "left the Committee on Ways and Means without the opportunity to review the bill before the rule was granted; if we had such an opportunity, we would have been aware of the jurisdictional issues sooner."

Now, there are often times when members of the minority come to the floor expressing grave concerns with waivers of House rules regarding layover periods. This is the period of time granted under House rules to read bills and reports before measures are considered on the floor.

In this case, we have the respected chairman of the Ways and Means Committee expressing a similar concern. I bring attention to this fact, not to criticize the Rules Committee, or the honorable chairman from Massachusetts, but only to note that concerns with timeliness, and overly hasty consideration of legislation, is not a partisan issue. Giving committees and members time to read bills and reports is a necessary part of the system. It protects the rights of every member to constructively take part in the process.

Mr. Speaker, returning to the important matter at hand, I would like to thank the chairman of the Rules Committee for his fine work bringing this open rule to the floor. I urge my colleagues to support this rule so that we can get to work on the bill.

Mr. Speaker, I had one request for time from the gentleman from California [Mr. DORNAN] who wanted to speak for 1 minute, but, in his absence, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 482 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5055.

The Chair designates the gentleman for Georgia [Mr. DARDEN] as Chairman of the Committee of the Whole, and requests the gentleman from California [Mr. PANETTA] to assume the chair temporarily.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House dissolved itself in the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5055) to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes, with Mr. PANETTA, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES], chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. when I first entered Congress, the Coast Guard was a small, specialized agency with an annual budget of $473 million. Its principal responsibilities were search and rescue, ship inspection, and the maintenance of lighthouses and other navigational aids.

In many ways, the Coast Guard is the same service it has always been. However, in other ways, it is very different from the Coast Guard of 1966—its responsibilities have multiplied and some of its priorities have changed.

Now, over 23 percent of the Coast Guard's operating budget is used in the war against drug smugglers;

Over $250 million a year is expended on marine environmental protection; and

Hundreds of thousands of dollars are spent each day on enforcing fisheries laws and intercepting illegal aliens.

Unforunately, this mountain of new responsibility has not been matched by a mountain of money. While struggling with a steady stream of new jobs, the Coast Guard has received only gradual funding increases. This year is no different.

Our bill calls for an appropriation of a little over $3.6 billion in fiscal year 1993. This closely tracks the amount recommended by the President, and represents an approximate 6-percent increase over last year. Virtually all these additional funds are for operating expenses and most of that increase is due to built-in changes, such as cost-of-living adjustments.

In other areas, there is clearly not enough money to fully fund the Coast Guard. This bill authorizes a small increase over last year's budget for acquisition, construction, and improvements; bridge alternations; and environmental compliance. Nevertheless, the increases are modest. Make no mistake, this is a lean authorization. It provides the minimum necessary to carry out the Coast Guard's missions.

Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I rise in support of the Coast Guard Authorization Act of 1992.

Mr. Chairman, before turning to the bill, I would like to express my personal, deep, and sincere appreciation to the gentleman from North Carolina [Mr. JONES], chairman of the Committee on Merchant Marine and Fisheries, for his outstanding leadership for so many years. This will be the last Coast Guard authorization bill that Chairman JONES will preside over, and on my behalf and on behalf of all the Members, I think I can speak on behalf of all of them today, on both the majority side and the minority side, we want to indicate that we will sorely miss his knowledge, his experience, and his quick wit, and the way he has guided our committee for so many years and has helped the Coast Guard in this and so many other bills that have come before the Congress to ensure its efficient and effective operation.

WALTER, this Congress will miss you, but our committee will especially miss you and your great service here.

I would also like to thank the ranking member of the committee, the gentleman from Michigan [Mr. DAVIS]. He has led the minority in a cooperative and bipartisan manner, and has been a true friend of the Coast Guard. We will of course miss BOB DAVIS' excellent service to our committee and to the needs of the Coast Guard.

Finally, I would like to thank my good friend, the gentleman from Texas [Mr. FIELDS], the ranking minority member of the Subcommittee on Coast Guard and Navigation. The gentleman from Texas [Mr. FIELDS] and I have developed H.R. 5055 as we have developed all Coast Guard legislation in a bipartisan manner that fully authorizes the administration's budget request for the Coast Guard.

The gentleman from Texas [Mr. FIELDS] and his staff have been extraordinary good and helpful agents for our committee, in working with the majority and myself personally, in ensuring that our work is done in a truly bipartisan manner.

JACK, I want to thank you publicly again both for your help personally and your staff.

The Coast Guard is unique. No other agency of the Federal Government does as much with so little as the Coast Guard. The Coast Guard's jurisdiction is extraordinarily broad. Its resources are stretched to the limit to meet its operational demands.

Its various missions include such things as search and rescue, where Coast Guard's men and women every day save American lives; boating safety, where again, through efforts made in cooperation with the States, lives and vessels are saved because of the educational efforts that go into planning and for safety on the water; fisheries enforcement; aids to navigation; commercial and recreational vessel inspections; marine casualty investigations; documentation of vessels; drug interdiction; licensing of mariners; oil spill response; regulation of hazardous materials, transportation by water; ocean dumping, prevention and enforcement; military readiness; icebreaking; and, believe me, I have only named a few of its many and varies missions.

The Coast Guard does this with a force of men and women that is smaller than the New York City police force, believe it or not.

Congress has charged the Coast Guard with implementing and enforcing some of the most complex and important environmental laws enacted in the last decade.

The Commandant, Adm. Bill Kime, has done an outstanding job of bringing efficient, modern management techniques to the Coast Guard. He has emphasized that the Coast Guard cannot carry out its duties without a committed and enthusiastic body of people. To that end, he has worked to ensure that Coast Guard men and women receive adequate pay, decent housing, dependable medical care, and comprehensive training. His emphasis on the people in the Coast Guard has been the hallmark of his stewardship as Commandant. His efforts are paying off now with a better qualified, educated, and a more professional organization.

Congress loves to praise the Coast Guard. It is easy to praise the Coast Guard. And it is relatively easy to pass an authorization bill where we authorize funding for the Coast Guard. The tough part comes when it comes time for Congress to actually appropriate the funds for the Coast Guard among the many priorities that Congress must face.

We have been informed today that other committees of the House will propose drastic cuts in Coast Guard funding, as much as $87 million in operational budgets, and about $20 million in its OC&I budget.

These cuts will adversely affect your and my constituents and this Nation. If the cuts are deep, they will be deeply felt in vital services that affect constituents' lives, property, and the economic well-being of the maritime industries.

If cuts are going to be mandated, it is imperative that Congress work closely with the Commandant to ensure that any cut in the Coast Guard's budget will not cut into the heart and soul of Coast Guard operations.

I just got off the phone with the Commandant. Let me give you the bad news. If those cuts are the final product of this Congress, those cuts will mean dramatic cuts in the level of operation of the Coast Guard.

The current budget we recommended is a mere 1-percent increase over last year that is mainly required because of cost-of-living adjustments to the personnel of the Coast Guard. You take $87 million out of the Coast Guard's operating budget and you will see decommissioning of ships, you will see closure of search and rescue stations and air stations. You will see closure and consolidation of marine safety offices. And you will see major delays in the implementation of the prepositioning of equipment and supplies to combat oil spills, an issue which occupied this Congress so heavily in recent years.

Now, those cuts, if we cannot avoid them, will have those effects. And if we in the Congress choose other priorities, whatever they may be, whatever transportation projects we think are more important than operating a search and rescue station, then it will be on our heads when these search and rescue stations and other vital Coast Guard operations are in fact shut down.

When the President introduced his budget earlier this year, the Coast Guard's budget had already been severely trimmed. The OC&I request, which the Coast Guard uses to buy new ships, planes, and buildings, is now $9 million less than it was last year, before recommends cuts again.

We cannot continue to ignore the fact that the Coast Guard is operating 50-year-old ships and 75-year-old shore facilities. This bill authorizes the minimum investment the Coast Guard needs to carry out its third century of service.

I would like to point out that this bill, as I said, provides less than a 1-percent increase in authorizing funds. Much of that increase is due to cost of living requirements for Coast Guard personnel.

The Coast Guard simply cannot absorb major cuts without major reductions in services and in programs.

This is the first time that either the Reagan or Bush administrations have requested an increase in funds from the Department of Defense to the Coast Guard.

At the direction of Congress, such a transfer has in fact occurred every year for almost a decade. The administration has finally recognized that the Coast Guard has in fact a military readiness mission, and has in fact recognized that mission with the request for a $203 million transfer from the Department of Defense. Congress must now ensure that that transfer takes place.

One additional final item. I have brought to the attention of the Committee on Rules the fact that in last year's appropriation, we transferred five aerostat vessels. Those are the vessels used to do drug enforcement surveilliance, primarily in the Gulf of Mexico.

We transferred those five vessels to the Department of Defense, and the Department of Army in particular.

Since we transferred those vessels, with instructions to put them to work to assist the Coast Guard in drug interdiction, the Department of Army has parked those vessels, has had them parked, and has refused to operate them since January.

Recently the Department of the Army in fact issued an order mothballing three of those vessels, despite the clear congressional intent and letters from Appropriations Committee members, that those vessels were to be operated, despite a memo from the Commandant that describes choice points where drugs flow into the Gulf of Mexico and to the shores of America are left wide open without the operation of these aerostats, the Department of Army has stubbornly parked these vessels and has refused to operate them.

I am pleased to tell the House today that it is my understanding that the Department of Defense appropriations bill that is currently in a subcommittee, will include language mandating that the Department of the Army use $25 million in fact to operate those five aerostats and to close those choke points.

But let me stress again, if we do not follow through on that mandate, so far the Department of the Army has stubbornly resisted the efforts to put those vessels into operation, and in fact, according to the Commandant, has left those choke points wide open for 6 months now. That means the welcome mat is out to those druggies who want to bring drugs into America, the wide open choke points have been open since January, and it is time for Congress to close them.

I hope this House will assist us in ensuring that the defense appropriations bill does in fact contain language mandating that those vessels be operated.

□ 1435

In conclusion, I urge my colleagues, as they have in the past, to support the Coast Guard, to approve this authorization bill and to join us when the appropriations bill comes to the floor insisting that the Coast Guard have necessary funds to operate as it has done so adequately and efficiently in the years gone by.

Mr. HAYES of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Louisiana.

Mr. HAYES of Louisiana. Mr. Chairman, I came down here for the purpose of supporting the gentleman's amendments, which I anticipate are so overwhelmingly supported that there will not be a vote.

Nevertheless, I want to be on record.

Second, I came down because I was watching C-SPAN and heard the words "Coast Guard" and thought that the gentleman had a distress signal around his neck. So I came to assist.

Mr. TAUZIN. Mr. Chairman, this is not a distress signal. This is worn in honor of the men and women who serve the U.S. Coast Guard. I hope that all Members of the House have the same deep respect and admiration for those men and women, as I have. I hope we show that deep respect when we approve not only this authorization bill but the appropriations that must come and must follow.

Mr. FIELDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a cosponsor of H.R. 5055, I rise in strong support of the Coast Guard Authorization Act of 1992.

And, like subcommittee Chairman TAUZIN, I, too, want to pay special recognition to Chairman WALTER JONES. I have served with Chairman JONES for 12 years. He has always been fair—always cared about his committee on both sides—been truly bipartisan and for that we are appreciative.

I would also like to compliment my distinguished subcommittee chairman, Congressman BILLY TAUZIN, for his outstanding leadership and for moving this bill in such an expeditious fashion. This essential funding measure for the Coast Guard has been drafted in a truly bipartisan manner and I appreciate all of the courtesies extended to this side of the aisle.

While the administration may have some concerns about the legislation, it was unanimously reported by the full Merchant Marine and Fisheries Committee just 2 weeks ago.

It is the product of many months of careful deliberation and it is fiscally responsible in that it authorizes only $25.6 million more than last year's figure. While frankly I would have supported a higher funding level, the Commandant of the Coast Guard has stated that this authorization bill will provide sufficient financial resources to meet their operational needs.

Nevertheless, we must all recognize that the Coast Guard and its personnel are being stretched to their absolute limits. Instead of eliminating certain missions, Congress continues to mandate new and additional responsibilities.

With this bill, the Coast Guard will be able to continue to replace their seagoing and coastal buoy tenders; to pre-position certain oil spill cleanup equipment at coastal locations throughout the country; to renovate the Coast Guard icebreaker *Mackinaw;* to upgrade our Nation's vessel traffic service system and to arrest those persons bringing illegal drugs into the United States.

Furthermore, the Coast Guard is currently involved in a massive effort to promulgate the various regulations mandated by the Oil Pollution Act of 1990.

Mr. Chairman, there are few, if any, Federal agencies that more responsibly spend our taxpayer's money and it is essential that the Coast Guard receive the full $3.8 billion authorized by this legislation.

While there are a number of important provisions contained within H.R. 5055, I would like to highlight several which are of particular interest to me.

First, H.R. 5055 authorizes the prepositioning of certain Coast Guard oil spill cleanup equipment for the Houston Ship Channel.

As a representative of the Port of Houston, I am committed to ensuring that, if we have any future oil spills, they will be cleaned up quickly and effectively. By having this Coast Guard equipment prepositioned in the Houston Ship Channel, we are much more likely to minimize any environmental impacts.

Furthermore, there are few, if any, regions of our country that have larger concentrations of petroleum products than the Port of Houston and no location which more fully satisfies the prepositioning criteria stipulated in the Oil Pollution Act.

Under this provision, the Port of Houston will receive two vessel of opportunity skimmers, 2,500 feet of oil containment boom, and two portable floating bladders. This equipment will supplement that to be provided by the Marine Spill Response Corporation, which is a privately funded organization.

Second, H.R. 5055 provides $1.25 million so that the Texas Center for Marine Training and Safety at Galveston, TX, can purchase a marine oil spill management simulator.

This state-of-the-art technology will provide individuals with computer simulations of actual oil spills. By so doing, it will allow hundreds of students, including maritime cadets, Coast Guard personnel, and professional mariners to learn firsthand how to deal with an oil spill under a number of different scenarios.

Using a simulator allows valuable training to take place quickly, cheaply and repeatedly without risking lives or an environmental catastrophe. Because of this training, an individual will be much more likely to respond correctly when confronted with an actual oil spill.

Mr. Chairman, Texas A&M University has been in the forefront of efforts to educate those involved in the domestic oil and transportation industry. In 1977, the university established the National Spill Control School, which offers a variety of courses on such subjects as oil spill prevention, emergency response training, and safe handling of dangerous cargos. Since its opening the school has trained 12,500 persons.

I am convinced that the $1.25 million authorized in this bill is a proper investment of oil spill liability trust funds and, with this simulator, Texas A&M University will be able to do even a better job of educating thousands of Americans on how to protect our Nation's coastline from oil spills.

Third, I am pleased that incorporated within section 301 of H.R. 5055 is my language to prohibit the collection of any fees for the inspection of our Nation's five State Maritime Academy training ships.

The Texas *Clipper*, which is the training ship for the Texas Maritime Academy, and the other sailing vessels are owned by the Federal Government and are chartered to the State Maritime Academies under long-term operating agreements. Since Congress appropriates money each year to the State academies, frankly, it makes no sense to now demand that they pay $7,200 for each Coast Guard inspection. While I would prefer that the Coast Guard simply exempt these vessels from their proposed regulations, it appears that a legislative solution will be necessary.

Fourth, this legislation addresses the issue of Coast Guard enforcement of certain regulations to protect sea turtles. While this bill does not propose to alter or suspend the use of the turtle excluder devices [TED's], a number of individuals who have been accused of violating these regulations have been denied due process of law. Under the Endangered Species Act, all citizens are guaranteed a hearing on their case before any penalties can be assessed.

Regrettably, requests for hearings have been routinely denied and shrimpers in the Gulf of Mexico have not been given their day in court.

This situation must be corrected and H.R. 5055 requires that a memorandum of agreement be signed by the Coast Guard and the National Marine Fisheries Service allowing those accused of a violation to appear for a hearing if a timely request is made.

Mr. Chairman, regardless of whether a Member is for or against the TED enforcement regulations, we must ensure that our citizens' constitutional rights are protected.

Finally, this bill will improve safety for the 4 million Americans who travel on a foreign-flag cruise ship each year. Section 302 will allow the Coast Guard to prevent the departure of any passenger vessel which does not fully comply with the International Convention for the Safety of Life at Sea [SOLAS]. Under SOLAS, to which the United States is a party, inspection authority is unlimited. Therefore, H.R. 5055 amends current U.S. law to allow the Coast Guard to withhold port clearance when they have concerns about the safety or the seaworthiness of a certain cruise ship. It is a long overdue change that will improve safety for the traveling public.

Mr. Chairman, for all of these reasons, I strongly support the enactment of the Coast Guard Authorization Act of 1992. While H.R. 5055 is not a perfect bill, it will allow the Coast Guard to continue to wage its battle against illegal drugs, to protect our coastline from future oil spills, and to assist thousands of Americans throughout this country.

Mr. Chairman, again, I urge support for H.R. 5055 and compliment Chairman TAUZIN for his superb leadership in moving this vital Coast Guard funding bill.

Like the gentleman from Louisiana, Chairman TAUZIN, I was just informed by the Commandant of some drastic reductions from another committee, and I wanted to ask the gentleman from Louisiana, Chairman TAUZIN, I know it is early and it is difficult to say what those reductions would mean.

As I understand, there is an $87 million cut that has been proposed in another committee.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the gentleman is correct. The $87 million reduction is being proposed by the subcommittee in Appropriations, and it is $87 million in operations, $20 million additional on AC&I. That is the acquisitions budget.

Mr. FIELDS. Mr. Chairman, if I could ask the gentleman, he and I have both been very active in trying to deal with the threat of oil spills in our coastal waters. It appears to me that one of the things that would be impacted initially would be the ability to preposition this oil spill clean-up equipment.

□ 1444

Mr. TAUZIN. If the gentleman will continue to yield, there are 21 proposed sites on the coastline of America all around this country, sites that are designed to be places where equipment, supplies, the kinds of things that the Coast Guard is going to need to respond to an oil spill which would be pre-positioned, ready to go into action if and when a spill occurs. The Commandant today on the phone told me that implementing those 21 sites would be dramatically delayed as a result of cuts recommended by the Appropriations Subcommittee.

Mr. FIELDS. The Commandant said basically the same thing to me. He also talked about some facilities that might be closed. Does the chairman have any idea what type of facilities we are talking about?

Mr. TAUZIN. If the gentleman will yield, I asked the Commandant to specify that for me as accurately as he could. He and his staff are hastily trying to accomplish a list that has more specificity than he could give me this morning. However, I can tell you this: He clearly said there would be shutting down of some search and rescue stations and air stations.

Does the gentleman recall when the Congress had to face that several years ago, and how this body literally came together in a great cry not to shut those stations down? These cuts would shut down search and rescue stations, imperiling lives immediately.

Second, it would clearly mean decommissioning of some Coast Guard vessels. If we do not have the money to operate, we simply cannot operate the vessels the Coast Guard needs to do all the other work, fisheries enforcement, rescue, what have you.

It would also clearly mean that there would be some reductions in the amount of money available to do such things as pre-positioning equipment and supplies for oilspills and a delay in the whole implementation schedule of OPA 1990, the oilspill act that Congress passed with such fanfare a few years ago.

Mr. FIELDS. I don't know if the chairman heard the same thing that I heard, but I also heard that was not something that he would be able to wait on, the Commandant, up until the last minute; that he would be able to make personnel reductions now and that these people would not necessarily be hired back.

Mr. TAUZIN. If the gentleman will continue to yield, I am not sure everyone in the House is aware of how important the Marine Safety Office is to a community that has a marine industry. A Marine Safety Office is a critical component of not only safety for the recreation of the public but for the marine industries that are critical to this Nation and its economy.

The Commandant said he would have to begin immediately consolidating and shutting down Marine Safety Offices. He would have no choice if in fact these kinds of cuts were mandated, and he could not wait to do it in the middle of the year. He would have to start shutting down search and rescue stations. He would have to start decommissioning vessels and shutting down safety offices. That is how serious these cuts could be to the Nation and to the economics and to the health and safety of the boating public.

Mr. FIELDS. One of the most important missions of the Coast Guard is drug interdiction, and the chairman has been very active in that particular area. Is there any insight as to what this particular reduction would do in that drug interdiction area?

Mr. TAUZIN. If the gentleman will yield, the gentleman knows we have included language from time to time in our authorization bill to make sure that drug interdiction money were not used in lieu of operating search and rescue stations, but what a choice, what a choice, if this Congress is forced to look at an $87 million reduction in the operation of the Coast Guard, if we have to choose between a necessary drug enforcement effort to stop drugs from coming in to kill the lifeblood of the future generations of our country, or to save somebody who is drowning in the recreational waters of our country. What an awful choice. But we are going to be faced with those kinds of choices if in fact these cuts come down.

Mr. FIELDS. Of course, I know no one is going to accuse the gentleman from Louisiana [Mr. TAUZIN] of not being a fiscal conservative, nor me of being a fiscal conservative.

However, I think it is very important for the House, the entire House, to recognize that the Coast Guard is already at their bare-bones level, and that this $87 million is extremely important.

I would just like to commit to the chairman to work with him in a bipartisan fashion to make sure that all Members of the House recognize how important this particular money is.

Mr. TAUZIN. If the gentleman will continue to yield, unlike a number of budgets we are going to look at before this year is through, the Coast Guard's budget is not increasing rapidly. It is set at less than 1 percent increase this year, and that is due mainly to the cost-of-living adjustments to its personnel.

If we take $87 million out of it, there is no place for it to come but out of the hide of operations critical to the safety, health, marine traffic, and all the other good things the Coast Guard does, and the drug enforcement and what have you. The gentleman is absolutely right, we have not been greedy, we have not been excessive in our appropriations to the Coast Guard. We have given them the bare minimum to do their incredible job, and they give us more for the dollars we send them than I think any other Federal agency that we ever appropriate for. I hope that Congress clearly understands that when it comes down to looking at what these cuts are going to mean to the Nation and the state of readiness of the Coast Guard.

Mr. FIELDS. Mr. Chairman, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me highlight a provision of special concern to me. Section 104 addresses serious shoreside problems at Group Hatteras, which is located in my district. At stations within this group, Coast Guard men and women live in 20-year-old trailers and homes that were last renovated in the 1950's. The Coast Guard doesn't even have the money to replace the wooden fire escapes on aging buildings. H.R. 5055 will remedy this situation by directing the Secretary to spend up to $5.5 million over 5 years to fix up these facilities.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I rise in support of H.R. 4055, the Coast Guard Authorization Act of 1993.

The Coast Guard is an agency charged with many diverse missions including search and rescue, marine safety, aids to navigation, marine environmental protection, defense readiness, drug interdiction, and law enforcement.

Despite this broad range of tasks, the Coast Guard continues to function effectively and efficiently. Indeed, I believe the Coast Guard is the finest and most well-run branch of the armed services, and I am very proud that the country's only Coast Guard Training Center is in my district, in Cape May, NJ.

H.R. 5055 authorizes an appropriation of $3.6 billion for Coast Guard programs in fiscal year 1993, a modest increase of 6 percent over last year's appropriation. I believe this budget reflects the Coast Guard's commitment to all its missions, including the Commandant's personal goal of increasing the quality of life for the Coast Guard's enlisted men and women.

I am particularly pleased to see an increase in the authorization of funds for marine environmental protection, vessel traffic service systems, pre-positioned equipment, and strike teams, in addition to an expansion of the national oilspill response system.

The recent *Santa Clara I* incident, in which hazardous cargo was lost overboard during the vessel's transit along the east coast, demonstrates the real and growing need to maintain a readiness to respond to pollution and environmental disasters at all times, particularly as international commerce in hazardous substances increases.

Another crucial objective of the Coast Guard is to improve boating safety and to foster greater development, use, and enjoyment of all U.S. waters. Accordingly, the increase in the Wallup-Breaux trust fund to be used for State grants for recreational boating safety activities will aid the Coast Guard in accomplishing this goal. Further, the Coast Guard's plan to develop a boating safety education program geared to our young boaters is an effective means of improving boating safety, and I support it wholeheartedly.

This bill also increases authorization levels for research and development, environmental compliance, acquisition, construction and improvement, and operating expenses.

Overall, this is a sound, cost-effective bill, and I urge my colleagues' support for its passage.

□ 1450

Let me say before I sit down that it is disheartening to learn of the Appropriations Subcommittee's reduction of the Coast Guard activities, $133 million total, $87 million in operations. I guess when you forget about history you are bound to repeat it, and that is what we are doing again.

I remember just a few years ago, and I am sure my colleagues from Louisiana and Texas remember as well when we had those kinds of cuts in the operating budget, and we had about 40 percent of our fleet idle. We did not have enough fuel at that time basically to man our cutters to be able to do our job in the Caribbean against the drug traffickers.

At a time when substance abuse is on the increase they are proposing a $87 billion reduction in the Coast Guard. At a time when our fleet is falling apart because we have not committed enough resources to maintaining our cutters, when we are not building new cutters to replace the aging cutters in our fleet, why we are cutting about $29 billion in maintenance. It just does not make sense.

Mr. Chairman, I look forward to working with my colleagues on the Coast Guard authorization committee in seeing that this particular authorization is not only passed into law, but we see an appropriation of a level amount.

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

The story of the Coast Guard consists of many tales of courageous individuals—

The search and rescue teams that brave hurricanes and gales to rescue individuals lost at sea;

The young men and women who confront armed drug smugglers;

The teams that handle hazardous chemical spills knowing that a mistake may cause pain or death.

This year, a Coast Guard hero, Comdr. Bruce Melnick, was one of the astronauts of the space shuttle *Endeavour*. This crew defied the odds and successfully captured and repaired an unwieldy 4½-ton satellite. Who can forget those thrilling live television shots of this space rescue?

Commander Melnick's triumph exemplifies the innovation, talent, and deep commitment to public service that the Coast Guard brings to its many demanding missions.

Commander Melnick is a model and inspiration for our young people. He is also an excellent representative of the men and women of the U.S. Coast Guard—heroes all.

Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding me the time.

I want to thank the members of the House Committee on Merchant Marine and Fisheries, especially Chairman JONES, Mr. DAVIS, Chairman TAUZIN, and Mr. FIELDS for their unanimous support of my legislation which is included in this year's Coast Guard reauthorization bill. I would also like to thank Congressman GILCHREST for offering my legislation as an amendment during the Subcommittee on the Coast Guard's consideration of H.R. 5055.

As you know, the Coast Guard is part of the Department of Transportation and therefore is not bound by the same procurement policies as is the Department of Defense. Buoy chain procurements are currently covered by the Buy American Act and the Federal acquisition regulation which are intended to level the playing field between U.S. domestic bidders and foreign bidders. However, there are only two U.S. manufacturers that regularly bid buoy chain solicitations because many American companies find they cannot compete with foreign companies who are subsidized by their governments.

According to the recent figures obtained from the Coast Guard, in fiscal year 1990 the Coast Guard procured 69.1 percent of its buoy chain from China, 15.4 percent from Yugoslavia, and only 15.5 percent from the United States.

Moreover, if bid selections are approved for fiscal year 1992, only 6 percent of the buoy chain purchased would be from domestic sources and 94 percent would be from foreign manufacturers.

H.R. 5055 would require the Coast Guard to be subject to the same procurement policies as the Department of Defense, therefore restricting the Coast Guard from procuring buoy chain that is not manufactured in the United States. In addition, all of the components of the buoy chain must be produced or manufactured in the United States.

Although the Coast Guard estimates this change will increase their costs for buoy chain, buy America is a good policy from a national security, strategic defense, and economic standpoint. I hope my colleagues will join me in supporting this reauthorization bill.

□ 1500

Mr. FIELDS. Mr. Speaker, I yield 7½ minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me, first of all, echo the sentiments of others who have spoken.

As a conservative in Congress, and I would match my credentials with any other conservative in Congress, I want to support the funding of the Coast Guard. You know, there is a lot of talk nowadays about defense cuts, about what we are going to have to do in our Nation's defense.

Quite frankly, I think we have cut too far in many areas, but there is a major distinction that many people are not aware of when they deal with the Coast Guard. A defense system is one that practices and prepares in the event of a war or a conflict. In the Coast Guard, the war is going on every day. The Coast Guard deals with search and rescue, with drug interdiction, with oil spills. These are very real things that are going on.

During the subcommittee meeting, we were able to put an amendment on the Coast Guard bill to determine what use we could make of a vehicle that is particularly adept for use for the Coast Guard. It is the tilt-rotor concept of the V–22. This is something that was developed several decades ago. It was used in the original prototype, which was the XV–15.

I have to be very candid and say the fuselages were made in the Rockwell plant in Tulsa, OK, so perhaps I do come from somewhat of a prejudiced perspective, but in the area of aeronautics myself, I can show and demonstrate to people that if there was ever a vehicle that could be used for the Coast Guard, it would be this particular vehicle which has the capability of a 300-knot speed and hovering capability by the rotation of the motors.

Admiral Yost, prior to his leaving the Coast Guard, said that the tilt-rotor concept is the answer to a Coast Guard commander's prayers.

In the area of search and rescue, I do not think anyone can look at this and not see that this has the advantage of getting there and then hovering once it is there, that there is not another vehicle that would do anything like this.

On an average day, the search-and-rescue operations save 13 lives and some 339 people are assisted. I happened to be one of those individuals who was assisted just a few years ago. So I am very familiar with that. In the area of drug interdiction, I do serve on the drug committee as the gentleman from California does. We were talking right before this that those of us like the gentleman from California [Mr. DORNAN] and myself who are pilots and who have a background in aviation, when you say that something will go 300 knots and hover, you have told the whole story.

Certainly drug interdiction is an area where it can be used.

In oilspills, we are all anguished over the problems that happened in Prince William Sound when we had the *Exxon Valdez* incident, and certainly that would be an area where there would be an excellent application.

The gentleman from California and I did a 2-hour special order after I flew a small plane around the world not too long ago, last summer, and I stopped at the various Coast Guard stations. One of them was under the leadership of Adm. David Ciancaglini in Juneau, AK. When we went out and analyzed the vehicles being used up there, he agreed that every mission the Coast Guard had could be enhanced by the use of this particular vehicle.

So I am very pleased that this is going to be something that is included in this bill, and I think that the Coast Guard, by determining how this is going to be used, is going to be in a position to offer a lot to civilian aviation also.

We know in this day and age of shorter runways, of airports being closed, of noise problems that exist, certainly this has a great civilian application.

Lastly, I would say that if you look at our balance of trade, developing this technology in America will preclude others from developing it and before we are able to do it. It is our information that the Japanese are already working on this technology. If we can get there first, obviously it is going to be to America's advantage and to everyone in America.

So I am very pleased this is going to be part of this bill, and I am very supportive of the bill, as I have told the chairmen.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. INHOFE. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, I just wanted to support everything the gentleman has said about this V–22 Osprey. I truly consider it a national asset for all the services, not only for the Marine Corps amphibious mission, which has grown absolutely obsolete given beach fortification firepower; you have to envelop them by insertion probably at night deep behind the enemy lines. The same would apply to the Army units, all Special Forces units.

Let me speak briefly to this rescue mission. I do not want to bore my colleagues with a peacetime war story, but I was ferrying an Air Force jet fighter from an Air National Guard field in Van Nuys, obviously an intensely populated area, to the boneyard in Davis-Monthan in Tucson to be cut up. This was the hangar queen. I had not flown in 73 days. The plane had not flown in 4 months. It flamed out over a dense area. So I took it out trying to get an air start, and then I took it out over the water to punch off the tanks.

I finally realized I was going to have to get out of this aircraft. I had delusions of bailing out, and with the sea and prevailing winds, my parachute drifting into the beach. By the time I got out of it, I was 6 miles out, with no Mae West, no liferaft.

A helicopter came out to get me. This is ancient, because this is 30 years ago this coming February 23. That helicopter had been assigned rescue duty that first day, that very hour, and it is still there, derivatives of the helicopter 30 years later.

The pilot of the helicopter told me, after I had warmed up, because it was the coldest day of the year off the California coast, 46 degrees water temperature, which is hypothermia time. He told me that probably 10–15 more seconds, I would not have lived.

Now, if he had had this aircraft, the V–22, he would have been out there in minutes, not the 15 or 20 minutes it took them to get 6 miles out in an old HUP helicopter. This helicopter is the ultimate rescue weapon for the Coast Guard since the rowboat. We simply must build it.

Mr. INHOFE. Mr. Chairman, reclaiming my time, I certainly do not want the gentleman from California to think, by my support of this for the Coast Guard, it diminishes my interest for the Defense Department, because he and I were both over the Persian Gulf during the war. If you stop and think about the mission over there and how it could have applied, that is great, but since it looked like it was not meeting with a favorable reception in Defense, this is a logical place for it to start. We have got to keep this alive. We have got to keep this the country that produces and the advanced technology of tilt-rotor, and this is a good place to start.

Mr. DORNAN of California. If the gentleman will yield further, if we buy it, every Coast Guard in the world will buy it.

Mr. FIELDS. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I want to compliment the chairman of the full committee, the gentleman from North Carolina [Mr. JONES], and the chairman of the subcommittee, the gentleman from Louisiana [Mr. TAUZIN], and the ranking member, the gentleman from Texas [Mr. FIELDS], for their good and sound work again on the Coast Guard.

They have brought out some very interesting points.

I have been on the committee for 20 years now, and we have increased the funding for the Coast Guard to some degree over what it was when we first came, but we are still not up to speed. We believe that we need more, because the Coast Guard just is not for coastal areas or rescuing people in jet planes. It is also for the Nation when it comes to drug interdiction, oil-spill cleanup opportunities, not only on the oceans but in the rivers.

It was, also, the immigration problems. The Coast Guard has been charged with numerous responsibilities by this Congress.

I will say that Congress has, under the leadership of this committee, tried to fund them adequately, and I believe that we have to bring it home to this administration and to other Members of this Congress that we should be increasing the spending to a greater degree.

Mr. Chairman, I also believe that I cannot stand here and speak about the Coast Guard without reminding people of their role in activities with the *Exxon Valdez* oil spill. The Coast Guard was the lead agency after finally getting things straightened out, and we learned something and passed legislation through the oil-spill legislation to give the Coast Guard the authority to do the job.

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Now, we have given the authority. Hopefully, we are going to give them the equipment and we will have the direction in place so that if we ever have another oil spill that we will have the ability to clean it up.

It may be for nought, if I may remind the Members, because we are producing so little oil. This last month we imported 7.5 million barrels a day and only produced 6.2 million barrels a day, so there may not be any need for this so-called oil spill legislation cleanup activity, if we do not start producing some oil.

I am going to remind this Congress that the Coast Guard can be funded if we are making products and producing products in this country. So it is time we start thinking also where we are in the fossil fuel production in this country. There are 630 wells being drilled today, rigs being used, versus 4,000. There were 4,000 wells in 1980.

We have run our business overseas. It is in China. It is in Russia. It is in Venezuela and Colombia. It is in Saudi Arabia, Iran, and Iraq, but it is not here at home.

So as much as I support this bill, and I do support it very strongly, it plays a major role in my State with the large coastlines we have, with the search and rescue that takes place, with the fine personnel that we have, and we must fund them adequately.

But this Congress has to wake up to where we are as far as production of energy for this Nation. If not, we are doing this all in vain.

Again, I thank the chairman of the full committee and the chairman of the subcommittee and the ranking member, the gentleman from Texas [Mr. FIELDS] for their activity on the Coast Guard. Let us pass this legislation overwhelmingly.

Mr. Chairman, I rise in support of H.R. 5055, a bill to authorize appropriations for the U.S. Coast Guard, and urge its adoption.

Mr. Chairman, the Coast Guard is an important line of our national defense, especially in coastal States, such as my own State of Alaska. The Coast Guard has done an excellent job in keeping the peace, enforcing laws and treaties, performing search and rescue missions, and protecting our environment. They should not only be commended for their fine work, but also should be given the level of funds necessary to carry out their job.

Now that I have said all these good things about the Coast Guard, I want to point to one section in this bill that corrects a mistake made by this fine agency. Section 306 of this bill authorizes the Coast Guard to pay certain subcontractors who have been the victims of bureaucracy and outright fraud. The story is simple: In 1987, the Coast Guard contracted for work to be performed in Ketchikan, AK. The contractor subcontracted with a number of local firms. The Coast Guard paid the contractor, but the contractor never paid the subcontractors. In trying to collect their payment, the subcontractors discovered that the contractor had gone bankrupt, and the bond posted by the contractor was completely worthless. The subcontractors have tried every legal avenue they could to receive their payment. To date, they have received nothing, and they will never get anything in the future unless Congress authorizes a payment.

There is some question as to whether the Coast Guard has a legal liability in this issue. After all, the Coast Guard was supposedly operating under the contracting rules in force at the time. However, it appears to me, and the Committee has agreed, that the Coast Guard may not have done all it should have to make sure that the subcontractors were protected.

This section authorizes the Secretary of Transportation to investigate this issue within a set time frame and, if certain findings are made, to pay the subcontractors what they are owed. We think this is the only fair way to see that American workers and small businesses are protected.

Again, Mr. Chairman, I believe this is a good bill and I urge its passage.

Mr. FIELDS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. GOSS].

The CHAIRMAN. The gentleman from Texas only has 3½ minutes to yield.

Mr. FIELDS. Mr. Chairman, I yield 3½ minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank my distinguished colleague, the gentleman from Texas, for trying to put a Texas spin on that 3½ minutes very much.

Mr. Chairman, I, too, want to pay my respects to the chairman of the committee. I felt it was an honor and a privilege to serve with the gentleman from North Carolina [Mr. JONES] since I have been in Congress. I think I have learned a lot, and we will certainly miss the gentleman, and I want to extend my congratulations to the gentleman for the good work he has done on this through the many years that he has done it, and I join with my other colleagues who have made those statements.

I also want to commend the chairman, and of course, our ranking member, the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Texas [Mr. FIELDS] for getting this authorization bill forward.

Mr. Chairman, these are very challenging times for the U.S. Coast Guard, and the trend, I fear, is that Congress is heaping more and more on the Coast Guard's plate without regard for priorities or affordability.

On any given day, the Coast Guard must be prepared to patrol for smugglers, conduct search and rescue missions, protect life and property at sea, protect the marine environment including oil spill matters, maintain aids to maritime navigation, assist in icebreaking activities, promote boating safety, and last but not least, the Coast Guard must always be prepared to serve as a branch of the Navy in times of war. Quite a tall order to fill, but somehow the Coast Guard always comes through.

The problem for the Coast Guard, not to mention the taxpayers, is that each year the list of Coast Guard duties continues to grow as resources continue to dwindle. In the last 20 years, the legal responsibilities of the Coast Guard have expanded enormously as a result of the adoption of 19 new maritime laws. The Coast Guard simply does not have the manpower or the budget to absorb new mandates at this rate.

With the adoption of the recreational boat user fee, the Congress has successfully, if unwisely, transformed the Coast Guard into an arm of the IRS. And with the latest mandate passed down—requiring the Coast Guard to commit major resources to the windward passage—the Coast Guard has been asked to assume the role of immigration support officer. It is extra missions such as these that force the Coast Guard to dip into resources provided for basic Coast Guard needs and services. This is unfair not only to the Coast Guard, but also to the taxpayers at large who depend on basic services.

Up until now, the Coast Guard has successfully lived up to its numerous responsibilities. But we may have reached a point where the Coast Guard and the taxpayers have to say "no" to additional missions.

Mr. Chairman, no matter how much we challenge the ability of the Coast Guard to manage on a shoestring budget, we have a responsibility to prioritize the duties of the Coast Guard with an eye toward affordability. I certainly am not advocating micromanagement by Congress—I am urging a better system of oversight that allows us to know when we are robbing Peter to pay Paul. There may be valid reasons to do so—as we have recently seen in the windward passage—but I believe we all need to know the true cost in dollars and forgone missions in support of other goals. I support this authorizing legislation, today, but I note my concern.

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is up to us to pursue policies to assure a world where shipping is safer, the oceans are purer, the coasts are cleaner, and fisheries resources are richer. Today, we have a chance to act to achieve these goals. Let us give the men and women of the Coast Guard the resources and equipment necessary to meet these challenges and fulfill their other responsibilities. I strongly urge my colleagues to support the Coast Guard by passing this extremely important bill.

Mr. Chairman, I have no further requests for time, and I yield back the balance of our side's time.

Mr. RANGEL. Mr. Chairman, the House in committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5055) to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes:

Mr. Chairman, I rise in support of H.R. 5055, Coast Guard Authorization Act of 1992. The bill authorizes $3.6 billion for the Coast Guard in fiscal year 1993—including $2.6 billion for operating expenses, $419 million for acquisition and construction. $30.5 million for environmental compliance, and $520 million for retirement benefits. The total authorized is $198 million—6 percent more than appropriated for those Coast Guard activities in fiscal year 1992, and $6.5 million more than requested by the Bush administration. Mr. Chairman the Congressional Budget Office estimates that if Congress appropriates the full amount authorized in the bill, outlays would be $2.1 billion in fiscal year 1993, $427 million in fiscal year 1994, $344 million in fiscal year 1995, $81 million in fiscal year 1996, and $33 million in fiscal year 1997.

Mr. Chairman, the Coast Guard is a multimission agency. Organizationally, the Coast Guard is part of the Department of Transportation in peace time, but in war time, it is a part of the Navy, and as such is part of the Department of Defense. The Coast Guard's mission includes such diverse duties as search and rescue, marine safety, aids to navigation, marine environmental protection, defense readiness, drug interdiction, enforcement of laws and treaties and ice operations.

For several years, the Coast Guard has been expected to do more, with less resources. The Coast Guard's budget is the bare minimum necessary to accomplish its many missions. Coast Guard surveillance is a vital part of our Nation's drug interdiction strategy. Coast Guard intelligence also allows civilian and military law enforcement agencies to respond more expeditiously when a suspected drug smuggling boat or airplane is spotted. In addition, boarding suspected drug smuggling vessels is a dangerous task that requires, specialized training, bravery and tact.

In addition to annual authorizations the Coast Guard is permanently authorized under existing law to spend funds for reserve training—expected to be about $75 million in fiscal year 1993, of which $43 million would be transferred from the Defense Department.

Mr. Chairman, a provision in the bill would increase from $1,000 to $5,000 the maximum civil fine for second, and any subsequent, violations of operating a boat under the influence of drugs or alcohol. This change in the law is appropriate because operating a boat while intoxicated is just as dangerous, if not more so, than operating a motor vehicle under the influence on shore.

The bill also requires the Coast Guard to report to Congress on the possible applications of V–22 Osprey tiltrotor aircraft technology to Coast Guard missions, particularly search and rescue, law enforcement, and oil spill response.

Mr. Chairman, the Bush administration opposes passages of H.R. 5055 for several reasons. The administration does not approve of the provision that exempts training vessels operated by State maritime academies from a proposed Coast Guard user fee for vessel inspections; that require the Coast Guard and the Commerce Department to agree on procedures involved in enforcing U.S. fisheries laws and regulations. It also opposes provisions that direct the Coast Guard to undertake specific actions; that declare certain bridges and obstructions to navigation, and thereby eligible for Federal assistance to remove or alter them.

Mr. Chairman, I hope that when H.R. 5055 reaches his desk President Bush will sign it, because it is inconsistent to talk about how serious the Nation's drug problem is, acknowledge what an important role the Coast Guard plays in the war against drugs, and then deny them the funding necessary to do an adequate job of drug interdiction.

Mr. STUDDS. Mr. Chairman, I rise in strong support of H.R. 5055, legislation authorizing funding for the U.S. Coast Guard for fiscal year 1993.

Residents of southeastern Massachusetts know better than just about anyone, how important a healthy and well equipped Coast Guard is to their community. Whether it's protecting our beaches from oil spills, rescuing our fishermen at sea or keeping our channels well marked, the Coast Guard's activities are a big part of our lives.

The funding authorized in this bill represents about a 6 percent increase over last year's appropriations. While the hearing record created by Subcommittee Chairman TAUZIN clearly shows that the Coast Guard needs more than that, we will have a difficult time getting the 6 percent increase. Last week the Appropriations Subcommittee on Transportation marked up a bill which essentially freezes the Coast Guard at last year's levels. I urge all of my colleagues to join with our committee in seeking an increase for the Coast Guard 1993 appropriation.

Just 2 weeks ago, I had the privilege of taking part in a ceremony dedicating a monument to fishermen in the Port of Chatham, on Cape Cod. Chatham is an old fishing port which opens to the Atlantic through one of the most treacherous channels on the east coast. For centuries, the Coast Guard and its predecessors—the Lighthouse Service and the Lifesaving Service—have had a presence in Chatham.

During that ceremony over 1,000 people stood to pay tribute to Senior Chief Jack Downey, who is in charge of the local search and rescue station. Chief Downey—the best damn chief in the Coast Guard—represents the finest of the Coast Guard's proud tradition.

The funding and military strength and training levels authorized in this bill will provide the Coast Guard—and people like Chief Downey—with the resources it requires to continue to be the Nation's finest. I urge my colleagues to support this bill.

Mrs. MINK. Mr. Chairman, I urge my colleagues to support H.R. 5055, the Coast Guard authorization bill.

This bill authorizes $3.6 billion for the Coast Guard in fiscal year 1993, of which $2.6 billion covers Coast Guard operating expenses. It should be noted that this $2.6 billion is equal to the amount requested by the administration and 5 percent more than appropriated in fiscal year 1992 for Coast Guard operating expenses.

Coast Guard operations include carrying out search and rescue missions, interdicting the transport of illegal drugs, aiding navigation, protecting the marine environment, and enforcing treaties and laws. The Coast Guard's role in ensuring the public safety cannot be minimized, especially in an island State like Hawaii.

The waters around the State of Hawaii are utilized for every conceivable water-based recreational and commercial activity and include some of the richest fishing grounds in the mid-Pacific. The waters northwest of Kauai, the westernmost of the State's eight principal islands, support more than a fair share of these rich fishing grounds. As such, these waters attract a considerable amount of recreational and commercial fishing activity.

The above activity and the Coast Guard's plans to essentially relocate its Kauai station to the island of Oahu, 100 miles further to the East, has prompted a number of my constituents to question the appropriateness of the Coast Guard's plans.

I join my constituents in urging the Coast Guard to reconsider its plan to ensure that search and rescue missions in the waters around and to the northwest of Kauai are carried out in a timely manner.

The CHAIRMAN. All time has expired for general debate.

Pursuant to the rule, the amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment and each title is considered as having been read.

The Clerk will designate title I.

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute made in order as original text by the rule be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 5055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SECTION 101. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1992".

SEC. 102. AUTHORIZATION.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(a) For the operation and maintenance of the Coast Guard, $2,603,000,000, of which—

(1) $142,100,000 shall be transferred from the Department of Defense;

(2) $31,876,000 shall be derived from the Oil Spill Liability Trust Fund; and

(3) $35,000,000 shall be expended from the Boat Safety Account.

(b) For the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $419,030,000 to remain available until expended, of which—

(1) $18,000,000 shall be transferred from the Department of Defense; and

(2) $37,852,000 shall be derived from the Oil Spill Liability Trust Fund.

(c) For research, development, test, and evaluation, $29,900,000, to remain available until expended, of which $4,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Administration Program, $12,600,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, $30,500,000, to remain available until expended.

SEC. 103. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,732. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institution, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 104. SHORE FACILITIES IMPROVEMENTS AT GROUP CAPE HATTERAS.

The Secretary of Transportation shall expend not more than $5,500,000 of amounts authorized to be appropriated for the Coast Guard in Fiscal Years 1993, 1994, 1995, 1996, and 1997, for shore facilities improvements within Group Cape Hatteras, North Carolina.

SEC. 105. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall expend $1,780,000 to acquire and preposition oil spill response equipment at Traverse City, Michigan and Houston, Texas.

SEC. 106. OIL SPILL TRAINING SIMULATORS.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in Fiscal Year 1993, the Secretary of Transportation shall make available—

(1) $1,250,000 to the Texas Center for Marine Training and Safety at Galveston, Texas, for the purchase of a marine oil spill management simulator; and

(2) $1,250,000 to the Massachusetts Center for Marine Environmental Protection, located at Buzzards Bay, Massachusetts, for the purchase of a marine oil spill management simulator.

SEC. 107. DESIGNATION OF THE FLORIDA AVENUE BRIDGE AS AN UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Florida Avenue Bridge, which is located 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana, is deemed to be an unreasonable obstruction to navigation.

SEC. 108. DESIGNATION OF THE CHELSEA STREET BRIDGE AS AN UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Chelsea Street Bridge, which is located at mile 1.2 on the Chelsea River (Creek), in Chelsea, Massachusetts, is deemed to be an unreasonable obstruction to navigation.

SEC. 109. PROCUREMENT OF BUOY CHAIN.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§96. Procurement of buoy chain

"(a) The Coast Guard may not procure buoy chain unless—

"(1) it is manufactured in the United States; or

"(2) substantially all of its components are produced or manufactured in the United States.

"(b) For purposes of subsection (a)(2), substantially all of the components of a buoy chain are deemed to be produced or manufactured in the United States if the aggregate cost of the components that are produced or manufactured in the United States is greater than the aggregate cost of the components that are produced or manufactured outside the United States.

"(c) In this section—

"(1) 'buoy chain' means any chain, cable, or other device that is—

"(A) used to hold in place, by attachment to the bottom of a body of water, a floating aid to navigation; and

"(B) not more than four inches in diameter; and

"(2) 'manufacture' includes cutting, heat treating, quality control, welding (including the forging and shot blasting process), and testing.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"96. Procurement of buoy chain.".

SEC. 110. TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.

Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c; popularly known as the "Dingell-Johnson Sport Fish Restoration Act"), is amended—

(1) by inserting "distribution, and transfer" in the third sentence after "deduction,"; and

(2) by inserting after the second sentence the following: "Of annual appropriations allocated under section 3, $10,000,000 for fiscal year 1993, $15,000,000 for fiscal years 1994 and 1995, and $20,000,000 for each fiscal year thereafter, shall be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.".

TITLE II—BOATING SAFETY

SEC. 201. INCREASED PENALTIES FOR OPERATING A VESSEL WHILE INTOXICATED.

Section 2302(c)(1) of title 46, United States Code, is amended by striking "$1,000;" and inserting "$1,000 for a first violation and not more than $5,000 for a subsequent violation;".

SEC. 202. FUTURE BOATERS EDUCATION PROGRAM.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to increase the availability of voluntary safe boating education to individuals sixteen years of age or younger. In developing the plan, the Secretary shall consider using the resources of the Coast Guard Auxiliary to provide boating education to the greatest extent possible.

SEC. 203. COAST GUARD AUXILIARY MISSION REPORT.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on ways to enlarge the mission of the Coast Guard Auxiliary and to increase Auxiliary participation in Coast Guard programs and activities.

SEC. 204. LAW ENFORCEMENT COORDINATION DEMONSTRATION PROJECT.

Not later than two months after the date of enactment of this Act, the Secretary of Transportation shall conduct a demonstration project in the Ninth Coast Guard District in conjunction with other appropriate officials of Federal, State, and local government agencies, to increase coordination of enforcement of boating laws and regulations.

TITLE III—MISCELLANEOUS

SEC. 301. STATE MARITIME ACADEMY VESSEL INSPECTION FEE RELIEF.

Section 2110 of title 46, United States Code, is amended by adding at the end of the following:

"(j) Effective October 1, 1992, the Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle for training ships operated by State maritime academies.".

SEC. 302. AUTHORITY FOR THE COAST GUARD TO INSPECT AND WITHHOLD THE DOCUMENTS OF CERTAIN FOREIGN PASSENGER VESSELS.

(a) Section 3303(a) title 46, United States Code, is amended in the first sentence by—

(1) striking "only"; and

(2) striking "the condition of the vessel's propulsion and lifesaving equipment are" and inserting "the condition of the vessel is".

(b) Section 3505 of title 46, United States Code, is amended by striking "or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers" and inserting "vessel".

SEC. 303. STUDY OF THE APPLICATION OF TILTROTOR AIRCRAFT TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit a study to congress on the application of the V-22 Osprey tiltrotor technology to Coast Guard missions.

(b) In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the application of tiltrotor technology to Coast Guard missions including—

(A) search and rescue at sea; and

(B) the enforcement of laws of the United States especially with respect to drug interdiction;

(2) determine whether use of the technology in the Coast Guard marine environmental protection program would minimize the damage caused by oil or hazardous substances spills in the waters of the United States; and

(3) determine what effect the technology would have on Coast Guard manpower and operating costs, compared to those costs associated with technology currently used by the Coast Guard.

SEC. 304. ENFORCEMENT AGREEMENTS.

The Coast Guard and the Department of Commerce shall enter into a Memorandum of Agreement regarding fisheries enforcement practices and procedures that provide at a minimum for the opportunity, if timely requested, to appear in person to respond to charges of violation of law or regulation when the opportunity for a hearing is granted by statute. The Memorandum of Agreement shall also provide that all enforcement procedures shall be fair and consistently applied.

SEC. 305. RADAR BEACON AID-TO-NAVIGATION FOR THE ECKHOLMS ISLANDS.

Not later than ninety days after enactment of this Act, the Secretary of Transportation shall install a radar beacon aid-to-navigation at the Eckholms Islands, near Sitka, Alaska.

SEC. 306. AUTHORIZING PAYMENT TO CERTAIN SUBCONTRACTORS.

(a) Not later than sixty days after the date of enactment of this Act, the Secretary of Transportation shall determine whether the Coast Guard failed to investigate the adequacy, availability, and financial soundness of the security for payment to subcontractors under Coast Guard contract DTCG50-87-C-00096, notwithstanding any law or regulation in effect at the time the contract was made.

(b) If the Secretary determines that the Coast Guard failed to investigate as provided in subsection (a) of this section, the Secretary shall—

(1) not later than one hundred and eighty days after the date of enactment of this Act, determine the amounts that MZP, Incorporated owes to all subcontractors that performed work or supplied materials under the contract; and

(2) not later than sixty days after making that determination, the Secretary shall pay the subcontractors out of amounts authorized to be appropriated under this Act.

(c) The Secretary shall conduct investigations and interviews under this section in Ketchikan, Alaska.

SEC. 307. STUDY OF THE APPLICATION OF NIGHT VISION AND THERMAL IMAGING TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit a study to Congress on the application of the Driver's Thermal Viewer (DTV) to Coast Guard missions.

(b) In conducting the study required under subsection (a), the Secretary shall—

(1) evaluate the applications of the Driver's Thermal Viewer to Coast Guard missions on Coast Guard utility boats and motor lifeboats including—

(A) search and rescue at sea;

(B) the enforcement of laws of the United States, especially with respect to drug interdiction; and

(C) marine environmental protection; and

(2) determine what effect implementing the technology would have on Coast Guard operating costs and manpower.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill add the following new section:

SEC. . COAST GUARD BAND DIRECTOR.

Section 336 of title 14, United States Code, is amended in subsection (d) by striking "lieutenant".

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, the amendment simply allows the Coast Guard the flexibility it needs to promote the Coast Guard band director from the rank of lieutenant commander to the rank of commander.

The Coast Guard has requested that I offer this amendment for three reasons. First, the statute currently limits the rank to lieutenant commander.

Second, the Coast Guard director has the years and service required otherwise to make him eligible for promotion to commander.

Third, the other services do allow and currently permit the promotion of their directors to the rank of captain or colonel.

For those reasons, Mr. Chairman, I offer the amendment. It is noncontroversial in nature, technical in real nature, and offered at the request of the U.S. Coast Guard, and I would move adoption of the amendment.

Mr. FIELDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of this amendment offered by my distinguished subcommittee chairman, BILLY TAUZIN, to increase the service rank for the Coast Guard's band director.

While this may seem like a trivial matter, in recent years, the Coast

Guard's band has gained international recognition for its superb performance. In fact, the band has recently received an invitation to perform at the Lincoln Center in New York City.

Under current law, the director of the Coast Guard band is the lieutenant commander, which is a rank considerably less than any of the other branches of the U.S. military service.

This law has not been changed since its inception in 1965, despite the fact that the roles and responsibilities of the Coast Guard band have greatly increased. What was once a small command band that performed at local functions has now evolved into a band that routinely tours throughout the country. It is also a band that has been recognized as one of our finest.

Mr. Chairman, this law should be changed and the Coast Guard's band director should be able to attain the rank of commander. By so doing, it will make the director's rank comparable to that of their counterparts in the other armed services' bands and it will provide this position with the recognition which it deserves.

Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

☐ 1520

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill add the following new section:

SEC. . COASTWISE LAWS.—

(a) DREDGES.—

(1) IN GENERAL.—Section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292) is amended to read as follows:

SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING

"(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States or the Exclusive Economic Zone only if—

"(1) for a vessel that is at least 5 net tons—

"(A) the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement; and

"(B) if chartered, the charterer of the vessel is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802) for purpose of engaging in the coastwise trade; or

"(2) for a vessel that is less than 5 net tons—

"(A) the vessel was built in the United States; and

"(B) the owner and, if chartered, the charterer of the vessel is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802) for purpose of engaging in the coastwise trade.

"(b) EXCEPTION.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

"(c) PENALTY.—When a vessel is operated in knowing violation of this section, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.".

(2) EXCEPTION.—The amendment made by paragraph (1) does not apply to—

(A)(i) the vessel STUYVESANT, official number 648540;

(ii) any other hopper dredging vessel documented under chapter 121 of title 46, United States Code before the effective date of this Act and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest; however, this exception expires on December 3, 2022 or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs; and

(iii) any other non-hopper dredging vessel documented under chapter 121 and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest, as is necessary (a) to fulfill dredging obligations under a specific contract, including any extension periods; or (b) as temporary replacement capacity for a vessel which has become disabled but only for so long as the disability shall last and until the vessel is in a position to fully resume dredging operations; however, this exception expires on December 8, 2022 or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs;

(B) the vessel COLUMBUS, official number 590658, except that the vessel's certificate of documentation shall be endorsed to prohibit the vessel from engaging in the transportation of merchandise (except valueless material), including dredge material of value, between places within the navigable waters of the United States; or

(C) a vessel that is engaged in dredged material excavation if that excavation is not more than a minority of the total cost of the construction contract in which the excavation is a single, integral part, and the vessel is—

(i) built in the United States;

(ii) a non-self-propelled mechanical clamshell dredging vessel; and

(iii) owned or chartered by a corporation that had on file with the Secretary of Transportation, on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1).

(b) GOVERNMENT MERCHANDISE.—Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended by striking "merchandise" in the first sentence and inserting "merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of title 46, United States Code), or a subdivision of a State,".

(c) GRANDFATHER PROVISION.—Public Law 100–329 does not apply to a vessel—

(1) engaged in the transportation of valueless material or valueless dredged material; and

(2) owned or chartered by a corporation that had on file with the Secretary of Transportation on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1).

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, the Coast Guard regulated and documented dredges are not subject to the same requirement as other aspects of the maritime industry.

Today I am offering an amendment which will secure safety for domestic hopper dredges by requiring that any future entrants into the industry be domestically built and U.S. citizen owned.

This amendment will make all domestically operated dredges subject to the same documentation and ownership requirements as other vessels under the coastwise trade laws.

Mr. Chairman, this amendment would close loopholes in the Federal law. It has been written in cooperation with the U.S. dredging operators and grandfathers existing foreign-owned fleets.

Dredges are a major part of the safety of our maritime industry. Its continued existence under the U.S. flag is very important.

All new entrants under this amendment into the market will be required to be U.S. built, U.S. crewed, and U.S. owned, thus guaranteeing the continued safety in our Nation's waterways of those operations.

I present for the record a position paper issued by the Committee on Merchant Marine and Fisheries for the support of the amendment at this point in the RECORD.

Mr. Chairman, this amendment, as I indicated, is technical, closes loopholes, and I urge my colleagues' support and move its adoption.

DREDGES AND COASTWISE TRADE

Section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), commonly referred to as the Foreign Dredge Act, states:

> A foreign-built dredge shall not, under penalty of forfeiture, engage in dredging in the United States unless documented as a vessel of the United States.

An opinion issued by the Attorney General on August 7, 1963 (42 Op. A.G. 189) that was based on the Foreign Dredge Act stated:

> Dredging performed by or from vessels on navigable waters is maritime trade, and is coasting or coastwise trade when performed in domestic navigable waters.

This opinion by the Attorney General has largely been ignored when determining the application of the coastwise trade laws to dredging activities. However, section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), commonly referred to as the Jones Act, requires vessels that transport merchandise, including dredged material, in the coastwise trade to be built in the United States, owned by a corporation in which 75 percent of stockholders are U.S. citizens, and documented under chapter 121 of title 46, United States Code with a coastwise endorsement.

Many vessels engaged in dredging are also engaged in the transportation of dredged material; therefore, they must meet the Jones Act requirements. However, some dredges—such as hydraulic pipeline and clamshell—may be under foreign ownership or control since they do not transport dredged material.

This amendment to the Foreign Dredge Act requires all dredges to meet the same requirements as those engaged in the coastwise trade and to bring the statute into conformance with the Attorney General's 1963 decision. In addition, if the dredge is chartered under a time voyage or demise charter, the charterer of the vessel also must meet the citizenship requirements under section 2 of the Shipping Act, 1916—46 App. U.S.C. 802—which means that 75 percent of stockholders must be U.S. citizens. The purpose of this restriction is to ensure that these vessels are always under the control of U.S. citizens.

New subsection (b) of the Foreign Dredge Act allows vessels only have a certificate of documentation with a registry endorsement to engage in dredging for gold in waters of the State of Alaska. Under this exception, the vessel may be foreign built and does not have to meet the ownership requirements of section 2 of the Shipping Act, 1916.

The amendment also includes a grandfather clause to protect existing dredging operations that are affected by the change in law.

As previously discussed, the Jones Act requires vessels transporting merchandise between two points in the United States—the coastwise trade—to be built in the United States, owned by U.S. citizens, and documented under chapter 121 of title 46, United States Code with a coastwise endorsement.

However, the Customs Service has ruled that the Jones Act does not apply to the transportation of Government-owned merchandise since the penalty under the Jones Act is forfeiture of the merchandise. Since Government property cannot be forfeited, Customs believes that the Act does not apply to Government-owned merchandise. The committee strongly disagrees with this statutory interpretation. To use a penalty provision as a basis for interpreting the substantive requirements of the law is backward reasoning.

This amendment also clarifies the intent of Congress that the Jones Act applies to the transportation of merchandise owned by the U.S. Government, a State, or a subdivision of a State. Mr. Robert H. Moore, the Director for Transportation Policy, Office of the Assistant Secretary of Defense—Production and Logistics—testified before the Subcommittee on Merchant Marine on April 23, 1991 that:

> We need an adequate and reliable U.S.-flag merchant marine to move the majority of our material sustainment requirements. . . . We need trained and readily available civilian mariners to fill the short-fused emerging requirements for U.S.-flag and RRF manning.

General Hansford T. Johnson, USAF, the Commander-in-Chief of the United States Transportation Command, stated that "The solution to our future sealift capability as a nation, however, must also include efforts to improve the U.S. merchant marine."

The committee believes that the Government should support the U.S. merchant marine through the Jones Act in the same manner as the private sector is required to use this law when transporting property in the coastwise trade.

Mr. FIELDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have reviewed the amendment offered by my distinguished subcommittee chairman and I support its adoption.

The purpose of this amendment is twofold. First, it closes a loophole in our cabotage laws which allows foreign-owned barges to participate in our coastwise trade as long as they do not transport dredge materials.

And, second, it overturns a ruling by the U.S. Customs Service which stipulates that property of the U.S. Government is not merchandise for purposes of the Merchant Marine Act. As a result of this ruling, foreign-owned vessels are transporting Government-owned dredge materials from one U.S. port to another.

Mr. Chairman, clearly these two practices are violations of the letter and spirit of the Merchant Marine Act of 1920. This statute, which is better known as the Jones Act, is the foundation of our maritime law and it clearly states that cargo in the domestic or coastwise commerce of the United States is reserved to vessels built in and documented under the laws of the United States and owned by U.S. citizens.

This amendment, which is the product of careful negotiations among all interested parties, will help to restore the fundamental purpose of the Jones Act and it will ensure that these onerous interpretations are eliminated.

Finally, this amendment is strongly supported by the American Waterways Operators Association and by our Nation's maritime labor unions.

I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. Tauzin].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goss: At the end of the bill, add the following new section:

SEC. . ACCEPTANCE OF EVIDENCE OF PAYMENT OF COAST GUARD FEES.

The Secretary of Transportation may not issue a citation for failure to pay a fee or charge established under section 2110 of title 46, United States Code, to an owner or operator of a recreational vessel who provides reasonable evidence of prior payment of the fee or charge to a Coast Guard boarding officer.

Mr. GOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Chairman, what we have got here is a somewhat minor problem somewhat corrected, but we have not completely corrected it. We want to provide relief to America's boaters who are being subjected to this very onerous problem of having to buy this decal fee to put on their recreational boats. Even though we have a better solution for the decal fee problem in the mill, we have got an administrative problem here. This amendment simply seeks to suggest that anybody who can provide reasonable evidence of a prior payment through a Coast Guard boarding officer should be excused from any citation for not showing a decal on his or her vessel. It is that simple. I do not believe there is anything contentious or controversial about it. It should be user friendly. It should make certainly the Coast Guard happy. It certainly should make the consumer happy. Perhaps there will be court officers or administrative officers who will have less to do, and I think that, frankly, will make them happy also.

The long and the short of it is that when we get through, if we adopt this amendment, we will allow common sense to prevail. If somebody has taken the proper steps to get this decal and can prove that, they will be excused from the onerous proceedings of an administrative hearing, having to prove their innocence and being excused from the liability of up to $5,000 fine.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like nothing better for this amendment to read as something different. I would like nothing better than this amendment to say that those so-called Coast Guard user fees, those so-called fees that this Congress has, in essence, assessed against the recreational boaters of America for the simple purpose of raising money for the general treasury, would be repealed today. I would love to have such an amendment made in order.

Mr. Chairman, unfortunately, because of the rules of the House, the budget agreement that we are operating under, if an amendment to repeal those fees was offered today, it would be subject to a point of order. The chairman of the Committee on Budget would be obliged to make that point of order. The Chair would be obliged to rule that such an amendment would be out of order.

We do not have that opportunity today, but I wish we could.

I think the great majority of the Members of this House wish we could also.

Before this process is through, before the process of this bill going to a conference committee and the conference committee meeting with the Senate and us having a chance to maybe cure those budget agreement problems, those technical and procedural problems, we may yet have a chance to present to this floor a vote on whether or not you want to repeal this so-called user fee, which is nothing more than a nuisance tax.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the comments made by the gentleman from Louisiana. I want to congratulate the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from North Carolina [Mr. JONES], the gentleman from Texas [Mr. FIELDS], and others on this committee for the leadership they have shown in trying to get this issue before the Congress to a vote so that we can in fact repeal a tax which is a general tax, not a user fee as the gentleman so well points out, which has proven so onerous and to have had such an adverse impact.

I am hopeful, with the gentleman's leadership, and the assistance of the gentleman from Texas [Mr. FIELDS], and others, that we will see that tax repealed, certainly within the near future. I assure the subcommittee chairman that I am going to be a strong ally of his when we try to do that.

Mr. Chairman, I am aware of the rule to which the gentleman refers. It is a very important rule that we have. The committee cares deeply about its jurisdiction. I understand that.

But this is something that we ought to move forward on. The chairman is absolutely right.

Mr. TAUZIN. I thank the gentleman for his comments, and I join him and so many others in the House, particularly the gentleman from Michigan [Mr. DAVIS] on the Republican side, who has been so instrumental in trying to bring this issue to a vote on the House floor.

That day is coming. Some day, somehow, despite our procedural barrier, we will have a vote on it. In the meantime, the gentleman's amendment—I understand Mr. DAVIS had a lot to do in drafting it and working with the gentleman from Florida. It is essential that we pass it.

What this amendment does is simply say to the boating public, who has paid this fee, this tax that has been assessed against him, and has not yet gotten a decal to prove to the Coast Guard that they have paid the tax and they will be given a chance to submit other evidence that they are in fact complying with the law, before they get cited and hauled off to jail for not paying his decal fee.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. I thank the gentleman for yielding.

Mr. Chairman, I neglected to say something very important in my opening remarks. And that is that I am poaching on Mr. DAVIS' amendment here. We all know this is Mr. DAVIS' amendment. He could not be here to do it. In my enthusiasm to get it before the House, to get it moved forward, I failed to say that. The gentleman from Louisiana has brought it to my attention. Mr. DAVIS indeed deserves the credit.

Mr. TAUZIN. I thank the gentleman for his comments.

Let me say that this has been a nightmare for the Coast Guard.

Mr. Chairman, we held hearings on this so-called user-fee tax sometime ago at the subcommittee level, and what we learned was that the cost of collecting it is going to be more than the money we raise for the U.S. Treasury as a result of imposing this fee on the American boating public.

Let me say it again; The cost of collecting it, with all of the aggravation, with all the time and attention and the cost of operating U.S. Coast Guard equipment, the time of personnel, the contracts that have been let to outside agencies to educate the public on what is required of them, the entire cost of this operation will far exceed the revenues to the Federal treasury. That alone ought to be enough to convince people of the commonsense mind that we ought to repeal the doggone thing.

If we are not going to realize any net revenue to the Government and all we are doing is aggravating the dickens out of the boating public of America and costing the Coast Guard, costing the Coast Guard in valuable resources that it ought to be using for search and rescue, drug interdiction, and all the other good things that it does, we ought to repeal that thing. The faster we can get to that, the happier I will be, and the happier most Members of this Congress will be.

In the meantime, this amendment is critical to insure that people who have complied with this dastardly law have a chance to prove it to the Coast Guard before they are hauled off to jail because somebody has not mailed them the decal. I think we had better adopt this amendment right now.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Goss amendment to H.R. 5055. The gentleman worked diligently with the gentleman from Michigan [Mr. DAVIS].

During the past 2 years, we have all received correspondence from a number of our constituents complaining about the enforcement of the recreational boat fee.

Currently, in order to obtain a decal, a boater calls a toll-free number in Des Moines, IA, pays the appropriate fee, and then waits for the decal to arrive.

What is happening is that boaters, who have paid the fee but have yet to receive their decal, are being cited by the Coast Guard for failure to comply with the recreational boat fee law.

Mr. Chairman, it is my firm belief that if a taxpayer pays this onerous fee, they should not be subjected to a civil penalty of up to $5,000.

The purpose of the Goss amendment is to direct the Coast Guard not to cite or fine those boaters who can provide reasonable evidence that they have already paid their recreational boat fees. It seems to me that this could be easily accomplished by having the Coast Guard's subcontractor in Iowa, a company known as Neodata, simply provide the boater with an identification number. Upon being stopped, the boater could provide the Coast Guard with that identification number and, therefore, avoid any further prosecution.

Mr. Chairman, while this is a good amendment and a step in the right direction, the ultimate solution is to remove this burden on 4.1 million Americans by repealing the recreational boat fee. You can be assured that I remain committed to achieving that goal this year.

□ 1530

Mr. Chairman, again I applaud the gentleman from Florida [Mr. GOSS, for this amendment, and I also want to state that he worked very closely with the gentleman from Michigan [Mr. DAVIS] in drafting this amendment.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in strong support of the Goss amendment. This amendment ensures that previous policy stays in effect, and that simple courtesy is extended to the boating public.

We all know what a fiasco the boat user fee has been, and how inefficient the distribution system has been. My office has received dozens upon dozens of complaints, ranging from 45-minute waits to purchase a decal, to unresponsive Coast Guard officials.

I have had constituents who have actually purchased the decal, but had to wait 3 to 4 weeks before putting their boat in the water because the decal had not arrived. Furthermore, one constituent who was checking up on his order was told that there was no way for the Coast Guard to determine the status of that order. He just had to wait.

While I was happy to see the user fee repealed earlier this year—and I commend the sponsor of this amendment for all his work in helping to get the fee repealed—we still face another boating season where our constituents are going to have to pay another tax for the right to operate their boats.

This amendment will help avoid the worst of the aforementioned problems, and, most importantly, will avoid adding insult to injury.

When the fee was first enacted, the Coast Guard's informal policy was to allow boaters an opportunity to prove that they had purchased the decal. This amendment simply formalizes this policy. If one has purchased the decal, but has not received it, he or she should not be penalized for the inefficiency of the distribution system. This is common courtesy, nothing more.

Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOYER:

At the end of the bill add the following new section:

SEC. . SCHEDULE FOR OPERATION OF DRAWBRIDGE OF WOODROW WILSON MEMORIAL BRIDGE.

(a) COMMERCIAL VESSELS.—

(1) RESTRICTIONS ON HOURS OF OPERATION.—The Secretary of the department in which the Coast Guard is operating (in this section referred to as the "Secretary") shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a commercial vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to 8:00 p.m.

(B) Saturday, Sunday, and Federal holidays, 2:00 p.m. to 7:00 p.m.

(2) NOTICE REQUIRED.—The Secretary shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge for the passage of a commercial vessel unless—

(A) the owner or operator of the vessel notifies the Secretary of the time that the vessel will pass the bridge, by not later than 24 hours before that time; and

(B) the vessel passes the bridge in the 2-hour period beginning 1 hour before that time.

(b) RECREATIONAL VESSELS.—

(1) RESTRICTIONS ON HOURS OF OPERATION.—The Secretary shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a recreational vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 12:00 midnight.

(B) Saturday, Sunday, and Federal holidays, 7:00 a.m. to 12:00 midnight, except as provided in paragraph (2).

(2) SPECIAL OPERATION.—Notwithstanding paragraph (1)(B), the Secretary may operate the drawbridge of the Woodrow Wilson Memorial Bridge beginning at 10:00 p.m. on Saturday, Sunday, or a Federal holidays for the passage of a recreational vessel, if the owner or operator of the vessel notifies the Secretary of the time of that passage by not later than 12 hours before that time.

(3) PASSAGE DURING OTHER OPENINGS NOT PROHIBITED.—This subsection shall not be considered to prohibit a recreational vessel from passing the Wilson Memorial Bridge at any time at which the drawbridge is being operated for the passage of a commercial vessel.

Mr. HOYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. HOYER. Mr. Chairman, for purposes of a brief colloquy I yield to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman from Maryland [Mr. HOYER], and I appreciate his accommodating me because I have to leave the floor very shortly. I just want to get this question in prior to the gentleman explaining his amendment.

Mr. Chairman, I just want the gentleman to assure us that he will work with me and others in conference to be sure that the provision regarding advanced notice, the advanced notice requirement of commercial vessels, is practical and reasonable.

Mr. HOYER. Mr. Chairman, I want to assure the gentleman from North Carolina [Mr. COBLE], my good friend, that we intend to work between now and conference and in conference to accomplish the objectives that, in fact, the provisions provided are practical and can be implemented.

Mr. COBLE. Mr. Chairman, I thank the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I want to thank the chairman of the subcommittee, the gentleman from Louisiana [Mr. TAUZIN], and the full committee chairman, the gentleman from North Carolina [Mr. JONES], for their assistance on this issue. I also want to thank the distinguished gentleman from Texas [Mr. FIELDS] who has worked with us, not necessarily in support of the amendment, but has been very open on this amendment, and I appreciate that. He is a fine Member of this House.

Mr. Chairman, I offer this amendment on behalf of myself, the gentleman from Virginia [Mr. WOLF], the gentlewoman from Maryland [Mrs. MORELLA], the gentleman from Maryland [Mr. GILCHREST], the gentleman from Virginia [Mr. MORAN], the gentleman from Maryland [Mr. MCMILLEN], and the gentlewoman from the District of Columbia [Ms. NORTON].

Mr. Chairman, as many Members of this House know well, the Woodrow Wilson Bridge is a terrible chokepoint not only for the Washington area's beltway, but for the main north-south highway in the east, I-95. Worsening this chokepoint is the fact that this bridge is a drawbridge—and when it is up, traffic on this major interstate comes to a complete standstill.

When the bridge is raised during rush hour, traffic backs up over 2.5 miles, and when it is finally lowered, usually after 10 minutes, it takes over 3 hours for traffic flows to return to normal. In 1990, however, the bridge was stuck upon in June and July for over an hour after it was raised for one sailboat, and traffic backed up for over 10 miles in either direction—bringing the entire Washington region and thousands of very overheated drivers, into absolute gridlock.

The problem is, of course, very complicated. But the bottom line is that the bridge was designed to carry 75,000 vehicles per day and it now carries over 165,000 vehicles every day. And by the year 2,000 this traffic will grow to over 244,000 vehicles per day, well over three times the rated capacity of this bridge.

It is critical, therefore, that some action be taken to minimize disruption to this traffic flow while still preserving both commercial and recreational uses of the Potomac River.

In an effort to strike a fair balance among all involved parties, offices from Maryland, Virginia, and the District have been working with the Coast Guard, the business community, and representatives of the traveling and boating public. We have developed a schedule that Members of both parties from every jurisdiction from around the region have agreed upon. And Mr. Chairman, if the true test of a good deal is that no one is absolutely happy, nor very unhappy, then this amendment truly meets that test. The bottom line is that this amendment strikes a fair balance that attempts to meet everyone's concerns.

This amendment continues to allow midday openings for commercial vehicles but restricts those openings during the most heavily traveled hours. It would require recreational boats to pass through the bridge at nighttime on weekdays, unless the bridge is opened for a commercial vessel. And it would require 24-hour notice so adequate notice could be given to both motorists and boaters of scheduled openings.

Mr. Chairman, this schedule has been endorsed by the Transportation Planning Board of the Metropolitan Washington Council of Governments, the Greater Washington Board of Trade, AAA, State and local transportation departments, and many, many others.

Mr. Chairman, this amendment is necessary because the Coast Guard in the region has been unable to agree. We believe the Coast Guard has not properly recognized the absolute disaster that raising this bridge can create for this area's economy. The costs and inconvenience caused to motorists are totally out of proportion to the benefit of allowing one recreational boat to raise the bridge during the day. The position of this gentleman, and from the officials of this region, is that it is simply an unacceptable position to continue this practice.

Mr. Chairman, let me close on a very serious note. We are not only talking economic loss by delays to traffic and commerce and frustration to thousands of motorists. Six months ago a woman sat in her car waiting for the bridge to be lowered so that she might continue on her way. As a truck came around the corner on the Virginia side of the Beltway, not expecting traffic at a dead stop on a major interestate, it crashed into this woman's car, taking her life and creating havoc on the bridge. Accident, after accident, after accident occurs on this span, and they and their threat to human life is not necessary. This amendment proves that. I urge its adoption by this House and thank the chairman for his advice and counsel.

Mr. Chairman, I also want to thank the gentleman from North Carolina [Mr. JONES], the chairman of the Committee on Merchant Marine and Fisheries, as I said earlier, for this consideration with respect to this amendment and his support of this amendment.

Mr. TAUZIN. Mr. Chairman, I rise in support of the amendment from the gentleman from Maryland [Mr. HOYER].

Mr. Chairman, I commend the delegation from the State of Maryland and those from Virginia who have joined together in support of the draft of this legislation. The opposition, where there is any, comes from one group of mariners, those recreational mariners who would like the bridge to open during the daylight hours so they might move their recreational vehicles.

Let us keep in mind we are not talking about little fishing boats. We are talking about what we call in Cajun country "yachies." They are big yachts, those big yachts that are operated by folks who can, in fact, check with the notice to mariners, can in fact look at the notices put out by the Coast Guard when the 24-hour notice is given by the commercial operators, and they can tag along with the commercial operators when the bridge is open with advanced notice behind the commercial vessel.

So, Mr. Chairman, for the most part the objections of the few large yacht owners who want to traverse that checkpoint during the daylight hours, I think the amendment is drafted in such a way that, if they want to take advantage of the information provided under the 24-hour notice, those yacht owners can proceed during those openings permitted for commercial operators by tagging along behind those commercial operators.

I would suggest that perhaps between now and the full conference we can clarify those provisions, as the gentleman earlier pointed out, so that we can make sure that that is clear to those yacht owners that they are not in any way disenfranchised of their rights to move through the channel, but nevertheless have that right protected as they might tail along a commercial operator.

Finally, Mr. Chairman, let me point out that the gentleman raise an extraordinarily serious concern. I, like many of my colleagues who serve in the Congress, have been caught in those traffic jams, and my colleagues know what they mean in terms of personal frustration. But there are also the personal tragedies for people who might need to move across the bridge for emergency medical assistance, the accidents, the damage that is caused by these, the environmental problems of these vessels, 2½-mile long lines of vessel or cars running, rather their engines idling, polluting the atmosphere of this region as they wait to cross the bridge.

□ 1540

The problems, as I pointed out, with this conflict between the vehicular traffic and the mariners ought to end and we ought to have a resolution that is acceptable to both sides. I believe this amendment goes along with finding it.

Mr. Chairman, I give my commendations to those Members who represent the two affected States and the regions. On behalf of the subcommittee, although the Coast Guard still has some objection, I rise in support of the amendment, and hope between now and then we can work out those final objections and assure all parties their rights are going to be respected.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join in a bipartisan effort to bring safety and common sense to the debate on the openings of the Woodrow Wilson Bridge drawspan. The frequent opening of the bridge is a regional problem, which many in this Chamber have also experienced since all Members and staff are Washington area residents pro tempore.

The bridge was opened in 1961 and carried 19,000 vehicles daily. Today the bridge carries 165,000 vehicles a day—its capacity is 75,000. In 20 years, the number is projected to be 244,000 vehicles a day. If the drawspan never opened, this bridge would still have serious traffic congestion problems. It is one of the most heavily traveled links on the Interstate Highway System along the eastern seaboard.

Since the summer of 1990, the Coast Guard, State highway officials, members of the area congressional delegation, AAA Potomac, and representatives of the commercial and recreational boating community have been proposing various drawbridge opening schedules. We have worked to create a workable schedule for openings. Commercial vessels have a total of 13 hours a day to request a drawbridge opening on weekdays. On weekends and holidays, the number of hours jumps to 19. The recreational boater has less time, but any boat can go through the drawspan with commercial vessels, which have given a 24-hour notice.

The hours of midnight to 5 a.m. on weekdays and midnight to 7 a.m. on weekends can be inconvenient hours for recreational boaters. But common sense demands that one sailboat be prevented from causing the terrific congestion of June and July 1990 when on two occasions the drawspan stuck in an open position for more than an hour on each day and traffic piled up in both directions on Interstate 95 and on the approaches to I-95 in both Maryland and Virginia. An inventory of all marinas north of the bridge revealed that there are 68 sailboats which warrant the opening of the existing drawspan. There were 260 sailboat openings between July 1989 and June 1990, which accounted for two-thirds of the drawspan openings. The vast number of pleasure boats get under the bridge without requiring an opening.

Mr. Chairman, my colleagues will argue that this is a safety issue. And I agree. It is a matter of traffic safety for the estimated 58 million vehicles which pass over the bridge annually. I would support additional lighting or other safety measures to assist recreational boaters sailing under the drawspan at night. The Maryland and Virginia Departments of Transportation state:

> The only time of day that bridge openings do not have a major disruptive impact is during the middle of the night.

Mr. Chairman, the schedule that this amendment presents has been endorsed by the transportation planning board of the Metropolitan Washington Council of Governments, the Greater Washington Board of Trade, AAA-Potomac, and State and local transportation departments. I urge the House's support for this critical proposal.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today marks the culmination of over 20 years of effort on the part of the congressional delegations, State officials, Federal officials, and people directly affected by the Woodrow Wilson Bridge.

This bridge was built in the early 1960's to handle 75,000 vehicles. Today it is handling more than twice that number. By the end of the decade it will be handling more than three times that number.

Mr. Chairman, it was never intended to. In fact, Interstate 95 was intended to go through the District of Columbia. Those plans were changed after the Wilson Bridge was built. So now all of that interstate traffic is diverted across the Wilson Bridge.

You have eight lanes on the Capitol Beltway having to merge into six lanes on the Wilson Bridge. That is why I thank the gentleman from Maryland [Mr. HOYER], as well as the congressional delegations from Maryland, the District of Columbia, and Virginia, for their bipartisan support of this legislation, and particularly our chairman, the gentleman from North Carolina [Mr. JONES], and the subcommittee chairman, the gentleman from Louisiana [Mr. TAUZIN], for their support of it.

I was mayor of Alexandria, VA, for 5 years, and I can tell you from firsthand experience that this is an abysmal, intolerable situation we have. The Virginia side is in Alexandria, and the Maryland side is in Prince Georges County. I know that the gentleman from Maryland [Mr. HOYER] has had similar reaction from his constituents.

This is a very serious safety hazard. The gentleman from Maryland [Mr. HOYER] has mentioned the loss of life that has occurred directly as a result of this drawbridge opening. It defies the imagination why we would have a drawbridge on an interstate highway, but the fact is we do. The fact is that it is owned by the Federal Government, it is operated by the District of Columbia, and Virginia and Maryland share various responsibilities for its upkeep. That in itself is a very difficult situation.

But we have an amendment today that has the full bipartisan interstate support of everyone that has been involved in this issue. We even have the support of the AAA, who represents the motorists, thousands of motorists whose time is lost and whose frustration goes past the boiling point when the bridge is open, as well as I believe at least the tacit support of Boats, U.S., who have gotten part of the things they wanted to be included in the bill, in other words, the ability to go through the opening in the bridge when it opens for commercial vessels.

We also have an extra opening after 10 p.m. so that recreational vehicles can avail themselves of that with 1 day's notice.

So I think we have accommodated everyone. The Coast Guard has their own interests to maintain, but I think if you asked Coast Guard personnel that are directly familiar with the situation, they would recognize that this is about the best solution that we could come up with.

Mr. Chairman, I thank Members for their consideration and the opportunity for us to lay the situation at the table and to support this very commonsense solution.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I thank the chairman for granting me the opportunity to sort of butt in to this love-in. It seems that I might be the only one in the entire Chamber that is not necessarily in favor of this amendment. Certainly I am one that gives a great deal of support to local situations, and I recognize the traffic problems that this causes for those of us who represent people in this area.

But at the same time it is my understanding that this will be the only bridge in the entire country that has such mandated restrictions by law, and I think that we should give the Coast Guard their ability to negotiate whatever is workable with the local community.

Mr. Chairman, you do have people that are going to be impacted by this. You do have some danger factors that are going to be involved, because you simply cannot stop a ship as heavy as some of the commercial ships that are coming up the river might be, in a matter of 15 feet, nor can they stop with the currents that you have on these rivers here as safely as you might think.

□ 1550

It is not just simply an indication where we can turn off the engine and sit there and wait until a more appropriate time.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, is the gentleman aware of any other drawbridge on an interstate highway owned by the Federal Government?

Mr. CALLAHAN. Mr. Chairman, no, I am not.

Mr. MORAN. Mr. Chairman, if the gentleman will continue to yield, I think this is a unique situation.

Mr. CALLAHAN. Mr. Chairman, the Coast Guard is in charge of all navigable streams. Just because it is on an interstate does not make any difference. We have U.S. highways that are involved. We have State highways that are involved. We have railroad traffic that is involved.

While I am not going to ask for a vote on this, I do think that we should permit the Coast Guard to adopt these regulations because, if we come in here today for Virginia, we come in here for Maryland today, and we say, we are going to facilitate the needs of whatever the popular mission is of this particular issue, then tomorrow we are going to be talking with people in Missouri. And we are going to be talking about the Mississippi River and Alabama and other rivers.

I do think that this is something that should be negotiated, that should be worked out with local officials in Maryland and in Virginia, with the U.S. Coast Guard. And they ought to work it out for a situation there rather than mandated by law.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I appreciate the gentleman's comments, and I also appreciate his position.

The fact that he has reservations but is not going to ask for a vote on this, I might have respond, currently the Coast Guard does have restrictions as to hours of use. From the Coast Guard's perspective, they are not as restricted as perhaps those incorporated in the amendment.

So the practical problem, which I think is a wise one to raise in terms of being able to stop and being able to schedule, is one that now exists under current restrictions. This may be a smaller window of opportunity to utilize the bridge, but it is not unique in the sense that there already is a window that exists.

I want to assure the gentleman, I do not know whether he was on the floor when I responded to the gentleman from North Carolina, but obviously, I want to say parenthetically, I am a very strong supporter of the Coast Guard. I think they do outstanding work.

I will hopefully be representing a district that will have a vast amount of waterways. I now represent the Harbor of Bladensburg, of course, but I will have a slightly bigger seaway of water way next time around.

The fact is, I believe that the Coast Guard is responsible, wants to do the right thing. We want to do the right thing. We are looking forward to make sure that it can be practically implemented.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, I might just comment to the gentleman that I am one of those Members who lives in the gentleman's district, and I am one of the few who drives on that waterway.

I want to be quick to tell the gentleman, Mr. Chairman, that my vote is not impacted by this. I can get under that bridge any time day or night. But there are some people who cannot get under it and especially commercial traffic, I think that we are really infringing upon the right of waterway commerce.

I certainly respect the position of the gentleman.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me first recognize and acknowledge the gentleman's major concern that this not be a precedent for this committee and our own subcommittee and the Committee on Merchant Marine and Fisheries hearing constantly requests from Members to come forward with Federal legislation governing the opening and closing of draw bridges on State and local highways.

The gentleman from Virginia is correct, this is a very special case involving a Federal interstate highway. It is special in that it is located here, the Nation's Capital. It is special because of the extraordinary amounts of traffic on this bridge.

I hope the gentleman's admonition is correct, that we not make this a precedent, however, for a constant stream of amendments coming on this bill in the future, asking for this Congress to make local decisions about bridge openings.

Let me also tell the gentleman that the Coast Guard is engaged even now in these negotiations regarding the final version these regulations are going to take codified in law, as I expect it will be in the final bill that comes out of conference.

The Coast Guard will stay in those negotiations till we have completed a final version.

Mr. McMILLEN of Maryland. Mr. Chairman, I move to strike the requisite number of words.

I rise today in support of the amendment offered by Mr. HOYER, on behalf of the Maryland delegation, to restrict the opening schedule for the Woodrow Wilson Drawbridge. This amendment intends to provide a permanent solution to the longstanding problems caused by frequent opening of the drawspan.

For some time now, the Maryland delegation has been urging the Coast Guard to restrict openings of the Woodrow Wilson Bridge in order to alleviate the severe traffic congestion and frequent accidents that currently plague the bridge. The Woodrow Wilson Bridge is a vital link to the Capital Beltway. The Coast Guard has been experimenting with different opening schedules, but all are too lenient, allowing for far too many openings to accommodate recreational boaters. Today, nearly two-thirds of the openings are for recreational boats, at the expense of 150,000 vehicles.

I joined with Senator SARBANES in introducing legislation last year that would have limited openings of the drawspan to between the hours of 12 a.m. through 4 a.m. Since then, the affected parties in Maryland, Virginia, and the District of Columbia have worked out a compromise opening schedule and warning system. While I support a more restrictive schedule, I accepted this schedule as a balanced approach that addressed our main goals of alleviating traffic congestion and safety hazards.

Unfortunately, the Coast Guard has chosen not to implement this schedule and therefore we are here today to take legislative action.

The compromise schedule restricts openings of the drawspan during peak commuter travel periods during the week and weekend. It also requires 24-hour notification of an opening. These restrictions will prevent bottlenecks caused by opening of the span, and the notification will give commuters fair warning to adjust their travel times as well as prevent accidents.

This amendment strikes a fair balance between the interests of boaters and the motoring public. I am pleased that all the Members of the delegation have come to recognize the problems with the Woodrow Wilson Drawbridge and have come together to take this necessary action. I want to give special thanks to Congressman JIM MORAN, who I have worked on this project with since the beginning. I ask my colleagues to support this measure as means to solving a major traffic problem for commuters in Maryland, Virginia, and the District.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Hoyer amendment.

Mr. Chairman, virtually everyone who lives in the Greater Washington area is aware of the bottleneck posed by the Woodrow Wilson Bridge. Even without the problem of the drawbridge opening, there is a substantial traffic problem along I-95 during rush hour; the occasional opening of the bridge only exacerbates this, with back ups often ranging several miles. Aside from the inconvenience to commuters, these stoppages have an economic cost in terms of work-time lost, slower deliveries, and other costs related to the delays. And is often dangerous to drivers.

The Hoyer amendment seeks to balance the competing interests of commuters, State and local governments, commercial boaters, and recreational boaters. Under this amendment, the bridge would only open between 10 a.m. and 2 p.m. for commercial river traffic. Recreational sailboats would have the option of accompanying a commercial boat through, or else passing through at night. On weekends, the bridge would be prohibited from opening between 2 p.m. and 7 p.m.

I am aware of the objections to this proposal which have been voiced by the Coast Guard, and I understand their dedication to boater safety and convenience. However, today, we must take into account the safety and convenience of everyone concerned, on the road as well as the river. I believe that we can reach an acceptable compromise with Coast Guard before conference.

Mr. Chairman, there is no arrangement which would completely please everyone involved. Boaters would obviously prefer to be able to pass under at will, and motorists would obviously prefer that the bridge never open. However, I believe the Hoyer amendment, or some modified version of it, can produce an acceptable compromise among the various parties. I urge my colleagues to support it.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words, and speak to the Hoyer amendment.

Mr. Chairman, I rise in support of the Hoyer amendment, which is a splendid example of regional cooperation to deal with a problem that is difficult, one that affects both safety and the regional economy. When I say "regional economy," I want to make clear that that spills over into the entire economy of the east coast, and therefore the economy of the United States of America. Anybody who has seen the traffic buildups when the drawspan is up understands exactly what I mean.

This bridge is operated by District of Columbia personnel, so we have a perfect example of the region working together and experiencing regional frustrations. As the only Member from the region on the Committee on Public Works and Transportation, this is an issue that has been of great concern to me.

The amendment, of course, both would alleviate a demonstrably dangerous situation that has been described to this body, a truck crash which resulted in a death, and it is a wonder that there have not been more problems of this kind, but it is nothing more, nothing less than a commonsense amendment. It does not make any sense to open a drawbridge at peak traffic times. It is too bad that the Coast Guard was not able to figure this out, but the congressional delegation had no obligation to do so at this point.

I appreciate that this amendment is being considered at this time. It is the product of a negotiated compromise involving the entire regional delegation in a bipartisan fashion, and it has the concurrence of every organization which has the necessary expertise. It accommodates the needs of recreational boaters, commercial shippers, motorists, commercial trucking, and that has been difficult to do.

The District of Columbia has a special interest as well, because we find that traffic problems caused by the Wilson Bridge cause traffic to be diverted from the bridge to the 14th Street Bridge and to the Southeast-Southwest Freeway, and sometimes even the Key Bridge, showing the serial effects of this one span.

The Wilson Bridge is the only bridge left on the Interstate System, and we are the only body that can correct this situation. Residents, businesses from Maine to Florida who use Interstate Routes 95, 395, and 495 will be grateful if this amendment is passed this afternoon. It is a vital east coast throughway link, and I urge its adoption.

Mr. TAUZIN. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentlewoman for yielding to me, and I ask her to yield only for the purpose of pointing out that in truth and in fact there is only a small area of disagreement between the Coast Guard and the delegations from the District and the two respective States. The areas of disagreement have only been how big a notice for commercial vessels, and whether or not there would be a small window for recreational vessels during daylight hours. The Coast Guard has been very diligent in trying to resolve this. It is not, frankly, their fault that it has not come to complete resolution, but they are engaged in the negotiations now, and hopefully before conference we will work out any final disagreements. To their credit, they have tried to work very hard to solve this.

I want to commend the gentlewoman, and again the representatives from the respective States, for their great efforts. I think we are going to resolve it before the conference committee.

Ms. NORTON. I accept the gentleman's commendation of the Coast Guard.

Mr. HOYER. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I simply want to say, both to the gentlewoman from the District of Columbia and to my friend, the gentleman from Virginia [Mr. WOLF], with whom I work so closely, who is going to be speaking in just a few minutes, and to my colleagues in the Washington metropolitan area, we have worked very, very closely together, not only on this matter but on a lot of matters, most of which we agree on, and some of which we do not.

I want to congratulate the gentlewoman. She has no opposition, so this is not political in any way, but I want to say what a positive addition she has been to the Washington metropolitan area delegation. She does outstanding work, and I want to say in particular her work on the Committee on Public Works and Transportation is of benefit to the entire region.

Ms. NORTON. Mr. Chairman, I thank the gentleman very much for those comments.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words. I will be very brief, Mr. Chairman. All of the arguments have been made. I rise in strong support of the Hoyer amendment. It is balanced, it is fair, and lest anyone think it leaves the Coast Guard out, the Coast Guard has been very much involved in this.

In their regulations they were proposing a prohibition from 5 a.m. to 9 a.m. What the gentleman from Maryland [Mr. HOYER] is doing is merely adding 1 hour to 10 a.m., and anyone who knows the Washington metropolitan area rush hour, the morning rush hour does not end until about 10 a.m., so it is a very moderate approach. What the gentleman from Maryland is doing is very appropriate.

Second, in the evening the Coast Guard wanted to ban it from 2 p.m. to 7 p.m. Rush hour does not end until 8 p.m. The gentleman from Maryland merely adds that additional hour.

Last, I have heard people concentrate on the region. It is important to the region, but it is equally important, I think, to the entire country, because the east-west traffic coming from Maine and New York and Connecticut or coming up from Florida and places like that, these people get caught in this traffic.

The last thing why the Hoyer amendment is so important, no one knows the hour that they cannot raise the bridge any more. It has been tested. The Coast Guard has three or four different times, 8 o'clock, 9 o'clock, 8:30, 7:30. No one knows, and if there were a quiz, everyone would probably fail it. What the Hoyer amendment does is it codifies it.

I appreciate the support of the chairman, once and for all, so people from Maine to Louisiana to Florida and whatever, and Alexandria, Maryland, Fairfax, and all will know what the hours are. I commend the gentleman from Maryland [Mr. HOYER] for taking the leadership, and thank the committee for adopting this, because I think everyone will know, and it really will not hurt anyone. It brings this thing to a final conclusion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. HOYER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill add the following new section:

SEC. . BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE SECRETARY.—If the Secretary, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Coast Guard may award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced;

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 10 percent; and

(4) the foreign firm's bid is subsidized by the foreign government under whose laws the foreign firm is domiciled or operating.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) APPLICABILITY.—This section applies only to contracts for which solicitations are issued by the Department of Transportation after the date of the enactment of this Act and which are entered into during fiscal year 1993.

(d) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a report on the implementation of this section. Such report shall include a description of each of the following:

(1) The contracts covered by this section that met the requirements of subsection (a) and were awarded to domestic firms.

(2) The contracts covered by this section that met the requirements of subsection (a) but which were determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party.

(3) The contracts covered by this section that were awarded to foreign entities.

(e) DEFINITIONS.—For purposes of this section—

(1) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(2) FOREIGN FIRM.—The term "foreign firm" means a business entity that is not a domestic firm.

(3) SECRETARY.—The term "Secretary" means the head of the department in which the Coast Guard is operating.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this amendment says when they open up the drawbridge, the boats that go underneath it are to be made in America, and if they are made in America they have a wide span and a good long time to get under there. If they are not made in America, the Coast Guard has to refuse the opportunity to let these boats go underneath this drawbridge; not quite totally true.

Mr. Chairman, this is a buy American amendment. I have already discussed it with the committee. I think it makes good sense, and I want to commend the chairman of the subcommittee for his amendment dealing with certain items that should be made in America as well.

Mr. Chairman, I yield to the chairman of the subcommittee, the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment. The House has included the Traficant amendment in the Coast Guard authorization bill for some years now. We have had difficulty keeping it in the conference. I not only support his amendment, but it is in line with the statement this House made recently on the issue of trade, with reference to foreign subsidies. It is in line with the notion that we ought to be buying American wherever we can, particularly where the bids are lost to foreign competition because of foreign subsidies, and it is something I hope, frankly, we can hold in the conference committee this year.

I commend the gentleman from Ohio [Mr. TRAFICANT] for offering it, and I urge my colleagues to support it.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

Mr. FIELDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to rise in support of the amendment and say that we have reviewed it on this side of the aisle, and we have no objection to it. This is, in essence, the same amendment that was adopted last year on a voice vote, and I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. JAMES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this bill is an example of why Congress needs the balanced budget amendment. It is an example of why Congress cannot balance the budget without an amendment. This year just under $3.6 billion was appropriated for the Coast Guard. This bill asks for just over $3 billion.

□ 1610

The truth is, for 1993 we have to spend less. Why? Because we are running a $400 billion deficit. The amount of money we are spending is too high, and we have to cut it.

What would we do differently if we had a balanced budget amendment? What would we do differently if we absolutely had to bring the Coast Guard spending in below this year's level?

One thing is, we would not give a raise to the leader of the Coast Guard Band. I know that seems petty, but businesses in desperate financial trouble cut wherever they can. We are in desperate financial trouble and we need to cut here.

What else would we do differently? We would not be increasing grants to State governments for recreational boating safety activities. We do not have the money to grant it.

What else? We would not legislatively designate obstructions to navigation making them eligible for Federal aid.

What else? Well I do not know what else. I am not an expert on the Coast Guard. But I know we could bring this bill in below the 1992 appropriation if we had to. Because we think we do not have to, we are not.

Mr. Chairman, I do not want to vote against the Coast Guard. I do not want to vote against boating safety. I do want to vote against drug interdiction.

Incidentally, this was not mentioned on the floor, but the Coast Guard has relieved itself of the responsibility of surveillance. They have transferred their entire aircraft surveillance responsibility for the whole United States, it is my understanding, to the Navy, saving millions of dollars. That was not mentioned here, so it is much more than just a minor increase in the present budget.

But we just simply cannot afford this bill. I am voting "no," and I ask my colleagues to do the same.

We not are spending and will have a $400 billion deficit. Members have heard that number mentioned many times. That is 60 percent of all of the income taxes we collect. We are spending $294 billion on just interest, and in a few more years this Government will do nothing more than to have deficit spending for the purposes of everything this Government does, and the balance of the revenues we take in will be simply for interest. That is unbelievable. That means that not one real dollar will be spent on the true budget of these United States. We will simply be deficit spending for everything we need, and the balance of what we collect basically will be nothing more than collecting interest, and it will go geometrically from there.

I encourage a "no" vote on this bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the comments of the gentleman from Florida. There are many in this House who are concerned about the deficit. In fact, we missed by about nine vote I think it was, putting a balanced budget amendment before the U.S. populace, and I wish we had passed it.

But in regard to how we achieve a balanced budget, it will require this Congress to set priorities, what is important, what is necessary in the life of our country.

Let me point out that if every agency of the Federal Government operated in the last 10 years the way the Coast Guard operated, if every agency of the Federal Government came before this Congress this year with a request as this authorization does for less than a 1 percent increase in authorizing funds when we are living in a 5.5 percent inflationary time, we would not have a deficit. We would not have anything to worry about.

What we are talking about basically is some pretty basic services, search and rescue, safety boating programs.

Let me point out the gentleman from Florida raised a question of whether or not we ought to be increasing the funds to States for boating safety. That is a dedicated fund. That money comes from the boaters of America and is dedicated in Breaux-Wallop to the States for that purpose. It is not a question of increasing or decreasing it. It is a dedicated fund by law, raised from the boaters for the purpose of boating safety. Those the kinds of elements in the budget.

I want to point out again that if every single agency operated the way the Coast Guard operated we would not have a debate on a balanced budget. We would not have this deficit to deal with. Let me say it again. If the Appropriations Committee would appropriate every dollar that we authorized, it would be less than 1 percent of last year's authorized funds. We are actually recommending in this authorization $9 million less in acquisition budget than what was approved last year.

The Coast Guard, and the Coast Guard authorization committee, I would point out, is doing its job. It is trying to hold down spending and yet maintaining essential elements of service like safety on the waters for recreational boaters.

Let me point out also that we raised literally over $1 billion in oilspill money dedicated to do something about the danger of oilspills. If we do not somehow give the Coast Guard, as we try to in this budget, some ability to preposition equipment and supplies, the effect of that bill will be nil, and we will be no better protected than we were before OPA 90 before we got together in this Congress and passed those kinds of statutes.

So its one thing for us to stand in the House and continue to give these new authorities, these new mandates to the Coast Guard, and then to come and say that we are not going to give them to the money to carry out their duties. It is one thing to say we ought to balance the budget. It is another to say that this agency of Government, operating like most agencies should be operating, ought to be accorded the minimum to carry out the health and safety and navigational requirements for the Nation.

Mr. JAMES. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Florida.

Mr. JAMES. Mr. Chairman, my point is, if this is one of the best budgets, even this budget clearly has areas, for example, the increase in the rank of the band leader, for example, and designating bridges, for example, and the reductions, and therefore the increase of expenditures in other areas of responsibility, like drug surveillance for the entire United States, if this is the best, if this is the leanest of all of the bills, it only emphasizes how much serious trouble we are in with all bills.

So I would expect a "no" vote, and then I would think on many other bills that are at least as fat as this bill to vote "no". I feel quite comfortable to vote against this bill until a couple hundred million are trimmed, and I thank the gentleman for allowing me the time for these comments.

Mr. TAUZIN. I thank the gentleman for his comments.

I would urge on the contrary that an agency that operates properly, that gives the U.S. Government a bang for its buck, that gives the people back services for the dollars we spend the way the Coast Guard does ought to be rewarded for what it does. And when the Appropriations Committee recommends a budget so clearly in line with the needs of balancing the budget of the United States of America, so clearly in line and below the rate of inflation, it ought to be rewarded with a "yes" vote.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, I too urge an "aye" vote on this. We have been down line by line in this particular budget, and the Coast Guard does more for the money than any other Federal agency.

I would just ask my colleagues to review this, and then vote aye when it comes to final passage.

Mr. TAUZIN. I thank the gentleman, and I yield back the balance of my time.

Mr. PALLONE. Mr. Chairman, I move to strike the last word in order to engage in a colloquy with the gentleman from Louisiana [Mr. TAUZIN], the manager of the bill.

I understand the Federal Government makes funds available to States to assist with boating safety. And these funds are available through the Wallop-Breaux boating safety fund, is that correct?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman certainly is correct, yes.

Mr. PALLONE. I would like to take a moment and explore how these funds made available to New Jersey may be used. I am aware of a marine police station in Monmouth Beach that is in desperate need of repair. This marine police station serves a large portion of the coast, enforcing boating laws and ensuring boating safety. The marine police's continued existence in this area of jurisdiction is vital to ensure the safety of the boating community.

Governor Florio and I are committed to maintaining a marine police presence in the area serviced by the Monmouth Beach Station, and the State has recognized the need for a well-maintained, modern marine police force, and would like to see these funds used in a way that could maximize public safety.

I would like to ask the gentleman if the funds made available to New Jersey through the Wallop-Breaux fund could be used to make much needed repairs to the marine police station, or in the alternative to construct a new facility.

Mr. TAUZIN. As the gentleman knows, the Wallop-Breaux funds are allocated to the States on a formula basis. The State of New Jersey may spend the money it receives through the Wallop-Breaux fund on programs to increase boating safety in general.

I have discussed this matter with my colleague, the Honorable WILLIAM HUGHES, who serves on the committee with the gentleman, and he has agreed with me that the State in fact could use the Wallop-Breaux funds in the most efficient manner in order to increase boating safety throughout all of New Jersey, and in doing so the funds could be spent to renovate the facility the gentleman is concerned about, or even to build a new station.

Wallop-Breaux safety funds, because they are dedicated to boating safety, could certainly be used for such a project.

□ 1620

Mr. PALLONE. Mr. Chairman, I want to thank the gentleman for clarifying that. I appreciate it. I thank the gentleman from Louisiana.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join with the gentleman from Louisiana and the gentleman from Texas in response to the innuendoes from the gentleman from Florida about the U.S. Coast Guard as to whether or not America is getting the greatest bang for its buck.

Mr. Chairman, let me tell you that the Coast Guard is one of those agencies that deserves every penny we give to them. As a matter of fact, I think we are about $300 or $400 million short and probably will have to come back and request that amount.

But I want to congratulate the gentleman from Louisiana and the gentleman from Texas and to the staff for putting together a budget that will preserve this very valuable asset to our shorelines and to compliment the men and women who represent the U.S. Coast Guard.

I urge a favorable vote.

Mr. Chairman, in just a few minutes, this body will be voting on the Coast Guard authorization for fiscal year 1993. While I do not intend to restate all the pros and cons of the bill. I would like to take just a minute to tell you that this Member is one who truly appreciates the U.S. Coast Guard.

Quite possibly, the Coast Guard is one of the least recognized and most misunderstood branches of our national defense. In fact, because the Coast Guard is normally under the direction of the Secretary of Transportation instead of the Secretary of Defense, it is not always thought of as being an integral part of our national defense.

But Mr. Chairman, let me assure you that as a Congressman whose district borders the Gulf of Mexico, I view the Coast Guard a little like having a big life insurance policy on a loved one. You hope you never need it but you are mighty glad you do when the time comes.

In south Alabama alone, the Coast Guard employs over 800 people in 4 different locations with an annual payroll well into the millions and an economic impact estimated at over $500 million.

In this day and age of belt tightening and cutting back, some might question if we, the American people, are getting our money's worth from groups like the Coast Guard. Let me assure you the answer to that question is a resounding "Yes."

In addition to search and rescue missions and the deployment of buoys, America's Coast Guard is also at the forefront of providing expertise on the containment of oil, chemical and hazardous waste spills in a 36-State area. Additionally, the men and women who make up our Coast Guard in south Alabama have the distinction of recording the largest single confiscation of cocaine on the high seas. Yes; America's Coast Guard is on the front lines of our war against drugs and I am especially proud to know that our folks in Alabama are leading the way in this important battle.

Mobile is also the home to the Coast Guard Aviation Training Facility at Bate's Field, which is the largest facility of its type in the world. Coast Guard pilots from around the country learn to fly their specific helicopters and planes used in routine, day-to-day operations.

Soliders, patriots, rescuers, navigators—the Coast Guard is made up of the finest America has to offer and I, for one, am proud of all of these men and women who serve their country.

Mr. LANCASTER. Mr. Chairman, I rise in support of an authorization of $1 million per year for 5 years to renovate buildings at the Hatteras Group Coast Guard Station, a station that has been allowed to deteriorate to a deplorable state. It is shameful that we would ask men who risk their lives regularly on dangerous search and rescue missions and in law enforcement to live under these conditions. It is outrageous that we should expect families to live in this housing. This is worse than any service housing I have ever seen.

The general condition is rundown, shabby and depressing to servicemen stationed in a remote region where not many of the modern amenities and recreational facilities are available to brighten up their lives.

The floors in the ramshackle housing units are so slanted that a bottle placed on the floor begins rolling immediately and crashes into the wall. I am not exaggerating when I say that the floors have to be constantly jacked up and down to keep furniture, children and even adults from literally falling out of their houses.

Because of the low water table, a septic tank has been placed on what amounts to a hill, and the seepage has no other path than through the housing area. The pilings have sunk so low that water regularly laps up under the units and soaks the rugs and floors.

The housing units have tiles of asbestos, a material we are removing from our own facilities because it presents a danger to us. How long must the families of brave men and women live at risk from something we won't tolerate in our own environment?

I have been shocked and angered at the kind of family housing we find on some military bases, but the housing at Hatteras makes that housing seem luxurious.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to thank the gentleman for coming to the floor to make that statement and to just cite a couple of cites for this House. On an average day in 1991, the U.S. Coast Guard saved 13 lives. That is on an average day, 13 American lives. It assisted 339 other people who were in trouble on the water every day. It saved $2 million in property. It conducted 232 search-and-rescue sorties every day on the average day. It responded to 33 oil or hazardous chemical spills. It conducted 87 port safety security operations, and it inspected 82 commercial vessels, investigated 18 reported marine accidents, served 119 aids to navigation, and it seized 84 pounds of marijuana and 92 pounds of cocaine every day on the average day. That is what the agency is doing for America, and that is why I think it is one of the best run and most efficient agencies of the U.S. Government.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, I have to tell you that a great deal of this activity takes place in my congressional district on the Gulf of Mexico in south Alabama. We are proud to have both an aviation facility and an operational facility there, and I will assure you that none of us ever hope we have to use the Coast Guard, but it is comforting for me to know that they are there for search and rescue when we need them. It is rewarding for me to sit on this committee and to see the activities that take place when you see the largest drug bust in the history of America take place right in the Gulf of Mexico by a Coast Guard commander; let me tell you, it makes you feel proud, and at the same time, it makes you fully aware that they are one of the most conservative with respect to spending American dollars, taxpayer dollars, of any agency in this country.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. DARDEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5055) to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes, pursuant to House Resolution 482, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the vote on the suspension, if called, be a 5-minute vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 22, not voting 108, as follows:

[Roll No. 207]

YEAS—304

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Atkins
AuCoin
Baker
Ballenger
Barnard
Barrett
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Brewster
Brooks
Broomfield
Browder
Bruce
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeLauro
Dellums
Dickinson
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Evans
Ewing
Fascell
Fazio
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gephardt
Geren
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hayes (IL)
Hayes (LA)
Hefley
Hertel
Hoagland
Hobson
Holloway
Hopkins
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jefferson
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kildee
Kleczka
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey (NY)
Luken
Machtley
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McEwen
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moody
Moorhead
Moran
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Pursell
Quillen
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Waxman
Weber
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wylie
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NAYS—22

Allard
Allen
Burton
Combest
Crane
Dannemeyer
Dorgan (ND)
Duncan
Fawell
Grandy
Hancock
Henry
James
Johnson (TX)
Meyers
Nussle
Petri
Ramstad
Sensenbrenner
Solomon
Stump
Thomas (WY)

NOT VOTING—108

Ackerman
Alexander
Anderson
Anthony
Archer
Armey
Aspin
Bacchus
Barton
Bateman
Bonior
Borski
Boucher
Boxer
Brown
Bryant
Campbell (CO)
Carper
Coleman (TX)
Davis
DeFazio
DeLay
Derrick
Donnelly
Dymally
Edwards (OK)
Erdreich
Espy
Feighan
Foglietta
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gillmor
Gingrich
Gunderson
Hansen
Harris
Hastert
Hatcher
Hefner
Herger
Hochbrueckner
Houghton
Johnson (CT)
Johnston
Jones (GA)
Kennedy
Kennelly
Klug
Kopetski
Kostmayer
Lehman (CA)
Lent
Levine (CA)
Livingston
Lloyd
Lowery (CA)
Manton
Marlenee
Martin
Matsui
Mavroules
McCollum
McDade
McGrath
McMillan (NC)
Michel
Mollohan
Morrison
Neal (NC)
Nichols
Owens (NY)
Payne (NJ)
Pease
Perkins
Price
Rahall
Ray
Rhodes
Riggs
Ritter
Roberts
Rogers
Rostenkowski
Roth
Roukema
Rowland
Savage
Schumer
Skelton
Smith (FL)
Stallings
Stark
Synar
Tallon
Tanner
Torres
Traxler
Walker
Washington
Weiss
Weldon
Wise
Wyden
Young (FL)

☐ 1646

Mr. GRANDY changed his vote from "yea" to "nay."

Mr. ZIMMER and Mr. ZELIFF changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on H.R. 5055, the bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CORRECTIONS IN ENGROSSMENT OF H.R. 5055

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 5055, including corrections in spelling, punctuation, section numbering, and cross-referencing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ESTABLISHING A WORLD WAR II MEMORIAL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1624, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 1624, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the American Battle Monuments Commission to establish a memorial, in the District of Columbia or its environs, to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.".

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. The pending business is the question of approving the Speaker's approval of the Journal.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. YOUNG of Alaska. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 100, not voting 105, as follows:

[Roll No. 208]

AYES—229

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Atkins
AuCoin
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boucher
Brewster
Brooks
Browder
Bruce
Bustamante
Byron
Callahan
Cardin
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Evans
Fascell
Fazio
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Geren
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Horn
Horton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moran
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Pursell
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rose
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Serrano
Sharp
Shaw
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stenholm
Stokes
Studds
Swett
Swift
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Waters
Waxman
Wheat
Williams
Wilson
Wolpe
Wylie
Yates
Yatron

NOES—100

Allard
Allen
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Coble
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Dickinson
Doolittle
Dornan (CA)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gilchrest
Goodling
Goss
Grandy
Hancock
Hefley
Henry
Hobson
Holloway
Hopkins
Huckaby
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
McCandless
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Murphy
Nussle
Oxley
Paxon
Porter
Quillen
Ramstad
Regula
Rohrabacher
Ros-Lehtinen
Santorum
Saxton
Schaefer
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—105

Ackerman
Alexander
Anderson
Anthony
Armey
Aspin
Bacchus
Barton
Bateman
Bonior
Borski
Boxer
Broomfield
Brown
Bryant
Campbell (CO)
Carper
Coleman (TX)
Davis
DeFazio
DeLay
Derrick
Donnelly
Dymally
Edwards (OK)
Erdreich
Espy
Feighan
Foglietta
Gallegly
Gallo
Gaydos
Gekas
Gephardt
Gibbons
Gillmor
Gingrich
Hansen
Harris
Hastert
Hatcher
Hefner
Herger
Hochbrueckner
Houghton
Johnson (CT)
Johnston
Jones (GA)
Kennedy
Kennelly
Klug
Kopetski
Kostmayer
Lehman (CA)
Lent
Levine (CA)
Livingston
Lloyd
Lowery (CA)
Manton
Marlenee
Martin
Matsui
Mavroules
McCollum
McDade
McGrath
Mollohan
Moody
Morrison
Neal (NC)
Nichols
Owens (NY)
Payne (NJ)
Pease
Perkins
Price
Rahall
Ray
Rhodes
Riggs
Roberts
Rogers
Rostenkowski
Roth
Roukema
Rowland
Savage
Schumer
Skelton
Smith (FL)
Stallings
Stark
Synar
Tallon
Tanner
Torres
Traxler
Washington
Weiss
Weldon
Whitten
Wise
Wyden
Young (FL)

☐ 1713

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KOPETSKI. Mr. Speaker, I was unavoidably detained on official business in my district for the votes on rollcall Nos. 207 and 208. If I had been present, I would have voted "aye" on rollcall No. 207 and "aye" on rollcall No. 208.

CONFERENCE REPORT ON S. 429, CONSUMER PROTECTION AGAINST PRICE FIXING ACT OF 1991

Mr. BROOKS submitted the following conference report and statement on the Senate bill (S. 429) to amend the Sherman Act regarding retail competition:

CONFERENCE REPORT (H. REPT. 102-605)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 429), to amend the Sherman Act regarding retail competition, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses that the House recede from its amendments.

JACK BROOKS,
DON EDWARDS,
MIKE SYNAR,
Managers on the Part of the House.
JOE BIDEN,
TED KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 429) to amend the Sherman Act regarding retail competition, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The House recedes from its amendment to the Senate bill.

The Senate bill includes numerous provisions not in the House amendment which significantly limit the application of the bill and which set more difficult standards for possible plaintiffs to meet in moving to trial in cases involving allegations of resale price maintenance. The conferees agreed to adopt the more limited Senate bill because of these additional protections for potential defendants.

The purpose of the conference agreement is to promote retail competition and assure lower prices on products for the benefit of all consumers particularly at a time when consumer spending is essential to full economic recovery. The agreement would codify the well-established principle that resale price fixing agreements are per se unlawful. The conference agreement would also clarify the evidentiary standard for jury consideration of certain vertical price fixing agreements. Finally, the conference agreement would make clear that an agreement between a manufacturer and a retailer to terminate another retailer in order to eliminate price competition is illegal, whether or not a specific price or price level is agreed upon. The additional protections contained in the Senate bill are as follows:

1. The Senate bill, much more pointedly than the House amendment, contains language to require that there be some evidence of agreement between the manufacturer and the high price retailer, i.e., that the manufacturer "acquiesced to the request or demand of the retailer" or "took actions, in addition to the termination or refusal to supply [the discounter], to curtail price competition."

2. The Senate bill, but not the House amendment, makes clear that a manufacturer's "decision to alter its distribution policy through adoption of exclusive distributor outlets" would not constitute an action to curtail price competition.

3. The Senate bill, but not the House amendment, requires courts to consider "bona fide" business justifications for a manufacturer terminating or refusing to supply a discounter.

4. The Senate bill, but not the House amendment, changes the rule that maximum resale price maintenance agreements are per se illegal. Agreements to set limits on how high a price should be are to be treated under the balancing test of the rule-of-reason standard.

5. The House amendment provides for a cause of action where a retailer is terminated because of his "pricing policies" regardless of whether a specific price or price level was agreed to by the manufacturer and the rival high-priced dealer. The Senate bill instead applies the standard that "discount pricing was the major cause" for the termination by the manufacturer regardless of prices being set by the remaining conspirators.

6. The Senate bill expands the safe harbor in the House amendment for vertical location clauses and vertical territorial restraints to include "the existing state of law with respect to other types of non-price vertical restraints."

The conferees, recognizing the need for balance in providing the greater protections for potential defendants in vertical price fixing cases agreed to the Senate bill.

For the text of S. 429 as it passed the Senate, see CONGRESSIONAL RECORD of October 10, 1991, page H7756.

JACK BROOKS,
DON EDWARDS,
MIKE SYNAR,
Managers on the Part of the House.
JOE BIDEN,
TED KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

GATT INTERPRETS U.S. CONSTITUTION

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the General Agreement on Tariffs and Trade [GATT] has finally revealed the true intentions of the Geneva-based 103-member organization through one of its panel rulings. It interpreted the U.S. Constitution ruling the President can overrule State-enacted laws regulating beer and wine sales if they conflict with international trade rules.

Presently, the U.S. Trade Representative's office has no plans to block adoption of this report, but, they said, "on the other hand," they do not intend to correct practices based on the interpretation of the Constitution.

You can't have it both ways. This is a blatant attack on the sovereignty of the United States. This ruling, along with previous rulings on the environment, are an attack on our entire federal system. If you think the American taxpayer is angry now, then just wait until they fully understand what GATT is about. We fought a war once over taxation without representation and threw the rascals out. Americans understand that the only entity that is higher than our Constitution is the Almighty—not some foreign power.

INEQUALITY FOR WOMEN IN SPORTS

The SPEAKER pro tempore (Mr. SKAGGS). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, 20 years after Congress passed title IX of the education amendments of the 1972 Civil Rights Act, the law that guarantees equal access to sports opportunities for both sexes in schools and universities that receive Federal funds, I regret to say that there remains much inequality for women in sports.

Critics of gender equity say it is too costly. I say that denying girls and women equal opportunities in sports is far more costly. While the lack of financial resources has been used as an excuse not to implement title IX, men's athletic budgets continue to grow by leaps and bounds.

Christine Grant, women's athletic director at the University of Iowa, said that while football and men's basketball brought in the bulk of the moneys to fund other sports, "they also eat up a considerable portion of the income."

Also, only about 30 percent of major college football programs generate a profit.

A review of the 1991 National Collegiate Athletic Association's "Revenues and Expenses of Intercollegiate Athletic Programs," shows that the majority of division I institutions—which includes all the major colleges—run football deficits, largely because of the costs of grants-in-aid.

It is a myth that high-budget men's sport teams like football are profitable. An earlier NCAA study showed that in fiscal 1989, 45 percent of division I-A schools lost money on football. These schools normally carry more than 100 players on a team, more than twice the number on an NFL team.

In the Washington Post this week, Florida State's football coach, Bobby Bowden, gave evidence that support of the myth continues. Bowden was quoted as saying: "I'm for it for the ladies, just like the men, but we must be realistic about who can bring in the dollars to pay for all these programs."

Not only do many football programs lose money, they are subsidized in many ways, including mandatory student fees that are charged to all students—male and female.

Some apologists for the colleges suggest it is fair to base spending on participation percentages and not enrollment percentages. In my view, lower participation rates for women as the result of unequal treatment should not be cited as an excuse.

The Post article also gives a good example of the disparity between the cost of football and women's sports. At Washington State University, which has done an outstanding job of providing equal opportunities for women athletes, the newspaper reported that football last year cost $3.1 million, while all nine women's sports combined cost $2 million.

When schools elect to have athletic programs, they do so as educational institutions, not as businesses, so the issue should not be based upon profitability. To justify spending more on men's sports in terms of costs and revenues is to treat sports like a business, not as an extracurricular activity.

If a school spent more money on male scientists than on female scientists, we would be outraged. The same should be true in college athletics.

At another time, I will speak further on the need for enforcement of title IX as we continue to observe the anniversary of this important law.

□ 1720

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SKAGGS). The Chair would advise individuals in the gallery that the rules of the House prohibit any display of support or objection to the proceedings on the floor.

FRANK HORTON TO RETIRE AFTER SERVING 30 YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, Congressman HORTON's decision to retire from Congress after 30 years of distinguished service saddened me greatly. The House of Representatives is losing one of its most respected, dedicated, and hardworking Members who never wavered from his principles even in the face of extreme adversity.

I consider it an honor to have had the opportunity to work with a man of FRANK HORTON's stature over these many years. Together, at the Government Operations Committee, we fought against waste, fraud, and abuse in Federal programs ranging from military procurement to the Social Security System. In all these matters, FRANK HORTON never shied away from conflict nor did he ever let partisan politics shield wrongdoing. He didn't care whether a Government official was a Republican or Democrat. If Federal money was being wasted or the American taxpayer was being defrauded, FRANK HORTON was there to make sure someone was made accountable.

I have also been fortunate to have worked with FRANK on several precedent setting pieces of legislation which improved the management and operation of Government. In these matters, too, he always put the interest of our citizens ahead of partisan politics. As a result, we were able to get enacted such statutes as the Inspector General Act, the Competition in Contracting Act, the Prompt Payment Act, and the Office of Federal Procurement Policy Act. These legislative initiatives were enacted against overwhelming odds and in large part because of his leadership and unwavering support.

Out of all the "Good Government" legislation that he sponsored, the Paperwork Reduction Act stands out as one of his most outstanding achievements. As chairman of the Government Paperwork Commission, FRANK HORTON pushed for dramatic reforms in the way the Government collects, analyzes, and uses information. He fervently believed that a tremendous amount of Federal paperwork and redtape could be reduced through the better management and use of modern information technology. It is through his tireless efforts that Congress eventually passed and the President signed into law on December 11, 1980, the Paperwork Reduction Act. This statute is a shining example of FRANK HORTON's legislative acumen and his ability to work with the majority to get things done.

I know that Members on both sides of the aisle respect and admire FRANK HORTON. He is one of the finest Members to have been elected to Congress and he will be sorely missed. I am sure that I can speak for my colleagues in wishing FRANK and his wife, Nancy, our very best in their new life.

CONSTITUTIONAL PRINCIPLES AND THE SUBPOENA ORDERED BY SPECIAL COUNSEL MALCOLM WILKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today to discuss a matter of what I consider to be of extreme concern, and it should be to each and every one of us Members of the U.S. House of Representatives, and to every American who is concerned about the great and the basic constitutional principles which underlie our system of government, and which we particularly, as Members of the House of Representatives, have taken an oath to uphold.

The subject is a subpoena from Malcolm Wilkey, special counsel to the Attorney General, for the 41 rolls of microfilm records of the so-called House bank, which, of course, never was a bank.

Today, I want to talk about four things: First, the fact that, contrary to Wilkey's promises to District Judge Penn on Friday, May 1, 1992, the almost 200 users of that facility with no overdrafts have not received any records back; second, in fact, the special counsel has instead asked for even more records and documents, even though his review of the first set is evidently far from complete; third, the political history of the special counsel evidences a strong bias against the legislative branch; and fourth, the important constitutional principles which are under attack as a result of the first subpoena and Wilkey's subsequently inclusive requests for additional personal and private financial records of Members of this body.

A short review of this will show that the subpoenas at issue were served on April 21 with a return date of April 30. On Wednesday, April 29, the House passed Resolution 441 directing the House Sergeant at Arms to comply with the subpoenas. That same day, or rather that same night, I filed pro se, together with the gentleman from Illinois [Mr. YATES], a motion to quash the subpoena and engaged counsel to represent my position before the district court. On April 30 the gentlewoman from Washington, the Honorable JOLENE UNSOELD, the gentleman from New York, TED WEISS, and the gentleman from Texas, CRAIG WASHINGTON, joined our motion.

The district court denied, on April 30, an oral request for a brief continuance and held a hearing on the merits Friday, May 1. On Monday, May 4, at noon, Chief Judge Penn denied the motion to quash and both he and later that afternoon the Court of Appeals for the District of Columbia Circuit denied stays. That same date the 41 rolls of microfilm were turned over to the staff of the special counsel. As a matter of fact, they were turned over before the judge issued his finding.

On Monday, May 18, the Supreme Court entered a one-sentence order similarly denying my request for a stay.

Let me sum up. At no point did any one of the courts actually look into the fundamental constitutional problem and issue that I was raising. They went on a purely formalistic finding that since the films had been released and the subpoenas, therefore, served—abated—that the question was moot, and let it go at that. They did not in any case, beginning with the District Judge Penn, or later, much less, the Appeal Court, and of course neither did the Supreme Court at any time, consider the merits of the vital constitutional question involved.

My position was—and of course the attorneys were continuing the motion to quash, it seemed to me, not being the one involved in the actual counsel of record or in the proceedings or in representation before the court—that my argument would have been weighted not so much on what was already an accomplished fact: Which was that those documents had been turned over by the House counsel and the Sergeant at Arms to the Special Prosecutor as the first judge, Judge Penn, was considering our argument, so the judge then absolutely omitted any kind of reference to the most important part of my memorandum, which is what we filed in the first instance and which we prepared late that night on Thursday when the House was debating the bill.

Because the documents had already been turned over, and largely based on Wilkey's assurances to the district judge regarding prompt return of those records to Members with no overdrafts and protection from leaks, the real issues relating to the overbreadth and overreach of the subpoenas have never been answered.

I am very sensitive about this, and have been long before I ever thought I would serve in the U.S. House of Representatives. Locally in my district, coming up the ropes or the hurdles of that day and time—very harsh, very arduous times, another world which I am glad is gone and past—I had good reason to form the first breakthrough leadership in my area, and I based it mostly on my ability to comprehend, know, and evaluate the fine points of rights vested the amount any one of us is born in the United States, without regard to color, creed, or race.

I was sensitive because I have been in this body 30½ years, and there was an exact precedent in the case of Congressman Adam Clayton Powell and the effort made by the House, made by the then-minority leader, Gerald Ford, to try to exclude Mr. Powell from being seated as a newly elected Member of this body.

□ 1730

He had just been overwhelmingly elected in his district in New York. There was no question about the legality of his victory. But Adam Clayton Powell had been in the headlines as charged with various indiscretions that seemed to ignite the indignation of Members and not Members of the House.

So finally the minority leader concocted the resolution of exclusion. When I was contacted I said this is beyond the powers of the House. If such were to be the case, this would be the seed germs of the destruction of this body, because at times of national convulsion and passion and division there were some unpopular Member because of his thoughts, because of his votes, and the majority would have the right to exclude him, you can see this is the seed germ of the destruction of this body, and you have not the power. The House, if it votes for this resolution, will be acting with, as they say in law, ultra virus, beyond its scope and power under the Constitution to do so. Now, if you are so indignant about the bad comportment of Mr. Powell, I suggest to you, Mr. Minority Leader, and this is exactly what I told him when he approached me, then you can introduce a bill of impeachment, a resolution in which you will then recite specific instances in which the demeanor and the conduct of this gentleman is of such a nature that it is subject to the impeachment process, and the House can then vote on impeachment. But it will require a two-thirds vote, whereas an exclusion motion is just a majority vote. And you have to be specific, at least I would think so in the case of Mr. Powell, and in a case of impeachment. And then of course if they voted, then he would then be tried by the U.S. Senate. It was intended to be that way. But exclusion, refusal to seat a Member in the absence of impropriety in his election or illegality in the process that saw him elected is beyond the power of the House.

He kind of went by and just turned his back, and they went on ahead and voted, and there was a substantial majority of the House that voted to exclude Adam Clayton Powell. Mr. Powell came up to me to thank me for my vote, my negative vote, and I said do not thank me. I think you have a clear duty to go to the Court, and he did. And in less than a month's time the Supreme Court threw out as unconstitutional, even though it was the overwhelming Members of the House who voted for that resolution, threw it out as not being within the powers and the constitutional authority of the House to exclude a Member otherwise duly elected.

No impeachment resolution was ever introduced. Mr. Powell went on and served, and then eventually he lost in his own district, as the constituents had the right to decide in that district.

Now in this case Wilkey says well, but the House voted overwhelmingly to surrender these subpoenas. My answer to him is I do not care if 434 other Members of this House voted. They cannot waive my constitutional rights, privileges and immunities under the Constitution, no way, because those do not belong to me. I am here only temporarily for a given 2-year period at a time. These rights and constitutional privileges and immunities, just like Mr. Powell's election, belong to the constituents of my district who voted for me, and that still is true.

That was never evaluated by either Judge Penn, the district judge, or the appellate judges, or much less the Supreme Court.

Now I am not giving up there. I went as far as I could in those circumstances, but every one of them decided on the basis, not on the merits of first my memorandum, then my petition, but on the basis that the House had turned over, pursuant to an overwhelming vote, those documents as demanded by this overreaching shotgun subpoena.

That did not entertain the issue of the fourth Bill of Rights, or the fourth amendment, and that is improper, illegal searches and seizures, and I did not even go into that because I did not think I had to. It would be self-evident and manifest that the real issue was my individual rights and the rights of the Members collectively and individually under the Constitution, and the immunity and privileges clauses. And for the first time, let me tell you what my colleagues in the majority did on that fateful night. For the first time since the First Congress in 1789 you have sacrificed, you have abdicated the independence, the coequality, the sparateness of the House of Representatives as an integral member, composition of the U.S. Congress, for the first time, that is what you have done.

But, as I say and repeat, I have not stopped there, and that is why tonight I am advising my colleagues first that Wilkey has not kept his promise. I am one of those who happens to be in the mere 200 that did not have any overdrafts. I have used the facility since I came here because it was convenient, even though for many, many years I wondered at my foolishness in having an account and drawing no interest. But I have always had an existence of a struggle.

I started working when I was 10 years old, and there has not been one year since then, and I am 76 now, that I have not worked at something or other in between. During the Depression while men were walking the streets in droves seeking employment, with families to support, I was working. I worked for as much as 10 cents an hour many a month, many a year, but I worked.

And when I finally did have such a thing as a bank account where I could even have as much as $200 or $300, and then when I got elected to the city council of San Antonio in 1953, and soon discovered that it was a tumultuous and disorderly period in municipal history, then in first 2 months there I went through my poor savings account, because the emolument was $20 a week for no more than 40 weeks, and it is true still, except that today they have all kinds of expenses, as much as $50,000 or $60,000 for expenses and offices and secretaries. When I was on the city council of San Antonio, first, I had to run citywide. Today they have individual member districts. Second, we did not even get postage stamps with which to answer mail. I was the only one on the city council that would go home and peck on my typewriter answers to constituents that had a right to ask us, for whom they had voted, not the city manager. They could not reach the city manager. He was appointed by us.

□ 1740

Even though he was the chief administrator, they could not get an ear there in that office, so they would write to the man that they thought they had voted for and that should be accessible.

Well, so what? I have always learned that that which is mine and I have earned I shall take care of; that which is not mine I do not fool around with it.

When I was elected treasurer of the junior class in high school, I refused it. I turned down the election because I never have wanted to handle anybody else's money. I will account for mine.

So when I came here and they told me about this facility, I asked several questions. They way they were answered leads me to believe that in some few last years some changes have come about. When? I do not know. All I know is that I never had to worry.

The little staff they had in this facility was very efficient. I had my written statement all typed out and everything else and punched out by either the 1st or the 2nd of the month giving me faster service than I ever got anywhere else. I never had any problems about whether I knew or did not know if I had sufficient funds. I knew exactly what I had or did not.

On top of that, I have had the practice of titheing myself, that is, when I first came up, I had to spend my first 3½ years to pay back a few debts I had incurred, and then on top of that, go back home every week, because I could not afford to come up and have two homes. We used to have to pay for those trips, and today, and as of about some 12–14 years ago, you have reimbursement if you go to the district.

But those first years, that is, about for 15 years, that was coming out of my own pocket. But that was my decision.

I am not crying about it and I did not complain then. I am just happy that it was finally recognized that there was legitimacy to allow a Member to go to his district and account to his constituencies during a session. So that is fine.

But what I would always do was that I would leave in that account my check; I never saw my check. It was automatically deposited, and I would make sure that no more than 10 percent, at least, would remain there unspent each month. Then as my family grew, and as they left the house, I was able to leave more and more in greater percentage. So I never had any worries about it.

But it does aggravate me no end to see now the burden trying to be placed first on some poor hapless employees. I am not talking about the Sergeant at Arms. I just do not know what his role has been, and perhaps if that is what they want to look into. OK, but I am talking about the overreach of the executive branch in a palpable, premeditated, calculated, and, in my opinion, malicious attempt to improperly invade the independence, the coequality, and the separateness of this branch of Government. I have written a treatise on that. It has recently been published in the Harvard Review of Legislation in which I have pointed out and documented how the Congress has abdicated and has deferred to the executive branch what I would consider to be, and all the students who have studied it since 1789 say, there are nondelegable functions that the Constitution placed on the Congress that cannot be delegated to the President, but they have been, and that is dangerous.

I happen to believe that unless we rearrange, unless somehow or other we rise to these constitutional responsibilities and sensitivities, our days are numbered, if they are already not doomed, as far as our balance of power, of the much vaunted American system in the great contribution to government in the annals of written mankind history will be a thing of the past, as I believe it is fast becoming already. His promises, that is, Wilkey's have not been kept. In front of Chief Judge Penn of the district court, Special Counsel Wilkey made the following promises, and I will quote directly from the transcript of that proceeding:

> We are willing to take the microfilm, process it in a way that will separate those 170 accounts immediately and separate the 325 in which we have some interest.

Another quote:

> The 170 will go into one box unsorted, unreviewed. Those will go in boxes, sealed, returned to the House of Representatives, immediately returned after they have been separated, immediately, and never reviewed.

He has traduced that oath he gave that judge. He has not done so, and I do not think he ever intends to do so unless we can get some hearing and some prick of conscience in these judges who will be sensitive like some of their predecessors have been in the past to this very great constitutional issue involved.

After using the word "immediately" several times, Wilkey finally promises the court in response to a question from Judge Penn about asking for all of the records where not all the Members had overdrafts, and I am going to quote his answer: It is his understanding that "within a month we will have all of these records processed." Within a month.

Mr. Speaker, I emphasize Wilkey's promises, because Judge Penn relied upon them in allowing the Special Counsel to get all the microfilm even regarding accounts of which the Special Counsel is not supposed to have any interest.

Let me cite from Judge Penn's opinion to illustrate his reliance on Wilkey's words, and I am going to quote:

> Some Members of the House have expressed concern over the fact that the subpoena requests all microfilm records including those records relating to Members who had no overdrafts. In response to that concern, the special counsel has stated, "We have technological facilities which will enable us to separate the 170 as a group from the other accounts as quickly. We will return these to the House unorganized, uncollated, and unreviewed."

That is from the Judge's opinion.

Now, I understand from a letter to the special counsel from the FBI dated May 13, 1992, that hard copies are being made of all the microfilm records, that FBI employees are simultaneously hard-cutting each copy, separating each document to accommodate the ultimate separation of the approximately 200 accounts identified by the House of Representatives as being known overdraft. The hard copy is then forwarded to the document control team for data entry purposes.

Finally, there is an additional third process of data loading from the hard copy, separating the alleged 200 accounts identified by the House of Representatives as not involving overdrafts. The microfilm is not even involved in this process. This actually involves changing information from one sort of hard copy to hard copy compilation of information by individual account.

To the contrary of Wilkey's assurances, all the documents are being organized, collated, and reviewed, and also to the contrary of Wilkey's assurances, this process will take far longer than the time frame he promised Chief Judge Penn.

More than a month has passed, much more, and the Special Counsel has not returned one record to the House.

Of course, it is of great concern that not only have all the promises for immediate return of the documents not been kept, but, in fact, new requests have been made for additional records. Some of these we do not know about, because in the last resolution that was passed, the House willy-nilly selected the Speaker, the majority leader, and the minority leader as a committee of three to decide which ones they would give on the basis of further subpoenas.

My understanding is, except we have had no report from this so-called committee, and now I was one of four that did not vote for that resolution, incidentally, that just as of last week they were overreaching once again, and that the committee was in doubt. That is the last I heard.

The Special Counsel has asked, and the House complied on May 28, 1992, for the general ledger, various lists, and additional account information, information on the bank's relationship with the National Bank of Washington. This latter with no time limits and more. This time there are not even any promises of immediate action or assurances that our financial privacy will be protected.

□ 1750

Now, let us look at this so-called Judge Wilkey, Special Counsel or Special Prosecutor.

As Stuart Taylor, a senior writer for the Legal Times pointed out in an issue dated May 4, 1992, the stories generated by and letters from the Special Counsel clearly have the effect and presumably the purpose of generating headlines.

Taylor describes Wilkey's statements as vague and inflammatory. Taylor describes a knowingly overboard subpoena as follows:

> Representing the Executive Branch, you seek to coerce surrender of the most private financial records of all members of a coequal branch of government that is controlled by an opposing political party.

Note, controlled by an opposing political party.

Now, when he says all coequal branches of government, presumably that would be his own judicial.

Let me cite a document closer to home. This is an article written by Wilkey for publication of the Federalist Society in the summer of 1985, cited in Roll Call by Glen R. Simpson on June 1, 1992:

> In the article, Judicial Activism, Congressional Abdication and the Need for Constitutional Reform, Wilkey argues that judicial activism, which he views as a trend to be deplored, is a necessary outgrowth of congressional shirking of responsibility.

Another quote:

> To remedy this problem, Wilkey argues, Congress requires major surgery. Among Wilkey's reform proposals is elimination of the re-election syndrome by eliminating re-election altogether. He advocates a single six-year term for all members, with a prohibition on re-election.

In addition, Mr. Simpson explains that Wilkey wants to eliminate the constitutional service function of a Member, shrink the number of Members, give the President the line-item veto, eliminate the requirements of Senate conformation for most Presidential appointees, and even asserted that the constitutional concept of declaring war by congressional resolution is an anachronism.

Of course it is anachronism, as I have been bringing out since long before I thought I would be here. That goes back to the time that we let Presidents compel an unwilling American conscript and send him out of the continental United States into an undeclared war.

What I said then, and what that was in 1950 and it was not a Republican President, I might say, was that we had no Constitution if that came about.

I knew well and intimately the history of the first peace-time draft act of 1940 and its renewal by one vote in 1941 in August just a few months before Pearl Harbor. I am well-versed with the history and the content of that Act.

Those men in Congress then were sensitive, too. It was only after great hesitation that they provided for such a thing, but also with safeguards, and one of the provisos and it was not until they had that proviso by a gentleman member from the South that they finally passed the extension by one vote, and that proviso said:

> Notwithstanding any of the hereinabove, no person subject to this Act shall be compelled to serve outside of the Continental United States, except upon and until a declaration of war or expressly provided so by the Congress.

That is what passed the peace-time draft, and then they also had the so-called Soldiers and Sailors Relief Act, because they had enough sense of probity, those men and maybe a couple of women in that day and time were indeed in tough with their constituents and they knew that if an individual was going to be drafted as compared to another and he was going to have to leave his wife, his children and his job, that they had better protect it, and they did.

As we found out here in the recent so-called Persian Gulf war, that is what saved the necks and the economic equilibrium of most of those families involved in the calling up of the Reserves. Were it not for that Soldiers and Sailors Relief Act of 1940 and 1941 that provided, first, that they would have a job exactly where they had left off; second, if they had a mortgage on their house, they would have some means of saving that house until they could pay, but not more than 6 percent interest.

That is when Congress stood up for their citizens, I would like to see that done today.

I sit on the Banking Committee. How far do you think I would get here, as I have tried for the 30 years I have been here, to try to get some national protection against usury? Why, I would not get any further than I have introducing it here in the hopper.

I am just pointing this out because it shows you how this cynical man, almost malevolent, in his words is saying, "Oh, that is because it is an anachronism." A constitutional mandate that only the Congress can declare war is an anachronism, because his ilk are the kind that brought that about.

Concluding his analysis of the causes of judicial activism, Wilkey again says that congressional paralysis is the heart of the problem.

Well, of course. The Congress is a multi-Member body. It cannot go out here and act as a unitary individual like a President, but that is why we have this system and this is why every one of these branches is delimited constitutionally.

The President, in the words of Madison, is not above or greater. But how many American citizens accept that? In fact, how many Members accept that?

But in the words of Madison, he is just the first among equals. If that is not working, the system is not working, and that is precisely what is happening today and for some time now.

Mr. Simpson in this article in Roll Call goes on to point out that a cofounder of the Society for Law and Public Policy, which sponsored Wilkey's speech on which the article was based, was E. Spencer Abraham, now the executive director of the National Republican Congressional Committee, and a key architect of GOP efforts to exploit the House Banking scandal for political profit.

The article ends somewhat ominously by quoting from Wilkey's remarks when he retired as a Federal appeals court judge in 1985:

> One thing I shall feel freer to do is to speak out on some much-needed reforms in government * * * As an active judge, I have always felt a reluctance, either on or off the bench, to propose such obviously sensible measures as a court-martial jurisdiction for the civil service. Just think of it! It would take only one firing squad to alter the whole quality of performance by your public servants!

This is an ex-judge saying how he really felt on and off the bench. That is exactly the way they felt in Hitler's time.

My own concerns about the Special Counsel were confirmed in his own words by Judge Penn on May 1. Let me quote from the transcript of that hearing again. These words, of course, are alarming and they are chilling to read and hear.

> First, what need is there to "clear" the almost 200 users of the House facility that had no overdrafts? Now, I have never made the distinction that any of these records should have been turned over in total, but certainly the 200 that had no overdrafts do not need to be cleared.

Cleared of what?

☐ 1800

Second, what happened to the presumption of innocence that underlies our law? This is topsy-turvy: the Special Counsel has not only misstated his charges, he rewrites the Constitution. Indeed, his language betrays his real belief that Members of Congress who used the House bank are guilty until cleared by him.

Now let us go beyond this and the possible biases, I think not just possible but beyond any peradventure of doubt, or prejudices of the Special Counsel. Let us go beyond the possible political motivations of the administration through the Attorney General, one of the most partisan, maybe second only to his immediate predecessor, Attorney General Thornburgh, in creating headlines about the House bank and in having every financial record of all the Members of the opposing political party.

First, I will submit for the RECORD at the conclusion of these remarks so that I may have these document in the RECORD, right at the end of my statement: First, our application to the Supreme Court, dated May 5, 1992, which summarizes the legal and constitutional arguments we asked the Supreme Court to consider; second, my affidavit of May 5, 1992, which was attached to the application; third, my letter dated May 1, 1992, to Judge Penn, which lays out in detail my response to assertions made by the Special Counsel when he initially subpoenaed all the bank records. I will summarize the most important arguments described by these documents, but I commend all three of these documents to my colleagues in their entirety for a greater understanding of these important issues.

Let me say something here so that those beginning to sort of expect some embarrassment, I believe there was somebody from Roll Call raising a question about who paid for those counsels for the lawyers? I have. I received a statement in full which I paid out of my own personal account.

I had offers, I had offers from a couple of colleagues, incidentally, both on my party's side as well as the other party's side; I had offers from outside individuals who asked and wanted to know if they could help. I said "no." I have asked for this. It is the first time I have gone to court. There have been many occasions I have been asked to go and join other Members in a suit in court. I have not, for one reason: That in those instances, my interpretation was that those were political contests between the President and the Congress and that the court was simply going to say, "This is a political issue. We are not going to get into it." And that is exactly what happened in those four different instances in the past in which I have been invited to join lawsuits.

But I did this on my own initiative because I am so sensitive to the oath I have taken. I have long said, and I think it has kind of taken a smarmey remark, that when I took the oath of office—and I took the oath of office in the State Senate of Texas—it was almost the same. It is very simple. It says, "I swear to defend and protect the Constitution of the United States against all enemies, foreign and domestic, and to serve well and faithfully." And that is what I have tried to do, that is all. That is my oath of office.

I take oaths seriously, and this one above all is the greatest privilege of any human being in the world, to be able to take the oath of office in as great a country as ours is.

So I am very conscious, very much aware of the privileges I have been given to serve, elected by the people first on the local legislative body and then in the State legislative senate and here in the Congress for 31½ years.

Those are privileges that I could not find the words with which to express my profound gratitude. But behind all of that and the bottom of it all is that I would not be here if it were not for that Constitution.

In that very, very toughest election of all, the 1956 race for the Senate, if it had not been for the absolute constitutional protections, I would not be here today. So I am, above all, sensitive to that. And I have always tried to shape and conform my comportment so that I in my time, and having been granted these privileges, shall act in such a way as to not diminish them one iota for those who will follow, just as those who preceded me made it possible for me to enjoy the benefits and the fruits of freedom and democracy.

Now, the most important constitutional doctrine at stake is the separation of powers. The Constitution is designed to separate the branches of Government, provide for their independence. As our application to the Supreme Court noted, the concern of the writers of the Constitution was that "executive dependence upon the Crown by Parliament had undermined the Parliament." And "dependency is as much fostered by fear or intimidation as by prospect of gain."

The Committee on Banking, Finance and Urban Affairs, of which I am the chairman, has on a regular basis passed legislation affecting the executive branch and engaged in extensive investigations of and conflicts with the executive branch.

My affidavit described a number of the committee's past and current investigations, such as our current investigation of the role of Banca Nazionale del Lavoro, or BNL, in financing a sophisticated Iraqi-controlled network of front companies in the United States, including the Federal Reserve's failure to properly implement the umbrella regulatory structure enacted by Congress to insure that foreign banks operating in the United States are properly supervised. They are not. We have gotten into quite a dither. The executive branch and two Attorneys General, in what they thought would be intimidating fashion, first tried to keep from even having a hearing 2 years ago. It did not succeed, and they will not. But in the meanwhile, there is no question you have these tensions that will arise between these three separate, equal, coordinate, and independent bodies.

That was known. That is what the students, that was what old John Adams in London was writing to the committee members in the Constitution Hall in Philadelphia, saying;

> Look, I have studied the history, and here are the examples and the past history where until you had this balance of powers, you would not have any real democracy.

So we have described to the courts these tensions that have arisen, even as I am chairing this committee. Why should I not be concerned, when I know that there is trillions of dollars? And that is a lot of money. When you have that kind of money, you will have a lot of things happen that nobody in this country—the Federal Reserve Board, the banking commissions of the States in which some of these agencies are chartered or the Treasury, much less, and of course the Congress cannot—they cannot tell you right now—this is what I keep asking these big leaders—the way our laws have been so fractured, and I ought to know, the only international banking law we have was as a result of the hearings that I called in my district in 1975, when I was just a lowly member on that committee. And that led to the first act in 1978.

So I think I am familiar. And I will tell you right now, my colleagues, there is nobody can tell you if there is 100 or 500 of these BNL and BCCI scandals right now. They just happen to have escaped eruption to public attention.

But more sinister than all is that I have good reason to know that a lot of this banking activity is a backdrop for this huge trillion-dollar illegal narcotic, laundering of narcotic money. That is what that trade amounts to today, worldwide. And I have searched history. I have seen the connections between the money-laundering banks in the Far East and Shanghai, their connections with the Canadians and the Canadians, in turn, with the Americans. And let me tell you, do you not think that if the safety and soundness of our banking system is in jeopardy, that I should speak out or remain quiet?

The documents referred to follow:

[In the Supreme Court of the United States]

(In re Grand Jury Subpoena, dated April 21, 1992)

AFFIDAVIT OF HENRY B. GONZALEZ

Henry B. Gonzalez, deposes and says:

I am the Applicant in the above-captioned matter. I am filing this affidavit in support of my motion for a stay.

1. My name is Henry B. Gonzalez. I am a Member of the United States House of Representatives, 102nd Congress. I have represented the Twentieth District of Texas since my election to Congress in 1961. I am Chairman of the Committee on Banking, Finance and Urban Affairs and Chairman of the Subcommittee on Housing and Community Development. I have been a member of the Banking Committee since my election to Congress.

2. On Wednesday, April 29, 1992, I voted against H. Res. 441 which authorized the Sergeant-At-Arms of the House to provide certain records of the disbursing office run by the Sergeant-At-Arms to Special Counsel. The resolution specifically stated that "[n]othing in this resolution shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member . . . of the House . . . ".

3. I immediately directed that a Motion to Quash the Subpoenas dated April 21, 1992, for the production of documents directed to the Honorable Matthew F. McHugh, Acting Chairman, Committee on Standards of Official Conduct, United States House of Representatives, and to the Honorable Werner W. Brandt, Sergeant-At-Arms of the United States House of Representatives, be filed with the United States District Court of the District of Columbia. The motion was filed at 10:04 p.m. on Wednesday, April 29, 1992. Arguments were heard on Friday, May 1, 1992.

4. The Motion to Quash was denied on Monday, May 4, 1992. I immediately directed that an appeal be filed with the United States

Court of Appeals for the District of Columbia and requested an emergency Stay of the Subpoenas pending appeal. The Motion for Stay of the Subpoenas pending Appeal and the Motion for oral argument were denied.

5. I hereby petition the Supreme Court of the United States for an opportunity to be heard on the significant Constitutional issues, including the role, rights and privileges of the Legislative Branch, raised by this attempt of the Executive Branch to disrupt the internal operations and processes of the House of Representatives.

6. It is my specific duty, and I have taken an oath, to uphold the Constitution of the United States of America. I believe that no vote by a majority of the House of Representatives can waive my rights and privileges as a Member of the House. Of far greater Constitutional importance, I believe that no vote of a majority can waive the Constitutional rights of the people of the Twentieth District I was elected to represent.

7. Rule X, clause 1(d) of the Rules of the House of Representatives sets forth the jurisdiction of the Committee on Banking, Finance and Urban Affairs as follows:

(1) Banks and banking, including deposit insurance and Federal monetary policy.

(2) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

(3) Urban development.

(4) Public and private housing.

(5) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

(6) International finance.

(7) Financial aid to commerce and industry (other than transportation).

(8) International Financial and Monetary organizations.

The Banking Committee has 52 members and is the third largest Committee in the House.

8. The Committee on Banking, Finance and Urban Affairs, of which I am Chairman, has on a regular basis passed legislation affecting the Executive Branch and engaged in extensive investigations of and conflicts with the Executive Branch. A brief description of several of these investigations is set forth below. These investigations illustrate the delicate and sometimes adversarial nature of the relationship between the Legislative and Executive Branches, and highlight the necessity that the Legislative Branch be free from the intimidation that I believe these Subpoenas represent:

The Committee is currently investigating the role of Banca Nazionale del Lavoro (BNL) in financing a sophisticated Iraqi-controlled network of front companies in the United States and Europe that were responsible for procuring Western technology and know-how for Iraq. The Federal Reserve's failure to properly implement the Federal umbrella regulatory structure created by Congress to ensure that foreign banks operating in the United States are properly supervised is also a focus of the investigation. As part of this investigation, the Committee is examining the conduct of many departments and agencies of the Executive Branch including the Departments of Agriculture, Commerce, Justice, State, and Treasury, the Board of Governors of the Federal Reserve System, and various Federal Reserve Banks.

In 1990, the Committee investigated the collapse and insolvency of the Federal Savings and Loan Insurance Corporation's insurance fund, including specifically the failure of the Silverado Banking, Savings and Loan Association, which failure is estimated to cost the taxpayers over $1 billion. The investigation focused on the failure of Silverado's directors, including Neil M. Bush, son of President Bush, and its officers to meet their fiduciary obligations to the institution, as well as the failure of the Federal Home Loan Bank Board to properly regulate and supervise the institution.

During the first session of the 101st Congress, the Committee considered legislation that would reform the regulatory structure for depository institutions by consolidating the various depository institution regulatory agencies and departments. The legislation submitted by the Treasury Department H.R. 1505, would have placed the consolidated regulator under the Treasury Department. The legislation I introduced, H.R. 6, established an *independent* depository institution regulator. The Administration strongly opposes the establishment of an independent regulator. This issue was not resolved and will likely be before the Committee again during the second session of the 101st Congress.

A set of reforms to the Federal Housing Administration (FHA) system to restore the financial integrity of the mutual mortgage program insurance was adopted in the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625. Subsequently, the Department of Housing and Urban Affairs issued regulations imposing an additional limitation on the amount of closing costs that can be financed by a borrower under the FHA program. I introduced legislation, H.R. 4073, the Emergency Community Development Act of 1992, which repeals the limitation on closing costs. The Administration opposes the repeal of this limitation. H.R. 4073 has been adopted by the Committee and is awaiting floor action. In addition, housing reauthorization legislation to be taken up by the Committee on May 13, 1992, also contains a repeal of this limitation.

9. On a regular basis I have to marshal votes of the Members of the Committee as well as Members of the House as a whole to support these investigations and legislative reforms, often in opposition to the Executive Branch.

10. I believe there will be an enormous adverse and chilling effect on the Members' ability to carry out their duties and responsibilities knowing that the Executive Branch holds the records of all their financial transactions in its hands, and knows the political affiliations, charitable contributions, and religious views of each Member as evidenced by those financial records. I believe that through this subpoena action, each and every Member is being threatened by the singular power and long reach of the Executive Branch.

11. I believe that the adverse effects of such intimidation will impede the Constitutional ability of each Member of the House, including myself, to carry out independently our responsibilities.

12. I have attached my Statement on the Floor of the House of Representatives given April 29, 1992, which sets forth in greater detail the Constitutional principles I believe are raised by the subpoena. I have also attached a letter from me delivered to Chief Judge John Garrett Penn, dated May 1, 1992, which includes additional information on the nature of the issues and operations involved in this action.

I declare under penalty of perjury that the foregoing is true and correct.

HENRY B. GONZALEZ.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 1, 1992.
Chief Judge JOHN GARRETT PENN,
Third and Constitution Avenues, NW., Washington, DC.

DEAR JUDGE PENN: I must personally respond to several of the assertions presented in the Memorandum dated April 30, 1992, opposing my Motion to quash the subpoenas which request all the records of transactions, including mine, in the House check-cashing and payroll facility. First of all, no vote of the majority of the House of Representatives or even every member except one, can waive my rights and privileges as a Member of the House of Representatives.

Second, to argue that I, or any other Member of the House of Representatives, have not suffered some actual or threatened injury as a result of these subpoenas ignores both the facts and the law. Every record of every Member is the subject of these subpoenas. The letter from the Attorney General's Special Prosecutor, Malcolm Wilkey, to the Speaker and the Minority Leader dated April 27, 1992, states that the subpoena has the practical effect "of converting each Member into a joint custodian for the records of all." Wilkey goes on to state, "I have, therefore, addressed a letter to each Member, setting forth certain governing law and facts as we know them and dispelling certain misapprehensions." None of my "misapprehensions" were dispelled. These subpoenas do not simply "paint with a broad brush"—they smear the reputation of every elected Member of the House with a single stroke.

The letter from Wilkey to each Member admits the facility "had a unique clientele." I cannot imagine a greater understatement. The members of this cooperative are the elected Representatives of the United States to the House of Representatives. Unique? A more accurate statement is that the Members of this cooperative compose a Constitutionally elected and protected Branch of our government.

No different from any other bank? Wilkey does not understand how other banks are chartered, regulated and insured. This facility was neither chartered nor insured. No State and no agency of the Executive Branch oversaw its operations or examined its books, as is true in the case of any other bank! He describes this facility as a "troubled bank which has been closed". The facility was not a bank and not "troubled" as that term is used by any banking agency to mean not meeting capital standards or having too many nonperforming loans. No banking agency closed this facility. The Members themselves voted to stop its operations. By the way, I was one of the Members who did not vote to suspend its operations.

I might add, that even in the situation of a "normal bank," the normal procedure, since that institution's checking account transactions would total into the millions and millions, is that when there is a legitimate law enforcement inquiry and a specific target, the bank or the banking agency, if a conservator or receiver has been appointed, cooperates. The Legislative Branch is not involved.

The Wilkey letter to each member dated April 27 states that the Attorney General believes [Wilkey] "should have equal access" to any records which the House Ethics Committee had. Not only is that Committee part of the Legislative Branch, the House Ethics Committee had a different function and purpose, as Wilkey himself acknowledges. The letter also states that no one has asserted that these records are connected in any way with the deliberative or legislative functions of the House. I assume this means that those functions are protected under the Constitution. However, what Wilkey tries to do is imply that the operations of the House, which of course are necessary for us to do our business as legislators, are not protected under the Constitutional doctrine of separation of powers. I emphatically reject this implication.

In fact, Wilkey's letter states that "[A]ll legitimate functions of this banking facility could have been performed by an automatic teller machine." What does this mean? Is he suggesting that this is how we should handle our internal operations? Is he suggesting that an ATM machine would have been protected? Or that, if House operations can be done by an ATM, they are not protected?

The Wilkey letter cites case law for the proposition that a grand jury "can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not." Surely this is not the standard in this case. This would turn the relationship between the Legislative Branch and the Executive Branch, exercised by the Attorney General who is appointed by the Chief Executive, on its head! This Court must state clearly to the Executive Branch that it is dealing with another legitimate Branch of the government, established and protected by our Constitution.

But it is not simply because all our records and the records of the facility have been subpoenaed that I ask for this Court to intervene. The chilling effect of these subpoenas on the legitimate activities of Members of the House cannot be overstated.

The Committee which I chair, and in fact, all the duly constituted Committees and Subcommittees on which every Member of this House sit are charged not simply with the legislative function, which the Wilkey letters dismiss. Just as importantly, these Committees and Subcommittees are responsible for the oversight of numerous activities and functions of the Executive Branch. As part of this critical oversight function, my Committee is faced, on a regular basis, with challenges from the Executive Branch, and specifically, with negotiations and even confrontations with the Justice Department which often represents it.

The Committee on Banking, Finance and Urban Affairs has a long and distinguished history of such investigations. The Committee is currently investigating the role of Banca Nazionale del Lavoro (BNL) in financing a sophisticated Iraqi-controlled network of front companies in the United States and Europe that were responsible for procuring military technology and know-how for Iraq. Document requests have been made to every department and agency involved in the investigation. The Committee has investigated the failure of Federal regulators to prevent the collapse of numerous savings and loan associations, estimated to have cost the deposit insurance funds, and now the taxpayers, billions of dollars.

The Members of the Committee has faced, on a regular basis, conflicts with the Executive Branch and negotiations with the Justice Department. What will be the effect on the Members if they know the Government holds the records of all their financial transactions in its hands? Knows all the political affiliations, charitable contributions, or even religious views each Member financially supports? Isn't that really the purpose and effect of these subpoenas? Isn't each Member being reminded of the long reach of law enforcement, however overreaching, that the Executive Branch can direct?

I ask this Court to read my attached Floor Statement, which talks about the essential Constitutional nature of checks and balances. I ask this Court to uphold this Branch's role, or rights and privileges in the face of the Executive's attempts to disrupt our own internal operations. These subpoenas give the phrase, "power of the purse," new meaning. The effect of compliance will be to turn over our "purses" to the Attorney General.

I ask this Court to quash these subpoenas.

Respectfully yours,
HENRY B. GONZALEZ,
Member of Congress.

STATEMENT OF HENRY B. GONZALEZ, MEMBER, UNITED STATES HOUSE OF REPRESENTATIVES, APRIL 29, 1992

Mr. Speaker: I rise to place on the record my objections to any procedure which waives the privileges and immunities of Members of Congress, including myself. I rise to stand for and support the independence and constitutional authority of the Congress and this House of Representatives as a coequal branch of this government.

As I wrote in a letter to the joint House leadership yesterday, April 28, 1992, these rights should not be waived by those looking for partisan gain or those afraid to stand up to the fear-driven stampede of the uninformed. And in fact, these rights should not be waived by actions of our leaders or even a vote of the House as a whole. The Congress, and particularly this House of Representatives, is a coequal and independent branch of the government of the United States. We cannot simply deny our duty to defend the first principle of the Constitution and the primary principle of representative government—an independent legislature.

These constitutional principles are far more important than any particular complaint or any current scandal—these principles underlie and give authority to our form of government. Sacrifice them today for expediency and they will be gone when they are needed most desperately, to retain the moral authority and integrity of the Congress as one of the three branches of this government.

Indeed, the American system is an elaborate system of checks and balances. John Adams described them as follows: First, the States are balanced against the general government. Second, the House of Representatives is balanced against the Senate, and the Senate against the House. Third, the executive authority is balanced against the legislature. Fourth, the judiciary is balanced against the legislature, the executive, and the State governments. Fifth, the Senate is balanced against the President in all appointments to office, and in all treaties. Sixth, the people hold in their own hands the balance against their own representatives by periodic elections. Seventh, the legislatures of the several States are balanced against the Congress and eighth, the President and Vice President are balanced by votes of the people. All these are described in historic detail in "Checks and Balances in Government," from *The General Principles of Constitutional Law*, published in 1898, by Thomas Cooley, beginning p. 160.

These checks and balances are essential; they are also delicate and must be protected by each of us. In fact, when we took our oath to uphold the Constitution of the United States, we took an oath to uphold the constitutional coequality of the legislative branch.

This business before us now, a subpoena for our own documents and records, is not some unimportant precedent. It tramples on our individual rights and on the rights of the body we represent. We must not yield to this demand.

I have objections which are constitutional in nature and I have objections to this subpoena based on the specifics of this case. What follows is simply a summary to help guide us during our deliberations on these matters.

First, let me quote again from *The General Principles of Constitutional law*, by Thomas Cooley, written almost 100 years ago:

"The authority of the courts is co-ordinate with that of the legislature, neither superior nor inferior; but each with equal dignity must move in its appointed sphere * * *.

"The leading feature of the Constitution is the separation and distribution of the powers of government."

The natural classification of governmental powers is into legislative, executive, and judicial. Each house of the Congress is the judge of the elections, returns, and qualifications of its own members, and may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member.

Let us remember, first and foremost, any questions about the "House bank" are questions only this body can and must resolve, no other branch of the government.

In addition, I also have a number of very specific complaints about the process in which we find ourselves and let me simply enumerate them now for the record before I come back to the most important objections, the constitutional issues raised by this subpoena:

1. The House "Bank" was never a bank in the legal sense of the word. It was not federally insured or chartered and in fact, operated as a cooperative or pool for the members. Therefore, the records of the "bank", including the records of my own transactions, are still my records and cannot be turned over to anyone.

2. It is neither standard nor common practice for the Justice Department to ask for the records of all of the accountholders of any financial institution, even if the institution has failed. In fact, even requests for the records of all of the borrowers of a failed institution have been held to be overbroad. See *Bank of American National Trust & Savings Association v. Douglas*, 105 F.2d 100, 106, 107, D.C. (1939).

3. It is standard procedure for banks or banking agencies (if a conservator or receiver has been appointed) to cooperate with a criminal subpoena *if a particular* individual is named and an allegation of specific criminal activity has been made. *This subpoena, if we do go beyond the constitutional issues, does not distinguish among Members who have had overdrafts or who haven't and even among those who have had overdrafts, does not distinguish among those Members with regard to any alleged illegal activity.* The charge of "check kiting" is simply an attempt to label the overdrafts with another name—it would only be sufficient allegation of criminal activity if this were a real bank and a particular accountholder with the intent to defraud the institution, caused a loss for the institution. None of those facts are present here.

In fact, this request for documents is so overbroad as to be unconstitutional on its face. Yes, grand juries have broad powers—they are not, however, unlimited and they cannot override the Commission.

4. If the House Bank was a bank for the purposes of the Right to Financial Privacy

Act, any subpoena would have to state the "legitimate law enforcement inquiry" and why a particular user of the Bank was a target. Judge Wilkey does not even comply with this broad standard. And if he did, any Member would have the right under RFPA to challenge the subpoena in court under a procedure laid out in the law.

5. Even if RFPA does not apply, the historic common law right of privacy in the relationship between the user of a financial institution and the institution would protect Members in a case like this. The Members who used the cooperative (more properly described), like the accountholders of any institution, will have made checks out to religious, charitable and political organizations which they presumed would remain private and protected under the First Amendment and privacy rights.

6. In one of the most important cases decided on this point, a subpoena from one branch of the government to another, the Supreme Court said specifically that the subpoena would have to be drawn as narrowly as possible to meet constitutional scrutiny. See *U.S. v. Poindexter*, 727 F.Supp. 1501 (D.D.C. 1989) in which the issue was the Court's consideration of a subpoena for documents from former President Reagan. The Court said:

"What is here involved is a clash between two sets of rights . . . the subject is one of both delicacy and difficulty, for significant constitutional and public policy considerations underlie both sets of rights. . . .

"*For the constitutional and privacy reasons alluded to above, the Court is not disposed to requiring President Reagan to make wholesale production of documents which ultimately may turn out to contain little or no material evidence.*" Id., at p. 1510 (italics supplied).

Let me return, as this last case has pointed us, to the more important constitutional issues presented to us here.

We are all familiar with the "speech and debate" clause. This provision, case law teaches us, "not only removes every restriction upon freedom of utterance on the floor of the houses by the members thereof * * * but also applies in short, to things generally done in a session of the House by one of its members in relation to the business before it." See *Kilbourn v. Thompson*, 103 U.S. at pp. 203–204 (1880), cited in *The Constitution and What It Means Today*, Edward S. Corwin, Princeton University Press, 1948.

In fact, the protections and speech and debate clause represents the culmination of a long struggle between the Commons and the King. See *United States v. Johnson*, 383 U.S. 169, 178 (1966); *Eastland v. United States Servicemen's Fund*, 421 U.S. 491 (1975).

The immunities of the speech and debate clause "were not written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators." Cited in *United States v. Brewster*, 408 U.S. 501, 507 (1972), from *Coffin v. Coffin*, 4 Mass. 1, 28 (1808).

In fact, on this very important issue of *privilege*, let me cite this very same Judge Wilkey, using his own words, from his dissent in *Nixon v. Sirica*, 487 F2d 700, beginning at p. 772:

"The Senate, a Branch of the Government co-equal under our Constitution, decided what would be furnished the court and what retained as confidential, precisely as has the Chief Executive in the case at bar."

"To cite but two of the best known recent examples, similar assertions of Legislative privilege took place with reference to criminal prosecution in *United States v. Calley* (citations omitted) and *United States v. Hoffa* (citations omitted). Other similar precedents in both Houses are ancient, numerous, and established beyond question in the Legislative Branch." (citations omitted.)

"The principle of separation of powers, with a resulting Judicial privilege, works reciprocally when the demand is made by the Congress instead of to the Congress. In 1953 Mr. Justice Tom Clark refused to respond to a subpoena to appear before the House Un-American Activities Committee, on the ground that the complete *independence of the Judiciary is necessary to the proper administration of justice*. (italic supplied)

I only wish Judge Wilkey remembered his own words from 1973. This independence cannot be a one way street. If any one of the branches loses its independence, they are each truly diminished.

I also contend that these materials are privileged because they are my documents as a Member of the House of Representatives, not simply because they are "House documents". At the most this "bank" was a cooperative; by using the bank I let them keep, temporarily, some of my records. The bottom line is they are my records and I do not give my permission for anyone to turn them over to another branch of the government.

I could go on and on about the various legal defects in the actions taken by Judge Wilkey. But these arguments only take away from the far more important arguments which the Members of this body must uphold: The duties we perform here are of a public nature and we are responsible to the public, to our electorate. This public accountability is our master and only the public has the right to judge our actions, not an arm of the Administration, the Republicans in this House, not even the media (which since it holds a privileged position under the Constitution itself, should be more aware of and sensitive to the protections the Constitution provides).

Let us not forget the very preamble of the Constitution itself which states specifically that the blessings of liberty for ourselves and our posterity flow from this union, this order, this constitutional structure. When the people created separate legislative and judicial departments of the government, by implication they limited the one from exercising the powers of or over the other. Just as the legislative is forbidden from being judge and jury, this judge or "special prosecutor" is prohibited from interfering with our business.

Let me close with a reminder of the difference between a representative democracy and the monarchy or dictatorships we have rejected:

"When all the powers of sovereignty are exercised by a single person or body, who alone makes laws, determines complaints of their violation, and attends to their execution, the question of a classification of powers can have only a theoretical importance. * * But inasmuch as a government with all its powers thus concentrated must of necessity be an arbitrary government, in which passion and caprice is as likely to dictate the course of public affairs as a sense of right and justice, it is a maxim in political science that, in order to the recognition and protection of rights, the powers of government must be classified according to their nature, and each class intrusted for exercise to a different department of the government.

"This arrangement gives each department a certain independence, which operates as a restraint upon such action of the others as might encroach on the rights and liberties of the people, and makes it possible to establish and enforce guaranties against attempts at tyranny. We thus have the checks and balances of government, which are supposed to be essential to free institutions." From Cooley's *Constitutional Principles*, at p. 44.

I call upon the Speaker of the House, in his capacity as the spokesman for individual Members and their rights, not in his capacity as spokesman for any consensus we reach during our debates on legislation, to just say "no" to Judge Wilkey on my behalf and on the behalf of any other individual Members of this body with a similar request.

I say again, we are dealing with matters of the gravest constitutional importance—principles that date back to Runymede and the Magna Carta—principles that are at the root of free, representative government. We cannot give these principles away, as Judge Wilkey himself has written.

The privileges and immunities of the legislature have *always* been resented by kings and would-be kings. We are attacked precisely because of our independence. And if we give it away here under a spurious, politically convenient subpoena from a man whose own earlier writings concede the issue (and underlie his error), we are the worst of cowards and we betray our trust as keepers of the Constitution.

[In the Supreme Court of the United States, No. A–821]

HENRY B. GONZALEZ, PETITIONER, *v.* SPECIAL COUNSEL MALCOM R. WILKEY, RESPONDENT

APPLICATION FOR A STAY

INTRODUCTION

Under Rule 23 of the Rules of this Court and 28 U.S.C. §2101(f), Applicant Henry B. Gonzalez moves the Court for a stay of the judgment of the District Court issued on May 4, 1992, declining to quash a subpoena issued to the House of Representatives. This case raises significant issues of constitutional law, specifically the separation of powers among the three branches of government. Unless this Court issues a stay, however, the case will become moot and escape review by this Court.

Thus far this case has afforded little time either for advocacy by the parties or deliberation by the courts. The subpoena at issue was served on April 21, with a return date of April 30. On Wednesday, April 29, the House passed Resolution 441 directing the House Sergeant-at-Arms to comply with the subpoena. That same day, Applicant Gonzalez, a Member of the House of Representatives and Chairman of the Committee on Banking, Finance and Urban Affairs, filed *pro se* a motion to quash the subpoena and memorandum in support and engaged counsel to represent him before the District Court.

The court denied on April 30 an oral request for a brief continuance and held a hearing on the merits Friday, May 1. On Monday, May 4, at noon, Chief Judge Penn denied the motion to quash, and both he and later the Court of Appeals for the District of Columbia Circuit (per Wald, R.B. Ginsburg, and Sentells, JJ.) denied stays that afternoon. In short, five days elapsed from the date the House passed Resolution 441 to the date the Court of Appeals denied a stay in this matter.

This rush comes despite the fact that the conduct at issue in this case—a blanket subpoena issued by the Executive Branch to the House of Representatives *eo nomine*—raises serious constitutional questions that go to the heart of the structure of the federal Government; and it comes despite the fact that the only issue at stake for the Executive Branch is whether it received the records yesterday or a few weeks from now.

As the Chief Justice has observed, "the fact that a stay . . . preserves these issues for review in a manner conducive to careful study and consideration is itself a reason to stay the injunction. . . ." *Republican State Central Committee of Arizona v. The Ripon Society Inc.*, 409 U.S. 1222, 1225 (1972).

Because this case raises substantial constitutional questions; because the harm to Representative Gonzalez is irreparable; because the harm to the Special Counsel is insignificant and involves only a brief delay; and finally, because the public interest is seriously implicated by the issues at stake in this case, the Court should enter a stay.

BACKGROUND

This case has its genesis in the operation of the Bank of the Sergeant-at-Arms of the House of Representatives. A number of GAO reports had drawn attention to the fact that the Bank honored overdrafts by Members. *See generally*, *Inquiry Into the Operation of the Bank of the Sergeant-At-Arms of the House of Representatives*, H.R. Rep. No. 452, 102d Cong., 2d Sess. (March 10, 1992) ("House Report"). A GAO audit report dated September 18, 1991, led to widespread attention to the issue of overdrafts. *Id.* at 10. In response, the House by resolution ordered the Bank closed by December 31, 1991. The Bank in fact closed on December 31 with its books in balance and its operations audited. *Id.*

The House Committee on Standards, the so-called Ethics Committee, was instructed to examine operation of the Bank from July 1, 1988, through December 31, 1991. Using the GAO, the Ethics Committee reconstructed the accounts and found no problems with the Bank other than the overdrafts. *Id.* at 3.

Following a resolution, the Ethics Committee released detailed information on 22 Members with extensive overdrafts and the names and number of overdrawn checks for 303 other Members. Applicant Gonzalez, like 169 other Members, had no overdrafts; another 165 had fewer than 10 (Appendix A; Appendix J at 29).

On April 21, 1992, Special Counsel Wilkey issued the same subpoena to Werner W. Brandt, Sergeant-at-Arms of the House of Representatives, and Matthew F. McHugh Acting Chairman, Committee on Standards of Official Conduct, U.S. House of Representatives.[1] The subpoena requires all original microfilm of records of the House Bank for the period July 1, 1988 through December 31, 1991. (Appendix B.)

On April 29, 1992, Special Counsel Wilkey sent a letter to House Minority Leader Robert H. Michel attempting to allay concerns with respect to the breadth of the subpoena. (Appendix C.) Specifically, Special Counsel Wilkey addressed the issue of the 170 accounts at the House Bank which had no overdrafts during the 42-month period the subpoena covers. "We have no interest in or need for the data on the 170 accounts on the facts we now know. . . . We will return these [the records of the 170] to the House unorganized, uncollated, and unreviewed by us."

That same day, April 29, the House passed Resolution 441 directing the Sergeant-at-Arms to provide the microfilmed records of the House Bank to the Special Counsel. (Appendix D.) The Resolution did not presume to affect the rights of individual Members, however: "nothing in this Resolution shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member, Officer or employee of the House or any other individual."

Also on April 29, Applicant Gonzalez filed a motion to quash the subpoena with supporting papers in the United States District Court for the District of Columbia. Counsel for Representative Gonzalez were engaged that evening, and the next day Chief Judge Penn ordered all supplemental materials to be filed no later than 4:00 p.m. on April 30.

On Friday, May 1, Chief Judge Penn held oral argument. On Monday, May 4, at approximately 12:00 noon, he denied the motion to quash. (Appendix E.) Later that day he denied a motion to stay his decision. (Appendix F.) The United States Court of Appeals for the District of Columbia Circuit also denied a motion for a stay. (Appendix G.)

That afternoon the House Sergeant-at-Arms provided the FBI with the 41 rolls of microfilm.

ARGUMENT

A. Standards for the Entry of a Stay

In this Court an applicant may obtain a stay of judgment by showing that there is reasonable probability that four Justices will vote in favor of granting the writ of certiorari, that there is a fair prospect that a majority will conclude that the decision below was erroneous, and that the balance of equities weighs in favor of granting a stay. *Mori v. International Brotherhood of Boilermakers*, 454 U.S. 1301, 1303 (1981) (Rehnquist, J., in chambers); *Gregory-Portland Independent School District v. United States*, 448 U.S. 1342 (1980) (Rehnquist, J., in chambers). The same basic standard applies whether or not the court of appeals has had an opportunity to decide the case on the merits. *See Gregory-Portland*, 448 U.S. at 1342.

B. The Court Is Likely To Conclude That the Decision Below Was Erroneous and To Grant the Writ of Certiorari

The Special Counsel claims that Applicant Gonzalez lacks standing to challenge the House's compliance with the subpoena. On the merits, the Special Counsel argues that the subpoena is not overly broad and is an appropriate exercise of the prosecutorial function. In addition, the Speical Counsel would likely argue that this case is now moot. None of these contentions has merit.

1. Mootness

The memorandum order of the District Court stated that production of documents by the House Sergeant-at-Arms would moot this matter. Although there is a line of cases holding that an appeal from enforcement of a subpoena becomes moot once the subpoena has been complied with, *see e.g. EEOC v. St. Regis Paper Co.*, 717 F.2d 1302 (9th Cir. 1983); *United States v. Putmon*, 630 F.2d 458 (6th Cir. 1980), the better authority holds that it is not.

Where subpoenaed documents are wrongfully held or used by the Government, "the controversy remains open as to the Government's continued right to custody of those documents." *FTC v. Gibson Products of San Antonio, Ind.*, 569 F. 2d 900, 903 (5th Cir. 1978). The D.C. Circuit recognized the same principle in *FTC v. Browning*, 435 F.2d 96, 97–98 n.1 (D.C. Cir. 1970) (Wilkey, J.), in refusing to hold moot an appeal where appellant complied fully with the subpoena after being denied a stay pending appeal. A continuing controversy existed because appellant was entitled to the return of records in the Government's possession if they were wrongfully subpoenaed.

Other cases have reached the same conclusion. *E.g., Territory of Guam v. Sea-Land Services, Inc.*, 1992 W.L. 53962 (D.C. Cir. March 24, 1992); *Gluck v. United States*, 771 F.2d 750 (3d Cir. 1985); *United States v. Friedman*, 432 F.2d 928 (3d Cir. 1976); *United States v. Waltman*, 525 F.2d 371, 373 n.1 (3d Cir. 1975).

Surrendering the documents does not render this controversy moot because, if the subpoena is found improper, effective relief—prohibiting review or use of documents or requiring their return—can still be fashioned. Moreover, at argument before the District Court below, the Special Counsel advised that:

"It will take about five days to reproduce the microfilm itself. It will take by the very, very best technology a number of weeks to go through and print the checks and segregate into these two divisions [between those who have overdrafts and those who do not], and then we will have a long chore of analyzing relationships."

(Appendix J at 41). This means that the duplication of the microfilm provided by the House on May 4, 1992, cannot yet have been completed. Weeks still remain before the Special Counsel will have printed and sorted documents ready for substantive review. The actual harm claimed by Representative Gonzalez, through imminent, has not yet been realized. His claim is far from moot.

The case is not moot, in addition, because every day that passes and every day an additional officer of the Executive Branch sees the Applicant's bank records, the harm to the Applicant continues.

2. Standing

Special Counsel argued and the District Court held that this Court's decision in *United States v. Miller*, 425 U.S. 435 (1976), stands as a bar to Applicant Gonzalez's challenge to the subpoena in this case. In *Miller*, the Court held that an individual has no legitimate Fourth Amendment expectation of privacy in financial records held by a bank or other third parties. From this decision, Special Counsel concludes that Applicant Gonzalez has no standing to challenge the subpoena. This conclusion is erroneous.

Congress disagreed with the Court's conclusion in *Miller* that individuals have no expectation of privacy in their financial records. Accordingly, it passes the Right to Financial Privacy Act, 12 U.S.C. 2401 *et seq.*

The legislative history makes clear Congress' concern:

"The title is a congressional response to the Supreme Court decision in the *United States v. Miller* which held that a customer of a financial institution has no standing under the Constitution to contest Government access to financial records. The Court did not acknowledge the sensitive nature of these records, and instead decided that since the records are the "property" of the financial institution, the customer has no constitutionally recognizable privacy interest in them.

"Nevertheless, while the Supreme Court found no constitutional right of privacy in financial records, it is clear that Congress may provide protection of individual rights beyond that afforded in the Constitution. This was made clear by the Supreme Court in the recently decided case of *Zurcher v. The Stanford Daily* where the majority stated that "Of course, the Fourth Amendment does not prevent or advise against legislative or executive efforts to establish non-constitutional protections against possible abuses . . ."

H.R. Rep. No. 1383, 95th Cong., 2d Sess. 34 (1978), *reprinted in* 1978 U.S.C.C.A.N. 9273, 9306.

In general, the Act limits governmental access to the records of bank customers. 12

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[1] Apparently the Special Counsel was unclear who actually had custody of the subpoenaed materials.

U.S.C. §3402. If the Government subpoenas bank records, it must provide notice to the customer, *id.* §3407, who many challenge the subpoena. *Id.* §3410. To be sure, the provisions of the Act requiring the Government to provide notice do not apply to subpoenas issued in connection with grand jury proceedings; and a "court shall have authority to order a financial institution, on which a grand jury subpoena for customer records has been served, *not* to notify the customer of the existence of the subpoena. . . ." *Id.* §3413(i) (italic added).

In this case, however, the Sergeant-at-Arms was not instructed by Special Counsel not to inform the Members that their records were being subpoenaed. To the contrary, the Members were notified that a subpoena had issued. By implication of §3413(i), therefore, the Members had the right to challenge the subpoena. *See id.* §3410(c). Nor could the statute be plausibly construed as prohibiting a citizen fully notified of a subpoena, as Representative Gonzalez has been so notified, from seeking judicial relief where appropriate.

The Special Counsel himself believed the Members had a right to challenge the subpoena. In a letter to the Speaker of the House dated April 21—the date the subpoenas were issued—Special Counsel provided assurance that "with a subpoena the secrecy of Grand Jury proceedings and *the provisions of the Right to Financial Privacy Act will apply to the banking records.*" (Appendix H at 2; emphasis added).

Resolution 441, moreover, which authorized release of the bank records, presumed that the Members could challenge the subpoena: "nothing in this Resolution shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member, Officer, or employee of the House or any other individual." (Appendix D.) Accordingly, Representative Gonzalez has a right to challenge the subpoena in circumstances where any other American would have standing.

Aside from his standing as a private citizen, Representative Gonzalez has standing under the Constitution as a Congressman to challenge this subpoena. As a Member of a co-equal branch of the Government, Representative Gonzalez has standing to challenge a subpoena that undermines his ability to discharge his constitutional duties.

We will not belabor the significance of the Separation of Powers doctrine to our constitutional scheme. This Court is well aware of the Founding Fathers' concern that excessive dependence upon the Crown by Parliament had undermined Parliament. "[T]he crown, acting through its chief officers of state, far from being distinct in interest from the Commons and the Lords and no more than an equal co-partner with them in the legislature, operated with elements of both in both Houses to achieve in effect a mastery of the whole government which is maintained with rare interruptions through the [seventeenth] century." Bernard Bailyn, *The Origins of American Politics* (1968) at 24. Or as articulated by Madison, "It is equally evident that the members of each department should be as little dependent as possible on those of the others for the emoluments annexed to their offices." *The Federalist Papers* No. 51. Dependency is as much fostered by fear or intimidation as by prospect of gain.

In short, the Founding Fathers were concerned about any constitutional arrangement that left any branch unduly and unnecessarily vulnerable or beholden to any other branch.

It is important that these ancient concerns be placed in the context of this case. Applicant Gonzalez is Chairman of the House Committee on Banking, Finance and Urban Affairs. As he explains in an affidavit, this important committee routinely passes legislation affecting the Executive Branch and frequently investigates that Branch. (Appendix I.)

Chairman Gonzalez's affidavit summarizes his committee's face-to-face dealings with the Executive Branch that arise under the Constitution:

"The Committee is currently investigating the role of Banca Nazionale del Lavoro (BNL) in financing a sophisticated Iraqi-controlled network of front companies in the United States and Europe that were responsible for procuring Western technology and know-how for Iraq. The Federal Reserve's failure to properly implement the Federal umbrella regulatory structure created by Congress to ensure that foreign banks operating in the United States are properly supervised is also a focus of the investigation. As part of this investigation, the Committee is examining the conduct of many departments and agencies of the Executive Branch including the Departments of Agriculture, Commerce, Justice, State, and Treasury, the Board of Governors of the Federal Reserve System, and various Federal Reserve Banks.

"In 1990, the Committee investigated the collapse and insolvency of the Federal Savings and Loan Insurance Corporation's insurance fund, including specifically the failure of the Silverado Banking, Savings and Loan Association, which failure is estimated to cost the taxpayers over $1 billion. The investigation focused on the failure of Silverado's directors, including Neil M. Bush, son of President Bush, and its officers to meet their fiduciary obligations to the institution, as well as the failure of the Federal Home Loan Bank Board to properly regulate and supervise the institution.

"During the first session of the 101st Congress, the Committee considered legislation that would reform the regulatory structure for depository institutions by consolidating the various depository institution regulatory agencies and departments. The legislation submitted by the Treasury Department, H.R. 1505, would have placed the consolidated regulator under the Treasury Department. The legislation I introduced, H.R. 6, established an *independent* depository institution regulator. The Administration strongly opposes the establishment of an independent regulator. This issue was not resolved and will likely be before the Committee again during the second session of the 101st Congress.

"A set of reforms to the Federal Housing Administration (FHA) system to restore the financial integrity of the mutual mortgage program insurance was adopted in the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625. Subsequently, the Department of Housing and Urban Affairs issued regulations imposing an additional limitation on the amount of closing costs that can be financed by a borrower under the FHA program. I introduced legislation, H.R. 4073, the Emergency Community Development Act of 1992, which repeals the limitation on closing costs. The Administration opposes the repeal of this limitation. H.R. 4073 has been adopted by the Committee and is awaiting floor action. In addition, housing reauthorization legislation to be taken up by the Committee on May 13, 1992, also contains a repeal of this limitation." Appendix I¶8.

As he concludes, "[t]hese investigations illustrate the delicate and sometimes adversarial nature of the relationship between the Legislative and Executive Branches, and highlight the necessity that the Legislative Branch be free from the intimidation that I believe these Subpoenas represent." *Id.* The discharge of Chairman Gonzalez's duties is compromised if he must worry about whether the judgment of Members of his committee is impaired or compromised by the existence of an an investigation by the Executive Branch.

The Applicant does not suggest that he or any other Member of Congress is or should be immune from operation of the judicial process; is or should be free from grand jury investigation. Like other citizens Members of Congress are answerable for their acts. But sweeping grand jury subpoenas to the House as a whole, affecting the personal legal rights and affairs of every sitting Member, threaten that institution in a way that is abhorrent to the Constitution.

Accordingly, as a Member of a co-equal branch, Applicant Gonzalez has standing to challenge the subpoena as a threat to the lawful conduct of his constitutional responsibilities.

He has standing because as both a citizen and a Member of the House of Representatives, he can:

"[S]how that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defandant," . . . and that injury "fairly can be traced to the challenged action" and "is likely to be redressed by a favorable decision". . . .

Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 472 (1982) (citations omitted).[2]

3. Overbreadth

Special Counsel claims, and Chief Judge Penn apparently agrees, that the standards set forth in the Court's decision in *United States v. R. Enterprises Inc.*, 111 S. Ct. 722 (1991), govern the issuance of a grand jury subpoena to the U.S. House of Representatives. That case, which concerned the investigation of a company allegedly transporting obscene materials interstate, held that a grand jury subpoena will be enforced unless the court determines that there is "no reasonable possibility that the category of materials the Government seeks will produce information relevant to the general subject of the grand jury's investigation." 111 S. Ct. at 728, *R. Enterprises*, however, never purported to determine the breadth of a subpoena issued to a co-equal branch of Government. The *R. Enterprises* Court suggests as such by refraining from expressing a view with respect to a constitutional claim that had been raised, but not decided, in the lower court. 111 S. Ct. at 728.

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[2] The District Court suggested two procedural grounds for denying the stay. First, because Resolution 441 directed the Sergeant-at-Arms to turn over the records by noon Monday, May 4, whereas the subpoena had a return date of May 5, the court suggests that a stay of the subpoena would not "necessarily afford the relief movants seek." Appendix F at 2. In a similar vein, the court suggests that while the Sergeant-at-Arms is not a party, the "movants really seek to have the Court enjoin the House of Representatives from turning over the records." *Id.* at 2-3.

Neither of these reasons justifies denial of the stay. Resolution 441 was predicated on the issuance of the subpoena by the Special Counsel. And the Resolution expressly reserves the "legal rights applicable or available to any Member. . . ." Appendix D. Finally, early Monday afternoon before the microfilm was surrendered and while Applicant Gonzalez was seeking a stay, Counsel for the House represented that he would honor any stay issued by the courts.

Accordingly, there are no grounds for believing either that a stay would not "afford the relief" Applicant Gonzalez seeks or that he really seek[s] to . . . enjoin the House of Representatives. . . ."

The proposition that *R. Enterprises* establishes the standard by which subpoenas are adjudged is fundamentally wrong. For this standard fails to give appropriate deference to a co-equal branch; indeed this standard tends to diminish the Congress.

Although this Court has never decided the standards that apply to a subpoena issued to the House as a whole, other cases provide some guidance. In *Nixon v. United States*, for example, the Court subjected a subpoena to the President to exacting scrutiny:

"In a case such as this . . . where a subpoena is directed to a President of the United States, appellate review, in deference to a coordinate branch of Government, should be particularly meticulous to ensure that the standards of Rule 17(c) have been correctly applied." *United States v. Burr*, 25 F. Cas. pp. 30, 34 (No. 14,692d) (CC Va. 1807).

418 U.S. 683, 702 (1974). *Accord, e.g., United States v. Poindexter*, 727 F. Supp. 1501, 1505 (D.D.C. 1989).

It is true that *Nixon* did not address grand jury subpoenas, as *R. Enterprises* observes. 111 S. Ct. at 727. Nonetheless, a grand jury subpoena addressed to a coordinate branch requires a heightened level of scrutiny, because of the risks that interbranch disputes inherently involve.

Certainly the Congress is entitled to as much deference as is the Executive Branch. The Congress should no more be subject to a limitless subpoena than should the Executive Branch. The Special Counsel seems tacitly to admit this. In his letter to Representative Michel, he refers to his obligation to guard the integrity of the records, "being aware that they are . . . the personal records of Members of a coordinate branch of Government." (Appendix C). Thus, *R. Enterprises* is not a sure guide to resolution of this matter.

The proof of this particular pudding, however, is that even under the standards of *R. Enterprises*, the subpoena in this case fails, by the admission of the Special Counsel. In the matter of the 170 Members without overdrafts, Special Counsel admits in his letter of reassurance to Representative Michel:

"[W]e have no interest in or need for the data on the 170 accounts on the facts we now know. . . . We have technological facilities which will enable us to separate the 170 as a group from the other accounts as a group quickly. We will return these to the House unorganized, uncollated, and unreviewed by us." (Appendix C.)

By his own admission, therefore, Special Counsel has no need for the records of the 170 present and former congressmen who wrote no overdraft checks. The Special Counsel's admission provides his own definition of overbreadth: that records are concededly not needed is a complete defense to a subpoena even under the stringent standards of *R. Enterprises*.

By the same token, the Special Counsel could not explain the need for all records for all months of those Members with a smattering of overdrafts. As stated, 165 Members had fewer than 10 overdrafts over the 42 months covered by the subpoena. Yet their records for months, even years, when there were no overdrafts whatsoever are subject to production. This indiscriminate production would apply, for example, to Members such as those appearing along with Representative Gonzalez before the District Court, who has a single overdraft (in one case in the amount of 38¢) or a total of four all occurring on one day.

Why then is the Special Counsel insisting that these records be provided? There is no clear answer to this in the record. During argument in the District Court, however, Special Counsel Wilkey stated:

"Now, there is a third fact and reason that I wanted to call to the Court's attention, why we need these records, the microfilm, in the way that we have asked for them, and this is that the mission of the Grand Jury and my mission is not just to indict, *but the mission is also to clear people, to declare that they are not suspected of criminal violations.* When the Attorney General called me in late March, and asked me to undertake this task, the first thing he said is, "The first thing we want to do, and as quickly as possible, is separate those—and we think they'll be the very, very large number of those House Members who may have made overdrafts, but who have made overdrafts perfectly innocently, and are not guilty of any criminal violation, and the, secondly, to go on with those who conceivably might have some criminal violation, and look into their affairs in a more intensive investigation." He said, "What I want you to do is to look at this situation overall, and make a report to me, and *see how many of these people we can say as quickly as possible are not guilty of any criminal violation.*" And, Your Honor, it will be impossible for me to do that, unless the Grand Jury is given all of these records.

"I could not, and the Grand Jury could not in performing its normal function say in good conscience that *these members are clearly not guilty of any violations of law*, unless we have had the usual look at the records that examiners of any troubled financial institution would have. And so we want this, not just to find out wrongdoing, but also to clear people." Transcript of Hearing, May 1, 1992 at 42–43 (emphasis added). (Appendix J.)

This claim is astonishing. It is doubtful whether any prosecutor has warrant to decide which citizens are presumptively innocent and which are guilty. But it is quite clear that when an Executive Branch of one political party undertakes during an election year to declare which Members of the Legislative Branch controlled by the other party are innocent of wrongdoing, the core values of the Separation of Powers doctrine are in jeopardy.

C. Balance of Equities

The balance of equities clearly favors entry of a stay. On the one hand, Special Counsel will not be irreparably injured by the entry of a stay in this matter. He has an interest, of course, in duly completing the mandate given him by the Attorney General. But any injury caused by delay is not irreparable. The passage of the few weeks required for "review in a manner conducive to careful study and consideration," *Republican State Central Committee*, 409 U.S. at 1225, will cause a brief delay and nothing more.

By contrast, failure to enter a stay will cause Applicant Gonzalez irreparable harm. There are fewer records more private than personal bank records. To know a man's bank records is to know the man. Through them one can determine a person's friends, his associations, his causes, his church, his beliefs, his medical treatments and condition. A subpoena of such records is always intrusive. When directed toward all Members of Congress, the intrusion works its ill effect on both privacy and, recent history shows, the nation's politics. For those who like Applicant Gonzalez wrote no overdrafts, the intrusion is particularly egregious and irreparable.

The public too has a keen interest in a stay. The crux of this case is whether the Special Counsel may obtain volumes of personal financial records he concededly does not need from all Members of a co-equal branch of Government. The Government's possession of these records must severely affect Members as individuals vitally concerned with their privacy. No less important to the public, it threatens the impartial conduct of their Constitutional duties. It is not fanciful to assume, or for the public to fear, that Members in their day-to-day dealings with the Executive Branch will be reluctant to bite the hand that inexplicably is investigating them and that possesses their most intimate personal records.

It is not sufficient for the Special Counsel to appeal, as he does, to logistical expedience, particularly where he seeks the complete financial records of 170 U.S. Congressmen, like Representative Gonzales, who did not overdraw a single check. This argument of expedience is no more appropriate where years of a Member's records are demanded on the basis of only a single overdraft, or four on one day, or a handful scattered over two or three months out of 42. It serves the public interest to resolve this case in an orderly fashion after due deliberation.

CONCLUSION

For the reasons stated, this Court should enter a stay so that the court of appeals may expeditiously review this case on the merits.

Accordingly, we request that the Court either: (1) order the return of the original 41 rolls of microfilm to the Sergeant-at-Arms of the House and the destruction of all copies or notes that have been made therefrom; or (2) order the sequestration of the original 41 rolls of microfilm and all copies and notes made therefrom and an immediate halt to all use of the materials pending resolution of this matter.

Respectfully submitted,
ROBERT F. BAUER
ROBERT L. DEITZ
BENJAMIN S. SHARP
MARTIN P. WILLARD
Counsel for Congressman Henry B. Gonzalez.
May 6, 1992.

[In the Supreme Court of the United States]

HENRY B. GONZALEZ, PETITIONER, *v.* SPECIAL COUNSEL MALCOM R. WILKEY, RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 1992, three true and correct copies of the Application For A Stay and the Appendix to the Application For A Stay were hand delivered on the following:

Kenneth W. Starr, Solicitor General, U.S. Department of Justice, 10th & Constitution Avenue, N.W., Room 5143, Washington, D.C. 20530

ROBERT L. DEITZ.

□ 1810

Well, Mr. Speaker, those are the attempts that are going to arouse the antagonism of those who are in power and feel embarrassed.

Now to me, if I am proven to be wrong, I accept it, and then I try to correct it, but this is not human reaction in most instances where power is being held. The idea that one would be embarrassed by being shown as having made a serious error or flaw in judgment is very embarrassing. But I do not think that that embarrassment should be at the expense of the national wellbeing and, particularly, the safety and soundness of our banking system which is in great jeopardy today. I cannot arouse the concern that I wish were there.

Mr. Speaker, we are examining the conduct of many departments and agencies of the executive branch's part of this investigation. Of course they are resentful. Of course they try to circumvent us. Of course they do a lot of other things.

Of course there are powerful interests in Europe, and the Middle East and elsewhere that have already sent their warnings. I have got them. But, heck, I have had warnings since I was in the city council. I have even been shot at.

So, there is nothing to be done about that other than to say, "When you touch that, it's like a web. You touch one end, and everything else shakes, and especially when you have a trillion dollars there, of course, men of power, whether it is money power or political power, as Frederick Douglass said, Power never yields except to demand and it never has, and it never will.

In 1990 the committees investigated the collapse and insolvency of the Federal Savings and Loan Insurance Corporation fund, during this administration and the prior administration's policies of deregulation. In 1982 and 1990 I was the only member of this committee voting no on what now they say was the cause, the passage of those deregulatory actions. It was lonely; of course it was. But then what did we ask for? To get elected to do what? Have parties, and playtimes and easy solution to things? Then we ought to quit.

This investigation included the failure of the Silverado Savings and Loan Bank, which failure is estimated to cost the American taxpayers over $1 billion. On the board of directors was the President's son. Nobody can say; in fact to the contrary I had notes of thanks that that matter was handled equally, fairly, and with no attempt to embarrass anybody, and we listed the facts.

Mr. Speaker, that is what the record shows. We did not have to strain to try to make a point that we were going to show how one party is more dishonest or immoral than another. Corruption, and I have told this to my colleagues for years, is bipartisan. When anybody starts thinking that his party is all swans and the other one is all ducks, he better think again.

In 1990 the committee investigated the insolvency of all these institutions. Some of them did bring about implied political threats, this, that and the other, and I could go on and describe the other investigations. But I will not. I believe there will be an enormous adverse and chilling effect on the Members' ability to carry out their duties and responsibilities knowing that the executive branch holds the records of all their financial transactions in its hands, knows of political or charitable contributions they have made, or their religious views, as evidenced by those records. I believe that through this subpoena action each and every Member has been threatened by the singular power and the long reach of a very partisan, and in the words and in the mouths of Wilkey, very insidious executive branch.

Mr. Speaker, I appreciate the time allowed to me tonight because these issues are indeed important to every Member of this House. We must remain vigilant, watch the actions of the special counsel as they affect each and every one of us, and I intend to continue in the struggle, and I intend to revisit judicially this issue as soon as proper and competent counsel advises and endorses a judgment. I think that would bring it about soon.

But of greater importance are the principles at stake. It is my specific duty, and I have taken that oath, and I repeat it, to uphold this Constitution. The Constitution does not simply protect the Members of this body. The principles it embodies protect the people of the 20th District of Texas that I was elected to represent and, indeed, every citizen of the United States. If the executive branch, through the Attorney General, can trample on my rights, it really tramples on the people who elected me and on every American. We all must stand firm against this invasion of, not just our financial privacy, but our right to remain free from the intimidation by the unwarranted intrusion by the executive branch into the prerogatives of the legislative branch.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–606) on the resolution (H. Res. 498) waiving certain points of order against the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BACCHUS (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. YOUNG of Florida (at the request of Mr. MICHEL) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 60 minutes, on June 24.

Mr. ALLEN, for 5 minutes, today.

Mr. BEREUTER, for 30 minutes each day, on today and June 23.

Mr. DREIER of California, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes each day, on July 7, 8, 9, 10, 21, 22, 23, 24, 28, 29, 30, and 31.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DORNAN of California, on H.R. 1624, today.

Mr. FROST, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,762.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. VANDER JAGT.

Ms. ROS-LEHTINEN in six instances.

Mr. ARMEY.

Mrs. ROUKEMA in three instances.

Mr. CAMPBELL of California.

Mr. BEREUTER.

Mr. GILMAN.

Mr. CUNNINGHAM.

Mr. NUSSLE.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ROE in two instances.

Mr. HOYER.

Mr. BLACKWELL.

Mr. FORD of Michigan.

Mr. SKELTON.

Mr. DOWNEY.

Mr. SCHEUER.

Mr. KANJORSKI.

Ms. DELAURO.

Mr. TORRICELLI.

Mr. ORTIZ.

Mr. THOMAS of Georgia.

Mrs. SCHROEDER.

Mr. LAROCCO.

Mr. TRAFICANT.

Mr. SCHUMER.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that

that committee had examined and found truly enrolled a bill of the House of the following title, which were thereupon signed by the Speaker:

H.R. 5132. An act making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 23, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3778. A letter from the Secretary, Housing and Urban Development, transmitting the Department's 5-year energy efficiency plan for the 5 years from 1992 through 1996, pursuant to Public Law 101-625, section 945(d) (104 Stat. 4416; to the Committee on Banking, Finance and Urban Affairs.

3779. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a study on the transfer of imputed interest on required reserve balances to the deposit insurance funds; to the Committee on Banking, Finance and Urban Affairs.

3780. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination that the People's Republic of Angola has ceased to be a Marxist-Leninist country, pursuant to 12 U.S.C. 635(b)(2)(C); to the Committee on Banking, Finance and Urban Affairs.

3781. A letter from the Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding Letters of Offer to sell any major defense equipment for $1,000,000 or more; an addendum to the listing of all Letters of Offer that were accepted, as of March 31, 1992, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

3782. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Nicolas Miklos Salgo, of Florida, to be Ambassador to Sweden; of Charles B. Salmon, Jr., of New York, to be Ambassador to the Lao People's Democratic Republic; of Ruth A. Davis, of Georgia, to be Ambassador to the Republic of Benin; of Jon M. Huntsan, of Utah, to be Ambassador to the Republic of Singapore; of Irvin Hicks, of Maryland, to be Deputy Representative of the United States in the Security Council of the United Nations with the rank of Ambassador, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3783. A letter from the Secretary of Agriculture, transmitting the Secretary's management report for the 6-month period ending March 31, 1992, pursuant to Public law 100-504; to the committee on Government Operations.

3784. A letter from the Secretary of Agriculture, transmitting a statement of intent for the evaluation of a land exchange between the U.S. Forest Service and Kootznoowoo, Inc., pursuant to a Public Law 101-378, section 203(a) (104 Stat. 469); to the Committee on Interior and Insular Affairs.

3785. A letter from the Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3786. A communication from the President of the United States, transmitting a copy of a proclamation that extends nondiscriminatory treatment to the products of Romania; also enclosed is the text of the "Agreement on Trade Relations Between the Government of the United States of America and the Republic of Romania," which was signed on April 3, 1992, pursuant to 19 U.S.C. 2437(A) (H. Doc. No. 102-347); to the Committee on Ways and Means and ordered to be printed.

3787. A letter from the Deputy Assistant Secretary for the Environment, Department of Defense, transmitting notification that the report pursuant to 10 U.S.C. 2706 will be submitted shortly; jointly, to the Committees on Armed Services and Energy and Commerce.

3788. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

3789. A letter from the Comptroller, Department of Defense, transmitting the Secretary's notification of the obligation of funds pursuant to an agreement being negotiated between the DOD and the Russian Federation concerning the safe destruction of chemical weapons; jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee on Foreign Affairs. Supplemental Report on H.R. 4547, (Rept. 102-569, Pt. 2). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 2828. A bill to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics (Rept. 102-586, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee of Conference. Conference Report on S. 429 (Rept. 102-605). Ordered to be printed.

Mr. HALL of Ohio: Committee on Rules. House Resolution 498. Resolution waiving certain points of order against the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102-606). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 240. A bill for the relief of Rodgito Keller; with an amendment (Rept. 102-587). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 760. A bill to permit Willie D. Harris to present a claim against the United States in the manner provided for in chapter 171 of title 28, United States Code, and for other purposes (Rept. No. 102-588). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 761. A bill to waive the foreign residency requirement for the granting of a visa to Amanda Vasquez Walker (Rept. 102-589). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1100. A bill for the relief of Luis Fernando Bernate Christopher; with an amendment (Rept. 102-590). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1101. A bill for the relief of William A. Cassity; with an amendment (Rept. 102-591). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1123. A bill for the relief of Howard W. Waite; with amendment (Rept. 102-592). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1280. A bill for the relief of Earl B. Chappell, Jr. (Rept. 102-593). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1759. A bill for the relief of James B. Stanley; with amendments (Rept. 102-594). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2156. A bill for the relief of William A. Proffitt; with an amendment (Rept. 102-595). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2193. A bill for the relief of Elizabeth M. Hill (Rept. 102-596). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2490. A bill for the relief of Christy Carl Hallien of Arlington, TX (Rept. 102-597). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3288. A bill for the relief of Olufunmilayo O. Omokaye (Rept. 102-598). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3289. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini, with an amendment (Rept. 102-599). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3590. A bill for the relief of Lloyd B. Gamble (Rept. 102-600). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. House Resolution 29. A resolution for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; with amendments (Rept. 102-601). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. S. 249. An act for the relief of Trevor Henderson (Rept. 102-602). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. S. 295. An act for the of relief Mary P. Carlton and Lee Alan Tan; with an amendment (Rept. 102-603). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, NV (Rept. 102-604). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CAMPBELL of California:

H.R. 5447. A bill to reauthorize the program under title XII of the National Housing Act to provide reinsurance through the Federal Emergency Management Agency against property losses resulting from riots or civil disorders; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CARR:

H.R. 5448. A bill to amend the Solid Waste Disposal Act to prohibit the transportation of solid waste from the State in which the waste was generated to another State for purposes of treatment, storage, or disposal, unless the State in which the waste was generated has in effect a law prohibiting nonreturnable beverage containers; to the Committee on Energy and Commerce.

By Ms. DELAURO (for herself and Mr. SCHUMER):

H.R. 5449. A bill to amend title 18, United States Code, to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes; to the Committee on the Judiciary.

By Mr. EDWARDS of Oklahoma:

H.R. 5450. A bill to repeal the Americans with Disabilities Act of 1990; jointly, to the Committee on Education and Labor, Energy and Commerce, Public Works and Transportation, and the Judiciary.

By Mr. HALL of Texas (for himself, Mr. BILIRAKIS, Mr. BRYANT, Mr. FIELDS, Mr. RICHARDSON, Mr. TOWNS, and Mr. HASTERT):

H.R. 5451. A bill to amend titles XVIII and XIX of the Social Security Act to revise the criteria for decertifying a nurse aide trained and competency evaluation program operated by a nursing facility, to repeal requirements under such titles for preadmission screening and annual resident review by such facilities, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HUGHES (for himself, Mr. FOGLIETTA, Mr. ROE, Mr. BORSKI, Mr. DWYER of New Jersey, Mr. MURPHY, and Mr. GALLO):

H.R. 5452. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority; to the Committee on the Judiciary.

By Mr. KENNEDY:

H.R. 5453. A bill to designate the Central Square facility of the U.S. Postal Service in Cambridge, MA, as the "Clifton Merriman Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself and Mr. ROYBAL):

H.R. 5454. A bill to amend title XVIII of the Social Security Act to provide for a long-term care program for all Americans; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. KILDEE:

H.R. 5455. A bill to amend title 18, United States Code, to provide a criminal penalty for dumping solid waste on certain Federal lands and to increase the fine for illegally cutting, destroying, or transporting timber on Federal lands, to establish programs to decrease the illegal dumping of solid waste on certain Federal lands, and to establish programs to recycle solid waste on certain Federal lands; jointly, to the Committees on the Judiciary, Energy and Commerce, Interior and Insular Affairs, Merchant Marine and Fisheries, and Agriculture.

By Mr. SCHUMER (for himself and Mr. KASICH):

H.R. 5456. A bill to provide for a reduction in United States economic assistance to any independent state of the former Soviet Union that exports goods, equipment, or technology in contravention of certain nonproliferation regimes; to the Committee on Foreign Affairs.

By Mr. TORRICELLI (for himself, Mr. ROHRABACHER, Mr. BROWN, Mr. WALKER, Mr. VALENTINE, and Mr. LEWIS of Florida):

H.R. 5457. A bill to direct the Secretary of Transportation to issue rules which require vessels operating in harbors in the United States to use state-of-the-art maritime vessel traffic control equipment, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

By Mr. WALSH:

H.R. 5458. A bill to authorize the Secretary of Agriculture to carry out a grant program to increase the international competitiveness of the forest products industries in the United States; to the Committee on Agriculture.

By Mr. JONES of North Carolina (for himself, Mr. HERTEL, Mr. STUDDS, Mr. MANTON, Mr. HUGHES, Mr. LANCASTER, Mr. RAVENEL, Mr. WELDON, and Mr. SOLARZ):

H.R. 5459. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes; jointly, to the Committee on Merchant Marine and Fisheries, Science, Space, and Technology, and Foreign Affairs.

By Mr. GEPHARDT (for himself and Mr. MICHEL) (both by request):

H.J. Res. 512. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of Romania; to the Committee on Ways and Means.

By Mr. GILLMOR:

H.J. Res. 513. Joint resolution proposing an amendment to the Constitution of the United States to provide for a runoff election for the offices of the President and Vice President of the United States if no candidate receives a majority of the electoral college; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

488. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to Louisiana Army National Guard; to the Committee on Armed Services.

489. Also, memorial of the Assembly of the State of California, relative to the Martin Luther King, Jr. Federal Holiday Commission; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. SAVAGE, Mr. ZIMMER, Mr. SANGMEISTER, Mr. JOHNSTON of Florida, Mr. VALENTINE, Mr. SHAYS, Mr. NOWAK, Mr. WEISS, Mr. DEFAZIO, Mr. MFUME, Mr. HAYES of Illinois, Mr. SCHEUER, Mr. BUSTAMANTE, Mrs. LOWEY of New York, Mr. MARKEY, Mr. PAXON, Mr. QUILLEN, Mr. EMERSON, Ms. KAPTUR, and Mr. PETERSON of Minnesota.

H.R. 319: Mr. DOWNEY.

H.R. 1066: Mr. CLAY.

H.R. 1572: Mr. NUSSLE, Mr. ZELIFF, Mr. RIGGS, Mrs. LLOYD, Mr. MCCRERY, Mr. HATCHER, Mr. CLINGER, and Mr. LEWIS of California.

H.R. 1623: Mr. IRELAND, Mr. AUCOIN, Mr. STARK, Mr. SOLARZ, Mr. WISE, Mr. JOHNSON of South Dakota, Mrs. MINK, and Mr. DE LUGO.

H.R. 1624: Mr. IRELAND, Mr. AUCOIN, Mr. STARK, Mr. SOLARZ, Mr. WISE, Mr. JOHNSON of South Dakota, Mrs. MINK, and Mr. DE LUGO.

H.R. 1774: Mr. EVANS.

H.R. 2199: Mr. SHAYS.

H.R. 2772: Mr. ROEMER, Mr. CLINGER, Mr. JOHNSON of South Dakota, Mr. GORDON, Mr. BARNARD, Mr. WEISS, Mr. STALLINGS, and Mr. BOUCHER.

H.R. 2966: Mr. BROWDER.

H.R. 3026: Mr. WAXMAN.

H.R. 3051: Mrs. MINK.

H.R. 3138: Mr. GEJDENSON.

H.R. 3236: Ms. HORN.

H.R. 3429: Mr. STARK.

H.R. 3462: Mr. ESPY, Mr. SYNAR, Mr. EDWARDS of California, Mr. SISISKY, Mr. ROEMER, Mr. STARK, Mr. MCNULTY, and Mr. KOLTER.

H.R. 3545: Mr. MACHTLEY.

H.R. 3561: Mr. IRELAND, Mr. DOOLITTLE, Mr. ERDREICH, Mr. HANCOCK, Mr. MCCANDLESS, Mr. DORNAN of California, Mr. RAVENEL, Mr. GILCHREST, Mr. JOHNSON of Texas, Mr. PETERSON of Florida, and Mr. THOMAS of Wyoming.

H.R. 3562: Mr. RANGEL.

H.R. 3598: Mr. BREWSTER, and Mr. BEREUTER.

H.R. 3871: Mr. WALSH, Mr. KILDEE, Mr. RANGEL, Mr. OWENS of New York, Mr. EDWARDS of California, Mrs. SCHROEDER, Mr. HOCHBRUECKNER, Ms. NORTON, Mr. DURBIN, and Mr. FAWELL.

H.R. 4061: Mrs. BOXER.

H.R. 4405: Ms. DELAURO.

H.R. 4430: Mr. SKEEN, Mr. DELAY, and Mr. GUNDERSON.

H.R. 4516: Mr. OWENS of New York, Mrs. COLLINS of Michigan, Mr. FROST, Mr. HAYES of Illinois, Ms. KAPTUR, and Mr. RANGEL.

H.R. 4690: Mr. PORTER.

H.R. 4708: Mr. OBERSTAR, Mr. OWENS of Utah, and Mr. BUSTAMANTE.

H.R. 4709: Mr. OBERSTAR, Mr. OWENS of Utah, and Mr. BUSTAMANTE.

H.R. 4761: Mr. FOGLIETTA, Mr. LEVINE of California, and Mr. GILMAN.

H.R. 4766: Mr. COX of California and Mr. RHODES.

H.R. 4821: Mr. ROWLAND, Mr. GILMAN, Mr. JENKINS, Mr. DORGAN of North Dakota, Mr. PAXON, Ms. ROS-LEHTINEN, Mr. CARDIN, Mr. HOCHBRUECKNER, Mr. PICKETT, Mr. BORSKI, Mr. SIKORSKI, Mr. DE LUGO, Mr. ZELIFF, Mr. WILSON, Mr. UPTON, Mr. MATSUI, Mr. MARTINEZ, Mr. BREWSTER, Mr. RINALDO, and Mr. PETERSON of Florida.

H.R. 4929: Mr. PARKER.

H.R. 4998: Mr. CARPER.

H.R. 5075: Mr. HAYES of Illinois, Mr. SAVAGE, Mr. TRAXLER, Mr. BLAZ, Mr. HERTEL, Mr. FROST, Mr. RANGEL, Mr. CHAPMAN, and Mr. HEFLEY.

H.R. 5126: Mr. PETERSON of Minnesota, Mr. PARKER, Mrs. LLOYD, and Mr. CRAMER.

H.R. 5192: Mr. DE LUGO.

H.R. 5193: Mr. DE LUGO.

H.R. 5237: Mr. COLEMAN of Missouri and Mr. CAMP.

H.R. 5238: Mr. SARPALIUS and Mr. BEREUTER.

H.R. 5254: Mr. DE LUGO.

H.R. 5263: Mr. DE LUGO.

H.R. 5282: Mr. JACOBS.

H.R. 5323: Mr. BUSTAMANTE and Mr. BACCHUS.

H.R. 5370: Mr. SKEEN.

H.R. 5375: Mr. EMERSON, Mr. PENNY, Mr. SKEEN, Mr. LIVINGSTON, Mr. JOHNSON of South Dakota, Mr. BARRETT, Mr. ZELIFF, and Mr. HUBBARD.

H.R. 5405: Mrs. BOXER, Mr. PARKER, Mr. FOGLIETTA, Ms. HORN, Mr. OWENS of New York, Mr. CHAPMAN, Mr. TOWNS, Mr. SWIFT, and Mr. BLACKWELL.

H.R. 5434: Mr. KYL.

H.J. Res. 152: Mr. MARTINEZ and Mr. KLECZKA.

H.J. Res. 237: Mr. MOODY, Mr. CHANDLER, Mr. OBERSTAR, Mr. FOGLIETTA, Mr. MONTGOMERY, Ms. DELAURO, Mr. DICKS, Mr. DELAY, Mr. OWENS of Utah, Mr. SMITH of New Jersey, and Mr. KLECZKA.

H.J. Res. 399: Mrs. VUCANOVICH and Mr. LEWIS of California.

H.J. Res. 488: Mr. KASICH, Mr. ESPY, Mr. BUSTAMANTE, Mr. EVANS, and Mr. MARTINEZ.

H. Con. Res. 180: Mr. WISE.

H. Con. Res. 223: Mr. ATKINS, Mrs. BOXER, Ms. DELAURO, Mr. DOWNEY, Mr. FISH, Mr. LANCASTER, Mr. NOWAK, Mr. SAXTON, Mr. SHAW, Mr. SIKORSKI, Ms. SLAUGHTER, and Mr. SOLARZ.

H. Con. Res. 233: Mr. GEKAS, Mr. CLEMENT, Mr. KLECZKA, Mr. HUNTER, Mr. KILDEE, Mr. MACHTLEY, Mrs. JOHNSON of Connecticut, Mr. BROWDER, Mr. POSHARD, Mr. BILBRAY, and Mr. HEFLEY.

H. Con. Res. 278: Mr. ABERCROMBIE, Mr. DOWNEY, Ms. HORN, Mr. HOUGHTON, Mr. LANTOS, Ms. NORTON, Mr. VENTO, Mr. WELDON, and Mr. WILLIAMS.

H. Con. Res. 328: Mr. MCDERMOTT, Mr. COSTELLO, Mr. CRAMER, Mr. PICKETT, Mrs. MORELLA, Mr. ENGEL, Mr. GONZALEZ, and Mr. FOGLIETTA.

H. Res. 370: Mr. FIELDS.

H. Res. 399: Mr. ATKINS, Mr. BUSTAMANTE, Mr. EVANS, Mr. HAMMERSCHMIDT, Mr. KANJORSKI, Mrs. PATTERSON, Mr. STAGGERS, Mr. SMITH of New Jersey, and Mr. TORRICELLI.

H. Res. 411: Mr. ENGEL.

PETITIONS, ETC.

Under clause 1 of rule XXII.

163. The SPEAKER presented a petition of the Common Council, Buffalo, NY, relative to the Trade Enhancement Act of 1992; which was referred jointly, to the Committees on Energy and Commerce and Ways and Means.

EXTENSIONS OF REMARKS

SALUTING THE CONGRESSIONAL SERVICE ACADEMY REVIEW BOARD OF THE HONORABLE ROBERT A. ROE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. ROE. Mr. Speaker, one of the more pleasurable duties of our elected office is that of recommending young men and women for appointment to our service academies. When I was first elected to this body in 1969, I established a Congressional Service Academy Review Board made up of outstanding community leaders to assist me in screening the many individuals who wished to be Academy nominees. Over the years, these Board members have taken their personal time to interview and review hundreds of applicants for these coveted positions. They have done a great service for me and the people of the Eighth Congressional District of New Jersey, and I take great pride in spending a few moments to recognize their exemplary leadership and dedication.

Mr. Speaker, in my tenure in Congress I have nominated 129 individuals who have gone on to graduate from one of the Nation's four military service academies. The Congressional Service Academy Review Board made these very important decisions, insuring that only the best and the most qualified individuals were selected free from any political considerations. In national recognition of their faithful and laudatory efforts, a special dinner will be held in their honor on June 26, 1992.

There have been 19 members of this Board and I would like to briefly mention each one.

A friend and adviser of mine for many years, the Honorable Cyril "Cy" Yannarelli was an original member of the Board. He is a very successful businessman and was a delegate to the White House Conference on Small Business in 1986. Cy is currently a councilman in the city of Paterson and has also served as a New Jersey State Assemblyman and freeholder director for Passaic County.

The Honorable Michael Milazzo, a long time businessman and civic activist, is currently the manager of administrative services with the private industry council of Passaic County and member of the board of directors for the Boys and Girls Club of Paterson. Mike has also held numerous public positions such as the commissioner of the Paterson Parking Authority and vice president of the Paterson Chamber of Commerce. He has been recognized by the Federation of Italian Societies, Nineteen Hearts Association, Mother Cabrini Society, and the South Paterson Businessman's Association as their "Man of the Year" for his outstanding civic works.

The Honorable Arnold Kelley, currently retired, has been extraordinarily active in veteran's issues. A veteran of World War II, he is a member of the American Legion and former Passaic County commander and serves as chairman of the Education and Scholarship Committee of the Department of New Jersey American Legion. He is chairman of its Congressional Liaison Committee and a member of the National Legislative Council.

An original member of the Board, the Honorable Milton Neil is an Academy Award winning animator with Walt Disney Studios in Hollywood and created the Howdy Doody character. His film credits include Pinocchio, Fantasia, Dumbo, Snow White, Three Caballeros, and numerous short features. He is currently working on animated educational films and the animator development program for young artists at Walt Disney Studios.

The Honorable James Drago, lieutenant colonel, U.S. Army retired, left the Army after 26 years of dedicated and exemplary service. He served two tours in Vietnam and held command abroad in Greece and Germany as well. He was highly decorated, receiving the Legion of Merit, Bronze Star, and Meritorious Service Medal. Since his retirement from the military in 1985, he has worked at AT&T Bell Laboratories as a Government security and project operations manager. All three of his sons are Army airborne ranger captains serving on active duty.

An original Board member, the Honorable Ansel Payne is a distinguished retired educator, who served in the position of board secretary/assistant business administrator for the Passaic County Board of Technical and Vocational Education. He has also been an elementary school teacher and vice principal with the Paterson Board of Education. He is a trustee of the New Jersey Library Association and a member of the New Jersey Education Association.

The Honorable Marilee Jackson is a councilmember from the first ward of the city of Paterson and serves as community coordinator for the commit project sponsored by the University of Medicine-Dentistry of New Jersey. She has long been a community activist serving as a community development specialist with the department of community development in Paterson and working with such groups as the NAACP, National Council of Negro Women, and acting as Passaic County coordinator of the New Jersey Black Issues Convention. She has received numerous local, State, and national awards for her tireless efforts in the community.

An original member of the Board, the Honorable Robert Pringle retired from a distinguished 30-year career in law enforcement. After working his way up through the ranks, he became chief of police in Wayne in 1981, retiring in 1986. He was a member of several police chief associations and a graduate of the FBI's National Academy in Quantico, VA. Also very active in his church, he was ordained a permanent deacon at Our Lady of Consolation Church in Wayne in 1976.

The Honorable Helen Dugan is extraordinarily active in her community and in the family business, serving as vice president and treasurer of Warner Communications, Inc. in Upper Montclair. She has served in the PTA, Cub Scouts, and as a member of the Parental Advisory Board at Fairleigh Dickinson University. She has also taken an active leadership role and is very involved with several distinguished historical and hereditary societies such as the Daughters of the American Revolution, the General Society of Mayflower Descendants, the Huguenot Society of New Jersey, and the Passaic County Historical Society.

The Honorable Howard Lee Ball, another of the original members of the Board, has been involved in print journalism for over 30 years. Currently, he is the editor and general manager of the Suburban Trends of Butler and Morris County. He has also been affiliated with the Paterson Morning Call, Paterson News, Bergen Record, and Matzner Newspapers. He is adjunct professor of journalism at William Paterson College and is a newsman at several local radio stations. In addition, Howard is a past president of the Sons of the American Revolution and Dominie General of the Descendants of the Founders of New Jersey.

The Honorable Thomas D'Alessio is the county executive for Essex County and served as the sheriff there for three terms. A career law enforcement professional, he served on the Governor's Advisory Council on Drug and Alcohol Abuse, the Missing Persons Commission of New Jersey, and is the former chairman of the Essex County Youth Services Advisory Board and the Family Court Advisory Board. He is well known for his efforts in the educational training of his law enforcement officers in Essex County and the establishment of the first bomb squad in the area.

The Honorable John Ciuba is currently the corporate account executive with Periobot Chemical of Wayne and was formerly the national accounts manager for Essex Industrial Chemicals, Inc., in Clifton. An original member of the board, he has a long list of professional and civic involvement including that of being the founding chairman of the Private Industry Council of Passaic County. He was the 59th president of the Sales Association of the Chemical Industry and was its 12th "Professional of the Year." He is also active with the League of American Poles, the Clifton Elks, has coached both little league baseball and football, and has chaired the United Fund in Clifton.

The Honorable Peter Sandfort is an original member of the board and is currently the president of the Dutch Mill Baking Co. and affiliated with the Van Dyk Ice Cream Co. An extraordinarily successful businessman for over 50 years, he formerly owned Garden State Farms with a chain of over 150 stores statewide. He has devoted many years to philanthropic organizations and currently serves

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

as chairman of the Eastern Christian Association Endowment Fund. He is also a member of both the Hawthorne and Wyckoff Rotary Clubs.

The Honorable Karen Breslow is an experienced educator having taught in the Oakland and Wayne school systems. She is also very active in civic and education groups such as the American University Women, the American Cancer Society, Cystic Fibrosis, American Heart Association, and the Women's Auxiliary at Barnert Hospital of Paterson.

The Honorable William Naughton, chaplain captain USAFR, or "Father Bill" as we know him, is a dedicated member of the clergy who has given himself to the cause of helping others. Ordained in 1972, he has very impressive ministerial experiences including, pastoral counseling at Riker's Island, the Holy Name Center for Homeless Men, New York City; and Viva House—Soup Kitchen, Baltimore. He is also police chaplain for the Clifton PBA, chairperson of the Board of Trustees for the New York Theological Seminary, New York City; and affiliated with the Passaic Valley Hospice in Totowa and Clifton Mental Health. In addition to his work on the Review Board, he is himself a captain in the U.S. Air Force Reserve.

The Honorable Harry Morere has devoted all his adult life working diligently in both the public and private sector for the good of his community and State. For 13 years, he served as an alderman in the city of Paterson, for 20 years as the traffic maintenance supervisor on the Passaic County Road Department. He retired after 22 years from the Wright Aeronautical Corp. He is also affiliated with the Disabled American Veterans, American Legion, and the Golden Circle of Wayne.

The Honorable Alex Bidnik is a retired publisher and editor of the Independent Prospector and several other publications, who now devotes himself to speechwriting and marketing consultation. He was voted Clifton's "Man of the Year" in 1966. He was a valued member of the Board for 10 years and was very involved with local senior groups and the Boys' and Girls' Club.

The Honorable Samuel Jarkesy is an educational professional who spent 36 years in the Passaic school system as a high school teacher, vice principal, principal, and secretary to the board and business administrator to the Passaic Board of Education. An original member of the Board, he is also active with the Knights of Columbus, American Legion, Passaic Time Out Club, board of directors of the Boys' and Girls' Club of Passaic, and board of directors of the Wayne Senior Citizens' Runnymede Corp.

The Honorable Monsignor Joseph Brestel, Vicor General, PA for diocese of Paterson, was an original member of the Board and is a dedicated servant of God and his church. He has spent his life aiding his fellow man, assisting those in need, giving guidance to those in despair, and giving humbly of himself where-ever the opportunity was afforded.

Mr. Speaker, these are but brief references to these outstanding men and women. Words are insufficient to describe the tremendous achievements and inspirational examples created by this distinguished group of outstanding individuals. It has been my high privilege and indeed good fortune to have had the opportunity to work with this prestigious group of men and women, and I am proud to share this experience with my colleagues here in the House. The people of the Eighth Congressional District of New Jersey have been served well by their efforts and it is extremely appreciated by all of us.

A TRIBUTE TO LUIS HERNANDEZ AND THE LATIN CHAMBER OF COMMERCE OF MIAMI BEACH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to recognize the Latin Chamber of Commerce of Miami Beach and its president, Luis Hernandez, for their continual assistance to the residents of south Florida.

Since its inception in December 1988, the chamber has worked vigorously to promote the businesses and assist the growing Hispanic community of Miami Beach. The chamber also has maintained a telephone help line with such information as senior services, employment opportunities, and a listing of low cost housing.

The chamber hosted a tribute to Dr. Luis Botifoll, chairman of Republic National Bank, for his unselfish contributions to the south Florida area and to its large Hispanic community. Among the invited guests were the Honorable Seymour Gelber, Mayor of Miami Beach, and Commissioner Abe Resnick.

I extend my sincere wishes for Mr. Hernandez' and the Latin Chamber of Commerce of Miami Beach continued success in their efforts to improve the economic vitality of Miami Beach. This economic vitality is important because with it come jobs and social stability to our community.

I would also like to take this opportunity to thank the following individuals in the chamber's board of directors: Iris Hernandez, first executive vice president; Abe Resnick, second executive vice president; Pedro Betancourt, vice secretary; Andres Herrada, treasurer; Modesto Alvarado, vice treasurer; Dr. Jorge Dorta Duque, director; Rolando Gonzalez, director; Angel Lopez, director; Gerardo Chavez, director; Carlos Solano, financial adviser; Blanca Parets, banking adviser; Dr. Juan Carlos Perez and Dr. George Cardet, legal counsel; Mario Vazquez, public relations; Manolo Warszaski, press secretary; and Mercy Freyre.

LARRY VELDHEER—40 YEARS OF SERVICE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. VANDER JAGT. Mr. Speaker, "I want it to go smoothly for the city, so I gave them plenty of time." Gave them 40 years, in fact.

And it was typical that when Zeeland, MI, police chief, Lawrence Veldheer chose to retire after 32 years at the helm, he announced his intention some 6 months in advance—to "give them plenty of time." It was also typical that, when asked what he was going to do, Larry Veldheer did not hesitate to point out that he was ready to "volunteer—all over" for the American Red Cross and the Third Christian Reformed Church to which he and his wife Wilma are committed.

A native of the Holland/Zeeland area, Lawrence Veldheer attended Holland public schools, served in the Army as a military policeman in occupied Korea, and has always dreamed of being a policeman. The little boy whose bike has an antenna for his police radio, grew into a man dedicated to the service of his community, and, at 32 years, one of the longest serving chiefs of police in the State of Michigan.

Larry and his wife Wilma are the proud parents of four children, Laura, David, Diane, and Marjorie, and have taken an active role in their church and community. All the while, Larry has been active in professional organizations and has served in all of the offices of the Michigan Police Chiefs Association.

I am pleased to be able to recognize Larry and to wish both he and Wilma the joys of their retirement of continued service and caring. Two local newspapers, the Holland Sentinel and the Grand Rapids Press have featured pieces on Larry Veldheer and they tell his story of dedication and service so well that I commend them to my colleagues—from being "an inch too short" Larry Veldheer rose to serve in a way that commands accolades a mile long:

POLICE CHIEF RETIRING BUT WILL STAY ACTIVE IN PUBLIC SERVICE

(By John Burdick)

When Zeeland Police Chief Lawrence Veldheer retires this summer, his career of public service won't end. It will just take on a different form.

After 40 years with the police department, Veldheer plans to volunteer "all over" with the disaster relief committees of the American Red Cross and Christian Reformed Church.

Veldheer said he and his wife, Wilma, "will go wherever they need us," whether to help poor people in states such as Mississippi or in foreign countries such as Mexico and Honduras.

Veldheer joined the Zeeland police force on June 6, 1952, was promoted to sergeant on Feb. 25, 1957, and was named chief on Sept. 12, 1959 taking over for Elmer J. Boss. On July 3, he will step down.

"The challenge has been tremendous," Veldheer said. "I love the work. But it is time to move on and let someone else have the reins."

He said the people he has served have been a big asset.

"I've felt a good, strong support from the general public over the years," Veldheer said.

The City Council has narrowed its search for his replacement to 14 candidates among 51 applicants. It plans to have the new chief hired before Veldheer leaves.

He will be difficult to replace, city officials said.

"Larry has given outstanding service to the city," Mayor Les Hoogland said. "He has run a good, clean department."

Veldheer has served under eight mayors.

Hoogland added that Veldheer and his wife are very "civic minded" serving on several city boards, service organizations, the historical society and at their church—Third Christian Reformed. Veldheer has held all the officer positions in the local Lions and Kiwanis clubs and the Michigan Police Chiefs Association.

Veldheer's boyhood dream was to become a policeman.

"As a little boy growing up on a farm north of Holland, I had a little wire on my bicycle that was my police antenna," Veldheer said.

He graduated from Holland High School and served three years in the military, including 23 months as a military policeman in Korea.

After the service, his dream was to become a state trooper. He went with his father to apply.

"Because I wasn't 5 feet 10 inches tall, I couldn't be a trooper," he said. He was an inch too short.

Veldheer joined the Holland Township Fire Department where he met Jim Flint, the township constable. Flint later was named police chief in Zeeland. They worked together at accident scenes and developed respect for each other's work.

"I received a call from him a month after I got married," Veldheer said. "He offered me a job."

Zeeland, a community of 5,400, a quiet—virtually all of its business are closed on Sunday and no alcohol is sold in the city. But Veldheer has seen his share of tragedies and "big city" crimes.

Some examples:

One of "the most horrific things" Veldheer has dealt with is the Holland man who shot his 5-year-old son and himself at Huizenga Park on Christmas Day 1988.

Veldheer stopped at gunpoint a man who had robbed a Benton Harbor business in the summer of 1965. An all-points bulletin was out. After spotting the vehicle, Veldheer pulled it over at Byron Road and M-21 and made the arrest. Police recovered more than $5,000 along with some stolen whiskey and beer.

The Zeeland chief received a citation from the Michigan Law Enforcement Blockade Association for his part in setting up a roadblock while involved in a 100 mph chase in November 1974.

"I was right on his tail. He was flying. He went off the road on M-21 near the Black River bridge. It rolled over. It was just like in the movies."

The man had robbed two Grand Rapids banks.

In December 1967, three Indiana men had robbed a supermarket in Muskegon. Veldheer spotted the suspects' vehicle at Byron Road and M-21. After he had the necessary backup, police pulled the car over at 112th Avenue and M-21.

"It was kind of humorous. You could see them stuffing the money under the back seat," Veldheer said. Police recovered $1,700.

ZEELAND POLICE CHIEF SET TO TRADE BADGE OF COURAGE FOR RETIREMENT

After nearly 40 years on the force, Police Chief Lawrence Veldheer said Friday he's ready to turn in his badge.

Veldheer, 64, is regarded as one of the longest-serving police chiefs in the state of Michigan, according to Tom Hendrickson, executive director of the Michigan Association of Chiefs of Police.

"Larry is right up there with the oldest (longest-serving), if he isn't the oldest," Hendrickson said. Veldheer has been Zeeland police chief for more than 32 years, first assuming the post in September 1959.

At the annual Christmas open house Friday at Zeeland Community Center, Veldheer and his wife, Wilma, announced his plans to stop down on July 3 of next year—giving the city six months to find a successor.

"I want it to go smoothly for the city, so I gave them plenty of time," he said.

Mayor Lester Hoogland praised Veldheer's professionalism and understanding of small-town law enforcement.

"Veldheer and other members of the department have made a tremendous contribution to safety and quality of life in Zeeland over the years," Hoogland said.

Veldheer joined the Zeeland Police Department on June 6, 1952, as an officer and succeeded Elmer J. Boss as chief.

Police work has always been the only work, as far as Veldheer is concerned.

"From the time I was just a little kid, riding around with cards on my bike, I wanted to be a police officer * * *."

He soon heard of the opening for an officer in Zeeland, and that started the four-decade relationship.

INTRODUCTION OF THE MARITIME NAVIGATION TECHNOLOGY AND RESEARCH ACT OF 1992

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. TORRICELLI. Mr. Speaker, today with Representatives ROHRABACHER, BROWN, WALKER, VALENTINE, and LEWIS, I am introducing the Maritime Navigation Technology and Research Act of 1992. This bill is designed to improve the safety of the Nation's busiest harbors by requiring large ships to use sophisticated traffic control equipment, such as global positioning satellite systems.

With today's sophisticated technology, it is difficult to accept that on any given day, in any busy port, large ships and barges ply the waterways with very few controls. At minimum, technology should be in place that would identify the precise location of any given vessel in a port. Indeed, the technology exists to establish a vessel tracking system that is as accurate as the United States' air traffic control system, and that is the goal of this legislation.

Though global positioning satellite systems [GPS] are not specifically required, the legislation would require vessels to use navigation equipment that meets or exceeds the accuracy of GPS systems. The bill also would require on-board alarms systems, similar to those in commercial air-liners, that would warn crews of impending collisions.

The bill would require the Secretary of Transportation to identify the class of vessels that would be required to use the navigation equipment. It is envisioned that the legislation would apply to oceanliners, tankers, and large barges and container ships, and would not include sailboats and small pleasure craft.

The Secretary would also be required to supervise a comprehensive research and development program for vessel navigation equipment. A 20-member "Maritime Navigation Research Advisory Committee" would be formed by the Secretary to provide recommendations on technology and regulation that should be pursued.

If we want to ensure safety in every busy harbor in America, we must act now to provide the necessary technology. Never again can oil spills be allowed to occur due to inadequate ship communication. The technology to prevent these accidents is available and the Federal Government has a responsibility to make sure that action is taken to encourage and require its use. I urge my colleagues to cosponsor this bill. I am inserting into the RECORD a section-by-section analysis that provides further details of the bill.

SECTION-BY-SECTION ANALYSIS OF THE MARITIME NAVIGATION TECHNOLOGY AND RESEARCH ACT

Sec. 1. Short Title: "Maritime Navigation Technology and Research Act of 1992."

Sec. 2. Findings.

Sec. 3. Rules Requiring State-of-the-Art Vessel Traffic Control Equipment.

(a) within six months the Secretary of Transportation shall issue rules requiring vessels that use United States harbors to have state-of-the-art navigation, communication and collision avoidance equipment.

(b) vessels shall have equipment to determine the vessel position within 5 to 10 meters; on-board real time visual display that will show location, speed, track, and course of both the parent vessel and the other vessels within 40 kilometers; and an on-board collision avoidance alarm system.

(c) vessels not required to have equipment in (b), as determined by the Secretary, shall have a transponder for transmitting data on the vessels position, speed and direction.

(d) the Coast Guard will be required to upgrade all vessel traffic control systems so that they are compatible with the equipment required in the rules.

Sec. 4. Research and Development.

(a) the Secretary is required to conduct research on advanced vessel traffic control and collision avoidance systems; and on reducing accidents caused by human errors.

(b) the Secretary shall develop a 5-year national research plan on advanced technologies.

Sec. 5. Research Advisory Committee.

(a) the Secretary shall establish a Maritime Navigation Research Advisory Committee, which will make recommendations on the research plan and will assist in evaluating similar research conducted outside the Department.

(b) the Membership will consist of 20 members who are knowledgeable in maritime navigation research.

YOU GUESSED IT—MORE TRUTH ABOUT PRO-RATIONING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. SCHEUER. Mr. Speaker, to hear opponents of the Markey-Scheuer natural gas prorationing amendment talk, only Northeast utilities are concerned about State efforts to restrict supply and raise the price of gas. Well I beg to differ. Attached are two letters in support of the Markey-Scheuer I received from large industrial gas users, one from Oklahoma addressed to Senator NICKLES and one from Tennessee addressed to me. Definitely not Yankees:

DEAR SENATOR NICKLES: I know you are opposed to the Markey/Scheuer prorationing amendment to H.R. 776 but you should be aware that we do not share your view.

As a constituent of your state with over 230 employees, we support the Markey/Scheuer amendment.

Agricultural Minerals Company, L.P., consumes over 38 billion cubic feet of natural gas per year in the manufacture of nitrogen fertilizer in Oklahoma. As a consequence, we are concerned with the viability of natural gas producers in Oklahoma and we support legislation which will prevent waste and protect correlative rights on a reservoir by reservoir basis.

We do not support legislation purported to protect these rights which is designed to interfere with the free market system and to artificially increase our raw material costs.

The Oklahoma legislation was a knee jerk reaction to unusually low gas prices in February caused by the warmest winter in over 56 years.

As a consequence of this legislation, gas prices have increased every month since the legislation was introduced, a period where natural gas prices are historically stable or falling. The June price of natural gas is 50 percent higher than the February 1992 price and 20 percent above the average of the June prices for the last four years.

These price increases were not caused by fundamental increases in demand for natural gas.

As a producer of commodity chemicals, we are at a disadvantage. The cost of natural gas represents approximately 70 percent of the cost of our products. We cannot pass cost increases on to our customers. We compete with producers located in States and in countries where gas prices have not increased due to regulation.

We urge you to reconsider your position on this issue as the energy bill is negotiated in the conference committee.

Sincerely,

AMC,
Tulsa, OK.

DEAR CONGRESSMAN SCHEUER: Arcadian is a nitrogen fertilizer producer that consumes over 80 billion cubic feet of natural gas per year. Our manufacturing facilities are located in Nebraska, Iowa, Tennessee, Louisiana, Georgia, and North Carolina. As a large consumer of natural gas, we are concerned about the move by several States to control production by prorationing.

The Markey/Scheuer amendment to H.R. 776 which will be considered in the House/Senate conference committee on the energy bill would prevent states from limiting production for the purpose of increasing prices. The amendment has been criticized by some as a regional dispute between producing states and the Northeast. As you can tell by our locations, it affects more than the Northeast. In addition, it will burden the U.S. farmer with additional cost for his fertilizer.

As a large consumer of gas, we are also concerned with the viability of natural gas producers and we support legislation which will prevent waste and protect correlative rights on a reservoir by reservoir basis.

We do not support legislation purported to protect these rights which is designed to interfere with the free market system and to artificially increase our raw material costs.

The Oklahoma and Texas regulations were a knee-jerk reaction to unusually low gas prices in February caused by the warmest winter in over 86 years. Other states are considering similar regulations.

As a consequence of these regulations, gas prices have increased every month since the regulations were introduced, a period where natural gas prices are historically stable or falling. The June price of natural gas is 50 percent higher than the February 1992 price and 10 to 20 percent above the average of the June prices for the last four years.

These large price increases were not caused by fundamental and dramatic increases in demand for natural gas.

As a producer of commodity nitrogen fertilizers, we are at a disadvantage. The cost of natural gas represents approximately 70 percent of the cost of our products. We cannot always pass cost increases on to our customers. We compete with producers located in countries where gas prices have not increased due to regulation.

We urge you to support our position on this issue as the energy bill is negotiated in the conference committee.

Sincerely,

ARCADIA CORP.
Memphis, TN.

When the House passed the Markey-Scheuer amendment it did the right thing.

IN RECOGNITION OF JANICE HAAS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mrs. ROUKEMA. Mr. Speaker, I would like to take this opportunity today to pay special tribute to one of northern New Jersey's most distinguished educators, Janice Haas, who will soon retire after her many years of service as a kindergarten, first and fifth grade teacher in Franklin Lakes, NJ.

Our community has benefited greatly from Mrs. Haas' distinguished service, which began shortly after her graduation from William Paterson College in Wayne, NJ. On closer look, I know my colleagues will recognize what a unique public servant we have in Janice Haas.

Mr. Speaker, educators hold the key to the future of our Nation. They unlock the potential in each and every child. They nurture the curiosity of future scientists; they encourage the compassion of future doctors; and they launch future astronauts on their way toward excellence. In that respect, for 31 years, Janice Haas has been a guiding force in the growth of our children and our community.

Abigail Adams once wrote to her husband that "much depends as is allowed upon the early education of youth and (that) the first principles which are instilled take the deepest root." The residents of Franklin Lakes are proud that Janice Haas has been the one to guide their children through these formative years and help to instill principles that have guided them for generations.

I can state without hesitation that our community is a better place to learn and live as a result of her efforts. Janice Haas has made an important contribution to the lives of many of our friends and neighbors. I urge my colleagues to join me in saluting this outstanding individual and wishing her well as she moves into retirement.

TRIBUTE TO THE CASSARO SISTERS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. PALLONE. Mr. Speaker, on Friday, June 12, 1992, the Jersey Coast Council of the Navy League of the United States held its first annual community service awards dinner at the Old Mill Inn in Wall, NJ. The recipients of this inaugural award are four sisters from Deal, NJ, who are well known and highly respected for their community spirit and active support of many charitable organizations.

Mary, Vincentina, Ida, and Josephine Cassaro are four ladies who have dedicated much of their lives to making a positive difference in the lives of their community. Working together or on their own, each sister has taken on causes and projects dating back to the national home front effort of World War II and continuing right up to the present day. Natives of Jersey City, these four sisters emerged from their tight-knit family with a shared sense of commitment to volunteerism on issues ranging from education and children's concerns, to health issues, to Italian-American causes to the arts.

Mr. Speaker, the four Cassaro sisters honored by the Jersey Coast Council earlier this month represent the very best qualities of responsible and caring citizenship. I join with the council in saluting the Cassaro sisters. I would also like to pay tribute to the president of the Jersey Coast Council. Lillian Hendricks, and the chairwoman of the awards dinner, Ms. Elsie Depetro of Monmouth Beach, NJ, for all of their hard work.

TRIBUTE TO LUCY PEREDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call my colleagues' attention to the outstanding work of Lucy Pereda, a well respected and popular broadcast journalist in Miami.

Lucy Pereda began her television career in Puerto Rico as the host of "Teletiempo," a 5-minute segment on the channel 4 newscast. Her ratings were such that she was the first woman in Puerto Rico to be promoted to news anchor. She became a prominent journalist some years later when her afternoon daily program "La Primera Tanda con Lucy" began to be broadcast in Latin America and Europe as well as Puerto Rican and continental U.S. markets. In 1981, she moved to Miami as anchorwoman of channel 51 and producer of that station's public service announcements.

In 1990, Lucy Pereda moved to Washington to serve the United States Government and the people of Cuba as anchor of the TV Mari Daily News, the United States Information Agency's [USIA] station which broadcasts news from the free world to Cuba. She also hosted several specials for USIA.

Since returning to Miami, she has hosted her own radio talk show, "El Show de Lucy Pereda" on WQBA. Because of her well documented commentary and her outstanding knowledge of the Hispanic community, she has continued to earn the respect of local audiences. She has earned awards as Woman of the Year in Hispanic Television from the Association of Entertainment Critics and from Globo Artistico magazine, and Outstanding Woman in Communications in the U.S.A. from Hispanic magazine.

In addition to her service as a journalist, Lucy Pereda serves her community by acting as speaker and mistress of ceremonies at charity and fund raising events. These have included a recent conference on the future of women in a free Cuba, and Festival OTI Nacional, an international music festival.

Mr. Speaker, I commend Lucy Pereda for her 25 years of outstanding service to the public in Puerto Rico, the rest of the United States, and Cuba, and I congratulate her on her hard-earned success.

HEALTH CARE FRAUD PROSECUTION ACT OF 1992

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Ms. DELAURO. Mr. Speaker, health care fraud consumes an estimated 10 percent of our health care dollars and will add $74 billion to our national health bill this year alone. By 1995, fraud and abuse among health providers will cost $100 billion a year.

Health care costs are sapping our country's financial strength and putting all Americans in peril, and the cost of fraud is a major contributor to the inflationary health care spiral. I am pleased to introduce legislation today that will address this critical problem.

Skyrocketing health care costs are forcing families to choose between health care and other necessities, driving small businesses into bankruptcy, and making American companies less competitive. Families are seeing costs rise year after year and basic health services consuming more of their income. Millions of Americans go to sleep each night worried that one accident, one job change, or one illness will destroy their lives and their families forever.

Health care fraud takes many forms, and often endangers the lives of patients. Doctors submit false bills for procedures they never conducted; they perform unnecessary tests; they pay kickbacks to lawyers and others to steer patients to them; or they write fraudulent prescriptions to patients who then sell the drugs on the black market.

Health care fraud is prevalent throughout the United States, and it is growing increasingly sophisticated and lucrative. In California, a scheme involving rolling labs fraudulently billed insurers for more than $1 billion. In another case, a man and his sons looted Medicaid of more than $16 million by submitting bills for 400,000 phantom visits.

The vast majority of all health care providers are decent, honest professionals that give this country the highest quality care in the world. But a growing number of dishonest individuals are wreaking financial havoc on the system. American consumers must be protected from those unscrupulous health care providers who are determined to milk the system. The financial and social costs of this behavior are devastating.

Unfortunately, the health care sector is a vulnerable target for fraud. The health care consumer does not generally pay for the services provided directly, but rather through public or private third-party payers. This, combined with the complexity of health care billing and the lack of any universally accepted measures of appropriate treatment, make it extremely difficult to pinpoint and eliminate fraud.

While there have been some strides taken in the detection of fraud, the number of prosecutions won and dollars recovered by public and private payers represent a minuscule fractions of the total scale of the problem. Because of limited resources, Federal prosecutors cannot accept criminal health care cases involving less than $100,000. Yet for every dollar the Government spends on health care fraud detection and prosecution, $4 are saved.

Current penalties are not severe enough to deter fraud, and health care criminals are getting away virtually unscathed. A dermatologist who submitted $170,000 in false claims received only a 6-month prison sentence. And the owner of an ambulance service who defrauded the Government of $85,000 received only probation. We need to take dramatic and immediate action to signal our determination in stopping health care fraud.

Currently, there is no Federal statute specifically dealing with health care fraud. We do not require health care criminals to pay restitution, nor does the Government have the authority to seize their assets. We cannot afford to let this situation continue.

The Health Care Fraud Prosecution Act of 1992, which I am introducing today along with Representative CHARLES SCHUMER, chairman of the Subcommittee on Crime and Criminal Justice, will address the serious problem of health care fraud and provide the Federal Government with the enforcement tools it needs to fight fraud in the health care system. This bill is a counterpart to S. 2652, introduced by Senator JOSEPH BIDEN, chairman of the Senate Judiciary Committee.

This legislation will:

Create new Federal penalties for health fraud committed by doctors, pharmacists, and other health-care providers, punishable by up to 10 years imprisonment and fines of up to $250,000.

Double the penalty—to a maximum of 20 years in prison—for health care fraud that results in serious bodily injury to the patient. If the fraudulent act results in death, the provider may be sentenced to life imprisonment.

Require health care cheats to pay restitution to patients and Government agencies.

Authorize Federal law enforcement agencies to seize and forfeit assets gained through health care fraud.

Authorize rewards of up to $10,000 to patients and others for information that leads to the arrest and prosecution of health care fraud schemes.

Expand the Federal mail fraud statute to include private small carriers—for example, Federal Express—which are frequently used to circumvent the mail fraud law.

Increase funding for FBI agents, Federal prosecutors, and other criminal investigators to detect and prosecute health care fraud schemes. Specifically, $22.5 million would be authorized for the FBI to hire and train 225 new agents, $5 million for 50 more United State attorneys to prosecute fraud cases, and $2.5 million for 25 additional health care fraud investigators for Federal health programs.

There is much that needs to be done to eliminate the waste and inefficiency in our health care system. We spend far too much of our precious resources on administrative paperwork, unnecessary care, and duplicative high-technology medical equipment. Fraud is just one area that must be addressed. It is my hope that this legislation will make an important contribution to containing health care costs.

IN RECOGNITION OF CATHERINE E. OLINGER

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. DOWNEY. Mr. Speaker, I rise today to pay tribute to Ms. Catherine E. Olinger, who is retiring this month after 32 years of service in the Patchogue-Medford Public Schools. All of us remember a special teacher—someone who worked just a little harder, did just a little bit more, and in the process made a lasting impression on us. I am sure that for many students, Ms. Olinger was just such a teacher.

Ms. Olinger began her career at the South Ocean Avenue School in Patchogue, after receiving her B.A. from Albany State Teachers College in 1959. She received her masters in reading from Temple University and from that point on focused her attention on teaching reading.

Ms. Olinger is actively involved in her community. She was elected a trustee of the Patchogue-Medford Public Library and served with distinction until she moved out of Patchogue. She served on the Brookhaven Town Cultural Arts Committee and currently is a member of the advisory Board of the Office of Women's Services in the town of Brookhaven.

She was also a local vice president of the New York State United Teachers—AFL–CIO and continues to be active in union affairs. Currently, she is first vice president of the New York State Chapter of Delta Kappa Gamma, an organization of outstanding women educators with over 5,000 members in New York.

In recent years, Ms. Olinger was the lead teacher in reading for all grades in the Patchogue-Medford schools, a responsibility she filled with her characteristic thoroughness and energy. Ms. Olinger always had time for her students and enjoyed working with them on their special projects. She was a model teacher in many ways, who worked hard to ensure that her students did their best. Her commitment to public education is an inspiration to her colleagues and her students. Her work in the community demonstrates her broad view of the importance and role of education. In her travels across the State and country for her union and other organizations, she showed just what it means to go the extra mile.

All too often, teachers do not receive the recognition that they deserve. For many years, Ms. Olinger worked closely with the local chapter of the Junior National Honor Society. Her students realized the significance of her time and effort on their behalf and in recognition of her work with the honor society, the students at South Ocean Avenue School have named their chapter of the Junior National Honor Society the "Catherine E. Olinger Chapter". I know how much this honor means to Ms. Olinger since it comes from those who are in a position to judge her accomplishments better than anyone else.

Mr. Speaker, I have been fortunate to count Catherine Olinger among my friends over the past years and I wish her well in her retirement. I know that she has great plans and will continue to contribute to Patchogue and Suffolk County.

UNFAIR TRADING AND BLAMING

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. BEREUTER. Mr. Speaker, this Member just received his copy of the Japanese publication, "Report on Unfair Trade Policies by Major Trading Partners." This publication follows strikingly similar reports from the United States and the European Community which also point fingers at unfair trade practices abroad.

Together these reports indicate ever-increasing tensions between three of the world's largest trading partners, and together the reports dramatize the increasingly difficult trade negotiations that lie ahead. Unfortunately, however, the lack of balance and objectivity in each of the three reports does not give rise to optimism that many of the world's unfair trade practices in all countries will be reduced or eliminated efficiently and systematically.

Despite the finger-pointing in these reports, the task of eliminating unfair trade barriers throughout the world remains. Therefore, I commend to my colleagues the following excerpt from an article in the June 11, 1992, issue of the Journal of Commerce.

TRADE REPORT CARDS

Mirror mirror on the wall, who's the fairest trader of all?

That's a question more and more nations have been asking since the United States began publishing a hit list of allegedly unfair traders a few years ago. The European Community has responded in kind and Japan this week chimed in with its own harsh assessment of U.S. trade policy.

This holier-than-thou approach to trade makes good headlines, but it doesn't do much to promote open markets. It merely rankles trading partners and provides a ready excuse for retaliation, which inevitably closes borders. * * *

The Japanese are exactly right when they blame Washington for its increasing "lone ranger" approach to trade. For a country like the United States, which promotes international trade rules, this subtle shift toward unilateral action is troubling.

Coming from Japan, however, the report lacks a certain gravitas. Of the world's major trading nations, Japan is hardly in the best position to accuse others of restricting imports. Its own markets present formidable hidden barriers.

The restrictions facing foreign exporters and investors in Japan are subtle. Complex distribution systems and questionable standards-setting can make life miserable for foreign companies. Interlocking directorates of Japanese suppliers and buyers tend to exclude non-Japanese companies from long-term relationships. Japan, despite some recent improvements, also does a generally anemic job of enforcing its antitrust laws.

There also are more obvious trade barriers, including Tokyo's outright ban on rice imports and its huge subsidies to rice farmers. Curiously, the issue of subsidies—a sticking point in current world trade talks—is not mentioned in the report. Agricultural trade barriers were omitted from the survey, the authors said, "because of the lack of sufficient international consensus on how to deal with them." Since when is international consensus a prerequisite for discussing trade barriers? Under that logic, much of the rest of the report would have been scrapped as well.

The Japanese study, on balance, is a series of facts that add up to fiction. The United States is still a very open market. Although it's hard to measure how open one country's borders are compared with another's, the United States generally accepts more import-sensitive products from third countries—textiles, apparel, sugar and steel, for example—than Japan, and sometimes by large amounts.

There's a more fundamental problem with the report, and it's one of Washington's making. All the finger-pointing in major trading capitals detracts attention from efforts to develop better world trading rules. Rather than continuing this practice—or watch it spread—the United States, Japan and other list-making nations should take their complaints to international organizations, like the General Agreement on Tariffs and Trade. The GATT is hardly perfect, but at least it's objective, which is more than can be said for the countries making these lists.

DR. JOHN BRADEMAS SPEAKS AT THE UNIVERSITY OF MICHIGAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. FORD of Michigan. Mr. Speaker, on May 8, 1992, Dr. John Brademas delivered an address at the University of Michigan on the need for internationalizing higher education. As some of my colleagues may remember, John was a champion of education during his tenure as a Member of the House of Representatives from 1959–81. He is credited with several pieces of legislation enacted during that time to assist institutions of learning as well as the arts and humanities. John continued to be an advocate of education during his 10 years as president of New York University from 1981–91.

In his address, Dr. Brademas stresses the importance of understanding other nations, other peoples, and other cultures. He makes a resounding call for greater investment in international studies and research. I agree with my friend that the importance of understanding the international environment is crucial to our future as a Nation in today's far more competitive world.

INTERNATIONALIZING HIGHER EDUCATION

(Address of Dr. John Brademas)

I am honored to have been invited to take part in a symposium that joins two near lifelong preoccupations of mine, higher education and international affairs.

That I am the child of a Greek immigrant father and a Hoosier schoolteacher mother impressed upon me from my earliest years both the importance of countries other than the one in which I was born and the indispensability to one's life of education.

From my school days, I had a keen interest in Latin America which as a college student took me to Mexico one summer to work with Aztec Indians and led me to write a thesis on a Mexican peasant movement and, still later, a Ph.D. on anarchosyndicalism in Spain.

Although during yet another summer as a student intern at the United Nations, I considered becoming an international civil servant, I decided, for reasons I shall not inflict upon you here, to pursue a career in politics and ran for Congress, from my home district in South Bend, Indiana.

First elected in 1958, I was a Member of Congress for twenty-two years, serving on the committee of the House of Representatives, Education and Labor, with chief responsibility for education, and there took part in writing nearly every major law enacted during that time to help schools, colleges and universities as well as the arts and humanities, libraries and museums and provide services for the elderly and the disabled.

While in Congress I made a number of trips abroad to learn in other educational systems and to talk about ours. I went to Argentina to study the role of universities in President Kennedy's Alliance for Progress and visited child day care centers, schools, technical institutes and universities in Israel, Poland, Norway, the People's Republic of China and the Soviet Union—and I authored legislation, of which I shall shortly speak, to assist American universities in the international field.

For over ten years, from 1981 to 1991, I served as president of New York University, the largest private university in our country and worked, as I shall explain, to strengthen its programs of international studies.

Beyond these political and academic careers, I have been and continue to be deeply engaged in a variety of activities with direct or indirect international dimensions. I serve on a number of boards, corporate and pro bono, with significant activities and programs abroad.

Right now, for example, I am one of two dozen members of the Carnegie Endowment National Commission on America and the New World. All of us, from former secretaries of defense to ex-ambassadors and White House staffers, former Senators and Representatives, have at one point or another held positions in the Federal government with some responsibility in foreign affairs. Our mission? To articulate a new rationale for U.S. foreign policy following the collapse of Communism.

You will, I hope, forgive these personal allusions but I trust they will better enable you to understand my long and intense interest in the subject of this symposium—universities and the increasing internationalization of what peoples and nations do.

Let me start by speaking of the international environment in the spring of 1992. It is a far, far different world than it was even a year ago.

In the former Soviet Union, the cascade of events has been dizzying—the crumbling of the Communist system, the disintegration of seventy years of totalitarian governments and command economies and the beginnings of reform of the old, inhuman and ultimately unworkable structures.

Last fall I was in Moscow, a city I had first visited over thirty years ago, and so I've seen with my own eyes something of the extraordinary changes during those three decades. Last summer I welcomed to New York University, nine days after his election as the first president of the Russian Republic, Boris Yeltsin, and what Yeltsin said then would have been unthinkable even three years ago. He endorsed human rights, a market economy, freedom for the Baltic states and the teachings of the Gospel!

In the Middle East, ancient enemies are flirting fitfully with the prospect of genuine dialogue about how to find a lasting peace.

In Central and Eastern Europe, nations formally under Communist rule now have elected governments and are working to strengthen democratic processes and develop mixed economies.

In Afghanistan, as Soviet power fades away, rebel forces are moving in.

Authors of the agreement that merged the European Community and the European Free Trade Association seek economic and other benefits for 380 million people in 19 nations. The North American Free Trade Agreement signed by the United States, Canada and Mexico promises a market of nearly as many consumers with a combined economic output of $6 trillion.

Alongside these generally positive developments, however, are continuing Communist dictatorships in China and North Korea, violent ethnic struggles in Yugoslavia and some of the new republics of the former Soviet Union and ongoing strife in Kashmir and Cambodia.

Standing on the sidelines, as it were, with the bulk of the world's population and the least of its comforts, are the developing countries of Africa, Asia and Latin America.

Meanwhile, in Iraq, Saddam Hussein is still in charge, thumbing his nose at the U.S. and the U.N. and refusing to implement the agreement that ended the Gulf War.

And what about the situation in our own country?

Racial prejudice, a century and a quarter after the Civil War, is still with us. The events in Los Angeles are a tragic reminder that relations among the races, especially in the cities, are still a divisive, corrosive, unresolved dilemma of American life.

Unemployment has jumped to a 7-year high and, as the people of Michigan certainly know, the nation's economy stagnates in recession.

The gap between rich and poor in the United States is now greater than at any time since the end of World War II. The youngest suffer most. In some American cities, infant mortality rates are worse than in Third World countries while a walk down the streets of any city in the land shows how far we are from solving the problems of the homeless.

One certainty in American life is the continuing rise in health care costs, 11 percent of GNP today and headed for 15 percent by the year 2000. Yet more than 35 million Americans have no health insurance at all.

Despite the conviction of Manuel Noriega, the United States still has no effective policy for coping with illegal drugs, and in many communities, crime, often drug-related, stretches police, courts and prisons to the breaking point.

Pollution of the air, land and water remains a threat to our quality of life. The country's deteriorating roads, bridges, tunnels, railways and airports—all indispensable to a vibrant economy—require an estimated $2 trillion to be restored to acceptable standards.

Yet I remember how Ronald Reagan, campaigning in 1980, promised the nation a balanced budget by 1984. Today, after nearly a dozen years of his and his successor's policies, the Federal deficit has soared to nearly $400 billion, over $1 billion a day, a development with profoundly crippling consequences for the American people and our strength at home and in the wider world.

It is my own deeply held conviction that in order to deal with every one of these challenges, both in our own country and abroad, we need all the knowledge, intelligence and imagination we can muster. Although it will in the best of circumstances be difficult to cope successfully with such formidable problems, it will be impossible without a cadre of highly educated men and women.

And to prepare a generation equipped to understand and handle issues, domestic and international, of such immense complexity will be the task of America's colleges and universities—and the responsibility of the American people.

Consider for a moment the impact of two major events of recent months—the demise of the Soviet Union and the Persian Gulf War. Both these developments leave no doubt that the United States is now the world's only military superpower.

But the American people are more and more coming to realize that the most crucial ingredient of global leadership today and for the years ahead is not military but economic.

"After the Cold War," reads a headline in a recent column in London's respected Financial Times (March 16, 1992), "Economics is King."

Is the United States ready to compete with Japan and a German-led Europe? Study after study in recent months warns that by allowing its investment in education to lapse, the United States is in danger of losing its lead in many of the key industries of the next few decades. In crucial areas of high technology, we are told, the United States is losing badly to foreign competitors. Where America a decade ago had a commanding lead, our companies are either no longer a factor in world markets or are expected to fall hopelessly behind over the next five years.

How well in this new, far more competitive international economy, are we in the United States performing in terms of education?

Well, you and I know that we have allowed our elementary and secondary schools to be weakened, dangerously eroding the capacity of the nation's work force. At the college and university level, on the other hand, America is still the world's leader. No other country can match the quality of our institutions of higher learning or the access of our citizens to them.

But when it comes to the subject of this symposium—how well we in the United States are doing to understand other nations, other peoples, other cultures, in a world that will never be narrow again—the picture is decidedly more mixed.

The litany of our shortcomings in international education—reiterated in a wave of reports over the last decade—includes: a "scandalous incompetence" in foreign languages on the part of American high school and college students; serious shortcomings in students' knowledge of geography; inadequate investment in research, instruction and advanced study of foreign languages and cultures.

Here I note a report issued in 1983 produced by a group I chaired, a panel of the National Commission on Student Financial Assistance, created by Congress, which deplored our deficiencies as a nation in advanced international studies. Entitled, Signs of Trouble and Erosion: A Report on Graduate Education in America, our study pointed to the dramatic fall-off over the preceding decade in general expenditures for university-based international studies. Our Commission identified a serious lack of American experts on the cultures, economies and foreign policies of the nations of Asia, Sub-Saharan Africa, the Middle East, Eastern Europe and the Soviet Union. Surveys by other organizations have paralleled these findings.

I am glad to say that many universities, including my own New York University, have reinstituted foreign language and other international studies requirements.

Indeed, when I came to NYU just over a decade ago, I said that one of my major commitments would be to strengthen international studies and research—and my colleagues and I have done so.

I knew that New York University already has one of the finest programs in the country in French culture and civilization.

Because as a Member of Congress, I represented the district where Studebaker automobiles and Bendix brakes were made, I was highly sensitive to the economic and political impact of Japan on my native Midwest. So once at NYU, I was determined to create a center in our graduate school of business for teaching and research on the entire spectrum of economic relations between the United States and Japan, and we have done so.

Given my Greek roots, you will not be surprised that I take particular pride in the establishment at New York University five years ago of the Alexander S. Onassis Center for Hellenic Studies.

In the presence of Italy's Prime Minister Giulio Andreotti two years ago, we dedicated our Casa Italiana, financed by a gift from NYU trustee Baroness Mariuccia Zerilli-Marimo.

Lewis Glucksman, another trustee, and his wife Loretta enabled NYU to establish an Ireland House while more than one foundation has contributed to the Skirball Department of Hebrew and Judaic Studies, largest of its kind in the United States.

We have had for some years the Hagop Kevorkian Center for Near Eastern studies as well as a Deutsches Haus for our German program. My chief priority for New York University, in this Quincentenary year, is to establish a Center for Spanish Studies.

Nearly all of these foreign studies centers are part of our Faculty of Arts and Science but there are international dimensions to offerings at other NYU schools as well such as, most notably, Business and Law.

I am glad to say that my successor as president of New York University, L. Jay Oliva, an Irish-Italian, Gaelic-speaking Russian historian, shares my enthusiasm for such international offerings!

I have cited just a few examples of what we at NYU are doing but I am well aware that colleges and universities all over the United States are, in a wide variety of ways, responding to the increasing internationalization of human activities—economic, political, environmental, cultural.

How to pay for such programs must, of course, be a fundamental concern of university leaders. My view, not surprisingly, is that we must seek funds for international studies from the diversity of sources that presently support higher education—individuals, business and industry, private foundations and governments. And I certainly do not confine myself in any of these respects to approaching benefactors in the United States. In our search for resources, we must not hesitate to look abroad. I'm of the Willy Sutton school of fundraisers!

I have nonetheless long believed that our own Federal government should be doing far more than it now does to support international studies. In fact, it was twenty-six years ago that as a fourth term Congressman, I authored the International Education Act, signed into law in 1966 by President Lyndon B. Johnson. This measure aimed at helping colleges and universities in the United States—it was not a foreign aid bill—promote, at both the undergraduate and graduate levels, teaching and research on other lands and cultures and on issues in international affairs.

All these years later I still believe the International Education Act was a first-class statute but unfortunately neither Presidents nor Congresses proved willing to press for or vote the money to carry out its purposes.

Although I am always suspect of simplistic cause-and-effect correlations, I am convinced that had we as a nation invested seriously in this effort to learn more about other countries and societies, the United States might have avoided some of the most wrenching problems we have suffered in recent years—in Vietnam, Central America, Iran and Iraq.

Here I recall that 25 years ago, Harvard's great authority on China, John King Fairbank, observed at an International Congress of Orientalists that there were no experts on Vietnam in attendance. Fairbank warned then that there were probably no more than eight full-fledged scholars in the United States pursuing research on Vietnam—this at a time when Vietnam was the overriding problem in U.S. foreign relations!

Consider more recently that when Iraq invaded Kuwait two summers ago, the U.S. military found only 18 of 3 million American active-duty and reserve troops fluent in the Arabic dialect spoken in Iraq.

The fact is that in instance after instance, American policymakers have proved disgracefully ignorant of the political, social, economic and religious backgrounds of countries involvement with which has cost our nation dearly in human life, treasure and national prestige.

It is obvious, for example, that the United States was caught unprepared for the breakup of the Communist empire and that even now we lack sufficient depth of personnel who know the languages, cultures and economies of most of the new republics of the former Soviet Union.

If you think education is expensive, someone once observed, try ignorance!

Well, what ought we now to be doing, those of us who assert that American colleges and universities must far more aggressively than we have been doing invest in international studies and research?

Here are some suggestions of mine.

First, we must, as Lincoln said, think anew. We must give serious, substantial, systematic intellectual attention to the new world of which we are a part, a leading part, to be sure, but no longer the commanding part.

This thinking must be done by scholars in the university, in think tanks and foundations, by leaders of business and industry, labor and the professions, and in government.

What are some of the questions we must ask?

To begin with, how is the new world different from the old?

Well, President Bush has spoken of what he calls the "the New World Order." But this is a phrase he does not understand and cannot define because there is no "new world order."

Despite the report last March of the "Pentagon Paper" advocating, as a long-term strategy, maintaining America's position as the world's only superpower, a nation's power cannot be calculated in the military terms alone. The United States obviously possesses the strongest armed forces on the planet. Neither Europe nor Japan has the capacity of the U.S. to reach throughout the globe both militarily and politically. But the United States has not for over two decades enjoyed equivalent economic hegemony. Europe today matches the United States in both population and economic strength while Japan challenges us economically as well.

As former Secretary of State George Shultz said last fall, "In a time when people are talking about a New World Order, it is shortsighted indeed to focus our concern on things having to do with security and political relations and to essentially ignore economics."

In my view, the relative decline in American economic weight—and this is the subject of another speech!—is in no small part the result of policies adopted during the last dozen years in Washington, D.C., by the highest officials of the land, policies of borrow—now, pay—later, of consuming lots and investing little, of wanting to fight wars but not to pay for them. Whatever the reasons, the American economic dominance that characterized the 20th century is waning.

If the global balance of economic forces has changed, so, too, have the ways in which one century relates to another. Capital and communications, trade and transportation, information and immigration—all these activities, rapidly expanding across national borders—mean that international relations can no longer be defined solely in terms of relations between and among sovereign states and their governments. Much more of the world's business, commercial and nonprofit, will be conducted outside the framework of governments. Indeed, in today's globalized economy, manufacturing, communications and finance are worldwide enterprises, often completely detached from governments, and in competition with one another, not with national units.

The internationalization of communications, capital, technology and trade has several consequences.

So far I have emphasized how the world has changed because of powerful changes in economic factors.

But in the post-Cold War world, we are compelled to acknowledge as increasingly potent two other pressures, better say in some cases, explosions—nationalism, on the one hand, and, on the other, the drive for democratic participation. And I need not insist that nationalism and democracy do not necessarily go hand in hand!

I cite yet another issue that has emerged on the international scene in recent years—human rights.

I was present when President Jimmy Carter, early in his presidency spoke at the University of Notre Dame, in my home Congressional district, and declared that encouraging respect for human rights in other countries would be a hallmark of his foreign policy. It was, and now no leader of any nation can expect to avoid criticism if he demonstrates insensitivity to human rights abuses. George Bush will hear more this year about Tiananmen Square than he wants to.

Another fundamental question we must ask: How, in the post-Cold War era, do we define our national interests and, accordingly, determine the objectives of our foreign policy and our defense policy?

That we can no longer think of national security exclusively in military terms does not mean that we should not carefully consider our defense needs and provide the resources to meet them. Here I applaud the contribution of Congressman Les Aspin, of Wisconsin, chairman of the House Armed Services Committee, who has been doing just the kind of hard thinking for which I am calling. Chairman Aspin has produced a series of "working papers" in which he proposes a new "threat-based" method for shaping and sizing the military forces the United States requires for a world in which the Soviet threat has basically disappeared.

In the old world, Aspin observes, there was only one threat but in the new one, there will be diverse threats and we have to learn what they are. In the old world, he continues, the policy of deterrence reduced the prospect of nuclear war but in the new world, deterrence will not always stop an adversary from threatening American interests.

Just ten years ago, in the first commencement at NYU at which I presided, I urged that American research universities give more scholarly attention to understanding the process of making national security policy, of determining our vital interests and how to defend them and deciding how much to spend to do so.

Now that we are in the post-Containment world, I believe American higher education has even more responsibility for scholarship and teaching on how American foreign policy and defense policy are in fact made, what current policies are and what in the future they ought to be. Certainly we must incorporate into these equations, in ways we have never done before, economic considerations.

Thinking anew, it must be evident, involves not only learning about other countries and cultures and studying foreign languages and literatures. To do all this effectively would itself be a monumental achievement but is still not enough.

Indeed, I must here interject that we cannot intelligently or realistically discuss America's role in the world without considering our domestic situation. The United States cannot effectively carry out a foreign policy that contributes to a decent world order if it refuses to get its own house in order.

I speak here both of making real for our own people the values we espouse on the international scene and of managing our Federal budget in responsible, adult fashion. If we fail on either count, we shall pay a high price abroad a well as at home.

I have said that we must focus more than we have ever done before on America's economic position in the new, competitive world. It is obvious that Japan and Europe are now, with the United States, the other great economic powers.

It is also clear that with the Cold War behind us, the threat of nuclear conflict has diminished. But we realize, too, that nuclear proliferation is a danger we have not yet surmounted.

We know as well that the developing countries, not without reason, are concerned that Western preoccupation with the former Communist world can marginalize them.

Although international trade is crucial, I think it evident that there will be much more emphasis on non-commercial issues that cut across national borders, issues of the environment, health, migration, narcotics, population.

In all these fields the transnational factors will mean increasing resort to multilateral institutions rather than action by individual nation-states. For example, despite the horrendous costs, there will be rising demands for international peacekeeping forces.

The implications of everything I've been saying are, I believe, profound for American government, American business, American science and technology and for American higher education.

Reflecting on what America's foreign policy objectives ought now to be is a task not only of the Carnegie Endowment National Commission on America and the New World. Such groups as the Council on Foreign Relations and The Heritage Foundation are also studying the question. From what I gather, the Department of State and the National Security Council have not yet got around to reexamining such fundamental matters.

Here are some of the factors to which I suggest American colleges and universities must now attend, beyond the foreign policy, national security and economic questions I have cited.

How many American universities are prepared for research on and teaching about the new Europe, both the European Community and the former Communist states of Eastern Europe, the new Russia, new Ukraine and the other new republics?

How many American universities are ready to teach, in informed and sophisticated fashion, about the United Nations and other multinational organizations?

How prepared are we with first-class scholarship on the whole range of such problems as the environment, health and immigration responses to each of which almost by definition spill over national borders?

Now I am well aware that I have not exhausted the litany of challenges that confront American higher education in preparing students for what is more accurately called the "New World Disorder." I have said little, for example, about the implications—political, social and economic—of the increasing internationalization of culture.

I realize, too, that the range of subjects to which the internationalizing of human activities now summons colleges and universities, in the United States and in other countries, goes beyond history and economics, languages and literature, to embrace anthropology and the arts, sociology and the natural sciences, communications and public administration.

The breadth and depth of teaching and research on the international dimensions of all these subjects mean that it would be impossible for every university to attempt to cover all of them. No nation, including ours, has enough resources, human and financial.

That is why I am sure we shall see American universities paying much more attention, in an era of limits, both to specializing in certain fields and to cooperating more closely with each other, for example, sharing professors, libraries and even students.

I believe, nonetheless, that every college and university that pretends to be a serious center of teaching should be able to give instruction on the basic factors that define the New World scene and to do so at the undergraduate as well as graduate level. Every student who takes his or her baccalaureate degree should have a rudimentary knowledge of the world beyond his or her own borders and be able, as an educated person, even if such knowledge is not essential to his or her particular profession, to think intelligently about that world.

That concern with our deficiencies in international education is finding some resonance in Congress is demonstrated by legislation enacted late last year on the initiative of Senator David Boren, the Oklahoma Democrat who chairs the Senate Select Committee on Intelligence.

Senator Boren's National Security Education Act, signed into law last fall by the President, represents a major new effort to improve foreign language and international studies program.

The law authorizes $150 million in new money, that is, beyond funds currently expended for international education. I understand that $35 million is to be released in fiscal 1992 and that $115 million will be fed into an interest-bearing trust fund to help finance the program in future years.

The Boren measure has three components:

Twelve million dollars will be earmarked for undergraduate scholarships for study abroad, with priority to students going to countries not emphasized in other such U.S. programs.

Twelve million dollars will be provided for graduate fellowships in foreign language and international studies, with priority for areas of weakness in U.S. focus. The fellows would be required for each year of fellowship aid to teach or work for government agencies for one to three years. I note that $12 million represents a 100 percent increase over present levels of Federal support for such fellowships.

And twelve million dollars will be granted to universities to develop curricula for foreign language, international and area studies.

These new monies would add to the current Title VI Department of Education and State Department funds for similar programs.

Although there are still some problems to be worked out before the Boren Act program gets off the ground, some observers believe it the most promising advance for international education since the National Defense Education Act of 1958.

As I have said, there are important aspects of international studies I have not today attempted to discuss. I have sought to be illustrative rather than exhaustive.

At the start of my remarks, I said I would approach this subject from my experience as legislator and university president. It must be obvious that I am a vigorous advocate of substantially increased investment in what we commonly think of as foreign language and area studies. The NDEA and the Peace Corps are, with the Fulbright exchanges, examples of our most enlightened government policies. They have served the national interest, enhanced the lives of the individual participants and strengthened the fields with which they become associated.

There are, however, certain issues I want to cite as worthy of careful attention. Let me say a few words about them.

We need a major expansion of international scholarly exchanges, of both students and professors.

We should give particular attention to bringing people from the former Communist world to the United States. I speak not only of full-time students and teachers but of managers who could come for relatively short stays to learn how a business works through a combination of both formal classes in American business schools or continuing education programs and internships in the companies.

My friend, James H. Billington, the Librarian of Congress and eminent authority on Russian history, has called for "the international mobilization of scientific and business talent for the large-scale conversion of industrial from military to peaceful uses." Conversion of the former Soviet defense machine to civilian purposes is profoundly in the interest of the West as well as the peoples of the East. Prodded on one side by Richard Nixon and the other by Bill Clinton, even George Bush finally acknowledged that it was imperative that the United States help Russia, the Ukraine and the other republics reform their economies and build democratic political institutions.

I reiterate that there are significant roles here for American colleges and universities. Leaders of American higher education should certainly, both individually and through our several institutional associations, do what they can to encourage in Eastern Europe and the Commonwealth of Independent States the development of free and open technical institutes, academies and universities.

At least some American universities should create programs or centers to study the European Community, in all its aspects, political, economic, military and cultural.

I have urged attention to systematic teaching and research on multilateral institutions and I include here not only the United Nations, the World Bank and IMF but also international non-governmental organizations such as the Red Cross, international philanthropic foundations and educational, health and scientific associations.

Earlier this year, the Carnegie Commission on Science, Technology and Government issued a report, Science and Technology in U.S. International Affairs, which called for "sharply improved incorporation of scientific and technological insight into the nation's international policies." The report notes how "science and technology transform foreign relations and usher in new choices, risks and benefits that societies around the world must confront individually and in common. Greenhouse gases, the AIDS virus, agricultural biotechnology, advanced energy systems, new pharmaceuticals, information technologies . . . shape global competition and cooperation. The research base itself, supported by each nation, also needs cooperation if it is to grow and prosper."

Another subject that universities in the West and especially the United States must not neglect is the developing world of Asia, Africa and Latin America. The desperate needs of those continents will for many years to come pose political, economic and moral challenges to the industrial democracies. Despite the necessity of paying more attention to the former Communist empire, scholars must not abandon the poorer nations of the South.

Allow me now to make a broader point. As I reflect on what I've been trying to say to you about American universities and the post-Containment world, I believe the time has come for a reconsideration of the entire process of foreign policymaking by the government of the United States. I know that my friend and colleague, Dr. Madeleine Albright, president of The Center for National Policy in Washington, D.C., who served during the Carter Administration on the staff of the National Security Council, is convinced that in light of the enormous changes in the world since passage of the National Security Act in 1947, this is an especially apt moment for such a review.

On Capitol Hill, four of the nation's most respected legislators, Representatives Lee Hamilton, Indiana Democrat, and Willis Gradison, Ohio Republican, and Senators Boren and Pete Domenici, New Mexico Republican, are now pushing for an in-depth look at how Congress is organized to do its job and to recommend reforms. Certainly the role of Congress in shaping U.S. foreign policy must be on any agenda of reform.

Having spoken of Congress and foreign policy, I want to conclude this address with an observation that may appear to you partisan, especially in a presidential campaign year.

But you should not be surprised if someone who was fourteen times a candidate for Congress continues to have strong feelings about the course of our country and the policies of our national government.

My view on who should be elected in November is not, however, the reason I end my remarks on how U.S. universities should pursue international studies with the following plea. I believe the time is here for a searching reexamination of the principles on which the Founding Fathers based the Constitution of the United States and the American Republic and how those principles have been and are being applied in the field of foreign policy.

In our own lifetime, the threat to our physical security, first from Hitler and the Axis powers, next from the Soviet Union, led in the first instance to U.S. engagement in World War II; in the second, through the policy of Containment, to American leadership of the West during the period of the Cold War.

Even, as I have said, several groups are now reassessing the assumptions on which U.S. foreign policy is premised, so, too, I believe, must scholars at the nation's universities undertake this effort. Central to any such reevaluation must be an examination of the roles of the Department of State and the National Security Council, of U.S. military forces and intelligence agencies, and, of course, of the responsibilities, in foreign affairs, of the President of the United States and the executive branch in general.

But we need a careful, hardheaded review not only of the President's obligations in the shaping and conduct of American foreign policy but of the duties of Congress as well.

To cite only recent events, I refer to the Iran-Contra scandal, U.S. intervention in both Panama and the Gulf War and reports over the last few months of how both the Reagan and Bush Administrations acted to strengthen the military and economic power of Saddam Hussein. All these developments, to one degree or another, are the subjects of three new books I have been reading—Mr. Bush's War, by Stephen R. Graubard; George Bush's War, by Jean Edward Smith; and The Imperial Temptation: The New World and America's Purpose, by Robert W. Tucker and David C. Hendrickson—and two articles in the latest (Spring 1992) issue of Foreign Affairs, one by Hendrickson and the other, "What New World Order?" by Joseph S. Nye, Jr.

Running through all these analyses is the blunt assertion that the present Administration in particular has, in the conduct of the nation's foreign affairs, in effect betrayed the fundamental ideals on which our country was founded.

This is a searing indictment. Indeed, I am sure this issue will be part of the presidential campaign this year, as it should be. Foreign policy, after all, is for any nation a life-or-death matter.

Based on my experience of twenty-two years in Congress, and having served with, not under, six Presidents—three of each party—and having closely observed the two since I left Washington, D.C., I must tell you that I have become increasingly disturbed by what I believe is a widening gap between the principles at the core of the American republic and the activities of American Presidents in foreign affairs. I am as well, I must acknowledge, increasingly critical of the failure of Congress, which for most of the years since my first election, in 1958, has been controlled in both bodies by my party, to carry out the responsibilities in foreign policy assigned to it by the Constitution.

If what I have said is controversial, so be it. With the end of the Cold War, with neither Democratic nor Republican political leaders, neither President Bush nor Congress, standing high in public esteem, now may be the time, whoever wins in November, for the nation's scholars to go back to first principles, re-read the Constitution, seriously analyze the history of the postwar years, carefully assess the new post-Cold War world and to do so in light of the internationalizing developments of which I have been speaking.

In my view, the American people need a vigorous debate about these matters. Such a debate on such fundamental questions is the very stuff of a free society, the life's blood of a lively, energetic democracy.

And where should such discussion of America's values and America's place in the world begin if not in America's colleges and universities?

THE BEACON FLICKERED

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, I am deeply saddened as I inform my colleagues of the passing of Rev. Benjamin Franklin Johnson, DD. Reverend Johnson was an ever-shining beacon for many. While the flame of his physical life has been snuffed, the light of his spiritual self shines on. The beacon of hope, guidance, and commitment that he represented flickered at his passing on Sunday, June 14, 1992, but his life's work lives on and will inspire and comfort many generations to come.

Reverend Johnson was born on November 11, 1896 in Auter River Township, VA. He attended Virginia Seminary and Hampton Institute. An honorary doctorate was conferred upon him by Benedict College of Columbia, SC. While in the U.S. Army, he met and married Nellie Louise Nixon. This union of 52 years was blessed with 5 children.

In 1917 Benjamin Franklin or B.F. Johnson, as he was affectionately known, was called to the ministry. In 1921 he organized the Trinity Baptist Church in Columbia, SC. Later he went on to the Antioch Baptist Church of Goldsboro, NC. During his tenure, the membership increased manyfold. Reverend Johnson pastored the Shiloh Baptist Church and the Sandy Grove Church in Lumberton, NC. It was at the First Baptist Church of Tremont, NC, where Reverend Johnson and his congregation built their church in just 8 months. In 1932, Reverend Johnson moved to the First Baptist Church in Clinton, NC. In 1943, Rev. B.F. Johnson answered the call from the Metropolitan Baptist Church in Newark, NJ, where he continued his pastorate until his passing.

Reverend Johnson, a personal friend of Dr. Martin Luther King, was an active member of the civil rights movement from Selma to Montgomery, AL. He coordinated Dr. King's only visit to Newark, NJ. Dr. King left Newark for Memphis where he was assassinated that same week. Reverend Johnson's personal intervention during the rebellion in Newark in the late 1960's was instrumental in restoring peace to the troubled city.

Dr. Johnson trained, ordained, and licensed 75 ministers during the last 47 years and provided spiritual counsel to many, including civic and political leaders, students, educators, and business persons.

Always concerned and actively involved in the civic and Christian community, Reverend Johnson was President Emeritus of the New England Baptist Missionary Convention; chairman of the Home Mission Board of the National Baptist Convention USA, Inc.; member of the Permanent Council General Baptist State Convention of New Jersey and North Jersey District Baptist Association. Additionally, he was a trustee of the Sunday school and Baptist Training Union Congress of the National Baptist Convention USA, Inc.; Northern Baptist School of Religion; and Newark Community School of the Arts. Dr. Johnson was a commissioner of the Black Churchmen of Newark and Vicinity, and a member of the Urban League of Essex County, NJ.

Under his capable leadership and inspiration, the Metropolitan Baptist Church has nearly completed the construction of a new church edifice and community center. This multipurpose structure is a major addition to the community, religious, and cultural life of the greater Newark area. It will serve as a testament to the life and work of Rev. Dr. Benjamin Franklin Johnson. The bricks and mortar will serve as the skeleton of the flesh-and-blood institution which will nurture, protect, and guide our community.

Mr. Speaker, I am sure my colleagues will join me as I extend my condolences to the family, colleagues, and congregation of Rev. Dr. Benjamin Franklin Johnson.

NEW BRUNSWICK SALUTES CROSSROADS THEATRE COMPANY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. PALLONE. Mr. Speaker, on Friday, June 19, 1992, the New Brunswick, NJ, area branch of the National Association for the Advancement of Colored People paid tribute to the Crossroads Theatre Company of New Brunswick at its 21st Annual Freedom Fund Dinner.

The Crossroads Theatre Company entered its 14th season in the fall of 1991 as one of the country's most distinguished African-American theater companies and a leader in today's regional theater movement. Propelled by a mission to promote and develop African-American theater for its artistic and social value, Crossroads has emerged as a world theater which has received critical praise for its efforts to engage and illuminate the wider world. Crossroads was founded in 1978 by Ricardo Khan—who now serves as producer and artistic director—and L. Kenneth Richardson, both graduates of the Mason Gross School of the Arts at Rutgers University. The company began with a grant from the Middlesex County Comprehensive Employment and Training Act and support from New Brunswick's George Street Playhouse. After 2 years, the leaders of Crossroads decided to form its own institutional identity to better serve as a positive and successful role model. In 1980, Crossroads became an independent, non-profit organization with a board of trustees whose members shared the theater's vision.

In the years since, the work of Crossroads has been hailed by such nationally prominent leaders as President Bush, Chairman of the Joint Chiefs of Staff Gen. Colin Powell and civil rights matriarch Rosa Parks. "The Colored Museum," which premiered in 1986 at Crossroads, was seen by millions in February of this year on national public television's "Great Performances." In July, Crossroads received the National Governors Association Award for Distinguished Service in the Arts. Other accomplishments include: an actors equity regional theater world class status; a string of acclaimed seasons highlighted by more than two dozen premieres; a growing subscriber base of more than 3,000; an international touring program; increasing support from public and private sources; and recognition in local, State and national media.

With the 1991–92 season, Crossroads embarks on a new era as it moves from the century-old garment factory it has occupied since its founding to a new, $4 million, 264-seat theater in the heart of New Brunswick's downtown cultural district. A resident company of the New Brunswick Cultural Center since 1982, Crossroads has been a key in the city's rebirth as a thriving cultural and business center.

Crossroads has endeavored to adhere to a fourfold mission: to provide a professional environment for artists in black theater to develop, explore and practice their craft; to promote public interest in and support of professional black theater and the philosophy that black theater is relevant to, and should be shared by people of all backgrounds; to present honest and positive portrayals of black life, culture and art, thereby helping to build bridges of understanding between people in this society and the world; and, to uphold the highest standards of artistic excellence in the production of professional black theater.

Mr. Speaker, Crossroads Theatre Company has succeeded brilliantly in attaining these lofty goals. It is a pleasure to join with the New Brunswick Area Branch of the NAACP in congratulating Mr. Ricardo Khan and all of the members of his company for their success thus far and to wish them continued success in their future endeavors.

IN RECOGNITION OF CELIA ANDERSON

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mrs. ROUKEMA. Mr. Speaker, I would like to take this opportunity today, to pay special tribute to one of northern New Jersey's most distinguished educators, Ms. Celia Anderson, a second grade teacher in Franklin Lakes, NJ who will soon retire.

Clearly, our community has greatly benefited from Ms. Anderson's extensive 31-year career, which has been distinguished by an extraordinary record of dedicated service. I believe it is only fitting to outline her successes for the benefit of my colleagues.

Celia Anderson began her career in northern New Jersey, by pursuing her bachelor of arts degree at William Paterson College in Wayne, NJ. Ms. Anderson decided to continue her education by pursuing and later achieving her master of arts degree at William Paterson.

Over the last 31 years, Ms. Anderson has shared with the Franklin Lakes school system and the surrounding community her fine attributes, which are based on her persistence for excellence. Her dedication to her profession has been an inspiration to her colleagues, as evidenced by the honors for service she received during the 1986–87 school year; a year in which she was recognized as "The Teacher of the Year."

Mr. Speaker, educators hold the key to the future of our Nation. They unlock the potential in each and every child. They nurture the curiosity of future scientists; they encourage the compassion of future doctors; and they launch future astronauts on their way toward excellence. And, hopefully, they inspire others to follow their inspiring examples as future teachers of America.

As a former educator on the secondary level, I know from firsthand experience that it takes a great deal of dedication and diligence to achieve excellence in education, as Ms. Anderson has. It is for that reason that I urge my colleagues to join me in saluting this outstanding individual and wishing her well as she moves into retirement.

CATHOLIC HOME FOR CHILDREN CELEBRATES 30 YEARS SERVICE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring my colleagues' attention to the exemplary work of the Catholic Home for Children in Miami. On May 31 of this year, the Catholic Home for Children celebrated its 30th anniversary as an institution which provides a stable and nurturing home for abused, neglected, abandoned or orphaned children.

The Catholic Home for Children combines the services of trained professionals with the diversity of caring volunteers to provide the nurturing environment needed for physical and emotional growth. Their volunteers, under the leadership of volunteer organization president Mariam Ponce, not only help with office work needs like typing, answering phones and fundraising, but spend one-on-one time with the children, reading stories, playing games and acting as house parents. With the help of Midge Tracy, in charge of special services, they help the children learn to enjoy life again.

Each year, the Catholic Home for Children serves nearly 150 children of every race, religion, and nationality. Their three part program, directed by Rev. Robert Tywoniak, is not only unique in south Florida, but has served as a national model for residential child care. The home serves as an emergency shelter for abandoned or abused children until they can be placed in foster care. It provides residential foster care for those children for whom no foster home is available. It also serves as a haven for immigrant children who arrive in this country without parents.

Father Tywoniak is supported by an outstanding staff, starting with business and plant manager Maria Elena Mateu, who controls the office and buildings, and keeps the home working smoothly. Barbara Robey, the clinical director, and Sue Acheson, who heads cottage life, help these children rebuild their self-esteem, provide a safe, nurturing environment for them to grow in, and try to share a hope for a better future.

Mr. Speaker, I commend Reverend Tywoniak and the Catholic Home for Children for their 30 years of outstanding service to children of all backgrounds. The Catholic Home for Children serves as a shining beacon of hope for Miami, and an example of coordinated children's services for the entire Nation.

H.R. 5459, THE ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL ACT OF 1992

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. JONES of North Carolina. Mr. Speaker, I am pleased today, with Representatives HERTEL, STUDDS, MANTON, HUGHES, LANCASTER, RAVENEL, WELDON, and SOLARZ, to introduce H.R. 5459, the Antarctic Environmental Protection Protocol Act of 1992. This bill provides comprehensive implementing legislation for the Protocol on Environmental Protection to the Antarctic Treaty—Protocol—signed by the United States in Madrid on October 4, 1991. With the passage of this legislation, the United States will be able not only to ratify the Protocol but also to establish a model of implementing legislation for other parties to the Antarctic Treaty.

Prompted by Americans concerned about Antarctica's environment, citizens of the world like Jacques Cousteau, as well as Members of the U.S. Congress, the parties to the Antarctic Treaty recognized in 1989 that providing a new legal regime for Antarctica was critical if that frozen continent was to be protected as a natural reserve and land of science. After Australia and France rejected the Convention on the Regulation of Antarctic Mineral Resource

Activities in 1989, the Treaty parties recognized there was no consensus to allow mining to take place in Antarctica and that environmental protection had a higher priority than did mining. They began therefore, in 1990, to negotiate a protocol to the Antarctic Treaty to provide legally binding measures for the protection of Antarctica. The result of these negotiations is the Protocol on Environmental Protection.

The Protocol designates Antarctica as a natural reserve, devoted to peace and science, and establishes a comprehensive, legally binding environmental protection regime applicable to all human activities in Antarctica. The Protocol also contains five specific annexes on environmental impact assessments, conservation of fauna and flora, waste disposal and management, prevention of marine pollution, and specially protected areas.

The Senate Foreign Relations Committee held a hearing on the (Protocol Treaty Doc. 102-22), on May 4, 1992, and on June 11, 1992, ordered the Protocol reported favorably to the Senate for advice and consent. The State Department has indicated that the President does not intend to deposit the instruments of ratification for the Protocol until the necessary implementing legislation is enacted. My bill provides this needed legislation.

I wish to highlight certain important aspects of the Protocol and my bill. Importantly, article 2 of the Protocol designates Antarctica as a natural reserve, devoted to peace and science. Science has a high priority in the Antarctic Treaty, the Protocol, and my legislation. Unless the environment of Antarctica is maintained as a relatively pristine wilderness, important scientific research on global ecological, geologic, and climatic processes can not be conducted.

It is from Antarctica that scientists first detected the hole in the ozone layer and are continuing to learn about the history of the Earth, outer space, and global temperature patterns. The Protocol's restrictions on marine pollution, waste disposal, protection of fauna and flora, the designation of specially protected areas, and the preparation of environmental impact assessments prior to undertaking activities with adverse impacts on the Antarctic environment are all motivated by the goal of preserving Antarctica as a land of science.

The Protocol contains a 50-year moratorium on mining in Antarctica. The mining ban is consistent with legislation sponsored in the 100th Congress by our sorely missed colleague, Republican Silvio Conte, and enacted into law (Pub. L. 100-594). Congressman Conte's law, entitled the Antarctic Protection Act of 1990 (16 U.S.C. 2461-2466), prohibits United States citizens from engaging in mining in Antarctica, and calls upon the President to negotiate an international agreement to ban mining by all Antarctic Treaty parties. The Conte law requires that this international mining ban be of indefinite or permanent duration.

The Protocol contains a 50-year moratorium, which may be extended by agreement of the parties. On the other hand, the Protocol allows a party to walk away from the agreement if, after 50 years time, it is not satisfied with the results of a review conference. The United States insisted on this clause as a condition for signing the Protocol. My bill provides the sense of Congress that the 50-year moratorium not be lifted indefinitely or permanently.

The Protocol requires, for the first time in an enforceable instrument, that parties prepare an environmental impact assessment [EIA] on any activity that will have more than a minor or transitory impact on the Antarctic environment. The Protocol refers to such an EIA as a comprehensive environmental evaluation [CEE]. A draft CEE must be circulated to all parties and to the newly established Committee for Environmental Protection before the party may proceed with the activity. The procedures in the Protocol are analogous to the procedures in U.S. law in the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347). I see no reason why we should invent new procedures to carry out the EIA obligations of the Protocol when the NEPA procedures will do just fine. The construction of airstrips, bases, incinerators, and sewage treatment plants in Antarctica does not implicate the foreign policy of the United States, so there should be no reason not to proceed in this direction.

The Protocol contains important new restrictions on waste disposal and requirements for management of waste in Antarctica. I called for many of these provisions in H.R. 1920 and H.R. 1921, bills I introduced earlier in the 102d Congress before the Protocol was concluded, and which will be superseded by the bill I introduce today. Recent attention has rightfully focused on the need for United States facilities in Antarctica to improve their waste management practices. The need to end open burning, clean up landfills, stop dumping toxic wastes into Antarctic waters, and reduce the amount of material brought to Antarctica is now widely recognized. I am pleased with the recent efforts of the National Science Foundation [NSF] to clean up McMurdo Station and other United States-Antarctic bases, and I encourage their continuation.

Both the Protocol and my bill move the United States-Antarctic Program [USAP] in the direction of returning all waste from Antarctica. This is the best way to keep waste from degrading the Antarctic environment. The NSF is moving in this direction. With some additional effort, all waste can be brought back. My bill also calls for a phaseout of incinerators in Antarctica by December 31, 1994. Incinerators, unfortunately, produce air pollution. It is better to bring the food and other garbage back to the United States for proper disposal than pollute the pristine Antarctic air.

Oil spills and oil leaks are also continuing tragedies associated with man's presence in Antarctica. Both the Protocol and my bill prohibit the discharge of oil and other noxious liquid substances from vessels in Antarctic waters, and they call for new containment devices around fuel tanks. The Protocol also contains prohibitions on discharges of plastics and other garbage into Antarctic waters. These restrictions are consistent with U.S. obligations under the International Convention for the Prevention of Pollution from Ships, 1973 [MARPOL]. I have called on the Coast Guard to implement these requirements through new regulations, if necessary, to supplement the Act to Prevent Pollution from Ships (APPS, 33 U.S.C. 1901-12). As does APPS, my bill makes these provisions applicable to U.S. Government vessels operating in noncommercial service.

Because of its natural beauty, Antarctica has attracted an increasing number of tourists, many of whom are from the United States. We have an active group of U.S. tour companies, too. Most of these companies adhere to voluntary guidelines on protection of Antarctic fauna and flora, waste management, and entry into specially protected areas. The Protocol makes these guidelines binding on private parties, and my bill implements these requirements in domestic law. For example, my legislation requires that U.S. tourist companies obtain a permit from the Administrator of the National Oceanic and Atmospheric Administration [NOAA] before conducting or supporting an expedition of more than 10 persons to Antarctica. I do not intend that this permit requirement be onerous; it can be administered through a simple licensing process. However, the permit is the best mechanism I know to ensure that private parties adhere to the Protocol's requirements.

One of the questions that has arisen in the implementation of the Protocol is the legal status of the environmental principles in article 3. These principles require that activities in Antarctica be planned and conducted so as to limit adverse effects on the Antarctic environment, be conducted on the basis of information sufficient to allow prior assessments of their impacts, be monitored regularly, and be modified, suspended, or canceled if they threaten or result in adverse impacts. By the terms of article 3, these principles are binding on parties to the Protocol and their nationals. My bill makes this clear by prohibiting any activity from occurring in Antarctica inconsistent with these principles and calling upon the Administrator of NOAA to issue regulations interpreting the principles.

An aspect of my bill that is certain to draw an undue amount of attention is the question of the appropriate role of other agencies in Antarctica. My bill does give lead responsibility for implementation of the Protocol to the Administrator of NOAA. The bill also calls on other Federal agencies with expertise in various environmental matters to assist NOAA. The Coast Guard will implement the marine pollution provisions of the Protocol; the Administrator of the Environmental Protection Agency will be consulted on sewage treatment and other waste disposal matters; and the council on environmental quality will issue regulations needed to implement the EIA procedures for Federal agencies.

I have assigned NOAA and other agencies these new tasks for several reasons. As to NOAA, it already has responsibility for the administration of two Antarctic resource statutes, the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and the Antarctic Protection Act (16 U.S.C. 2461-2466). NOAA is also experienced in resource management and protection. The way the current USAP operates, the operator determines which environmental laws apply to its activities, certifies its own compliance with these laws, and deems its compliance acceptable. This would be like the Department of Energy deciding whether or not to comply with the Clean Water Act, the Clean Air Act, and the

Resource Conservation and Recovery Act, and then certifying its own compliance. Other agencies need to be involved where they have specific expertise. The Antarctic environment is too complicated and the Protocol too far-reaching to leave to one agency to execute. I will do what I can to see that NOAA and the Coast Guard get the funds they need to carry out these responsibilities.

My bill provides for the NSF to do what its mission requires it to do—support basic scientific research in Antarctica. As noted above, Antarctica provides a unique platform for scientific research. NSF should attend to the important business of science and leave to other agencies what they do best—environmental monitoring and compliance.

I have purposely taken a comprehensive approach to developing implementing legislation for the Protocol. One advantage of this approach is that it lays out all the issues that need to be addressed in U.S. implementation of the Protocol. We may find, through the hearing process, that some of these provisions can be deferred for implementing regulations, but for now they are in the bill to highlight the issues in the Protocol. Because the legislation is comprehensive, as is the Protocol, it would replace and repeal the Antarctic Conservation and the Antarctic Protection Acts.

I urge my colleagues' support for this legislation. Following is a detailed section-by-section analysis of the Antarctic Environmental Protection Protocol Act of 1992.

SECTION-BY-SECTION ANALYSIS OF THE ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL ACT OF 1992

SECTION 1—SHORT TITLE

The short title of the bill is the "Antarctic Environmental Protection Protocol Act of 1992".

SECTION 2—FINDINGS AND PURPOSE

This section contains Congress' findings and purpose for the legislation, that is, to enable the United States to enforce the Protocol on Environmental Protection to the Antarctic Treaty (Protocol) in the United States. With this additional authority, the U.S. can ratify the Protocol.

SECTION 3—DEFINITIONS

This section contains the definitions for terms used in the Act, including "Administrator", "Director", and "Secretary". "Secretary" means the Secretary of Commerce acting through the Administrator of the National Oceanic and Atmospheric Administration (NOAA). "Administrator" means the Administrator of the Environmental Protection Agency (EPA). "Director" means the Director of the National Science Foundation (NSF).

SECTION 4—REPRESENTATIVE, ARBITRATORS, AND INSPECTORS

Section 4 authorizes the President and other federal officials to make appointments to the new institutions established by the Protocol, including the Committee for Environmental Protection, the Arbitral Tribunal, and the system of inspectors.

SECTION 5—UNLAWFUL ACTIVITIES

Section 5 establishes what activities are prohibited altogether in Antarctica and what activities are prohibited without a permit. Section 5 makes it unlawful to conduct any activity in Antarctica in a manner inconsistent with the environmental principles in Article 3 of the Protocol, ensuring that U.S. nationals are bound by the principles. Section 5 also continues the ban, first adopted for the U.S. in P.L. 101-594, on U.S. citizens conducting any mineral resource activity in Antarctica.

Section 5 expands upon the Protocol's requirements on waste disposal by prohibiting the construction and operation of incinerators in Antarctica after December 31, 1994, and by prohibiting the use of leaded fuel at U.S. facilities and in U.S. vessels and aircraft. This date will allow U.S. operators to make provision for bringing all waste out of Antarctica. Section 5 also makes clear that certain activities, otherwise prohibited, may be allowed provided a permit is obtained from the Secretary of Commerce. These activities include taking of specially protected species, native mammals, birds, and plants, and entering into specially protected areas.

Finally, section 5 contains prohibitions on the disposal of oil and garbage from U.S. vessels and foreign vessels subject to U.S. jurisdiction operating in Antarctica. These restrictions implement Annex IV of the Protocol on marine pollution and are consistent with U.S. obligations under the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and its domestic implementing legislation, the Act to Prevent Pollution from Ships (APPS, 33 U.S.C. 1901 *et seq.*).

SECTION 6—PERMITS

Section 6 indicates what operational activities in Antarctica are required to have a permit from the Secretary before they may take place. These activities include the construction or decommissioning of a U.S. base or facility, including an airfield; the conduct or support by any person of an expedition of more than 10 persons; and the annual operation of the U.S. Antarctic Program, including the operation of facilities and logistic support. Section 6 establishes procedures for obtaining permits and the terms and conditions that pertain to specific types of permitted activities. The Secretary is also authorized to issue general permits for similar types of research activities with minor impacts on the Antarctic environment. The terms and conditions are consistent with the requirements in the Protocol and its five Annexes with one exception. Taking of native mammals, birds, or plants is not allowed for the purpose of building or maintaining U.S. facilities in Antarctica. This exception was proposed and rejected by the Congress during the passage of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*) and is similarly rejected by this bill.

Section 6 authorizes the Secretary to modify, suspend, or revoke a permit issued under this section if the Secretary determines that changed circumstances make the permitted activity inconsistent with the Protocol, including the principles in Article 3. This provision enables the U.S. to live up to its obligations under Article 3(4) of the Protocol.

SECTION 7—ENVIRONMENTAL ASSESSMENT OF ACTIVITIES WITHIN ANTARCTICA

Section 7 implements Article 8 of the Protocol and Annex I, pertaining to environmental impact assessments (EIA), in a manner consistent with U.S. environmental law and procedures. The Protocol requires that a comprehensive environmental evaluation (CEE) be prepared before undertaking any activity that would have more than a minor or transitory impact on the Antarctic environment. The Protocol also requires that a draft CEE be circulated to other parties to the Antarctic Treaty and to the Committee for Environmental Protection and that the draft CEE be reviewed by the next Antarctic Treaty Consultative Meeting. This requirement applies to activities of governments as well as to private persons.

The CEE is the functional equivalent in U.S. law to the environmental impact statement required under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*). Because the procedures for preparing such assessments already exist in NEPA, section 7 bases compliance with the Protocol's EIA procedures on NEPA. The bill calls upon the Council on Environmental Quality (CEQ) to implement this provision for federal agencies, and the Secretary, in consultation with CEQ, to do so for private activities.

SECTION 8—MONITORING, INSPECTIONS, PLANS, REPORTS

Section 8 implements additional requirements of the Protocol, including monitoring of ongoing activities (Article 3), inspections (Article 14), contingency plans (Article 15) and reporting incidents of noncompliance (Article 13).

SECTION 9—REGULATIONS

Section 9 authorizes the Secretary, and the Secretary of the department in which the Coast Guard is operating, to promulgate regulations necessary to implement the Act, the Protocol, measures adopted under the Protocol, and any awards issued thereunder by the arbitral tribunal. In addition, section 9 identifies specific subjects on which the Secretary must issue regulations to implement the Act and Protocol. These include the designation of protected species, identification of specially protected areas and management plans for those areas, prohibited products (in addition to those specified in the definition section), measures to clean up U.S. bases and facilities, guidelines to distinguish between prohibited mineral resource activities and scientific research, general permits, and actions needed by permittees to comply with the principles in Article 3 of the Protocol. The Coast Guard shall issue regulations, if necessary, to implement the provisions of Annex IV to the Protocol on marine pollution, consistent with U.S. obligations under MARPOL and APPS, including requirements for contingency plans to respond to pollution incidents in Antarctica.

SECTION 10—CIVIL PENALTIES

Section 10 authorizes the Secretary to assess civil penalties for violations of the Act. The amount of the penalty is not to exceed $50,000 for each violation. The procedures for assessing and recovering penalties are consistent with procedures in the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

SECTION 11—CRIMINAL OFFENSES

Section 11 establishes that knowing violations of the Act are criminal offenses, punishable in accordance with section 3571 of title 18, U.S.C.

SECTION 12—ENFORCEMENT

Section 12 provides authority to the Secretary and the Secretary of the department in which the Coast Guard is operating to enforce the provisions of the Act. The Secretaries may use the personnel, services, and facilities of other departments in enforcing the Act.

SECTION 13—LIABILITY IN REM; JURISDICTION OF COURTS

Section 13 makes vessels of the U.S. and vessels subject to the jurisdiction of the U.S. liable *in rem* for violations of the Act and the Protocol. District courts of the U.S. are given exclusive jurisdiction to enforce the Act in the U.S.

SECTION 14—FEDERAL AGENCY RESPONSIBILITIES

Section 14 provides that the Secretary shall have the primary responsibility to enforce the Act and the Protocol for the U.S. The Director of the National Science Foundation shall continue to carry out its mission of conducting basic scientific research in Antarctica. This research is of critical importance to our understanding of the global environment.

SECTION 15—RELATION TO EXISTING TREATIES, STATUTES, REGULATIONS, AND PERMITS

Section 15 disclaims any intent to supersede any treaty, convention, or international agreement in force for the United States and any implementing legislation for such agreement. Section 15 repeals the Antarctic Conservation Act of 1978 (16 U.S.C. 2401-2410) and the Antarctic Protection Act of 1990 (16 U.S.C. 2461-2466), which are both replaced by this Act. Section 15 also preserves the effect of any regulations or permits issued under the Antarctic Conservation Act, unless and until they have been superseded by the Protocol or this Act.

SECTION 16—AMENDMENTS

Section 16 authorizes the President to accept an amendment to the Protocol if the Senate has provided advice and consent to its acceptance. However, amendments to an annex to the Protocol may be accepted by the President of the United States subject to notification to the Congress.

SECTION 17—SENSE OF CONGRESS

Section 17 contains the sense of the Congress that the prohibition on Antarctic mineral resource activities be maintained in place permanently or indefinitely.

SECTION 18—AUTHORIZATION OF APPROPRIATIONS

Section 18 authorizes $25 million for each of fiscal years 1993, 1994, and 1995 to the Secretary to implement the Act, and $5 million for each of these fiscal years to the Coast Guard.

HONORING BEN CASAUS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to recognize a constituent, Ben Casaus of Cuba, NM, who works for the U.S. Forest Service. Ben was recently in Washington to accept an award for distinguished public service from the Department of Agriculture.

In addition to being a forestry technician with the U.S. Forest Service, Ben has dedicated his time and effort to the betterment of his own community. I am extremely pleased that he is one of my constituents. I strongly believe that people, like Ben, should be recognized for their numerous accomplishments. Because Ben has selflessly volunteered his time, he has indeed made a difference in his community. Ben's remarkable dedication to public service has given him a rewarding life, as well as touching the lives of thousands of New Mexicans.

I urge my colleagues to familiarize themselves with Mr. Casaus' accomplishments.

Abenicio "Ben" Casaus is a career forestry technician and has been employed by the Cuba Ranger District, Santa Fe National Forest, for 26 years. His work record has been outstanding, and he has received a number of awards in recognition of his outstanding contribution to the management of the District resources. But, it is in the area of public service that he has made the greatest contribution, not only to the Forest Service but to the people of Northern New Mexico, especially the young people in the area of Cuba, New Mexico.

Northern New Mexico is a rural area with close ties to the land. It is rich in cultural diversity reflecting long established Native American and Hispanic populations and more recently Anglo influences. Cuba and the associated nearby communities have a population of approximately 2,500. This population is made up of a mix of Navajo and Jicarilla Apache Indians, Hispanics, and a few Anglos. The area is poor in the economic sense which is brought about in part by physical, social, and cultural isolation. This isolation compounds the fact that young people have few role models to inspire them to achieve higher levels of education and employment.

Ben's personal goal in life is to help as many people as he possibly can through influence, training programs, and personal example. He has no racial barriers. His aim is to encourage the Navajos, Apaches, Hispanics, and Anglos to continue their education and move ahead despite their background and culture. He relates to all cultures and the problems they face without an education and expanded life experiences. The following list of activities and accomplishments illustrate the depth and breadth of his involvement and accomplishments:

1. In answer to the persistent question "How did you succeed and get to where you are?" Ben has developed a presentation he calls "The Real World." His goal is to help prepare young people to leave the family and possibly the community, and know that they can succeed and become whatever they set their minds to. He presents this to schools and church groups as well as to individuals.

2. Ben invites young people to his home during the winter months for positive pep talks and sleigh rides. They come as individuals and as groups. He has hosted groups of troubled (borderline problem) youngsters from the Albuquerque, New Mexico, metropolitan area. His goal is to give them a positive life experience.

3. Ben is a Chairperson of the Technical Vocational Citizens Committee at the local high school. In this capacity, he encourages the committee and teachers to stress the importance of and teach agriculture and science to better prepare the students for future employment.

4. Ben is very much involved with the Cuba High School. He is active in organizing and participating in career day, and also participates in the annual science fairs. He encourages students to attend college or vocational training schools.

5. Ben was primarily responsible for organizing a 32-member Southwestern Firefighting Crew in the Cuba area during the summer of 1991. The crew was made up of unemployed Native American and Hispanic young people. Being a member of this crew provided 32 young people with an opportunity to not only earn money, but to also gain life expanding experience.

6. Ben has trained many local people on how to bid on service contracts such as those for tree planting, tree thinning, and fuel reduction. His training included how to fill out bid forms, calculate profits when bidding, and complete the contracts in order to complete successfully. There have been a number of successful contractors with contracts awarded to eight individuals from the Cuba area during the 1991 field season.

7. Ben teaches defensive driving, first aid, and CPR to Forest Service employees, and in addition, on his own time teaches these same courses to outside groups such as the Navajos at Ojo Encino, the local community work force, senior citizens, and the community in general.

8. Ben is a member of the local county fair board, and in this capacity, he is able to promote forestry and agriculture.

9. Ben has served as Commander, Adjutant to the Commander, Captain of the Firing Squad, and a member of the Honor Guard for the local American Legion Post.

It is significant to note that most of the above activities were outside of his assigned job responsibilities, performed largely on his own time, and accomplished through his own initiative.

The value of Ben's contribution to individuals as well as the community cannot be measured, but is richly deserving of recognition. He is a "Point of Light" to young people in a rural environment with chronic unemployment, low educational achievement, and few role models to encourage them. His personal efforts have significantly affected an unknown number of young people during his Forest Service career.

WHERE'S DAD?

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mrs. SCHROEDER. Mr. Speaker, on Father's Day the Denver Post asked the one question Vice President DAN QUAYLE failed to ask: "Where's dad?"

The Vice President cares mightily about family values but little about families.

He's for family values, but against the Family and Medical Leave Act. He's for family values, but against full funding for Head Start. He's for family values, but against child support enforcement laws.

For QUAYLE, family values are a bumper sticker, a sound bite, or an applause line, but never a policy.

[From the Denver Post, June 22, 1992]

IT'S FATHER'S DAY—

DO YOU KNOW WHERE DAD IS?

Fathers are the fellows who fix flat bike tires, read bedtime stories, and stay up late and fret on prom night. They also provide moral guidance, help with homework and offer a kindly word of advice when the world deals a blow to cherished dreams. They are, in sum, among the most important people in the world—parents.

But some men who sire children don't understand that being a father is much more than just getting a woman pregnant. It entails a life-long responsibility that ought to be honored. Thus, on the day set aside to celebrate fatherhood, it's time to ask the question that millions of young Americans have posed—Where's dad?

That puzzle isn't so much a criticism of single mothers, as Vice President Dan Quayle seems to believe. After all, single mothers are doing their best to raise their children. Instead, the persistent inquiry—Where's dad?—Is a way of pointing the finger directly at the papas who have shunned their duty to love and nurture their children.

Indeed, if Quayle truly were interested in promoting family stability, rather than just scoring a few quick points with the conservative crowd, he would undertake a sincere effort to hold wayward fathers more accountable for their neglect or misdeeds—rather than focusing on responsible mothers.

Quayle could convene a national conclave on domestic violence and child abuse because tragically, fathers often are the culprits in these devastating crimes—a fact that makes other, respectable papas livid with anger and disgust. In fact, many single mothers have fled abusive homes to protect their children—yet Quayle scolds such women instead of chastising the miscreant men.

Through these meetings, Quayle might learn that many young women haven't known the kindness and guidance that a good father provides, and so are more vulnerable to abusive boyfriends and the lure of drugs. Break this cycle, and more young women might start demanding better behavior out of young men.

If the vice president were sincere about his concern for family values, he also would push for welfare reform so that families who need public assistance wouldn't have to ask the father to leave home just so their children could get food stamps.

Also Quayle ought to press for enforcement of national legislation to force deadbeat dads to pay child support. And he should implore President Bush to rethink his opposition to congressional proposals ranging from child care to family leave—plans that could aid struggling fathers who want to help their children.

That's not all. If Quayle were earnest about his worries over the state of the American family, he could plunge into the ghettos of Los Angeles and other troubled cities and ask first-hand why young men feel so lonely and unwanted that the only solace and sense of belonging they can find are in criminal gangs. He might discover that many gang members have a mother, but often don't even know who their father is—a fact that speaks more to the father's neglect than the mother's failings.

And then the vice president could lend the force of his office to the tens of thousands of grass-roots workers who are trying to cope with the problem of wayward papas by making the next generation of dads more responsible. In fact, the vice president could meet several people in Colorado who not only are trying to set a good example for their own families but are working in the community to help others' children as well—people like state Sen. Regis Groff, anti-gang crusader Leon Kelly and the unsung heroes who serve as surrogate dads through Boys' Clubs, Big Brothers, churches and other groups.

But alas! Quayle, the scion of multimillionaires who now rails against elitism, has not done any of these things. And so the vice president has squandered a grand opportunity to tell America something that too easily is forgotten:

Fathers are important people. But along with the pride and honor of being a dad come tremendous responsibilities that, for the sake of the country's future, cannot be neglected.

A LOGGER'S STORY

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. THOMAS of Georgia. Mr. Speaker, my good friend and constituent, Mr. William W. Sprague, Jr., of Savannah, GA, suggested that I place a copy of a recent Wall Street Journal article in the CONGRESSIONAL RECORD. The article is entitled "A Logger's Story."

Whether we may agree or disagree about its contents, the story represents an individual's perspective on an important national issue, and is therefore appropriate for placement in the RECORD. The article follows, and I hope it will provide some insights for future generations on this important issue and the people it involved.

[From the Wall Street Journal, May 15, 1992]

A LOGGER'S STORY

(Defenders of the northern spotted owl jumped yesterday to criticize a government panel decision to override the Endangered Species Act and allow logging in some Oregon forests where it had been banned. The Sierra Club's Michael Fischer told the Associated Press that "the Bush administration's message to America's forests is 'drop dead.'" But the decision, a compromise, left many tracts safe for the nocturnal bird while protecting as many as 1,000 jobs for loggers. A report from one member of the (human) endangered species landed in our in-box recently. We print it below:)

My name is Donald Walker Jr.

For 30 years, I was an Oregon logger. I have been out of work since August 1989, when the company I worked for closed out its operations near Oakridge, where my wife and I live.

Times have been pretty tough since then, though I think we have been luckier than many woodworkers. We still have our home, where we raised our children. Many younger loggers, with small children at home, have lost everything as a result of the spotted owl controversy that has tied Congress in knots.

FAITH AND HOPE

My wife has an office job with the same company I worked for, but she had to accept a transfer to another office a four hour drive from home. Now we see each other only on weekends.

It gets pretty lonely here without her, but our faith in God has kept us strong, and we continue to hope for better days when we can be together again like a family should be.

After I lost my job I took some courses at a local community college, thinking that I might be able to make a new start in life. I figured my best hope was to learn enough to start some sort of small business that was related to my 30 years of woods experience.

I took welding, some small business classes and a couple of courses in interpersonal communications. Can you imagine a logger in an interpersonal communications class!

Community college helped me a lot personally, but starting over when you are 55 years old isn't easy. Since 1989 the only work I've been able to find is a part-time caretaker on some private timber land near here.

I've also worked seasonally as a yew bark collector for an outfit that has a contract with a big drug company that is searching for a cure for cancer. They think Taxol, which comes from yew bark, might be a miracle cancer cure.

I also work on the family tree farm, and that is the other part of this story.

My dad and my grandad bought this farm in 1932. Our family has been logging it for 60 years. We've replanted as we've gone along, or converted the land to fields where we graze a few cattle.

Our land was burned badly in a fire in 1912, so we don't have any of the old growth timber Oregon is famous for. None of our trees are more than 80 years old.

One of the hopes I have held on to since I lost my job is that I could supplement our income by continuing to manage our tree farm as my father and grandfather did for so many years. But it doesn't look like this is going to pan out either.

Last November, I received a letter from an outfit called the Forest Conservation Council telling me that if I cut any more timber on our land it would sue me for violating the Endangered Species Act, which protects spotted owls, and makes it a crime to tamper with their habitat.

I have never seen a spotted owl on our place, and I have never met anyone from the Forest Conservation Council. So far as I know, it's never even been on our farm. But I do have a typewritten, single-spaced four-page letter from their lawyer saying that what we have been doing on our tree farm for 60 years is no longer legal.

I might have felt a little bit better about the letter if they had offered to buy the land, or at least pay the taxes, which we have also been doing for 60 years. But they didn't and I guess I'm not surprised. From what I've read about these people, they don't believe in private property rights.

About 200 Oregon tree farmers got the same letter I got. There are actually many more tree farmers in Oregon, but for some reason we were singled out. It got me to thinking about how what has happened to us could happen to any private property owner. In fact, the newspapers are filled with stories like ours. It's happening to people all over the United States.

There is even a Supreme Court case now, involving a fellow in South Carolina who paid almost a million dollars for a couple of beachfront lots he has been told he can't build on because somebody thinks the land should be left to nature.

A lot of news reporters have visited our place since we got our letter from the Forest Conservation Council. I think they're impressed with the beauty of our farm, but I'm afraid they don't grasp the significance of what is happening to us, or to other private landowners across the country. Do they understand that the right of ownership of private property is fundamental to our democracy? I don't think so. I think they are too busy collecting what are called six-second sound bites, and that is not something I am very good at.

Some people say we should cut down all our trees now, while we still can, before the Forest Conservation Council letter becomes a court case. But we don't want to. We're conservationists. This tree farm is our home, and the trees are a part of our way of life. We work with nature to grow a crop the nation needs. The crop is wood. It puts food on our tables.

BANKRUPTCIES AND LAWSUITS

In 26 years of married life, we have never been late on a bill we owed. The pressure on us now is hard to describe. My wife won't even read the newspaper anymore, because it's filled with stories about loggers losing everything, and preservationists filing more lawsuits.

Where does it all end? Do people count anymore? Do private property rights still have meaning in America? Who will compensate us for our loss? The public? The Forest Conservation Council? So far, I haven't heard from anyone except the property tax collector.

The problem isn't the owl, or even old growth for that matter. The problem is an out-of-control preservationist movement that doesn't care about people or their rights.

Our tree farm is our last hope. It is worth fighting for, and I intend to fight for it every way I know how.

CONGRESSMAN MARTIN FROST'S MEMORANDUM ON THE ELECTION OF THE PRESIDENT IN THE HOUSE OF REPRESENTATIVES

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. FROST. Mr. Speaker, in 1980, the chairman of the Rules Committee, the Honorable Richard Bolling, asked me to prepare a memo on the possibility of the House of Representatives being called on to elect the President of the United States, should the electoral process not yield a majority of electoral votes for any one candidate.

With three contending candidates for President this year, the memorandum that was submitted to Chairman Bolling again becomes meaningful; and, as a result of many requests for copies of this memo, I am inserting the July 1, 1980, memorandum in the RECORD at this point:

JULY 1, 1980.

To: Chairman Richard Bolling.

From: Martin Frost.

Subject: Election of the President in the House of Representatives.

In the event that no one receives a majority (270) of the electoral votes on November 4, it will be up to the House of Representatives to elect the next President under the provisions of the 12th Amendment to the U.S. Constitution and rules to be adopted by the House. The rules for the Presidential election should be drafted in such a manner that they will achieve two primary objectives: (1) provide for the maximum amount of public scrutiny of the process consistent with the Constitution and (2) do everything possible to ensure that the House will actually reach a decision and not be deadlocked.

The only two previous House elections in 1801 and 1825 were conducted largely in secret though the details of the proceedings were published in the press of the time. Modern communications technology and the aggressive nature of today's press would make secrecy highly difficult to enforce. Also, it would be dangerous for the House as an institution to attempt to impose a high degree of secrecy given the current mood of the public regarding distrust of government.

On the second point, it is absolutely essential that the House be able to reach a result because a deadlock would undermine confidence in our government—both at home and overseas. Simplifying procedures to ensure a result is not a partisan matter though it undoubtedly will be viewed as such and thus somewhat difficult to accomplish.

12TH AMENDMENT

The 12th Amendment of the U.S. Constitution which was adopted in 1803 provides only an outline for electing the President by the House and leaves many questions unanswered which must be addressed by the rules. The 12th Amendment specifies the following: (1) if no one has a majority of the electoral votes, the House shall choose from the top three finishers in the electoral voting, (2) votes shall be taken by states with each state having one vote, (3) an absolute majority of all states (26) is required to elect the President, (4) a quorum is at least one member from two-thirds (34) of the states, and (5) the election shall occur immediately after the electoral votes are canvassed by Congress. The election of 1801 was conducted under the original provisions of the Constitution which were substantially similar to the 12th Amendment on procedures for elections by the House of Representatives except that the vote was among the top five candidates rather than the top three. The primary purpose of the 12th Amendment was to provide for separate balloting by the electors for President and Vice President.

UNANSWERED QUESTIONS

Any rules which implement the 12th Amendment must address the following major questions as well as others:

(1) Should the proceedings be closed or should they be open to the press and the public?

(2) Should the ballot of each representative in his state's caucus be secret or should a public record be made?

(3) Should the ballot of each state be secret or should they be identified by state at the time of the tally?

(4) Should a majority be required within a state to determine that state's vote or could it be determined by plurality?

TIMING OF THE ELECTION

The presumption is that the election would be conducted by the new 97th Congress; however, it is theoretically possible for the election to be conducted by the lame duck 96th Congress. The key element is the date that the electoral votes are canvassed because the 12th Amendment says that the House shall elect the President immediately after Congress has canvassed the electoral votes. Under current statutory law (3 U.S.C., §15), the electoral votes are canvassed on January 6—three days after January 3, the date the new Congress takes office under the 20th Amendment. The 96th Congress would have to pass a new statute moving up the date of the canvassing of the electoral votes (putting it before January 3) in order for the Presidential election to be conducted by the lame duck 96th Congress. This could be expected to create a tremendous public outcry because it would be changing the rules in the middle of the game. The Constitution in Article II, §1, Cl. 3 provides that Congress is authorized to set the day when the electors meet in the various states and cast their votes for President and Vice-President. Congress has set the date as the first Monday after the second Wednesday in December (3 U.S.C., §7). The date in 1980 will be December 15. Accordingly, Congress would have to (1) meet between December 15 and January 3 and (2) change the date for canvassing the electoral votes to a date before January 3 in order for the lame duck 96th Congress to be able to determine the President.

The elections of 1801 and 1825 were conducted by lame duck Congresses because prior to the enactment of the 20th Amendment in 1933, the new Congress did not take office until March 4, the same day as the new President. Under the 20th Amendment, the new Congress takes office on January 3, 17 days before the new President.

ADOPTION OF RULES FOR THE ELECTION IN THE HOUSE

(1) In the two previous House elections, a special committee composed of one representative of each state was established to draft the rules. Since both these elections occurred prior to the existence of a House Rules Committee, it seems likely that drafting the rules would now come under the jurisdiction of the Rules Committee. Presumably, this decision would be made by the Speaker.

(2) The rules were adopted in 1801 and 1825 by the House voting per capita (each member having a vote) rather than by state. Vote totals reflecting per capita voting on considering the rules and amendments to the rules appear in House documents for those dates (*Journal of the House* 789–792, 6th Congress, 2d Session, February 9, 1801 and 1 *Gales and Seaton's Register of Debate in Congress* 515, 18th Congress, 2d Session, February 7, 1825). The proposed rules were debated by the House in the Committee of the Whole in each instance. Adoption of the rules is also discussed in 3 *Hinds' Precedents of the House of Representatives*, secs. 1982 and 1984.

(3) In both 1801 and 1825 the rules were adopted several days before the canvassing of the electoral votes and the election of the President by the House. In 1981 the Constitutional date for the House to convene (January 3) falls on a Saturday so the House might not convene until Monday, January 5. The statutory date for the canvassing of the electoral vote is January 6 as indicated previously. Rules would need to be adopted no later than the conclusion of business on January 5.

(4) It can be anticipated that a major fight would occur over adoption of the rules, particularly if efforts are made to substantially modernize the rules of 1825.

PROCEDURES UNDER THE RULES OF 1801 AND 1825

Mechanically, the elections of 1801 and 1825 operated in very similar fashions: each state caucused on the floor of the House and cast written ballots to determine which candidate would receive that state's vote. In both instances, a majority of the votes cast (*not* a majority of the total delegation) was required to award a state's vote to a particular candidate. Thus, blank ballots were disregarded. The majority requirement was not spelled out in the 1801 rules, but since there were only two candidates (Burr and Jefferson), it was implicit. Also, the question of disregarding blank votes in determining a winner also was not spelled out but actual voting results (reported by a newspaper and reproduced in 6 *Annals of Congress* 1028, 6th Congress, 2d. Session (1801), with credit to the newspaper) disclosed that blank ballots were disregarded and that the requirement was a majority of votes cast for actual candidates. In cases of a tie vote, the word "divided" was written on the state's ballot. The 1825 rules were more explicit on these points. They spelled out the requirement for a "majority of the votes given." In those instances when no candidate received a majority of the votes cast, the word "divided" was written on that state's ballot. Under the rules of 1825, individual ballot boxes were provided for each state to be used in canvassing the state's delegation. No such provision was made in the rules of 1801. In both 1801 and 1925, the ballots cast within a state caucus were unsigned so that there was no official record of how each House member voted.

Once each state had caucused and determined whether the state could award its vote to a candidate or whether it was "divided", each state then wrote its result on duplicate ballots and placed them in each of two ballot boxes provided by the Sergeant at Arms. In both 1801 and 1825, the ballots were not signed with the name of the state so that there was no official record in the Journal as to how each state voted though the total number of state votes for candidate does appear. The ballots in each box were then tallied and the total was accepted by the Clerk if the two totals were the same. Balloting procedures were slightly different in the two elections. In 1801 the Sergeant at Arms circulated among the delegations with the two ballot boxes. In 1825 the Clerk called the roll at which point the Sergeant at Arms presented each state with the two ballot boxes.

In both 1801 and 1825, the galleries were closed to the press and the public.

Question: Should the Proceedings Be Closed, or Should They Be Open To the Press and the Public?

The precedents from 1801 and 1825 are for closing the galleries; however, this was a reflection of the times rather than being drawn from anything in the Constitution. Rule 5 of the 1801 rules reads as follows: "The doors of the House shall be closed during the balloting, except against the officers of the House." Rule 3 of the 1825 rules reads as follows: "The doors of the Hall shall be closed during the balloting except against the members of the Senate, stenographers, and the officers of the House." It is inconceivable that the House would bar the press in 1981 and turn off the closed-circuit television system. An argument can be made that having caucuses on the Floor and counting written ballots (assuming we preserve some of these features) is so cumbersome that we may appear disorganized on television but modern communications and public expectations seem to dictate an open session. This is a political decision, one that should not be made lightly.

Question: Should the Ballot of Each Representative In His State's Caucus Be Secret or Should a Public Record Be Made?

The 12th Amendment reads in part: "If no person has such majority then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President,"

The words "by ballot" have been interpreted to mean written secret ballot. The words "by ballot" do not appear in the section of the 12th Amendment relating to the election of a Vice-President by the Senate and it is generally conceded that the Senate votes by voice vote in those instances. The Senate has been called upon to elect a Vice-President only once, that occurring in 1837. In that situation, the Senate adopted a resolution providing that the vote be by a voice roll call (*Congressional Globe* 171–72, 24th Congress, 2d Session, February 8, 1837). A review of the debates in both the House and the Senate at the time of the adoption of the 12th Amendment does not reveal any discussion on the question of the secrecy of the ballot within each state's caucus. However, there was some discussion of it at the time of the adoption of the 1825 rules.

The rules of 1801 provided in Rule 6 are as follows:

"In balloting, the following mode shall be observed, to wit: The representatives of the respective states shall be so seated that the delegation of each state shall be together. The representatives of each state shall, in the first instance, ballot among themselves in order to ascertain the votes of the state and it shall be allowed, where deemed necessary by the delegation, to name one or more persons of the representation to be tellers of the ballots . . . That, for the conveniently taking the ballots of the several representatives of the respective states, there be sixteen ballot boxes provided; and that there be additionally two boxes provided for the purpose of receiving the votes of the states."

Rule 5 of the rules of 1825 provided the following:

"In balloting, the following mode shall be observed, to wit: The representatives of each state shall be arranged and seated together, beginning with the seats at the right hand of the Speaker's chair, with the members from the state of Maine; thence, proceeding with the members of the states, in the order the states are usually named for receiving petitions, around the Hall of the House, until all are seated.

"A ballot box shall be provided for each state.

"The representatives of each state shall, in the first instance, ballot among themselves, in order to ascertain the vote of their state; and they may, if necessary, appoint tellers of their ballots."

In addition to the above quoted section, Rule 5 of the rules of 1825 also provided that the decision had to be made by a majority vote within the state caucus and that the name of the person receiving the majority from a particular state be written on each of two duplicate written ballots and placed into two general ballot boxes circulated by the Sergeant at Arms.

Representative Hamilton of South Carolina sought to amend the rules of 1825 by striking out everything after the words, "a ballot box shall be provided for each state" and adding new language to provide that the ballot box would be "labeled with the name of the state, placed in front of the Speaker's chair, on the Clerk's table, placed in the order of the states." The new language continued, "the Clerk shall then proceed to call each delegation, in the order in which petitions are called, and the member of each delegation shall place his ballot in the box labeled with the name of the state. After all the states have thus voted; then the members of each delegation shall nominate a member of their delegation to act as teller, who shall proceed, with the rest of the tellers appointed by the several delegations, to count the votes of each state, commencing in the order in which they are called; at the close of which count, the separate vote of each state shall be declared by the senior member of the Committee of Tellers, as well as the result of the aggregate ballot" (1 *Gales and Seaton's* at 511).

If adopted, this amendment would have made several significant changes in the manner of casting votes and thus generated debate on several important subjects, including the secrecy of the individual representative's ballot. These changes included: (1) having the individual representatives' ballots counted at the Clerk's table rather than in state caucuses, (2) eliminating the explicit majority vote requirement within a state caucus and leaving it up to the tellers to determine whether or not any candidate had sufficient votes to receive each state's vote, and (3) having a public declaration of who received the vote of each state rather than having it remain a secret by depositing an unsigned written ballot in the general ballot boxes circulated by the Sergeant-at-Arms. Under both the original version of the 1825 rules and the proposed amendment, each state would receive a ballot box; however, under the proposed amendment each ballot box would be labeled with the name of the state and not be under the sole control of the state. A thorough understanding of the proposed amendment as printed in 1 *Gales and Seaton's* is important because a description of it in 3 *Hinds' Precedents* which has been relied on by scholars is inadequate and somewhat misleading.

During debate on Hamilton's proposed amendment to the rule, Daniel Webster argued against it on the grounds that the Constitutionally protected secrecy of the member's ballot would be destroyed because some states had only one member and disclosing how those states voted would disclose how those individual members voted.

Hamilton, in defending his amendment, said, "My object is to endeavor to adopt, within the provisions of the Constitution, some mode by which the vote of each state (not the members of the several states) may be ascertained. To the members composing the delegations, I know that the privilege of a secret ballot is secure. This I do not propose to violate" (1 *Gales and Seaton's* at 511).

Only one member who spoke on the proposed amendment challenged the proposition that the 12th Amendment required that individual members' votes be secret, something which Hamilton, himself, conceded. McDuffie said that the Constitution "did not ever mean to screen the votes of the delegates themselves from public scrutiny" (1 *Gales and Seaton's* at 513).

The proposition that the words "by ballot" in the 12th Amendment mean written secret ballot was carried forward in 1838 when the House was considering a general rule stating that "in all cases of election by the House the vote shall be taken by voice vote." John Quincy Adams, then a member of the House after having been elected President by the House in 1825, raised the question of whether the rule violated the 12th Amendment requirement of Presidential election by ballot. The House responded to his concern by inserting the words "of its officers" after the word "House," thus excluding the election of the President from the voice vote requirement (5 Hinds' Precedents, sec. 6005). A form of this rule appears in House Rule II of the 96th Congress.

Conclusion: It is clear by practice that the House has consistently interpreted "by ballot" in the 12th Amendment to mean secret written ballot. It is possible for the House to adopt a rule to the contrary in 1981 but this undoubtedly would raise a major furor.

Question: Should the Ballot of Each State Be Secret or Should They Be Identified by State at the Time of the Tally?

The 12th Amendment provides "in choosing the President, the vote shall be taken by states, the representation of each state having one vote." It does not repeat the words "by ballot" in describing how a state's vote is cast. The original language of the Constitution which was in effect when the election of 1801 was held was substantially the same on this question.

Rule 6 of the rules of 1801 provided

"* * * That after the delegation of each state shall have ascertained the vote of the state, the Sergeant at Arms shall carry to the respective delegations the two ballot boxes, in the delegation of each state, in the presence and subject to the examination of all members of the delegation, shall deposit a duplicate of the vote of the state in each ballot box; and where there is more than one representative of a state, the duplicates shall not both be deposited by the same person. When the votes of the states are all thus taken in, the Sergeant at Arms shall carry one of the general ballot boxes to one table and the other to a second and separate table. Sixteen members shall then be appointed as tellers of the ballots, one of whom shall be taken from each state, and be nominated by the delegation of the state from which he was taken. The said tellers shall be divided into two equal sets, according to such agreement that shall be made among themselves, and one of the said sets of tellers shall proceed to count the votes in one of the said boxes and the other set the votes in the other box; and in the event of no appointment of teller by any delegation, the Speaker shall in such case appoint. When the votes of the states are counted by the respective sets of tellers, the result shall be reported to the House; and if the reports agree, the same shall be accepted as the true votes of the states; but if the reports disagree, the states shall immediately proceed to a new ballot in manner aforesaid."

Rule 5 of the rules of 1825 provides as follows:

"* * * After the delegation from each state shall have ascertained the vote of their state, the Clerk shall name the states in the order they are usually named for receiving petitions; and as the name of each is called the Sergeant at Arms shall present to the delegation of each two ballot boxes, in each of which shall be deposited, by some representative of the state, one of the duplicates made as aforesaid of the vote of said state, in the presence and subject to the examination of all the members from said state then present; and where there is more than one representative from a state, the duplicate shall not both be deposited by the same person.

"When the votes of the states are thus all taken in, the Sergeant at Arms shall carry one of said ballot boxes to one table and the other to a separate and distinct table.

"One person from each state represented in the balloting shall be appointed by the Representatives to tell off said ballots; but, in the case the Representatives fail to appoint a teller, the Speaker shall appoint.

"The said tellers shall divide themselves into two sets, as nearly equal in number as can be, and one of the said sets of tellers shall proceed to count the votes in one of said boxes, and the other set the votes in the other box.

"When the votes are counted by the different sets of tellers, the results shall be reported to the House; and if the reports agree, the same shall be accepted as a true vote of the states; but if the reports disagree, the states shall proceed, in the manner as before, to a new ballot."

In both 1801 and 1825, state votes were by written unsigned ballots placed in general ballot boxes as provided by the rules. As indicated above, one effort was made to amend the 1825 rule to provide that an official record be made of how each state voted. Daniel Webster's argument that an official record would by necessity disclose how Representatives voted from states that had only one representative is not necessarily conclusive. Certainly, the secret ballot of individual members, if in fact guaranteed by the Constitution, is protected when written ballots are taken within state caucuses and members from states with just one representative are simply victims of the system that provides for single congressman states. To require secrecy of all state ballots simply to protect a few such members as suggested by Webster is a classic case of the tail wagging the dog.

Conclusion: There is nothing conclusive on this point and the House would appear to be free to adopt a rule making state votes public if it wished to do so. This is a political decision. It is likely that there will be general knowledge of how each state voted as there was in both 1801 and 1825 so there is no real reason not to make it a part of the official public record.

Question: Should a Majority Be Required Within a State to Determine that State's Vote or Could It be Determined by Plurality?

Rule 6 of the Rules of 1801 provided:

"After the vote of each state is ascertained, duplicates thereof shall be made; and in case the vote of the state be for one person, then the name of that person shall be written on each of the duplicates; and in case the ballots of the state be equally divided, then the word "divided" shall be written on each duplicate, and the said duplicate shall be deposited in the manner hereafter prescribed in the boxes to be provided."

Rule 5 of the Rules of 1825 provided as follows:

"After the vote of each state is ascertained, duplicates thereof shall be made out; and in case any one of the persons from whom the choice is to be made shall receive a majority of the votes given, on any one balloting by the representatives of the state, the name of that person shall be written on each of the duplicates; and in case the votes so given shall be divided so that neither of said persons shall have a majority of the whole number of votes given by such state, on any one balloting, then the word "divided" shall be written on each duplicate."

As can be seen, the rules of 1825 specifically require a majority for the votes cast (excluding blank ballots) to determine a state's vote; otherwise, the word "divided" was written on the state's ballot and no vote cast. The rules of 1801 were silent on the majority requirement but there were only two candidates so a majority was necessary by definition. The rules specified that if the delegation is "equally divided" the word "divided" was to be written on the state's ballot. The rules specified that if the delegation is "equally divided" the word "divided" was to be written on the state's ballot. The rules were silent on the question of blank ballots though it is obvious from the actual practice (as reported by unofficial sources at the time) that blank ballots were disregarded in determining a majority and that a candidate needed only a majority of votes actually cast for a named candidate.

There is no Constitutional basis for the majority requirement to determine a state's vote. There is analogous precedent on both sides of the question in related areas.

Current House Rule XXXVIII which regulates the manner in which the House votes by ballot states:

"In all cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or reported by the tellers."

However, on the other side of the question is the current practice followed in allocating the electoral votes of a state to a Presidential candidate. In all such situations it is winner-take-all with only a plurality of the popular vote needed to carry all of a state's electoral votes for a particular candidate.

Clearly, the 12th Amendment imposes the requirement for a majority of the states (26) for election. There is nothing in the Constitution regarding the imposition of either a majority or plurality requirement within a state's caucus.

This is entirely a political decision, but one which must be made in such a way that it does not undermine public confidence in the process. It also could be critical to the issue of actually achieving a result. Imposing the majority requirement within a state caucus could make it harder for one candidate to receive the 26 state votes necessary for election.

In arguing against Representative Hamilton's amendment to the 1825 rules Representative Wright of Ohio acknowledged that the issue of majority or plurality vote within a state delegation was a "disputed question" (1 *Gales and Seaton's* at 513). Representative Wright opposed Representative Hamilton's amendment on the basis that it was silent on this point and could permit the question to be resolved by the tellers when counting the votes in each state's ballot box.

The policy arguments in favor of a majority requirement include the fact that a majority of the electoral votes was required by the framers of the Constitution for election by the Electoral College and that a majority of the states was required for election by the House of Representatives.

The method of selecting electors is left entirely to the states by the Constitution (Article II, §1, Cl. 2). At the time of the elections of 1801 and 1825, there was no generally accepted rule for determining who would receive the electoral votes of a state. In fact, electors were at that time chosen by a variety of ways including election by state legislatures, election under the general ticket (winner of a statewide plurality receiving all the electoral votes), and election by the district ticket (the winner of a plurality within each congressional district receiving that district's electoral vote). As a result, a number of states split their electoral votes among several candidates in both 1801 and 1825. Today, all electors are chosen statewide by plurality of popular vote.

Conclusion: This is the single most important question that must be resolved in the Rules. Adopting a plurality requirement could hasten a decision by the House and would be consistent with the current method of selecting electors; however, it will reverse procedures followed in 1801 and 1825 and will undoubtedly lead to a major fight on the floor, particularly if the third candidate has any significant support in the House. Nonetheless, a fight in favor of plurality voting within state delegations could be worth the battle because to require a majority within states would heighten the chance that no one will be elected President and that the country will be governed for four years by a Vice-President selected by the Senate.

APPENDIX

I. Rules adopted by the House of Representatives in 1801 for the election of the President of the United States by the House of Representatives: III *Hinds' Precedents of the House of Representatives*, Chapter LXII, 1982.

II. Rules adopted by the House of Representatives in 1825 for the election of the President of the United States by the House of Representatives: III *Hinds' Precedents of the House of Representatives*, Chapter LXII, 1984.

III. Twelfth Amendment to the Constitution of the United States: U.S.C.A. Const. Amend. XII, p. 933.

IV. Article II of the Constitution of the United States prior to adoption of Amendment XII: U.S.C.A. Const. Art. II, §1, p. 632.

V. Twentieth Amendment to the Constitution of the United States, U.S.C.A. Const. Amend. XX, p. 573.

VI. State-by-state totals for 1801 and 1825 showing the number of votes each candidate received within each delegation on the first 35 ballots in 1801 and the first ballot in 1825: Library of Congress, Congressional Research Service, *Election of the President by the House of Representatives*, pp. 7 and 10, August 19, 1968.

APPENDIX I

1982. Rules adopted in 1801 for the election of a President of the United States by the House of Representatives.

1. In the event of its appearing, upon the counting and ascertaining of the votes given for President and Vice President, according to the mode prescribed by the Constitution, that no person has a constitutional majority, and the same shall have been duly declared and entered on the journals of this House, the Speaker, accompanied by the Members of the House, shall return to their Chamber.

2. Seats shall be provided in this House for the President and members of the Senate, and notification of the same shall be made to the Senate.

3. The House, on their return from the Senate Chamber, it being ascertained that the constitutional number of States are present, shall immediately proceed to choose one of the persons from whom the choice is to be made for President; and in case upon case upon the first ballot there shall not appear to be a majority of the States in favor of one of them, in such case the House shall continue to ballot for a President, without interruption by other business, until it shall appear that a President is duly chosen.

4. After commencing the balloting for President, the House shall not adjourn until a choice be made.

5. The doors of the House shall be closed during the balloting, except against the officers of the House.

6. In balloting, the following mode shall be observed, to wit: The Representatives of the respective States shall be so seated that the delegation of each State shall be together. The Representatives of each State shall, in the first instance, ballot among themselves, in order to ascertain the votes of the State, and it shall be allowed, where deemed necessary by the delegation, to name one or more persons of the representation to be tellers of the ballots. After the vote of each State is ascertained, duplicates thereof shall be made; and in case the vote of the State be for one person, then the name of that person shall be written on each of the duplicates; and in case the ballots of the State is equally divided, then the word "divided" shall be written on each duplicate, and the said duplicates shall be deposited in manner hereafter prescribed, in boxes to be provided. That, for the conveniently taking the ballots of the several Representatives of the respective States, there be sixteen ballot boxes provided; and that there be additionally two boxes provided for the purpose of receiving the votes of the States; that after the delegation of each State shall have ascertained the vote of the State, the Sergeant-at-Arms shall carry to the respective delegations the two ballot boxes, and the delegation of each State, in the presence and subject to the examination of all the members of the delegation, shall deposit a duplicate of the vote of the State in each ballot box; and where there is more than one Representative of a State the duplicates shall not both be deposited by the same person. When the votes of the States are all thus taken in, the Sergeant-at-Arms shall carry one of the general ballot boxes to one table and the other to a second and separate table. Sixteen members shall then be appointed as tellers of the ballots, one of whom shall be taken from each State, and be nominated by the delegation of the State from which he was taken. The said tellers shall be divided into two equal sets, according to such agreement as shall be made among themselves, and one of the said sets of tellers shall proceed to count the votes in one of the said boxes and the other set the votes in the other box; and in the event of no appointment of teller by any delegation, the Speaker shall in such case appoint. When the votes of the States are counted by the respective sets of tellers, the result shall be reported to the House; and if the reports agree, the same shall be accepted as the true votes of the states; but if the reports disagrees, the States shall immediately proceed to a new ballot in manner aforesaid.

7. If either of the persons voted for shall have a majority of the votes of all the States the Speaker shall declare the same, and official notice thereof shall be immediately given to the President of the United States and to the Senate.

8. All questions which shall arise after the balloting commences, and which shall be decided by the House voting per capita, to be incidental to the power of choosing the President, and which shall require the decision of the House, shall be decided by States, and without debate; and in case of an equal division of the votes of States, the question shall be lost.

APPENDIX II

1984. The rules adopted by the House to govern the voting for a President of the United States when the election was thrown into the House by the failure of the Electoral College to make a choice in 1825.

1. In the event of its appearing, on opening all the certificates, and counting the votes given by the electors of the several States for President, that no person has a majority of the votes of the whole number of electors appointed, the same shall be entered on the Journals of this House.

2. The roll of the House shall then be called by States; and, on its appearing that a Member or Members from two-thirds of the States are present, the House shall immediately proceed, by ballot, to choose a President from the persons having the highest numbers, not exceeding three, on the list of those voted for as President; and, in case neither of those persons shall receive the votes of a majority of all the States on the first ballot, the House shall continue to ballot for a President, without interruption by other business, until a President be chosen.

3. The doors of the Hall shall be closed during the balloting, except against the Members of the Senate, stenographers, and the officers of the House.

4. From the commencement of the balloting until an election is made no proposition to adjourn shall be received, unless on the motion of one State, seconded by another State, and the question shall be decided by States. The same rule shall be observed in regard to any motion to change the usual hour for the meeting of the House.

5. In balloting the following mode shall be observed, to wit:

The Representatives of each State shall be arranged and seated together, beginning with the seats at the right hand of the Speaker's chair, with the Members from the State of Maine; thence, proceeding with the Members from the States, in the order the States are usually named for receiving petitions,[2] around the Hall of the House, until all are seated.

A ballot box shall be provided for each State.

The Representatives of each State shall, in the first instance, ballot among themselves, in order to ascertain the vote of their State; and they may, if necessary, appoint tellers of their ballots.

After the vote of each State is ascertained, duplicates thereof shall be made out; and in case any one of the persons from whom the choice is to be made shall receive a majority of the votes given, on any one balloting by the Representatives of a State, the name of that person shall be written on each of the duplicates; and in case the votes so given shall be divided so that neither of said persons shall have a majority of the whole number of votes given by such State, on any one balloting, then the word "divided" shall be written on each duplicate.

After the delegation from each State shall have ascertained the vote of their State, the Clerk shall name the States in the order they are usually named for receiving petitions; and as the name of each is called the Sergeant-at-Arms shall present to the delegation of each two ballot boxes, in each of which shall be deposited, by some Representative of the State, one of the duplicates made as aforesaid of the vote of said State, in the presence and subject to the examination of all the Members from said State then present; and where there is more than one Representative from a State, the duplicates shall not both be deposited by the same person.

When the votes of the States are thus all taken in, the Sergeant-at-Arms shall carry one of said ballot boxes to one table and the other to a separate and distinct table.

One person from each State represented in the balloting shall be appointed by the Representatives to tell off said ballots; but, in case the Representatives fail to appoint a teller, the Speaker shall appoint.

The said tellers shall divide themselves into two sets, as nearly equal in number as can be, and one of the said sets of tellers shall proceed to count the votes in one of said boxes, and the other set the votes in the other box.

When the votes are counted by the different sets of tellers, the result shall be reported to the House; and if the reports agree, the same shall be accepted as the true votes of the States; but if the reports disagree, the States shall proceed, in the same manner as before, to a new ballot.

6. All questions arising after the balloting commences, requiring the decision of the House, which shall be decided by the House, voting per capita, to be incidental to the power of choosing a President, shall be decided by States without debate; and in case of an equal division of the votes of States, the question shall be lost.

7. When either of the persons from whom the choice is to be made shall have received a majority of all the States, the Speaker shall declare the same, and that that person is elected President of the United States.

8. The result shall be immediately communicated to the Senate by message, and a committee of three persons shall be appointed to inform the President of the United States and the President-elect of said election.

APPENDIX III.—AMENDMENT XII.—PRESIDENTIAL ELECTORS

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted:—the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

APPENDIX IV.—ARTICLE II.—THE PRESIDENT

Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[The[1] Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall choose from them by Ballot the Vice President.]

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

APPENDIX V.—AMENDMENT XX.—LAME DUCK AMENDMENT

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Sec. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Sec. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Sec. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Sec. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Sec. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

APPENDIX VI(a).—HOUSE OF REPRESENTATIVES VOTE FOR PRESIDENT, FIRST 35 BALLOTS, FEB. 11–17, 1801

States	Jefferson	Burr	State voted for
New Hampshire		4	Burr.
Vermont	1	1	Divided—blank.
Massachusetts	3	11	Burr.
Rhode Island		2	Do.
Connecticut		7	Do.
New York	6	4	Jefferson.
New Jersey	3	2	Do.
Pennsylvania	9	4	Do.
Delaware		1	Burr.
Maryland	4	4	Divided—blank.
Virginia	16	3	Jefferson.
North Carolina	9	1	Do.
South Carolina		5	Burr.
Georgia	1		Jefferson.
Kentucky	2		Do.
Tennessee	1		Do.
Total	55	49	

Source: Stanwood, Edward, A history of the presidency.—p. 72.

APPENDIX VI(b).—HOUSE OF REPRESENTATIVES VOTE FOR PRESIDENT, FEB. 9, 1825

States	Adams	Jackson	Crawford	Vote for—
Maine	7			Adams.
New Hampshire	6			Do.
Vermont	5			Do.
Massachusetts	12	1		Do.
Rhode Island	2			Do.
Connecticut	6			Do.
New York	18	2	14	Do.
New Jersey	1	5		Jackson.
Pennsylvania	1	25		Do.
Delaware			1	Crawford.
Maryland	5	3	1	Adams.
Virginia	1	1	19	Crawford.
North Carolina	1	2	10	Do.
South Carolina		9		Jackson.
Georgia			7	Crawford.
Alabama		3		Jackson.
Mississippi		1		Do.
Louisiana	2	1		Adams.
Kentucky	8	4		Do.
Tennessee		9		Jackson.
Missouri	1			Adams.
Ohio	10	2	2	Do.
Indiana		3		Jackson.
Illinois	1			Adams.
Total	87	71	54	

Source: Stanwood, Edward. A history of the presidency.—p. 141.

PROPOSED RULES FOR ELECTION OF THE PRESIDENT IN THE HOUSE OF REPRESENTATIVES (1981)

1. In the event that no person receives a majority (270) of the electoral votes cast for President of the United States, that information shall be entered in the Journals of this House.

2. The roll of the House shall then be called by states in alphabetical order and on it appearing that a member or members from two-thirds (34) of the states are present, the House shall immediately proceed to choose a President from the persons having the highest numbers, not exceeding three, on the list of those voted for as President; and in case neither of those persons shall receive the votes of a majority of all the states on the first ballot, the House shall continue to ballot for a President without interruption by other business, until a President is chosen.

3. The doors of the House shall be open during the balloting with the press and public being admitted to the galleries in the normal fashion.

4. From the commencement of the balloting until an election is made, no proposition to adjourn shall be received unless on the motion of one state, seconded by another state, and the question shall be decided by states. The same rule shall be observed in regard to any motion to change the usual hour for the meeting of the House. A majority of those states voting shall prevail.

5. In balloting, the following mode shall be observed, to wit:

a. The representatives of each state shall be arranged and seated together, beginning with the seats on the right hand of the Speaker, with the states arranged in alphabetical order around the Hall of the House, until all are seated.

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[1] Bracketed paragraph was superseded by Amendment 22.

b. Voting within state caucuses shall be by written secret ballot and a ballot box shall be provided for each state. The representatives of each state may, if necessary, appoint tellers of their ballots and in those states with representatives of more than one political party, there shall be a teller appointed from each party.

c. The candidate receiving a plurality of the vote in each state caucus shall be awarded that state's vote. Blank ballots shall be disregarded and not counted in any way in determining which candidate has received a plurality.

d. In the event that two or more candidates finish in a tie for first place in the votes cast within a state caucus, that state's vote shall be deemed to be "divided" and not cast for any candidate.

e. At the conclusion of the individual state caucuses, the Clerk shall call the roll of the states in alphabetical order and the senior members from each state shall respond by voice as to how the state's vote is cast.

6. All questions arising after the balloting commences, requiring a decision of the House, incidental to the power of choosing the President, shall be decided by states without debate; and in case of an equal division of the votes of states, the question shall be lost.

7. When one of the persons from whom the choice is to be made shall have received a majority of all the states, the Speaker shall declare the same, and that that person is elected President of the United States.

8. The result shall be immediately communicated to the Senate by message and a committee of three persons shall be appointed to inform the President of the United States and the President-Elect of said election.

Option A: 5(c). The candidate receiving a majority of the vote in each state caucus shall be awarded that state's vote. Blank ballots shall be disregarded and not counted in any way in determining which candidate has received a majority.

5(f). In the event that no candidate receives a majority of the states on the first ballot, the number of candidates shall be reduced to two for all succeeding ballots, with the candidate who finishes third on the first ballot being dropped from consideration.

Option B: 5(e). At the conclusion of the individual state caucuses, the Clerk shall call the roll of the states in alphabetical order and the Sergeant at Arms shall present to each state a general ballot box. Each state shall deposit in the ballot box a written ballot containing the name of the candidate receiving the vote of that state, or if the state be divided, the word "divided." The ballot shall be signed with the name of the state. The Clerk of the House shall open the ballot box and read off the name of each state and the result of its vote.

IN RECOGNITION OF BARBARA JANIGA

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mrs. ROUKEMA. Mr. Speaker, I would like to take this opportunity today to pay special tribute to one of northern New Jersey's most distinguished educators. Ms. Barbara Janiga, an outstanding fourth, fifth, and sixth grade teacher in Franklin Lakes, NJ, will soon retire.

Our community has benefited greatly from Ms. Janiga's extensive 22-year career, which has been distinguished by an extraordinary record of service. Her achievements illustrate her dedication to the growth and well-being of our children.

Barbara Janiga prepared for her career by pursuing and attaining her bachelor of arts degree at William Paterson College in Wayne, NJ. She continued at William Paterson earning her master of arts. In order to add specialized preparation, she then attended Newark State Teachers College.

Over the last 22 years, Ms. Janiga has shared her dedication to excellence with the children of the Franklin Lakes school system and the surrounding community. She has been an inspiration to her colleagues, as evidenced by the honors for service she received during the 1987–88 school year when she was recognized as, "The Teacher of the Year."

Mr. Speaker, educators hold the key to the future of our Nation. They unlock the potential in each and every child. They nurture the curiosity of future scientists; they encourage the compassion of future doctors; and they launch future astronauts on their way toward excellence. And, hopefully, they inspire others to follow their inspiring examples as future teachers of America.

As a former educator myself, I know from first hand experience that it takes a great deal of dedication and diligence to achieve the type of excellence Barbara Janiga has typified throughout her career. It is for that reason that I urge my colleagues to join me in saluting this outstanding individual and wishing her well as she moves into retirement.

HONORING NICHOLAS J. SCALI ON HIS RETIREMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. GILMAN. Mr. Speaker, I am pleased to rise today to honor a distinguished gentleman, Nicholas J. Scali, president and chief executive officer of the Middletown Savings Bank in Middletown, NY of 40 years, on his retirement.

Mr. Scali's education began in my hometown of Middletown, NY where he graduated with honors from Middletown High School. He later attended the Orange County Community College where he received the American Institute of Banking certificate, and subsequently graduated from Brown University with a B.A. degree in banking.

Mr. Scali's military career spans from World War Two to the Korean conflict in the Navy. Serving with the U.S. Naval Medical Corps as a dental technician, grade 3, Mr. Scali distinguished himself in a combat hospital in World War Two, and in a dental clinic during the Korean conflict. His awards include the National Defense Medal, and World War Two and Korean conflict Campaign Medals.

Mr. Scali has been active in both community service and politics, during his 40-year career at the Middletown Savings Bank. He is a member of American Post 151, the Excelsior Hook and Ladder Co. No. 1, and has served on the Salvation Army board. Also, Mr. Scali was a member and past director of the Middletown and town of Wallkill Historical Society, and was elected to the Horton Memorial Hospital Commission Board. He was also appointed by Governor Rockefeller to serve on the original Stewart Airport Commission. He has also been an active politician as an Orange County committeeman.

Nicholas Scali's retirement from the Middletown Savings Bank marks the end of a distinguished career as the president and chief executive officer of the Middletown Savings Bank.

RIOT REINSURANCE ACT OF 1992

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. CAMPBELL of California. Mr. Speaker, I would like to offer legislation to provide riot reinsurance for companies and individuals in inner cities. Economic development cannot occur without adequate insurance coverage. Currently, insurance analysts predict a hard market in the coming year, which means that reinsurers will have to cut back coverage in certain markets—including urban areas. This legislation will stabilize reinsurance coverage for these areas. To avoid the chilling effects of restrained access to insurance, my bill would allow private insurers to obtain reinsurance from the Federal Government at market rates.

Reinsurance is obtained by insurance companies to spread risk, much like the syndication of bank loans to reduce exposure on a single loan. In exchange for a portion of the premiums on insurance, the Federal Government assumes an equivalent portion of the risk. If the private insurer makes a profit, the Government would share in those profits.

Riot reinsurance existed from 1968 to 1984. During this time, the Riot Reinsurance Program paid for itself. In fact, the Riot Reinsurance Program resulted in a net gain for the Treasury.

Investment and job creation will be seriously stunted if access to insurance is hampered. After recent events in Los Angeles and other urban areas, there has been much focus on enterprise zone legislation and economic development of depressed urban areas. Insurance is a vital precondition for development. Given the risks of doing business in urban areas, job-creating entrepreneurs require adequate insurance to protect against these risks.

UKRAINIAN FESTIVAL USA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, June 20, I had the distinct privilege of taking part in Ukrainian Festival USA at the Garden State Arts Center in Holmdel, NJ.

This year's festival was an especially important and poignant event, as Ukrainians this year celebrate their new found freedom after so many years of domination by Communist and Czarist rule. Today's Ukrainians are the descendants of a proud and ancient people. The first major Eastern Slavic culture arose in the area of Kiev, Ukraine's capital, under the leadership of Vladimir the Great, who brought Christianity to Ukrainian soil in the year 988. Yet this great people for centuries lived under the shadow of domination from the Czarist Russian empire and, for most of this century, from the Russian dominated Soviet empire. Indeed, particularly during the years of Soviet rule, there was a tendency on the part of many Americans and people of other nations not to recognize Ukraine as a unique nation separate from Russia.

To this day, while we have built new bridges between Americans and Russians, we have been somewhat remiss in opening doors to Ukraine and her people. While praising and encouraging the reform efforts of Russian President Boris Yeltsin, we must also recognize that the great Ukraine nation, with its 52 million people, is one of the largest nations in Europe and one of the most important emerging nations of today's world. I hope America will step up its efforts to inaugurate more bilateral agreements, within both the public and private sectors, with the new—and yet very old—nation of Ukraine.

Saturday's festival occurred shortly after the sixth anniversary of the nuclear disaster at Chernobyl. We are still learning, to our great shock and dismay, the true scope of this nightmare that caused so much sickness and death among Ukraine's people and devastated so much of her rich land. In the years following the disaster, the Soviet central government was an impediment in treating the people of Ukraine and assisting them in coping with the insidious effects of radiation poisoning. The collapse of Soviet power offers the hope that this situation will improve, but the people of Ukraine need our help.

As the years pass, the tragedy of what happened at Chernobyl has not lessened. The 7.6 tons of over 200 different radioactive substances released into the atmosphere over Ukraine and neighboring nations are still causing sickness and misery. I am especially concerned about the state of the millions of children who suffered and continue to suffer from the effects of radiation and who will probably suffer most of their lives from the long-term effects of radiation. Furthermore, increasing evidence is coming to light about the extensive coverup on the part of Soviet leaders, going right to the top. People were not informed about the dangers surrounding them, and many were denied the treatment they needed.

I introduced a resolution in this House, cosponsored by 26 of my colleagues, on April 26, 1991, the fifth anniversary of the Chernobyl disaster, urging the Soviet Government to take steps to evacuate people still living in affected areas, decontaminate the Kiev reservoir, cease the planning, construction and operation of other nuclear facilities in Ukraine, and ask for international supervision of existing facilities. Since the time the resolution was introduced, the Soviet Government has, of course, ceased to exist. In an effort to build cooperation between the United States and Ukraine, I believe our country should provide technical and medical expertise to assist the people who continue to suffer, while working with all of the newly independent States of the former U.S.S.R. to make sure that a disaster on the order of Chernobyl never happens again.

Finally, I would like to pay tribute to Oksana Korduba of Rutherford, NJ, who did an excellent job in chairing this year's festival. The Ukrainian-American community of New Jersey has always been there, leading the fight for a free Ukraine. Saturday's event was an opportunity for all Ukrainians, and everyone else who supports freedom and human rights, to celebrate this great victory over tyranny, as well as a chance to commemorate those who sacrificed to much to make that victory possible.

TRIBUTE TO ROBERT AND MARCELLA CLEARY ON THEIR GOLDEN ANNIVERSARY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. CUNNINGHAM. Mr. Speaker, I wish to pay tribute today to Robert and Marcella Cleary of Rancho Santa Fe, CA, who will celebrate their 50th anniversary Thursday, June 25, 1992.

For better or for worse, in sickness and in health, through good times and bad, Bob and Mar Cleary have stayed together. They have served their country, run a family business, raised a fine family of six children, all grown, and shown remarkable concern for and involvement in their community.

Born in Cleveland, OH, Bob Cleary joined the Army and served as a tank commander in the 107th Armored Cavalry, 89th Infantry Division, in the European Theater during the Second World War, retiring with the rank of colonel. For bravery in battle, he was awarded the Silver Star, the Bronze Star with Valor and Oak Leaf Clusters, plus the Purple Heart. He was personally presented with France's Croix de Guerre by General LeClerk, and distinguished by the U.S. Holocaust Memorial Council in 1989 as one of the first American officers to liberate a Nazi concentration camp.

After leaving the Army, Bob Cleary established his own gentlemen's clothing stores in Cleveland, the Brinkman Cleary Shops and later became president of B.R. Baker.

In 1971, the Clearys moved to La Jolla, CA and the following year to Rancho Santa Fe. Bob Cleary retired from the Rancho La Costa Hotel & Spa Resort in 1990 as retail manager, after nearly 20 years.

Bob and Mar Cleary are active members of the Rancho Santa Fe community. Bob sits on Rancho Santa Fe's Library Guild board of directors, the Tennis Club board of directors, and the local historical society. Mar has been a devoted wife, mother, and grandmother. She is also a member of the Assistance League, the Army/Air Force Wives Club and the Rancho Santa Fe Garden Club.

Their golden anniversary will be celebrated with their six children, four grandchildren, and several close friends. Before Monsignor Dennis Clark of Nativity Catholic Church in Rancho Santa Fe they will renew their wedding vows.

The Bible teaches us that there are only three things that last: "faith, hope, and love, and the greatest of these is love." Robert and Marcella Cleary have been blessed with all three and, in turn, their love for one another has blessed us all.

May God bless them and their wonderful family as they celebrate 50 years of matrimony, and may they enjoy many more.

IN HONOR OF MR. KENNETH DALE WARREN, MASON CITY, IA

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. NUSSLE. Mr. Speaker, I would like to take this opportunity, on behalf of myself and Mr. GRANDY of Iowa, to offer our sincerest congratulations to Mr. Kenneth Dale Warren on his tremendous accomplishment of overcoming illiteracy. Mr. Warren, a 70-year-old resident of Mason City, IA, mastered the alphabet, and was honored as a new reader at the National Adult Literacy Graduation Day in Washington, DC, on Thursday, June 18.

Many people believe that additional incentives are needed for teachers to spend more time with their students, and while this may help reduce the level of illiteracy in our country, teachers alone cannot solve the problem. A commitment to learning must also be made by students, parents, and communities alike.

I am proud to say that Iowa consistently scores in the top percentages of nationally recognized achievement tests; however, we must still face the reality that not all Iowans are literate. In response, the Iowa Department of Education has developed an extensive literacy program with the 15 community colleges across the State. Through these programs, nearly 13,000 students were taught to read by 11,000 volunteer tutors.

National Adult Literacy Graduation Day was sponsored in part by Coors "Literacy. Pass It On.", a 5-year, $40 million program to fight illiteracy. Their goal is to reach 500,000 adults by the end of 1994, and to date 201,000 adults have learned to read because the funds are geared toward national, regional, and local literacy services.

Programs such as these, coupled with the strength of volunteer efforts, will, as the mission of The Barbara Bush Foundation for Family Literacy states, "* * * help mobilize the creativity, resources, and will of a country as great as America and make it possible for us to take control of our literacy crisis and build a nation of readers by building families of readers."

Mr. Speaker, I ask that Members of this House join us in congratulating Kenneth Warren for his scholastic performance, an achievement which reflects tremendous personal commitment and invaluable community involvement.

Congratulations, Mr. Warren.

TRIBUTE TO BRENDA PAYTON HILL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to inform my colleagues of the passing of one of the most beloved and respected members of the Philadelphia community, Brenda Payton Hill, who died Sunday, June 14. I am not here to mourn her death, but to celebrate her long life and legendary accomplishments.

Mr. Speaker, Brenda Payton Hill helped to bring fame to our city in the 1960's with her singing group, Brenda and the Tabulations. She sang songs about love and commitment, and her music touched all of us with its sincerity and its passion. I fondly remember some of her most beautiful love songs, "The Touch of You," "Right on the Tip of My Tongue," and "When You're Gone." Over the years, she sang with celebrated musicians, such as Melba Moore, Stevie Wonder, and Patti Labelle. Mrs. Hill was fortunate enough to have been supported not only by her parents, Robert and Dorothy Payton, but also by her step-mother, Ethel Mae Payton. She was a loving wife to James Hill, and a devoted mother to her 7 children and grandmother to her 11 grandchildren.

Mr. Speaker, Brenda Payton Hill will be sorely missed by all those who loved her. Though she has left us in body, the spirit of her music will remain forever in the hearts of those of us who admired and adored her songs. Mr. Speaker, I ask my colleagues to join me in honoring the memory of this gifted singer, faithful wife, mother, and grandmother, Brenda Payton Hill.

HONORING KATE FITE

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. ARMEY. Mr. Speaker, I would invite the distinguished Members of this body to join me in honoring a special individual who exemplifies the best of the education system of my district and this country. Mrs. Kate Fite was recently chosen as the "1992 Teacher of the Year" for the Lewisville Independent School District. This award, given by her peers, comes as a small token to Mrs. Fite for the 18 years of dedicated service she has provided for the Texas education system.

Mrs. Fite holds a bachelor's degree from Baylor University, and in addition has served on both the National and Texas Council of Teachers of English and the superintendent's advisory committee.

Mrs. Fite attributes her success in the classroom to her personal philosophy, in which she attempts to make her classroom a refuge for her students. She has said, "I want my students to always know that they can come in the classroom and find respect." She is not only held in high esteem by her students, but also by her peers. Principal Brant Buck has said, "In her department and with her students, they admire and respect her."

To sum up this lady's impact on the future leaders of this country I will share with you a local newspaper's quote from Mrs. Fite: "In the years I have been teaching in Lewisville, I really feel that I have the joy of doing what I was born to do." Those words, Mr. Speaker, are what education is all about. Mr. Speaker, I would ask my fellow colleagues to join me in honoring Mrs. Kate Fite as a leader in her profession and a positive force in this country.

TRIBUTE TO HARLINGEN, TX

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to express my pride in a true "All American City," Harlingen, TX. This month, Harlingen was selected as one of 10 cities honored by the National Civic League and the Allstate Foundation, for innovation in improving their quality of life.

As a designee of the All America City Award, many communities experience enhanced regional and national image, often resulting in new job opportunities through new economic development and industrial recruitment. Harlingen is a city that represents all that is good in America. The community has a justified sense of pride, and it is ever vigilant in recognition of citizen cooperation at every level.

This south Texas city was selected for their successful efforts to create jobs, prevent high school dropouts, reduce litter, and feed the hungry. Today, Harlingen's dropout rate is down by 17 percent, while employment is up by 16 percent—making Harlingen the ideal community to teach other cities how to improve their conditions in the current fiscal climate. According to Mayor Bill Card, the city is 74 percent cleaner. The city is administering to the nutritional needs of the city's homeless and low-income populations at a downtown soup kitchen, which is staffed and funded by the local churches.

If there were ever an example of public and private interests working to improve the quality of life for its residents, Harlingen is that example. I am proud of Harlingen. Harlingen can be justifiably proud of their democratic values and broadly based, participatory approach to solving problems.

I offer my personal congratulations to the city of Harlingen, the Harlingen Chamber of Commerce, the Harlingen Independent School District, "Harlingen Proud," and other area associations and religious organizations. I also offer my congratulations to the motivating force behind this award, the citizens of Harlingen who have devoted their time and their energy to improving the quality of life in Harlingen.

The future of our Nations' cities can be found in the example of Harlingen, TX. Community values is not a trivial phrase in Harlingen; rather, it is the foundation upon which this community has entrusted its future.

BILL WOMACK IS NAMED FATHER OF THE YEAR BY DIABETES FORECAST

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. LAUGHLIN. Mr. Speaker, it gives me great pleasure to rise today and call your attention to a very close and personal friend. Bill Womack is being honored as father of the year by Diabetes Forecast, the national publication of the American Diabetes Foundation.

Bill is from my hometown of West Columbia and I have known him all his life. Our families have maintained a long and intimate relationship over the years; his father was my daughter's godfather. Bill is truly deserving of this honor and I know he is equally as proud of the fact that his 6-year-old son, Randy, wrote the letter nominating his father for father of the year.

Randy has had diabetes for half his lifetime—since the age of 3. And as many of you know, and as many Americans know, there is nothing quite as frightening, as a parent, to have your child diagnosed with a disease. Yet Bill and Randy have persevered together. In fact, the entire family, Crystal, Liz, and Laura-Sue are to be commended for pulling together. I am sure they are all thrilled Bill has been named father of the year.

Bill takes Randy's blood test and gives him his shots every day at 8 in the morning and again at 6 in the evening, without fail. Bill and Randy have a close relationship and spend a great deal of time together on their ranch in southeast Texas. Bill has even been known to camp out at a party with Randy so that Randy could attend and not miss his blood tests and shots.

Randy said in his nominating letter that he and his daddy are partners. Well, Randy, you're right; you and your dad are partners, and will undoubtedly share a lot of happy times in years to come. Bill and Randy, congratulations to both of you on receiving this great honor. Bill, as the American Diabetes Foundation's Diabetes Forecast 1992 Father of the Year—Happy Father's Day.

CHALLENGE ADMINISTRATION DENIAL OF INDEPENDENT INVESTIGATION OF HAITIAN ASYLUM PROCESSING FACILITIES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. HOYER. Mr. Speaker, I rise today to address a troubling issue that has come to the attention of the Helsinki Commission which I presently chair. All human rights monitoring organizations rely to some degree upon information gathered during onsite investigations. Such investigations, whether by Amnesty International, Human Rights Watch, lawyers' groups, or others, not only bring attention to abuses but also gauge governmental attitudes on human rights issues. Because investigators require the permission and cooperation of host authorities, governments demonstrate their good faith in addressing possible abuses by entering into cooperative relations with investigating delegations.

The Helsinki Commission has in the past been called upon to assist groups in accessing prisons, police stations, refugee camps, and other official premises. CSCE delegations have themselves undertaken such investigations in Turkey, Eastern Europe, and Republics of the former Soviet Union. Today, however, for the first time I have the unfortunate distinction of calling upon my own Government to reverse its decision to deny permission for an important investigation.

Amnesty International has been denied permission to investigate the asylum processing facilities for Haitian refugees in Guantanamo, Cuba. Official responses to their request to "monitor government asylum procedures in light of international refugee standards" remind me of evasive doublespeak the Commission routinely heard from Communist authorities. The State Department deferred judgment to the Department of Defense, yet added that logistical problems made the visit unwise. The Department of Justice, citing ongoing litigation concerning the Haitians, declined to comment on the proposed visit. The Department of Defense never replied to the request.

Mr. Speaker, this type of behavior can be expected of China, Iraq, Cuba, Syria, North Korea, and other countries well known for the oppression of their own citizenry. When such denials occur, my colleagues on both sides of the aisle join in condemnation of the regimes attempting to conceal their unsavory practices. In this particular instance involving our own Government condemnation should be even louder, for how could we expect other governments to allow investigation of their human rights practices if our officials are allowed to deny such access without being challenged?

Mr. Speaker, I urge my colleagues to express their displeasure with the policy of this administration to deny human rights researchers access to the asylum processing facilities in Guantanamo Bay. Regardless of how Members feel about the asylum process itself or the administration's policies regarding Haiti, this troubling aspect of the situation could lead to international embarrassment and justification of similar practices by other governments.

TRIBUTE TO SISTER HELEN DOWD

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mrs. KENNELLY. Mr. Speaker, I rise today to honor Sister Helen Dowd, an outstanding educator who has dedicated herself to helping young people and their families. In 1971, she founded a school in West Hartford, CT, called the Intensive Education Center. Since that time she has worked to ensure that every child who has been a student at the school has grown as a result of the experience. Her concern and devotion to these children has been an inspiration to all those who know her.

The Intensive Education Center is a nonprofit and nonsectarian school that is dedicated to providing a supportive environment for children. Shortly after the school opened in 1971, a West Hartford reporter described it as "the School of Love," a truly accurate description. One of the school's main objectives is to adapt the curriculum to fit the individual needs of the child. The I.E.C. focuses on helping children who have not met success in the regular classroom. Some of the students have been diagnosed as learning disabled, mentally retarded, or emotionally disturbed while others have a low self-image and perform better in a closely structured, child-oriented and disciplined environment.

Sister Helen Dowd has spent endless time and energy ensuring that these children with various learning disabilities realize their full potential in life. The children are given the opportunity to develop their individual talents. The majority of the school's students have gone on to high school or vocational programs and some have been able to go on to college. By believing in the abilities of the students, the school has enabled them to contribute to our society. Sister Helen Dowd has not only made a difference in the lives of many children over the years but has also contributed significantly to the community as a whole.

Mr. Speaker, I ask you and my colleagues to join me in saluting the work of Sister Helen Dowd.

INTRODUCTION OF LEGISLATION REGARDING NURSING HOME REFORM

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. HALL of Texas. Mr. Speaker, today I am introducing legislation designed to resolve some of the shortcomings, failures, and duplications of the nursing home reform provisions of OBRA '87. In spite of the fact that Congress passed these reforms more than 5 years ago, the benefits of our efforts are yet to be fully realized by the more than 1 million residents of our Nation's long-term care delivery system.

In 1987 Congress enacted sweeping reforms regarding how care was provided to our Nation's elderly who were residents of nursing facilities. Our mandate at that time was clear: Ensure that the quality of life, as well as the quality of health care services, was improved and that those providing this care could be held accountable if it was not. Congress worked for several months in crafting these reforms. They were endorsed by consumers and long-term care providers alike. In 1990, Congress returned to this issue to make technical corrections to the law based upon the experiences of the provider community as they worked to implement its provisions. But yet here it is, 1992, and those we have charged with implementing these changes have not yet received final regulations on how to comply with the law.

Mr. Speaker, I know that we in this, as well as the other body, have spent many long hours on this issue. Many of us are anxious to move onto new challenges. But before we move on, we must be mindful of our responsibilities and commitments to the beneficiaries of those reforms. These reforms were exhaustive and very complex. The legislation I am introducing today revisits six issues that have emerged as a result to the provider community's efforts to implement the nursing home reform provisions of OBRA '87.

Included in my proposal are provisions that would facilitate the training of primary care givers in nursing facilities—nurses' aides. Current statute makes it very difficult for nursing facilities to offer onsite training programs. Another provision clarifies the responsibilities for funding these training programs of the Medicare and Medicaid Program. I also propose to replace the duplicative and costly mandatory readmission screening and annual resident review [PASARR] requirement with the more comprehensive resident review assessment mechanism already in place. PASARR is designed to identify those individuals who are either mentally ill or mentally retarded and who do not require nursing facility services. This is clearly a laudable goal; however, it has been fulfilled through the PASARR screenings already conducted. In its place I propose to utilize the mandatory, annual resident assessment mechanism, which is performed upon admission, and every time there is a significant change in a resident's condition.

The legislation also provides for the elimination of yet another duplicative requirement: The annual review of the use of psychopharmacologic drugs. This is another instance of a credible and valuable requirement being duplicated. Instead of an annual review, I am proposing to substitute the mandatory, monthly drug review of all residents of nursing facilities. By doing so, the use of these pharmaceutical can be monitored much more closely. The other provisions of my proposal are technical in nature and clarify existing statutory requirements with the goal of fully implementing the original intent of this law which is to improve the quality of life and care of our Nation's ill and infirm who reside in nursing facilities.

It is my sincere hope that my colleagues will join me in supporting this important measure.

TRIBUTE TO JOSEPH A. SALATA JR., MAJOR, USAF

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to a man from my 17th Congressional District, one of the select members of the U.S. Air Force who pilots the F-117A Stealth fighter.

Mr. Speaker, Maj. Joseph A. Salata, Jr., took part in the first waves of air attack during the gulf war in January 1991. In all, he flew 21 combat missions during the air and ground attack. For his brave service to his country and its mission in the gulf, Joe Salata received the Distinguished Flying Cross, the Air Force Commendation Medal, the National Defense Service Medal, and the Kuwait Liberation Medal.

Mr. Speaker, in 1975, Joe graduated from my alma mater, Cardinal Mooney High School, and matriculated to the University of Notre Dame. Upon graduation from Notre Dame in 1979 with a degree in civil engineering, he immediately began active duty with the Air Force. Joe served as a navigator on the F-111 fighter plane and as an aircraft commander and instructor pilot on the F-4 fighter plane before being selected to pilot the F-117A Stealth fighter. Only 59 officers were chosen for this highly classified assignment. Following his missions, Joe briefed Secretary of Defense Dick Cheney and Chairman of the Joint Chiefs of Staff Colin Powell.

It gives me great pride in honoring Joe here today. I know that there were many tense moments for his family and friends back home in Youngstown in those first days of the air war. I know that Joe was concerned about his family, too, as his wife was expecting their youngest child when the war started. Little Joe Junior was born 2 days after the war began. Today, though, I am sure I join him, his wife, the former Martha Kelly, and their children Jacquelyn, Teddy, and Joseph and the rest of his family in honoring him as a pilot, patriot, and father. I know we are all very proud of him.

A TRIBUTE TO ROBERT E. OLIPHANT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. SKELTON. Mr. Speaker, Robert E. Oliphant, president of the Bank of Odessa, is being honored this evening by citizens of that city. He has been an outstanding community leader and a thoughtful friend to so many through the years. I know the members join me in congratulating Bob Oliphant on the occasion of his 70th birthday and his leadership in Odessa for the past 44 years.

Robert E. Oliphant was born 70 years ago today, June 22, in Cainsville, a small community, in north Missouri. Raised in Princeton, MO, he is a 1941 graduate of Princeton High School and was privileged to attend his 50th year reunion last summer.

He attended Chillicothe Business College for a year before entering the Army where he was accepted into the Army Special Training Program, a college-type program at Oklahoma State University, Stillwater. Because of the escalating war the program closed after 6 months and Bob went into basic training with the Infantry in the spring of 1944.

After basic training he was sent to Europe where he served with the 103rd Infantry Division under Maj. Gen. Charles C. Hoffner, Jr., which was part of the Seventh Army, commanded by Gen. Alexander Patch. He suffered severe wounds to his shoulder and arm at the Battle of the Bulge late in 1944, was hospitalized in Europe, returned to Howard General Hospital in New York before being sent to a hospital in Springfield where he was a patient for more than a year.

He returned to Kansas City and in the spring of 1946 began employment for Clarence H. Goppert at the People Bank at 85th and Prospect in Kansas City.

In September 1948, he was named executive vice president of the Bank of Odessa, which Goppert had purchased. He was named president of the bank in the early 1960's and has been chairman of the board for the past 25 years. He also serves as an officer with the LaMonte Bank and has been an officer with the Commercial Bank of Oak Grove.

During Oliphant's years in Odessa, the bank has not only grown in assets, but is the largest independently owned bank in Lafayette County and the largest bank in any town under 10,000 in the State.

His banking career is legendary but his philanthropic efforts and contributions have been untold. The Bank of Odessa, under Bob's leadership, was instrumental in assisting with the purchase of what is now Dyer Park. Area churches, the Community Center at Dyer Park, numerous school, community and civic organizations owe a debt of gratitude to Bob Oliphant, who through the Bank of Odessa, has provided not only leadership in a lending institution but has given back a portion of the profit to the community and the area.

Congratulations to Bob Oliphant on his recognition as a patriotic American, generous benefactor, and warm friend.

DETER PROLIFERATION BY EX-SOVIETS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. SCHUMER. Mr. Speaker, today I am introducing legislation with my colleague from Ohio, Mr. KASICH, to ensure that United States aid to the former Soviet Union helps deter proliferation of weapons of mass destruction.

Many of us were outraged when we learned last month that Russia was selling ballistic-missile technology to India, at the very time Congress is putting together a massive aid package for the former Soviet states.

I support the aid package, in principle, as a means of furthering democratization and economic reform in the former East bloc. However, if we are going to provide such aid, the United States has a right to expect the aid recipients to abide by international norms for controlling the spread of weapons of mass destruction.

The House aid package, as reported, is dangerously silent on this question. The Senate version would withhold the entire aid package if the Russia-India deal goes through, but ignores the danger of other future technology transfers.

To address this concern in a comprehensive manner, our bill would remove all financial incentive for Russia, or any other former Soviet state, to conclude the India deal or any other sale that abets proliferation. The bill would do so by reducing aid to each former Soviet state by the exact dollar amount of any export contract from that state that violates the international export-control regime for missiles, chemical, or nuclear weapons.

Here's how it would work: If Ukraine's Government exported—or permitted the export by a private firm—of $20 million worth of equipment to Iran prohibited under the Missile Technology Control Regime, United States aid to Ukraine would automatically be reduced by the same $20 million. By thus removing all net profit, the bill would eliminate the lure of hard currency that now serves as strong incentive for the former Soviet states to engage in such irresponsible trade.

I plan to offer the bill as an amendment to the Soviet aid package when it comes to the floor, but I urge my colleagues to act now to show their support by joining me as a cosponsor of this important legislation.

HONORING THE EDENWALD-GUN HILL NEIGHBORHOOD CENTER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. ENGEL. Mr. Speaker, I wish today to recognize the 17th anniversary of a vital and effective organization in the Bronx, the Edenwald-Gun Hill Neighborhood Center.

Through community-based programs, EGNC works each day to improve and enhance the quality of life for the people living in Edenwald houses. Each of the more than 7,000 residents of the neighborhood have been touched in some way by EGNC, especially the children and teenagers. Since its founding in 1975, EGNC has specialized in family programs such as after-school homework assistance and child care programs, a teen pregnancy prevention program, and a domestic violence counseling program.

While some people like to talk about family values, it is organizations such as the Edenwald-Gun Hill Neighborhood Center that actually strengthen and educate the families in our community. The programs at EGNC stand as a model for other urban neighborhoods that want to serve the true needs of their residents. For all their accomplishments, executive director Jessie Williams-Collins and the EGNC staff and board of directors deserve our thanks and congratulations.

TRIBUTE TO DON WHITE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Mr. DARDEN. Mr. Speaker, today I would like to recognize Roswell, GA, resident Don White. After 35 years of devoted and exceptional service to the city of Marietta, GA, Mr. White will be retiring from his current position as director of the public works department on June 26. His tireless efforts and contributions to the betterment of the community through his work will long be remembered by the citizens of Marietta.

Mr. White first began working for the city when he was hired as an engineer's aide after graduation from Southern College of Technology in 1956. The Roswell native has headed the public works department since 1966.

Although the public works department has not been greatly expanded, as have other departments within the city over the years, the quality of work produced has been exceptional under Mr. White's administration. The city has been fortunate to have had as its director of public works a man so well respected and talented.

Mr. White also has given freely of his talents and time through his work on the Roswell City Council for 26 years. Despite his decision to retire from his position at the public works department, Mr. White will continue serving on the council, where he has jurisdiction over the parks and recreation department and the fire department, both of which have won outstanding recognition within the State. The Roswell native also serves as mayor pro-tem.

In his retirement, Mr. White plans to spend more time managing a boat storage yard he owns at one of the State's most popular recreation sites—Lake Lanier. Additionally, he and his wife Sally will have more opportunities to visit their two children, Mark White of Florida and Valerie Morelli, who lives right here in our Nation's Capital.

In an age where most individuals' careers are built upon a foundation of numerous, varied job experiences, people like Mr. White are a rare find; thousands of individuals have benefited from his life's career with the city of Marietta's public works department. He leaves behind a legacy of selfless service that hopefully future generations of community leaders will choose to follow.

On behalf of the citizens of Marietta, I wish Mr. White and his family good health and much happiness in the coming years.

TRIBUTE TO WAI CHIU MUY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding success of Wai Chiu Muy, a remarkable example of the American dream.

Wai Chiu Muy was born in China, but his father, Fernando Chang, fled to Cuba in 1949 when Mao Tse Tung took over. In 1961 Mr. Chang left Cuba, again fleeing communism, and settled in Hialeah, FL. Wai Chiu Muy left Canton and rejoined his father in Hialeah, where they started Fashion Imports, a company which produces, imports, and sells Chinese, Japanese, and Thai restaurant products.

One of the latest ventures for Fashion Imports is the manufacture of fortune cookies and it is the only place in Dade County where fortune cookies are made. The business has been built up to an $8 million-per-year operation.

The Miami Herald published an article about this remarkable success story, which I would like to include in the RECORD:

THE COOKIE DYNASTY—FIRM SELLS GOOD FORTUNE TO RESTAURANTS

(By Aminda Marques Gonzalez)

When you crack open a fortune cookie at a local Chinese restaurant, chances are the Eastern philosophy inside actually comes from East Hialeah.

Every week, Fashion Imports makes and sells 600 cases of fortune cookies to 500 South Florida restaurants. That's 240,000 cookies—enough to give one a week to every resident of Hialeah, Coral Gables and Sweetwater.

"That's a lot of cookies," said Wai Chiu Muy, who now runs the $8 million-per-year business.

The fortune cookie production is just the lastest venture for Fashion Imports, which has been producing, importing and selling Chinese, Japanese and Thai restaurant products since 1969 from its 55,000-square-foot factory.

Muy started the business with his father, Fernando Chang, who fled China and moved to Cuba when Mao Tse-tung took power in 1949. In 1961, Chang left Cuba and moved to the United States to get away from communism a second time. His son came from Canton to join his father in Hialeah.

The company used to buy the cookies from New York and Los Angeles. In 1988, Muy bought a $50,000 machine that cranks out a cookie per second. It is the only place in Dade County where fortune cookies are made.

"I can supply them cheaper to my customers and make them fresher and crispier," he said.

It takes 100 pounds of flour, 80 pounds of sugar and 400 eggs to make one batch of batter. It is drizzled into the machine, which molds them, bakes them, inserts the paper with the fortune message.

The cookies never contain any unpleasant messages.

"We don't want the customers to get indigestion." Said Yong Lee, who owns a plant in Massachusetts where the cookie-making machines are made and writes many of the messages in Muy's fortune cookies. "Everybody wants to be a winner, so we encourage people."

Two of his messages: "You will pass a difficult test that will make you happier," and "A handful of patience is worth more than a bushel of brains."

If you don't like the messages you can customize your own. A bag of 400 cookies is $13. For $60 more, you can enclose your own message. They have been used for weddings, conventions and elections.

Muy also inserts numbers for those who want to try their hand in the state lottery. "It's a good idea to have someone who might win the lottery," Muy said.

Kam Chee, owner of Wuchan Restaurant in Oakland Park, said one of her regular customers won $6,000 last year when he played the Lotto using the numbers in his fortune cookie. Five of the six were right.

"They're good fortune cookies," she said.

Mr. Speaker, I commend Wai Chu Muy for his hard work and perseverance, and I congratulate him on his remarkable success.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 23, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 24

8:30 a.m.

Joint Economic

Investment, Jobs, and Prices Subcommittee

To resume hearings to examine the future of the hospital industry, focusing on hospital mergers and joint ventures.

2359 Rayburn Building

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 2060, to revise and authorize funds through fiscal year 1994 for the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, S. 2141, to revise the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, and S. 25, to protect the reproductive rights of women by providing that a State may not restrict the right of a woman to choose to terminate a pregnancy, and to consider pending nominations.

SD-430

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 2232, to require manufacturers of new automobiles to affix a label containing certain consumer information on each automobile manufactured after a specified year.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Select on Indian Affairs

To hold hearings on proposed legislation relating to the National Indian Policy Center.

SR-485

Select on POW/MIA Affairs

To hold hearings to examine the Department of Defense's accounting process for Americans missing in Southeast Asia.

SH-216

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the government of the District of Columbia, focusing on the District of Columbia school system, and the District of Columbia court system.

SD-192

Labor and Human Resources

To hold hearings to examine problems in the health care system, focusing on abuses by health insurers.

SD-430

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2851, to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew.
SD-366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Robert L. Barry, of New Hampshire, to be Ambassador to the Republic of Indonesia, and David C. Fields, of California, to be Ambassador to the Republic of the Marshall Islands.
SD-419

JUNE 25

9:30 a.m.
Armed Services
Business meeting, to discuss markup of S. 2629, authorizing funds for fiscal year 1993 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1993, and to consider pending nominations.
SR-222

Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
To hold hearings to examine issues relating to the Superfund cleanup process.
SD-406

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Select on POW/MIA Affairs
To continue hearings to examine the Department of Defense's accounting process for Americans missing in Southeast Asia.
SH-216

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To resume hearings on proposed legislation to reform the U.S. maritime industry in order to spur employment and activity in the industry.
SR-253

Foreign Relations
To resume hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20).
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1879, to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, S. 1990, to authorize the transfer of certain facilities and lands in the Wenatchee National Forest, Washington, S. 2392, to establish a right-of-way corridor for electric power transmission lines in the Sunrise Mountain in the State of Nevada, S. 2397, to expand the boundaries of the Yucca House National Monument in Colorado, to authorize the acquisition of certain lands with the boundaries, S. 2606, to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands, and S. 2749, to grant a right of use and occupancy of certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange.
SD-366

4:00 p.m.
Foreign Relations
To hold hearings on the nominations of Alison P. Rosenberg, of Virginia, to be Assistant Administrator for Africa of the Agency for International Development, Kenneth L. Brown, of California, to be Ambassador to the Republic of Ghana, Princeton N. Lyman, of Maryland, to be Ambassador to the Republic of South Africa, Joseph Charles Wilson IV, of California, to be Ambassador to the Gabonese Republic, and to serve concurrently as Ambassador to the Democratic Republic of Sao Tome and Principe, and Joseph Monroe Segars, of Pennsylvania, to be Ambassador to the Republic of Cape Verde.
SD-419

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine new technologies for a sustainable world.
SR-253

Governmental Affairs
Government Information and Regulation Subcommittee
To hold hearings to examine preparation for the next census.
SD-342

10:00 a.m.
Foreign Relations
To continue hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20), focusing on defense implications and military views.
SD-419

JUNE 30

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 2538, to establish a comprehensive program to ensure the safety of fish products intended for human consumption and sold in interstate commerce.
SR-253

Foreign Relations
To resume open and to hold closed (S-407, Capitol) hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20), focusing on intelligence community views.
S-116, Capitol

Veterans' Affairs
To hold hearings to examine the needs of women veterans who were sexually abused during service.
SD-G50

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting.
SR-236

JULY 1

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on mobile communications.
SR-253

10:00 a.m.
Foreign Relations
To continue hearings on the Treaty Between the U.S. and USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102-20), focusing on implementation of the treaty.
SD-419

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1096, to authorize funds for fiscal years 1992 through 1995 for programs, functions, and activities of the Bureau of Land Management, Department of the Interior.
SD-366

JULY 2

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on fractionated heirships, Indian probate, oil and gas royalty management, land consolidation demonstration programs.
SR-485

10:00 a.m.
Veterans' Affairs
To hold hearings on S. 2028, to revise title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs.
SH-216

JULY 22

9:30 a.m.
Rules and Administration
To hold hearings on S. 2748, to authorize the Library of Congress to provide certain information products and services.
SR-301

10:00 a.m.

Veterans' Affairs

To hold hearings on proposed legislation relating to veterans housing and the Court of Veterans Appeals.

SR-418

JULY 23

9:30 a.m.

Rules and Administration

To hold joint hearings with the Committee on House Administration on S. 2813 and H.R. 2772, bills to establish in the Government Printing Office a single point of online public access to a wide range of Federal databases containing public information stored electronically.

SR-301

Select on Indian Affairs

To hold hearings on S. 2833, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States and various other issues pertaining to the Crow Indian Reservation.

SR-485

AUGUST 4

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 2746, to extend the purposes of the Overseas Private Investment Corporation to include American Indian Tribes and Alaska Natives.

SR-485

AUGUST 5

10:00 a.m.

Veterans' Affairs

Business meeting, to consider pending calendar business.

SR-418

HOUSE OF REPRESENTATIVES—*Tuesday, June 23, 1992*

The House met at 12 noon.

Rev. Richard Downing, rector, St. James Episcopal Church on Capitol Hill, Washington, DC, offered the following prayer:

Almighty and everlasting God, we praise Thee for all Thou hast done for us as a nation. Deepen the root of our national life in Thy everlasting righteousness, lest Thy blessing be withdrawn. Make us equal to our high trusts, reverent in the use of freedom, just in the exercise of power, and generous in the protection of weakness. Inspire all who direct this Nation, that they may guide it wisely and well; give insight and faithfulness to our legislators; and may our deepest trust ever be in Thee, the Lord of all nations and the King of kings; through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until the end of the legislative day.

The point of no quorum is considered withdrawn.

MOTION TO ADJOURN

Mr. WALKER. Mr. Speaker, I send a privileged motion to the desk.

The SPEAKER. The Clerk will report the privileged motion.

The Clerk read as follows:

Mr. WALKER moves that the House do now adjourn.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 17, nays 379, not voting 38, as follows:

[Roll No. 209]

YEAS—17

Allard
Armey
Clinger
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Fields
Gunderson
Hancock
Hefley
Johnson (TX)
Livingston
Matsui
Schulze
Weber

NAYS—379

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeFazio
DeLauro
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Fish
Flake
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—38

Allen
Bacchus
Bonior
Campbell (CO)
Chapman
Collins (MI)
Davis
Dellums
Dixon
Edwards (OK)
Feighan
Foglietta
Ford (TN)
Gilchrest
Hefner
Jones (GA)
Kaptur
Lehman (FL)
Lent
Levine (CA)
Marlenee
Martinez
McCollum
McDermott
McNulty
Payne (NJ)
Pease
Perkins
Ridge
Savage
Skelton
Stallings
Towns
Traxler
Valentine
Washington
Waters
Wise

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

□ 1226

Messrs. PANETTA, STUMP, MYERS of Indiana, DOWNEY, DONNELLY, KOPETSKI, and LANCASTER, and Mrs. MEYERS of Kansas, and Mr. RANGEL changed their vote from "yea" to "nay."

Mr. ARMEY changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Illinois [Mr. HAYES] will lead us in the Pledge of Allegiance.

Mr. HAYES of Illinois led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. DORGAN of North Dakota. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

Mr. WALKER. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] will state his objection.

Mr. WALKER. Mr. Speaker, according to the opening section of Jefferson's Manual entitled "Importance of Adhering to Rules," section 1, it states:

> Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say, "It was a maxim he had often heard when he was a young man, from old and experienced Members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power." So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check——

Mr. DORGAN of North Dakota. Mr. Speaker, I ask for regular order.

The SPEAKER pro tempore. Regular order is demanded. Is there objection to the request of the gentleman from North Dakota?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1230

The gentleman from North Dakota may not give his 1-minute speech. Objection is heard.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. MILLER of Washington. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. SMITH of Florida. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. MONTGOMERY). Objection is heard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Chair would advise Members that if they wish to object, they should please stand, so that the Chair will see the objector.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. HAYES of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, reserving the right to object, I will not object to the Members——

Mr. DORGAN of North Dakota. Regular order, Mr. Speaker.

The SPEAKER pro tempore. Regular order is demanded.

Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONGRESS MUST REAUTHORIZE EXPIRING TAX PROVISIONS

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, at the end of June, just a few days away, a dozen popular and effective tax breaks for businesses and individuals are scheduled to expire. I'm frustrated that, to date, there has been no positive indication that this body will move to extend these revenue provisions.

I now hear this morning, that the Ways and Means Committee will begin markup of a bill tomorrow, but with no promise of floor action anytime soon. Maybe it will be July; but maybe doesn't cut it, for the many small businesses that are especially dependent on five of these tax provisions.

I think it's unfortunate that we are leaving millions in limbo, unable to plan for future businesses expenses and tax liabilities, while we dawdle here in Congress. This is not the approach that stimulates the economy.

Some of the expiring tax provisions include:

Credits for business research and experimentation;

Credits for low-income housing development;

The 25-percent deduction for health insurance costs of the self-employed;

States' authority to issue tax-exempt mortgage-revenue bonds and small-issue manufacturing bonds;

Exclusion of employer-provided education assistance and group legal services from taxes;

Tax credits for clinical testing of orphan drugs; and

The targeted jobs tax credit for hiring disabled and disadvantaged workers.

These tax provisions are not trivial, and far too many times in the past, they've been used as hostages to get Members to support tax increases. I hope that's not what the future holds this time around.

We should permanently extend these tax provisions and avoid the current situation in the future. I urge the Ways and Means Committee to act quickly, cleanly, and get a bill to the floor, and passed, before more precious time elapses.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. HAYES of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Reserving the right to object, Mr. Speaker, and I do not intend to object——

Mr. HOYER. Regular order, Mr. Speaker.

Mr. WALKER. Reserving the right to object, I do not intend to object if I have an opportunity to explain what I regard as a serious breach of the process of the House.

The SPEAKER pro tempore. The Chair would inform the gentleman that he can seek recognition for 1-minute and be recognized.

Mr. WALKER. I am proceeding under the rules of the House by reserving the right to object, Mr. Speaker, and all I am attempting to do is to remind the Members of the process by which we are supposed to operate, and then I will not object, and I will allow the gentleman to proceed. But I think we have had a serious breach of the processes of the House with regard to potential legislation coming forward.

Mr. DORGAN of North Dakota. Regular order.

Mr. WALKER. And I intend to bring that to the attention of the Members by utilizing the rules.

Mr. DORGAN of North Dakota. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The Chair is trying to be fair to the gentleman. Regular order has been demanded.

Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. FAWELL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ABERCROMBIE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I will not object, the problem here, Mr. Speaker, is that in the next few days there is going to be an attempt to take Republican Members off their feet——

Mr. DORGAN of North Dakota. Regular order.

Mr. WALKER. Who would like to offer amendments to the legislative appropriations bill. And it is being done by using the power of the majority.

Mr. DORGAN of North Dakota. Regular order, Mr. Speaker.

Mr. SOLOMON. You want regular order? I object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

The SPEAKER pro tempore. Without objection——

Mr. WALKER. I object.

The SPEAKER pro tempore. Does the gentleman from New York object? The Chair did not see the gentleman.

The gentleman from Kentucky [Mr. MAZZOLI] is recognized for 1 minute.

Mr. WALKER. I objected, Mr. Speaker.

The SPEAKER pro tempore. The Chair did not see the gentleman.

Mr. WALKER. I object, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania objects. Objection is heard.

OPEN UP THE BUDGET PROCESS

Mr. GOSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HAYES of Illinois. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I am happy to yield to the distinguished gentleman from Illinois.

SUPREME COURT RULING ON FREEDOM OF EXPRESSION

Mr. HAYES of Illinois. Mr. Speaker, I rise today because I feel I must speak out against the deplorable ruling made by our so-called Supreme Court yesterday. The Court ruled that cities and States cannot ban a form of speech or expression solely on its content. The court has, in effect, unanimously agreed to endorse terrorists acts under the first amendment. While I agree that individuals in a democracy such as ours have the right to voice their opinions, they do not have the right to express themselves in a manner which denies others their civil rights. The Supreme Court in all of its scholarly wisdom, has failed to realize that while it has a responsibility to uphold the liberties guaranteed by our Constitution, it is bound to respect the rights of minority groups in this Nation. To burn a cross in your own yard is freedom of expression, to burn it on your neighbors is a terrorist act. I disagree with Chief Justice Scalia, who wrote that there are other means to punish the offenders without adding the first amendment to the fire. This ruling sends a message to hatemongers across the country, that it is your birthright as an American citizen to terrorize those who because of race, ethinicity, or religion differ from you. Mr. Speaker, this is a dangerous message. The Supreme Court is carrying the true foundations of our Nation—truth, justice, and humanity—out on a stretcher. The Justices are pallbearers at a funeral for hope attended by many of the disenfranchised of this Nation. It is truly a dark day in Washington.

Mr. Speaker, I thank the gentleman and I yield back to the gentleman from Florida.

Mr. GOSS. I reclaim the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Florida has 35 seconds remaining.

OPEN UP THE BUDGET PROCESS

Mr. GOSS. Mr. Speaker, Congress has its hands on a lot of big spending proposals. But when it comes time to cut the waste, it seems too few of the Members in Congress are given any kind of real grip on the process at all. Billions of dollars—hundreds of billions—will be funneled through this body in the coming months, yet relatively few congressional leaders will be allowed to scrutinize and decide what goes into and what comes out of these spending bills. The rest of us—the great majority of the membership—are voiceless, literally cut off from meaningful debate, even unable in some cases to offer amendments to strip waste.

Mr. Speaker, there's a lot of talk about fundamental changes in the way Congress works. But one simple change would be to ensure that every spending bill be subject to waste-cutting amendments. Many Americans are saying this is no longer the people's house but the house of perks and pork. I suggest we reaffirm our commitment to better handle the people's money by having open rules for all appropriations bills.

A MORATORIUM ON THE BURNING OF HAZARDOUS WASTE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is a growing and a disquieting movement around the country to have hazardous waste burned as fuel in cement kilns. We have that same situation in Jefferson County, KY, where the Kosmos Co. proposes to do just that.

The people in the southwestern part of the county are people mostly of modest income, and they very much object to having their neighborhood become the dumping ground for hazardous waste, and I support that for that reason, along with the possible health hazards to humans, to animal life, and to plant life.

There is a bill, Mr. Speaker, H.R. 4413, which would impose a 2-year moratorium on the burning for energy purposes of hazardous waste in these existing boiler facilities.

□ 1240

Mr. Speaker, it would also require the EPA to make a study of the health hazards and the environmental degradation that might come from burning hazardous waste as fuel.

I urge my colleagues, in light of the need to preserve this planet, to get behind the bill, H.R. 4413.

AMENDMENTS TO APPROPRIATION BILLS NEEDED

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, there have been reports that the leadership of the House is moving in the direction of closed rules on appropriation bills that would prevent many Members from offering proposals to cut. For example, we have the foreign operations bill coming up this week.

Many of us who have supported foreign assistance believe the time has come for reform and some pruning. We want to be able to offer our amendments.

Just a couple of weeks ago the leadership defeated a balanced budget amendment, and the argument was made that instead of a constitutional amendment, we should just go ahead and make proposals to cut and vote on them.

It ill behooves the House, after turning down that constitutional amendment to require a balanced budget, to now say, "No, you cannot have the opportunity to vote on reductions in appropriations bills."

CONCERN ABOUT RECENT SUPREME COURT DECISIONS

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman states his reservation of the right to object.

Mr. WALKER. Reserving the right to object, I certainly do not intend to object to the gentleman unless we have some attempt here to keep me from making the point that I am attempting to make with regard to the processes of the House.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield for a minute?

Mr. WALKER. I certainly will yield to the gentleman under my reservation.

Mr. TRAFICANT. Yes. I would like the gentleman to explain his reservation so that we might know, and we can get on with the conduct of our business and the smooth transfer of affairs.

Mr. WALKER. I thank the gentleman. That is gracious of him.

The reason why I was attempting to quote from Jefferson's Manual earlier, the most fundamental processes of the House under Jefferson's Manual demand that we have an order of comity in the House that demands decency and makes certain that the majority does not use its power to deny Members their legitimate rights as Members of the House.

I believe that that is beginning to happen with regard to the appropriations process, and I believe the statement of the Speaker yesterday where he made it clear that not only on the legislative appropriations but perhaps on others they are going to take those rights away from Members of the House is an act of arrogance by the majority that is very, very disturbing to those of us who serve in the minority.

What I was doing here today was an attempt to remind Members that we all operate here under certain rules and processes that get in the way of the orderly process of the House if we apply them strictly. All I am attempting to do is make certain that we do not proceed, as the majority is evidently wanting to proceed, on the legislative appropriation bill in a way that would take away from Members their legitimate right to strike spending from the bill.

I think it is extremely important in the matter of appropriation bills that Members be allowed to strike spending from the bills and that that not be limited, and the fact that we are moving in a way that would tend to limit that I find very disturbing. Now, I will be happy to yield.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, would the gentleman agree that the majority party in the Congress has the right to organize the Congress, set policy, bring bills to the floor as the rules would be described, and are you saying that the Democrat Party, the majority, is in violation specifically of the minority's rights according to law? And would you cite the specific law?

Mr. WALKER. Yes. I would be happy to cite. And that is what I was citing when I was cut off earlier. I was citing from Jefferson's Manual.

Let me quote the last paragraph of what I was citing here which is in the very first section. It says, "And whether these forms," meaning the rules, "be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the Members. It is very material that order, decency, and regularity be preserved in a public body."

That is what I am concerned is happening here, that the majority is, in fact, moving away from that very fundamental point of Jefferson's rules.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. DORGAN of North Dakota. Mr. Speaker, I ask for regular order.

The SPEAKER pro tempore. Regular order is demanded.

Is there objection to the gentleman from Ohio [Mr. TRAFICANT] and his 1-minute?

There was no objection.

The SPEAKER pro tempore. There is no objection. The Chair recognizes the gentleman from Ohio for 1 minute.

Mr. TRAFICANT. Mr. Speaker, the Supreme Court says you can burn the flag, a Communist can work in a defense plant, an American could kidnap a foreign national in their own country, an individual can paint a swastika on their neighbor's barn, an individual can, in fact, burn a cross on their neighbor's yard.

I guess the Supreme Court also says that a private citizen can hire a detective and investigate the President of the United States. A private citizen can, in fact go further than that. They can investigate the family of the President. I guess if you want, a private citizen with enough money could hire enough detectives to, in fact, investigate the Supreme Court and all of their families, Members of Congress, the Senate, and all of our families.

I think there is only one good thing to all of this, Mr. Speaker. It could be the IRS, the FBI, and the CIA performing all of these investigations.

RESTRICTIVE RULES ON APPROPRIATION BILLS AN AFFRONT TO THE AMERICAN PEOPLE AND MEMBERS OF THE HOUSE

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, I rise today to express my great disappointment with the precedent that appears to be being set by the Appropriations Committee and the Rules Committee as we begin consideration of the fiscal year 1993 appropriations bills.

For the first time since I have come to Congress, the Rules Committee may restrict amendments to appropriation bills. This is absolutely untenable to me. I think this body ought to rise up and defeat any such restrictive rule in order to preserve our right as individual Members to participate in the appropriations process. Further, we must not let a restrictive rule precedent be established.

Two weeks ago we voted down the balanced budget amendment to the Constitution, promising the American people that we could bring Federal spending under control without a constitutional requirement to do so. Now—at a time when open rules are more important than ever to allow Members the opportunity to propose the tough cuts and reductions which are necessary to make good on the promises we made—the Rules Committee may actually, for the first time, limit the number of amendments that may be offered on spending bills.

Now, I understand the supposed rationale for this action. Many of the requested amendments may be similar and permitting votes on all of them would mean extremely lengthy debate. This is true. But I submit to my colleague and you, Mr. Speaker, that having long debates and making tough choices on how to spend limited resources is exactly what we were sent here to do.

Long debates over how we are spending the taxpayers' money is much more preferable than limited debate on a short list of amendments, which were deemed acceptable to bring to the floor by the majority leadership. One of the reasons we are in the current budget crisis is because we have not seriously weighed and prioritized the various spending items we appropriate for, and I think it is much more responsible to err on the side of too much consideration than too little.

In sum, Mr. Speaker, I think it essential for the Rules Committee to provide open rules for debate on the fiscal year 1993 appropriations bills in order to facilitate, rather than restrict, the opportunity for making the tough spending decisions we promised the American people we were finally willing to make. If open rules are not provided, the Members of this body must reject such rules in order to preserve our right to free and open debate. Failure to reject restrictive rules would signal to the American people that once again we lack the political will be accept the responsibility they have conferred upon us. We will not be able to blame next year's deficit on the Rules Committee. It will rest squarely on those who did not vote to overturn restrictive rules.

Mr. Speaker, we must not let a restrictive rule precedent be set insofar as amendments to appropriations bills are concerned. Such action would be an affront to individual Members of this body as well as an affront to the American people.

THE VISION AND LEADERSHIP OF FEDERAL EXPRESS BY DEMONSTRATING CLEAN ALTERNATIVE FUELS IN LOS ANGELES

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do not intend to object, but I will simply tell the gentleman that under the regular procedures of the House, his ability to speak to the House is at the behest of the whole membership, and if we are going to observe regularity in the rules here, then it is incumbent upon the majority to observe regularity in all the rules and not just in this particular instance, and with that, I would certainly be happy to withdraw my reservation.

The SPEAKER pro tempore. Without objection——

Mr. ALEXANDER. Mr. Speaker——

The SPEAKER pro tempore. The gentleman has to ask the House to address the House for 1 minute.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent, again, to address the House for 1 minute and to revise and extend my remarks and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arkansas [Mr. ALEXANDER] is recognized for 1 minute.

Mr. ALEXANDER. Mr. Speaker, last week over 100 nations convening at the Rio summit on the life-threatening issue of global warming called on every nation to analyze the effects of the life cycle of each form of transportation fuel.

Yesterday in Los Angeles, the United States launched the south coast air quality management district alternative fuel demonstration project that will test at least five competing clean alternative motor fuels for economy, efficiency, and emissions.

Thereupon, the Nation begins the process that will result in cleaner air for people and plants living on the Earth's surface; lessen global warming in the atmosphere by reducing greenhouse gases from auto emissions; and, keep dollars at home by reducing U.S. dependence on foreign oil. A one-third reduction of foreign oil imports over 10 years should save our economy about one trillion dollars in foreign energy costs. Imagine what this would do to revitalize our economy.

CLEANFLEET LAUNCH BREAKFAST PROGRAM, SHERATON UNIVERSAL HOTEL, MONDAY, JUNE 22, 1992

Welcoming Remarks: Chairman Henry Wedaa, South Coast Air Quality Management District.

Project Overview: Dr. George M. Sverdrup, Battelle Memorial Institute.

Acknowledgements and Introduction of Speakers: Honorable Norton Younglove, South Coast Air Quality Management District.

Speakers: Ms. Martha Dixon, U.S. Department of Energy; Ms. Katy Gold, U.S. Environmental Protection Agency; Mr. John Doyle, California Air Resources Board; Mr. Terry deJonckheere, Ford Motor Co.; Mr. Tony Prince, Chevrolet Motor Division, General Motors; Mr. Warren Tiahart, Dodge Division, Chrysler Corp.; Mr. Ray Lewis, American Methanol Institute; Mr. Fred John, Southern California Gas Co.; Mr. Ivan Jacques, LP Gas Clean Fuels Coalition; Mr. Robert Trunek, ARCO Products Co.; Mr. Mike Holmes, Chevron USA Products Co.; Ms. Diane Wittenberg, Southern California Edison.

CleanFleet Video Presentation.

Fleet Operations: Mr. David E. Becker, Federal Express.

U.S. Alternative Fuels Policy: The Honorable Bill Alexander, U.S. House of Representatives.

Closing Remarks: Chairman Henry Wedaa.

Adjourn to news conference outside in the ballroom circle.

Federal Express has volunteered its fleet of delivery vehicles to demonstrate clean fuel options while operating its trucks under real-life conditions.

Mr. Speaker, every American should thank Federal Express for its vision and leadership for testing modern technology that complements the environment while vigorously competing in the global marketplace.

DENTIST OVERREGULATION

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I want to highlight another unreasonable Federal regulation.

OSHA recently published regulations to protect health care workers from disease. But these regulations ignore what should be obvious to everyone; a clinic is different from a hospital is different from a dental office.

Yet, OSHA prescribed similar procedures for all health care operations.

Never mind that dentists already follow guidelines issued by another Government agency—the Centers for Disease Control. OSHA developed a new standard for hospitals and then simply applied it to dentists.

An example of the ridiculous results: Under the existing CDC guidelines, dentists wash their gowns at home. But the new OSHA regulation requires a dentist to install a commercial laundry in his office. At the end of the day, the dentist must deposit the gown he or she has been wearing in a hamper, then put on a new gown to carry the first gown to the washing machine.

While these regulations make sense for an inner city hospital with hundreds of workers, this is the type of unwarranted imposition on dentists that these new OSHA regulations prescribe.

Mr. Speaker, we need to inject some sense into our regulatory process. We can start by reigning in OSHA.

□ 1250

CONCURRENT RESOLUTION ON NUCLEAR WEAPONS DEACTIVATION

Mr. DICKS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Reserving the right to object, Mr. Speaker, just as a Member of the majority, as the gentleman is, would be disturbed if some Member of the minority was attempting to take him off his feet when he attempted to speak, we in the minority are also concerned when the majority using their power to try to take Members of the House and the minority off their feet.

We are particularly disturbed that the Speaker yesterday endorsed such efforts in a statement that he made and reported by the Congress Daily where he indicated that he was willing to take Members off their feet with regard to the legislative appropriations process.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield for a question?

Mr. WALKER. Yes, I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, if I am not mistaken, the gentleman supported the balanced budget amendment rule, is that correct, the rule which allowed us to bring up the balanced budget amendment?

Mr. WALKER. Yes, I did.

Mr. SMITH of Florida. And the gentleman is aware that rule provided that two-thirds of the time would be provided the Republican side and that of the four amendments, three were Republican amendments; is that correct?

Mr. WALKER. Well, as I recall that rule, it was brought by the gentleman from Texas [Mr. STENHOLM] who is a Democrat, so it was brought to the floor by Democrats, not by Republicans.

I am not certain exactly what the point of the gentleman is, but the fact is that no one was restricted for speaking.

When the gentleman's party, and he supported this some years ago, came to the floor with the constitutional amendment on equal rights, they did it under a Suspension Calendar which did not even give any right for any amendment.

I remember the gentleman well voting for that particular bill under a Suspension Calendar, so I am not certain what the gentleman's point is.

The gentleman has consistently been one of those who has been willing to help muzzle the minority in every way possible and use the processes of the House in as political way as possible.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. Yes, I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I appreciate the nonanswer, and I will pose my question again.

The gentleman supported the rule, which he answered yes. Is the gentleman aware that the rule which he just admitted was brought to the floor by the Democrats, gave two-thirds of the time to their Republicans and gave three of the four amendments to the Republican side, and it was brought by Democrats, just as the gentleman accused the equal rights amendments as being brought by Democrats, is the gentleman upset with that rule? Did the gentleman rail at that rule? Did the gentleman take to the floor and attempt to impede the proceedings of the House through the use of the rules, admittedly, on that rule?

If the answer is no, he did not, then why did he not?

Is it so important to the gentleman that only the things the gentleman objects to be objected to on the floor, but the things which everybody else accepts not be objected to?

Is the gentleman the only Member in this Chamber, are there not Members on his side sitting and waiting to do their 1-minute speeches who are getting them because the Democrats are not objecting?

The gentleman is making a mockery of the rules of the House and the gentleman is attempting to blame it on us.

Mr. WALKER. No, I am not making a mockery of this House.

Reclaiming my time under my reservation, I would say to the gentleman that the mockery is being made by a majority caucus that has determined that they will use their power in however irresponsible a way they want to in order to muzzle the minority.

I simply took time today to quote from Jefferson's Manual to the gentleman.

The gentleman will remember with regard to the rule on the balanced budget amendment, the reason why we had to do it that way was because the Democratic leadership would not permit a bill to the floor, did not permit the Rules Committee to bring a bill to the floor, so it came under a process where a majority of Members had to sign a discharge petition. A majority of the Members of the House, both Democrats and Republicans, approved that process.

Having done that, of course I supported the rule, because I supported the idea of a balanced budget amendment.

I am sorry the gentleman could not join us in that, because I think it is extremely important.

But having heard all the speeches on the balanced budget about all the courage that we need in the House of Representatives in order to take the appropriate steps to get to a balanced budget amendment, I am somehow puzzled then when Members want to strike spending from the bill, why we have to go to the Rules Committee to get a rule which prevents them from striking such spending. That is exactly what the Democratic leadership is about right now.

I find that to be an abomination. I regard it as a total abdication from the rules process, and there is absolutely no way that we should permit that kind of a process to continue.

Mr. SMITH of Florida. Mr. Speaker, regular order.

Mr. WALKER. Oh, I understand. The gentleman does not want to hear the explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The gentleman from Washington [Mr. DICKS] is recognized for 1 minute.

Mr. DICKS. Mr. Speaker, the agreements reached with the Russian Federation during President Yeltsin's visit, with respect to dramatic reductions in the strategic nuclear arsenals clearly demonstrate a fundamental shift from a balance of terror to a mutual reversal of the nuclear arms race.

In particular, I welcome President Yeltsin's announcement that Russia will begin immediately removing the most dangerous SS-18 missiles from alert status. I am convinced that a parallel United States action with respect to our land-based ballistic missile force would be an appropriate response that would help assure support within Russia for the Yeltsin initiative. This could involve removing from alert our intercontinental ballistic missile with the greatest number warheads, the MX Peacekeeper.

In addition, I believe it is appropriate to move forward concurrently with actual dismantling of these highly MIRVed ICBM's as early as technically feasible. Recognizing differences between our nuclear force structures, accelerated concurrent actions to reduce the number of warheads deployed on SLBM's could also be appropriate.

For this reason, I will introduce a concurrent resolution urging the President to respond to President Yeltsin's initiative to deactivate SS-18 missiles by taking parallel actions with United States strategic forces, and to work with the Russian Federation to proceed with the destruction of highly MIRVed land-based missiles as a first priority.

Our Nation has a historic opportunity to promote nuclear disarmament with the new Russian Federation. In order to take advantage of this opportunity both sides must show leadership and innovation. The Yeltsin announcement is a very positive first step, and this resolution will put the Congress firmly on record in support of further steps to keep us headed down the path toward dramatic and stabilizing reductions in nuclear arsenals.

Mr. Speaker, if I just might say to the gentleman, we normally have open rules on appropriation bills. It is only when there is a concerted effort I think to undermine an important bill that is crucial to the legislative process by the minority that we have a situation where we do not have an open rule.

THE LEGISLATIVE PROCESS

(Mr. KYL asked and was given permission to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I think the gentleman from Pennsylvania and others here have made a very important point this morning, raising the concern of the possibility of modified closed rules on various appropriation bills.

This is not just a matter of minority rights. This is a matter of protection of the taxpayers' rights.

What is it that would be so pernicious about a possible amendment on an appropriation bill?

Well, to cut the bill even more, to save taxpayer dollars. How horrible. What a horrible prospect to contemplate that Members of the minority might actually have the right to offer amendments that will cut appropriation bills below the suggestion offered by the majority. That I think is something that we do need to be concerned about, if the minority has not offered that on behalf of the taxpayers.

I remember when the chairman of the Committee on Foreign Affairs suggested an amendment I had last year was important only to me, but a week later when the amendment passed overwhelmingly in this body, I thought, well, I was glad that I had the right to offer it. It imposed conditions on Soviet aid at the time there still was a Soviet Union under the control of the Communists, and it is a good thing I had the right to offer that amendment, even though the chairman of that important committee said that it was only important to me and not to the other Members of the body.

We get on a slippery slope, Mr. Speaker, when we decide to chose between those amendments that the Rules Committee says are serious legislative proposals on the one hand, or purely political on the other hand. As a result, I think it is important for us not to restrict these important rules.

A NATIONAL ECONOMIC STRATEGY FOR AMERICA—PUTTING PEOPLE FIRST

Ms. PELOSI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do not intend to object, but the gentleman from Florida cut me off a moment ago before he got the answer to his question.

The fact is that under the balanced budget amendment rule that was brought to the floor, we had 9 hours of general debate time, only 3 of which were allocated to the Republican Member, pursuant to the request of the gentleman from Missouri [Mr. GEPHARDT].

The rule also made in order two Republican substitutes and two Democratic substitutes; so the idea that somehow the majority was treated unfairly in the balanced budget amendment is just pure nonsense and is concocted by people who obviously have not followed the process very closely.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield under his reservation of objection?

Mr. WALKER. Yes, I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I am just curious to know, the gentleman talks about responsibility and arrogance, the sort of things the gentleman has been talking about in the same spot in this well for 10 years.

I would be curious to know whether the gentleman signed the letter by well over 100 Members on his side of the aisle pledging to sustain a veto of a bill that had not yet been written, an appropriations bill. Was the gentleman a signatory to that?

Mr. WALKER. I absolutely was.

Mr. DORGAN of North Dakota. The gentleman was?

Mr. WALKER. And I will tell the gentleman the reason why. It is because I believe the House has become a place where Jefferson's rules are not being followed, that we no longer have order, decency, and regularity, and so therefore a veto of an appropriations bill if the President determines it is in our best interests would be entirely appropriate to do.

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And, therefore, if the President decided to do that, I was willing to sustain it.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Speaker, I guess arrogance is in the eye of the beholder, and I do not intend to use the term here. I must say, I must say that those who sign letters saying, "We intend to uphold the President's veto," on legislation that has not even been written, seems to me are not acting in a very constructive way to further the business of the House.

So, when the gentleman talks about playing a constructive role and helping this place move ahead and then you are involved with a bunch of people saying, "We want to throw off the track a process on a bill that has not even been written," I wonder how constructive that is. How does one justify that sort of effort?

Mr. WALKER. The gentleman, of course, confuses the process here. The fact is the President would certainly have the option of whether or not to veto the bill once he saw the details of it. All we were attempting to do was to make the President aware that he might have some support if this bill turned out to be a bad bill.

And I would say to the gentleman that those who signed it probably signed it as a protest against what we regard as violations of order, decency, and regularity. And what I am hearing from the membership today is that they are entirely comfortable with the throwing out of order, decency, and regularity in the House of Representatives. So if they wonder why the minority becomes disturbed at that moment, then I guess maybe they have just become a little too arrogant in their position in the House.

I would be happy to yield to the gentleman.

Mr. DORGAN of North Dakota. I notice that the gentleman used the word "arrogant" two or three more times in the last sentence. But in terms of order, decency, and regularity, how fair is it to Members on your side of the aisle who serve on that committee, to be running around suggesting you are going to pledge to uphold the President's veto on a bill that has not yet been written? I am just asking a question, whether you are playing a constructive role with respect to the workings of this House of Representatives? That, it seems to me, is not very constructive.

Mr. WALKER. My guess is the members on that committee who are outnumbered, of course, by your rules, probably got a little bit of negotiating strength from that because they could assure them that if they did not conform with some of the things that we wanted done, they might face a veto on the bill. They may have actually gotten a little bit of negotiating strength out of that. And, of course, that is a terrible thing. We do not want to have the minority have any power in its control because otherwise the Democrats will not be able to spend all the money they want to spend. It is a terrible thing.

Mr. ARMEY. Mr. Speaker, will the gentleman yield under his reservation?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, I have been listening to this debate, and to get back to the whole question of your right to object or reserve the right to object under the rules of the House and what are the rules of the House, I would like to make a few points.

The gentleman from Pennsylvania [Mr. WALKER] has made frequent reference to Jefferson's rules. Certainly, one thing we ought to clarify here, especially in light of the statement made by the Member from Florida [Mr. SMITH] that you may be making a mockery of the rules, the rules that govern this body are not Jefferson's rules. We should remind ourselves and remind the American people that, as we convene every new conference, the Democrat caucus writes their proposed rules and the Republican caucus writes their proposed rules. Both sets are taken to the floor, and with the majority, the Democrats vote their rules. So if a mockery or criticism is being made of the rules of the House, it is not mockery of the work of the great genius of Thomas Jefferson but the rules of the current Democratic caucus of the House, which endows itself not only with its own rules but with the authority to enforce its rules and, indeed, the authority to waive its rules, which is generally done in the interest of Democrat participants.

Going back to the question of the gentleman's concern about this particular rule, the committee structure, of course, is an efficient and effective way to organize the work of the body. But we should rise above the belief that Members not on a committee should be disallowed from participating in the process of legislating the final work product. This is what we do with an open rule. The committee brings the bill to the floor with its recommendations to the body, and in an open body that encourages full participation by all Members with an open rule, each and every separate Member of the body would have a chance to have their input into the legislative process.

I like to remind people I was not, for example, elected to a committee; I was elected to Congress. I ought to have a fair right to participate in the chapter-and-verse construction of every bill that is passed by this Congress. I should not be frozen out of that process by a rule that says, "If you are on the committee"—or, favored by the Rules Committee—"you then can participate. If you happen not to be, you then cannot." I think the gentleman's points are well taken.

Mr. APPLEGATE. Mr. Speaker, regular order.

The SPEAKER pro tempore (Mr. MONTGOMERY). Regular order is demanded.

Mr. WALKER. Mr. Speaker, the gentleman demanding regular order was not on his feet and, therefore, is not——

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I might say, I would like to point out there are some personal rules some people in this Chamber have and at least in some instances those rules deal with obstruction and grandstanding. I find that lamentable. I have watched for 10 years all this sort of thing going on.

I would like us to get together and decide what is the business of the House and get it done instead of the kind of obstructionism we have seen over the years.

Mr. WALKER. Well, I thank the gentleman for his point of view, and it is one that he often expresses because he too is one who only is concerned about what the Democrats want to do when the Democrats want to do it. There is not an ounce of bipartisanship in his soul, and so therefore what we have is a situation where the minority is always run over by the rules that the gentleman has helped put in place.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. PELOSI. Mr. Speaker, I know the gentleman from Pennsylvania would rather talk about process, but I ask unanimous consent to speak for 1 minute about jobs for the American people instead.

I am here to talk, Mr. Speaker, about a proposal that was presented yesterday by Governor Clinton, a national economic strategy for America, entitled "Putting People First."

It calls for putting America back to work by rebuilding our own infrastructure and for defense conversion. Who can object to that?

It calls for rewarding work by promoting tax fairness. Who can object to that?

It advocates lifetime learning, from early childhood to retraining workers. Who can object to that?

It also, Mr. Speaker, provides quality affordable health care for all Americans. Again, Mr. Speaker, who can object to that?

Also, investing in communities by encouraging private investment in America and opening up world markets, these are all part of the innovative proposal presented by Governor Clinton for America.

I think the American people want a debate in this House to focus on those kinds of proposals for their jobs rather than process, process, process, as preferred by the gentleman from Pennsylvania [Mr. WALKER].

THE COUNCIL ON COMPETITIVENESS: THE PROOF IS IN THE PUDDING

(Mr. HANCOCK asked and was given permission to address the House for 1 minute.)

Mr. HANCOCK. Mr. Speaker, the proof is in the pudding. The Council on Competitiveness has taken an active role in trying to untangle the excessive redtape that ties up and in many cases strangles economic growth in this country.

Through programs such as the President's 90-day moratorium, accelerating approval of new drugs, and civil justice reform, the Council has development a series of reforms of the current draconian system that hinders business investment.

In the area of civil litigation alone, it is estimated that our current system costs Americans $300 billion a year.

Mr. Speaker, some in Congress have charged that the Council works in secret and wins through interference with regulations what it did not achieve in Congress.

These allegations are simply false. The Council is a Cabinet-level body. By law, the public has a full and complete opportunity to review proposed regulatory actions and to comment.

Furthermore, the administration has always announced the decisions reached by the Council.

To my colleagues who wish to discredit the Council I say: One of the reasons the Council exists is to prevent special interests from using the regulatory process to overreach and reverse legislative intent.

I think we all would like to believe that the United States could be as competitive as anyone in the world market. However, if some of my colleagues are able to defund the Council on Competitiveness, we may all have to learn to eat sushi and watch bad horror films.

WHOM DO YOU TRUST WHEN IT COMES TO GOOD SCIENCE?

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I do not intend to object unless, of course, I am cut off under my reservation.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. DURBIN. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] was on his feet and demanded regular order.

Is there objection to the request of the gentlewoman from Colorado?

Mr. WALKER. I object.

The SPEAKER pro tempore. Objection is heard.

The gentlewoman will have to try again.

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

Mr. WALKER. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. WALKER. I reserve the right to object simply to point out that the gentlewoman who spoke before, the gentlewoman from California, that indeed we are concerned about process here because the process becomes important.

In this case, the particular process that we are objecting to is a process whereby the Democrats are attempting to limit amendments coming to the floor that would strike at the heart of the perks and privileges of the House of Representatives. The fact is that the American people are disgusted with what they see going on here and the level of perks and privileges that the institution has bound itself to.

There was going to be an attempt to strike some of those. The Democrats are now in the Rules Committee even though the appropriation bill does not need a rule, in order to strike some of those rights from the Members of the House.

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So, Mr. Speaker, that is the concern. The concern is not over the process. It is simply the concern that the process is leading to something which is beyond the pale in the House of Representatives.

With that, Mr. Speaker, I will certainly withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER] for 1 minute.

Mrs. SCHROEDER. Mr. Speaker, today President Bush vetoed H.R. 2507, the National Institutes of Health Reauthorization Act. The President opposed this bill because he believes that Congress has no place asking NIH to increase women's health research. Only scientists, he argues, can determine the national research agenda.

Over the past few weeks, we have heard from hundreds of scientists who know that this bill is good science. Many of these scientists were in town last week for the NIH-sponsored Conference on Women in Bio-Medical Research. More than 60 women researchers, practitioners, and lecturers sent President Bush a letter saying that we need this bill.

We need this bill, the letter says, because it increases research for breast, cervical, and ovarian cancer, osteoporosis, contraceptives, and infertility. We need this bill because it establishes the Office for Research on Women's Health on a permanent basis. Finally, we need this bill because it ensures that women and minorities will be included in clinical trials.

So I ask you, when it comes to good science, do you trust scientists in the field, or politicians in the White House? I know who I trust.

TAXES ON THE WEALTHY WON'T PROVIDE PROMISED RETURNS

Mr. STEARNS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. DURBIN. Reserving the right to object, Mr. Speaker, I thought the gentleman from Pennsylvania [Mr. WALKER] had the right to speak whenever a Member comes to the well. I ask, "Isn't he going to get a chance to speak this time?"

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] has reserved the right to object and advises the gentleman that he is the gentleman who has the right to speak now.

Mr. DURBIN. Mr. Speaker, I am just inquiring of the Chair if the procedure of the House is that the gentleman from Pennsylvania [Mr. WALKER] gets to speak whenever anyone else takes the well.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I say to the gentleman, "This gentleman is making the point that the majority party is attempting to take minority Members off their feet by the rules process that they are engaged in. This gentleman was attempting to take majority Members off their feet, or I was at least implying that it could be done by the minority, if that, in fact, is going to become the regular order of the House."

So, Mr. Speaker, therefore I am not interfering with Members. They are the ones that are at fault.

Mr. DURBIN. Mr. Speaker, reclaiming my time, I just want to make sure that the gentleman from Pennsylvania [Mr. WALKER] gets a chance to make a speech whenever any other Member comes to the well. I think that is his right.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I certainly thank the gentleman from Illinois [Mr. DURBIN].

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I should inform the gentleman from Illinois [Mr. DURBIN], because he has not been on the floor this entire time, that the gentleman from Pennsylvania [Mr. WALKER] has sought only to intercede when Democrat Members came to the well.

Mr. DURBIN. Mr. Speaker, Oh, I am sorry. I did not realize this was partisan. I thought it was balanced.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER, The Chair recognizes the gentleman from Florida [Mr. STEARNS] for 1 minute.

Mr. STEARNS. Mr. Speaker, last weekend, Democratic Gov. Bill Clinton offered his budget proposal for America.

This proposal calls for a tax increase on the wealthy to help reduce the deficit. Unfortunately, there aren't enough wealthy Americans to make much of a dent in our budget.

A study by the nonpartisan Tax Foundation shows if we doubled taxes on people earning a million dollars a year or more we would collect an additional $39.5 billion. That would be enough money to run the Federal Government for almost 13 days.

If we double the taxes on families that earn $200,000 or more, we would raise $103 billion. That would be enough to run the Federal Government for only 33 days.

And if we doubled taxes on families earning $100,000 or more, we would raise $160 billion—that's not enough to run the Federal Government for 2 months.

The fact of the matter is the Federal Government is far too big and spends far too much. Congress needs to make some serious spending cuts. And Congress needs to create more revenues by allowing businesses to succeed with less regulations and more incentives.

We cannot increase the taxes on the middle class. They are already taxed too much.

THE NATION MUST MOVE FORWARD IN FIGHTING HATE CRIMES

Mrs. LOWEY of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I do not intend to object; simply I will point out to the gentleman from Illinois [Mr. DURBIN] who spoke earlier about partisanship that the Speaker yesterday made a statement saying that they were going to limit the amendments based upon whether they were political rather than serious legislative proposals. The fact is that where they are going to make that judgment is in a committee that the Democrats have stacked 9 to 4 partisanly in their favor. One has to guess, therefore, that an amendment like the one we had the other night that was aimed at the Secretary of Energy would be regarded as a serious legislative proposal versus one that Republicans might offer on the floor to strike money out of, let us say, some legislation of service organization that helps Democrats and would be regarded as purely political.

That is what we have a little bit of concern about, and so this is a political process. This gentleman from Pennsylvania was simply attempting to show Members of the majority that under the rules of the House we can, in fact, take them off their feet if they decide to take us off our feet, and it seems as though the process is moving toward a time when Republicans will have absolutely no rights left in the House of Representatives.

With that, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from New York [Mrs. LOWEY] for 1 minute.

Mrs. LOWEY of New York. Mr. Speaker, no one should read yesterday's Supreme Court ruling striking down one particular form of antibias law as a sign that we will not fight back against the rising tide of hate crimes which are threatening the very fabric of our society.

Make no mistake about it. Yesterday's decision dealt with a very specific type of antibias law, and it continues to allow important legislation to curb the surge of hate-based crimes which jeopardizes public safety. We, in the Congress, and lawmakers at the State and local levels, should continue to act forcefully, within the confines of the Constitution, to fight back against the hatred that is taking a serious toll in our Nation.

We must lead this Nation. We must bring the people of this diverse Nation together to build a better future. It can only happen if we stand up against hatred. Yesterday's decision should not stop us from doing so.

EQUAL ATHLETIC OPPORTUNITY—THE 20TH ANNIVERSARY OF TITLE IX, EDUCATION AMENDMENTS OF 1972

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today to commemorate the 20th anniversary of the enactment of title IX of the Education Amendments of 1972. Title IX prohibits sex discrimination in educational institutions that receive Federal funds. In brief, title IX states:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

Opportunities for females in high school and college sports multiplied significantly during the years after title IX was passed. In 1971, there were roughly 294,000 young women participating in high school sports. By the 1972-83 school year, just after passage of title IX, that number had more than doubled, to over 800,000. And by the 1990-91 school year, approximately 1.9 million female athletes participated in high school sports.

Similar gains occurred in intercollegiate sports, where athletic scholarships for women were almost nonexistent before the passage of title IX. Now, there are over 10,000 scholarships available for women athletes.

To be sure, since the enactment of title IX, women have made substantial progress. But, given the virtual exclusion of women from athletic opportunities prior to 1972, almost any improvement would be substantial.

Two decades after the creation of title IX, we know that while things have improved, women are still not receiving equal treatment in athletics. The recent release of the NCAA gender-equity survey provides hard data to substantiate what anecdotally we have heard for many years—despite title IX, at the intercollegiate level, women still do not receive equal participation opportunities, scholarship opportunities, and operating support for their athletic programs.

On this special anniversary, our colleges and high schools should renew their commitment to title IX and our Government should increase its enforcement of title IX so that full equal athletic opportunity can be realized.

LOCAL COMMUNITIES AND STATES NEED CONTROL OVER TOXIC WASTE TRAVELING THEIR HIGHWAYS AND BYWAYS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, today the Resource Conservation and Recovery Act, otherwise known as RCRA, is being considered in the Committee on Energy and Commerce for a markup. One very important provision in that is that they will give States or local communities the right to be able to control the inflow of solid waste.

Now the Constitution prohibits States from controlling this because of the interstate commerce clause. But I think what they are doing is shortsighted because they should be adding hazardous and toxic waste, and I think that people in this country would be frightened to death if they knew what was going through their communities.

Mr. Speaker, there are 500,000 shipments each and every day of hazardous and toxic waste traveling the highways and byways, and it is dangerous to the communities, and local communities have a right to know, and they have a right to determine if they want it in their communities.

Mr. Speaker, I hope the Committee on Rules will allow an amendment to be offered up to be able to add this prohibit to it, or at least for allowing the States to be able to control it, and I ask my colleagues for their help by saying, "American communities need your help."

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THE URBAN ENTREPRENEURIAL ACT

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, today I am introducing the Urban Entrepreneurial Act. It is a bill that I believe has the potential to dramatically augment enterprise zones. I share this introduction with 52 original sponsors.

Mr. Speaker, the Urban Entrepreneurial Act would encourage Fortune 500 type companies to participate in the rebuilding of our cities. The bill will allow large companies to contribute to the success of enterprise zones without having a facility and an enterprise zone area. The UEO act will allow large companies to establish a wholly owned subsidiary which will invest capital and offer administrative assistance to qualified aspiring entrepreneurs located in an urban enterprise zone or entrepreneurs willing to locate a business in an urban enterprise zone.

Large companies benefit from this program in three ways: First, the money given to the subsidiary is treated as a regular business expense for tax purposes; second, any interest received on investments made in small businesses may be used by the large company; and, third, the large company may use employees of the entrepreneurial business to be in compliance with Federal laws.

SUPREME COURT IGNORING RIGHTS OF CITIZENS

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute.)

Mrs. COLLINS of Illinois. Mr. Speaker, I was surprised when I saw on my television last night the Supreme Court ruling on hate crimes. In 1863, this country emancipated the slaves, and shortly thereafter hate crimes against them grew at unprecedented numbers. Poll taxes were imposed to keep them from voting, schools were segregated so they could not get an education, employment opportunities were denied them, and every thread of the democratic fabric was denied to them.

It was not until the year 1954 when the Board of Education versus Topeka decision was rendered by the Supreme Court—that separate is not equal—that their right to have equal educational opportunities were given back to them. Later, we had the civil rights laws in the 1960's and the fair housing laws and others to bring about a modicum of freedom and fairness and honesty and democracy to African-Americans.

During the past 12 years, however, it seems to me that the Supreme Court itself, the highest court in this Nation, has ruled to overturn these very laws and the good that this country has had as a result of those decisions in 1954 and the 1960's.

I think it is a national shame that the highest court in this land has ignored the rights of these citizens to live in happiness, to have life, liberty, and the pursuit of happiness, and has rendered its latest decision sanctioning hate crimes under the guise of protecting the first amendment.

SUSPEND MOST FAVORED NATION FROM SERBIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, in what was formerly known as Yugoslavia, a war has been going on for almost a year; 20 or 30 people are killed every day. I believe more people have been killed in Yugoslavia, Croatia, Bosnia, and Hercegovina than in Kuwait.

Mr. Speaker, I would ask the Congress to take action. I have a resolution that would suspend most favored nation from Serbia. But I would also ask the administration to do something and not allow innocent men, women, and children to be killed. It should be done on a multicountry basis, but for a slaughter to be taking place whereby they go in and find Croatians and shoot them, find Muslims and shoot them, find Serbians and shoot them, it is absolutely crazy.

Mr. Speaker, I hope the Congress will pass my resolution to withdraw the most-favored-nation status, and I urge the President and Secretary of State to take some action to put together an effort involving Europe to stop what is going on in that country.

AN AMENDMENT TO H.R. 5427 TO REDUCE LEGISLATIVE BRANCH OVERHEAD BY 10 PERCENT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I expect to offer an amendment tomorrow to cut 10 percent out of legislative overhead costs such as travel, supplies, and other materials.

These are commonsense cuts.

The Legislative Appropriations Subcommittee has cut Members' official expenses and franking accounts by 19 percent.

My amendment would require the rest of the legislative branch to do what the Legislative Appropriations Subcommittee already has asked the House to do.

We can save millions of dollars by cutting overhead without touching one Federal program or a single Federal job.

The House should demonstrate that it has the will to act to reduce its costs, and set an example for others.

INTRODUCTION OF MARINE NAVIGATION TECHNOLOGY AND RESEARCH ACT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, Congressman ROBERT TORRICELLI of New Jersey and I today are introducing the Maritime Navigation Technology and Research Act.

The global positioning satellite system [GPS] is a navigation system designed for military use. It can now be put to civilian use to, among other things, make vessel traffic safer, and to prevent accidents. Mr. TORRICELLI's and my bill mandates larger ships be equipped with GPS receivers, with their pinpoint accuracy—leading to the establishment of a vessel traffic control system similar to air traffic control systems.

Last Friday, President Bush, in a speech given in Orange County, stressed the value of using the technologies developed for the cold war in order to win the world economic competition in the years ahead.

The Torricelli-Rohrabacher bill will help America protect the environment, save tax dollars, and make our waterways and ports safer and more efficient.

I ask my colleagues to join Chairman GEORGE BROWN, ranking Republican BOB WALKER, Chairman VALENTINE, and ranking Republican TOM LEWIS in supporting this forward looking endeavor.

SLAUGHTER AROUND SARAJEVO MUST STOP

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I hope that it is not that this is a political election year that we are doing little to end the slaughter in the state of Bosnia-Hercegovina, a former province of what used to be Yugoslavia. I have talked extensively to Members on both sides of the aisle, of every political shading and ideology, and the administration should know very clearly that there is not a soul here in this body who would take a cheap political shot at our State Department, our Defense Department, or at our Commander in Chief, the President of the United States, if he decides to surgically apply lethal force to take out these insane gunners in the hills around Sarajevo that are slaughtering women and children in the city and are now deliberately enforcing an evil plan to starve to death 300,000 people. Hardly any of the people left in Sarajevo are bearing arms. The young male fighters are all on the outskirts defending the city or are trying to climb those hills to take out the mad dog gunners.

Mr. Speaker, there must be something this Congress can do to encourage the President to rescue this dying city. Last week an extremely articulate lady from the Carnegie Institute of Peace argued before the Senate Foreign Relations Committee that it is time to use lethal action. Mr. Speaker, we have a consensus if not almost unanimity across this country to take aggressive action of some kind.

Please, Mr. Speaker, please chart a course for this legislative body to follow to encourage the President to do whatever it takes to end this World War II style, ghastly, ugly, evil nightmarish slaughter of old men, women, and children in Bosnia-Hercegovina. And of course, the killing of the young, the young must always die in great numbers before civilization works its will.

STANDING UP FOR THE RIGHTS OF THE MINORITY PARTY

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have not been present on the floor for all of the machinations that have gone on, but I want to take this time to applaud the gentleman from Pennsylvania [Mr. WALKER] for standing up for the rights of the minority around here and making a very good point.

I remember my long service on the Committee on Appropriations and my affection for all those that serve on it. I remember the old days when, with pride, we used to bring a bill before this floor, no matter what, all 13 of them, under an open rule, all of us who served on the committee feeling that we knew our subject well enough that we could stand up against all our peers and make our case. If it failed, well, it failed. That was the House working its will. Admittedly, I have had my little to-do from time to time on the legislative appropriations bill.

I remember at one time elevator operators were one of those things we were rankled with, because we said we did not really need them. You remember our late friend Mr. Conte, and he had a thing about too many policemen falling over themselves from time to time around here.

But you can keep that, quite frankly, to a minimum. My view is that you all know my respect for this institution, and I, from my point of view, would not like to see it get out of hand when we come to tending to our own business.

It can be a field day. But I think there has been an overreaction on the majority's side. I just checked and found out there were 30 requests for amendments. About 15 of them maybe were of some area of legitimacy with respect to reducing spending.

Do you mean to tell me we cannot stand up here for what is right for 15 paltry amendments to a legislative appropriations bill?

□ 1330

I submit we could. And I would be in the forefront of doing just that when I thought our position was good and sound.

We could have been over that in 3 hours, in an afternoon. It would not have had to drag on. There is just no reason to overreact when someone says, "Hey, we ought to have an amendment or two, or three, or four."

Then, quite frankly, if they are unreasonable and irresponsible, some of us will have to simply take this well and say, "We think you are wrong," and stand up for the institution, when we think it ought to be stood up for.

I have a view that when we bring that legislative appropriations bill, there are a few places where I would like to make a few nicks. But if they are irresponsible kinds of things, I will be up here making the point that I think that is too deep and make the point.

So I think the gentleman from Pennsylvania has made a point here, and I would like to think that maybe it would be listened to on the other side of the aisle.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1993

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 498

Resolved, That during consideration of the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, all points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. HALL of Ohio. Mr. Speaker, House Resolution 498 is the rule waiving points of order against provisions of the bill, H.R. 5428, the military construction appropriations for fiscal year 1993. Since general appropriations bill are privileged under the Rules of the House, the rule does not provide for any special guidelines for the consideration of the bill. Provisions related to time for general debate are not included in the rule. Customarily, Mr. Speaker, general debate time is limited by a unanimous consent request by the chairman of the Appropriations Subcommittee prior to the consideration of the bill.

The rule waives clause 2 of rule XXI against all provisions of H.R. 5428. Clause 2 of rule XXI prohibits unauthorized appropriations and legislative provisions in general appropriations bills. The waiver is necessary because the authorizing legislation for this bill is not in place.

Mr. Speaker, H.R. 5428 appropriates approximately $8.56 billion for fiscal year 1993 military construction and family housing for the various branches of the Department of Defense. It is consistent with the budget resolution.

The bill appropriates approximately $12.2 million in funding for three projects at Wright-Patterson Air Force Base, which is partially located in my congressional district. I am pleased that the committee approved the necessary projects. The first project is a $5.8 million hazardous materials storage facility for the safe storage and processing of hazardous materials used by base tenants. The second is a $5.5 million project to replace 45 underground fuel storage tanks with 33 new underground tanks and 12 tanks above ground. These projects replace old facilities and tanks which pose an unacceptable risk to people who work on the base and live near it.

The third project is $870,000 for a facility to train firefighters to put out aircraft fires. This is matter of upgrading to meet current environmental regulations and to assure safety.

Mr. Speaker, these projects are important to Wright-Patterson Air Force Base, and to the community of Dayton, OH, which has been a world leader in aviation since the days of the Wright brothers. I commend my colleagues for including them in H.R. 5428.

Mr. Speaker, under the normal rules of the House, any amendment which does not violate any House rules could be offered to H.R. 5428. The rule received unanimous support in the House Rules Committee, and I urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Ohio [Mr. HALL] has fully explained the provisions of this rule. The waivers are necessary because the authorization bill has not worked its way through the legislative process. I would also like to reiterate that under the normal rules of the House, amendment which do not violate any House rules can be offered to the bill under the proposed rule.

I applaud the chairman and the ranking Republican member of the Military Construction Appropriations Subcommittee, the gentleman from North Carolina [Mr. HEFNER], and the gentleman from California [Mr. LOWERY] for their hard work in putting this legislation together. They have done an outstanding job in balancing the changes of our armed services and in providing for the facilities and family housing needs of our service members and their families.

Mr. Speaker, I understand that this bill is noncontroversial. It appropriates $8.56 billion for military construction, military base closure, and family housing. This amount is $287 million more than requested by the President and $3 million less than we appropriated last year.

Mr. Speaker, under this rule changes to the bill can be made, if necessary. I support it and urge its passage so that the House can get down to business and complete its action promptly.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

This is an interesting rule because under this rule the only thing deemed waived, as I understand it, are points of order. This is not a rule where any Member is going to be prevented from offering any amendment that they deem appropriate. So for all intents and purposes, it is an open rule, other than the waiver for certain points of each.

Now, that is particularly interesting here because the only amendment, I think, we know about on this rule happens to come from a group of Democrats. There are some Democrats who want to offer a 1-percent across-the-board cut. So, of course, we have an amendment that gives them the opportunity to offer anything they doggone well please when they come to the floor today.

As a matter of fact, if there are others who want to go after the military construction, they will be free and able to come out here and do anything they want with this bill.

Now, contrast that with the bill that may come tomorrow where there are a group of Republicans that might want to offer amendments and, in particular, might even want to offer an across-the-board cut on what? The legislative appropriations bill, the bloated legislative appropriations bill that funds 20,000 staffers, funds all kinds of perks and privileges for the Congress. And Members might want to offer amendments to that. Can that take place? Can we offer Members an opportunity to come out and offer spending cuts to that? Heavens no.

Up in the Committee on Rules they are going through all kinds of machinations in the Committee on Rules to make certain that we cannot do that.

Then there is another bill that is coming along, the foreign operation bill. That is the one that has all the foreign aid money in it.

There may be some Members that want to offer cuts on foreign aid programs, not exactly the most popular programs with the American people. And what is the Committee on Rules looking to do on that? They are looking to limit amendments so that Members cannot come to the floor and offer any cuts in foreign aid.

So when it comes to legislative appropriations, when it comes to foreign aid appropriations, we cannot offer the amendments. When it comes to military construction—and only Democrats seem interested in offering the amendment to cut—why, of course, we have an open rule out on the floor that is going to allow anybody to make the cuts they want.

That is the problem in this place. We have the perfect definition of what is happening here. Whenever they think they have something that goes after the administration, like the other night, we had the energy bill on the floor.

☐ 1340

Who came parading out but a group of Democrats who were going to cut money for the Secretary of Energy's Office. It got a big vote. It was passed on a voice vote. And guess what, they pressed it to a record vote, just to get the politics real, real good, get it defined excellently out here on the floor. Under an open rule process, they cut the Secretary of Energy. But imagine, imagine if somebody wanted to offer an amendment in the legislative appropriations that might cut out something from the Speaker's office. Oh, "that would be political. That would be awful. We cannot have that happen. That would be just an abomination. So I will tell you what we will do, we will go up to the Committee on Rules and make certain that that never happens."

What kind of a game is this? No wonder the American people are disgusted. Jefferson's manual makes it quite clear. Jefferson's manual says that the House is supposed to be operated, and let me quote directly from Jefferson's manual, it is supposed to be operated, and I quote, "in decency, orderly, and with regularity."

There is no decency here any more. Decency is only reserved for the majority party. There is no order. The Democrats do whatever they want whenever they want. There is no regularity. We change the rules from bill to bill to make certain the Democrats get to offer their amendments and Republicans are denied their right to offer their amendments. It is disgusting. It is absolutely appalling.

The American people have every right to believe this place has gone overboard, that we simply have no right to call ourselves legislators any more. This is not a democratic body with a small "d." We have lost all pretense of that. This is a legislative dictatorship where we dictate from day to day what the process will be, and it always happens to be at the expense of the minority. We ought to turn down this rule just on principle's sake.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me just say I think that this rule should pass, because it is an open rule, because it does allow Representatives to actually represent their constituents. They are actually allowed to come to the floor and decide whether or not there is a place they want to cut spending or a place where they think there should be more spending.

I was very distressed to read that the Democratic Speaker had indicated that he thought there would be some closed rules in appropriations bills. Let me explain why. Two weeks ago we had a constitutional amendment on the floor to require a balanced budget. We were told then by the Democratic leadership that we should not pass a constitutional amendment to require a balanced budget because we needed courage now. We needed to cut spending now. We needed to do the right things now.

Now, 2 weeks later, we are being told by the Democratic leadership after it opposed the constitutional amendment to require a balanced budget that we are not going to allow amendments to cut spending now. So the principle seems to be we should be against a constitutional amendment to require a balanced budget because that will take place in the future, and we should not allow any amendments to cut spending because that would take place in the present, so it would seem that the No. 1 goal of the Democratic leadership is to ensure that they protect spending under any circumstance at any time.

I think every individual Democratic Member who is not absolutely committed to a big spending, big deficit, high tax program has an interest in convincing the Speaker and convincing the Committee on Rules not to send out a closed rule.

I think on our side we will be unanimous in opposing a closed rule on any appropriations bill. The gentleman from Illinois [Mr. MICHEL] spoke a while ago and made clear from his own experience in the Committee on Appropriations that Members on both sides, Democrats and Republicans, should have the right to cut spending.

If we are now going to be given just a legislative dictatorship of one vote on billions of dollars with no opportunity to offer amendments, no opportunity to cut spending, I think that it makes a travesty of the House and a travesty of the process of representative government. For the life of me, I do not see how any liberal Democrat who voted against the balanced budget amendment on the grounds that they were going to show courage now could possibly vote for a rule which blocks the right of individual Members to offer an amendment.

I do not care whether the Member is on the right or left, whether they are a Democrat or a Republican, individual Members ought to have the right to offer amendments to cut spending or increase spending as they see fit on appropriation bills, and to start to strangle that right of individual Members I think would be a very, very grave mistake.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 143, not voting 22, as follows:

[Roll No. 210]

YEAS—269

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Guarini
Hall (OH)
Hall (TX)

Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—143

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Livingston
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Alexander
Bonior
Coughlin
Dymally
Edwards (OK)
Ford (TN)
Hefner
Jones (GA)
Levine (CA)
Marlenee
McNulty
Miller (WA)
Payne (NJ)
Perkins
Ridge
Scheuer
Schulze
Stallings
Traxler
Vander Jagt
Waters
Williams

☐ 1405

Messrs. GINGRICH, OXLEY, JACOBS, and McMILLAN of North Carolina changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 381, noes 34, not voting 19, as follows:

[Roll No. 211]

AYES—381

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Bliley
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Dreier
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NOES—34

Allard
Allen
Applegate
Armey
Baker
Bilirakis
Boehner
Burton
Coble
Coleman (MO)
Crane
Dannemeyer
Duncan
Fields
Gekas
Goss
Hancock
Hefley
Holloway
Inhofe
Ireland
James
Lewis (FL)
Petri

Roberts
Roth
Schaefer
Sensenbrenner
Smith (OR)
Stearns
Stump
Taylor (NC)
Wylie
Young (FL)

NOT VOTING—19

Alexander
Bonior
Dornan (CA)
Dwyer
Edwards (OK)
Flake
Ford (TN)
Hefner
Jones (GA)
Levine (CA)
Marlenee
McNulty
Payne (NJ)
Perkins
Ravenel
Ridge
Stallings
Traxler
Waters

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So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill, H.R. 5428.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. THOMAS of Georgia. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes; and pending that motion Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from California [Mr. LOWERY] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia [Mr. THOMAS].

The motion was agreed to.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5428, with Mr. COOPER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Georgia [Mr. THOMAS] will be recognized for 30 minutes, and the gentleman from California [Mr. LOWERY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, acting on behalf of Chairman BILL HEFNER, it is my pleasure to present to you H.R. 5428, the fiscal year 1993 military construction appropriations bill. BILL HEFNER is recuperating from heart by-pass surgery and is expected to be back with us in a short time. BILL HEFNER did a great job in putting this bill together before entering surgery and deserves much credit for the many important features in this bill.

The bill we are recommending totals $8.6 billion which is right at the section 602 allocation for budget authority and $126 million under in outlays. The bill is under last year's appropriation level and under the so-called hard-freeze level. It is also under the recommended authorization level that passed this House several weeks ago.

There is a comparison table on page 2 of the committee report which summarizes how the bill compares with last year's appropriation level. In percentage terms:

Military construction for the active components is down 41 percent from last year;

Military construction for the Reserve components is down 30 percent from last year;

NATO infrastructure is down 46 percent from last year; and

Family housing is up 10 percent as requested by the President. Members need to understand that for family housing, 77 percent of the family housing account is for operation and maintenance of existing units which total more than 400,000 units. If we didn't have these units, we would be paying about $3 billion in housing allowances to our servicemen and women. So housing has a payback in other parts of the Defense budget.

Lastly, the base closure recommendation represents a significant increase which is up by 168 percent in order to meet target dates for realignment and closure.

Let me just go over some of the special features of the bill.

If you are proenvironment, the bill contains a total of $800 million for environmental cleanup at closed bases and for environmental compliance projects at active bases.

If you are for cutting costs overseas, this bill reduces overseas spending by $185 million below the budget request.

If you support the Guard and Reserve, this bill restores some of the drastic cuts recommended by the President but still remains under last year's level by 30 percent.

If you are for economic payback, this bill provides for projects that offset costs in other parts of the Defense budget.

If you are for closing bases, this bill keeps the base closure process on track.

If you are for jobs, this bill is a job producer.

Before I conclude my remarks, I want to express my appreciation to all the members of the subcommittee and especially to our ranking minority member, BILL LOWERY, who will be leaving this Congress later this year. BILL LOWERY, along with BILL HEFNER, has helped produce many responsible military construction spending bills over the years and I am sure this body is going to miss him.

Mr. Chairman, that concludes my remarks and I reserve the balance of my time.

FY 1993 Military Construction Appropriations Bill (H.R. 5428)

	FY 1992 Enacted	FY 1993 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Military construction, Army	880,820,000	409,750,000	534,520,000	-346,300,000	+124,770,000
Rescission	-39,000,000			+39,000,000	
Total, Military construction, Army (net)	841,820,000	409,750,000	534,520,000	-307,300,000	+124,770,000
Military construction, Navy	883,859,000	287,592,000	396,059,000	-487,800,000	+108,467,000
Rescission	-56,392,000			+56,392,000	
Total, Military construction, Navy (net)	827,467,000	287,592,000	396,059,000	-431,408,000	+108,467,000
Military construction, Air Force	1,005,954,000	672,450,000	698,599,000	-307,355,000	+26,149,000
Rescission	-94,400,000			+94,400,000	
Total, Military construction, Air Force (net)	911,554,000	672,450,000	698,599,000	-212,955,000	+26,149,000
Military construction, Defense agencies	724,740,000	311,526,000	308,176,000	-416,564,000	-3,350,000
Total, Active components	3,305,581,000	1,681,318,000	1,937,354,000	-1,368,227,000	+256,036,000
North Atlantic Treaty Organization infrastructure	225,000,000	221,200,000	121,200,000	-103,800,000	-100,000,000
Military construction, Army National Guard	231,117,000	12,300,000	160,665,000	-70,452,000	+148,365,000
Military construction, Air National Guard	217,566,000	132,270,000	230,209,000	+12,643,000	+97,939,000
Military construction, Army Reserve	110,389,000	8,300,000	8,300,000	-102,089,000	
Military construction, Naval Reserve	59,900,000	9,900,000	9,900,000	-50,000,000	
Military construction, Air Force Reserve	9,700,000	24,380,000	34,330,000	+24,630,000	+9,950,000
Total, Reserve components	628,672,000	187,150,000	443,404,000	-185,268,000	+256,254,000
Total, Military construction:					
New budget (obligational) authority (net)	4,159,253,000	2,089,668,000	2,501,958,000	-1,657,295,000	+412,290,000
Appropriations	(4,349,045,000)	(2,089,668,000)	(2,501,958,000)	(-1,847,087,000)	(+412,290,000)
Rescissions	(-189,792,000)			(+189,792,000)	
Family housing, Army:					
Appropriation	1,557,245,000	1,556,117,000	1,572,079,000	+14,834,000	+15,962,000
Portion applied to debt reduction	-125,000	-127,000	-127,000	-2,000	
Total, Family housing, Army (net)	1,557,120,000	1,555,990,000	1,571,952,000	+14,832,000	+15,962,000
Family housing, Navy and Marine Corps	902,140,000	1,017,247,000	1,029,495,000	+127,355,000	+12,248,000
Family housing, Air Force	1,075,283,000	1,264,398,000	1,260,895,000	+185,612,000	-3,503,000
Family housing, Defense agencies	26,200,000	28,400,000	28,400,000	+2,200,000	
Homeowners Assistance Fund, Defense	84,000,000	133,000,000	133,000,000	+49,000,000	
Total, Family housing:					
New budget (obligational) authority (net)	3,644,743,000	3,999,035,000	4,023,742,000	+378,999,000	+24,707,000
Appropriations	(3,644,868,000)	(3,999,162,000)	(4,023,869,000)	(+379,001,000)	(+24,707,000)
Applied to debt reduction	(-125,000)	(-127,000)	(-127,000)	(-2,000)	
Base realignment and closure accounts:					
Part I	658,600,000	440,700,000	415,700,000	-242,900,000	-25,000,000
Part II	100,000,000	1,743,600,000	1,618,600,000	+1,518,600,000	-125,000,000
(By transfer from Environmental Restoration, Defense)		(69,000,000)	(69,000,000)	(+69,000,000)	
Total, Base realignment and closure accounts	758,600,000	2,184,300,000	2,034,300,000	+1,275,700,000	-150,000,000
Grand total:					
New budget (obligational) authority (net)	8,562,596,000	8,273,003,000	8,560,000,000	-2,596,000	+286,997,000
Appropriations	(8,752,513,000)	(8,273,130,000)	(8,560,127,000)	(-192,386,000)	(+286,997,000)
Applied to debt reduction	(-125,000)	(-127,000)	(-127,000)	(-2,000)	
Rescissions	(-189,792,000)			(+189,792,000)	
(By transfer)		(69,000,000)	(69,000,000)	(+69,000,000)	

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Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I rise in support of H.R. 5428, the military construction appropriations bill for fiscal year 1993.

I want to congratulate the gentleman from Georgia [Mr. THOMAS], the gentleman from California [Mr. LOWERY], and all my other Appropriations Committee colleagues on the Military Construction Subcommittee for the great job in putting this bill together. This bill provides a large measure of support to our National Guard and Reserve components. These components play a vital role in our national security.

In addition, all of the National Guard and the Reserve components have a tremendous peacetime mission, and because they are local, they play a big part in support of the regular services.

In fiscal year 1990, the Guard was called out for State emergency missions 292 times in 38 States; in fiscal year 1991, 337 times in 42 States. This need will continue.

These facts are not understood by many. Every time the Guard was called up, the local areas saw their military dollars were being spent on something important to the areas—and that feeling carries on to the whole Army.

We need to continue to provide support to the Guard and Reserve for all of these reasons.

I want to call attention to some of the programs in this bill that are of special interest to my State. For Camp McCain funding is provided for defense access roads. For the Meridian Naval Air Station child development center funding is included. At Keesler Air Force Base funding for an alteration and addition to the child care center is included as well as funding for an alteration to the student dormatory. For Key Field, at Meridian, provision has been made to alter the aviation support facility, and the squadron operations facility, and to construct a fire station. Also, funding is provided to alter the vehicle maintenance shop at Thompson Field in Jackson.

Mr. Chairman, this bill provides needed support to our Guard and Reserve, and I urge its adoption.

Mr. LOWERY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield myself as much time as I may consume and ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I would like to begin by taking a moment to wish our chairman, BILL HEFNER, a speedy recovery and inform my colleagues that while he may not have been physically present through all of our deliberations, his hand is in this bill. And he has been ably represented by our colleague from Georgia, LINDSAY THOMAS. I thank the gentleman from Georgia for his diligence and leadership.

This body has been immersed in talk of a peace dividend and how to spend the money saved on defense. We find ourselves hurled toward change as the evolving world situation and the austere fiscal environment demand cuts in defense. Few quarrel with the builddown or downsizing of the military as they see mental pictures of missiles being pounded into plowshares. An answer to our prayers.

This subcommittee, however, doesn't deal with missiles, or tanks, B-2 bombers, submarines, or battle groups. Our esteemed chairman, BILL HEFNER, is fond of saying the programs we deal with are not sexy. They are not. The military construction subcommittee deals with quality of life issues for our men and women in uniform. We fund the facilities where our military personnel live and work. I have seen many stories on the difficulties of doing away with massive weapons systems, dismantling nuclear warheads. I have seen no reporting on the fact that 500 military personnel are leaving Europe every day with their children, dogs, cars, and furniture. Gen. John R. Galvin, supreme allied commander and commander of our forces in Europe, says they cannot find moving vans the demand is so great.

And when these service personnel and their families reach the United States to be reassigned to new duty stations, there is no housing available to them on base, and not enough salary for them to afford off-base housing. In the past 2 years General Galvin has removed 230,000 troops and dependents from Europe. He promises to be down to a level of 150,000 active duty personnel by 1995. Yet we have been able to do little to alleviate the housing shortages here in the United States.

Indeed, rather than build to accommodate those returning from duty stations abroad, we are struggling with a construction pause. My hometown of San Diego, the primary West Coast base for the Navy and Marines, has a minimal need today for 19,000 military family housing units. Few of those will be built.

To some the pause made a great deal of sense. If we are closing bases why would we bother to build facilities? The situation is then aggravated by the fact that, when or if the pause is lifted, we still will have no money for construction because the available money is being used to close or reorganize more than 100 military bases.

This is the catch-22 of the Military Construction Subcommittee of Appropriations. But it is a nightmarish dilemma for the service men and women who are faced with living the consequences of our need to cut defense.

Now is not the time to forget that we are at peace because of the work of our Armed Forces personnel. They went where we asked them, and still follow orders without complaint. Yet few voices are raised on their behalf, few Members of Congress view them as a constituency. Cuts are endured. Many are leaving the service voluntarily. There is some thought that these cuts will help unemployment by freeing up money to rebuild our infrastructure. I might ask, how much thought has been given to 100,000 highly trained, highly motivated, clean-cut individuals leaving the military and entering that same job market each year?

But I've asked rhetorical questions for which I have no answers. And now, having presented the strictures under which we had to work and the woeful lack of funds with which we had to work, I must tell you that this subcommittee made the best of an untenable situation in putting this bill together.

This $8.6 billion bill is at the 602(b) allocation for budget authority. It is below last year's level and below the authorized level. Military construction has been reduced from $4.2 billion in fiscal 1992 to $2.6 billion—even though the Army still has 100 million square feet of luxurious temporary World War II facilities as part of its inventory. The military construction funding level has not been this low since 1982. Those temporary World War II facilities, almost 50 years old, just may become permanent at this rate.

Base closure accounts are up by $1.3 billion to $2 billion or 168 percent over last years' $700 million. Total cost for implementing base closure I and II will be $8 billion. These closures are necessary and more will come. But the funds for base closure are being taken out of the funds for military construction worldwide. It adds insult to injury for military personnel and retirees, for whom base closure incites anger, fear, and uncertainty, as well as a feeling that promises have been broken.

I want to thank our chairman, Mr. HEFNER, Mr. THOMAS of Georgia, and other members of the subcommittee and especially the hard-working staff for the effort that went into crafting this bipartisan bill. Whatever the circumstances, in my 8 years on this committee, we have always worked together toward the goal set by our chairman—that of enhancing the quality of life of our service men and women. This is my 6th and last year as ranking member on military construction. Mr. Chairman, it has been a privilege and an honor to serve. I will remember this subcommittee and my colleagues with fondness. I will also remember those whom I have come to know aboard C-130's and in trenches in Saudi Arabia, aboard ships and at home in new quarters in San Diego, and elsewhere around the world—the finest instrument for peace the modern world has seen—our service men and women. I would not have had it any other way.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield 3 minutes to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague, the gentleman from California [Mr. LOWERY], yielding this time to me, and, Mr. Chairman, I rise basically to have a colloquy with our chairman today, the gentleman from Georgia [Mr. THOMAS].

Before I begin that colloquy, however, let me respond to the comments of the chairman, as well as to my ranking member, very briefly. The gentleman from North Carolina [Mr. HEFNER] is one of the very fine members of our committee, and he is not with us because he has had a minor health setback. He will be back in the House shortly, I am sure. I want to congratulate the chairman on the product of his work throughout this year. I also want to express my appreciation to our chairman today, the gentleman from Georgia [Mr. THOMAS], for the fine work he has done with this bill. I especially, however, want to take just a moment to share with the House my deep appreciation for my colleague, the gentleman from California [Mr. LOWERY].

Mr. Chairman, a lot of people come to the Congress. A lot of people seek political office. Relatively few come to public affairs with a very limited number of kneejerk positions. People often come here with preconceived notions about the way they are going to change the world. The gentleman from California [Mr. LOWERY] came to the Congress to make a difference, to affect public policy in the most positive of ways. He is a guy who is willing to listen. He is, most importantly in my mind's eye, a very fine member of the Committee on Appropriations who, above and beyond the work of his subcommittee, spends endless hours and energy attempting to help his colleagues and friends. For that I am grateful, and I know that the House, as well as the committee, will miss the gentleman from California [Mr. LOWERY] in the years ahead.

Mr. Chairman, I would like to join in a colloquy with the gentleman from Georgia [Mr. THOMAS], and, therefore, rise for the purpose of engaging in this colloquy to get a handle on the purposes for which funds appropriated for the environmental restoration at base closure sites may be used.

Mr. THOMAS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Georgia.

Mr. THOMAS of Georgia. Mr. Chairman, I am delighted to engage the gentleman from California [Mr. LEWIS] and to inform the House that the subcommittee staff have been working with the general counsel of the Air Force to clarify the intent of Congress with regard to the BRAC I funding contained in H.R. 5428.

Mr. LEWIS of California. Is it the chairman's understanding that there is no legal impediment to using funds appropriated in the bill now before us to compensate a commercial operator who leases property from the Air Force and has in fact complied with Air Force and EPA requirements for environmental cleanup at facilities located on a closing military base?

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Mr. THOMAS of Georgia. Mr. Chairman, it is the subcommittee's intention that the funds appropriated here can be so utilized provided that the Air Force could reach an agreement on what constitutes a reasonable claim with the private party that has undertaken the risk of expediting environmental restoration. In fact, the Military Construction Subcommittee has serious concerns about the pace and priority of the Department's response to environmental restoration at closing military bases. In our report we have provided language directing the Department to expedite cleanups through a more flexible responsible approach. We would certainly want to draw positive attention to this unique situation if it represents a case study for flexible response which ultimately expedites cleanup.

Mr. LEWIS of California. I thank the gentleman for his time and appreciate the explanation.

Mr. THOMAS of Georgia. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first of all I do want to say thank you to the entire subcommittee, and certainly to the gentleman from North Carolina [Mr. HEFNER], and the gentleman from California [Mr. LOWERY], for all of their efforts. Having served on this subcommittee myself for a number of years, but not this term, I should say on behalf of my constituents at Fort Bliss, TX, their efforts on behalf of their housing needs, the barrack modernization program, were most appreciated. You have sought to continue and complete it.

Mr. Chairman, I would also like to thank, of course, the Committee on Armed Services for their authorization of these projects, and particularly the gentlewoman from Colorado [Mrs. SCHROEDER], our chairwoman, as well as the gentleman from Wisconsin [Mr. ASPIN].

Mr. Chairman, without belaboring it too much, I think it is not wrong for any of us who have served with the gentleman from North Carolina [Mr. HEFNER] and the gentleman from California [Mr. LOWERY] on that particular subcommittee for use personally, not just for our constituents and the soldiers and sailors and men and women in the Armed Services that we represent, to say to both of these Members, thank you very much for a job certainly well done.

Mr. Chairman, I rise today in support of H.R. 5428, military construction appropriations for fiscal year 1993, and to thank the distinguished chairman, BILL HEFNER, and the Subcommittee on Military Construction for their efforts on behalf of American military personnel and their families across the country and around the world. I would also like to express my appreciation for the subcommittee's work on behalf of Fort Bliss, TX.

The bill contains projects vital to the morale, recruitment, and retention of U.S. military personnel. Not only does the bill relate to new military construction projects but also contains provisions important to diverse items such as weapons systems, environmental concerns, family housing, child care centers, and educational needs of military families. It also addresses the important issues related to base closures.

Of special concern to my congressional district are barracks modernization projects at Fort Bliss contained in this bill. The Department of Defense has again omitted military construction projects at Fort Bliss as it has done over the past several years. Barracks on the post are World War II vintage and clearly substandard. As Congress debates the future defense needs of our country, these projects will enhance the quality of life, morale, and retention of a well-trained, volunteer Army. The House Armed Services Committee recognized this need and authorized these barracks projects in the defense authorization bill for fiscal year 1993, and I want to thank Chairwoman SCHROEDER and Chairman ASPIN for their leadership in this issue on the authorizing committee.

I am pleased to report that improvements to family housing at Fort Bliss were contained in the Department of the Army's budget submissions for fiscal year 1993, and I appreciate the subcommittee's support for this initiative. These improvements will contribute to the quality of life for military families living in El Paso.

Fort Bliss is home of the U.S. Army Air Defense Artillery Center, and my colleagues will remember that its soldiers gained international fame during the Persian Gulf War because of its Patriot-trained units. Clearly, the air defense mission in the U.S. postwar military strategy will increase, and Fort Bliss' role will be enhanced. I, therefore, believe it is critical to go forward with a barracks modernization program at this post, and the projects contained in the bill will complement this plan.

In closing, I wish to again thank the subcommittee for its consideration of these important matters, and I urge my colleagues to support the bill.

Mr. LOWERY of California. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as a member of the Subcommittee on Military Construction, I rise in support of this bill. First, I would like to ask everyone to pray for Chairman HEFNER's speedy recovery from his illness. With the guidance of our very able chairman, the gentleman from North Carolina [Mr. HEFNER], the gentleman from Georgia [Mr. THOMAS] stepped in and produced a bill as good as anyone could within the budget constraints that we face.

I would also like to commend and add my kudos to the gentleman from California [Mr. LOWERY], our ranking member, for getting this bill out. We will miss the gentleman from California in the years to come and we appreciate his service to this body. Next year we will not have the guidance of the gentleman from California [Mr. LOWERY], he goes on to bigger and better things.

This bill, while not enough, in my judgment, supports the need of our military personnel and their families.

As many Members know, I am very interested in the quality of life of our military personnel. Over the past few years it has become abundantly clear that Congress has decided to ignore the serious housing crisis we now face at many of our military facilities around the country and around the world. I invite my colleagues to come down and look at some of the pictures of the facilities that we are having our military families live in. It would absolutely boggle your mind.

Mr. Chairman, I believe that this family housing expenditure is extremely important to the morale and welfare of our fighting forces. It is critical for retention of our highly trained personnel, and it is important for the goal of the Defense Department to have at its disposal the finest, highest trained military force in the world.

Mr. Chairman, to my colleagues who may just look at the bottom line, let me say you may see in this bill an $8.6 billion expenditure, and you say, well, that is about $300 million of spending over the President's request. I just want my colleagues to look at the bill and realize that we are spending about

$2 billion for base closures, about $1.3 billion more than last year on base closures, and we earmark about $443 million for environmental restoration at the bases being closed. If you take that $2 billion away from this bill, providing facilities and family housing for our military personnel, it is actually a cut over last year.

Mr. Chairman, I hope that my fiscally conservative colleagues will take a hard look at this bill and understand that this is not enough. This is not enough to take care of our military families, and, therefore, Members ought to vote for the bill, because I think it is a fiscally responsible bill.

Mr. LOWERY of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I want to congratulate the acting chairman, the gentleman from Georgia [Mr. THOMAS], and the ranking Republican, the gentleman from California [Mr. LOWERY], on a very good bill. In particular, I want to wish them both well as they leave this body. They have provided distinguished service to the Nation and to the Congress. We appreciate that service.

Mr. Chairman, BILL and Katie Lowery and my wife Susan and I have shared many good times together. We have watched their children grow. I know they are anxious to watch them grow in a closer way. That is an important part of life, and we just wish them the very best in the world, as well as to the gentleman from Georgia [Mr. THOMAS].

This bill is so important because it does represent something that we do for our investment in the protection of peace and freedom. Even in peacetime, what we spend on defense and what we spend on our forces is our investment and our guarantee that we can live in peace and in freedom. If we are going to have a volunteer force, then we have to provide the kind of facilities that make the service of our country attractive to those men and women whom we need so badly to serve our country at times which are not as dramatic perhaps as others, to encourage them to be in the service, to stay in the service, to be career people, and to be part of our investment in peace and freedom.

Mr. Chairman, I hope my colleagues will all support the bill.

Mr. THOMAS of Georgia. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, on behalf of the chairman of the full Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], I want to commend the gentleman from Georgia [Mr. THOMAS], the gentleman from California [Mr. LOWERY], and every member of this subcommittee for the work that they have done as far as this bill is concerned.

Mr. Chairman, this is an excellent bill. This subcommittee, like all of the subcommittees on the Committee on Appropriations, has an excellent staff.

Mr. Chairman, I believe that some 2,000 Members have served in the House and the Senate since I have been a Member. I have been here 39 years now.

Mr. Chairman the total number, and I believe this number is correct, as far as Congress is concerned, beginning with March 4, 1789, up to the present time, we have had some 11,384 Members serving in this Congress, 694 of them in both the House and the Senate, and, Mr. Chairman, none more able, none more dedicated, than the gentleman from Georgia [Mr. THOMAS] and the gentleman from California [Mr. LOWERY]. We are going to miss both of these gentlemen. They both have announced their retirement. They are the right age and they ought to stay with us.

Mr. Chairman, the chairman of this subcommittee, the gentleman from North Carolina [Mr. HEFNER], is in the hospital recovering from an operation. He is doing fine. Like the chairman of our full committee, when the chairman of a subcommittee or the full committee needs a little help, we circle the wagons on this committee and help him.

Mr. Chairman, I want to commend all of the members of this subcommittee and their excellent staff for a good bill. Mr. Chairman, we recommend this bill to the Committee.

Mr. LOWERY of California. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I rise today in support of H.R. 5428, the military construction appropriations bill, and in particular the provision funding the construction of a new child development services center at Fort Monmouth, NJ.

I would like to commend Chairman HEFNER for his work on this bill and, of course, wish him a speedy recovery from his recent heart surgery and Mr. THOMAS for his fine work on this legislation and say that we will certainly miss him as he goes into retirement. Subcommittee members crafted an $8.6 billion bill in a tough year where funding for most construction projects was significantly reduced.

I would especially like to thank the subcommittee ranking member, Mr. LOWERY, for his help in securing the $3.55 million necessary for Fort Monmouth to complete the construction of its child care center. I want to join my colleagues in expressing my deep respect for BILL and to let him know how much we will miss him.

Mr. Chairman, earlier this year, I wrote to both the chairwoman and ranking member of the Military Installations Subcommittee requesting an authorization for the Fort Monmouth military construction project. I was very pleased that the Armed Services Committee included our authorization in the National Defense Authorization Act for Fiscal Year 1993 (H.R. 5006).

On two occasions, I wrote to Chairman HEFNER and the gentleman from California [Mr. LOWERY] to request that the funding for the Fort Monmouth child care center be included in the fiscal year 1993 military construction appropriation bill. During the March 25 hearing, I personally testified before the subcommittee where I outlined the need for this child care center and updated the Members on the incomplete status of this facility. I also subsequently made a personal appeal to my good friend, Mr. DELAY of Texas, urging his support for this project when the subcommittee conducted its markup of the military construction draft. Fortunately, the subcommittee members recognized the Army's pressing need for this safe, modern and acceptably sized, child care center.

Mr. Chairman, recently I spoke with the commanding general of Fort Monmouth—General Mallette. I was very impressed with his priorities. He told me that the welfare of his personnel and their families was number one on his list of responsibilities. I applaud him for this view.

The lack of adequate child care space for the civilian employees of Fort Monmouth and the long waiting lists which more than 300 military families currently endure place an undue burden on the families of this post. The funding to complete the child care center is critical.

Mr. Chairman, the construction of the new child development services center at Fort Monmouth will accommodate 244 children in a modern, 19,600 square foot facility. All-day operation would eliminate child care waiting lists and would finally provide child care services to the civilian population of the Fort. Care can now be provided for part-day, full-day, and special needs children as well. The new facility will eliminate the need for the four current child care centers which are located in potentially unsafe facilities such as converted office space, a 1960's era training building, and a World War II-vintage wooden chapel.

Work on the Fort Monmouth child care center had already begun when the Army's construction moratorium was announced. In fact, 35 percent of the project was completed and $222,000 had already been spent on the predesign conference, workshop meeting, early preliminary sketches, topsoil exploration and the internal review. The original construction start—fiscal year 1992—was delayed until at least fiscal year 1994. However, the Fort Monmouth community could not wait that long—or potentially longer.

With the approval of today's military construction bill, Fort Monmouth will have the necessary $3.55 million needed to actually complete the construction of the project.

Mr. Chairman, I urge the House to adopt this measure without delay.

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Mr. LOWERY of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise simply to extend my hearty congratulations to my friend and classmate from San Diego, the gentleman from California [Mr. LOWERY]. He has worked over the past decade to bring forward bills from this Subcommittee on Military Construction in a very, very positive way. It has been a privilege serving with him.

I am sorry that he is going to be leaving this institution, but I wish him well and simply want to compliment him on his fine work here today.

Mr. LOWERY of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the gentleman from North Carolina, Chairman HEFNER.

We have a strange dichotomy in this country that we often laud the people that fight our battles and then we scale down without taking care of those people.

The gentleman from California [Mr. HEFNER], the gentleman from California [Mr. LOWERY], the gentleman from Georgia [Mr. THOMAS], I commend them on this bill. Not only is it below last year's budget, I voted for the balanced budget amendment, but we must have priorities in this country. And one of those priorities must be that the people that risk their lives and fight and sometimes die for this country, we should take care of.

The cost of living in San Diego is very high, as it is across the country. Many of these families are separated for 6 or 7 months. Many qualify for welfare. And when we have 230,000 people coming back from Europe, we do not have the room for them. We are not cutting weapons systems. We are cutting families. And we are cutting children, that in this country military construction stands generally for taking care of families.

That is why I am in strong support of this bill. I would like to thank the gentleman from California, BILL LOWERY, and, again, the gentleman from North Carolina, Chairman HEFNER, for such a good bill. I fully support it.

There are going to be those Members that want to cut this bill across the board. To them I would say that we are going to cut families and we are going to cut children to the quick. There may be some individual areas where the bill could be cut, but not to cut it across the board. I want my colleagues to remember who they are really hurting. If we want to balance the budget, do not do it in this area.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of H.R. 5428, the fiscal year 1993 military construction appropriations bill. First, I would like to express my deep appreciation to the chairman of the Subcommittee on Military Construction, Mr. HEFNER, for whom we all wish a speedy recovery, and the ranking minority member, Mr. LOWERY, for the time and energy they each put into crafting this bipartisan bill. As a member of the subcommittee, I can attest to the pragmatic and cooperative spirit with which this legislation was prepared. In addition, the subcommittee staff is to be commended highly for the long hours they put into the subcommittee's hearings and for their work in putting this year's bill together.

Mr. Chairman, H.R. 5428 is under the fiscal year 1992 appropriations level by over $200 million in outlays. It is a responsible bill that takes care of the needs of military personnel and their families. The Appropriations Committee has always given special emphasis to quality of life issues, and this bill is successful in providing essential services to our servicemen and women.

The bill also includes a total of $134 million for environmental restoration activities at bases scheduled for closure or realignment under round 1, and another $378 million for bases closing under round 2. Environmental cleanup is essential if we are going to enable affected communities to convert these installations to civilian use in an expeditious manner. The enormity of environmental restoration work needed at these sites is already presenting significant barriers to this process. The committee continues to be concerned about the pace of cleanup at closure sites, and we propose to address these concerns by extending the operation of the Defense Environmental Restoration Task Force, which is tasked to explore ways to expedite and streamline the process.

Mr. Chairman, I would also like to point out a number of projects in H.R. 5428 that affect bases in northern California. Specifically, the bill includes additional funding for several key projects at Beale Air Force Base in Marysville, McClellan Air Force Base in Sacramento, Travis Air Force Base in Fairfield, and Mare Island Naval Shipyard in Vallejo. Each of these projects is critical for the continued successful operation of the bases.

For Beale Air Force Base, the bill funds a new fire training facility. The new facility is needed to train firefighters in handling mass fuel spills and three dimensional—running fuel—fires, and is needed to comply with Federal and State environmental standards. Additionally, the bill authorizes construction of a new security police operations center that is needed. The new facility will add nearly 15,000 square feet of space for all security operations, law enforcement, resource and personnel protection, and base security functions. Finally, Beale is also authorized to undertake utility improvements and a new fire safety system in the base hospital. This project will increase patient safety and improve efficiency of the hospital's operations.

At McClellan Air Force Base, H.R. 5428 includes two environmental projects. The first project would fund the upgrade or replacement of underground storage tanks to meet Federal and State regulatory requirements. The Second project consists of improvements to the base's wastewater collection system.

One additional project for McClellan involves the construction of a modern, state-of-the-industry plating shop. This project will ensure compliance with Federal, State, and local environmental laws, eliminate the risk of line or shop closure by the California Environmental Protection Agency, reduce plating process solution wastes, improve safety, and improve operations efficiency.

Mr. Chairman, Travis AFB continues to play a pivotal role in supporting the airlift requirements of the Defense Department. As the major West Coast airlift port, it is important for Travis to maintain facilities capable of supporting the high volume of personnel traveling through the base. With this in mind, the committee has authorized two projects for Travis. The first project is an upgrade in the sanitary sewer mains. The second project funds the final phase of a six-phase dormitory renovation project that has been ongoing over the last several years. The project is needed to renovate the existing facilities which have inadequate lighting, no air conditioning, and generally poor living conditions. This project has important implications for the quality of life and morale of our troops.

Finally, Mr. Chairman, the fiscal year 1993 military construction appropriations bill provides funding for a new hazardous waste storage facility at Mare Island Naval Shipyard. This project is very important for the shipyard's ability to meet stringent environmental requirements and would replace the existing, 50-year-old warehouse used for these purposes.

These projects reinforce the important role that each of these military bases plays in our Nation's defense. We, in northern California, continue to be very supportive of our local bases and our local military personnel. We plan to continue our efforts to modernize and improve facilities on the bases to ensure efficient operations as well as a good quality of life for our servicemen and women.

In conclusion, I want to commend again Mr. THOMAS, the committee members, and the committee staff for the long hours and hard work they put into this legislation. It is reflective of what our country needs to maintain a strong base infrastructure at a price that we can afford. I strongly urge my colleagues to support this bill.

Ms. SNOWE. Mr. Chairman, I would like to thank the members of the Military Construction Subcommittee for providing a badly needed increase in funding for the base realignment and closure II account in the bill before us today. When we voted last year on the Base Closure Commission's recommendations, I said on the floor that our responsibility did not end with that vote, but that it was just beginning. With H.R. 5428, the fiscal year 1973 military construction appropriations bill, the Congress takes a small step closer to meeting its obligations to communities facing the difficult aftermath of a base closure.

Last year, due to a mixup between the authorizers and appropriators, the BRAC II account was designated as the exclusive source of funding for environmental cleanup at closing bases in round 2. Unfortunately, there were few funds in the account. This bad situation gave the Air Force an opening to follow its poor performance during the base closure process with an encore of almost equally deficient proportions—it gave them a reason to delay funding for cleanups at bases like Loring Air Force in my district.

There can be no excuse for the Air Force's intransigence on the cleanup funding issue over the past year. Time and time again, the Air Force refused to make the best of a bad situation and find some funding to keep our projects on line. Thanks to this stonewalling, the cleanup at Loring will likely be delayed for a year, disrupting efforts at economic redevelopment in an area primed to lose thousands of jobs as a result of closure.

At least fiscal year 1993 will be different. At least sufficient funds will be available, albeit 1 year late. With passage of this bill, we move closer to living up to our responsibility and giving people in this country a reason to believe in the Congress. Let's hope it's a sign of things to come, not an aberration. The people near Loring and throughout the country are looking to us for leadership.

Mr. RAMSTAD. Mr. Chairman, I rise reluctantly in opposition to H.R. 5428.

While there are certainly many worthy projects in this bill, America's $400 billion deficit and $4 trillion national debt require us to make tough choices.

Mr. Chairman, 2 weeks ago, the House rejected four different proposals to add a balanced budget amendment to the Constitution. Opponents argued that courage on the part of Congress—not a constitutional amendment—was necessary to balance the budget.

But that courage—the courage to reduce the deficit by eliminating pork barrel spending—is missing today.

This bill includes a number of wasteful spending projects.

For example, this bill adds $51.4 million for an unrequested replacement hospital at Fitzsimons Army Medical Center in Denver, CO—a community with an estimated excess health care capacity of 40 percent. The hospital could cost up to $400 million to complete.

In addition, H.R. 5428 adds $259 million for 111 projects for reserve component construction, many of which have either not been designed or are insufficiently designed for award in fiscal year 1993.

The bill also provides for $19 million for a defense access road at Camp McCain, a small National Guard base in Mississippi. This road was not requested by the Defense Department, and it waives the statutory requirement for the Pentagon to study the road before constructing it.

These are only a few examples of wasteful government spending in this bill. Given my concerns and those concerns expressed to me by the taxpayers of Minnesota about the deficit, I cannot in good conscience vote for this bill.

It's time for Members of Congress to stop looking out for their parochial interests and start looking out for the national interest. It's time for Congress to quit playing politics as usual and get to the business of putting our fiscal house back in order. It's time for Congress to balance the budget, because, as Senator WARREN RUDMAN said, "Time is running out."

I urge my colleagues to vote against H.R. 5428 and begin the process of deficit reduction. We owe at least that much to our children and grandchildren.

Mr. LEHMAN of California. Mr. Chairman, I rise today to voice my strong support for the military construction appropriations bill, H.R. 5428. I commend the chairman of the Appropriations Subcommittee on Military Construction, BILL HEFNER, and the ranking minority member, BILL LOWERY, for their hard work in bringing a visionary appropriations bill to this Chamber which reflects the changing needs of this Nation.

One aspect of the bill which I strongly support and which has an important role in the State of California is the National Guard and Reserve. These courageous men and women have played a vital role assisting in disaster relief, earthquakes, floods, fires, riots, et cetera, as well as defending our country when the need arises. The readiness of these units is critical for this Nation.

As a strong supporter of the National Guard, I was disturbed to learn of Secretary Cheney's decision to reduce the Guard, which disproportionately targeted California. The first line of defense for restoring order, whether it be from natural disasters or civil unrest, is the National Guard. Millions of Californians rely on the Guard, which was clearly demonstrated recently during the Los Angeles riots.

Considering the valuable service the Guard provides the State of California, I would like to extend my strong support for the National Guard projects included in H.R. 5428. One extremely valuable project included in H.R. 5428 is the Aviation Classification Repair Activity Depot [AVCRAD], which is located in Fresno, CA. The AVCRAD facility in Fresno is the only site in the western United States authorized to perform depot level maintenance on Army National Guard aircraft. The California AVCRAD supports 621 aircraft from 13 Western States: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

H.R. 5428 also directs the Army National Guard to start construction of the combined support maintenance shop in Stockton, CA. This project was funded in fiscal year 1992, but has not been initiated by the Army National Guard. The rehabilitation of the existing facility will greatly enhance the work conditions, which are inadequate at the present moment. Until this project is completed, employee health and safety will continue to be jeopardized by the lack of essential facilities and adequate lighting. This project remains a valid requirement.

Another aspect of H.R. 5428 which I support directs the Department of Defense to work with the Justice, Interior, and Labor Departments, and State and local governments to examine the possibility of using military facilities for juvenile boot camps.

Boot camps are alternatives to traditional prison sentences which focus on discipline, labor, counseling, and rehabilitation. We simply cannot afford to continue to build more and more prisons that do nothing to rehabilitate prisoners. We must look to innovative methods which not only punish but provide a strict supervisory role and needed guidance.

I am committed to bringing change to the criminal justice system, with an emphasis on discipline and rehabilitation. We need to focus our efforts on the youthful offenders who, with proper judicial methods such as boot camps, can be successfully returned to society. One needs only to look at the staggering recidivism rate in California to see that simple incarceration does not work.

With the collapse of communism in the former Soviet Union, we now have a rare opportunity to retarget a portion of our military resources to resolve some of our domestic problems. The boot camp idea is certainly an idea worth exploring in light of these reversed priorities. We can no longer sit on our hands. We need to get back to basics and build on this Nation's strengths. Change is needed and this bill H.R. 5428, takes a step in the right direction.

Mr. LIGHTFOOT. I rise today in support of H.R. 5428, the military construction appropriations bill for fiscal year 1993.

I would like to commend Chairman BILL HEFNER and ranking member BILL LOWERY for their leadership. I hope Mr. HEFNER is feeling better and commend Mr. THOMAS for doing a fine job seeing this bill through in the chairman's absence.

I would also like to recognize the subcommittee staff for their hard work. Once again the job has been carried out in an enthusiastic, professional manner.

H.R. 5428 is a good bill. We have come in under our 602(b) allocation and yet the bill reflects our commitment to giving the men and women of the armed services the best we can afford.

Our emphasis this year is on base closure. We have increased this account by over 100 percent. Frankly, we have to spend money in order to save money. And I am pleased to note that our bill gives the Department of Defense increased flexibility in the base closure account in order to accelerate base shutdowns.

Although our bill is below our allocation it is $500 million above the administration's request. The administration presented us with an unrealistic proposal for military construction.

Even with our emphasis on a leaner Armed Forces, there is still some basic construction that must occur. To ignore that construction is to raise our out year costs. As we are discovering in other appropriation bills, we can't afford to continue pushing off problems, it's our duty to face them now.

I would say to my colleagues who complain of unrequested projects in this bill, the budget presented us was unrealistic. Any unrequested construction in the bill has passed the review of this committee and the Armed Services Committee. What we have in here is necessary.

Again, Mr. Chairman, I would like to commend the gentlemen from North Carolina and the gentleman from California for putting together an excellent bill. And I will greatly miss the leadership of Mr. LOWERY next year. I urge my colleagues to support this bill.

Mr. McDADE. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, the military construction bill is the second of 13 appropriation bills to be brought before the House this year. The subcommittee has worked in a bipartisan manner to bring this bill to the floor.

The chairman, the Honorable BILL HEFNER, is on his way to a speedy recovery, and I wish him well.

He has been in full contact with the subcommittee and continues to be fully involved in the process of moving this bill. Chairman HEFNER has been able to accomplish this through the assistance of the gentleman from Georgia [Mr. THOMAS]; together they have done an outstanding job. They have worked hard to accommodate the concerns of the Members of this body.

Mr. Chairman, I also commend the ranking Republican member, my friend, the Honorable BILL LOWERY. Bill has worked diligently as a member of this subcommittee for 8 years and has served as the ranking Republican member the past 6 years.

He has done an outstanding job of ensuring that the needs of our servicemembers have been met during these changing times. As he is retiring, this is the last bill he will bring to the House floor, and I thank him for his efforts to always produce a fair and balanced bill.

This bill is within its 602(b) allocation for both budget authority and outlays. It contains an appropriation of $2.5 billion for military construction and $4 billion for family housing. Also included is a total of $2 billion for the implementation of Base Closure I and Base Closure II. The total appropriation provided for in this bill is $8.5 billion.

This is a good bill, which deserves your support. More than anything else it is about the men and women of our Armed Forces. When visiting military installations around the world, you will see tangible results from this bill, results that make a difference in morale and, in turn, improves the quality of our Armed Forces.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5428, the military construction appropriations bill for fiscal year 1993. This is the second of the 13 annual appropriations bills to be reported to the House.

This bill provides $8,560 million in defense discretionary budget authority and $9,361 million in defense discretionary outlays, which is equal to the 602(b) subdivision for budget authority, and $126 million in outlays below the 602(b) subdivision for outlays for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the impact of all spending legislation. I will provide a "Dear Colleague" letter describing how each appropriations measure compares to the 602(b) subdivision for that subcommittee.

I look forward to working with the Appropriations Committee in the future and commend the committee for the work they have done in adhering to the limits set forth in the budget agreement and the 1993 budget resolution.

Factsheet

H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS BILL, FISCAL YEAR 1993 (H. Rept. 102-580)

The House Appropriations Committee reported the Military Construction Appropriations bill for Fiscal Year 1993 on Thursday, June 18, 1992. This bill is scheduled for floor action on Tuesday, June 23, or any day thereafter, subject to a rule being adopted.

COMPARISON TO THE 602(B) SUBDIVISION

COMPARISON TO DISCRETIONARY SPENDING SUBDIVISION

The bill provides $8,560 million of discretionary budget authority and $9,361 million of discretionary outlays. This bill is equal to the discretionary budget authority subdivision and below the discretionary outlay subdivision by $126 million in outlays.

This bill is defense spending only and has no domestic discretionary or international spending. The table below compares the bill's spending with the equivalent breakout of the 602(b) spending defense subdivision.

DEFENSE DISCRETIONARY SPENDING SUBDIVISION

[In millions of dollars]

	Military construction appropriations bill		Appropriations Committee 602(b) subdivision		Bill over(+)/Under(−) 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	8,560	9,361	8,560	9,487	0	−126
Mandatory	0	0	0	0	0	0
Total	8,560	9,361	8,560	9,487	0	−126

BA=New Budget Authority
O=Estimated Outlays

PROGRAM HIGHLIGHTS

The following are the major program highlights for the Military Construction Appropriations Bill for Fiscal Year 1993, as reported:

[In millions of dollars]

	Budget authority	New outlays
Military construction:		
Army	535	109
Navy	396	75
Air Force	699	120
Defense Agencies	308	26
NATO Infrastructure	121	30
Family housing:		
Army	1,572	1,052
Navy and Marine Corps	1,029	441
Air Force	1,261	711
Base realignment and closure	2,103	252

The House Appropriations Committee filed the Committee's subdivision of budget authority and outlays on June 11, 1992. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House report 102-529, the conference report to accompany H. Con. Res. 287, Concurrent Resolution on the Budget for Fiscal Year 1993, as adopted by the Congress on May 21, 1992.

Mr. LOWERY of California. Mr. Chairman, I have no additional requests for time, and I yield back the balance of my time.

Mr. THOMAS of Georgia. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $534,520,000, to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed $124,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

AMENDMENTS OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. BURTON of Indiana: Page 2, line 11, strike "$534,520,000" and insert "$515,520,000".

Page 16, strike lines 15 through 18 (all of section 124 relating to defense access roads).

Mr. BURTON of Indiana. Mr. Chairman, I agree with my colleague from California who just spoke. We need to be very concerned about the people in the military who are suffering and will be suffering in the months to come because of some of the draconian cuts that are taking place. However, we still do have, in my opinion, some pork barrel projects that need to be dealt with, and this amendment deals with one of those.

At Camp McCain, MS, is an Army National Guard base. It is a small facility. It only takes in about 7,500 acres, and it only supports 440 troops or 2 battalions.

I understand that they use this facility for tank training, and they fire the only caliber weapons they can use. They cannot use anything in excess of .50 caliber weapons.

This bill authorizes or appropriates $19 million for a defense access road to this base. That is $700,000 above the amount authorized in the defense authorization bill. This project is in the military construction account, and it should be in the Reserve components military construction account instead. So it is in the wrong account.

Section 210 of title XXIII authorizes funding for defense access roads. In order to receive funding under this program, the road or roads must be needed for national security reasons.

Under the statute, the Secretary of Defense certifies that the defense access road project does indeed serve a national security purpose. Under Federal regulations, the Secretary delegates this function to the Military Traffic Management Command [MTMC].

The MTMC will meet with officials at military installations and with State and local transportation officials to determine the need for new defense access roads.

At this point, I would like to point out to my colleagues that this part is being waived. The MTMC, who is supposed to certify that this road is necessary, is not going to be involved in this process. It has been authorized and now it is being appropriated, and they do not want to have it checked out. It is not going to be checked out by the defense agency that is supposed to check out whether or not this road is really needed for national defense purposes.

I do not know why we have done that other than they want to circumvent that process.

Section 124 of the bill waives the certification requirements for the defense access road at Camp McCain. This means that once money is authorized and appropriated for this project, construction can begin regardless of whether or not his project is meritorious.

I just want to ask the sponsors of this project why did they circumvent the MTMC. We should not be funding this type of project in direct violation of the defense access roads statute. If Congress believes MTMC is unnecessarily delaying its study of this project, then maybe we should have instead in this bill a provision to require the MTMC to move forward in a more expeditious fashion. We should not be waiving the entire certification requirements and spending $19 million on a defense access road which may not serve a national defense purpose.

I would just like to say to my colleagues that I have been talking on this floor for the last 4 years now about prioritizing spending. I certainly support the military. I am one of the biggest supporters of the military in the House because I think defense should be a No. 1 priority.

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However, I do not believe we should be wasting money on any project in any area of government. The MTMC is the agency that is supposed to verify whether or not this access road should be built, and they are circumventing that in the report language in this bill. It should not be done.

The deficit, as I have said many times before, is going to be $400 billion this year. We are going to have over $300 billion in interest on the national debt. The debt has gone from $1 trillion 10 years ago to $4 trillion. It took us 200 years to get to $1 trillion and 10 years to get to $4 trillion. We are facing an economic calamity, in my opinion, in this country unparalleled in American history unless we get control of our appetite for spending.

I think we need to prioritize. We need to make absolutely sure that every dollar we are spending is necessary. This access road is not undergoing the scrutiny that is necessary for this kind of a project. It is $19 million. When we are talking about a $4 trillion national debt and a $1.8 trillion annual budget, $19 million is not a lot of money, but to the average taxpayer in this country it is a lot of money.

I would just say to my colleagues this should be scrutinized very thoroughly, at least, at the very least, by the MTMC. If we are not going to do that, then I think it should be stricken from the bill.

Mr. ESPY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this military construction bill, but against this particular amendment. I just recently became aware of the gentleman's intent to strike this $19 million which provides for construction of a road that is about 18½ miles that runs through parts of the district of the chairman, the gentleman from Mississippi [Mr. WHITTEN], and parts of my own.

Let me make a couple of points. First off, this particular road has been authorized by the Committee on Armed Services to the extent of $18.3 million to correct this deficiency of no highway access to Camp McCain. It was authorized in H.R. 5006.

The second point is that there currently is no highway access for combat vehicles and other heavy equipment to Camp McCain. This construction will allow for over-the-road hauling of the M-1 tank and the Bradley fighting vehicles. At this point they have been carried into the environs of that camp from the interstate highway, Interstate 55, which is very damaging, of course, to that particular road, and also does tremendous damage to the infrastructure in general. So the Committee on Armed Services considered this to be a worthwhile proposal and included an MV authorization, and it was carried through the appropriations process as a necessary item for funding.

I would just like to say that this has been considered by two standing committees in this body, and I do believe that it is a valuable and a necessary resource, Mr. Chairman.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ESPY. Yes, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I would just like to ask the gentleman, if it is so important, why was the MTMC [the Military Traffic Management Command] which is charged with reviewing with local officials and the Army whether or not a project is in the national interest and should be built for national security purposes, why is it in the report language of this bill the gentleman is waiving that provision? Because they are charged with the responsibility of checking this out.

Mr. ESPY. Mr. Chairman, reclaiming my time, I just have to say to the gentleman that I really cannot answer that personally. I am not on the Committee on Armed Services, nor am I on the Committee on Appropriations. Perhaps that question should be better put to one of them.

Mr. THOMAS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we appropriate funds for Defense access roads every year. The access road project for Camp McCain, MS, is a valid requirement which will enable the Department to move tactical equipment such as tanks and other armored vehicles, into and out of the Camp McCain training area by road.

The general provision waiving certain requirements, section 134, is identical to actions taken by Congress in prior years on other access road projects, and is recommended for the sole purpose of allowing the orderly execution of this work.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DELAY. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, let me give the gentleman from Mississippi [Mr. ESPY] a little bit more information. The Department of Defense did not ask for this access road. It was not requested by the Department of Defense.

It is going through the district of the chairman of the Committee on Appropriations, as has just been mentioned, as well as the gentleman who just spoke, and it smells like something to me that is going to help the infrastructure of Mississippi.

That is fine if they want to do that, but we are trying to prioritize spending right now. The military has not requested it. There are only two battalions down there, 440 National Guard people, 440. It is not utilized that much. They have been using it in the past and getting tanks in and out of there without this $19 million access road. It has not been authorized, it has not been asked for by the military.

It was authorized and appropriated, we missed it, and it went through the authorization process. It is $700,000 more than they did authorize.

Finally, the Military Traffic Management Command, who are supposed to scrutinize these projects, is being waived in the bill. They are waiving it. They are saying, "We did not want them to look at it. We do not want them to check with the local government officials, the State government officials, the Department of the Army, to make sure this project is necessary."

It is $19 million. As I said to my colleagues before, obviously, we are doing a lot of good things for each other, but we are killing the economic base of this Nation. Listen to me, fellows. We are $4 trillion in debt. The deficit is $400 billion this year. We have tripled the amount of tax revenues coming in in the last 8, 9 years from $500 billion to $1.4 trillion, and we are still $400 billion short. Do the Members know why? It is because we do not prioritize.

This project was not asked for by the Army. It is not going to be authorized by the Army. They are not even going to let the Military Traffic Management Command charged with checking this out, check it out.

This is pure pork. It is pure pork, and we know it. I would just say to my colleagues, we have to start cutting sometime. We have to start prioritizing. Otherwise we are jeopardizing the economic well-being of America, and we are mortgaging the future of every kid in this place. This project should be stopped until it has been approved by the military, and I think that is why the gentleman put in the report language that they did not want it checked out.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The Speaker pro tempore. (Mr. SKAGGS) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1506

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1993

The Committee resumed its sitting.

The CHAIRMAN. Is there further discussion on the amendment of the gentleman from Indiana [Mr. BURTON]?

If not, the question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 212]

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1530

The CHAIRMAN. Four hundred and twelve Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Indiana [Mr. BURTON] for a recorded vote. This is a 5-minute vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 276, not voting 15, as follows:

[Roll No. 213]

AYES—143

Allard
Allen
Andrews (ME)
Applegate
Archer
Armey
Ballenger
Barrett
Barton
Bilirakis
Bliley
Boehlert
Boehner
Boxer
Brewster
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Carper
Chandler
Coleman (MO)
Condit
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Emerson
English
Ewing
Fawell

Fields
Fish
Franks (CT)
Gallegly
Gekas
Gilchrest
Gilman
Gingrich
Glickman
Goss
Gradison
Grandy
Hamilton
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Jontz
Kasich
Klug
Kyl
Lagomarsino
LaRocco
Leach
Lewis (FL)
Lipinski
Luken
McEwen
Meyers
Mfume
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Morella
Nichols
Nussle
Orton
Owens (UT)
Packard
Paxon
Pease
Penny
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Sangmeister
Santorum
Schaefer
Scheuer
Schulze
Sensenbrenner
Sharp
Shays
Sikorski
Slattery
Slaughter
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vento
Vucanovich
Walker
Weldon
Wolpe
Wyden
Wylie
Zeliff
Zimmer

NOES—276

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coughlin
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sarpalius
Savage
Sawyer
Saxton
Schiff
Schroeder
Schumer
Serrano
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—15

Bonior
Edwards (OK)
Ford (TN)
Hefner
Jones (GA)
LaFalce
Lent
Levine (CA)
Marlenee
McCurdy
McNulty
Payne (NJ)
Ridge
Stallings
Traxler

□ 1539

Mr. BILBRAY and Mr. McMILLEN of Maryland changed their vote from "aye" to "no."

Mr. KASICH and Mr. HOBSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1540

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of this subcommittee, I wish to compliment the fine work of the acting chairman, the gentleman from Georgia [Mr. THOMAS], in the absence of the chairman, the gentleman from North Carolina [Mr. HEFNER], who has been stricken ill in the last 2 weeks.

Mr. Chairman, I rise in support of this bill to provide funding for military construction.

The bill our committee has brought to you today is a responsible bill. The total funding recommended is $3 million below that appropriated for the current fiscal year. At the same time it continues the committee's commitment to essential national security investments.

As a committee we recognize that these investments can help encourage American men and women to continue in the military service of our Nation by providing efficient, quality workplaces, and modern housing facilities.

In addition, these investments stimulate local economies and produce jobs for many private sector workers. The multiplier effect of these payrolls is beneficial to the Nation's economy.

Two matters addressed by the committee are of special interest to me.

In providing funding for the base closure account, the committee has included $443.5 million for environmental restoration at closed bases. This is of particular interest to those of us who represent districts in which bases are closing. Prompt and effective cleanup is crucial to achieving the fullest possible nonmilitary reuse of these facilities.

In addition, as a part of its report on this bill, the committee has directed the Air Force National Guard to implement a thorough study of potential uses for Eaker Air Force Base near Blytheville and Gosnell, AR, in the Guard stationing and training program. The Air National Guard is directed to report the results of the study to the committee by December 31.

Prior to the decision to close Eaker, the base facilities had been effectively modernized with military construction funds provided by the Congress. For the period of fiscal years 1981 through 1991, the Congress appropriated $105,952,000 for new construction at Eaker Air Force Base.

Congresses did this at the same time that they were appropriating $22.7 billion less than Presidents requested. In fact, in the last 23 years, Congresses have appropriated $93.8 billion less than Presidents wanted. The bottom line is that Congress has shown fiscal responsibility while the Presidents have not. It is a continuing mystery to me that the press and the general public do not understand this simple fact.

A data table which I want to include in the RECORD today documents congressional performance in appropriating less funding than Presidents requested during these periods. Let us let the numbers do the talking.

As already noted, I believe this is a sound appropriations bill. I support it, and I urge the House to approve it.

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATIONS BILLS: COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED

Calendar year	Appropriations budget requests	Appropriations enacted	Difference (under −) (over +)
1969	$142,701,346,215	$134,431,463,135	−$8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,885	−2,648,963,972
1972	185,431,804,552	178,960,106,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	7,092,241,887
1983	542,956,052,209	551,620,505,328	8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,501,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
1990	704,510,961,506	697,257,739,756	−7,253,221,750
1991	756,223,264,591	748,262,835,695	−7,960,428,896

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATIONS BILLS: COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED—Continued

Calendar year	Appropriations budget requests	Appropriations enacted	Difference (under −) (over +)
Total	9,806,444,726,262	9,739,628,493,324	−93,816,228,858

Data source: Committee on Appropriations, U.S. House of Representatives.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to thank the chairman of the subcommittee, the gentleman from North Carolina [Mr. HEFNER], and the members of the subcommittee for providing $3.55 million for construction of the new childcare facility at Fort Monmouth, NJ, which is an Army installation in my district.

Mr. Chairman, the need for the childcare center at Fort Monmouth is pressing. As of December 1991, there were 341 children on the waiting list for child care. This waiting list reflects only a portion of the true need for child care at Fort Monmouth, because the existing facility does not service civilian personnel, due to lack of space. Affordable private sector child care is very difficult to find in the Fort Monmouth area.

The proposed facility would provide preschool, infant, special needs, hourly and latch-key child care. It would meet all fire and life safety requirements. The facility would be centrally located adjacent to 90 percent of all Fort Monmouth's military families, whereas existing child care is spread throughout five separate buildings.

As you know, the availability of child care goes beyond being a mere quality-of-life issue. Our military effectiveness requires that military personnel be free from anxiety, and assured that their children are in a safe and healthful environment.

Mr. Chairman, I am extremely happy that support for this project has come this far, and I will continue to work on its behalf until its final approval by the President.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $396,059,000, to remain available until September 30, 1997: *Provided*, That of this amount, not to exceed $79,292,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $698,599,000, to remain available until September 30, 1997: *Provided*, That of this amount, not to exceed $100,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $308,176,000, to remain available until September 30, 1997: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $85,818,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $121,200,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $160,665,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $230,209,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $8,300,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $9,900,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $34,330,000, to remain available until September 30, 1997.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $208,382,000, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, $1,363,697,000; in all $1,572,079,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $339,640,000, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, $689,855,000; in all $1,029,495,000.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $332,954,000, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, $927,941,000; in all $1,260,895,000.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $28,400,000.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $133,000,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $415,700,000, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-

526 which would cause the Department's $1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That not less than $134,600,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), $1,618,600,000, to remain available until expended: *Provided*, That not less than $308,900,000 of the funds appropriated herein shall be available solely for environmental restoration: *Provided further*, That an additional amount for the "Base Realignment and Closure Account, Part II" of $69,000,000 shall be derived from the "Environmental Restoration, Defense" account of Public Law 102-172, to remain available until expended, and to be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. Hereafter, none of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Hereafter, funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Hereafter, funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. Hereafter, no part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. Hereafter, none of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. Hereafter, none of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. Hereafter, no part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. Hereafter, none of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. Hereafter, none of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. Hereafter, none of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. Hereafter, the Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. Hereafter, unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account, shall be transferred to the appropriations for Family Housing, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Hereafter, not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Hereafter, funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 117. Hereafter, the Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. Hereafter, for military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. Hereafter, notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 120. Of the funds appropriated in this Act for Operation and maintenance of Family Housing, no more than $14,000,000 may be obligated for contract cleaning of family housing units.

(TRANSFER OF FUNDS)

SEC. 121. Hereafter, during the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 122. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 123. Hereafter, such sums as may be necessary for annual pay raises for programs funded by Military Construction Appropriations Acts shall be absorbed within the levels appropriated in each annual Military Construction Appropriations Act.

SEC. 124. Defense access roads for Camp McCain, Mississippi, shall be considered as fully meeting the certification requirements specified in section 210 of title 23 of the United States Code.

SEC. 125. The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization

Amendments and Base Closure and Realignment Act (Public Law 101-526; 102 Stat. 2627) are completed—

(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and

(2) annually submit to the Congress a report containing—

(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;

(B) any additional recommendations that the task force considers appropriate; and

(C) a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.

Mr. THOMAS of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through line 19, page 17, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. Are there any points of order against the remainder of the bill through line 19, page 17?

If not, are there any amendments to the remainder of the bill?

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota: Page 17, after line 19, insert the following new section:

SEC. 126. Notwithstanding any other provision of this Act, each amount appropriated by this Act is hereby reduced by one percent.

Mr. DORGAN of North Dakota. Mr. Chairman, I offer this amendment on behalf of myself, my colleague, the gentleman from Minnesota [Mr. PENNY], the gentlewoman from California [Mrs. BOXER], and the gentleman from Kansas [Mr. GLICKMAN].

Mr. Chairman, this amendment would cut $85 million from this bill. Our intent on this and other appropriations bills is an attempt to reduce some of the overhead expenditures in the Federal Government.

That is going to be done in the legislative appropriations bill, and we would hope to be able to do it in all of the bills that come before us.

In the private sector, when you are in some difficulty, one of the first areas of budget restraint is in overhead or in indirect costs. That is almost always the first area of cutbacks.

At the Federal level, budgeting has generally been done by taking what you spent last year, adding inflation, and that becomes the baseline for what you need to spend next year. There is not and has not been restraint, in my judgment, with respect to indirect costs or overhead costs.

Mr. Chairman, we would like to see if we can exercise some restraint and propose some cuts on appropriation bills dealing with overhead and indirect expenditures.

This proposal would save $85 billion. It does not target essential construction requirements of the Armed Forces. The reason that we are not proposing a greater cut in this bill is that this bill provides substantial moneys for the kinds of bricks and mortar, the actual construction, and not so much money for the overhead or indirect costs that relate to that construction.

Mr. Chairman, today we will offer an amendment to cut administrative overhead in H.R. 5428, the fiscal year 1993 military construction appropriations bill. Our amendment would reduce funding by 1-percent across the board.

Let me first say I understand and support the need to provide adequate housing for our military personnel and their families. This is a good business and good policy for any number of reasons. As we strike to deal with the issue of skyrocketing deficits, I also believe all areas of Federal spending need to be scrutinized for possible savings.

The amendment does not target essential military construction requirements of our Armed Forces. After consulting with the committees of jurisdiction, we believe that a 1-percent cut can achieve savings of $85 million without impairing mission-essential projects.

We will establish legislative history in debate to ensure that this amendment cuts overhead, not essential projects or activities. We would focus cuts in such accounts as staff travel, transportation of goods, printing, communications, and office supplies and materials. There are three ways to achieve this goal:

Reduce funds for planning and design as military requirements recede;

Cut overhead for administration, supervision, and inspection that together amount to about 5 percent of each project; and

Shave other overhead costs for foreign bases as we begin the drawdown of troops abroad.

The end of the cold war provides an opportunity to demonstrate fiscal restraint. Sound management of tax dollars requires that we take action to do so. We believe that our amendment achieves budget discipline, but without hurting mission requirements, family housing, environmental cleanup, entitlements, or basing closing adjustments.

The need to tackle a deficit over $400 billion compels us to root out waste, duplication, and excessive overhead in all bills this year. We welcome your support for this prudent amendment.

Mr. Chairman, I yield to my colleague, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Dorgan-Penny-Boxer-Glickman amendment to reduce military construction appropriations 1 percent across-the-board. This amendment, which would save $85 million, is intended to reduce overhead expenses. Adoption of the Dorgan-Penny amendment also brings the bill under the fiscal year 1992 appropriated level.

This amendment will not target essential military construction requirements established by the Appropriations Committee. Instead, we propose three ways to achieve the reduction: First, by reducing funds for planning and design as military requirements of our Armed Forces recede; second, by a cut in overhead for administration, supervision, and inspection that together amount to about 5 percent of each project; and three, to shave overhead costs for foreign bases as we begin the drawdown of troops abroad.

With a $400 billion deficit, spending reductions are essential this year. We believe this amendment represents a responsible approach to reducing the overall level appropriation in this bill, and I urge the adoption of the amendment.

I thank the gentleman from North Dakota [Mr. DORGAN] for sponsoring the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, we have this year, it has been said on the floor repeatedly, a deficit of over $400 billion. The actual amount of the deficit is closer to $470 billion. The only way you get to $400 billion is by subtracting the $70 billion in the Social Security reserves, that is, receipts over expenditures this year.

□ 1550

Of course, Mr. Chairman, that is not honest budgeting, but some do it, and, if we subtract that 70 billion, we ratchet down the deficit to $400 billion.

The actual deficit this year, the operating budget deficit, is $470 billion. We are in deep trouble, we are headed toward deeper trouble with this fiscal policy, and we have to do something about it, and it seems to me that we ought to, in every instance, try to trim spending, particularly with respect to overhead costs and indirect costs, and that will respect to at least $85 million is the intent of this amendment, and we would ask for its favorable consideration.

Mr. THOMAS of Georgia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand, the across-the-board amendment of the gentleman from North Dakota [Mr. DORGAN] would cut the bill by about $86 million. I also understand that this amendment is aimed at administrative expenses which are required to manage and supervise construction contracts, as well as architect and engineering design contracts. There are also administrative expenses associated with managing 400,000 existing family housing units.

Mr. Chairman, the gentleman's across-the-board amendment would undoubtedly place an undue strain on these administrative expenses. However I am assuming that this amendment will not impact on the quality-of-life projects in the military that the gentleman from North Carolina [Mr. HEFNER] fights for and defends each year. The chairman and I both like to support the troops all the time, not just during the parades.

However, Mr. Chairman, I understand, as we all do, the need to cut costs, so I am not going to object to the amendment, but I will vote against the amendment.

Mr. LOWERY of California. Mr. Chairman, I understand the intent of the amendment of the gentleman from North Dakota [Mr. DORGAN], but the amendment does not do what he says it does.

It does not target overhead accounts, it does not target design accounts. It says clearly, "notwithstanding any provision of this act, each amount appropriated by this act is hereby reduced by 1 percent."

Mr. Chairman, it is an across-the-board reduction. It will hit family housing. It will hit military construction. It will hit the place where our men and women in uniform live and work.

Mr. Chairman, the bill the committee has brought to the floor is very well crafted. In fact, the accounts will be, as I mentioned earlier, at the lowest level for military construction in family housing, at the lowest level since fiscal year 1982, at the lowest level in a decade. We are already below last year's spending levels, and now the author of the amendment wants to come back with an additional $85.6 million reduction out of the hides of the women and men in our armed services.

Mr. Chairman, let me try to make this picture a little clearer because we are hustling troops home from Europe with little provisions for them now. We are cramming them into poor housing, and there are waiting periods of months for furniture and cars to arrive that are jammed in ports.

There is a 15-year veteran who waited 5 months for household goods while his family slept on air mattresses. The children's education is being disrupted. There are hardships causing financial problems and marital difficulties.

For example, at Fort Stewart, GA, a young sergeant, and his wife and two children are paying $400 a month for a trailer, and the wind blows through it, and the floor tilts, and there is a swamp in the back yard.

The crowding is so severe that in May the Army began offering half-price meals to troops and members of their families without kitchens in Fort Stewart and at other U.S. bases.

Mr. Chairman, this is not the time to cut an additional $85.6 million. Affordable housing at Fort Stewart means housing as far as 100 miles away, and currently at that facility there is a 2-year wait for housing.

We have made reductions. The funding for our active components is down 41 percent over last year in the bill we have brought to the floor. How many other bills can say that they are at their lowest levels in over 10 years, as this bill is? The Guard and Reserve accounts are down 30 percent from last year, and, if we are worried about saving money abroad, the NATO infrastructure account is down 46 percent from last year.

We have already made reductions in this bill. This across-the-board cut will come out of the hides of our military personnel. It is not advisable, and, if my colleagues want to look at the environment, this bill has $800 million for environmental cleanup at closed bases and for environmental compliance projects at various bases. Why do we want to go in and take another additional $85 million across the board?

Mr. Chairman, this bill is well constructed, it is fiscally responsible, and this amendment should be defeated.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I am trying to understand the amendment of the gentleman from North Dakota [Mr. DORGAN] too, and, as my colleagues know, I have no problem voting for a 1-percent cut, and I will vote for it, and the gentleman from California will be disappointed with me, but I just wanted to make clear just exactly what I am voting for here.

Is this amendment crafted so that, when I vote for it, instead of voting to reduce overhead expenses, I am, in fact, voting to cut military construction in the Army? Military construction in the Navy? Military construction in the Air Force? Military construction in defense agencies? North Atlantic Treaty infrastructure? Military construction in the National Guard? Military construction in the international guard? Military construction in the Army Reserve? Military construction in the Naval Reserve? Military construction in the Air Force Reserve?

Mr. Chairman, all those things are things——

Mr. LOWERY of California. The gentleman can also add to that family housing for all the services as well as for base closure and realignment. They would all be cut by 1 percent.

Mr. WALKER. If the gentleman would yield further, when I get over to family housing, what I find there is that there was specific money in there for operation and maintenance.

Now, as I understand it, the intention was to cut that funding, but yet there were not amendments offered to cut the funding in operation and maintenance that clearly shows up as a line item under family housing.

But in addition to cutting that line item, then we would also be cutting the construction of homes with this amendment.

Mr. LOWERY of California. The gentleman from Pennsylvania [Mr. WALKER] is correct. This is not a targeted amendment. This is an amendment that cuts across the board.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from North Dakota [Mr. DORGAN]. I think it is really unfortunate because today we are appropriating $8.6 billion for 1993 military construction, family housing and base closure projects. This bill, while under the 602(b) allocations, is under the funding levels needed for these initiatives that this Congress deems important, such as the environmental cleanup of bases and providing for adequate quality of life for our servicemen and their families. But we did the best we can in these trying times. Let us not make any further cuts in this bill as the amendment of the gentleman would call for.

Mr. Chairman, this important bill affects the quality of life for those who are dedicated and sacrifice their lives for the protection of the rest of the United States. Even considering that we are in the process of closing or reorganizing over a hundred military bases, the state of family housing for service men and women is deplorable and the monies in this bill are for the improvement of their base housing.

Mr. Chairman, I have over here some pictures to illustrate the substandard housing we force our young men and women to live in as they prepare to put their lives on the line for the rest of us. Many in this House condemn the plight of our inner cities and the state of welfare housing. I ask them to take a look at the standard of housing found at many military installations. Now I want these same Members to offer this kind of amendment to cutting entitlements. Try it on entitlements, where the biggest spending occurs in this country. But, when we are already below what we need to provide quality housing for our military families, we face an attempt to cut their standard of living even further as we consider the amendment of the gentleman from North Dakota [Mr. DORGAN] cutting military construction spending.

Mr. Chairman, many of my friends on the other side of the aisle continually lament about how we as a Nation should take care of the less fortunate, yet those same friends want to drastically cut back probably one of the best vehicles to help the poor when they mandate cuts in Defense. The military trains and educates military personnel and gives self-esteem to the less fortunate ones who are trying to earn their living. Now they want to cause a further deterioration to living standards by cutting the housing for our service personnel.

When I say there are backlogs in family housing and the maintenance of these buildings, I am talking about a backlog of approximately $6.8 billion. The Air Force has a $2 billion backlog in construction. The Army has a $1 billion backlog. The Navy and Marines have a $3.8 billion backlog. This totals up to almost 1 year's expenditures in the whole bill.

□ 1600

Mr. Chairman, now, I just hope that all my colleagues will consider the seriousness of the Dorgan amendment when they put the faces of their constituents who are in the military. We know people serving their country in the military. Let us provide decent housing for them.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thought I heard the gentleman say, and I am not certain, that this cuts certain entitlements for military.

Mr. DELAY. Mr. Chairman, reclaiming my time, no. What I was saying was that Members seem to come down here and want to prove that they are fiscally conservative by cutting certain bills. I applaud that in certain areas. But you are talking about a bill that has already been cut and is below last year's spending in providing military construction, even in light of the fact that we have tremendous backlogs and needs to provide decent housing for our military personnel.

Mr. DORGAN of North Dakota. Mr. Chairman, if the gentleman will yield further, I want to make the point that entitlements are not a part of this. So we are not intending to do this.

Mr. Chairman, let me make another point: with the end of the cold war, clearly the gentleman, the committee, everyone knows that we are going to have substantial reductions in a range of these appropriations bills dealing with this country's defense, including military construction. I think every one of us understands there would naturally be a reduction at the end of the cold war.

Our contention is this, that with respect to the overhead and the indirect costs in all Government programs, we think it is certainly achievable to save 1 percent of that budget without cutting into the muscle, without cutting into the effectiveness and the necessary programs that the gentleman is representing.

We do not think this is an egregious cut. We think it is just saying to those involved in the expenditure of this money, just as you would in a business or as you would in any other activity, look, times are tight. The deficit is very large. In the area of indirect costs, travel, copying, all of those kinds of overhead expenses, just cut back 1 percent.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, what I am saying is in this particular account you are doing serious damage to military construction because this particular account is below what we need just to provide for adequate housing for the scaled down military personnel.

What we are saying here is that we have a backlog right now of over $6 billion of needs, even as we scale down. We still need decent housing for our military personnel.

Mr. LOWERY of California. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I am glad to yield to the gentleman from California.

Mr. LOWERY of California. Mr. Chairman, we have already done what the offerers of the amendment are requesting. In fact, we have done it far more dramatically than a mere 1 percent. This bill is already, as the committee has brought it to the floor, under last year's level. It is under already.

This bill has reduced by 41 percent, a reduction of $1.4 billion, active component military construction and has reduced by 30 percent, $186 million below last year's level, the reserve component for MILCON.

It is up 168 percent for base closure and realignment. Despite that increase of $1.3 billion, we are still under last year's level.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important to note that we have had a series of significant votes this year regarding the budget and how to attack the budget deficit. We started the year with a vote on the budget walls. A majority of us in this Chamber decided to keep those walls up and to apply any savings in defense to reducing the deficit, instead of transferring those dollars over to domestic accounts. I think that was the right decision and it has helped us to make some progress in cutting the deficit.

We also not too long ago had a vote on the balanced budget amendment. A supermajority in this Chamber voted for that balanced budget amendment. Unfortunately, it fell nine votes short of passage by the two-thirds margin required.

I do think that it makes it incumbent upon all of us, regardless which view Members took on that amendment, to do more during the appropriations process this year to reduce spending.

Mr. Chairman, one cannot support a balanced budget amendment to the Constitution and then argue against reasonable cuts when those opportunities are made available to us.

I think it might be instructive to note that some who would oppose this modest amendment to cut military construction last week voted to retain the superconducting super collider, which is one of the most expensive big ticket science projects ever to come along; one that we cannot afford in this climate of budget deficits; one that crowds all of the other significant scientific research that must move forward if we are going to build for a stronger future.

So it is somewhat disingenuous for those who have taken that position to add to the deficit to come here and lecture those of us offering this amendment today as if somehow we are inconsistent in our views on deficit spending.

Mr. Chairman, I do not think there are many Members here that can point to a record as long as the one that I hold in terms of voting against big-ticket items in both the domestic agenda and the defense agenda, and few who could point to as many votes as I have cast to reign in the dramatically rising costs in the entitlement area.

We have to address all areas if we are going to get ahead of this deficit. This really is a modest amendment, a very meager step in the right direction. But I cannot think of a single project in this bill that could not shoulder a 1-percent cut, if that is what it comes to.

I simply want to reassert, however, that almost every one of these projects entails a lot of overhead expenditures. You can easily find those savings in that area without having to cut down on the construction projects themselves.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I have great respect for the ranking minority member and for the gentleman from Georgia [Mr. THOMAS], but I do not want to say the cold war is over and we ought to be able to cut some of these appropriations, and some of them substantially.

Actually we spent in this area $8.56 billion last year, and this bill is $8.56 billion. It is only $3 million less than last year, out of some $8 billion in spending.

We are simply saying look, here is $85 million. Let us trim it out of the overhead and indirect costs.

I understand my friend, the gentleman from Texas [Mr. DELAY]. I respect the point the gentleman made.

The point the gentleman made is a point made every day on the floor of the House. It is fine to cut, but it is over the hill. It is the next bill we should cut, not this bill.

The fact is we never quite get over the hill, and I think this year we must look at the easiest areas of budget cutting, and that is to suggest we start tightening our belt with respect to overhead and indirect costs of government.

Mr. Chairman, that is all we are asking. This is a very modest cut in an $8 billion bill. We are talking about $85 million.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman quotes the bottom line of what this bill is, an $8.6 billion bill, and says this is only $3 million under last year's spending. But if the gentleman would read the bill, the gentleman would understand that $2 billion of this bill is going for base closures that will save us money in the outyears. If you take that $2 billion out of the $8.6 billion, you will find it is $1.7 billion below in real military construction funding, under last year's spending.

Mr. DORGAN of North Dakota. Mr. Chairman, if the gentleman will yield further, I understand the point the gentleman from Texas [Mr. DELAY] makes. The point I guess with respect to taxpayers is what are we spending today? What is it going to cost us as taxpayers? We are saying we would like it to cost about $85 million less, and that is why we ask for the consideration of this amendment.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. THOMAS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Georgia.

Mr. THOMAS of Georgia. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to make it clear to all Members here that I intended to vote against the amendment. I do so for this reason: I would say that I think there has been a very good and constructive discussion here.

Let me point out to all Members the reason I intend to vote against the amendment. It is because if you do a comparison with the section 602 allocation, this bill is right at the allocation for budget authority and under allocation by $126 million in outlays.

Going to last year's level, if you compare the bill with last year's level, for active components we are under that by $1.4 billion, or a 41-percent reduction. It is under last year's level for the reserve components by $186 million, or a 30-percent reduction. It is under last year's level for NATO by $100 million, or a 46-percent reduction. It is over last year's level for family housing by $380 million, or a 10-percent increase, but let us point out again this comes back in the form of offsets and savings in the Defense budget.

It is over last year's level for base closures by $1.3 billion, or a 168-percent increase, which again will bring a savings in the outyears. In comparison with the hard freeze level, we are under the hard freeze level for budget authority by $2.6 million, and under the hard freeze level for budget authority by $2.6 million, and under the hard freeze level for outlays by $258 million.

Mr. Chairman, I just wanted to remind Members of these facts. That is why I will be voting against this amendment.

□ 1610

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, the 602(b) allocation that is talked about a lot, what would be the deficit if every budget was on the 602(b)?

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Georgia.

Mr. THOMAS of Wyoming. Mr. Chairman, it would be the same as the deficit projected in the budget resolution.

Mr. THOMAS of Wyoming. Which is?

Mr. DURBIN. Mr. Chairman, as I understand it, it is about $7 billion less than the President's.

Mr. THOMAS of Wyoming. Mr. Chairman, if the gentleman will continue to yield, the point is, even if we stuck with 602 on every budget, we would still have a $300 billion deficit; is that correct?

Mr. DURBIN. Mr. Chairman, give or take $100 billion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DORGAN of North Dakota. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 266, noes 156, not voting 12, as follows:

[Roll No. 214]

AYES—266

Abercrombie
Ackerman
Allard
Allen
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Ballenger
Barrett
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Boxer
Brewster
Broomfield
Brown
Bruce
Bryant
Bunning
Burton
Byron
Camp
Campbell (CA)
Campbell (CO)
Carper
Chandler
Clay
Clement
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Condit
Cooper
Cox (CA)
Cox (IL)
Coyne
Crane
Dannemeyer
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dymally
Eckart
Edwards (CA)
Emerson
Engel
Erdreich
Espy
Fawell
Feighan
Fields
Flake
Frank (MA)
Franks (CT)
Frost
Gekas
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hamilton
Hancock
Hastert
Hayes (IL)
Hayes (LA)
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Houghton
Hubbard
Huckaby
Hughes
Ireland
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
Kyl
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martinez
Matsui
McCloskey
McCrery
McDermott
McEwen
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Moody
Morella
Mrazek
Murphy
Myers
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Patterson
Paxon
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Russo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Scheuer
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Slattery
Slaughter
Smith (FL)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swett
Synar
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Volkmer
Walker
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Wise
Wolpe
Wyden
Wylie
Yatron
Zeliff
Zimmer

NOES—156

Alexander
Anderson
Andrews (NJ)
Anthony
Aspin
Baker
Barnard
Barton
Bateman
Bennett
Bentley
Bevill
Borski
Boucher
Brooks
Browder
Bustamante
Callahan
Cardin
Carr
Chapman
Clinger
Coleman (TX)
Combest
Costello
Coughlin
Cramer
Cunningham
Darden
Davis
de la Garza
DeLay
Dickinson
Dicks
Dornan (CA)
Dwyer
Early
Edwards (TX)
English
Evans
Ewing
Fascell

Fazio
Fish
Foglietta
Ford (MI)
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gonzalez
Goodling
Green
Hall (OH)
Hammerschmidt
Hansen
Harris
Hatcher
Hefley
Hertel
Holloway
Horton
Hoyer
Hunter
Hutto
Hyde
Inhofe
Jenkins
Kanjorski
Kaptur
Kolbe
Kolter
Lagomarsino
Lancaster
Laughlin
Lehman (FL)
Lent
Lewis (CA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Machtley
Martin
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
Michel
Mineta
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morrison
Murtha
Nagle
Natcher
Obey
Ortiz
Oxley
Packard
Pallone
Pastor
Payne (VA)
Perkins
Pickett
Ray
Richardson
Riggs
Roe
Rose
Rowland
Roybal
Sabo
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (IA)
Smith (NJ)
Spence
Sundquist
Swift
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Visclosky
Vucanovich
Walsh
Washington
Whitten
Williams
Wilson
Wolf
Yates
Young (AK)
Young (FL)

NOT VOTING—12

Bonior
Conyers
Edwards (OK)
Ford (TN)
Hefner
Jones (GA)
LaFalce
McNulty
Payne (NJ)
Ridge
Stallings
Traxler

☐ 1632

Mr. GALLEGLY, Mrs. LLOYD, and Messrs. BROOKS, GOODLING, and PACKARD changed their vote from "aye" to "no."

Messrs. VALENTINE, DOOLEY, SYNAR, PAXON, and BILBRAY, Mrs. KENNELLY, Mr. MARTINEZ, and Mr. HOUGHTON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Military Construction Appropriations Act, 1993".

Are there any further amendments to the bill?

Mr. THOMAS of Georgia. Mr. Chairman, I move that the Committee do now rise and support the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended do pass.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 0, not voting 17, as follows:

[Roll No. 215]

AYES—417

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—0

NOT VOTING—17

Berman
Bonior
Callahan
Conyers
Coughlin
Cox (CA)
Edwards (OK)
Ford (TN)
Hefner
Jones (GA)
LaFalce
McNulty
Richardson
Ridge
Stallings
Traxler
Waters

☐ 1651

Mr. EARLY changed his vote from "no" to "aye."

So the motion to rise was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore, Mr. PANETTA, having assumed the chair, Mr. COOPER, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore (Mr. PANETTA). Without objection, the previous question is ordered.

Mr. WALKER. Mr. Speaker, I object.

Mr. THOMAS of Georgia. Mr. Speaker, I move the previous question.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object, and on that I demand tellers.

The SPEAKER pro tempore. Thirty-six Members having stood, an insufficient number, a teller vote is not ordered.

Mr. WALKER. Mr. Speaker, how many Members are in the House?

The SPEAKER pro tempore. Forty-four is the required number to stand for a teller vote in the House.

Mr. WALKER. It is one-fifth, Mr. Speaker.

Mr. SPEAKER pro tempore. One-fifth of a quorum of the House.

The question was taken; and on a division, (demanded by Mr. WALKER) there were—ayes 256, noes 14.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 183, noes, 45.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. The vote just taken, Mr. Speaker, was that a separate vote on the Dorgan amendment adopted in the Committee?

Mr. SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I object, and on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. THOMAS of Georgia and Mr. WALKER.

□ 1700

The House divided, and the tellers reported that there were—yeas 177, nays 66.

So the amendment was agreed to.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the engrossment and third reading of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 412, noes 8, not voting 14, as follows:

[Roll No. 216]

AYES—412

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—8

Archer
Barton
Dannemeyer
Meyers
Pursell
Rohrabacher
Sensenbrenner
Walker

NOT VOTING—14

Bonior
Brooks
Edwards (CA)
Edwards (OK)
Gingrich
Hefner
Hunter
Jones (GA)
LaFalce
McDermott
McNulty
Ridge
Stallings
Traxler

□ 1725

So the bill was ordered to be engrossed and read a third time, and was read the third time.

The result of the vote was announced as above recorded.

MOTION TO RECOMMIT OFFERED BY MR. MYERS OF INDIANA

Mr. MYERS of Indiana. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. PANETTA). Is the gentleman opposed to the bill?

Mr. MYERS of Indiana. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MYERS of Indiana moves to recommit the bill, H.R. 5428, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOWERY of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 390, noes 33, not voting 11, as follows:

[Roll No. 217]

AYES—390

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NOES—33

Allard
Archer
Armey
Beilenson
Camp
Crane
Doolittle
Dreier
Duncan
Fawell
Fields
Goss
Hancock
Henry
Jacobs
Meyers
Murphy
Myers
Nussle
Oxley
Pursell
Ramstad
Roberts
Roth
Russo
Santorum
Scheuer
Sensenbrenner
Stark
Upton
Walker
Wylie
Zeliff

NOT VOTING—11

Bonior
Edwards (OK)
Hefner
Jones (GA)
LaFalce
Marlenee
Matsui
McNulty
Ridge
Stallings
Traxler

☐ 1743

Mr. STARK changed his vote from "aye" to "no."

Mr. GEKAS changed his vote from "no" to "aye."

☐ 1745

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to clause 5 of rule I, the pending business is the question of approving the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 271, nays 123, answered "present" 1, not voting 39, as follows;

[Roll No. 218]

YEAS—271

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Bateman
Beilenson
Bennett
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dreier
Durbin
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schulze
Schumer
Sharp
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Vander Jagt
Vento
Visclosky
Volkmer
Waters
Waxman

Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yatron

NAYS—123

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Duncan
Emerson
Ewing
Fawell
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Ireland
Jacobs
James
Johnson (CT)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Pursell
Quillen
Ramstad
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Martin

NOT VOTING—39

Alexander
Barnard
Berman
Bonior
Campbell (CO)
Davis
Downey
Dwyer
Eckart
Edwards (OK)
Fields
Hall (OH)
Hefner
Hunter
Inhofe
Jefferson
Jones (GA)
LaFalce
Lehman (FL)
Machtley
Manton
Markey
Mavroules
McHugh
McNulty
Mrazek
Nagle
Oxley
Ridge
Schiff
Serrano
Spence
Staggers
Stallings
Traxler
Valentine
Walsh
Washington
Yates

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION TO ADJOURN

Mr. WALKER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. PANETTA). The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 264, not voting 39, as follows:

[Roll No. 219]

AYES—131

Allard
Allen
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Clinger
Coleman (MO)
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Duncan
Eckart
Ewing
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Gradison
Grandy
Gunderson
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
Ireland
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (WA)
Molinari
Moorhead
Murphy
Myers
Nichols
Nussle
Packard
Paxon
Penny
Porter
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Riggs
Rinaldo
Roberts
Roe
Rogers
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (OR)
Snowe
Solomon
Spence
Spratt
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zimmer

NOES—264

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barton
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dreier
Durbin
Dwyer
Early
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McMillen (MD)
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Ramstad
Ray
Reed
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Smith (TX)
Solarz
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yatron
Zeliff

NOT VOTING—39

Alexander
Barnard
Bonior
Chapman
Conyers
Downey
Dymally
Edwards (OK)
English
Fields
Hefner
Hertel
Hyde
Jefferson
Jones (GA)
LaFalce
Lehman (FL)
Machtley
Manton
Markey
Martinez
McHugh
McNulty
Oberstar
Oxley
Rangel
Richardson
Ridge
Ritter
Schulze
Serrano
Smith (IA)
Staggers
Stallings
Tallon
Traxler
Washington
Williams
Yates

□ 1827

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-609) on the resolution (H. Res. 499) providing for consideration of the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion offered by the gentleman from Maryland [Mr. HOYER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 336, nays 49, not voting 49, as follows:

[Roll No. 220]

YEAS—336

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hoagland
Hochbrueckner
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Roberts
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Visclosky
Volkmer
Walsh
Waters
Waxman
Weber
Weiss
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—49

Archer
Armey
Baker
Ballenger
Barton
Bereuter
Burton
Callahan
Campbell (CA)
Coble
DeLay
Dornan (CA)
Emerson
Fields
Franks (CT)
Gekas
Gilchrest
Gilman
Gingrich
Goss
Hammerschmidt
Hancock
Hobson
Holloway
Inhofe
James
Kolbe
Kyl
Leach
Lightfoot
McEwen
Morrison
Porter
Rahall
Ramstad
Riggs
Ros-Lehtinen
Roth
Santorum
Schaefer
Solomon
Stump
Taylor (MS)
Taylor (NC)
Vucanovich
Walker
Weldon
Whitten
Young (AK)

NOT VOTING—49

Alexander
AuCoin
Barnard
Bonior
Broomfield
Chapman
Clay
Combest
Cox (CA)
Davis
Dorgan (ND)
Dymally
Edwards (OK)
Fish
Frost
Hefner
Hertel
Horton
Hunter
Hyde
Ireland
Jenkins
Johnston
Jones (GA)
Kasich
Klug
LaFalce
Lehman (FL)
Lowery (CA)
McDade
McHugh
McNulty
Nussle
Olin
Petri
Pursell
Rangel
Rhodes
Ridge
Ritter
Roe
Sharp
Stallings
Traxler
Vander Jagt
Vento
Washington
Williams
Yates

□ 1847

Mr. RIGGS changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

ADJOURNMENT

Accordingly (at 6 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 24, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3790. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination that a waiver for Albania, Armenia, Azerbaijan, Bulgaria, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Romania, Russia, Ukraine, and Uzbekistan will substantially promote the objectives of section 402, of the Trade Act of 1974, pursuant to 19 U.S.C. 2432(d)(1); to the Committee on Banking, Finance and Urban Affairs.

3791. A letter from the Secretary of Education, transmitting final regulations—Even Start, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3792. A letter from the Secretary of Education, transmitting notice of Final Regulations—the State Supported Employment Services Program; the State Vocational Rehabilitation Services Program; Special Projects and Demonstrations for Providing Transitional Rehabilitation Services to Handicapped Youth; and Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps and Technical Assistance Projects, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3793. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Joseph S. Hulings, of Virginia, Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Turkmenistan, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3794. A letter from the Director, Arms Control and Disarmament Agency, transmitting the report on verification of the START Treaty, pursuant to section 37 of the Arms Control and Disarmament Act; to the Committee on Foreign Affairs.

3795. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92–28, with respect to eligibility of the Comoros to be furnished defense articles and services under the Foreign Assistance Act and the Arms Export Control Act; to the Committee on Foreign Affairs.

3796. A letter from the Inspector General, General Services Administration, transmitting a copy of the Adult Report Register of his Office, including all financial recommendations, for the 6-month period ending March 31, 1992, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3797. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3798. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3799. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3800. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3801. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting international fishery agreements for highly migratory species to which the United States is a party, pursuant to Public Law 101-627, section 105(a) (104 Stat. 4440); to the Committee on Merchant Marine and Fisheries.

3802. A letter from the Secretary of Commerce, transmitting a copy of a report on Washington State marine mammals; to the Committee on Merchant Marine and Fisheries.

3803. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92-31, waiver with respect to the emigration practices of Tajikistan and Turkmenistan will substantially promote the objectives of section 402 of the Trade Act of 1974, pursuant to 19 U.S.C. 2432(c)(2)(A); to the Committee on Ways and Means.

3804. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report on the Indian Health Service Loan Repayment Program, pursuant to 25 U.S.C. 1616a; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3805. A letter from the Chairman, Railroad Retirement Board, transmitting a report on the actuarial status of the railroad retirement system, pursuant to 45 U.S.C. 321f-1; jointly, to the Committees on Energy and Commerce and Ways and Means.

3806. A letter from the Railroad Retirement Board, transmitting the 1992 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

3807. A letter from the Secretary, Department of Commerce, transmitting a draft of proposed legislation to amend the Water Resources Development Act of 1986, as amended, to provide for the transfer of funds from the Harbor Maintenance trust fund to a new Marine Navigation trust fund to support nautical charting and marine navigational safety programs and activities, and for other purposes; jointly, to the Committees on Public Works and Transportation, Ways and Means, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5100. A bill to strengthen the international trade position of the United States; with an amendment (Rept. 102-607). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. House Joint Resolution 306. Resolution to designate the Port Chicago Naval Magazine as a National Memorial; with amendments (Rept. 102-608). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 499. Resolution providing for consideration of the bill H.R. 5427 making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102-609). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3168. A bill to amend the Mineral Leasing Act to provide for leases of certain lands for oil and gas purposes; with an amendment; referred to the Committees on Armed Services and Energy and Commerce for a period ending not later than July 24, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1 (c), and (h), rule X, respectively (Rept. 102-610, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 5460. A bill to authorize a study of the feasibility and suitability of designating the Augusta Canal National Historic Landmark District as a National Heritage Area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ERDREICH:

H.R. 5461. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period; to the Committee on Ways and Means.

By Mr. FRANKS of Connecticut (for himself, Mr. Michel, Mr. Gingrich, Mr. Lewis of California, Mr. Edwards of Oklahoma, Mr. Hunter, Mr. Weber, Mr. Vander Jagt, Mr. Hyde, Mr. Rangel, Mr. Fish, Mr. Hammerschmidt, Mr. Schiff, Mr. Armey, Mrs. Vucanovich, Mr. Cox of California, Mr. Gunderson, Mr. McDade, Mr. Walker, Mr. Ewing, Mr. Broomfield, Mr. Solomon, Mr. Paxon, Mr. Miller of Washington, Mr. Pursell, Mr. Ireland, Mr. Smith of Oregon, Mr. Dreier of California, Mr. Coughlin, Mrs. Johnson of Connecticut, Mr. Houghton, Ms. Molinari, Mr. Gilchrest, Mr. Spence, Mr. Saxton, Mr. Dornan of California, Mr. Grandy, Mr. Davis, Mr. Regula, Mr. Goss, Mr. Morrison, Mr. Schulze, Mr. Campbell of California, Ms. Ros-Lehtinen, Mr. Bliley, Mr. Jefferson, Mr. Luken, Mr. Hobson, Mr. Nichols, Mr. Lipinski, Mr. Holloway, Mr. Cunningham, Mr. Mfume, Mr. Towns, Mr. Shays, and Mrs. Bentley):

H.R. 5462. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage corporations to provide financing and management support services to small business concerns operating in urban areas designated as enterprise zones; to the Committee on Ways and Means.

By Mr. HOLLOWAY:

H.R. 5463. A bill to extend until January 1, 1996, the existing suspension of duty on certain chemicals; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 5464. A bill to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. OBERSTAR (for himself, Mr. Hammerschmidt, Mr. Shuster, Mr. Clinger, and Mr. de Lugo):

H.R. 5465. A bill to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR (for himself, Mr. Hammerschmidt, Mr. Shuster, and Mr. Clinger):

H.R. 5466. A bill to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ORTIZ (for himself, Mr. Torres, Mr. Serrano, Mr. Pastor, Mr. Richardson, Mr. Martinez, Mr. Roybal, Mr. Bustamante, Mr. de la Garza, Ms. Ros-Lehtinen, Mr. Colorado, Mr. de Lugo, Mr. Blaz, and Mr. Gonzalez):

H.R. 5467. A bill to amend the Small Business Act to permit extended participation by disadvantaged small business concerns in business development programs; to the Committee on Small Business.

By Mr. RICHARDSON:

H.R. 5468. A bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHULZE (for himself, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Sundquist, Mr. Thomas of California, Mr. Andrews of Texas, Mr. Coyne, Mr. Vander Jagt, Mr. Anthony, Mr. Shaw, Mr. McGrath, Mr. Kostmayer, Mr. Horton, Mr. DeFazio, Mr. Walsh, Mr. Jontz, Ms. Slaughter, Mr. Leach, Mr. Fields, Mr. Sanders, Mrs. Morella, Mr. Taylor of Mississippi, Mr. Machtley, Mr. McDade, Mr. Klug, Mr. Bacchus, Mr. Dickinson, Mr. Payne of Virginia, Mr. Ravenel, Mr. Cunningham, Mr. McEwen, Mr. Feighan, Mr. Espy, Mr. Shays, Mr. Wolf, Mr. Rose, Mr. Doolittle, Mr. Ritter, Mr. Walker, Mr. Murphy, Mr. McMillan of North Carolina, Mr. Clinger, Mr. Allen, Mr. Kolter, Mr. Geren of Texas, Mr. Thomas of Georgia, Mr. Andrews of Maine, Mr. Gilchrest, Mr. Hatcher, Mr. Atkins, Mr. Yatron, Mrs. Meyers of Kansas, Mr. Williams, Mr. Marlenee, and Ms. Norton):

H.R. 5469. A bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied and to defer some of the scheduled reduction in estate tax rates; to the Committee on Ways and Means.

By Mr. DICKS (for himself, Mr. GEPHARDT, Mr. ASPIN, Mr. MURTHA, Mr. MCCURDY, and Mr. SPRATT):

H. Con. Res. 336. Concurrent resolution calling for parallel actions to respond to reductions in strategic nuclear weapons announced by the Russian Federation; to the Committee on Foreign Affairs.

By Mr. NAGLE:

H. Con. Res. 337. Concurrent resolution expressing the sense of the Congress that the General Accounting Office should conduct a study of the economic impacts of Federal Energy Regulatory Commission Order No. 636 on residential, commercial, and other end-users of natural gas, and that the Federal Energy Regulatory Commission should refrain from processing restructuring proceedings pursuant to such order until 60 days after the completion of such study; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 5470. A bill to permit refund of customs duties on certain drawback entries upon presentation of certificates of delivery; to the Committee on Ways and Means.

By Mr. BROWDER:

H.R. 5471. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. DONNELLY:

H.R. 5472. A bill to clear certain impediments to the documentation of the vessel S/V *Dragon;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 371: Mr. HUCKABY.

H.R. 713: Mr. MONTGOMERY, Mr. ATKINS, and Mr. MANTON.

H.R. 999: Mr. ATKINS.

H.R. 1241: Mrs. SCHROEDER and Mr. VISCLOSKY.

H.R. 1468: Mr. INHOFE.

H.R. 1500: Mr. MAVROULES, Mr. GILCHREST, Mr. RINALDO, Mr. NOWAK, and Mr. OLVER.

H.R. 1536: Mr. WEISS.

H.R. 1573: Mr. BARNARD, Mr. FROST, Mr. MCCRERY, Mr. NEAL of North Carolina, Mr. RICHARDSON, Mr. SPENCE, and Mr. HATCHER.

H.R. 1623: Mr. HALL of Texas.

H.R. 2012: Mr. RITTER.

H.R. 2149: Ms. NORTON.

H.R. 2164: Mr. ATKINS and Mr. EDWARDS of Oklahoma.

H.R. 2304: Ms. PELOSI.

H.R. 2691: Mr. MCNULTY.

H.R. 2898: Mr. SOLOMON.

H.R. 3164: Mr. WYDEN.

H.R. 3236: Mr. EDWARDS of California.

H.R. 3349: Mr. QUILLEN.

H.R. 3613: Mr. DIXON, Mr. MOODY, Mr. STALLINGS, Mr. OWENS of Utah, Mr. GORDON, Ms. DELAURO, and Mr. BUSTAMANTE.

H.R. 3625: Mr. FRANK of Massachusetts and Mrs. LOWEY of New York.

H.R. 4002: Mr. BUSTAMANTE.

H.R. 4008: Mr. ECKART, Mr. EVANS, and Mr. KOSTMAYER.

H.R. 4063: Mr. RAHALL and Mr. DERRICK.

H.R. 4080: Mr. SOLOMON.

H.R. 4083: Mr. SABO and Mrs. LOWEY of New York.

H.R. 4206: Mr. ANTHONY and Mr. SKEEN.

H.R. 4243: Mr. DAVIS, Mr. KOSTMAYER, Mr. EMERSON, Mr. SABO, Mr. WISE, Ms. DELAURO, Mr. MARKEY, and Mr. VALENTINE.

H.R. 4259: Mr. DELLUMS and Mr. ENGEL.

H.R. 4361: Mr. DEFAZIO.

H.R. 4399: Mr. DIXON.

H.R. 4406: Mr. GILCHREST.

H.R. 4438: Mr. ROE.

H.R. 4457: Mr. DELLUMS, Mrs. COLLINS of Michigan, Mrs. UNSOELD, Mr. MINETA, Mr. MARTINEZ, and Mr. LEWIS of Georgia.

H.R. 4507: Mr. BOEHLERT, Mr. PETERSON of Minnesota, Mr. RINALDO, Mr. DUNCAN, Mr. MILLER of Ohio, and Mr. KOSTMAYER.

H.R. 4595: Mr. ZELIFF.

H.R. 4613: Mr. DELAY.

H.R. 4725: Mr. TRAFICANT.

H.R. 4849: Mr. DELAY.

H.R. 4897: Mr. GALLEGLY.

H.R. 5012: Mr. BACCHUS.

H.R. 5048: Mr. GUNDERSON, Mr. SLATTERY, and Mr. CALLAHAN.

H.R. 5100: Mr. HENRY.

H.R. 5123: Mr. FRANK of Massachusetts, Mr. BUSTAMANTE, Mr. HYDE, Mr. RANGEL, Mr. JOHNSON of South Dakota, Mr. PETERSON of Minnesota, Mr. ANDREWS of Maine, Mr. ESPY, Mr. OWENS of New York, Mr. TOWNS, and Mr. ZELIFF.

H.R. 5150: Mr. ATKINS AND MS. DELAURO.

H.R. 5153: Mr. MILLER of Ohio.

H.R. 5159: Mr. BUSTAMANTE, Mr. DANNEMEYER, and Mr. BALLENGER.

H.R. 5191: Mr. SMITH of Iowa, Mr. SISISKY, Mr. NOWAK, Mr. BUSTAMANTE, Mr. MAVROULES, Mr. ALLEN, Mr. OLIN, Mr. CAMP, Mr. SKEEN, Mr. ZELIFF, Mr. CONYERS, Ms. HORN, Mr. BILBRAY, and Mr. RAMSTAD.

H.R. 5237: Mr. LAUGHLIN and Mr. TRAFICANT.

H.R. 5238: Mr. JOHNSON of South Dakota, Mr. LANCASTER, and Mr. CRAMER.

H.R. 5282: Mr. FROST.

H.R. 5294: Mr. PETERSON of Minnesota.

H.R. 5317: Mr. MATSUI.

H.R. 5320: Mr. SKEEN, Mr. PETERSON of Minnesota, and Mr. SARPALIUS.

H.R. 5323: Mr. DORGAN of North Dakota.

H.R. 5325: Mr. BARRETT, Mr. HERGER, and Mr. PAXON.

H.R. 5360: Mr. SMITH of Florida, Mr. DELLUMS, and Mr. ANDREWS of Maine.

H.R. 5421: Mr. DORNAN of California, Mr. KYL, Mr. DOOLITTLE, Mr. BLAZ, Mr. PARKER, Mr. RAMSTAD, Mr. PACKARD, and Mr. LEWIS of Florida.

H.J. Res. 152: Mr. TOWNS, Mr. LAUGHLIN, and Mr. WALSH.

H.J. Res. 353: Mr. MORRISON, Mr. PRICE, and Mr. TANNER.

H.J. Res. 398: Ms. HORN, Mr. WOLF, Mr. INHOFE, Mr. SKEEN, Mr. MAZZOLI, Mr. TOWNS, Mr. FASCELL, Mr. WALSH, Mr. ERDREICH, Mrs. PATTERSON, Mr. KASICH, Mr. MATSUI, Mr. DEFAZIO, Mr. CLEMENT, Mr. JEFFERSON, Mr. ATKINS, Mr. LAFALCE, Mr. HUNTER, Mr. EMERSON, Mr. SMITH of Florida, Ms. MOLINARI, Mr. VALENTINE, Mr. MARTINEZ, Mr. POSHARD, Mr. KOPETSKI, Mr. LIPINSKI, Mr. FOGLIETTA, Mr. LEVIN of Michigan, Mr. GUARINI, Mr. BLILEY, Mr. ALEXANDER, Mr. RAMSTAD, Mr. ANDERSON, Mr. FROST, Ms. KENNELLY, Mr. SCHUMER, Mr. EVANS, Mr. GEKAS, and Mr. FISH.

H.J. Res. 399: Mr. DICKS and Mr. THOMAS of Georgia.

H.J. Res. 458: Mr. BRYANT, Ms. DELAURO, Mr. FISH, Mrs. KENNELLY, and Mr. SWETT.

H.J. Res. 460: Mr. EVANS, Mr. WAXMAN, Mr. GUARINI, Mr. WILLIAMS, Mrs. MORELLA, Mr. CAMPBELL of Colorado, Mr. JOHNSON of South Dakota, and Mr. HOAGLAND.

H.J. Res. 463: Mr. DWYER of New Jersey and Mr. SLATTERY.

H.J. Res. 474: Mr. HAMILTON and Mr. CLEMENT.

H.J. Res. 478: Ms. NORTON, Mr. MAVROULES, Mr. SPRATT, and Mr. OBEY.

H.J. Res. 483: Mr. LAFALCE, Mr. PETERSON of Minnesota, and Mr. HAYES of Illinois.

H.J. Res. 495: Mr. SHAW, Mrs. MINK, Mr. ENGEL, Mr. PRICE, Mr. HALL of Ohio, Mr. SKELTON, Mr. MANTON, Mr. DELLUMS, Mr. DANNEMEYER, and Mr. POSHARD.

H. Con. Res. 246: Mr. Perkins, Mr. JACOBS, Mr. LEVIN of Michigan, Mrs. MEYERS of Kansas, Mr. PAYNE of Virginia, and Mr. BREWSTER.

H. Con. Res. 282: Mr. TORRICELLI, Ms. DELAURO, Mr. MATSUI, and Mr. GLICKMAN.

H. Con. Res. 309: Mr. MCMILLEN of Maryland.

H. Con. Res. 324: Mr. BRYANT, Mr. PRICE, Mr. MCDERMOTT, Mr. WEISS, Mr. LIPINSKI, Mr. BONIOR, Mr. EVANS, and Mr. PERKINS.

H. Con. Res. 325: Mr. NAGLE and Mr. MILLER of California.

H. Res. 399: Mr. GEREN of Texas and Mr. WYLIE.

H. Res. 490: Mr. LEVIN of Michigan, Mr. OWENS of Utah, Mr. SENSENBRENNER, Mr. MCCOLLUM, Mr. DORNAN of California, Mr. RAVENEL, Ms. KAPTUR, and Mr. LANTOS.

SENATE—*Tuesday, June 23, 1992*

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us thank God for the recovery of Senator HELMS, the successful surgery of Senator ROTH, and remember in prayer Shirley Felix, who handles special functions in the dining room, now in the hospital, and Chaplain Jim Ford of the House.

For thus saith the Lord God, the Holy One of Israel; In returning and rest shall ye be saved; in quietness and in confidence shall be your strength * * *.—Isaiah 30:15.

Eternal God, as time for adjournment approaches and election responsibilities increase, help Senators and their staffs to comprehend the profound wisdom of quiet moments with God. Help them to see that a few minutes a day, set aside for contemplation, do not diminish time for activity but, rather, enhance one's effectiveness and productivity. Teach Your servants the sublime truth that time alone with God is never wasted, that daily moments for reflection and prayer nurture mind and heart, put life in perspective, and promote increased efficiency.

Mighty God of infinite love and truth, as pressures mount under relentless schedules and emotional heat increases as rational light diminishes, inspire Your servants to make time daily for spiritual illumination and renewal.

In the name of Him who is the Light of the World and the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 23, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct that the period for morning business is to extend until 11 a.m., with Senators permitted to speak therein for up to 5 minutes each?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the period for morning business extend until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time specified for Senators GORTON and BOND to remain as provided under the previous order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the protocol to the treaty with the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (Treaty Document No. 102-32), transmitted to the Senate on June 19, 1992, by the President. I ask that the treaty be considered as having been read the first time; that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (the Protocol) signed at Lisbon, Portugal, on May 23, 1992. The Protocol is an integral part of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (the START Treaty), which I transmitted for the advice and consent of the Senate to ratification on November 25, 1991. The Protocol is designed to enable implementation of the START Treaty in the new international situation following the dissolution of the Soviet Union. The Protocol constitutes an amendment to the START Treaty, and I therefore request that it be considered along with the START Treaty for advice and consent to ratification.

I also transmit for the information of the Senate documents that are associated with, but not integral parts of, the Protocol or the START Treaty. These documents are letters containing legally binding commitments from the heads of state of the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine concerning the removal of nuclear weapons and strategic offensive arms from their territories. Although not submitted for the advice and consent of the Senate to ratification, these documents are relevant to the consideration of the START Treaty by the Senate. No new U.S. security assurances or guarantees—beyond the assurances previously extended to all nonnuclear-weapon States Parties to the Non-Proliferation Treaty—are associated with any of these letters.

The START Treaty represents a nearly decade-long effort by the United States and the former Soviet Union to address the nature and magnitude of the threat that strategic nuclear weapons pose to both countries and to the world in general. As I indicated in transmitting that Treaty to the Senate, the United States had several objectives in the START negotiations. First, we consistently held the view that the START Treaty must enhance stability in times of crisis. Second, we sought an agreement that did not simply limit strategic arms, but that reduced them significantly below current levels. Third, we sought a treaty that would allow equality of U.S. strategic forces relative to those of the former Soviet Union. Fourth, we sought an agreement that would be effectively verifiable. And, finally, the United States placed great emphasis during the negotiations in seeking an agreement that would be supported by the American and allied publics.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I was fully convinced in 1991 and I remain fully convinced that the START Treaty achieves these objectives. In addition, the Protocol transmitted herewith has allowed us to achieve another important objective: Ensuring that only one state emerging from the former Soviet Union will have nuclear weapons. To gain the benefits of START in the new international situation following the demise of the Soviet Union, it is necessary that Byelarus, Kazakhstan, Russia, and Ukraine—the four former Soviet republics within whose territory all strategic offensive arms are based and all declared START-related facilities are located—be legally bound by the START Treaty. The Protocol accomplishes this, while recognizing the sovereign and independent status of each of these four states.

Of equal importance, the Protocol obligates Byelarus, Kazakhstan, and Ukraine to adhere to the Nuclear Non-Proliferation Treaty as nonnuclear-weapon States Parties in the shortest possible time. In addition, the letters transmitted with the Protocol legally obligate these three states to eliminate all nuclear weapons and all strategic offensive arms located on their territories within 7 years following the date of entry into force of the START Treaty. The Protocol and the associated letters thus further one of our most fundamental non-proliferation objectives—that the number of nuclear-weapon states shall not be increased. Together with the START Treaty, the Protocol helps ensure that nuclear weapons will not be used in the future.

The START Treaty serves the interest of the United States and represents an important step in the stabilization of the strategic nuclear balance. With the addition of the Protocol, the START Treaty can be implemented in a manner consistent with the changed political circumstances following the demise of the Soviet Union and in a manner that achieves important non-proliferation goals. I therefore urge the Senate to give prompt and favorable consideration to the START Treaty, including its Annexes, Protocols, Memorandum of Understanding, and this new Protocol, and to give advice and consent to its ratification.

GEORGE BUSH.

THE WHITE HOUSE, *June 19, 1992.*

SCHEDULE

Mr. MITCHELL. Mr. President, as previously noted, under the order entered last Friday, the Senate was to be in morning business until 11 a.m., at which time the Senate was to return to the Government-sponsored enterprises bill. Earlier this morning, Senator DOLE's staff contacted my staff and requested that the time be extended until 11:30 to accommodate Republican Senators, and we also were contacted by the Banking Committee indicating that the chairman of that committee is conducting a hearing and would not be ready to proceed to the bill this morning. Therefore, I have extended the period for morning business to 12:30, at which time the Senate will go into recess for the party luncheons, and when we come back at 2:15 we will go back to the GSE bill.

APPOINTMENT OF CONFEREES—H.R. 5260

Mr. MITCHELL. Mr. President, I understand that the Chair is now prepared to appoint Senate conferees on the unemployment insurance bill.

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Acting President pro tempore appointed Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. PACKWOOD, and Mr. DOLE conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

HOUSE SPEAKER WEIGHS IN ON DEVASTATING ANCIENT FOREST LEGISLATION

Mr. GORTON. Mr. President, timber communities of the Pacific Northwest owe the Speaker of the House, THOMAS FOLEY, a profound thank you for his help last week. The chairman of the House Interior Committee was pushing a bill through the House that would devastate those timber communities and destroy the wood products industry of Washington, Oregon, and northern California. The so-called Miller bill was scheduled for markup last week. That bill proposed to lock up 5 million acres of prime, commercial forestland—in addition to the 3 million acres already locked away forever in national parks and wilderness areas.

Speaker FOLEY stepped in last week and persuaded several members of the Interior Committee to oppose the bill. His efforts paid off and the markup session was canceled. I commend the Speaker for his efforts. Working people and families in timber communities of the Pacific Northwest owe him their thanks.

As might be expected, the Speaker was immediately criticized. The Washington Post reported last Thursday that Speaker FOLEY weighed in and canceled the House Interior markup. The Post reported that FOLEY is being—

> Angrily accused of sabotaging the legislation and predicted it would only result in a continuation of the existing policy stalemate that has cost thousands of forest products workers their jobs in the Northwest.

George Frampton, head of the Wilderness Society, said that:

> By derailing the process the speaker is acting against the interests of Northwest communities.

This is a big lie.

The Wilderness Society criticizes the Speaker for preventing legislation that it claims the citizens of the Northwest desperately need. The people of the Northwest don't need a new 5-million-acre wildlife preserve. The people of the Northwest don't need a bill that sets aside more new acres than the injunctions imposed by Judge Dwyer. They don't need a bill that will destroy, forever, a significant portion of the wood products industry in the Northwest. And the people of the Northwest don't need a bill that destroys the livelihoods of tens of thousands of families and their communities without reason. The Speaker did the right thing in halting this devastating legislation.

Those who claim that the Speaker halted legislation designed to help timber communities of the Northwest are deceiving the public. The public needs to see this deception for what it is.

A look at the numbers shows why the Speaker did the right thing. The aggregate annual Federal timber sales volumes for the BLM and the Forest Service combined in the States of Washington, Oregon, and northern California have historically been approximately 6 billion board feet. The Secretary of the Interior's preservation plan would drop this figure to 4.2 billion board feet. The DeFazio bill would allow a total of about 3.25 billion board feet. The Thomas report would have allowed approximately 3.05 billion board feet.

The bill reported by the House Agriculture Committee last week would allow only 2 billion board feet. And, finally, the Miller bill would allow a mere 1.5 billion board feet annually throughout the region on all Federal lands. The Miller bill would drop the annual harvest from 6 billion board feet to 1.5 billion board feet and this is supposedly in the interests of Northwest communities. A 75-percent reduction in the supply of raw materials, and an equivalent number of jobs, is not in the interest of anyone concerned about human values, balance and the reasonable economic use of a renewable resource. It is not in the interest of working people and their families in timber communities of the Northwest and it is definitely not in the interest of the people of this country who continue to require more and more wood products at reasonable prices.

As the House drags this devastating legislation through its committees, the Senate does nothing. Early last year, I introduced, along with Senator PACKWOOD and others, legislation that would bring true relief to the timber economy of the Pacific Northwest. The Forests and Families Protection Act, drafted not by Senator PACKWOOD and myself but by a broad alliance of labor, management, and community leaders, has rested in the Energy and Natural Resources Committee without any action. Hearings on the bill were held last year, but the bill has gone nowhere. While the House moves on legislation, albeit devastating legislative, the Senate does nothing.

This is why I intend to offer a floor amendment to bring the Senate back into the debate over the spotted owl, old growth forests, and Northwest timber towns. Last month, the Secretary of the Interior proposed a preservation plan for the northern spotted owl. I introduced legislation implementing the preservation plan to which I added several layers of protection for the spotted owl. This legislation goes well beyond the preservation plan, and yet I was roundly criticized for it. Environmentalists accused me of proposing to allow the spotted owl to go extinct in certain portions of its range. Though I put human and community values first, I have absolutely no desire to allow the extinction of the spotted owl. That is why my legislation adds owl protection zones prohibits shooting, and hunting of owls, and introduces ecosystem-based silviculture on two national forests in Washington State—all of this in addition to the millions of acres of national park and wilderness already set aside forever for owl populations.

The Governor of the State of Washington, Booth Gardner, estimates that my legislation would reduce the historic Federal timber volumes from national forests in Washington State from 1.148 billion board feet to just 674 million board feet. The center of gravity has obviously shifted when a nearly 50-percent reduction is criticized as inadequate. The Miller bill would reduce the historic volumes to just 290 million board feet. As you can see, the critics will not be satisfied until they achieve at least this 75-percent reduction in raw materials, jobs and morale in the timber communities of the Pacific Northwest—and they want to retain the right to challenge even that level of rules.

I continue to revise my legislation with the hope of passing something that brings timber communities back to some sense of certainty and of reason. The Miller bill is worse than even the status quo because it does not bring us out from under the repression of the court-imposed injunctions and, even if it did, the volumes would be lower than if the injunctions remained in place. How would the interests of Northwest communities be served by legislation that places those communities in an even worse position than the current devastation they are witnessing?

Speaker FOLEY did the right thing by stepping in to bring a halt to the Miller bill. I hope that the Speaker continues to use his position to influence the outcome of this debate. I hope that he supports something much more balanced than the Agriculture Committee bill. I hope that my colleagues in the Senate see the need to enter the debate and find a balanced solution that considers the lives of hard-working timber families in the Pacific Northwest.

THE LATEST U.S. NUCLEAR TEST

Mr. MITCHELL. Mr. President, the United States exploded a 20,000-ton nuclear device.

A week ago in this building, Russian President Boris Yeltsin made an impassioned plea for the United States to join Russia in a nuclear testing moratorium.

He noted that France, too, had joined in announcing its own moratorium on nuclear tests.

"Why shouldn't the United States support us since we are slashing nuclear weapons by one-third?" President Yeltsin asked Senators.

"Why are we improving nuclear warheads when there is no logic in doing so?" he wondered.

President Yeltsin apparently raised this question in discussions with administration officials.

The administration's response was to conduct a nuclear test.

Just days after the most sweeping and historic strategic arms reduction agreement in the history of our relations, the administration resumed nuclear testing.

This action signals that the United States would rather continue to develop a nuclear arsenal than set an example to the rest of the world that the arms race can be ended.

United States continuation of nuclear testing tells would-be nuclear powers that yes, they are right, to pursue nuclear weapons.

This is exactly the wrong message to other nations considering whether to develop nuclear weapons.

We should be working to dissuade other countries from developing nuclear weapons. Instead, by continuing testing we strengthen their nuclear motivations.

The administration is inconsistent on the issue of nuclear testing.

It says it opposes proliferation, but it will not take action that will strengthen nonproliferation.

Indeed, just last month the administration criticized China for conducting a massive nuclear test. But the administration insists on its own right to continue testing. How can we criticize others for doing what we are doing?

The United States already has tested almost 1,000 nuclear devices, five times more than any nation on Earth.

Now is a good time to pause.

We should be ending nuclear proliferation, not developing new nuclear warheads.

The cold war is over.

Real safety and reliability come from preventing the spread of nuclear weapons to unstable regimes.

Real security is helping to create a nonnuclear future.

There have been no nuclear tests conducted in the former Soviet Union since October of 1990.

But there are plenty of officers in the Russian military who want to continue nuclear testing and continue strengthening Russia's nuclear arsenal.

There is pressure on President Yeltsin to end the unilateral restraint he has shown.

The United States should be encouraging that restraint, not undermining it.

I joined with the distinguished Senator from Oregon [Mr. HATFIELD] to offer a bill halting nuclear testing for a year provided that no state in the former Soviet Union tests a nuclear device.

Over half the Senate believes that it is in the United States' interest to join in a temporary nuclear testing moratorium. A strong majority in the House already has voted to adopt this policy.

The administration is mistaken to pass up the opportunity we have to demonstrate our desire to create a nonnuclear world.

The United States ought to join Russia and France in a nuclear testing moratorium.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND, Mr. MCCAIN, Mr. BURNS, Mr. SEYMOUR, Mr. DURENBERGER, Mr. COCHRAN, Mr. DANFORTH, and Mr. COATS, pertaining to the introduction of S. 2878 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2879 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senate from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, do I understand that under the previous order, the Senator from New Mexico has 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I thank the Chair.

THE AMERICAN ENCOUNTERS EXHIBIT AT THE SMITHSONIAN

Mr. DOMENICI. Mr. President, I frequently stand before you and the Senate to tell you how unique my home State of New Mexico is, and how very lucky I feel to be a New Mexican. As I like to point out, New Mexico is one of few States in the Union where several languages and cultures live together to make up a diverse population mosaic. It is a place where people of every race, creed, and ethnicity have come together in a multicultural society, and whose history is shaped by native Americans, Hispanics, and European settlers.

I am therefore very pleased that, beginning June 24, millions of Americans visiting Washington will have the opportunity to see for themselves why we New Mexicans are so proud of our heritage and of our culture. On that day, the Smithsonian's National Museum of American History will premiere its Americans Encounters exhibition, which will focus on the effects of historical and contemporary encounters among native Americans, Hispanics, and Anglo-Americans in New Mexico.

This exhibit has been created to commemorate the Columbus quincentenary. Frankly, I think the focus on New Mexico is wonderfully appropriate, and I would like to take just a moment to explain why.

In the past few years, we, Americans, have debated the issue and impacts of the expedition of Columbus in 1492. One of the most frequently examined questions is whether the conquest of America by the Europeans was a triumph or a crime, a discovery or an invasion.

I think Stephan Thernstrom, a Harvard history professor, put it best in his essay on the Columbus controversy when he states:

> The Columbus story, like every other momentous historical event, calls not for easy moralizing and finger pointing but for an appreciation of a complex clash of cultures that was crucial to the emergence of the modern world we inhabit.

Nowhere is this appreciation more fully realized than in New Mexico. The arrival of Spanish settlers in New Mexico in 1539 began a weaving together of native American, Hispanic, and Anglo cultures, developing into an interlocking pattern of living while competing for the scarce resources of the Southwest. The exhibit in the Smithsonian will address the challenges of cultural pluralism—a challenge New Mexicans have successfully met through mutual respect for one another's cultures and ways of life.

As our society takes steps to address the very serious problems of racism and cultural intolerance, I think New Mexico's culturally diverse society can and should serve as a model for the rest of the Nation. Tolerance and respect were our State's chief tools and our success is undeniable. This exhibit is all about the special relationships—past, present, and future—between Hispanics, native Americans, and Anglos in New Mexico's Rio Grande Valley.

American Encounters will explore the ways in which native American and Hispanic cultures have endured in New Mexico, resisting efforts by other cultures to absorb them. The exhibit was developed in close collaboration with artists, scholars, and tribal and community representatives to give as accurate a picture as possible of New Mexican lifestyles and traditions. The sheer size of the exhibit is in itself very impressive: There are more than 300 artifacts and 200 graphics, constituting 3,800 square feet of exhibit space.

What we call New Mexico's history really began in 1539, when Zuni Indians encountered emissaries of the Spanish Government searching for gold. The two factions fought with each other, off and on, for 40 years, until, in 1598, Spanish soldiers, settlers, and priests came to live among the Indians.

The Spanish—and other Europeans—soon established forts, trading posts, and colonies throughout the American Southwest and across the country. From 1598 to 1680, Franciscan priests set up missions at many pueblos in New Mexico. By 1776, in addition to the 21 missions at Indian pueblos, the Franciscans maintained missions in Abiquiú, Albuquerque, Santa Fe, and Santa Cruz de la Cañada. With this piece of history in mind, the exhibit opens when museum visitors step through a wooden entryway based on wood carvings made for a church at Pecos Pueblo in 1715.

While the exhibit will look at some of the ways native Americans and Hispanics interacted with each other and with the Anglo-Americans for 500 years, the primary focus of the exhibit will be on the history of the Indian pueblo of Santa Clara and its neighboring Hispanic community of Chimayó. These are two of our most culturally rich communities in north-central New Mexico.

The ancestors of the Santa Clara Pueblo first came to the upper Rio Grande around 1350. The Indians who currently reside at Santa Clara are direct descendants of these early settlers, who called themselves Kha p'on. For more than five centuries, first by the Spaniards, then by Anglo-Americans, these people have endured and adapted to challenges to their lives, lands, and customs.

When the Spanish arrived in New Mexico, they forced the Pueblo Indians to provide them food and other provisions, such as handmade blankets and tanned hides. The Spanish then sold these beautifully made products. The Spanish influence, though initially resisted by the Indians, eventually merged with the Indians' traditional trade economy. This impact can still be seen today, as the Santa Clarans exchange goods—such as hides and pottery—and their labor, for their needs and comforts.

The Spanish domination also influenced the way the Kha p'on made their pottery. When the Spanish seized the pueblos' lead mines, the Indians were forced to abandon their traditional lead-based finishes on their pottery for vegetable-based formulas. Another innovation was the use of manure from cattle and sheep to create a black, polished finish on the pottery.

Today, the Kha p'on's pottery has become an institution in itself, and a primary source of income for many families at the pueblo. With the wide assortment of renowned work that is for sale, the Santa Clara Pueblo has quickly become a tourist's—and pottery collector's—favorite place to visit. An example of the Kha p'o pottery will be on display at the Smithsonian, and I think everyone who sees it will agree that it is extraordinary.

It is interesting to note that in 1600, Kha p'o was one of more than 130 self-governing pueblos. By 1706, their numbers had been reduced to 18, mainly through epidemic diseases, warfare, and forced relocation. Today, there are 19 pueblos in New Mexico, and 1 in Arizona. One portion of the Smithsonian exhibit, "Pueblo Resistance and Self-Determination," will give visitors some idea of the measures the pueblos have taken to preserve their way of life since 1600.

While we speak many languages in New Mexico, I think one of the most significant cultural losses experienced not only by the Kha p'on, but also other tribes, is the erosion—and sometimes total eradication—of their native languages. The Spanish forced the Indians to speak Spanish, while Anglo-Americans in the 19th century tried to enforce an English-only policy. Even today, many tribes have lost their native language, while others have native speakers who teach members of the tribe their native language. Through taped interviews, visitors to the museum will get to hear some of the many languages we speak in our State, including the native languages of the Zuni and Navajo.

Along with the language struggle, perhaps one of the most passionate of conflicts has been that between different religions and religious ceremonies. Both the native Americans and Hispanics have been the victims of religious oppression as the Spanish attempted to convert Indians to Catholicism, and Anglo-Americans attempted to convert Hispanic Catholics to Protestantism.

Of the many who converted, some practiced this new faith through revised forms of their traditional worship. However, others preserved their own traditions under the eye of Catholic and Protestant missionaries in the Southwest. Even after centuries of

Spanish and Anglo influences, Catholic and traditional Indian religions still exist side-by-side in New Mexico. American Encounters examines the difficult issue of how native Americans and Hispanics alike have preserved their traditional religions, or modified their traditions to conform to the new religious ideas and customs.

Visitors will also learn more about how traditional religions are practiced in various New Mexican communities. Some Hispanic communities, for example, stage traditional Spanish dramas, such as "Moros y Cristianos," which tells the story of how Christian soldiers lose, then regain, the true cross from Muslim warriors.

Another group honors Our Lady of Guadalupe, a Mexican manifestation of the Virgin Mary. This group, known as Guadalupanas, was formed in 1976 and is made up solely of Hispanic Catholic women. Together, they direct their own public rituals.

There is also a portion of the exhibit dedicated to the now-famous yearly pilgrimage to the shrine in Chimayó to seek its healing powers. The journey to Chimayó has been a tradition for generations for both Hispanics and native Americans alike, but the practice was reborn with a new fervor in 1973, when a group of priests from Estancia made the 100-mile walk to the shrine. On display will be some of the objects that many of these peregrinos, or pilgrims, have carried on their journey to Chimayó.

However, Chimayó has much more to offer than its mountain shrine. The history of this Hispanic community is as fascinating as that of its native American neighbor to the southwest. I am pleased the Smithsonian has chosen to focus a portion of its exhibit on Chimayó because I think it is the ideal community for examination of traditional Hispanic family values, their sense of community, and an awareness of the history of Spanish settlers in the area.

Chimayó was originally settled in 1695 by a group of Spanish settlers who displaced Pueblo Indians in the tributaries of the upper Rio Grande valley. For generations, Chimayó was the center of Spanish life, work, and worship. This was due largely to the tradition of Spanish village organization and lifestyle the Spanish brought into the valley.

Around 1750, the first Spanish settlers in the area built an enclosure of connecting adobe houses they called the Plaza del Cerro. Extended families continued to expand on the Plaza del Cerro, building additional plazas and building and maintaining a complex system of aqueducts to bring water into their communities. Many of these plazas and watercourses are still visible today, as museum visitors will see in the exhibit.

However, I think the most endearing and fascinating part of the Chimayó portion of the exhibit is its focus on the life and experiences of the Trujillo family, who have lived in Chimayó for generations. Gabino Trujillo and Urselita Deagüero raised their family in Chimayó around the turn of the century. Their son, Esquípul Deagüero Trujillo married Romanita Ortega—another Chimayó resident—and the two of them raised nine children. The lives of the Trujillo family form the framework for the exhibit to give visitors an understanding of cultural continuity and adaptation.

Visitors will also have the opportunity to watch videos of Hispanic communities and Pueblo Indians doing the Matachinas dance, which is another example of an entwining of two cultures. Although the details vary, most historians agree that the dance was brought to New Mexico by the Spaniards. The Matachinas dance is a drama in which dancers, playing different symbolic roles such as El Toro and El Monarca, pay homage to a young girl named Malinche, named for a legendary Mexican Indian convert.

The dance still exists today, and is performed by Indians and Hispanics alike, although it holds different meanings for different groups. At the Jemez Pueblo, for example, dancers perform both the Spanish and Indian versions of the dance. At the Santa Clara Pueblo, the dance is performed on Christmas Day, with the dancers in traditional Pueblo costumes. In Hispanic communities such as Chimayò, the dance is often a form of community worship, performed annually on saint's day. Participation in the dance commits the dancers to a discipline of Christian practice and prayer for the year.

Religion is an important part of life in Chimayò, and the Matachinas dance is only one of many religious traditions of the community. One religious group, the hermanos, or brothers, are a voluntary religious group that practice the centuries-old rituals of self-inflicted pain to atone for sin during the Holy Week. During the remainder of the year, they devote themselves to serving the community. Another group, the Carmelitas, is composed of women devoted to Our Lady of Mount Carmel. The Carmelitas maintain their own chapel in Chimayò.

For better or for worse, our increasingly technical world has taken its toll on the community of Chimayò. While the men of Chimayò had been seeking work outside of their community since the late 1800's when the village outgrew its agricultural resources, the opening of Los Alamos National Laboratory in 1943 stimulated the exodus of men—and women—from the village to work in the laboratory more than 30 miles away.

Still, the village of Chimayò remains a source of identity for those who live or once lived there. Many of those who have moved away still return for weekends and holidays to visit parents, friends, and peregrinos on their way to the shrine. I hope museum visitors will come away with some sense of the history and the closeness of the Chimayò community.

Chimayò's difficulties in finding appropriate employment opportunities within their small community is typical of many of New Mexico's older, more traditional communities. When many of New Mexico's Indians lost land in the late 1800's, they lost their livelihoods as well. No longer can they hunt and fish on land they had called their own.

However, many native Americans soon discovered that their own culture, their own history, was one of their sources of income. Making and selling Indian arts and crafts eventually replaced manual labor as a more effective way to participate in the economy.

As traditional craftsmen soon learned, catering to a buyer's market will always begin to affect the design of the product. No longer did the products made reflect the needs of the community, but the tastes of the tourists. And after 1900, tourist's demand exploded for Southwestern, or at least Southwestern-style, crafts.

The Smithsonian exhibit will examine the economic and cultural impact of the tourist markets on native American and Hispanic crafts. I think visitors will be surprised to see the vast array of available arts and crafts, from elaborately decorated Indian necklaces, bracelets, and concho belts, to Spanish tinware, furniture, and woodcarvings. And, of course, visitors will see the images that have come to be associated with the Southwest, such as the increasingly art-deco coyote statues, as well as ristras, the strings of chile peppers many of us—including myself—hang in the entryways of our homes.

Mr. President, I started off today by saying that New Mexico can serve as a model for how people across the country and, indeed, all over the world can live side-by-side, despite racial, cultural, and religious differences. New Mexicans know what this is like; we do it every day. We share a history of conflict and reconciliation, of ignorance and appreciation of misconceptions and understanding. And like any group, we sometimes struggle with each other and fight for our rights to be uniquely who we are.

However, I like to think that, more often than not, any clenched fist soon opens into an outstretched hand. We have had our share of difficulties, but we have seen past our differences to recognize that it is, in fact, those differences, those certain unique qualities, that tie us all together.

It is my hope—and I know the Smithsonian shares this hope as well—that the exhibit will not only increase awareness and understanding of New

Mexico and its history, but will also make a positive contribution toward understanding and appreciation for cultural diversity. What we have created in New Mexico through our mutual understanding of each other and our differences is something very special, and something of which I am very proud to be a part.

Mr. President, I could go on much longer tracing the history of New Mexico and placing it in this marvelous exhibit that is going to be found in the Smithsonian as part of American Encounters, and also on The Mall, when many New Mexicans will bring that culture here.

Obviously, people will be able to walk through that culture which has been transplanted by way of buildings, hornos—that is outdoor ovens—various displays which will show how these cultures, artisans, artists, have lived through history.

I believe this is a rare opportunity for millions of Americans and millions of people from around the world, to see how this really worked and still lives in New Mexico.

Mr. President, I ask unanimous consent that Senator DOLE of Kansas be added as cosponsor of S. 2866, ADEPT, Program for international assistance in the deployment of energy and energy-related environmental practices and technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

THE BALANCED BUDGET AMENDMENT

Mr. GRAMM. Mr. President, last Thursday there was a flurry of parliamentary activity relating to the balanced budget amendment to the Constitution. Over the weekend there have been many articles run in papers around the country, and especially here in the Federal City, about that debate and what is at stake in the debate.

I thought it would be very helpful this morning, despite the fact that the leadership has postponed the debate from the scheduled 11 to 2:15, to basically talk about what the issue is, what is at stake, and where we are in terms of the consideration of important legislation.

On Tuesday of last week when a unanimous-consent request was made by the majority leader to complete action on the bankruptcy bill, I notified the majority leader that when the GSE bill came up, the Government-sponsored enterprise bill came up later in the week, that it was my intention to either offer the balanced budget amendment to the Constitution or that another Republican Member of the Senate would offer it on behalf of himself and on my behalf and on behalf of other Members of the Senate.

By Tuesday, the majority side clearly understood that the balanced budget amendment would be offered to the GSE bill.

On Thursday, when the GSE bill was scheduled to come to the floor of the Senate for debate, we went through a series of delays that lasted almost all day long as various pleas went out around the Federal City and around the countryside basically saying that unless I gave up my right to offer the balanced budget amendment a myriad of bad things would happen; that unemployment compensation would not be extended; that no aid would be given to those who suffered from the riots in Los Angeles; that no assistance would go to the Russian Republic; and that numerous other bad things would happen both here and around the world.

Mr. President, I decided on Thursday to move ahead with the business of the Nation and to offer the balanced budget amendment to the Constitution. After the majority leader had initially, in essence, threatened to hold unemployment insurance hostage, to hold aid to Los Angeles and our cities hostage and to hold the Russian aid bill hostage, he subsequently decided to let two of the hostages go and, as our colleagues know, we adopted the unemployment insurance bill and we adopted the emergency supplemental appropriations bill.

I do not know what will happen at 2:15, but I wanted to remind my colleagues where we are.

First of all, the distinguished majority leader has the power at 2:15, or at any later time he might have the volition to do so, to move to Russian aid. No Member of the Senate can object to that motion. Russian aid has been on the calendar for over 2 days and, as a result, the majority leader has the right unilaterally to move to Russian aid. I do not block that right. I do not seek to block it, and if I sought to do so, I would not have the power as an individual Member to do so.

Where we are, in essence, is that Members of the Senate desire to offer the balanced budget amendment to the Constitution to the GSE bill which will be before the Senate at 2:15, if the distinguished majority leader decides that it will be under consideration. If it comes up and the amendment is offered, as it will be, the majority leader would have many options, but one of which would be to complete debate on the balanced budget amendment to the Constitution and have it voted on. Let me make it clear that I would be willing to enter into a time agreement. Obviously, it would have to be shopped on both sides of the aisle, but I would be willing to agree as an individual Senator to 4 hours equally divided on the balanced budget amendment to the Constitution with a vote to come at that point.

The majority leader has the option at 2:15 to move to go to Russian aid at that point or if debate begins on the balanced budget amendment to the Constitution he has the power under the rules of the Senate to move to Russian aid. So I am afraid that as the majority leader has tried to portray me as a person holding up Russian aid, it reminds me of a terrorist who has seized some poor hostage and while standing with a gun at the hostage's temple blames people who are not giving him what he wants for having the hostage under his control.

I am ready to move to Russian aid. I am supportive of Russian aid, but I am not willing to limit my rights or the rights of my colleagues to offer the most important issue facing America today: The need to balance the budget and to offer the balanced budget amendment to the Constitution as an amendment to a totally separate bill. And let me remind my colleagues what the majority leader is asking is that we give up our rights to offer an important amendment to another bill in return for which the majority leader will exercise a right which he clearly already has to move to a measure that is of importance I think not just to the people of Russia but to the people of the world.

So I for one intend to press onward working for a balanced budget amendment to the Constitution.

Let me make two other points, and I want to yield because I have several colleagues here who wish to be heard on this subject.

I want to address the issue of whether or not the balanced budget amendment is still a live issue. Some of our colleagues who are so desperate to have us not vote on it say that this is an exercise that has no real meaning; that the House is not going to vote on it again and so, therefore, we are wasting our time. Mr. President, I think if that were the case, we would not see so much energy expended, so much effort put to trying to prevent us from voting on this amendment.

Let me explain why there is such an effort. The House adopted a rule, House Resolution 450, for consideration of the balanced budget amendment to the Constitution, and in that rule in sections 3 and 4, it has extraordinary provisions. In fact, I am not aware that a similar rule to this was ever adopted in my 6 years in the House. Basically what these two sections deal with is the possibility that the Senate would adopt a balanced budget amendment to the Constitution and what the House would do if the Senate adopted it. And it says:

> If a comparable joint resolution has been passed by the Senate, it shall be in order at any time after House consideration of H.J. Res. 290—

That is the balanced budget amendment that they have now considered in the House—

> for Representative Stenholm, or his designee, to move for immediate consideration of such Senate joint resolution and to move for concurrence with the passage of such Senate joint resolution.

And then it says further that:

> Consideration shall be a matter of highest privilege in the House, and shall take precedence over any other motion, business, or order of the House, and the House shall proceed with such consideration to final passage.

What does all that mean? What it means is this: If we bring up the balanced budget amendment in the Senate and it is adopted, then Congressman STENHOLM, or his designee, would be able to make a motion in the House which is highly privileged, which cannot be superseded by any other business of the House, requiring the House to bring up the balanced budget amendment to the Constitution, and if we adopt a balanced budget amendment to the Constitution in the Senate, it will be voted on again in the House.

Twelve Members of the House cosponsored the balanced budget amendment to the Constitution and then turned around and voted against the amendment when it was voted on in the House. Twelve Members who had cosponsored the resolution voted "no," and it failed by 9 votes. I do not need to call on our colleagues to have much imagination to realize what has been said about those 12 Members back in their home districts since they cosponsored a balanced budget, many of them going back home praising its virtues, saying how strongly they were for it, and then turning around and casting the votes to kill it.

So where we are is this: When the GSE bill comes up, if it does come up, the balanced budget amendment to the Constitution will be offered.

The majority leader can offer a motion to go to Russian aid at any point he wants and if he wants to go to it now, I support that. If he wants to go to it in the middle of the debate on the balanced budget amendment, I support that. But we are not going to be denied on the balanced budget amendment to the Constitution.

If we do adopt it in the Senate, then it will immediately go to the House, and it will be voted on again. And the 12 Members of the House who cosponsored it, supported it, who basked in its glory back home, will have an opportunity once again to vote on it, and I believe that we have an opportunity to make it the law of the land.

Mr. President, I have pushed ahead on this amendment, because I think it is important to the future of America. I am hopeful that the Senate will have an opportunity to work its will, and I am committed to that objective.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

The Senator from Nebraska is recognized.

THE BALANCED BUDGET AMENDMENT

Mr. EXON. Mr. President, I was listening with keen interest to my colleague from the State of Texas. I hope that the Senator from Texas and others either heard or have maybe read my statement in this regard on last Thursday.

This Senator was previously Governor of the great State of Nebraska. We have a constitutional amendment in Nebraska, as do most of the States, and I thought that served Nebraska well, in trying to bring some form of discipline in the executive and legislative branches of Nebraska State government.

I have long been a supporter of the constitutional amendment for a balanced budget and a cosponsor of the amendment. I have supported it for a long, long time. I believe that despite all of the attacks that have been made on the current effort, most would agree that, certainly, a budget-balancing amendment could not do any harm. In fact, I believe it could do a great deal of good. I think my colleague from Texas knows that this Senator has made that stand and been out in front in support of the basic same principles that the Senator from Texas addressed last week and has addressed again here this morning.

However, as I said last week, one of the great disenchantments that I think the public at large has with the institution of the Congress today is that despite our strongly held views, despite the fact that we have differences of opinion on many things, the people of the United States today are most concerned about the gridlock that has developed here. And I believe that the people of the United States—and correctly so, in my view—have come to the conclusion that much of the debate, much of the posturing that goes on here, is just that. We seem to go overboard more so than I have ever seen in my 13 years as a Member of this body, more so than the 8 years that I spent serving the people of Nebraska as their Governor. Partisan politics is rampant in this body and in our sister body on the other side of the Capitol.

I am not blaming the Democrats for this; I am not blaming the Republicans for this; I am blaming all of us collectively who seem to feel that our main mission in life and the real goal that we are here for is to try and put the opposition behind the eight ball. It so happens that on a constitutional amendment, I agree completely with my colleagues and friend from the State of Texas. However, as I said last Thursday, I think the people of America want us to get on with the business of America and not waste our time on game playing.

I certainly was somewhat shocked, Mr. President, to at least the comparison of the majority leader, as described as I understood the words by the Senator from Texas, as using "terrorist-type tactics." The majority leader has a very, very difficult position. His job is to try and get things moving. I have served under several majority leaders since I have been in the Senate, both Republican majority leaders and Democratic majority leaders. And while I have not always agreed with the positions that they have taken, I, frankly, have some understanding of the difficult position that the majority leader has in trying to accommodate all of the 100 strongly held egos of all of us who have the privilege to serve here. So I do not think any of them have ever done anything that could be remotely compared or should be compared with terrorist-type activities.

I say to the Senator from Texas that I reiterate today what I said last Thursday when I said that I am weary of spinning our wheels; I am weary of not getting anything done, despite the many problems that face America. All you have to do is look at the whole series of important legislation that we have passed. All too often, we have to get 60 votes to invoke cloture on relatively unimportant matters. Even to bring up a bill that is duly on the calender and duly brought up by the majority leader, we have to sometimes get cloture, even to bring the bill up for discussion.

That, more than anything else, I think, indicates the deterioration of what is going on in the U.S. Senate, which I think does not bode well for the future for either the Democratic Party or the Republican Party. Certainly, the people of America are sending that message very loud and very clear today. Therefore, I reiterate today what I said on Thursday last, and that is, notwithstanding, my strong support of the constitutional amendment for a balanced budget. It is nonsensical; it is a waste of time; it is irresponsible politics for the Senate to be bringing up the balanced budget amendment. There is no way, in my opinion—although I am not and do not claim to be an expert on the House of Representatives—that even if it would pass here that the House would act favorably. And I am not sure that we should be here directly or indirectly criticizing those who at one time were cosponsors and supporters of the constitutional amendment for a balanced budget in the House because, after listening to debate, they share their minds, and that is the reason for debate.

I am somewhat of an expert, though, in counting noses in the United States. I am confident beyond any question of a doubt that when the amendment comes up it is not going to carry by two-thirds in the U.S. Senate either, which is a further conviction on my part that we would be wasting the time of the U.S. Senate, the supposedly precious time of this great body, if we took it up and, even if we passed it through some miracle, which I predict could not and would not happen, then I suspect that it would very likely fail in the House of Representatives once again.

I am afraid that what we are about once again is hard-ball, irresponsible politics, to get people to cast votes that could be used against them with those clever 30-second commercials back home in the upcoming election.

The people of the United States I think are fed up with politics as usual. I would certainly say that I hope that everyone will understand that my vote against the constitutional amendment, if it comes up at this time, will not be because I am not totally dedicated to it, but with my vote I would hope that I would be sending a signal that it is time for us to get down to business, and real business, serious business, and, as much as we can, put aside partisan politics with all of the other problems that face our Nation today.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. MACK].

THE BALANCED BUDGET AMENDMENT

Mr. MACK. Thank you, Mr. President.

Mr. President, I cannot help but respond to a couple of comments that were made by the distinguished Senator from Nebraska. One of the points he made was that it is time to get on with the business of America. I would suggest that according to polling information 77 percent of the people in the country indicate that the business of America is a balanced budget amendment.

This is a particular issue that I have talked about and one which I felt strongly about when I made the decision to run for the Congress back in 1982. The first piece of legislation that I introduced as a new Member of the House of Representatives in 1983 was a balanced budget constitutional amendment. But in the 10 years that I have been in the Congress, I have yet to have the opportunity to vote on a balanced budget constitutional amendment. And, yes, I would say to the distinguished Senator from Nebraska, we are experiencing hard-ball, election-year politics. The majority leader has made the decision that he wants to protect the Members of the Senate that have stated they support the constitutional amendment for a balanced budget, but they do not want to be stuck having to vote for it if it comes to the floor of the U.S. Senate.

Will the House switch its vote? Let me remind the Senate that not too many years ago—I believe 1984—President Reagan's crime reform package came up for a vote in the House of Representatives and it was defeated. Six hours later it was brought back and 64 Members of the House changed their vote. So I would make the claim that if we can get the constitutional amendment up for debate and a vote here in the Senate and passed according to the rule that was read by Senator GRAMM earlier, it would be guaranteed that it would be brought up on the floor of the House of Representatives. And we believe that, yes, there is election-year pressure, and it will be on those 12 individuals who not only said that they were supportive of the constitutional amendment but cosponsored the legislation and then turned around and voted against it. We believe those 12 people will find it difficult to again vote against something they had cosponsored when it only failed by nine votes the first time.

I say to the Senator from Nebraska we do not feel that this is wasting time. Senator GRAMM has already indicated a willingness to limit the debate.

I would also make a second point. It is very, very clear that the majority leader has the right to bring up legislation. Senator GRAMM or any other Senator is not talking about attaching this amendment to the aid bill for Russia. We are talking about attaching it to the Government sponsored enterprises bill. If the majority leader does not want to deal with that bill, he does not have to bring it up. He can bring up the Russian aid bill; we are not blocking that measure. But we are saying we want to have an opportunity to debate the issue of a balanced budget amendment to the Constitution here in the U.S. Senate.

Let me reiterate my point: I feel very strongly about the balanced budget constitutional amendment and have been denied an opportunity to vote on and to debate that issue for almost 10 years. I think the time has come. And again, 77 percent of the American people support a constitutional amendment for a balanced budget. It is America's business and the majority leader of the U.S. Senate is keeping this Senate from dealing with America's business.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

THE BALANCED BUDGET AMENDMENT

Mr. CRAIG. Mr. President, I will be brief. I appreciate my colleague from Washington who has been here a long time waiting to address this issue. I am one of those Senators who over the last several weeks worked very closely with House Members to craft a final constitutional amendment so that both the House and the Senate would have common language and both would have the opportunity to vote on a constitutional amendment for a balanced budget this year.

I, too, was extremely disappointed when colleagues of ours from the House chose to vote against it in the final analysis, and it did not pass. But, as you have heard my colleagues from Texas and Florida say, in working together with representatives of the House we crafted a rule that allowed the Senate to act independently and for the House to be able to react to it, just in case it might be such that the House would not pass in the first instance the amendment. That gave the Senator clear opportunity, and today it gives the Senate clear opportunity to vote on this amendment. It is not holding things up. That has been well described by my colleague from Texas.

We have an opportunity, and I do believe the American people want the U.S. Senate to express their opinion on this issue. And I would hope that we could move forward. This is not the avenue I would have chosen. I would have much preferred that we could have debated this independently, freestanding of any other issue, that we could have focused our attention on it other than the route that we have now been given by the majority leader. There is no alternative for us than to force the issue. I would hope we could move expeditiously to do so.

I yield back the remainder of my time.

The PRESIDING OFFICER. The chair recognizes the Senator from Washington [Mr. GORTON].

THE BALANCED BUDGET AMENDMENT

Mr. GORTON. Mr. President, I start by expressing my admiration for my good friend and colleague, the distinguished junior Senator from Texas. I commend that Senator not only for his thoughtfulness, for his logical pursuit of vital social and political goals, but for his courage in being willing to say that this, the balanced budget amendment proposal, is a vital and central national issue and that he will take on the establishment here in the Senate itself in order to see to it that it is debated, and he hopes and I hope along with him it will be voted on by all of the Members of this body.

It would be difficult in this election year to think of an issue which is more central to the concerns of the American people and to their lack of trust and confidence in the Congress of the United States than is the condition of our budget and our ever-increasing budget deficit. To say, as my friend, the senior Senator from Nebraska, did that it is a waste of time to take on this issue now is a peculiar statement of political philosophy. As I reflect back over most of this session of the

Congress, a tremendous amount of time has been spent on issues which were certain losers, issues designed to be vetoed by the President of the United States and not to become law.

While I have opposed most of those proposals, it has never occurred to this Senator that it was a waste of time to debate them. They have created issues. They have shown differences between the majority party in this body and the President of the United States which are important for the American people to understand as they approach the November elections.

But if it was not a waste of time to debate a dozen different issues in connection with bills that were destined to be vetoed and those vetoes destined to be upheld, it is certainly not a waste of time to debate an amendment to require a balanced budget on the part of the United States.

Mr. President, I say this not only because of the obvious centrality of that issue to this Congress and to our future, but I say it as a recent convert to the amendment.

On two previous occasions, I have opposed an amendment to the Constitution to make it more difficult, at least, to have an unbalanced budget. And I have done so for precisely the reasons which so many of its opponents put forth at the present time: that Congress ought to accept the responsibility for a balanced budget itself; that it ought to provide by statute for a more sober and conservative political philosophy.

I voted enthusiastically in favor of Gramm-Rudman in the early or mid-eighties for just that purpose. And then I saw Gramm-Rudman, once it began to pinch, for all practical purposes repealed by a Congress, which was unwilling to submit to its discipline.

I watched for a debate over a budget in 1990, a budget which promised to be in balance within 5 years. I felt that that specific proposal would fail and I opposed it, unlike my support for Gramm-Rudman. But I was certainly correct in my view that it was not only not going to balance the budget, but would lead to a worse deficit than the one it was designed to correct.

As a consequence, Mr. President, I have had literally trillions of reasons since 1985 and 1986 to change my mind on the balanced budget constitutional amendment, and I have done so. As recently as April in this Senate, we debated a statutory proposal to put such controls on entitlement programs that would have balanced the budget by the end of the century. That proposal got exactly 28 votes on the floor of this Senate.

To call for courage and discipline on the part of Members of Congress without putting some rules, literally, at this point, into the Constituton is a hopeless call, indeed. Until we are forced by our constituents and by the discipline of the Constitution to balance the budget, Mr. President, I regret to say that I doubt very seriously that we should do so.

That it should be debated can hardly seem beyond debate at this point; that it is more important than a bill on Government-sponsored enterprises goes without saying; that the majority leader has total flexibility for scheduling such a debate is one of the powers of the majority leader. He has the choice to allow this amendment to be debated and voted on, and I am certain everyone on this side of the aisle is willing to agree to a time limit on that debate. He has the right to say that he wishes this bill to be voted on today, that we will deal with the balanced budget constitutional amendment at some time in the future. He has a right to move directly, or at any time he wishes, to the proposal to aid the Russian Federation.

But the most important issue which is now or will come before this body is the issue of the future of the United States, our responsibility to our children and grandchildren, our seriousness with respect to dealing with a terribly unbalanced budget and a fiscal crisis which has not only hurt our economy, but has hurt the confidence of the people of the United States.

It is time for that debate to begin, Mr. President, I believe that the Senator from Texas is owed the undying gratitude of all us for insisting that we do, in fact, debate this most important of all issues.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Oklahoma.

THE BALANCED BUDGET AMENDMENT

Mr. NICKLES. Mr. President, I wish to rise in support of the comments made by my colleague, Senator GORTON, and also previously by Senator GRAMM. It certainly is the right of any Senator to offer an amendment to a bill. That is one of the things we enjoy about the Senate. We do have a great deal of flexibility; some would say too much. But it happens to be in the rules of the Senate, and we do have a right to offer an amendment.

This amendment calling for a constitutional amendment to balance the budget, in this Senator's opinion, is the most important issue that we will have before us this year, maybe this decade, maybe in the last 100 years.

Thomas Jefferson said this was the one provision he thought should have been included in the Constitution that was not. And so this Senator and many others have been pushing for some time to make it come to the floor.

As a matter of fact, the Senate passed a resolution on April 9, that I sponsored, by a vote of 63 to 32, that said we would vote to adopt the constitutional amendment to balance the budget by June 5. In conference, that was amended to July 2. I think that makes sense. It is vitally important that we do so.

Some people say, well, we are wasting our time because the House has defeated the amendment, at least for this time. The House also passed a resolution, and included in that resolution it said if the Senate passed it, they would take another look; they would try again.

So I think there is hope. I think there is an opportunity to pass the amendment in the Senate, and likewise for the House to reconsider their action. And by a change of just a handful of votes, they could possibly pass the amendment. I think it is worth doing.

Some people say that we do not have time. Well, the Senate just recently completed 5 days on the so-called striker replacement bill, a bill that is going nowhere, a bill that everyone knows the President will veto and that we have the votes to sustain that veto.

The Senate just finished, in May, 5 days on the national voter registration bill. Again, 5 days on a bill everyone knows the President will veto, and again, he has the votes to sustain the veto.

We spent 8 days on campaign reform; 8 days on a bill that no Republican supported—or maybe one or two—and again, everyone knows the President has the votes and we can sustain that veto as well as on the tax bill. We spent 5 days on the tax bill, and the President vetoed it. And his veto, of course, was sustained.

So I think it is awfully important that we take the important issues up. It was this Senator's intention to offer this amendment on a bill that Senator GRASSLEY was managing early last week, and he persuaded me not to do so. And then I notified a few of our colleagues that I was going to offer it on the Government-sponsored enterprises bill.

Senator GRAMM announced it on the floor. I was not going to announce it. So I think maybe the majority leader should thank Senator GRAMM. He told him of his intention. It was my intention just to drop it in as an amendment. We have that right. Both sides of the aisle have done that.

It is this Senator's intention to offer it at some point. GSE happens to be the bill that is before us at this point, and so it is our intention to offer the amendment. I think it is important that the amendment be offered. I think it is important the amendment be debated.

I hope that the Senate will concur and pass the amendment. It takes two-thirds to pass. So it is not an easy obligation, but it is a very important one, and one that I hope and pray will be successful.

I know that Senators have a right to discuss it at length. And I understand one or more Senators may be willing to filibuster it. Well, that is just one of the obstacles we have to undertake. This Senator has no desire whatsoever to obstruct anything, whether it be the passage of the unemployment compensation bill or the supplemental bill that the President signed. We let those bills go forward. We also said that we would be happy to allow the bill to go forward dealing with Russian aid. So if the majority leader wants to schedule Russian aid, he can do so.

But the GSE bill is before us. We certainly have the right to offer an amendment, and I think it is a most important amendment. It is one that the people all across the country are excited about. They want to see the Senate vote. And frankly, I think by a margin of 8 or 9 to 1, people want to see it passed.

I think it needs to pass. Many of us in the Senate are going to do all we can within the rules to make sure the Senate has the opportunity to vote on this as soon as possible.

The PRESIDING OFFICER. The Senator from Mississippi.

THE BALANCED BUDGET AMENDMENT

Mr. LOTT. Mr. President, I would like to join with and associate my remarks with those the Senator from Oklahoma has just spoken, and the Senator from Florida, and the Senator from Washington, and certainly the Senator from Texas [Mr. GRAMM]. I feel very strongly that we should take up and consider and debate at length, if necessary, a constitutional amendment for a balanced budget.

I find it very curious that this body, which has been described as the world's greatest deliberative body, would not find it in its heart to have the time to debate, even for a little while, this question of a constitutional amendment for a balanced budget. I think that is something, certainly, we should do. The American people have responded repeatedly in polls and in surveys that this is something that they support by overwhelming numbers. Yet this great deliberative body does not have time to even take it up.

When I look back over the accomplishments of the Senate this year, it seems to me we have had plenty of time when we could have been doing something very important like debating this issue instead of trying to find ways to develop conflicts between the House and the Senate, between the Congress and the President.

The majority leader in the Senate has extraordinary powers, supported by the majority and the minority, that allow him, basically, to call up legislation any time he sees fit. He can call up today, and I presume he will, this Federal housing enterprises bill referred to commonly as GSE, S. 2733. If an amendment that he does not like is added to it or offered, he can pull that bill and go to something else. He can go to the Russian aid today if he wants to, or later if he chooses. He has these extraordinary powers. So I am unimpressed when I hear the argument: Oh, how could you possibly offer a constitutional amendment for a balanced budget to this GSE bill and hold up other important bills, whether it is Russian aid or anything else? It does not have to be that way. He can call up whatever he wants to.

Thank goodness, I guess, that any one Senator can offer just about any amendment to just about any bill he chooses. I am one who still thinks maybe we have too much latitude in that area. But that is the way it is. That is in the rules. I just do not believe it is right for the media, or his colleagues, or the administration, or anybody else to say that Senator GRAMM cannot or should not offer this amendment. I think he has that right under the rules, and I support his decision to do that, certainly, on this bill.

I think the American people will ask questions. I mean, last week the Senate had time to take up the supplemental appropriations bill for $1.1 billion; $500 million of it not going for disaster aid for Los Angeles, but for summer programs when the traditional summer is at least one-third over. But, yes, we had time to pass, by a voice vote, $1.1 billion for a bill that was supposed to be dire supplemental emergency appropriations that had been delayed at least 6 weeks.

We also had time to pass a $5.4 billion extension of unemployment compensation. These bills total $6.4 billion, I presume all of which will just be added to the deficit. And we have time to take up this GSE bill—I am sure it is important and maybe it is a worthwhile bill—but I certainly do not think it is much of an emergency. And, also, we want to rush right over to do the Russian aid bill, which will cost, heaven knows, I do not think we even know exactly how much yet. A lot of that money will go through the IMF before it gets, supposedly, to Russia. I have my doubts about that. I have not seen anything about IMF I have liked in years. We are going to give, what, $12 billion of the American taxpayers' money, through IMF, to Russia? Oh, yes, we can do that.

But let us not pause to have a little debate on the constitutional amendment for a balanced budget. The House at least had the courage to stand up and vote. It did not pass with the necessary required votes. Well over a majority voted for it, but they fell shy 9 votes. I wonder, maybe, if they would screw up their courage again and try it again if the Senate showed a willingness to take up this issue and vote on it and pass it.

The American people really care about a balanced budget. They are going to have to get involved. When we go home, the American people say to us, "Yes, balance the budget, but, by the way, can you get us more money for this, more money for that, it is OK for Los Angeles, OK for unemployment compensation." I do not know quite yet what they think about the aid to Russia, but they say balance the budget.

You cannot have it both ways. A statistic I saw the other day was very interesting. Over the past 30 years we have had 56 revenue raisers. That is another name for tax increases. Fifty-six tax increases and one balanced budget. Is there a message there? Is it maybe true that by raising taxes you do not reduce the deficit? Somebody might say, what is the rush? What is the hurry? Why must we slow things down now to take up a constitutional amendment for a balanced budget?

I have some ideas. How about a budget this year that is going to be almost $400 billion in the red? How about a $4 trillion deficit?

I think it is time we do debate this issue. If the majority leader wants to take up Russian aid, if the administration wants it to be brought up immediately, that is fine. But when this GSE bill or some similar bill comes up shortly, I think the Senate ought to take a little time to talk about a constitutional amendment for a balanced budget.

The House voted. Now it is time for the Senate to at least debate it. I think we ought to vote. Why is it necessary? Because we are not going to balance the budget with the present mechanisms. It is not going to happen.

I have been involved in the budget negotiations. I was in the so-called gang of 17. I was involved with the leadership meetings in 1987 when we thought we were going to come up with ways to reduce the deficit. It did not work.

I knew the 1990 agreement was not going to work. When you have a package that raises taxes in such a way that you actually get less revenue, you cut defense but you allow spending overall to go up, you do not have to be real bright to figure out we were adding to the deficit with that 1990 agreement, not reducing it. So we tried it throughout the eighties. We tried it again in 1990. It does not work. Until there is a mechanism to make us cut spending, it will not happen. I think it is appropriate that we debate the proposed amendment, and I think it is one of the few things we should seriously consider adding to the Constitution.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

PRESIDENTIAL POLITICS AND USED OIL

Mr. BAUCUS. Mr. President, when President Bush paid a campaign visit to a used oil recycling company in California last week, we saw another example of how his political team tried to substitute flashy pictures for fundamental policy.

But try as they might, they cannot conceal this administration's dismal environmental record. And that record shows, clearer than any picture, that this President is no friend of the environment.

To paraphrase my good friend, the senior Senator from Texas, "I know the environment. I've worked on the environment. And believe me, this is no environmental President."

The President's political handlers apparently believe that a quick visit to a recycler can, like the alchemists of lore, turn a leaden policy into a golden vision. I think the American people are smarter than that. I think they will not be fooled by photo opportunities masquerading for public policy.

As we all know, this is not the first indication of a hollow policy. For instance, while the President publicly proclaims his support for the new Clean Air Act, privately he encourages the Vice President's Council on Competitiveness to dismantle it, piece by piece.

Two weeks ago at the Earth summit, the President refused to sign a treaty protecting biological diversity that over 100 countries signed, including all our major trading partners. While he talked about United States leadership on environmental issues in Rio, his demonstrated lack of leadership was on display for the world to see.

But the real irony in his visit to the Evergreen Oil Co. in California is that this is the same company that has challenged the administration on its unwillingness to regulate used oil. Perhaps the quick visit will change the President's mind. But I, for one, will not hold my breath. Despite the photo opportunity, the President continues to oppose efforts in both the House and Senate to establish a national oil recycling program.

While I am critical of the cynicism displayed by the President's use of Evergreen's environmental coattails in an election year, it has nevertheless helped to highlight the need for greater controls on used oil.

There is widespread agreement of the hazards of used oil. It is a potent carcinogen. In addition, it contains very high levels of lead, a potent neurotoxin. It is so harmful, in fact, that cans of virgin motor oil carry a warning about the risks from handling used oil.

But it is also widely accepted that used oil that is safely recycled can provide real benefits. Unfortunately, what the President saw at Evergreen is the exception, not the rule. Most used oil is poorly managed.

Almost 1 billion gallons of it are generated each year. Over 40 percent of that, some 400 million gallons, is dumped in landfills, sewers, and storm drains. The rest is burned, re-refined, or sprayed on roads for dust control.

When it is not properly treated, used oil can be a veritable Pandora's box of threats to human health and the environment. In addition to lead, it can contain high levels of cadmium, arsenic, and chromium. It may also contain chlorinated solvents and PCB's. And it is frequently mixed with hazardous wastes.

While properly operated recycling programs can remove these dangers, improper or sham recycling spills millions of gallons of used oil into surface water and ground water. And it takes just 1 quart of used oil to contaminate 250,000 gallons of drinking water.

There is ample evidence of past dumping, recycling, and road oiling operations that have resulted in Superfund sites. In fact, the Environmental Protection Agency has classified 63 locations that handled used oil as Superfund sites.

And there is also evidence that uncontrolled burning of used oil may cause a significant number of cancer cases each year. The EPA estimates that used oil burning will cause 3,094 cancer cases across America.

Burning used oil is a particularly troublesome problem. It puts some 600,000 pounds of lead into the air each year. In fact, burning used oil puts more lead into the air than any other stationary source, even more than the entire primary metals industry.

And, sadly, exposure to lead, especially for children, is a serious health problem, whether it is learning impairments, growth defects, mental retardation, seizures, or even death.

With this demonstrated level of harm to the environment and public health, it is baffling why the President opposes taking action.

Despite the administration's opposition, Congress is trying to change this situation. One of the provisions of the Resource Conservation and Recovery Act reauthorization recently reported by the Environment Committee directly addresses the problem of uncontrolled used oil.

It requires EPA to set stringent standards for the collection, storage, transport, processing, and recycling of used oil within 18 months from the date of enactment. And any used oil not managed in accordance with these regulations must be treated as a hazardous waste.

Moreover, the bill recognizes the specific problem of lead in used oil. It directs EPA to reduce the amount of lead allowed in used oil that is burned. And if EPA fails to set such standards the bill sets it at a safe level.

Mr. President, used oil is just one environmental problem that is being neglected by President Bush. In this time of public frustration with Government, I would hope that the President could work with the Congress to resolve this pressing issue.

Frankly, with the campaign drawing ever closer, I am not optimistic. But I, and many of my colleagues, do not intend to let the administration have the last word on this.

Rather, the record should be set straight. We in the Congress are very assiduously trying to address the problems of used oil, and the President's visit to Evergreen, while being a good photo opportunity, really is an example of chutzpah because his administration is doing just the opposite, it is preventing, in the Congress, the adoption of legislation which will very directly address the problem associated with used oil.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCING U.S. DEPARTMENT OF JUSTICE'S PUBLICATION "ATTACKING FINANCIAL INSTITUTION FRAUD"

Mr. THURMOND. Mr. President, there are few issues today that generate more public anger and distrust than the looting of our Nation's financial institutions. To many, the most troubling aspect of this crisis is that this greed and plunder by a white-collar criminal element in our society has left the taxpayer holding the bag.

President Bush has committed to making effort to put the S&L crooks in jail. In addition, every reasonable effort should be made to recover the ill-gotten gains in these cases. While in many cases the illicit proceeds will have been squandered by these crooks, they should nevertheless be pursued. Still, the number of cases referred for criminal investigation continues to grow. The projected failure of even more banks and thrifts compounds the problem. Despite the sheer size of the problem, the Department of Justice and special counsel Ira Raphaelson have diligently pursued those responsible.

In this regard, a guiding principle for recovery should be the amount of loss faced by financial institutions. The General Accounting Office has been critical of the Department's recovery rates. The GAO's criticism stems from a belief that the controlling factor in restitution determinations is the present ability of these crooks to pay. Thus, the rates appear low because prosecutors are actually pursuing loss-based restitution. Someone who is convicted for the financial demise of an S&L may someday have assets and those assets should be fair game for Federal prosecutors.

Finally, as Congress continues to consider ways to assist the Department in its efforts I would suggest that my colleagues review the Department of Justice's recent report to the Congress. This publication, "Attacking Financial Institution Fraud," contains the most recent information on prosecution of financial institution fraud. The focus of this report is to review and analyze the Department's efforts to collect court ordered restitution. I hope that it will be helpful to you in providing your constituents with the most up-to-date analysis of this national dilemma.

Mr. President, I ask unanimous consent that the entire publication be printed in the RECORD immediately following my remarks.

There being no objection, the publication was ordered to be printed in the RECORD, as follows:

[From the Office of the Attorney General]

A SPECIAL REPORT ON MONETARY ENFORCEMENT IN FINANCIAL INSTITUTION FRAUD CASES

FOREWORD

To the Senate and the House of Representatives of the United States of America in Congress Assembled:

In this, the Second Quarterly Report of Fiscal Year 1992 by the United States Department of Justice under Section 2546 of the Crime Control Act of 1990 (CCA), Public Law 101–647 (November 29, 1990), the Department presents an unprecedented amount of information about the various monetary enforcement aspects of our efforts to combat financial institution fraud (FIF). Much of the material here comes from a Report by the Special Counsel for Financial Institution Fraud to the Acting Deputy Attorney General. That Report, in turn, contained materials gathered by the Priority Programs Team of the Executive Office for United States Attorneys. Highlights of that Report are set forth later in a Special Report by the Special Counsel.

I am also pleased to continue to include statistics on our efforts in the prosecution of major thrift, bank, and credit union cases between October 1988 and March 31, 1992. During that period, almost 3000 defendants have been charged, 2300 defendants convicted (a 96 percent conviction rate) and more than $37 million in criminal restitution recovered.

For those who have followed the progress of our reporting efforts closely, there has been a steady and, I believe, remarkable improvement in the quality and quantity of the information that we have been able to provide. This information both underscores and confirms our commitment to the mission set by the President in June 1990—we are putting the crooks in jail and we are recovering assets wherever they can be located.

In an effort to flesh out the statistical information, this Report includes anecdotal material and case studies. It also provides information supplied by the regulatory agencies as well as the law enforcement components. The Report reflects the intense efforts of this Department and the Special Counsel to achieve an unparalleled degree of cooperation in prosecuting these cases.

Highlights of this quarter include:

Adoption of the Special Counsel's proposed policy guidelines by the Senior Interagency Group to enhance our collection and reporting efforts.

The entry of a $550 million forfeiture order against BCCI.

A $41 million OTS civil settlement with a law firm reached with the assistance of the Department's Civil Division.

2942 defendants charged in major FIF cases since October 1, 1988.

2300 defendants convicted in major FIF cases in that same time period (a 96.1 percent conviction rate).

76.9 percent of those convicted sent to prison.

1115 major S&L crooks charged between October 1, 1988 and March 31, 1992.

819 major S&L crooks convicted in the same period (a 93.2 percent conviction rate).

Allocation of additional support resources to the eight pilot civil FIF programs to facilitate the forfeiture and collections work and enhance tracking.

Continued implementation of an ambitious training program for newly acquired and applied resources.

I am proud of the record of accomplishments outlined in this Report and the dedicated efforts of the many professionals within this Department, as well as those in the Treasury Department and the law enforcement and regulatory agencies who helped bring this record about. We remain committed to consistently improving that effort in the coming year.

Respectfully submitted,

WILLIAM P. BARR,
Attorney General.

INTRODUCTION

(By Ira Raphaelson, Special Counsel for Financial Institution Fraud)

During my testimony on February 6, 1992, before the Senate Subcommittee on Consumer and Regulatory Affairs, a senior representative[1] of the General Accounting Office (GAO) intimated that the Department of Justice was not doing everything it could to collect court-ordered fines and restitutions. After reviewing a small sample of financial institution fraud (FIF) cases, he said: "We [at GAO] think there is money here to be collected." In a period of tight budgetary constraints, these remarks understandably sparked substantial criticism and concern.

Because no empirical or anecdotal support was offered, the Department had to undertake a substantial study to answer the concerns that were raised. While the charge was groundless, the Department had been put in the unenviable position of having to prove a negative, which is that the Department was not overlooking or, worse yet, ignoring cases that involved fines or restitutions that were "ripe" to be collected.

In an effort to allay concerns in Congress and the general public that followed in the wake of the hearings, I decided it might be helpful to put together a primer of sorts, a Special Report, that would outline how fines and orders of restitution come about, how they are collected, some of the problems prosecutors encounter, and what the government has really accomplished overall. The heart of this Report is made up of highlights of a more extensive Report that I had prepared for the then Acting Deputy Attorney General by the Priority Programs Team (PPT) of the Executive Office for United States Attorneys (EOUSA). We have already shared this Report with the Senate Subcommittee and GAO.[2]

In the process of gathering information for that Report, PPT conducted three studies to analyze our collection performance. The first study was also designed to improve the accuracy of the database for all "major" FIF cases.[3] The second and third were designed to provide a clearer understanding of the recovery rates in our most serious S&L prosecutions. In addition to these studies, two groups of cases were selected for analysis: (1) the so-called "Top 100" priority cases,[4] and (2) a group of 59 cases which were chosen for review by the staff for the House Banking Committee from a pool of cases with the largest restitution orders.[5]

The materials in this Special Report reveal four key points to keep in mind when looking at current collection and recovery rates:

(A) that by aggressively pursuing loss-based restitution regardless of the defendant's present ability to pay, the Department has created an inevitable gap between that which is ordered and that which is collected,

(B) in most cases, there is little or nothing left to collect or recover at the conclusion of the criminal process when sentencing occurs,

(C) a significant portion of cases involve fines and orders of restitution that are not legally collectible, and

(D) considering all of the circumstances surrounding debt collection, and debt collection in FIF cases in particular, the recovery of $37 million in court ordered restitution is not an insignificant accomplishment.

Read together, the results of these studies confirmed that our collection rates are within the range predicted by government officials and others at the time Congress gave the Department enhanced resources to deal with these cases. Also, as expected, the results attest that the overwhelming majority of S&L crooks not only squandered the money they stole, but they also frittered away their own money in the process. Having virtually nothing left at sentencing, most are generally unable to pay their fines or make any meaningful restitution.

Nonetheless, the various entities with monetary enforcement responsibilities have devoted substantial effort to collecting everything they can. Further, our Second Quarter Report includes, for the first time, data supplied not only by the Department and the law enforcement agencies but all the regulatory agencies involved in the FIF effort.

Hopefully, the following question and answer format will anticipate and address many of the major questions raised by the GAO comments about the Department's efforts and, in the process, demonstrate the Department's commitment to try to collect every dollar possible.

DISCUSSION

1.—How does a court determine the amount of a fine or an order of restitution?

Traditionally, restitution was a sentencing aspect left to the discretion of the sentencing judge. Judges imposed restitution using a myriad of factors, including loss to the victim, gain to the defendant, ability to pay and the severity of the prison term. More often than not, when restitution was ordered, it was ordered as a condition of probation and, thus, not enforceable until completion of the defendant's jail term. After the Victim Witness Protection Act and Sentencing Guidelines, though, the procedure for setting of restitution became more routinized; still, a number of factors were still considered.

Under 18 U.S.C. §§3572 and 3664, a court must now consider a number of things in determining, first, whether a fine or an order of restitution is appropriate and, if so, what the amount(s) should be. In deciding these questions, courts must look at a number of "financial" factors, such as the defendant's financial condition, the loss to the victim, and the hardship either type of order would cause the defendant's family. In reality, the amount of restitution is usually determined first[6], and it is usually based upon the size of the victim's loss rather than the defendant's ability to pay.[7] Then, if anything remains, the court will usually turn to the question of whether a fine should be imposed.

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[1] Footnotes at end of article.

2.—Who is responsible for collecting fines and orders of restitutions?

A number of governmental entities have collections responsibilities. Fines are usually payable through the United States Clerks of the Court who are often assisted by United States Probation Office personnel. As illustrated in the graphics that follow this report, restitution is usually ordered payable directly to the victim. In the 59 cases, restitution was ordered to be paid as follows: to the appropriate regulatory agency [as victim] (44 percent), directly to victim institutions (35 percent), to the court or probation office (11 percent), and, to the Department (USAOs) (10 percent).

On March 20, 1992, in order to ensure coordinated collection and enhanced reporting of the collection efforts, the Senior Interagency Group adopted the proposals of the Special Counsel to develop a protocol on collections which is presently being drafted by the Interagency Bank Fraud Enforcement Working Group.

3.—How are fines collected and restitutions recovered?

Usually, defendants who can afford to pay comply with court orders by voluntarily making payments to the Clerk of the Court, unless the court ordered otherwise—i.e., make payments directly to the victim, the victim's attorney, the probation office, a regulatory agency or the USAO. If a defendant does not abide by a court's order, there are a host of ways losses and restitution payments can be collected:

(1) Joint Civil and Administrative Actions—The Department and the regulators can jointly pursue civil and administrative collection remedies. A recent example of a particularly successful effort is the $1.3 billion settlement with Michael Milken by the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC). The agreement was built on an earlier successful criminal prosecution of Milken.

(2) Civil Actions by the Department—Using statutory tools Congress has provided, as well as the provisions in the Financial Institution Reform, Recovery and Enforcement Act of 1990 (FIRREA) and newly-negotiated memoranda of understandings with the regulators, the Civil Division and its counterparts in the USAOs join with the regulators to pursue creative efforts to obtain recoveries.[8] A recent example of their success is the $41 million settlement with a large law firm, "Kaye-Scholer."[9] There, the Office of Thrift Supervision (OTS), with the help of the Civil Division, brought a civil damages case against the law firm which was associated with the largest S&L collapse ever, the Keating-Lincoln Savings and Loan case.

(3) Agreements to Disgorge—Some defendants, anxious to minimize their potential criminal exposure or to demonstrate remorse, voluntarily disgorge what is left of their ill-gotten gains. For example, in the Northern District of Texas, Edwin Cox, a former director of InterFirst Bank Dallas agreed to pay off a $75 million loan prior to his sentencing on federal banking law violations related to the loan. Later, he was sentenced to six months in prison, a $250,000 fine and 1,000 hours of community service. In another case in the Southern District of Mississippi, a former president of Worldwide Purchasing Inc., Randy A. Braswell, volunteered to pay $4 million to the financial institution he defrauded as a part of his plea agreement concerning a fraudulent scheme involving the Small Business Administration.

(4) Criminal Forfeiture—In the Bank of Credit and Commerce International (BCCI) prosecution, aggressive use of the RICO statute resulted in a record half-billion dollar criminal forfeiture, half of which was earmarked to safeguard American financial institutions. In another case, in the Northern District of Oklahoma, Gary Hobbs, a former mortgage banker who worked for the now-defunct First Security Mortgage Co., agreed to forfeit $672,000, his house, its contents, a $17,000 Cadillac, a Mercedes-Benz, a station wagon, and jewelry which included a $41,000 diamond and sapphire ring. In addition, he agreed to plead guilty for his part in a scheme to defraud Ginnie Mae of $2.5 million. As part of his sentence, he was banned for life from participating in the savings and loan industry, given a 7½ year prison term, and ordered to pay $10.2 million in restitution.

(5) The Inmate Financial Responsibility Program (IFRP)—The IFRP was developed through the cooperative efforts of the Bureau of Prisons (BOP), EOUSA, and the Department's Justice Management Division (JMD). The purpose of the program is to collect money from debtors incarcerated in BOP correctional institutions. Using the IFRP, debtors can satisfy their obligations to pay criminal fines, assessments and restitution. If debtors elect to enter the program, they tell the correctional institution's financial office how much to withdraw from their accounts on a regular basis.[10] The funds are then collected from all of the institutions around the country and sent to JMD which serves as the central accounting office for the program. JMD then provides for disbursement of the funds and sends the payment information to the appropriate USAO for posting to individual debtor's account.

(6) The Internal Revenue Service (IRS) Tax Refund Offset Program (TROP)—Title 31 U.S.C. Section 3720(A) established TROP which allows federal agencies to refer debts to the IRS for collection by offset against tax refunds owed to named individuals. USAs participate in the program under which judgment debtors in non-pay status are identified by USAs for submission to IRS. A "notification of offset" is then sent to each debtor, and once the required 60-day notification period and the debtor's response period have run, the name and the amount owed by each debtor is sent to IRS. Information on any tax refund offsets the IRS actually makes is sent to JMD which, again, notifies the appropriate USA.

4.—What legal barriers interfere with collection attempts?

One potential problem involves certain restrictions in state laws regarding such things as homestead exemptions and holding property as tenants by the entireties (T/E). In states which allow T/Es, each spouse has an *indivisible* interest in the property. What that means for us is that criminal acts of one spouse cannot be used as a basis to sever a T/E. At times, this can be a problem when, for instance, the government attempts to forfeit or seize T/E-held property from a defendant to satisfy a debt. In a recent case, *United States v. 1500 Lincoln Avenue*, CV–89–1251 (W.D.PA 1991), the court held that T/E-property could not be seized even though the husband had pled guilty to committing felonies involving the property, acts which, we argued, made it legally forfeitable. The court said the government could not take any part of the property by dividing it from the innocent spouse's interest.[11]

The most the government can hope to get in a T/E case then is a future interest in the property should the T/E be severed by death of the innocent spouse (in which case the government would get the entire property) or by divorce (in which case the government would get the interest left to the guilty spouse after the distribution of the marital property). If the guilty spouse dies first, the government would not receive anything because its interest in the property dies with the spouse.

Fraudulent transfers can also be a potential problem. 28 U.S.C. §§3303–3308 (the Federal Debt Collection Procedures Act of 1990) was designed to deal with transfers of a debtor's property which are fraudulent. Under section 3304, if the debtor: (1) transfers or incurs an obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor is insolvent at the time or becomes insolvent because of the transfer obligation, or; (2) transfers property to an insider for a previous debt and the debtor was insolvent at the time and the insider had reasonable cause to believe that the debtor was insolvent, that transfer is fraudulent as to the debt owed to the United States.

Throughout this comparatively extensive judicial process, the United States has the burden to prove by a preponderance of the evidence that the transfer was fraudulent, and that can, sometimes, be a problem. If it succeeds, the government can get (1) avoidance of the transfer to the extent of the debt, (2) recovery of the asset from the transferee, and/or (3) any other relief that the circumstances require.

Bankruptcy can be also a practical concern. Under 18 U.S.C. §3613 and 11 U.S.C. §1328(a), fines and restitution are generally *not* dischargeable in bankruptcy. However, whether a specific order of restitution may be discharged in bankruptcy depends on the type of bankruptcy proceeding the defendant files. Moreover, a defendant who declares bankruptcy, unless he/she does so fraudulently, is penniless as a practical matter.

5.—Why do collection rates and recoveries appear relatively low?

There are four points one must keep in mind when looking at current collection and recovery rates:

(A) that by aggressively pursuing loss-based restitution regardless of the defendant's present ability to pay, the Department has created an *inevitable* gap between that which is ordered and that which is collected;

(B) in most cases, there is little or nothing left to collect or recover at the conclusion of the criminal process when sentencing occurs,

(C) a significant portion of cases involve fines and orders of restitution that are not legally collectible,

(D) considering all of the circumstances surrounding debt collection and debt collection in FIF cases in particular, the recovery of $37 million in court ordered restitution is not an insignificant accomplishment.

(A)

In an effort to enhance the Department's resources and statutory tools available to cope with fraud against financial institutions, Congress passed FIRREA and the CCA. In combination with the Victim Witness Protection Act (VWPA) and the Federal Debt Collection Procedures Act (FDCPA),[12] prosecutors were given broad new powers to accomplish their mission of putting the crooks in jail and recovering assets wherever possible. We were told however, to prioritize the criminal over the civil enforcement effort,[13] and the underlying rationale was aptly captured by Congressman Pickle:

> [W]e are not going to make much money off these cases. About the best we can hope for, we might send some of them up the river.[14]

Why then, one might ask, if it was known at the beginning of the enhanced effort that recoveries would be small, has the Department fought so hard to convince courts to order restitution of the total loss? Because it had to choose between Scylla and Charybdis. Faced with a penniless defendant, prosecutors must contend with a fundamental dilemma: they can settle for what little pocket pittance defendants have left or they can ask the courts to order restitution of the entire loss in the hope that a defendant's financial lot will improve in the future.

The easy course for most of the parties involved in the process—the prosecutor, the defense team, the defendant, the defendant's family, and the courts—is to elect the former, take whatever a defendant has left. There are a number of benefits that flow from this choice. The collection process is quick and relatively painless. There are no loose ends, and from the prosecutors perspective, the collections "track record" would be excellent—virtually 100%. But there is a serious downside: the prosecutor will be roundly, though fairly, criticized for not seeking full compensation for the victim. The expedient road ignores the prosecutor's responsibilities to the victims—those who insured the accounts and, ultimately, the American taxpayers themselves.

If, on the other hand, the decision is to press for total restitution, the prosecutor is again doomed to fail, for the most the prosecutor will end up with is, as is the case here, a large cache of uncollectible accounts leading to, again as here, a barrage of criticism and indignation from some critics. Either choice then is undesirable, but one must be chosen. The Department has elected the latter, if only because by using it we will always recover more money—e.g., what a defendant has at sentencing and what a defendant may have in the future.

The rationale is simple. Should not the government at least try to punish the defendant and make the victim whole? Prosecutors have concluded that a settlement based on what is in hand serves neither to compensate nor to punish. At their annual conference in March of this year, the 93 United States Attorneys unanimously agreed that, as a matter of enforcement policy, restitution should be sought on the basis of loss to the victim—Justice will not simply settle for the money in the defendant's pocket at the time of sentencing—notwithstanding the type of criticism that had been leveled at the inevitable collections rate gap that such a policy would create.

The policy being pursued seeks to bring as much money as we can into the Nation's Treasury. So, while it may be more comfortable to lower the heat of criticism by taking a new tack of settling for what is in hand, the Nation's prosecutors have determined to stay the course. As we do, we ask only that our decision be viewed in the context of the goals of law enforcement and punishment and not simply in accounting terms.[15]

(B)

If there is one major source of confusion about fines and restitution, it centers around the expectations some people have about how much money the government can realistically hope to collect, and this is particularly true in FIF cases. Today, many (including, apparently, GAO) believe that, when a court orders a defendant to pay a large fine or restitution, the decision means the money is really there, and all the government has to do is collect it. Unfortunately, that is rarely the case.

When our prospects for recovery were first discussed in the context of FIF cases, there was general agreement that the most we could ever hope for was to recover only a small portion of the overall losses. Notwithstanding the state of the record, GAO suggested otherwise in February of this year. After analyzing the testimony, the questions that followed, and reading a number of congressional letters they generated, it was clear something had to be done to set the record straight. To begin that task, some of the history which led to our current expectations for recoveries needed to be re-visited.

No one can seriously dispute that historically there was always near unanimity among all who had an interest in the subject—prosecutors, members of Congress, pundits, and regulators alike—that only a fraction of FIF losses could ever be recovered. Why? Most often because the money was lost through speculative investing in such things as collapsing real estate markets or junk bonds; sometimes it was dissipated because of land and loan flips which distorted the value of the collateral; in still others it was squandered on lavish lifestyles; and in some cases, the money was simply never there to begin with—it was only "on the books". Whatever the reason, by the time the criminal investigators arrived on the scene, the assets were gone, and that was why almost everyone in the past felt we would be lucky to recover anything.

And just who felt that way? For openers, William K. Black, the Deputy Director of the Federal Savings and Loan Insurance Corporation and a former Director of the Litigation Division of the Federal Home Loan Bank Board. In June of 1987, he told the House Committee on Government Operations that things did not bode well: "* * * obtaining a judgment against a particular individual does not necessarily ensure collectability of that judgment. Dissipation of assets through highly hedonistic life styles, . . . bankruptcy law protections, homestead exemptions, trust arrangements, . . . holding [property] jointly with the spouse, and the costs of litigation are all factors limiting net recoveries."[16]

Mr. Black's sentiment was echoed by a number of others:

Members of Congress and Congressional Committee Reports

In two reports from the Committee on Government Operations, the Department was instructed:

> The FDIC, the FSLIC (FHLBB), and the NCUA should advise their examination staff and fee counsel that criminal investigations must take precedence over supervisory actions and civil recovery efforts.[17]

Even if the criminal investigation does delay or otherwise get in the way of the civil case, timely criminal investigation and prosecution will deter future criminal misconduct more than the threat of civil liability and the very remote chance of full recovery.[18]

Civil cases must not be given priority over criminal cases.[19]

We commend such cooperation, but we are troubled by this philosophy, that the RTC's primary responsibility must be taxpayer recoveries, not criminal prosecution, and that its objective must have equal importance to criminal enforcement efforts. If conflicts do arise, which cannot be quickly resolved, then the RTC's and the FDIC's objectives must be subordinated to those of the Department. The objectives can never have equal weight when they come into conflict. Civil recovery efforts should never take precedence over criminal enforcement in producing documents.[20]

As for tracing during the course of a criminal investigation it is routine for investigators and prosecutors, using grand jury process and other investigatory means, to examine a putative defendant's financial profile. But such an examination provides no guarantee that all of the defendant's assets will be discovered, especially when sophisticated means have been employed to conceal them. An exhaustive tracing investigation could require months or years of investigative work, substantial numbers of investigators, and tens of thousands of dollars in investigative costs, and in the end the investigation might discover no recoverable assets. Moreover, such an investigation might divert investigators and prosecutors from developing criminal cases, with the result that criminals escape prosecution. This is not to say that asset recovery is not given serious consideration. It is. But not at the expense of convicting those who have victimized financial institutions.[21]

Senator Herb Kohl, a member of the Senate Judiciary Committee, accurately prophesied the reality we face today by saying on July 24, 1990:

> Well, I think it's important to make that point. You know, we have now lost enormous credibility with the American people over this whole affair, and deservedly so, as a government, and I think to some extent there is still that feeling out there that there is an awful lot of money that we're going to get back as a result of these efforts that we're going through.
>
> If it is not really the expectation that we are going to get back tens and tens and tens of billions of dollars of what we lost, *I think the American people need to know that so at least they will not be taken by surprise a year or two from now when they begin to hear about what has been accomplished over the past two years. When they find out that very little money has been recovered relative to what has been lost. I think that we need to make that point if we're going to be honest with the people out there.* (Emphasis supplied.)[22]

And, as noted in the Barnard Report of the House Committee on Government Operations (Barnard I):

> The civil case [to recover losses] will drag on for years, and often the likelihood of substantial recoveries are minimal.[23]

In the same report, the Committee acknowledged the difficulty of substantial recoupment:

> *For failed institutions, the FDIC assessed $7.6 million in CMPs, collected only $163,000 (or 2.1%), leaving $7.446 million (or 97.9 percent) uncollected.* The FDIC gave two reasons for this situation. First, recovery efforts are stayed in some cases because the penalty actions are on appeal, or other administrative matter are pending. Second, in many cases,

however, the individuals do not have the financial ability to pay the penalties; some have filed bankruptcy, and others are besieged by lawsuits, criminal investigations and creditors.[24] (Emphasis supplied.)

Senator Alan J. Dixon, a member of the Senate Banking, Housing, and Urban Affairs Committee and Chairman of the Senate Subcommittee on Consumer and Regulatory Affairs harkened:

Now a lot of this is fraud and corruption. I suspect in those cases most of those rascals have *empty pockets by the time you get to them.* A lot of them do at least. (Emphasis supplied.)[25]

Representative J.J. Pickle, Chairman, Subcommittee on Oversight, House Committee on Ways and Means opined:

Well, we are going to say then that we are not going to make much money off these cases. About the best we can hope for, we might send some of them up the river.[26]

Statements by Administration Officials

Attorney General Thornburgh also noted on many different occasions the difficulty of recovering money looted from savings and loans, including his initial congressional hearing on the subject before the Senate Banking Committee:

But I think we would be fooling ourselves to think that any substantial portion of these assets are going to be recovered, notwithstanding our best efforts to do so because of the problems that I indicated.[27]

I would mislead you if [I] were to indicate that any substantial portion of those assets are going to be recovered. I stated when I first appeared before the Banking Committee in February of last year that I held out very little prospect that there were real assets to go after, and if there are not real assets to go after, then you're not going to recover them.

I wish it were otherwise, but as I said from the very beginning, since I first became involved with this process, it was apparent that the prospect of large scale recoveries was dim.[28]

Mark M. Richard, Deputy Assistant Attorney General, Criminal Division, Department of Justice declared:

I am suggesting to you that there is a difference between the court ordering restitution and literally getting the money in your pocket. A lot of these defendants first have to serve time in prison. They may be destitute at the moment. It may be monies to be forthcoming later on. So at this moment I would suggest to you that it is relatively small.[29]

On another occasion, Edward S.G. Dennis, Jr., Assistant Attorney General, Criminal Division, Department of Justice steered clear of any optimism by saying:

[W]e are confident that a major factor in determining loss is depreciation of assets. In other words, much of the loss is attributable to market conditions and is not recoverable by any means, much less through criminal prosecution. Next, it is not unusual to find that defendants have squandered their monies on vacations, trips, entertainment, and a variety of other items. Such monies are gone, not recoverable.[30]

James Richmond, the former Special Counsel for Financial Institution Fraud, Department of Justice agreed:

Let me just make one observation about the monies that we recover. When it gets to the point that the Department of Justice is considering the criminal prosecution of an individual, that beyond getting fines and restitution involved, I don't think anybody should hold out great hopes for the Department of Justice's ability on the criminal side to produce dollars from these defendants. This is the end of the line for these people.[31]

Marvin Collins, the USA in Dallas, spoke guardedly of the prospects for any recoveries when he said:

When it gets down to criminal prosecution, we find there's not a lot of opportunity of restitution. They spend a lot of money on lawyers to fight it, and then they're out of money. Their assets are dissipated and in some cases hidden.[32]

John V. Thomas, Associate General Counsel, FDIC, noted his agreement:

One of our great frustrations is many of the worst actors have little if any money from which a judgment can be collected. In many instances, that's because they never really had much money. In other instances, they invested most of the money in the institution's stock, which became worthless, or they invested in the real estate and oil booms and lost money. A fair number of them put their money in their relatives' names. We assume that some of them have hidden it places where it can't be found, though by definition, nobody knows how many.[33]

James Dudine, Director of Investigations, RTC, held a similar view:

There's no question that most of the money is gone. We're not going to recover a billion or two from Charlie Keating. It just isn't there.[34]

Statements by Policy Analysts

Robert Litan, Brookings Institution wrote:

This action is literally bolting the barn door after the horse left. The money is already long gone. This will join the many other cases in which they [the regulators] may get successful judgments, but not money.[35]

Peter B. Frank, Price Waterhouse & Company concurred:

Most of the money is spent in the American economy; it's in Mercedes-Benz sedans on Rodeo Drive, spent on fancy restaurants in Los Angeles and elsewhere. You don't usually find enormous cash hoards.[36]

News Reports

Editorial Page, The Washington Post:

As for recapturing the vanished billions, that looks unlikely. Some of it was spent buying property at values that later fell. Some of it was spent building houses for which there are now no buyers and shopping centers for which there now are no tenants. A lot of it went for high living by S&L officials, private planes, yachts and sumptuous entertaining. Perhaps some of it got salted away in Swiss bank accounts, and that's another reason for vigorous prosecution without budget constraints. But it's a matter of punishing the guilty rather than hoping to retrieve large caches of wealth.[37]

News Analysis, The Wall Street Journal:

What's more, no matter how many convictions the government piles up, little of the tens of billions of dollars lost in the nation's S&L debacle will ever be recovered. Criminal fines and court-ordered restitution in a given case rarely exceed several million dollars. And big chunks of the thrift industry's losses are sunk into failed shopping malls and empty condominium developments. Most failed S&Ls didn't collapse directly because of criminal activity; egregious mismanagement and feckless regulation were more often the culprits.[38]

News Analysis, The Washington Post:

And the government collects only about 2 percent to 3 percent of the restitution ordered, because most criminal defendants are insolvent.[39]

News Analysis, The New York Times:

Most experts estimate that only 5 percent to 10 percent of the losses can be traced and retrieved. Some former savings executives have stashed away millions, but most of the money has been squandered and spent, the experts say.[40]

That many cases offer slim prospects fines or orders of restitution will ever be paid has proven to be true in case after case. Not only do we find empty pockets but we also learn there is virtually no chance they will ever be full again. For example: Robert Snyder was ordered to pay $121,745.59 in restitution to the seven financial institutions he defrauded. Now, on probation, Mr. Snyder is indigent. He is making small monthly payments derived from his employment in lawn maintenance, and he has repaid a total of $915.00 to date.

Jay and Leif Soderling were ordered to repay $6.7 million in losses. A liquidation of their real estate property on which fraudulent loans were obtained realized $1.9 million. Their remaining funds are now in the hands of a bankruptcy court; their probations have been revoked; and, they are presently serving 6 year prison terms.

Jean St. Gelais was ordered to pay over $12 million in restitution which is highly unlikely because he has declared bankruptcy and is serving a 24 year prison term.

Richard Kukielski was ordered to pay $1,000,000. Partial restitution of $465,000 was made through the sale of his assets, and payment of the remaining $535,000 is not likely to occur soon because he is presently employed as a cashier at a gas station.

Anthony DiGeronimo was ordered to pay $1,592,882 in restitution, and after his discharge from prison, he began making regular monthly restitution payments at the direction of his probation office. The amount of his payments are based upon his financial circumstances. He currently pays between $50 and $100 per month, for a total amount to date of $1,300.

William W. Lilly was ordered to make restitution of $5,071,751.59. He is bankrupt and currently serving a five year prison term.

Eugene Unger was ordered to pay $6 million in restitution, $5 million of which he never received for it represents interest compounded since 1974. Recovery is unlikely, and Unger remains in prison.

But things are not always this bleak. Taking a chance that a defendant will come into a fortune sometimes pays off. In Los Angeles, Janet Faye McKinzie and her confederate drove their financial institution into ruin incurring losses along the way totalling $13 million. She was convicted and sentenced to 20 years in prison. The government initially recouped $3 million, some of it by returning her clothes for refunds. McKinzie's only other asset was a $10 million life insurance policy on her confederate who coincidentally, died. The government seized the proceeds to satisfy fully her $13 million restitution order.

(C)

In a number of cases, the Department cannot collect fines of recover restitution because they are not legally collectible. Usually, this happens when the courts enter stays barring us from attempting to collect these monies pending completion of appeals, administrative proceedings, or serving sentences of incarceration. More than 50% of the Top 100 orders (almost $39 million of $74.4 million) and 65% of the 59 case study orders ($140 million of the $214 million) was legally uncollectible to the PPT study.

(D)

GAO's recent criticism of the Department's effort seems premised on the following tautology:

(A) If a court considers a defendant's ability to pay restitution, and

(B) If a court enters an order requiring payment of restitution; then

(C) The court must have determined that the defendant had enough money to comply with the order.

While at first blush there is a superficial appeal to this notion, it founders in its leap to a conclusion. Regrettably, Associate Director Harold Valentine first announced on February 6, 1992:

We think there is money here to be collected. [Courts] don't set these fines and restitution orders in a vacuum. Courts receive pre-sentencing reports from the FDIC and the RTC estimating ability to repay. Later, GAO rejected this view when it reported to Congressman Schumer that: "* * *judges base their [fines and restitution] orders on presentencing reports from the Federal Deposit Insurance Corporation and the Resolution Trust Corporation on ability to pay."[41]

GAO's first error lies in its initial premise, the suggestion that courts take into account only one factor in deciding these types of cases—the defendant's "ability to pay." We are at a loss to understand how GAO could have arrived at this position, for presumably it took into account the statute which prescribes the procedures a court must follow before issuing an order of restitution.[42] That statute's mandate is clear: there are not one but five factors that must be considered, none of which, by the way, is a defendant's "ability to pay":

"(a) The court, in determining whether to order restitution . . . and the amount . . . shall consider (1) the *amount of the loss*. . ., (2) the *financial resources* of the defendant, (3) the *financial needs* and (4) *earning ability* of the defendant, and (5) *such other factors as the court deems appropriate*." (Emphasis supplied.)

When Mr. Valentine testified "there is money here to be collected," he was obviously referring to money that was, in GAO's view, presently available as contrasted with future ability to pay. Because the statute does not mention "ability to pay," we can only guess that GAO read the term into the statute by, perhaps, interpreting the terms "financial resources" and/or "earning ability" to mean a defendant's present "ability to pay." If so, that would be wrong. "Financial resources" cannot be synonymous with an "ability to pay," for they are only one half of one's personal financial equation; they must be counter-balanced with one's obligations. The same is true of "earning ability." In this sense, GAO appears to be either misreading the statute or relying on something the statute does not say.

GAO also appears to overlook two things the statute does say. First, the statute requires a court to look at the "earning ability of the defendant." For someone facing the prospect of incarceration, that can only mean—as many courts have found at the Department's urging—one's future "ability to pay." Second, the statute makes it clear that a court is not limited any one factor, such as a present "ability to pay," for the fifth factor allows the court to consider "such other factors as the court deems appropriate." Again, one such factor could be a defendant's future ability to pay. So, when an order to pay restitution is entered, particularly in cases where incarceration looms on the horizon, it is almost always predicated on a court's consideration of a defendant's future ability to pay.

The concept of ordering payments based upon a court's projection of a defendant's potential income is not new or unusual; indeed, it is expressly embodied in 18 U.S.C. 3572(d) (which governs fines) and 18 U.S.C. 3663(f) (1) and (2) (which governs restitutions). Both statutes allow a court to order payments on a date certain in the future or in installments.[43] Finally, and most importantly, it is clear from the variety of factors the statute requires a court to consider that a court must look at a defendant's total financial picture before it decides what to do. Congress wisely eschewed making "ability to pay" the sine qua non for determining whether to assess a fine or order restitution because that would effectively bar consideration of a number of equitable factors. For example, a court could well find that a defendant had a present ability to pay but nevertheless decide on equitable grounds that a fine or order of restitution would not be appropriate in light of the hardship it would cause other innocent family members or the defendant's chances in the future for rehabilitation.

GAO's reliance on FDIC or RTC reports to the courts as a talisman to bolster their position is also misplaced, for in all but a few cases, these reports deal primarily with the extent of the losses to the institutions. Rarely do these agencies have access to the records of a defendant's then existing financial condition which would allow them a basis to demonstrate to the court that the defendant had a present "ability to pay."

For all of these reasons, GAO unfortunately missed the mark when it seemingly read into the statute a phrase that is not there, "present ability to pay." It also erred in suggesting that the FDIC and RTC reports to the court are limited to the defendant's present ability to pay. And finally, GAO was wrong to suggest it necessarily followed money was "here" awaiting recovery simply because a court had considered a defendant's ability to pay and, afterwards, had entered an order assessing a fine or restitution.

In the face of all of these factors, how has the Department done? All things considered, rather well as it turns out. By one measure, our restitution collection rates are well within the predicted ranges; by another, we did even better. Before we describe our accomplishments, though, we need to define the standard by which we feel we should be judged. And, as one would expect, there are two basic schools of thought on the subject of what one should reasonably expect.

The Barnard Report assessed what the Committee felt could be recovered and concluded:

"The civil case [to recover losses] will drag on for years, and often the likelihood of substantial recoveries are *minimal*."[44] (Emphasis supplied.)

In the same report, the Committee acknowledged the difficulty of substantial recoupment and highlighted the actual collection rate at that time:

"For failed institutions, the FDIC assessed $7.6 million in CMPs, collected only $163,000 (*or 2.1%*)[45], leaving $7.446 million (or 97.9%) uncollected. The FDIC gave two reasons for this situation. First, recovery efforts are stayed in some cases because the penalty actions are on appeal, or other administrative matters are pending. Second, in many cases, however, the individuals do not have the financial ability to pay the penalties; some have filed bankruptcy, and others are besieged by lawsuits, criminal investigations and creditors."[46] (Emphasis supplied.)

A little over two years later, it was reported in a Washington Post news analysis that:

"[T]he government collects only about *2 percent to 3 percent* of the restitution ordered, because most criminal defendants are insolvent."[47] (Emphasis supplied.)

One assessment view of what we should expect to recover then is 2 to 3 percent. The other viewpoint is more optimistic.

As was mentioned earlier, when Attorney General Thornburgh testified before the Oversight Hearing on Bank and Thrift Fraud, Senate Committee on Banking, Housing, and Urban Affairs, on August 2, 1990, he said:

"[Our restitution recovery rate] is a very discouraging figure because the prospects of getting restitution from people who are in jail is not always that promising. But I would be misleading you were I to indicate that figure has produced any kind of significant recovery. . . . I agree with what Bill Seidman said, that if you get 5 to 10 percent ultimately of these losses recovered through civil or criminal proceedings, *you're going to be lucky*. But that doesn't mean that we're not going to pursue them just as diligently and relentlessly as we can." (Emphasis supplied.)

A year and a half later, The New York Times reported in a news analysis that:

"Most experts estimate that *only 5 percent to 10 percent* of the losses can be traced and retrieved. Some former savings executives have stashed away millions, but most of the money has been squandered and spent, the experts say."[48] (Emphasis supplied.)

The conventional wisdom of this other group was that, if our collection rate turned out to be between 5 to 10 percent, we would be lucky. Realistically, one would expect our actual recovery rate would fall somewhere in between these two assessments. And it does. Currently we are averaging collections and recoveries in the range of 4 to 6 percent. But that is not what GAO said, and therein lies the rub.

On February 6, 1992, GAO reported to Congress that in the so-called "Top 100 cases" the Department had obtained $83.6 million in restitution and fine orders but it had collected only $365,000 in 55 cases ". . . or less than one half of one percent of the total amount ordered."[49] Once again, by presenting only a part of the picture, a distorted view emerged.

First, GAO's sampling technique was flawed because the sample it relied upon did not reflect the whole. GAO should have known (or asked and learned) that recoveries would, almost by definition, be very low in their sample, the Top 100 cases, for those cases were deliberately selected by the regulators on the basis that they suffered the most egregious losses and, therefore, offered the least chances of any recovery. Thus, to limit one's review, as GAO did, to such a small, unrepresentative sample and then to conclude that we are not aggressively collecting money was both unfair and inaccurate.

Second, to compound the problem, GAO not only relied on only a sample of their sample,[50] but is also, in the process, placed too much emphasis on figures GAO had been told were "soft." When PPT gave GAO the figures it was later to rely on, GAO was told they were preliminary and likely to be inaccurate because we were not requiring all field offices at that time to send us their collections data, so the only figures we had on hand came from offices that had volunteered them. By definition, those figures would not be a good sample, for they did not reflect the whole.

Third, GAO's analysis contained an even more fundamental flaw, in that it did not take into account the fact that many of the Top 100 cases have legal and realistic barriers which blocked any chance for successful collections—uncollectible fines and restitution orders[51]—something which fairness dictated should have been taken into account in their analysis. Subtracting those cases from the sample totals has a dramatic impact and, more importantly, it presents a more realistic picture of the "real" outstanding debts and our efforts to collect them.

After the hearings, PPT, at the direction of the Special Counsel, searched for ways to draw an accurate picture of our performance. This required them to analyze a larger sample—all restitutions ordered since October 1, 1988, in all major FIF prosecutions contained in our database—including the Top 100 and the 59 cases. PPT found a collection rate of approximately 5 percent, a performance level significantly higher than that GAO reported.

What then is the true measure of our efforts? For openers, PPT found that $214.8 million in restitution had been ordered to be paid, and that the Department has recovered to date $21.9 million——a 10.23 percent collection rate. PPT also discovered that more than $33 million in other recoveries had been made.[52] PPT also found that more than half of the fines and restitutions in the 59 cases GAO studies, specifically over 65% ($140 million) of the restitution orders, were currently legally unenforceable—debts we were effectively barred by law from even trying to collect. Considering what was collected against what was legally collectible, our "collection rate" was really quite good—29.4%. This then is, in our view, a clearer and more accurate picture of what we have really achieved.

The many notable successes USAOs have had in recovering FIF restitutions and collecting fines bear us out. For example:

C.D. California—United States v. Janet McKinzie.—To maximize a USAO's ability to collect fines and restitutions, civil FIF AUSAs are co-assigned to major criminal FIF cases at the investigative phase. The AUSAs assist in the search for and identification of assets, and they help in the formulation of the most efficacious method of recovering the assets. The *McKinzie* case, discussed earlier, is an outstanding example of this cooperation which resulted in a full recovery of $13,445,369

C.D. California—United States v. Michael Parker, et al.—Concurrent with the indictment of Michael Parker and Jeffrey Worthy for their part in the collapse of Columbia Savings and Loan, the USA brought civil asset forfeiture cases against Worthy's home and Parker's home and a condominium he had fraudulently transferred to his in-laws. The Parker house is expected to sell for $1.8 million, but equally important, the seizure has been instrumental in the RTC's and OTS's ability to fashion a global settlement with Parker. Similarly, the USA's actions against Worthy have served as a linchpin in settlement of the RTC and OTS actions against him. A global settlement has been negotiated that provides he will disgorge all of his ill-gotten gains well beyond the value of the seized property. This is expected to be approximately $100,000 in excess of the $550,000 value of the property (including liens). Finally, a third defendant, Brian Fink, has pled guilty and the USAO intends to forfeit $400,000 that Fink obtained through the fraudulent scheme.

Massachusetts—United States v. Peter Regan.—The former Vice President of Shawmut Bank recently pled guilty to embezzling over $2.5 million, and he has agreed to make restitution to Shawmut in the amount of $2.568 million and to pay civil monetary penalties in the amount of $125,000.

S.D. Texas—United States v. Robert Cartwright.—A $500,000 fine was imposed and restitution in the amount of $842,310 was ordered to be paid by the defendant, who was convicted of submitting bogus mortgage application-packages to Williamsburg Savings Bank. As a result of a civil forfeiture proceeding, the defendant's house, valued at approximately $800,000, was seized by the government.

New Jersey—United States v. Wong.—Wong, an immigrant from Guyana, was employed as a low-level supervisor at First Fidelity Bank. In January 1992, the Bank discovered that Wong and others had embezzled approximately $2.5 million from the bank over a period of three to four years. Realizing the proceeds of this offense might quickly be transferred out of the country, two civil FIF AUSAs were assigned to trace and if possible, seize those proceeds. Within less than a week, seizure orders were obtained which froze approximately $700,000 in assets. During that week, it was learned that Wong was indeed preparing to travel to Guyana to invest some of the embezzled funds. An additional $330,000 in assets has been seized since that time.

South Carolina.—The USA initiated the first bank fraud forfeiture action in the country in which the proceeds were returned to the aggrieved financial institution. On April 8, 1991, $108,164 was transferred to Republic National Bank as a result of these forfeiture actions.

C.D. California—United States v. John Rollo—Rollo was used as a straw buyer by insiders to defraud the now-failed Brookside Savings and Loan Association. Rollo sent the USAO a check for $175,000 for restitution to the RTC at the inception of discussions regarding criminal prosecution. This money equaled the amount he received for his participation in the fraud. The check was forwarded to the RTC. Criminal prosecution has since been declined but the USAO is about to file a civil penalty against Rollo.

M.D. Florida—United States v. Carlos Yepes, et al.—Carlos Yepes and Robert Guzzo pled guilty in January 1992 to charges of submitting false statements and representations in commercial loan applications. Twelve properties purchased with these loan proceeds, valued at approximately $11,700,000, were seized by the USA in October and December 1990.

6.—*What reporting systems exist to track collections of fines and restitutions?*

One frustration managers with oversight responsibilities have experienced over the years is the absence of a Department-wide case management system that can efficiently and rapidly report on our performance.[53] Trying to develop this type of system within the Department has been a long-sought goal over the years, and presently EOUSA, the Civil Division and JMD are working through the Office of Special Counsel with the Office of Management and Budget (OMB) to develop just such a system.

Meanwhile, this need for such a system has resulted in a number of Departmental and Congressional initiatives over the past 10 years culminating in 1987 when Congress authorized a National Fine and Restitution Center (Center) within the Administrative Office of the Courts. Unfortunately, the Center was not funded until 1990, and then only partially. Once operational, it will be a giant leap forward both in standardization of collection methods and generating data. We in the Department have worked on the national level with the Administrator of the Courts on this project and locally with courts and probation authorities to ensure proper collection of debts owed the United States.

We are pleased to report that, notwithstanding its short life thus far, the development of the National Fine Center is proceeding apace in the first pilot district and is expected to be operational in all five pilot districts in May 1992. Space has been allotted in the building housing the United States District Court in the Eastern District of North Carolina, a staff hired, computer equipment purchased, and most of the software required completed.

In addition, a task force made up of representatives from five USAOs, the United States Probation Offices and the Clerks of the Court of the five pilot districts met regularly throughout the past year to discuss various aspects of the operation, such as recordkeeping, interest calculation procedures, notices to criminal-fine debtors, and various other reports which will be required. The representatives also met to establish procedures which would enhance criminal debt collections and meet the needs of both branches of government. On October 23, 1991, the task force witnessed a demonstration of the center's systems, including an automated judgment and commitment order process. The headquarters of the Center in North Carolina is currently operating at an 80% level and it is expected to be totally online in May. The remaining pilot districts, the Western District of Missouri, the Eastern District of Pennsylvania, and the Southern and Western Districts of Texas will be brought on-line thereafter and the National Fine Center operation is projected to be expanded nationwide during 1993 and 1994.[54]

The Department is also working with the Administrator of the Courts, the Probation Department, the regulatory community and victims groups to develop and implement a standardized restitution order which we will ask the courts to adopt or Congress to require by statute for use once the Center is fully operational. Through the use of the standardized order, all restitution and fines will be payable through the Center which will then track and report on collections every month, in the aggregate and by case, and disburse the monies to the appropriate "victim."

Unfortunately, until the Center becomes operational nationally, there is currently no automated, centralized data collection system. In the meantime, improved coordination with the regulators has produced a more systematic, albeit admittedly incomplete, reporting mechanism.

Another factor affecting our record-keeping ability is the Criminal Fine Improvements Act of 1987, Pub. L. No. 100–185 which transferred responsibility for receiving criminal fine and assessment payments from the Department to the courts. In addition to receiving these payments, the clerks of the district courts are required to (1) include certain information in all judgments or orders imposing, modifying or remitting a fine of more than $100 (18 U.S.C. §3612(b)(1)), (2) transmit to the Attorney General a certified copy of all judgments or orders imposing, modifying or remitting a fine of more than $100 (18 U.S.C. §3612(b)(2)), and (3) notify the Attorney General of each receipt of a fine payment in a case in which the fine imposed is more than $100 (18 U.S.C. §3612(a)). The 1987 Act also added 28 U.S.C. §604(a)(17) which requires the Director of the Administrative Office to establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments. Finally, to facilitate the payment of court-ordered restitution, the 1987 Act amended 18 U.S.C. §3663(f)(4) to authorize a person designated by the director pursuant to 28 U.S.C. §604(a)(17), to receive and disburse restitution payments.

7.—What other problems, if any, are encountered in tracking collections?

One problem mentioned in the PPT Report is the role of private counsel who represent private victims. A surprisingly high percentage of the cases surveyed by PPT had restitution ordered directly to the victim. When private victims collect, there is no mechanism by which those collections are reported to *any* government source. Thus, restitution was ordered to be paid through or to USAOs in just 10% of the 59 cases reviewed and in 15% of the Top 100 cases reviewed. In the other cases studied as part of the Top 100 and 59 case studies, restitution was payable to or through the victim institution (35 percent of 59 Cases and 20.7 percent of Top 100 cases), the regulators (44 percent of 59 Cases and 32.08 percent of Top 100 cases) or the court clerks/probation department (11 percent of 59 Cases and 32.08 percent of Top 100 cases).

Historically and up until 1985, the Clerks of the Courts were responsible for receipting payments made by defendants on criminal fines and restitution. However, the Criminal Fine Enforcement Act, as enacted by the Congress in 1984, placed responsibility with the Attorney General for receipting payments on any criminal fines imposed on or after January 1, 1985. Further, the Act amended the 1982 VWPA to provide that restitution could be paid directly to the victim or to the victim through the Attorney General. Under the Act, however, responsibility for receipting payments on restitution ordered or fines imposed prior to January 1, 1985, remained with the Clerks of the Courts.

In 1987, statutory responsibility for receipting criminal fines again changed. The Congress, both through the Sentencing Reform Act, which was enacted in 1984 but not effective until November 1, 1987, and the Criminal Fine Improvements Act of 1987, returned responsibility for receipting payments on any criminal fines or assessments, regardless of the date imposed, to the Clerks of the Courts, effective May 1, 1989. Neither Act, however, specifically addressed responsibility for the receipting of restitution payments.

Another problem we face is that, when we try to calculate the amount a financial institution lost, we often find the "loss figure" is not a particularly "hard" number. For instance, as part of the ongoing refinement of its database,[55] the EOUSA's PPT recently discovered that the $10.7 billion figure we reported in our First Quarter Report included the *total* loss in the Lincoln Savings matter not once but twice. The $2.5 billon loss associated with the failure of that institution had originally been reported as part of the Ernest Garcia prosecution but it was erroneously added a second time when the Central District of California indicted Charles Keating and his associates.

Thus, the corrected loss figure for S&Ls is $8.2 billion, with $4.7 billion of that figure in pending cases, that is, cases where no sentence has yet been imposed.

The Lincoln case is also an example of where the loss figures we report often include the regulators estimate of the total loss to the institution associated with the prosecution and not the figure which courts would legally base restitution upon—the loss or gain as a result of the charged crime(s). It goes without saying that the loss-charged figure is also not necessarily the same amount that a jury convicts on, particularly when a jury convicts a defendant on only a portion of the charges.

According to the latest figures available from PPT, the estimated loss for all sentenced S&L cases through March 31, 1992 totals $3,844,830,772. Restitution ordered in sentenced S&L cases through March 31, 1992 is $397,242,208 (this number also decreased from the December 31 database figure due to corrections regarding joint and several judgments). Therefore, restitution ordered amounts to roughly 10% of the reported loss figure in sentenced S&L cases. Again, one must keep in mind that the loss figures we report often include total estimated loss to the institution and not just the loss that was charged in the indictment or the loss attributable to criminal activity. While we enjoy a 96% conviction rate, we do not always obtain convictions on all counts. And even where we do, judges do not always impose the restitution we are seeking.

A dramatic example was the Don Dixon case. In *Dixon*, the prosecuting office reported a loss of $41 million. At sentencing, we sought $33.7 million restitution, based upon what we believed Dixon had cost the institution. However, the judge imposed only $611,200 in restitution, at a payment rate of $1,000 per month, based on his decision to limit restitution to the particular transactions charged and proven. The ratio between what was lost and what was recovered in that case is not what we wanted, but it is not for want of effort.

Another major reason there is presently no accurate method for calculating collections is because of the different ways courts order collections to be made. The Special Counsel is working with the regulatory community, the Administrator of the Courts, the Probation Department and OMB to secure full operations in the National Fine Center. The Senior Interagency Group recently adopted the Special Counsel's proposals for a Working Group effort to draft policy guidelines to enhance collection coordination and data collection. While we believe the "rates" will go up with improved reporting, we still believe as Congressman Pickle observed "[W]e are not going to make much money off these cases. About the best we can hope for, we might send some of them up the river."[56]

8.—What is being done to maximize the Department's performance?

We are currently exploring ways to use temporary "write-offs of bad debt" so we can measure our effectiveness more accurately. To do that, we are working with Associate Deputy Attorney General Judge Timothy Murphy[57] to coordinate with the Office of Management and Budget to enable us to issue guidelines for a system which would classify FIF debt into sub-categories of (1) legally and realistically collectable and (2) legally or realistically uncollectable debts. Then, as to those debtors in the latter category, after they are released from prison, or at the conclusion of an appeal and removal of any stay, or any other significant change in the defendant's financial status, the debt would need to be reviewed to see if it should be reclassified into the first category.

Without a national database, we would normally not be able to report on any collections that were made; however, in the summer of 1990, then Special Counsel Jim Richmond developed the first reporting system for major S&L prosecutions—a hand-count system—which proved to be a significant reporting breakthrough that was first published in September 1990. During the tenure of the present Special Counsel, we have greatly expanded the system he developed.

By June 1991, the FIF tracking system was able to track current year major bank and credit union prosecutions in addition to S&L cases beginning in fiscal year 1989. With our Fiscal year 1991 Report in September, we expanded the system again to report on all major FIF prosecutions for FY 1989–1991. Additionally, we have worked with the regulators to improve collection reporting. For instance, within the last year, the FDIC has begun computerized tracking of restitution and judgments owed, though collections data is not yet completely reliable because of the various accounting methods by which fee counsel transmit monies collected. The RTC is also working closely with EOUSA through the Core FIF Units to develop a comprehensive accounting system for its judgments and "collectibles." Preliminary studies by RTC reveal the amount collected on restitution orders payable to RTC in criminal cases to be approximately $4.2 million of $67.4 million ordered—or about 6.3 percent.[58]

Another problem we are addressing is the barrier to accuracy caused by the use of different accounting systems by various components of the FDIC and RTC. Even after we integrate their internal systems which are now in place, the risk of double counting recoveries reported to their central repository and ours prevents a statistically-reliable analysis of what has been recovered, and the problem will remain unless we can resolve it before our systems become operational.

Other efforts are underway to enhance collection efforts in all of the Department's programs, and in the FIF area in particular. In August 1991, then Acting Attorney General William P. Barr approved reprogramming of 30 civil slots to 8 field offices to establish pilot programs for application of affirmative civil litigation and collection techniques. Those offices are nearly fully staffed and we are beginning to see and report on the fruits of their labor.

Additional recent enhancements of our collection effort include (1) completion of the first round of civil FIF training seminars in mid-March, (2) reprogramming of ten support positions to augment the 30 attorneys reprogrammed last August—the support staff will implement improvements in collections and tracking of information, and (3) modification of our monthly FIF reporting form to gather more complete and accurate collections data.

As part of that effort, the Special Counsel asked the Senior Interagency Group to consider formalizing a national policy on restitution orders payable to the bank and thrift regulatory agencies ("regulatory agencies") which (1) gives the regulatory agencies input into the restitution-setting process, (2) attempts to give the regulatory agencies access to defendant asset information in the pre-sentence process to the extent courts will grant access under Rule 32 of the Federal Rules of Criminal Procedure pursuant to our joint motion, (3) develops procedures which aids the regulatory agencies by automatically reducing restitution orders to collectible judgements, (4) provides notice to the regulatory agencies of the release of prisoners to facilitate collections, and (5) provides for the uniform reporting of collections by the regulatory agencies back through the Department to Congress.

The policy was adopted, and the Interagency Bank Fraud Enforcement Working Group is developing the procedures within 60 days for review by the Senior Interagency Group. Once the procedures are approved by the Senior Interagency Group, the Special Counsel will ask EOUSA to distribute them to the USAs and the regulatory agencies to distribute them to their field offices and divisions, both for immediate implementation.

In addition to the very thorough and comprehensive collection techniques set forth in the USA districts' Financial Litigation Plans and Joint Procedural Guidelines mentioned above, a number of other innovative techniques have been developed by them to maximize recoveries:

Because pre-sentencing collections offer by far the greater potential for the actual recovery of funds or assets, the primary focus for many offices has been in that area. AUSAs responsible for the investigation of criminal FIF matters ensure that the investigating agencies make adequate efforts to ascertain what assets are potentially available for restitution and forfeiture. Where the potential for locating such assets is significantly great, a civil FIF AUSA is often assigned to the case at an early stage and is involved thereafter in all aspects of the case which bear on any potential recovery. This approach has been especially successful in securing assets which, in all likelihood, would otherwise have been hidden or dissipated.

Provisions are made in plea agreements for the payment of fines and restitution. As part of the plea agreement, a financial statement form is given to the defendant to complete, and it is then provided to the probation office and the Financial Litigation Unit. Failure to complete the financial statement and make it available can be held to be a breach of the agreement.

In plea negotiations with a FIF defendant who possesses meaningful assets, the government will often seek a provision in the plea agreement which obligates the defendant to surrender assets or to conserve assets which could be used to make restitution. This provision can take a variety of forms, such as an agreement to forfeit assets or an agreement not to oppose a subsequent restitution order.

The plea approval process must not only identify the defendant's assets, but must also include a plan for the collection of restitution. The focus of the plan must be on collecting as much of the restitution as possible between plea and sentencing and obtaining a secured interest in those assets which cannot be transferred easily. Only those defendants who have accounted for all their assets will have their offer to plead guilty accepted.

An inter-office plea bargain memorandum is presented to a screening committee before a plea is taken, and prosecutors are required to confer with the Financial Litigation Unit and/or the Affirmative Litigation AUSA regarding damages: (1) to negotiate the ultimate amount payable at sentencing, (2) to determine the best manner in which any remaining amount shall be paid, and (3) to determine whether restitution should be pursued in lieu of a civil action. Repayment terms are included in the plea agreement.

Polygraph examinations are to locate assets and to determine whether the defendant has lied about them.

All possible financial information is shared with the Financial Litigation Unit. In order to avoid an improper disclosure of grand jury material, AUSAs are directed to make this information a part of the record at the time of sentencing. The Attorney General's Guidelines on the use of Grand Jury information are followed in the process. The Guidelines include both a model motion and a brief that can be used to get grand jury information for use in a civil proceeding on the showing of a "particularized need."

A memo of understanding has been developed between the Collections Unit and Criminal Division which outlines the duties and responsibilities of all parties regarding the collection of restitution and fines.

Use of 18 U.S.C. §982(b)(1) allows the government to restrain property pending the investigation of the crime and enjoin the owners and possessors of it from removing it or obtaining it.

Use of 18 U.S.C. §982(b)(2) allows the government to get substitute property for the "proceeds property" that has previously been dissipated, used, hidden, taken or lost to forfeiture. Thus, property which may not be the proceeds of the violation but which could satisfy the debt can be restrained to be made available later for the government to satisfy any restitution.

Judgment and commitment orders are being written less restrictively by the courts, i.e., the payment of fines and restitution are not limited to repayment during the time of supervised release, but instead are due immediately so collection efforts can start right away.

Upon release of a defendant from incarceration, a letter is sent to the Probation Office to facilitate the Probation Office's responsibility to ensure the defendant is making payments of the ordered restitution or fine. A letter is also sent to the entity or person entitled to restitution notifying them that the defendant has been released and providing the name of the probation officer to contact for assistance in collection of restitution.

Where restitution is due, the U.S. Probation Office has instituted a policy whereby a defendant who has not satisfied a restitution order is to report to the restitution recipients before the termination of probation to enter into a promissory agreement which requires the defendant to continue making restitution payments past the probationary period. In certain instances, the Collections AUSA, at the request of Probation, drafts a Consent Agreement for the defendant to sign to enter into a payment schedule.

The use of a Temporary Restraining Order (TRO) under the provisions of 18 U.S.C. §1345(a)(2) will prevent the defendant from disposing of property obtained through the commission of the underlying violation or traceable to it. This can preserve assets for collection after a judgment is rendered.

Use of Sections 3303–3308 of the Federal Debt Collection Procedures Act allows for setting aside transfers of a debtor's property which may be considered fraudulent.

Establishment of a District Bank Fraud Working Group. A training program is being developed for local financial investigations from entities such as FDIC, OCC, RTC, OTS, FBI and IRS. The focus of the training is to provide instruction in discovery of potential fraud to those who would be most likely to uncover it initially, such as bank examiners.

Training seminars are conducted with the Clerk's Office and Probation Office. These joint seminars emphasize the need for a coordinated approach among the three agencies toward the collection of fines and restitution.

Creation of a Collection Working Group, composed of supervisory personnel from Pretrial Service and Probation offices as well as FIF and forfeiture attorneys, paralegals, and the head of the collection unit. As a result of the workings of this group, a number of actions have taken place. Prosecutors encourage agents assigned to their cases to make a written log of all assets uncovered during any investigation. This information, to the extent allowed by law, is then made available to the Pretrial Services Office and forfeiture personnel within the USAO. The Pretrial Services Office is asked to request that each defendant complete a personal financial form, like the financial statement form mentioned earlier, at the first meeting with a Pretrial Service Officer. The asset information developed in the course of the investigation and the personal financial form can be utilized by the Pretrial Service Officer to assist in making recommendations relative to bond. Pretrial Services is then requested to forward a copy of the asset information and personal financial form to the Probation Office. The Probation Office will then use this assets information and the financial form to identify assets in connection with preparation of the Presentence Investigation Report (PSI). The Probation Office will also look into the possibility of bringing to the attention of the prosecutor any questionable financial dealings uncovered while developing the PSI. Finally, the Probation Office has agreed to consider incorporating all asset information into the PSI so that the collection unit at the USAO will have it available for its collection purposes.

CIVIL PENALTIES

Another aspect of our collections efforts, this time involving civil penalties, began on October 1, 1991, when three districts established civil penalties enforcement pilot projects: the Middle District of Pennsylvania, the Western District of New York; and the Central District of California. The projects have been in operation for nearly six months and the districts have filed their first reports.

The Middle District of Pennsylvania set $2.25 million as a fiscal year 1992 goal. To date, it has collected over $3 million in affirmative civil enforcement claims. A total of $1.5 million was recovered from the Allied Services of the Handicapped and the John Heinz Institute for Rehabilitation which repaid fees totalling $1,525,347 they collected which were overpayments. Additional payments were received from the Lower Bucks Hospital ($58,000) and the Berwick Hospital ($41,000).

The district has 32 cases presently under consideration, investigation or in litigation; they include violations of the Clean Water Act, violations of the False Claims Act, defense procurement fraud, bank fraud, black lung benefits fraud, mail fraud, and a number of Medicare/Medicaid fraud cases.

The Western District of New York has 28 cases under consideration, investigation, or in litigation as of March 12, 1992, with a total possible value of $12 million. They involve health care fraud, defense procurement fraud, False Claims Act, and violations involving Transportation, Agriculture, Small Business Administration, Environmental and Defense Department programs. Although no money has been collected thus far, a settlement worth between $3 and $5 million may be forthcoming within the next few weeks.

The Central District of California has settled six cases for a total amount of $681,011.29. These settlements range from $5,000 to over $300,000. The district has two attorneys committed to affirmative civil enforcement litigation.

There are presently 18 cases under investigation or in litigation, and they involve DEA diversion of controlled substances record-keeping, retail fuel overcharging, Public Health Service loans, *qui tam* False Claims Act, and Small Business Administration loans.

9.—What legislative changes are needed?

USAO attendees at the February 26th meeting mentioned earlier were canvassed for any suggestions they had for legislative changes they believed would help them recover more losses. The following are some of their thoughts which we are considering:

1. Amend Title 18, United States Code §3615 to read:

(A) Whoever, having been sentenced to pay a fine or restitution, willfully fails to pay the fine or restitution, shall be imprisoned for not more than five years and fined not more than twice the amount of the original fine or restitution order.

(a) The obligation to pay a fine or restitution shall cease only upon the death of the defendant or satisfaction of the obligation.

(1) A prosecution for violation of Section (A) may be commenced by the United States at any time prior to death of the defendant or satisfaction of the obligation.

(b) Any person or organization designated in the judgment and conviction order as the recipient of restitution shall, upon such terms as are established by the court, be entitled to conduct citation of asset proceedings, including the taking of sworn testimony.

2. Amend 18 U.S.C. §981 to eliminate the "proceeds" requirement.

3. Amend 12 U.S.C. §1833(a) to provide for the issuance of a Temporary Restraining Order upon application of the United States and filing of a verified complaint.

4. Extend use of administrative subpoenas to investigations in contemplation of civil FIRREA forfeitures, similar to provisions of 12 U.S.C. §1833(a).

CONCLUSION

For all of these reasons, we disagree with the suggestion by GAO that we are overlooking or, worse yet, ignoring cases where there is money available to be collected. In the main, we have done the job we set out to do—by one measure even better than expected or forecasted—nevertheless the Department will continue to strive to improve our performance in the future. The Department is firmly committed to doing its level best to collect every dollar in fines and restitution possible, and Congress can be proud of the successes achieved thus far utilizing the tools that Congress helped provide.

FOOTNOTES

[1] Associate Director Harold Valentine.

[2] Several of the numbers in this Report are different than those in the Report to the Acting Deputy as PPT continues to refine the database and we wish to provide Congress with the most up to date and accurate information possible.

[3] "Major" is defined as a case where (a) the amount of fraud or loss was $100,000 or more, or (b) the defendant was an officer, director, or owner (including shareholder), or (c) the schemes involved multiple borrowers in the same institution, or (d) other major factors were involved.

[4] In the summer of 1990, former Special Counsel Jim Richmond worked with the regulators to prioritize the most significant regulatory referrals for stepped-up enforcement action. The effort produced a list of the "Top 100" savings and loans victimized by financial institution fraud. As of March 30, 1992, 62 of these institutions have been named as victims in prosecutions brought by the Department of Justice in cases against 289 defendants.

[5] These will be referred to herein as "the 59 cases."

[6] If restitution is not ordered, a court must explain why.

[7] Only three (3.7%) of the 59 cases and four (7.55%) of the "Top 100" were based, primarily, on the defendant's present ability to pay.

[8] One such undertaking is running "Reward: Information About Financial Institution Fraud" advertisements. Most recently, on March 9 and 10, 1992, advertisements were run in newspapers in Dallas, Houston, Chicago, New York, Los Angeles, and Boston.

[9] Kaye, Scholer, Fierman, Hays, and Handler.

[10] A number of prisoners are paid for working in prison industries while they are incarcerated.

[11] The case has been appealed to the United States Court of Appeals for the Third Circuit.

[12] Because of the way that Congress defined "debt" within this Act, it has generally been assumed that the Justice Department could facilitate the collection of private debt but could not invoke the procedures of the FDCPA to collect that debt. The legislative history seems to support that interpretation so that even debt payable to the bank regulators could not be collected by Justice through the Debt Collection Act.

[13] "Civil cases must be not be given priority over criminal cases." Barnard Committee Report on Government Operations, October 13, 1988, page 98.

[14] Representative J.J. Pickle, Chairman during "RTC's Operations and Progress in Resolving Insolvent Thrift Institutions," Hearing Before the Subcommittee on Oversight, House Committee on Ways and Means, February 27, 1990, p. 130.

[15] On February 26, 1992, FIF Coordinators, Criminal Chiefs, and Financial Litigation Unit Chiefs—prosecutors with, collectively, over 300 years of experience in prosecuting criminal cases—from districts in which the Top 100 and 59 cases and been indicted gathered in Alexandria, Virginia, to discuss the status of restitution collections in these cases. The attendees provided background as to the actual availability or, more frequently, the lack thereof of funds from convicted defendants, and they reiterated their support for requesting loss-based restitutions in the hopes that defendants will have the ability to pay in the future.

[16] "Fraud and Abuse by Insiders, Borrowers, and Appraisers in the California Thrift Industry," Hearing Before the Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, U.S. House of Representatives, June 13, 1987, p. 199.

[17] Barnard II, "The U.S. Government's War Against Fraud, Abuse, and Misconduct in Financial Institutions: Winning Some Battles But Losing the War," Report of the House Committee on Government Operations, November 15, 1990, p. 28.

[18] Supra at 97.

[19] Supra at 98.

[20] Supra at 91.

[21] Statement of Edward S.G. Dennis, Jr., note 21, *supra*, at p. 328. While we have attempted to carry out these mandates by focusing our efforts on the task of criminal prosecutions, the Office of the Special Counsel has, in response to expressions of congressional concern, also helped to begin to transform the relationship between criminal and civil forces to provide a new emphasis on monetary enforcement on a parallel track.

[22] He was speaking to former Attorney General Thronburgh.

[23] Barnard I, "Combating Fraud, Abuse, and Misconduct in the Nation's Financial Institutions: Current Federal Efforts are Inadequate," House Committee on Government Operations, October 13, 1988, p. 97.

[24] *Supra* at 84–85.

[25] "Problems of the Federal Savings and Loan Insurance Corporation," Part I of IV, Hearing Before the Senate Banking, Housing, and Urban Affairs Committee, February 9, 1989, p. 317.

[26] Hearing on Resolution Trust Corporation's Operations and Progress in Resolving Insolvent Thrift Institutions, Subcommittee on Oversight, House Committee on Ways and Means, February 27, 1990.

[27] "Problems of the Federal Savings and Loan Insurance Corporation," Part I of IV, Hearings Before the Senate Banking, Housing, and Urban Affairs Committee, February 9, 1989, p. 306. See Also, "Thronburgh Sees Thrift Fraud Epidemic," "The Washington Post," April 24, 1990, p. D56; "The Wall Street Journal," April 24, 1990, p. B4; Thornburgh News Conference, July 11, 1990; "Savings and Loan Fraud," Hearing of the Senate Judiciary Committee, July 24, 1990, pp. 42–44; "Fraud in America's Insured Depository Institutions," Hearings Before the Senate Banking, Housing, and Urban Affairs Committee, August 2, 1990, pp. 186–87, 222; Guest Editorial, "U.S. Government is Going After the Savings-and-Loan Cheats," "The Philadelphia Inquirer," September 2, 1990, p. 7.

[28] "Savings and Loan Fraud," Hearings Before the Senate Judiciary Committee, July 24, 1990, pp. 42–43.

[29] Hearing on Resolution Trust Corporation's Operations and Progress in Resolving Insolvent Thrift Institutions, Subcommittee on Oversight, House Committee on Ways and Means, February 27, 1990.

[30] Statement of Edward S.G. Dennis, Jr., Assistant Attorney General, Criminal Division, Department of Justice, "Federal Efforts to Combat Fraud, Abuse, and Misconduct in the Nation's S&L's and Banks and to Implement the Criminal and Civil Enforcement Provisions of FIRREA," Hearings Before the Commerce, Consumer, and Monetary Affairs Subcommittee of the House Committee on Government Operations, March 15, 1990, pp. 327–28. See Also, "The Progress of Investigations and Prosecutions of Savings and Loan-related Fraud Cases," Hearing of the House Banking Subcommittee on Financial Institutions, Supervision, Regulation, and Insurance, June 28, 1990, p. 101.

[31] "Legislation Related to S&L Fraud Investigations," Hearing of the House Judiciary Criminal Justice Subcommittee, July 11, 1990.

[32] Ibid.

[33] "Chasing S&L Assets: A Frustrating Cat-and-Mouse Game," "The Washington Post," December 26, 1990, pp. A1 & A6.

[34] "Little of $100 Billion Loss Can Be Retrieved," "The New York Times," February 20, 1992, p. D7.

[35] "U.S. Acts to Learn if Keating Has Millions For Restitution Months After S&L Failed," "The Wall Street Journal," August 10, 1990, Page A12. See also, Litan, "Savings and Loan Crisis," Hearings Before the Senate Judiciary Committee, Chicago, Illinois, August 14, 1990, p. 30.

[36] "Little of $100 Billion Loss Can Be Retrieved," "The New York Times," February 20, 1992, p. D7.

[37] "S&L Fraud," "The Washington Post," April 15, 1990, p. A16.

[38] "U.S. Finds It Tough To Establish Crimes In Savings & Loan Mess," "The Wall Street Journal," June 26, 1990, p. A1.

[39] "Chasing S&L Assets: A Frustrating Cat-and-Mouse Game," "The Washington Post," December 26, 1990, p. A6.

[40] "Little of $100 Billion Loss Can Be Retrieved," "The New York Times," February 20, 1992, p. D7.

[41] Again, it is important to keep in mind when considering GAO's position that restitution orders were based primarily on the defendant's present ability to pay in only three of the 59 cases and in only four of the Top 100 cases.

[42] 18 U.S.C. §3664.

[43] Courts have held on a number of occasions that it is proper to order a defendant who is indigent at the time of sentencing to pay restitution, *United States* v. *Angelica*, 951 F.2d 1007, 1009 (9th Cir. 1991) and to consider future ability to pay, *United States* v. *Smith*, 944 F.2d 618, 623 (9th Cir. 1991). Courts are not required, though, to make any explicit findings as to a defendant's present ability to pay. *United States* v. *Barndt*, 913 F.2d 201, 204 (5th Cir. 1990). Rather, explicit findings must be made only in those cases where the court does not order restitution. *United States* v. *Arvanitis*, 902 F.2d 489, 496 (7th Cir. 1990) and cases cited therein.

[44] Barnard I, at p. 97.

[45] As explained later, we are currently doing better than this today.

[46] Supra at 84–85.

[47] "Chasing S&L Assets: A Frustrating Cat-and-Mouse Game," "The Washington Post," December 26, 1990, p. A6.

[48] "Little of $100 Billion Loss Can Be Retrieved," "The New York Times," February 20, 1992, p. D7.

[49] See Written Testimony, p. 17.

[50] In all fairness, I should point out that GAO was not alone in its practice. We were equally disappointed recently when we received a House Banking Committee Staff Report purportedly analyzing the 59 cases only to find that the Report was based on just 19 of the cases.

Like GAO, the Staff Report criticized the Department for having a low (1%) restitution collection rate when, if all the cases had been studied, they would have found we had a 10.7 percent collection rate, well above that predicted earlier. The Report also said we had collected only $368,775 when, if all of the cases had been reviewed, the staff would have discovered that we had collected almost $22 million in court ordered restitution and there had been an additional $33 million in other recoveries.

Also, in a number of the cases, restitution could not be recovered because payment was stayed as a condition of probation and the defendant was still incarcerated or it was stayed pending appeal. Factoring those out, and looking at just those cases where restitution was legally collectible, the collection rate was actually 29.4 percent.

Despite what we believe to be this unfairness in the Staff Report, we are nonetheless in substantial agreement with the Recommendations of the Staff Report.

[51] As mentioned earlier, for purposes of this analysis, a legally uncollectible restitution order includes those that are stayed pending appeal or are stayed until probation and the defendant is incarcerated. Realistically uncollectible orders would include those cases where the defendant is a fugitive and those where the defendant has declared bankruptcy and attempts at collection would be expensive and futile for there are obviously no remaining assets.

[52] Civil recoveries in the Ramona case from co-defendants Don Mangano and John Molinaro include cash received from Mangano and related persons—$998,175.35, cash received from Molinaro and related persons—$4,026,502.98, cash received from others—$297,576.54, and 3 pieces of property recovered and sold—$20,563,000.00. There are also potential recoveries that need to be taken into account. They include 12 pieces of property recovered but not yet sold which are worth more than $2 million, a secured promissory note (Mangano)—$60,000.00, pending claims (bail for Mangano and an overpayment to his attorney)—$548,011.97, and pending litigation against (a) an accounting firm and (b) an insurance firm—$11,000,000.00.

[53] We face a similar problem when we are asked to generate accurate figures on the amount of fines and orders of restitution that have been collected nation-wide by all the components of the entire federal government.

[54] A relatively modest expenditure of funds could accomplish this within two years but the funding is contingent on our achieving certain cap levels in the VWPA. Funding alternatives are being explored by the Special Counsel and other Department components, in conjunction with the Administrator of the Courts and OMB.

[55] A number of members of Congress, and particularly Senators Dixon and Bryan, have helped to sharpen our focus on the kinds of information Congress would like us to provide. Their efforts have given us very helpful and constructive guidance on how our databases should be refined, and for that we are very grateful.

[56] Representative J.J. Pickle, Chairman during "RTC's Operations and Progress in Resolving Insolvent Thrift Institutions," Hearing Before the Subcommittee on Oversight, House Committee on Ways and Means, February 27, 1990, p. 130.

[57] After the Attorney General delegated authority for all Department-wide debt management activities to the Office of the Deputy Attorney General, Judge Murphy was appointed in December of 1990 as Associate Deputy Attorney General for Financial Litigation to establish Department-wide debt collection policy, provide appropriate oversight, coordinate statistical reporting, and monitor collection activity throughout the Department.

Judge Murphy works closely with the Department's program components, litigating divisions, and the Executive Office for United States Attorneys in activities such as implementing the FDCPA and addressing debt collections and affirmative claim litigation. He also focuses on providing Department-wide guidance in establishing the overall goals and objectives for the development of component and U.S. Attorneys Offices' Financial Litigation Plans and addressing key issues to facilitate debt collection management, particularly through coordination with client agencies and enlisting voluntary compliance.

Judge Murphy chairs a Financial Litigation Working Group, comprised of representatives from each Department of Justice component with affirmative claim litigation and debt collection functions.

[58] RTC's collection figure includes amounts collected by the Department of Justice and amounts paid directly to RTC. At the present time, these amounts are not tracked separately so that accurate totals cannot be drawn by adding amounts reported through Justice and those presently reported by the regulators. We are currently working towards a system that would separate the two so we can get an accurate, overall picture.

TRIBUTE TO BENJAMIN LAWSON HOOKS

Mr. SPECTER. Mr. President, on June 26, 1992, the Holsey Temple Christian Methodist Episcopal Church in the Germantown section of Philadelphia, PA, will pay tribute to Benjamin Lawson Hooks, executive secretary of the National Association for the Advancement of Colored People [NAACP].

This estimable church joins a long list of laurel-bearers for Mr. Hooks, who in his lifetime has established a tremendous record of public service. He has been a lawyer, a public defender, a judge, a Federal official, a pastor, and a civil rights leader. In all he has done and tried to accomplish, he has been a man of good will who has done the best he could, within the ambit of his considerable talents, for his fellow men and women. By any fair measure, he has succeeded greatly.

To someone who does not know Mr. Hooks, this praise might seem fulsome. To those who know him and are aware of his accomplishments, it is richly deserved.

He is one of whom the term, "Renaissance Man," may be aptly applied, that is, someone whose abilities are so diversified that he may enter many disciplines and succeed in all of them. So it has been with his efforts in the law, both in defending the accused and in judging them; in public and private administrative work; in the fields of civil rights, philanthropy, and social organization.

But Mr. Hooks' crowning achievement, I believe, has been as an eloquent spokesperson for those in our society who, for whatever reasons, have been neglected, left behind, left out or mistreated. He has championed their cause with all the energy and righteous indignation at his disposal. He has fought their battles, won many victories, suffered few defeats and continued to nobly espouse their cause over a lifetime of unstinting labor.

It is fitting, therefore, that the U.S. Senate join with the Holsey Church in paying tribute to a great American who has given his entire life to helping the less fortunate in our society.

THE 20TH ANNIVERSARY OF TITLE IX'S PROHIBITION ON SEX DISCRIMINATION IN EDUCATION

Mr. KENNEDY. Mr. President, today marks the 20th anniversary of the enactment of title IX of the Education Amendments of 1972, the law that prohibits sex discrimination in any education program receiving Federal funds.

This auspicious anniversary is a time to reflect on how far we have come—and how far we still have to go. The Nation has made a great deal of progress since that day in 1971 when a judge in Connecticut ruled that a high school student named Susan Hollander could not compete on the boys' cross country team because, as the judge said, "athletic competition builds character in our boys. We do not need that kind of character in our girls."

A year later, an outraged Congress passed title IX to stop that kind of unacceptable discrimination. In the years since then, title IX has been effective in rooting out sex discrimination in all aspects of education, but its impact on women's sports has been especially profound.

The past two decades have brought phenomenal growth and success for women's sports programs across this country. The number of women participating in athletics has risen dramatically, and so have the funds for women's athletic programs.

Women are also finally reaching positions of power in sports—and not just on the playing field. Judy Sweet is president of the NCAA and Susan O'Malley is president of the Washington Bullets.

Another significant legal milestone was reached earlier this year in the case of Franklin versus Gwinnett County Public Schools, when the Supreme Court ruled that monetary damages may be awarded in title IX cases where intentional discrimination is proven.

But there is still a large distance to go. Less than half the coaches of women's college teams are women. Less than 20 percent of women's athletics programs are headed by women. Ironically, title IX's success is partly to blame for that gap, by making those leadership positions more attractive to men. We need to do more to resolve that inequity. There is no more justification for a glass ceiling in women's sports than in any other profession.

The progress has not always been steady. Title IX suffered a setback at the hands of the Supreme Court in the Grove City College Case in 1984, when the Court, in an excessively restrictive interpretation, ruled that particular programs at a university could continue to discriminate if the particular program did not receive Federal funds, even though other parts of the university received such funds. It took Congress 4 years to pass a bill over President Reagan's veto to correct that mistake by enacting new legislation. That victory, in turn, was instrumental in inspiring us to pass the Civil Rights Act of 1991, which is launching a new era of equal opportunity in the workplace for millions of women and minorities.

An eloquent recent column by Judy Mann in the Washington Post describes the success of title IX. She quotes Tammi Reiss, a recent graduate of the University of Virginia and the second all-time leading scorer in women's basketball:

> Athletics is part of me. It shapes my character. It contributed to me doing well in

school. It gave me determination and a sense of competition in the classroom where I could compete with my classmates. Athletics molded me, and it made me the young woman I am today in other aspects of my life.

Tammi Reiss speaks for millions of young women who have benefited from title IX and its prohibition on sex discrimination in education. In an era when many observers criticize Government for failing to come to grips with the serious challenges we face, it is worth pausing to mark the outstanding success of title IX.

I ask unanimous consent that Judy Mann's column and a recent article by Malcolm Moran in the New York Times, may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 19, 1992]

A LEG UP FOR THE UNDERDOGS

(By Judy Mann)

When Tammi Reiss was in the fourth grade, she got into trouble during intramurals. Her teacher sent her to the gym and introduced her to basketball, a game he had played in college. They ended up playing for hours every day.

"I fell in love with it," she recalled. "He said I could earn a scholarship and go away and play. And that's what I did."

By the time Reiss graduated from high school in Eldred, N.Y., she was the all-time leading scorer in the state. "All New York," she said. By that, she means girls and boys.

Reiss can remember her record easily because the "Welcome to Eldred" signs announce that the town produced a young woman who scored 2,871 points during her high school basketball career. What makes it all the more impressive is that Reiss is only 5 feet 6 inches tall.

My sex's answer to Spud Webb? Hardly. To compare Reiss to someone else does her a disservice. She is her own original, complete, together 22-year-old woman.

Reiss just graduated from the University of Virginia, where she was the second all-time leading scorer in women's basketball. I called her because Tuesday will mark the 20th anniversary of Title IX, the law that prohibits sex discrimination at educational institutions that receive federal money. The law has done more than anything to level the playing fields between men and women in education. It is the reason that Reiss, a point guard, went through the University of Virginia on a full athletic scholarship.

So I asked her the obvious question: If there had been no athletic scholarships for women, could she have gone to college?

"Yes," she replied. "I was valedictorian, so I would have had an opportunity to go on an academic scholarship. Many schools had offered me that.

"School was very important to me," she added, "but athletics is a part of me. It shapes my character. It contributed to me doing well in school. It gave me determination and a sense of competition in the classroom where I would compete with my classmates. Athletics molded me, and it made me the young women I am today in other aspects of my life."

Bingo. Title IX created a wide-open court for Reiss to play during the turbulent years of growing up. She emerged a star. Teammates and identical twins Heidi and Heather Burge turned their 6-foot-4¾-inch heights into assets and stardom. Twenty years ago, a 6-5 woman did not have the cachet of being on a nationally ranked college basketball team to rescue her from being "too tall."

From the soccer fields of elementary schools to the stadiums of college playoffs, Title IX has provided the legal netting for women to compete and taste the nectar of victory. In 1971, a mere 0.4 percent of high school girls participated in interscholastic sports. Today, more than 30 percent do. In the 1971–72 school year, only 16 percent of college athletes were women. Today about a third are. But even in 1990, only 16 percent of college athletic budgets went to women's sports.

The math doesn't add up to equity.

"It is against the law, [but] still women do not have equal opportunities with men," said former Stanford basketball star Mariah Burton Nelson, whose book, "Are We Winning Yet?," has just been named sports book of the year by the Amateur Athletic Foundation. "About 52 percent of the college population is female. In the Big Ten conference, they recently decided to make a 60–40 split," requiring that at least 40 percent of the schools' athletes be female, she said. "That this is being hailed as a tremendous gain shows me how far we have to go. If women had 60 percent of the athletic opportunities and men had 40, that would not be called gender equity."

Women athletes made most of their numerical gains in the first five years after Title IX was passed. Nelson foresees another wave of progress as a result of a recent U.S. Supreme Court ruling that allows students to seek monetary damages from institutions that discriminate.

Nelson recalls watching two of the top-ranked women's basketball teams, Maryland and Virginia, play last season. "I felt the exhilaration of a packed house cheering for women, including lots of men. Not just women gymnasts or skaters looking pretty, but tall, strong women pushing each other around and being powerful and united as a team. That was thrilling."

So raise a cup of coffee Tuesday morning to Title IX. And if you have a daughter, tell her why. It's still got a ways to go, to be sure. But Title IX still helped put young American women like Tammi Reiss at the center court of life.

[From the New York Times, June 21, 1992]

TITLE IX IS NOW AN IRRESISTIBLE FORCE

(By Malcolm Moran)

During one of the dozens of meetings that college athletic administrators have held in recent months to try to carry out a Federal law requiring that male and female athletes be treated equally, one state university athletic director made a blunt assessment. There is a train coming down the track, he said, and it's not going to disappear.

This recognition has been two decades coming. But attention has finally been focused on the issue of equal treatment of the sexes in college athletics as a seminal date approaches.

Tuesday will be the 20th anniversary of the enactment of Title IX of the Education Amendments of 1972, a law that prohibits discrimination by sexual identity in any educational program receiving Federal assistance and establishes the removal of Government funding as a penalty for a refusal to comply.

"It has always been an issue," James Delany, the commissioner of the Big Ten Conference, said of the law and the long, continuing discussion that ensued on equality and how to achieve it, "but it has never seemed to have the power as a principle that it seems to have now."

The reasons for the frenetic pace now are numerous, ranging from a new push by the Office of Civil Rights to a Supreme Court ruling this year permitting monetary penalties for Title IX violations.

"I suspect there is less of 'Do we have to?' and more of 'How do we?'" said Michael Williams, an assistant secretary for civil rights in the Department of Education, the office responsible for Title IX enforcement. "My conversations with athletic directors, coaches and a few presidents suggest to me that maybe 20 years ago the discussion truly was about the why, or 'Who cares?' But now it's about how do we do it."

Things have changed. Before Title IX, Williams points out, female athletes at the University of Michigan sold apples at football games so that they could compete for the school, which did not have a budget for women, and female gymnasts at the University of Minnesota had to rely on their male counterparts to provide them with leftover tape. Those days are past, but most college athletic officials admit they have a way to go before they achieve anything resembling parity.

"Gender equity may be the buzz-word of 1991, and 1992, and maybe longer than that," Richard Schultz, executive director of the National Collegiate Athletic Association, said last week.

Clearly, it has been a long time coming. At the time of passage of Title IX, women's college athletics, such as they were, were administered by the Association of Intercollegiate Athletics for Women, an organization that had been formed in 1970. The A.I.A.W. continued to provide a framework for college women through the 1970's, but it was disbanded when the N.C.A.A. began to conduct championship competition for female athletes in 1981.

A FEELING OF MOMENTUM

According to N.C.A.A. statistics, the total number of female athletic participants increased by 25 percent, to 92,778, from 1981–82, the first school year that the association conducted championships for women, through 1990–91, the last year for which figures are available. (The number of male athletes during the same period increased 4.3 percent, to 177,156.) But the number of women declined in three of the five academic years from 1986–87 through 1990–91.

Other statistics on the eventual response of college athletic programs to the legislation reflect progress that is dramatic at some schools, uneven at many and unlawfully inadequate at others. But after two decades of effort to define the imprecise law, a series of dramatic developments has recently provided advocates of equal opportunity and enforcers of Title IX with an unprecedented feeling of momentum, believed to be related to a few specific developments:

A Supreme Court decision in February, in the Georgia case Franklin v. Gwinnett County Public Schools et al., determined that monetary damages can be gained in a lawsuit to enforce Title IX.

A vote of the Big Ten Council of Presidents earlier this month established that conference schools would achieve a ratio of 40 percent female athletes to 60 percent male athletes within a period of just over five years.

After a lengthy period in which the number of athletic-related complaints to the Office of Civil Rights had reduced dramatically, the office included "discrimination on the basis of sex in athletics programs" as one of seven priority issues in its enforcement strategy for the fiscal year 1991.

The N.C.A.A.'s Presidents Commission, formed several years ago to take a leading role in the association's legislation, quickly and successfully established a powerful reform movement that has challenged, and altered, traditional practices of big-time athletic programs. The reform was encouraged by Schultz, who became the association's executive director in 1987.

The Civil Rights Restoration Act of 1987, passed in March of the following year, reversed a Supreme Court decision in 1984 that had been seen as removing athletics from the influence of Title IX.

ALTERING THE BALANCE

The Big Ten's action has perhaps received the most attention. In the academic year that just ended, 70 percent of the 6,650 athletes on Big Ten teams were male. To alter the balance, Delany said, he expects the conference to introduce legislation at the 1993 N.C.A.A. convention to reduce the size of men's teams, a move that could threaten the future of the male walk-on, the non-scholarship player.

There have been other watershed moments in recent months. Donna Lopiano, who had been director of women's intercollegiate athletics at the University of Texas since 1975, left Austin at the beginning of this year to become executive director of the Women's Sports Foundation, a nonprofit educational organization whose mission includes providing direction and assistance for those contemplating Title IX complaints.

Also, a sex-equality study by the N.C.A.A., released in March, revealed that the average Division I university has an average of 250 male athletes and 112 females; the average college spends $849,130 on men's scholarships to $372,800 on women. An N.C.A.A. task force on sex equality, established in March, is expected to produce legislation for the 1994 convention.

'A DIFFERENT ENVIRONMENT'

"I don't think the association has dealt with an issue that is more emotional than this one is," said Phyllis Howlett, assistant commissioner of the Big Ten and co-chairwoman of the N.C.A.A. task force. "We're trying to create a different environment for intercollegiate athletics."

That altered environment, created in part by the added financial strain of increasing the number and size of women's teams, could reduce the level of opportunities for men and dramatically reduce the amount of financial aid athletes receive.

Delany said that the elimination of men's teams at some schools is inevitable. "And anybody who says it's not is not being honest with themselves," he said.

And Schultz said financial pressures have revived talk of awarding athletic scholarships on the basis of a family's financial need, a far less generous practice than the normal offer to scholarship athletes.

Among the earliest tasks for the task force will be determining a working definition of equity of the sexes. "I guess it's like defining love," Howlett said. "I'm not sure I have a definition, but I know it when I see it.

The decision by the Office of Civil Rights to list discrimination in athletic programs as a priority issue followed more than two months of discussions initiated by Williams. "In every one of those conversations," he recalled, "I would ask, 'Give me some idea of what you think are high-priority issues that we as an agency ought to be addressing.' "

Williams said Title IX was not the most often-mentioned issue in the discussions he solicited, "but it was an issue that was mentioned not infrequently and with some degree of fervor."

The debate on how genuine that fervor is continues and cuts to the heart of the issue: Is there a good-faith effort under way?

Delany answers with a qualified yes. "I think it has been a good-faith effort within the confines of the status quo," he said.

Lopiano, in her office at the Women's Sports Foundation in midtown Manhattan, laughed at the question.

"No," she said. "Not at all."

Lopiano maintains that the Big Ten's 60–40 formula within five years is too little over too much time, particularly when the University of Iowa, a Big Ten member, has committed to a 50–50 balance within the same period.

Howlett, the co-chairwoman of the N.C.A.A. task force who was also involved in the Big Ten discussions, said the 60–40 balance should be seen as a compromise step in the process. "It was going to affect everyone," she said. "It was not going to destroy anyone."

"To have it any longer," Howlett said of the time frame, "you're really not going to get much significant change very quickly. To make it sooner than that would probably put institutions in too much of a bind to make the adjustment that was going to require."

Lopiano is angered by what she thinks is an implication that the production of high revenue justifies violations of the law. "That's what it all means when they say, 'You can't touch football,'" she said. Lopiano questions the need for an average Division I–A football squad size of 117, including non-scholarship players.

The overall football scholarship limit of 95 will be reduced to 92 for the next academic year, 88 for 1993–94, and 85 for 1994–95. Conference limits on travel squads range from 60 to 70, but there is no ceiling on the size of a team. The University of Nebraska, which has thrived in part because of its sophisticated development program for non-scholarship talent, brought all of its 191 players to the Orange Bowl game in January, even though many of them sat in the stands.

"We're giving scholarships to tackling dummies," Lopiano said. "Are we saying it's more important to give a full scholarship to a tackling dummy than it is the first-string women's soccer player for a team you don't have? God forbid you should take the tackling dummy's opportunity away. It's crazy."

"I think most of the Division I–A schools are in deep trouble," she added. "They have long ago lost sight of controlling costs. It's going to be tough for them to pull back. It makes sense for them to pull back, but they've got million-dollar coaches who are living the good life.

"My feeling is that equity for women in sport may be the salvation of intercollegiate athletics because it creates a need for reform. It is focusing attention on collegiate budgets which have been a reflection of considerable abuse. It's going to be good for everybody. Everybody is going to have to put the cards on the table."

Whether the changes are the result of evolution or revolution, they seem to be coming quickly. "I wouldn't worry about the motives," Williams said. "See, at the end of the road, what we want is equal athletic opportunity. Does it really matter how they get the mind-set to get there?"

Figures from a survey conducted by the Chronicle of Higher Education. Schools are listed according to current basketball affiliation, but figures are for all sports for the 1990–91 academic year. Some colleges declined to respond citing the sensitivity of their data, while others did not take part in the N.C.A.A. study on which the Chronicle's survey was based.

	Distribution of full-time undergraduates		Distribution of athletes		Spending on athletic scholarships				Athletic operating expenditures[1]				Athletic recruiting expenditures[2]			
					Men		Women		Men		Women		Men		Women	
	Men	Women	Men	Women	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Atlantic Coast:																
Clemson	57.3	42.7	74.4	25.6	1,547,655	74.6	527,879	25.4	(3)	(3)	(3)	(3)	420,652	87.6	59,300	12.4
Duke	56.2	43.8	65.1	34.9	2,779,194	78.4	767,065	21.6	1,530,496	83.4	304,095	16.6	324,600	88.1	43,800	11.9
Florida State	46.4	53.6	72.3	27.7	916,942	63.2	533,838	36.8	802,139	75.1	266,600	24.9	272,498	80.1	67,643	19.9
Georgia Tech.	76.1	23.9	76.3	23.7	1,366,184	80.1	399,108	19.9	1,483,400	82.7	310,600	17.3	712,000	92.5	58,000	7.5
Maryland	51.9	48.1	62.7	37.3	1,689,361	71.7	667,209	28.3	1,588,895	87.0	237,347	13.0	(3)	(3)	(3)	(3)
North Carolina	42.5	57.5	62.8	37.2	1,506,500	64.5	828,700	35.5	1,021,161	81.6	230,734	18.4	453,104	87.8	63,200	12.2
North Carolina State	62.6	37.4	75.4	24.6	1,241,778	69.2	552,622	30.8	1,627,022	87.1	240,015	12.9	370,257	81.0	86,807	19.0
Virginia	50.1	49.9	57.9	42.1	1,801,960	67.2	878,130	32.8	1,402,447	78.4	386,666	21.6	292,325	81.2	67,662	18.8
Wake Forest	53.7	46.3	73.0	27.0	1,974,936	84.5	363,475	15.5	665,000	79.8	168,000	20.2	375,000	92.1	32,000	7.9
Atlantic 10:																
George Washington	48.5	51.5	57.7	42.3	999,189	51.2	951,204	48.8	350,268	72.8	131,200	27.2	76,270	64.4	41,670	35.6
Rhode Island	47.1	52.9	63.5	36.5	974,575	66.5	490,807	33.5	377,815	63.9	213,855	36.1	51,866	59.6	35,200	40.4
West Virginia	54.3	45.7	72.5	27.5	1,227,451	71.4	492,192	28.6	1,524,750	83.5	301,000	16.5	272,000	83.2	55,000	16.8
Big East:																
Connecticut	47.6	52.4	73.7	26.3	1,054,424	65.3	559,975	34.7	718,042	69.6	319,191	30.4	156,385	82.2	33,768	17.8
Miami	47.1	52.9	75.6	24.4	1,363,877	70.5	570,091	29.5	601,307	80.0	170,020	20.0	87,496	78.7	23,716	21.3
Pittsburgh	51.8	48.2	75.7	24.3	1,668,308	74.9	59,281	25.1	6,170,295	97.2	179,010	3.8	402,840	95.3	26,340	4.7
Providence	47.8	52.2	54.9	45.1	910,536	52.9	810,451	47.1	518,500	71.3	208,500	28.7	167,000	82.3	36,000	17.7
Syracuse	49.6	50.4	70.4	29.6	(3)	74.9	(3)	25.1	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Big Eight:																
Colorado	54.2	45.8	67.2	32.8	1,461,444	72.3	559,013	27.7	1,124,295	79.0	298,226	21.0	407,137	83.7	79,218	16.3
Iowa State	58.6	41.4	70.2	29.8	1,198,730	66.2	611,830	33.8	1,471,422	78.6	399,674	21.4	340,022	82.9	70,050	17.1
Kansas State	52.9	47.1	74.8	25.2	729,479	73.2	267,363	26.8	645,111	78.8	173,114	21.2	285,719	88.4	37,338	11.6
Missouri	49.9	50.1	67.8	32.2	918,485	69.3	406,936	30.7	554,025	72.6	209,539	27.4	212,000	79.3	38,163	20.7

	Distribution of full-time undergraduates		Distribution of athletes		Spending on athletic scholarships				Athletic operating expenditures[1]				Athletic recruiting expenditures[2]			
					Men		Women		Men		Women		Men		Women	
	Men	Women	Men	Women	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Nebraska	55.4	44.6	74.3	25.7	1,168,541	68.8	528,869	31.2	1,161,550	76.4	358,550	23.6	503,500	87.7	70,500	12.3
Oklahoma	54.7	45.3	72.7	27.3	1,022,073	65.8	530,058	34.2	1,180,696	73.6	424,197	26.4	295,551	78.4	81,650	21.6
Oklahoma State	53.5	46.5	76.9	23.1	886,966	76.1	278,241	23.9	854,500	85.2	148,700	14.8	387,000	90.4	41,000	9.6
Big Ten:																
Illinois	56.5	43.5	71.1	28.9	1,492,613	68.3	692,104	31.7	1,049,282	72.9	389,763	27.1	364,500	83.6	71,500	16.4
Indiana	47.2	52.8	72.1	27.9	1,491,456	69.2	664,060	30.8	810,483	73.7	289,843	26.3	305,649	86.3	48,654	13.7
Iowa	48.3	51.7	64.1	35.9	1,691,651	67.4	818,494	32.6	904,250	63.7	515,270	36.3	354,595	64.8	192,700	35.2
Michigan	53.1	46.9	65.6	34.4	3,085,400	67.8	1,464,800	32.2	1,308,400	73.3	476,300	26.7	481,200	83.9	92,100	16.1
Michigan State	48.1	51.9	67.2	32.8	1,639,388	70.8	674,520	29.2	1,036,314	75.4	337,771	24.5	(3)	(3)	(3)	(3)
Minnesota	51.7	48.3	70.6	29.4	1,437,410	69.6	627,831	30.4	2,412,437	81.9	534,476	18.8	480,500	82.2	104,286	17.8
Ohio State	53.3	46.7	73.7	26.3	1,451,376	64.3	806,686	35.7	1,768,616	76.4	545,835	23.6	407,064	79.5	104,946	20.5
Purdue	56.1	43.9	69.6	30.4	1,373,601	70.4	577,866	29.6	1,004,808	71.7	396,583	28.3	208,126	79.2	54,617	20.8
Wisconsin	49.4	50.6	69.8	30.2	850,749	72.2	326,925	27.8	1,173,693	73.8	417,700	26.2	400,070	82.8	82,828	17.2
Big West:																
Cal State Fullerton	44.9	55.1	69.0	31.0	665,810	70.9	272,947	29.1	617,082	81.8	116,968	18.4	71,218	83.0	14,638	17.0
New Mexico State	50.6	49.4	68.2	31.8	819,891	73.0	302,774	27.0	417,512	70.8	172,533	29.2	136,295	84.8	24,438	15.2
San Jose State	52.0	48.0	69.7	30.3	602,281	67.7	286,761	32.3	353,628	70.7	146,302	29.3	97,478	73.9	34,437	26.1
U.C. Irvine	47.5	52.5	68.5	31.5	350,572	64.4	193,760	35.6	498,818	74.2	173,607	25.8	32,012	74.9	10,747	25.1
U.C. Santa Barbara	49.6	50.4	69.6	30.4	401,610	61.8	248,556	38.2	831,033	77.6	239,462	22.4	17,988	66.4	9,100	33.6
U.N.L.V	49.3	50.7	69.8	30.2	1,239,536	69.4	545,929	30.6	724,822	75.7	233,185	24.3	234,643	84.5	42,908	15.5
Pacific-10:																
Arizona	51.7	48.3	66.9	33.1	1,553,349	65.2	827,324	34.8	921,663	72.0	359,132	28.0	435,359	80.0	108,900	20.0
Arizona State	51.6	48.4	70.8	29.2	1,754,652	64.9	950,940	35.1	941,096	78.2	261,786	21.8	373,662	83.0	76,653	17.0
Oregon	47.4	52.6	66.8	33.2	1,159,855	72.2	446,339	27.8	2,088,903	86.6	318,897	13.4	416,612	90.3	44,856	9.7
Oregon State	55.8	44.2	63.9	36.1	937,880	72.9	349,303	27.1	1,105,812	68.2	515,657	31.8	173,714	72.6	65,467	27.4
U.C.L.A	49.4	50.6	65.5	34.5	1,576,826	69.8	682,349	30.2	1,929,454	61.6	436,469	18.4	404,500	88.4	53,300	11.6
Washington	51.1	48.9	64.4	35.6	1,361,588	69.9	585,265	30.1	917,225	70.9	375,601	29.1	259,992	71.9	101,447	28.1
Washington State	54.5	45.5	55.7	44.3	1,154,566	68.0	542,237	32.0	993,629	70.3	420,751	29.7	289,099	76.5	88,652	23.5
Southeastern:																
Alabama	50.0	50.0	66.7	33.3	1,123,162	65.0	603,526	35.0	859,095	72.0	334,119	28.0	376,260	82.9	77,358	17.1
Arkansas	55.1	44.9	75.4	24.6	1,122,926	75.2	370,185	24.8	817,204	78.5	223,510	21.5	251,172	85.5	42,535	14.5
Auburn	54.6	45.2	72.9	27.1	961,239	67.2	468,597	32.8	803,216	72.9	298,989	27.1	300,676	82.4	64,104	17.6
Florida	53.1	46.9	71.1	28.9	803,162	63.5	460,701	36.5	968,726	72.5	368,235	27.5	531,570	84.7	96,245	15.3
Georgia	47.1	52.9	74.0	26.0	1,264,486	67.6	606,798	32.4	651,512	82.1	142,392	17.9	566,929	83.0	115,752	17.0
Kentucky	48.3	51.7	70.7	29.3	1,848,786	74.3	639,508	25.7	1,058,526	77.3	310,389	22.7	480,255	85.7	79,871	14.3
Louisiana State	50.0	50.0	73.1	26.9	1,199,761	66.2	613,170	33.8	2,848,651	81.1	663,399	18.9	110,754	73.6	39,642	26.4
Mississippi	50.7	49.3	76.4	23.6	1,124,357	80.6	270,134	19.4	917,942	79.0	244,377	21.0	361,873	89.4	482,781	10.6
Mississippi State	58.2	41.8	74.0	26.0	821,672	71.2	333,102	28.8	754,807	85.6	126,949	14.4	274,990	84.6	49,409	15.2
Tennessee	51.7	48.3	78.7	21.3	1,114,803	69.6	488,013	30.4	1,646,121	82.2	357,015	17.8	530,911	87.4	76,448	12.6
Vanderbilt	51.4	48.6	62.0	38.0	2,446,837	76.5	752,125	23.5	869,976	83.9	167,205	16.1	317,712	93.8	20,904	6.2
Southwest:																
Baylor	45.8	54.2	76.1	23.9	1,698,949	81.0	398,941	19.0	962,258	83.2	194,456	16.8	165,240	88.7	20,968	11.3
Texas	52.8	47.2	77.2	22.8	1,178,000	72.4	449,454	27.6	975,500	71.3	392,761	28.7	298,400	76.0	94,228	24.0
Texas A&M	56.5	43.5	70.7	29.3	844,310	66.4	427,851	33.6	885,200	75.0	294,300	25.0	273,800	74.4	94,100	25.6
Texas Tech	52.6	47.4	80.7	19.3	738,618	72.8	275,625	27.2	754,854	79.5	194,180	20.5	195,416	88.3	25,989	11.7

[1] Operating expenditures include only those cost associated directly with games, including lodging, meals, transportation, officials, uniforms, and equipment.

[2] Recruiting expenditures include the cost of off-campus contracts and evaluations and of paid on-campus visits by athletes. They do not include telephone and postage costs.

[3] Did not provide this information.

Source: The Chronicle of Higher Education.

THE 25TH ANNIVERSARY OF JOHN A. BURNS SCHOOL OF MEDICINE

Mr. INOUYE. Mr. President, 1992 marks the 25th anniversary of the John A. Burns School of Medicine at the University of Hawaii. The school began as a 2-year program of basic medical sciences in 1967. It expanded into a 4-year school in 1973 and graduated its first class of 62 M.D.'s in 1975, including 4 physicians of native Hawaiian ancestry. The major purpose of the school was to provide an opportunity for medical education previously unavailable to residents of Hawaii and other Pacific islands. Since then, 1,086 physicians have graduated with the school's mission of providing primary care to improve the health of the people of Hawaii and the Pacific.

I believe that the John A. Burns School of Medicine is the only genuinely multiracial medical school in the world. The student body is made up of men and women of many ancestries: Caucasian, Chinese, Korean, Japanese, Hawaiian, Filipino, Samoan, Micronesian, and Chamorran. Named after Governor Burns, a vital force behind the establishment of the school and its subsequent expansion, the goals and philosophy of the school epitomize his public career and his visions for Hawaii and its people.

Our State has been blessed to have had three outstanding individuals as the medical school dean, Dr. Windsor Cutting, Dr. Terrence Rogers, and Dr. Christian Gulbrandsen, each of whom have truly been visionary leaders.

An unusual aspect of the school curriculum is that it bases clinical instruction in affiliated community hospitals and clinics. The benefits of this approach are several: It is more economical; students from the start are thrust into the real world of day-to-day clinical activity; and their working directly with the community involves extensive participation of community physicians and other health professionals in the training of future physicians.

Another innovation is that the entire medical school curriculum is problem based. This somewhat unconventional aspect of the school has attracted outstanding faculty and students from the U.S. mainland. For example, for the entering 1992 class, there were over 1,400 applicants who competed for 48 slots.

In addition to broad-track research, the school fosters research in areas for which Hawaii has special advantages such as studies being conducted in the physical problems of human activity underwater; malaria vaccine development; programs in cancer and genetics; and sociobehavioral issues in cross-cultural psychiatry made possible by Hawaii's multiethnic population.

Finally, the school participates extensively in the international arena at locations outside Hawaii, and expects that its involvement in the Pacific and Asia will continue to grow. For example, in the scattered islands of Micronesia, the school has trained health assistants, physicians' assistants, and medical officers to bring primary care to a widely dispersed population. In addition, training of other health professionals has been conducted in New Guinea, Costa Rica, Africa, and Okinawa.

TRIBUTE TO UNITA BLACKWELL

Mr. KENNEDY. Mr. President, I would like to recognize today the remarkable accomplishments of Mayor Unita Blackwell of Mayersville, MS.

Mayor Blackwell has served as mayor for 26 years, but she has served humanity her entire life. Born to sharecropper parents on a plantation in Mississippi, she overcame extreme adversity to serve the civil rights movement, her home State, and large numbers of people in Mississippi and many other States who have benefited from her commitment and her example.

Mayor Blackwell's first responsibility is to rural Mississippi, and her most cherished role is serving the 500 citizens of Mayersville. Under her leadership, the town has gained new public housing, modern firefighting equipment, paved roads, and a high degree of interracial cooperation among its citizens.

This past week, Mayor Blackwell was named as one of 33 recipients of the MacArthur Foundation's "genius" awards. Her plan is to finish her current term and then use the award over the next few years to write a book about revitalizing rural communities. I have no doubt that one day we will all be using her study as a textbook for a better understanding of rural America.

I commend Unita Blackwell for her remarkable spirit, courage, and accomplishments, and, I ask that the attached article from the June 19, 1992, New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A MAYOR AND TOWN PULLED UP

(By Peter T. Kilborn)

Mayor Unita Blackwell runs the tiny Mississippi settlement of Mayersville from a creaky one-room City Hall that was a white Baptist church until about 10 years ago. The community, about 80 percent black, is made up mainly of old people and children. Unemployment is high, especially in the months when there is no farm work.

This week, Mayor Blackwell became one of 33 recipients of a five-year grant from the MacArthur Foundation. After completing her current four-year term next year, she said she might use her grant of $350,000 to support herself while writing a book about resuscitating rural communities.

It is a subject the 59-year-old Mayor knows quite a bit about. While rural Issaquena County, of which Mayersville (pronounced MY-ers-ville) is the seat, lost 25 percent of its population during the 1980's, Mayersville grew a bit, to a little more than 500 people.

Ms. Blackwell said she has achieved some of her goals but not the most vital; luring an industry that will hire people.

But while the Mayor waits for the jobs that may never come, she has kept her community intact. And residents tick off her achievements since she became the state's first black Mayor 26 years ago; incorporation of the city, a water system that reaches every home, a sewer system that reaches most and paving of all dozen or so streets in town.

WORK FOR PUBLIC HOUSING

Public housing was a tougher goal to achieve. In the 1970's the Federal Government agreed to finance a housing development and sent the money for it. But the cost of the land rose above the amount the Government had agreed to pay. Ms. Blackwell returned the grant with the exception of $50,000, which she used to buy a fire truck that had been part of the project. The Government complained, but she kept the truck.

It was not until 1987 that the Mayor was able to open the housing development, a Government-financed complex of 20 units for elderly and disabled people. Since then, two more subsidized complexes of 16 units each have opened, one for the elderly, one for families.

Ms. Blackwell is convinced that her tiny town about 50 miles north of Vicksburg is a national resource.

"If I could help these small places to develop, we can become a model of what can happen," the Mayor said in an interview in Mayersville last week. "What's missing in the cities is the closeness you find here. You can walk the streets. You don't see fear in people's eyes.

"We can have 100 children going to the cities. Then you have 100 problems. You take someone from the land and stick them on concrete, you've got a psychological mishap. These people in Los Angeles. Where did they come from? They came from a lack of jobs, a lack of housing, a lack of their needs being met. They don't feel trapped here. They like it here. They just need a job. That's the reason I see we have to keep these small nothing towns."

WIDE ORBIT OF SERVICE

Ms. Blackwell, a freedom fighter in 1960's who organized voter registration drives, has since traveled in lofty circles. Born to sharecroppers on a plantation in Lula Miss., she has been on 16 diplomatic missions to China, the first in 1973. She has twice been president of the National Conference of Black Mayors. She was a member of the Democratic National Committee, was co-chairman of the Mississippi Democratic Party and is a cofounder of Mississippi Action for Community Education, a community-development organization in Greenville.

"You do where you're at," Ms. Blackwell said, explaining why she remains in Mayersville, where there is little to do beyond watching the cotton plants fill out and ducking the occasional drenching rains.

"A Chinese man said to me, 'Unita, you are like a phantom that nests in a place but flies out all over the world.'

"What I got out of that was, why not Mayersville? Mayersville has developed. It's a small piece, but it has developed. It showed people you can do it. I don't think I could have done any more in terms of a model for myself or for people."

Two women are sitting in the 82-degree, mid-afternoon sun outside their adjoining, ground-level apartments in the housing project. Each receives about $440 a month in Social Security payments. One, Anna Mae Dolley, a mother of five, is 67 and has lived most of her adult life in Mayersville. Her rent is $61 a month. The other, Grace Reynolds, 80, pays $50 in rent. Mrs. Reynolds, the mother of 15, has always lived in the town.

When the Mayor comes by, leading 20 Egyptian journalists on a tour of Mayersville and to eat lunch in the housing project's dining room, the two women join in extolling the changes she has made.

Mrs. Dolley: She done a lot for this town.

Mrs. Reynolds: O Lord, yes!

Mrs. D: She helped get all these houses in. I thought, 'I got to get me one.' Me and her, we were the first here. She moved here in the morning time, and I moved here in the evening time.

Mrs. R: She have a car up there, and she got a van.

Mrs. D: Carry us to the doctor. Carry us to shopping.

Mrs. R: She looks out for us every way she can.

Mrs. D: This was a dirt road. She brought that new road in.

WORKING IN THE FIELDS

Mayersville is the picture of a rural subsistence economy. Teen-agers and a few older people still work in the cotton fields. From now until mid-July or so, when the bolls form, they get jobs chopping weeds in the cotton. The pay is about $4.00 an hour.

The Mayor's budget is $30,000 a year. She has one regular employee, a clerk, Helen Reed, who is also the tax collector. Ms. Blackwell is paid $6,000 a year. Raising her 13-year-old grandson, Jermaine, she could qualify for the public assistance that most of her constituents receive. But she said she has never applied.

The town buys food in bulk with other communities in Mississippi and Arkansas, and once a month it sells big boxes of the food, chicken, sausage, vegetables and fruit, for $14 a box. On those days, the mayor said, 200 to 300 people come to City Hall to buy it.

Large families buy five or six boxes. Anyone can buy, but in return, they must put in two hours of community service per box. They can serve in the food distribution line, or baby sit or visit with elderly people who live alone.

"I have a list of everyone who gets a box," the Mayor said. "Then I can ask, 'What did you do?' It's an honor system. In a small community you can't get away with telling a whole lot of lies."

COTTON FIELDS TO COLLEGE

Ms. Blackwell went to high school in Arkansas and after graduation went to work in the cotton fields. In 1982 and 1983 she went to the University of Massachusetts at Amherst on a fellowship and received a master's degree in regional planning, even though she had no previous degree.

She settled in Mayersville 30 years ago in an ancestral home of her ex-husband. She has since built a brick ranch-style house on the adjoining lot, but the old place, an unpainted, unplumbed, unelectrified, two-and-a-half room shack, still stands.

In the 1960's Ms. Blackwell made the shack a regional cell of the Student Non-Violent Coordinating Committee. As a result of her civil rights work, she served time in jails, including an 11-day stint in Jackson.

The racism that Ms. Blackwell fought lingers, she said, though largely below the surface. Whites and blacks live in adjoining houses. When she started her monthly food line some months ago, Ms. Blackwell said only blacks participated. But then more and more whites joined, and now both blacks and whites work in the line.

Some white families send their children to the public school, 12 miles away, but more use an all-white, private academy in an adjoining county. Whites say they draw the line at intermarriage, and some blacks say the same.

Still, Deputy Sheriff Richard Jones said, "this is probably the most together city in the United States."

FINANCIAL REPORT OF SENATOR DECONCINI

Mr. DECONCINI. Mr. President, today, I ask unanimous consent that my financial report appear in the CONGRESSIONAL RECORD.

Under the rules of the Senate, it is the obligation of Senators to classify their income and property within certain broad income categories. For the most part, Senators do so with the utmost caution and are careful to include all properties in which they have any ownership, beneficial or otherwise.

It has been my practice since coming to the Senate in 1977 to go well beyond Senate requirements and to have a financial statement prepared by an accounting firm showing the worth of total assets, total liabilities, and the net worth of both my wife and me. I have always made my financial statements available in this manner. This is in addition to all the requirements and fillings set forth by Senate rules and laws regarding disclosure.

I have elected to do this because I believe close scrutiny should follow public officials. The public must be assured that an official whose assets and wealth increase during public office if fully accountable. Public officials must meet the highest standards.

I urge all Members of the Senate to continue to make full public disclosure of their assets and income. This is not a pleasant experience for any of us, but it will help build the sense that elected public officials are credible and honest.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TIZZARD, KNUTTINEN,
DONNELLY & WRIGHT, P.C.,
Tucson, AZ, April 30, 1992.

DENNIS and SUSAN DECONCINI,
Washington, D.C.

We have reviewed the accompanying statement of financial condition of Dennis and Susan DeConcini as of December 31, 1991, in accordance with standards established by the American Institute of Certified Public Accountants. All information included in this financial statement is the representation of Dennis and Susan DeConcini.

A review of personal financial statements consists principally of inquiries of the individuals whose financial statements are presented and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying statement of financial condition in order for it to be in conformity with generally accepted accounting principles.

The historical cost/basis information in the accompanying statement of financial condition is presented only for supplementary analysis purposes and has been subjected to the inquiry and analytical procedures applied in the review of the basic financial statement. We did not become aware of any material modification that should be made to the supplementary information.

TIZZARD, KNUTTINEN,
DONNELLY, & WRIGHT,
Certified Public Accountants.

DENNIS AND SUSAN DECONCINI STATEMENT OF FINANCIAL CONDITION, DECEMBER 31, 1991

	Estimated current value	Historical cost/basis
Assets:		
Cash, checking and savings accounts	$115,543	$115,543
Certificates of deposit	534,494	534,494
Miscellaneous receivables and impounds arising from rental properties	25,815	25,815
Notes receivable (Note 2)	689,648	689,648
Investments:		
Marketable securities (Note 3)	76,659	52,177
Real estate (Note 4)	4,926,430	1,569,832
Monterey Water Company (Note 5)	124,388	3,000
Partnerships, closely held (Note 6)	5,972,909	185,549
Partnerships not closely held (Note 7)	290,640	125,344
Annuity	49,555	22,573
Vested interest retirement plans:		
Individual retirement accounts	64,856	
Civil service retirement fund	53,021	
Thrift savings retirement plan	13,867	
Cash value of life insurance (Note 8)	113,659	107,355
Residence (Note 9)	470,000	195,657
Personal property (Note 9)	165,000	65,000
Total	13,686,484	3,691,987
Liabilities:		
Miscellaneous payables arising from rental properties	17,624	17,624
Deferred gain (Note 2)	340,854	340,854
Income taxes—current year balance	28,593	28,593
Personal loans (Note 10)	31,154	31,154
Mortgages:		
Wraparound mortgages (Note 2)	341,108	341,108
Real estate investments (Note 4)	859,851	859,851
Residence (Note 9)	90,718	90,178
Subtotal	1,709,902	1,709,902
Income taxes:		
Estimated on the difference between the estimated current values of the assets and the estimated current amounts of liabilities and their tax bases (Note 11)	3,614,078	
Net worth	8,362,504	1,982,085
Total	13,686,484	3,691,987

Note.—See accountants' review report.

NOTE 1—BASIS OF ACCOUNTING

The accompanying financial statement includes the assets and liabilities of Dennis and Susan DeConcini. Assets are stated at their estimated current values and liabilities at their estimated current amounts.

NOTE 2—NOTES RECEIVABLE

	Receivable	Mortgage	Deferred gain
In 1985 a residence on Crystal Drive, San Diego, California was sold to a related party with the note receivable being "wrapped around" the underlying mortgage for the same terms and amount. The monthly receivable/payable is $589 per month including interest at 11 percent	$36,443	$36,389	
In 1989 a shopping center at Cave Creek & Bell Road, Phoenix, Arizona was sold to an unrelated party. The note receivable is for monthly payments of $7,168 including interest at 10 percent; the note receivable matures April, 1999. The note payable is for monthly payments of $7,996 including interest at 9.5 percent; the note payable matures December, 1991	526,205	304,719	$213,927
In 1989 vacant land on South 6th Avenue, Tucson Arizona was sold to a related party. The note receivable is interest only at 9 percent, with a balloon payment July, 1994	127,000		126,927
Total	689,648	341,108	340,854

NOTE 3—MARKETABLE SECURITIES

The estimated current values of marketable securities are either (a) their quoted closing prices or (b) for securities not traded on the financial statement date, amounts that fall within the range of quoted bid and asked prices. Marketable securities consist of the following:

	Number of shares or bonds	Estimated current values
Stocks:		
First National Corporation	1,585	$11,858
James Madison Limited	200	
Lasertechnics, Inc	1,000	2,000
National Education Corporation	50	463
Pacific Telesis	200	8,925
Southern Arizona Bancorp of Yuma, Inc	3,150	22,050
The Price Co	200	10,500
Valley National Corporation	700	19,863
Bonds: State of Israel	1	1,000
Total Marketable Securities		76,659

NOTE 4—REAL ESTATE

The estimated current values were determined by use of assessed value for property taxes, inquiries of realtors familiar with similar properties in similar areas, acquisition price of recently acquired properties and appraisals of some properties. Ownership is 100% unless otherwise noted:

Property description	Estimated current value	Mortgage balance	Mortgage terms		
			Monthly payment including interest	Interest rate	Maturity
JOINT INTERESTS					
Alpha Beta Shopping Center, 44th & Broadway, Phoenix, AZ (50 percent interest)	$600,000	$357,491	$7,854	9⅝	1995
Avra Valley/Pioneer Trust, Unimproved land, Pima County, AZ (3.125 percent interest)	5,630				
Grant/Oracle Circle K, Ground lease, Pima County, AZ (10.89 percent interest)	64,250				
St. Mary's & Silverbell Road, Ground lease, Pima County, AZ (10.89 percent interest)	200,000				
1122 S. 6th, vacant land (formerly Victory Outreach) Tucson, AZ	25,000				
Rancho Sin Vaca, lot 64, vacant land, Tucson, AZ	86,000	34,000	(1)	10	1995
12th & Ajo, Nat'l city annex, lot 23, block A (behind circle K), vacant land, Pima County, AZ	13,200				
COMMERCIAL PROPERTIES					
Action Suds & Ajo Bikes, 3812/3816 S. 12th, Tucson, AZ	200,000				
Drachman Building, 2345 E. Broadway, Tucson, AZ	150,000				
L & L Furniture, 1140–1150 S. 6th, 1133–1135 S. Russell, Tucson, AZ	112,000				
Oriental Express, 615 S. Ajo, Tucson, AZ	100,000				
Pizza Hut 12th & Ajo, 605 W. Ajo, Tucson,	162,850				
39 cent Hamburger, 625 W. Ajo, Tucson, AZ	125,000				
RESIDENTIAL PROPERTIES					
Canyon View Apartments, 381 Cedar Land, Sedona,	625,000	334,057	3,602	10.25	2018
House, Alta & San Carlos Street, Carmel By The Sea, CA	300,000				

Property description	Estimated current value	Mortgage balance	Mortgage terms: Monthly payment including interest	Mortgage terms: Interest rate	Mortgage terms: Maturity
House, 5686 Dolphin Street, La Jolla,	850,000				
House, 1901 N. George Mason Drive, Arlington, VA	175,000	99,555	934	10.5	2117
Salem Court Apartments, 705 Salem Court, Mission Beach, CA	800,000				
Sunset Cliff Apartments, 1961 Sunset Cliff, Ocean Beach, CA	332,500	34,748	554	9	1992
Total	4,926,430	859,851			

[1] Annual payment, $8,000 plus interest.

NOTE 5—MONTEREY WATER COMPANY

30 shares of a total of 430 shares outstanding (7%) were owned as of December 31, 1991. The Company primarily holds real estate investments. The estimated current value is based upon prior years appraisal as adjusted due to inquiries of realtors familiar with similar properties in similar areas. Net income of the Company for 1991 was a loss of $106,494. The unaudited balance sheet of Monterey Water Co. at December 31, 1991 is prepared on the accrual basis and is summarized below:

Cash	$66,007
Other current assets	
Notes receivable	193,093
Investment, partnership	465,190
Depreciable property	122,777
Accumulated depreciation	−15,684
Land	608,749
Other assets	16,310
Other current liabilities	291,023
Stockholder loans	366,326
Notes payable	271,684
Other liabilities	109,402
Capital stock	41,300
Capital in excess of par	10,750
Retained earnings	365,957
Total assets	1,456,442
Total liabilities and equity	1,456,442

NOTE 6—PARTNERSHIPS, CLOSELY HELD

Interests in the listed partnerships are as a general partner. Partnership activities are primarily in the area of real estate. The estimated current value of the partnerships is based upon their assessed value for property taxes, or inquiries of realtors familiar with similar properties in similar areas, or acquisition price of recently acquired properties and appraisals of some properties. Following are the unaudited condensed historical cost balance sheets and the net income or (loss) for the year ended December 31, 1991 for each partnership. The income tax method of accounting is used by the partnerships:

	2–D properties	3–D properties	4–D properties	Total
Cash	$1,573	$41,682	$80,841	$124,096
Receivables/loans	72,272		52,879	125,151
Other current assets		189,431	263,973	453,404
Investments		129,125	4,048,537	4,177,662
Depreciable property	41,524	2,102,469	7,561,542	9,705,535
Accumulated depreciation	(18,223)	(855,170)	(2,699,005)	(3,572,398)
Land	21,726	167,999	12,292,143	12,481,868
Intangibles		49,166	290,858	340,024
Accumulated amortization		(15,400)	(93,344)	(108,744)
Other assets		9,522	(14,238)	(4,716)
Total assets	118,872	1,818,824	21,784,186	23,721,882
Other current liabilities	208	6,023	371,045	377,276
Loans		1,118,539	10,624,538	11,743,077
Deferred gains	71,992		48,529	120,521
Other liabilities		6,914	70,504	77,418
Capital	46,672	687,348	10,669,570	11,403,590
Total liabilities and equity	118,872	1,818,824	21,784,186	23,721,882
Net income for the year ended Dec. 31, 1991	32,372	58,492	77,535	168,399
Percent ownership of income	50	33	18	NA
Estimated current value of partnership interests	196,819	513,640	5,262,450	5,972,909

NOTE 7—PARTNERSHIPS AND S-CORPORATIONS, NOT CLOSELY HELD

Pinnacle Peak North Investors—2% interest in a real estate general partnership. Estimated current value was based upon the managing partner's estimated value of the undeveloped land	$183,600
Tonopah Partners I General Partnership—16.67% ownership in a real estate general partnership. Estimated current value was based upon a realtor's estimated value of the undeveloped land	82,300
Tonopah Partners II General Partnership—same as Tonopah I	12,090
W.M. Investments Partnership—13.33% ownership in a real estate general partnership. Estimated current value was based upon the managing partner's estimated value of the apartment and commercial buildings owned by the partnership	12,650
Total	290,640

NOTE 8—LIFE INSURANCE

The face value of thirteen whole life policies is $620,683. These policies have a cash surrender value of $131,659.

NOTE 9—RESIDENCE/PERSONAL PROPERTY

The estimated current value was determined by the good faith estimates of Dennis and Susan DeConcini. The residence mortgage is payable in monthly installments of $906 including interest at 8.5% through 2006.

NOTE 10—PERSONAL LOANS

Demand note from family member, unsecured, interest at 10 percent	$19,741
Demand note from closely held partnership, unsecured, interest at 10 percent	11,413
Total	31,154

NOTE 11—INCOME TAXES

Estimated income taxes have been provided on the excess of the estimated current values of assets over their tax bases as if the estimated current values of the assets had been realized on the statement date, using applicable tax laws and regulations. The provision will probably differ from the amounts of income taxes that eventually might be paid because those amounts are determined by the timing and the method of disposal or realization and the tax laws and regulations in effect at the time of disposal or realization.

NOTE 12—OTHER RELATED PARTY DISCLOSURES

Other family members and closely held businesses had the following amounts receivable from or payable the following entities at December 31, 1991:

	Monterey water	2–D properties	3–D properties	4–D properties
Individuals:				
Receivable	$39,323		$102,631	$94,576
Payable	454,663		122,520	1,595,009
Closely held business:				
Receivable				31,469
Payable			31,469	

Note.—The notes all bear interest at prevailing interest rates.

NOTE 13–FUTURE INTERESTS

Remainder interests in trusts have not been presented because the rights are not for fixed or determinable amounts.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator Helms. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,933,120,076,770, as of the close of business on Friday, July 19, 1992.

On a per capita basis, every man, woman, and child owes $15,312.37—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

SAM ARCHIBALD—ADVOCATE FOR INFORMATION

Mr. WIRTH. Mr. President, today I wish to acknowledge the stellar career of Mr. Sam Archibald, who recently retired from the school of Journalism at the University of Colorado.

In a recent Denver Post profile, Sam was described primarily for two characteristics: his charming irreverence and his inborn stubbornness. With the first, he charmed his enemies, vexed his friends, and always maintained an impish demeanor that never let you relax or take yourself too seriously, especially if you were a politician.

On his stubbornness was built the imputant Freedom of Information Act, which he advocated, helped to draft, and steer through Congress. This landmark legislation may have done more to keep our democracy open and accountable than has any legislation since the first amendment provisions of the Constitution.

And the FOIA reflects another of Sam's characteristics, his idealistic belief in the potential of democracy. I first met Sam in 1974, when he was heading the Campaign Fair Practices Committee. Trying to assure fair and open campaign procedures, Sam set a standard that in these later years, as our politics drift toward the negative, the abbreviated and the slick, would well be remembered and resurrected.

We all owe Sam Archibald a vote of thanks for his years of irreverent, stubborn idealistic pursuit of the ideal in our democratic society.

I ask unanimous consent that an article from the Denver Post be inserted to the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Denver Post, June 1, 1992]

RESPECTED COLORADO UNIVERSITY JOURNALISM PROFESSOR RETIRES

(By J. Sebastian Sinisi)

BOULDER.—At a time when nearly every breath, not to mention written line, has to be measured for its politically correct content, Sam Archibald is marvelously refreshing—as his friends are quick to point out.

And when Archibald, who's "seventh-and-a-half" by his own admission, retired recently from the University of Colorado School of Journalism after 16 years, not only his students lost something.

Whether they know it or not, media people everywhere—especially investigative reporter types—owe Archibald thanks for his work in removing many of the "classified" veils of secrecy government bureaucrats hide behind. Archibald began chipping away at government secrecy during the McCarthy era. He was among those responsible for the Freedom of Information Act in 1966 and major amendments in 1974.

Efforts to dilute the law have been under way ever since. But even conservatives defend it.

No less an observer than conservative columnist and former Nixon speechwriter William Safire wrote that it "has done more to inhibit the abuse of government power and to protect the citizen from unlawful snooping and arrogant harassment than any legislation in our lifetime."

Stirring words. But Archibald's friends prefer the lighter side with which he pokes fun at things lots of folks take terribly seriously.

At one of several retirement parties given in Archibald's honor in Boulder, former gubernatorial aide and Denver Post staffer Sue O'Brien—now a CU journalism professor—recounted the time she told Archibald she'd remarried.

Without missing a beat, he retorted "I didn't know you were pregnant!"

Nearly everyone hearing the story howled. "It was vintage Sam," said O'Brien. "Something you could never say to a younger women in today's climate that has no sense of humor. But which Sam had no trouble directing at me—age 52, a mother of three and long single."

Archibald's instant retort, she said, was "a classic example of Sam's rampaging irreverence and sexism that he usually gets away with. He's been a one-man crusade against anything that even smacks of political correctness."

"Which is one of the reasons he's so wonderful."

At that particular soiree, "Sam stories" flowed like the ale this Boulder crowd was quaffing freely.

The barstool named for Sam at the Walnut Brewery was mentioned. A former student told how Sam "had taught me to be a royal pain in the ass." Tales of faculty-student romances were offered, with details unsuitable for the polite journalism that Archibald would be the first to blast.

Archibald, with shaggy white hair and eyes that usually hold a mischievous glint, can—of course—speak for himself.

If pressed, he'll tell about taking visiting military brass on tours of Burmese brothels during World War II, "under the guise of an 'educational' tour," while he was a U.S. Army public relations liaison in the China-Burma war theater.

"I had two years of journalism school at CU before enlisting," related Archibald, who grew up near Tejon Street and West 41st Avenue in northwest Denver and attended North High School. "I later covered the Japanese surrender in Canton. Nobody cared."

After the war, "I went back to CU and found graduate school was better than being shot at." He was a statehouse reporter for the Sacramento Bee and then worked for the Associated Press and United Press International before joining California U.S. Rep. John Moss' House subcommittee on government secrecy.

"Our first office space was in a former men's room," Archibald recalled. "But we gathered a staff of former newsmen and lawyers to investigate old directives issued by Harry Truman to justify excessive secrecy ten years after the war. After eleven years of fun, which was definitely a high point in my life, we had the Freedom of Information Act."

As a journalism professor, the joys of assigning students to "dig through records and force people to give answers, to come up with a story the Denver Post should have had; even if it takes a whole semester," have not been unalloyed.

"The bad news is teaching most students simply to read and write at a time when maybe only 10 percent of journalism students are really qualified to go into this business," he said. "In the 16 years I've been here, students have gotten less interested in the hard work of this business and more interested in skiing, drinking, sex and making money; maybe not in that order. But, even if you plan to make money in public relations later on, you need to learn the basics.

His more somber colleagues have blasted one of the major journalistic innovations of recent years, the introduction of USA Today. Archibald disagrees. "It represents a hopeful sign," he said, "and I'm not being facetious for a change. . . . With its short takes that boil things down to essentials and colorful illustrations, USA Today at least gets people to look at newspapers.

We aren't going to change peoples' habits," Archibald said. "But we can get them to read something that looks interesting—and make something they should read into something they will."

As for the industry's future, "There'll always be newspapers. What else can you use to train a puppy or to line a bird cage?" Archibald said.

But his optimism is tempered by technology: "Once they figure a way to transmit newspapers electronically, I'll start to worry. Because, then, the government can try to control that mode with license regulation the way they control the air waves."

EXTENSION OF MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that I be allowed to complete my remarks and that the Senate remain in morning business until I have completed my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORGING CIVIL-MILITARY COOPERATION FOR COMMUNITY REGENERATION

Mr. NUNN. Mr. President, the end of the cold war has created a number of opportunities, as well as challenges, for our Nation. The collapse of the Warsaw Pact and the Soviet Union give us a chance to make significant reductions in the size of our military forces and our defense budget. Recent nuclear weapons agreements have diffused a portion of the world's arsenal of weapons of mass destruction. But tremors of instability and outright regional conflict are shaking many parts of the globe. These volatile situations, coupled with the changing nature of the world's balance of power, mean that we must still maintain a strong, and perhaps even more flexible military force.

Over the next few years, the Nation will continue the debate over what size the base force should be, what roles and missions it should undertake, and how it should be structured. There is considerable uncertainty at this time on just what kind of a military capability we will need in the future and what size force will be adequate.

We are leaving a security era that demanded large numbers of U.S. combat forces stationed overseas or operating in forward locations at high states of combat readiness in order to confront a large and quantitatively superior opponent. That era has ended. We are entering a security era that permits a shift in our overall strategy more toward smaller force levels, with fewer overseas deployments and lower operating tempos. The exact size and organization of this future base force is still taking shape. It will be a smaller force than we have today. We all know that. No doubt it will be smaller. It will have to be just as professional—and even more flexible. The force will still need a basic amount of combat and operations training to sustain maximum proficiency as well as readiness. But there will be a much greater opportunity than in the past to use military assets and training to assist civilian efforts in critical domestic areas.

Recent events in Los Angeles, with their terrible cost in life and property, should remind us that our society faces numerous domestic challenges that in many respects are as daunting as any potential foreign threat to our national security. While the Soviet threat is gone, at home we are still battling drugs, poverty, urban decay, lack of self-esteem, unemployment, and racism. The military certainly cannot solve these problems, and I do not stand here today proposing any magic solution to the numerous problems we have at home. But I am convinced that there is a proper and important role the armed forces can play in addressing these pressing issues. I believe we can reinvigorate the military's spectrum of capabilities to address such needs as deteriorating infrastructure, the lack of role models for tens of thousands, indeed hundreds of thousands, if not millions, of young people, limited training and education opportunities for the disadvantaged, and serious health and nutrition problems facing many of our citizens, particularly our children.

There is a solid precedent for civil cooperation in addressing domestic problems. Army regulation 28-19, developed under the leadership of Secretary Howard "Bo" Callaway, in the Ford administration, and issued in 1975, authorized a Domestic Action Program. The purpose of the program was to authorize "use of Department of the Army human and physical resources to assist and support the continued improvement and development of society."

Under this program, local military commanders helped communities with activities such as fixing up recreation facilities and conducting summer programs for disadvantaged young people. The program, however, was decentralized, and, of course, it in many respects needed to be decentralized, but it had very little management emphasis from the Army's leadership. In the 1980's, as the Army increased its focus on military training, interest in the Domestic Action Program faded, and the regulation was rescinded in 1988.

As we restructure our Armed Forces over the next decade, the attention of DOD's civilian and military leadership must remain focused on training the Armed Forces for their primary mission, which is the military mission. That goal, in my view, is compatible with enhancing the military's ability to assist in meeting domestic needs.

Creative commanders have always devised numerous innovative activities for their units—beyond routine training—to build morale and also unit cohesion. Community service projects present an excellent opportunity for them to do so, while providing important services to our society. The military involvement in counter-narcotics activities is a good example of a mission that enhances military skills, helps to address an important domestic problem, and improves the morale of the people involved.

During markup of the National Defense Authorization Act for fiscal year 1993, I intend to offer a proposal to authorize the Armed Forces to engage in appropriate community service programs. I would like to outline the basic concept today in order to encourage comments and suggestions from my colleagues and from the Department of Defense before the final details are developed during the markup. In other words, Mr. President, I am not locked in concrete. I am throwing these concepts out for discussion today. I know Senator WARNER has been looking, on behalf of the minority, at a number of concepts, and I am hoping that by stimulating the thinking in this area, we can refine this proposal in the next 2 or 3 weeks.

Mr. President, I want to stress at the outset that any such programs must be governed by three essential principles:

No. 1: Any such project must be undertaken in a manner that is consistent with the military mission of the unit in question.

No. 2: The project must fill a need that is not otherwise being met, and must not compete with the private sector or with services provided by other Government agencies.

No. 3: The program cannot become a basis for justifying additional overall military expenditures, or for retaining excess military personnel.

Projects should be undertaken only with personnel, resources, and facilities that exist for legitimate military purposes.

Building on the Army's experience with its Domestic Action Program, I would envision a new Civil-Military Cooperation Program with the following objectives:

First, enhancing individual and unit training and morale through meaningful community involvement.

Second, encouraging cooperation between civilian and military sectors of our society.

Third, advancing equal opportunity in the Nation and helping to alleviate the racial tension and conflict and strife and misunderstanding in our Nation.

Fourth, enriching the civilian economy by transfer of technological advances and manpower skills.

Fifth, improving the ecological environment and economic and social conditions of the areas that are within the reach of our existing military base structure.

Finally, increasing the opportunities for disadvantaged citizens, particularly children, to receive employment, training, education, as well as recreation.

The program would be organized under the supervision of the Assistant Secretary of Defense for Force Management and Personnel. I believe we should give the military departments and the Department of Defense broad discretion to manage the program in a manner consistent with their military missions, who would in turn grant flexibility to local commanders in the implementation of the program. Every base will be different, different missions, different talents, different capabilities, and different geographic areas. There will not be one single model for the country.

To ensure that projects meet important community needs and do not compete with the private sector and other Government organizations, local installations would establish advisory councils on civilian-military cooperation. In these groups, officials from the military installations, representatives of appropriate local, State and Federal agencies, leaders of civil and social service organizations, and business and labor representatives from the private sector, would meet to provide advice to local commanders in planning and executing civilian-military projects.

Mr. President, if we commit ourselves to it, this plan, as I view it, can make a major contribution to community restoration and regeneration efforts across the country. The American taxpayers have invested in and have built a great stockpile of innovative ideas, knowledge, trained, talented people, and equipment in the military over the years. These resources, if properly matched to local needs, and coordinated with civilian efforts, can make a useful contribution to addressing the problems we face in blighted urban areas, in neglected rural regions, in schools, and elsewhere.

Depending on the capabilities and availability of specific units, and the needs of local communities, the Armed Forces can assist civilian authorities in addressing a significant number of domestic problems.

I put at the top of the list role models. One of the key strengths of the Armed Forces is developing role models. Hardworking, disciplined men and women, who command respect and honor in their very presence, can serve as a very powerful force among our young people, especially where family structures are weakened by poverty, drugs and crime. We should enhance the opportunities for good role models to interact with our young people.

Take, for example, the case of Sergeant First Class Lenard Robinson, stationed at Fort Bragg, N.C., who actively corresponded with learning handicapped children at a school in California, while he was overseas during Operation Desert Storm. Typically, learning handicapped children have great difficulty expressing themselves in writing. Sergeant Robinson's vivid descriptions of his experiences overseas, combined with photos and videos that he sent, has inspired many children to read his letters, and many of the children who never wrote more than a few words before they heard of Sergeant Robinson, now write long letters to him. We have thousands of Sergeant Robinsons in our military services today.

The YESS program in Michigan is a collaborative effort between the private sector, nonprofit organizations, and the Michigan National Guard, to provide disadvantaged young people with role models in specific educational skills. Young people live on a military base for 5 days, receiving science and math tutoring, as well as exposure to military hardware and operations.

This provides an exciting, stimulating environment to not only enhance their educational skills, but also to provide them with role models that encourage these young people to set goals for their own lives. It enables them to look at others who have come from similar circumstances and say, "If they did it, I can do it, also."

Senator LEVIN brought this program to my attention. He is very familiar with the program and will be describing it in more detail when he speaks on this subject.

Why not expand this program so that it can benefit young people throughout our Nation?

The American people are familiar with our senior military leaders, many of whom are black, who served our Nation so well during Operation Desert Storm, such as Gen. Colin Powell and Lt. Gen. Calvin Waller. There are over 400,000 members of the Armed Forces who are black, and over 90,000 who are Hispanic, whose service, in Operation Desert Storm and elsewhere, is a model for every citizen in our country. These include marines such as Capt. Ed Ray, a light infantry company commander, whose testimony before our committee about combat in Operation Desert Storm demonstrated the professionalism and competence of our junior officers. Or Spc. Jonathan Alston, of the 2d Armored Division, whose heroism in Desert Storm earned him the Silver Star, and who is featured in the television docu-drama, "The Heroes of Desert Storm."

These individuals, not only those who have been in Desert Storm but thousands of those who attained great professionalism can serve as role models in community service programs throughout our country. But there must be a structured program to enable community organizations to benefit from the capabilities and qualities of military role models. Military leadership, at both the officer and enlisted level, is an example of unique national resources. Why not use this resource as an example to tens of thousands of inner city and rural youth who, for example, many have never had a father in their own home?

REHABILITATION AND RENEWAL OF COMMUNITY FACILITIES

All across this country, schools, public housing, and recreational facilities, as well as roads and bridges, need repair in areas where Government funds and private-sector involvement are simply not available. Active duty and reserve units, particularly those with engineering capabilities, could participate in restoring part of our infrastructure in this country. Military construction units may need to be beefed up and perhaps redistributed to ensure that capabilities exist in all geographic areas to meet this important need.

Bill Guilfoil of the Atlanta project at the Carter Center in Georgia has reported that at least 1,600 public housing units are boarded up and unoccupied in Atlanta because of their state of disrepair. Meanwhile, the city's homeless population numbers at least 12,000. And I think this story is repeated in city after city after city across our land.

There are dozens of engineering units that are located in Georgia that really need to do construction and maintenance training in order to keep up their proficiency because that is what they do, that is what they have to do, in any kind of conflict. I think it makes sense to put those domestic needs and our military engineering resources together. Army combat engineer units could be effectively used to repair dilapidated public housing, repair aging schools, and refurbish old recreational facilities. They could also provide temporary facilities to meet pressing public needs. As noted in an article in the Washington Post last week, the WIC [women, infants, and children] center that served the south central Los Angeles area was destroyed in the riots, leaving the area without the capability to ensure that children and pregnant mothers received vital nutrition. The military has the capability to provide temporary buildings on very short notice. Why not use this capability to deal with such an emergency?

Last year, in Operation Provide Comfort in Iraq, military maintenance and construction units built housing, laid cement roads, put in plumbing systems—and the list goes on—for the desperate Kurds. We have desperate people in America. Why not put those resources to work at home?

In many areas, these units are located right next door to blighted areas.

NATIONAL GUARD BUREAU FOR A NATIONAL GUARD YOUTH CORPS

The military should examine ways to refocus local reserve component training on local community support initiatives whenever feasible and operationally justified. I will be proposing a pilot program to be implemented by the National Guard Bureau for a National Guard Youth Corps.

Last year in the Department of Defense Appropriations Act for fiscal year 1992, Congress appropriated funds for the National Guard Bureau to develop a program designed to demonstrate how disadvantaged youth can be aided through a program, based on a military model, of education, personal and skills development, and work in service to their communities. This initiative was sponsored by Senator BYRD and I compliment him on his proposal.

The National Guard Bureau has since completed its work on designing a pilot program. It is very promising. As it is currently envisioned, the Chief of the National Guard Bureau would be authorized to enter agreements with the governors of 10 States to operate a military based training program to improve basic skills and employability of high school dropouts. In this regard, I will be working with Senator BYRD, and with Senator GLENN, who chairs our Manpower Subcommittee, to include a provision in our defense markup this year authorizing such a pilot program, which is really being enthusiastically requested by the Guard Bureau.

The program would require a relatively modest investment of the talent that is already available in National Guard units. I have also been informed that Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, is interested in expanding the Junior ROTC Training Program, an effort I applaud and which could benefit from the types of assistance and I have outlined in these remarks.

Expansion of the Junior ROTC Program, particularly in our inner cities, would be particularly beneficial, and I look forward getting that proposal from General Powell and others working with it.

If these plans are implemented, they could do much to help the young people of our country. Why not put our military resources to work on these projects?

SUMMER PROGRAMS

Our young people need other kinds of help. I believe we should investigate ways to refocus Department of Defense summer hire programs to recruit disadvantaged students where feasible. In areas where the DOD operates schools, teachers and perhaps facilities could be involved in summer school outreach to disadvantaged children. Why not put these resources to work in areas of great need?

JOB TRAINING AND EDUCATION

There is a dire need for job training and education—especially in the inner cities—to enable men and women to meet the needs of the evolving workplace. While our educational system and private industry must bear the primary responsibility for training and education, there may be opportunities in specific locations for civil-military cooperative use of military training facilities to assist in meeting these needs. Why not put our military resources to work on these needs? Why not look at our military resources as a resource for this kind of training and education?

MEDICAL TRANSPORT

Our ability to transport people to medical facilities in an emergency can never be fast enough, particularly for trauma victims. Every day, military medivac units must log certain hours of flight training.

That is what they are training for all year along, to be ready in a contingency; that is what they are in business to do, to help evacuate people in a conflict situation. I submit that they should be allowed to do so while helping our citizens at the same time. Currently, 97 percent of the aeromedical evacuation units are in the Air National Guard and Air Force Reserve. These units provide long distance medical evacuation. In addition, 1 reserve and 17 active helicopter units in the Army, and 1 Air Force reserve helicopter unit, provide short distance emergency medical evacuation under the Military Assistance to Safety and Traffic Program in a number of States. In Georgia, for example, the 498th Medical Company at Fort Benning has provided critical emergency medical support to assist communities throughout southwest Georgia, particularly rural areas. I believe that these units can be more centrally integrated and managed as they train to provide even more assistance to our communities.

Communities that do not have access to current military or civilian medical transport services need these resources. Why not look at the inventory of our military resources, determine which areas can be matched up, determine where the private sector is not able to provide this kind of service, and use the military in meeting these critical needs?

PUBLIC HEALTH OUTREACH

In a similar vein, there are many citizens in both urban and rural areas who lack the very basics of health and medical services. There may be opportunities in specific locations to use DOD medical capabilities to assist civilian authorities in providing a public health outreach to these urban areas. The Centers for Disease Control in Atlanta estimates that fewer than half of all American children are fully immunized against diseases such as polio, diphtheria, tetanus, measles, and rubella. Infant vaccination and basic medical treatment are services that the military provides routinely in humanitarian missions abroad. Why not use these resources at home?

NUTRITION

There may be areas in which the military could play a useful role by assisting civilian authorities in addressing the serious problem of hunger in America. The Food Research and Action Center—which recently honored Senator LUGAR for his leadership on this issue—has estimated that 5 million children under age 12—1 in 8 in America—suffer from hunger.

An old military saying is that "the Army travels on its stomach." The military has extensive food storage, preparation, and distribution systems. Military units responsible for these systems, including those in the National Guard and Reserve, could play an important role in the distribution of surplus food. They could help provide transportation, storage, and preparation assistance to Federal, State, and local agencies while they are preparing for their basic mission. Where civilian agencies need this assistance, and military units are capable of providing it, why not put these resources to work?

AN OPPORTUNITY FOR POSITIVE CHANGE

The time to turn these ideas into action I think is this year during this window of change and flexibility. As we reconfigure our military forces for our future defense requirements, I believe that we can reduce some of the combat missions that have been assigned to the National Guard and Reserves. At the same time, because warning times will be much longer, we should realign more of the military's support missions to the National Guard and the Reserves. These support units must be distributed in a regionally balanced way to provide a more effective capability for each State, with the added benefit of facilitating the opportunities for civil-military cooperation. Pentagon officials should put greater emphasis on coordinating military training with the potential benefits that such training could have in improving our communities.

They need authority to do so. And they need expression from the congressional branch of Government to do so.

I am confident that this Civil-Military Cooperative Action Program can be structured in a manner consistent with our military needs, without competing with the private sector or other Government agencies. It is imperative that we not undercut private enterprise; but we can all look at cities of our country today; we can look at the problems in Los Angeles, the problems in Atlanta, the problems in Chicago, New York, Boston, and on and on, and we can easily say without fear of being repudiated that the private sector cannot handle the job that needs to be done. All we have to do is look at the Federal budget deficit and know there is not going to be an instant solution with billions and billions of dollars of new expenditure. We simply can't afford it. There are, however, many opportunities for the military to get involved. I do not pretend the military can solve all the problems. Projects would have to be carefully tailored to each individual base and unit's capability and keep our focus on the military mission first and foremost. But there are many opportunities for military assistance to community needs that cannot be met with current private sector or civilian public resources.

Mr. President, I watched the faces of people who fought in Desert Storm. I watched the faces of those who provided relief to people who were dying on the desert who they had been fighting a few minutes before, and I watched the young people and the satisfaction they had in helping people in need who were dying. I also talked to many people who came back from helping the Kurds.

I talked to people who came from helping in Bangladesh. Nothing gives military people more pride than carrying out a mission of humanity, a mission of peace, a mission of mercy. This is something they enjoy doing. It gives them tremendous satisfaction and it is something they do well.

By using the capabilities we have in the military, we can assist civilian authorities in addressing the critical fundamentals upon which a healthy society, a healthy economy, and a healthy military are built. I believe this is a sensible investment we can make in our future, and a vital one.

I look forward to working with my colleagues in receiving suggestions, additions, warnings, caveats, and so forth to this proposal. I look forward to working with the senior leadership of the Defense Department, Secretary Cheney and General Powell. I have already discussed this with General Sullivan of the Army. I have talked about it with several other individuals. I believe that working together we can develop a vibrant Civil-Military Cooperative Action Program to begin working on some of these problems that afflict our Nation.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized. The Senator from Michigan is advised that, under the previous order, the Senate was to have gone into recess 25 minutes ago.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed for 4 minutes and that the Senate recess immediately thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, first let me congratulate the Senator from Georgia. The imaginative program which he is describing for us is a very important initiative. It is consistent with the kind of leadership and imagination which the Senator from Georgia has shown as chairman of the Armed Services Committee, and I think he is going to find a great outpouring of support for his Civil-Military Cooperative Action Program in this body.

THE STARS PROJECT

Mr. LEVIN. The Senator from Georgia made reference to a very promising program that is called the YES Program which was begun under the auspices of the National Guard. YES stands for Youth Empowerment Support Program. It is ultimately aimed at 4th through 12th graders.

The first program under this rubric has begun already. It has begun in the State of Michigan. It is at Selfridge Air National Guard Base. It is helping youth in the metro Detroit area to learn the excitement of math and science as it relates to aerospace. And it also teaches youth in this program to learn to set and to meet goals for their lives.

The particular program is called Project STARS or the STARS project. As I say, it began at Selfridge Air National Guard Base in Macomb County in Michigan. This is a program which takes advantages of the facilities, equipment, talent and caring people at Selfridge and brings in youth, including a large percent of youth at risk, to expose those children to the excitement of hands-on learning with science projects directly related to the activities at Selfridge—flying airplanes, charting the weather, and building and launching rockets.

The children who are participating in this program simply love the experience. We have seen their faces and the impact on their lives from that participation. It is a cooperative program which is supported by the National Guard, of course, by the Judson Youth Center, by the Kellogg Foundation, and by the Apple Computer Co.

The whole purpose of Project STARS—which stands for Science, Technology, Aerospace, Readiness School—is to bring fourth through sixth graders to the guard base to get them excited about math and science, to learn goal-setting and achieving skills and to get hands-on experience with the equipment that most have never seen, let alone dreamed of using.

Selfridge is the first base, but two more will open in the fall, and eight other National Guard bases are interested in opening in the future. This project hopes to place a Starbase in every State, at a National Guard base in every State. And it is supported by the National Guard Bureau.

We have to, each of us, imagine the experience of these at-risk youth who either go to visit the base for 5 school days or who live on the base for a week in the summertime. They find people who are excellent role models showing the kids that someone cares about them, shares their excitement about learning about jet aircraft and computers and launching rockets. It is an invaluable bridge across the gulf of hopelessness and disdain which is too prevalent in our cities. It is just a wonderful way to help youth trying to be their best. And it has, again, the support of private business and nonprofit foundations.

This program provides an opportunity for the military to play a very important role in our society and to help our youth to be ready for the future. It deserves the support of all of us, as we try to locate a Starbase at a National Guard base in each of our States, and we will be working to do exactly that in the defense budget as we proceed this year.

Again, I thank and congratulate the Senator from Georgia, the chairman of the Armed Services Committee for the many comprehensive initiatives he is announcing this morning.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:58 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The hour of 2:15 having arrived, morning business is closed.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 2733, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2733) to improve the regulation of Government-sponsored enterprises.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Chair.

This is very important legislation we are bringing forward today, and I want to make a few additional comments and provide a formal statement to colleagues as to what is in this legislation.

Then I think it very important the ranking minority member, Senator GARN, likewise have an opportunity to make whatever opening comments he wishes to make.

I might say, too, we have developed with this legislation a significant bipartisan managers' amendment that has in itself items that are very important. I will not enumerate all those at this time but it is supported by the committee on both sides, and at an appropriate time I will want to offer that.

Let me say at the outset that Government-sponsored enterprises—there are several of these within our Federal Government structure. But the two biggest and the two that we focus on in this legislation are what we call Fannie Mae and Freddie Mac, the two institutions whose job it is to buy home mortgages that have been originated by other lenders out in the marketplace and either hold these mortgages for their own investment portfolio or to, in turn, securitize them by using them as collateral for mortgage securities and then selling those out to the private market.

In the process, Freddie and Fannie, as they are known, have issued some $900 billion of debt that they either owe directly or that they otherwise guarantee. And although there is no specific legal requirement in place, there is no doubt in my mind, and I think generally, that taxpayers are ultimately backstopping all of the $900 billion that is involved here.

Furthermore, because the GSE's jointly finance about half of all new home mortgages, their policies and decisions about which mortgages to buy can have a dramatic effect on who actually is able to obtain financing out among the citizens of our country, and in turn, then, who is unable to secure home mortgage financing; and also, then, on which houses and apartments get built and which do not.

Currently, the GSE's have no meaningful capital standards in the law. And little attention is paid to the adequacy of their efforts to finance what I want to call here affordable housing.

This bill, as developed by the committee, sets up a new regulatory office funded entirely by the GSE's themselves. That office is directed to issue new rules requiring the GSE's to hold more capital—in other words, to provide a stronger capital position—and also provide greater support for what we call affordable housing. And that means to direct more of their financing strength toward low- and moderate-income home buyers so that there is a greater flow of credit to people who otherwise have a very difficult time financing home mortgages.

The new office that the legislation would establish would technically be placed in the Department of Housing and Urban Development, but the HUD Secretary, as such, would have no authority to interfere in safety and soundness issues, supervision, and enforcement.

In the capital area, a minimum leverage ratio would be supplemented with a state-of-the-art, risk-based capital requirement designed to ensure that each GSE could survive a 10-year period of extraordinary mortgage defaults and adverse changes in interest rates. And that is to anticipate and overcome what is called the interest rate risk where you can have large swings in interest rates, such as we have seen over the last decade and a half where all of a sudden you can find a situation where fixed-rate mortgages that were at one level, all of a sudden become an unsound level in light of radical shifts up or down in interest rates over a relatively short period of time.

In the area with respect to inner-city lending, there is a very important part of this legislation that is directed at that issue and that issue, of course, arises in part because of the situation of what we have seen in Los Angeles and other cities where there is a tremendous urban distress from a lack of job opportunities and other problems, but part of it is the flow of credit and capital into those communities and very particularly what is or is not available with respect to housing credit.

So over the next 2 years under this legislation, the new housing rules will increase to at least 30 percent, the portion of the GSE's mortgage purposes that would benefit families in the lower half of the income distribution. These new rules would also increase the GSE's purchases of mortgages in central cities to 30 percent, and that is an increase from where it is presently.

As I say, this is especially important in view of the deteriorating urban conditions that were highlighted in Los Angeles last month. After a 2-year period of time, the regulator would set additional requirements for lending in rural areas as well.

The bill also provides that at least $3.5 billion must be spent by the GSE's over the next 2 years to finance housing for poorer families in categories with earning less than 60 to 80 percent of area median incomes. The bill also strengthens laws prohibiting discrimination in housing and requires the GSE's to provide much more information about their activities so that their effects can be much more accurately judged.

I should say that a substantially similar bill to this one was approved in the House of Representatives by a vote of 412 to 8 last September. I think it shows clearly the need for this remedial legislation, safeguarding type legislation, and also the overwhelming bipartisan consensus that exists in this area.

I should indicate as well that this bill is supported by the administration, by the GSE's themselves, and by a broad coalition of low-income housing groups. This legislation comes about in large part because of the experience that we have had with massive financial system failures, failures that we have seen in the savings and loan system, failures that we have seen in the commercial banking system where we have had to have large-scale bailout legislation passed in both instances most recently for the banking system where we provided a $70-billion taxpayer loan to refinance the FDIC, deposit insurance fund, just last fall. We added, of course, to that a number of very significant banking reforms to prevent problems in the future that caused that fund to go into a deficit at the end of last year.

With the GSE's, it is fair to say that over their history that they have done I think quite a fine job and mortgage interest rates are generally thought to be probably a quarter or to a half a percent lower than they otherwise would be in terms of mortgage credit generally throughout the system because of the fact that we have established these Government-sponsored enterprises, Fannie Mae and Freddie Mac, and because of the enormous role that they now play in helping to facilitate the flow of credit into home mortgages and, in turn, the placement of those credits out into the debt-holding system throughout our country.

The reason that these problems are now being addressed, a different one than the GSE's in the early 1980's, is that we had experienced a problem that caused us to take a very careful look at the capital structure, to see what ought to be done to create actual capital standards in a kind of capital solvency test and margin that by any reasonable standard would be sufficient to protect against any catastrophic failure of the system. Legislation to improve the GSE's regulatory structure was strongly recommended in studies by the Treasury Department, by the General Accounting Office, by the Congressional Budget Office, and by the Administrative Conference.

And so the bill before us today works off those various recommendations in creating a new Office of Federal Housing Enterprise Oversight which will be housed within HUD but which, as I said earlier, will be funded entirely from assessments on the GSE's themselves. So these will be self-financing entities.

The new office will have a considerable degree of independence, consistent with other financial regulators, but at the same time the committee decided to keep the GSE regulations within HUD and recognition of the need to coordinate regulation of these critical housing entities with other aspects of national housing policy.

The director of the new office will be responsible for enforcing a new set of meaningful capital requirements to replace existing provisions that do not reflect the sweeping changes in mortgage finance markets over the past decade. The new standards represent a substantial advance over those currently used for banks and thrifts. They more accurately evaluate credit risks, explicitly account for interest rate risks, and include a significant amount to cover management and operations risks as well. For the first time, the regulator will have a specifically delineated, tough enforcement set of tools to ensure that the new capital standards are met.

But given the dominating role of these entities in mortgage finance markets and the large Federal interest rate subsidies they receive, it is not sufficient alone that we require them to be just safe and sound, but we need and must expect more than that. Their charters also must require them, and rightly so, to provide special assistance to low- and moderate-income families throughout the country in terms of carrying out an intelligent, meaningful, and fair housing policy. The bill requires the new regulator to set annual goals for the GSE's purchase of mortgages benefiting families with below-median incomes and for families in central cities, rural areas, and other underserved areas to assure this mission is achieved.

HUD has had similar regulations on its books for many years. Those regulations have been too weak and often have not been enforced. So the bill creates better standards with specific enforcement tools that will require the GSE's to increase their efforts to provide financing for those that need it the most.

I think it is fair to say that this legislation enjoys very broad support.

I ask unanimous consent to place into the RECORD letters evidencing the support in terms of this reform package which come from the GSE's themselves, from the National Association of Home Builders, from the U.S. Conference of Mayors, from many individual mayors, from the League of Cities, from the Low-Income Housing Coalition, from the National Neighborhood Coalition, from the National Housing Conference, from the National Conference of State Housing Agencies, the National Training and Information Center, ACORN, IRASA, LISC, and the Enterprise Foundation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FANNIE MAE,
Washington, DC, April 1, 1992.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I would like to congratulate you and your staff on the bipartisan March 12 draft of the GSE bill. Enacting this legislation will ensure that a very important part of the American home finance system, a system that Congress created and that works extremely well for millions of American families at no government expense, will continue on that path well into the next century. The bill accomplishes this through a capital standard that is more sensitive, dynamic and tough than any in law today; a thoroughly modern and up-to-date system of regulatory oversight; and an extension and enhancement of the housing responsibilities of Fannie Mae.

The last ten years have, in some ways, been difficult ones for housing. Federal support for housing those at the bottom of the income scale has declined; high interest rates and high home prices over much of the period, combined with recession at its end, have kept many renters from becoming owners; and the travails of the thrift and bank industry have in recent years reduced funds for construction lending to build new homes. Through all this, Fannie Mae has been a critical link to housing millions of families, most in homes they own.

Without the secondary market, which brings investor dollars from around the country and around the globe to the thrifts, banks, mortgage bankers and credit unions who make loans to families, far fewer families would have had access to mortgages, and most would have paid more. Fannie Mae's and Freddie Mac's presence during the 1980s saved home buyers more than $30 billion in mortgage interest payments. In 1991 alone, Fannie Mae provided $140 billion of financing for 1.7 million families. We will serve more than 10 million additional families during the rest of the decade; an increasing proportion will be low-income families, and others with special housing needs.

The GSE legislation now before you will guarantee that American families will continue to have the best access to mortgage funding in the world. And, because the bill tackles effectively the most difficult issues relating to Fannie Mae—capital adequacy and housing mission—you can be assured that we will expand our mission, serving those whose needs are not currently well met, while at the same time posing no risk to the taxpayers or the federal government. It is a combination at the heart of "a decent home and a suitable living environment for every American family," the goal of the Housing Act of 1949.

The effort of this bill will be to further expand Fannie Mae's commitment to serve the housing needs of low- and moderate-income families and those who, for reasons of geography, race, or gender, have been underserved by the mortgage finance system. The bill complements the requirements of the Community Reinvestment Act and fair lending laws.

Meeting the bill's requirements will not be easy. We will achieve the bill's goals by developing an understanding of why problems exist in the market and what needs to be done to respond to them, by creating new products and by reevaluating and revising existing policies and practices. I strongly believe this broadened mission is appropriate and fundamental given the persistence of the nation's affordable housing crisis and evidence of continuing discrimination in the home mortgage and rental markets. I also believe we can accomplish it while achieving a reasonable economic return to the corporation and without in any way endangering or undermining Fannie Mae's financial health or security.

The March 12 draft preserves and enhances this system while respecting and ensuring the continuation of the operation of the companies as private enterprises, managed to be market-driven, forward-looking, prudent businesses getting the best for home buyers, renters, the taxpayers and the shareholders whose investment bears the first risk of loss. The draft appears to affirm Congress' long-stated intention that the government not be involved in the day-to-day business decisions of the companies when they are well capitalized. We would like to work with you and your staff through conference to further refine this portion of the bill.

I urge you to proceed with markup of this legislation. It is a fine piece of work that meets its objectives, and will ensure that Fannie Mae will continue to meet ours, without any help from the taxpayers. We are prepared to support you fully.

Sincerely,

JAMES A. JOHNSON.

FEDERAL HOME LOAN
MORTGAGE CORPORATION,
McLean, VA, March 30, 1992.

Hon. DONALD RIEGLE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN RIEGLE: As you know, we have been working closely with the staff of the Banking Committee in recent weeks on proposed legislation to modernize the regulatory system applicable to Freddie Mac and Fannie Mae. I am delighted that remarkable progress has been made since the November 24 discussion draft was circulated. I support the March 12 draft and urge you to move the product expeditiously through the Committee.

The March 12 draft accomplishes your stated public policy objectives of balancing tough capital standards with enhanced affordable housing opportunities. Legislation passed the House of Representatives last year that would subject Freddie Mac and Fannie Mae to the toughest capital standards in the financial service industry. The current draft would build on that structure, enhance specificity and require us to hold more capital than mandated by H.R. 2900.

Further, the draft includes numerous statutory changes that will aid many in their effort to achieve affordable housing. Specifically, the proposal accomplishes, among other things, the following:

For the first time, specific affordable housing goals will be in statute, thereby preventing a regulator, who may be less committed to affordable housing than Congressional proponents from thwarting their intent in this important area.

The current low and moderate income test will be changed from a purchase price test to a borrower income test, thus targeting borrowers by income more directly. One effect of modifying the low and moderate income definition is to increase the housing goals beyond those proposed in the HUD regulations.

The draft will require extensive data collection by Freddie Mac and Fannie Mae. The reporting requirements will enable the regulator and Congress to better assess the GSEs' progress in meeting affordable housing needs.

Of course, as with any proposal, ambiguities need to be clarified through report language. For instance, issues concerning "prior approval" are a candidate for greater explanation. Notwithstanding, I urge you and the Committee to report the March 12 draft as soon as possible.

I appreciate your support for housing finance, and look forward to working with you and your staff in the future on issues of mutual interest and concern.

Sincerely yours,

LELAND C. BRENDSEL,
Chairman and Chief Executive Officer.

NATIONAL COUNCIL OF
STATE HOUSING AGENCIES,
Washington, DC, April 7, 1992.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN RIEGLE: The undersigned state, local, and nonprofit organizations strongly endorse the overall provisions of Title V of the Federal Housing Enterprises Regulatory Reform Act of 1992. Title V establishes a comprehensive framework of goal setting, data collection, reporting, monitoring, and enforcement which will compel Fannie Mae and Freddie Mac to significantly expand their commitment to affordable housing. We urge you to aggressively oppose any amendments to make optional or otherwise weaken these landmark housing provisions.

Legislation to ensure the safety and soundness of Fannie Mae and Freddie Mac must not ignore their Congressionally-mandated public purpose. Congress has entrusted Fannie Mae and Freddie Mac with the responsibility to assure low and moderate income families and other underserved sectors of the mortgage market broad access to housing credit. At a time of severe affordability problems for the very families Fannie Mae and Freddie Mac are intended to serve, these corporations must be directed to do far more than they are currently doing to increase low and moderate income housing opportunities.

The rigorous housing goals established under Title V challenge Fannie Mae and Freddie Mac to expand, diversify, and mainstream their affordable housing lending programs. Specifically, the legislation requires that in the first two years:

At least 30 percent of the corporations' mortgage purchases be secured by housing located in central cities annually;

At least 30 percent of the corporations' mortgages purchases be secured by housing serving families of low and moderate income annually; and

Not less than $3.5 billion be invested by the corporations in the purchase of mortgages securing single and multifamily housing serving families with incomes which do not exceed 80 percent of the area median income. More than half of these mortgages must be secured by housing for families with incomes of 60 percent of the area median or less.

In subsequent years, the goals would be established by the Director of the Office of Federal Housing Enterprise Oversight at HUD, and the central city goal would be expanded to include rural and other underserved areas.

Fannie Mae and Freddie Mac play a unique and vital role in the financing of our nation's housing. It is imperative that the public benefits conferred with these corporations' congressionally granted charters are made available for all income groups without regard to race or location of the residence. We believe this legislation takes reasonable and timely steps to assure that equal credit opportunities are available to all those who seek affordable ownership and rental housing.

We appreciate the opportunity to work with you in developing this crucial housing legislation. We look to you to reaffirm Fannie Mae and Freddie Mac's public mission through its adoptions. Thank you for your consideration.

Sincerely,

Association of Community Organizations for Reform Now (ACORN), The Enterprise Foundation, Local Initiatives Support Corporation, National Council of La Raza, National Council of State Housing Agencies, National Housing Conference, National League of Cities, National Low Income Housing Coalition, National Neighborhood Coalition, United States Conference of Mayors.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, NY, April 3, 1992.

Hon. DONALD W. REIGLE,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR RIEGLE: On behalf of the City of New York, I express my support for your efforts to stimulate investment in central cities and low- and moderate-income neighborhoods by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). In addition, I urge your support for imposing and enforcing strict underwriting standards for the government-sponsored enterprises in order to avoid financial losses.

As you review legislation affecting the mission of Fannie Mae and Freedie Mac, I ask that you carefully weigh the critical need for greater mortgage credit availability in the nation's central cities. Codifying and enforcing existing HUD regulations requiring Fannie Mae and Freddie Mac to purchase at least 30% of their mortgages from central cities is a necessary and important step in that direction.

Such a Congressional mandate would build upon the progress made in the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989. Changes to the Community Reinvestment Act (CRA) and the Home Mortgage Disclosure Act (HMDA) in FIRREA provide for public access to CRA bank ratings and identification of the geographic location and racial identity of borrowers. These actions have laid a foundation for the expansion of the mortgage credit to low- and moderate-income inner city neighborhoods. Lending institutions are now compelled to aggressively seek profitable mortgage and small business credit opportunities in central cities. But these important measures are just a beginning.

"Redlining" continues to be practiced by many mortgage lenders through underwriting standards which discourage mortgage origination in central cities. Today, entire central cities are being deemed "less desirable" by financial institutions for credit purposes. The flight of mortgage and investment capital from central cities must be stopped if further erosion of the urban tax base and the federal abandonment of our cultural and intellectual centers is to be prevented.

I am concerned that recent investigations of the mortgage lending practices of both corporations, particularly Freddie Mac, revealed that extreme administrative laxity was exercised with regard to its multifamily loan portfolio, resulting in substantial losses. In New York City alone, this laxity resulted in the foreclosure of 35 properties located in low-income communities in the New York City metropolitan area. I urge you to impose and enforce strict underwriting standards for the government-sponsored enterprises in order to avoid further financial loss.

I commend you efforts to devise legislation to codify and enforce HUD's regulations governing these Congressionally-chartered corporations in order to insure that Fannie Mae and Freddie Mac respond to the desperate and growing need for mortgate credit in our urban centers, low- and moderate-income and minority neighborhoods. If you have any question or concerns, please do not hesitate to contact the director of my Washington office, Judy Chesser, at (202) 393-3903.

Sincerely,

DAVID N. DINKINS,
Mayor.

NATIONAL TRAINING AND
INFORMATION CENTER,
Chicago, IL, February 12, 1992.

KEVIN CHAVERS,
The Office of Senator Riegle, Jr., Washington, DC.

DEAR MR. CHAVERS: With the recent release of the new HMDA data, discrimination in lending is once again a popular topic of discussion. Hearings will be held and articles written on disinvestment in the inner city, the effect of race on credit availability, and on how best to revitalize communities. None of this discussion will amount to anything if the secondary market is not open to loans made to minorities, low- and moderate-income families, or urban dwellers.

All the discussion in the world will not alter the fact that banks and S&L's depend on Fannie Mae and Freddie Mac to provide an outlet for their loans and thus liquidity for further lending. Lenders know full well what does and does not sell on the secondary market. What Fannie Mae and Freddie Mac will not purchase, lenders will not originate.

The National Training and Information Center, together with our grassroots contacts nationwide, has 20 years of experience in promoting the Community Reinvestment Act. Through this experience we have learned that lenders cannot fulfill their CRA goals when the mortgages they wish to make are blocked from the secondary market.

If Title 5 of the Government Sponsored Enterprises legislation is cut from the bill, there will be no obligation on the part of these two privileged entities to serve the mortgage market fairly. Fannie Mae and Freddie Mac's status as GSEs confers very significant advantages on both corporations. Both were created to fulfill a public purpose, and both enjoy an astronomical rate of return on investment (33% in 1990). Despite these advantages, neither entity has opened its markets to loans made in urban areas, to minorities, or to low- and moderate-income families.

No other single factor in the American mortgage system has the impact on lending that the secondary market has. And because of this, it is critical that Fannie Mae and Freddie Mac have an explicitly stated obligation to serve the credit needs of all American homebuyers.

The National Training and Information Center advocates a requirement that at least 30% of Fannie Mae and Freddie Mac's purchases be of low- and moderate-income mortgages, and at least 30% be located in central city areas. Fannie Mae and Freddie Mac should also be required to report annually to HUD and Congress on their progress in fulfilling these requirements, and HUD should maintain regulatory authority over the two GSEs.

There is no justification for allowing two entities which enjoy such lucrative government favoritism to pick and choose the segments of the American public they wish to serve. And there is no reasonable public policy which would permit them to derive these advantages while constraining the fair and open function of the American mortgage market.

Sincerely,

GALE CINCOTTA,
Executive Director.

NATIONAL TRAINING AND
INFORMATION CENTER,
Chicago, IL, April 7, 1992.

Senator DONALD W. RIEGLE, Chairman,
Senate Committee on Banking, Finance, and Urban Affairs, Washington, DC.

DEAR CHAIRMAN AND MEMBERS OF THE SENATE BANKING COMMITTEE: I am writing to you today to urge you to support the committee print of the Government-Sponsored Enterprises Legislation in Wednesday's mark-up.

Fannie Mae and Freddie Mac were created by Congress to serve a crucial function in the American mortgage market. The secondary market provides liquidity which allows lenders to finance greater numbers of home buyers.

Not only do Fannie Mae and Freddie Mac enjoy substantial financial advantages as a result of their status as Government-Sponsored Enterprises, they also have an obligation to serve the whole American mortgage market fairly.

Through our two decades of experience in CRA lending and involvement in communities around the country, we know that the secondary market has not been serving all credit-worthy borrowers equally. The new HMDA data called for by FIRREA confirmed what was already a well-known fact in communities: that the secondary market has been redlining urban and low- and moderate-income neighborhoods.

Grassroots citizens' organizations understand that mortgages which cannot be sold on the secondary market are mortgages that can only be made in very limited numbers. Even with all the successful efforts being made under the Community Reinvestment Act, there is a bottleneck in the American mortgage market which perpetuates credit starvation in urban and minority areas. We need Freddie Mac's and Fannie Mae's full participation as conduits in our communities, as well, so that investment can flow into them.

The committee print of the GSE legislation takes everal measures to remove the blockage in the market, and to redress the inequities which have prevented lenders from serving all credit-worthy mortgage applicants. The legislation calls for Fannie Mae and Freddie Mac to purchase at least 30% of their mortgages in central city areas, and at least 30% of their purchases to be of mortgages held by families at or below the area median income. Data reporting is also called for, which will aid the new secondary market regulator within HUD, as well as interested citizens, to ensure that those goals are being fulfilled.

It is important that regulatory authority remain within HUD, the only federal agency mandated to serve the country's affordable housing needs.

It is time to put an end to the biases that have excluded qualified families from owning homes, and which have drained investment from urban, minority, and low- and moderate-income neighborhoods. The policies of the secondary market up to this point have contributed directly to the needless deterioration of communities. We must ensure that such enormously influential and crucial players in the American mortgage system fulfill their role for all of America's families, fairly.

Sincerely,

GALE CINCOTTA,
Executive Director.

DEPARTMENT OF COMMUNITY &
ECONOMIC DEVELOPMENT,
October 22, 1991.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: It is my understanding that the Senate Banking Committee has begun drafting legislation for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation in a bill entitled "Government-Sponsored Enterprises" (GSE).

As it affects Flint's neighborhoods and home ownership opportunities, an important consideration of the committee should be to codify current HUD regulations which require these financial institutions to purchase at least 30 percent of their mortgages in central cities. This, with previous changes to CRA and HMDA, would greatly expand mortgage credit availability to inner city neighborhoods.

From your work on the FIRREA and the 1991 banking bill we have seen an increased willingness for the local private financial sector to meet with government and housing non-profits. As we continue these reinvestment meetings, I believe a targeted secondary mortgage requirement could further spur city revitalization.

Sincerely,

MICHAEL K. BROWN,
Director, Department of Community & Economic Development.

CITY OF ROCKFORD, IL,
OFFICE OF THE MAYOR
October 22, 1991.

Hon. Senator ALAN J. DIXON,
Hart Building, Washington, DC.

DEAR SENATOR DIXON: As the Senate Banking Committee begins drafting legislation that will determine the capital adequacy, regulatory structure and public purpose mission of the Federal National Mortgage Corporation ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), I would like to encourage you and other members of the Committee to be mindful of the need for Congress to guarantee the availability of mortgage credit in central cities. It is my understanding this can be accomplished by codifying the existing HUD regulations which require Fannie Mae and Freddie Mac to purchase at least 30% of their mortgages in central cities.

What we have found in Rockford, as we work with our home mortgage lending community, is that if Fannie Mae and Freddie Mac won't purchase the loans they generally do not get made.

I believe you have been supportive of the fundamental changes to CRA and HMDA made through the Financial Institutions Reform and Recovery Act of 1989; I see this issue as the important next step to encourage key participants in the mortgage finance system to expand the availability of mortgage credit in central cities.

We in Rockford are not asking for you to support direct grants from Fannie Mae and Freddie Mac. We are not asking you to support forcing them to enter new lines of work. We are simply asking that, as a first step, you support codifying and enforcing the existing HUD regulation.

Thank you for your continued interest in affordable housing.

Very truly yours,

CHARLES E. BOX,
Mayor.

CITY OF TALLAHASSEE,
October 24, 1991.

Hon. BOB GRAHAM,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR GRAHAM: The Senate Banking committee will soon begin drafting legislation important to the success of local efforts to comply with the Florida Growth Management Law and the Cranston-Gonzalez National Affordable Housing Act. As the committee determines the capital adequacy, regulatory structure and public purpose mission of the Federal National Mortgage Corporation ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), please keep in mind the need for the Congress to guarantee the availability of mortgage credit in central cities. This can be accomplished by codifying the existing HUD regulations which require Fannie Mae and Freddie Mac to purchase at least 30% of their mortgages in central cities, and particularly to target low and moderate income households.

Florida Growth Management Law has forced cities to address central city revitalization and the development of affordable housing in preparation of local government comprehensive plans. Tallahassee has responded through the means of regulatory reform, inclusionary zoning to encourage affordable housing, and financial commitment to housing programs arising form the objectives of the new comprehensive plan.

The housing programs developed under the Cranston-Gonzalez National Affordable Housing Act include leveraging of other public and private financing as an important component of local programs. Here in Tallahassee Fannie Mae has enabled the Housing Development Corporation to attract private financing to two new construction projects thus far, providing eighteen new homes for low income home buyers in Frenchtown, as an example of how these programs will leverage a variety of funding sources to address the inadequacy of affordable housing.

The GSE bill presently before the Committee presents an important opportunity for you to encourage key participants in the mortgage finance system to expand the availability of mortgage credit to low income families seeking affordable housing in support of local efforts.

Fannie Mae and Freddie Mac have been vital to the expansion of mortgage credit in America; however, they need to be made more responsive to the needs of the low and moderate income families seeking affordable housing in our central cities. We are not asking for direct grants from Fannie Mae and Freddie Mac. We are not asking you for force these establishments to enter new lines of work. We are simply asking that as a first step you codify and enforce the existing HUD regulation. Unfortunately throughout the 1980's HUD did not enforce this regulation and so it is imperative that the regulation be made part of the statutory law so that cities can ensure that Fannie Mae and Freddie Mac purchase mortgages in the central city.

Codifying this regulation will provide the means to leverage funds provided by Cranston-Gonzalez with private financing and create a tremendous amount of new, affordable, homeownership opportunities for city dwellers. With your help Urban America can further revitalize and return to an era of greatness and affordable housing can become a reality for many.

Sincerely,

BETTY H. RIVERS,
Administrative Supervisor, Community Development Section, Management and Budget Department.

OFFICE OF THE COUNTY
MANAGER, COMMUNITY AND
Economic Development,
Miami, FL, October 24, 1991.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: As the Senate Banking Committee begins drafting legislation that will determine the capital adequacy, regulatory structure and public purpose mission of the Federal National Mortgage Corporation ("Fannie Mae"), and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), I would like to encourage the Committee to be mindful of the need for the Congress to guarantee the availability of mortgage credit in central cities. This can be accomplished by codifying the existing HUD regulations which require Fannie Mae and Freddie Mac to purchase at least 30% of their mortgages in central cities.

The GSE bill presently before the Committee presents an important opportunity for you to encourage key participants in the mortgage finance system to expand the availability of mortgage credit in central cities.

Fannie Mae and Freddie Mac have been vital to the expansion of mortgage credit in America; however, they need to be made more responsive to the needs of the Urban America. We are not asking you to force these establishments to enter new lines of work. We are simply asking that as a first step you codify and enforce the existing HUD regulation. Unfortunately, throughout the 1980's, HUD did not enforce this regulation and so it is imperative that the regulation be made part of the statutory law so that cities can ensure that Fannie Mae and Freddie Mac purchase mortgages in the central city.

Codifying this regulation will unleash a tremendous amount of new homeownership opportunities for city dwellers. With your help urban America can further revitalize and return to an era of greatness.

Sincerely,

ERNEST L. MARTIN, D.P.A.,
Director.

CITY OF TUSKEGEE,
Tuskegee, AL, October 22, 1991.

Hon. RICHARD C. SHELBY,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR SHELBY: As the Senate Banking Committee begins drafting legislation that will determine the capital adequacy, regulatory structure and public purpose mission of the Federal National Mortgage Corporation ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), I would like to encourage the Committee to be mindful of the need for the Congress to guarantee the availability of mortgage credit in central cities. This can be accomplished by codifying the existing HUD regulations which require Fannie Mae and Freddie Mac to purchaser at least 30% of their mortgages in central cities as well as insure that at least 30% of their mortgages are targeted to low and moderate income families and individuals.

The GSE bill presently before the Committee presents an important opportunity for you to encourage key participants in the mortgage finance system to expand the availability of mortgage credit in central cities and for low/moderate income citizens.

Fannie Mae and Freddie Mac have been vital to the expansion of mortgage credit in America; however, they need to be made more responsive to the needs of the Urban America and America's less fortunate. We are not asking for direct grants from Fannie Mae and Freddie Mac. We are not asking you to force these establishments to enter new lines of work. We are simply asking that as a first step you codify and enforce the existing HUD regulations. Unfortunately throughout the 1990's, HUD did not enforce this regulation and so it is imperative that the regulation be made part of the statutory law so that cities can ensure that Fannie Mae and Freddie Mac purchase mortgages in the central city.

Codifying this regulation will unleash a tremendous amount of new homeownership opportunities for city dwellers as well as for low/moderate income citizens. With your help urban America can further revitalize and return to an era of greatness.

Senator Shelby, the citizens of Tuskegee, Alabama desperately need more housing opportunities and in this regard, we solicit your support.

Sincerely,

JOHNNY FORD,
Mayor.

Office of the Mayor,
Syracuse, NY, October 25, 1991.
Hon. Alfonse D'Amato,
Senate Hart Office Building, Washington, DC.

Dear Al: I understand the Senate Banking Committee is beginning to work on legislation to improve regulatory control of government sponsored housing mortgage enterprises such as the Federal National Mortgage Corporation and the Federal Home Loan Bank Mortgage Corporation.

I urge the Committee to consider the need to guarantee the availability of mortgage credit in central cities. This could be accomplished by codifying the existing HUD regulations which require Fannie Mae and Freddie Mac to purchase at least 20% of their mortgages in central cities.

Through the Syracuse Housing Partnership Program, we have successfully created homeownership opportunities for over 150 low or moderate income families with a partnership of business community, banks, government, and neighborhood organizations. Participation of government sponsored housing enterprises in this effort would be welcome. Fannie Mae and Freddie Mac have been vital to the expansion of mortgage credits in America. By codifying the current HUD regulations a tremendous amount of new homeownership opportunities would be unleashed for city dwellers.

I urge you to support efforts to include this provision in the pending legislation.

Sincerely,

Thomas G. Young,
Mayor.

City of Albany, Department of Housing and Community Development,
Albany, NY, October 21, 1991.
Hon. Alfonse M. D'Amato,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

Dear Senator D'Amato: As the Senate Banking Committee begins drafting legislation that will determine the capital adequacy, regulatory structure and public purpose mission of the Federal National Mortgage Corporation ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), I would like to encourage the Committee to be mindful of the need for the Congress to guarantee the availability of mortgage credit in central cities. This can be accomplished by codifying the existing HUD regulations which require Fannie Mae and Freddie Mac to purchase at least 30% of their mortgages in central cities.

The GSE bill presently before the Committee presents an important opportunity for you to encourage key participants in the mortgage finance system to expand the availability of mortgage credit in Albany.

Fannie Mae and Freddie Mac have been vital to the expansion of mortgage credit in America; however, they need to be made more responsive to the needs of the urban America. We are not asking for direct grants from Fannie Mae and Freddie Mac. We are not asking you to force these establishments to enter new lines of work. We are simply asking that as a first step you codify and enforce the existing HUD regulations. Unfortunately throughout the 1980's, HUD did not enforce this regulation and so it is imperative that the regulation be made part of the statutory law so that cities can ensure that Fannie Mae and Freddie Mac purchase mortgages in the central city.

Codifying this regulation will unleash a tremendous amount of new homeownership opportunities for residents of Albany and other cities across New York State. With your help urban America can further revitalize and return to an era of greatness.

Sincerely,

Joseph F. Pennisi,
Commissioner.

National Association of Home Builders,
Washington, DC, April 7, 1992.
Hon. Donald W. Riegle, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

Dear Chairman Riegle: On behalf of the 151,000 member firms of the National Association of Home Builders (NAHB), I compliment you for your leadership and dedication, and that of your professional staff as well, in formulating comprehensive legislation to enhance the fiscal stability of the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae). The long-term stability of these Government Sponsored Enterprises (GSE's) is vital to the mortgage finance system.

Also of major importance to the financing of residential real estate is the future of the Federal Home Loan Bank System. We commend you for the inclusion of Title VII of the Committee Print of April 2, the "Regulation of Federal Home Loan Bank System," that calls for several studies with recommendations to Congress on various ways to improve the System.

We support enactment of this legislation, and would like to work with you in moving this bill to enactment.

Respectfully yours,

Robert "Jay" Buchert,
President.

City of Rochester,
Rochester, NY, October 29, 1991
Hon. Phil Gramm,
Senate Russell Office Building, Washington, DC.

Dear Senator Gramm: When the Senate Banking Committee considers the Government-Sponsored Housing Enterprises Bill (H.R. 2900), I urge you to support provisions that would guarantee the availability of mortgage credit in central cities.

The legislation can provide new homeownership opportunities in central cities simply by codifying an existing regulatory provision that requires the Federal National Mortgage Corporation (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to invest 30% of their mortgages in properties located in central cities as well as insuring that at least 30% of their mortgages are targeted to low- and moderate-income families and individuals.

Fannie Mae and Freddie Mac have been vital to the expansion of mortgage credit in America; however, they need to be made more responsive to the needs of central cities. Without requiring these organizations to provide direct grants or enter new lines of work, additional homeownership opportunities can be provided by including a thirteen year old regulatory requirement into statutory law.

It is unfortunate that the U.S. Department of Housing and Urban Development did not enforce these provisions. It is now up to Congress to ensure that Fannie Mae and Freddie Mac are providing needed mortgage financing to millions of would be homeowners living in America's cities.

Sincerely,

Thomas P. Ryan, Jr.
Mayor.

Mr. RIEGLE. The Senate, I should say, has already recognized the need for this legislation previously by expressing the sense of the Senate that appropriate committees should report bills to improve the regulation of GSE's. We have taken that sense-of-the-Senate resolution seriously. This bill reforms the regulation of the largest and the most important GSE's, and I can fully recommend it to my colleagues.

I now ask unanimous consent that Senator Garn be recognized for the purpose of making an opening statement and, upon his conclusion, that I be immediately recognized again.

Mr. NICKLES. I object.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. NICKLES. I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Objection is heard.

Mr. RIEGLE. Then, Mr. President, I am sorry that Senator Garn cannot be recognized right now for his opening statement.

The PRESIDING OFFICER. The Chair did not state that. The Chair simply put the unanimous-consent request.

Mr. RIEGLE. I understand.

The PRESIDING OFFICER. The Senator from Utah was on his feet and seeking recognition, so the Chair will rule as to whether or not he can be recognized at this point.

Mr. RIEGLE. Mr. President, I do not yield my right to the floor in light of the unanimous-consent request.

The PRESIDING OFFICER. I understand. The Senator then has the floor still.

Mr. RIEGLE. I thank the Chair.

The PRESIDING OFFICER. What is the Senator's pleasure?

Mr. GARN. Will the distinguished chairman yield to me for purposes of my opening statement?

Mr. RIEGLE. Without losing my right to the floor, I will be happy to do so.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the Senator from Utah [Mr. Garn] is recognized.

Mr. GARN. Mr. President, I am pleased to join Senator Riegle, chairman of the Banking Committee, in support of the Federal Housing Enterprises Regulatory Reform Act of 1992 (S. 2733). This legislation reflects more than a 2-year effort by the Banking Committee to examine and respond to the potential risk posed to the Federal Government by the three Government-sponsored enterprises established by Congress to facilitate mortgage credit for housing. The legislation incorporates many of the safety and soundness provisions contained in proposed legislation submitted by the administration and introduced by Senator Rie-

GLE and me last June. The legislation also responds to the directive in the Omnibus Budget Reconciliation Act of 1990 that the Banking Committee report out legislation enhancing the regulation of these GSE's.

The financial health and safety of the housing GSE's are of vital importance to our Nation. These GSE's have become the most successful Government housing programs in modern times because they have harnessed private capital and private sector ingenuity in order to fulfill a public purpose. Fannie Mae and Freddie Mac have been credited with lowering interest rates between 24 and 50 basis points for home mortgage loans throughout the country. They have accomplished their task while exercising prudent management and building a strong financial condition.

Due to the GSE's Federal charter, their public purposes, and the advantages given to the GSE's under Federal law, there is a strong perception by investors and other market participants that GSE securities are implicitly guaranteed by the Federal Government. This so-called implicit guarantee has helped the GSE's issue securities more cheaply and pass the savings on to homebuyers. However, it has also increased the importance of the Government supervision and regulation of the GSE's to ensure that the potential risk to the Federal Government is minimized. With almost $900 billion of securities outstanding, even the perception of an implied guarantee presents considerable need for strong oversight of the GSE's financial health.

This legislation establishes a new regulatory structure and imposes new capital standards on Fannie Mae and Freddie Mac to ensure that these GSE's maintain and enhance their sound financial condition. The major components of this bill include:

First, the creation of an independent office within HUD headed by a director appointed by the President and confirmed by the Senate with the primary duty of ensuring that these GSE's are adequately capitalized and safely operated;

Second, the establishment of tough new capital standards designed to ensure that Fannie Mae and Freddie Mac have sufficient capital to withstand an economic downturn more severe and more prolonged than has occurred at any time in our Nation's history, including the Great Depression and the deep recession following the collapse of oil prices in the early 1980's;

Third, the implementation of a system of prompt corrective action that requires the safety and soundness regulator to take steps to correct any decline in GSE capital as soon as capital levels begin to slide; and

Fourth, the grant of a complete arsenal of enforcement powers to the safety and soundness regulator, including the authority to issue cease and desist orders and impose civil money penalties for violations of the law.

While the core of the legislation is devoted to safety and soundness, title 5 of the legislation clarifies the public purposes of the GSE's. Despite the clear success of these GSE's in facilitating housing credit, the lack of available data on the conventional mortgage market has made it difficult to assess the success of the GSE's in fulfilling their purposes with respect to homebuyers in different income and geographic groups. As a result, this legislation: First, makes technical amendments to the charter purposes to clarify that the GSE's should facilitate mortgage credit for residential housing throughout the country consistent with earning a reasonable return; second, requires the collection of data to assess conventional mortgage activity and the GSE's fulfillment of their charter purposes; and third, clarifies the current goals of the GSE's with respect to serving those with low and moderate incomes as well as those living in central cities, rural areas, and other underserved areas.

I am pleased that the committee chose to maintain the GSE's current statutory role and rejected proposals to use the GSE's as surrogates for direct Federal housing subsidy programs to very low and low-income groups and to urban areas. Such an approach would have been a mistake for at least three reasons. First, the GSE's were established to ensure an unbiased and unimpeded flow of mortgage credit throughout the Nation, and to allocate mortgage credit to certain specific groups or areas.

Second, the purpose of this legislation is to ensure that the GSE's maintain a strong financial condition. Consequently, requiring the GSE's to engage in activities that do not provide a reasonable economic return or that would otherwise impair their financial condition would be inconsistent with the fundamental intent of the bill. Finally, there are inherent limitations imposed by the secondary mortgage market. Some mortgage products may not be suitable for conversion to mortgage-backed securities and others may entail risks investors are willing to assume.

Moreover, the committee addressed the potential conflict between safety and soundness, one the one hand, and fulfilling the housing credit needs of the country, on the other, by placing the responsibility for the formulation of housing goals with the safety and soundness regulator subject to the approval of the Secretary of HUD. This structure will ensure that the housing goals imposed on the GSE's provide them with a reasonable economic return and do not jeopardize their strong financial condition.

Mr. President, this is a sound well-structured bill designed to ensure the safety and soundness of these GSE's. It responds directly to concerns raised by the administration and the Budget Committee that enhanced supervision of these GSE's is warranted in light of their size, importance to housing finance markets, and the public perception of an implied Federal guarantee. The legislation enjoyed the overwhelming support of the committee. I urge my colleagues to support this legislation so that we may proceed to conference with the House and send a good bill to the President for his signature.

The legislation enjoyed the overwhelming support of the Banking Committee. I urge my colleagues to support this legislation, so that we may proceed to a conference with the House and send a good bill to the President for his signature.

Mr. President, I am aware that this bill seems to have now become the catch-all for a number of different amendments, some of which I support in principle. It appears that we may be tied up for a considerable length of time on several different issues beyond a possible balanced budget amendment.

I only say that to recognize the reality of the situation, and say that the GSE bill should not be ignored. It is important that we eventually pass it; and whatever happens procedurally on other issues that are not necessarily germane to this particular legislation, the leadership would eventually see that we do pass this bill.

For those of us who have gone through the S&L crisis over a number of years, and have seen the loss to the taxpayers, I hope that eventually we will be able to pass this legislation.

AMENDMENT NO. 2437

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 2437.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

(At the request of Mr. DOLE, the following statement was ordered printed in the RECORD.)

• Mr. ROTH. Mr. President, Mr. Chairman, the Committee on Governmental Affairs, on which I serve as the ranking Republican member, has jurisdiction over the Paperwork Reduction Act as well as OMB's other reviews of regulations. The bill, as reported, contained some ambiguous language that could have been interpreted as absolving the Director of the Office of Federal Housing Enterprise Oversight of responsibility to OMB under paperwork-reduction and regulatory-review procedures.

The Senate Report 102-282 also contains similar language to that in the reported bill that could have been interpreted as amending or displacing these procedures. But, in fairness, it must also be noted that the report included a Congressional Research Service memorandum that specifically noted that the Director was in no way absolved from these responsibilities.

In order to make sure that the bill did not affect the application of these current review procedures to the Director, I asked that clarifying amendments to sections 103 and 107 be included in the managers' amendment. That has been done. It is now clear that the requirements of section 107 are additional to current OMB regulatory review and paperwork reduction procedures and not a substitute therefore. The independence of the Director in promulgating certain regulations under section 103 is from the Secretary of HUD and not from the administration.

I am pleased that these changes have been made to clarify the ambiguities in the bill I have noted. I thank the managers for their cooperation and support.●

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, as I understand it, this is the mangers' amendment?

Mr. RIEGLE. Yes.

Mr. DOLE. Is that subject to amendment?

The PRESIDING OFFICER. Yes; the managers' amendment is subject to amendment.

AMENDMENT NO. 2438 TO AMENDMENT NO. 2437

(Purpose: To express the sense of the Senate with regard to the effect of a possible rail strike)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2438 to amendment No. 2437.

At the appropriate place, add the following:

It is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight, tonight, since the economic ramifications of such a strike are devastating to the country, and congressional action could prevent that economic damage.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas loses the floor. The Chair recognizes the Senator from West Virginia.

Did the Senator from West Virginia seek recognition?

Mr. BYRD. Yes.

Mr. BYRD. Mr. President, parliamentary inquiry.

Mr. DOLE. Mr. President, parliamentary inquiry.

Does the President pro tempore have priority of recognition over the Republican leader?

The PRESIDING OFFICER. The President pro tempore does not have the right of prior recognition over the Republican leader. What occurred was an amendment was offered by the Republican leader, at which point the Republican leader lost the floor.

Mr. DOLE. Mr. President, I sought recognition, and I should have been recognized.

The PRESIDING OFFICER. The Senator from West Virginia sought recognition; and therefore, the floor having been relinquished, I recognized the Senator from West Virginia.

Mr. BYRD. Mr. President, does the distinguished Republican leader wish me to yield to him for a statement or further parliamentary inquiry, or anything of that nature?

Mr. President, is the amendment that has been offered by Mr. DOLE in the second degree to the amendment that was offered by Mr. RIEGLE?

The PRESIDING OFFICER. It is a second-degree amendment to the amendment of the Senator from Michigan.

Mr. BYRD. Mr. President, is either of the two amendments offered as a substitute amendment?

The PRESIDING OFFICER. Each of the two amendments are perfecting amendments.

Mr. BYRD. Then further amendments are in order; am I correct?

The PRESIDING OFFICER. On the disposition of the two amendments, further amendments would be in order.

Mr. BYRD. Mr. President, but only then?

The PRESIDING OFFICER. But only then, because this is an amendment to the bill, a perfecting amendment, and there is a perfecting amendment in the second degree to that.

Mr. BYRD. A motion to recommit would be in order, with instructions?

The PRESIDING OFFICER. A motion to recommit would be in order, and—if the Senator will pause for a moment—an amendment to the text of the provision proposed to be stricken by the Senator from Michigan would also be in order.

Mr. BYRD. That would be in order at this point?

The PRESIDING OFFICER. That is correct. The Senator from Michigan struck text, and that is amendable. The amendment that was placed in the bill—or the amendment to the bill proposed by the Senator from Michigan was pending. It was amended by the Republican leader as a perfecting amendment, so that tree is closed.

Mr. BYRD. My earlier question was whether either of the amendments offered was a substitute, or I should add, an amendment in the nature of a substitute. And as I now understand the Chair, the amendment offered by the Senator from Michigan was an amendment in the nature of a substitute for at least part of the bill.

The PRESIDING OFFICER. The amendment of the Senator from Michigan is a substitute for a portion of the bill, not for the entire bill.

Mr. BYRD. Yes. Therefore, that portion of the bill which would be subject to the amendment by the Senator from Michigan would be open to amendment. An amendment to the text of the bill, which would be stricken by the amendment of the Senator from Michigan, would be open to further amendment?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Would that amendment be subject to a second-degree amendment?

The PRESIDING OFFICER. That amendment would also be subject to a second-degree amendment.

Mr. DOLE. Will the Senator from West Virginia yield?

Mr. BYRD. Yes, I will.

The PRESIDING OFFICER. In other words, the amendment, as I understand what the Senator was inquiring about, was an amendment to the text that was stricken. That would be an amendment in the first degree. That would be subject to an amendment in the second degree. Yes.

Mr. BYRD. I will yield to the Republican leader. So at this point, an amendment is in order to the language of the bill, which would be stricken by the amendment of Mr. RIEGLE; an amendment to such amendment would be in order?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I yield to the distinguished Republican leader, without losing my right to the floor. I yield to him only for the purpose of his making a statement or presenting a parliamentary inquiry.

Mr. DOLE. Mr. President, I thank the Senator from West Virginia. I will just take very brief time. Would it be possible to have my amendment read so I can make a brief comment on the amendment?

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

It is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight, tonight, since the economic ramifications of such a strike are devastating to the country, and congressional action could prevent that economic damage.

Mr. DOLE. Mr. President, I would just point out what I propose I would hope would be a noncontroversial amendment. We have a choice to make between now and 12:01 midnight. And if a strike occurs, as we are advised by the Secretary of Transportation is very likely to happen, it has been reported that some will say let the strike run 3 or 4 days or maybe 5 days or 6 days so Congress would have said to the unions: We at least create a lot of chaos. We did not settle anything. We stuck with you, the union members.

No question that this is going to cause immediate hardship on people all across America. Whether on commuter trains or whether it is shipping potatoes, wheat, or whatever it might be, this is going to have economic hardship on everybody in America and the economy is already struggling to recover.

The point I wish to make with this amendment, along with Senator KASTEN and others, is we ought to do something today. We can make a preemptive strike. I do not think this amendment is offensive to anyone. We could go ahead and proceed with this amendment and then do whatever else may be in mind as far as the overall bill is concerned.

I know there is concern on the other side about the possibility of offering a balanced budget amendment, and I think there will be an effort to do that by my colleagues Senator NICKLES, Senator SEYMOUR, Senator GRAMM, and others. But I do believe that this is of immediate significance. It is up to the Congress. The President cannot do any more. He has done all he can do. He did it in April, on April 9. So the ball is squarely in Congress' court.

What this Senator does not want to happen is let a strike go on 2 or 3 days and have the Congress trying to blame President Bush or the executive branch for not taking action. He cannot do anything. It is up to us.

So this says we can have it. We can take action now. We can send a signal in the remaining hours they better get busy and settle the strike. I think five unions have not agreed. Some have settled; some are in the process of maybe making some last bids for negotiated settlement.

But the point is I do not want to be standing on this floor next week at this time and hearing my colleagues on the other side saying: Where is President Bush? Why has not President Bush done something?

President Bush cannot do anything. He would like the strike settled; he said that today. So this is simply a sense-of-the-Senate resolution that we ought to act immediately to forestall a possible railroad strike because of the economic ramifications. That is all it is. It is not a balanced-budget amendment. I would have indicated earlier if I intended to offer that.

I thank the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I did not mean to interrupt the distinguished Republican leader.

Mr. President, I have no problem with this amendment.

Could the distinguished Republican leader assure the Senator from West Virginia that until the matter is settled concerning the amendment which the Senator has offered, or some action agreed upon by the two leaders, that no constitutional amendment concerning the balanced budget will be offered?

Mr. DOLE. While this is pending.

Mr. BYRD. While that is pending. I have no problem with this.

Mr. DOLE. And nothing else would be offered.

Mr. BYRD. I think the Senator has offered something that perhaps needs to be done as well. But I must remind Senators that even if Mr. DOLE offers this particular amendment another amendment could be offered. It would be in order to offer an amendment to the amendment, and so I just want to protect myself and others who may feel as I do against the offering of a constitutional amendment concerning the balanced budget at this point. I would like to have a chance to enter the bidding if that time comes.

Mr. DOLE. Mr. President, if the Senator will yield, I think if it has language which is bipartisan that there will not be any amendments afterward from either side while this amendment is pending, I do not think I have any problem with that, and I do not think anybody has any problem.

Mr. BYRD. I do not have in mind to offer an amendment.

Mr. DOLE. There may be others, I understand.

Mr. BYRD. Until such time if a constitutional amendment on a balanced amendment is offered I might try then, but if I could be assured that no Senator will rise and offer an amendment to the Constitution concerning a balanced budget I will yield the floor.

Mr. DOLE. Then I would be happy to enter into a unanimous-consent agreement there be no other amendment offered until this has been disposed of.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BYRD. I yield to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. No; the majority leader is not recognized. I yield to the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia retained the floor and yielded to the majority leader.

The majority leader.

Mr. MITCHELL. Mr. President, we now have a managers' amendment to the bill which relates to the substance of the bill now pending and a second-degree amendment by the distinguished minority leader relating to the possible railroad strike. We also have Senators who have stated publicly an intention to offer an amendment in the nature of a constitutional amendment to balance the budget. I believe we ought to accommodate everybody.

I suggest that we debate and dispose of Senator DOLE'S amendment, we debate and dispose of the amendment by the Senator from Michigan, and then permit any other Senator who wants to offer an amendment on a balanced budget to do so. That way we will proceed in an orderly and logical fashion and each Senator will have an opportunity to have his provision disposed of, and the Senator from West Virginia will then be on notice as we all will be that following the disposition of Senator RIEGLE'S amendment that Senator GRAMM or anyone else may be recognized to offer a balanced-budget amendment if that Senator wishes to do so.

Mr. DOLE. Mr. President, will the Senator from West Virginia permit me to ask a question?

Mr. BYRD. Absolutely, Mr. President.

Mr. DOLE. Mr. President, do I understand from the Senator that there will be an opportunity to offer the balanced-budget amendment?

Mr. MITCHELL. Yes, I believe under the rules of the Senate any Senator can offer any amendment he or she wishes. I have no desire to attempt to prevent a Senator from offering that amendment, if the Senator wishes to do so. What I suggest is we do this in an orderly fashion and if that is the desire of the Senators involved to go ahead and do it, and then we will have a debate on that.

Mr. DOLE. Would that be yet today?

Mr. MITCHELL. Pardon.

Mr. DOLE. Would that be yet today? If we dispose of this amendment it could be the following amendment or whatever.

Mr. MITCHELL. My suggestion is we deal with Senator DOLE'S amendment, and then Senator RIEGLE'S amendment, and then proceed to let someone be recognized to offer whatever amendment they want to the bill. That is the right of Senators under the rules. I think everybody ought to have that opportunity. I do not know the timing of it because I do not know whether there will be opposition to the amendment of the Senator from Kansas. I do not know whether there is objection to the amendment of the Senator from Michigan. I am unable to estimate the time. Perhaps we will get that in short order once the chairman of the relevant committee with respect to the railroad strike is either alerted, comes to the floor, has a chance to read the amendment, and make a decision at that time.

Mr. DOLE. It sounds almost too good to be true. I am thinking about what the majority leader may be thinking and what the distinguished Senator from West Virginia may be thinking about.

Mr. MITCHELL. I have no ulterior or other motive. My desire is simply to proceed in an orderly fashion and give every Senator a right to advance any amendment or argument that he or she wishes.

If the Senator wishes time to consider that I will be pleased to suspend. We can discuss this amendment or suggest the absence of a quorum.

Mr. DOLE. Would it be possible to get some agreement that the Senator from California and the Senator from Oklahoma be recognized following the disposition of the pending amendment to offer the balanced budget amendment?

Mr. MITCHELL. I have no objection to that. I do not know if anyone else does. I believe the majority leader also expressed the desire the amendment of the Senator from Michigan be in order.

Mr. DOLE. Yes; after disposition of the pending amendment and the amendment of the Senator from Michigan [Mr. RIEGLE].

Mr. MITCHELL. Mr. President, before I agree to a procedure with respect to the amendment, I would like to see the amendment.

Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, I do not yield for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. MITCHELL. I just wanted to get a chance to read the amendment before I committed myself to a course of action.

Mr. BYRD. Mr. President, I do not want to stand in the majority leader's way, but I will not yield the floor until I am sure of the procedures that will be followed.

Mr. President?

The PRESIDING OFFICER (Mr. WIRTH). The Senator from West Virginia.

The Senate will be in order.

Mr. BYRD. I still have the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I ask the Chair to protect my rights to keep the floor until the distinguished majority leader and Republican leader can engage in a colloquy—and other Senators may, if they wish—in order to resolve the matter of procedure for the rest of the day.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, following on our earlier discussion I have now discussed the matter with the distinguished Republican leader, the chairman of the Appropriations Committee, and several other interested Senators, and I ask unanimous consent that, upon the disposition of the Riegle-Garn managers' amendment and any amendments thereto, Senator NICKLES be recognized to offer his amendment providing for a balanced budget constitutional amendment, provided that no such balanced budget constitutional amendment be in order prior to the disposition of the Riegle-Garn amendment, No. 2437.

Mr. DOMENICI. Reserving the right to object, and I do not know that I will, but I want to ask a question.

I have just discovered that in the underlying amendment, the so-called managers' amendment, there is a provision. First let me tell you what I thought was in it. I thought the Garn proposal, that has been around a long time, with reference to bank liability was in it. But I now find that, in addition, there is an amendment which will remove the liability of municipalities under the Superfund. I did not know that until just a couple of minutes ago.

If that is correct, might I inquire either of the Chair in a parliamentary inquiry, or of the proponent, when the Dole amendment is completed, will it be in order to amend the underlying amendment, the so-called managers' amendment, with reference to the provision of which I just spoke?

Mr. MITCHELL. Mr. President, it is my understanding and intention that the answer to that be yes. And I will yield to the Chair to see if the agreement, in fact, carries out my intention in that regard.

The PRESIDING OFFICER. When the amendment by the Senator from Kansas is disposed of, the underlying amendment then becomes the matter of business and is amendable.

Mr. MITCHELL. And if I may say to the Senator from New Mexico—and I believe the Senator from Rhode Island is in the same position—just so it will be clear, the consent request provided that upon disposition of the Riegle-Garn managers' amendment and any amendments thereto. That is intended to cover Senator DOLE'S amendment, which is now pending, and once that is disposed of, other amendments that would be offered in the nature of second-degree amendments to Senator RIEGLE'S amendment. That would include—I believe Senator CHAFEE may have an amendment in that regard; Senator DOMENICI, and others, with the proviso in the agreement that there would not be a balanced budget constitutional amendment until after disposition of the Riegle amendment and whatever amendments are offered to it. That will be offered by Senator NICKLES explicitly pursuant to this agreement.

Mr. DOLE. Will the majority leader yield further?

Mr. MITCHELL. Yes.

Mr. DOLE. Mr. President, it is my understanding this agreement applies only to this legislation. This would not preclude offering the balanced budget amendment to some subsequent pending legislation.

Mr. MITCHELL. The Senator's understanding is correct. If I might say, before Senators accede to this request, that I discussed the matter with Senator DOLE and Senator NICKLES. Under the Senate's rules, as majority leader, I have priority recognition and could, therefore, offer a second-degree amendment to the Nickles amendment.

I may get recognition for that purpose, priority recognition for that purpose. I have made no decision in that regard. I have asked Senator NICKLES, and he has agreed to notify me before offering his amendment, so I will be present on the floor.

It is my present intention to put in a quorum call following Senator NICKLES' offering of his amendment, and at that point make a determination whether or not I wish to use priority right of recognition to offer a second-degree amendment.

If I do not, then of course Senator DOLE, having next priority recognition, would be in a position to do so at that time should he so choose.

I want every Senator to understand that although that is not in the agreement as presented, that is the understanding which we have reached, so that there can be no misunderstanding by any Senator on the procedure to be followed once this agreement is reached.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I have a parliamentary inquiry.

Mr. President, once the Riegle amendment and all amendments thereto have been disposed of, the playing field is going to be changed. There will not then be any amendment pending to the bill, as I understand it. Consequently, various substitutes would be in order.

Would the Chair inform me as to which of the tables would then be applicable; the one on page 66 or the one on page 70 of the book on Senate procedure?

The PRESIDING OFFICER. That would depend on whether the amendment offered at that time is a complete substitute for the pending measure.

Mr. BYRD. So it could be the chart on page 70, in which case——

The PRESIDING OFFICER. If the amendment is a complete substitute.

Mr. BYRD. In which case, up to 7 amendments or up to possibly 11 could be offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL addressed the Chair.

Mr. BYRD. If I may pursue my inquiry just a little further.

I want Senators to understand that the playing field will be changed with respect to amendments. I do not want to agree—and I may say, the distinguished majority leader inquired of me as to whether or not I had any problem with the language of his request, and I told him I did not. But I want to explore this just a bit, and it will not take me but 2 or 3 minutes to do it.

I do not want to agree that the amendment by Mr. NICKLES will be in order unless we have the understanding that no points of order are thereby waived. The Senator will presumably be offering a constitutional amendment to a bill, a legislative bill, which requires only a majority for passage. The constitutional amendment would require two-thirds.

I do not want to waive any point of order that may be available to this Senator or to any other Senator with respect to the offering of a constitutional amendment to a piece of legislation that bears the heading of a bill.

So if the majority leader would allow me to suggest that no points of order be waived thereby, meaning that if this request is agreed to, points of order will not be waived, because the Senate will be giving the Senator from Oklahoma [Mr. NICKLES], the approval to offer his amendment, and I do not want someone later to say, if the point of order is raised against him, someone will say, well, by virtue of the fact the Senate agreed he could offer it, your point of order no longer applies.

I want to make sure my point of order, if I should or any other Senator should decide to make such a point of order, would not be automatically waived.

Mr. MITCHELL. Mr. President, if the Senator will yield.

Mr. BYRD. Yes.

Mr. MITCHELL. Mr. President, it was not my intention that this agreement would waive any point of order, and I believe that points of order would have been preserved had the agreement been accepted in the form offered. That being the case, I certainly have no objection and will be pleased to modify the agreement to state explicitly what I believe was implicit in the agreement, that no points of order be waived.

Mr. President, if I might further say with respect to the earlier question which the Senator from West Virginia posed to the Chair, I have a copy of the amendment which Senator NICKLES has given me, and I am advised that is the amendment he is going to offer.

So I believe it is possible to get a response to the Senator's question to the Chair by an examination of the amendment itself, which Senator NICKLES has already given to me and said this is what he is going to offer.

The PRESIDING OFFICER. On examination of the amendment to be offered by the Senator from Oklahoma, it is a substitute for the entire measure. Consequently, the more complex table on page 70 would apply.

Mr. BYRD. Which means that in addition to the amendments that are presented in the chart, there would be additional amendments via the motion to recommit with instructions, which would mean more than seven amendments, indeed, could be pending at one time.

The PRESIDING OFFICER. That is the possibility.

Mr. BYRD. Mr. President, I have no objection to the request now, as the majority leader has presented it. And may I say again that he did clear the amendment with me. But it had not occurred to me at that point, may I say to my leader, that a possible point of order with respect to a constitutional amendment might thereby have been waived.

That matter has now been clarified. Senators are on notice that the chart on page 70, if they would wish to turn to their book on procedure, will be the playing field and I may have an amendment.

Just one final point, Mr. President. If the leader is not on the floor at the time the distinguished Senator from Oklahoma offers his amendment, then I believe the majority leader has made provision in his request in the nature of a quorum call, that he would be put on notice so that he could come in and offer an amendment which protects this Senator, because this Senator might have an amendment. But if the Republican leader is on the floor at that time, the majority leader is not on the floor, then I would not be able to offer an amendment to the Nickles amendment at that point, but I am protected by the request.

Mr. MITCHELL. Mr. President, if I might respond, that is not included in the terms of the proposed agreement itself, but it is an understanding which I have reached with the Senator from Oklahoma and the distinguished Republican leader, that if this agreement is accepted by the full Senate, Senator NICKLES will be entitled to be recognized to offer his amendment upon the disposition of the Riegle-Garn managers' amendment.

He has stated to me, and he is present now and I assume will confirm, that he will notify me before he offers his amendment so that I will be on the floor for the purpose of putting in a quorum call, and at that time making a decision on whether to offer one or more amendments to his amendment.

Mr. BYRD. That protects the Senator from West Virginia, because if I decide to offer an amendment and I cannot get recognition, I will have my majority leader here to offer it for me.

Mr. MITCHELL. I would like to ask the distinguished Senator from Oklahoma to confirm that.

Mr. NICKLES. I would be happy to confirm the majority leader's statement. We did confer about it. When we did talk about a unanimous-consent agreement that would include the balanced budget amendment, the majority leader asked that he be notified prior to offering the amendment, and I said I would be happy to.

Mr. BYRD. Mr. President, I have no objection. I yield the floor.

The PRESIDING OFFICER. Is there objection to the modified unanimous-consent request offered by the majority leader?

The Chair hears none, and it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to oppose this amendment because I think it is very one-sided. The amendment says:

> It is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight tonight, since the economic ramifications of such a strike are devastating to the country and congressional action could prevent that economic damage.

That sounds good on its face, but there is also some economic damage that one has to be concerned about as far as the workers are concerned. If Congress is going to act, then there ought to be some understanding as to what terms are involved. Do we just slam the door and say that the people have to work, that they have no economic rights at all, they have no way of protecting themselves?

I do not know the details of this dispute. As a matter of fact, a couple of the company presidents are coming in to see me later this afternoon so I can learn more. I talked with one union representative the other day. But I am told that at this moment these people have been working for 4 years without getting any pay raises.

Now, I get confused as to whether it is the Amtrak people or the Conrail people, but let us be realistic. It has been 4 years without any increase in their pay. And if we, Congress, were to step in and say no way, you have to go back to work, what kind of equity would that be? Then I am told that under the PEB, a change is being made with respect to a substantial number of employees who work on the railroad—maintenance-of-way employees. At the present time there are camp cars in which they sleep, not deluxe at all—quite the opposite—and that is where they get their food as well, when they are off on the road. But under the imposed terms of this Board, they would get $35 a day.

Now, I ask my colleagues, is there anyone in this body who really believes an individual can get sleeping accommodations and food for $35 a day? In the economy in which we are living, that is just totally impossible. But they are taking away the sleeping car and the car that provided the food in the past, and we would be putting our stamp of approval on what has transpired to date.

Then I am told, in addition to that, the company intends to cut back on health benefits. Now, that may or may not be right. This may be a subject of negotiation.

That may be called for economically, but the fact is Conrail is making good money, as I understand it. Amtrak is not. But would you then justify a cutback with respect to the health benefits? Could you justify taking away the sleeping car and the food car?

I am frank to admit I am not clear as to the specifics with respect to Amtrak and its employees and Conrail and its employees. There are different issues involved. But I do not believe we ought to come out here on a Banking Committee bill and put something on the bill that says we should take action. I recognize congressional action could prevent the shutdown But is it the right thing to do? Is it the fair thing to do? Is there another side to it?

Has there been some committee that took 2 hours to hear both sides of the argument to figure out how it should be done? Or do we just stand up here recognizing that there will be economic damage, recognizing that it will be hurtful if there is a strike. Do we come here and just say this is the position that should be taken and we are going to stop any chance of a strike, which would be a totally legal strike under the law at the present time? Nobody is arguing that it is an illegal strike.

I urge my colleague from Kansas not to go forward, not to press this amendment. My feeling is that there may be a time and a place, and if there is a time and place perhaps we could work it out in a fair manner to both sides of the issue.

I do not think it should be one-sided. I think this amendment, as proposed, is very one-sided and I would hope that he would see fit to withdraw it so that we might have further discussion to see whether or not we can be helpful in bringing about a settlement of the strike that is fair to both sides.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. This is only a sense-of-the-Senate resolution. It is not going to bind anybody. All this resolution says is it is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight tonight, since the economic ramifications of such a strike are devastating to the country and congressional action could prevent that economic damage.

Now, all this says is that we have gone through the one process, the one protective process that the law allows for, and that is three PEB's—PEB 220, PEB 221, and PEB 222—because there are three major situations here.

All this says is that the President can no longer call for a Presidential Emergency Board.

The President's hands are tied, and there is not much more he can do other than continue to encourage his Secretary of Transportation to work among the parties to try and bring about an effective resolution of this matter.

Mr. President, everybody who knows anything about this, knows that if we suffer a strike it is going to be crippling to our economy. Everybody knows that. The Washington Post this morning on the front page says, "Rail Contract Talks Appear at a Standstill, Strike Tonight Could Close MARC, Virginia," and they talk about the commuter trains. In the first paragraph they say:

> Negotiators reported little progress yesterday in efforts to head off a crippling railroad strike that could shut down freight and passenger service from coast to coast and strand hundreds of thousands of commuters in the heavily populated Washington-New York-Boston corridor.

I have to confess that a lot of people may think, so what? This strike just hurts the northeastern part of this country, from Massachusetts down to Washington.

Anybody who believes that really does not understand the railroad industry in this country. We have already been put on notice by some of the major auto manufacturers, all of whom are unionized, that if this strike occurs they are going to start laying off people. These are fellow union members. They are going to start cutting back. We all know that when heavy-duty industry starts cutting back, it is very difficult to start up again.

So we all know that it is going to be crippling to the economy if we have a strike of even 1 day. I think Members of Congress may say: Well, they are not going to do anything even if we have a strike of 5 to 7 days.

Mr. President, a strike of 5 to 7 days could cripple this country, and could cripple it badly at a time when we are pulling out of the recession, when people are starting to get back to work, and when we feel the economy coming back. Something has to be done to continue the recovery.

Look, there are always two sides to every issue. I am sure the railroad unions involved in this matter have points that need to be listened to. I am sure that the railroad companies have points that need to be listened to.

They have been listened to in three Presidential emergency boards. The so-called cooling-off period expires tonight at 12 o'clock. There is nothing more the President can do.

The only body that can resolve this matter outside of the parties themselves happens to be the Congress of the United States. We can either do nothing about it, as some have suggested, for 5 to 7 days, or we can go to work and do something about it.

I understand that Senator KENNEDY has has called for a meeting of the members of the Labor and Human Resources Committee for 5:30 p.m. this evening in the Labor and Human Resources Committee room. That is an effective call. That is important. I commend the distinguished Senator from Massachusetts for his willingness to get involved and see if we can explore the middle ground here, and see if there is some way that we in Congress can act, since we are the only ones who can do something about what might be a crippling set of strikes to this whole Nation.

I have to tell you that I commend the Senator for wanting to do that, and I intend to be there this afternoon. I intend to help him and our counterparts in the House to get together and see what can be done. But this country simply cannot tolerate a 5- to- 7-day strike.

We have worked out of one of these disputes that I have been involved with in the past by getting management and labor together and working out the differences. If we cannot work out those differences, then the Congress cannot allow the country to go down the drain. They cannot allow thousands if not millions of people to lose their jobs. They cannot allow the distribution and transportation of commodities all over this country to be lost.

We are going to have to act. It seems to me we have to act in a reasonable and ethical and competent way that will try and bring the parties together. I think that is all this sense-of-the-Senate resolution says. It is a sense of the Senate that Congress needs to act immediately to forestall the possible railroad strike to occur at midnight tonight since the economic ramifications of such a strike are devastating to the country, and congressional action could prevent that economic damage.

So we need to do that. Our counterparts in the House need to do that. If we do not, I do not see any reason why anybody should blame the administration. They have done all they can do at this point including having the Secretary of Transportation stand ready to aid and try to bring the parties even together further.

It is up to us now. We cannot sit idly by and just act like this is not a problem. Nor can we stand up here and blame the President for the economy any more after today. If we do not do something here, then I think the Congress is to blame for the economy, and I do not think anybody is going to be able to refute that statement. I think we ought to put the blame where the blame ought to be.

I also think that there has to be some room to resolve this problem. Many people are concerned that some of these railroads make a lot of money, some do not. Amtrak is not making very much money, and may even be in the hole. Conrail has made reasonable profit.

I have to say our fellow union members have made good livings. Their average annual wage and benefit package on one railroad provides $51,000 per worker. So some people think: Well, because they make that much they should not be demanding more. I cannot agree with that. I think that they should bring up their complaints, and Senator METZENBAUM has raised a couple of them. And those complaints have to be dealt with, and we hope we can bring the parties together to resolve them. But it is not because people are not being fairly compensated thus far, because until now basically they are compensated better than many other blue-collar workers, with the possible exceptions of some very specific illustrations.

Mr. President, this is important. Let us not blame anybody but ourselves if we do not get this resolved. I know my distinguished friend from Ohio is going to be there at 5 a.m. to sit down with us to see what we can do to encourage both sides to be reasonable and resolve this problem. And like he, I will hopefully be meeting with people from both sides of the equation, union leaders, plus the management of the railroads in question, I will do everything I can to help to bring this thing to a fruitful resolution to satisfy all concerned.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment Senator DOLE for this resolution, and Senator HATCH for his statement. I certainly hope that Senator HATCH, Senator METZENBAUM, and others, Senator KENNEDY, can be successful working on this.

I think it is important that we pass this resolution because it is awfully important for the Senate to be on record averting this strike.

I will just say for my State of Oklahoma that we have wheat farmers who just finished cutting their wheat. They need to get it to the market. We have automobile plants that need to have parts delivered. If not, there will be thousands of people put out of work. You can go on and on down the line. This economy is still fragile. We need to be creating environments which create jobs, and not allowing something like a national rail strike to be putting the entire economy in real jeopardy.

So I compliment the Senator from Kansas. I think it is vitally important.

I might mention to my colleagues that a little over a year ago, when this happened before, Congress acted I believe within 17 hours of the strike. I hope that we take no longer than the first day. I would like to see us do it today and avert a strike, but certainly do it within 1 day. I have heard people talking about doing this in a week or so. I do not think our economy can afford it. I do not think those thousands of people whose jobs are directly related can afford it either.

So I encourage those who are meeting with some of the business and union leaders to urge them to come to an agreement, but if necessary I think the Congress should act and act within the next 24 hours to make sure that we do not allow a long-term strike to cripple our economy.

Mr. DOLE. Mr. President, I want to underscore the point just made by the Senator from Oklahoma. We have had a pretty tough year in the Midwest. When we needed rain, we could not get it, and when we get the rain, we cannot cut the wheat because we have tornadoes, hailstorms, or rain. It is going to be difficult at best to get a half a crop. There is also a threat that we could lose the rest of that other half because we do not have any rail cars. This is critical in the Midwest—critical for a lot of farmers and others who are in that business.

Let me suggest that there is precedent for doing something. I do not propose in the sense-of-the-Senate amendment what ought to be done. We could extend the cooling-off period for one thing. That would forestall a strike. I am not trying to impose any settlement. I am suggesting we ought to send a signal.

There are still 8 hours 10 minutes, and somebody out there is listening—management and labor. And If they understand the Senate is serious about this, they may yet negotiate a settlement by midnight and avert a strike on their own. That is the way it ought to be.

Having said that, it seems to me that the appropriate congressional committees ought to be meeting now in the event a strike does occur at 12:01 tonight. We ought to be meeting now to figure out something we can pass tomorrow morning or in the middle of the night to avert a strike of even 1 day.

I do not know the exact positions of management or unions. I understand that each of the relevant Presidential Emergency Board reports is based heavily on PEB-219 which governs the rest of the industry and its labor force. And the railroads generally are willing to accept the recommendations of Presidential Emergency Board, 220, 221, and 222. I am advised that the union position is they want to be able to strike and negotiate on the basis of a strike without congressional intervention, and that they oppose the recommendations of PEB 220, 221, and 222.

So it seems to me that we are not trying to legislate an agreement here. That would be unfair, as the Senator from Ohio pointed out, to both parties; labor or management. I am not trying to get involved in that.

I am trying to protect all the people on the outside who are neither labor nor management who have a stake in this, whether they are commuters, shippers, whatever they may be. There are going to be a lot of people inconvenienced, a lot of people disadvantaged, and a lot of people are going to lose a lot of money because Congress said we do not want to do anything in advance; we do not want to get prepared; we are not Boy Scouts; do not be prepared; wait until it happens.

We can meet this afternoon, the House and Senate committees, and that would be another signal. We are sending signals right now to management and labor that you still have 8 hours, 10 minutes. It will be down to 4, 3, 2, and 1 hour, but an agreement could be reached by this evening. The Secretary of Transportation, Mr. Card, met with us at noon. He is working very diligently with labor and management trying to work out an agreement. The President stated he wants to avert a strike if at all possible.

I might add, Mr. President, that in 1967, during the Johnson administration, there was a 20-day extension of a cooling off period and then 47 more days. In 1968, during the Johnson administration, there was a 37-day extension, and then they imposed a solution.

I am not suggesting that at all. I am not suggesting that. In 1970, under President Nixon, there was an 80-day extension of the cooling-off period before the strike. So there is precedent for this. If that is what the committees decide to do, extend the cooling off period for 1, 2, or 3 days, I would much prefer a 3-day extension of the cooling-off period than a 3-day strike, if they can reach a settlement within 3 days.

There seems to be a rumor that we ought to have a 3- or 4-day strike to show everybody we can do it. I am not certain who benefits from that. It is certainly not the American economy. It cannot be the American worker. It cannot be management. It cannot be hundreds and thousands of commuters in Ohio and the Northeast and other States which rely heavily on commuter traffic. I am not certain who the beneficiaries are, except that "we proved a point," I guess, "that we can create chaos," and Congress is pretty good at that.

I hope for whatever impact this little sense-of-the-Senate amendment might have—it may not have any—that we would have a unanimous vote in the Senate and let the American people know that Congress understands our responsibility. President Bush cannot do anything else. Nobody can blame President Bush on this one. He gets blamed unfairly for a lot of things around here. He did not do anything on this one. He did all he could do when he appointed the Presidential Emergency Board. Now it is in the lap of Congress. If there is a strike, only Congress can act. We can let the strike go on, and hope they settle it in 30, 40, 50 days, or 5 or 10 days, or impose a settlement, which we prefer not to do, or we can extend the cooling-off period, and there are probably other options.

It seems to me that it is a timely amendment, and it is a signal, a warning, an alert that we ought to be prepared, and I hope that it would have the unanimous support of my colleagues.

Mr. METZENBAUM. Mr. President, indeed, as the Senator from Kansas says, we have in the past, when there have been strikes, caused congressional action to be taken, and in some instances, we have even imposed a solution. But, in the past, Congress intervened in rail labor disputes only where a strike has caused or threatens to cause substantial harm to the Nation's economy.

There is a claim being made at the moment that this is going to cause substantial harm to the Nation's economy. As I understand it, however, there is uncertainty as to which unions, if any, will be going on strike at this moment. We do not even know which, if any, unions will strike and what the impact would be if they were to strike.

There may be a time for congressional action, but when there is, it has to be balanced. I am concerned that the implications of the proposal of the Senator from Kansas are that we make it clear that Congress is stepping in—no strike, we do not want a strike. Well, that is all right. That sounds good.

I am concerned about the grain being moved in the Midwest, and I am concerned about cars and steel being moved in the part of the country I represent. I am concerned about many of those things. But I am also concerned about the workers. They have some rights, and as I previously pointed out, they have not received a wage increase for 4 years. I am not sure that is true of all of those contemplating a strike, but I am positive about some of them.

I am also positive that a company is imposing a change with respect to these working conditions, and that the workers out on the road are going to be paid $35, a pittance, for room and board. That is totally incredible. There is not much question about the fact that the companies are attempting to cut back on the health benefits.

I do not think we want to do anything unfair here. But the only right that working people have in order to assert their position is to strike. As a matter of fact, there is no less profound an authority than the distinguished Senator from Utah who was on his feet a few moments ago. He said just the other day, "I will fight to make sure," said he, "that every worker in this country has that right, the right to strike, if they want to, through organized labor, if they want to. It is a very powerful right." June 16, Senator HATCH.

He said further, "It is an awesome power that unions have, and like I say, I would fight to maintain that right in a union, and I have."

Well, this is a week later, and apparently he is changing his position.

Then he went on to say, "I am proud of my union membership, and I will fight for these collective bargaining rights that they have."

Senator GRAMM said, "If I do not think you pay good enough wages, or I do not like the working conditions, or we have some kind of dispute, the fundamental source of my freedom in a free society is that I have the right to say that I will not work for you anymore. I also have the right, without using coercive power, to go out and urge other people not to work for you. I do not think anybody disputes those basic rights."

That is what we are talking about here, the unions talking about asserting those basic rights. But with this amendment, we are saying here that we are disputing those basic rights.

Senator NICKLES said, "I believe that people have the right to get together collectively, to organize, and to bargain in good faith with an employer. Those individuals also have a very critical right to withhold their services if they are not satisfied with the economic conditions in a workplace situation. They may withhold their services, either individually or collectively, if they so choose," said he. "No one should be compelled to work any place if they are not satisfied with the working environment, the wages, or the conditions of employment. These are fundamental rights which are protected by the National Labor Relations Act," so said Senator NICKLES on June 11, 1992, just last week.

Now we have the situation where several unions are talking about withholding their work product, where they are saying we are not satisfied at continuing to work at the same wages we were paid back in 1988. They are trying to get some matters worked out. And if Congress steps in at this point, even before a strike occurs, and there is some question as to whether all of the unions will go on strike, whether there will be a strike against Amtrak or Conrail, or both, I do not know the answer to that. But I believe that this is a premature action. There may be a reason for action at a later point, but I believe there is no reason this afternoon for us to adopt the amendment of the distinguished Senator from Kansas. I, therefore, move to lay the amendment on the table.

Mr. DOLE. Will the Senator withhold the motion for a minute?

Mr. METZENBAUM. Certainly.

Mr. DOLE. I ask unanimous consent to have printed in the RECORD a document setting forth prior rail strike legislation models and what the disposition was in each case.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRIOR RAIL STRIKE LEGISLATION MODELS

Overtime Pay & Eight Hour Day, 1916 (Pub. L. No. 64-252)

Eight hours deemed a day's work.

President to appoint commission to observe effects of eight hour day and report to Congress.

[Supreme Court rejected rail management's argument that the legislation was a taking of property in violation of the 5th Amendment. *Wilson* v. *New*, 243 U.S. 332 (1917).]

Fireman Manning, 1963 (Pub. L. No. 88-108)

[Mediation by a Presidential Railroad Commission, a Presidential Emergency Board (PEB), and Presidents Eisenhower and Kennedy were unsuccessful, thereby leading to legislation.]

Return to status quo.

Arbitration by Arbitration Board No. 282 to create new set of work rules to govern use of locomotive firemen and the consist of train crews. Award binding for two years only [Fix did not work and UTU struck several railroads in 1970, resulting in Emergency Board No. 177; in 1972 parties entered into the Fireman Manning Agreement, which as amended in 1985, provides for elimination of firemen through attrition.]

[Legislation upheld as constitutional. *Bhd. of Locomotive Firemen and Engineers* v. *Chicago, B.&O. R.R.*, 331 F.2d 1020 (D.C. Cir. 1964), *cert. denied*, 377 U.S. 918 (1964).]

Shop Craft Disputes, 1967

[Recommendations of PEB and further efforts by government officials to mediate a settlement were unsuccessful, leading to legislation.]

Pub. L. No. 90-10—return to status quo and 20-day extension of section 10 cooling-off period; during this period, President established Special Mediation Panel which made a settlement proposal to the parties with no success.

Pub. L. No. 90-13—further extension of cooling-off period for 47 days [with no success].

Pub. L. No. 90-54—Special Board established (NMB to provide staff, compensation), which recommendations would become binding if parties unable to reach agreement and remain in effect for not to exceed two years. [Special Board award required to settle dispute].

Shop Craft Dispute, 1968-1970

Pub. L. No. 91-203—37-day extension of section 10 cooling-off period.

Pub. L. No. 91-226—imposition of Memorandum of Agreement between unions and carriers (that one of the unions had failed to ratify).

Four Union Dispute, 1970-1971 (Pub. L. No. 91-541)

80-day extension of section 10 cooling-off period.

Pattern wage settlement imposed by law.

President to make recommendations for settlement. [Agreements reached with two of unions during cooling-off period and two after President made recommendations.]

[Legislation upheld as constitutional. *Louisville & Nashville R.R.* v. *Bass*, 328 F.Supp. 732 (W.D. Ky. 1971).]

Signalmen Dispute, 1971 (Pub. L. No. 92-17)

4½ month extension of section 10 cooling-off period.

Secretaries of Labor, Transportation and Defense to make reports on impact of dispute.

Retroactive age increases imposed by law (at levels consistent with PEB recommendations). [Settled]

UTU/Penn Central Dispute, 1973 (Pub. L. No. 93-5)

35-day extension of section 10 cooling-off period.

Secretary of Transportation to submit report to Congress on essential transportation services.

Secretary of Labor to submit report to Congress with recommendations for solution of dispute.

BLE Dispute, 1982 (Pub. L. No. 97-262)

[BLE and UTU failed to reach agreements and two PEBs were convened. UTU settled its dispute, but BLE did not and a national strike resulted.]

Return to status quo.

PEB recommendations imposed.

BMWE/Maine Central, Dispute, 1986

Pub. L. No. 99-385—60-day extension of section 10 cooling-off period. Special Board (appointed by NMB) to submit report.

[Carrier's argument that the legislation violated the equal protection component of the Fifth Amendment was rejected. *Maine Central R.R. v. Bhd. of Maintenance of Way Employees*, 813 F.2d 484 (1st Cir. 1987), *cert. denied*, 484 U.S. 825 (1987).]

Pub. L. No. 99-431—upon parties continued failure to reach an agreement, Congress followed the Special Board's advice by imposing the PEB's recommendations on the parties. Any unresolved implementing issues remaining after 10 days to be resolved by binding arbitration (NMB appointed arbitrator); arbitration to be completed within 30 days of enactment of the Act.

[Carrier's attack that legislation violated due process clause of the 5th Amendment and the separation of powers doctrine was rejected. *Maine Central RR. v. Bhd. of Maintenance of Way Employees*, 835 F.2d 368 (1st Cir. 1987), *cert. denied*, 486 U.S. 1042 (1988).]

Long Island Labor Disputes, 1987 (Pub. L. No. 100-2)

60-day extension of section 10 cooling-off period.

NMB to establish 3-member board which was to report to Congress 10 days before expiration of cooling-off period on the progress of negotiations and make recommendations for solution of dispute.

UTU/C&NW Labor Dispute, 1988

Pub. L. No. 100-380—35-day extension of section 10 cooling-off period (until 10/9/88); on 10/9/88, UTU went back on strike.

Pub. L. No. 100-429—settled dispute by imposing recommendations of PEB.

[Eastern Airline/IAM Dispute, 1989]

President refused to convene PEB despite recommendation of NMB, or to approve legislation providing for the creation of a Congressional study commission.

In face of strike, the carrier hired replacement workers.

The President threatened to send secondary picketing bill to Congress if the unions carried out their threat to engage in secondary picketing. Threatened secondary picketing of various railroads (Long Island Railroad, Metro North, New Jersey Transit, PATH, Amtrak, SEPTA) and various airlines (United, Northwest, TWA, USAir/Piedmont, American and Northwest) was enjoined by various U.S. District Courts; courts found the matter to be a minor dispute subject to arbitration under Section 3 of RLA.

National Health & Welfare/Wages & Work Rule Dispute of 1990 (Pub. L. No. 102-29, April 18, 1991, 105 Stat. 169)

PEB 219 studied issues for eight months; three unions (Bhd. of Railroad Signalman, American Train Dispatchers Ass'n, and Transp. Communications Int'l Union) negotiated tentative agreements based on report.

Remaining eight bargaining units commenced nationwide rail strike on April 17.

Congress created three-member Special Board to consider requests to (i) interpret or (ii) modify recommendations of PEB 219, but only if presumption of validity was overcome by party seeking modification. To overcome presumption party needed to show that PEB recommendation was demonstrably inequitable, or was based on a material error or material misunderstanding. Special Board granted very limited modifications.

[Statute was upheld as constitutional; UTU asserted that reopening of local crew consist agreements constituted taking. *Burlington N. R.R. Co.* v. *United Transp. Union*, Civil Action No. 91-1851 (D.D.C. 1991)]

Mr. DOLE. Mr. President, I think this might be of help to those who read the RECORD to have a chance to see what has happened in the past. It is also my understanding that about 95 percent of the workers have already settled about a year ago—last year in connection with PEB 219 and congressional action. So you have about 5 percent holding out who want a better deal than the other workers received.

I am not trying to take anything away from the worker or anything away from management. I am just trying to forestall a strike. There are hundreds and thousands and millions of people who are going to be hurt by this beyond the workers and management.

I would hope and I would think the Senator from Ohio would want to join in any effort to forestall a strike. I am not taking away anybody's rights. I have not said anything about taking away anybody's rights. There is not a thing in the amendment about that. There is nothing to say we are taking away the rights of either side, management or labor.

It does indicate we would like very much to have a disposition of this before midnight tonight.

I hope that if the motion to table is made, and I will ask for the yeas and nays on that motion when it is made, that it will be defeated and we will adopt this sense-of-the-Senate resolution.

The PRESIDING OFFICER. The distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, when I spoke before, I was not certain about one of my facts. I want to make one fact clear. All of the 20,000 workers who are involved in this labor dispute, both with Conrail and Amtrak, and the other rail carriers, have gone without a pay raise for 4 years. If you vote to support the Dole amendment you are impliedly indicating you think that is OK.

This Senator does not think that is OK. This Senator thinks that the parties ought to still be able to try to resolve their disputes, and if the Congress is going to intervene, yes, indeed, maybe the Labor Committee should be holding some hearings in order to see what all the facts and the issues are. I do not think we ought to indicate this afternoon we are on one side or the other.

Mr. DOLE. Mr. President, if the Senator will yield, let me make it very clear for the RECORD, in case anybody should read the RECORD, that is not the intent of this Senator. I am not suggesting that we should not have an increase in pay for some of the workers. Indeed, I understand that the PEB reports recommended pay increases. I am suggesting we should not have a strike; we ought to avert a strike.

They may end up with increases. Hopefully they will end up with an increase. That is not the issue I am addressing. The issue is, if we do want a nationwide strike, a lot of innocent people not involved in these negotiations will bear the consequences; they are farmers, workers, a lot of people in organized labor, a lot of people in the private sector, a lot of people in other industries, a lot of people on the farm, and business, that I think we ought to at least take into consideration their interest, too. And all this does is to send, I think, a pretty good signal. It was when I started about 8 hours and 10 minutes ago. They still have 7 hours and 58 minutes; midnight tonight. A lot can be done. I would hope the Labor Committees in the House and Senate would meet this afternoon so they would again indicate to management and labor, both, that this is serious business and we ought to try to resolve it.

I thank the Senator from Ohio for yielding.

Mr. DURENBERGER. Mr. President, I support the Dole amendment that expresses the sense of the Senate that Congress should act quickly to end the rail strike that we expect to occur at midnight tonight. This strike will hurt Minnesota's economy, and I cannot stand by while the Nation's economic recovery is threatened due to a labor dispute in our rail system.

I encourage the parties to settle their dispute privately. That is the purpose of our collective bargaining system. But when the parties do not come together to reach agreement and the disruption threatens our economy, Congress must intervene.

Mr. President, I also want to indicate that, in my view, there is substantial inequity in allowing the parties that are threatening to strike tonight to break from what the Presidential emergency boards [PEB 220-222] recommended to settle the dispute. Let me explain.

In this case, the parties have already bargained to impasse, and the President, pursuant to his authority under the Railway Labor Act, appointed a Presidential emergency board to take testimony and issue its recommendations.

Both labor and the carriers agreed to the members of the emergency board. All parties had an opportunity to present their case before the emergency board. And the board deliberated and made their best recommendation on how the parties should settle their dispute.

The emergency board's recommendations are not binding on the parties. The board considered all the facts and circumstances of the case, but the parties cannot seem to come to some agreement on how to use the board's recommendations to solve this problem.

The PEB did not deliberate on a clean slate, however. Last year, 95 percent of the rail unions reached agreement privately or as a result of congressional action. During last year's dispute, a PEB, called PEB 219, studied the issues and made recommendations. Ninety-five percent of the rail industry settled their labor contracts last year based upon PEB 219.

Some labor organizations utilized PEB 219's recommendations to reach agreement. And some were covered by the congressional action that imposed the neutral board's recommendations on the parties. But the important thing is that 95 percent of the industry settled their disputes last year.

Mr. President, I want to encourage parties to settle their disputes. I want to encourage parties to mutually compromise in order to reach agreement. And that is what 95 percent of the rail industry did last year.

The 5 percent who are threatening to strike tonight are the holdouts from last year. They waited on the sidelines to see how the 95 percent did. The 5 percent opted out of the national negotiations last year in order to try to obtain more for their membership. I do not blame them for trying to obtain that, but I also do not think that we should encourage them.

Mr. President, if we are to encourage settlement, we cannot give 5 percent of the industry more than the 95 percent received. Otherwise, no party will ever settle his or her dispute.

Again, I encourage the parties to settle their dispute privately without a strike. But in the event a strike occurs, then I urge my colleagues to act quickly to settle the matter.

Mr. President, I would like to make a few additional comments to explain my support of the Dole amendment. A national rail strike would have devastating consequences for Minnesota as well as the country. Burlington Northern, a major rail carrier in Minnesota, has about 340,000 carloads that originate in my State, and about 300,000 carloads that terminate in my State. That is a great deal of cargo. The rail strike clearly will have a strong impact on Minnesota's economy.

In addition, I heard this afternoon during the debate on this sense of the Senate resolution, that some people are claiming that a vote for the Dole amendment is a vote against giving the workers a pay increase. That is simply not the case.

In the past, when Congress has acted, we have, in some form or another, ordered the parties to utilize the Presidential emergency board recommendations as the basis for a new contract. In this case, the Presidential emergency boards [PEB 220-222] basically recommended that the parties receive the same increase that the rail unions received last year when they went on strike; that is, a $2,000 signing bonus, and a 3 to 4 percent cost-of-living increase.

I do not see the Dole amendment as a vote against giving rail workers a cost-of-living increase. Rather, in my view, the Dole amendment encourages the Congress to act quickly to avoid a national economic calamity. My hope is that when the Senate acts, it will utilize the Presidential emergency board recommendations as the basis for a settlement, and those recommendations clearly provide for pay raises for rail workers involved in this dispute.

Mr. SPECTER. Mr. President, I am voting against tabling the Dole amendment to encourage Congress to act to avert the threatened rail strike because I believe that further consideration and further debate is necessary on this important subject.

We are considering this issue on the afternoon where a strike has been called for 12:01 a.m., approximately 8 hours from now. This Nation faces a very serious shutdown of Amtrak and Conrail which could imperil millions of passengers and disrupt shipments of millions of tons of freight. It is estimated that industrial operations and commuter rail service to 500 communities in 45 States would be adversely affected.

This is a delicate matter because it is desirable to give the parties a full opportunity to settle this labor dispute without governmental intervention. It is possible that any vote on this issue might be viewed as upsetting that delicate balance. Disposition of the Dole amendment prior to the midnight deadline would send to the negotiating parties one or another unfortunate signals. Should the Dole amendment be tabled, it will be perceived that the Senate favors the union's positions. Should the Dole amendment be accepted, it will be perceived that the Senate favors the carrier's positions. Neither of these scenarios is productive, but further debate and deliberation are useful.

I believe we should debate the matter fully. Therefore, I am opposing the motion to table with the hope that the Senate will conduct further debate.

This matter is of sufficient significance for the Senate to give extended consideration to this issue for the balance of today's session, awaiting the outcome of late night negotiations and then into tomorrow's session.

Should a strike occur, Congress will be confronted with the issue of whether to involve itself in a labor dispute. Last April, the Congress enacted, and the President signed, legislation to stop a strike less than 24 hours after it began. It is my understanding that Congress has intervened to stop 12 similar rail strikes since 1963, most of them nationwide, but others confined to single railroad companies. That legislative history is a forceful statement by the Congress on the public policy of not permitting such strikes.

It should be noted that in 1991, I wrote to Chairman Cleary of the National Mediation Board requesting that a new catalyst be found to settle the dispute. Most recently, on June 11, I wrote to the Chairman of Conrail and Amtrak urging that positive steps be taken to reach a settlement before the deadline. I have listened hard to the concerns of both the unions and the carriers. In my opinion, we should consider this issue at greater length so I am voting against the tabling motion.

The PRESIDING OFFICER. The distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The distinguished Senator from Ohio moves to lay the amendment on the table.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment offered by the distinguished Republican leader. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—39

Adams
Akaka
Baucus
Biden
Bingaman
Bradley
Burdick
Byrd
Conrad
Cranston
Daschle
Dodd
Exon
Glenn
Gore
Harkin
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—58

Bentsen
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—3

Helms
Roth
Sanford

So the motion to lay on the table the amendment (No. 2438) was rejected.

Mr. DOLE. Mr. President, as I understand it, the yeas and nays have been ordered on the amendment. I ask unanimous consent that they be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the distinguished Republican leader.

The amendment (No. 2438) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Michigan.

Mr. RIEGLE. Mr. President, before Senator DOLE offered his sense-of-the-Senate resolution, I sent to the desk the managers' amendment which is presently before the Senate, which is an amendment to incorporate some provisions previously passed by the Senate but not yet passed by the House, as well as some technical and other minor changes to the GSE bill currently under consideration.

Amendments previously passed include:

First, a provision to clarify that directors of an insured depository institution are not liable to the institution's shareholders or creditors for acquiescing to the appointment of a conservator or receiver or to a supervisory merger;

Second, a provision to allow financial institution regulators to create a small loan exemption from the requirement to obtain appraisals on collateral, if such exemption is in the public interest;

Third, a provision limiting the liability of U.S. banks for deposits at a foreign branch if the branch is unable to repay the deposits due to war or an action of a foreign government;

Fourth, a provision clarifying that branches of foreign banks may accept certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches as permitted by regulation before the FDIC Improvements Act;

Fifth, a provision clarifying that Federal banking agencies may not set a specific level or range of compensation for officers, directors, or employees of banks;

Sixth, a provision extending for 4 months a transition rule in FIRREA for the separate capitalization of savings associations' subsidiaries;

Seventh, a provision extending to 5 years the statute of limitations for civil suits brought by the RTC;

Eighth, the money laundering provisions in titles IX and XI of last year's banking bill with additional provisions to deter counterfeiting;

Ninth, an amendment to the Banking Committee's provisions to establish an insurance commission, as worked out in last year's banking bill by Senators METZENBAUM and DODD;

Tenth, a provision worked out with Senators HARKIN and GRASSLEY similar to section 1163 of last year's banking bill that would allow the FDIC to waive its authority to repudiate contracts for the sale of credit card operations by undercapitalized depository institutions; and

Eleventh, the lender liability provisions of title X of last year's Senate-passed banking bill, with minor changes to conform more closely with a recently issued EPA rule.

In addition, this managers' amendment includes:

First, additional safeguards to the provisions in the committee bill regarding the community development authority of banks;

Second, a provision worked out with Senator LEVIN regarding the authority of the Director of Federal Housing Enterprise Oversight to prohibit excessive compensation at GSE's;

Third, a sense of the Senate resolution authored by Senator KOHL that any final GSE legislation should not compromise the independence granted to the GSE regulator provided in the Senate's bill;

Fourth, an amendment of Senator DOLE'S to the subject matter of the studies of the Home Loan Bank System in the committee bill that would require consideration of the effect of consolidation of that system on affordable housing in rural areas;

Fifth, an amendment of Senator SIMPSON'S that would exclude loans backed by Treasury collateral from the insider loan limits in the Federal Reserve Act;

Sixth, changes in the committee's bill requested by the administration to give OMB authority to review the GSE regulator's budget and to require use of the Justice Department's litigating services;

Seventh, an amendment of Senator MACK'S to expand the study of the secondary market for commercial mortgages to include business loans; and

Eighth, a provision to amend the collateral requirements for loans by Federal Home Loan Banks to State housing finance agencies.

I think these are all excellent provisions. Most have already passed the Senate, and the others should not be controversial. I ask unanimous consent to insert some further explanatory material concerning this amendment into the RECORD.

AMENDMENT TO THE INTERNATIONAL BANKING ACT OF 1978

The managers' amendment that Senator GARN and I have agreed should be added to this bill makes a technical correction to section 214(a)(3) of last year's banking bill. That provision added a new subsection (c) to the International Banking Act of 1978 which requires foreign banks to take insured deposits in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank. I pushed for enactment of that provision in order to better safeguard the bank insurance fund and the American taxpayers who back it from losses that might be suffered by U.S. branches of foreign banks whose full operations U.S. bank regulators do not oversee or control.

Concerns have been expressed by the Federal Reserve Board, other regulators and some State officials that section 214(a)(3) could be interpreted to prevent branches and agencies of foreign banks from accepting certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches. It was not my intention in sponsoring section 214(a) to void regulations promulgated by the FDIC and OCC that permit them to do so. This technical amendment will clarify that matter. It will not, however, remove the discretion of the responsible agencies to revise their regulations governing nonretail deposit accounts under $100,000 if such revision is deemed appropriate. In fact, I expect the regulators to review those regulations to determine if all provisions of them are warranted.

This is the same technical correction to section 214(a)(3) of last year's banking bill that the Senate passed on March 26 as S. 2482 a bill that provided funding for the Resolution Trust Corporation [RTC]. Final passage of that bill has been delayed in the House.

EXPLANATION OF AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978

The section of the manager's amendment entitled "Amendment to International Banking Act of 1978" makes a technical correction to section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991, which added section 6(c) to the International Banking Act. That section requires foreign banks to take deposits of less than $100,000 that require deposit insurance in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank. This technical amendment recommended by the Board of Governors of the Federal Reserve System clarifies that section 6(c) applies only to domestic retail deposits. Therefore its enactment does not moot regulations promulgated by the OCC and FDIC that permit foreign banks to take certain types of nonretail deposits of less than $100,000 that are not insured in their wholesale branches. See 12 CFR 28.8 and 12 CFR 346.6. The amendment does not remove the discretion of responsible agencies to revise current regulations governing nonretail deposit accounts under $100,000 if such revision were deemed appropriate.

PROHIBITING EXCESSIVE COMPENSATION AT GSES

The manager's amendment adds a section that requires the Director of the Office of Federal Housing Enterprise Oversight to prohibit enterprises from paying excessive compensation to any executive officer. Because this is an issue that concerns the financial health and security of the enterprises, the Director may act on this section without the HUD Secretary's review or approval. The definition of compensation is extremely broad, and includes all forms of compensation. The phrase "termination of employment" as used in this section or in title VI is also broad. It covers any circumstance in which an executive officer's employment terminates, including the officer's retirement. One of the factors to be considered in evaluating whether compensation is excessive is compensation at comparable publicly held financial institutions. "Comparable publicly held financial institutions" in this section or in title VI means comparable publicly held FDIC-insured depository institutions and other Government-sponsored enterprises.

COMMUNITY DEVELOPMENT AUTHORITY OF BANKS

Section 905 of the bill authorizes national banks and State member banks to make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities and families. The appropriate Federal agency—the Comptroller of the Currency for national banks, and the Federal Reserve Board for State member banks—must impose per-project and aggregate limits on such investments. In no case can such investments exceed 10 percent of a bank's capital.

The requirement that investments primarily promote the public welfare is crucial. Section 905 is not intended to authorize entrepreneurial investments in community development clothing.

The manager's amendment provides several additional safeguards. First, a bank can make aggregate investment exceeding 5 percent of the bank's capital only if the bank is adequately capitalized, as defined in section 38(b)(1)(B) of the Federal Deposit Insurance Act, and the agency has determined by order that the higher amount will pose no significant risk of loss to the affected deposit insurance fund. Second, the amendment clarifies that the bank cannot use this authority to make investments that would expose the bank to unlimited liability.

National banks have heretofore made community development investments under the eight paragraph of section 5136 of the Revised Statutes, which authorizes national banks to contribute to community funds or to charitable, philanthropic, or benevolent instrumentalities conducive to the public welfare. Section 905 adds a new eleventh paragraph to section 5136. In so doing, section 905 contemplates that banks would make future investments under the 11th rather than the 8th paragraph and that existing investments—insofar as they comply with the 11th paragraph—could continue under that paragraph without the formality of reauthorization.

In the case of State member banks section 905 specifies that the Federal Reserve Act does not prohibit State member banks from making community developments investments of the type specified, to the extent permissible under State law. Section 905 does not authorize a State member bank to make any investment not permissible under State law.

MONEY LAUNDERING AMENDMENT

In November 1991, the Senate included money laundering improvements provisions in its comprehensive banking bill, but these provisions were not adopted in conference. This amendment would authorize regulatory sanctions against financial institutions convicted of money laundering, and it would strengthen money laundering requirements as they apply to nonbank financial institutions. This amendment would also enhance the ability of the Justice Department to use civil forfeiture statutes in money laundering cases, as well as, make other technical changes to strengthen money laundering laws.

THE MURKOWSKI TRUTH IN SAVINGS AMENDMENT TO S. 2733

Let me describe the changes provided by the Murkowski amendment.

First, the amendment would change the notice and disclosure provisions of the Truth in Savings Act with respect to maturing certificates of deposit [CD's].

The act requires banks to provide, 30 days in advance of the expiration of a CD, a notice of when the CD will expire, and to disclose all the information about the terms and conditions that will apply. These disclosures are the same as those required with respect to new CD's.

The bill would replace these requirements with a four-tier approach. For CD's with a maturity date of 1 month or less, the Board may establish any notice and disclosure requirements it believes are needed. The Board is given broad discretion for these particular CD's because the purchasers of most of them are sophisticated depositors who are well aware of the key elements of such instruments.

For CD's with a maturity date of greater than 1 month but no more than three, the amendment permits the Fed to determine the appropriate time for notice that the certificate is rolling over. The amendment provides that the renewal notice must state: the maturity date of the expiring time deposit; the maturity date or the term of the renewed time deposit; any penalty for early withdrawal; any change to the terms or conditions that would be adverse to the customer with an exception; the date the APY and simple rate of interest will be determined; and a telephone number to obtain the APY and simple rate of interest that will be paid when the account is renewed.

For CD's that have a maturity of more than 3 months and less than 2 years, a bank must provide the depositor with a renewal notice not later than 15 days before the date of maturity. The notice must contain the same elements as are required for CD's of more than 1 month but no more than 3 months.

Finally, for renewable CD's with a maturity date of 2 years or more, the renewal notice must be provided not later than 15 days before the date of maturity, but, because of the lengthy maturity, the bank must provide the depositor with all the disclosures required for new account holders.

The second set of changes deals with the use of signs, including rate boards, that disclose a rate of interest and that are displayed on the premises of depository institutions. The amendment would permit the continued use of such signs—without requiring the disclosure of additional terms and conditions—under two circumstances.

First, the sign must display the accompanying annual percentage yields.

Second, the display sign must include a statement that the consumer should request further information from an employee of the bank about the fees and terms of the account being offered.

Depository institutions may avail themselves of this exception to the disclosure provisions so long as the sign is designed to be viewed only from the interior of the depository institution's premises. This means the sign is located inside the bank and designed for use by consumers there. What it does not mean—and what is not authorized by the amendment—is that a depository institution could post such a sign on or next to a window so that the information can be read easily from outside. The reason the exception does not reach that situation is because consumers would not have ready access to all the required disclosures, particularly when the institution is closed. Any information provided to people outside the institution would be just like any other solicitation and would require the disclosure of all information required under section 263 of the act.

Finally, the amendment would give depository institutions an additional 3 months to comply with the Fed's regulations.

I have a summary of a number of items in that managers' amendment and I ask unanimous consent that these now be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE MONEY LAUNDERING BILL—SUMMARY

This bill would strengthen the money laundering requirements as they apply to nonbank financial institutions, and would authorize regulatory sanctions against financial institutions convicted of money laundering. The bill also includes certain law enforcement provisions recommended by the Justice Department that would address some of the issues raised in the BCCI forfeiture action and generally forestall situations where the government ends up turning money or property back to criminals.

The text of this bill has already been passed by the Senate in last year's bank bill, but it was not cleared out of conference. The House separately passed H.R. 26, which has been discharged by the Senate Banking Committee and can be called up from the Senate calendar. The banking regulators, the Justice Department and the Treasury Department support this bill.

Bill highlights by title:

TITLE I—TERMINATION OF CHARTERS, INSURANCE AND OFFICES

Provides for the revocation of the charters of federally-chartered institutions and the termination of insurance for state-chartered financial institutions convicted of money laundering, after a hearing and due process.

Allows state financial institution supervisory agencies access to currency transaction reports maintained by the Treasury Department.

TITLE II—NONBANK FINANCIAL INSTITUTIONS AND GENERAL PROVISIONS

Requires the Treasury to prescribe regulations by January 1, 1993 which would require depository institutions to identify certain nonbank financial institution customers.

Provides the Treasury with the authority to require financial institutions and their management and employees to keep the existence of targeted currency orders confidential.

Requires the Treasury and the Federal Reserve to prescribe regulations requiring all financial institutions, including businesses that cash checks or issue money orders or travelers' checks, to maintain records of payment orders that involve international wire transfer transactions and will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

Authorizes the Treasury to require nonbank financial institutions to report, without fear of liability, suspicious transactions relevant to possible violations of law or regulation.

Requires the Attorney General to report on whether the issuance of guidelines for the prosecution of financial institutions would enhance cooperation by financial institutions with law enforcement authorities.

Requires the Treasury to establish a team of experts to assist and train foreign governments in developing their expertise in money laundering investigations and prosecutions.

Requires the President to submit an annual report detailing bilateral and multilateral initiatives to combat money laundering.

TITLE III—MONEY LAUNDERING IMPROVEMENTS

The first four sections of Title III provide new procedures that would enhance the ability of the Department of Justice to use the civil forfeiture statutes in money laundering cases. The forfeiture procedures under existing law may be satisfactory for customs cases, but they are not appropriate, and were not designed to be used, in complex financial cases involving bank records, electronic funds, and the complex transactions that often are central to money laundering activity.

The remainder of Title III addresses problems that have arisen with the use of existing money laundering laws, as well as removes obstacles in other statutes that unnecessarily limit the Justice Department's ability to use the money laundering statutes.

TITLE IV—REPORTS AND MISCELLANEOUS

Requires the Attorney General to conduct a study of the effects of reimbursing financial institutions and non-depository entities for providing financial records.

Clarifies that inter-agency sharing of information among the Federal bank regulatory agencies does not result in the loss of any applicable legal privileges, and requires U.S. agencies promptly to share any information affecting the safety and soundness of the U.S. banking system with the proper Federal banking agencies.

Provides the Federal Reserve Board of Governors, in conjunction with the Department of Justice, the power to grant limited immunity to witnesses.

TITLE V—COUNTERFEITING DETERRENCE

Title V amends the counterfeiting statutes by increasing the sanctions that may be imposed against convicted counterfeiters, by providing the Secretary of the Treasury with the authority to designate "distinctive counterfeit deterrents" which may not be used by the general public, and by clarifying the scope of existing counterfeiting statutes to encompass electronic means of counterfeiting.

AMENDMENT

(Purpose: To propose an amendment to the Constitution of the United States to require that the budget of the United States be in balance unless three-fifths of the whole of each House of Congress shall provide by law for a specific excess of outlays over receipts and to require that any bill to increase revenues must be approved by a majority of the whole number of each House)

Strike all after the enacting clause and insert in lieu thereof the following:

"That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"'ARTICLE —

"'SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"'SECTION 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"'SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"'SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"'SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"'SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"'SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principle.

"'SECTION 8. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after its ratification, whichever is later.'".

SENATE MONEY LAUNDERING BILL—SECTION-BY-SECTION ANALYSIS

Sec. 1. The Act may be cited as the Financial Institutions Enforcement Improvements Act.

TITLE I—TERMINATION OF CHARTERS, INSURANCE, AND OFFICES

Sec. 101. After the conviction of a Federally chartered financial institution for money laundering, the OCC, NCUA, or OTS shall hold a hearing to decide whether to revoke the charter of the institution. The regulator shall consider: the degree to which senior management was involved; whether the interest of the local community would be threatened by loss of the franchise; the degree to which the institution cooperated with law enforcement officials; whether there will be any losses to any Federal deposit insurance fund or the RTC; and whether the institution had policies and procedures designed to prevent money laundering that exceeded the federally required minimums.

After the conviction of a Federally chartered financial institution for bank secrecy act violations (31 U.S.C. §5322), the appropriate Federal regulator may hold a hearing to decide whether to revoke the institution's charter. The factors set forth above are to be considered at the hearing.

Sec. 102. In the case of State chartered financial institutions, the FDIC or NCUA shall issue a notice of intention to terminate insurance and conduct a hearing considering the same factors set forth above in section 101 for criminal convictions of the money laundering statutes and may issue a notice of intention to terminate insurance where a state chartered financial institution is convicted of a violation of the bank secrecy act. The factors set forth above in §101 are to be considered at the hearing.

Sec. 103. The appropriate Federal regulator may initiate a removal action against: an institution-affiliated party (IAP) for violating the Bank Secrecy Act; an officer or director of an insured depository institution where that person knew that an IAP of the insured depository institution violated any provision of the criminal money laundering or structuring statutes; or an officer or director of an insured depository institution where that individual committed a violation of the Depository Institution Management Interlocks Act which generally prohibits dual service of management officials at financial institutions in the same geographic area and for large financial institutions.

The appropriate Federal regulator may suspend an IAP who is charged with a felony involving dishonesty or breach of trust or a criminal violation of the money laundering or structuring statutes.

Sec. 104. Amends existing law to bar individuals from all federally insured financial institutions not only if they have been convicted of crimes of dishonesty and breach of trust, but also if convicted of money laundering.

Sec. 105. State financial institution supervisory agencies shall have access to currency transaction reports maintained by the Department of the Treasury.

Sec. 106. Authorizes the Federal Reserve to initiate a termination proceeding where a foreign bank operating a State agency, State branch, or State commercial lending subsidiary, or any of the directors or senior executive officers of one of those entities is found guilty of a money laundering offense.

TITLE II—NONBANK FINANCIAL INSTITUTIONS AND GENERAL PROVISIONS

Sec. 201. Requires the Treasury to prescribe regulations by January 1, 1993 which would require depository institutions to identify certain nonbank financial institution customers. Civil penalties of up to $10,000 per day against any person or depository institution may be imposed for willful violations.

Sec. 202. Establishes a new crime, subject to fines and imprisonment of up to five years, or both, for conducting, controlling, managing, supervising, directing, or owning all or part of a business knowing the business is an illegal money transmitting business. The section also permits criminal as well as civil forfeiture of the proceeds of an illegal money transmitting business. An "illegal money transmitting business" is one knowingly operated without the appropriate State license and where such operation is a misdemeanor or felony under State law.

Sec. 203. Amends the compliance procedures section of the Bank Secrecy Act by allowing the Treasury to require domestic financial institutions to maintain appropriate procedures to guard against money laundering in addition to generally ensuring compliance with the Bank Secrecy Act.

Sec. 204. Provides the Treasury with the authority to require financial institutions to keep the existence of targeted currency orders confidential.

Sec. 205. Before October 1, 1992, the Treasury and the Federal Reserve are required to jointly prescribe regulations requiring all financial institutions, including businesses that provide check cashing services and businesses that issue or redeem money orders and travelers' checks, to maintain records of payment orders that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, where wire transfers are used for international transactions. Prior to promulgating regulations, the Treasury and Federal Reserve are to consider the usefulness of the records to be maintained in a criminal, tax, or regulatory proceeding as well as the effect this recordkeeping requirement will have on the cost and the efficiency of the payment system.

Sec. 206. Amends exceptions to Right to Financial Privacy Act to allow the financial regulators to provide financial records to Treasury to investigate money laundering and other financial crimes.

Sec. 207. Broadens the scope of the antistructuring provision of the Bank Secrecy Act to include structuring transactions designed to evade the customer identification provision of the Act. Authorizes Treasury to require nonbank financial institutions to report suspicious transactions relevant to possible violations of law or regulation. Prohibits nonbank financial institutions that voluntarily report suspicious transactions from notifying persons involved in the transaction of the filing of a referral. Amends the Right to Financial Privacy Act to exclude from liability any nonbank financial institution that voluntarily discloses possible violations of law or regulation. Authorizes Treasury to require nonbank financial institutions to carry out anti-money laundering programs.

Sec. 208. Requires Treasury to report to the House and Senate Banking Committees, not later than 90 days after enactment of this Act, on the advantages and disadvantages for money laundering enforcement of modifying the color, size or denominations of U.S. currency.

Sec. 209. Requires the Attorney General to issue a report to Congress, not later than six months after the date of enactment of this Act, with recommendations whether the issuance of guidelines for the prosecution of financial institutions would enhance cooperation by those institutions with the money laundering and bank secrecy statutes, the criminal referral reporting requirements, and cooperation with law enforcement authorities generally.

Sec. 210. Requires Treasury to establish a team of experts to assist and train foreign governments in developing their expertise in money laundering investigations and prosecutions. Authorizes $1 million to be appropriated to carry out this section.

Sec. 211. To combat international money laundering, objective of the U.S. is to ensure that other countries adopt comprehensive measures against money laundering and cooperate with each other in investigations, prosecutions, and forfeiture actions. Requires the President to submit an annual report detailing bilateral and multilateral initiatives, and requires that report to detail for each major drug producing and drug transit country, the efforts taken to combat narcotics-related money laundering and, where applicable, instances of noncooperation with U.S. actions in this area.

TITLE III—MONEY LAUNDERING IMPROVEMENTS

Background

The first four sections of Title III contain new procedures that would enhance the ability of the Department of Justice to use the civil forfeiture statutes in money laundering cases. The civil forfeiture statutes were derived from the customs laws and with minor changes have been applied to drug forfeiture cases for the past decade. The procedures under existing law may be adequate when used to forfeit such things as vehicles, vessels, aircraft, cash and real property, but they are not appropriate, and were not designed to be used, in complex financial cases involving bank records, electronic funds, and the complex transactions that often are central to money laundering activity. Thus, sections 301–304 address the need to craft procedural statutes that are geared toward money laundering cases.

Sec. 301. Relates to the jurisdiction and venue in civil forfeiture cases and provides that civil forfeiture actions may be brought in the district where the illegal acts giving rise to forfeiture occurred. In a money laundering case involving funds on deposit in bank accounts, for example, this would allow a single case to be brought in the district where the money laundering offense occurred even if, as is often the case, the money launderer has placed the laundered property in numerous different banks throughout the United States. In contrast, current law requires the government to file a separate civil action in each of the districts where the property is located.

Sec. 302. Facilitates the forfeiture of electronic funds in a bank account. Current law limits civil forfeiture to the actual property involved in the underlying offense. As applied to money laundering cases, this means that the government can forfeit electronic funds only when an accountant can directly trace the funds on deposit at the time of the lawsuit to the earlier illegal activity. For this reason, tainted funds deposited into highly active accounts often cannot be forfeited. For example, if a money launderer puts $1 million in "dirty" money into his account on Monday, removes it on Tuesday, and deposits $1 million in funds from an unknown source on Wednesday, none of the funds can be forfeited. The proposal remedies this by relaxing the tracing requirement in the case of electronic funds.

Sec. 303. Allows the Attorney General to issue administrative subpoenas to gather evidence in civil forfeiture investigations. As you know, grand jury subpoenas can be used to gather evidence only in contemplation of bringing criminal charges. In forfeiture cases, where the government, from the outset, intends to proceed civilly, there is no corresponding way to compel the production of evidence. Congress has recognized in the past that where it has given the Attorney General the authority to enforce the law through civil actions there needs to be a means of gathering evidence. The proposal in Section 303 is, in fact, substantially identical to the administrative subpoena provision enacted in FIRREA in 1989 in conjunction with the civil enforcement statutes relating to bank fraud.

Sec. 304. Simplifies the procedure for gathering bank records in a forfeiture case once the forfeiture action is filed. Under current law, the only way to gather such records is pursuant to a deposition of a bank records custodian under the Federal Rules of Civil Procedure. This is a cumbersome process, since the subpoena must be issued, and the deposition must be noticed and taken, in the district where the custodian resides. The proposal eliminates the need to involve courts and prosecutors in other districts in the discovery process by providing for the issuance of subpoenas for bank records by the clerk of the court in the district where the forfeiture action is pending.

Additional Background

The remainder of this title contains a number of miscellaneous improvements to the money laundering statutes that were enacted in the Money Laundering Control Act of 1986. Basically, these proposals address problems with the existing laws that have been encountered as prosecutors have learned to use the statutes and courts have begun to interpret them. Sections 305-318 also contain provisions designed to remove obstacles in other statutes that unnecessarily limit the Justice Department's ability to use the money laundering statutes.

Sec. 305. Repeals a provision enacted in the Crime Control Act of 1990 that could have the unintended effect of limiting the ability of the government to prosecute those who launder the proceeds of mail and wire fraud schemes. The repeal of the provision clarifies that Congress had only intended to emphasize the importance of applying the money laundering statutes in bank fraud cases, and had not intended to foreclose the use of those statutes in all other fraud cases.

Sec. 306. Makes it a crime to structure financial transactions with the intent of evading the CMIR reporting requirements. This provision tracks the language of the current statute relating to structuring transactions to evade the CTR requirement.

Sec. 307. Clarifies ambiguous language in sections 1956 and 1957 of Title 18 regarding the definition of "financial institution." The purpose of the clarification is to ensure that entities such as car dealers, pawnbrokers, and precious metals dealers are considered financial institutions to that transactions involving such entities are covered by the money laundering statutes as Congress intended.

Sec. 308. Closes a loophole in the definition of "financial transaction" that currently excludes transfers of title to property from prosecution under the money laundering statutes where the transfer does not involve a monetary instrument. For example, the exchange of titles to properties between coconspirators is not currently a money laundering offense, even if one or both of the properties constitutes the proceeds of a criminal offense.

Sec. 309. Amends the obstruction of justice statute to make it a crime to obstruct a money laundering investigation.

Sec. 310. Permits the use of the Assets Forfeiture Fund to pay awards to informants in money laundering cases.

Sec. 311. Raises the penalty for money laundering conspiracy from 5 years to whatever the penalty would be for the substantive offense that was the object of the conspiracy.

Sec. 312. Makes technical amendments to section 1956 of Title 18.

Sec. 313. Amends the Right to Financial Privacy Act to prohibit financial institutions from notifying customers that their account information is the subject of a grand jury subpoena regarding drug trafficking or money laundering. The same prohibition currently exists for subpoenas related to FIRREA investigations.

Sec. 314. Makes a technical change to the definition of "property" in the criminal forfeiture statute for money laundering.

Sec. 315. Expands the money laundering statutes to permit prosecution for laundering the proceeds of foreign bank fraud, kidnapping, robbery and extortion offenses, and to permit the forfeiture of the proceeds of such offenses. Currently, foreign drug offenses are the only foreign crimes covered by these statutes.

Sec. 316. Removes an unnecessary restriction on the ability of Treasury and the Postal Service to dispose of property forfeited by those agencies in an administrative forfeiture proceeding.

Sec. 317. Adds several new predicate offenses to the list of crimes set forth in the definition of "specified unlawful activity" in the money laundering statute. The new predicates include food stamp fraud, theft from the mail, and violations of the Foreign Corrupt Practices Act.

Sec. 318. Makes several minor and technical amendments requested by the Treasury, including a provision to bring attempts to evade the identification requirement regarding cash transactions exceeding $3,000 (enacted in 1988) within the scope of the 1986 anti-structuring statute.

TITLE IV—REPORTS AND MISCELLANEOUS

Sec. 401. Requires the Attorney General to conduct a study of the effects of the provisions in the Right to Financial Privacy Act which authorize reimbursement to financial institutions providing financial records, and of the effects of providing comparable reimbursement to nondepository entities for providing the same type of financial records.

Sec. 402. Requires U.S. agencies promptly to pass any information affecting the safety and soundness of the U.S. banking system to the proper Federal banking agencies. This requirement does not arise in instances involving certain information relating to intelligence matters; criminal investigations; and grand jury investigations.

Sec. 403. Provides the Federal Reserve, in conjunction with the Department of Justice, the power to grant limited immunity to witnesses.

Sec. 404. Clarifies that inter-agency sharing of information among the federal bank regulatory agencies does not result in the loss of any applicable legal privileges. Additionally, clarifies that any sharing of information by federal bank regulatory agencies with any other federal agency does not result in the loss of any applicable legal privileges.

TITLE V—COUNTERFEIT DETERRENCE ACT OF 1992

Sec. 501. Short title.

Sec. 502. In order to increase the deterrent against counterfeiting, the maximum penalties are increased by this section from $5,000 to $50,000 for each violation and the maximum prison sentence for each violation is raised from 15 years to 20 years.

Sec. 502 also refines the definition of "other thing" as used in section 474 of title 18 to encompass electronic methods of counterfeiting. Recent advances in reprographic and computer imaging technology pose a new and substantial threat of counterfeiting. Currency and securities designs can now be read by electro-optical (laser) scanners, which digitalize the image and store it for future use. Once stored, such designs may be reproduced at will.

Sec. 503. In order to combat these new threats of counterfeiting, the Secretary of the Treasury is authorized to adopt a variety of new "distinctive counterfeiting deterrents" that would make U.S. currency and obligations more difficult to counterfeit.

Sec. 503 would also authorize the Secretary of the Treasury: to adopt new distinctive counterfeiting deterrents (e.g., watermarks, seals, and security threads); to criminalize the unauthorized possession of distinctive counterfeit deterrents adopted by the Secretary, as well as the possession of features and devices similar in form to such deterrents; and to amend chapter 25 of title 18, United States Code, to clarify that counterfeiting includes the use of electronic techniques such as electro-optical scanning.

Sec. 504. Amends existing section 504 of title 18, United States Code, to provide that the use of electronic methods, such as laser-generated computer images of U.S. currency and securities, are not permissible reproductions. Section 504 also conforms the counterfeiting statutes with the holding of the Supreme Court in *Regan v. Time, Inc.*, 468 U.S. 641 (1984) (which held as unconstitutional under the First Amendment's guarantee of free speech a limitation in section 504(1)(D) that permitted photographic and certain other reproductions of U.S. government obligations only "for philatelic, numismatic, educational, historical or newsworthy purposes").

Mr. RIEGLE. Mr. President, I know the Senator from Rhode Island has an issue he wishes to raise and the Senator from New Jersey also has an interest in it. Another Senator has indicated that he hopes that that issue could be debated and settled in a time soon so that he can make another commitment that he is obligated to do. I think the Senator who is in that situation has made that interest known to the Senator from Rhode Island. I am not going to take any further time right now.

I am going to in a moment yield the floor so that we might be able to engage that issue and hopefully settle it maybe without a vote, but if a vote is required in a way that can accommodate the Senator from New York, who has indicated he would like to be present for that vote. I yield the floor.

Mr. GARN. Mr. President, last year the Senate passed, as title X of the Federal Deposit Insurance Reform Act—S. 543—a provision I authored to clarify the liability of innocent lenders and Federal banking and lending agencies under our environmental laws. Today, a revised version of that amendment is included in the managers' amendment. The revision takes into account a recently promulgated EPA regulation and has the effect of making the scope of my proposal similar to that of the EPA rule.

The major changes made by this revision may be summarized as follows:

First, as modified, the amendment provides protection for all lenders, not just depository institutions or mortgage lenders. In addition, it now also includes successors and assigns, so that a party purchasing a loan in the secondary market would also have the benefit of this bill. Sureties and title insurance companies are also included within the protected class, as well as persons financing transactions through lease agreements. Fiduciaries are also protected.

Under this modification a lender is defined to include any person that makes a bona fide loan to a nonaffiliated party. A bona fide loan is a loan or extension of credit that is made for a legitimate business purpose. It does not include a sham loan that is made for the purpose of avoiding liability under the Superfund law or other environmental laws, and it is for that reason that the term "bona fide" was added to the amendment. Similarly, a person is acting as a fiduciary in a bona fide capacity if the relationship was created for a legitimate purpose and was not established as a sham in order to avoid liability under the environmental laws.

Second, the amendment clarifies that a lender that causes or significantly contributes to an environmental release would have liability only for the damage the lender is responsible for. This clarifies that if a lender causes part of the problem, he or she would still have protection for the pollution that he did not cause, and would only be liable for damage that he or she is responsible for.

Third, under the Senate-passed bill, the liability of a Federal banking or lending agency under State law was limited to the value of an agency's interest in the contaminated property prior to the cleanup. The amendment now makes clear that in addition, a Federal banking or lending agency may agree with a State agency to transfer the contaminated property to the State in lieu of any other liability that might be imposed under State law.

Fourth, the modified amendment becomes effective on the date of enactment, and therefore applies to any case or controversy not finally adjudicated as of such date.

Mr. President, it is important to keep in mind that there is no conflict between the recently promulgated EPA rule and my amendment. The rule defines terms used in the Superfund law, and clarifies the meaning of an existing secured creditor exemption.

My amendment limits liability under Superfund or other environmental laws, but only if the underlying law would otherwise impose liability. Thus, if a lender is protected under the EPA rule, there would be no need to rely on this legislation. However, if an innocent lender or Government agency is not covered by the rule, it may still be covered by this legislation.

Mr. President, some may argue that since the EPA rule has been promulgated, there is no need for this amendment. I strongly disagree, for several reasons.

One, the rule will no doubt be subject to litigation. While I hope that the EPA will ultimately prevail, it could take years for the question to be finally adjudicated by the courts. In the meanwhile, lenders will be faced with the uncertainty as to whether or not they have the protection afforded by the regulation. Prudent lenders may continue to restrict credit during this period, thereby unnecessarily prolonging the credit crunch attributable to the lender liability issue. My amendment will settle the issue immediately, establishing clear guidelines that lenders may rely upon.

Two, the EPA rule only covers Superfund, while my legislation would also cover title I of the Resource Conservation and Recovery Act, with respect to private lenders. With respect to Government agencies, my amendment would also cover any other Federal, State, or local law that imposes strict liability for pollution releases.

Three, the EPA rule does not provide protection for fiduciaries. My legislation covers innocent fiduciaries, such as bank trust departments, and bank affiliated trust companies.

Four, the EPA rule does not require the lender to undertake any type of environmental inspection or assessment. My bill requires the depository institutions and other lenders to undertake appropriate environmental assessments prior to making the original loan. What is an appropriate assessment, of course, depends on the particular circumstances. Before lending to a chemical manufacturing company, a lender would no doubt be required to undertake an extensive environmental inspection. Prior to making a simple home mortgage in a residential area far from commercial activity, a simple checklist, or perhaps no assessment at all, might be appropriate. In any case the decision would be left to the discretion of the FDIC.

The failure of an insured depository institution to undertake an appropriate environmental assessment will subject it to the normal sanctions available under section 8 of the Federal Deposit Insurance Act, including civil money penalties and cease-and-desist actions. A lender that is not an insured institution, and thus not under the supervision of a Federal banking agency, would not be subject to these penalties. Instead, failure to comply will result in the lender losing the protection of this legislation for each particular loan that fails to have an appropriate environmental assessment. This enforcement mechanism has the advantage of being self-enforcing and will not require the FDIC or any other Federal agency to establish examinations or any other costly procedures for enforcement.

Five, the EPA rule does not provide a mechanism for governmental agencies that acquire properties in the course of carrying out their responsibilities to sell the property to a subsequent purchaser. My bill provides that an agency may sell property to one subsequent purchaser, provided that the purchaser was not involved previously with the property, either directly or through a related party. The subsequent purchaser must agree with the agency to take reasonable steps to remedy the problem as a condition to the sale.

Mr. President, the need for this legislation even after the promulgation of the EPA rule has been recognized by the two Federal banking agencies most affected by this problem—the FDIC and the RTC. Both of these agencies believe that the EPA rule is not enough, and have requested that we proceed with this legislation. I would ask unanimous consent that these letters be included in the RECORD at the conclusion of my remarks.

Mr. President, I have explained in detail to the Senate on several occasions why this provision is of critical importance to our country. Last year's Senate Banking Committee report associated with S. 543 also provides a detailed explanation of the basic structure of this provision and the urgency of its enactment. It is clear to me, and I believe to the majority of the Members of this body, why this legislation must be passed, and passed now. I urge that the Senate adopt this provision, which is very similar to title X as in the Senate-passed S. 543. I look forward to working with my counterparts in the other body so that we can quickly proceed to getting this measure enacted into law.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Rhode Island.

AMENDMENT NO. 2439 TO AMENDMENT NO. 2437

(Purpose: To strike section 1065 of the manager's amendment to S. 2733)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 2439 to amendment No. 2437.

Beginning on page 262, line 14, strike all through page 273, line 20.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator DOMENICI be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, what this amendment does is to address some particular language that is in the committee amendment that deals with the subject of Superfund and municipal liability thereunder. That all sounds very complicated, but let me explain it as best I can.

Under the existing law, if an industry, for example, is sued by EPA in connection with a Superfund site, having contributed to the contamination of that site, that industry, that party can bring in other parties; in other words, that is what we call third-party liability. They can bring in that industry that sued, let us call it an industry. Before they have even been found guilty of the contamination, they can bring in other parties who have contributed to the pollution of that site. This deals with the subject which is very basic to Superfund which is what we call joint and several liability. In other words, one industry or one polluter can be held responsible for all the pollution that is in the Superfund site unless that party can invoke other parties who have contributed and show that they also contributed to the pollution of the site.

What the provision, which I will call for ease of reference the Lautenberg provision, does is to say that municipalities that have contributed to the pollution of that site cannot be brought in as a third party. In other words, what the Senator from New Jersey is doing is in connection with a far different piece of legislation radically altering the Superfund legislation.

Mr. President, it may well be that the Superfund legislation should be altered, but the Environment and Public Works Committee, of which the Senator from New Jersey is a very prominent member, next year is going to have a review and oversight, a review I guess best to call it, of the entire Superfund legislation. At that time, we will be considering undoubtedly the joint and several liability. We will be considering the responsibility that municipalities might have, or small business, or whoever it might be. And perhaps some changes will be made at that time. But, Mr. President, to do it on this piece of legislation seems to me to be very unfair.

The answer is going to be hearings were held. A hearing was held a year ago on this subject. But the proponent, the Senator from New Jersey who has fostered this legislation, the exemption of municipalities, did not choose to bring that particular provision before the whole committee to consider.

Mr. President, it seems to me that we really do not want to go after the Superfund legislation in a piecemeal manner. The Senator from New Jersey probably will say, well, as a part of this committee amendment, you will find what is known as the Garn language, with which the Chair is very familiar. The Garn language deals with lenders' liability, and so the suggestion is going to be made, well, what is the difference? If you are going to be hung for a lamb, you might as well be hung for a sheep. We have tinkered with the Superfund legislation, with the Garn amendment, so what is the matter with going ahead with the Lautenberg provision likewise?

The answer is as follows, Mr. President. In the original Superfund statute, there was, indeed, an exemption for lenders' liability and that was understood to be a problem and was dealt with, we thought, when we did the Superfund legislation. But that language was thrown in doubt by recent court decisions, and so what the Senator from Utah [Mr. GARN] is attempting to do is to alleviate the confusion by the language which he has submitted.

As a result, unless the Garn language is adopted, lenders currently are afraid that they will be targeted under Superfund, and so they have quit lending to small businesses that might be considered polluters, such as gas stations, for example. And so the Garn amendment attempts to rectify that. That, as I say, deals with correcting court decisions that have changed language which we had in the original legislation.

Such cannot be applied, however, to the Lautenberg language. The Lautenberg language does not go back to try to straighten out some problem that has arisen as a result of court decisions that confused the original Superfund language. Not at all.

So, Mr. President, for the reason that I think we should not carve out a particular area such as the municipalities, because I think—not think, I know, Mr. President, we are going to be dealing with a complete overhaul or review of the Superfund language next year, in 1993, this is not the proper time to take up the Lautenberg provisions.

Mr. President, there might be also the statement made, do not worry about this third-party liability exemption that is provided under the Lautenberg language because the U.S. Government; that is, the EPA can come in on their own and sue municipalities if they deem those municipalities have contributed to the pollution of a Superfund site. But they take care of that one, too, Mr. President. They say "regardless," regardless of the contribution to Superfund site that the municipality might have made—and, indeed, it might be 50 percent of the total pollution within the Superfund site—all kinds of toxic materials may have been dumped into that Superfund site by a municipality, the provision is that if the Government; that is, the EPA, goes after the municipality, they can be held liable for a maximum ceiling of 4 percent of the total liability for the site.

Mr. President, that does not make any sense at all. I do not see why we are carving out exceptions. What this, of course, means is when you first exempt the municipalities entirely from third-party liability and then you go on to say, well, if EPA itself sues them, there is a ceiling of 4 percent, what does that mean, Mr. President? That means that somebody else who has not contributed as much or, indeed, a tiny bit—it could be a small business, it could be a big business, it could be another municipality—is brought in for more than its share, and that just plain is not fair.

Maybe we want to get rid of the whole Superfund legislation. Maybe we do not like joint and several liability. Those are legitimate questions that we ought to discuss on the floor in a serious, thoughtful manner after the committee has thoroughly considered those measures.

So for these reasons, Mr. President, I do hope the amendment that I have presented will be adopted.

Mr. DOMENICI addressed the Chair.

Mr. CHAFEE. What my amendment does again is to say there cannot be this carve-out for municipalities. I would like to also say that Senator DURENBERGER would like to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, the distinguished Senator from Minnesota, the senior Senator from Minnesota, will be added as a cosponsor.

Does the distinguished senior Senator from New Mexico seek recognition?

Mr. DOMENICI. I do, Mr. President.

The PRESIDING OFFICER. He is recognized.

Mr. DOMENICI. I thank the Chair.

Mr. President, if the Senate accepts the Lautenberg amendment, we are literally saying that the law which we drew called Superfund, which said if you put waste on a site that happened to end up being hazardous, you are liable whether you knew about it or not, whether you put just a little bit in or a lot—and we said in that legislation you are jointly and severally liable for the damages that come from that hazardous waste, be it ruining a water system or whatever.

Mr. President, it is such a messed up law that we now come along and say, oh, wait a minute. Everyone but the cities are liable. IBM is liable, Little Pete's grocery store is liable if they sent waste over there in a container 40 years ago and you found it and it happened to have lead in it, jointly and severally liable, and you have to prove your way out of it.

That law is so literally messed up that most of the money is in courts. We re-did it for 4 years on the Senate floor without a bill. The same Senator who seeks to immunize municipalities by saying you cannot sue them got that law extended for 4 years as is, as was, signed, sealed, and delivered, and it is a mess. So now as soon as our cities, our mayors come crying to us, we say, oh, we did not mean that. We will take you out.

But my friends and fellow Senators, if business comes and tells us, what do we say? We say you live with that. You have a lot of money. You pay for it.

You have businesses in America going broke, businesses that have already gone broke over this law—20 pounds of some serious waste dumped 20 years ago and they find you and trace it and the water system for three cities got a little bit of something in it, you got sued for $25 million; you pay for it all.

But we are going to say today, it really is not a very good law. We did not think we were going to do this to our poor cities, so we are taking you out today, midstream, midway through, still a mess out there in America, thousands of American businesses in court.

I say to my friend who occupies the chair, you would not believe the status of court cases that are on this Superfund. It will not be unusual to find 150 defendants because this one sues this one, sues this one, sues that one because everybody is saying if you have a little pinch of responsibility, we are getting you in here, and the lawyer fees exceed the cleanup.

In fact, I am not sure of that, but Senator DOMENICI from New Mexico thinks we are spending more in courts and lawyers' fees, discovery, and the like than we are spending to clean up.

But that is not really the issue except it is beginning to bite on cities that are just as willing to complain about the ridiculous nature of this law as everyone else but because it is a city and it might have been their landfill—they owned it. They might have put some sludge or some garbage there, and it is found to be in some way a contaminant and they are brought into the lawsuit.

Some of them may even have become liable, Mr. President. They may have had to settle a judgment. But now we are saying all American businesses, old ones, new ones, large ones, the same ridiculous liability scheme, we leave you in, but we sure do not want to hurt our cities because the mayors are complaining that they cannot afford it.

Why did not we think about that a little while ago and why do not we think about that when we redo this law or why do not we expedite our redoing this law to take care of some of the problems that do not get solved and make a little sense in the manner we are solving?

No. We will piecemeal. As someone comes in and really makes the good kind of holler, the political noise, we let them out. The cities make enough noise; they have enough sympathy and empathy: let them out. The rest of America, live under it. Like it, whether it makes sense or not.

Frankly, I do not believe we ought to be doing this on a bill that has nothing to do with Superfund. The bill before us has nothing to do with Superfund. If one argues that Senator GARN'S lenders liability amendment is on it, and has something to do with Superfund, the truth of the matter is we have passed the Garn amendment in this body at least two times. We cannot quite ever get it passed. And everyone admits that we did not intend the liability that he is clearing up. Nobody can contend that we did not intend the cities to be liable or get sued. We just did not quite figure that it was going to pinch that much.

Maybe there will not be as many cities brought in, but it turns out that is applied to everyone who are parties defendant to these Superfund cases.

So I urge that the Senator from Rhode Island, who is chief proponent of the Superfund bill, and Senator DURENBERGER, who is going to join in saying we ought not accept the Lautenberg amendment—they helped write that law also. They do not think it is fair to piecemeal. Let defendants out of the these lawsuits just because they happen to be cities if we are not willing to look and see where else this law should be changed.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, since I have been in appropriated authorship here, I have to defend by creation the Senator from New Mexico saying that Senator LAUTENBERG did it. He is the one that passed it; nobody else; not the other 99 colleagues; just that Senator LAUTENBERG did it; rammed this through anyway.

Mr. President, we are going to discuss this, I hope, in a rationale manner. We are going to discuss what is being done here. What we are going to talk about is whether or not some town should be used as a pawn in attempts to undermine Superfund. There have been several misstatements made but we will correct them just for the RECORD. One is by the Senator from Rhode Island. He said if a community contributes pollution—I think I wrote it down exactly—to that site, if they contributed pollution to that site, they have their hands full because they will go to court, they will be sued, and they will pay just like anybody else. The other was by the Senator from New Mexico when he said if a town owns a little landfill. The Senator is wrong. If they own a landfill, they are not protected here. They only get protection if they have either transported or generated trash, not hazardous material.

So, with those couple of adjustments to the RECORD, Mr. President, I would like to discuss the substance of my amendment.

Striking these provisions in my view is a blatant slap in the face to cities, towns, local taxpayers. And again, for the information of my distinguished colleague across the aisle, and small businesses across the country, they are protected as well. If they did not contribute any hazardous material to this, toxic material, they are also not permitted to be party to whimsical or capricious suits that extend or protect those who did pollute.

It is an attempt to place the interests, Mr. President, very clearly of the industrial polluter above those of the needs of local taxpayers and municipalities. I want to state simply what it is in the provisions that the Senator intends to strike.

The Senator from Rhode Island said that we should eliminate that language altogether, that we ought to resolve this question which, by the way, has been heard in committee. And, by the way, the reference to the other part of this amendment, that is the lender liability question, did not pass here a couple of times. It passed once on a voice vote as part of a large omnibus banking bill. I inform the Senator from New Mexico.

The provisions very simply are a revised version of S. 1557, the legislation that I introduced last year, as a result of hearings on the legislation and extensive discussions with affected parties. I developed a very simple bare bones proposal to protect local taxpayers in the 450 or so communities being sued or targeted for suit by those responsible, trying to shift this cleanup responsibility. It is an old game.

I am not a lawyer. The distinguished occupant of the chair is a lawyer. Many of our colleagues here are lawyers. They know the game that is often played, and that is, if it is your liability, whatever you do, try to give it to somebody else so you are not assessed for your liabilities; try to get someone else to pick up part of the tab even if they are not guilty.

The private parties use these lawsuits not only unfairly to shift the cleanup burden to local taxpayers, but in many cases to undermine the Superfund Program by delaying progress through extensive litigation.

Mr. President, very simply, the provision being debated here does essentially two things. First, it would block these unfair private party suits against municipalities, small businesses, and individuals, that merely generate or transport garbage. While blocking these private party suits, the legislation would leave intact EPA's enforcement prerogatives against everyone, including municipalities that are involved with truly hazardous substances.

Second, consistent with EPA's most recent analysis of the municipal issue, the provision would establish expedited settlement procedures for EPA to use in allocating something of cost to those that generate or transport municipal garbage. Following EPA's own analysis and calculations of the relative cleanup costs of hazardous and municipal wastes, the provisions set out a specific percentage formula for allocating these costs. The end result in that even generators and transporters of garbage will pay something.

You heard it. The Senator from Rhode Island talked about 4 percent. But they will do that without being used as pawns by toxic polluters in endless private party suits aimed at slowing down the enforcement and cleanup process.

Mr. President, as this description makes clear, the provisions being debated here in no way undermine or really affect the current Superfund liability system. They are dealing with municipal garbage which is not even covered by the current liability system.

The provisions in no way affect EPA's ability or anyone's ability to sue municipalities that generate or transport actual hazardous waste streams. Proponents of this motion to strike may dress it up as something else—you have heard the argument. They say we should not deal with Superfund liability in a piecemeal fashion. The fact of the matter is that these provisions are not tampering with the Superfund liability system; they are simply keeping industrial polluters from dragging other people into Superfund lawsuits that we never intended to be involved with anyway.

Even putting aside this very real distinction, I find it interesting that the proponents of this motion to strike are so troubled, so anguished with the municipal question on this bill. Frankly, it is totally inconsistent for them to argue that it is not fair to address one liability issue without addressing all such issues because that is exactly what the effect is of the Superfund lender liability provisions that are also on the amendment today. That was the effect of similar lender liability provisions that passed unanimously in the Senate last year on the omnibus banking bill. And, unlike the municipal provisions that I have authored, these lender liability provisions make significant changes to the Superfund liability system.

How can the proponents of this motion stand here with a straight face? How can they sit back and allow significant modifications of Superfund to help the large financial institutions but draw the line at truly surgical corrections to respond to the problems facing the Nation's local taxpayers, cities, towns, and small businesses?

They argue it is OK to protect the banks, but, heaven forbid, do not include those municipalities, those little towns with 2,000, 1,000 people in them, where one minor little unwarranted action against them could bankrupt the community as the meter starts running when they retain the lawyer to defend themselves if even all they do is get notice of potential liability.

Why are they so unconcerned about the Nation's hard-pressed cities and towns? Obviously, they are not concerned, because these towns, as they struggle to get by, barely can keep their heads above water. You have seen it in community after community, State after State—police being discharged, firemen being discharged, libraries being closed, schools being closed. Towns can barely stay alive, especially with the policies of the present administration. People are being taxed to death.

But here we say: Why should they be exempt just because we are going to exempt a bunch of big banks or companies?

Why are they so unconcerned about the Nation's hard-pressed cities and towns, when these little towns often are struggling to get by, and are being forced to spend money defending themselves against overreaching, unfair lawsuits that the law never envisioned would be brought in the first place?

Mr. President, there are many across the country who understand these problems and see the need for immediate action. That is why the provisions the Senator seeks to strike are supported by the U.S. Conference of Mayors—they are the people on the front line—the National Association of Counties; American Communities for Cleanup Equity; the Sierra Club; National Resources Defense Council; Clean Water Action; Environmental Defense Fund; and the U.S. Public Interest Research Group, known as PIRG.

We should move to fix this unanticipated problem with the law, which we never envisioned would occur when Superfund was first written. The proponents of this motion to strike seem to argue that we should let this problem stand until we are ready to fix every conceivable problem with Superfund.

Well, I am chairman of the Superfund Subcommittee, and I frankly do not see any sense in that. If something is radically wrong and you can fix it, fix it. Local taxpayers in my State and 10 other States are presently being sued. They are being sued irresponsibly, and should get protection now before any more of their local tax money is spent defending themselves against polluters who should be picking up the tab.

I want to repeat that the municipal provisions that the Senators oppose do not tamper with the liability system of the law. Those who argue that it is unfair to provide relief for municipalities and small businesses that simply generate or transport nonhazardous substances are ignoring the law's original intent.

As chairman of the Senate Superfund Subcommittee, I say without reservation that the original statute never intended such parties be sued. Yet, the law clearly envisioned the liability of those that own and operate sites with hazardous substances, or generate or transport such hazardous materials.

Mr. President, we are being true to the intent of the law when we prevent industrial polluters from trying to shift their cleanup costs to innocent cities, towns, and small businesses.

We are not being unfair when we do this. That is what Superfund is about—making the real polluters pay. So, Mr. President, I simply do not see why Congress should wait to respond to the problems facing municipalities and small businesses who are not polluters. This is especially true if Congress is going to limit the liability of lending institutions. There is no way we should be addressing questions raised by financial institutions with regard to Superfund and ignore the tax burden and taxes paid by citizens in some 450 communities across the country.

Mr. President, Superfund is based on a system that expects those responsible for pollution to pay for cleaning it up. Despite resistance by some responsible parties, the current liability system is working. In fiscal year 1991, according to EPA, the current liability system resulted in private, responsible parties picking up the tab for $1.4 billion in cleanup costs. And a recent report by Rand shows that—contrary to assertions that Superfund simply pays for lawyers, not cleanup—industrial parties are paying significantly more for actual cleanup than for litigation.

Earlier this month, another study by Resources for the Future concluded that alternative proposals to the current liability typically being discussed would eliminate the law's current valuable incentives for private cleanup.

Some opponents of the Superfund Program are expending enormous revenues to cast a shadow over Superfund. They have their press out there, and the propaganda, and they are trying to avoid their responsibility by dilatory lawsuits. But the facts are showing us that Superfund can work as intended, making polluters pay to clean up their mess, if we stick to our guns.

If you vote against these provisions, you are voting to raise taxes and shift the cleanup burden off of the polluter and on to the local taxpayer, who had no responsibility for creating it, and no connection with the site.

If you believe that the mission of Congress is to make the laws we pass work, as we originally intended them to, if you believe that we are here to solve the problems, then you must oppose this motion to strike. If you support this motion to strike, you will be supporting a cynical industry strategy to sabotage Superfund by prolonging unintended problems that arise in its implementation.

That is what this motion is all about, pure and simple. It is about assuring that Superfund is in trouble when it comes to reauthorizing in 1995; that is what we are talking about. We are talking about a campaign designed to ultimately destroy the Superfund Program.

The worse its opponents make it look, the more people that are unhappy with it, the easier it will be for industry to escape its cleanup responsibilities by gutting the law's liability provisions.

(Ms. MIKULSKI assumed the chair.)

Mr. LAUTENBERG. Madam President, I want no part of the cynical strategy of this motion to strike. That is why almost a year ago, I, along with Senator WIRTH, introduced legislation, S. 1557, to respond to this problem. I held hearings on the bill. I asked for comment and discussion of the measure over the last year.

My colleagues in the Senate on the Environmental Committee certainly have had a chance to respond. Modeled on this legislation that we introduced earlier this year with Senator WIRTH, and based on an extensive hearing record, as well as discussions between the municipal and environmental communities, we crafted the provisions that narrowly respond to the problem at hand, without modifying the intent of the original Superfund liability system.

The original legislation, which has cosponsors from both sides of the aisle, including the Senator from California, Senator SEYMOUR, represents a bipartisan effort to respond to pressing needs facing local taxpayers. And the provisions we are debating today make further improvements to the original bill in accordance with EPA's own analysis of this issue, and objectives of both the environmental and municipal communities.

That is why both municipal groups and environmentalists realize these provisions are necessary to address the serious problem facing Superfund. Industrial polluters responsible for cleanup costs at sites across the country are attempting to slow down the cleanup and frustrate EPA enforcement through these cynical lawsuits against cities and small businesses, small businesses I remind you that merely generate or transport municipal garbage.

This motion to strike serves the purpose of those who want to get away with pollution, not those who want to see Superfund work. It will help those industrial interests bringing these wasteful lawsuits in an attempt to shift cleanup responsibilities to innocent cities and towns; it will aid those who want to gut Superfund enforcement proceedings somewhere down the road. This is just the beginning of the fray. You heard it earlier in the debate that was held on the floor.

On the other hand, the provisions we are debating would respond to a serious problem facing the local taxpayer. In 11 States, California, Colorado, Connecticut, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, Wisconsin, there are at least 22 of these third-party suits either brought or threatened. About 450 local governments have been targeted as well as more than 1,000 small business and nonprofit groups. These are diversionary tactics by those who created the pollution in the first place. Let us try to get out from underneath this.

Third-party defendants and potential defendants have included a mom and pop pizza parlor, an elderly couple who had their septic tank emptied, a flower shop, a children's book store, the Elks Club and the Girl Scouts.

Some of the worst-hit cities in the L.A. riots are facing multimillion dollar liability. In one California case, 26 cities have been sued. Some of these cities merely granted business licenses to private waste haulers that contracted directly with citizens.

In New Jersey, 95 cities have been sued or threatened with suit, with some cities having been sued 2, 3, or 4 times in different cases.

In Minnesota, cities have been sued over tree stumps that were sent to a site after a tornado stuck. In upstate New York, 400 small businesses and cities were sued. In Kalamazoo, MI, 440 parties were sued by 1 company. in Metamora, MI, even the Boy Scouts and Girl Scouts were initially being considered as possible targets for a lawsuit based on trash from their summer camps.

Across the country well-funded corporate polluters are trying to shift their cleanup responsibilities to local taxpayers, cities, and small businesses, that merely generated or transported garbage. But that is not against the law. It is perfectly appropriate and it ought not to be dragged into a suit for pollution.

EPA recognizes the seriousness of this problem. Administrator Reilly, to his credit, has attempted to issue guidance to EPA regions on how to protect these parties from delaying litigation. But there are some in the White House who care more about protecting the polluters than in following the administrator's proposal. EPA's proposed guidance document was sent back from the White House for further review and consideration by the agency.

But even with these administrative steps that EPA is considering, even if they survive the industry lobbying at the White House, legislation is still necessary to provide an immediate comprehensive bar of these wasteful suits. That is what my amendment does. It is modeled on EPA's analysis of the municipal issue and the Agency's own pending guidance document. The provisions prohibit these private suits.

But the legislation does this without modifying liability or deterring EPA enforcement against generators or transporters that deserve to be sued. In fact, as I have stated earlier, following EPA's analysis, the legislation actually assigns some cleanup responsibility to municipalities based on the cost comparison between cleaning up industrial pollution and municipal trash.

In addition, the bill helps to expedite the settlement process and imposes new environmental responsibilities on municipalities, such as establishing a qualified household waste collection program, for those looking for future protection under this legislation.

Madam President, the choice is quite clear here. If my colleagues want to stand up for the Nation's local taxpayers, for cities and towns and small businesses, they must oppose this motion to strike. They should join with a bipartisan group of Senators supporting this legislation and with the U.S. Conference of Mayors and, as I said earlier, the National Association of Counties, the Sierra Club, the NRDC, PIRG, the Environmental Defense Fund, and Clean Water Action.

Madam President, I urge my colleagues to oppose this motion and take this opportunity to strike a blow both for a cleaner environment and for the Nation's local taxpayers, cities, and towns.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Madam President, I rise to support the amendment offered by the Senator from Rhode Island. I have listened with interest to all of the comments on the floor, but particularly those of my colleague from New Jersey, who is the chairman of the subcommittee of which I am the ranking Republican. I rise in that capacity. I also rise in the capacity of the Senator from the State of Minnesota. I have more than a small amount of familiarity with the causes of about which he talked a little bit earlier and I intend in my remarks to address them.

I rise because I do not believe that the Superfund Program should be amended piecemeal here on the floor of the Senate; I do not believe it should be amended on a housing bill; and I do not believe that even if this were the appropriate place to be doing it, this amendment is not the appropriate solution to the problem.

I am joined in that support by hundreds of entities, businesses large and small, insurance companies and governments, including many cities who do not want the Superfund Program carved up here on the floor of the Senate.

The managers' amendment is not good for every city in America. It is one of those typical amendments we see here all the time that has some winners, and we will probably hear from representatives of the winners, New Jersey, and California. I do not know where else. But it also creates losers among the cities and counties as all these amendments do.

Those who just collect and transport municipal waste would be helped. Cities and counties that own and operate landfills would be hurt because a larger share of the burden for the cleanup would be shifted to them. That is point No. 1.

Over the whole life of the Superfund Program, the strict joint and several liability standards has been a source of controversy. It is a draconian provision much maligned by some of my colleagues, the last being the Senator from New Mexico.

It was intended, I believe, to change the waste management ethic of American industry. It is joined to prevent future Superfund sites, the health and environmental horrors of these sites, and the expense to the taxpayers of cleaning them up. It may be, Madam President, that it has accomplished that purpose. But we all must acknowledge the high cost of that accomplishment. Billions of dollars are being spent to resolve disputes over the cleanup costs for past practices.

Because of these costs, industry wants the Superfund standards of strict joint and several liability repealed. Someday, we are going to have real debate here on that subject, and industry is doing everything it can to hasten the day. Big industrial companies that are the real polluters of landfills across the country, are suing small businesses in small communities for a contribution to their cleanup cost.

Big industry is suing small business in small towns not because they expect to collect large sums of money, they are suing simply to tie up the Superfund negotiations. They want to put the liability scheme under more pressure under specific sites and here in the Congress. The contributions suits which have been referred to most recently by my colleague from New Jersey are part of a larger strategy to swamp the Superfund Program and force the reopening of the liability question.

Mr. President, I have a friend who is a small businessman in northeastern Minnesota. For many years he operated a small schoolbus company, and the oil he removed from the schoolbus in the 1960's and 1970's was collected by another party and taken to an oil refinery for recycling. But some oil was also disposed of improperly. Now, the schoolbus operator is a target for EPA cost recovery actions at a Superfund site. He got his so-called PRP letter from EPA. He has had to hire a lawyer for defense. His financial future is uncertain. That is how strict, joint and several liability works. This story has been repeated hundreds of times in the Superfund Program. It is easy to see why the Superfund liability scheme has so many enemies.

My friend, the schoolbus operator, would not be helped by the managers' amendment. Only municipal governments would benefit from this amendment and only some of them. So, let me describe another Superfund case.

The Lowry landfill in Colorado is one of the more famous Superfund sites in the country. The second largest source of toxic substances present is municipal garbage. To be sure, the toxicity content of the garbage is less than half a percent, only a half percent of the municipal waste disposed at Lowry could be considered a hazardous waste. But the quantity of garbage disposed is so large that municipal trash accounts for nearly 20 percent of the total toxic substances present. Only one other polluter contributed a greater volume of toxic substances at that site.

Is it fair to keep my friend, the small businessman in northeastern Minnesota who disposed of a few gallons of used oil in the Superfund loop—and he has transaction costs equal to those of any city or other local government just because he is being chased by EPA—should we keep that small businessman in the system and let the cities who contributed 2.2 billion pounds of material and 20 percent of the toxic waste at the Lowry site out of the liability regime? That seems to me ridiculous.

Madam President, there are remedies within the Superfund law for the problems that the small cities are having. And I particularly want my colleague from California to be aware of this. In fact, there are two separate efforts underway that will help small cities with their problems. One is the so-called municipal settlements policy. The other is the de minimis settlements policy. If these two policies are implemented to the fullest extent, we do not need the managers' amendment that creates more problems than it purports to solve.

Under EPA's municipal settlements policy, cities are not pursued by the Government as responsible parties at multipurpose landfills. As I indicated a moment ago when talking about the schoolbus operator, one step in the Superfund process is the posting of what are called PRP letters. These are notices from EPA to those who have sent waste to a Superfund site that they might be considered potentially responsible parties or PRP's and might be required to pay for cleanup costs at a site.

The businesses that contribute industrial waste to a Superfund site all receive PRP letters early in the cleanup process just so they know they might be liable. But it is EPA's policy not to send such letters to cities that have merely contributed municipal garbage to a site. This policy recognizes the generally low toxicity of municipal garbage and is designed to reduce the transaction costs for cities that would not likely pay much of the cleanup costs when the actual remedy is completed.

EPA does not go after the cities as a matter of policy. So, what is the problem? As I have already said, industry has begun a campaign to overturn the EPA policy by suing the cities in third-party contribution cases. This is the way it works: A big company that gets a PRP letter because it did contribute to toxic material to a site goes to court and demands that the city, which is also involved with their small amount, their tree stumps, as my colleague has mentioned, also contribute to cleanup costs because of the municipal garbage it sent to a site. Although in the end of this whole process—after all the lawyers are paid and all the time is consumed—the city may pay only a small, very small, portion of the cleanup costs, and expenses for lawyers and studies and consultants are very expensive to the cities.

That is the problem. There is also a solution to that problem under current law. In 1986, when the Superfund Program was last amended by the Congress, we added a provision that goes under the heading "de minimis settlements." De minimis is a Latin word meaning very, very small. It presumably describes the contribution that some small communities have made to the pollution problems at Superfund sites—very, very small. The people my colleague from New Jersey has talked about.

But they are being hit with big, big costs under the Superfund Program. They must hire very expensive lawyers to prove that their contribution was very small. The managers' amendment would give them an exemption so that they will not have to hire a lawyer. There is another solution already in the law. EPA is authorized to enter into separate agreements with the parties that made only a very small contribution. The agreement can be concluded quickly.

And the agreement can protect the cities from further litigation by EPA, by the States, and by these big industry lawyers who are trying to strangle Superfund in litigation for contributions. Under the de minimis settlement policy small communities can get protection from the threat of Superfund liability. If they are as innocent and very, very small polluters, they can get protection under the law as it stands today.

Not in Minnesota. As has been referred to by my colleague, the chairman of the subcommittee, several cities in the State of Minnesota—we are one of the 22 States he referred to—we have some of the cities that are in just this predicament. Specifically, there is an industrial landfill called Oakgrove in Anoka County, MN, that is a Superfund site. Some Minnesota cities many years ago sent small amounts of municipal garbage to that landfill. It was tree stumps and trees that had been knocked down during the course of a windstorm and that sort of thing.

In the case of one city, there were only one or two shipments that were trees and debris that had been downed in a tornado. These cities found themselves threatened with lawsuits by the industrial concerns that had used Oakgrove and made it into a Superfund site. They received several threatening letters from the industrial PRP's promising lawsuits, if they did not agree to share the cost of cleanup voluntarily.

These Minnesota cities who used the Oakgrove landfill joined—and here is where all this stuff comes from—they all joined a national organization of cities called Americans for Cleanup Equity, or ACE, one of our wonderful acronyms that hang around this place to allegedly do good for people somewhere out there in America. But ACE, the Americans for Cleanup Equity, is the group that is behind the municipal provisions of the managers' amendment. It is a coalition of cities. They drafted the managers' amendment on municipal liability, the one that I do not support and the one that my colleague from Rhode Island has had the foresight to amend out of this bill.

I also felt that the Minnesota cities that are members of ACE were being just a little bit unfairly burdened, not only by the threatened lawsuits at Oakgrove landfill but by the business about joining ACE and somehow or other you get some kind of relief.

So I went to the EPA, the Environmental Protection Agency, and I asked if the existing authorities of Superfund could solve the problem for these Minnesota cities. If they made a de minimis contribution to Oakgrove as they have asserted, then they are entitled to de minimis settlement under the law. EPA came to the community, sat down, listened to the cities. The mayors were there, all the rest of these people were there. EPA, the general regional office of EPA, and the rest of the folks came and they listened and they have agreed to consider a de minimis settlement with these cities.

I think we are, as I speak, very close in that case to seeing a settlement between EPA and the cities. When that settlement is reached the cities will be protected from further lawsuits by industry.

There have not been many de minimis settlements under Superfund yet, because EPA sees little reward for the effort. I suppose it took a Senator calling up saying you have to come to the meeting to get them to do it. But the reality is they looked at this compared to other things and they do not see a lot of reward for the effort. These kinds of settlements do not get sites cleaned. That is what EPA wants to see. They do not recover Federal expenditures. They would like to get some money. So the EPA bureaucracy has been inclined to make them a relatively low priority.

But if they are pushed to use this authority, EPA can solve the very problem that has prompted the municipal liability amendment offered here today. If a city really did make only a small contribution to a site, it can get out from under Superfund liability under current law. We are about to prove that in Minnesota and we do not need this amendment.

Mr. RIEGLE. Will the Senator be kind enough to yield for one moment for a personal request?

Mr. DURENBERGER. I am happy to yield without losing my right to the floor.

Mr. RIEGLE. I appreciate that.

I ask unanimous consent—I have to leave the floor for a minute—I ask unanimous consent to have printed at the conclusion of Senator DURENBERGER's comments two letters on this issue that I have received from various parties. And also I am going to at the appropriate time move to table the amendment by the Senator from Rhode Island and if I am off the floor at that particular time I will ask someone else to do that in my stead. I expect to be back here before that. But I thank the Senator very much for yielding.

The PRESIDING OFFICER. Without objection the Senator's request is agreed to.

[See exhibit 1.]

Mr. DURENBERGER. Madam President, I might also point out de minimis settlements are available not only for small cities but also for small businesses. In fact, everybody who is small can get out and get protection. Unlike the managers' amendment, the de minimis settlement provision of the current law is evenhanded. EPA has recently issued the final guidance to implement the de minimis settlement provisions of the Superfund law. It has gone out to all of its regional officials and has gone out to all of the States. It ought to be used more frequently as a result of that guidance.

We do not need an amendment that tilts the law against some small communities, against some small businesses, against some small entities to favor a few others. The EPA has now the tools to take care of everyone.

But we in the Congress have to provide support for the tools in our oversight efforts as well. We should not just look at the number of sites cleaned up or construction starts or investigations completed. We also ought to look at the dollars that have been saved for small businesses and small communities through proper application of the current law and policy. Only by rewarding the bureaucracy for using de minimis settlements will we be able to stem the threat to Superfund that these kinds of harassing contribution suits reflect.

Revolt against the Superfund liability regime is coming from more than the Nation's small towns and cities. It is coming in an even larger tide from the Nation's small businesses. The managers' amendment will not hold back that tide. Vigorous pursuit of de minimis settlements policy might.

Madam President, I started these comments by calling attention to the inequity that would result if the managers' amendment was adopted. Some small governments would be freed from Superfund liability, while many small businesses making the same kind of contribution to pollution at a site would continue to be caught up in the strict, joint and several liability regime. That would simply be unfair.

But I must, in conclusion, make the point somewhat sharper. Part of the motivation behind the amendment is to assure that business never gets out of the Superfund net—never. The liability standard is being attacked from all sides—banks, cities, Federal facilities, small businesses, insurance companies, big businesses. Everybody is mad at Superfund.

The theory of the managers' amendment, which my friend from Rhode Island is moving to remove—the theory of the managers' amendment is to divide and conquer. If we fix it for the banks and for the cities, we will, presumably, deny business the allies it needs to repeal the liability regime when we get to the real debate on Superfund in the next Congress. That seems to be the theory of this amendment.

I would like to defend the Superfund law. But not with a strategy of that kind.

The town government that runs a garbage collection service, selects a landfill to dispose of the town's refuse, should be no less nor more responsible in the Superfund scheme than the Main Street business that puts its trash out for collection. But if we agree to this amendment, the towns will be exempt, the small businesses will remain on the hook, more firmly on the hook for the lack of the town as an ally in the Superfund debate that is coming.

So I hope the Senate will not take the position that a business is more of a polluter than a government just because it happens to be a business. I hope the Senate will defeat this amendment.

I yield the floor.

EXHIBIT 1

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR RIEGLE: On behalf of the undersigned environmental organization, we are writing to ask you to support Senator Lautenberg and other senators in their efforts to resolve the problem of municipal liability under Superfund in an environmentally sound manner.

Over the past several months, we have worked hard to agree amongst ourselves and with members of the municipal community to revise S. 1577, the Toxic Cleanup Equity and Acceleration Act, to ensure that the Superfund program is strengthened by limiting frivolous lawsuits and providing incentives to local governments to remove hazardous materials from the municipal waste stream.

We believe that the compromise we have reached, which we understand will be included in the managers' amendment to the Government Sponsored Enterprise bill, is an important step forward in protecting the environment and returning the Superfund program to its proper focus. We urge you to continue working with Senator Lautenberg to address this important national issue.

Doug Wolf, Natural Resources Defense Council; Carolyn Hartmann, U.S.

PIRG; A. Blakeman Early, Sierra Club; William Roberts, Environmental Defense Fund; Phil Clapp, Clean Water Action.

ROSI, OLSON & LEVINE, P.C.,
ATTORNEYS AND COUNSELORS AT LAW
Traverse City, MI, June 18, 1992.
Senator DONALD W. RIEGLE,
105 Dirksen, Building,
Washington, DC.

DEAR SENATOR RIEGLE: I am an environmental attorney in Northern Michigan representing municipalities throughout the northern Lower Peninsula and the Upper Peninsula. While I have not been specifically retained by any of my clients to lobby on their behalf, I feel that it is important for you to understand the perspective of municipalities dealing with environmental clean-up liability under Superfund.

For years, municipalities have provided garbage pick-up, treated sewage, and operated landfills and dumps on behalf of their citizenry. These activities were undertaken by municipalities in their best effort to protect the health from garbage rotting in the streets, untreated or poorly treated sewage reaching Michigan's waterways and the creation of a multitude of household dumps throughout the municipality. For undertaking these activities, in the public interest, municipalities are now being asked to help foot the bill in massive environmental cleanups at Superfund sites throughout the state of Michigan and the country.

The disastrous economic effect of these cost recovery actions against municipalities can not be underestimated. In smaller cities and townships the tax-payer base is insufficient to meet these substantial clean-up costs. In many instances the threat of municipal bankruptcy is not simply political posturing, but a reality that could be faced by smaller northern Michigan municipalities saddled with immense clean-up costs for just handling the garbage of its residents.

While every interest group has their own complaints about the Superfund program, it seems clear that municipalities have been asked to participate in a Superfund clean-up at a level that was never envisioned when Congress set up the program.

As an environmental lawyer in the trenches dealing with these issues every day, I can tell you that the industrial polluters that are bringing municipalities into Superfund litigation are having a devastating effect on municipal finances, both in terms of legal costs and ultimate clean-up costs. I encourage you strongly to support Senator Lautenberg's efforts to provide some relief to these municipalities.

Very truly yours,

John D. Noonan.

Mr. LAUTENBERG. Madam President, if the Senator will yield for a question?

Does the Senator not see the debate about Superfund, the liability system, taking place here now on the lenders' side? Frankly, I find it hard to understand the Senator's reasoning not to permit the municipalities, towns, small businesses to protect themselves under this provision; that it is quite all right for the lenders to be protected at the same time.

Mr. DURENBERGER. Madam President, I would be pleased to respond to the question of my colleague.

First, I need to make a correction in my final comment. I talked in terms of defeating the amendment before us. I meant—I was referring to the managers' amendment. I think we ought to support the amendment of my colleague from Rhode Island as a way to take out of this bill the mangers' amendment that has been put in there.

But that gets us to the response to my colleague's question. There are several parts to the managers' amendment, one of which is an adjustment to lender liability as well. I do not condone that any more than I condone this particular settlement. As the appropriate time, after we agree to the amendment of the Senator from Rhode Island, I intend to rise and speak specifically to my opposition to the changes in lender liability that were in this bill as well.

So I am not picking and choosing. I say, Madam President, I am not picking and choosing. I would prefer not to be debating Superfund at this time on this particular bill. I think we ought to deal with municipal liability. We ought to deal with lender liability at the time we deal with Superfund changes.

Mr. LAUTENBERG. If the Senator will yield for just one more question or observation. That is, it is my understanding the de minimis clause to which the Senator refers has generally been applied by EPA to only relatively small volume sites and has not been aggressively applied to address the municipal trash sites.

Mr. DURENBERGER. Madam President, as I understand the de minimis policy, the size of the site is not going to make that much difference. It is the contribution made by a particular PRP or responsible party. And the de minimis policy was put in there in 1986 so that people who are small contributors—small businesses, small cities, small whatever—have an opportunity to work their way out of the expense of litigation. So it does not make any difference how large the site is.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Madam President, all Members of the Senate, after they have looked at the content of this amendment, I suggest should have no doubt they need to support the Chaffee amendment to strike out the language in the bill.

The language of the Senator from New Jersey has major impacts in letting off people—individuals and cities—who transport material that contains hazardous waste from any responsibility of cleaning it up.

Let me give an example. Say a city in New Jersey, mentioning the State of the author of the amendment, hires a trucking company to collect the waste within their city boundaries. They collect it every day. And after they collect it, they put it in a train and once a month they take all of their municipal solid waste and they ship it to State X, Y, and Z. That municipal waste could possibly contain used batteries, it can contain pesticides, it can contain used motor oil, it can contain used paint, it can contain cleaners from dry cleaning establishments, it can contain any number of extremely hazardous, toxic substances. And after that city loads up that train, that train goes to Louisiana or any other State and deposits that load of material, which they call municipal solid waste in a landfill. And say they are the only company or city that deposits waste in that landfill. They do it once a month, and after 5 years of collecting that municipal waste from that city people find out that this is a hazardous site, it contains pesticides, it contains used oils, it contains cleaning substances, it contains used batteries, all of which can be collected at a municipal solid waste collection facility. Under the amendment of the Senator from New Jersey, they would not be able to sue the people who brought it and deposited it in that site.

Who would they find to clean it up? There would be no one left, under the Senator's amendment. That, I think, is contrary to the intent of the Superfund law. That is why the Superfund law allows that people who deposit hazardous substances in a landfill—they should be responsible for the cost of cleaning it up.

Do municipal landfills contribute to hazardous waste? You bet they do. EPA has a chart and it has information on that chart of where the hazardous materials and landfills come from. And, yes, it is true that manufacturing contributes about 38 percent of the hazardous substances that are found in Superfund sites, but do you know who the second-largest contributor to the hazardous substances and Superfund sites in America happens to be? If you guess municipalities, you are absolutely right, because EPA tells us that 16.5 percent of the hazardous material that comes and goes into Superfund sites in this country comes from municipalities.

Under this amendment, those municipalities, which are the second-largest contributor to the hazardous materials in Superfund sites, would be off the hook. Not only would you not be able to prove what they have put in those Superfund sites, you would not even be able to bring a cause of action against them. You would not even have an opportunity to have your day in court to say, look what they have done in my State; it is hazardous and we would like them to clean it up.

If the case can be made that municipalities are not contributing to the problem, that would be one thing. Madam President, EPA's own statistics clearly show that the second-largest contributor to the hazardous materials in Superfund sites in America are municipal landfills.

The example that I cited I think is one that is happening in reality all over this country. As States contract with other private citizens and other States to receive their municipal sewage sludge, the amendment of the Senator from New Jersey would say that if that material that was sent to that site in another State was found to be hazardous, you are out of luck, there is nobody who is going to be there to pay and clean it up. You cannot sue them. Do you know why? Congress said you cannot sue them.

I do not think any of us are ready to go back into our States when hazardous material is dumped in your State and say that you cannot sue to clean it up because you do not have that right.

Yes, this is a question of being fair to municipalities but also to those who are on the receiving end of the hazardous waste as well as those who are transporting it and exporting it around this country.

So I suggest the motion of the Senator from Rhode Island to strike this very damaging language that is in the legislation before us is absolutely essential. We cannot allow this type of activity to be absolved of any responsibility.

That is all that the current law says; that if you are going to transport hazardous waste, then you should be responsible when it is discovered. My own State of Louisiana made a lot of news recently—it has been a year now—when one city in the Northeast—and I will not mention it—loaded up trains, train loads of what they said was sewage sludge containing hazardous materials, and they transported it from up in the Northeast all the way down to Louisiana to try and find a place to dump it. That sewage sludge contained hazardous materials. It was a train load that they wanted to bring once a month and find a place to deposit in my State. The problem is that under this amendment, we would not be able to pursue either the people who transported it, the people who collected it, or the city that generated it. They would be completely, arbitrarily, by an act of Congress, relieved of contributing 1 cent to cleaning up the contents of that material when it was discovered to be hazardous.

So I think that we have to be very careful when we consider this. This is a major, major amendment that carves out a special exemption for municipalities who, in collecting their waste, add to it hazardous materials. If they do that, I suggest, like anyone else, they should be responsible for the cost of cleaning it up.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair for recognizing me. I might say to my friend from New Jersey, who desires to speak, I will not be long.

Madam President, let me first say to the Senator from New Jersey, if I said that he was solely responsible for reauthorizing the Superfund, I clearly would not place such an onerous title on any single Senator, and so I would not put that on him either because obviously I think it is a law so desperately in need of being fixed that I would not want to say that any Senator was responsible for it.

Having said that, I make no apologies for coming to the floor and talking about business large and business small as this Superfund law and the various schemes of liability affect them because I cannot come to the floor regularly and say we want an American economy that is growing, we want American business to make money so they can hire people, and not have some concern about the situation that the Superfund creates by the litigation that it invites.

So I would only say to the Senate, if they are impressed with Senator LAUTENBERG's list of alleged liabilities, which turned out to be almost nonliability situations—the tree trunk and the hundreds of cases that he said are against cities where they did little or anything—I want to say to the Senate, there are thousands of similar situations in every regard against business in the United States. They are being brought into exactly the same situations that are alleged to be causing this enormous burden on the municipalities of the United States. There is no doubt that for every horror story about getting sued for something going wrong in a landfill that applies to cities, there are hundreds of similar ones in all respects that apply to business.

I want to compliment my friend, Senator DURENBERGER, for the way he presented this case, because clearly this is a case, a situation, where to let the cities out, as Senator DURENBERGER has explained it, is not fair. I frankly think the Senator from Minnesota [Mr. DURENBERGER] is right on the second point.

I believe this amendment that we are trying to strike carries with it so many institutions and entities that want to divide and conquer in a very, very serious way. They would like to take the pressure off the fact that Superfund is certainly not among one of the best cleanup laws that the United States has passed. In fact, Madam President, there probably is not a worse one. There probably is not a worse cleanup law of the United States on cost benefit, on how much of the tax dollars went into cleanup, what percent has stayed in the courts of America, what percent has gone to the lawyers and, yes, how few sites have been cleaned up after a number of years of this law being in existence.

So I do not shy away from being a Senator who does not think the law is working. I am one who says it is not working. In fact, I have been heard to say that if the Republicans were ever in control again and I could get a subcommittee, I would startle America with an oversight hearing on what is wrong with the Superfund. They would be literally amazed at what has happened to the billions of dollars that we put in that fund. They would also be absolutely flabbergasted at the lawsuits and litigation that it has brought.

If the Senator thinks that only the cities have been sued in situations where it appears on the surface that they should not have been sued, I invite him to ask the business people in his State, large and small, for the kinds of suits that have been leveled against them. They are there by the hundreds of thousands and they are not cheap and they are not free, yes, as witnessed by the cities of the United States who are complaining vigorously about the very same thing that business is suffering from.

Senator DURENBERGER equates it to letting the cities out so we can keep the small business in. I will just say let the cities out so we can keep all business in. And I close by saying I happen to have been on the committee that went to conference with the House when the Superfund came out of conference. I was not for it. I tried my best to fix some of it, but I did get a couple of things in conference. And I will tell the Senator from New Jersey, the de minimis rule is a Domenici idea. We proposed it because we could see that if you had joint and several liability without regard to how much you really polluted that everybody is going to get sued and that there ought to be an opportunity for those who can go to the court or go to the negotiator and say my liability is de minimis—and that is a pretty well understood legal term—and they could get out for a very small settlement and let the rest scuffle, not be in there for joint liability or several liability, as we state it in the law. That was not intended—and I reread the law—that was not intended for small dump sites, but rather for small liability, so it is available whether it is a big lawsuit over a big hazardous waste situation or little ones. It is the question of a city saying, "We are not liable other than a very small amount; let us out."

I think that is going to work administratively, and I do not believe we ought to make the pressure that will naturally come to the Congress of the United States—and I am not even embarrassed to say that it is coming. And let it come from cities; let it come from small business; let it come from big business; let it come from experts who are studying this law. Do not take part of the pressure off in the name of fairness. Leave the cities in. They will take care of themselves, just as we expect business to take care of itself. If they are not liable, they will not be liable. If they are liable only a little bit, they will prove it and get out under a de minimis rule. Very small is what it means. The liability is so small, it is not worth noting. That is what de minimis means.

I am delighted to be a cosponsor of the Chafee amendment. I am delighted that we agree that we ought not, piecemeal, let various defendants out, whether they are cities or otherwise. We ought to keep the law intact. And I close by saying it is inaccurate to say that municipal solid waste is benign. It is also inaccurate to say that Congress did not intend to treat municipalities the same as it treated other potentially responsible parties. It is just that we did not understand the size of this problem. But we clearly intended that they be included.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, while my colleague from New Mexico is still on the floor, he is someone with whom I serve on the Budget Committee. We occasionally agree on some things. But, as usual, the Senator from New Mexico is vigorous in his views and is articulate. He understands the law very well, and I have often admired his comprehension of complicated issues and his response, often, which is fairly succinct and direct. And I hear him say these things today.

But I do have to respond by just making the RECORD reflect the fact that this is not designed to tax communities, or disguise, as the Senator describes it, benign waste. It is very specific. It says that if there is hazardous waste handled, deposited, that no community is exempt. It is very specific.

My amendment does not protect municipalities that handle truly hazardous waste. It does not protect parties who are liable for owning or operating Superfund sites; not at all. Even with municipal waste, EPA still retains the discretion to bring lawsuits, although the settlement procedures will, we hope, resolve the cases quickly and fairly.

Now, there is an occasion around here for people to scoff at Superfund, saying that nothing has worked; nothing good has happened; more has gone to lawyers, et cetera. There is some of that. And I am no apologist for problems with EPA's implementation of the law.

But in 1991, private party settlements were worth about $1.4 billion; in 1990, something around $1 billion. We are talking about fairly significant resolutions of problems. There is a new report of yesterday, June 22, from Houston, TX: Chemical companies and developers have agreed to a $207 million settlement under which they will buy up more than 200 homes near a toxic waste dump and pay for 700 neighborhood children to go to college. This site, called the Brio site, has been listed as the Nation's 13th worst Superfund site by EPA.

What is the point? The point is that something is at work; that we are developing experience and results which persuade me that Superfund finally is achieving some results.

There is a landfill in south Jersey, the Lipari landfill, listed as the number one site in the country, now being worked on. Recent citizen testimony before my subcommittee suggests that EPA finally is making headway, even at this site.

So we are not looking at some casual game here. We are trying to do something that improves the environment. We have all kinds of laws to do that, including the Clean Air Act and the most recently signed major piece of legislation, the Surface Transportation Act, in which we make reference to congested areas so that we can clean up the environment.

I consider that to be a pretty serious responsibility, and I know a lot of people in my State and people across the country do. I know the Senator from Rhode Island certainly is conscious and aware of the need to protect the environment, whether it be along the Long Island Sound or the rivers that thread through his State or the beautiful State of New Mexico.

So this is not frivolous. We are talking about a law that is in place, flawed though it may be. It is starting to get results, though very obviously we are trying to do what we can to make sure that it works as well as it can, even as we approach major review.

But I do not understand the logic of the Senator from New Mexico, which says that the liability system is so flawed that maybe this ought to be dumped altogether. The Senator asserted that if he were the chairman, we would be taking a good look. I would not know why the Senator would have to hold hearings, because he already came to the conclusion, as he announced in his comments, that the whole thing is a failure.

There are lots of people who disagree. Based on recent EPA testimony, I think the environment is beginning to improve significantly as a result of the liability exposure that companies and individuals have to dumping hazardous material.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. LAUTENBERG. Certainly.

Mr. DOMENICI. Did the Senator hear the Senator from New Mexico say that he did not think we ought to clean up the kinds of things we are talking about? I thought I said that I did not think this was a very efficient way to do it, and that I thought there were a lot better ways, and I would like to have a hand at trying to do that. I thought that is what I was saying.

Mr. LAUTENBERG. Perhaps we are dealing with some verbiage and some interpretation. I think the Senator said that were he chairperson of the subcommittee, he would be calling for a review. And I think introduced in the remarks was a conclusion that this thing is a failed program.

Mr. DOMENICI. Yes.

Mr. LAUTENBERG. Am I correct in my interpretation?

Mr. DOMENICI. Yes. But the Senator does not——

Mr. LAUTENBERG. The Senator from New Mexico loves a clean environment.

Mr. DOMENICI. The $10 billion is what the taxpayers put in. I am just wondering whether they received anything like 10 billion dollars' worth of results. That seems to me to be a pretty good subject for a hearing. That is what I said.

Mr. LAUTENBERG. I think the Senator makes a good point. Because we spend $10 billion does not mean we get it back; just like the B-2.

When we spent $10 billion on the B-2, we got about $100,000 of value. When we spend all kinds of money on defense programs, we get—I would use different language—let us say gypped in the process. When we produce toilet seats on which one resides in comfort, and it costs $600, that is a fairly comfortable ride.

So there are all kinds of occasions when we have spent money—and I do not say this is one of them—and were up the creek in which we have not gotten value where the American taxpayer got gypped. People have gone to jail. I have not heard the same kind of protest when those debates came up, Madam President. There are many occasions when, unfortunately, this Government and our people get seduced and ultimately taken as a result of overruns by the defense industry all over the place. We find them, we penalize them, and sometimes we send them to jail. But I did not hear the same outcry, the same indignation, such as my gosh, look what is happening to our taxpayer dollars.

We can disagree on this, but if we want to say we have thrown away $10 billion, I am going to hold fast on this ground and say we have not wasted $10 billion. Some of it may have been for learning and some of it may have been misdirected because this was a major change in environmental policy in this country, and because of failures by President Reagan and Bush to implement the law we passed. But some things have happened and better things can happen if the administration commits to implementing the law.

But I have to ask the Senator from New Mexico. Why is it all right to let the banks off the hook and not the municipalities?

Mr. DOMENICI. Let me first say I understand the Senator from New Jersey does not want to spend any money to defend our country. He is going to quickly say I did not say that. But that is the way he treated my discussion. So let the record show that he thinks we should never have spent anything on defense because there is waste in defense.

I will get back to answering his question. What I already said about that was the difference is that the cities were intended to be parties to the Superfund. Nobody can come to the floor and say we did not intend them to be in. You might say we intended them to be in if they owned, but did not intend them to be in if they only transported. But they were in.

It is absolutely clear that for vicarious lenders' liability that no one contends they were supposed to be in. So two times before, the Senate has voted that we did not want the vicarious liability of lenders without knowledge—that is what they are, banks that have no knowledge of any liability—and still we are saying you are liable. We passed it twice and it is in this bill.

(Mr. WELLSTONE assumed the chair.)

Mr. LAUTENBERG. Once.

Mr. DOMENICI. Once. I cannot do any better. They are very different situations as I see it.

Mr. LAUTENBERG. Mr. President, I have to respond because I think we are getting a little bit beyond the pale—I have heard that expression used over the last few days—we describe unwillingness to defend the country.

I did my time; World War II. I know I look to young for that, but I was there. The fact is I have done my share of appopriations on defense. So let us not carry this to a ridiculous extent.

Did we get $10 billion worth of value? The question was asked the Senator from New Mexico. I do not have a simple answer. But I have both CBO and GAO examining how well Superfund is working. And I am committed to additional oversight in my subcommittee. I know where we did not get value on some of which we spent on defense, to which the Senator from New Mexico has been very generous. But that we have not heard about. So I think we ought to cut that argument just where it is, and let me talk specifically about the issue at hand.

The banks in this case who are dragged into these suits are not innocent parties. If they are innocent parties, they are exempt from liability. If, for example, they participate in the management of a company that they have lent money to, then they are liable. And if they have not, and if they stand back and let the company do its own operations, they are exempt from liability under the law.

Mr. President, we can talk all we want about whether or not we ought to exempt one party or another, but I would say this: if we are going to exempt the banks, if we are going to exempt the lending institutions, then we sure ought to look at the municipalities, lots of them small towns, lots of them innocent, dragged into these lawsuits by whimsy, by diversion, not able to even handle the cost for lawyers in these things.

So I feel pretty good about defending the municipalities and small businesses who have transported or generated trash innocently. If they have transported or generated hazardous material, or if they own a Superfund, they pay just like anybody else. They are a responsible party.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Thank you very much, Mr. President. I am here to support the distinguished Senator from New Jersey, whose amendment lays out a very enlightened approach for us all, particularly in a day and age in which we know our municipalities are at best hard pressed, and at worst having an enormously difficult time holding themselves together in these difficult economic times.

If we are going to involve them in Superfund as some would want, we are going to end up raising local taxes on all kinds of people, something I do not think we want to do. There is a simple solution, and that is the solution that has been offered by the distinguished Senator from New Jersey.

In the course of this debate, the famous Lowry landfill has been cited. The Lowry landfill is a perfect case in point. It is a very large landfill, Mr. President, outside of the city limits of Denver, that was used for the disposal of a whole variety of materials, as many of these large landfills were. Among other things, Lowry was being used by municipalities to dump their treated sewage sludge, which they did in very significant volumes.

The cities of Lakewood, Littleton, Englewood, and Glendale, a number of communities in the Denver metropolitan area, put their sewage sludge out there. Was that a bad thing? In fact, Mr. President, these very municipalities got an award for cleaning up that sewage sludge. Their sewage sludge was so clean, EPA was saying, not only are we going to give you an award, but maybe what you ought to do is not put it in the landfill at all, but use it as a fertilizer. And in fact, the State of Colorado and EPA certified the sludge—that same sludge that was going into the landfill—to be clean enough to be used on gardens. You can use it to fertilize your tomatoes and eat them. This was clean material. Yet these communities are being attacked under the Superfund law for putting things in that landfill that in fact EPA was certifying are clean.

What a bizarre situation for these municipalities to be in. They spend money to clean up the sewage sludge, to make it so clean that EPA rewards them for doing such a good job of cleaning it up. So the citizens of these communities have already spent the money to clean up the sludge. They put the sludge into the landfill, and then we turn around and under the Superfund law attack them for the volume of this clean material they are putting in here.

That does not seem quite fair. On the one hand, they are paying to clean it up and they do a very good job for doing it, put into the landfill something that is certified to be clean. Then they are told they have to pay their share of cleaning up the Superfund site because they put a large volume of this clean material in the Superfund site, next to people who are putting in heavy metals, solvents, industrial chemical wastes, and other toxic materials.

That is not fair. Those municipalities have done a very responsible and careful job. Under the language that the distinguished Senator from New Jersey has authored, what we can do is get the EPA to come in and bargain a fair settlement out with these municipalities. That is a fair thing to do.

The amendment does not say they get off scot-free. I think there is a 4-percent number in here. Get the municipalities who, in the case of the Lowry landfill, are putting clean material in to the landfill. It is not fair that they be attached by Superfund like the major industrial polluters, who, by the way, are outside this Chamber lobbying as hard as they can against the Lautenberg language so that the municipalities can continue to share responsibility for picking up a major share of the costs of cleaning these sites up.

That is not fair either. You have these major polluters right outside here, our own "Gucci Gulch" of lobbyists sitting out here, lobbying to make sure that municipalities, innocent in this process, are paying the tab. That is not fair, not fair to the taxpayer, and it is not the intent of the Superfund law either.

The final point I want to address is that this is not the place to fix Superfund. Well, these procedural arguments are the oldest arguments in the book. If you have an opportunity to change the law in a productive way, we ought to take that opportunity, and change the law in a productive way.

That is what the distinguish Senator from New Jersey is attempting to do. This language in the managers' amendment is only fair. It is fair to those municipalities, like the ones that I represent, to be allowed to bargain with EPA, and reach a reasonable settlement of their responsibility and not be in there subsidizing the big polluters who really have major problems because of what they put into the Lowry landfill. I think this is a very fair and balanced amendment.

Mr. President, again, I commend the distinguished Senator from New Jersey for this amendment. It is a fair beginning of a resolution of some major problems in Superfund, and maybe most important, it is fair to the taxpayers of those communities that I represent, as well as to so many others communities in almost every State.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I listened to the argument of the Senator from Colorado, and I must say it is intriguing. He is saying that we must exempt municipalities, because sometimes municipalities might be unfairly charged, but it is those wicked businesses that we have to get, those big polluters. Somehow there is something that is unfair to a municipality, that a municipality must be exempt, but if it is unfair to a business or small business, they are in a completely separate category; they are guilty before charged. So I think we can really see those arguments for what they are.

Mr. President, I want to say this. One of the joys of being in the Senate is the ingenious arguments one hears. You can hear Senators take the worst case and argue and twist it and do a splendid job with it. And I must say I have listened intrigued by the Senator from New Jersey, who comes here as he proceeds to gut Superfund, he has taken a great big chunk out, the second-largest contributor to waste, hazardous waste, in our Superfund sites, and he has taken them out. Then he stands up and says he believes strongly that the polluter should pay. That has a wonderful ring to it—the polluter should pay—except those he is interested in exempting from the act.

And then the Senator from New Jersey goes on to say—again, he is good, I must say, and if you are not careful, you are liable to be persuaded, and also if you do not know all of the facts, you might be persuaded. What the Senator from New Jersey said was very interesting. He said that under his provision, no municipality would be exempt if they were guilty of disposing of hazardous waste. But, Mr. President, "hazardous waste" is a term of art. Hazardous waste does not apply to anything that is picked up from a home, for example.

You can pick paints, oils, pesticides, Drano, batteries; that is your whole load. You take it and dump it in the site, and that is not hazardous waste. Those are facts, Mr. President. Those are facts that under the proposal of the Senator from New Jersey all of that would be exempt. In other words, the municipality that had done that would be protected by his provision.

Mr. President, I must say that I followed closely what the Senator from New Jersey has said. One of his quotes are: These suits, third-party liability suits, are unfair to municipalities. Well, if they are unfair to municipalities, Mr. President, they are unfair to all of the prospective defendants.

The Senator from New Jersey pointed out, and the Senator from Colorado pointed out, that some of these municipalities are hard put. They are suffering. Indeed, the Senator from New Jersey said they are laying off teachers, recreational directors, policemen, firemen, and having all kinds of difficulties.

That may be. But Superfund does not look and say, who is suffering out there? Superfund does not say: We are not going to tag you, Mr. Small business, because you have had a bad year. It is true you might have dumped a bunch of PCB's in the local dump, but you have had a bad year, so we are going to exempt you. That does not figure. Maybe it should.

Maybe we ought to review the Superfund and reassess it and say we will only hit those with deep pockets; we are only going to get the big ones, not the small business that this might be difficult for. You might find a rich municipality somewhere, Bethesda or someplace, and maybe they are a little more prosperous. I am not sure how that would work out under their proposal.

In closing, Mr. President, I would like to make a couple of quick points. Again, I stress that the Senator from New Jersey is really not quite accurate when he said that the original intent of the Superfund law was to exempt municipalities. I have been present on the Environment and Public Works Committee throughout the whole Superfund legislation, when it was first discussed and passed. There never was an intent to exempt municipalities.

It is also true that there was the belief that those who provided funding, in the instance of the banks, would not be caught under the provisions or the interpretation that the courts have recently given.

So there is an argument in favor of the Garn amendment. I must say, if we start fresh here, and if somebody wants to move to eliminate the Garn amendment, I will vote for it, but there is justification for the Garn amendment.

Second, I make a correction on what the Senator from New Jersey said. He said that his language passed through the committee. I do not think that is accurate. I do not think his language was approved by the subcommittee, and certainly I am clear that it was not approved by the full committee. I just wanted to make those couple of corrections.

Mr. WIRTH. If the Senator will yield, I appreciate the Senator's comments on the eloquence of the distinguished Senator from New Jersey, and the Senator from Colorado, and I think he knows that I have enormous respect for his knowledge and support of the Superfund legislation.

Let me again explain the situation that exists in the Denver suburbs, where municipalities treated their sewage sludge to the point that EPA was awarding them for doing this so cleanly that it could be used as a fertilizer. They spent a great deal of money to do that. They put that sludge into the Lowry landfill, which is now a Superfund site, and EPA is now coming around to sue those communities, who had already cleaned up the material they sent to the landfill to the highest level of the available technology EPA is now making them liable for their role in that Superfund site by virtue of the volume of clean material they sent there.

I do not have any idea how the vote on this amendment is going to go, but how would you explain to them the current situation? How do I explain to them, you cleaned it up once, and now we are going to come back and attach you for cleaning it up, a second time.

Mr. CHAFEE. If I understand the illustration of the Senator from Colorado, or if it is not an illustration? As I understand, it is a fact. He indicated that it is EPA that is coming after the various municipalities. Of course, that would not be changed under this statute. EPA could still come after them.

Mr. WIRTH. They could bargain under the language of Senator LAUTENBERG, they could come in and bargain this out and treat them differently than they do normally, where they are assessing their liability by volume.

Mr. CHAFEE. Under the Lautenberg language, it does not remove the ability of the Government; that is, EPA to go after municipalities.

Mr. WIRTH. Sets a ceiling on it.

Mr. CHAFEE. Sets a 4-percent ceiling, that is correct.

Mr. WIRTH. That is correct.

Mr. CHAFEE. What the Lautenberg amendment does or the Lautenberg provision says that other parties to the action cannot invoke the municipalities and bring them in as defendants. But as to insurance, from what I understand the Senator from Colorado said that is not his situation. It is EPA that is coming after them, and that would still be permitted. So I do not think he is going to find the solution that he seeks except for the ceiling.

Mr. WIRTH. Yes, the ceiling is more important because that limits that liability and protects the municipalities that I represent in this situation, where those taxpayers are being asked to pick up the liability for the really severe toxics that we all know are in the old Lowry landfill. It is a real dilemma.

Mr. CHAFEE. I would say this, under the existing law, municipalities would only be liable for whatever hazardous substances they can contribute. But, Mr. President, we have heard the arguments. I will just in a final sentence say this, I believe it is unfair to exempt one group, one group that are clearly in many instances polluters. If we want to reexamine the law, OK let us do it, and there are proper times and places for doing that. I believe the polluters should pay. That is why I do not think the Lautenberg language should stand, and that is why I urge all my colleagues to vote for the Chafee amendment.

The PRESIDING OFFICER. The Republican leader is recognized.

MUNICIPAL LIABILITY AND SUPERFUND

Mr. DOLE. Mr. President, this provision to exempt municipal governments from liability under Superfund brings with it a series of questions and some issues of fundamental fairness that I believe we must address if we are to address this issue at all. While it is politically popular to exempt municipal governments from Superfund liability claims, the end result will be to put the entire burden of cleanup costs on the business community. At the same time, the legislation makes the distinction that municipal governments are exempt from contribution claims if they were only hauling trash to third party sites. However, those sites, and there is one in my State of Kansas, that owned and operated their own disposal sites remain fully liable. I ask where is the fairness in this?

Likewise, Mr. President, as long as we are talking about forgiveness from Superfund, we should be exploring the fairness of singling out municipal governments who are liable under Superfund for practices that occurred 30, 40, even 50 years ago when environmental protection laws were virtually nonexistent.

In Hutchinson, KS, for instance, at the Obee Road Superfund site, dumping practices at the old naval air station are suspected of being the source of ground water pollution under what is now the airport. The fact that the city owned and operated an abandoned landfill from the mid-1950's to the mid-1960's in the same area now subjects the city to Superfund liability. Now the city is engaged in a very expensive process to determine to what extent it and other parties are liable for cleanup. This process could take years and has already cost hundreds of thousands of dollars. There is no telling how long this will take.

I have just received the latest EPA progress report toward cleanup of NPL sites in Kansas. Not one of the projects at these 11 sites has been completed. I would suggest that if we are to take a look at Superfund that we look at the total program. The message I am getting from the mayors and city and county commissioners of Kansas is: Let us get on with it.

Right now most of the money, as I understand it, goes to lawyers, lawyers on each side, where 80 percent of the money is spent.

Mr. President, I offer the following final comments: Superfund in general probably needs to be overhauled so we can see real progress toward cleanup—not just continual planning and study of these problems which is the No. 1 complaint I hear from affected parties in Kansas. Second, if we are going to address municipal liability issues, we need to look at the total picture all at once, rather than in a piecemeal fashion, so we can take care of communities, like Hutchinson, KS, and, in fact, small cities like Hutchinson, KS, face financial ruin—even bankruptcy—if these problems are not addressed.

I think it has already been stated that the EPA and White House strongly support the amendment by the distinguished Senator from Rhode Island.

Mr. President, I ask unanimous consent to have printed in the RECORD a table entitled "Progress Toward Cleanup at NPL Sites in the State of Kansas."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROGRESS TOWARD CLEANUP AT NPL SITES IN THE STATE OF KANSAS

Site name	County	NPL	Date	Initial response	Site studies	Remedy selected	Remedy design	Cleanup ongoing	Cleanup complete	Deleted
Arkansas City Dump	Cowley	Final	Sept. 8, 1983		X	X	X			
Big River Sand Co	Sedgwick	do	June 10, 1986		X	X		X		
Cherokee County	Cherokee	do	Sept. 8, 1983	X	X	X	X	X		
Doepke Disposal (Holiday)	Johnson	do	Sept. 8, 1983		X	X	X			
Fort Riley	Geary	do	Aug. 30, 1990		X					
Hydro-Flex, Inc	Shawnee	do	Mar. 31, 1989		X					
John's Sludge Pond	Sedgwick	do	Sept. 8, 1983	X		X		X		
Obee Road Site	Reno	do	July 22, 1987	X	X					
Pester Refinery Co	Butler	do	Mar. 29, 1989		X					
Strother Field Industrial Park	Cowley	do	June 10, 1986	X	X					
29th & Mead GW Contamination	Sedgwick	do	Feb. 21, 1990		X					

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I know we are in the closing minutes of this debate and probably one of the most comprehensive and thorough conversations and robust conversations we had on the Superfund site in a significant amount of time.

I am going to support the Lautenberg amendment. I am going to support it not only because I am a U.S. Senator that funded the Environmental Protection Agency and knows the flaws in the Superfund site, but I am going to support it because I was in the Baltimore City Council and I know the issues that municipal governments face and where they often are left in a situation in which they have no recourse. I think that the Lautenberg amendment addresses some very, very important issues.

THE PRESIDENT'S VETO

Mr. President, while we are having this discussion on the Superfund site, and actually what it is about is the potential devastating effects that the Superfund situation has on America's health, I would like to take a few minutes and just shift gears for a moment and bring to the U.S. Senate's attention that President Bush has just vetoed the National Institutes of Health legislation.

This legislation was created to be the biomedical research framework for the United States of America. I cannot wait for the rest of the evening to contain my frustration with that veto. We must stand in protest over that veto. The President has just vetoed America's future, has just vetoed the health of American families, and has just vetoed the opportunity for jobs today and jobs tomorrow.

How did this happen? How did he veto America's family health? I will tell you why. Any of those who have ever been with families whose mothers have died of breast cancer want to know why it had not been detected earlier or treated differently. Many people have been with family members or friends in their final agonies as they died of AIDS wondering if there was a cure—and I have been with my own dear father during those languishing hours before he died of Alzheimer's disease.

I must protest the fact that we have vetoed the only agency in the United States of America that is trying to seek a cure for these devastating illnesses and at the same time the President says, well, we have a little section there about women's health. We do not need anything special on women's health.

Mr. President, the men of this United States understood as I spoke with them about a GAO study that systematically excluded women from clinical trials for a number of years. We were excluded from the clinical trials on taking an aspirin a day and keep a heart attack away. There were 20,000 men interviewed and not 1 woman. There were many other instances about that. So we established an office on women health. But the President says we do not need that.

Mr. President, that is the equivalent of saying do not worry, honey. We will take care of you. Every woman in America knows that when anybody says do not worry, honey, we will take care of you that is a code word that you better watch out. And that is what we now know is happening at the National Institutes of Health.

The President wants to eliminate that office and at the same time we set aside money for breast cancer research, ovarian cancer research, and osteoporosis. But this is not only about women's diseases. We have been very much concerned about the rising rate of prosrate cancer, the fact that there are very few techniques or either reliable early detection or for a treatment to look out for the men that we care about. And then what happened? The issue of vetoing research on Parkinson's disease and Alzheimer's disease, is that not vetoing a family health concern?

Be with me as I talk with the nursing home widows as they sit there in nursing homes watching their husbands' lives and intellectual capacity slip by or talk to the male caregivers who are caring for their wives which they need to comb the hair, put on lipstick to meet the basic need, and those gallant men struggling with that.

Mr. President, I protest the veto of the National Institutes of Health legislation. It is antifamily, and it is vetoing our future, because it is in finding these cures that we will generate jobs today and jobs tomorrow. This President had an opportunity to sign a bill that would save lives, save jobs, and save America's future. He chose to veto it and must bear responsibility for that.

I yield the floor, and look forward in voting for the Lautenberg amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, the Senator from Maryland, as usual, distinguishes us by her poignant reflection on some of the actions we take here because there is a tendency around here to disparage things that we do, to position them like bureaucratic exercises, to take away from business opportunity in this country to invest, to play with the taxpayers' dollars.

You just heard from one of the most eloquent spokespersons in the United States about women's problems, about our health problems. Senator MIKULSKI is chairperson of the Appropriations Subcommittee on EPA. And that comes after we have had a discussion about how badly the program operates, how ridiculous some of these functions are, and how, by implication, we are looking at a total failure, and would that we can get our hands on these things so we can strangle this program.

I have to correct the RECORD in a couple of places, Mr. President. One by my distinguished colleague from Rhode Island who called me on the fact that the municipal liability amendment that I propose, built on an earlier one, did not pass the Environment Committee, and he is correct on that. I want the RECORD to reflect that I had confused it with something else that we were working on. But the fact is that it has reviewed in our subcommittee.

And when we make reference to the permission for lenders to reduce their liability, it has been said several times that in a couple of cases it has passed the Senate. It is not so. It passed once on a voice vote. So we had no real measure of the Senate's desire to support that.

But then the Senator from Rhode Island criticized my comments further when he said that I wanted to exempt municipalities from liability. That is not true. I do not want to exempt municipalities. If they contributed hazardous waste, toxic waste to dump sites, they are responsible and there is nothing here that shields them from having to pay the price for their irresponsibility or for their violation of the law. That is not what we are talking about.

Our protection is for those municipalities and all individuals, all persons. It says so specifically in the legislation as I have written—all persons. So that can be anyone, involved only with trash generation on transport, despite the contradictory statements made by my colleagues on the other side, who is protected under this.

If they have been innocent transporters or generators of household trash, garbage as we know it, they have been intended to be exempt from it from the beginning. The Superfund is not supposed to take in garbage disposal. Superfund talks about hazardous waste sites, toxic waste sites. So I would call to the attention of my friend from Rhode Island the fact that there is nothing here that exempts municipalities who violate the rules by transporting or generating or dumping hazardous waste.

Now, the Senator from Rhode Island also said something else that I am kind of scratching my head about. He said I wanted to gut Superfund. Did I hear the Senator correctly?

Mr. CHAFEE. Yes.

Mr. LAUTENBERG. Well, the Senator happened to sit on the Banking Committee for some time, even I guess until last year. There were attempts to exempt banks from liability under Superfund. And I would ask the Senator—I checked the RECORD—how many times he protested exempting those banks from escaping their liability? I do not think the Senator during his days on the Banking Committee did anything to protest at any time that the Superfund or lender liability questions were being discussed.

But as I listened to the negative comments, Mr. President, about the success of Superfund, I have to just go back in history and the record for a little bit and tell you that in April of this year, I held a hearing to look at how Superfund was doing. I invited witnesses from a variety of perspectives, from EPA, a lawyer who represented a private industrial party at a site, citizen activists from several sites, and a State environmental official. All of these witnesses, including a citizen activist from the No. 1 Superfund site in the Nation, had a generally positive story to tell about Superfund's recent performance at their specific sites.

I asked these witnesses, particularly the Administrator of EPA, Mr. William Reilly, who was publicly dressed down when he appeared on behalf of our Government at Rio de Janeiro—he tried to do a proper job—I asked him to address the toughest criticism that the Superfund program faces. Mr. Reilly not only disagreed with the popular assertion that Superfund is throwing money at low environmental risks, but pointed to the site-by-site safeguards designed to assure that cleanups only take place where significant risks are present.

As I later suggested in the hearing, perhaps one way to test the assumption of those who argue that Superfund sites do not pose risks is to ship them the water supply from the area around the sites that have not yet been cleared up, then say "Drink the water or give it to your kids." And that will tell us the mettle of those who believe that the site ought not to be cleaned up.

EPA presented a number of impressive statistics to combat the constant industry attacks on the liability system. Although those seeking to avoid their cleanup responsibilities point to long delays and inefficiencies resulting from EPA's attempt to make industrial parties pay for cleanups, the facts run contrary to this allegation. Mr. Reilly testified that it generally takes only about 3 months or so to get a site cleaned up where EPA has used the Superfund liability system to make responsible parties pay for the work. That is about 3 months over a typical 7- to 10-year cleanup process. So that does not sound like it is slowing by much and it does help us capture the funds from the responsible parties that they rightfully owe.

Mr. Reilly specifically stated that Superfund's liability system is resulting in private parties assuming significant shares of cleanup. In fiscal 1991, EPA used the liability system to get private parties to agree to pay $1.4 billion of the cleanup tab with private parties performing 63 percent of that year's cleanup construction projects. To me, it is evidence that the liability system is working. While some of those being forced to pick up the tab would rather spend large sums of money lobbying against the current law or fighting EPA's efforts to make them pay, such parties hardly can be viewed as objective critics of the program.

Mr. President, a recent Rand study suggests that some segments of industry are actually realizing much lower legal costs than others at Superfund sites. To their credit, some in corporate America have gotten with the program. Instead of buying ads and hiring consultants to lobby Congress and write op-ed pieces attacking Superfund, instead of litigating cases into the ground, some in corporate America are coming forward to pay for cleanups.

It is interesting that industry opponents of Superfund fail to mention the positive news from the Rand study, the news showing that some industrial parties are paying significantly larger amounts for cleanup than they are spending on litigation costs.

The record goes on. I think there is enough support that says we ought to continue, if we have problems with Superfund, in my view—and that is what we are trying to do today—to fix them as we go. But there is no reason to exempt one party from their full liability while leaving municipalities and other individuals unprotected.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it may come as some shock to my friend from Rhode Island, Senator CHAFEE, that I do agree with him with regard to the amendment of the Senator from New Jersey. Not that I disagree with the amendment of the Senator from New Jersey, it is just that I feel it is time to look over the total problem involved within the Superfund law.

Let me just cite one example of a situation that has developed in Fairbanks, in Alaska. A battery concern, the Alaska Battery Enterprises, was the place to which responsible companies took their batteries to be recycled. That was back in the days before Superfund, and when people did not quite have the technology available that we have today, to handle things like batteries and battery acid.

As a result of action taken by the EPA under the Superfund law, the battery company has gone out of business. As a matter of fact, the person who formed that business, closed his business entirely in May as a result of $3.2 million bill to clean up his small business in Fairbanks. He took his business to eastern Russia, and he is now manufacturing batteries in that former area of the Soviet Union. He has no alternative, really.

The problem is that the small businesses that are faced with this Superfund law just are at their wits' ends. They cannot deal with the massive charges involved in the Superfund cleanups. And on top of that they face substantial legal costs—still undefined liability—because of the unfair liability problems involved.

I want to put into the RECORD, if I may, a series of letters from people who have been affected by this action. As a practical matter, one of the most difficult is a small auto parts company that has notified me they have up to $90,000 in cleanup costs and legal fees coming out of an action against those who took batteries to this small battery company to be recycled. Anyone who took a battery there to be recycled is now being charged for the problem of the pollution that occurred in the area when people thought it was all right to bury battery casings.

Even the Department of Defense during World War II days took their batteries to this small battery shop. Now all those in business, still remaining in business in Fairbanks, are faced with a portion of the charges for the cleanup, and legal fees associated with the action.

I cannot think of anything more irresponsible than what has been done by the EPA under the Superfund law in my State. And it stems, in large part, from the strict liability aspect of the Superfund law.

Let me read a letter from William Ransom Wood, the president emeritus of the University of Alaska, a good friend, one of Alaska's famous poets, as a matter of fact, who served our university and came to us from the University of Nevada. As a matter of fact, he served at that university for a long time. Dr. Wood is in his eighties. He is still very articulate, as you will hear from this letter. He wrote this to me:

> When an agency of government runs amok, destroying the livelihood as well as the spirit of honest, decent citizens, and then punishing them with retroactive fines, it is only a matter of time until the people, in seeking redress for wrongs, turn to violence.
>
> The EPA has overstepped the boundaries of decency, fairness, common sense and justice. It is creating more harm for more people than a measure of good for a few.
>
> In assessing the good being done under any cause, never overlook the evil committed in its name.
>
> The EPA, and the antihumanistic philosophy under which it is being administered, apparently by zealots, can destroy a great Nation now at the beginning of its third century.
>
> The Congress and the media might be astonished and sobered by how deeply bitter the growing number of the victims feel about this, country-wide.

It is signed Bill Wood.

If people are looking for reasons why Mr. Perot has suddenly taken off like a skyrocket in our political skies, they might look at some of the reaction of small businesses facing the overregulation of our Government and the inability to cope with something like the Superfund law.

I cannot support the amendment of the Senator from New Jersey at this time because I want him here helping us when it comes to the time when we have to restructure this law. At that time I do not think my friend from Rhode Island will be as appreciative of my vote as he will be today—I can assure you. But it is time we made some sense out of this law.

To charge people who took batteries to a recycling company, now, for a portion of this enormous fee that is assessed to clean up the soil—and, understand me, we would like to see it cleaned up—is just not right. There must be some way we can devise to find the technology to do it right and to do it at less cost than is now charged, particularly to avoid the fines and fees that come from the EPA, as they administer this law. I hope that this can be done comprehensively, not in the piecemeal fashion in which the Senator from New Jersey suggests.

I ask unanimous consent to have printed in the RECORD the letter from Brown & Sons Auto Parts, as well as the newspaper articles from the Fairbanks Daily News-Miner concerning the battery cleanup figures—an article of January 29, of this year—and then the followup story, "Romans Closes Alaskan Battery Shop," which tells the story of my friend, Earl Romans, how he had no alternative but to take his business—leaving his employees, unfortunately—but to take his business to Russia in order to survive.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BROWN & SONS AUTO PARTS, INC.,
Fairbanks, AK.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

Congratulations on another victory to the Senate. As constituents who voted for you, Eddie and I have a problem we need your help with. Our company, Brown & Sons Auto Parts has been named by the EPA as one of the (PRP's) Potentially Responsible Parties for the cleanup of the Alaska Battery Waste site.

I'm sure you've read in the Fairbanks Newspaper about all of us who have been named, and the list is obviously incomplete at this time, are going to be charged 100% of the cost of the cleanup. Yet the EPA knows and admits that we only contributed 15% towards the problems.

As it stands now we could possibly have to pay upwards of $90,000 in cleanup costs and legal fees, this could force us into bankruptcy. Many of the other (PRP's) are large corporations, Government Agencies, Military, etc. These people have the resource to withstand a hit of this magnitude, but we cannot.

We employ just under 50 people in the Fairbanks, North Pole area with an annual payroll of over $900,000. How are we going to explain to our employees, some of whom have been with us for 13 years, how to make their next mortgage payment or feed and clothe their children? We have built a stable business and contribute a great deal to our community. All our profits we've made through the years have always been put back into building our business. We do not have the funds to pay huge bills for the cleanup.

[From the Fairbanks Daily News-Miner, Jan. 29, 1992]

LOCAL GROUPS PUSH FIGHT ON BATTERY CLEANUP FIGURES

(By Helen Gordon)

The Fairbanks businesses and government agencies being billed for the $3.2 million Alaskan Battery cleanup will have one more chance to challenge certain Environmental Protection Agency figures.

Keith Rose, remedial project manager for the EPA in Seattle, said Tuesday that the 36 parties identified as contributing to lead contamination at the battery recycling site have until Feb. 15 to submit new information.

The EPA reopened the door to new information last week during meetings with individual parties. Rose said some of the parties were concerned with the EPA battery count. Contributing parties have challenged both the EPA total and the numbers assessed to each party.

"We're re-evaluating the numbers," Rose said.

A change in the count could make a difference in how much of the tab each party must pick up.

The EPA in 1988 placed Alaskan Battery on the federal Superfund list and spent $2 million on an emergency cleanup after testing showed toxic levels of lead in the soil. The agency spent another $500,000 since then on follow-up testing and plans to spend up to $520,000 more on monitoring over the next five years.

Eleven of the 36 parties tapped by the EPA are being asked to pick up the majority of the cleanup bill. The EPA offered to let the remaining 15 parties, labeled minor contributors, pay $69.25 per battery to settle their liability. If every minor party participated, their total contribution would be $146,296.

Rose said that as of Tuesday, about half of the minor parties had notified the EPA they are interested in pursuing the settlement offer. Any of the minor parties interested must notify the EPA by Feb. 7, but any party can pull out during the 60-day negotiating phase and 30-day public comment phase that will follow.

The EPA has asked the major contributors, expected to cover the remaining $3 million, to decide among themselves how much each party will pay. Brown said the EPA hopes to begin negotiations with the major contributors by mid-March.

Greg Durdik, general manager of Brown & Sons Auto Parts Inc., a store identified as a major contributor, said his company believes the EPA figure for Brown & Sons of 1,000 batteries is off by at least 25 percent. He also complained that some parties dropped off batteries larger than standard car batteries, while others were responsible for smaller batteries such as those used for motorcycles.

"The numbers are all screwed up but they (the EPA) lay the responsibility on us (the major contributors) to work it out. That's pretty hard for us as a group of individuals," Durdik said.

Durdik said major contributors want the EPA to assign a specific level of responsibility to Alaskan Battery owner Earl Romans. And, he said, the parties continue to be concerned about the "orphan share," that portion of the cleanup cost being billed to the major contributors to cover contamination caused by unidentified parties.

Some of the identified contributors had hoped the state would help pay for the cleanup because the EPA has been unable to identify parties responsible for as much as three-quarters of the contamination.

"We're not going to get the good end of the stick here," Durdik said. "Unless the state gets involved, we're going to pay the orphan share."

While Rose said the meetings last week were "productive," Durdik said the parties "got the standard nods and, 'We'll look into it.'"

Rose said the business owners are less angry than when the liability process started. Durdik disagreed.

"Everybody is just as angry," he said.

Rose and EPA attorney Lori Houck earlier last week met with an irritated crowd of about 30 representatives of the 36 contributing parties.

Some of the minor, or "de minimus," parties that were offered the $69.25-per-battery settlement complained they could end paying more than their fair share. They said the cost of the cleanup could be less than expected because more contributing parties could be identified, the battery count could change, or a successful challenge of EPA handling of the cleanup could force the EPA to pick up some of the tab.

"The de minimus people are paying a very high premium," Houck agreed, "but it allows them to get out."

She said de minimus parties who decline to settle will join the 11 major contributors and could end up paying a much larger bill.

Rose added that federal law holds all the parties contributing to a contamination at a Superfund site "jointly and severally" liable for cleanup, which means any one party could end up paying the entire cleanup bill.

Jim Turner, a manager of NC Machinery, a Washington company identified as a major contributor, said the EPA is punishing the parties who cooperated with the investigation and voluntarily acknowledged they had contributed batteries.

"Honesty did not pay in this case," Turner said.

"This is a very hard situation," Houck said. "We want to do what's fair. We feel we've done that for the de minimus people and we want to do that with the non-de minimus people."

[From the Fairbanks Daily News-Miner, May 10, 1992]

ROMANS CLOSES ALASKAN BATTERY SHOP

(By Ingri Martin)

Alaskan Battery Enterprises on the Old Richardson Highway has closed.

Owner Earl Romans, who said he would close up shop for good Friday evening, blamed the shutdown mostly on a fight with the Environmental Protection Agency over the Superfund cleanup of his battery yard.

"It's for economic and regulatory reasons," he said. "It's just business."

The cost of the cleanup, which will include followup sampling and testing this summer, is expected to hit $3.2 million. The EPA is attempting to get Romans and his former customers to pay for the work.

Romans estimates that since he became the focus of the federal cleanup in 1968, he has gone $30,000 in the hole.

"That was money advanced by my brother to clear my name," Romans said. "He's 64. That was his retirement money."

His brother, James Welker, started the Alaska Husky Battery line in Anchorage 40 years ago. Welker went out of business in the '80s, after also running into lead-contamination problems with the EPA.

At the height of his success, Romans employed a staff of 12, with sales peaking at about $500,000 annually. More recently he has had the bulk of his batteries made in Korea to his specifications, although he retained a staff of five locally to turn out a smaller Alaska line.

"Since the EPA announced in January that they were going to do more cleanup work here this summer, I've had customers saying, 'You can't survive them twice. There will be customers who won't buy your batteries because they'll think you're not here,'" Romans said.

Romans said he plans to discuss the effect of his decision with the EPA and the three dozen "potentially responsible parties," or PRPs, the agency has identified to share the cost of the cleanup.

"They've been told (by the EPA) that as long as I operate here, anything that has to do with batteries, I'm a liability to them," Romans said. If the EPA finds additional contamination at the site, the cost to clean it up would be added to the tab that Romans' former customers are already being asked to pay.

However, once he is out of business, Romans believes, any contamination found in the future will be the EPAs responsibility.

"The PRPs (potential responsible parties) are being used as a lever against me and I think that's baloney," he said.

Romans said he will turn his attention to production and sale of an EPA-approved battery tote, and to Spark, a joint-venture battery manufacturing company in Russia. He and Russian industrialist Valentin Tsvetkov intend to go into production in a privately-owned factory in Magadan by fall, Romans said.

That is a delay from the targeted startup date on May 1, Romans said, because some of the equipment from the United States was damaged in transit.

"We're going to perfect in Russia what we couldn't perfect in America," he said.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I congratulate the Senator from New Jersey for his effort to oppose the motion to strike offered by the Senator from Rhode Island, and to stand by the proposal which he, Senator WIRTH, I, and others offered to protect municipalities.

I heard the comments of the Senator from Alaska and other Senators. I agree that a candid and complete appraisal of the Superfund law requires that we look hard at some of the costs that it is placing on businesses, as well as at the other difficulties we have experienced in the cleanup effort.

But I think this particular amendment is not focused at all on such a careful reappraisal, but instead is just one more of the many attacks that have been leveled at the Superfund law itself.

There are many people who just do not like the law. There are many businesses who just do not want to take part in the cleanup in this country. They have engaged in every kind of subterfuge, every kind of avoidance.

Regrettably, a few too many administrations have engaged in their own avoidances of responsibility for cleanup in this country.

There is not one of us who does not remember why this fund was created in the first place. It was a response to the public outcry over the Love Canal incident, where 200 homes were boarded up, schools were closed, and families were displaced because of chemical waste dumping into the abandoned Love Canal in upstate New York.

The Superfund law requires the Environmental Protection Agency to determine the most dangerous hazardous waste sites, and gives EPA the power to force those responsible to clean them. In addition, the EPA can conduct cleanups using Superfund, and later sue responsible parties to recover the expenditures.

Since its inception, over 1,280 of the worst hazardous waste sites in this Nation have been added to the Superfund national priorities list. And 20 percent of those are municipal landfills.

In addition to that, EPA has received reports of more than 33,000 potential hazardous waste sites. At the current rate, the potential number of municipal landfills to be placed on the NPL reaches into the thousands.

Mr. President, current law says that if EPA cites an entity as a potentially responsible party, or PRP, for disposal of hazardous waste, that entity has the right to sue other parties who also may have contributed to a hazardous waste site. But, it is EPA's policy not to sue municipalities or other persons who generated or transported only municipal solid waste [MSW] or sewage sludge. EPA recognizes that studies show that MSW contains less than one-half of 1 percent hazardous materials.

The Superfund was created, as we all know, to identify hazardous waste sites and the contributors thereto, and get them to pay the costs of cleaning up those sites. It was never the intent of the U.S. Congress to make a local government liable for millions of dollars of toxic waste cleanup costs simply because of the disposal of ordinary household trash by its citizens. Yet, as unbelievable as it may sound, that is fact becoming the reality.

To date, more than 400 local governments in 13 States are facing hundreds of millions of dollars in litigation and cleanup costs from lawsuits brought by corporate polluters. Given the potential of 30,000 additional sites, this number is just the tip of the iceberg. This outrageous practice must be stopped.

The key issue for municipal landfills included in the NPL is that individuals and local governments are being sued as third parties, not for contributing hazardous waste, but for simply disposing of ordinary municipal solid waste—and they are being sued not by the EPA but by those identified as primary hazardous waste polluters.

In my own State of Massachusetts, there are 25 Superfund sites and 10 sites that involve municipalities. One such site, the Charles George landfill, located in Tyngsborough, was used by nine local governments from 1955 through 1983 for MSW disposal. For a 3-year period in the 1970's, commercial and industrial waste generators also used the landfill, disposing of significant amounts of toxic waste. In 1981, after finding volatile organic compounds and toxic heavy metals, the site was added to the NPL.

Four years later, the EPA named several corporations as potentially responsible parties—or PRP's—that disposed of hazardous materials at Charles George. EPA also determined that the MSW contributed by the nine communities did not warrant a lawsuit against the nine communities. Despite EPA's decision, the original PRP's filed a third-party lawsuit against the local governments, arguing that despite the extremely low toxicity of the municipal waste, the volume should be a major factor in allocating cleanup costs at the site.

The third-party lawsuit poses a tremendous financial burden to the local governments which already are struggling to make ends meet. They have been forced to spend hundreds of thousands of dollars defending themselves.

Communities in Massachusetts are not the only victims. In addition to communities nationwide, I am aware of little leagues, Boy Scout organizations, elementary schools, and many other community groups that have been sued and paid thousands of dollars in court fees and settlement costs because they had disposed of what we consider ordinary trash.

The provision which I joined Senators WIRTH and LAUTENBERG in offering, and which is a part of the GSE bill we now are considering, would block third-party suits for municipal solid waste and sewage sludge if a party's only actions at the site related to the generation or transportation of MSW or sludge, or if that party merely owned or maintained a public right-of-way over which waste traveled.

It would retroactively cover all pending actions, unless a final court judgment has been rendered, or a court-approved settlement has been reached.

Senators LAUTENBERG and WIRTH in their comments today have noted that, if municipalities or anyone else owned or operated a facility, or handled genuinely hazardous waste, this provision to block third-party suits would not apply.

In addition, this provision would not affect the current EPA municipal settlement policy which states that the Agency will not sue municipalities or others for MSW transportation or disposal unless truly exceptional circumstances exist. If EPA decides to send notices of potential liability to municipalities, such parties would be given an opportunity to settle their liability with EPA. At that point, a moratorium on all Superfund litigation against them would be set in place.

The provision also would establish a cap of no more than 4 percent of total cleanup costs for MSW, to apply to any situation where, notwithstanding the municipal liability limit of this provision and current EPA practices, one or more parties involved with MSW at a Superfund site—notably including communities—are brought into a suit pertaining to that site.

It is also our intention with this provision to provide incentives to local communities to prevent hazardous materials from entering landfills in the first place. We address future disposal practices by requiring municipalities wishing to take advantage of the settlement provisions with EPA to establish a qualified household hazardous waste collection program. This program must include a semiannual communitywide collection of household hazardous waste, a public education program that identifies both hazardous products and safer substitutes, efforts to collect hazardous waste from conditionally exempt generators, and a comprehensive action plan.

The Lautenberg-Wirth proposal is an important step forward in returning the Superfund Program to its proper focus and in advancing environmental protection. Some would argue that it would be preferable to wait until the next Congress when an effort will be made to reauthorize and revamp the entire Superfund Program. Unfortunately, the municipal liability issue is an urgent matter that we believe requires immediate action.

So, Mr. President, I am not going to belabor this. There has been a substantial debate here this afternoon. But I do want to thank the Senator from New Jersey for his efforts to hold the focus of the U.S. Senate on the original intent of the Superfund and not to allow communities to be penalized—unfairly penalized in my judgment—at a time when many of them are financially strapped. Failing to act as the Lautenberg-Wirth proposal provides will result not only in communities being penalized, but penalized by the very people who are responsible for the major pollution in the first place and who are simply seeking a way of avoiding their responsibility.

The people who suffer when this happens are the citizens who are already angry enough at Government for not doing what it is supposed to do. It would be irresponsible to exacerbate the loss of well-being they already are experiencing as a consequence of the disease and other hazards caused by improperly discarded toxic wastes.

I thank the Senator from New Jersey for his effort, and I urge colleagues to oppose this motion to strike.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. KOHL. Mr. President, I rise today to commend my friend Senator LAUTENBERG for his leadership in addressing one of the most troubling aspects of this Nation's Superfund law—the ability of polluters to unfairly shift clean costs onto municipalities. In my nearly 4 years in the Senate, I have met with leaders in communities across Wisconsin being implicated or threatened with lawsuits merely because they contributed municipal solid waste to landfills also used for dumping the toxic waste of industry.

Under the Superfund law, some large generators and transporters of hazardous waste have been able to file lawsuits to unfairly shift cleanup costs at contaminated landfills to local governments and small businesses. In many instances, these lawsuits have been plainly frivolous, since most municipalities generated or transported predominantly municipal solid waste and sewage sludge, not hazardous waste. Such lawsuits represent an enormous financial threat to hundreds of municipalities across the country. It is often less expensive for a community to settle such lawsuits rather than to fight such cases in court, resulting in these costs being unfairly placed on the shoulders of the average taxpayer.

By addressing many of the toxic cleanup inequity issues facing municipalities, the Lautenberg amendment brings some reason into a process that has defined reason. This provision would not prevent municipalities from being required to contribute to the costs of cleanup of hazardous waste sites if EPA determines that they have significantly contributed to the problem, it merely prevents industry from unfairly shifting cleanup costs to municipalities.

Mr. President, it is no secret that Superfund is in serious need of reform, not only in the area of municipal liability, but across the board. Senator LAUTENBERG's amendment is one step toward achieving needed reform, but should not preclude a full review of the Superfund law.

I urge my colleagues to vote against the Chafee amendment, and to support Senator LAUTENBERG's municipal liability provision as it appears in the manager's amendment.

Mr. JEFFORDS. Mr. President, my colleague from New Jersey mentioned that we never envisioned the lawsuits that cities can be faced with under Superfund. I agree. We never envisioned several of the problems that have surfaced with Superfund. Unfortunately, Superfund was reauthorized nearly 2 years ago in spite of the fact that it never went through the committee process nor ever passed either House of Congress, but was added in conference. Thus, we're forced to try to piecemeal a solution to Superfund's problems. I think this is wrong.

Among my constituents are the owners of a business over 200 years old, a business which Superfund may bankrupt. What was their crime. Nothing. They obeyed the law, but are now forced to play by new rules. They run a salvage business and had to provide the Government with the names of all their past clients. This action so alienated all of their clients that they are losing business at the very time that they need the money to finance a cleanup. EPA has frustrated their efforts to do the best they can. This company has even received bills from EPA calculated to the penny, but when they ask for the documentation on costs, they are told there is none. And, if they want documentation, EPA will charge them to make it up. Where is the help for the small businesses?

Now the issue at hand is whether or not cities should be held as equally liable under Superfund. Yes, I believe they should. Municipalities need to be held accountable for their actions. If we let municipalities off the hook, who pays Vermont communities for the cost of cleaning up out-of-State wastes? What needs to be looked at is not whether cities should have their potential exposure reduced, but whether or not Superfund's liability scheme as a whole needs to be overhauled.

Under the current scheme, millions and millions of dollars have been spent on litigation, not remediation. The intent of Superfund was to clean up sites, not make lawyers rich. We have barely scratched the surface of the number of sites in this country. There has to be a better way. We need to look at Superfund in detail and honestly ask ourselves if anyone is getting their money's worth under the program. No middle-of-the-night reauthorization, but instead a thorough review. I agree with my colleague from Minnesota, this is not the place nor the time for amending Superfund. Thus, I support the amendment by my colleague from Rhode Island.

Mr. LIEBERMAN. Mr. President, I rise today in opposition to Senator CHAFEE'S motion to strike and in strong support of Senator LAUTENBERG's amendment which deals with a very troubling development in the Federal Superfund law—the increasing exposure of municipalities, small businesses and individuals who sent only municipal garbage to Superfund sites. Twenty-four municipal entities, as well as individual citizens, in my State of Connecticut have been brought into third party litigation at two sites in the State. For years, the towns have attempted to get out from under the burden of litigation through negotiations with EPA. While I was encouraged by EPA's recent efforts to resolve this general issue, those efforts have now apparently been curtailed by the White House. Counsel for the Connecticut towns has reported to my staff on a recent meeting between the municipalities and the White House; I am deeply disturbed by the White House's attitude toward the plight of municipalities on this issue. The White House's interference—once again—with decisions reached by professionals at EPA after extensive deliberations and consultation raises serious questions about whether an administrative solution will be implemented as expeditiously as necessary.

Senator LAUTENBERG's amendment allows entities which transported or disposed of municipal garbage to offer to settle their potential liability by stating in writing their willingness to settle. The President is then directed to make every effort to reach final settlement as promptly as possible. The maximum amount that the President may require an eligible party to pay is its equitable share of no more than 4 percent of the total response costs. An eligible entity must be permitted to provide services in lieu of money and to be credited at market rates for such services. Additionally, an eligible entity's payments must be reduced based on inability to pay.

The 4-percent maximum share of response costs codifies the views of experts at EPA set forth in the draft interim municipal settlement strategy now being held up.

It is unfair for municipalities to be asked to shoulder the burden for hazardous waste cleanups. If municipal garbage alone had been disposed of, these sites would never have been on the EPA's national priorities list. Congress never intended to impose strict, joint and several liability on local governments and small businesses simply because they sent ordinary municipal solid waste to landfills.

There are, however, broader issues concerning the Superfund law. Senator LAUTENBERG, as chairman of the Environment and Public Work Committee's subcommittee with jurisdiction over Superfund, commenced a series of oversight hearings on Superfund on April 8, which I believe are intended to provide a thorough review of issues relating to the law and its implementation.

Let me set forth some of the other topics I hope will be considered as we begin to focus on the Superfund law.

First, and foremost, is the question of whether the current liability scheme impedes effective and rapid cleanup of sites. As Senator LAUTENBERG indicated at the April 8, hearing, Administrator Reilly has achieved some significant successes in implementing the law. Following the recommendations of the Lautenberg-Durenberger report on Superfund, he has adopted an enforcement-first approach, leading to a total commitment in private party cleanup work of more than $5 billion; responsible parties are now performing 63 percent of long-term cleanup work at Superfund sites. Administrator Reilly also testified that known immediate threats from hazardous waste sites have been eliminated at all 1,235 national priorities list sites.

On the other hand, the American Insurance Group, an advocate of Superfund reform, which has completed a number of studies of Superfund sites, including one in Connecticut concludes that the current liability scheme has delayed cleanups and that a different system of funding would expedite the cleanup of sites and provide other benefits. Most environmental groups reach opposite conclusions. A recent report by Resources for the Future, "Assigning Liability for Superfund Cleanups," concludes that a different system of funding would expedite cleanup (as would a streamlining of the current system) and reduce transaction costs; however, the study warns that a new funding system could diminish, if not eliminate, the current cleanup incentives for sites not on the NPL and could adversely affect the incentives to practice safe handling of hazardous waste. But these are important questions and so I am pleased that Senator LAUTENBERG intends to explore them in upcoming hearings.

Congress must also review the type of Superfund issues being litigated which may be delaying the cleanup process. Are lawyers raising legitimate issues or issues intended to distort Congress' intent and simply prolong litigation?

A second question concerns the impact of the Superfund system on various sectors of our society. I have heard from small businesses in my State that have found themselves involved in the Superfund process but just cannot understand why they are responsible parties or how much they will be asked to pay? While the Superfund law contains procedures for EPA to remove small businesses from the process expeditiously, these tools have been greatly underutilized. But even with effective implementation of the tools in the law, the liability scheme still has significant consequences for many critical sectors of our society; I hope these consequences will be explored.

Part of the examination of Superfund should include a review of the transaction costs associated with the process—extending from disputes with the Government to disputes among liable parties over cost allocation to insurance coverage litigation. Along with Senator LAUTENBERG and others, I have asked the GAO to study these costs. Other groups, such as Rand and Resources for the Future, are also doing work in this area. There is much discussion about Superfund money not being spent on cleanup and we need to know the complete facts. I am confident that Senator LAUTENBERG will ensure that the results of these studies are part of the debate.

The evaluation of Superfund should also review the positive assessments of the statute. William Roberts of the Environmental Defense Fund recently reported on the benefits of Superfund, particularly in changing how companies do business and concluded that it is "one of the least bureaucratic and most cost-effective Federal environmental programs." Evidence of direct and indirect benefits should be reviewed.

A third major issue I believe the subcommittee should review grows out of case studies indicating that the Superfund Program is having a negative impact on the redevelopment of depressed urban areas. A recent study by the Northeast Midwest Institute, "New Life for Old Buildings," reports that currently millions of acres of contaminated industrial land, much of it located in urban areas, lies idle because of the myriad problems impeding its reuse. Returning these sites to productive use means the creation of jobs and tax revenues as well as social and aesthetic benefits. The institute reports that the implementation of Superfund's liability scheme has discouraged both municipalities and private parties from purchasing and redeveloping these properties because of the specter of liability.

A fourth issue I hope the subcommittee will examine concerns the level of risks posed by Superfund sites. EPA's Science Advisory Board in its report, "Reducing Risk," concluded that the risks from hazardous waste sites are relatively low when compared with other environmental threats. However, a report by the National Research Council found that we do not know very much about the hazards posed by many of the chemicals found at Superfund sites. And the public repeatedly lists hazardous waste sites as one of its major sources of concern.

On one point there is wide consensus: Cleaning up these sites is expensive. Although estimates vary, a study by the University of Tennessee recently found that a best guess of the cost of cleaning up Superfund sites under current cleanup standards is $151 billion over the next 30 years; a best guess under a more stringent policy is $352 billion over the next 30 years. Even more staggering is the total cost of cleaning up all sites where hazardous materials have been stored or disposed—about $750 billion, according to these researchers.

A question related to these cost figures concerns whether the worst hazardous waste sites are now part of the Superfund system and whether the program should be modified to address lower risk sites in a different manner.

I hope the subcommittee will review our expectations about what Superfund can accomplish. Experts have raised significant questions about whether expectations concerning cleanup timeframes are consistent with science and technology. Are technological limitations affecting our ability to cleanup sites expeditiously? We should know if the problems are more daunting than the ones we thought we faced when the system was designed, and what that may mean for the future.

With the answers to these particular questions, we should also look at the broader question of whether the law and program are generally on course, whether a midcourse correction in either the program or the law is needed or whether a fundamental overhaul of the law is in order. These hearings are important and they should not become a bash EPA exersice, a bash business exercise or bash anyone exercise. The issues involved in Superfund are too critical to be sidetracked. I know Senator LAUTENBERG will chart a course in these hearings that will allow us to determine where this important reauthorization voyage should end.

Mr. DURENBERGER. Mr. President, this amendment contains provisions authored by the Senator from Utah that affect the liability of private lending institutions and Federal agencies for the cost to clean up toxic chemical, hazardous waste, and gasoline or petroleum spills. These provisions would amend the Superfund law and the underground storage tank program to ease the liability of lenders and Federal banking agencies.

This amendment is made necessary by two court decisions that have altered the scope of liability under Federal environmental laws. Although I believe the court decisions have created a problem that requires legislative attention, the amendment by the Senator from Utah goes too far.

Under the Superfund law, EPA can require those who contributed to pollution at a landfill or other industrial waste disposal site to conduct a cleanup. In the alternative, EPA can clean up the site itself and sue the responsible parties to recover its cleanup costs. A similar scheme applies to the release of gasoline and other petroleum substances from underground storage tanks under subtitle I of the Resource Conservation and Recovery Act. Enforcement of both laws would be affected by this amendment.

The Garn amendment would give some lending institutions a limitation on their liability for cleanup costs under those statutes. Lenders may acquire contaminated property through foreclosure and other aspects of a credit relationship. Rather than requiring lenders who received property through foreclosure to pay the whole cost of cleanup, the Garn amendment would limit liability for these lending institutions to the increase in property value that results from the cleanup activity.

And it would give Federal agencies an outright exemption from Superfund and RCRA liability in certain cases. In addition to the exemption under Federal law, the amendment would limit liability of Federal agencies under State and local environmental laws that impose liability for cleanup costs. In other words, this bill partially preempts State laws and regulations that would otherwise apply to Federal banking and lending agencies limiting liability to the market value of the property held by these agencies on which the contamination has occurred.

I might add that these environmental laws are not the jurisdiction of the Banking Committee. If this amendment were introduced as a freestanding bill in the Senate, it would be referred to the Committee on Environment and Public Works. I am the ranking Republican member on the subcommittee that has jurisdiction over the Superfund Program. And I was the author of the RCRA provision that imposes cleanup liabilities for underground storage tanks.

But I am not here to argue on jurisdictional grounds. I believe there is a problem that needs fixing and I am in favor of addressing that problem expeditiously. The Committee on Environment and Public Works has refused to address these lender-liability problems. That is unfortunate in my view. I think the committee should have addressed these questions in a straightforward and timely way. But that has not occurred. So, it is necessary for Senator GARN to come forward with this amendment on the Senate floor.

As I said a moment ago, the problems addressed by this amendment arise because of two court decisions interpreting provisions of the Superfund law. When Congress passed Superfund in 1980, it granted an exemption from strict, joint, and several liability to persons who hold a mortgage interest in a property but who do not participate in the management of the property, and therefore, do not contribute to a release. Congress believed this to be a broad exemption for banks, saving and loans, and other lenders who might otherwise be caught up in the Superfund liability scheme. The same language was included in the underground storage tank program under subtitle I of RCRA.

That exemption has been narrowed by two court decisions. In one case, United States versus Maryland Bank & Trust Co., a Federal district court held that the exemption does not apply, if a lender forecloses on a property and takes title. The lender becomes the owner under the Maryland Bank decision and is subject to Superfund liability.

A second case, United States versus Fleet Factors Corp., led to an appeals court opinion from the eleventh circuit court suggesting that lenders may be held liable, whether or not they foreclose, simply because of their ability to influence the management decisions of borrowers. It is appropriate for the Congress to respond to these cases. They do not reflect congressional intent with respect to the liability of lenders under the Superfund or RCRA statutes.

There are not very many examples of lenders actually being held liable for the cleanup of pollution caused by their borrowers. EPA and the States are not out there suing banks and S&L's for the cleanup of industrial and commercial facilities they lent money to. EPA has never recovered cleanup costs from any lender who owned a property simply as the result of foreclosure. And to EPA's knowledge only seven lenders have even been contacted by EPA as part of a Superfund investigation. There is no real problem out there.

But there is a fear in the lending community that it may become a Superfund target in the future. The court cases that I have cited are the cause of this fear. It is alleged that this fear is preventing banks and other lenders from approving loans for small commercial and industrial firms like service stations or dry cleaners or small manufacturing companies that handle hazardous chemicals.

That is the case made for this amendment. It is the perception of a liability problem, based on two court cases, rather than the language of the statute, the intent of the Congress or the enforcement actions of EPA or the States under these environmental laws, that has caused banks to close their doors to small businesses and others who handle toxic chemicals.

I have no problem addressing the fear. I believe that the Congress should clarify the liability of lenders under Superfund. Superfund should not stand in the way of loans to small business or others who are ready to provide jobs in our economy. Superfund has enough problems without being an excuse for banks to shut the loan window to certain types of business.

So, let's fix lender liability. But this amendment goes beyond a simple restoration of congressional intent with respect to the liability of mortgage holders in Superfund. It raises other issues that deserve the careful consideration of the Senate. Let me describe, Mr. President, the major issues.

First, the amendment would provide an exemption from liability for cleanup costs under Federal law for a long list of Federal agencies. Two of those agencies, the Federal Deposit Insurance Corporation, the FDIC, and the Resolution Trust Corporation, the RTC, are engaged in the urgent business of liquidating failed banks and savings institutions. The FDIC and the RTC have testified that potential environmental liabilities may make it more difficult for them to carry out their mission.

Again, the actual evidence does not show that the law has a big impact on the activities of these agencies. The number of properties with potential environmental problems and the projected liability is very small compared to the huge portfolio of properties now held by these two agencies. Perhaps 200 or 300 properties have potential environmental problems. Many of those are asbestos-related and are not addressed by this amendment. And the estimated cleanup cost is in the $500 million range.

Compared to a $200 billion real estate liquidation involving thousands of properties, the environmental liability problem is small indeed. But there is a perception that they will not be able to liquidate all of their assets, unless they get relief. It is something that we should address.

But the amendment goes way beyond the FDIC and RTC problem. It exempts not only FDIC and RTC but a series of other agencies. It exempts not only the Federal agencies, but everyone who buys property from them. And it is an exemption not only from Federal laws like Superfund and RCRA, but it is also a limitation, that is a partial preemption, of all State and local environmental laws that have strict liability regimes. Let me take those issues one at a time starting with the preemption of State law.

The Senate is now in a conference with the House on a bill sponsored by the majority leader that promised to hold Federal agencies to the same environmental standards that we impose on everybody else. That bill is S. 596, the Federal Facilities Compliance Act. The conference is not even concluded on that bill and here we have legislation that would exempt a group of Federal agencies from liability under various environment laws, not only our laws but those of the States, as well.

More than that it would preempt the environmental laws of the States. This bill raises the same issue that is at the heart of Senator MITCHELL's Federal facilities bill. A few months ago the Senate voted overwhelmingly to hold Federal agencies to the environmental standards that apply to everyone else. We put out our press releases saying the environment is saved, that public health will be protected. And today we are right back here carving out exemptions from environmental law for Federal agencies.

The first problem is the preemption of State law. The second problem is the long list of agencies that would benefit from the preemption.

I could agree to an amendment that granted an exemption from Federal environmental law and FDIC and RTC and the other banking agencies that acquire property through receivership. But I would limit the exemption to the banking agencies. I would strike that long list of other Federal agencies that may acquire property but that have expressed no concern about their Superfund liability. If those other agencies have a problem, it is certainly not urgent because they have not expressed that concern to the committee with jurisdiction over Superfund at any time.

Let me read the list of the other agencies that would receive an exemption from Federal law and the benefits of a preemption of State laws. In addition to the FDIC and the RTC, the list includes the Federal Reserve System, any Federal Reserve bank, a Federal home loan bank, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration and all of their agents.

Mr. President, the State of Minnesota is very much opposed to any preemption of their Superfund Program and other environmental laws. My State doesn't want Federal agencies exempt from its law. I have a letter from the Minnesota Pollution Control Agency to that effect that I would ask be included in the RECORD. This preemption is also opposed by the organization of solid waste officials that represents all of the States. I have their letter on that point that I would ask to place in the RECORD.

FDIC and RTC argue that a liability exemption is necessary so that they may keep valuable properties in commercial circulation—that properties in receivership should not be held by the Federal Government for long periods while cleanups are conducted. The economy will be hurt, if that occurs. That is a valid concern.

But so is the concern of State governments who have sovereignty on these questions within their borders. If a State chooses cleanup over commercial circulation, we should not argue with the State's decision. Said another way, the swift return of commercial properties to productive uses, the objective that I presume the Senator seeks to achieve with his amendment, is an objective also understood and pursued by the States. But if in their judgment, other objectives, like the careful management of hazardous substances, are more important, it should be our policy to respect the State laws that reflect these other objections.

We have had that debate many times here in the Senate. For instance, the oilspill legislation that was enacted in 1990 was first introduced in 1972. It took nearly 20 years to pass that law because of a dispute between the House and the Senate about liability for oilspills under State laws. The House wanted to preempt State law for oilspill cleanup liability. The Senate insisted that State laws be respected. It took the *Exxon Valdez* oilspill for the House to come around to the Senate view. State liability regimes were not preempted under the oilspill law. And they should not be preempted here.

The third major issue deals with persons who purchase property from Federal agencies. The Garn amendment gives an exemption to Federal agencies for cleanup liabilities under Federal law and preempts State law to limit liability at properties that the Federal agencies acquire through receivership. And then the Garn amendment extends that exemption and preemption to persons who purchase the property from the Agency.

The purpose of this provision is help the FDIC and the RTC quickly unload the thousands of properties they have received as the result of bank and savings and loan failures. An exemption from liability for the FDIC and the RTC does not amount to much, because these agencies do not want to hold and manage property. They want to return it to the private sector as quickly as possible. But property that is polluted is hard to sell, if the buyer faces liability for the costs of cleaning up the pollution. It may be possible to sell the property, but the price that the FDIC or RTC would receive would reflect the cost of cleanup.

Because the price of the property would be depressed to offset the cost of cleaning up the property, the funds that the Congress has authorized to liquidate these properties would bear the burden of the pollution that has occurred. The FDIC and the RTC would realize less on the sale of these properties, so more of the liquidation burden would fall on the taxpayers.

Extending the exemption from Federal law and preemption of State law to the first purchaser is a way for the FDIC and the RTC to avoid these costs. If the purchaser doesn't have to clean up the property either, then the price of contaminated properties won't be depressed, at least not as much, and the FDIC or the RTC can realize more at the sale.

I am sure this makes a lot of sense to those who are managing the savings and loan bailout. They have enough problems getting money to prevent an economic catastrophe without also having to finance environmental cleanups. But that doesn't mean that the taxpayer won't still face the burden. If the first purchaser doesn't pay to clean up the property, then the Environmental Protection Agency or the State in which the property is located will be required to take on the job and finance the effort through the Federal or State Superfund program.

I know what the managers of the bill will say on this point. They will say that Congress created the Superfund program for this precise case. The pot of public money which is at the heart of Superfund is there to pay for cleanups at abandoned facilities where the responsible party is bankrupt or unable to pay cleanup costs. It may still be taxpayer money, but it was set aside for this purpose. So, let's use it.

But suppose for a moment that EPA comes in and spends public dollars to clean up a site that has been held by FDIC or RTC and is exempt from liability and has then been transferred to a private purchaser who is then also exempt. Who benefits? People living near the site clearly benefit because of the cleanup. That's why Congress set up Superfund and made it possible for EPA to take action directly.

But another big beneficiary is the owner of the property. The value of the property will no doubt increase substantially when the cleanup is completed. And the owner of the property will pocket that increase in value.

This is a very troubling aspect of this amendment. The FDIC or RTC is holding a property it wants to unload in a hurry. So, the price is already depressed. The property may be contaminated with hazardous wastes or toxic chemicals, so it is likely that the price is rock bottom. Therefore, the purchaser gets a very cheap property.

Then this legislation would grant any purchaser an exemption from liability against cleanup costs that EPA or a State might incur at the site.

Mr. President, when this amendment was offered to the banking reform bill at the end of the first session of this Congress, Senator GARN added a provision that was intended to address the problem of unjust enrichment that I have just described. It makes the exemption and preemption for the first purchaser conditional on the purchaser agreeing to clean up the property.

And this provision is in the amendment now being considered by the Senate. The person who purchases a polluted property from the FDIC, or the RTC, or one of the other listed agencies can enjoy an exemption from cleanup liability under Federal law and a limitation on liability under State law, but only if that person agrees to clean up the property consistent with the purpose of environmental law.

I very much appreciate the efforts of the Senator from Utah to fix the unjust enrichment problem, but I fear his amendment leaves us far short of a workable solution. For instance, the amendment does not say who the agreement is to be with. The first purchaser must agree to clean up the property. But an agreement is a transaction between two parties and the other party to the agreement is not specified in the Senator's amendment. Is it the FDIC or the RTC? Is it a State? Is it the EPA?

A second problem is the timing of this agreement. Nobody is going to buy a contaminated property from FDIC or

RTC without knowing the extent of their cleanup liability. This agreement that compels the first purchaser to clean up the property will define that liability. We could expect that the purchaser will want the agreement before the sale. These agreements will have to be concluded up front.

And if that is the case, the very purpose of the amendment will be defeated for it will take a very long time for the purchaser and any government agency to reach an agreement on the full extent of a cleanup. FDIC and RTC are not going to sell contaminated properties more rapidly, if the purchaser is required to agree to a cleanup plan as a condition of enjoying the exemption and preemption extended to the Federal agencies.

Again, I say to the Senator from Utah, the author of the amendment, that I have no problem fixing the basic liability problems of the lenders. We need to correct the erroneous court cases that have caused a fear in the lending community. We need to make it possible for FDIC and RTC to dispose of their assets promptly. I have no quarrel with those objectives.

But those problems are not cause to exempt a long list of Federal agencies, to provide a windfall to those who buy properties from the Federal Government, and to ride roughshod over the State laws we have carefully protected on other occasions. We can solve the problems created for lenders by Superfund and the underground storage tank program without causing new problems in the process.

Mr. President, last year when these same provisions were included in the banking reform bill, I submitted an amendment that addressed each of the problems I have raised today. We were unable to resolve these issues in that instance and so I have not repeated the exercise this year. I don't believe there would be any point in asking the Senate to vote on these questions now. It is unlikely that many of our colleagues want to become experts on lender liability this afternoon.

I would note that the Garn amendment was dropped from the banking bill last year because of strong opposition in the House. I assume that the House view on these questions has not changed and that favorable Senate action on this amendment today would leave us yet a long way from enactment of these provisions. I will not take more of the Senate's time to debate these issues now. But I will continue to press for changes in this legislation before it is enacted.

MINNESOTA POLLUTION
CONTROL AGENCY,
Saint Paul, MN, July 9, 1991.

Hon. DAVID DURENBERGER,
Subcommittee on Superfund, Ocean, and Water Protection, Committee on Environment and Public Works, U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR DURENBERGER: The purpose of this letter is to provide you with the Minnesota Pollution Control Agency's (MPCA's) views on proposed legislation to limit lender liability of financial institutions in the cleanup of hazardous waste sites. The MPCA staff has been working on both federal and state Superfund sites, cleaning up hazardous waste sites as successfully as any state in the nation. We're speaking on the basis of our experience in practical application of Superfund laws and regulations when we oppose changes in the law that would exempt any interest group from the requirements of strict, joint and several liability.

We understand the real problems for lending institutions when properties they receive carry the heavy burden of Superfund liability. We believe that the regulations recently proposed by the U.S. Environmental Protection Agency (USEPA), while not perfect, address some of the problems by developing criteria defining innocent landowners and due diligence with respect to Superfund liability. This regulatory proposal may provide lending institutions with the relief they need and is the first logical step in resolving some of the lenders' issues.

However, amending federal law to exempt any interest group (such as federal lending and banking agencies like the Federal Deposit Insurance Corporation) from Superfund liability would be a disastrous move. We are strongly opposed to the current language contained in proposed legislation in which "A federal banking or lending agency shall be exempt from any law requiring that agency to grant covenants warranting that remedial action has been, or will in the future be, taken with respect to property acquired * * *"

We believe this exemption would tie the hands of MPCA's state Superfund program. Most cleanups in Minnesota are completed under the Minnesota Environmental Response and Liability Act of 1983. Only 42 sites in Minnesota are on the National Priorities List, while 178 are on Minnesota's state Superfund list and another estimated 600 are waiting for assessment. Any change in the law that would preempt that state Superfund would make cleaning up Minnesota's hazardous waste sites much more difficult.

And of course, exempting certain parties from liability at federal and state Superfund sites would open the door to other demands for relief. A barrage of responsible parties would lobby both the U.S. Congress and the Minnesota Legislature to protect special interests by amending federal and state Superfund laws.

The concept of strict, joint and several liability has been the straightforward foundation of out state Superfund law and those in many other states. To undermine this standard to protect the few may end up penalizing the many. In the end, it may be the public who bears the burden when sites are not cleaned up, valuable property lies wasted, property values decline, drinking-water aquifers degrade, and state agencies such as the MPCA sit helplessly by waiting for sufficient state funds to be available to address the problems or are wrapped up in costly litigation with other petitioners who choose to challenge the law.

Our position on the draft rules released June 5 is similar to that of the Association of State and Territorial Solid Waste Management Offícals (ASTSWMO), and this organization has commented on our behalf. We support this regulatory approach to lender liability under Superfund and hope that you will represent this point of view in discussions about these issues in the subcommittee on Superfund. We would also like to thank you for your efforts to help us clean up hazardous waste sites in Minnesota.

Sincerely,

ANN GLUMAC,
Assistant Commissioner
(For Charles Williams, Commissioner).

ASSOCIATION OF STATE AND TERRITORIAL SOLID WASTE MANAGEMENT OFFICIALS,
Washington, DC, July 25, 1991.

Hon. DAVID DURENBERGER,
Subcommittee on Superfund, Ocean and Water Protection, U.S. Senate, Washington, DC.

DEAR SENATOR DURENBERGER: The purpose of this letter is to provide our Association's views concerning the thrust of proposed legislation concerning efforts to limit lender liability of financial institutions as it relates to the liability for cleanup of hazardous waste sites. It is our view that the federal government first should attempt to resolve the confusion over appropriate lender liability through regulatory clarification, and only make significant statutory revisions in the closely knit fabric of Superfund liability should those regulatory measures prove insufficient. However, regardless of the federal resolution of this matter, we very strongly oppose any statutory change which would preempt State liability laws and undermine our ability to conduct cleanups at the thousands of non-Superfund sites for which States alone are responsible.

ASTSWMO is a non-profit organization representing the State directors for hazardous and nonhazardous waste management programs. Our members charged with monitoring CERCLA enforcement have reviewed a number of the proposed legislative efforts to limit lender liability, as well as the proposed rule recently published by the U.S. Environmental Protection Agency (USEPA). While we believe there are significant deficiencies in the June 24, 1991 proposed rule, our conclusion is that this rule can be corrected in its final form and that such regulatory clarification is preferable to amendment of the existing Superfund statutory requirements of strict, joint and several liability.

We recognize that there are real problems for federal lending institutions which receive polluted properties, but it is our view that those problems stem largely from insufficient specificity and scope in current regulations defining the criteria for innocent title. On the other hand, we think that beginning to unravel the necessarily rigorous requirements of strict, joint and several liability for one group of owners, even these government receivers, will only encourage other interest groups to press for similar relief. If loopholes are opened in the statutory criteria for liability, we see the potential for extended litigation as each one of these relief measures is explored by potentially responsible parties. The ruthless simplicity of the strict, joint and several doctrine is both its weakness and its strength. We are very apprehensive about undermining this financial pillar of the national cleanup program, even in the interests of federal receivers.

Consequently, we recommend that Congress first try the regulatory solution before considering amending the Superfund statute. We consider the inability of the banking community to quantify their exposure with some degree of specificity a particularly telling argument for requiring empirical results before weakening the federal liability statutes. If the regulatory clarifications should prove insufficient, we believe that the proper vehicle for such statutory modification is the comprehensive 1993 reauthorization of CERCLA.

Regardless of the decision of the Congress regarding statutory change versus regulatory clarification, we wish to make clear our very strong opposition to any provisions in proposed federal legislation which would preempt State hazardous waste cleanup liability statutes. As you know, the numbers of sites requiring attention by States and not qualifying for cleanup under the federal Superfund program in substantial. Some estimates go as high as 20,000 potential cleanup sites, and when compared with the National Priority Listing of about 1200 sites, the burden on States is clear. It is our understanding that there are a few hundred potentially contaminated sites currently held by the FDIC and RTC, yet only a handful are in any way likely to become federal Superfund sites. While the federal government may elect to change the statutory standards for lender liability under the federal Superfund program, we believe it is manifestly wrong for the federal government to extend that same relief to federal institutions, or for that matter to any other financial institutions, for cleanups required under State statute.

Consequently, we are deeply concerned to find language such as the following contained in proposed legislation: "A Federal banking or lending agency shall be *exempt from any law* requiring that agency to grant convenants warranting that remedial action has been, or will in the future be, taken with respect to property acquired in the manner * * *" (extract of S-651, page 24, lines 15-20; italics added). We believe that such sweeping exemptions from State laws would eviscerate the State cleanup programs which are firmly based on responsible party financing, and generally are not as dependent on fund financing as the federal Superfund program. We ask that you ensure that these vital State cleanup programs are protected as the debate over this proposed lender liability legislation proceeds.

Sincerely,

DANIEL E. COOPER, P.E.,
President.

Mr. LAUTENBERG. Mr. President, I thank my distinguished colleague from Massachusetts for his comments and the support of those who have spoken.

I want to quickly summarize and then I think we ought to move on to see what kind of a vote count we are going to have.

We are not attempting, I want to make sure everyone understands, to tamper with the Superfund liability system. Suggestions about that mischaracterize the legislation. These provisions, as a matter of fact, leave that very much intact and do not have the sweeping impact that the other provision on lender liability has in this measure.

What we have here is a bipartisan response to a serious problem facing local taxpayers, again, supported by the U.S. Conference on Mayors, the National Association of Counties, the American Communities for Cleanup Equity, Sierra Club, and various of the environmental groups.

The mission is very simple: We prevent overreaching lawsuits that the law never intended to be brought in the first place, and we expedite settlements with those who simply generate and transport garbage, not anyone who transports, generates or is otherwise involved with truly hazardous waste streams.

So what we do in our legislation, Mr. President, is very simple. We tell a growing list of local communities, now numbering about 450, and their taxpayers, that we are not going to let the real polluters stop cleanups and unfairly shift the cost to them. Everyone knows that with the precarious tax base that we see in lots of small communities and the services that they have had to discontinue, that any kind of a significant legal bill or cost could very seriously impair the ability of these communities to function. The same is true for individuals and small businesses that also receive protection here.

Mr. President, enough is enough. I urge my colleagues to stand up for the local taxpayer, the small business person, and do so in an environmentally responsible way.

I remind my colleagues, what we are saying is that towns, municipalities, not-for-profits, individual small businesses who simply transport or generate trash, not hazardous material, should be protected, should have their liability limited and not be subjected to frivolous or whimsical kinds of diversionary lawsuits.

So on behalf of Senator RIEGLE and myself, I move to table the motion to strike that is proposed by the Senator from Rhode Island. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Chafee amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] is necessarily absent.

I further announce that, the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

(Rollcall Vote No. 126 Leg.)

YEAS—52

Adams
Akaka
Baucus
Bentsen
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Cohen
Conrad
Cranston
Daschle
Dodd
Exon
Fowler
Garn
Glenn
Gore
Harkin
Heflin
Hollings
Inouye
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pryor
Reid
Riegle
Robb
Rudman
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—44

Biden
Bond
Breaux
Brown
Burns
Byrd
Chafee
Coats
Cochran
Craig
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Jeffords
Johnston
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pell
Pressler
Rockefeller
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—4

D'Amato
Helms
Roth
Sanford

So the motion to lay on the table the amendment (No. 2439) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WIRTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPLANATION—S. 657 LENDER LIABILITY

Mr. DOMENICI. Mr. President, the amendment provides that when the FDIC, RTC or other Federal banking agency obtains property through the exercise of their governmental functions, they will be given immunity from liability for preexisting environmental contamination. The immunity does not apply if the agency caused or contributed to the pollution. The agencies may then sell this property to an innocent purchaser, who has had no prior relationship with it. This purchaser must take reasonable steps to prevent the continued release of any hazardous or toxic substances.

The amendment also provides a limitation of liability with respect to insured depository institutions and other mortgage lenders. When these institutions acquire property through foreclosure or similar action, their liability under Federal law will be limited to the greater of the amount of the unpaid loan balance or the actual benefit received from a cleanup operation.

The amendment provides a similar limitation on liability if the insured depository institution or mortgage lender exercises financial control or financial oversight over the property, pursuant to the terms of an extension of credit. However, if the lender actively directs or conducts operations that result in the release or threatened release of a hazardous substance, the limitation does not apply.

The limitation does not apply if the lender caused or contributed to the release or threatened release of the hazardous substance.

Further, the limitation does not apply if the lender fails to take all reasonable steps, after it comes into possession of the property, to prevent the continued release of hazardous materials that the lender has discovered.

For example, if a lender forecloses on a commercial plant and discovers leaking oil drums it would be required to prevent the continuation of the leak.

Since the lender will not have an exemption from liability, but only a limitation on such liability, there will be a strong economic incentive for the lender to conduct environmental audits and assessments before making a loan. There will also be an economic incentive to attempt to monitor environmental factors during the life of the loan, since pollution occurring after the loan is made will adversely affect the value of the collateral.

In addition to these economic incentives, the amendment also mandates that the bank regulatory agencies promulgate regulations, within 180 days after the date of enactment, that will require banks and savings and loans to evaluate actual and potential environmental risks that may arise from property to be held as collateral, prior to making a loan secured by that property. The Secretary of the Department of Housing and Urban Development would have to promulgate equivalent regulations for other mortgage lenders.

THE TRUTH IN SAVINGS ACT AMENDMENT

Mr. MURKOWSKI. Mr. President, I rise today to offer an amendment to S. 2733, the GSE reform bill. My amendment is designed to address several technical problems that have arisen during implementation of the Truth in Savings Act which was enacted by this body last November as part of the FDIC Improvement Act of 1991.

Mr. President, the Federal Reserve Board recently issued for public comment proposed new regulation DD to implement the Truth in Savings Act. A review of these proposed regulations, all 132 pages, has highlighted several areas where technical corrections are in order.

WHAT THE ACT REQUIRES

Let me remind my colleagues what the Truth in Savings Act requires. This Act mandates that banks provide in account schedules the fees and interest rates applicable to the deposit accounts and places limitations on the manner in which institutions can calculate interest. Advertisements are subject to similar requirements.

This sounds simple enough. Many of my colleagues seemed confident that a provision this simple couldn't cost much to implement. In fact, my colleagues pointed out that most banks already provided this device so it wouldn't cost much to mandate this service.

Unfortunately, this is not the case. Ensuring that the account schedule fits exactly into the one required by the legislation imposes costs: lawyers have to review the new law and existing account schedules and advertisements; new accounts schedules have to be designed in the format required by the law as it is highly unlikely that any bank currently discloses and advertises fees in exactly the manner required; old schedules have to be retrieved and new ones distributed. Banks also have to audit compliance and prepare for examinations on compliance.

This process has to be repeated every time the bank changes the terms of the account, or develops a new advertisement, or designs a new product. The potential liability for violations, even for technical and harmless ones, adds to the cost.

COMMONSENSE AMENDMENTS

Mr. President, the Senate adopted the truth in savings provision on a 55-42 vote. My purpose in offering these technical amendments today is not to reopen this vote. My purpose is to make commonsense modifications to the Truth in Savings Act to ensure that the interests of consumers and bankers alike are best served.

My amendment addresses three issues.

First, disclosures for certificates of deposit. This provision would alter the disclosure requirements for the renewal of certain certificates of deposit. My amendment would establish different disclosure requirements based on the length of maturity of a particular certificate of deposit. The act currently requires that depository institutions provide 30 days advance notice of the renewal date of a certificate of deposit, even when the maturity date is shorter than 30 days.

Second, use of rate boards and other on-premise displays. This provision would allow banks to continue to use lobby rate boards and other on-premise signs to list account information such as interest rates without adding other additional and cumbersome terms required by the act so long as the on-premise sign discloses that the consumer should inquire about the fees and terms of the account being offered.

Third, extension of effective date. This provision would give depository institutions an additional 3 months to comply with final regulations. Currently, the act requires that regulations must be final by September 19, 1992, and banks must comply 6 months after final regulations are adopted.

CONCLUSION

Mr. President, these are important common sense amendments that would assist the regulators in implementing the Truth in Savings Act. I thank the managers of the bill, and the Senator from Connecticut, for working with the Senator from Alaska to make these needed technical corrections.

NEW PROGRAM AUTHORITY

Mr. SYMMS. Would the Secretary be allowed to reject a new program, such as a program to provide a secondary market for home equity lines of credit if it would replace business being done by existing private sector firms?

Mr. GARN. Yes, if one of the GSE's were to request approval of a new program that would enable it to enter a market already served by the private sector, such as a program to make a secondary market for home equity lines of credit, it is expected that the Secretary would give weight to the role already being served by private firms. However, the Secretary could not reject the new program solely because private sector firms were already serving the market. The test is whether the new program would have a deleterious effect on housing finance.

THE MURKOWSKI TRUTH IN SAVINGS AMENDMENT

Mr. DODD. I am concerned that the advance disclosure of maturity provisions will not give consumers adequate notice of the new APY so they can shop around for the best deal.

Mr. MURKOWSKI. I did not include an advance notice provision in the amendment because the Fed indicates that there is no problem, that banks routinely give consumers a grace period in which to make a decision without suffering any penalty.

Mr. DODD. I take the Senator's point but I am concerned that banks could change their policies adversely to consumers, as they did with respect to investable balances. To avoid any such problem, would the Senator support my view that the Fed should monitor banks' grace period policies to make sure that consumers have adequate time to make informed decisions; and, if a problem develops, that the Fed should take action to protect consumers' rights?

Mr. MURKOWSKI. I believe that is a fair solution. If there is no problem, so be it, but if a problem develops, the Fed should address it.

Mr. DODD. I wonder if the distinguished Senator from Utah [Mr. GARN], the ranking minority member of the Banking Committee, would indicate whether he agrees with the author of the amendment? It would make me feel more comfortable if I knew he shared Senator MURKOWSKI's views.

Mr. GARN. Yes, I think the approach described makes good sense.

RURAL HOUSING AND FINANCIAL INSTITUTIONS

Mr. DOLE. Mr. President, I am pleased that the managers of this bill have accepted my suggestion to have the proposed study on the Federal Home Loan Bank System consider the impact that any consolidation would have on rural housing and financial institutions. Access to affordable housing is an important issue—not just for our cities, but for our rural areas, too. We must ensure that the Federal Home

Loan Bank System remains responsive to the Housing needs of rural Americans.

The Federal Home Loan Bank of Topeka has done an outstanding job of helping meet the housing needs of the rural communities in its district, loaning $225 million in community investment funds since 1989 and leveraging $77 million in housing financing in 1990-91 with its affordable housing program funds. A triple-A rated institution, the bank had the highest return on equity and the fourth highest return on average assets in the FHLB system in 1991. It also ranks fourth in the system in the number of new commercial bank members.

PUBLIC ACCESS PRICING AND FEE STRUCTURES

Mr. CRANSTON. I commend the chairman on the diligence and thoroughness you demonstrated in undertaking this bill. Fannie Mae and Freddie Mac are two of the cornerstones of the Nation's housing finance system. They have been instrumental in ensuring the liquidity and nationwide availability of housing credit for middle and upper middle income homebuyers. The chairman's bill will redirect some of Fannie Mae's and Freddie Mac's efforts toward lower income Americans.

Until this legislation, efforts made by the entities in the lower income housing arena have been viewed as niche purchasing and boutique in nature. The Chairman's legislation will clarify that lower income mortgage purchasing is an integral part of the established business of Fannie Mae and Freddie Mac. In order for the Congress to monitor the business practices of Fannie Mae and Freddie Mac in the lower income arena, it is necessary to know the pricing and fees charged by the entities on differing mortgage products. That is, Congress must be able to compare the pricing and fees charged for mortgages originated in central cities as compared to suburban locales, in lower income versus higher income census tracts, and in urban-suburban versus rural communities. The bill embodies this requirement in sections 505 and 507. I am concerned that the Director may deem pricing and fees charged to be proprietary information and thus make it unavailable to the public.

Mr. RIEGLE. I share Senator CRANSTON'S support for public access to information on the activities of federally regulated entities. In FIRREA, public access to CRA ratings and improvements to HMDA are mandated by the committee. As a result of this mandate, we have accurate data on the lending practices of our banks. What we have discovered is the significant disparity between the lending activity to white and black families in this Nation. Some banks have made tremendous progress in reversing this shameful discriminatory practice. We know, however, that without public pressure which came from public access to the information, CRA lending would not have expanded to the extent it has.

Our intent is the same in the reporting requirements contained in the GSE legislation. It is important that information collected by the GSE's and information reported to the Director be made available to the public. Provisions which give the Director authority to deem information proprietary and thus restricted from the public are to be construed narrowly.

I am aware of the need for public access to the pricing and fees charged by the GSE's for differing mortgage products. While I expect there to be some differential based upon levels of risk incurred, the Congress must know the difference in pricing and fees based upon lender type—small versus large—borrower characteristics, and location of property along with any other categories of prices and fees. The Director may deem the price and fees charged by the entities to an individual originator to be proprietary, but a wholesale exclusion for the public of the pricing and fee structure would be unacceptable.

Our intent, is to ensure that Fannie Mae and Freddie Mac encourage lenders to originate lower income mortgages especially in our troubled central cities. I agree with the Senator that it is important that pricing and fee information be subject to public access.

CAPITAL LEVELS

Mr. METZENBAUM. If the Director of the new Office of Federal Housing Enterprises Oversight determines that an increase in the minimum capital levels required under section 202 of the Banking Committee bill is necessary to protect the financial health and security of an enterprise, does the bill permit the Director to do that?

Mr. RIEGLE. Yes, the Director may increase minimum capital levels if it is necessary to protect the financial health and security of an enterprise, and it is important that the Director act in such circumstances. Section 102 of the bill states that the Director's primary duty is to ensure that the enterprises are adequately capitalized and operating safely, and section 103 authorizes the Director to issue regulations concerning the financial health and security of the enterprises.

• Mr. D'AMATO. Mr. President, I am pleased that the Senate is finally proceeding to consideration of the Federal Housing Enterprise Regulatory Reform Act of 1992.

I am pleased to have played an active role in developing this bill. This bill is a sound and rational response to the need for enhanced regulation of Government-sponsored enterprises.

This bill represents legislative action at its best—it is a balanced bill that establishes strong capital standards and a strong regulatory structure to ensure the safety and soundness of Government-sponsored enterprises without imposing unnecessary burdens.

This bill is a forward looking bill that protects the taxpayer before there is a problem. Rather than just talk about the potential risk of financial failure of a GSE, the bill puts in place a regulatory structure designed to minimize any potential risk.

This legislation is a win-win situation for the American people. By ensuring the financial strength of the GSE's, we also ensure that the GSE's are able to provide vital assistance to home buyers by reducing the cost of financing a home.

This bill establishes tough capital standards, but also provides for the development of housing goals designed to help low- and moderate-income families as well as those in central cities and rural areas who need affordable housing.

During the hearing held by this committee last May to discuss Treasury, CBO and GAO's studies of the safety and soundness of Government-sponsored enterprises, I cautioned that we not overregulate the GSE's. As I put it then, it would be a shame if the waterboy blocked the quarterback's victory touchdown.

I believe that this bill provides a fair game plan without substantial interference. Indeed, the teams should continue to score winning touchdowns without worrying about the waterboy. If the Government-sponsored enterprises continue as key players in the mortgage market, we all win from the competition with lower mortgage costs.

I urge my colleagues to support this bill. I would hope that the Senate could pass the Federal Housing Enterprise Regulatory Reform Act of 1992 expeditiously so that we move this legislation to conference as soon as possible.•

Mr. DIXON. Mr. President, I rise today in support of S. 2733, the Federal Housing Enterprises Regulatory Reform Act. This bill has been a long time in coming and has been subject to extensive negotiations. It establishes improved capital standards and regulatory supervision over Fannie Mae and Freddie Mac. It also strengthens the public mission of these Government-sponsored enterprises or GSE's.

I have been most active on title V of the bill, the affordable housing provisions, and would like to speak about their importance today.

Since becoming chairman of the Subcommittee on Consumer and Regulatory Affairs, I have been quite concerned about implementation of the Community Reinvestment Act and about racial discrimination in home mortgage lending. The subcommittee has held two hearings on each of these two issues. Witnesses at these hearings testified that more cooperation was needed from the secondary market—

that is, from Fannie Mae and Freddie Mac—to expand community reinvestment lending and to combat mortgage discrimination.

The subcommittee also held a hearing last February specifically on redlining and the secondary market. Witnesses at the hearing raised serious questions about whether the policies and procedures of the GSE's contribute to discrimination in lending against minority neighborhoods and low- and moderate-income communities.

Freddie Mac presented the findings of its own study at the hearing which showed that lenders perceived the GSE's underwriting guidelines as discouraging lending to certain lower income people and to certain older, ethnic, or minority neighborhoods. The study also concluded that community lending need not be riskier lending and that the secondary market needs to better communicate the flexibility intended to exist within underwriting guidelines.

Community groups testified about how the standardizing influence of the GSE's underwriting guidelines leads to fewer loans in older, inner-city, lower income, or minority neighborhoods. Witnesses, who had been involved with CRA lending by banks, also claimed that banks often say that they cannot sell loans from their CRA portfolio to the GSE's and that over time this will cause CRA home mortgage lending to diminish significantly.

Both Fannie and Freddie have taken important steps since that hearing to do more for affordable housing. Jim Johnson, to his great credit, announced a $10 billion commitment to affordable housing just weeks after taking over as Fannie Mae's CEO last year. He has supported that commitment with staff, policy, and resource decisions. Freddie Mac has made less ambitious commitments in dollars and resources but it did undertake an important review of its underwriting guidelines; the changes it announced a few months ago to its general guidelines could well have a significant effect on access to mortgages for minority loan applicants.

These voluntary efforts to support affordable housing reinforce the need for a strong affordable housing title in this bill. Without legislation we have no real assurance that recent efforts will continue. This bill started with existing regulations by the Department of Housing and Urban Development. Those regulations require Fannie Mae to devote 30 percent of its business to affordable housing and a partially overlapping 30 percent to central cities. The bill improves those regulations in a number of detailed ways, including providing for rural areas and allowing for adjustments in these 30-percent goals over time.

Congress must send a strong message to the GSE's that they have important public purposes which must be fulfilled. Their responsibilities are not just to their shareholders who have benefited handsomely from the GSE's unique relationship to the Federal Government. Their responsibilities are also to the public: To maintain their financial safety, but also to assure that our housing finance markets work for the benefit of all Americans—not just the affluent.

This bill was in the works long before Los Angeles erupted. It does, however, address the issue of access to mortgage capital by racial minorities, by inner-city residents, and by all people who pay their bills but have modest means.

The bill takes a thoughtful and balanced approach, and I commend it to you today. It makes GSE's safer. Just as importantly, it really will help ensure that they better address the needs of moderate- and low-income Americans, and the needs of our cities and neighborhoods. I strongly urge the passage of this sound, thoughtful, and necessary piece of legislation.

Mr. RIEGLE. Mr. President, Section 704 of the bill establishes a study committee, composed of persons who are officers and directors of stockholder institutions of the Federal Home Loan Banks. This committee is to conduct a study of the Federal Home Loan Bank System, and will report to the Congress, the Federal Housing Finance Board, and the Federal home loan banks on its findings and recommendations. It is the expectation of the managers of this legislation that this study committee well select a chairperson from among its members with demonstrable experience and understanding of the activities and operations of the Federal Home Loan Bank System.

Mr. GARN. I totally agree. This study committee will perform an important function, and it is very important that the chairperson be someone knowledgeable and experienced in the activities and operation of the Home Loan Bank System.

Mr. LEVIN. Mr. President, I support the Federal Housing Enterprises Regulatory Reform Act. It is an improvement over the weak controls that now exist over the two housing enterprises, Fannie Mae and Freddie Mac. In addition, the bill managers have worked with me to include an amendment to stop compensation abuses at these enterprises.

Mr. President, as the S&L scandal continues to pull billions of taxpayer dollars from other pressing needs, the banking industry labors to avoid a taxpayer bailout, and the insurance industry and Pension Benefit Guaranty Corporation threaten us with new billion-dollar liabilities, this country has woken up to the fact that Federal regulation is not always a bad thing. Sometimes it is all that stands between the taxpayers and another multibillion-dollar millstone around their necks.

The checkered history of Fannie Mae demonstrates the need for tough Federal oversight. Fannie Mae, which has about $450 billion in assets, is the largest and one of the oldest of our Government-sponsored enterprises or GSE's. It was established in 1938, as a Federal agency to promote affordable housing through creation of a secondary market for home mortgages. Thirty years later, in 1969, it was reestablished as a publicly traded corporation with strong federal ties.

Since then, Fannie Mae has experienced great variations in financial performance. In the 1970's, suffering the same interest rate problems as S&L's, it began to lose money. By 1981, it was losing $1 million per day and was in danger of collapse. A new chief executive officer, David Maxwell, took the helm, helped stem the losses and helped steer Fannie Mae back to prosperity. Today, Fannie Mae is in a secure financial position, with a 1990 net income of $1.2 billion and daily earnings of about $4.5 million. In January 1991, Mr. Maxwell resigned and, upon his departure, received from Fannie Mae cash benefits worth $27 million. This unprecedented payment made Mr. Maxwell one of the highest paid executives in America that year.

This brief history demonstrates two things. First, it shows that, in as short a span as 10 years, Fannie Mae can experience significant swings in financial health. Second, it demonstrates that Fannie Mae is now so free of fiscal constraint that it can pay an employee tens of millions of dollars in cash—as he's walking out the door.

This type of excessive executive pay is a danger signal that can't be ignored when taxpayer dollars are at risk. In 1990 and 1991, the Subcommittee on Oversight of Government Management, which I chair, conducted a year-long examination of compensation abuses at federally insured financial institutions, particularly S&L's. We found federally insured funds used for sailboats, vacation homes, butlers, multimillion-dollar golden parachutes, and other types of excessive compensation, which drained healthy institutions of assets and helped drive ailing institutions into Federal takeovers.

Two of the more egregious cases involved Centrust Bank, an S&L in Florida, and Columbia Savings and Loan of Beverly Hills, CA. From 1988 to 1990, Centrust paid its CEO $6 million in compensation, despite losing money all 3 years. Columbia paid the same CEO $9 million, including a lump-sum retirement benefit of $5 million. While these levels of compensation remain among the highest paid by a federally insured financial institution, they pale in comparison to FNMA's $27 million sendoff.

Let us take a closer look at that $27 million. It had two elements: 1990 compensation of $7.5 million from salary, bonuses, stock, stock options and other arrangements; and a lump-sum pension payment of $19.5 million. This huge pension payment, for just 10 years of employment, resulted from an executive pension plan that had two features unavailable to other Fannie Mae employees—it removed a limit capping pension benefits at 150 percent of annual compensation and it allowed a lump-sum payment of all benefits due. The $19.5 million is the actuarial equivalent of paying $1.4 million per year for the lifetime of Mr. Maxwell and his wife.

By the way, the $27 million payment was not the whole story. In January 1992, Fannie Mae was obligated to pay Mr. Maxwell an additional $5.5 million in pension benefits. In light of the public uproar over his previous paycheck, however, he declined the money. FNMA was thus spared making a second gargantuan payment to a departed executive.

The size of the Maxwell payout, widely reported in the press, produced a collective gasp from business observers. In 1990, average CEO compensation at the largest companies in the country was about $1.9 million. Average CEO pay at federally insured financial institutions and other GSE's was less. And $20 million for a departing executive was beyond the pale of all but the most extravagant corporate plans. The Fannie Mae CEO whom Maxwell had replaced, Allan Oakley Hunter, has called the $27 million payment ridiculous, stating that, "All the justifications they keep serving up for his salary are flagrantly misleading and a gross insult to those of us who formerly served the institution. * * * Executive compensation at Fannie Mae has run amok."

And what's happened since this firestorm of criticism? The 1992 proxy statement for Fannie Mae spends 11 of its 20 pages describing a myriad of compensation arrangements for its executives. The CEO, for example, received the following types of compensation in 1991 alone: a base salary of $600,000; an annual bonus of $480,000; a grant of 4,500 restricted shares of stock—selling in March 1992 for about $63; stock option gains of $143,125; a new stock option grant for 43,040 shares—with an exercise price about $7 per share below the March 1992 market price—which vests in 1992; distribution of 10,824 performance shares of stock; a contingent grant of an additional 13,020 performance shares; $40,000 to pay for two life insurance policies, health insurance, tax counseling, financial planning services and other benefits; and $7,853 under an employee thrift and savings plan. The proxy also states that its CEO owns 48,802 shares of Fannie Mae stock, has vested stock options on 23,000 shares with an average exercise price about $20 below the March 1992 market price, and is enrolled in a regular pension plan and a supplemental executive pension plan with a lump-sum payment feature.

The good news in this proxy statement is that CEO pay at Fannie Mae is significantly less than what was provided to David Maxwell. But it still adds up to millions of dollars.

When my subcommittee contacted Fannie Mae's regulators at HUD about such pay arrangements, we learned that none had the authority to review Fannie Mae's compensation decisions, and none did. The same was true for Freddie Mac whose CEO, we later learned, also receives lavish pay. In 1991, for example, Freddie Mac's CEO received $1,049,837 in salary, bonus and other cash benefits; 13,200 shares of restricted stock; a 1991 option on 35,400 shares; and more.

And they are not the only GSE employees receiving sky-high compensation. On July 15, 1991, the Washington Post business section published a chart entitled, "The Millionaires' Club: Local Executives Who Had More Than $1 Million in Total Compensation in 1990." Of the 30 individuals listed, 4 were from Fannie Mae and 2 from Sallie Mae. Freddie Mac was not mentioned. That means 6 out of the 30, or 20 percent, of Washington's best paid executives work at a GSE whose solvency is implicitly backed by the Federal Government.

Only one federally insured financial institution made the Washington's millionaires' chart. Why? Perhaps because regulations have the authority and responsibility to hold the line at sky-high salaries. The S&L bailout has shown all too painfully that the risk to taxpayer dollars is more than academic.

Congress has already gone on record about excessive executive pay when, last year, it clarified and strengthened regulators' authority to stop compensation abuses at federally insured financial institutions. A provision I authored, which was added on a bipartisan basis to last year's banking reform bill and is now law, directs federal bank and S&L regulators to prohibit compensation arrangements which are excessive or could lead to material financial loss to a federally insured institution. In determining whether compensation is excessive, the provision instructs regulators to consider a range of factors—not only pay at comparable institutions, but also such factors as the institution's financial condition, the cost of postemployment benefits, and any wrongdoing. The provision also requires the agencies to issue regulations to enforce this prohibition. Earlier this year, I worked with my colleague, Senator GARN, to make it clear that regulators could not use these regulations to set pay, but could and should use them to prohibit pay abuses.

The same system ought to apply to Fannie Mae and Freddie Mac, which together have issued or guaranteed securities in the range of $900 billion. While neither enterprise is explicitly insured by the Federal Government, in the event of a threatened collapse the Federal Government would almost certainly be called in for help. That's exactly what happened in 1987, when the Farm Credit System teetered on the brink of ruin and the federal Government's implicit guarantee was used to justify a multibillion-dollar line of Federal credit to revive the system. The housing market is too important to believe the same effort wouldn't be made for an ailing Fannie Mae or Freddie Mac.

That's why this legislation is so important. For once we need to act while the sun is shining and protect the taxpayer from a rainy day. That's why almost 1 year ago I cosponsored a bill introduced by Senator HERB KOHL to authorize even tougher Federal regulation of Fannie Mae, Freddie Mac and other GSE's that risk taxpayer dollars. I regret the Banking Committee did not see fit to follow that tougher bill, which would have established an independent regulator to oversee all Government-sponsored enterprises.

Instead, the bill before us today is limited to the two housing enterprises and places their regulator within the Department of Housing and Urban Development. Due to potential conflicts of interests, I think the better course of action would have been to place the regulator of housing enterprises outside of HUD. The committee has instead struck a middle course—placing the regulator within HUD but requiring independent confirmation by the Senate and giving the regulator statutory authority to issue regulations on safety and soundness without consulting the HUD Secretary. Those safeguards to help ensure the regulator's independence. They could have been stronger, but at least the regulator does not report to the HUD Secretary when it comes to safety and soundness.

But while the new regulator is empowered to insure regulations to ensure the safety and soundness of Fannie Mae and Freddie Mac, there is no explicit reference to stopping compensation abuses.

To correct this deficiency, I have worked with Senator RIEGLE and Senator GARN to include a new provision in the bill, which would make it clear that the new Federal regulator must exercise the same compensation oversight at Fannie Mae and Freddie Mac that already applies to federally insured financial institutions. That oversight would consist not only of prohibiting future compensation abuses and monitoring compensation practices, but also taking a hard look at the compensation arrangements already in place for Fannie Mae and Freddie Mac executives.

Specifically, the amendment would add a new section to the bill which would make it clear that the regulator has the authority, without the HUD Secretary's review or approval, to prohibit excessive compensation. The amendment is intended to make the housing enterprises subject to the same type of compensation oversight that has long applied to all federally insured financial institutions. It is my hope that the new regulator will consult with the Federal Reserve, Comptroller of the Currency and Office of Thrift Supervision to ensure that S&L, bank and housing enterprise executives operate under the same prohibitions against compensation abuse.

The new section contains a board definition of compensation which is intended to require the regulator to consider all forms of compensation provided by an enterprise to an executive in exchange for services, including cash payments, fees, noncash benefits, financial counseling, insurance, perquisites, stock options, stock, stock-based compensation and postemployment benefits. It also instructs the regulator to calculate the present dollar value of postemployment benefits like retirement pay and lifetime medical insurance, to get a clear picture of this compensation's often hidden costs.

In determining when compensation is excessive, the section requires the regulator to consider a number of factors including total compensation received by the executive; actual services performed; the enterprise's financial condition; compensation practices at comparable financial institutions such as banks, S&L's and other GSE's; any wrongdoing and other relevant matters. This language does not require the regulator to establish that an executive's compensation would cause an enterprise to fall below a minimum or adequate level of capital—that would be too difficult a burden to meet. Instead, it authorizes the regulator to determine that compensation is excessive after considering each of the factors listed. These factors are similar to those which must be considered for federally insured financial institutions. Again, the intent is to create compensation oversight practices which parallel those applicable to federally insured financial institutions.

The amendment also revises bill language to be inserted in the enterprise charters requiring the boards of Fannie Mae and Freddie Mac to set reasonable and comparable pay. It changes the bill language by striking a phrase implying that the pay at Fannie Mae and Freddie Mac should be compared to the pay at major financial services companies. Since Fannie Mae and Freddie Mac have public purposes, enjoy Federal benefits, and pose taxpayer risks that don't apply to private sector companies, the more appropriate pay comparison is to publicly held financial institutions meaning federally insured banks and S&L's as well as other GSE's. Pay comparisons to private sector companies such as those on Wall Street would not be appropriate under the bill.

By the way, by specifying the appropriate pay comparison group in this part of the bill—that is, to federally insured banks and S&L's, and other GSE's—it is intended that the same comparison group be used in other portions of the bill calling for comparable pay at Fannie Mae and Freddie Mac. Those other provisions variously refer to other public and private entities involved in financial services and housing interests, other similar businesses, and comparable publicly held financial institutions. In each instance, the appropriate pay comparison group remains federally insured banks and S&L's, and other GSE's.

Fannie Mae and Freddie Mac, with their billions of dollars in assets and potential liabilities, pose risks to the Federal Treasury that cannot be ignored. While this bill is not as strong as I would have liked, it is a significant improvement over the status quo, and we should enact it as soon as possible. I thank Senator RIEGLE and Senator GARN for including the compensation provision, and I congratulate them for preparing this important legislation.

Mr. KOHL. Mr. President, I understand that in the manager's amendment to S. 2733 a number of changes were made at the request of the administration. As the Chairman knows, I have a long-term interest in maintaining the independence of the regulation of the housing Government-sponsored enterprises from the Secretary of Housing and Urban Development [HUD]. History has taught us that the regulator in charge of the public policy mission cannot effectively regulate that same entity for financial safety and soundness. Can the chairman assure me that these changes do not compromise or weaken the independence of the regulator in his bill in regard to HUD.

Mr. RIEGLE. That is correct. This bill in its original form and as amended maintains safety and soundness regulation independent of HUD.

Mr. KOHL. I understand the House bill gives HUD a strong role in regulating the safety and soundness regulation of Freddie Mac and Fannie Mae. Does the Chairman agree with this approach?

Mr. RIEGLE. No, and I intend to support a position which would keep safety and soundness regulation independent of the Secretary of HUD in conference. However, in order to properly coordinate national housing policies, I believe that regulations relating to the housing missions of Fannie Mae and Freddie Mac should be issued only with the review of the HUD Secretary.

Mr. KOHL. That is a reasonable approach that I can and will support.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2440

(Purpose: To amend the Securities Exchange Act of 1934 with respect to limited partnership rollups)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] for himself and Mr. BOND, proposes an amendment numbered 2440.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE ____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. ____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC. ____03. RULES OF FAIR PRACTICE IN ROLL-UP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

Mr. DODD. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, I am advised that this is an amendment that is an important amendment that will require some debate. In view of the hour, I have consulted with the distinguished Republican leader, and we believe that it is best now to indicate that there will be no further rollcall votes this evening, and that we can come back in the morning and proceed to debate the amendment of the Senator from Connecticut, if that is agreeable. I believe that is agreeable.

Mr. RIEGLE. If the Senator will yield, I would like to indicate briefly that I strongly support the proposition he is advancing, namely the rollup legislation. There are some 70 cosponsors in the Senate. Sc we have an overwhelming bipartisan majority.

It is a very good amendment, but the problem that this Senator faces as a manager of the bill, is that this amendment is being offered to the managers' amendment. The managers' amendment is a package that the ranking minority member and I have worked out over a period of time that encompasses a variety of amendments on both sides, and so any amendment that is offered now that I would be prepared to accept, and the Senator from Utah as a ranking minority member is not in a position to accept as part of the managers' amendment, that puts me in the awkward spot of favoring the Senator's amendment, but not being able to accept it as part of the managers' amendment, because I am not able to have the support of the ranking minority member.

So if the Senator were in a position to offer it later on down the line to the bill as a whole, I could enthusiastically support his amendment, which in fact, I support. But under the agreement that I am operating with, which I have reached with the Senator from Utah, I am in the situation that while I support the Senator on the substance, I will not be able to support him in adding it to the managers' amendment.

So I want the record to be clear on that issue, because I think it is an important matter to be dealt with. I appreciate his yielding for that purpose. I want to suggest that the debate on this issue ensue tonight, and I gather if there is going to be a vote, it will occur tomorrow morning.

Mr. GARN. If the chairman will yield, I say to my friend from Connecticut, there is another problem. Normally, as the Senator knows, managers' amendments are usually accepted unanimously. It is not often that we get into so many amendments to a managers' amendment. There is a procedural problem in that if we agree to accept and take up amendments like this, there are several other amendments that will arise, as well. People have said: Well, I will not offer any amendments to the managers' amendment, but if they start appearing, then I will.

We could end up with five or six more amendments to the managers' amendment before we ever get to the bill. So, procedurally, there is a difference between offering it later to the bill, rather than to the managers' amendment.

MODIFICATION OF AMENDMENT NO. 2437

Mr. RIEGLE. If the Senator will yield further, and I appreciate his courtesy, because I know he is not feeling well today. We had one error in the package amendment we sent to the floor in that three paragraphs were inadvertently omitted.

I will ask unanimous consent that that change be made. It has been cleared on the Republican side, and if the Senator will yield for that purpose, and if there is no objection, I ask unanimous consent that the underlying managers' amendment be so modified.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The modification is as follows:

At the end of page 26 of amendment No. 2437, add the following:

(B) compensation practices at comparable publicly held financial institutions;

(C) any fraudulent act of omission, breach of fiduciary duty, or insider abuse by the executive officer with regard to the enterprise; and

(D) other factors that the Director determines to be relevant.

On page 2 of amendment No. 2437, line 15, strike "risk-based.".

Mr. RIEGLE. I thank the Chair, and I thank the Senator from Connecticut.

Mr. DODD. Mr. President, let me say that I appreciate the comments of my colleagues from Michigan and Utah regarding the managers' amendment. I just note that I understand that, and that those agreements are reached from time to time, but there are matters in the managers' amendment which are controversial, as well, which do not necessarily enjoy broad-based support.

Mr. President, I am prepared to enter into a unanimous consent agreement on the time for this amendment. I see my colleague from Texas, for whom I have the highest respect, indicating by the horizontal motion of his head that he does not necessarily agree with that idea, so I gather such a request would be unacceptable at this point.

Mr. President, I would be prepared to talk about this amendment a bit this evening, or to wait and debate it in the morning. I have no desire to keep people here this evening. We could settle on a time to begin tomorrow. In fact, I might ask the distinguished Senator from Michigan, if he is on the floor or the majority leader, what time he would like to commence in the morning to debate this amendment.

Mr. MITCHELL. Mr. President, I have discussed the matter with the distinguished manager, and he suggested that we return to the amendment at 10 a.m. So I am going to suggest that we shortly end the session of the day and return to the amendment of the Senator from Connecticut at 10 a.m., if that is agreeable.

Mr. DODD. It certainly is. Mr. President, I do not know that I want to start a lengthy statement on this amendment this evening. I will just yield to the majority leader.

Mr. MITCHELL. Mr. President, I suggest that we resume at 10 a.m., and the Senator can make his statement at the that time, and debate can begin at that time.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate turn to morning business, with Senators allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RHODE ISLAND GENERAL ASSEMBLY ADDRESSES THE U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

Mr. PELL. Mr. President, I want to take this time to recognize the recent action by the General Assembly of the State of Rhode Island regarding the U.N. Conference on Environment and Development. On June 4, the General Assembly adopted a resolution calling on the President to: Exercise a leadership role at the Conference, to sign the Conventions on Climate Change and Biological Diversity, and to support Agenda 21. I ask unanimous consent that a copy of the text appear in the RECORD immediately following my remarks.

Mr. President, this resolution, which reaffirms the importance of UNCED, is a testament to the vision of the Rhode Island Assembly. The resolution brings home the fact that UNCED addressed issues that affect each of us. It shows that the Conference was not just a meeting in a distant city with no relevance to the daily lives of our citizens.

I urge my colleagues to take a few minutes to read the resolution and reflect upon the real change in public attitudes on the environment that it reflects. No longer is protection of the global environment viewed as a peripheral issue. It is now at the center of discussion not only at the international and national levels, but also at our State capitols. I only regret we did not take more of a leadership position.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

Whereas, it is acknowledged that the leaders and representatives of a large number of the world's nations will gather this week in Rio de Janeiro, Brazil, for the United Nations Conference on Environment and Development; and

Whereas, an American delegation, including the President of the United States and the Environmental Protection Administrator will be in attendance; and

Whereas, it is acknowledged that the earth grows more and more threatened every day due to overpopulation and pollution and gluttony of the earth's natural resources; and

Whereas, it is acknowledged that continued devastation of the earth's rainforests at the rate of an acre each second not only threatens the overall climate and environment of the earth but also destroys countless species of animal and plant life, including plant life that has the potential for important medicinal uses; and

Whereas, the continued pollution of the atmosphere by the use of fossil fuels raises the risk of a runaway greenhouse effect, which threatens life on the planet and ravages the earth's growing regions; and

Whereas, the continued use of chlorofluorocarbons (CFCs) threatens the earth's natural ozone layer which protects life from the harmful effects of solar radiation; and

Whereas, more than 3 million children died last year from waterborne disease, where most of the deaths could have been prevented by safe drinking water and decent sanitation; and

Whereas, once-fertile soils, attacked by overcultivation, overgrazing and overcutting, are turned to deserts at the rate of 15 million acres of productive land lost each year; and

Whereas, unmanaged deforestation and fishing is causing the disappearance of hundreds of species of life every year, with more on the threatened and endangered lists: Now, therefore, be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations calls upon the President to play a major leadership role at the Earth Summit to halt the growing threats of pollution and defoliation of the planet; and be it further

Resolved, That this House of Representatives calls on the President to commit the United States to solving the crisis by signing the Global Warming Treaty to curb emissions of greenhouse gases: And be it further

Resolved, That this House calls upon the President to commit the United States to Agenda 21 at the Rio conference, that being a plan for the industrial nations to help poor countries develop their economies without ruining their environments: And be it further

Resolved, That this House calls upon the President to sign a biodiversity treaty to slow the loss of endangered species on the plants: And be it further

Resolved, That the Secretary of State be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the President of the United States, the Rhode Island delegation to the United States Congress, the Environmental Protection Administrator, other delegates to the United Nations Conference on the Environment and Development and all statewide media outlets.

NATIONAL DEPOSIT LAW

Mr. JEFFORDS. Mr. President, I am here today to put to rest my colleagues' concerns about the bottle bill. There has been so much disinformation over the years on this issue that some may find it difficult to discern the facts. I urge my colleagues and their staffs to look into this issue. A lot has been written recently about America's disenchantment with Congress. Many Americans feel this place is run by special interests. Well, a national deposit law is a chance to prove that facts speak louder than PAC's.

This issue will soon come up for a vote. It is going to be an uphill battle. Regardless of the outcome, I believe it important to get my colleagues on the record.

But first, I need to ask my colleagues on the other side of the aisle a question. Where does Governor Clinton stand on a national bottle bill? On Earth Day, Governor Clinton supported a bottle bill and went so far as to predict that if he were President, he would get a national bottle bill passed. That was Earth Day.

Then, the Democratic leadership went to New Orleans, and a bottle bill pledge has never reappeared. Now, my staff has to listen to industry sources brag about how Governor Clinton got a phone call from Atlanta and has never mentioned a bottle bill again. What's going on here? Is he for a bottle bill, or not?

Some say Bush has not been an environmental President. Well, if it's true that industry got Governor Clinton to drop a bottle bill with a simple phone call, so much for anyone in the other party claiming their candidate to be more proenvironment. So, does Governor Clinton still support a bottle bill or does he not? If he does, let us see some action. How about a letter of support? Better yet, or in addition, Governor Clinton has said if he were President, a national deposit law would be enacted. Why wait? Governor Clinton, show us how you can lead your party to action on the environment this year. Show us how you can lead a Democratic-controlled Senate that won't even hold a hearing on this issue to make the right choice for America.

This is such an important chance to help America. A national deposit law is a low-cost means to solve a number of problems while putting Americans to work. It would reduce our need for new landfills, and foster and support State and local recycling programs. It is a commonsense, proven proposal that 70 percent of Americans support.

It has become popular to promote the idea that deposit legislation will mean the doom of curbside recycling programs. Nothing could be further from the truth. In fact, the bottle bill actually compliments curbside recycling efforts. According to the Container Recycling Institute, 17-35 percent more materials can be recovered from municipal solid waste in a combined curbside and bottle bill program than with curbside alone. Nine of the ten States with deposit legislation have such programs.

The city of Seattle discovered that they would see an increase of between 42 and 54 percent in beverage container recycling from a combined curbside and deposit legislation program. Cincinnati found that a deposit law combined with their curbside recycling program would reduce their current recycling costs by 25 percent and result in an additional 6,000-ton reduction in solid waste volume every year. Last, California found deposit legislation entirely compatible with curbside programs and concluded: "* * * the positive effect of the beverage container recycling program on curbside recycling was evident by the average overall 37 percent increase in volume of aluminum recycled and a 224-percent increase in revenue."

There has been no evidence to show that the implementation of this legislation would have a negative impact upon current programs. How many times do we have to show that deposit legislation is not incompatible with curbside and in fact improves upon curbside programs?

Even without curbside programs, the recovery rate for States with deposit legislation is markedly higher in comparison. Studies show that the 10 deposit States recycle 66 percent more metal, 954 percent more glass, and 1,033 percent more plastic than States without such legislation. In fact, deposit States produce 98 percent of the Nation's recycled plastic beverage containers. Ninety-eight percent is an amazing number when you consider that these States have only 30 percent of the Nation's population.

Some people claim that a deposit law will cost more than its worth, but deposit legislation reduces litter, actually saving the Government money. In Michigan, two studies found that beverage container roadside litter dropped 85 percent and showed savings of $18 million in solid waste management costs. The New York beer wholesalers projected that the State would save $50 million in litter pickup costs and $19 million in solid waste disposal costs. The city of Seattle concluded that deposit legislation would have saved them a minimum of $591,000.

Furthermore, recycling collection costs will drop because high volume plastics will be removed from the waste stream. In addition, the unclaimed deposits will go to finance environmental activities in the States. That could be millions and millions of dollars for the environment and recycling programs. I wonder if the bottlers are telling this to recycling coordinators.

And, litter is more than just unsightly. It can be dangerous. This amendment will protect children. In Massachusetts, glass-related injuries to children dropped 60 percent. Concerned about farmers? Beverage containers are estimated to cause losses of over $2 billion annually to farmers, as this hazardous litter injures farm animals and machinery. A national deposit law would reduce beverage container waste by 83 percent and keep an additional 4.7-million tons of beverage containers out of landfills and incinerators, and out of the streets where our children play.

But deposit legislation not only reduces pollution, it also saves energy. Recycling saves 95 percent of the energy required to produce new materials—equal to 23 million barrels of oil a year.

Now the bottlers say that deposit laws cost jobs—in glass, for instance. The decline in glass jobs, however, has been due to the rise in aluminum use, not deposit legislation. Furthermore, in my State and others we've seen an increase in the use of refillable glass bottles. In fact, statistics from the Beer Institute show that the market for refillable bottles is 400 percent higher in States which have deposit legislation than in others. For the other beverage container industries the facts are clear. California's program created 3,411 new jobs. Oregon's employment increased by 365 jobs. GAO estimates that Michigan created about 4,888 new jobs. Maine gained 1,257 jobs, while my State created about 400 jobs. Last, New York created 4,069 new jobs.

Finally, I expect to be asked why we should enact this law if State legislatures will not. The reason—GAO found that 70 percent of American's support deposit legislation. It's that simple. And if we cannot be representative of the wishes of 70 percent of the American people, what can we accomplish? Perhaps we should ask why the legislators are not being more responsive to their constituents. I heard that the bottlers have contributed about $4 million in campaign contributions. In votes on deposit legislation, I've found that bottlers outspent citizens by over 7 to 1. For seven times the money no wonder big money wins.

We are not being unreasonable with our proposal. Deposit legislation need not be enacted in every State. It is only applicable to States which do not achieve a 70-percent recovery rate for beverage containers within 3 years. But, as a compromise, if a State reaches a 60-percent recovery rate within 3 years, these States would have an additional 2 years to meet the goal. The proposal is very flexible in this regard. States may use any method they want to reach the 70-percent goal, after which, they need do nothing more. We are not asking for a recovery rate of 90 percent or even 80 percent which nearly every bottle bill State has achieved.

You may ask, why all the fuss? Simply put, this country uses over 120 billion beverage containers every year. Most of these go right into the trash and from there to the landfill or incinerator. This is criminal. We have the power to put an end to this terrible waste, and we should.

Mr. President, I thank you, and I yield the floor.

THE DEATH OF SCOTT SLOAN

Mr. WARNER. Mr. President, I wish to call the attention of my colleagues to a personal tragedy involving the family of one of Congress' most valuable staffers, Stanley Sloan, the Congressional Research Service's senior specialist in international security policy. All of us in Congress who have grappled over the years with the issues of NATO and the United States' role as the leader of the Western alliance, with conventional arms control, and with new foreign policy opportunities after the cold war are familiar with the breadth and depth of Stan's work.

Last Thursday, Stan and Monika Sloan's 16-year-old son Scott was one of four teenagers killed in a tragic automobile accident in Virginia. Scott was a gifted baseball player and a budding poet, and was truly the center of his parents' lives. Stan and Monika made the time in their own busy professional lives to be deeply involved with Scott. For years, Stan has been active in the Babe Ruth League in Vienna, VA.

Mr. President, I know my colleagues will want to join with me in extending our heartfelt sympathy and support to Stan Sloan and his family in their bereavement.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on June 19, 1992, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received on June 19, 1992, are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

FISHERIES AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF ESTONIA—MESSAGE FROM THE PRESIDENT—PM 252

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801, *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Estonia Concerning Fisheries off the Coasts of the United States, with annex, signed at Washington on June 1, 1992. The agreement constitutes a governing international fishery agreement within the requirements of section 201(c) of the Act.

Fishing industry interests of the United States have urged prompt implementation of this agreement to take advantage of opportunities for seasonal cooperative fishing ventures.

GEORGE BUSH.

THE WHITE HOUSE, *June 23, 1992.*

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on June 19, 1992, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 5132. An act making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bill was signed on Friday, June 19, 1992, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of the reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5373. An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 192. A concurrent resolution to establish a Joint Committee on the Organization of Congress.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following bill and joint resolution:

S. 250. An act to establish national voter registration procedures for Federal elections, and for other purposes; and

H.J. Res. 470. Joint resolution to designate the month of September 1992 as "National Spina Bifida Awareness Month."

At 4 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 2703) to authorize the President to appoint Gen. Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1624. An act to authorize the American Battle Monuments Commission to establish a memorial in the District of Columbia, or its environs, to honor members of the Armed Forces who served in World War II, and to commemorate the participation of the United States in that conflict;

H.R. 3711. An act to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes;

H.R. 4505. An act to designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building";

H.R. 4771. An act to designate the facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, as the "Esel D. Bell Post Office Building";

H.R. 4786. An act to designate the facility of the United States Postal Service located at 20 South Main in Beaver City, Utah, as the "Abe Murdock United States Post Office Building";

H.R. 5412. An act to authorize the transfer of certain naval vessels to Greece and Taiwan; and

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated to the Bureau of Indian Affairs for the school operations cost of Bureau-funded schools.

ENROLLED BILL SIGNED

At 7:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1624. An act to authorize the American Battle Monuments Commission to establish a memorial in the District of Columbia, or its environs, to honor members of the Armed Forces who served in World War II, and to commemorate the participation of the United States in that conflict; to the Committee on Rules and Administration.

H.R. 4505. An act to designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4771. An act to designate the facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, as the "Esel D. Bell Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4786. An act to designate the facility of the United States Postal Service located at 20 South Main in Beaver City, Utah, as the "Abe Murdock United States Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5373. An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

H.R. 5412. An act to authorize the transfer of certain naval vessels to Greece and Taiwan; to the Committee on Armed Services.

The following joint resolution, received by the Senate on June 12, 1992, was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War; to the Committee on Rules and Administration.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 2877. A bill, Interstate Transportation of Municipal Waste Act of 1992.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3460. A communication from the President of the United States, transmitting, pursuant to law, a proclamation that extends nondiscriminatory treatment to the products of Romania; to the Committee on Finance.

EC-3461. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting, pursuant to law, the report on verification of the START Treaty; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of June 19, 1991, the following reports of committees were submitted on June 19, 1992, during the recess of the Senate:

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3040. An act to provide a program of Federal supplemental compensation, and for other purposes (Rept. No. 102–300).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 976. A bill entitled the "Resource Conservation and Recovery Act Amendments of 1991" (Rept. No. 102–301).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 2880. An original bill to authorize appropriations for fiscal years 1993 and 1994 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service, and for other purposes (Rept. No. 102–302).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOND (for himself, Mr. DURENBERGER, Mr. SEYMOUR, Mr. COCHRAN, Mr. McCAIN, Mr. DANFORTH, Mr. BURNS, Mr. COATS, and Mr. DOMENICI):

S. 2878. A bill to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 2879. A bill to prohibit the Secretary of Agriculture from spending or obligating any appropriated funds to purchase, procure, or upgrade computers used by certain farmer service agencies of the Department of Agriculture prior to the implementation by the Secretary of reforms of the field structure and organization of the farmer service agencies, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENTSEN, from the Committee on Finance:

S. 2880. An original bill to authorize appropriations for fiscal years 1993 and 1994 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. DOLE:

S. 2881. A bill to amend title XI of the Social Security Act to allow an adult from each family or household applying for benefits under title IV or XIX of the Social Security Act to attest to the citizenship status of the other members of the family or household, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. HOLLINGS):

S. 2882. A bill to authorize appropriations for the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE:

S. 2883. A bill to amend title VII of the Tariff Act of 1930 to include interim processors within industries producing processed agricultural products, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. LOTT, Mr. HEFLIN, Mr. LUGAR, Mr. SHELBY, and Mr. BUMPERS):

S. 2884. A bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBB:

S. 2885. A bill to modify the boundary of Appomattox Court House National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself and Mr. DOLE):

S.J. Res. 320. A joint resolution approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Romania; to the Committee on Finance.

By Mr. KOHL (for himself, Mrs. KASSEBAUM, Mr. AKAKA, Mr. BROWN, Mr. BURNS, Mr. D'AMATO, Mr. INOUYE, Mr. KASTEN, Mr. LEVIN, Mr. MOYNIHAN, Mr. SIMON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 321. A joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week"; to the Committee on the Judiciary.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself, Mr. DURENBERGER, Mr. SEYMOUR, Mr. COCHRAN, Mr. McCAIN, Mr. DANFORTH, Mr. BURNS, Mr. COATS, and Mr. DOMENICI):

S. 2878. A bill to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes; to the Committee on Finance.

MEDICAL AND HEALTH INSURANCE INFORMATION REFORM ACT

Mr. BOND. Mr. President, I rise today to introduce the Medical and Health Insurance Information Reform Act of 1992 on behalf of myself, Mr. DURENBERGER, Mr. SEYMOUR, Mr. COCHRAN, Mr. McCAIN, Mr. DANFORTH, Mr. BURNS, and Mr. COATS. This is the administration's health and human services provision for reforming the administration of health care costs.

Mr. President, each health care bill in the country effectively has at least a 10 percent surcharge added to it because of high administrative costs and health fraud. Billions of dollars each year are wasted from family's budgets, employee's paychecks, employer's budgets and from the State and Federal government's budget. It is hard to imagine a more complicated system than the one we have in health care with about 1,500 different insurers and millions of health providers from hospitals to doctors to pharmacists to medical laboratories and more. Each insurer, in turn, can require different information for billing purposes making the doctor or hospital or consumer's job of getting insurance to pay for covered services a paperwork hassle of the first order. It's like having 1,500 IRS' with 1,500 different 1040 forms.

We already have the technology and know-how to computerize, simplify and steamline this entire process. It should be no surprise because, in fact, in other sections such as banking and securities this computerization has already taken place.

As obvious as the need for reducing the misery of this predicament, is, the benefits from computerizing all of these various health transactions has many other benefits. In addition to reducing administrative costs, we will also have a greater ability to track down health fraud—which amounts to billions more in waste each year. We will have the tools to use the data generated from the computerization to increase the quality of health care and the ability to compare the value of health care services and insurance plans.

ADMINISTRATIVE COSTS

Everyone, it seems, has a story to tell about the landslide of paperwork that results when one gets sick.

I know we do in our family, and I suppose other families can replicate that system. I know of too many people who can proudly show off stacks of paperwork several inches or several feet thick dealing with one particular illness.

Anyone who has ever dealt with Medicare certainly knows what I am talking about. Or it might be the seemingly simple act of turning in all of those receipts to the insurance company from that shoebox and facing up to filling out the paperwork is a daunting prospect. But the life of that burdensome paper forms does not end when you mail the forms in, its life of torment has only just begun. When those forms reach the insurance company they are painstakingly entered into a computer by hand at the insurance company.

Doctors and hospitals, in fact everyone in health care down to your corner druggist, must go through this unpleasant exercise each day with each bill they must submit and the process is very similar.

Imagine having to fill out your tax forms every day of the year instead of just to meet the April deadline. In most cases, somewhere in the process, a paper claim form is entered that suits the requirements of whichever insurance company is to receive it. The claim is mailed to the insurance company where it is entered by hand into the insurance company's computer. If there is any information missing or the slightest bit incorrect, for instance, if the number for one of the codes is copied incorrectly, another paper form is sent back with the original paper form with an explanation of why the insurance company couldn't pay and the process of filling out the paper form starts over again.

Sound confusing? Well it is. And it is costing American consumers of health care billions of dollars. And it is pointless.

The unbelievable hassle and exasperation with the health insurance paper blizzard results mainly from the lack of any standardization in the information that insurers and other payors require from patients, doctors, hospitals and other health providers.

Computerizing health care does not end with just billing information but includes any information that has to be communicated back and forth between the provider and the payor. This means determining whether the insurance company will cover a particular doctor visit, how much they will pay and how much coinsurance, if any, the patient is responsible for.

This legislation will begin the process of getting the much needed standards in place so that the hundreds of computer systems out there can talk to each other and send this information back and forth and eliminate the paper and thus eliminate the paperwork hassle for consumers and providers.

This confusing, disjointed system is a haven for the dishonest health provider or consumer to bilk the system. Health fraud is estimated by the FBI to be upwards of $150 billion a year. While that may seem to be a bit high to many of us, it is safe to say that the cost is in the tens of billions. Health fraud may be as simply as billing two insurance companies for the same service, or charging for a complicated, in-depth examination when only a simple examination was actually performed—a practice known as up-coding. The possibilities are many and the cost is high. Computerizing health care billing information will give us the tools to track that fraud in ways that are impossible to do under the paper-based maze we have today.

Computerizing health care will improve the quality of health care in many different ways. The most obvious and perhaps most important would be for a patient's medical history to be immediately available in an emergency when seconds count and access to critical medical information in those seconds can mean the difference between life and death.

Questions in medical practice today about what exactly defines quality of care and how to study variations in medical procedures in various regions of the country are questions that can be answered with the wealth of data that will be available to researchers and clinicians through computerization. The ability to compare health care quality and outcomes from medical care will revolutionize how health care is delivered in this country.

Consumers, for the first time, will have access to the information they need to compare the value of insurance plans and health services. Consumers will be able to be wise purchasers of health care as never before. The ability of all purchasers of health services, from individual consumers, employers, unions to insurance companies themselves to compare the quality and cost of health providers is perhaps the most important benefit of computerization.

Mr. President, there are numerous compelling reasons for computerization of health care data interchange system that currently relies mostly on paper. I began working on this important effort last year and in February of this year introduced S. 2306, the Health Insurance Simplification and Portability Act that is very similar in many ways to the bill I am introducing today. I have also been working in the Appropriations Committee to getting funding for much needed pilot projects that will get the ball rolling toward computerization health care and achieving the billions of dollars of savings that are possible.

This bill, the Medical and Health Insurance Information Reform Act is a key piece of the President's health reform plan he proposed on February 6 of this year. We will be working with the administration and others who see this effort as key to making our health system work better, improving the quality of health care and saving billions of dollars in the process.

Mr. President, I invite my colleagues to have their staffs review this information, to join us in cosponsoring it, and to join us in advocating that we move ahead to reduce the necessary paperwork hassle that costs billions of dollars and masks some of the vitally needed changes that are so apparent in the health care system today.

Mr. President, I ask unanimous consent that a copy of the bill, a summary of the proposed act, and a letter from Secretary Louis W. Sullivan to the Vice President transmitting this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical and Health Insurance Information Reform Act of 1992".

SEC. 2. MEDICAL AND HEALTH INSURANCE INFORMATION REFORM.

The Social Security Act is amended by adding at the end the following:

"TITLE XXII—MEDICAL AND HEALTH INSURANCE INFORMATION REFORM.

"PART A—COMPARATIVE VALUE INFORMATION

"COMPARATIVE VALUE INFORMATION PROGRAMS FOR HEALTH CARE PURCHASING

"SEC. 2200. (a) PURPOSE.—In order to assure the availability of comparative value information to purchasers of health care in each State, the Secretary shall determine whether each State is developing and implementing a health care value information program that meets the criteria and the schedule set out in subsection (b).

"(b) CRITERIA FOR STATE PROGRAMS.—A State's health care value information program shall be determined by the Secretary to meet the criteria and the schedule of this subsection if—

"(1) the State begins promptly after enactment of this section to develop (directly or through contractual or other arrangements with coalitions of health care purchasers, one or more States, other entities, or any combination of such arrangements) information systems regarding comparative health care values;

"(2) the information contained in such systems covers at least the average prices of common health care services (as defined in subsection (c)) and information related to the value of each health insurance plan available in the State, including premium costs and the value of benefits, and, where available, measures of the variability of those prices within the State or other market areas;

"(3) the information described in paragraph (2) is made available within the State beginning not later than one year after enactment of this section, and is revised as frequently as reasonably necessary, but at intervals of no greater than one year; and

"(4) not later than four years following the enactment of this section, the State has developed information systems that provide comparative quality and outcomes data with respect to health insurance plans and hospitals and made the information broadly available within the relevant market areas.

"(c) DEFINITION.—For purposes of this section, 'common health care services' includes such procedures as the Secretary may specify and any additional health care services which a State may wish to include in its comparative value information program.

"(d) FEDERAL IMPLEMENTATION.—If the Secretary finds, at any time, that a State has not developed a health care value information program, or has failed to implement it (on a continuing basis) in accordance with the criteria and schedule set out in subsection (b), he shall take the actions necessary, directly or through grant or contract, to implement a comparable program in such State. Fees may be charged by the Secretary for the informational materials provided pursuant to such program. Any amounts so collected shall be deposited in the appropriation account from which the Secretary's costs of developing and providing such materials were met, and shall remain available for such purposes until expanded.

"(3) COMPARATIVE VALUE INFORMATION CONCERNING FEDERAL PROGRAMS—The head of each Federal agency with responsibility for the provision of health insurance, or of health care services, to individuals shall promptly develop health care value information relating to each program that he administers, and covering types of data comparable to the types of data that a State program meeting the criteria of this part would provide. Such information shall be made generally available to States and to providers and consumers of health care services.

"(f) Information for Research From Insurers.—

"(1) The Secretary, after consulting with insurers, providers, and others, shall promulgate (and may modify from time to time) requirements for the periodic submission by insurers to the Secretary on a sample basis of health care data relevant to research concerning health care services, and shall promulgate an effective date for those requirements, to be at least one year after their promulgation.

"(2) Each insurer shall comply with the requirements specified by the Secretary under paragraph (1) by the effective date specified by the Secretary.

"(3) For provisions imposing an excise tax with respect to noncompliance with Federal requirements under this subsection, see section 5000A of the Internal Revenue Code of 1986.

"(g) Release of Medicare Information.—

"(1) The Department of Health and Human Services shall make available, under section 552 of title 5, United States Code, all records of claims filed under the programs established by title XVIII of the Social Security Act, without regard to the consent of the physician or other individual who furnished the item or service in question.

"(2)(A) Paragraph (1) shall not affect any prohibition against disclosure under section 552a of title 5, United States Code, with respect to any individual to whom an item or service was furnished.

"(B) The requirement of paragraph (1) does not apply to information received by the Department of Health and Human Services, or by any of its contractors, before the date of enactment of the Medical and Health Insurance Information Reform Act of 1992.

"(h) Development of Model System.—

"(1) The Secretary shall, directly or through grant or contract, develop model systems to facilities gathering of health care cost, quality, and outcomes data and analyzing such data in a manner that will permit the valid comparison of such data cost, quality, and outcomes among providers and among health plans. The Secretary shall support experimentation with different approaches to achieve the objectives of the preceding sentence in the most cost effective manner (relative to the accuracy and timeliness of the data secured) and shall evaluate the various methods to determine their relative success. When he considers it appropriate, the Secretary may establish standards for the collection and reporting of health care cost, quality, and outcomes data in order to facilitate analysis and comparisons among States and nationally.

"(2) There are authorized to be appropriated such sums as are necessary for each fiscal year beginning with fiscal year 1993, to enable the Secretary to conduct the activities required by paragraph (1), including evaluation of the different approaches tested under such paragraph and their relative cost effectiveness.

"GRANTS FOR THE DEVELOPMENT OF STATE PROGRAMS

"Sec. 2201. (a) Grant Authority.—The Secretary may make grants to each State to enable such State to plan the development of its health care value information program described in section 2200, and if necessary, to initiate the implementation of such program. Each State seeking such a grant shall submit an application therefor, containing such information as the Secretary finds necessary to assure that the State is likely to develop and implement a program in accordance with the criteria and schedule of section 2200(b).

"(b) Offset Authority.—If, at any time within the three year period following the receipt by a State of a grant pursuant to subsection (a), the Secretary is required by section 2200(d) to implement a health care information program in such State, he may recover the amount of the grant under subsection (a) by offset against any other amount payable to such State under this Act. The amount of the offset shall be made available (from the appropriation account with respect to which the offset was taken) to the Secretary to carry out section 2200(d) in such State.

"(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

"PART B—STORAGE AND TRANSMISSION OF MEDICAL AND HEALTH INSURANCE INFORMATION AND PRIORITY OF PAYMENT

"PREEMPTION OF STATE QUILL PEN LAWS

"Sec. 2210. After 1993, no effect shall be given to any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic, form.

"PROMULGATION OF REQUIREMENTS BY SECRETARY

"Sec. 2211. (a) Health Insurance Information Privacy and Confidentiality Protection.—

"(1) The Secretary, after taking into consideration the Insurance Information and Privacy Protection Model Act of the NAIC, shall promulgate by January 1, 1993, (and may modify from time to time) requirements concerning health insurance information privacy and confidentiality protection for individuals. There shall be included a requirement that information that identifies individuals shall not be redisclosed (with such limited exceptions as the Secretary may provide) except to the extent necessary to carry out the purpose for which the information was collected.

"(2) The Secretary, in promulgating requirements under paragraph (1), shall take into consideration the following principles concerning information that identifies individuals:

"(A) Such information should be collected only to the extent necessary to carry out the purpose for which the information is collected.

"(B) Such information collected for one purpose should not be used for another purpose without the individual's informed consent.

"(C) Such information should be disposed of when no longer necessary to carry out the purpose for which it was collected.

"(D) Methods to ensure the accuracy, reliability, relevance, completeness, and timeliness of such information should be instituted.

"(E) Individuals should be notified (in advance of the collection of such information) as to whether the furnishing of such information is mandatory or voluntary, as to what the record keeping practices are concerning such information, and as to what uses will be made of such information.

"(F) Individuals should be permitted to inspect and correct such information concerning themselves.

"(b) Standards and Requirements for the Electronic Receipt and Transmission of Health Insurance Information.—

"(1) By January 1, 1994, the Secretary shall determine whether problems relating to standards for the electronic receipt and transmission of health insurance information cause significant administrative costs. If the Secretary determines that such problems do cause significant administrative costs, the Secretary, after consulting with the Accredited Standards Committee X-12 of the American National Standards Institute, insurers, providers, and others, shall promulgate (and may modify from time to time) standards concerning the electronic receipt and transmission of claims, payment, eligibility, and enrollment information (including requirements, consistent with those promulgated under subsection (a), to protect privacy and confidentiality), and shall promulgate an effective date for those standards, to be at least one year after the promulgation of the standards.

"(2) By January 1, 1994, the Secretary shall determine whether problems relating to the receipt and transmission of health insurance eligibility verification cause significant administrative costs. If the Secretary determines that such problems do cause significant administrative costs, the Secretary, after consulting with the Accredited Standards Committee X-12 of the American National Standards Institute, insurers, providers, and others, shall promulgate (and may modify from time to time) requirements concerning the receipt and transmission of health insurance eligibility verification, and shall promulgate an effective date for those requirements, to be at least one year after the promulgation of the requirement.

"(3) By January 1, 1994, the Secretary shall determine whether the proportion of health insurance claims and payment information received and transmitted by paper will continue to cause significant administrative costs. If the Secretary determines that the proportion will continue to cause significant administrative costs, the Secretary, after consulting with the Accredited Standards Committee X-12 of the American National Standards Institute, insurers, providers, and others, shall promulgate (and may modify from time to time) a requirement that insurers receive and transmit a specified proportion of (or all) health insurance claims and payment information electronically (with such exceptions as the Secretary may specify from time to time), and shall promulgate an effective date for that requirement, to be at least one year after the promulgation of the requirement.

"(c) Health Insurance Claim Forms.—

"(1) By January 1, 1994, the Secretary, after consulting with insurers, providers, and others, shall promulgate (and may codify from time to time) requirements for the format and content of basic claim forms under health insurance plans.

"(2) The Secretary shall determine whether the variety of information requested by insurers (in addition to the information requested in basic claim forms) causes administration costs that are disproportionate to the benefits derived from that information. If the Secretary determines that the variety of information requested does cause such costs, the Secretary, after consulting with insurers, providers, and others, shall publish (and may modify from time to time) recommendations concerning what additional information should be allowed to be requested and in what format.

"(d) Priority Among Insurers.—By January 1, 1994, but after June 30, 1993, the Secretary, after consulting with the NAIC, shall promulgate (and may modify from time to time) rules for determining the liability of insurers when benefits are payable under two or more health insurance plans.

"(e) FURNISHING OF INFORMATION AMONG INSURERS.—By January 1, 1995, but after June 30, 1994, the Secretary shall determine whether problems relating to the availability of information among insurers when benefits are payable under two or more health insurance plans cause significant mistaken benefit payments or administrative costs. If the Secretary determines that such problems do cause significant mistaken benefit payments or administrative costs, the Secretary shall promulgate (and may modify from time to time) requirements concerning the transfer among insurers (and annual updating) of appropriate information (which may include requirements for the use of unique identifiers, and for the listing of all individuals covered under a health insurance plan), and shall promulgate an effective date for those requirements (to be not earlier than one year after the promulgation of the requirements).

"STATE PROGRAMS

"SEC. 2212. The Secretary shall determine from time to time, for each State, whether—

"(1) the State has in effect standards, requirements, and rules (for insurers other than administrators of self-insured employee plans) substantially the same (or, for section 2214, at least as protective of privacy and confidentiality) as those described in sections 2214 through 2219, and

"(2) the State maintains an effective enforcement mechanism for those State requirements.

"APPLICATION OF FEDERAL REQUIREMENTS

"SEC. 2213(a) ADMINISTRATORS OF SELF-INSURED EMPLOYEE PLANS.—The provisions in each of sections 2214 through 2219 apply to administrators of self-insured employee plans.

"(b) OTHER INSURERS.—The provisions in each of sections 2214 through 2219 apply to activities (of insurers other than administrators of self-insured employee plans) in a State only if—

"(1) with respect to a section, the Secretary determines that the State does not meet the requirements of section 2212, or

"(2) with respect to a section, the State fails to provide such information from time to time as requested by the Secretary to enable the Secretary to make a determination under section 2212.

"HEALTH INSURANCE INFORMATION PRIVACY AND CONFIDENTIALITY PROTECTION

"SEC. 2214. As of January 1, 1994, each insurer shall comply with the requirements promulgated by the Secretary under section 2211(a).

"IDENTIFICATION NUMBERS

"SEC. 2215. As of January 1, 1994, each insurer shall—

"(1) for each of its beneficiaries that has a social security number, use that number, and

"(2) for each provider that has a unique identifier for purposes of title XVIII and that furnishes health care items or services to a beneficiary under a health insurance plan of that insurer, use that identifier.

"STANDARDS AND REQUIREMENTS FOR THE RECEIPT AND TRANSMISSION OF HEALTH INSURANCE INFORMATION

"SEC. 2216. If the Secretary promulgates standards or requirements under section 2211(b), each insurer, by the effective date specified by the Secretary for those standards or requirements, shall comply with them.

"HEALTH INSURANCE CLAIM FORMS

"SEC. 2217. As of January 1, 1995, each insurer shall comply with the requirements promulgated by the Secretary under section 2211(c)(1).

"PRIORITY AMONG INSURERS

"SEC. 2218. As of January 1, 1995, each insurer shall comply with the rules promulgated by the Secretary under section 2211(d).

"FURNISHING OF INFORMATION AMONG INSURERS

"SEC. 2219. If the Secretary promulgates requirements under section 2211(e), each insurer, by the effective date specified by the Secretary for those requirements, shall comply with them.

"NONCOMPLIANCE WITH FEDERAL REQUIREMENTS

"SEC. 2220. For provisions imposing an excise tax with respect to noncompliance with Federal requirements under this part, see section 5000A of the Internal Revenue Code of 1986.

"NO EFFECT ON SCOPE OF BENEFITS COVERED

"SEC. 2221. Nothing in this part shall be construed to specify what items and services are covered under a health insurance plan.

"PART C—MEDICAL DATA REQUIREMENTS

"PROMULGATION OF REQUIREMENTS BY SECRETARY

"SEC. 2230. (a) PROMULGATION OF REQUIREMENTS FOR HOSPITALS.—

"(1) By January 1, 1995, but after June 30, 1994, the Secretary shall promulgate requirements for hospitals concerning electronic medical data. In developing the requirements, the Secretary shall consult with the American National Standards Institute, insurers, hospitals, and other interested parties (and shall take into consideration, in developing requirements under paragraph (2)(A), the data set used by the utilization and quality control peer review program under part B of title XI).

"(2) The requirements promulgated under paragraph (1) shall include—

"(A) the definition of a standard set of data elements for use by utilization and quality control peer review organizations,

"(B) the definition of a set of data elements for use by intermediaries and carriers under the programs established by title XVIII (that shall include the standard set of data elements defined under subparagraph (A)),

"(C) standards for an electronic patient care information system with data obtained at the point of care (including requirements, consistent with those promulgated under section 2211(a), to protect privacy and confidentiality),

"(D) the specification of, and manner of presentation of, the individual data elements of the sets and system under the preceding subparagraph, and

"(E) standards concerning the transmission of electronic medical data.

"(3) The Secretary may from time to time (after consulting with the American National Standards Institute, insurers, hospitals, and other interested parties) modify the requirements promulgated under the preceding paragraphs.

"(b) PROMULGATION OF REQUIREMENTS FOR OTHER HEALTH CARE PROVIDERS.—

"(1) The Secretary may promulgate requirements concerning electronic medical data for providers that are not hospitals. In developing the requirements, the Secretary shall consult with the American National Standards Institute, insurers, providers other than hospitals, and other interested parties.

"(2) The requirements promulgated under paragraph (1) may include—

"(A) the definition of a set of data elements for use by intermediaries and carriers under the programs established by title XVIII,

"(B) the specification of, and manner of presentation of, the individual data elements of the set under subparagraph (A), and

"(C) standards concerning the transmission of electronic medical data.

"(3) The Secretary may from time to time modify the requirements promulgated under paragraph (1).

"MEDICARE REQUIREMENTS FOR HOSPITALS

"SEC. 2231. (a) GENERAL RULE.—As of January 1, 1996, each hospital that has entered into an agreement under section 1866 shall (except as otherwise provided by subsection (b))—

"(1) maintain an electronic patient care information system that meets the requirements of subparagraphs (C) and (D) of section 2230(a)(2),

"(2) upon request of the Secretary or of a utilization and quality control peer review organization (with which the Secretary has entered into a contract under part B of title XI), transmit electronically the data set specified under subparagraphs (A) and (D) of section 2230(a)(2) with respect to a specified discharge,

"(3) upon request of the Secretary, or of a fiscal intermediary or carrier (as defined in both cases in title XVIII), transmit electronically any data (with respect to a claim) from the data set specified under subparagraphs (B) and (D) of section 2230(a)(2), and

"(4) transmit the data specified under paragraphs (2) and (3) in accordance with the requirements of section 2230(a)(2)(E).

"(b) WAIVERS.—

"(1) The Secretary may waive the requirements of subsection (a) until January 1, 1998, for a hospital that—

"(A) is in the process of developing a system specified under section 2230(a)(2)(C) and that executes agreements with its fiscal intermediary and its utilization and quality control peer review organization that the hospital will meet the requirements of subsection (a) by a specified date (not later than January 1, 1998), or

"(B) is a small rural hospital (as defined by the Secretary).

"(2) The Secretary may waive the requirements of subsection (a)(1) for a hospital that—

"(A) agrees to obtain from its records the data elements that are needed to meet the requirements of paragraphs (2) and (3) of subsection (a), and

"(B) agrees to subject its data transfer process to a quality assurance program specified by the Secretary.

"ELECTRONIC TRANSMISSION TO FEDERAL AGENCIES

"SEC. 2232. As of January 1, 1998, the head of any Federal agency may require any provider that is required to transmit a data element (utilized by that agency in carrying out health care or research programs) specified under section 2230(a)(2)(D) or 2230(b)(2)(B)—

"(1) to transmit the data element electronically in accordance with the requirements of section 2230(a)(2)(E) or 2230(b)(2)(C), as applicable, and

"(2) to present the data element in the manner prescribed under section 2230(a)(2)(D) or 2230(b)(2)(B), as applicable.

"PART D—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 2240. For the purposes of this title—

"(1) The term 'administrator' has the meaning given that term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

"(2) The term 'employee welfare benefit plan' has the meaning given that term in section 3(1) of the Employee Retirement Income Security Act of 1974.

"(3) The term 'health insurance plan' means any contract or arrangement under which an entity bears all or part of the cost of providing health care items and services, including a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance subscriber contract (including any self-insured health insurance plan), but does not include (except for purposes of sections 2211(d), 2211(e), 2218, and 2219)—

"(A) coverage only for accident, dental, vision, disability, or long term care, medicare supplemental health insurance, or any combination thereof,

"(B) coverage issued as a supplement to liability insurance,

"(C) workers' compensation or similar insurance, or

"(D) automobile medical-payment insurance.

"(4) The term 'insurer' means any entity that offers a health insurance plan under which that entity is at risk for all or part of the cost of benefits under the plan, and includes any agent of that entity.

"(5) The term 'NAIC' means the National Association of Insurance Commissioners.

"(6) The term 'provider' means a physician, hospital, pharmacy, laboratory, or other person licensed or otherwise authorized under applicable State laws to furnish health care items or services.

"(7) The term 'administrator of a self-insured employee plan' means an insurer that is an administrator of an employee welfare benefit plan.

"(8) The term 'utilization review' means review of the medical necessity, appropriateness, and quality of health care items and services.".

SEC. 3. CONFORMING AMENDMENT.

The first sentence of section 1866(a)(1) of the Social Security Act is amended—

(1) by striking "and" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting a comma and "and", and

(3) by adding at the end the following:

"(R) in the case of hospitals, to comply with the requirements of section 2231.".

SEC. 4. FAILURE TO SATISFY CERTAIN HEALTH INSURANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans) is amended by adding at the end the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN HEALTH INSURANCE REQUIREMENTS.

"(a) GENERAL RULE.—

"(1) ADMINISTRATORS OF SELF-INSURED EMPLOYEE PLANS.—There is hereby imposed, on any administrator of a self-insured employee plan, a tax on any failure to comply with a requirement under section 2214, 2215, 2216, 2217, 2218, or 2219 of that Act. The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall determine whether any administrator of a self-insured employee plan meets the requirements of those sections.

"(2) OTHER INSURERS.—There is hereby imposed, on any insurer other than an administrator of a self-insured employee plan, a tax on any failure to comply with a requirement under section 2214, 2215, 2216, 2217, 2218, or 2219 of that Act with respect to an activity in a State that is subject to Federal regulation pursuant to section 2213(b) of the Social Security Act. The Secretary of Health and Human services shall determine whether any insurer meets the requirements of those sections.

"(3) RESEARCH DATA REQUIREMENTS.—There is hereby imposed on any insurer a tax on any failure to comply with a requirement under paragraph (2) of section 2200(f) of the Social Security Act. The Secretary of Health and Human Services shall determine whether any insurer meets the requirements of that paragraph.

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) for a taxable year in which an insurer fails to comply with a requirement described in that subsection shall be equal to $100 for each such failure.

"(c) CONTROLLED GROUPS.—

"(1) EMPLOYERS.—In the case of an insurer that is an employer, for purposes of this section all persons that are treated as part of the same employer (within the meaning of section 414) as the insurer shall be treated as the same person.

"(2) OTHER INSURERS.—In the case of an insurer that is not an employer, for purposes of this section—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or businesses (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(d) LIMITATIONS ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person liable for tax did not know, and by exercising reasonable diligence would not have known, that the failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) the failure was due to reasonable cause and not to willful neglect, and

"(B) the failure is corrected during the 30-day period beginning on the 1st date the person liable for the tax knew, or by exercising reasonable diligence would have known, that the failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of that tax would be excessive relative to the failure involved.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the terms 'insurer' and 'administrator of a self-insured employee plan' have the meanings given to those terms by section 2230 of the Social Security Act, and

"(2) the term 'State' has the meaning given to that term by section 1101(1) of the Social Security Act.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of that Code (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 47 of that code is amended by adding at the end the following new item:

"Sec. 5000A. Failure to satisfy certain health insurance requirements."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 5. PILOT GRANTS.

(a) COMMUNICATION LINKS.—

(1) The Secretary of Health and Human Services may make grants to at least two, but not more than five, community organizations, or coalitions of health care providers, health insurers, and purchasers, to establish, and document the efficacy of, communication links between the information systems of health insurers and of health care providers.

(2) To carry out this subsection there are authorized to be appropriated such sums as may be necessary for fiscal year 1993, to remain available until expended.

(b) REGIONAL OR COMMUNITY BASED CLINICAL INFORMATION SYSTEMS.—

(1) The Secretary may make grants to at least two, but not more than five, public or private non-profit entities for the development of regional or community based clinical information systems.

(2) To carry out this subsection there are authorized to be appropriated such sums as may be necessary for fiscal year 1993, to remain available until expended.

(c) AMBULATORY CARE DATA SETS.—

(1) The Secretary may make grants to public or private non-profit entities to develop and test, for electronic medical data generated by physicians and other entities (other than hospitals) that provide health care services—

(A) the definition of a set of data elements, and

(B) the specification of, and manner of presentation of, the individual data elements of the set under subparagraph (A).

(2) To carry out this subsection there are authorized to be appropriated such sums as may be necessary for fiscal year 1993, to remain available until expended.

SUMMARY OF PROPOSED MEDICAL AND HEALTH INSURANCE INFORMATION REFORM ACT OF 1992

SHORT TITLE

Section 1 assigns the draft bill the short title "Medical and Health Insurance Information Reform Act of 1992".

MEDICAL AND HEALTH INSURANCE INFORMATION REFORM

Section 2 would add a new title XXII to the Social Security Act, as follows:

TITLE XXII—MEDICAL AND HEALTH INSURANCE INFORMATION REFORM

Part A—Comparative value information

Comparative Value Information Programs for Health Care Purchasing

Section 2200(a) would require the Secretary of Health and Human Services, in order to assure that comparative value information is available to health care purchasers, to determine whether each State is developing and carrying out, on a timely basis, a health care value information program described in subsection (b).

Section 2200(b) would enumerate the criteria for State programs. The State must begin promptly after enactment of this bill to develop its comparative value information program. It may do so directly or through a variety of arrangements with others. The program must provide information on the average prices of common health care services and information related to the value of each health insurance plan available in the State, including premium costs and the value of benefits, and, where available, information on the variability of those prices within the State or other market areas. The data must be available within the State not later than one year after enactment, and must be updated no less frequently than annually. Finally, within four years after enactment, the State must also provide comparative quality and outcomes data on health insurance plans and hospitals and make the information broadly available in the market areas served by those plans and hospitals.

Section 2200(c) would authorize the Secretary to specify the content of the list of "common health care services" about which the State must provide comparative price data, and would permit the State to add any other services to the list it wished.

Section 2200(d) would provide for back-up Federal action if the Secretary found that a State had not developed or implemented a health care value information program that comports with subsection (b). In such a case, the Secretary would be directed to take necessary steps to implement such an information system in the State. He could charge fees for the informational materials provided and would be authorized to retain and expend those collections to carry out this function.

Section 2200(e) would direct the head of any Federal agency with responsibility for arranging for the provision of health insurance (e.g. the Office of Personnel Management) or for the provision of health care services (e.g. the Department of Health and Human Services and the Department of Veterans' Affairs) to make comparative value information available to States, health care providers, and consumers. The types of information to be provided would be comparable to those provided by a State that was implementing a program consistent with the preceding subsections.

Section 2200(f) would direct the Secretary, after consulting with health insurers, health care providers, and others, to promulgate requirements for health insurers to furnish periodically to the Secretary, on a sample basis, health care data relevant to health care services research. Provisions currently in the Privacy Act would permit the Secretary to make this information available to researchers (with appropriate privacy safeguards). Insurers that did not provide the required data would be subject to an excise tax (see section 4 of this draft bill, below).

Section 2200(g) would require the Secretary to make available, under the Freedom of Information Act, all Medicare claims records, including records that identify individual physicians or other individuals that furnish items or services under Medicare. However, Privacy Act protections against the release of information that identifies Medicare beneficiaries would remain in force; no personal identifiers of individual beneficiaries would be released, nor would claims records be released when beneficiaries could be identified by inference. This new requirement for release of records would apply only to information received by Medicare after the date of enactment of this draft bill.

Section 2200(h) would direct the Secretary, directly or through grant or contract, to develop model systems for gathering health care cost, quality, and outcomes data, and to do so in a manner that would allow valid comparisons of those types of data among providers and among health plans. He would support experimentation with various approaches to achieve the most cost-effective method, and evaluate the different experiments. When appropriate, the Secretary could establish national standards for uniform data gathering that would thereby allow analysis and comparisons across the country.

Grants for the Development of State Programs

Section 2201(a) would authorize the Secretary to make grants to States to assist them in planning and initiating their health care information programs. The application submitted to the Secretary must contain the information he needs to conclude that the State (rather than the Secretary) is likely to be conducting the comparative value information program in the State.

Section 2201(b) would provide for recouping any program development grants made if, within the following three years, the State fails or ceases to operate a program meeting the statutory criteria. The funds would be recouped by offsets against any other amounts payable to the State under the Social Security Act, and would be available to the Secretary for his activities made necessary by the State's failure to implement a comparative information program.

Section 2201(c) would authorize the appropriation of such sums as are necessary for grants to States under this subsection, to remain available until expended.

Part B—Storage and transmission of medical and health insurance information and priority of payment

Preemption of State Quill Pen Laws

Section 2210 would prohibit States from requiring medical or health insurance information (including billing information) to be kept in written, rather than electronic, form.

Promulgation of Requirements by Secretary

Section 2211(a) would direct the Secretary, after taking into consideration the Insurance Information and Privacy Protection Model Act of the National Association of Insurance Commissioners (NAIC), to promulgate requirements concerning health insurance information privacy and confidentiality. There would be included the requirement (with such limited exceptions as the Secretary may provide) that information that identifies individuals shall not be redisclosed except to the extent necessary to carry out the purpose for which the information was collected. The Secretary would be required to take into consideration the following principles concerning information that identifies individuals:

Information should be collected only to the extent necessary to carry out the purpose for which the information is collected.

Information collected for one purpose should not be used for another purpose without the individual's informed consent.

Information should be disposed of when no longer necessary to carry out the purpose for which it was collected.

Methods to ensure the accuracy, reliability, relevance, completeness, and timeliness of information should be instituted.

Individuals should be notified (in advance of the collection of information) as to whether the furnishing of information is mandatory or voluntary, as to what the record keeping practices are concerning the information, and as to what uses will be made of the information.

Individuals should be permitted to inspect and correct information concerning themselves.

Section 2211(b)(1) would direct the Secretary to determine whether problems relating to standards for the electronic receipt and transmission of health insurance information cause significant administrative costs. If the Secretary found that such costs were generated, he would, after consulting with the Accredited Standards Committee X-12 of the American National Standards Institute, health insurers, health care providers, and others, promulgate standards concerning the electronic receipt and transmission of claims, payment, eligibility, and enrollment information (including privacy and confidentiality protection requirements).

Section 2211(b)(2) would direct the Secretary to determine whether problems relating to the receipt and transmission of health insurance eligibility verification cause significant administrative costs. If the Secretary found that such costs were generated, he would, after consulting with the Accredited Standards Committee X-12 of the American National Standards Institute, health insurers, health care providers, and others, promulgate requirements concerning the receipt and transmission of health insurance eligibility verification.

Section 2211(b)(3) would direct the Secretary to determine whether the proportion of health insurance claims and payment information received and transmitted by paper would continue to cause significant administrative costs. If the Secretary found that such costs would continue to be generated, he would, after consulting with the Accredited Standards Committee X-12 of the American National Standards Institute, health insurers, health care providers, and others, require a specified proportion of (or all) such information to be received and transmitted electronically (with such exceptions as he might specify).

Section 2211(c)(1) would direct the Secretary, after consulting with insurers, providers, and others, to promulgate requirements concerning the form and content of basic claim forms under health insurance plans.

Section 2211(c)(2) would direct the Secretary to determine whether the variety of information requested by health insurers (in addition to the information requested in basic claim forms) causes administrative costs that are disproportionate to the benefits derived from that information. If the Secretary found that such costs were generated, he would, after consulting with health insurers, health care providers, and others, publish recommendations concerning what additional information should be allowed to be requested and in what format.

Section 2211(d) would direct the Secretary, after consulting with the NAIC, to promulgate rules for determining the priority of payment when two health insurance policies cover the same individual.

Section 2211(e) would direct the Secretary to determine whether difficulties relating to the transfer of information among health insurers that cover the same individual cause significant mistaken payments or administrative costs. If the Secretary found that such payments or costs were generated, he would promulgate requirements for the transfer (and annual updating) of information (that could include requirements for the use of unique identifiers, and for the listing of all individuals covered under a health insurance plan).

State Programs

Section 2212 would direct the Secretary to determine, for each State, whether there were in effect State requirements substantially the same as those under section 2211(a) (health insurance information privacy and confidentiality protection), section 2211(b) (receipt and transmission of health insurance information), section 2211(c)(1) (claim forms), section 2211(d) (priority among insurers), section 2211(e) (furnishing of information among insurers), and section 2215 (identification numbers), and whether the State effectively enforced its requirements.

Application of Federal Requirements

Section 2213 would provide for Federal backup authority to be effective in a State (with respect to a specific area mentioned in section 2212) only if the Secretary made a negative finding under section 2212 (or if the State did not provide sufficient information to enable the Secretary to make the determination). However, self-insured employee welfare benefit plans (as defined by the Employee Retirement Income Security Act of 1974 (ERISA)), no matter where located, would be subject to Federal requirements.

Health Insurance Information Privacy and Confidentiality Protection

Section 2214 would require health insurers (in States that did not have an equivalent program) to meet the Federal requirements concerning the protection of privacy and confidentiality promulgated by the Secretary under section 2211(a).

Identification Numbers

Section 2215 would require health insurers (in States that did not have an equivalent program) to use social security numbers for their beneficiaries and Medicare unique identifiers for hospitals, physicians, and others who furnish items and services.

Standards and Requirements for the Receipt and Transmission of Health Insurance Information

Section 2216 would require health insurers (in States that did not have an equivalent program) to meet the standards and requirements (if any) concerning the receipt and transmission of health insurance information promulgated by the Secretary under section 2211(b).

Health Insurance Claim Forms

Section 2217 would require health insurers (in States that did not have an equivalent program) to meet the requirements concerning the form and content of health insurance claim forms promulgated by the Secretary under section 2211(c)(1).

Priority Among Insurers

Section 2218 would require health insurers (in States that did not have an equivalent program) to follow the rules determining the liability of insurers promulgated by the Secretary under section 2211(d).

Furnishing of Information Among Insurers

Section 2219 would require health insurers (in States that did not have an equivalent program) to meet the requirements (if any) concerning the furnishing of information among insurers promulgated by the Secretary under section 2211(e).

Noncompliance With Federal Requirements

Section 2220 would contain a cross-reference to a new section in the Internal Revenue Code of 1986 (added by section 4 of this draft bill), that would impose an excise tax for noncompliance with the Federal requirements of sections 2214, 2215, 2216, 2217, 2218, and 2219, when implemented by the Secretary.

No Effect on Scope of Benefits Covered

Section 2221 would prevent part B from being construed to specify what items and services are covered under a health benefits plan.

Part C—Medical data requirements

Promulgation of Requirements by Secretary

Section 2230(a) would require the Secretary, after consulting with the American National Standards Institute and others, to promulgate requirements for hospitals concerning electronic medical data. The Secretary would specify a standard set of data for use by Medicare peer review organizations (after taking into consideration the data set used by the Medicare utilization and quality control peer review program), a set of data for use by intermediaries and carriers, standards for an electronic patient care information system with data obtained at the point of care (including privacy and confidentiality protection requirements), the specific set of data elements to be used in each of the above, and standards for the transmission of data.

Section 2230(b) would permit the Secretary, after consulting with the American National Standards Institute and others, to promulgate requirements for health care entities other than hospitals concerning electronic medical data. The Secretary would specify a set of data, the specific set of data elements to be used, and standards for the transmission of data.

Medicare Requirements for Hospitals

Section 2231(a) would require hospitals that participate in Medicare to maintain an electronic patient care information system that met the standards specified by the Secretary under section 2230(a), and would require the hospitals to furnish electronically data to the Secretary, to peer review organizations, and to carriers and intermediaries, from the appropriate data sets specified by the Secretary under section 2230(a).

Section 2231(b) would permit waivers of the requirements under section 2231(a) for hospitals that were in the process of developing an electronic patient care information system, for small rural hospitals, and for hospitals that abstracted (for electronic transmission) data from paper records (if a hospital agreed to subject its data transfer process to quality assurance procedures specified by the Secretary).

Electronic Transmission to Federal Entities

Section 2232 would permit Federal agencies to require data elements utilized for an agency health care or research program and specified under section 2230 to be transmitted electronically.

Part D—General provisions

Definitions

Section 2240 defines terms used in title XXII, as follows:

(1) "Administrator" has the meaning given that term in section 3(16)(B) of the Employee Retirement Income security Act of 1974 (ERISA).

(2) "Employee welfare benefit plan" has the meaning given that term in section 3(1) of ERISA.

(3) "Health insurance plan" means any contract or arrangement under which an entity bears all or part of the cost of providing health care items and services, including a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance subscriber contract (including any self-insured health insurance plan). The term does not include insurance limited to accident, dental, vision, disability, long term care, medicare supplemental insurance, or any combination thereof; coverage supplementing liability insurance; workers' compensation or similar insurance; or medical coverage under automobile insurance. However, the provisions concerning priority among insurers and information sharing among insurers do apply to the specific types of insurance otherwise excluded.

(4) "Insurer" means any entity that offers a health insurance plan under which that entity is at risk for all or part of the cost of benefits under the plan, and includes any agent of that entity.

(5) "NAIC" means the National Association of Insurance Commissioners.

(6) "Provider" means a physician, hospital, pharmacy, laboratory, or other person licensed or otherwise authorized under applicable State laws to furnish health care items or services.

(7) "Administrator of a self-insured employee plan" means an insurer (see definition (4)) that is an administrator (see definition (1)) of an employee welfare benefit plan (see definition (2)).

(8) "Utilization review" means review of the medical necessity, appropriateness, and quality of health care items and services.

Conforming Amendment

Section 3 would add (to the provisions in the agreements that hospitals enter into with Medicare) the requirements of section 2231.

Failure to Satisfy Certain Health Insurance Requirements

Section 4 would provide that any insurer subject to Federal regulation pursuant to proposed section 2213 of the Social Security Act is subject to an excise tax on any failure to comply with a requirement under proposed sections 2214, 2215, 2216, 2217, 2218, or 2219 of that Act. The excise tax imposed on administrators of self-insured employee welfare benefit plans that failed to comply with any of those requirements would be $100 for each failure. The excise tax on other insurers that failed to comply would be $100 for each failure to comply in a State in which Federal backup authority applied. In addition, any insurer that failed to comply with a requirement for the furnishing of sample health care data to the Secretary under proposed section 2200(f) of the Social Security Act would be subject to a $100 excise tax for each failure.

The excise tax would generally not apply if the violation could not have been discovered through the exercise of reasonable diligence or if the violation were corrected within 30 days after it had been discovered. In addition, the Secretary would be given authority (to be exercised in consultation with the Secretary of Health and Human Services) to waive the tax if the violation were due to reasonable cause and not willful neglect to the extent payment of the tax would be excessive relative to the failure involved.

Pilot grants

Section 5(a) would authorize the Secretary to make grants to at least two, but not more than five, community organizations, or coalitions of health care providers, insurers, and purchasers, to establish, and document the efficacy of, communication links between the information systems of health insurers and of health care providers. Appropriations of "such sums as may be necessary" would be authorized for fiscal year 1993, to remain available until expended

Section 5(b) would authorize the Secretary to make grants to at least two, but not more than five, public or private non-profit entities for the development of regional or community based clinical information systems. Appropriations of "such sums as may be necessary" would be authorized for fiscal year 1993, to remain available until expended.

Section 5(c) would authorize the Secretary to make grants to public or non-profit private entities for the development and testing of an electronic medical data set (and the specification of its elements) for physicians and other health care providers (other than hospitals).

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, June 16, 1992.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill "To amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information, and for other purposes."

The "President's Comprehensive Health Reform Program," released February 6th, sets forth the Administration's plan for reforming the health care system. Key elements of this plan include streamlining health care administration to reduce costs and improve quality and providing comparative value information for health purchasing.

This draft bill would implement the President's proposals concerning the medical and health insurance information system. The provisions of this bill would eliminate unnecessary costs and burdens in the system while strengthening administrative activities that improve the quality of health care. Automating the insurance claims process will eliminate the enormous and needless paperwork burden of the system. Automation of health care records will result in quality improvements that will add value to each health care dollar spent. Consumers will be better informed of the health care choices by making use of information required by the bill concerning costs and benefits of care.

The bill has three major components:

All Americans will benefit from the automating of insurance claims processing and payment. The paperwork burden of the health care system will be lifted from patients, providers and insurers. The result will be billions of dollars in reductions in health care administrative costs.

Quality and coordination of care for patients will be improved, as physicians and hospitals will have rapid and easy access to a patient's medical history through automation of medical records. A vast array of medical information will be available via computer access to enable scientific medical review and quality assurance. Organization of an access to medical information will permit analyses of patterns of health care and patient outcomes. This can accelerate advances in knowledge of safe and effective medical practices. Health Care costs will be reduced as duplicative tests are eliminated. Patient privacy and confidentiality will be protected through the development of uniform requirements.

Consumers and purchasers will be given access to comparative information about the quality and cost of health care. With this information, purchasers can better choose the provider and health plans that provide them the best value for their dollar. Competition will return to the health care market, leading to a reduction in excessive prices and inefficient delivery of care.

The provisions of the draft bill are described in detail in the enclosed section-by-section summary.

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and, if a bill does, it triggers a sequester if the bill's costs are not fully offset. The provisions in this draft bill would not increase direct spending.

We urge the Congress to give the draft bill its prompt and favorable consideration.

We are advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,
LOUIS W. SULLIVAN, M.D.

Mr. McCAIN. Mr. President, I rise today with my colleague KIT BOND and others for the introduction of the Medical and Health Insurance Information Reform Act of 1992. I thank my colleague from Missouri, Senator BOND, for his leadership on this issue, and all the hard work he has put into pulling all of the pieces of this legislation together. I do not think it would have been possible to have this very important package before this body today without his dedicated efforts.

As we grapple with the question of how best to reform our Nation's health care delivery system, there are a number of issues on which many already agree. One is the fact that far too much of our health care dollar is being consumed by administrative costs—and much of it unnecessarily.

Some of our colleagues have been hailing the virtues of the Canadian health care system, as a possible model for reform of our own system. While I do not support many of the trade-offs that would come with a Canadian-style system, one of the greatest strengths of the Canadian system is the fact that the eligibility, billing, and claims processing functions are automated. As a consequence, much less of their health dollar is consumed by administrative costs. This leaves more for the actual delivery of services. I believe this is a positive area where we could and should learn from the Canadian experience. And, not only does it involve costs, it involves efficiency.

The legislation we are introducing today draws from the Canadian experience. It would establish a 5-year framework for developing an electronic billing and claims-processing system. Specifically, it would:

Standardize computer language so that all medical computers can speak to one another;

Require all insurers to transmit claims electronically;

Require hospitals to computerize their medical records;

Require that uniform claim forms be established;

Require that States publish tables for consumer use, showing average prices for common health care services, premium costs for various types of policies, and the value of benefits for each health insurance plan; and

Implement a credit-card type system for the transmission of data.

Mr. President, automating our billing and claims-processing system ought to be one of the goals of health reform. In fact, it is an issue on which most of those who are working on the issue of health reform agree. This legislation also ties into legislation I have introduced over the last year that would result in the automation of the billing and claims-processing systems for the Department of Defense and the Indian Health Service. I believe this legislation represents a workable solution and ought to be enacted at the earliest possible moment. If implemented now, we would save some $20 billion by the end of the decade—and that is even with the expenditures on hardware and software. This is money that could be spent for the provision of care, rather than subsidizing inefficiency.

Again, I thank my colleague from Missouri for his efforts in developing this system. I believe, Mr. President, that it is clear that administrative costs are a major burden which cures no one, which provides care for no one and, frankly, we have a way out of this, and we ought to act as rapidly as possible.

Mr. President, I yield back the remainder of my time allotted me from my colleague from Missouri.

Mr. BOND Mr. President, I commend my colleague from Arizona who has been a leader on health matters generally and has paid particular attention to concerns of the aging. His cosponsorship and support is vitally important.

Mr. President, I yield 5 minutes to the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank my good friend from Missouri for yielding to me, and I also thank him for introducing this legislation.

Mr. President, I am pleased to be an original cosponsor of the Medical and Health Information Reform Act of 1992. I commend Senator BOND for his leadership on this bill and look forward to working with him and the other cosponsors on moving this legislation through the Congress.

Last year, Secretary Sullivan put us on the path toward a more efficient, less costly way to administer our health care system. He envisions a state-of-the-art, electronic national billing network that would simplify insurance claims and information for health care consumers and health care professionals alike.

I am sure my colleagues saw the article in Sunday's Washington Post about the marvels of such a system. Imagine patients coming into a doctor's office with their automated medical insurance cards in hand-cards quite similar to the automatic banking cards many of us carry today—and slipping that card into doctor's terminal.

With such a system, the patient's entire medical history could be right at the doctor's fingertips, making medical diagnosis and treatment less complicated.

Furthermore, billing would be greatly simplified. The system could be connected to computers in the patient's insurance office. This would enable the insurance company to immediately inform the health care provider, via this electronic link-up, whether the services provided were covered by the patient's insurance policy. The doctor's office could then automatically credit, bill the insurance company, and inform the patient on the spot the amount he or she is responsible for.

What a tremendous way to cut down on the enormous amount of paperwork and paper forms involved in medical billing and diagnosis. What a marvelous way to reduce the headaches and hassles for both patients and health care providers. And, what a smart way to reduce wasted time and wasted expenses. In fact, Secretary Sullivan has estimate that such an automated billing system would initially save some $4 billion a year and some $20 billion by the year 2000.

But, this is just the beginning. Someday, this entire country will be electronically linked with tiny glass wires of fiber optic cable, cables so small that they look like fishing line but so powerful that one could transport the information—voice, video, and data—contained in the entire Library of Congress from Washington, DC, to Los Angeles in a matter of seconds.

Imagine what we could do for health care then, particularly for those who live in remote, more rural areas like Montana. With a fiber optic network, not only could we have the world's most efficient electronic medical billing system, but we could also utilize the ability of optical fiber to carry video images for two-way interactive video conferencing.

Such interactive conferencing would enable a rural health practitioner in Plevna, MT, to consult with a specialist in Billings or at Johns Hopkins regarding the condition of a patient face to face. Such a system would make it possible for an individual living on a ranch in northwestern Montana to dial up a doctor in Great Falls to discuss and visually point out a particular health condition and to determine whether it is necessary for that patient to travel 100 or so miles for a personal office visit.

The possibilities of what fiber optics can bring to this Nation are endless, and that is one of the reasons why I have introduced the Communications Competitiveness and Infrastructure Modernization Act which will encourage the swift deployment of fiber optic technology in America.

Today, however, we are not necessarily talking about fiber optic technology. What we are talking about here today is one very small step toward the electronic wiring of this Nation.

The Medical and Health Information Reform Act would assist in bringing about Secretary Sullivan's vision of an electronic billing system for the health care industry by ensuring such things as the standardization of health care billing and insurance information and making sure that insurers and providers can talk to each other electronically.

Mr. President, as we prepare to enter the Information Age of the 21st century, it is time for America to take full advantage of the technology that is available to us. In the case of medical billing, an electronic network will greatly simplify our lives and save a great deal of money.

I thank Senator BOND for looking ahead, because not only does this start us down the path of reforming the way we deliver Medicare and the way we keep our records and to cut the paperwork and everything that the Senator from Arizona and the Senator from Missouri have summed up what this does, but this is just a beginning on what we can do in reforming our health care especially in rural areas.

There are certain organizations now that are starting templates on and starting a library of outcomes; in other words, a patient comes in, is diagnosed, is treated, but we do not have any library on what the outcome of that treatment was. I think we could cut millions and billions of dollars out of our health care whenever we know certain outcomes when patients are treated in certain ways for certain diseases, but someday this entire country will be electronically linked with tiny glass wires called fiber optics and fiber optic cable. They will be so small that they look like a fishing line. They will be so powerful that one could transmit the information, voice, video, and data contained in the entire Library of Congress in Washington, DC, to Los Angeles in a matter of seconds.

This is where we are going technologywise in this country. There is going to take some policy change to really make that happen but we can make it happen.

Imagine what we can do for health care then, particularly for those who live in remote rural areas such as my State of Montana, and I am sure that the Senator from Missouri understands that and also the Senator from Arizona, and I know the Senator from Minnesota.

With fiber optic networks not only could we have the world's most efficient electronic medical billing system, but we could also utilize the ability of optical fiber to carry video images for two-way interactive video conferencing.

Also in the diagnostic area, such interactive conferencing would enable a rural health practitioner in Plevna, MT to consult with a specialist in Billings or at the Mayo Clinic, or Johns Hopkins, all of the recognized centers and that information should be made available even to the people in the remote areas of our country.

Such a system would make it possible for an individual living on a ranch to dial up a doctor anywhere and discuss and visually point out the particular health condition and to determine whether it is necessary for that patient to travel hundreds of miles for a personal visit.

So, this is just one step but it is a visionary step that I think the Senator from Missouri has come up and really touched the nerve of where we are going today in this country.

And that is the use of this technology to ensure that every American, no matter where they are, and no matter what their economic situation is, has available health care and also stream lining the billing and also the making of that library for our outcome of certain treatments.

So if we want to modernize medicine, the technology is there, all we have to do as a government is to promote that technology and to allow it to continue, and I congratulate Dr. Sullivan and the good Senator from Missouri for introducing this legislation.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. I thank our colleague from Montana who has been a leader in promoting the use of advanced technology in this and many other areas.

I now yield the remainder of my time to the distinguished Senator from Minnesota who has a long history as a leader in the health care reform field and in many areas. We are delighted to have him as cosponsor of this measure.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise today in support of the Medical and Health Insurance Information Reform Act of 1992. I begin as others have by commending my distinguished colleague from Missouri for his commitment to reducing administrative costs and a broader commitment to improving access to health care for all Americans at a lower cost. I am proud to be a cosponsor of S. 2306, the Health Simplification and Portability Act, which addresses some of the issues in the bill that is being introduced today.

Mr. President, we in the Congress are presently engaged in heated debate about how to reform our health care system. There are many proposals on the table offering myriad ways to address these pressing problems.

Mr. President, despite the debate, there is consensus on the issue of health care costs. Expenditures are rising at over 10 percent a year, and threatening to top the $1 trillion mark in the next few years. We must get control of the wildly escalating health care spending. At the same time, there are millions of Americans who do not have any health insurance coverage at all.

I have said repeatedly that in order to expand access to health care for those presently uninsured and to reduce the costs of care, we must get more for less. We can only do that one way—through productivity.

Reducing administrative costs through electronic billing is a prime example of productivity. The goal is to save billions of dollars in administrative cost, reduce paperwork, and redtape, as well as reduce fraud and abuse in our health care system.

But, electronic billing does more than simply save money. It will improve the quality of health care too. Hospitals and physicians will have access to expanded clinical information. That means, very simply, that they will practice better, more up-to-date medicine.

In addition, it can provide information for consumers and health care purchasers. This will help people understand the value of the services they are buying and make better choices for their own health care.

This means more quality for less cost. That is precisely what productivity is all about.

I commend the administration for its efforts to promote these goals. Secretary Sullivan convened a forum on administrative costs last fall, bringing together representatives from the private and the public sector. They all sat down to discuss how to streamline the paperwork in our diverse and fragmented health care system, and this is one of the major products of that discussion.

I am proud to say that health care organizations in Minnesota are already far long in this field. Through a new technology developed by United Health Care and Medica, in the Twin Cities, the capability now exists to link up the offices of physicians and other providers with third-party payers.

This means that physicians will be able to submit their bills electronically and have them adjudicated electronically, at a savings that will be in the millions of dollars. It is predicted that electronic billing will save up to $1 per claim. This system is already being implemented. It won't be long before virtually every physician in the Twin Cities is wired to this common link.

The bill being introduced today complements the efforts already underway in the private sector. The bill addresses some of the impediments to electronic billing, including lack of uniform standards for data and data formats. It will also eliminate legal barriers to electronic records, and protect patient privacy and confidentiality. This bill promotes efficiency by encouraging the kinds of efforts that are underway in Minnesota.

Mr. President, I submit that this represents the Federal Government at its best—providing an environment in which productivity can occur. I urge my colleagues on both sides of the aisle to support this bill.

I urge my colleagues on all sides of the aisle to join as cosponsors and try to get this bill passed this year.

Mr. SEYMOUR. Mr. President, I am here today in support of the Medical and Health Insurance Information Act of 1992. We all know of the many problems which plague our health care system today, but there are two in particular which stand out and should be addressed. First, there is an inordinate amount of paperwork that Americans must deal with when making their health insurance claims. Second, there is a large amount of duplicity in health insurance paperwork that drastically increases health care administrative costs. All groups proposing health care reform agree that simplifying paperwork and reducing administrative costs are two goals which must be met when implementing any health care reform package. It has been estimated that reducing administrative costs and paperwork could save upward of $20 billion per year in health care expenditures. The Medical and Health Insurance Information Reform Act of 1992 is a logical step in reducing these problems in our health care system today.

Mr. President, this bill will not only attack these two problems head-on, but it will also provide a wealth of medical data to physicians and hospitals for medical studies. The bill will provide each American with an electronic card which would contain their health insurance information as well as their medical history. All necessary billing would be done electronically, thereby reducing the paperwork that the individual would have to complete.

Insurance companies would also benefit from the reduction of paperwork at the administrative level. By handling the billing electronically, there would be a reduction in the amount of duplicated paperwork which is now produced, as well as the amount of time it takes to deal with errors which are made when making insurance claims. Both of these changes would streamline billing procedures, making them more efficient and reducing administrative costs.

Mr. President, the increase in cost savings of this bill is staggering. It has been estimated that electronic billing will save some $4 billion in administrative costs annually. Electronic billing will also reduce fraud within the health insurance system. By automating the system, double billings and other types of fraud can be easily observed; whereas today, this type of fraud is lost under the piles of paperwork insurance handlers must go through every day. The FBI has estimated that health insurance fraud costs as much as $150 billion to the insurance industry every year. This estimate exemplifies the need to control fraud and the enormous savings which can be made by reducing health care fraud through electronic billing.

The bill also provides hospitals, physicians, and medical researchers with access to improved and expanded clinical data. Hospitals could benefit from this by looking for and reducing the use of unnecessary and costly medical procedures. The savings from this has been estimated to be approximately $20 billion annually. Furthermore, the expanded access to clinical data will allow epidemiological studies to be done very easily. In this way, researchers will be able to follow trends in disease and search for new treatments and ways to combat these illnesses. The need for such data collection has been clearly shown with the establishment of cancer registries, which find trends of cancer within a population. With this data, scientists are able to determine the probable environmental cause of the cancer and propose a solution to combat the source of the disease. Senator BOND'S bill would require that all medical data be uniform so that it could be used by researchers from around the country. This data would not only help follow trends in all illnesses, but it could lead to better procedures in disease prevention.

Finally, this bill would allow a patient to walk into any hospital in the United States, present his or her card, and give that hospital immediate access to that person's medical insurance and medical history. This would ensure that that person would receive immediate and thorough care, rather than wasting time gathering the proper paperwork and finding the proper medical information on the person's medical history. This could be very useful in the case of a major accident or illness.

Mr. President, health care reform is a problem which needs to be addressed now. Electronic billing is a step in the right direction in solving many of the problems which need to be addressed in health care reform. Furthermore, electronic billing is a solution upon which many diverse groups agree will yield positive results in both the short and long term. The American people would benefit from this bill since it reduces the confusing paperwork they must complete in order to receive health care. Furthermore, American physicians would benefit from this bill since their paperwork would also be reduced, allowing them more time to concentrate on their main job of treating patients. Finally, American insurance companies would benefit economically from this bill due to the streamlined billing and reduced fraud.

Mr. President, I would like to conclude by pointing out that all the health care reform proposals which have been put before the Congress include the goal of reducing administrative costs. From those supporting a single-payer system to those who support tax incentive proposals, all agree that this common goal is necessary to reduce the tremendous amount of money our country spends on health care every year. Senator BOND's bill is a logical and needed change which can bring true savings in a short timeframe and have both positive fiscal and medical effects in the long term. This solution goes beyond party politics and gives a solution to part of the health care crisis our country faces today. I would like to add my support to this bill as an original cosponsor and urge my colleagues, both Democrat and Republican, to join me in support of the Medical and Health Insurance Information Act of 1992.

By Mr. LEAHY:

S. 2879. A bill to prohibit the Secretary of Agriculture from spending or obligating any appropriated funds to purchase, procure, or upgrade computers used by certain farmer service agencies of the Department of Agriculture prior to the implementation by the Secretary of reforms of the field structure and organization of the farmer service agencies, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PURCHASE OF COMPUTER EQUIPMENT BY CERTAIN FARMER SERVICE AGENCIES

Mr. LEAHY. Mr. President, during this year, the Committee on Agriculture has undertaken a major effort to see how the Department of Agriculture is managed.

The billions spent at USDA each year come out of the pockets of the taxpayers. It is our job to make sure that the Department is doing everything it can to cut waste and eliminate fraud.

This has been a bipartisan effort. My colleague DICK LUGAR and I have established a special oversight staff and conducted a number of oversight hearings.

USDA now has over 10,000 offices representing four different farm service agencies. The committee has been grappling with the question of whether it is time to merge these agencies into one streamlined system that will be easier for farmers, and easier on the taxpayers wallet.

After our hearing on the field structure of the Department, Secretary Madigan announced that the administration would establish a special SWAT team to propose closing unnecessary offices. Secretary Madigan has also committed to deciding whether there will be an entirely new structure for USDA field offices.

A few weeks after our hearing on USDA field offices, and the commitment of Secretary Madigan to consider reorganizing USDA, we held another hearing on computer purchases at the Department.

At that hearing we learned that some of USDA's past computer purchases have wasted millions of dollars.

The Farmers Home Administration spent $200 million for a new computer system, but still maintains its basic loan files on color coded index cards. Its computer systems are so poorly designed that FMHA has to enter a farmer's basic information three times—first, when he applies for a loan, second, when the loan is approved, and a third time if the loan is renegotiated.

These are the mistakes of the past. But I am afraid that USDA is about to repeat these mistakes.

When I asked the Assistant Secretary of Administration to halt spending on new computer purchases until the Secretary of Agriculture decides whether the four farm service agencies should be merged—he refused. He said he had to ask the Secretary.

Unless something is done, USDA plans to spend about $200 million on new computers next year, before the Department undertakes the reorganization that Secretary Madigan promised us he would consider.

It defies logic that USDA would commit millions of dollars for computer systems before knowing which field offices will be closed or consolidated.

Well it has now been 3 weeks since I asked USDA to give me a commitment not to spend taxpayers' money on computers—until it knew whether USDA would be reorganized.

Senator LUGAR and I followed up with a letter asking the Secretary to stop the spending. Secretary Madigan has not answered my question.

In just a few weeks the Appropriations Committee will mark up the appropriations bill for 1993.

That is why today I am introducing legislation to stop the Department of Agriculture from wasting millions of taxpayers dollars this year.

This legislation will prohibit the Secretary of Agriculture from spending any funds in fiscal year 1993 for computers, computer software, and computer hardware for the farm service agencies, until the Secretary has reported to Congress what its decision is for restructuring USDA's field offices.

Let's put this in simple terms. If you were building a house, would you buy a furnace before you decided whether there would be one or four bedrooms?

Does it make any sense for the Department to spend about $200 million on new computers before it knows whether it will have one consolidated farm service agency or four separate agencies? Of course it does not.

Now obviously, we do not want to stop USDA from spending to maintain its existing computer systems and there inevitably will be debates about which of these budget requests are for routine maintenance and which are for new systems that may be unnecessary if USDA's office structure is entirely reorganized.

Thus the bill requires that if the Comptroller General certifies that such expenditures are necessary for routine maintenance, they may go forward.

Two years ago, in the 1990 farm bill, I set up a base closing commission to help USDA review and consolidate unnecessary research facilities. USDA opposed the commission then, and still refuses to use it today.

Last month I introduced legislation, an expanded version of the commission in the farm bill, to set up a bipartisan reform commission to give USDA a blueprint for restructuring the overall field office system. Again we offered a tool to USDA to review and consolidate offices in their field structures.

I hope the Secretary soon sees the wisdom of supporting my proposal, but if he does not I am sure that my colleagues will see the wisdom of requiring the Secretary to tell us how USDA should be reorganized before the taxpayers spend $200 million on new computers for its farm agencies.

I ask unanimous consent that the letter to Secretary Madigan be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, June 10, 1992.

Hon. EDWARD MADIGAN,
Secretary of Agriculture, Department of Agriculture, Washington, DC.

DEAR SECRETARY MADIGAN: We urge you to postpone USDA purchases and acquisitions of computer technology, beyond that which is necessary to maintain existing systems, until such time as the likely operating structure of the Department is ascertained and a corresponding information management plan has been completed.

During a hearing before the Senate Committee on Agriculture, Nutrition and Forestry on June 3, 1992, it became clear that the money invested by USDA in computer technology over the past several years has been spent without a clear understanding of what was being purchased, or what was operationally required to increase efficiency within the Department. It is our belief that future computer investment must not occur until a thorough review of the information requirements of the Department, in total, is conducted.

Even more importantly, new computer technology investment should not be made until the field agency reorganization, which we all agree must occur, has been completed. It would be highly inappropriate for USDA to invest monies (according to GAO approximately $2 billion over the next 5 years) before determining the organizational makeup of the those agencies.

We request that, with the exception of purchases needed to maintain existing systems, you curtail computer technology purchases until a strategic plan or vision for Department reorganization is completed.

Thank you for your attention to this request.

Sincerely,
PATRICK LEAHY,
Chairman.
RICHARD LUGAR,
Ranking Member.

By Mr. DOLE:

S. 2881. A bill to amend title XI of the Social Security Act to allow an adult from each family or household applying for benefits under title IV or XIX of the Social Security Act to attest to the citizenship status of the other members of the family or household, and for other purposes; to the Committee on Finance.

AMENDMENT TO MULTIPLE SIGNATURE PROVISIONS OF THE SOCIAL SECURITY ACT

Mr. DOLE. Mr. President, while we have seen renewed debate in recent months over welfare policy and spending, there is widespread agreement that we need to do more to simplify the administration of our welfare programs and promote better coordination between them. Today I am introducing legislation to help do just that. Specifically, my bill eliminates a Medicaid and Aid to Families With Dependent Children [AFDC] provision that requires all adult members in a household to sign a written declaration attesting to their own and their children's citizenship status as a condition of eligibility for these programs. Instead, one adult would be permitted to sign for the entire household. A household member would not be required to attest to the status of a newborn, who is by definition a U.S. citizen, until the next redetermination.

The so-called multiple signature rule in existing law has been found by welfare officials to be administratively burdensome and error-prone, as well as a barrier to participants. Congress in the 1990 farm bill eliminated a similar requirement for the Food Stamp Program for these same reasons with the administration's support. I want to stress that this legislation would not remove the requirement that State agencies verify the alien status of Medicaid and AFDC applicants and recipients. That important responsibility remains, and it would not be hindered by this bill. It is my understanding that the Department of Health and Human Services agrees that the multiple signature rule is administratively complex, especially in light of existing food stamp procedures, and that its elimination would not interfere with the States' alien verification process.

I want to thank the Kansas Department of Social and Rehabilitation Services for bringing this issue to my attention. Although the change I am proposing is fairly narrow in scope, I think anything we can do to improve the administration, accessibility and coordination of our welfare programs is worthwhile.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS UNDER AFDC AND MEDICAID.

(a) IN GENERAL.—Section 1137(d)(1)(A) of the Social Security Act (42 U.S.C. 1320b-7(d)(1)(A)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) by the individual, or

"(ii) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by another adult member of such family or household on such individual's behalf, or

"(iii) in the case of an individual who is a child, by an adult member of such individual's family or household on the individual's behalf, or

"(iv) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual's family or household on the individual's behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1992.

By Mr. INOUYE (for himself and Mr. HOLLINGS):

S. 2882. A bill to authorize appropriations for the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION AUTHORIZATION ACT OF 1992

• Mr. INOUYE. Mr. President, I rise today to introduce the authorization act for the National Telecommunications and Information Administration [NTIA] for fiscal years 1992 and 1993. This bill is noncontroversial and I urge my colleagues' support.

The bill I am offering today authorizes funding for NTIA for fiscal years 1992 and 1993. The bill also authorizes continued funding for the PEACESAT Program and for a study of the communications needs of rural health care practitioners. It authorizes funding for children's educational television and includes a new provision to encourage Federal Government agencies to make more efficient use of the radio frequency spectrum.

NTIA serves as the principal adviser to the executive branch on domestic and foreign telecommunications issues, develops plans and policies on behalf of the President for submission before various regulatory bodies, manages the Federal use of the radio frequency spectrum, and conducts a variety of research activities.

The Nation faces a number of important telecommunications issues as we head into the 21st century. How will we take full advantage of the new wireless communications technologies? How shall we improve the Nation's telecommunications infrastructure? How can we ensure a diversity of views in the face of increasing concentration in the media industry? And how will we coordinate the U.S. agency responses to these questions to ensure that the U.S. Government is working in a coordinated fashion?

NTIA needs to play an active role in developing answers to all these questions. NTIA's position as the expert adviser to the President on telecommunications matters makes it uniquely qualified to address these issues. NTIA has the opportunity to play a leadership role in resolving policy disputes and pushing our regulatory agencies toward more long-term solutions to these issues.

In these circumstances, congressional oversight over the activities of NTIA is especially important. The time has come to renew our interest in and oversight of this important Government agency. The bill I am introducing today recognizes NTIA's increasingly important role and also provides the Congress with a mechanism for continuing our oversight over the long-term development of our Nation's telecommunications policy.

For these reasons, this bill authorizes funding for the NTIA in the amount of $17,600,000 for fiscal year 1992 and $21,823,000 for fiscal year 1993, along with such sums as are necessary for additional expenses. The authorization amount for fiscal year 1992 is identical to the figure appropriated by Congress for fiscal year 1992. The figure for fiscal year 1993 is identical to the amount requested by the President in his fiscal year 1993 budget submission.

Mr. President, this NTIA authorization bill also contains language to reauthorize funding for the Pan-Pacific Educational and Cultural Experiments by Satellite Program. This program, commonly known as PEACESAT, provides essential telecommunications services to the inhabitants of several Pacific nations.

The PEACESAT Program allows for the exchange of medical information that, in one case, helped to stem an outbreak of cholera, provides educational programming for schoolchildren, and permits the exchange of information about cultural events and traditions among the communities. Because of their low level of economic activity and limited infrastructure, PEACESAT often provides the inhabitants of these communities with their only contact with the developed world.

The PEACESAT Program began in 1971 by using an old NASA experimental satellite. In 1985, the PEACESAT Program came to a halt as the satellite used to carry the PEACESAT Program ran out of station-keeping fuel. Congress appropriated $3.3 million over the next 5 years to find a substitute satellite and to fund the construction of Earth terminals to be used with the new satellite.

NTIA has made substantial progress in re-establishing the PEACESAT Program. It secured the use of a National Oceanic and Atmospheric Administration [NOAA] satellite until 1995. It contracted for the construction and installation of Earth terminals in the Pacific region that are compatible with the new satellite. Through these efforts, the PEACESAT Program once again provides needed communications to several thousand people in the Pacific Basin.

The PEACESAT Program has generated substantial good will toward the United States. This area of the world is becoming increasingly important to United States strategic interests, especially given the activities of Japan in the region. Continued funding of the minimum operations of the PEACESAT Program is essential to allowing this program to provide this value to the United States and the people of the Pacific Basin.

The bill I am introducing today authorizes $400,000 in funding for fiscal year 1992 and $1,500,000 in funding for fiscal year 1993. The amount of $400,000 is the minimum necessary to keep the PEACESAT Program in operation and is identical to the amount that was appropriated for fiscal year 1992. This amount is essential for the operation of the satellite and the administration of the program. The current satellite used by the PEACESAT Program, a GOES satellite, is scheduled to expire in 1995. Satellite capacity must be acquired several years in advance of the date of actual use. Additional funding for fiscal year 1993 is necessary to begin the process of acquiring additional satellite capacity. For this reason, the bill authorizes a higher amount for fiscal year 1993.

We expect NTIA to continue to monitor the PEACESAT Program, to ensure that additional Earth terminals are installed in the Pacific region and that the PEACESAT Program continues to expand. We also expect NTIA to continue its efforts to locate and contract for additional satellite capacity necessary to replace the GOES satellite beyond the end of 1994. Should NTIA and the managers of the PEACESAT Program determine that the next satellite could best be provided in cooperation with some other country, the amendments included in this bill will allow the United States to consider using that satellite, as long as the administration and management of the PEACESAT Program remains based in the United States.

This bill also includes an additional authorization of $1 million in funding to the Secretary of Commerce to convene, along with the Secretary of Health and Human Services, a panel to consider ways of satisfying the communications needs of rural health care providers. This provision is supported by the National Rural Health Association and is identical to the provision that passed the Congress last year.

Two years ago, the Office of Technology Assessment [OTA] released a significant report detailing the severe difficulties faced by rural health care providers, especially nurse practitioners, in keeping up with the latest advances in medical science. The report makes clear that the lack of adequate telecommunications facilities makes it very difficult for rural health practitioners to provide health care using the same advanced and essential information that is available to those serving the urban areas.

Often the rural health care provider is a solo practitioner and does not share the advantage his or her urban counterpart has in being able to consult with a number of specialists. Rural providers are unable to attend conferences unless they leave the community without health care coverage. Additionally, rural practitioners do not have access to continuing education offerings and considerable library holdings that are typically available to urban practitioners in large teaching hospitals. Consequently, rural providers often practice in professional isolation, with numerous barriers to practicing state-of-the-art health care delivery. As a result, the quality of health care delivery in rural areas can be directly affected.

Enhanced telecommunications can be designed to provide the capacity to move information from sources such as the National Institutes of Health and the divisions of the Public Health Service to rural health care delivery systems more rapidly and broadly. Such telecommunications abilities can improve decisionmaking and health service delivery in rural areas. Telecommunications systems can make remote services available locally and improve the flow of educational and administrative information, including patient and provider education and administration, as well as patient care.

The study authorized by this bill is intended to be the first step toward a wide-ranging plan to address the needs of rural health care providers. The OTA report identified the problems suffered by rural health care providers; the study authorized by this bill will begin to set forth a plan for solving these problems. It is my intention to seek additional funding to implement the recommendations of this study once it is completed. I strongly urge my colleagues to join me in supporting this effort to address the needs of rural health care providers through improved communications facilities and services.

This legislation also authorizes funding for the National Endowment For Children's Educational Television. The Endowment was created to provide funding for educational and instructional children's television programs. The act creating the Endowment provides that programming produced with funding from the Endowment must first be made available to public television. After the programming is run on public television it will be made available to commercial broadcasters and cable systems at a very low cost. The bill I am introducing today authorizes $5 million in funding for fiscal year 1993 and $6 million in funding for fiscal year 1994. Congress appropriated $2 million in funding for fiscal year 1992; the President has not proposed any funding for the Endowment for fiscal year 1993.

There is clearly a need to devote greater attention to the educational needs of our Nation's youth. This Endowment is designed to begin to address this need. If we are to ensure that our children are prepared for the future, we must expand our efforts to reach and teach our Nation's children. It is well documented that television programming can be an effective way to teach children and to motivate them to learn.

Finally, the bill includes provisions to encourage Federal Government licensees to make more efficient use of the spectrum. Federal Government agencies make extensive use of the spectrum, for drug enforcement, police and public safety, and for military and defense activities. Many Federal Government agencies, however, received licenses to use the spectrum several years ago. While these users often provide essential services, they do not always make the most efficient use of the spectrum. For instance, trunking and narrowband technologies were developed many years ago, but many Federal Government agencies have been resistant to implementing these spectrum-efficient technologies. In hearings before my Subcommittee on Communications on S. 218, the Emerging Telecommunications Technologies Act of 1991, several witnesses testified as to the need for the Federal Government to make more efficient use of its frequencies.

In response to this concern, the bill I am introducing today would encourage NTIA to promote more efficient use of the Federal Government's spectrum. In particular, the language included in the bill would recognize the Secretary's authority to withhold or refuse to grant assignments to Federal Government users in order to promote the goal of making more efficient and cost-effective use of the spectrum. This language would, for instance, authorize NTIA to withhold granting an assignment if it believed that the proposed service could be provided more efficiently using another technology such as trunking or narrowband or by employing the services of a private sector entity. I believe that the NTIA should have this authority, and should use this authority, in order to promote spectrum efficiency. The bill also directs the Secretary to adopt a plan to migrate Federal agency users to more spectrum-efficient technologies. I believe that this language will assist NTIA in its efforts to promote spectrum-efficiency without tying its hands to particular solutions. I intend to exercise particular oversight over the spectrum management practices of the NTIA to ensure that it meets these goals.

Mr. President, this bill contains several important and noncontroversial provisions. I urge my colleagues' support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Telecommunications and Information Administration Authorization Act of 1992".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATION.

There are authorized to be appropriated for the administration of the National Telecommunications and Information Administration $17,600,000 for fiscal year 1992 and $21,823,000 for fiscal year 1993, and such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

SEC. 3. PEACESAT PROGRAM.

(a) FINDINGS. —Section 2(a) of the Act entitled "An Act to authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991", approved November 15, 1990 (Public Law 101–555; 104 Stat. 2758), is amended—

(1) in paragraph (2) by striking "the Soviet Union and";

(2) in paragraph (8)—

(A) by striking "since 1988, significant progress has been" and inserting in lieu thereof "in fiscal years 1988 and 1989, significant progress was"; and

(B) by striking "negotiating to acquire" and inserting in lieu thereof "acquiring"; and

(3) by striking all after paragraph (8) and inserting in lieu thereof the following new paragraphs:

"(9) because these activities exhausted the funds previously appropriated for the PEACESAT program, Congress authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of satellite capacity and equipment under subsection (c)(1) of this section and the management and operation of satellite communications services under subsection (c)(2) of this section;

"(10) while no funds were appropriated for fiscal year 1990 because of the availability of carry-over funds, Congress appropriated $1,000,000 for fiscal year 1991 for the ongoing maintenance and operation of the GOES–3 satellite, for the administration of the PEACESAT program, for the acquisition and installation of earth stations and the training of engineers to operate the earth stations, and for the study of a long-term solution to the satellite needs of the PEACESAT program;

"(11) with these funds, the PEACESAT program has been re-established, over 20 new earth terminals have been installed (some at the expense of the individual user groups), and the use of the PEACESAT network is expanding;

"(12) while the PEACESAT program has now been re-established, additional funding continues to be necessary for the ongoing administrative and operational expenses of the PEACESAT program and especially for the acquisition of satellite capacity after 1994;

"(13) the importance of the PEACESAT program to the educational and cultural communications in the Pacific Ocean region makes it imperative that the Secretary of Commerce and the PEACESAT users explore every available option for long-term satellite capacity, including the possibility of using foreign-owned satellites or engaging in joint ventures with foreign entities to satisfy these long-term needs for transmission capacity; and

"(14) whether or not a domestic or foreign-owned satellite is used for transmission, it is essential to the achievement of United States policy goals that the headquarters, management, and operation of the PEACESAT program be located and conducted in the United States.".

(b) AUTHORIZATION.—The first sentence of section 2(d) of such Act of November 15, 1990 (104 Stat. 2758), is amended by striking all through "fiscal year 1991" and inserting in lieu thereof "There are authorized to be appropriated $400,000 for fiscal year 1992 and $1,500,000 for fiscal year 1993".

SEC. 4. COMMUNICATIONS FOR RURAL HEALTH PROVIDERS.

(a) PURPOSE.—It is the purpose of this section to improve the ability of rural health providers to use communications to obtain health information and to consult with others concerning the delivery of patient care. Such enhanced communications ability may assist in—

(1) improving and extending the training of rural health professionals; and

(2) improving the continuity of patient care in rural areas.

(b) ADVISORY PANEL.—The Secretary of Commerce, in conjunction with the Secretary of Health and Human Services, shall establish an advisory panel (hereafter in this section referred to as the "Panel") to develop recommendations for the improvement of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information.

(c) COMPOSITION OF PANEL.—The Panel shall be composed of individuals from organizations with rural constituencies and practitioners from health care disciplines, representatives of the National Library of Medicine, and representatives of different health professions schools, including nurse practitioners.

(d) SELECTION OF CONSULTANTS.—The Panel may select consultants to provide advice to the Panel regarding the types of information that rural health care practitioners need, the procedures to gather and disseminate such information, and the types of communications equipment and training needed by rural health care practitioners to obtain access to such information.

(e) REPORT TO CONGRESS.—No later than 1 year after the Panel is established under subsection (b), the Secretary of Commerce shall prepare and submit, to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report summarizing the recommendations made by the Panel under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Commerce to carry out this section $1,000,000 to remain available until expended.

SEC. 5. NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISIONS.

Section 394(h) of the Communications Act of 1934 (47 U.S.C. 394(h)) is amended—

(1) by striking "1991 and" and inserting in lieu thereof "1991,"; and

(2) by inserting ", $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994" immediately after "1992".

SEC. 6. FEDERAL GOVERNMENT MOBILE RADIO SERVICES.

(a) ASSIGNMENTS FOR MOBILE RADIO SERVICES.—In awarding assignments for mobile radio services, the Secretary of Commerce shall promote efficient and cost-effective use of the spectrum to the maximum extent feasible.

(b) AUTHORITY TO WITHHOLD ASSIGNMENTS.—The Secretary of Commerce shall have the authority to withhold or refuse to award an assignment for mobile radio service in order to further the goal of making efficient and cost-effective use of the spectrum.

(c) PLAN FOR MORE EFFICIENT SPECTRUM USE.—By June 1, 1993, the Secretary of Commerce shall adopt a plan for Federal agencies with existing mobile radio systems to use more spectrum-efficient technologies that are at least as spectrum-efficient and cost-effective as readily available commercial mobile radio systems.•

By Mr. RIEGLE:

S. 2883. A bill to amend title VII of the Tariff Act of 1930 to include interim processors within industries producing processes agricultural products, and for other purposes; to the Committee on Finance.

INCLUSION OF INTERIM PROCESSORS WITHIN INDUSTRIES PRODUCING PROCESSED AGRICULTURAL PRODUCTS

• Mr. RIEGLE. Mr. President, I am introducing legislation to provide U.S. tart cherry producers with the ability to utilize U.S. trade laws to obtain relief from the unfair practices of our trading partners, especially in the area of processed agricultural products.

My legislation is similar to that introduced in the House and considered by the Ways and Means Committee during its markup of H.R. 5100, the Trade Expansion Act of 1992, last week.

As a report by the U.S. International Trade Commission [ITC] states, current U.S. law excludes "interim processors as potentially part of an industry producing a processed product." Accordingly, producers of interim processed products, like tart cherry concentrate are not considered part of U.S. industry for purposes of determining injury from imports. My bill would amend U.S. trade law to provide standing for growers and interim processors of tart cherries and tart cherry products, thus allowing them standing to file cases with regard to alleged unfair practices of our trading partners connected with processed agricultural products.

In the 1988 omnibus trade bill, Congress amended U.S. law to ensure that processed agricultural products, like pork, would be considered part of U.S. industry seeking relief from unfair trade practices being perpetrated in the U.S. market. Accordingly, it is reasonable and fair that Congress provide access to U.S. trade laws for industries that take processed agricultural products one step further to "interim processing," such as tart cherry concentrate producers.

Red tart cherry producers are an important part of the U.S. agriculture sector. According to a publication on agriculture statistics, my State of Michigan leads the Nation in tart cherry production, accounting for 75 percent of the U.S. output. However, the majority of U.S. imports of tart cherries are grown in Serbia on partially state-owned farms. These cherries, which are used in concentrate for juices, are shipped into Germany and Austria where they are turned into market-ready products, like tart cherry concentrate. This dumping costs Michigan 25 million pounds of cherries or 15 percent of its production annually.

Shoring up this industry's access, and that of other "interim processors," to our trade laws is not only equitable, but also common sense when it comes to promoting U.S. agriculture and the livelihoods of our fruit growers and processors. For these reasons, I urge my colleagues to support this legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2883

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF INTERIM PROCESSORS WITHIN INDUSTRIES PRODUCING PROCESSED AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—Section 771(4)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(E)) is amended—

(1) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers, and the interim processors (if any), of the raw agricultural product may be considered part of the industry producing the processed product if—

"(I) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and

"(II) there is a substantial economic relationship between the producers or growers and the interim processors (if any) of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include the price, added market value, or other economic interrelationships (regardless of whether such economic relationship is based upon any legal relationship).";

(2) by striking clause (ii) and inserting the following:

"(ii) PROCESSING.—For purposes of this paragraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if the domestic market for the processed agricultural product utilizes the raw agricultural product in an amount equal to not less than 10 percent of the total domestic production of the raw agricultural product, whether or not interim processing occurs.";

(3) in clause (iii)—

(A) by inserting "and any interim processed product," after "raw agricultural product" in subclause (I); and

(B) by inserting "or any interim processed product" after "raw agricultural product" in subclause (II); and

(4) by striking clause (iv) and inserting the following:

"(iv) INTERIM PROCESSING AND PROCESSORS; RAW AGRICULTURAL PRODUCT.—For purposes of this subparagraph—

"(I) The term 'interim processing' means the crushing, breaking, chopping, reduction, or other processing of a raw agricultural product primarily for the purpose of incorporating such product into the processed agricultural product.

"(II) The term 'interim processor' means a person that engages in the business of interim processing, whether or not in combination with any other business.

"(III) The term 'raw agricultural product' means any farm or fishing product.".

(b) CONFORMING AMENDMENTS.—Section 771(9)(G) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(G)) is amended—

(1) by striking out "or" at the end of clause (ii);

(2) by inserting "or" at the end of clause (iii); and

(3) by inserting immediately after clause (iii) the following new clause:

"(iv) interim processors and one or more of the entities described in clause (i), (ii), or (iii).".

SEC. 2. RELATIVE HEALTH OF DOMESTIC INDUSTRY IN DETERMINING MATERIAL INJURY.

Section 771(7)(C) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(vi) HEALTH OF DOMESTIC INDUSTRY.—In making a determination under section 703(a), 705(b), 733(a), and 735(b), the Commission in each case—

"(I) may not consider the relative overall health of the domestic industry to be dispositive of the issue of material injury or the threat thereof, but

"(II) shall consider the relative health of the domestic industry only in the context of the import impact referred to in subparagraph (B)(i)(III).".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act apply with respect to investigations initiated under section 702 or 732 (as the case may be) of the Tariff Act of 1930 on or after the date of the enactment of this Act.●

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. LOTT, Mr. HEFLIN, Mr. LUGAR, Mr. SHELBY, and Mr. BUMPERS):

S. 2884. A bill to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FISH SAFETY ACT OF 1992

● Mr. COCHRAN. Mr. President, today I am introducing the Fish Safety Act of 1992. This same bill was approved by the Senate during the 101st Congress in September 1990, but it was not passed by the other body.

This bill will establish a comprehensive and mandatory program of inspection to ensure the safety of fish and fish products for the consuming public. Seafood consumers should have the same safety assurance they now have under the Federal meat and poultry inspection programs. Mississippi has a dynamic gulf coast seafood industry which produces a significant amount of the Nation's shrimp, oysters, and other fish products. With nearly 100,000 acres in production, Mississippi produces nearly 80 percent of the Nation's supply of farm-raised catfish.

It makes sense now, as it did in 1990, that the Secretary of Agriculture, with the staffing, expertise, and experience available to him, should manage this program with the collaboration of the Secretaries of Health and Human Services, and Commerce. This arrangement was strongly supported by both industry and consumer groups when it was presented to the Senate nearly 2 years ago.

The Department of Agriculture, through its Food Safety and Inspection Service would be authorized to conduct inspection of fish, fish products, and fish processing establishments. The bill also provides for consumer education, research, and civil and criminal penalties.

Standards will be used to identify unsafe levels of certain contaminants based on analysis by the Food and Drug Administration. Standards for sanitation and labeling will be established by the Department of Agriculture. Fish and fish products which do not meet these standards will be removed from the commercial market.

The Fish Safety Act of 1992 is based upon the modern Hazard Analysis Critical Control Point principles recommended by the National Academy of Sciences. Further, imported fish and fish products must meet inspection standards as stringent as those affecting domestic fish products. Domestic and imported fish and fish products that satisfy standards will receive a Federal seal and processing establishments must be certified by the Department of Agriculture.

The Department of Commerce would be authorized, with the State, to establish a system to identify and classify growing and fishing waters for the coasts and the Great Lakes. In addition, the Secretary of Commerce would monitor fish products to determine instances or trends that may pose threat to the health of consumers.

With the comprehensive programs outlined in this bill, the citizens of the United States can have confidence and the best possible guarantee that the fish and fish products they will be consuming are wholesome and fit for human consumption.

I hope Senators will support this bill.•

By Mr. ROBB.

S. 2885. A bill to modify the boundary of Appomattox Court House National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

BOUNDARY MODIFICATION OF APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK

• Mr. ROBB. Mr. President, I rise today to introduce legislation to expand the boundary of the Appomattox National Historic Park in Appomattox County, VA.

Over the past few years, we have fought what some might consider a second Civil War in Virginia over the commemoration of Civil War battlefields. I am pleased to say that the expansion of the Appomattox Park contemplated in this legislation has the support of both preservationists and the local community.

The Appomattox Battlefield, is, of course, the site of the final surrender of the Confederate Army. The existing park protects historic land relating only to the surrender itself. The legislation I am introducing today would add parcels of land that would help honor the soldiers who fought in the last days of the battle and provide insight into the military events that led to the surrender. One of the tracts is the site of the last trenches dug by the Confederate Army during the Battle of Appomattox.

The legislation would adjust the boundary of the park to accommodate the acquisition of these additional parcels of land: The 133 acres immediately adjacent to the park's westerly boundary; 170 acres to the west of the first tract; and approximately 2 acres 3 miles removed from the park. The first two tracts would be purchased from willing sellers by the Conservation Fund and donated to the Federal Government. I am advised that the third tract would be donated to the park by the owner. The legislation has the support of the Civil War Battlefield Foundation and the Appomattox County Board of Supervisors. Congressman L.F. PAYNE has already introduced identical legislation in the House.

I hope that the Senate will see fit to move swiftly on this legislation.•

By Mr. KOHL (for himself, Mrs. KASSEBAUM, Mr. AKAKA, Mr. BROWN, Mr. BURNS, Mr. D'AMATO, Mr. INOUYE, Mr. KASTEN, Mr. LEVIN, Mr. MOYNIHAN, Mr. SIMON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 321. Joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week"; to the Committee on the Judiciary.

NATIONAL ENDOMETRIOSIS AWARENESS WEEK

• Mr. KOHL. Mr. President, I rise with 12 of my colleagues to introduce a joint resolution that will encourage increased knowledge of and attention to a debilitating disease that has affected more than 5 million women in this country. I am pleased that Senators KASSEBAUM, AKAKA, BROWN, BURNS, D'AMATO, INOUYE, KASTEN, LEVIN, MOYNIHAN, SIMON, STEVENS, and WELLSTONE have joined me in introducing a joint resolution that would designate the week of March 21, 1993, as National Endometriosis Awareness Week.

Endometriosis—a disease that affects women of all races and income groups—strikes when tissue that usually resides in a woman's uterus travels to the abdominal lining, abdomen, ovaries, and other organs. This causes internal bleeding, inflammation, and other problems, including infertility. And the symptoms include painful menstruation, miscarriages, and chronic fatigue. The current treatments include surgery, administration of hormones, and pain medications. Some patients must undergo hysterectomies and ovary removals in extreme cases.

Unfortunately, the disease has no cure and often goes undiagnosed until it is too late. Women who have complained of symptoms of endometriosis have fallen victim to misdiagnoses and skepticism from their doctors because not enough is known about the disease. I hope that by introducing this joint resolution, women will become more aware of the warning signs of endometriosis and everyone will realize the need for more research for a cure. Perhaps, as a result, there will be earlier diagnoses and treatment, and fewer women will suffer. A similar resolution has been introduced in the House of Representatives by my colleague from Wisconsin, Mr. MOODY.

I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 321

Whereas endometriosis is a chronic, debilitating disease that currently affects 5,000,000 women and 10 men in the United States;

Whereas endometriosis does not discriminate among socio-economic groups or ethnic or religious backgrounds;

Whereas endometriosis can affect the entire body by causing fatigue, flu-like symptoms, urological, bowel, heart, and respiratory problems, and thyroid disorders;

Whereas millions of dollars are spent every year on surgeries, gynecological care, and drugs for women with endometriosis;

Whereas endometriosis affects not only the woman who has the disease, but also her spouse, family, and career;

Whereas many working hours are lost every year due to endometriosis;

Whereas there is no guarantee that a hysterectomy, a bilateral salpingo-oophorectomy, which is the removal of the fallopian tubes and ovaries, pregnancy, or even menopause will cure endometriosis; and

Whereas there is a great need for an increase in the awareness of endometriosis, and for education, support, and funds for research concerning the disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 21, 1993, is designated as "National Endometriosis Awareness Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 290

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 290, a bill to establish an Indian Substance Abuse Program, and for other purposes.

S. 652

At the request of Mr. KOHL, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 652, a bill to protect the privacy of telephone users by amending section 3121 of title 18, United States Code.

S. 703

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 703, a bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Florida [Mr.

GRAHAM] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1002

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1343

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1343, a bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Illinois [Mr. DIXON], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid Program, and for other purposes.

S. 2239

At the request of Mr. PRYOR, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 2278

At the request of Mr. SHELBY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2278, a bill to amend section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, to require life imprisonment without parole, or death penalty, for first degree murder.

S. 2362

At the request of Mr. MCCAIN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2362, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2509

At the request of Mr. NICKLES, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2509, a bill to provide grants to establish an integrated approach to prevent child abuse, and for other purposes.

S. 2514

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2514, a bill to amend the Internal Revenue Code of 1986 to allow taxpayers a bad debt deduction for certain partially unpaid child support payments and to require the inclusion in income of child support payments which a taxpayer does not pay, and for other purposes.

S. 2528

At the request of Mr. AKAKA, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2528, a bill to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes.

S. 2540

At the request of Mr. COATS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 2540, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of individual medical savings accounts to assist in the payment of medical and long-term care expenses and other qualified expenses, to provide that the earnings on such accounts will not be taxable, and for other purposes.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2560, a bill to reclassify the cost of international peacekeeping activities from international affairs to national defense.

S. 2624

At the request of Mr. GLENN, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2656

At the request of Mr. FORD, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2660

At the request of Mr. WOFFORD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2660, a bill to amend the Agriculture Trade Act of 1978 to make modifications in the Market Promotion Program.

S. 2667

At the request of Mr. HEFLIN, the names of the Senator from Missouri [Mr. BOND], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2682

At the request of Mr. BUMPERS, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Florida [Mr. GRAHAM], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2697

At the request of Mr. MCCAIN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2697, a bill to provide transitional protections and benefits for Reserves whose status in the reserve components of the Armed Forces is adversely affected by certain reductions in the force structure of the Armed Forces, and for other purposes.

S. 2707

At the request of Mr. RIEGLE, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2726

At the request of Mr. BIDEN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2726, a bill to implement and authorize Weed and Seed activities, and for other purposes.

S. 2794

At the request of Mr. DOLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2794, a bill to relieve the regulatory burden on depository institutions, particularly on small depository institutions, and for other purposes.

S. 2804

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2804, a bill to establish a program to provide technical assistance to employers and labor unions, in order to assist in preparing the workplace to employ women in apprenticeable occupations and other nontraditional occupations, and for other purposes.

S. 2851

At the request of Mr. JOHNSTON, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes.

S. 2866

At the request of Mr. DOMENICI, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 2866, a bill to establish a program, to be known as the "ADEPT" Program, for the provision of international assistance in the deployment of energy and energy-related environmental practices and technologies, and for other purposes.

S. 2873

At the request of Mr. BREAUX, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 2873, a bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

S. 2877

At the request of Mr. BAUCUS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2877, a bill entitled the "Interstate Transportation on Municipal Waste Act of 1992."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 255

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 255, a joint resolution to designate September 13, 1992 as "Commodore Barry Day."

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 255, supra.

SENATE JOINT RESOLUTION 260

At the request of Mr. COCHRAN, the names of the Senator from West Virginia [Mr. BYRD], the Senator from California [Mr. CRANSTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Ohio [Mr. GLENN], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 260, a joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. GORE], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 288

At the request of Mr. LIEBERMAN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 288, a joint resolution designating the week beginning July 26, 1992, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 303

At the request of Mr. PELL, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Joint Resolution 303, a joint resolution to designate October 1992 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 304

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Idaho [Mr. CRAIG], the Senator from Michigan [Mr. RIEGLE], the Senator from Texas [Mr. GRAMM], the Senator from California [Mr. CRANSTON], the Senator from Virginia [Mr. ROBB], the Senator from Arizona [Mr. MCCAIN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 304, a joint resolution designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 307

At the request of Mr. MCCAIN, the names of the Senator from Nevada [Mr. BRYAN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 307, a joint resolution designating the month of July 1992 as "National Muscular Dystrophy Awareness Month."

SENATE JOINT RESOLUTION 319

At the request of Mrs. KASSEBAUM, the names of the Senator from Utah [Mr. GARN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 319, a joint resolution to designate the second Sunday in October of 1992 as "National Children's Day."

SENATE CONCURRENT RESOLUTION 81

At the request of Ms. MIKULSKI, the names of the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. PRYOR], the Senator from California [Mr. CRANSTON], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Concurrent Resolution 81, a concurrent resolution expressing the sense of the Congress regarding visionary art as a national treasure and regarding the American Visionary Art Museum as a national repository and educational center for visionary art.

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. MOYNIHAN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Concurrent Resolution 113, a concurrent resolution concerning the 25th anniversary of the reunification of Jerusalem.

SENATE RESOLUTION 300

At the request of Mr. GORE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Resolution 300, a resolution relating to suspension of assistance and cooperative programs with the former Yugoslavia.

SENATE RESOLUTION 314

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Resolution 314, a resolution concerning the provision of humanitarian aid to civilian populations in and around Sarajevo.

AMENDMENTS SUBMITTED

FREEDOM FOR RUSSIA AND EMERGING EURASIAN DEMOCRACIES AND OPEN MARKETS SUPPORT ACT

KERREY AMENDMENT NO. 2436

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill (S. 2532) entitled the "Freedom for Russia and Emerging Democracies and Open Markets Support Act;" as follows:

On page 52, after line 13, add the following new section:

SEC. 21. INTERNATIONAL EXCHANGE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The President shall establish and carry out a program of professional, vocational, and technical exchange between United States citizens and citizens of the independent states of the former Soviet Union and of the Baltic states.

(b) DESCRIPTION OF PROGRAM.—(1) Exchanges under this section may be arranged—

(A) by the Federal Government; or

(B) by private sponsors, including businesses and individuals.

(2) The President is authorized to award grants to carry out paragraph (1)(B). Nongovernment sponsors awarded grants under this section shall be selected under such

terms and conditions as may be prescribed by the President, giving preference—

(A) to sponsors who agree to pay a relatively larger share of the cost of sponsoring the exchanges;

(B) to exchanges of more than 4 months duration:

(C) to sponsors who propose to bring citizens of the independent states of the former Soviet Union and the Baltic states to the United States; and

(D) to sponsors hosting participants engaged in the fields of agricultural production, processing, and marketing; agri-business; oil and mineral exploration and extraction; government; education; natural resource management; environmental protection; telecommunications; finance; health care; and small business.

(c) DELEGATION OF AUTHORITY.—The President shall delegate the authorities of this section to such agency or agencies of the United States as he may designate. In carrying out this section, the head of each such agency shall utilize, to the maximum extent practicable, the staff and other resources otherwise available to such agency.

(d) ADDITIONAL AUTHORITIES AVAILABLE.—The authority provided by this section is in addition to any other authority which may be exercised by the President.

(e) DEADLINE FOR IMPLEMENTATION.—Not later than 90 days after the date of enactment of this section, the first exchanges under this section shall be arranged.

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the President such sums as may be necessary to carry out this section for each of the fiscal years 1993 through 1998.

(2) Funds authorized to be appropriated by paragraph (1) are authorized to remain available until expended.

(g) DEFINITION.—For purposes of this section, the term "Baltic states" refers to the countries of Latvia, Lithuania, and Estonia.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

RIEGLE AMENDMENT NO. 2437

Mr. RIEGLE proposed an amendment to the bill (S. 2733) to improve the regulation of Government-sponsored enterprises, as follows:

On page 11, in the subsection heading on line 10, strike "EXCLUSIVE AUTHORITY." and everything that follows and insert in lieu thereof "AUTHORITY EXCLUSIVE OF THE SECRETARY.—The Director is authorized, without the review or approval of the Secretary, to—

(1) issue regulations concerning the financial health and security of the enterprises, including the establishment of risk-based capital standards;

(2) develop and propose to the Secretary any other regulations necessary and proper to carry out this Act and ensure that the purposes of the charter Acts are accomplished;

(3) establish annual budgets, financial reports, and annual assessments for the costs of the Office;

(4) examine each enterprise's financial and operating condition;

(5) determine capital levels of the enterprises;

(6) undertake administrative and enforcement actions under this Act;

(7) appoint conservators for the enterprises;

(8) monitor and enforce compliance with housing goals under this Act;

(9) conduct research and financial analysis;

(10) submit annual and other reports required under this Act; and

(11) perform such other functions as are necessary to carry out this Act and ensure that the purposes of the charter Acts are accomplished.

(b) AUTHORITY SUBJECT TO THE SECRETARY'S REVIEW.—Except as provided in subsection (a), the Director may issue any regulations necessary to carry out this Act and ensure that the purposes of the charter Acts are accomplished, including regulations—

(1) concerning the housing finance missions of the enterprises, including the affordable housing and other housing provisions under title V of this Act; and

(2) to establish and monitor compliance with fair lending requirements;

subject to the Secretary's review and approval.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(d) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—The Director is not required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress any recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

(e) APPROVAL OF NEW PROGRAMS.—

(1) IN GENERAL.—The introduction of a new program by an enterprise pursuant to its charter Act shall be subject to prior approval by both the Secretary and the Director, except as provided in paragraph (5).

(2) APPROVAL PROCEDURE.—Not later than 45 days after submission of the request for approval of a new program or notice under paragraph (5)(A), the Secretary and the Director shall approve the new program or transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report explaining why the new program has not been approved. The 45-day period may be extended for one additional 15-day period if the Secretary or the Director requests additional information from the enterprise, but the 45-day period may not be extended for any other reason. If the Secretary and the Director fail to transmit the report within the 45-day period or 60-day period, as the case may be, the enterprise may proceed as if the new program had been approved.

(3) APPROVAL BY THE DIRECTOR.—

(A) IN GENERAL.—The Director shall approve a new program unless the Director determines that the program would risk significant deterioration of the financial condition of the enterprise.

(B) UNDERCAPITALIZED INSTITUTIONS.—If an enterprise is undercapitalized, the Director shall approve a new program only if the Director determines that the program will likely improve or not worsen the financial and capital condition of the enterprise.

(4) APPROVAL BY THE SECRETARY.—The Secretary shall approve a new program unless the Secretary determines that the program is not authorized by the relevant charter Act or would have a deleterious effect on housing finance.

(5) SPECIAL APPROVAL PROCEDURE FOR AN ADEQUATELY CAPITALIZED ENTERPRISE.—

(A) NOTICE.—If an adequately capitalized enterprise plans to introduce a new program, it shall submit a written notice to the Secretary and the Director.

(B) APPROVAL BY THE DIRECTOR.—A new program submitted by an enterprise in accordance with subparagraph (A) shall not be subject to approval by the Director.

(C) APPROVAL BY THE SECRETARY.—Within 20 business days after submission of the notice, the new program shall be deemed approved unless the Secretary determines that there is a substantial probability that the program is not authorized by the relevant charter Act or would have a deleterious effect on housing finance, in which case the Secretary shall inform the enterprise, by written notice, that the new program has not been approved under this paragraph, and the procedures of paragraph (2) shall apply.

(D) EFFECTIVE DATE.—This paragraph shall become effective on the date final regulations establishing the risk-based capital test are issued under section 201(e).

(E) TRANSITION PERIOD.—For the purposes of this paragraph, the capital classification of an enterprise shall be determined without regard to section 204(c).

(6) HEARING.—If the Secretary or the Director does not approve a new program, the Secretary or the Director, as the case may be, shall provide the enterprise with a timely opportunity to review and supplement the administrative record in an administrative hearing.

SEC. 104. PERSONNEL.

(a) IN GENERAL.—

(1) DIRECTOR'S POWERS.—The Director may appoint and fix the compensation of employees and agents necessary to carry out the functions of the Director and the Office.

(2) COMPENSATION.—

(A) EXCLUSION FROM GENERAL SCHEDULE PAY RATES.—Employees other than the Director may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(B) COMPARABILITY OF COMPENSATION WITH FEDERAL BANK REGULATORY AGENCIES.—In fixing and directing compensation under paragraph (1), the Director shall consult with, and maintain comparability with compensation at, the Federal bank regulatory agencies.

(b) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who—

(A) are citizens of the United States,

(B) have a demonstrated understanding of financial management or oversight, and

(C) have a demonstrated understanding of mortgage security markets and housing finance.

(2) LIMITATION.—An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 18-month period immediately preceding the nomination of such individual.

(3) POWERS, FUNCTIONS, AND DUTIES.—The Deputy Director shall—

(A) have such powers, functions, and duties as the Director shall prescribe, and

(B) serve as acting Director in the event of the death, resignation, sickness, or absence of the Director, until the return of the Director or the appointment of a successor under section 101.

(c) FEDERAL AGENCIES.—

(1) IN GENERAL.—With the consent of any executive agency, independent agency, or department, the Director may use information, services, staff, and facilities of such agency or department on a reimbursable basis, in carrying out the duties of the Office.

(2) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(d) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(e) EQUAL OPPORTUNITY REPORT.—Not later than 180 days after the effective date of this Act, the Director shall submit to the Congress a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director may determine to be appropriate to carry out such programs.

SEC. 105. FUNDING.

(a) ANNUAL ASSESSMENT.—The Director shall levy an annual assessment on the enterprises sufficient to pay for the estimated expenses of the Office.

(b) ALLOCATION OF ANNUAL ASSESSMENT TO THE ENTERPRISES.—

(1) AMOUNT OF PAYMENT.—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually on September 1 and March 1 of each year.

(3) DEFINITION.—For the purpose of this section, the term "total assets" means the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) RECEIPTS FROM ANNUAL ASSESSMENTS AND THE SPECIAL ASSESSMENT.—Office receipts derived from the annual assessments and the special assessment levied upon the enterprises pursuant to subsection (f)—

(1) shall be available to the Director for expenses necessary to carry out the responsibilities of the Director relating to the enterprises;

(2) shall be used by the Director to pay the expenses necessary to carry out the responsibilities of the Director relating to the enterprises.

(d) DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION AND ENFORCEMENT.—The semiannual payments made pursuant to subsection (b) by any enterprise that is not adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation and enforcement.

(e) SURPLUS.—If any amount paid by an enterprise remains unspent at the end of any semiannual period, such amount shall be deducted from the annual assessment required to be paid by that enterprise for the following semiannual period.

(f) INITIAL SPECIAL ASSESSMENT.—The Director shall levy on the enterprises an initial special assessment, allocated pursuant to subsection (b)(1), to cover the startup costs of the Office, including space modifications, capital equipment, supplies, recruitment, and activities of the Office in the first year. Each enterprise shall pay its portion of the initial special assessment no later than 10 days after the date the assessment is made.

(g) BUDGET AND FINANCIAL REPORTS FOR THE OFFICE.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall provide to the Secretary and the Director of the Office of Management and Budget a copy of the Office's financial operating plans and forecasts.

(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter, the Director shall submit to the Secretary and the Director of the Office of Management and Budget a copy of the report of the results of the Office's operations during such period.

(3) VIEWS OF THE SECRETARY.—On an annual basis the Secretary shall provide the Congress with comments on the plans, forecasts, and reports required under this subsection.

(4) INCLUSION IN THE PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this subsection shall be included in the Budget of the United States in the appropriate form, and in the Department's congressional justifications for each fiscal year in a form determined by the Secretary.

(5) AUDIT.—

(A) IN GENERAL.—The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to or used by the Office shall be made available to the Comptroller General.

(B) FREQUENCY.—Audits shall be conducted annually for the first 2 years following the effective date of this Act and as appropriate thereafter.

SEC. 106. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code, the Office and the Department of Housing and Urban Development shall, with respect to activities under this Act, be considered agencies responsible for the regulation or supervision of financial institutions.

SEC. 107. REGULATIONS.

In promulgating regulations relating to the financial health and security of an enterprise, the Director shall—

(1) consult in the development of such regulations with the Secretary, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System; and

(2) provide copies of proposed regulations to the Secretary, the Secretary of the Treasury, and the Chairman of the Board of Governors of the Federal Reserve System for their review and comment, which comments shall be in writing and made a part of the record.

SEC. 108. SAVINGS PROVISION.

Any rule or regulation promulgated prior to the effective date of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain valid unless they are modified, terminated, superseded, set aside, or revoked by operation of law or in accordance with law.

SEC. 109. ANNUAL REPORT OF THE DIRECTOR.

Not later than June 15 of each year, the Director shall submit to the Secretary and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written report which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this Act;

(2) a description of the financial condition of each enterprise, including the results and conclusions of the annual examinations of the enterprises;

(3) an assessment, in accordance with section 508, of the extent to which each enterprise is achieving its public purposes; and

(4) any recommendations for legislation.

SEC. 110. FINANCIAL REPORTS AND EXAMINATIONS.

(a) FINANCIAL REPORTS.—

(1) IN GENERAL.—Each enterprise shall provide to the Director annual and quarterly reports of financial condition and operations which shall be in such form, contain such information, and be made on such dates, as the Director may require.

(2) CONTENTS OF ANNUAL REPORT.—Each annual report shall include—

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Director may require; and

(C) a report signed by the enterprise's chief executive officer and chief accounting or financial officer, that assesses, as of the end of the enterprise's most recent fiscal year—

(i) the effectiveness of the enterprise's internal control structure and procedures; and

(ii) the enterprise's compliance with designated safety and soundness laws.

(3) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

(A) AUDITS REQUIRED.—Each enterprise shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(B) SCOPE OF AUDIT.—In conducting an audit under this subsection, an independent public accountant shall determine and report on whether the financial statements—

(i) are presented fairly in accordance with generally accepted accounting principles; and

(ii) to the extent determined necessary by the Director, comply with such other disclosure requirements as may be imposed under paragraph (2)(B).

(4) CERTIFICATION OF QUARTERLY REPORTS.—

(A) DECLARATION.—Quarterly reports shall contain a declaration by an officer designated by the board of directors of the enterprise to make such declaration that the report is true and correct to the best of his or her knowledge and belief.

(B) ATTESTATION.—The correctness of the quarterly report shall be attested by the signatures of at least 3 of the directors of the enterprise other than the officer making the declaration required by paragraph (4)(A). Such attestation shall include a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(5) REVIEW OF AUDITS.—The Director, or at the request of the Director or any Member of Congress, the Comptroller General of the

United States, may review any audit of a financial statement conducted under this subsection. Upon request of the Director or the Comptroller General, an enterprise and its auditor shall provide all books, accounts, financial records, reports, files, workpapers, and property that the Director or the Comptroller General considers necessary to the performance of any review under this subsection.

(6) ADDITIONAL AND SPECIAL REPORTS.—The Director may require additional reports from an enterprise, in such form and containing such information as the Director may prescribe, on dates fixed by the Director, and may require special reports from an enterprise whenever, in the Director's judgment, such reports are necessary for the Director to carry out the purposes of this Act.

(b) EXAMINATIONS.—

(1) FREQUENCY OF EXAMINATIONS.—The Director shall conduct a full-scope, on-site examination of each enterprise whenever the Director determines that an examination is necessary, but not less than once every 12 months, to determine the condition of the enterprise and for the purpose of ensuring its financial health and security.

(2) EXAMINERS.—The Director is authorized to contract with any Federal banking agency for the services of examiners and to reimburse such agency for the cost of providing the examiners.

(3) TECHNICAL EXPERTS.—The Director is authorized to contract for the services of such technical experts as the Director determines necessary and appropriate to provide temporary or periodic technical assistance in an examination.

(4) POWER AND DUTY OF EXAMINERS.—Each examiner shall make a full and detailed report to the Director of the financial condition of the enterprise examined.

(5) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to the same obligations and penalties as are applicable to examiners employed by the Federal Reserve banks.

(6) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with any investigation, examination of an enterprise, or administrative proceeding, the Director shall have the authorities conferred by section 308.

(7) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(A) IN GENERAL.—The Director may cause any record, paper, or document to be copied or photographed, in a manner that complies with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(B) DEEMED AS ORIGINALS.—Such copies or photographs, shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies.

(C) PRESERVATION.—Any such photograph or copy shall be preserved as the Director shall prescribe, and the original may be destroyed.

SEC. 111. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—The enterprises shall establish a minority outreach program to ensure inclusion, to the maximum extent possible, of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services, in contracts entered into by the enterprises with such persons or business, public and private, in order to perform the functions authorized under any law applicable to the enterprises.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, each enterprise shall submit to the Congress and to the Director a report describing the actions taken by the enterprise pursuant to subsection (a).

SEC. 112. CONFORMING AMENDMENT.

Section 5313 of title 5, United States Code, is amended by inserting at the end the following:

"Director of the Office of Federal Housing Enterprise Oversight.".

SEC. 113. AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office with any function or program administered by the Secretary.".

SEC. 114. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "a consultant to the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

SEC. 115. LIMITATION ON SUBSEQUENT EMPLOYMENT.

(a) IN GENERAL.—Neither the Director nor a former officer or employee of the Office may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

(b) APPLICABILITY.—The limitation contained in subsection (a) applies only to any former officer or employee who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 116. PROTECTING TAXPAYERS AGAINST LIABILITY FOR THE ENTERPRISES.

Nothing in this Act shall be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, and nothing in this Act shall be construed as implying that either enterprise or its securities are backed by the full faith and credit of the United States.

SEC. 117. ANNUAL LITIGATION REPORT.

Not later than March 15 of each year, the Attorney General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written report which shall set forth for the preceding calendar year the number of requests by the Director to the Attorney General to conduct litigation pursuant to section 516 of title 28 of the United States Code and the status thereof, including—

(1) the total number of requests by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to those requests that resulted in the commencement of litigation—

(A) the number of days between the date of the Director's request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation;

(5) with respect to those requests that did not result in the commencement of litigation, a list of principal reasons thereof and the number of requests for which each reason is applicable; and

(6) a reconciliation showing the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

SEC. 118. PROHIBITING EXCESSIVE COMPENSATION.

(a) IN GENERAL.—The Director shall prohibit an enterprise from providing excessive compensation to any executive officer.

(b) SETTING COMPENSATION PROHIBITED.—In carrying out subsection (a), the Director shall not set a specific level or range of compensation.

(c) DEFINITIONS.—For purposes of this section:

(1) COMPENSATION.—

(A) IN GENERAL.—The term "compensation" includes any payment of money or provision of any other thing of value in consideration of employment.

(B) FUTURE PAYMENT OR PROVISION.—The Director shall value any future payment or provision (including any payment or provision relating to the termination of employment) by calculating the present value of the projected cost of the payment or provision.

(2) EXCESSIVE.—An executive officer's compensation is "excessive" if it is unreasonable or disproportionate to the services actually performed by the executive officer, in view of—

(A) the enterprise's financial condition, including the extent to which the enterprise exceeds or falls below its minimum capital level;

TITLE II—REQUIRED CAPITAL LEVELS FOR THE ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

SEC. 201. RISK-BASED CAPITAL LEVELS.

(a) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test which shall require each enterprise to maintain positive capital during a 10-year period (the "stress period") in which the following circumstances are assumed to occur:

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for the industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (the "benchmark regional experience"), experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration, as determined by the Director.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year yield in patterns and for durations that are within the range of historical experience and are judged reasonable by the Director but must result by the 5th year of the stress period in patterns of yields with respect to maturities that are consistent with average patterns over periods of not less than 2 years as established by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director, the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under section 201(e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period.

(c) RISK-BASED CAPITAL LEVEL.—For purposes of this title, the risk-based capital level for an enterprise shall be 130 percent of the amount of capital required to meet the risk-based capital test.

(d) DEFINITIONS.—For purposes of this section:

(1) SEASONING.—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of comparable or superior quality).

(2) TYPE OF MORTGAGE PRODUCT.—The term "type of mortgage product" means a classification of 1 or more mortgage products, as established by the Director, that have similar characteristics based on the set of characteristics set forth in the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) IN GENERAL.—The Director shall issue final regulations establishing the risk-based capital test not later than 18 months after the effective date of this Act. Such regulations shall be effective when issued.

(2) CONTENTS.—Such regulations shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates).

(3) APPLICATION.—The regulations and any accompanying orders or guidelines shall be sufficiently specific to enable each enterprise to apply the test to that enterprise in the same manner as the Director, and to enable the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Director of the Congressional Budget Office, the Comptroller General of the United States, the Director of the Office of Management and Budget, or a consultant to the Office to apply the test in the same manner as the Director.

(4) CONFIDENTIALITY OF INFORMATION.—Any person or agency described in paragraph (3) that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall make available to the public copies of any statistical model used to implement the risk-based capital test under this section. The Director may charge a reasonable fee for any copy of a statistical model.

SEC. 202. MINIMUM CAPITAL LEVELS.

(a) IN GENERAL.—The minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (ex-

cluding commitments with remaining terms of no more than 6 months to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

(b) TRANSITION.—Notwithstanding subsection (a), until the expiration of the 18-month period beginning on the date of enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 1 year to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

SEC. 203. CRITICAL CAPITAL LEVELS.

The critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 6 months to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

SEC. 204. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—The Director shall classify an enterprise according to the following categories:

(1) ADEQUATELY CAPITALIZED.—An enterprise shall be classified as "adequately capitalized" if the enterprise meets or exceeds both its risk-based capital level and its minimum capital level.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as "undercapitalized" if it is not adequately capitalized.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as "significantly undercapitalized" if the enterprise does not meet or exceed its minimum capital level.

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as "critically undercapitalized" if it does not meet its critical capital level.

(b) QUARTERLY CLASSIFICATION.—The Director shall classify an enterprise not less than quarterly. The first such classification shall be made within 3 months after the effective date of this Act.

(c) IMPLEMENTATION.—Notwithstanding subsection (a), an enterprise shall be classified as adequately capitalized until 1 year after the regulations are first issued under section 201(e), if the enterprise meets or exceeds the applicable minimum capital level.

SEC. 205. SUPERVISORY ACTIONS APPLICABLE TO ENTERPRISES.

(a) SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.—

(1) CAPITAL RESTORATION PLAN.—An undercapitalized enterprise shall submit to the Director and implement a capital restoration plan.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—An undercapitalized enterprise that is not significantly undercapitalized shall make no capital distribution that would result in the enterprise being classified as significantly undercapitalized.

(b) ADDITIONAL SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.—

(1) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(A) PRIOR APPROVAL.—A significantly undercapitalized enterprise shall make no capital distribution that would result in the enterprise being classified as critically undercapitalized. A significantly undercapitalized enterprise may make any other capital distribution only with the prior approval of the Director.

(B) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by a significantly undercapitalized enterprise only if the Director determines that the payment—

(i) will enhance the ability of the enterprise promptly to meet the risk-based capital level and the minimum capital level for the enterprise,

(ii) will contribute to the long-term financial health and security of the enterprise, or

(iii) is otherwise in the public interest.

(2) DISCRETIONARY SUPERVISORY ACTIONS.—

(A) IN GENERAL.—The Director may by order take any of the following actions with respect to a significantly undercapitalized enterprise:

(i) Limit any increase in, or order the reduction of, any obligations of the enterprise.

(ii) Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(iii) Require the enterprise to raise new capital.

(iv) Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(v) Appoint a conservator for the enterprise if the Director determines that the capital of the enterprise is below its minimum level and that alternative remedies are not satisfactory to restore the enterprise's capital.

(B) APPOINTMENT OF CONSERVATOR.—

(i) AUTHORITY.—Title IV, except subsections (a), (b), and (c) of section 401, shall govern any conservatorship resulting from an appointment pursuant to subparagraph (A)(v).

(ii) NOTICE AND HEARING.—The appointment of a conservator under subparagraph (A)(v) shall be subject to the notice and hearing provisions set forth in section 209.

(c) EFFECTIVE DATE.—This section shall take effect when the first classifications are made under section 204(b).

SEC. 206. CHANGES IN THE CLASSIFICATION OF AN ENTERPRISE IN CONNECTION WITH A CAPITAL RESTORATION PLAN.

(a) IN GENERAL.—The Director may by order—

(1) classify an undercapitalized enterprise as significantly undercapitalized, or

(2) classify a significantly undercapitalized enterprise as critically undercapitalized,

upon the occurrence of an event described in subsection (b).

(b) REASONS FOR THE CHANGE IN CLASSIFICATION.—Subsection (a) shall apply if—

(1) the enterprise does not submit or resubmit a capital restoration plan that is substantially in compliance with section 208,

(2) the Director has not approved a capital restoration plan submitted by the enterprise and the enterprise's opportunities for resubmission of a capital restoration plan have expired, or

(3) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

SEC. 207. MANDATORY APPOINTMENT OF CONSERVATOR FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) APPOINTMENT.—If the Director determines that an enterprise is critically undercapitalized, the Director shall appoint a conservator for the enterprise not later than 30 days after providing notice and an opportunity for a hearing pursuant to section 209, unless the Director determines, with the concurrence of the Secretary of the Treasury, that the public interest is better served by other action. Title IV, except subsections (a), (b), and (c) of section 401, shall govern any conservatorship resulting from an appointment under this section.

(b) EFFECTIVE DATE.—This section shall take effect when the first quarterly classifications are made under section 204(b).

SEC. 208. CAPITAL RESTORATION PLANS.

(a) CONTENTS.—A capital restoration plan submitted under this title shall—

(1) be a feasible plan for the enterprise that would likely enable it to become adequately capitalized;

(2) describe the actions that the enterprise will take to become adequately capitalized;

(3) establish a schedule for completing the actions set forth in the capital restoration plan;

(4) specify the types and levels of activities in which the enterprise will engage during the term of the capital restoration plan; and

(5) describe the actions that the enterprise will take to comply with any supervisory requirements imposed under this title.

(b) DEADLINES FOR SUBMISSION.—A capital restoration plan must be submitted to the Director not more than 45 days after the Director has notified the enterprise in writing that a plan is required. The Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and shall be for a specified period of time.

(c) APPROVAL.—The Director shall approve or disapprove each capital restoration plan not later than 45 days after submission. The Director may extend such period for an additional 15 days. The Director shall provide written notice of the decision to any enterprise submitting a plan. If the Director disapproves the plan, the Director shall provide to the enterprise the reasons for such disapproval in writing.

(d) RESUBMISSION.—If the initial capital restoration plan submitted by the enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

SEC. 209. NOTICE AND HEARING.

(a) NOTICE.—Before making a capital classification or taking a discretionary supervisory action under this title, the Director shall provide written notice of the proposed classification or action to the enterprise, stating the reasons for the classification or action, and shall provide the enterprise with a timely opportunity to review and supplement the administrative record in an administrative hearing.

(b) Notice to Congress.—After making a capital classification or taking a discretionary supervisory action under this title, the Director shall provide written notice to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 210. JUDICIAL REVIEW OF DIRECTOR ACTION.

(a) Jurisdiction.—

(1) Filing of petition.—An enterprise that is the subject of a capital classification or discretionary supervisory action pursuant to this title, other than the appointment of a conservator, may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's classification or action, a written petition requesting that the order of the Director be modified, terminated, or set aside.

(2) Exclusive jurisdiction.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to hear a petition filed pursuant to this subsection.

(b) Unavailability of Stay.—With respect to a classification or discretionary supervisory action by the Director with regard to a significantly undercapitalized enterprise or an action that results in the classification of an enterprise as significantly undercapitalized or critically undercapitalized, the court shall not have jurisdiction to stay, enjoin, or otherwise delay such classification or action taken by the Director pending judicial review of the action.

(c) Limitation on Jurisdiction.—Notwithstanding any other provision of law, no court other than the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this title or to review, modify, suspend, terminate, or set aside such classification or action.

SEC. 211. RATINGS.

(a) Rating.—Not later than 1 year after the effective date of this Act, the Director shall, for each enterprise, contract with 2 nationally recognized statistical rating organizations—

(1) to assess the likelihood that the enterprise will not be able to meet its obligations from its own resources with an assumption that there is no recourse to any implicit Government guarantee and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the enterprise as frequently as the Director determines is appropriate, but not less than annually.

(b) Comments.—The Director shall submit comments to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any difference between the evaluation of the rating organizations and that of the Office, with special attention to capital adequacy.

(c) Definition.—For the purposes of this section, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers.

SEC. 212. CAPITAL.

(a) Definition.—The term "capital" shall be defined by the Director by regulation and—

(1) shall include, in accordance with generally accepted accounting principles—

(A) the par or stated value of outstanding common stock;

(B) the par or stated value of outstanding perpetual, noncumulative preferred stock;

(C) paid-in capital;

(D) retained earnings; and

(E) other equity instruments that the Director determines are appropriate; and

(2) for the purposes of section 201, may also include such other amounts that the Director determines are available to absorb losses subject to any limitation prescribed by the Director, and shall include loss reserves established in accordance with generally accepted accounting principles.

(b) Exclusion.—As defined by the Director, the term "capital" shall exclude any amounts that an enterprise could be required to pay, at the option of investors, to retire capital instruments.

TITLE III—ENFORCEMENT PROVISIONS

SEC. 301. CEASE-AND-DESIST PROCEEDINGS.

(a) Grounds for Issuance.—The Director may issue and serve upon an enterprise or any director or executive officer a notice of charges if, in the opinion of the Director, the enterprise, director, or executive officer—

(1) is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, director, or executive officer will engage in conduct that, if continued, would be likely to cause or result in a material depletion of the enterprise's capital; or

(2) is violating or has violated, or the Director has reasonable cause to believe that the enterprise, director, or executive officer will violate—

(A) any provision of this Act or the enterprise's charter Act or any order, rule, or regulation thereunder;

(B) any condition imposed in writing by the Director pursuant to the Director's authority under this Act or a charter Act in connection with the approval of any application or other request by the enterprise required by this Act or a charter Act; or

(C) any written agreement entered into with the Director.

(b) Exception for Adequately Capitalized Enterprises.—The Director may serve a notice of charges or issue an order upon an enterprise, a director, or an executive officer for any conduct or violation that relates to the financial health or security of an enterprise that is adequately capitalized only if the Director determines that—

(1) the conduct or violation threatens to cause a significant depletion of the enterprise's capital; or

(2) the conduct or violation may result in the issuance of an order described in subsection (d)(1).

(c) Procedure.—

(1) Notice of charges.—Any notice of charges shall contain a statement of the facts constituting the alleged conduct or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue.

(2) Date of hearing.—Such hearing shall be held not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the hearing officer at the request of any party served.

(3) Failure to appear constitutes consent.—Unless the party served appears at the hearing personally or by a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) Issuance of order.—In the event of consent by the party, or if, upon the record made at any such hearing, the Director finds that any conduct or violation specified in the notice of charges has been established, the Director may issue and serve upon such party an order requiring the party to cease and desist from such conduct or violation and to take affirmative action to correct the conditions resulting from any such conduct or violation.

(5) Effective date of order.—A cease-and-desist order shall become effective 30 days after service (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to the extent that it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

(d) Affirmative Action To Correct Conditions Resulting From Violations or Practices.—The authority under this section or section 302 to issue any order that requires a party to take affirmative action includes the authority—

(1) to require a director or executive officer to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 305(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the disposition of any asset;

(5) to require the rescission of agreements or contracts;

(6) to require the employment of qualified officers or employees (who may be subject to approval by the Director); and

(7) to require the taking of such other action as the Director determines appropriate.

(e) Authority To Limit Activities.—The authority under this section or section 302 to issue an order includes the authority to place limitations on the activities or functions of the enterprise, or any director or executive officer.

(f) Certain Orders May Contain Capital Classification.—The authority under this section or section 302 to issue an order includes the authority to—

(1) classify the enterprise as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) classify the enterprise as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; or

(3) classify the enterprise as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized;

if the Director determines that the enterprise is engaging or has engaged in conduct not approved by the Director or a violation, that may result in a rapid depletion of the capital of the enterprise.

SEC. 302. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) Grounds for Issuance; Scope.—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, director, or executive officer pursuant to section 301, or the continuation thereof, is likely—

(1) to cause insolvency;

(2) to cause a significant depletion of the capital of the enterprise; or

(3) otherwise to cause irreparable harm to the enterprise,

prior to the completion of the proceedings conducted pursuant to section 301(c), the Director may issue a temporary order requiring the enterprise, or any director or executive officer, to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 301(d).

(b) INCOMPLETE OR INACCURATE RECORDS.—If a notice of charges served under section 301(a) specifies on the basis of particular facts and circumstances that the enterprise's books and records are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of that enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(1) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(2) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 301.

(c) EFFECTIVE DATE OF ORDER.—An order issued pursuant to this section shall—

(1) become effective upon service upon the party and shall remain effective unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d),

(2) shall be enforceable pending the completion of the proceedings pursuant to such notice, and

(3) shall remain effective until the Director dismisses the charges specified in such notice or until superseded by a cease-and-desist order issued pursuant to section 301.

(d) JUDICIAL REVIEW.—Not later than 10 days after a party has been served with a temporary cease-and-desist order pursuant to this section, the party may petition the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings.

(e) ENFORCEMENT.—In the case of a violation or a threatened violation of a temporary order issued pursuant to this section, the Director may apply to the United States District Court for the District of Columbia for an injunction to enforce such order.

SEC. 303. HEARINGS AND JUDICIAL REVIEW.

(a) HEARING.—Any hearing provided for in this title shall be on the record and held in the District of Columbia.

(b) DECISION BY THE DIRECTOR.—Not later than 90 days after the Director has notified the parties that the case has been submitted for final decision, the Director shall render the decision and shall issue and serve upon each party a copy of the order. The Director may modify an order prior to the filing of the record for judicial review.

(c) JUDICIAL REVIEW.—A party may obtain a review of an order issued under this title, except section 302, by filing in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service, a written petition seeking to modify, terminate, or set aside such order.

SEC. 304. JURISDICTION AND ENFORCEMENT.

(a) APPLICATION FOR ENFORCEMENT.—The Director may apply to the United States District Court for the District of Columbia for the enforcement of any order issued under title II or this title, and such court shall have jurisdiction and power to order and require compliance with such order.

(b) LIMITATION ON JURISDICTION.—Except as otherwise permitted by section 210 or in this title, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice, order, or penalty under title II or this title, or to review, modify, suspend, terminate, or set aside any such notice, order, or penalty.

SEC. 305. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—The Director may impose a civil money penalty on an enterprise, director, or executive officer that—

(1) violates any provision of this Act or the enterprise's charter Act or regulation thereunder,

(2) violates any final order or temporary order issued pursuant to section 205, 206, 301, or 302,

(3) violates any condition imposed in writing by the Director pursuant to the authority under this Act or a charter Act, in connection with the approval of an application or other request by an enterprise required by law,

(4) violates any written agreement between an enterprise and the Director, or

(5) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) AMOUNT OF PENALTY.—

(1) FIRST TIER.—

(A) IN GENERAL.—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (4) of subsection (a). The amount of a civil penalty under this subparagraph shall be determined in light of the facts and circumstances, but shall not exceed $5,000 for each day that a violation continues.

(B) EXCEPTION.—The amount of a civil penalty for a failure to make a good faith effort to comply with an approved housing plan under section 509 shall not exceed $10,000.

(2) SECOND TIER.—The Director may impose a penalty on an enterprise, executive officer, or director in an amount not to exceed $10,000 for an officer or director, or $25,000 for an enterprise, for each day that such violation or conduct continues, if the Director finds that the violation or conduct described in subsection (a)—

(A) is part of a pattern of misconduct, or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) THIRD TIER.—The Director may impose a penalty on an enterprise, executive officer, or director in an amount not to exceed $100,000 for an officer or director, or $1,000,000 for an enterprise, for each day that such violation or conduct continues, if the Director finds that the violation or conduct described in subsection (a) was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) ASSESSMENT.—

(1) WRITTEN NOTICE.—Any penalty imposed under this section may be assessed and collected by the Director by written notice.

(2) PROHIBITION AGAINST REIMBURSEMENT OR INDEMNIFICATION.—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(3) FINALITY OF ASSESSMENT.—If a hearing is not requested pursuant to subsection (f), the penalty assessment contained in a written notice shall constitute a final and unappealable order.

(d) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Director may compromise, modify, or remit any penalty assessed under this section.

(e) MITIGATING FACTORS.—In determining the amount of any penalty under this section, the Director shall take into account the appropriateness of the penalty with respect to—

(1) the financial resources and good faith of the enterprise, director, or executive officer charged;

(2) the gravity of the violation;

(3) the history of previous violations; and

(4) such other matters as justice may require.

(f) HEARING.—A party against whom a penalty is assessed under this section shall be afforded a hearing if the party submits a request for such hearing not later than 20 days after the issuance of the notice of assessment.

(g) COLLECTION.—

(1) REFERRAL.—If the enterprise, director, or executive officer fails to pay a penalty that has become final, the Director may recover the amount assessed by filing an action in the United States District Court for the District of Columbia.

(2) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In an action to collect the amount assessed, the validity and appropriateness of the penalty shall not be subject to review.

(h) DEPOSIT.—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(i) APPLICABILITY.—This section shall apply only to conduct, a failure, a breach, or a violation that occurs on or after the effective date of this Act.

SEC. 306. NOTICE UNDER THIS TITLE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this title against any such director or executive officer, if such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceased to be associated with the enterprise.

SEC. 307. PRIVATE RIGHTS OF ACTION.

Nothing in this Act creates a private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impairs any existing private right of action under other applicable law.

SEC. 308. SUBPOENA POWER.

(a) POWERS.—In the course of, or in connection with, any examination, administrative proceeding, claim, or investigation under this Act, the Director may—

(1) administer oaths and affirmations,

(2) take testimony under oath, and

(3) issue, revoke, quash, or modify subpoenas issued by the Director.

(b) JURISDICTION.—The attendance of witnesses and the production of documents provided for in this section may be required from any place subject to the jurisdiction of the United States at any designated place where such examination or proceeding is being conducted.

(c) ENFORCEMENT.—The Director, in examining an enterprise, or any party to proceedings under this title may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this section.

(d) Fees and Expenses.—A witness subpoenaed under this section shall be paid the same fees that are paid witnesses in the district courts of the United States. A court having jurisdiction of a proceeding under this section may allow to any such witness such reasonable expenses and attorneys' fees as it determines just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

SEC. 309. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) In General.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this title and that has become final in accordance with section 303; and

(3) any modification to or termination of any final order made public pursuant to this paragraph.

(b) Hearings.—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) Delay of Public Disclosure Under Exceptional Circumstances.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) Documents Filed Under Seal in Public Enforcement Hearings.—The Director may file any document or part thereof under seal in any administrative enforcement hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) Retention of Documents.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by the Director under this title or any other law.

(f) Disclosures to Congress.—No provision of this section shall be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

TITLE IV—CONSERVATORSHIP

SEC. 401. APPOINTMENT OF CONSERVATOR.

(a) Appointment.—The Director may, after determining that alternative remedial actions are not satisfactory, appoint a conservator to take possession and control of an enterprise, whenever the Director determines that—

(1) the enterprise is in an unsafe or unsound condition to transact business, and the unsafe or unsound condition threatens the ability of the enterprise to continue as a viable concern or threatens to cause the depletion of substantially all of the capital of the enterprise;

(2) the enterprise has concealed or is concealing its books, papers, records, or assets, or has refused or is refusing to submit its books, papers, records, or affairs for inspection to any examiner or any lawful agent of the Director; or

(3) the enterprise has willfully violated or is willfully violating a cease-and-desist order which has become final.

(b) Appointment by Consent.—The Director may appoint a conservator to take possession and control of an enterprise if the enterprise, by resolution of a majority of its board of directors or shareholders, consents to the appointment.

(c) Notice and Hearing.—

(1) In general.—Before appointing a conservator pursuant to subsection (a), the Director shall provide written notice to the enterprise of the basis for the Director's proposed action and shall provide the enterprise with an opportunity for a hearing on the record.

(2) Exception.—Notwithstanding paragraph (1), the Director may appoint a conservator without providing notice or a hearing to the enterprise, if the Director determines, pending completion of the proceedings under paragraph (1), that the conduct or violation by the enterprise is likely to—

(A) cause insolvency of the enterprise;

(B) cause a significant depletion of the capital of the enterprise; or

(C) otherwise cause irreparable harm to the enterprise;

prior to the completion of such proceedings.

(d) Qualifications of Conservator.—The conservator may be—

(1) the Director, or

(2) any person, that—

(A) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest, and

(B) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(e) Judicial Review.—

(1) In general.—Not later than 20 days after the initial appointment of a conservator pursuant to this section, the enterprise may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon consideration of the record, shall dismiss the action to terminate the appointment of the conservator or shall direct the Director to terminate the appointment of the conservator. If the conservator was appointed pursuant to subsection (c)(2), the court shall make such determination on the merits.

(2) Consensual appointments.—A consensual appointment of a conservator under subsection (b) is not subject to judicial review.

(3) Limitation on remedies.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of, a conservator.

(f) Replacement of Conservator.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement is not subject to judicial review and shall not affect the enterprise's right under subsection (d) to obtain judicial review of the Director's original decision to appoint a conservator.

SEC. 402. POWERS OF A CONSERVATOR.

(a) Powers.—

(1) In general.—A conservator has all the powers of the directors and officers of the enterprise unless the Director, in the order of appointment, limits the conservator's authority. In addition, a conservator has all the powers of shareholders that relate to the management of the enterprise, including the power to elect directors.

(2) Additional power.—A conservator has the power to avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(3) Stay.—Not later than 45 days after appointment or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any action or proceeding to which the conservator or the enterprise is or may become a party, be stayed for a period not to exceed 45 days after the request.

(b) Expenses.—All expenses of a conservatorship shall be paid by the enterprise and shall be a lien upon the enterprise which shall have priority over any other lien.

SEC. 403. TERMINATION OF CONSERVATORSHIP.

(a) In General.—At any time the Director determines that it may safely be done and that it would be in the public interest, the Director may terminate a conservatorship subject to such terms, conditions, and limitations as the Director may prescribe by written order.

(b) Enforcement as Final Cease-and-Desist Order.—Any terms, conditions, and limitations that the Director may prescribe under subsection (a) shall be enforceable under the provisions of section 304, to the same extent as an order issued pursuant to section 301 which has become final.

(c) Judicial Review.—Not later than 20 days after the date of the termination of the conservatorship or the imposition of an order under subsection (a), whichever is later, an enterprise may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the order.

SEC. 404. LIABILITY PROTECTION.

(a) Federal Agency and Employees.—In a case in which the conservator is the Director, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the conservator's liability for acts or omissions performed in the course of the duties and responsibilities of the conservatorship.

(b) Other Conservators.—In a case in which the conservator is not the Director, the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or intentional tortious conduct.

(c) Indemnification.—The Director shall have authority to indemnify the conservator on such terms as the Director determines proper.

SEC. 405. ENFORCEMENT OF CONTRACTS.

(a) In General.—A conservator may enforce any contract described in subsection (b), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(b) Contracts Enforceable.—If the Director—

(1) determines that the continued enforceability of a class of contracts is necessary to the achievement of the conservator's purpose; and

(2) specifically describes that class of contracts in a regulation or order issued for the purpose of this section;

any contract that is within that class of contracts is enforceable under subsection (a).

(c) APPLICABILITY.—This section and the regulation or order issued under this section shall apply to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

TITLE V—HOUSING

SEC. 501. GENERAL AUTHORITY.

(a) IN GENERAL.—The Director shall establish, by regulation, housing goals for each enterprise. The housing goals shall include a low- and moderate-income housing goal, a special affordable housing goal, and a central city, rural area, and other underserved areas housing goal. The Director shall implement this title in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) ADJUSTMENT OF HOUSING GOALS.—Except as otherwise set forth in this Act, the Director may, from year to year, adjust any housing goal established under this title.

(c) COMPLIANCE WITH HOUSING GOALS.—Any mortgage purchased by an enterprise shall simultaneously contribute to the achievement of each housing goal established under this title for which the mortgage purchase qualifies.

SEC. 502. LOW- AND MODERATE-INCOME HOUSING GOAL.

(a) IN GENERAL.—The Director shall establish an annual goal for the purchase of mortgages secured by housing for low- and moderate-income families.

(b) TRANSITION RULE.—

(1) IN GENERAL.—During the transition period, an interim target for low- and moderate-income mortgage purchases for each enterprise is established at 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) ACHIEVEMENT OF THE INTERIM TARGET FOR LOW- AND MODERATE-INCOME MORTGAGE PURCHASES.—During the transition period, the Director shall establish separate annual goals for each enterprise, the achievement of which would require, to the extent feasible, that—

(A) each enterprise improve its performance relative to the interim target, annually; and

(B) in the case of an enterprise that does not meet the interim target, the enterprise be prepared to meet the interim target in subsequent years.

(3) DEFINITION.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(c) FACTORS TO BE APPLIED BY THE DIRECTOR.—In establishing the housing goal for an enterprise under this section, the Director shall take into account—

(1) appropriate economic, housing, and demographic data,

(2) the performance and effort of the enterprise toward achieving the goals in prior calendar years,

(3) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market,

(4) national housing needs,

(5) the ability of the enterprise to lead the industry in making mortgage credit available for low- and moderate-income families, and

(6) the need to maintain the sound financial condition of the enterprise.

(d) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level is affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

SEC. 503. SPECIAL AFFORDABLE HOUSING GOAL.

(a) ESTABLISHMENT OF SPECIAL AFFORDABLE HOUSING GOAL.—

(1) IN GENERAL.—The Director shall establish an annual special affordable housing goal under this section that is not less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) STANDARDS.—In establishing an enterprise's special affordable housing goal, the Director shall take into account—

(A) data submitted to the Director in connection with the special affordable housing goal for previous years,

(B) the performance and effort of the enterprise toward achieving the special affordable housing goal in prior calendar years,

(C) national housing needs within the income categories set forth in this section,

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income families, and

(E) the need to maintain the sound financial condition of the enterprise.

(b) TRANSITION RULES.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASES FOR THE TRANSITION PERIOD.—During the transition period, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than $2,000,000,000, with one-half of such purchases directed to 1-to-4 family housing and one-half to multifamily housing.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION MORTGAGE PURCHASES FOR THE TRANSITION PERIOD.—During the transition period, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than $1,500,000,000, with one-half of such purchases directed to 1-to-4 family housing and one-half to multifamily housing.

(3) INCOME CHARACTERISTICS FOR TRANSITION PERIOD MORTGAGE PURCHASES.—

(A) MULTIFAMILY MORTGAGES.—Purchases of multifamily housing mortgages under paragraphs (1) and (2) shall be directed in the following proportions:

(i) 45 percent for multifamily housing affordable to families whose incomes do not exceed 80 percent of the median income for the area; and

(ii) 55 percent for multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to families whose incomes do not exceed 60 percent of the median income for the area.

(B) SINGLE FAMILY MORTGAGES.—Purchases of 1-to-4 family housing mortgages under paragraphs (1) and (2) shall be directed in the following proportions:

(i) 45 percent for mortgages for families whose incomes do not exceed 80 percent of the median income for the area and who live in census tracts in which the median income does not exceed 80 percent of the area median; and

(ii) 55 percent for mortgages for families whose incomes do not exceed 60 percent of the median income for the area.

(C) COMPLIANCE WITH SPECIAL AFFORDABLE HOUSING GOALS.—Only the portion of multifamily housing mortgage purchases by an enterprise that are attributable to units affordable to families whose incomes do not exceed 80 percent of the median income for the area shall be credited toward compliance with the special affordable housing goals set forth in subparagraph (A)(ii).

(4) DEFINITION.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on—

(A) in the case of an owner-occupied dwelling the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level is affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

SEC. 504. CENTRAL CITY, RURAL AREA, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) IN GENERAL.—The Director shall establish an annual goal for the purchase of mortgages secured by housing located in central cities, rural areas, and other underserved areas.

(b) TRANSITION RULE.—

(1) IN GENERAL.—During the transition period, an interim target for purchases of mortgages by each enterprise secured by housing located in central cities is established at 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) ACHIEVEMENT OF THE INTERIM TARGET FOR CENTRAL CITY MORTGAGE PURCHASES.—During the transition period, the Director shall establish separate annual goals for each enterprise, the achievement of which would require, to the extent feasible, that—

(A) each enterprise improve its performance relative to the interim target, annually; and

(B) in the case of an enterprise that does not meet the interim target, such enterprise be prepared to meet the interim target in subsequent years.

(3) DEFINITIONS.—

(A) TRANSITION PERIOD.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(B) CENTRAL CITY.—As used in this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(c) FACTORS TO BE APPLIED BY THE DIRECTOR.—In establishing the housing goal for an enterprise under this section, the Director shall take into account—

(1) appropriate economic, housing, and demographic data,

(2) the performance and effort of the enterprise toward achieving the goals established under this section in prior calendar years,

(3) the size of the central city, rural area, and other underserved areas conventional mortgage market relative to the size of the overall conventional mortgage market,

(4) national urban needs,

(5) the ability of the enterprise to lead the industry in making mortgage credit available throughout the Nation, including central cities, rural areas, and other underserved areas, and

(6) the need to maintain the sound financial condition of the enterprise.

(d) LOCATION OF PROPERTIES.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on the location of the properties securing mortgages purchased by each enterprise.

SEC. 505. OTHER REQUIREMENTS.

To meet the low- and moderate-income housing goal under section 502, the special affordable housing goal under section 503, and the central city, rural area, and other underserved areas housing goal under section 504, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) help primary lenders make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions in meeting their obligations under the Community Reinvestment Act of 1977,

that include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

SEC. 506. MONITORING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—The Director shall establish guidelines to measure the extent of compliance with the housing goals established under this title. The guidelines may assign full credit, partial credit, or no credit toward compliance with the housing goals to different categories of mortgage purchase activities depending upon such criteria as the Director deems appropriate.

(b) SPECIAL AFFORDABLE HOUSING GOALS.—

(1) ACTIVITIES THAT SHALL RECEIVE FULL CREDIT TOWARD COMPLIANCE WITH GOALS.—The Director shall give full credit toward compliance with the special affordable housing goals to the following activities:

(A) The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or other Federal agency; and

(ii) participation of an enterprise substantially enhances the affordability of the housing securing such mortgages.

(B) The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet the special affordable housing goals; and

(ii) such purchases or refinancings support additional lending for housing serving low-income families.

(C) The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans are—

(i) not guaranteed by the agencies themselves or other Federal agencies; and

(ii) made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers.

(2) EXCLUSION.—No credit toward compliance with the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of existing enterprise portfolios.

SEC. 507. DATA COLLECTION AND REPORTING REQUIREMENTS FOR THE ENTERPRISES.

(a) SINGLE FAMILY DATA.—

(1) IN GENERAL.—Each enterprise shall collect, maintain, and provide to the Director, in a useful form, data relating to its single family mortgages. Such data shall include—

(A) the income, census tract location, race, and gender of mortgagors;

(B) the loan-to-value ratios of purchased mortgages at the time of origination;

(C) whether a particular mortgage purchased is newly originated or seasoned;

(D) the number of units (1-to-4 family) and whether they are owner-occupied; and

(E) other characteristics deemed appropriate by the Director, to the extent practicable.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The data required to be collected under this subsection shall cover single family mortgages purchased after the date determined by the Director, but not later than December 31, 1992.

(B) SEASONED MORTGAGES.—For mortgages purchased after the date referred to in subsection (a) but originated before that date, only data available to the enterprise is required to be collected under this subsection.

(b) MULTIFAMILY DATA.—

(1) IN GENERAL.—Each enterprise shall collect, maintain, and provide to the Director, in a useful form, data relating to its multifamily housing mortgages. Such data shall include—

(A) census tract location,

(B) tenant income levels and characteristics (to the extent practicable),

(C) rent levels,

(D) mortgage characteristics (such as number of units financed per mortgage and size of loans),

(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives),

(F) use of funds (such as new construction, rehabilitation, refinancing),

(G) type of originating institution, and

(H) other information deemed appropriate by the Director, to the extent practicable.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The data required to be collected under this subsection shall cover multifamily mortgages purchased after the date determined by the Director, but not later than December 31, 1992.

(B) SEASONED MORTGAGES.—For mortgages purchased after the date referred to in subparagraph (A) but originated before that date, only data available to the enterprise is required to be collected under this subsection.

(c) PUBLIC ACCESS TO DATA.—

(1) IN GENERAL.—The Director shall make the data required by subsections (a) and (b) available to the public in useful forms, including forms accessible by computers.

(2) ACCESS.—

(A) PROPRIETARY DATA.—The Director may not make available to the public data that the Director determines are proprietary pursuant to section 515.

(B) EXCEPTION.—The Director shall not restrict access to the data provided in accordance with subsection (a)(1)(A).

(3) FEES.—The Director may charge reasonable fees to cover the cost of making the data available to the public.

(d) ANNUAL REPORT.—

(1) IN GENERAL.—Each enterprise shall submit to the Congress and the Director a report on its activities under this title.

(2) CONTENTS.—The report referred to in paragraph (1) shall—

(A) include in aggregate form and by appropriate category, the dollar volume and number of mortgages purchased for owner-occupied and rental properties related to each of the annual housing goals;

(B) include in aggregate form and by appropriate category, the number of families served, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (based on availability of information), the characteristics of the census tracts, and the geographic distribution of the housing financed;

(C) include the extent to which the mortgages purchased by the enterprise have been used in conjunction with public subsidy programs under Federal law;

(D) include the proportion of single family mortgages purchased that have been made to first-time homebuyers, as soon as providing such data is practicable and identify any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

(E) include in aggregate form and by appropriate category the data reported under subsection (a)(1)(B);

(F) level of securitization versus portfolio activity;

(G) assess the underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

(H) describe trends in both the primary and secondary multifamily markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by each enterprise, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by each enterprise, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

(J) describe in the aggregate its seller servicer network, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

(K) describe the activities undertaken with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how its activities support the objectives of local comprehensive housing affordability strategies; and

(L) contain any other information deemed relevant by the Director.

(3) Availability of reports.—

(A) In general.—Each enterprise shall make the reports under this subsection available to the public at the principal and regional offices of the enterprise.

(B) Exclusion of proprietary data.—Information that is contained in any report that the Director has determined is proprietary shall be subject to the provisions of section 515.

SEC. 508. ANNUAL REPORT OF THE DIRECTOR.

(a) In General.—After reviewing and analyzing the reports submitted under section 507(d), the Director shall submit a report, as part of its report under section 109 of this Act, on the extent to which each enterprise is achieving the specified annual goals and general purposes established by law.

(b) Contents.—The report shall—

(1) aggregate and analyze census tract data to assess each enterprise's compliance with the central city, rural area, and other underserved areas housing goal and to show levels of business in central cities, rural areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Director;

(2) aggregate and analyze data on income to assess each enterprise's compliance with the low and moderate and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken and could undertake regarding underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures to promote and expand the annual goals specified under sections 502, 503, and 504, as well as the general purposes established by law;

(5) review trends in both the primary and secondary multifamily markets, describing—

(A) the availability of mortgage credit and liquidity; and

(B) the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken with respect to originators found to violate fair lending procedures.

SEC. 509. COMPLIANCE.

(a) In General.—The Director shall monitor and enforce compliance with the goals established under sections 502, 503, and 504.

(b) Notice and Hearing.—If the Director determines that an enterprise has failed to meet, or that there is a substantial probability that an enterprise will fail to meet, any goal established under section 502, 503, or 504, the Director shall provide written notice to the enterprise and an opportunity to review and supplement the administrative record at an administrative hearing.

(c) Housing Plans.—

(1) Plan required.—If the Director finds, after any hearing pursuant to subsection (b), that the achievement of the housing goal was feasible, after consideration of market and economic conditions, the Director shall require the enterprise to submit a housing plan for approval by the Director.

(2) Contents.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next succeeding calendar year; or

(B) in a case when the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of that year. The plan shall contain sufficient specificity to enable the Director to monitor compliance periodically.

(3) Deadlines for submission.—The Director shall establish a deadline for submission of a housing plan that is not more than 45 days after the enterprise is notified in writing that a plan is required. The Director may extend the deadline for a specified period of time.

(4) Approval.—The Director shall approve or disapprove a plan within 30 days. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the relevant charter act and this Act and other applicable law and regulation. The Director may extend the period for approval or disapproval for an additional 30 days.

(5) Disapproval.—If the housing plan initially submitted by the enterprise is disapproved, the Director shall provide written notice of the reasons therefor, and shall require the enterprise to submit, with a reasonable period of time, but not more than 30 days unless the Director determines that a longer period is in the public interest, an amended housing plan acceptable to the Director.

(6) Hearing.—If the Director disapproves a housing plan, the Director shall provide the enterprise with an opportunity to review and supplement the administrative record in an administrative hearing.

(d) Enforcement.—

(1) In general.—If the Director determines that an enterprise has failed to make a good faith effort to comply with an approved housing plan, the Director—

(A) may, under section 301, issue and serve upon the enterprise an order to comply with the housing plan; and

(B) may, under section 305, assess and collect from the enterprise a civil penalty.

(2) Limitation.—The Director shall not, for failure to comply with an approved housing plan—

(A) issue any order under section 301, except as described in paragraph (1)(A); or

(B) assess any civil penalty under section 305, except as described in paragraph (1)(B).

(3) Additional transition period limitation.—The Director shall take no actions described in paragraph (1) during the 2-year period following the date of enactment of this Act unless the Director determines that the enterprise has blatantly disregarded an approved housing plan.

(e) Transition Period Reports and Hearings.—

(1) Reports.—Within 45 days of the establishment of any housing goals required by this title during the 2-year period following the date of enactment, each enterprise shall submit to the Director, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the actions the enterprise plans to take in order to meet such goals.

(2) Hearings.—Not later than 45 days after the submission of a report under paragraph (1), the chief executive officers of the enterprises shall, if requested, appear before each committee referred to in paragraph (2) to explain the proposed actions described in their respective plans.

(f) Audit Powers.—The Director or the Comptroller General of the United States, at the request of the Director or any Member of Congress, is authorized to examine records and audit reports to the extent necessary to assess compliance with—

(1) the goals established under sections 502, 503, and 504,

(2) any other goals established by the Director to achieve the charter purposes of an enterprise, and

(3) any housing plan approved under this section.

SEC. 510. ADVISORY COUNCIL.

(a) In General.—Not later than 4 months after the date of enactment of this Act, each enterprise shall appoint an Affordable Housing Advisory Council to advise it regarding possible methods for promoting affordable housing for low- and moderate-income families.

(b) Membership.—Each Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.

SEC. 511. GEOGRAPHIC DISTRIBUTION.

(a) Federal National Mortgage Association.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by inserting before paragraph (5), as redesignated, the following:

"(4) promote access to mortgage credit throughout the Nation (including central cities and rural areas) by increasing the liquidity of mortgage investments, including facilitating credit secured by mortgages to secondary market participants, and improving the distribution of investment capital available for residential mortgage financing; and".

(b) Federal Home Loan Mortgage Corporation.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) to promote access to mortgage credit throughout the Nation (including central cities and rural areas) by increasing the liquidity of mortgage investments, including facilitating credit secured by mortgages to secondary market participants, and improving the distribution of investment capital available for residential mortgage financing.".

SEC. 512. MULTIFAMILY MORTGAGE ACTIVITIES.

(a) Federal National Mortgage Association.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential".

(b) Federal Home Loan Mortgage Corporation.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential".

SEC. 513. BOARD OF DIRECTORS QUALIFICATIONS.

(a) Federal National Mortgage Association.—

(1) Member with a demonstrated commitment to low-income housing.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting in the second sentence after "lending industry," the following: "at least one person who has demonstrated a career commitment to the provision of housing for low-income households,".

(2) Applicability.—The amendment made by subsection (a)(1) shall apply to the annual appointments made by the President of members to the Board of Directors of the Federal National Mortgage Association that occur after the date of the enactment of this Act.

(b) Federal Home Loan Mortgage Corporation.—

(1) Member with a demonstrated commitment to low-income housing.—Section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by inserting in the second sentence after "lending industry," the following: "at least 1 person who has demonstrated a career commitment to the provision of housing for low-income households,".

(2) Applicability.—The amendment made by subsection (b)(1) shall apply to the annual appointments made by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occur after the date of the enactment of this Act.

SEC. 514. FAIR HOUSING.

The Director shall—

(1) subject to the Secretary's general authority to enforce the Fair Housing Act, by regulation prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) subject to the Secretary's general authority to enforce the Fair Housing Act, by regulation require each enterprise to have single family mortgage and multifamily mortgage underwriting and appraisal guidelines that prohibit the use of lending criteria or the exercise of lending policies by mortgage lenders that sell mortgages to the enterprise, that have the effect of discriminating on the basis of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(3) by regulation, require an enterprise to submit certain data to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act or the Equal Credit Opportunity Act;

(4) periodically review and comment on each enterprise's underwriting and appraisal guidelines;

(5) seek information from other regulatory and enforcement agencies regarding violations by lenders of the laws referred in paragraph (3) and make that information available to enterprises; and

(6) direct an enterprise to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against those lenders that have in a final adjudication or an administrative hearing on the record in accordance with subchapter II of chapter 5 of title 5, United States Code, been found to have engaged in discriminatory lending practices in violation of this subsection, the Fair Housing Act, or the Equal Credit Opportunity Act.

SEC. 515. PROHIBITION ON PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

(a) In General.—The Director may determine, by regulation or order, information that will be accorded treatment as proprietary information. The Director shall not provide public access to, or disclose to the public, information required to be submitted by an enterprise under section 507 that the Director determines is proprietary.

(b) Effective Date of Order.—Any order issued under subsection (a) shall not become effective until 10 days after its issuance.

(c) Nondisclosure Pending Consideration.—Nothing in this section authorizes the disclosure to, or examination of data by, the public or a representative of any person or agency, pending the issuance of a final decision under this section.

TITLE VI—CHARTER ACT AMENDMENTS

SEC. 601. AMENDMENTS TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) Removal Authority of the President.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended in the third sentence after "any such" by inserting "appointed".

(b) GAO Audits.—The first sentence of section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended to read as follows: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.".

(c) Construction.—Section 309(i) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended to read as follows:

"(i) Construction.—The powers conferred on the corporation by this title shall be exercised in accordance with the goals and purposes of the Federal Housing Enterprises Regulatory Reform Act of 1992. If the provisions of this title conflict with the provisions of the Federal Housing Enterprises Regulatory Reform Act of 1992, the provisions of that Act shall control.".

(d) Capitalization.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) Fees and Earnings.—

"(1) Fees and charges.—The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) Earnings; general surplus.—All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.";

(3) by striking subsection (c) and inserting the following new subsection:

"(c) Distributions.—

"(1) In general.—Except as provided in paragraph (2), the corporation may make such capital distributions as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) Adequate capitalization required.—The corporation may not make any capital distributions that would decrease the capital of the corporation, as such term is defined under section 212 of the Federal Housing Enterprises Regulatory Reform Act of 1992 to an amount less than that sufficient to be classified as adequately capitalized under section 204 of such Act, without prior written approval of the Director of the Office of Federal Housing Enterprise Oversight."; and

(4) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions,"; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation".

(e) Ratio of Obligations.—

(1) In general.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(A) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(B) in subsection (e), by striking the fourth sentence.

(2) Effective date.—The amendments made by paragraph (1) shall take effect when the first classifications are made under section 204(b).

(f) Assessments for the Office of Secondary Market Oversight.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting after "section 309(g)" the following: "of this Act and section 105 of the Federal Housing Enterprises Regulatory Reform Act of 1992".

(g) Compensation.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in positions in comparable publicly held financial institutions involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Congress on—

"(i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses,

"(ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and

"(iii) the comparability of the corporation's financial performance with the performance of other similar businesses.

The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) The corporation may not enter into any agreement to provide any payment of money or other thing of value in connection with the termination of employment of any executive officer of the corporation, unless such agreement is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight. Any such payment made pursuant to any agreement entered into between July 24, 1991, and the date of enactment of the Federal Housing Enterprises Regulatory Reform Act of 1992 may be cancelled unless such agreement is approved by the Director. The Director may not approve any such agreement unless the Director determines that the benefits provided under the agreement are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after July 24, 1991, to any such agreement entered into on or before such date shall be considered entering into an agreement.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 3 of the Federal Housing Enterprises Regulatory Reform Act of 1992.".

(h) GENERAL REGULATORY POWERS.—Section 309(h) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(h)) is repealed.

(i) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(j) APPROVAL.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)) is amended—

(1) in paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,"; and

(2) in paragraphs (3) and (4), by striking ", with the approval of the Secretary of Housing and Urban Development,".

SEC. 602. AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is repealed.

(b) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(c) CONSTRUCTION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended by adding at the end the following subsection:

"(h) CONSTRUCTION.—The powers conferred by this title on the Corporation shall be exercised in accordance with the goals and purposes of the Federal Housing Enterprises Regulatory Reform Act of 1992. If the provisions of this title conflict with the provisions of the Federal Housing Enterprises Regulatory Reform Act of 1992, the provisions of that Act shall control.".

(d) GAO AUDITS.—The first sentence of section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended to read as follows: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.".

(e) POWERS OF THE CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second and third sentences.

(f) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: ", except that any appointed member may be removed from office by the President for good cause".

(g) GENERAL REGULATORY POWERS.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended—

(1) by striking paragraphs (1) and (2);

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the Corporation may make such capital distributions as may be declared by the Board of Directors.

"(B) The Corporation may not make any capital distributions that would decrease the capital of the Corporation (as such term is defined in section 212 of the Federal Housing Enterprises Regulatory Reform Act of 1992) to an amount less than that sufficient to be classified as adequately capitalized under section 204 of such Act, without prior written approval of the Director of the Office of Federal Housing Enterprise Oversight."; and

(3) by striking paragraphs (4), (6), (7), and (8).

(h) RATIO OF CAPITAL AND OBLIGATIONS.—Effective upon the first classification made under section 204(b), section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended by striking paragraph (5).

(i) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in positions in comparable publicly held financial institutions involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (i)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(i)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Congress on—

"(A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses,

"(B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and

"(C) the comparability of the Corporation's financial performance with the performance of other similar businesses.

The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(2) Notwithstanding the first sentence of subsection (c), the Corporation may not enter into any agreement to provide any payment of money or other thing of value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight. Any such payment made pursuant to any agreement entered into between July 24, 1991, and the date of enactment of the Federal Housing Enterprises Regulatory Reform Act of 1992 may be cancelled unless such agreement is approved by the Director. The Director may not approve any such agreement unless the Director determines that the benefits provided under the agreement are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after July 24, 1991, to any such agreement entered into on or before such date shall be considered entering into an agreement.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 3 of the Federal Housing Enterprises Regulatory Reform Act of 1992.".

(j) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) in subsection (a)(1), by striking "The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.";

(2) in subsection (a)(2)—

(A) in the first sentence, by striking "nonvoting common stock and the"; and

(B) by striking the last sentence; and

(3) by striking subsections (b), (c), and (d).

(k) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence.

(2) in the second sentence, by striking ", and the servicing" and all that follows through the end of the sentence and inserting a period.

(l) DEFINITION OF "RESIDENTIAL MORTGAGE".—Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended in the third sentence by striking "made" and all that follows through "305(a)(1)" and inserting "or purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy

Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

TITLE VII—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

SEC. 701. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

SEC. 702. STUDY REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study regarding the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The appropriate relationship between the capital standards for the Federal Home Loan Banks and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The appropriate relationship between the capital standards for federally insured depository institutions and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, especially with regard to similar kinds of on-balance sheet and off-balance sheet assets and obligations.

(4) The advantages and disadvantages of expanding the credit products and services of the Federal Home Loan Banks, including a determination of the desirability of—

(A) the purchase by Federal Home Loan Banks of housing-related assets from member institutions, and

(B) the provision by Federal Home Loan Banks of credit enhancements and other products to members in addition to advances.

(5) The advantages and disadvantages of expanding eligible collateral for advances by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the Federal Home Loan Bank System in housing finance.

(7) The advantages and disadvantages of further measures to increase membership in, and increase the profitability of, the Federal Home Loan Bank System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the advance limit imposed on Federal Home Loan Banks to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, the Bank Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this Act and the enterprises' charters.

(b) REPORTS.—Not later than 9 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Congress a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall submit to the Congress any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section the term "housing-related assets" means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 703. REPORTS OF FEDERAL HOME LOAN BANKS.

Not later than 9 months after the date of enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Congress a report of the directors' evaluation of the costs and benefits of consolidation of the Federal Home Loan Bank System.

SEC. 704. REPORTS OF FEDERAL HOME LOAN BANK MEMBERS.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall elect 2 persons who are officers or directors of stockholder institutions of the Federal Home Loan Bank to serve on a panel to be called the "Study Committee".

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics listed in section 702(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 9 months after the date of enactment of this Act, the Study Committee shall submit a report to the Congress, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 705. FULL-TIME STATUS OF FHFB MEMBERS.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) BOARD STATUS.—All directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis beginning on January 1, 1994.".

SEC. 706. EXCEPTION TO REQUIREMENTS FOR ADVANCES UNDER THE FEDERAL HOME LOAN BANK ACT.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following:

"(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.".

TITLE VIII—STUDY OF NATIONAL CONSUMER COOPERATIVE BANK

SEC. 801. STUDY OF NATIONAL CONSUMER COOPERATIVE BANK.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of—

(1) the extent to which the National Consumer Cooperative Bank has achieved its statutory purposes as set forth in the National Consumer Cooperative Bank Act (12 U.S.C. 3001 et seq.) (hereafter in this title referred to as the "Bank Act"); and

(2) the financial safety and soundness of the activities of the Bank and its affiliates.

(b) SPECIFIC REQUIREMENTS.—In conducting the study, the Comptroller General shall examine and evaluate—

(1) the degrees and types of risks that are undertaken by the Bank in the course of its and its affiliates' operations, including credit risk, interest rate risk, management and operational risk, and business risk;

(2) the actual level of risk that exists with respect to the Bank and its affiliates, which shall take account of the volume of debt securities issued by the Bank to the Secretary of the Treasury;

(3) the appropriateness of establishing a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates, including the application of capital standards to the Bank;

(4) the costs and benefits to the public from establishment of a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates, and the impact of such a structure on the capability of the Bank to carry out its purposes under law and the Bank's viability, including the ability of the Bank to obtain funding in the private capital markets;

(5) the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of the Bank and its affiliates and the financial risks associated with such activities;

(6) the extent to which the Bank has served all types of its eligible borrowers, including consumer cooperatives, self-help cooperatives, and cooperatives serving low-income families;

(7) the extent to which the Bank directly or indirectly has provided technical assistance to all types of its eligible borrowers;

(8) whether the benefit to the Bank of below-market rates of interest on the debt issued by the Bank to the Secretary of the Treasury was utilized and allocated in a manner consistent with the Bank Act;

(9) whether the Bank's compensation of its executive officers has been excessive;

(10) whether the manner in which the Bank has allocated voting rights to its eligible borrowers has conformed with the Bank Act;

(11) whether the Bank otherwise has acted in a manner consistent with the achievement of its purposes and mission under the Bank Act; and

(12) whether the purposes and mission of the Bank under the Bank Act should be modified in light of any changes in the availability to the Bank's eligible borrowers of credit from sources other than the Bank, changes in the economy, and other factors.

(c) PREPARATION OF REPORT.—In conducting the study required by this section, among other matters, the Comptroller General shall take account of—

(1) the examination reports on the Bank prepared by the Farm Credit Administration;

(2) any audits of the Bank by the Comptroller General;

(3) the annual reports of the Bank to the Congress and the annual and quarterly reports and registration statements filed by the Bank with the Securities and Exchange Commission;

(4) any written communications of any kind of the Farm Credit Administration or the Comptroller General to the Congress with respect to the Bank or its affiliates;

(5) the examination reports on the Bank or its affiliates prepared by the Office of Thrift Supervision or the appropriate official of the State of Ohio; and

(6) the views of interested members of the public, including eligible borrowers from the Bank.

(d) REPORT TO CONGRESS.—Within 6 months after enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall set forth—

(1) the results of the study under this section;

(2) any recommendations of the Comptroller General with respect to—

(A) the establishment of a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates;

(B) the appropriate capital standards for the Bank; and

(C) the appropriate regulatory agency for the Bank;

(3) any recommendations of the Comptroller General with respect to—

(A) the manner in which the Bank is carrying out its purposes and mission under the Bank Act;

(B) whether the Bank's purposes and mission under the Bank Act should be changed; and

(C) whether the Bank Act should be otherwise amended; and

(4) any recommendations and opinions of the Secretary of the Treasury regarding the report and, to the extent that the recommendations and views of such officers or agencies differ from the recommendations and opinions of the Comptroller General, any recommendations and opinions of the Farm Credit Administration and the Office of Thrift Supervision regarding the report.

(e) CONSULTATION AND COOPERATION WITH OTHER AGENCIES.—The Comptroller General shall determine the structure and methodology of the study under this section in consultation with the Secretary of the Treasury, the Farm Credit Administration, the Director of the Office of Thrift Supervision, and the Bank.

(f) ACCESS TO RELEVANT INFORMATION.—The Bank shall provide or cause to be provided full and prompt access to the Comptroller General to the books and records of the Bank and any affiliate of the Bank and shall promptly provide or cause to be provided any other information requested by the Comptroller General. Any information provided by the Bank or any affiliate of the Bank to the Comptroller General that concerns customer relationships and that is confidential in nature shall be retained in confidence by the Comptroller General and shall not be disclosed to the public. In conducting the study under this section, the Comptroller General may request information from, or the assistance of, any department or agency of the Federal Government or of the State of Ohio that is or was authorized by law to examine or supervise any activities of the Bank or any affiliate of the Bank.

TITLE IX—MISCELLANEOUS

Subtitle A—Miscellaneous

SEC. 901. PRIVATIZATION STUDY.

(a) IN GENERAL.—The Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall conduct a study of the desirability and feasibility of eliminating the Federal sponsorship of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) SPECIFIC REQUIREMENTS.—In conducting the study, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall consider and evaluate—

(1) the legal requirements of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the costs to the enterprises if such Federal sponsorship were removed;

(2) the cost of capital to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation with the removal of Federal sponsorship;

(3) the costs to home ownership and the impact on housing affordability and availability of the removal of Federal sponsorship;

(4) the level of competition which might be available in the private sector with the removal of Federal sponsorship;

(5) the potential effect on the cost and availability of residential housing finance of the enactment of bank reforms that would enable banks to enter the securities business;

(6) whether increased amounts of core capital would be necessary with the removal of Federal sponsorship;

(7) the impact of removal of Federal sponsorship upon the secondary market for residential loans and the liquidity of such loans;

(8) the impact of removal of Federal sponsorship upon the risk weighting of assets of insured depository institutions; and

(9) any other factor which the Comptroller General of the United States, the Director of the Congressional Budget Office, or the Secretary of the Treasury deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) REPORT TO CONGRESS.—Within 2 years after the date of enactment of this Act, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall set forth—

(1) a summary of the findings under this section;

(2) recommendations to the Congress on the removal of Federal sponsorship, if deemed to be feasible and desirable, which shall include suggestions for an appropriate time frame in which to withdraw Federal sponsorship.

(d) VIEWS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—

(1) CONSIDERATION OF VIEWS.—In conducting the study under this section, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may report directly to the Congress on the enterprises' own analysis of the desirability and feasibility of the removal of Federal sponsorship.

SEC. 902. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas.".

SEC. 903. APPLICABILITY OF SHELTER PLUS CARE.

Section 811 of the Cranston-Gonzalez Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) in subsection (b), by striking "private,"; and

(2) in paragraphs (5) and (6) of subsection (k), by striking "private" each place it appears.

SEC. 904. ADJUSTABLE RATE MORTGAGE CAPS.

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any home purchase or other consumer loan".

SEC. 905. COMMUNITY DEVELOPMENT AUTHORITY OF BANKS.

(a) NATIONAL BANKS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end the following new paragraph:

"ELEVENTH.—To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability.

The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund.".

(b) STATE MEMBER BANKS.—Section 9 of the Federal Reserve Act (12 U.S.C. 321–338) is amended by adding at the end the following new paragraph:

"State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board of Governors shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 906. SENSE OF THE SENATE.

(a) FINDINGS.—The Congress finds that—

(1) the two housing Government-sponsored enterprises, the Federal National Mortgage Association (hereafter in this section referred to as "Fannie Mae") and the Federal Home Loan Mortgage Corporation (hereafter in this section referred to as "Freddie Mac") have issued or guaranteed nearly $900,000,000,000 of securities which are currently outstanding;

(2) Fannie Mae and Freddie Mac are privately owned, profitmaking enterprises whose securities are viewed by investors as having an implicit Federal guarantee;

(3) investor perception of a Federal guarantee, as the savings and loan crisis demonstrates, removes market discipline, reduces incentives to maintain strong capital positions, and distorts financial decisions;

(4) the outstanding obligations of Fannie Mae and Freddie Mac exceed those in the entire savings and loan industry;

(5) the existing regulatory structure and oversight of the Fannie Mae and Freddie Mac has been inadequate;

(6) history has shown that a regulator charged with protecting taxpayer dollars must be independent of other policymaking entities;

(7) this Act takes concrete steps to establish safety and soundness regulation of Fannie Mae and Freddie Mac;

(8) this Act creates an independent regulatory office, the Office of Federal Housing Enterprise Oversight, in the Department of Housing and Urban Development; and

(9) the independence of the Office cannot be compromised without impairing the ability of the regulator to ensure that the Fannie Mae and Freddie Mac are adequately capitalized and operating safely.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any final Government-sponsored enterprise legislation should make it clear that the independence of the regulator overseeing the safety and soundness of Fannie Mae and Freddie Mac should not be compromised.

SEC. 907. 4-MONTH EXTENSION OF TRANSITION RULE FOR SEPARATE CAPITALIZATION OF SAVINGS ASSOCIATIONS' SUBSIDIARIES.

Section 5(t)(5)(D)(ii) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(t)(5)(D)(ii)) is amended—

(1) by striking "June 30, 1992" and inserting "October 31, 1992"; and

(2) by striking "July 1, 1992" and inserting "November 1, 1992".

SEC. 908. CREDIT CARD SALES.

(a) IN GENERAL.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

(b) INTERIM DEFINITION OF UNDERCAPITALIZATION.—During the period beginning on the date of enactment of this Act and ending on the effective date of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an insured depository institution is undercapitalized for purposes of section 11(e)(14) of the Federal Deposit Insurance Act (as added by subsection (a) of this section), if it does not comply with any currently applicable minimum capital standard prescribed by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

SEC. 909. REAL ESTATE APPRAISAL AMENDMENT.

Section 1113 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) THRESHOLD LEVEL.—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.".

SEC. 910. EXTENSION OF CIVIL STATUTE OF LIMITATIONS.

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

SEC. 911. AGGREGATE LIMITS ON INSIDER LENDING.

Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)) is amended by adding at the end the following new subparagraph:

"(D) EXTENSIONS OF CREDIT SECURED BY FEDERAL OBLIGATIONS EXCLUDED.—For purposes of this paragraph, the term 'extension of credit' does not include an extension of credit fully secured by—

"(i) an obligation of the United States; or

"(ii) an obligation with respect to which the United States fully guarantees the payment of principal and interest.".

SEC. 912. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) is amended—

(1) in subsection (d), by adding at the end the following: "An appropriate Federal banking agency may not prescribe standards or regulations under subsection (a), (b), or (c) that set a specific level or range of compensation for officers, directors, or employees of insured depository institutions."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 913. TRUTH IN SAVINGS ACT AMENDMENTS.

(a) TIMING OF CERTAIN DISCLOSURES.—Section 266 of the Truth in Savings Act (12 U.S.C. 4305) is amended—

(1) by striking subsection (a)(3), and inserting the following:

"(3) provided to a depositor, in the case of a time deposit that is renewable at maturity without notice from the depositor and that has a period of maturity of 2 years or more, not later than 15 days before the date of maturity."; and

(2) by inserting after subsection (e) the following new subsection:

"(f) DISCLOSURES FOR RENEWAL OF CERTAIN ACCOUNTS.—

"(1) RENEWAL NOTICE.—A renewal notice shall be provided to the depositor with respect to a time deposit that has a maturity period greater than 1 month and less than 2 years that is renewable at maturity without notice from the depositor, as follows—

"(A) with respect to a time deposit that has a period of maturity of more than 3 months, but less than 2 years, not later than 15 days before the date of maturity; and

"(B) with respect to a time deposit that has a period of maturity of more than 1 month, but less than 3 months, not later than such time as the Board determines by regulation to be appropriate, in accordance with the purposes of this Act.

"(2) CONTENTS OF NOTICE.—A renewal notice required under this subsection shall state—

"(A) the maturity date of the expiring time deposit;

"(B) the maturity date or the term of the renewed time deposit;

"(C) any penalty for early withdrawal;

"(D) any change to the terms or conditions of the time deposit adverse to the customer, unless a notice under subsection (c) has been provided to the account holder;

"(E) the date on which the annual percentage yield and simple rate of interest will be determined; and

"(F) a telephone number to obtain the annual percentage yield and simple rate of interest that will be paid when the account is renewed.

"(3) RENEWAL OF SHORT-TERM TIME DEPOSITS.—With respect to a time deposit that has a period of maturity of 1 month or less and that is renewable at maturity without notice from the depositor, the Board may, by regulation, require that a notice be provided to an account holder at such time and containing such information as the Board determines appropriate, in accordance with the purposes of this Act.".

(b) ON-PREMISES DISPLAYS.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) DISCLOSURE REQUIRED FOR ON-PREMISE DISPLAYS.—

"(1) IN GENERAL.—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest that is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) DEFINITION.—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.".

(c) EFFECTIVE DATE.—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking "6" and inserting "9".

Beginning with page 143, line 18, strike through page 155, line 14, and insert the following:

Subtitle B—Presidential Insurance Commission

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Presidential Insurance Commission Act of 1992".

SEC. 922. FINDINGS.

The Congress finds that—

(1) the property and casualty insurance, life insurance, health insurance, and reinsurance industries play a major and vital role in the capital formation and lending in the United States economy;

(2) at the end of 1989, life and health and property and casualty insurers combined controlled just under $1,800,000,000,000 in assets invested in the United States;

(3) these insurer assets represented slightly less than 18 percent of the financial assets of all non-governmental financial intermediaries in the United States;

(4) of total United States assets, insurers controlled—

(A) 50.7 percent of all United States held corporate and foreign bonds;

(B) 32.1 percent of all tax-exempt bonds;

(C) 13.8 percent of United States Treasury securities;

(D) 18.2 percent of Federal agency securities;

(E) 12.2 percent of mortgages;

(F) 14.7 percent of corporate equities;

(G) 10.3 percent of open market paper; and

(H) 12 percent of all other United States assets; and

(5) a Presidential commission should be established to carry out the duties described in section 924.

SEC. 923. ESTABLISHMENT.

There is established a Presidential Commission on Insurance (hereafter in this subtitle referred to as the "Commission").

SEC. 924. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term

liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) REPORT.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 928.

SEC. 925. MEMBERSHIP AND COMPENSATION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom have expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

(c) CONSULTATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall consult with—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Chairperson of the Federal Deposit Insurance Corporation; and

(3) the Chairman of the Securities and Exchange Commission,

with respect to all financial and other matters within their respective jurisdictions that are under consideration by the Commission.

(d) ELIGIBILITY.—No member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government may be appointed to be a member of the Commission pursuant to paragraph (9) of subsection (a).

(e) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission appointed pursuant to subsection (a)(9) shall be compensated at a rate equal to the annual rate of basic pay for GS-18 of the General Schedule.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL OF ACTIONS.—All recommendations and reports of the Commission required by this subtitle shall be approved only by a majority vote of a quorum of the Commission.

(h) CHAIRPERSON.—The President shall select 1 member appointed pursuant to subsection (a)(9) to serve as the Chairperson of the Commission.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 926. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may—

(1) hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate; and

(2) administer oaths or affirmations to witnesses appearing before the Commission,

for the purpose of carrying out this subtitle.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subtitle.

(c) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) CONFIDENTIALITY.—Information obtained under this section which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Commission determines that the withholding thereof is contrary to the national interest. The provisions of the preceding sentence shall not apply to the publication or disclosure of data that are aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(4) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(5) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(6) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States

Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this subtitle.

SEC. 927. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 928. REPORT.

Not later than May 31, 1993, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 924.

SEC. 929. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the report required by section 928.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 to carry out the purposes of this subtitle.

Subtitle C—Secondary Market for Commercial Mortgage and Small Business Loans

SEC. 931. SHORT TITLE.

This subtitle may be cited as the "Secondary Market for Commercial Real Estate Mortgage and Small Business Loans Act of 1992".

SEC. 932. PURPOSE.

The purpose of this subtitle is to enable the Congress to gain an understanding of legal, regulatory, and market-based impediments to developing a secondary market for commercial real estate mortgage loans and loans to small businesses.

SEC. 933. FINDINGS.

The Congress finds that—

(1) the secondary market for residential real estate mortgage loans has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage loan prices across the country;

(2) an active and liquid secondary market for commercial real estate mortgage and small business loans has not developed despite the apparent benefits for lenders and homeowners in the residential market and the potential benefits to lenders and borrowers on the commercial market;

(3) a major impediment to the creation of a secondary market for commercial real estate mortgages and small business loans is the lack of standardization in such mortgages, including loan documents, underwriting, loan terms, credit enhancement, security product design and packaging, and ratings; and

(4) standardization of commercial real estate mortgage and small business loans and the elimination of legal and regulatory barriers would enhance the development of a broader, more liquid secondary market for commercial real estate mortgage and small business loans through private sector initiatives and resources.

SEC. 934. SECONDARY MARKET FOR COMMERCIAL MORTGAGE AND SMALL BUSINESS LOANS.

(a) STUDY AND REPORT BY THE TREASURY, THE CBO, AND THE SEC.—

(1) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential costs and benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for commercial real estate mortgage loans and loans to small businesses, including equipment and working capital loans. The study shall include consideration of—

(A) market perceptions and the reasons for the slow development of a secondary market for commercial real estate mortgage loans and loans to small businesses;

(B) the acquisition, development, and construction phases of the commercial real estate market;

(C) any means to standardize loan documents and underwriting for loans relating to retail, office space, and other segments of the commercial real estate market and for loans to small businesses;

(D) the probable effects of the development of a secondary market for commercial real estate mortgage loans and loans to small businesses on financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(E) legal and regulatory barriers that may be impeding the development of a secondary market for commercial real estate mortgage loans and loans to small businesses;

(F) the risks posed by investments in commercial mortgage loans or related products and loans to small businesses; and

(G) the structure and effect of Federal loan guarantees and, if recommended, publicly supported credit enhancement.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation and regulatory actions to facilitate the development of a secondary market for commercial real estate mortgage loans and loans to small businesses.

(b) STUDY AND REPORT BY THE RTC.—

(1) STUDY.—The chief executive officer of the Resolution Trust Corporation (hereafter in this subtitle referred to as the "RTC") shall conduct a study that focuses on—

(A) efforts by the RTC to standardize its disposition methods;

(B) the success of the RTC in marketing its commercial mortgage loan-backed securities; and

(C) the impact of the RTC's programs on the commercial real estate mortgage loan and small business loan secondary market.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the chief executive officer of the RTC shall transmit a report to the Congress on the impact of its commercial real estate loan securitization program. Such report shall also contain the results of the study under paragraph (1).

Subtitle D—Asset Conservation and Deposit Insurance Protection

SEC. 941. SHORT TITLE.

This subtitle may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1992".

SEC. 942. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENTS.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—The liability of an insured depository institution or other lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.—An insured depository institution or other lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A) of this Act or section 9003(h)(9) of the Solid Waste Disposal Act, based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the property before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of an extension of credit (or in the contract relating thereto), covenants, warranties, or other terms and conditions that relate to compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires cleanup of the property prior to, during, or upon the expiration of the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies that may be available under applicable law for the breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) Actual Benefit.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) Exclusion.—Notwithstanding subsection (a), but subject to the provisions of section 107(d), a depository institution or lender that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a), may be liable for removal, remedial, or other response action pertaining to that release.

"(d) Environmental Assessments.—

"(1) Depository institutions.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments as may be appropriate under the circumstances, in order to account for the levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) Lenders.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for exclusions or different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) Final regulations.—Final regulations required to be promulgated pursuant to paragraphs (1) and (2) shall be issued not later than 180 days after the date of enactment of this section.

"(e) Definitions.—For purposes of this section, the following definitions shall apply:

"(1) Property acquired through foreclosure.—The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or other lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or other lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its interest. Property is not acquired through foreclosure if the insured depository institution or lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) Lender.—The term 'lender' means—

"(A) a person (other than an insured depository institution) that—

"(i) makes a bona fide extension of credit to a nonaffiliated party; and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

and the successors and assigns of such person;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases loans (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

"(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to nonaffiliated parties.

"(3) Fiduciary capacity.—The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a bona fide—

"(A) trustee;

"(B) executor;

"(C) administrator;

"(D) custodian;

"(E) guardian of estates;

"(F) receiver;

"(G) conservator;

"(H) committee of estates of lunatics; or

"(I) any similar capacity.

"(4) Extension of credit.—The term 'extension of credit' includes a lease finance transaction—

"(A) in which the lessor does not initially select the leased property and does not during the lease term control the daily operations or maintenance of the property; or

"(B) which conforms with regulations issued by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) or the appropriate State banking regulatory authority.

"(5) Insured depository institution.—The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

"(A) a federally insured credit union;

"(B) a bank or association chartered under the Farm Credit Act of 1971; and

"(C) a leasing or trust company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

"(6) Release.—The term 'release' has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(7) Hazardous substance.—The term 'hazardous substance' has the same meaning as in section 101(14).

"(8) Security interest.—The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

"(f) Savings Clause.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.

"(g) Effective Date.—This section shall become effective upon the date of its enactment.".

(b) In General.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) by redesignating section 39 (as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as section 42;

(2) by redesignating section 40 (as added by section 151(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as section 43; and

(3) by adding at the end the following new section:

"SEC. 44. ASSET CONSERVATION.

"(a) Governmental Entities.—

"(1) Banking and lending agencies.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) Application of State law.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency's interest in the asset giving rise to such liability. Nothing in this section shall be construed to prevent a Federal banking or lending agency from agreeing with a State to transfer property to such State in lieu of any liability that might otherwise be imposed under State law.

"(3) LIMITATION.—Notwithstanding paragraph (1), and subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a Federal banking or lending agency that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1), may be liable for removal, remedial, or other response action pertaining to that release.

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

"(b) LIEN EXEMPTION.—Notwithstanding any other provision of law, any property held by a subsequent purchaser referred to in subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents.

"(2) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(3) RELEASE.—The term 'release' has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.".

Subtitle E—Limitations on Liability

SEC. 951. DIRECTORS NOT LIABLE FOR ACQUIESCING IN CONSERVATORSHIP, RECEIVERSHIP, OR SUPERVISORY ACQUISITION OR COMBINATION.

(a) LIABILITY.—During the period beginning on the date of enactment of this Act and ending on December 19, 1992, the members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

(1) the appointment of the Resolution Trust Corporation or the Federal Deposit Insurance Corporation as conservator or receiver for that institution; or

(2) the acquisition of the institution by a depository institution holding company, or the combination of the institution with another insured depository institution if the appropriate Federal banking agency has—

(A) requested the institution, in writing, to be acquired or to combine; and

(B) notified the institution that 1 or more grounds exist for appointing a conservator or receiver for the institution.

(b) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "depository institution holding company", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 952. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(A) by redesignating subsection (o) (as added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2354)) as subsection (p); and

(B) by adding at the end the following:

"(q) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this subtitle.

SEC. 953. AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978.

Section 6(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3104(c)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

TITLE X—MONEY LAUNDERING

SEC. 1001. SHORT TITLE.

This title may be cited as the "Financial Institutions Enforcement Improvements Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 1011. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Office of the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Office of the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Office of the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the bank, Federal branch, or Federal agency maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the bank or its holding company. If the institution is a Federal branch or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978) of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller of the Currency shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director of the Office of Thrift Supervision a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director of the Office of Thrift Supervision shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director of the Office of Thrift Supervision may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Office of Thrift Supervision shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director of the Office of Thrift Supervision, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the savings association or its holding company. The Office of Thrift Supervision shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TITLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be any losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 1012. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; TERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(u) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 1013. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution-affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove such party from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution. A copy of such notice shall also be served upon the depository institution.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution-affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 1014. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 1015. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 1016. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following:

"(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary, "(B) any State agency,

"(C) any State branch which is not an insured branch,

"(D) any State commercial lending subsidiary, or

"(E) any director or senior executive officer of any such foreign bank, agency, branch, or subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) Definitions.—For purposes of this subsection—

"(A) Insured branch.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) Money laundering offense defined.—The term 'money laundering offense' means any offense under section 1956, 1957, or 1960 of title 18, United States Code, or punishable under section 5322 of title 31, United States Code.

"(C) Senior executive officers.—The term 'senior executive officers' has the meaning given to such term by the Board pursuant to section 32(f) of the Federal Deposit Insurance Act.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 1021. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) In General.—Chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By January 1, 1993, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in subparagraphs (H) through (Y) of section 5312(a)(2) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate State financial institution supervisory agencies for supervisory purposes.".

(b) Civil Penalty.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following paragraph:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

(c) Chapter Analysis.—The chapter analysis for chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5327. Identification of financial institutions.".

SEC. 1022. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) In General.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to—

"(1) the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws;

"(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims and the award of compensation to informers with respect to such forfeitures;

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) Chapter Analysis.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 1023. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 1024. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) Nondisclosure of Orders.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 1025. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

(a) In General.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following paragraph:

"(2) Transfers of funds.—

"(A) In general.—Before October 1, 1992, the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') in consultation with State banking departments shall jointly prescribe such final regulations as may be appropriate to require insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks, or other similar instruments to maintain records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks, or similar instruments;

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) Factors for consideration.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) Availability of records.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

(b) Conforming Amendments.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in the first sentence of subsection (c), by striking "the Secretary shall" and inserting "the regulations prescribed under subsection (b) shall";

(2) in subsection (d), by striking "regulations of the Secretary" and inserting "regulations issued under subsection (b)";

(3) in subsection (e), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require";

(4) in subsection (f), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require"; and

(5) in subsection (g), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require".

SEC. 1026. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating

to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 1027. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or the regulations thereunder" after "section 5313(a)" each place it appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require financial institutions to report suspicious transactions relevant to possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution that voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(1) the development of internal policies, procedures, and controls,

"(2) the designation of a compliance officer,

"(3) an ongoing employee training program, and

"(4) an independent audit function to test programs.

The Secretary may promulgate minimum standards for such programs.".

SEC. 1028. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General, the Chairman of the Board of Governors of the Federal Reserve System, and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 1029. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested agencies, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally, would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts. Such guidelines, if issued, shall reflect the standards for anti-money laundering programs issued under section 5318(h) of title 31, United States Code.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

SEC. 1030. ANTI-MONEY LAUNDERING TRAINING TEAM.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

(b) AUTHORIZATION.—There is authorized to be appropriated not more than $1,000,000 to carry out this section.

SEC. 1031. MONEY LAUNDERING REPORTING REQUIREMENTS.

(a) OBJECTIVE.—The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions. The President shall report annually to Congress on bilateral and multilateral efforts to meet this objective. This report shall be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961.

(b) CONTENTS OF REPORT.—The report shall include—

(1) information on bilateral and multilateral initiatives pursued by the Department of State, the Department of Justice, and the Department of the Treasury, and other Government agencies, individually or collectively, to achieve the anti-money laundering objective of the United States;

(2) information on relevant bilateral agreements and on the actions of international organizations and groups;

(3) information on the countries which have ratified the United Nations Convention on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted by governments and organizations to implement the money laundering provisions of the United Nations Convention, the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and similar declarations;

(4) information on the extent to which each major drug producing and drug transit country, as specified in section 481 of the Foreign Assistance Act of 1961, and each additional country that has been determined by the Department of the Treasury, the Department of Justice, the Department of State, and the Office of National Drug Control Policy, in consultation, to be significant in the fight against money laundering—

(A) has adequate mechanisms to exchange financial records in narcotics money laundering and narcotics-related investigations and proceedings; and

(B) has adopted laws, regulations, and administrative measures considered necessary to prevent and detect narcotics-related money laundering, including whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including large currency transactions;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets; and

(vi) addressed the problem of international transportation of illegal-source currency and monetary instruments;

(5) details of significant instances of noncooperation with the United States in narcotics-related money laundering and other narcotics-related cases; and

(6) a summary of initiatives taken by the United States or any international organization, including the imposition of sanctions, with respect to any country based on that country's actions with respect to narcotics-related money laundering matters.

(c) SPECIFICITY OF REPORT.—The report should be in sufficient detail to assure the Congress that concerned agencies—

(1) are pursuing a common strategy with respect to achieving international cooperation against money laundering which includes a summary of United States objectives on a country-by-country basis; and

(2) have agreed upon approaches and responsibilities for implementation of the strategy, not limited to the conduct of negotiations to achieve treaties and agreements.

Subtitle C—Money Laundering Improvements

SEC. 1041. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. 1042. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture.".

(b) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 1043. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding at the end the following:

"985. Administrative subpoenas.".

SEC. 1044. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 1045. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 1046. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:

"(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 1047. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 1048. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 1049. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 1050. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 1051. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 1052. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) Transportation.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) Technical Correction.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 1053. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. 1054. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c),".

SEC. 1055. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) In General.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) Retroactive Application.—All amendments to the civil forfeiture statute, section 981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 1056. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1057. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 1058. AMENDMENTS TO THE BANK SECRECY ACT.

(a) Title 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) Federal Deposit Insurance Act.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) Recordkeeping.—Public Law 91–508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

Subtitle D—Reports and Miscellaneous

SEC. 1061. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) Study Required.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act (12 U.S.C. 3415). The study shall also include analysis of the effect of allowing nondepository licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) Report.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1062. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) Reports to Appropriate Federal Banking Agencies.—

(1) In general.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) Exceptions.—

(A) Intelligence information.—

(i) In general.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

"(ii) Procedures for receipt of intelligence information.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence in formation.

(B) Criminal investigations, safety of government investigator, informants, and witnesses.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, informants, or witnesses, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators, informants, or witnesses; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) Grand jury investigations; criminal procedure.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) Procedures for Receipt of Reports.—

(1) In general.—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) Procedures related to each report.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) Definitions.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

SEC. 1063. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1064. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(t) Agencies May Share Information Without Waiving Privilege.—

"(1) In general.—A covered agency does not waive any privilege applicable to any information by transferring that information to or permitting that information to be used by—

"(A) any other covered agency, in any capacity; or

"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

"(2) Definitions.—For purposes of this subsection:

"(A) Covered agency.—The term 'covered agency' means any of the following:

"(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.".

SEC. 1065. ADDITIONAL DEFINITIONS.

(a) CERCLA AMENDMENTS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding the following new paragraphs at the end thereof:

"(39) The term 'municipal solid waste' means all waste materials generated by households, including single and multiple residences, hotels and motels, and office buildings. The term also includes trash generated by commercial, institutional, and industrial sources when the physical and chemical state, composition, and toxicity of such materials are essentially the same as waste normally generated by households, or when such waste materials, regardless of when generated, would be considered conditionally exempt generator waste under section 3001(d) of the Solid Waste Disposal Act because it was generated in a total quantity of 100 kilograms or less during a calendar month. The term 'municipal solid waste' includes all constituent components of municipal solid waste, including constituent components that may be deemed hazardous substances under this Act when they exist apart from municipal solid waste. Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, and household hazardous waste (such as painting, cleaning, gardening, and automotive supplies). The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(40) The term 'sewage sludge' refers to any solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste waters at or by a publicly-owned treatment works, subject to the limitations of section 113(m) of this Act.

"(41) The term 'municipality' means any political subdivision of a State and may include cities, counties, towns, townships, boroughs, parishes, school districts, sanitation districts, water districts, and other local governmental entities. The term also includes any natural person acting in his or her official capacity as an official, employee, or agent of a municipality.".

(b) CONTRIBUTION ACTIONS; RIGHT-OF-WAY.—Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(m) CONTRIBUTION ACTIONS FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No municipality or other person shall be liable to any person other than the United States for claims of contribution under this section or for other response costs or damages under this Act for acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(n) PUBLIC RIGHT-OF-WAY.—In no event shall a municipality incur liability under this Act for the acts of owning or maintaining a public right-of-way over which hazardous substances are transported, or of granting a business license to a private party for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. For the purposes of this subsection, 'public right-of-way' includes, but is not limited to, roads, streets, flood control channels, or other public transportation routes, and pipelines used as a conduit for sewage or other liquid or semiliquid discharges.".

(c) SETTLEMENTS; FUTURE DISPOSAL PRACTICES.—Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(n) SETTLEMENTS FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE OR SEWAGE SLUDGE.—

"(1) ELIGIBLE PERSONS.—This subsection applies to any person against whom an administrative or judicial action is brought, or to whom notice is given of potential liability under this Act, for acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(2) OFFER OF SETTLEMENTS; MORATORIUM.—Eligible persons under this subsection may offer to settle their potential liability with the President by stating in writing their ability and willingness to settle their potential liability in accordance with this subsection. Upon receipt of such offer to settle, neither the President nor any other party shall take further administrative or judicial action against the eligible person for relevant acts or omissions addressed in the settlement offer.

"(3) TIMING.—Eligible persons may tender offers under this subsection within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action, or within 180 days after a record of decision is issued for the portion of the response action that is the subject of the person's settlement offer, whichever is later. If the President notifies an eligible person that he or she may be a potentially responsible party, no further administrative or judicial action may be taken by any party for 120 days against such person.

"(4) EXPEDITED FINAL SETTLEMENT.—The President shall make every effort to reach final settlements as promptly as possible under this subsection and such settlements shall—

"(A) allocate to all acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge that may create liability under this Act a total of no more than 4 percent of the total response costs: *Provided, however*, That the President shall reduce this percentage when the presence of municipal solid waste or sewage sludge is not significant at the facility;

"(B) require an eligible person under this subsection to pay only for his or her equitable share of the maximum 4 percent portion of response costs described in subparagraph (A);

"(C) limit an eligible person's payments based on such person's inability to pay;

"(D) permit an eligible person to provide services in lieu of money and to be credited at market rates for such services;

"(E) consider the degree to which a publicly owned treatment works has promoted the beneficial reuse of sewage sludge through land application when the basis of liability arises from acts or omissions related to sewage sludge taken 36 months after the date of enactment of this Act or thereafter; and

"(F) be reached even in the event that an eligible person may be liable under sections 107(a)(1) or 107(a)(2) of this Act or for acts or omissions related to substances other than municipal solid waste or sewage sludge.

"(5) COVENANT NOT TO SUE.—The President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under this subsection unless such a covenant would be inconsistent with the public interest as determined under subsection (f) of this section.

"(6) EFFECT OF AGREEMENT.—A person that has resolved his or her liability to the United States under this subsection shall not be liable for claims of contribution or for other response costs or damages under this Act regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

"(7) DE MINIMIS SETTLEMENTS.—Nothing in this subsection shall alter or diminish a person's right or ability to reach a settlement with the President under subsection (g) of this section.

"(o) FUTURE DISPOSAL PRACTICES.—Eligible persons may assert the provisions of section 122(n) regarding acts or omissions taken 36 months after the date of enactment of this Act or thereafter only under the following circumstances:

"(1) if the acts or omissions relate to municipal solid waste and the eligible person is a municipality, a qualified household hazardous waste collection program must have been operating while the relevant acts or omissions took place; or

"(2) if the acts or omissions relate to sewage sludge and the eligible person is an operator of a publicly owned treatment works, a qualified publicly owned treatment works must have been operating while the relevant acts or omissions took place.

"(3) The term 'qualified household hazardous waste collection program' means a program that includes—

"(A) at least semiannual, well-publicized collections at conveniently located collection points with an intended goal of participation by ten percent of community households;

"(B) a public education program that identifies both hazardous household products and safer substitutes (source reduction);

"(C) efforts to collect hazardous waste from conditionally exempt generators under section 3001(d) of the Solid Waste Disposal Act (because they generated a total quantity of 100 kilograms or less during a calendar month), with an intended goal of collecting wastes from twenty percent of such generators doing business within the jurisdiction of the municipality; and

"(D) a comprehensive plan, which may include regional compacts or joint ventures, that outlines how the program will be accomplished.

"(4) A person that operates a 'qualified household hazardous waste collection program' and collects hazardous waste from conditionally exempt generators under section 3001(d) of the Solid Waste Disposal Act must dispose of such waste at a hazardous waste treatment, storage or disposal facility with a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925), but such person is otherwise deemed to be handling only household waste under the Solid Waste Disposal Act when it operates a qualified household hazardous waste collection program.

"(5) Nothing in this Act shall prohibit a municipality from charging fees to persons whose waste is accepted during household hazardous waste collections, or shall prohibit a municipality from refusing to accept waste that the municipality believes is being disposed of in violation of the Solid Waste Disposal Act.

"(6) The term 'qualified publicly owned treatment works' means a publicly owned treatment works that complies with section 405 of the Federal Water Pollution Control Act (33 U.S.C. 1345).

"(7) The President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under this subsection. Minor instances of noncompliance that are not environmentally significant do not render a household hazardous waste collection program or publicly owned treatment works unqualified under this subsection.

"(8) If the President determines that a household hazardous waste collection program is not qualified, the limitations imposed by this subsection on the assertion of the provisions of section 122(n) shall apply, but only with regard to the municipal solid waste disposed of during the period of disqualification.

"(9) If a municipality is notified by the President or by a State with a program approved under section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)) that its publicly owned treatment works is not in compliance with the requirements of paragraph (6) of this subsection, and if such noncompliance is not remedied within twelve months, the limitations imposed by this subsection on the assertion of the provisions of section 122(n) shall apply, but only with regard to the sewage sludge generated or disposed of during the period of noncompliance.".

(d) AMOUNT OF HAZARDOUS WASTE.—Section 122(g)(1)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the following sentence at the end thereof: "The amount of hazardous substances in municipal solid waste and sewage sludge shall refer to the quantity of hazardous substances which are constituents within municipal solid waste and sewage sludge, not the overall quantity of municipal solid waste and sewage sludge.".

(e) CONSTRUCTION.—Nothing in this section shall modify the meaning or interpretation of the Solid Waste Disposal Act.

(f) APPLICABILITY.—The amendments to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 made by this section shall apply to each municipality and other person against whom administrative or judicial action has been commenced before the effective date of this Act, unless a final court judgment has been rendered against such municipality or other person or final court approval of a settlement agreement including such municipality or other person as a party has been granted. If a final court judgment has been rendered or court-approved settlement agreement has been reached that does not resolve all contested issues, such amendments shall apply to all contested issues not expressly resolved by such court judgment or settlement agreement.

Subtitle E—Counterfeit Deterrence Act of 1992

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

SEC. 1072. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 1073. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 or imprisoned not more than 20 years, or both.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 1074. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1), by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums).";

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

DOLE AMENDMENT NO. 2438

Mr. DOLE proposed an amendment to the bill S. 2733, supra, as follows:

At the appropriate place, add the following:

It is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight, tonight, since the economic ramifications of such a strike are devastating to the country, and congressional action could prevent that economic damage.

CHAFEE (AND OTHERS) AMENDMENT NO. 2439

Mr. CHAFEE (for himself, Mr. DOMENICI, and Mr. DURENBERGER) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

Beginning on page 262, line 14, strike all through page 273, line 20.

DODD (AND BOND) AMENDMENT NO. 2440

Mr. DODD (for himself and Mr. BOND) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place, insert the following new title:

TITLE ____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. ____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. ____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC. ____03. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests on S. 2101, to designate the Lower Salmon as wild and scenic and S. 2572, the Arkansas-Idaho Land Exchange Act.

The hearing will take place Tuesday, July 14, 1992, beginning at 9 a.m. and concluding at approximately 4:30 p.m. Testimony will be received on S. 2101 (Lower Salmon) from approximately 9 a.m. to 11:30 a.m., and on S. 2572 (Arkansas-Idaho Land Exchange) from 1:30 p.m. to 4:30 p.m. The hearing will be held at the Lewis and Clark State College Administration Building Auditorium, 8th and 6th Avenues, Lewiston, ID.

Individuals who would like to make a brief oral statement of no more than 3 minutes in support of, or in opposition to, these measures, should contact Cindi Mader in Senator CRAIG's Lewiston office at (208) 743-0792 or Sandy Patano in Senator CRAIG's Coeur d'Alene office at (208) 667-6130, no later than 5 p.m. on July 3, 1992.

Although the subcommittee will attempt to accommodate as many individuals desiring to speak as time permits, it may not be possible to hear from all those wishing to testify.

Written statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material to be submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, room 304 of the Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica Rosenberg of the subcommittee staff at (202) 224-7933; Cindi Mader in Senator CRAIG's Lewiston office at (208) 743-0792; or Sandy Patano in Senator CRAIG's Coeur d' Alene office at (208) 667-6130.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, July 22, 1992, in SR-301, to hold a hearing on S. 2748, to authorize the Library of Congress to provide certain information products and services, and for other purposes.

Individuals and organizations wishing to submit a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff at (202) 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., June 23, 1992, to receive testimony on S. 225, to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, VA; S. 1925, to remove a restriction from a parcel of land owned by the city of North Charleston, SC, in order to permit a land exchange, and for other purposes; S. 2563, to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes; S. 2006, to establish the Fox River National Heritage Corridor in Wisconsin, and for other purposes; H.R. 2181, to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio; H.R. 2444, to revise the boundaries of the George Washington Birthplace National Monument; and H.R. 3519, to authorize the establishment of the Steamtown National Historic Site.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on June 23, 1992, at 9:30 a.m. on authorization of the National Telecommunications and Information Administration [NTIA].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES AND BUSINESS RIGHTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies and Business Rights of the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 23, 1992, at 9:30 a.m. to hold a hearing on consumer disclosure.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MEDICARE AND LONG-TERM CARE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on June 23, 1992, at 2:30 p.m. to hold a hearing on standards for private long-term care insurance policies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, June 23, 1992, at 10 a.m., for a hearing on the Legal Services Reauthorization Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 23, at 2:30 p.m. to hold a nomination hearing on William Clark to be Assistant Secretary of State for East Asian and Pacific Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 23, at 10 a.m. to hold a hearing on Treaty Doc. 102-20, treaty between the United States and the U.S.S.R. on the reduction and limitation of strategic offensive arms—the START Treaty—and protocol thereto dated May 23, 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Tuesday, June 23, 1992, at 10 a.m. to conduct a hearing on problems facing urban America: the availability of capital to inner-city and minority communities.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO PRIYA L. NATARAJAN

• Mr. ROCKEFELLER. Mr. President, I rise today with great pride and pleasure to commend a young West Virginian, Priya L. Natarajan, who, through academic excellence, has been honored as a Presidential scholar.

Priya has proven herself to be an outstanding student who has been successful in her academics, as well as her extracurricular activities. Priya exemplified what a Presidential scholar should be. Academically, she excelled, being a member of both the French Honor Society and National Honor Society. But it is her ability to become successfully involved that sets her apart from her fellow classmates. Her participation in S.A.D.D., her involvement as a community tutor, and her volunteer library work, help make her an inspiration to those around her.

By working hard, Priya has earned an award for which only a select few have been chosen. I strongly encourage our youth to strive for academic excellence, and it is a pleasure to see this student achieve her goal.

I am sure that my colleagues and fellow West Virginians join me in congratulating Priya on a job well done. It is always encouraging to see students work so hard and be rewarded for their accomplishments and I wholeheartedly support the program. We are proud to count her as one of West Virginia's own.•

RACE FOR THE CURE

• Mr. McCONNELL. Mr. President, last Saturday morning, Constitution and Pennsylvania Avenues were crowded with runners and walkers participating in the 1992 National Race for the Cure—Washington's race to end breast cancer.

According to the American Cancer Society, breast cancer will take the lives of over 46,000 women and 300 men this year. An estimated 180,000 women will develop breast cancer in 1992, and in my State alone, 2,400 Kentuckians will be diagnosed with this disease.

While these figures are alarming, the promising news is the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940's to 92 percent today. If the cancer is not invasive, the survival rate is close to 100 percent. Mr. President, it is clear to me we must continue to work hard to increase the survival rate for those whose cancer has spread regionally—a figure that now stands at 71 percent.

While I wish to express my admiration and gratitude to all who participated in this event, let me single out the runners and walkers who are survivors of breast cancer. It is their courage and determination—combined with the memory of those who have fallen victim to this disease—that drives the race for the cure.

I also want to recognize all the sponsors and volunteers who made this event possible, and in particular, the honorary national co-chairmen of the race, Vice President and Mrs. DAN QUAYLE, and the honorary Washington, DC, community chairperson, Mayor Sharon Pratt Kelly.•

THE FINANCIAL AID PACKAGE FOR THE FORMER SOVIET UNION

• Mr. KERREY. Mr. President, last week we heard a great deal from President Bush and other administration officials about the failure of Congress to move expeditiously to approve the financial aid package for the former Soviet Union. As the President put it, he will do "whatever it takes" to persuade Congress "to stand up and make a tough vote here."

Before we take up the aid legislation this week, Mr. President, I thought it might be helpful to clarify the record on this issue.

Back on May 6 of this year, Ambassador Richard Armitage, Deputy to the Coordinator for U.S. Government Assistance to the New Independent States, appeared before a joint hearing of the Appropriations and Agriculture Committees. The purpose of the hearing was to review the aid package for the New Independent States that the President had announced a couple of weeks earlier.

In his statement before the Committees, Ambassador Armitage said the following:

> I will be very frank with you. There are many things contained in the Freedom Support Act which we could (and if necessary, will) accomplish without the formal authorization that would be conveyed by its passage. But to proceed very far into this process without your explicit, conscious and willing collaboration would rob us of the single greatest accomplishment we could attain: the creation of a national strategic consensus that will transcend the vicissitudes of partisan political fortunes.

The Ambassador's comments were not some personal observation made during an informal moment. In fact, this frank admission was included in his prepared remarks and thus, I assume, represented administration policy.

As the Committee on Foreign Relations said in its recent report accompanying the NIS aid bill:

> In submitting this legislation, the administration argued that it sought to establish a

framework for organizing United States efforts to assist the countries of the former Soviet Union. The bill does not contain new initiatives; rather, it repackages previous congressional and administration proposals into a single piece of legislation. It does, however, represent a joint executive-legislative commitment to work together in support of political and economic reform in the former Soviet Union.

Although I count myself as a supporter of the aid effort, I thought that Ambassador Armitage's admission last month revealed not so much an appeal for bipartisanship, but a simple desire to get Congress on the hook for a foreign aid effort that clearly does not enjoy deep support among the American public. The President's unnecessary finger-pointing last week only confirmed my suspicions.

What really happened last week was the President found himself with a very important guest in town and little economic aid to offer him because the President himself was paralyzed by current polls. Even though his own State Department admits that he has the authority to act on most of his sweeping pledge of aid, the President was reluctant to make the move by himself. Instead, the President was content to point to Congress and to cite us for not endorsing the effort. We do not need to approve the aid, but the President wants us to endorse it.

Mr. President, there is a difference between a leader and a pleader, and that difference has distinguished every great President that this Nation has known.●

NATIONAL GROCERS ASSOCIATION "GROCERS CARE AWARDS"

● Mr. NICKLES. Mr. President, I wish to bring to the attention of the Senate the community contribution of the American independent retail grocers and their wholesalers.

In past years, through passage of the National Grocers Week, the House and Senate recognized the important role these businesses play in our economy. The week of June 21–27, 1992, commemorates the 7th year that National Grocers Week has been observed by the industry to encourage grocers involvement in private sector initiatives and to recognize their community contributions.

This week, National Grocers Association, heads of philanthropic, and consumer groups will honor outstanding independent retail and wholesale grocers, their State association executives, and food industry manufacturers for their community service with the NGA Grocers Care Awards.

This annual celebration highlights the important role small business plays according to Thomas K. Zaucha, president and CEO of the National Grocers Association [NGA].

Active leadership with community service projects reflect the commitment the food industry members—retail and wholesale grocers and manufacturers—have to the communities they serve. Every day, in thousands of communities across the country, grocers make the difference by supporting civic endeavors, environmental projects, and charities. This year's grocers are being recognized for their involvement in health-related charities and nutritional programs; for commitments to recycling and the environment; and for the industry's civic and patriotic endeavors.

GROCERS CARE AWARD HONOREES

The "Grocers Care" theme will prevail during the NGA Washington Conference activities beginning Sunday, June 21, in Washington, DC. Representatives from companies, organizations, and associations around the United States will be honored. These honorees include:

Alabama: Peter Gregerson, Sr., Gregerson's Foods, Gadsen;

Arizona: Sam Garcia, Garcia's Inc., Avondale; Thomas R. Shope, Shope's IGA, Collidge;

Arkansas: John Phillips, The Phillips Co., Bentonville; Lynn Galyen, Hart's Family Center, Eureka Springs; Jerry Davis, Affiliated Foods Stores, Little Rock;

California: John Denney, Denney's Market, Bakersfield; Mark Kidd, Mar-Val Food Stores, Lodi; Everett Dingwell, Certified Grocers of California; Los Angeles; Jim and Gail Gerrard, Gerrard's Redlands; Alan Fine, Fine's Market, Los Angeles; Bob Inadomi, Jonsons Markets, Los Angeles;

Colorado: Eugene Andersen, Andersen's Star Market, Hudson; Harold Kelloff, Kelloff's Food Markets, Alamosa; Don Stroberg, Don's Super Foods, Eaton;

Connecticut: Ray Pena, C-Town Supermarket, Hartford;

Florida: Robert Hitchcock, Hitchcock's Foodway, Alachua; Donald Kolvenbach, Affiliated of Florida, Tampa; Lorena Jaeb, Pick Kwik Food Stores, Mango; Michael Cianciarulo, Gooding's Supermarkets, Altamonte Springs;

Georgia: Syrol McClain, Piggly Wiggly, Bowden; Gene Taylor, Rockdale Grocery Company, Conyers; Joel Williams, Savannah Foods Industries, Savannah;

Idaho: Bill Long, Waremart Inc., Boise;

Illinois: John Sullivan, Sullivan Foods, Savanna; Nick Andrew, Streator Foods, Joliet; Tom Norrenberns, Tom's Supermarkets, Mascoutah; Robert Bridwell, Bridwell's Supermarket, Paris;

Indiana: Jerry Bardeson, Key Markets, Hammond; Gil Pontius, Lakeshore Foods, Michigan City; Larry Contos, Pay Less Super Markets, Anderson; Howard Holowaty, Midland Grocery, Westville; William G. Reitz, Scott's Food Store, Fort Wayne;

Iowa: Robert Hand, Dahl's Foods, Des Moines; Duane Godfrey, Roy & Scotty's Super Valu, Council Bluffs; James Scheer, Jim & Dean's Town & Country, Council Bluffs; Doug Fallgatter, Fallgatter's Market, Northwood; James Borders, Jim's Food Mart, Tabor; Robert Cramer, Fareway Stores, Inc., Boone; Jerry Fleagle, Fleagle Foods, Waterloo; Mary Rooney, Payless Foods, Dyersville; Scott Havens, Plaza Food Center, Norwalk; Gene Foltz, Super Valu Stores, Inc., Des Moines; Steve Foster, Foster's Food Center, Mt. Pleasant;

Kansas: Fred Ball, Ball's Super Market, Kansas City; John Meggs, Price Chopper Ad Group, Kansas City; Douglas Carolan, Associated Wholesale Grocers, Kansas City; Darrell Roche, Roche's Price Chopper, Shawnee;

Kentucky: William Gore, Gore's Foodland, Paducah; Bill Remke, Remke's Market, Fort Mitchell; Bruce Chesnut, Laurel Grocery Co., East Bernstadt; Ron Swogger, Paramount Foods, Louisville; Rodney Smith, Rodney's IGA, Benton; Kenneth Techau, Techau's Inc., Cynthiana;

Louisiana: Donald Rouse, Jr., House Supermarkets, Thibodeaux; M. Paul LeBlanc, Pay-Less Supermarket, Gonzales; Hillar Moore, Associated Grocers, Baton Rouge; Barry Breaux, Breaux Mart, Metairie;

Maine: Frank Frisbee, Frisbee's Super Market, Kittery Point; Richard Goodwin, Dick's Market, Clinton;

Maryland: Thomas Smith, Tom's Super Thrift, Cardiff;

Michigan: Robert DeYoung, Sr., Fulton Heights Foods, Grand Rapids; Mary Dechow, Spartan Stores, Grand Rapids; Rich Kruithoff, Family Fare Supermarkets, Holland; Daniel Daane, Daane's Food Markets, Grand Rapids; Joe Rahilly, Rahilly's IGA, Newberry;

Minnesota: John Kuehnow, John's Foods, Duluth; William Farmer, Fairway Foods, Minneapolis; Stephen Barlow, Sr., Barlow Foods, Rochester; Dan Coborn, Coborn's, St. Cloud; Gordon Anderson, Gordy's, Plymouth; Eric Jackson, Jackson's Super Valu, Madison; Cheryl Wall, Soderquist's Newmarket, Soderville; Robin Thomas, Supervalu Stores, Minneapolis; Joe Francis, North American Foods, Rockford;

Missouri: Bob Bowes, Bowes Price Chopper, Benton; Donald Woods, Jr., Woods Super Market, Bolivar; Glen Woody, Glens Supermakret, Forsyth; Dante and Jerry Cosentino, Cosentino's Price Chopper, Kansas City; John McKeever, McKeever's Price Chopper, Indpendence; Ray and Doug Gerard, Hart's Super Market, Branson; Jim Maze, Mountain Country Food Store, Lakeview; Don and Bertha Woods, Woods' Market, Buffalo; Robert Clay, Price Chopper Foods, West Plains; Bob Hufford, Town & Country Supermarket, Fredericktown; Charles Graas, Dillon Food Stores, Springfield;

Montana: Frank Cannon, P.J.'s County Market, Helena; Scott Rickhoff, Ryans Wholesale Food Distributors, Billings;

Nebraska: Richard Juro, No Frills Supermarkets, Omaha; Terry Olsen, United A.G. Cooperative, Omaha; John Hanson, Sixth Street Food Stores, North Platte;

New Hampshire: Herve Samson, Sam's Supermarket, Whitefield; Charles Butson, Butson's Supermarkets, Woodville;

New Jersey: William Noto, Wakefern Food Corp., Elizabeth; Joel and Michael Perlmutter, Perlmart, Toms River; George Zallie, Zallie Enterprises, Clemonton; William Sumas, Village Supermarkets, Springfield;

New Mexico: Joseph DiGregorio, California Super Market, Gallup; James Downey, Kaune Foodtown, Santa Fe;

New York: Jerome Pawlak, Bell's Food Center, Albion; Jim Robinson, Olean Wholesale Grocery, Olean;

North Carolina: Dean Hartgrove, D & S Foods, Boonville; Don Andrews Sr., Food Folks, Lumberton;

North Dakota: Dave and Phyllis Jollie, Jollie's Fairway, Belcourt;

Ohio: Walter Churchill, Sr., Churchill's Super Markets, Sylvania; Ronald Graff, Columbiana Foods, Boardman; Thomas Conroy, Jr., Conroy's IGA, Youngstown; James Stoll, Bag-n-Save Foods, Dover; Harold Massie, Jr., Massie's Super Market, Portsmouth; Ben McCormick, Leetonia Golden Dawn Supermarket, Leetonia;

Oklahoma: Tom Goodner, Goodner's Supermarket, Duncan; Keith Beachler, Beachler's IGA, Del City; Brenda Graham, Bill's Discount Foods, Tulsa; John Redwine II, John's IGA, Spiro; Gary Nichols, Nichols SuperThrift, Checotah; J.B. Pratt, Pratt Foods, Shawnee;

Oregon: Alan Jones, United Grocers, Portland;

Pennsylvania: Bill Camp, Rochester Giant Eagle, Rochester; Jay Miller, Jay's Markets, York; Paul Hoover, Jr., Kennie's Markets, Gettysburg; Christy Spoa, Sr., Christy's Markets, Ellwood City;

South Dakota: James Spies, Spies Supermarkets, Watertown;

Tennessee: Tom Pinson, Creekmore's Food Stores, Nashville; H. Dean Dicky, Giant Foods, Columbia; Edward McMillan, Food City Supermarkets, Knoxville; Wallace Boyd, Oakwood Markets, Kingsport;

Texas: Kenneth Bird, Birds Supermarket, McKinney; Hobart Joe, Continental Finer Foods, Houston; Norman Pentacost, Pen Foods, San Antonio; Ron Wilfong, B&R Thriftway, Tulia; Glen Holt, Thriftway Super Market, Fritch; Don Allison, Town & Country Food Stores, San Angelo; Daniel Baenzinger, Baenzinger Super Market, Seguin; Jere Lawrence, Lawrence Brothers, Sweetwater;

Utah: G. Steven Allen, Allen's Super Save Markets, Orem; Kenneth Macey, Macey's Salt Lake City;

Vermont: Richard Tomlinson, Tomlinson's Market, Morrisville;

Virginia: Gene Bayne, Gene's Super Market, Richmond; Daniel Maenza, Wade's Super Markets, Christiansburg; James Ukrop, Ukrop's, Richmond; Donald Bennett, Richfood Inc., Richmond;

Washington: Morrie Olson, Olson's Food Stores, Lynnwood; Craig Cole, Brown & Cole, Ferndale; Steve Herbison, URM Stores, Spokane; Donald Benson, Associated Grocers, Seattle; Ken Storman, Stormans, Olympia; Larry McKinney, Larry's Markets, Seattle; Dick Rhodes, Queen Anne Thriftway, Seattle; Rob Fuller, Fuller's Markets, Chehalis;

West Virginia: David Milne, Morgan's Clover Farm Market, Kingwood; William Witschey, Witschey's Market, New Martinsville; Gerald Goodson, Goodson's Super Markets, Welch;

Wisconsin: Bob Prokash, Bob's Castle Foods, Wisconsin Rapids; Fred Lange, Lange's Sentry Foods, Madison; Layton Olsen, Olsen's Piggly Wiggly, Cedarburg; William Confer, Roundy's, Inc., Milwaukee; Richard Lambrecht, Mega Foods, Eau Claire; Gail Omernick, The Copps Corp., Stevens Point; Jeffrey Lasczewski, Sentry Markets, Lake Geneva; William Brodbeck, Brodbeck Enterprises, Platteville; Tom Fox, Schultz Sav-O-Stores, Sheboygan;

Wyoming: Richard Roy Williams, Williams Inc., Glenrock; Gary Decker, Decker's Food Center, Gilette.

The following State associations are instrumental in coordinating information relative to the community service activities of their members:

Arkansas Grocer & Retail Merchants Association; California Grocers Association; Northern California Grocers Association; Retail Grocers Association of Florida; Georgia Food Industry Association; Illinois Food Retailers; Grocers Association of Iowa; Kentucky Grocers Association; Louisiana Grocers Association; Maine Grocers Association; Associated Food Dealers of Michigan; Michigan Grocers Association; Mid-America Grocers Association; Minnesota Grocers Association; Missouri Grocers Association; Montana Food Distributors Association; New Hampshire Retail Grocers Association; New Mexico Grocers Association; North Carolina Food Dealers Association; North Dakota Grocers Association; Youngstown Area Grocers Association; Ohio Grocers Association; Oklahoma Grocers Association; Pennsylvania Food Merchants Association; Rocky Mountain Food Dealers Association; Tennessee Grocers Association; Retail Grocers Association of Houston; Texas Grocers Association; Utah Retail Grocers Association; Vermont Grocers Association; Washington State Food Dealers Association; Wisconsin Grocers Association; West Virginia Association of Retail Grocers.

Manufacturers: McCormick & Co., Inc.; Kraft General Foods; Nabisco Brands; Reynolds Metals; Campbell Soup Co.; E.J. Brach Corp.; Gerber Products Co.; the Coca-Cola Co.; Georgia-Pacific Corp.; RJ Reynolds Tobacco Co.; General Mills; ConAgra Inc.; the Dial Corp.; Unilever USA; Ralston Purina Co.; Thomas J. Lipton, Inc.; Lever Brothers Co.; Quaker Oats Co.; Procter & Gamble Co.; Borden, Inc.; Sandoz Nutrition Corp.

Grocers Care Awards recognize the involvement of the total retail food industry, grocers, wholesalers and manufacturers in community programs. A sampling of exemplary contributions included:

A Healthy America: Participation in a single day sales support of "Grocers Fight Cancer," American Heart Association, American Diabetes Alert, Red Cross, and other national charitable organizations where a percentage of sales are donated;

Programs to shelter and feed the homeless and hungry;

Fitness programs support in placing activities as well as supplying healthy food;

Senior citizen assistance;

A Proud America: Support of patriotic national holidays in parades, picnic supplies, promotion;

Voter registration campaigns;

Sports tournaments in support of charitable organizations as well as local hospitals, fire, and police departments;

Boy and Girl Scouts, Little and Lassie Leagues, and other sports program sponsorships.

A Clean America: Environmental commitments from the manufacturing and packaging process, to recycling at the store level, to instituting local recycling centers;

Reading programs to fight illiteracy, local educational commitments through scholarships, percentage of sales, contributions, and computers for students programs and contributions of time, funds, and buildings in support of the arts.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Cheryl J. Reidy, a member of the staff of Senator DOMENICI, to participate in a program in Japan, sponsored by Association for Communication of Transcultural Study [ACT], from July 7–13, 1991.

The committee determined that participation by Ms. Reidy in this program, at the expense of ACT, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Patty Deutsche, a member of the staff of Senator BURNS, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from July 12–15, 1992.

The committee has determined that participation by Ms. Deutsche in this program, at the expense of the CCE, is in the interest of the Senate and the United States.●

COMMENDING RUBY HIRAISHI, 1992 HAWAII PRINCIPAL OF THE YEAR

● Mr. INOUYE. Mr. President, on May 28, 1992, I had the high honor and privilege of visiting Kapunahala Elementary School in Kaneohe on the island of Oahu. I say high honor because Kapunahala Elementary was designated a "Blue Ribbon School," as part of a U.S. Department of Education program. Its principal, Ms. Ruby Hiraishi, was recently named the 1992 Hawaii Principal of the Year.

Mr. President, this is indeed a very special and outstanding school, and I wanted to meet the students and faculty behind these great honors to learn for myself the secret of their success. I was privileged to participate in Kapunahala's Stars of the Month student assembly to recognize the exemplary students who best exhibited the four R's—respect, responsibility, resourcefulness, and relationships. In addition to reading, writing, and arithmetic, these critically important and basic values are stressed and praised in the school. As I sat in the school cafeteria and looked out at the sea of eager and inquisitive faces, I knew immediately the secret of their success. It was each and every student and each and every teacher—it was their commitment to excellence and their drive to succeed, not only as individuals, but collectively as a team.

It still brings a smile when I recall my morning spent at Kapunahala Elementary. With all the national and global problems we must address in the U.S. Senate, I believe it is imperative that we each return home, and return our focus to what is truly important and a real priority—our children. In their hands, they hold the future of our great land. Who knows—as I addressed the Kapunahala students, I could very well have been speaking to a future U.S. Senator from the great State of Hawaii.

Mr. President, I left Kapunahala Elementary School invigorated and rejuvenated. I left with a very special gift, the gift of hope and great promise for a bright future. I urge my colleagues to try it—it is good for the soul. To the students of Kapunahala, I commend you and thank you. Keep up the good work.●

TUNISIAN HUMAN RIGHTS GROUP FOLDS

● Mr. SIMON. Mr. President, last week the Tunisian League for the Defense of Human Rights regrettably disbanded. As the oldest human rights watchdog group of the Arab world, the league provided an invaluable service by supplying candid scrutiny of the Tunisian Government. Through a legislative technique, the majority party forced the Tunisian League for the Defense of Human Rights to choose between allowing hostile opponents to join its organization, or abandon its cause. The league chose the latter.

This event is particularly disturbing in light of the recent Amnesty International report citing numerous cases of torture allegedly committed by Tunisian authorities. Although Tunisia has shown a willingness to discuss these tough issues, the latest action sheds new light on Tunisia's sincerity in addressing human rights issues.

Unfortunately, political events in North Africa are not given enough attention in the United States. But as citizens of the world, we ought to support those who work to preserve basic human rights. Since the Bush administration has requested over $27 million in military, agricultural, and economic aid for Tunisia in fiscal year 1993, my colleagues need to be aware of Tunisia's human rights record.

In order to raise awareness of this issue, I ask that an article from the Washington Post concerning last week's events in Tunisia be inserted in the CONGRESSIONAL RECORD at this point.

The article follows:

TUNISIAN HUMAN RIGHTS LEAGUE FOLDS; NEW LAW PUTS FINISH TO ARAB WORLD'S OLDEST WATCHDOG GROUP

(By Caryle Murphy)

CAIRO, June 15, 1992.—Tunisia's human rights league, the oldest and one of the most influential watchdog groups in the Arab world, shut down today rather than comply with a new law that right activists say aims to bring the organization under government control.

Formed 15 years ago, the Tunisian League for the Defense of Human Rights was in the vanguard of an Arab human rights movement that has only recently begun to grow and was among the first to launch a national campaign to halt torture of suspects by security forces.

In recent years, the league's public criticism of human rights violations in Tunisia, including the detention of thousands of Muslim activists, has put it at odds with the government, which is seeking to suppress the country's robust Islamic fundamentalist movement.

"It's a big loss for Tunisia. The league was very influential," said Mohammed Fayek, secretary general of the Arab Organization for Human Rights.

The new law bans those holding office in political parties from belonging to private organizations. More significantly, it requires nongovernment organizations to accept anyone who applies for membership. Opponents of the law say this could allow members of Tunisia's ruling Constitutional Democratic Party, which has a monopoly on political power, to flood the league's rolls and influence in work.

"We are afraid that this law would be implemented against the league," Fayek said. To say "anybody has the right to be a member in the league means you can push any party [into its membership] and spoil everything."

Tunisian officials have said the law is intended to prevent political parties from taking over nongovernmental associations. They have complained that the league was refusing members of the ruling party, a source said. The government-run daily La Presse said today that the league has "deliberately outlawed itself" by not accepting the new law.●

OLYMPIC COACHES FROM NEW JERSEY

● Mr. LAUTENBERG. Mr. President, I rise today to recognize the contributions of two New Jerseyeans to the 1992 summer Olympic games. Theresa Shank Grentz of Rutgers State University and P.J. Carlesimo of Seton Hall University will be serving, respectively, as head coach for the women's basketball team and as assistant coach for the men's basketball team this summer in Barcelona.

Currently serving as the head coach of the Lady Knights, Ms. Grentz brings an outstanding background to the Olympics. During her collegiate years, she played at Immaculata College and in 1974 was named AMF "Player of the Year." A three-time All-American, Ms. Grentz participated in the World University games in Moscow and the U.S.A. national championship Immaculata team in Australia. She is the all time winningest basketball coach at Rutgers and has lead her teams to seven consecutive NCAA postseason tournament appearances. Ms. Grentz has also distinguished herself and her program by maintaining a 100-percent graduation rate for team members who play for 4 years. I extend my very best wishes to Ms. Grentz and wish her the best of luck as this year's head coach of the 1992 U.S.A. women's Olympic basketball team.

As head coach of the Seton Hall Pirates, P.J. Carlesimo brings a well-earned national reputation to his position as assistant coach for the men's Olympic basketball team. In the past 6 years, the Pirates have compiled an outstanding 128–68 record and have gone on to postseason play five times during that time. Seton Hall has become a force in the Big East Conference and has made strong appearances in the NCAA tournament including a championship game appearance in 1989. Mr. Carlesimo has twice received the "Coach of the Year" award from the Big East Conference and the metropolitan basketball writers have given him the same award three times. I congratulate Mr. Carlesimo and wish him much success in Barcelona.

Mr. President, it is an honor to have two New Jerseyeans with such distinguished coaching accomplishments lead the United States to the Olympics. Ms. Grentz and Mr. Carlesimo have dedicated themselves to coaching our Nation's brightest talent and I commend them for accepting this challenge. As always, go U.S.A.•

PEORIA JOURNAL STAR SUMS UP OUR DUTY ON THE DEFICIT

• Mr. SIMON. Mr. President, many editorials have been written since the balanced budget constitutional amendment was narrowly defeated in the other body. However, none that I have seen has summed up the situation better than one that carries this headline: "Why Not Pretend [The] Amendment Passed?" That editorial was published by the Peoria Journal Star, a solid, public-spirited newspaper that maintains a strong and independent voice. I'm pleased to add that it also is one of many newspapers that, after watching the White House and the Congress and both political parties pile up enormous deficits, have endorsed the need for this amendment. I commend the editorial to the attention of my colleagues and ask that it be included at this point in the RECORD.

[From the Peoria Journal Star, June 13, 1992]

WHY NOT PRETEND AMENDMENT PASSED?

If the president of the United States, and nearly two-thirds of the House of Representatives, and probably a majority of the Senate (were a vote taken) support a balanced-budget amendment to the Constitution, then the answer to the deficit problem is at hand.

They can, all of them and cooperatively, balance the budget because they want to. Not all at once—the economy couldn't take it—but over a period of time. Five years or six. The time it would require to implement the balanced-budget amendment had Congress passed it.

If President Bush genuinely believes that balancing the federal budget is critical enough to warrant Constitutional change, then let him take back the budget he sent to Congress earlier that year and submit a new one. Let him close the gap by $40 billion, which is what a Congressional study says would be required in fiscal 1993 to finish the process by 1998.

If Democratic Congressional leaders genuinely believe that a balanced-budget amendment is sleight of hand designed to divert attention from the real task of deciding what programs to cut or what taxes to increase, then let them tackle the tough job. Let them cut $40 billion from the proposal President Bush has given Congress. Let them prove that they mean it when they say they have the will to make the budget balance—without a Constitutional mandate.

Let all of those people in Washington who have been speaking soberly about the threat to the nation and the bills to the grandkids cease the rhetoric and get down to serious work.

Let the American people, who say they want a balanced budget as long as their taxes aren't increased and their benefits aren't cut, understand that they ask the impossible.

Why not pretend the amendment is in place and act accordingly?•

TRIBUTE TO BURKESVILLE

• Mr. MCCONNELL. Mr. President, I rise today to recognize Burkesville, a small town in southern Kentucky.

Burkesville is a small hideaway located along the Cumberland River. It is an image of an earlier era. The town square is lined with small shops and benches for whittlers, just like it was 50 years ago. It still offers peace and quiet to residents and visitors alike.

The peaceful pace of a bedroom community suits most Burkesville residents. The town is equidistant from three major cities—Louisville, Lexington, and Nashville—so the residents can easily reach one of them if they feel the need to shop at a mall or take in a show.

Limited industry in Cumberland County has kept the land pretty and the skies clear. This is especially good for the area because a new State park is to be completed in 1994, and this should attract tourists who would like to get away from it all. People can come to Burkesville to escape the traffic and the fast pace of busier cities and just relax and fish in the Cumberland River or the nearby Dale Hollow Lake.

The people of Burkesville are happy in their community and proud of its simple lifestyle, but at the same time they are always striving to improve it. Recently, a rundown neighborhood was replaced with decent housing and a new city hall was built. Also, a local landmark was refurbished so that it may be enjoyed in the style of its heyday.

Mr. President, I submit the following article from the Louisville Courier-Journal for today's CONGRESSIONAL RECORD.

The article follows:

[From the Louisville Courier-Journal, June 22, 1992]

BURKESVILLE

(By Kirsten Haukebo)

More than most small towns in Kentucky, Burkesville seems a slowly fading snapshot of an earlier era.

Walk near the courthouse any afternoon and you'll see ankle-deep piles of wood shavings under benches recently vacated by whittlers. Some small shops on the square manage to hang on; others close, but none are replaced with sprawling, impersonal discount stores. No railroads or major highways have ever come near this town. And industry? There's little more than a couple of small garment factories.

That's not to say that Mayor Paul T. Smith, a no-nonsense retired Army major general, hasn't tried to lure new companies. He's been frustrated, likening his efforts to "trying to push a piece of spaghetti across a table—it just keeps getting stuck." Smith estimates that 400 people leave Cumberland County each morning to work in other counties. He says it will be his biggest disappointment as mayor if he's unable to create more jobs.

But many people in Burkesville are content with the comfortable pace of life, Smith said.

"I sense that most people here are very happy, and sometimes I say to myself, 'Why don't I just relax? Maybe we need a few little bedroom communities where people can just live, fish and go to Louisville on the weekends.'"

What worries Smith is the population trend in Burkesville and Cumberland County. When Smith graduated from high school here in 1940, there were twice as many people as there are today. In fact, more people lived in Cumberland County during the pioneer days. There are actually about 1,000 fewer people in the county today than in 1820.

Smith, who is in his 11th year as mayor, returned to Burkesville 15 years ago after a career in the Army. He has applied military-style discipline to his mayoral tasks. "One fellow said 'He tries to run this town like a general,' I take that as a compliment," Smith said.

For police officers, Smith insists on shined shoes and belts, crisply pressed uniforms and frequent haircuts. City employees are often sent to training seminars. Among prominent citizens, Smith stress "fairness and equal treatment" for all.

"There was a time people I grew up with wouldn't talk to me, but they finally got the message: no special favors," he said.

Under Smith's command, a rundown neighborhood was replaced with decent housing, a new city hall built, a municipal parking lot created and more grants obtained than ever before in the town's history.

Burkesville native and entrepreneur Mike Humphrey also has made improvement to the town, such as building a new riverfront motel and refurbishing a hilltop lodge and restaurant. The Alpine Lodge has been a landmark since it opened in 1952, but had fallen on hard times, Humphrey said. Only half of the rooms were rentable before he bought it in April.

The lodge is set to reopen in midsummer, which is good news to Burkesville attorney Lindsey Bell. "When people think of Burkesville when traveling around the state, they say, 'Oh yeah, I stayed at the Alpine,'" he said.

Burkesville has a quirkiness that can get lost in larger towns. There's a little shop that advertises "Strange Live Bait." (It's owned by a man named Chuck Strange, who says his shop was on "one of those funny home-video shows." He never saw the program.)

Newcomers quickly learn to watch what they say about a Smith or an Alexander or a Williams. Chances are the person they're talking to is related to one of the families.

Burkesville even has a town character who has drawn media attention for his antics. A.B. Cash, who often drapes his head in a replica of the American flag, was featured in a national tabloid when he received a singing Christmas card that wouldn't stop singing. "Amazing!" declared the National Examiner. "It must be supernatural," Cash was quoted as saying.

Cash later made headlines when he lost a lawsuit against a local church from which he tried to retrieve offerings he had put in the collection plate. Residents, including Cash himself, say one of his latest "hobbies" is to scatter dollar bills in parking lots.

The Cumberland River is only two blocks from Burkeville's square, a reminder of the days when steamboats churned the river. Burkesville was a well-used landing in the river's heyday from 1833 to 1929.

In those days the river was the only good method of transportation for people or goods. Randolph Smith, a cousin of the mayor and owner of the town's only pharmacy, said meat, lard, timber and cattle were commonly shipped out of Burkesville.

In the early part of the century a Coca-Cola bottling plant opened in Burkesville—and the Cokes were shipped out as well. Smith's father, also a pharmacist, sold Coke in his store but stubbornly referred to it—even to customers—as "dope" because of an early ingredient, cocaine.

Smith Pharmacy is the oldest continuously operating business in town. It was founded in 1814 as Alexander Drug and sold to the Smith family in 1906. When the business moved to a different location on the square, the Smiths were eager to take credit for the new building and erected a huge sign with the Smith name, which still stands.

Much of the county's income still comes from farming, mainly tobacco and beef cattle. Although Dale Hollow Lake lures some visitors for fishing and boating, Cumberland County doesn't have as much tourist income as many of its neighbors in Southern Kentucky.

That may change. The Kentucky Parks Department will begin construction this fall on a $7 million lodge at Dale Hollow Lake State Park. The lodge will have 36 rooms, a dining room and gift shop, said Bob Bender, deputy commissioner of the state parks department. The lodge should open in 1994. Right now, the park has only a campground and marina.

Dale Hollow is smaller, cleaner, quieter and—to many who moor boats there—prettier than Lake Cumberland just to the east.

The attraction is different, explains Lewis Williams, a former seven-term county clerk. "People come here to get away from it. It's highly possible you can get away from it here."

As tourists trickle in on the weekends, wealthier Burkesvillians stream out to cities for shopping and entertainment. The town is equidistant from Louisville, Nashville and Lexington.

Cumberland County has one of the most active 4-H groups in the state, with about 80-percent of children age 9 through 19 participating.

"In a rural community children are looking for something to do," said Becky Radford—"Miss Becky" to the kids she works with as county extension agent for 4-H/Youth Development.

The program stresses personal development over agricultural education, but the horse club is one of the most popular activities. In a horse show this year featuring children from a 10-county area near Lake Cumberland, 22 of the 35 entrants were from tiny Cumberland County, Radford said.

Radford's husband, Wesley, directs a popular Little League program. About 240 boys and girls play baseball and softball in the program, the only organized sports in the county outside of a school, said Wesley Radford.

The two activities are so popular, he said, because "we're a small town. We don't have a mall for cruising or some of the other things kids like to do in cities."

One lone episode in the county's history belies its current calm.

Coe Ridge was a remote community of freed slaves that withstood nearly a century of white efforts to destroy it. The colony began in 1866, when freed slaves took their master's family name and gave it to their new home, "a desolate spur amidst almost inaccessible ridges and sharply incised valleys," wrote University of Tennessee historian William Montell in his 1970 book, "The Saga of Coe Ridge."

Farming and logging generated income for the community, but most of its cash came from bootlegging and moonshining. Until the 1930's, authorities rarely ventured into the community because of a lack of roads and legends about how "wild" and "violent" the residents were.

In fact, between 1885 and 1920 especially, the colony often took in and cared for people in distress, notably "fallen women" who had been rejected by white society. Occasionally, romances flourished between the white women and black men of Coe Ridge, and the couples were generally left alone by white Cumberland Countians, according to Montell. Again, it was the village's remoteness and legendary fierceness that brought residents some measure of peace.

There were exceptions. When two white women hid their faces beneath veils and took a train to Indiana with their black sweethearts to get married, they were stopped and several Coe residents were later killed by whites in retaliation. The incident was the theme of a popular local ballad.

The colony suffered during the Depression and eventually was destroyed by repeated raids that drove young residents north to Indianapolis and other cities.

Like Coe Ridge, Cumberland County's population is slowly being forced out by economic forces. But for the residents who remain, the county is still a hideaway from the outside world, a peaceful place where farming, Little League and 4-H reign.

As Williams, the former county clerk, says happily, "Readily, we don't attract too much attention, I would say."•

COMMENDING BOB ZIEL

• Mr. SYMMS. Mr. President, recently, an Idaho journalist was honored with the Idaho Bar Association's Liberty Bell Award as a man who has grown to epitomize true American spirit. He is a man who stuck to his ideals throughout his career and focused on fact and fairness in an industry which often lends itself to widespread dishonesty.

Bob Ziel has blessed the State of Idaho since his appearance in radio and television in 1975 with unbiased journalism. He has remained optimistic in democracy and in the fundamental basis of what the United States stands for.

Mr. Ziel was born to European immigrants, both from German descent, in New York. He did his undergraduate work at Pace College and expanded his education at the U.S. Naval School of Photography and at the Brown Institute for Broadcasting.

He served 4 years in the U.S. Navy as a photographer for an amphibious assault carrier unit at the height of the Vietnam war. At that time, he received numerous awards including the Naval Unit Citation, the Vietnam Service Medal, the Vietnam Campaign Medal, the National Defense Medal, and Good Conduct Medal.

In 1975, Mr. Ziel moved to Idaho, after attending broadcast school in Florida. There, he worked at KIGO radio and KADQ radio before picking up as a reporter and assignment editor at KIDK–TV for 13 years. Currently, he is 1½ years into his news director job at KID–AM radio.

He has amassed several awards for his loyal service to the public and to broadcasting including the Associated Press Best Treatment of Subject Award and recognition by the 4-H Club, in addition to the Liberty Bell Award.

Mr. Ziel resides currently in Rigby, ID with his wife Virginia Jean and their three boys, Paul, Aaron, and Brian. He maintains a strong commitment to his family and religion through an active roll in the Church of Jesus Christ of Latter-Day Saints, specifically as a teacher of the Elder's Quorum.

Mr. President, I wish to enter this statement in the RECORD as a tribute to a great journalist and a fair man. I wish him continued success and a prosperous future.•

THE DISABILITY RAG

• Mr. MCCONNELL. Mr. President, I rise today to recognize the efforts of a group of individuals whose contributions to the community are immeasurable. The Louisville-based magazine, the Disability Rag, serves the disabled people of America in a way that no other publication does. The people that make up the magazine's staff are very committed to their cause, and give a great deal of themselves to the production of the magazine.

The Disability Rag reflects the writers' belief that the disabled are America's unacknowledged minority, and attacks this problem with the same fervor activists in the sixties attacked civil rights issues. The Chairman of the Equal Employment Opportunity Commission says the Rag is unique among disability publications because of the range of disabilities it covers and its willingness to address complex issues. The paper's staff is not afraid to confront issues that are often considered controversial. They address subjects that they see as pertinent to the disabled, and they address them in an up-front, candid way.

Mr. President, I would like to commend the people of the Disability Rag for their commitment, their service and their courage. Please include the following article from the Louisville Courier-Journal in today's CONGRESSIONAL RECORD.

The article follows:

[From the Courier-Journal, June 14, 1992]

FROM RAGS TO RAGES

(By David McGinty)

A Hollywood writer scripting a movie that will star William Hurt needs some quick, authoritative insight into the world of the disabled. She calls The Disability Rag.

The Easter Seal Society of Canada wants to know which terms disabled people find acceptable and objectionable. They query The Disability Rag.

The British Broadcasting Corp. is gathering material for a documentary on a movement in Berkeley, Calif., in the 1970s and '80s to make independent living possible for the disabled. The phone rings at The Disability Rag.

"It's really funny when these people contact us," says managing editor Sharon Kutz-Mellem. "They think we're this whole big staff."

By which she means that it is not really funny at all. Ironic, maybe.

Begun in Louisville on an impulse 12 years ago, the Rag has come to the attention of a selective but international audience for its coverage of disability issues. University—Harvard, Yale and Vienna among them—subscribe to it. So do social workers in Greece and Sweden. Requests for information have come from China and India.

And yet, as its reputation grows, one thing about the Rag stays the same.

It struggles to survive.

Although its readership has been estimated at 28,000, its paid following hovers at a very modest—if devoted—4,000 to 5,000 subscribers. Its present staff is at an all-time high of two full-timers and two part-timers, which seems hardly enough. Its financial condition cycles with almost annual regularity between leanness and desperation.

"It ekes by," says Cass Irvin, one of the magazine's founders. "One of my biggest regrets is that the community has not supported it the way I'd like to see." The Rag is, she sighs, "Louisville's best-kept secret."

If you sought out the Rag on a local newsstand—and you could look far before locating it—you would find it at first blush unprepossessing.

It's bimonthly and these days runs to 30- or 40-odd pages. It has clean but unremarkable layout, no color, few pictures and virtually no ads. It is printed on inexpensive newsprint. It looks like nothing so much as one of those cheeky counterculture publications common in the 1960s and early '70s.

The resemblance is not coincidence. To read the Rag is to take a bracing plunge into '60s-style advocacy.

The magazine has a clear, unwavering premise: The disabled are America's last, great, unacknowledged, oppressed minority, and it's time they banded together and asserted themselves.

In pushing this message, the Rag has been vigorous, iconoclastic and unabashed. A few years ago exercise guru Richard Simmons, in a moment of raised consciousness, wrote a book on exercise programs for the disabled and promoted it on national television. He said proceeds from the book would go to build special fitness centers for the disabled.

A wonderful idea? Not to the Rag, which believes the disabled should be able to go to the same fitness centers as everybody else. "Simmons doesn't understand what it is he's promoting," wrote Rag staffer Lauri Klobas. "He's allowing the non-disabled public to avoid making way for their friends, neighbors and relatives who have disabilities. Even worse . . . he's becoming a spokesman on this special form of 'apartheid.'"

There was more. Simmons had, in his enlightenment, begun picking up phrases like "physically challenged" and "handi-capable." Writer Mary Jane Ownen found these terms "particularly odious" for these glossing over of the real problems faced by disabled people and concluded, with table-pounding fervor, "More over, Richard! You're irrelevant—and you're in our way!"

All of which was, for the Rag, mere batting practice. "We've gone after some pretty big boys," notes Kutz-Mellem.

The Rag has taken on telethons that raise money for people with disabilities, in particular the Jerry Lewis Labor Day Telethon, for presenting the disabled in what it considers a pitiable, demeaning fashion. It reports tenaciously, and with discernible relish, on protests against Lewis and the Muscular Dystrophy Association, and on the association's "whining" and "crybaby" responses.

It has also curled a lip at Mother Teresa's Missionaries of Chairty order, because the order's New York shelter was not accessible to the disabled; at the National Organization on Disability, which has taken, in the Rag's opinion, a milquetoast approach to disability issues; and at the mass media for various sins, including portrayals of the disabled as brave conquerors of adversity—the "supercrip" syndrome.

Lately, the Rag has hammered at the Equal Employment Opportunity Commission for what it believes is a halfhearted attempt to enforce provisions of the recent Americans with Disabilities Act. This even though the EEOC chairman is Evan Kemp Jr., a crusader for the disabled and in the past a benefactor of the Rag.

And Kemp takes it. He suspects a certain partisanship. He's Republican, and the Rag, he says, is probably inclined to Democrats. But, he says, the Rag "keeps me honest."

The Rag is unique among disability publications, Kemp says, for the range of disabilities it covers, its willingness to delve into complex issues and its bite. "I think that they're on the cutting edge."

"They don't have sacred cows," says Ed Hudak, a syndicated columnist who writes about disability issues. Hudak, who had polio and uses a wheelchair and braces, is a longtime subscriber to the Rag.

He says the magazine's writers "raise the issues that are real. . . . There's a tendency by some of the disability publications to put a positive spin on it and color it 'Aren't disabled people wonderful?'

"The Rag portrays disabled people as human beings, as neither superstars nor creatures of pathos. They want disabled people to feel like people who are valid.

"There's not anybody else doing what they're doing. Not pushing the discussions in the areas where we really need to go. They are the pamphleteers of our own revolution."

Hudak cites two issues as examples of the Rag's cutting-edge approach. "How do you tell someone you have to go to the bathroom? How do you deal with sexual matters? You're not going to read about that in most newspapers."

You will in the Rag, often in personal, immediate terms. In one article last summer, disability activist Judy Heumann told how the bathroom issue had plagued her working life:

"I had to ask people all the time 'if I could get a favor' from them—if they could please help me go to the bathroom.

". . . These are the realities of your life—having to always worry about if you can have something to drink when you're out; if you're going to have a bladder infection; what's going to happen if you have to 'go' and you're not at home with an attendant."

A couple of years ago, the Rag surveyed its readers on sexual issues and may produce a book out of the responses. It also closely watches issues that could impinge on sexual expression among the disabled. When the U.S. Supreme Court ruled in the mid-1980s that states could outlaw unnatural sex acts, the Rag was bothered.

Some disabled people, an article in the Rag noted, engage for reasons of health or preference in acts state laws consider "unnatural" and are particularly vulnerable to the court's ruling.

"Many severely disabled people have attendants who are aware of their sexual practices or who assist them in their sexual functioning, such as inserting a diaphragm or positioning them for sex," the article said. "It's possible that if you were having trouble with your attendant, he could turn you over to the police for committing sodomy. . . ."

"Let's face it: A lot of non-disabled people see any sexual activity involving a disabled person as 'kinky.'"

Not all disabled people are comfortable having this kind of thing spelled out, or with the Rag's take-no-prisoners aggressiveness on issues. Kutz-Mellem says the publication sometimes riles readers.

"We've been accused of dealing entirely too much with the negative sides of life. Even within the disability community there are folks who don't quite see it the way we see it. And when they think we're being totally off-base, it ticks them off."

That is fine with the Rag. Jule Shaw Cole, a contributing editor and longtime Rag supporter, says a key function is to provide a forum in which the disabled can speak their minds. "The Rag gives them that opportunity."

And they seize it. Debate buzzes through the Rag's letters pages. Readers write in to approve, suggest, cheer, dispute.

"By golly, the March/April Rag has a right-on article," writes Kandy Penner of Gainesville, Fla.

But Geeta Dardick of North San Juan, Calif., thinks the Rag may be getting too soft on questions of terminology: "Get the point, Rag, give us a break! Keep supporting all of the language rules the leaders of the disability movement have agreed upon."

Mary Keen, of Berwyn, Ill., regrets "that the Rag continues to promote the illusion that feminism and the pro-life positions are incompatible."

Scott Smith, of Bardonia, N.Y., writes, "Thank you for publishing 'It's Time to Politicize Our Sexual Oppression,' . . . it's time for us as a movement to begin to express our human rights in the realm of sexuality."

But Damian Anthony Rheaume, of Greendale, Wis., has had enough. "I received a renewal form for your magazine. Renew? Are you kidding? . . . Good luck. May your lives be as bitter as your outlook on life."

Then there is another letter, a short one posted on a wall in the Rag's offices. The writing is an uneven scrawl that struggles across the page, but the message is clear and strong: "Please continue to fight oppression and tyranny towards the disabled. It's stuff like that feeds your sanity. . . . I need a lot of fuel to fight this uphill battle."

It is signed, "Monica."

Throughout its existence the Rag has heard quietly and often from the Monicas of the world, says Mary Johnson. "We get almost a standard letter all the time from people saying, "We've been so isolated, I never knew other people felt this way.'"

Those letters, for Johnson, validate what she has done. She is the mother of the Rag, and to this day she sounds slightly bemused by how she came to do it.

Johnson is not disabled. But a number of years ago she became involved in disability issues through an activist friend who was disabled, and she came to see how hard it was to organize the disabled and get them to organize the disabled and get them to envision their problems as a civil-rights issue.

And then one day in 1980, Johnson says, "I was just sitting in my house, and I thought, 'Well, I'm going to put this thing out.' There was no planning. It was totally spur of the moment."

"This thing" was a four-page newsletter called The Disability Rag—the name, like the idea, just came to her, Johnson says. The first issue, she recalls, printed a long article that had been circulating among disability activists.

"It was sort of like a call to arms," Johnson remembers. "It was a florid piece of writing."

She sent the newsletter out to perhaps 30 or 40 people she knew in the local disabled community. Anonymously. "I was very keen on being anonymous at the time," she says. Why? "Paranoia, I guess."

She was not sure how some of the radical notions in the newsletter would be received. The Rag was, in a sense, a way of finding out. She kept putting it out, and things happened. She attached her name to it. She joined forces with Irvin, a quadriplegic and disability activist.

The Rag grew. Johnson credits Irvin with putting it on a business-like footing. They incorporated, began to sell subscriptions nationwide and discovered an audience for what they were saying.

Around the country, "there were pools of this kind of thinking," Irvin says. "There were people saying, 'Yeah, this is right.'"

In 1984, in an act of faith, Johnson quit other work to devote full time to the Rag. She and Irvin published it out of their homes, surviving on bare-bones budgets. In the mid-'80s it had a subscription list of about 2,000 and a growing national reputation.

It was quoted in The Atlantic magazine and The Village Voice. The Ladies Home Journal cited Irvin as one of 50 "American Heroines." Major newspapers like the The Washington Post and The Wall Street Journal wrote stories about the Rag.

The press helped. So did a grant, which enabled the Rag to mount a genuine marketing campaign for subscriptions. The magazine's circulation increased to its present level. Its scope broadened.

Under the auspices of its publisher, The Advocado Press, the Rag now prints a variety of disability-related educational materials, including a newsletter explaining the Americans with Disabilities Act and cards that can be slapped on the windshields of cars improperly parked in handicapped-only parking spaces. The cards are a popular item.

The Rag is an institution stable enough to have survived a change of command. Irvin has moved on to other disability activities. Johnson has moved to New York and become a part-time staffer.

But the magazine's finances remain hitched to a yo-yo. Until recently the Rag did not take advertising. Because many disabled people live on meager incomes, its subscription rates have always been low. One year costs $12—unless you take the $16 "generous-person rate" or the $8 "tight-budget rate."

The Rag tries to cajole much of the money it needs to survive from foundations. In the last 1½ years, Cole says, it has written to hundreds of potential donors, but "there is not a lot of non-profit money going anywhere right now."

And, she adds, "funders do not fund controversy."

So fiscal crisis has been a routine aspect of the Rag's existence. "One of the things that has been the hardest for us is that we have fought this thing annually," Irvin says. "For the past five years we have wondered if we could do this again."

Last year, the magazine was starting to lose money and Johnson was convinced it was going to fold. The Rag put out an appeal to its readers. More than $30,000 came in and the Rag survived.

"I guess that made all of us say, "We're here for some reason,'" Johnson says.

For the moment, the Rag is between crises. It has a $139,000 budget and no worries about making it through the fiscal year, which ends in December. It is perking along with customary feistiness. Articles in the May/June issue take a few more cuts at the Jerry Lewis telethon, berate a Home Box Office movie for its handling of disability issues, and advocate the inclusion of the disabled among the classes of people covered by federal hate-crimes legislation.

Kutz-Mellem says she would like to see the Rag keep going "until we don't have to anymore. And I don't think that's going to happen in the very near future."

But the future, of course, is always a question mark for brash little magazines with no fear and few funds. The Rag has no financial cushion, and no clear idea where it will find the money for next year's operations. If the Rag should go under someday, Irvin says, it can go proudly.

Irvin sometimes speaks to school classes. She discovered that the Rag is cited and she is quoted in school texts.

"We've made a mark," she says. "We're in the history books. You have to try to think like that."●

SCHOOL OPERATIONS COSTS OF BUREAU OF INDIAN AFFAIRS-FUNDED SCHOOLS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 509, to extend the period in which the Bureau of Indian Affairs may obligate certain amounts appropriated for school operations costs of Bureau-funded schools, just received from the House, that the joint resolution be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the joint resolution (H.J. Res. 509), was deemed read three times, and passed.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Calendar Nos. 486, 487, 488, 489, 491, and 492, that the committee amendment, where appropriate, be agreed to; that the joint resolutions be deemed read three times, and passed, en bloc; that the resolutions and concurrent resolution be agreed to, en bloc, and the motion to reconsider laid upon the table, en bloc; that the preambles, where appropriate, be agreed to; further that any statements relating to these calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF HANNA HOLBORN GRAY AS A CITIZEN REGENT OF THE SMITHSONIAN INSTITUTION

The Senate proceeded to consider the joint resolution (S.J. Res. 221) providing for the appointment of Hanna Holborn Gray as a citizen regent of the Smithsonian Institution, which had been reported from the Committee on Rules and Administration with an amendment,

On page 2, line 2, strike "March 13, 1992" and insert in lieu thereof "the date of enactment".

The amendment was deemed agreed to.

The joint resolution was deemed read the third time, and passed; as follows:

S.J. RES. 221

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of William G. Bowen of New Jersey on March 12, 1992, be filled by the appointment of Hanna Holborn Gray of Illinois. The appointment is for a term of six years and shall take effect on the date of enactment.

APPOINTMENT OF WESLEY SAMUEL WILLIAMS, JR. AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 275) providing for the appointment of Wesley Samuel Williams, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, deemed read the third time, and passed; as follows:

S.J. RES. 275

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of David C. Acheson on October 21, 1992, be filled by the appointment of Wesley S. Williams, Jr. of the District of Columbia. The appointment is for a term of six years and shall take effect on October 22, 1992.

APPOINTMENT OF BARBER B. CONABLE, JR. AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 259) providing for the appointment of Barber S. Conable, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, deemed read the third time, and passed; as follows:

S.J. RES. 259

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, be filled by the appointment of Barber B. Conable, Jr., of New York. The appointment is for a term of six years and shall take effect upon the date of enactment.

PRINTING OF THOMAS JEFFERSON'S MANUAL OF PARLIAMENTARY PRACTICE

The concurrent resolution (S. Con. Res. 112) to authorizing printing of "Thomas Jefferson's Manual of Parliamentary Practice", as prepared by the Office of the Secretary of the Senate, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 112

Whereas parliamentary bodies require written rules of order for their proceedings to be conducted fairly and efficiently;

Whereas the Senate's first code of rules provided that "every question of order shall be decided by the presiding officer, without debate";

Whereas Thomas Jefferson, serving as the Senate's second president from 1797 to 1801, prepared for his own guidance a manual of legislative practice that included, under 53 topical headings, precedents from major authorities on parliamentary conduct;

Whereas "Jefferson's Manual" set the framework for the evolution of the Senate's rules and procedures, served to inspire respect for parliamentary law in the new Nation, and stands as one of Jefferson's most enduring intellectual ventures;

Whereas "Jefferson's Manual" was first printed for the use of the Senate in 1801 and was subsequently published by the Senate on a regular basis from 1828 to 1975;

Whereas the House of Representatives in 1837 provided by rule, which still exists, that the provisions of "Jefferson's Manual" should "govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House"; and

Whereas April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson and it is fitting on this occasion to honor Jefferson and the continued development of parliamentary law: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "A Manual of Parliamentary Practice for the Use of the Senate of the United States" by Thomas Jefferson (with the editorial assistance of the Senate Historical Office under the supervision of the Secretary of the Senate).

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed with suitable binding 10,000 copies for the use of the Senate and House of Representatives, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives.

PURCHASE OF CALENDARS

The resolution (S. Res. 317) relating to the purchase of calendars, was considered, and agreed to, as follows:

S. RES. 317

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $74,880 for the purchase of one hundred and four thousand 1993 "We The People" historical calendars. The calendars shall be distributed as prescribed by the committee.

SENATE PARTICIPATION IN STATE AND LOCAL GOVERNMENT TRANSIT PROGRAMS

The resolution (S. Res. 318) authorizing the Senate to participate on State and local government transit programs pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991, was considered, and agreed to; as follows:

S. RES. 318

Resolved, That (a) the Senate shall participate in State and local government transit programs to encourage employees of the Senate to use public transportation pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991.

(b) The Committee on Rules and Administration is authorized to issue regulations pertaining to Senate participation in State and local government transit programs through, and at the discretion of, its Members, committees, officers, and officials.

MEASURE PLACED ON CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that S. 2877, the Interstate Transportation Municipal Waste Act of 1992, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

L. DOUGLAS ABRAM FEDERAL BUILDING; SILVIO O. CONTE FEDERAL BUILDING

Mr. FORD. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged, en bloc, from further consideration of H.R. 3041 designating the "L. Douglas Abram Federal Building" in St. Louis and H.R. 2818 designating the "Silvio O. Conte Federal Building" in Pittsfield, MA, and that the Senate proceed, en bloc, to their immediate consideration, that the bills be deemed read three times, passed and the motion to reconsider laid upon the table, en bloc; that the consideration of these items appear individually in the RECORD; and any statements regarding the passage of these items be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 3041) was deemed read three times and passed.

So, the bill (H.R. 2818) was deemed read three times and passed.

WIC FARMERS' MARKET NUTRITION ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3711, the WIC Farmers' Market Nutrition Act of 1992, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3711) was deemed read three times and passed.

INTERNATIONAL PEACEKEEPING ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 485, H.R. 4548, the International Peacekeeping Act of 1992; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4548) was deemed read three times and passed.

AUDIO HOME RECORDING ACT

The text of the bill (S. 1623) to amend title 17, United States Code, to implement royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes, as passed by the Senate on June 17, 1992, is as follows:

S. 1623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Audio Home Recording Act of 1992".

SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA

"SUBCHAPTER A—DEFINITIONS, PROHIBITION OF CERTAIN INFRINGEMENT ACTIONS, AND RULES OF CONSTRUCTION

"Sec.
"1001. Definitions.
"1002. Prohibition on certain infringement actions.
"1003. Effect on other rights and remedies with respect to private home copying or otherwise.

"SUBCHAPTER B—ROYALTY PAYMENTS

"1011. Obligation to make royalty payments.
"1012. Royalty payments.
"1013. Deposit of royalty payments and deduction of expenses.
"1014. Entitlement to royalty payments.
"1015. Procedures for distributing royalty payments.
"1016. Negotiated collection and distribution arrangements.

"SUBCHAPTER C—THE SERIAL COPY MANAGEMENT SYSTEM

"1021. Incorporation of the serial copy management system.
"1022. Implementing the serial copy management system.

"SUBCHAPTER D—REMEDIES

"1031. Civil remedies.
"1032. Binding arbitration.

"SUBCHAPTER A—DEFINITIONS, PROHIBITION OF CERTAIN INFRINGEMENT ACTIONS, AND RULES OF CONSTRUCTION

"§ 1001. Definitions.

"As used in this chapter, the following terms and their variant forms mean the following:

"(1)(A) An 'audiogram' is a material object (i) in which are fixed, by any method now known or later developed, only sounds (and not, for example, a motion picture or other audiovisual work even though it may be accompanied by sounds), and material, statements or instructions incidental to those fixed sounds, if any, and (ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(B) An 'audiogram' does not include a material object—

"(i) in which the fixed sounds consist entirely of spoken word recordings, or

"(ii) in which one or more computer programs are fixed, except that an audiogram may contain statements or instructions constituting the fixed sounds and incidental material, and statements or instructions to be used directly or indirectly in order to bring about the perception, reproduction, or communication of the fixed sounds and incidental material.

"(C) For purposes of this section, (i) a 'spoken word recording' is a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by ancillary musical or other sounds, and (ii) the term 'incidental' means related to and relatively minor by comparison.

"(2) A 'digital audio copied recording' is a reproduction in a digital recording format of an audiogram, whether that reproduction is made directly from another audiogram or indirectly from a transmission.

"(3) A 'digital audio interface device' is any machine or device, now known or later developed, whether or not included with or as part of some other machine or device, that is specifically designed to communicate a 'digital audio interface signal' to a digital audio recording device, and that supplies a digital audio signal through a 'nonprofessional interface', as those terms are used in the Digital Audio Interface Standard in part I of the technical reference document or as otherwise defined by the Secretary of Commerce under section 1022(b).

"(4) A 'digital audio recording device' is any machine or device, now known or later developed, of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the digital recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(5)(A) A 'digital audio recording medium' is any material object, now known or later developed, in which sounds may be fixed where the media product is (i) in a form commonly distributed for ultimate sale to individuals for use by individuals (such as magnetic digital audio tape cassettes, optical discs, and magneto-optical discs), and (ii) primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include—

"(i) any material object that embodies a sound recording at the time it is first distributed by the importer or manufacturer, unless the sound recording has been so embodied in order to evade the obligations of section 1011 of this title; or

"(ii) any media product that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical literary works, including, without limitation, computer programs or data bases.

"(6) 'Distribute' means to sell, resell, lease, or assign a product to consumers in the United States, or to sell, resell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public;

"(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in an audiogram a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public; or

"(C) any association or other organization—

"(i) representing persons specified in subparagraph (A) or (B), or

"(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

"(8) An 'interested manufacturing party' is any person that imports or manufactures any digital audio recording device or digital audio recording medium in the United States, or any association of such persons.

"(9) 'Manufacture' includes the production or assembly of a product in the United States.

"(10) A 'music publisher' is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

"(11)(A) A 'professional model product' is an audio recording device—

"(i) that is capable of sending a digital audio interface signal in which the channel status block flag is set as a 'professional' interface, in accordance with the standards and specifications set forth in the technical reference document or established under an order issued by the Secretary of Commerce under section 1022(b);

"(ii) that is clearly, prominently, and permanently marked with the letter 'P' or the word 'professional' on the outside of its packaging, and in all advertising, promotional, and descriptive literature, with respect to the device, that is available or provided to persons other than the manufacturer or importer, its employees, or its agents; and

"(iii) that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business.

"(B) In determining whether an audio recording device meets the requirements of subparagraph (A)(iii), factors to be considered shall include—

"(i) whether it has features used by recording professionals in the course of a lawful business, including features such as—

"(I) a data collection and reporting system of error codes during recording and playback;

"(II) a record and reproduce format providing 'read after write' and 'read after read';

"(III) a time code reader and generator conforming to the standards set by the Society of Motion Picture and Television Engineers for such readers and generators; and

"(IV) a professional input/output interface, both digital and analog, conforming to standards set by audio engineering organizations for connectors, signaling formats, levels, and impedances;

"(ii) the nature of the promotional materials used to market the audio recording device;

"(iii) the media used for the dissemination of the promotional materials, including the intended audience;

"(iv) the distribution channels and retail outlets through which the device is disseminated;

"(v) the manufacturer's or importer's price for the device as compared to the manufacturer's or importer's price for digital audio recording devices implementing the Serial Copy Management System;

"(vi) the relative quantity of the device manufactured or imported as compared to the size of the manufacturer's or importer's market for professional model products;

"(vii) the occupations of the purchasers of the device; and

"(viii) the uses to which the device is put.

"(12) The 'Register' is the Register of Copyrights.

"(13) The 'Serial Copy Management System' means the system for regulating serial copying by digital audio recording devices that is set forth in the technical reference document or in an order of the Secretary of Commerce under section 1022(b), or that conforms to the requirements of section 1021(a)(1)(C).

"(14) The 'technical reference document' is the document entitled 'Technical Reference Document for Audio Home Recording Act of 1992' in section 5 of this Act.

"(15)(A) The 'transfer price' of a digital audio recording device or a digital audio recording medium is—

"(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale).

"(B) Where the transferor and transferee are related entities or within a single entity, the transfer price shall not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section 482.

"(16) A 'transmission' is any audio or audiovisual transmission, now known or later developed, whether by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other form of analog or digital communication.

"(17) The 'Tribunal' is the Copyright Royalty Tribunal.

"(18) A 'writer' is the composer or lyricist of a particular musical work.

"(19) The terms 'analog format', 'copyright status', 'category code', 'generation status', and 'source material' mean those terms as they are used in the technical reference document.

§1002. Prohibition on certain infringement actions

"(a) CERTAIN ACTIONS PROHIBITED.—No action may be brought under this title, or under section 337 of the Tariff Act of 1930, alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device or a digital audio recording medium, or an analog audio recording device or analog audio recording medium, or the use of such a device or medium for making audiograms. However, this subsection does not apply with respect to any claim against a person for infringement by virtue of the making of one or more audiograms, or other material objects in which works are fixed, for direct or indirect commercial advantage. For purposes of this section, the copying of an audiogram by a consumer for private, noncommercial use is not for direct or indirect commercial advantage, and is therefore not actionable.

"(b) EFFECT OF THIS SECTION.—Nothing in this section shall be construed to create or expand a cause of action for copyright infringement except to the extent such a cause of action otherwise exists under other chapters of this title or under section 337 of the Tariff Act of 1930, or to limit any defenses that may be available to such causes of action.

"§1003. Effect on other rights and remedies with respect to private home copying or otherwise

"Except as expressly provided in this chapter with respect to audio recording devices and media, neither the enactment of this chapter nor anything contained in this chapter shall be construed to expand, limit, or otherwise affect the rights of any person with respect to private home copying of copyrighted works, or to expand, limit, create, or otherwise affect any other right or remedy that may be held by or available to any person under chapters 1 through 9 of this title.

"SUBCHAPTER B—ROYALTY PAYMENTS

"§1011. Obligation to make royalty payments

"(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute in the United States, or manufacture and distribute in the United States, any digital audio recording device or digital audio recording medium unless such person—

"(1) records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified by this section and section 1012 of this title, or

"(2) complies with the applicable notice, statement of account, and payment obligations under a negotiated arrangement authorized pursuant to section 1016 of this title.

"(b) FILING OF NOTICE.—

"(1) GENERALLY.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file a notice with the Register, no later than forty-five days after the commencement of the first distribution in the United States of such device or medium, in such form as the Register shall prescribe by regulation: *Provided, however,* That no notice shall be required with respect to any distribution occurring prior to the effective date of this chapter.

"(2) CONTENTS.—Such notice shall—

"(A) set forth the manufacturer's or importer's identity and address,

"(B) identify such product category and technology, and

"(C) identify any trade or business names, trademarks, or like indicia of origin that the importer or manufacturer uses or intends to use in connection with the importation, manufacture, or distribution of such device or medium in the United States.

"(c) FILING OF QUARTERLY STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given quarter any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register, in such form as the Register shall prescribe by regulation, a quarterly statement of account specifying, by product category, technology, and model, the number and transfer price of all digital audio recording devices and digital audio recording media that it distributed during such quarter.

"(2) PERIOD COVERED.—The quarterly statements of account may be filed on either a calendar or fiscal year basis, at the election of the manufacturer or importer.

"(3) STATEMENTS OF ACCOUNT FOR THE FIRST THREE QUARTERS.—For the first three quarters of any calendar or fiscal year, such statement shall—

"(A) be filed no later than forty-five days after the close of the period covered by the statement: *Provided, however,* That any quarterly statement that would be due within three months and forty-five days of the effective date of this chapter shall not be filed until the next quarterly statement is due, at which time a statement shall be filed covering the entire period since the effective date of this chapter;

"(B) be certified as accurate by an authorized officer or principal of the importer or manufacturer;

"(C) be accompanied by the total royalty payment due for such period pursuant to section 1012 of this title.

"(4) STATEMENT OF ACCOUNT FOR THE FOURTH QUARTER.—The quarterly statement for the final quarter of any calendar or fiscal year shall be incorporated into the annual statement required under subsection (d) of this section, which shall be accompanied by the royalty payment due for such quarter.

"(d) FILING OF ANNUAL STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given calendar or fiscal year (as applicable) any digital audio recording device or digital audio recording medium that it manufactured or imported shall also file with the Register a cumulative annual statement of account, in such form as the Register shall prescribe by regulation.

"(2) TIMING AND CERTIFICATION.—Such statement shall be filed no later than sixty days after the close of such calendar or fiscal year, and shall be certified as accurate by an authorized officer or principal of the importer or manufacturer.

"(3) INDEPENDENT AUDIT.—The annual statement of account shall be audited in accordance with United States generally accepted auditing standards by an independent certified public accountant selected by the manufacturer or importer. The independent certified public accountant shall report whether the information contained therein is fairly presented, in all material respects, in accordance with the requirements of this chapter.

"(4) RECONCILIATION OF ROYALTY PAYMENT.—The cumulative annual statement of account shall be accompanied by any royalty payment due under section 1012 of this title that was not previously paid under subsection (c) of this section.

"(e) VERIFICATION.—

"(1) GENERALLY.—

"(A) The Register shall, after consulting with interested copyright parties, interested manufacturing parties, and appropriate representatives of the accounting profession, prescribe regulations specifying procedures for the verification of statements of account filed pursuant to this section.

"(B) Such regulations shall permit interested copyright parties to select independent certified public accountants to conduct audits in order to verify the accuracy of the information contained in the statements of account filed by manufacturers and importers.

"(C) Such regulations shall also—

"(i) specify the scope of such independent audits; and

"(ii) establish a procedure by which interested copyright parties will coordinate the engagement of such independent certified public accountants, in order to ensure that no manufacturer or importer is audited more than once per year.

"(D) All such independent audits shall be conducted at reasonable times, with reasonable advance notice, and shall be no broader in scope than is reasonably necessary to carry out the purposes of this subsection in accordance with United States generally accepted auditing standards.

"(2) VERIFICATION REPORT.—The accountant's report on the results of each such independent audit shall, in accordance with United States generally accepted auditing standards and the requirements of this chapter, set forth the procedures performed and the accountant's findings. The accountant's report shall be filed with the Register.

"(3) ACCESS TO DOCUMENTS IN EVENT OF DISPUTE.—In the event of a dispute concerning the amount of the royalty payment due from a manufacturer or importer resulting from a verification audit conducted under this section—

"(A) any interested manufacturing party audited pursuant to this subsection, and its authorized representatives, shall be entitled to have access to all documents upon which the audit results under this subsection were based; and

"(B) any representative of an interested copyright party that has been approved by the Register under subsection (h)(2) of this section shall be entitled to have access to all documents upon which the audit results under subsection (d) of this section were based, subject to the limitations of subsection (h)(2) of this section.

"(f) COSTS OF VERIFICATION.—

"(1) The costs of all verification audits that are conducted pursuant to subsection (e) of this section shall be borne by interested copyright parties, except that, in the case of a verification audit of a manufacturer or importer that leads ultimately to recovery of an annual royalty underpayment of 5 percent or more of the annual payment made, the importer or manufacturer shall provide reimbursement for the reasonable costs of such audit.

"(2) Except as may otherwise be agreed by interested copyright parties, the costs of a verification audit conducted pursuant to subsection (e) of this section shall be borne by the party engaging the certified public accountant. Any recovery of royalty underpayments as a result of the audit shall be used first to provide reimbursement for the reasonable costs of such audit to the extent such costs have not otherwise been reimbursed by the manufacturer or importer pursuant to this subsection. Any remaining recovery shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided by a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to this section.

"(g) INDEPENDENCE OF ACCOUNTANTS.—Each certified public accountant used by interested copyright parties or interested manufacturing parties pursuant to this section shall be duly licensed to practice as a certified public accountant and shall not be financially dependent upon interested copyright parties or interested manufacturing parties, respectively. The Register may, upon petition by any interested copyright party or interested manufacturing party, prevent the use of a particular certified public accountant on the ground that such accountant does not meet the requirements of this subsection.

"(h) CONFIDENTIALITY.—

"(1) GENERALLY.—The quarterly and annual statements of account filed pursuant to subsections (c) and (d) of this section, and information disclosed or generated during verification audits conducted pursuant to subsection (e) of this section, shall be presumed to contain confidential trade secret information within the meaning of section 1905 of title 18 of the United States Code. Except as provided in paragraphs (2), (3), and (4) of this subsection, neither the Register nor any member, officer, or employee of the Copyright Office or the Tribunal, may—

"(A) publicly disclose audit information furnished under this section or information contained in quarterly or annual statements of account, except that aggregate information that does not disclose, directly or indirectly, company-specific information may be made available to the public;

"(B) use such information for any purpose other than to carry out responsibilities under this chapter; or

"(C) permit anyone (other than members, officers, and employees of the Copyright Office and the Tribunal who require such information in the performance of duties under this chapter) to examine such information.

"(2) PROCEDURES FOR ACCESS TO BE PRESCRIBED BY REGISTER.—(A) The Register, after consulting with interested manufacturing parties and interested copyright parties, shall prescribe procedures for disclosing, in confidence, to representatives of interested copyright parties and representatives of interested manufacturing parties information contained in quarterly and annual statements of account and information generated as a result of verification audits.

"(B) Such procedures shall provide that only those representatives of interested copyright parties and interested manufacturing parties who have been approved by the Register shall have access to such information, and that all such representatives shall be required to sign a certification limiting the use of the information to—

"(i) verification functions under this section, and

"(ii) any enforcement actions that may result from such verification procedures.

"(3) ACCESS BY AUDITED MANUFACTURER.—Any interested manufacturing party that is audited pursuant to subsection (e) of this section, and its authorized representatives, shall be entitled to have access to all documents filed with the Register as a result of such audit.

"(4) ACCESS BY CONGRESS.—Nothing in this section shall authorize the withholding of information from the Congress.

"§ 1012. Royalty payments

"(a) DIGITAL AUDIO RECORDING DEVICES.—

"(1) The royalty payment due under section 1011 of this title for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

"(2) With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding four quarters, the royalty payment shall be based on the average transfer price of such devices during those four quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding four quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) Notwithstanding paragraph (1) or (2) of this subsection, the amount of the royalty payment for each digital audio recording device or physically integrated unit containing a digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that for a physically integrated unit containing more than one digital audio recording device, the royalty maximum for such unit shall be $12. During the sixth year after the effective date of this chapter, and no more than once each year thereafter, any interested copyright party may petition the Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum: *Provided, however*, That the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

"(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1011 of this title for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

"(c) RETURNED OR EXPORTED MERCHANDISE.—

"(1) In calculating the amount of royalty payments due under subsections (a) and (b) of this section, manufacturers and importers may deduct the amount of any royalty payments already made on digital audio recording devices or media that are—

"(A) returned to the manufacturer or importer as unsold or defective merchandise; or

"(B) exported by the manufacturer or importer or a related person

within two years following the date royalties are paid on such devices or media.

"(2) Any such credit shall be taken during the period when such devices or media are returned or exported, and the basis for any such credit shall be set forth in the statement of account for such period filed under section 1011(c) of this title.

"(3) Any such credit that is not fully used during such period may be carried forward to subsequent periods. If any returned or exported merchandise for which a credit has been taken is subsequently distributed, a royalty payment shall be made as specified under subsection (a) or (b) of this section, based on the transfer price applicable to such distribution.

"§ 1013. Deposit of royalty payments and deduction of expenses

"The Register shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States as offsetting receipts. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1014, 1015, or 1016 of this title. The Register may, in the Register's discretion, four years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the next succeeding calendar year. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties available for distribution.

"§ 1014. Entitlement to royalty payments

"(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1013 of this title shall, in accordance with the procedures specified in section 1015 or 1016 of this title, be distributed to any interested copyright party—

"(1) whose musical work or sound recording has been—

"(A) embodied in audiograms lawfully made under this title that have been distributed to the public, and

"(B) distributed to the public in the form of audiograms or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1015 or 1016 of this title.

"(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into two funds as follows:

"(1) THE SOUND RECORDINGS FUND.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2⅝ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties under section 1001(7)(A) of this title and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings distributed in the United States. 1⅜ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties under section 1001(7)(A) of this title and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings distributed in the United States. The remaining royalty payments in the Sound Recordings Fund shall be distributed to claimants under subsection (a) of this section who are interested copyright parties under section 1001(7)(A) of this title. Such claimants shall allocate such royalty payments, on a per sound recording basis, in the following manner: 40 percent to the recording artist or artists featured on such sound recordings (or the persons conveying rights in the artists' performances in the sound recordings), and 60 percent to the interested copyright parties.

"(2) THE MUSICAL WORKS FUND.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties whose entitlement is based on legal or beneficial ownership or control of a copyright in a musical work.

"(B) The royalty payments allocated to the Musical Works Fund shall be further allocated as follows: music publisher claimants shall be entitled to 50 percent of such payments and writer claimants shall be entitled to the other 50 percent of such payments.

"(C) Except to the extent inconsistent with the international obligations of the United States, the allocation specified in subparagraph (B) shall govern despite any contractual obligation to the contrary.

"(c) DISTRIBUTION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) of this section do not agree on a voluntary proposal for the distribution of the royalty payments within such group, the Tribunal shall, pursuant to the procedures specified in section 1015(c) of this title, allocate such royalty payments based on the extent to which, during the relevant period—

"(1) for the Sound Recordings Fund, each sound recording was distributed to the public in the form of audiograms; and

"(2) for the Musical Works Fund, each musical work was distributed to the public in the form of audiograms or disseminated to the public in transmissions.

"§ 1015. Procedures for distributing royalty payments

"(a) FILING OF CLAIMS AND NEGOTIATIONS.—

"(1) During the first two months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party that is entitled to royalty payments under section 1014 of this title shall file with the Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

"(2) All interested copyright parties within each group specified in section 1014(b) of this title shall negotiate in good faith among themselves in an effort to agree to a voluntary proposal for the distribution of royalty payments. Notwithstanding any provision of the antitrust laws, for purposes of this section such interested copyright parties may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf; except that no agreement under this subsection may vary the allocation of royalties specified in section 1014(b) of this title.

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within thirty days after the period established for the filing of claims under subsection (a) of this section, in each year after the year in which this section takes effect, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1014(c) of this title. If the Tribunal determines that no such controversy exists, it shall, within thirty days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a) of this section, after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extend feasible, authorize the distribution of any amounts that are not in controversy.

"§ 1016. Negotiated collection and distribution arrangements

"(a) SCOPE OF PERMISSIBLE NEGOTIATED ARRANGEMENTS.—

"(1) Interested copyright parties and interested manufacturing parties may at any time negotiate among or between themselves a single alternative system for the collection, distribution, or verification of royalty payments provided for in this chapter.

"(2) Such a negotiated arrangement may vary the collection, distribution, and verification procedures and requirements that would otherwise apply under sections 1011 through 1015 of this title, including the time periods for payment and distribution of royalties, but shall not alter the requirements of section 1011 (a), (b), or (h)(4), section 1012 (a) or (b), or section 1014 (a) or (b) of this title.

"(3) Such a negotiated arrangement may also provide that specified types of disputes that cannot be resolved among the parties to the arrangement shall be resolved by binding arbitration or other agreed upon means of dispute resolution.

"(4) Notwithstanding any provision of the antitrust laws, for purposes of this section interested manufacturing parties and interested copyright parties may negotiate in good faith and voluntarily agree among themselves as to the collection, distribution, and verification of royalty payments, and may designate common agents to negotiate and carry out such activities on their behalf.

"(b) IMPLEMENTATION OF A NEGOTIATED ARRANGEMENT.—

"(1) No negotiated arrangement shall go into effect under this section until the Tribunal has approved the arrangement, after full opportunity for comment, as meeting the following requirements.

"(A) The participants in the negotiated arrangement shall include—

"(i) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Sound Recording Fund,

"(ii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as music publishers, and

"(iii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as writers.

"(B) For purposes of subparagraph (A) of this paragraph, the determination as to two-thirds participation shall be based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied. One or more organizations representing any of the types of individual interested copyright parties specified in the first sentence of this subsection shall be presumed to represent two-thirds of that type of interested copyright party if the membership of, or other participation in, such organization or organizations includes two-thirds of that type of interested copyright party based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied.

"(C) The implementation of the arrangement shall include all necessary safeguards, as determined by the Tribunal, which ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable. Such safeguards may include accounting procedures, reports and any other information determined to be necessary to ensure the proper collection and distribution of royalty payments.

"(2) Notwithstanding the existence of a negotiated arrangement that has gone into effect under this section, any interested manufacturing party that is not a party to such negotiated arrangement shall remain subject to the requirements of sections 1011 and 1012 and may fully satisfy its obligations under this subchapter by complying with the procedures set forth therein.

"(c) MAINTENANCE OF JURISDICTION BY TRIBUNAL.—Where a negotiated arrangement has gone into effect under this section, the Tribunal shall maintain jurisdiction and shall (1) hear and address any objections to the arrangement that may arise while it is in effect, (2) ensure the availability of alternative procedures for any interested manufacturing party or interested copyright party that is not a participant in the negotiated arrangement, (3) ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable, (4) ensure that it has adequate funds at its disposal, received either through the Copyright Office or through the entity administering the negotiated arrangement, to distribute to interested copyright parties not participating in the arrangement the royalty payments to which they are entitled under section 1014(c) or 1015(b), including applicable interest, and (5) ensure that the requirements of section 1016(b)(1)(C) are met.

"(d) JUDICIAL ENFORCEMENT.—The Tribunal may seek injunctive relief in an appropriate United States district court to secure compliance with the requirements of subsection (c).

"SUBCHAPTER C—THE SERIAL COPY MANAGEMENT SYSTEM

"§ 1021. Incorporation of the serial copy management system

"(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—

"(1) No person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to the standards and specifications to implement the Serial Copy Management System that are—

"(A) set forth in the technical reference document;

"(B) set forth in an order by the Secretary of Commerce under section 1022(b) (1), (2), or (3) of this title; or

"(C) in the case of a digital audio recording device other than a device defined in part II of the technical reference document or in an order issued by the Secretary pursuant to section 1022(b) of this title, established by the manufacturer (or, in the case of a proprietary technology, the proprietor of such technology) so as to achieve the same functional characteristics with respect to regulation of serial copying as, and to be compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document or in any order of the Secretary issued under section 1022 of this title.

"(2) If the Secretary of Commerce approves standards and specifications under section 1022(b)(4) of this title, then no person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to such standards and specifications.

"(b) PROHIBITION ON CIRCUMVENTION OF THE SERIAL COPY MANAGEMENT SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, the Serial Copy Management System in a digital audio recording device or a digital audio interface device.

"(c) ENCODING OF INFORMATION ON AUDIOGRAMS.—

"(1) No person shall encode an audiogram of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as improperly to affect the operation of the Serial Copy Management System.

"(2) Nothing in this subchapter requires any person engaged in the importation, manufacture, or assembly of audiograms to encode any such audiogram with respect to its copyright status.

"(d) INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this subchapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. However, any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

"§ 1022. Implementing the serial copy management system

"(a) PUBLICATION OF TECHNICAL REFERENCE DOCUMENT AND CERTIFICATION.—Within ten days after the date of enactment of this chapter, the Secretary of Commerce shall cause to be published in the Federal Register the technical reference document along with the certification from the National Institute of Standards and Technology, as such certification appears in the report of the Committee on the Judiciary to the Senate on the Audio Home Recording Act of 1991, that the technical reference document sets forth standards and specifications that adequately incorporate the intended functional characteristics to regulate serial copying and are not incompatible with existing international digital audio interface standards and existing digital audio technology.

"(b) ORDERS OF SECRETARY OF COMMERCE.—The Secretary of Commerce, upon petition by an interested manufacturing party or an interested copyright party, and after consultation with the Register, may, if the Secretary determines that to do so is in accordance with the purposes of this chapter, issue an order to implement the Serial Copy Management System set forth in the technical reference document as follows:

"(1) FUNCTIONALLY EQUIVALENT ALTERNATIVES.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that such devices possess the same functional characteristics with respect to regulation of serial copying as, and are compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document.

"(2) REVISED GENERAL STANDARDS.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that—

"(A) the standards and specifications relating generally to digital audio recording devices and digital audio interface devices have been or are being revised or otherwise amended or modified such that the standards and specifications set forth in the technical reference document are not or would no longer be applicable or appropriate; and

"(B) such devices conform to such new standards and specifications and possess the same functional characteristics with respect to regulation of serial copying as the Serial Copy Management System set forth in the technical reference document.

"(3) STANDARDS FOR NEW DEVICES.—The Secretary may issue an order for the purpose of—

"(A) establishing whether the standards and specifications established by a manufacturer or proprietor for digital audio recording devices other than devices defined in part II of the technical reference document or a prior order of the Secretary under paragraph (1) or (2) of this subsection comply with the requirements of subparagraph (C) of section 1021(a)(1) of this title; or

"(B) establishing alternative standards or specifications in order to ensure compliance with such requirements.

"(4) MATERIAL INPUT TO DIGITAL DEVICE THROUGH ANALOG CONVERTER.—

"(A) GENERALLY.—Except as provided in subparagraphs (B) through (D), the Secretary, after publication of notice in the Federal Register and reasonable opportunity for public comment, may issue an order for the purpose of approving standards and specifications for a technical method implementing in a digital audio recording device the same functional characteristics as the Serial Copy Management System so as to regulate the serial copying of source material input through an analog converter in a manner equivalent to source material input in the digital format.

"(B) COST LIMITATION.—The order may not impose a total cost burden on manufacturers of digital audio recording devices, for implementing the Serial Copy Management System and the technical method prescribed in such order, in excess of 125 percent of the cost of implementing the Serial Copy Management System before the issuance of such order.

"(C) CONSIDERATION OF OTHER OBJECTIONS.—The Secretary shall consider other reasoned objections from any interested manufacturing party or interested copyright party.

"(D) LIMITATIONS TO DIGITAL AUDIO DEVICES.—The order shall not affect the recording of any source material on analog recording equipment and the order shall not impose any restrictions or requirements that must be implemented in any device other than a digital audio recording device or digital audio interface device.

"SUBCHAPTER D—REMEDIES

"§ 1031. Civil remedies

"(a) CIVIL ACTIONS.—Any interested copyright party or interested manufacturing party that is or would be injured by a violation of section 1011 or 1021 of this title, or the Attorney General of the United States, may bring a civil action in an appropriate United States district court against any person for such violation.

"(b) POWERS OF THE COURT.—In an action brought under subsection (a) of this section, the court—

"(1) except as provided in subsection (h) of this section, may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

"(2) in the case of a violation of section 1011 (a) through (d) or 1021 of this title, shall award damages under subsection (d) of this section;

"(3) in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof;

"(4) in its discretion may award a reasonable attorney's fee to the prevailing party as part of the costs awarded under paragraph (3) if the court finds that the nonprevailing party has not proceeded in good faith; and

"(5) may grant such other equitable relief as it deems reasonable.

"(c) Recovery of Overdue Royalty Payments.—In any case in which the court finds that a violation of section 1011 of this title involving nonpayment or underpayment of royalty payments has occurred, the violator shall be directed to pay, in addition to damages awarded under subsection (d) of this section, any such royalties due, plus interest calculated as provided under section 1961 of title 28, United States Code.

"(d) Award of Damages.—

"(1) Section 1011.—

"(A) Device.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording device, the court shall award statutory damages in an amount between a nominal level and $100 per device, as the court considers just.

"(B) Medium.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording medium, the court shall award statutory damages in an amount between a nominal level and $4 per medium, as the court considers just.

"(2) Section 1021.—In any case in which the court finds that a violation of section 1021 of this title has occurred, the court shall award damages calculated, at the election of the complaining party at any time before final judgment is rendered, pursuant to subparagraph (A) or (B) of this paragraph, but in no event shall the judgment (excluding any award of actual damages to an interested manufacturing party) exceed a total of $1,000,000—

"(A) Actual damages.—A complaining party may recover its actual damages suffered as a result of the violation and any profits of the violator that are attributable to the violation that are not taken into account in computing the actual damages. In determining the violator's profits, the complaining party is required to prove only the violator's gross revenue, and the violator is required to prove its deductible expenses and the elements of profit attributable to factors other than the violation.

"(B) Statutory damages.—

"(i) Device.—A complaining party may recover an award of statutory damages for each violation of section 1021 (a) or (b) of this title in the sum of not less than $1,000 nor more than $10,000 per device involved in such violation or per device on which a service prohibited by section 1021(b) of this title has been performed, as the court considers just.

"(ii) Audiogram.—A complaining party may recover an award of statutory damages for each violation of section 1021(c) of this title in the sum of not less than $10 nor more than $100 per audiogram involved in such violation, as the court considers just.

"(iii) Transmission.—A complaining party may recover an award of damages for each transmission or communication that violates section 1021(d) of this title in the sum of not less than $10,000 nor more than $100,000, as the court considers just.

"(3) Willful violations.—

"(A) In any case in which the court finds that a violation of section 1011 (a) through (d) of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court shall increase statutory damages—

"(i) for a violation involving a digital audio recording device, to a sum of not less than $100 nor more than $500 per device; and

"(ii) for a violation involving a digital audio recording medium, to a sum of not less than $4 nor more than $15 per medium, as the court considers just.

"(B) In any case in which the court finds that a violation of section 1021 of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court in its discretion may increase the award of damages by an additional amount of not more than $5,000,000, as the court considers just.

"(4) Innocent violations of section 1021.—The court in its discretion may reduce the total award of damages against a person violating section 1021 of this title to a sum of not less than $250 in any case in which the court finds that—

"(A) the violator was not aware and had no reason to believe that its acts constituted a violation of section 1021 of this title, or

"(B) in the case of a violation of section 1021(a) of this title involving a digital audio recording device, the violator believed in good faith that the device complied with section 1021(a)(1)(C) of this title, except that this subparagraph shall not apply to any damages awarded under subsection (d)(2)(A) of this section.

"(e) Multiple Actions.—

"(1) Generally.—No more than one action shall be brought against any party and no more than one award of statutory damages under subsection (d) of this section shall be permitted—

"(A) for any violations of section 1011 of this title involving the same digital audio recording device or digital audio recording medium; or

"(B) for any violations of section 1021 of this title involving digital audio recording devices or digital audio interface devices of the same model, except that this subparagraph shall not bar an action or an award of damages with respect to digital audio recording devices or digital audio interface devices that are imported, manufactured, or distributed subsequent to a final judgment in a prior action.

"(2) Notice and intervention.—Any complaining party who brings an action under this section shall serve a copy of the complaint upon the Register within ten days after the complaining party's service of a summons upon a defendant. The Register shall cause a notice of such action to be published in the Federal Register within ten days after receipt of such complaint. The court shall permit any other interested copyright party or interested manufacturing party entitled to bring the action under section 1031(a) of this title who moves to intervene within thirty days after the publication of such notice to intervene in the action.

"(3) Award.—

"(A) Generally.—Except as provided in subparagraph (B), the court may award recovery of actual damages for a violation of section 1021 of this title pursuant to subsection (d)(2)(A) of this section to each complaining party in an action who elects to recover actual damages.

"(B) Limitations.—

"(i) If more than one complaining party elects to recover actual damages pursuant to subsection (d)(2)(A) of this section, only a single award of the violator's profits shall be made, which shall be allocated as the court considers just.

"(ii) If any complaining interested copyright party or parties elect to recover statutory damages pursuant to subsection (d)(2) of this section in an action in which one or more other complaining interested copyright parties have elected to recover actual damages, the single award of statutory damages permitted pursuant to paragraph (1) of this subsection shall be reduced by the total amount of actual damages awarded to interested copyright parties pursuant to subsection (d)(2)(A) of this section.

"(f) Payment of Overdue Royalties and Damages.—The court may allocate any award of damages under subsection (d) of this section between or among complaining parties as it considers just. Any award of damages that is allocated to an interested copyright party and any award of overdue royalties and interest under subsection (c) of this section shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided pursuant to a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1011 of this title.

"(g) Impounding of Articles.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1021 of this title.

"(h) Limitations Regarding Professional Models and Other Exempt Devices.—Unless a court finds that the determination by a manufacturer or importer that a device fits within the exemption of subparagraph (A) or (B) of section 1001(4) of this title was without a reasonable basis or not in good faith, the court shall not grant a temporary or preliminary injunction against the distribution of such device by the manufacturer or importer.

"(i) Remedial Modification and Destruction of Articles.—As part of a final judgment or decree finding a violation of section 1021 of this title, the court shall order the remedial modification, if possible, or the destruction of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that—

"(1) does not comply with, or was involved in a violation of, section 1021 of this title, and

"(2) is in the custody or control of the violator or has been impounded under subsection (g) of this section.

"(j) Definitions.—For purpose of this section—

"(1) the term 'complaining party' means an interested copyright party, interested manufacturing party, or the Attorney General of the United States when one of these parties has initiated or intervened as a plaintiff in an action brought under this section; and

"(2) the term 'device' does not include an audiogram.

"§ 1032. Binding arbitration

"(a) Disputes To Be Arbitrated.—Any dispute between an interested manufacturing party and an interested copyright party shall be resolved through binding arbitration, in accordance with the provisions of this section, if—

"(1) the parties mutually agree; or

"(2) before the date of first distribution in the United States of the product which is the subject of the dispute, an interested manufacturing party or an interested copyright party requests arbitration concerning whether such product is or is not a digital audio recording device, a digital audio recording medium, or a digital audio interface device, or concerning the basis on which royalty payments are to be made with respect to such product.

"(b) ARBITRAL PROCEDURES.—

"(1) REGULATIONS FOR COORDINATION OF ARBITRATION.—The Register shall, after consulting with interested copyright parties, prescribe regulations establishing a procedure by which interested copyright parties will coordinate decisions and representation concerning the arbitration of disputes. No interested copyright party shall have the authority to request, agree to, or (except as an intervenor pursuant to subsection (c) of this section) enter into, binding arbitration unless that party shall have been authorized to do so pursuant to the regulations prescribed by the Register.

"(2) PANEL.—Except as otherwise agreed by the parties to a dispute that is to be submitted to binding arbitration under subsection (a) of this section, the dispute shall be heard by a panel of three arbitrators, with one arbitrator selected by each of the two sides to the dispute and the third arbitrator selected by mutual agreement of the first two arbitrators chosen.

"(3) DECISION.—The arbitral panel shall render its final decision concerning the dispute, in a written opinion explaining its reasoning, within one hundred and twenty days after the date on which the selection of aribrators has been concluded. The Register shall cause to be published in the Federal Register the written opinion of the arbitral panel within ten days after receipt thereof.

"(4) TITLE 9 PROVISIONS TO GOVERN.—Except to the extent inconsistent with this section, any arbitration proceedings under this section shall be conducted in the same manner, subject to the same limitations, carried out with the same powers (including the power to summon witnesses), and enforced in the courts of the United States as an arbitration proceeding under title 9, United States Code.

"(5) PRECEDENTS.—In rendering a final decision, the arbitral panel shall take into account any final decisions rendered in prior proceedings under this section that address identical or similar issues; and failure of the arbitral panel to take account of such prior decisions may be considered imperfect execution of arbitral powers under section 10(a)(4) of title 9, United States Code.

"(c) NOTICE AND RIGHT TO INTERVENE.—Any interested copyright party or interested manufacturing party that requests an arbitral proceeding under this section shall provide the Register with notice concerning the parties to the dispute and the nature of the dispute within ten days after formally requesting arbitration under subsection (a) of this section. The Register shall cause a summary of such notice to be published in the Federal Register within thirty days after receipt of such notice. The arbitral panel shall permit any other interested copyright party or interested manufacturing party who moves to intervene within twenty days after such publication to intervene in the action.

"(d) AUTHORITY OF ARBITRAL PANEL TO ORDER RELIEF.—

"(1) TO PROTECT PROPRIETARY INFORMATION.—The arbitral panel shall issue such orders as are appropriate to protect the proprietary technology and information of parties to the proceeding, including provision for injunctive relief in the event of a violation of such order.

"(2) TO TERMINATE PROCEEDING.—The arbitral panel shall terminate any proceeding that it has good cause to believe has been commenced in bad faith by a competitor in order to gain access to proprietary information. The panel shall also terminate any proceeding that it believes has been commenced before the technology or product at issue has been sufficiently developed or defined to permit an informed decision concerning the applicability of this chapter to such technology or product.

"(3) TO ORDER RELIEF.—In any case in which the arbitral panel finds with respect to devices or media that were the subject of the dispute, that royalty payments have been or will be due under section 1011 of this title through the date of the arbitral decision, the panel shall order the deposit of such royalty payments pursuant to section 1013 of this title, plus interest calculated as provided under section 1961 of title 28, United States Code. The arbitral panel shall not award monetary or injunctive relief, as provided in section 1031 of this title or otherwise, except as is expressly provided in this subsection.

"(e) EFFECT OF ARBITRATION PROCEEDING ON CIVIL ACTIONS AND REMEDIES.—Notwithstanding any provision of section 1031 of this title, no civil action may be brought or relief granted under section 1031 of this title against any party to an ongoing or completed arbitration proceeding under this section, with respect to devices or media that are the subject of such an arbitration proceeding. However, this subsection does not bar—

"(1) an action for injunctive relief at any time based on a violation of section 1021 of this title; or

"(2) an action or any relief with respect to those devices or media distributed by their importer or manufacturer following the conclusion of such arbitration proceeding, or, if so stipulated by the parties, prior to the commencement of such proceedings.

"(f) ARBITRAL COSTS.—Except as otherwise agreed by the parties to a dispute, the costs of an arbitral proceeding under this section shall be divided among the parties in such fashion as is considered just by the arbitral panel at the conclusion of the proceeding. Each party to the dispute shall bear its own attorney fees unless the arbitral panel determines that a nonprevailing party has not proceeded in good faith and that, as a matter of discretion, it is appropriate to award reasonable attorney's fees to the prevailing party.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(4) to distribute royalty payments deposited with the Register of Copyrights under section 1014, to determine, in cases where controversy exists, the distribution of such payments, and to carry out its other responsibilities under chapter 10"; and

(2) in section 804(d)—

(A) by inserting "or (4)" after "801(b)(3)"; and

(B) by striking "or 119" and inserting "119, 1015, or 1016".

(b) DEFINITIONS.—Section 101 of title 17, United States Code is amended by striking "As used" and inserting "Except as otherwise provided in this title, as used".

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting "or 10" after "8"; and

(2) in subsection (b) by inserting "or 10" after "8".

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act or January 1, 1992, whichever date is later.

SEC. 5. TECHNICAL REFERENCE DOCUMENT FOR AUDIO HOME RECORDING ACT OF 1992.

TECHNICAL REFERENCE DOCUMENT FOR THE AUDIO HOME RECORDING ACT OF 1992

Introduction

This Technical Reference Document is provided to facilitate the implementation of legislation relating to digital audio recording ("DAR") devices, known as the "Audio Home Recording Act of 1992" ("the Act").

This Technical Reference Document establishes the standards and specifications that are necessary to implement the Serial Copy Management System ("SCMS") under the Act. It draws in part from specifications proposed to the International Electrotechnical Commission ("IEC") in "IEC 958: Digital Audio Interface" (First edition 1989-03) and "Amendment No. 1 to IEC 958 (1989): Digital Audio Interface, Serial Copy Management System" (Reference 84(CO)126 submitted on June 21, 1991) (collectively, "IEC 958"), and "IEC 60A(CO)136 Part 6: Serial copy management system for consumer audio use DAT recorders". The standards and specifications set forth herein relate only to the implementation of SCMS via digital audio interface signals, DAR devices and digital audio interface devices. The standards and specifications set forth herein, as they may be amended pursuant to an order of the Secretary of Commerce under section 1022(b) of subchapter C of the Act, shall be considered determinative under the Act, regardless of any future action by the IEC or by a manufacturer or by an owner of a proprietary technology.

SCMS is intended to prohibit DAR devices from recording "second-generation" digital copies from "first-generation" digital copies containing audio material over which copyright has been asserted via SCMS. It does not generally restrict the ability of such devices to make "first-generation" digital copies from "original" digital sources such as prerecorded commercially available compact discs, digital transmissions or digital tapes.

Currently, the predominant type of DAR device offered for sale in the United States is the DAT recorder, which records and sends digital signals in accordance with the IEC 958 nonprofessional digital audio interface format. Additional types of DAR devices and interface formats are being or may be developed. The standards and specifications in this Technical Reference Document are not intended to hinder the development of such new technologies but require, in accordance with section 1021(a)(1) (A)-(C) of subchapter C of the Act, that they incorporate the functional characteristics of SCMS protection. In order for a DAR device to be "compatible with the prevailing method of implementing SCMS", to the extent DAR devices are capable of recording signals sent in a particular digital audio interface signal format, the SCMS information must be accurately received and acted upon by the DAR device so as to correctly implement the same level of SCMS protection provided by that format. "Compatibility" does not require direct bit-for-bit correspondence across every interface signal format; indeed, particular interface signal formats may be recordable by some, but not all, DAR devices. To the extent that any digital audio interface device translates and sends signals in a form that can be recorded by a particular DAR device, however, "compatibility" requires that the SCMS information also be accurately translated and sent by the interface device, and accurately read and acted upon by the DAR device.

This document is in three parts. Part I section A sets forth standards and specifications constituting the functional characteristics for implementing SCMS in digital audio interface signals. Sections B and C then apply these standards and specifications in a specific reference for implementing SCMS in the IEC 958 nonprofessional digital audio interface format. Part II section A similarly first sets forth standards and specifications constituting the functional characteristics for implementing SCMS in DAR devices. Sections B and C then apply these standards and specifications in a specific reference for implementing SCMS with respect to the recording and play-back functions of nonprofessional model DAT recorders. Part III contains a series of charts that apply and correlate those codes that are mandated for implementation in DAT recorders by parts I-C and II-C of this document.

The terms "digital audio interface device," "digital audio recording device," "digital audio recording medium," "distribute," "professional model," and "transmission" as used in this document have the same meanings as in the Act. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released prerecorded compact discs or digital tapes or a digital transmission (referred to herein as "original"); or whether the signal emanates from a recording made from such "original" material.

PART I. IMPLEMENTATION OF SCMS IN DIGITAL AUDIO INTERFACE FORMATS

Various consumer devices are capable of producing digital audio signals. Currently, for example, compact disc players, DAT recorders and analog-to-digital converters can send digital audio signals; future devices may include digital microphones or recordable compact disk devices. To enable communication between these different types of devices and a DAR device, it is necessary and desirable to establish common protocols or "interfaces" that mandate specific information in the digital audio output signal of each device. Digital signal interfaces may enable communication of different types of data. A "digital audio interface signal" communicates audio and related interface data as distinguished from, for example, computer or video data. Digital audio interface signal formats may be established for particular types of devices or uses. For example, interface protocols may exist for broadcast use, or for users of professional model products ("professional interface") or for nonprofessional model products ("nonprofessional interface"). One such set of protocols already has been established in the document IEC 958. Sections B and C of part I summarize and mandate the implementation of SCMS in the IEC 958 nonprofessional interface.

Section A sets forth the standards and specifications for implementing SCMS in digital audio interface signals and devices.

A. Digital Audio Interface Standard.

To implement the functional characteristics of SCMS in nonprofessional digital audio interface signal formats, whether presently known or developed in the future, the following conditions must be observed:

1. The digital audio interface format shall provide a means to indicate:

(a) Whether or not copyright protection is being asserted via SCMS over the material being sent via the interface; and

(b) Whether or not the generation status of the material being sent via the interface is original.

2. If the digital audio interface format has discrete professional and nonprofessional modes, the interface format and digital audio interface devices shall indicate accurately the professional or nonprofessional status of the interface signal. Such indication is referred to generically as a "channel status block flag".

3. If the interface format has a discrete mode for sending data other than audio material, the interface format shall indicate accurately whether or not the interface signal contains audio material.

4. If a digital audio interface device is capable of combining more than one digital audio input signal into a single digital audio output signal, and if copyright is asserted via SCMS over the material being sent in at least one of the input signals, then the device shall indicate in the output signal that copyright is asserted over the entire output signal. If copyright protection is asserted via SCMS over any of the input signals, and the generation status of that copyright-asserted signal is not original, then the entire output signal shall indicate that copyright is asserted and that the generation status is not original.

5. Devices that are capable of reading original recordings and/or DAR media, and that are capable of sending digital audio signals that can be recorded by a DAR device, shall accurately read the copyright and generation status information from the media and accurately send that information.

6. Devices having a nonprofessional digital audio interface shall receive and accurately send the copyright and generation status information.

7. Professional devices that are capable of sending audio information in a nonprofessional digital audio interface format shall send SCMS information as implemented for that format. However, nothing shall prevent professional devices and/or recording professionals engaged in a lawful business from setting SCMS information according to the needs of recording professionals.

8. If the audio signal is capable of being recorded by a DAR device and the interface format requires an indication of the type of device sending the signal via the interface, then the device shall send the most accurate and specific designation applicable to that device; for example, "Category Codes" as set forth in part I with reference to the IEC 958 nonprofessional interface.

9. Devices that receive digital audio transmissions sent without copyright and generation status information shall indicate that copyright is asserted over the transmitted audio material and that the generation status is original. If the transmitting entity wishes to transmit copyright status information it shall do so accurately, and the information shall accurately be received and sent unaltered by the receiving device. In the case of Electronic Audio Software Delivery signal transmissions, the receiver shall accurately receive generation status information as sent by the transmitting entity so as to permit or restrict recording of the transmitted signals. "Electronic Audio Software Delivery" refers to a type of transmission whereby the consumer interactively determines what specific work(s) and/or event(s) are received. This includes, for example, "audio on demand" (electronic selection and delivery of sound recordings for copying) or "pay-per-listen" reception, as distinguished from regular broadcast or comparable cable radio programming services.

10. (a) If the digital audio portion of an interface signal format is recordable by a "pre-existing" type of DAR device, i.e., one that was distributed prior to the distribution of the interface signal format, then the signal format shall implement the rules of SCMS so that the pre-existing DAR device will act upon the rules of SCMS applicable to that DAR device.

(b) If a type of DAR device is capable of recording the digital audio portion of signals sent by a pre-existing digital audio interface device, then the DAR device shall implement the rules of SCMS so that the DAR device will act upon the rules of SCMS applicable to that pre-existing digital audio interface device's format.

(c) If a digital audio interface device is capable of translating a signal from one interface format to another, then the device also shall accurately translate and send the SCMS information.

B. Summary of SCMS Implementation in the IEC 958 Digital Audio Interface.

Under IEC 958, SCMS is implemented via inaudible information, known as "channel status data", that accompanies a digital audio signal being sent to or by a DAR device via a nonprofessional digital audio interface. Like all digital data, channel status data consists of numerical information encoded as a series of zeros and ones. Each zero or one constitutes a "bit" of data in which both zero and one may impart information concerning the composition of the audio signal being sent to or by a DAR device. Bits represented in this Technical Reference Document as "X", rather than as zero or one, indicate that those bits may be either zero or one without affecting the specifications set forth herein.

Channel status data bits are organized into units of information, known as "blocks," relating to both the left and right stereo audio channels. Each block contains 192 bits of information, numbered consecutively from 0 to 191. Those channel status bits that are significant to the implementation of SCMS via the IEC 958 interface are included within channel status bits 0 through 15. Certain of these 16 bits identify professional or nonprofessional interfaces; some specify copyright assertion; and some identify the generation number of a recording. The remaining bits are "Category Codes" that describe the type of device sending the digital audio signal. More complete descriptions of these channel status bits are set forth in the remaining sections of this Part I.

IEC 958 defines professional and nonprofessional interface formats for digital audio signals. An IEC 958 professional interface contains particular types of channel status data for such digital audio recording devices as would be used in professional model products. An IEC 958 nonprofessional interface contains different types of channel status data. The channel status data sent in a nonprofessional interface are incompatible with the channel status data in a professional interface; a DAR device cannot correctly read the channel status data sent in a professional interface.

The specifications summarized herein and mandated in Section C apply only to devices that send or read an IEC 958 nonprofessional interface signal. To the extent that a professional device also may have a IEC 958 nonprofessional interface, such a professional device must be capable of sending channel status data via its nonprofessional interface in accordance with the standards set forth herein. However, nothing in this Technical Reference Document shall be interpreted to prevent a professional device having an IEC 958 nonprofessional interface and/or recording professionals engaged in a lawful business from permitting such channel status data bits to be set in accordance with the needs of recording professionals.

All devices having a digital audio output capable of supplying a digital audio signal to a DAR device through an IEC 958 nonprofessional interface must implement five types of codes located between Channel Status Bits 0 and 15. For the IEC 958 interface format, Channel Status Bits 0 through 15 are supplied in a digital audio output signal to a DAR device as follows:

1. Bit 0. Bit 0 (the "Channel Status Block Flag"), one of the "Control" bits, shall identify whether the channel status bits are for a professional or nonprofessional interface. Where Bit 0 is set as "1", the signal contains the channel status data required for a professional interface. Where Bit 0 is set as "0", the channel status data is suitable for a nonprofessional interface. The remaining bit assignments are mandated only with respect to a nonprofessional interface, i.e., where Bit 0 is set as "0".

2. Bit 1. Bit 1, another of the "Control" bits, shall identify whether the signal being sent to or by the DAR device is a digital audio or a digital data signal. Where Bit 1 is set as "0", the signal is a digital audio signal. Where Bit 1 is set as "1", the signal is a digital data signal.

3. Bit 2. Bit 2 (the "C" Bit), another of the "Control" bits, shall identify whether copyright protection is asserted for the audio material being sent via the digital audio signal. Where the C Bit is set as "0", copyright protection has been asserted over the material being sent to the digital audio input of the DAR device. Where the C Bit is set as "1", either that material is not protected by copyright or no copyright protection has been asserted by the owner of that material.

There are specific applications of the C Bit for three types of devices, as follows:

—Compact disc players compatible with the standards set forth in IEC 908 (compact disc standard, Category Code 10000000) in effect as of the date of enactment of the Act indicate in the C Bit both the copyright and generation status of the signal. (See description of "Bit 15", infra.) Where the signal is original and copyright protection has been asserted, the C Bit = "0". Where no copyright protection has been asserted, the C Bit = "1". Where the signal is first-generation and copyright protection has been asserted, the C Bit will fluctuate between "0" and "1" at a rate of between 4–10 Hz.

—Digital Receivers (Category Codes 001XXXXL and 0111XXXL) shall set the C Bit as "0", except that these devices shall send the C Bit as "1" only where the cable operator, broadcaster or other entity specifically transmits information indicating that no copyright protection has been asserted over the material.

—Devices that combine digital audio input signals into one digital audio output signal (*e.g.*, digital signal mixing devices) shall reflect whether copyright protection has been asserted in the C Bit for at least one of the input signals by setting the C Bit as "0" in the resulting digital audio output signal.

Devices in the Category Code for General ("00000000") and Present A/D Converters ("01100XXX") are not capable of sending copyright status information in the C Bit. The C Bit in the channel status data sent by these devices has no meaning.

There is no existing legal requirement that a copyright owner must assert protection over its material (and, therefore, set the C Bit as "0"). However, except as provided herein with respect to implementation in Digital Receivers (category codes 001XXXXL and 0111XXXL, a copyright owner may not set the C Bit as "0" for material that is not copyrighted or is in the public domain.

4. Bits 3–7. These bits are sent to and read by a DAR device, but specific bit settings for Bits 3–7 are not necessary for the implementation of SCMS. (Bits 6–7 are Music Production Program Block ("MPPB") flag bits.)

5. Bits 8–14. Bites 8–14 shall specify a "Category Code" that identifies the type of device that produces the digital audio signal sent to or by a DAR device. Using various combinations of zeros and ones, Bits 8–14 can define Category Codes for as many as 128 different devices that can provide digital audio signals to a DAR device. According to IEC 958, the first three to five Category Code bits (numbered Bits 8–10 through 8–12) describe general product groups, and the remaining Category Code bits specify particular devices within each product group. IEC 958 has assigned particular Category Codes to existing and anticipated product groups and devices, and has reserved additional Category Codes for future devices.

The Category Code issued by each particular device must reflect the most specific code applicable to that device, with the following exceptions:

—Digital signal processing and mixing products receive digital audio signals from one or more sources and either process or combine them with other incoming digital audio signals. If all input signals come from analog-to-digital converters having a Category Code "01100XXX", these devices should issue the Category Code of an analog-to-digital converter rather than of the digital signal processing or mixing device.

—Sampling rate converters and digital sound samplers come under the Category Codes for digital-to-digital converters. If an input signal to a sampling rate converter or digital sound sampler comes from an analog-to-digital converter having a Category Code "01100XXX", the sampling rate converter or digital sound sampler should issue the Category Code off the analog-to-digital converter.

These exception cases will permit two generations of digital copies from analog recordings, which currently is permitted under SCMS.

The relevance of these Category Codes to SCMS as implemented for devices having the IEC 958 nonprofessional interface is described in Section C and, specifically as to DAT recorders, in Part II Sections B and C.

6. Bit 15. Bit 15 (the "L" Bit) shall indicate the "generation status" of the digital audio signals being sent to or by a DAR device. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released pre-recorded compact discs or digital tapes or a digital transmission (referred to herein as "original"); or whether the signal emanates from a recording made from such "original" material. In the latter case, a recording made directly from an "original" source is known as a "first-generation" copy; a recording made from a first-generation copy is a "second-generation" copy; and so forth. Because there is no restriction on the number of copies that can be made from material over which no copyright protection has been asserted, generation status is relevant only where copyright protection has been asserted over the signal.

For most products, if the L Bit is set as "0", the source is a recording that is first-generation or higher. If the L Bit is set as "1", the source is "original." There are four specific categories of products which indicate generation status differently, as follows:

—Compact disc players compatible with the specifications in IEC 908 (Category Code 10000000) are incapable of controlling the L Bit. These products signal generation status solely by means of the C Bit (Bit 2).

—Digital audio output signals from all other laser-optical products (Category Code 100XXXXL) shall send the L Bit as "0" for "original" material and the L Bit as "1" for first-generation or higher recordings.

—Digital Receivers (Category Codes 001XXXXL and 0111XXXL) shall set the L Bit as "0"; except in the case of receivers for Electronic Audio Software Delivery, which receivers shall send the L Bit as "1" only where the entity specifically transmits information indicating that the material should be treated as if it were first-generation or higher.

—Devices that combine more than one digital audio input signal into one digital audio output signal, such as digital signal processors or mixers, shall reflect in the L Bit of the output signal the higher generation status of any input containing material over which copyright protection has been asserted. Thus, where one or more of the constituent input signals contains material that is not original (i.e., a first-generation copy) and over which copyright protection is asserted, then the device must reflect in the L Bit of the digital audio output signal a non-original generation status. In all other cases, the device shall reflect in the L Bit that the output signal is original.

C. Mandatory Specifications for Implementing SCMS in the IEC 958 Digital Audio Interface.

The following bit assignments for channel status data, as referenced in the provisions of IEC 958 ¶ 4.2.2 "Channel status data format for digital equipment for consumer use", shall be mandatory for devices implementing the IEC 958 interface:

1. Bits 0–2 of the "CONTROL" Bits:

a. Bit 0 (the "Channel Status Block Flag")

Bit 0 = "0" .... Nonprofessional interface
Bit 0 = "1" .... Professional interface

b. Bit 1

Bit 1 = "0" .... Digital audio signals
Bit 1 = "1" .... Non-audio (data) signals

c. Bit 2 (the "C" Bit)

i. Case 1

Bit 2 = "0" .... Copyright protection asserted
Bit 2 = "1" .... No copyright protection asserted or not under copyright

ii. Case 2—Compact Disc Players

For compact disc players compatible with IEC 908 (Category Code 10000000), the C Bit shall indicate:

Bit 2 = "0" .... Copyright protection asserted and generation status is "original"

Bit 2 = "1" .... No Copyright protection asserted.

Where the Bit 2 fluctuates between "0" and "1" at a rate between 4–10 Hz, copyright protection has been asserted and the signal is first-generation or higher.

iii. Case 3—Digital Receivers

For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), the C Bit shall indicate, where copyright information is transmitted to the digital receiver:

Bit 2 = "0" .... Copyright protection asserted

Bit 2 = "1" .... No copyright protection asserted

Where no copyright information is transmitted to the receiver, the digital receiver shall set the C Bit as "0".

iv. Case 4—Digital Signal Mixers

Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 2 = "0" .... Copyright protection asserted over at least one of the constituent digital audio input signals

Bit 2 = "1" .... For all of the constituent digital audio input signals, no copyright protection asserted or not under copyright

v. Exception Case

The C Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (i.e., A/D converters in Category Code 01100XXX).

2. Bits 3–7:

Specific bit settings for Bits 3–7 are not necessary for the implementation of SCMS.

3. CATEGORY CODE Bits 8–15:

a. Bits 8–15

The Category Codes that follow are established for particular product groups. Where Bit 15 is represented by "L" rather than a zero or one, Bit 15 (the "L" Bit) can be either a zero or one without affecting the Category Code. Where Bit 15 is represented by "X" rather than a zero or one, the device is not capable of issuing status information concerning the L Bit.

00000000	General. This category applies to products that are capable of sending channel status data but are not programmed to send such data in accordance with the specifications set forth in this Technical Reference Document because the products were manfactured before the effective date of the Act. This General Category Code shall not be used for products manufactured after the effective date of the Act.
0000001L	Experimental products not for commercial sale
100XXXXL	Laser-optical products, such as compact disc players (including recordable and erasable compact disk players) and videodisc players with digital audio outputs
010XXXXL	Digital-to-digital ("D/D") converters and signal processing products
110XXXXL	Magnetic tape or disk based products, such as DAT players and recorders
001XXXXL and 0111XXXL	Receivers of digitally-encoded audio transmissions with or without video signals
101XXXXL	Musical instruments, microphones and other sources that create original digital audio signals
01100XXX	Analog-to-digital ("A/D") converters for analog signals without status information concerning the C Bit and the L Bit ("Present A/D converters")
01101XXL	A/D converters for analog signals which include status information concerning the C Bit and the L Bit ("Future A/D converters")
0001XXXL	Solid state memory based media products

Particular devices within each product defined above shall be assigned specific Category Codes in accordance with IEC 958. Manufacturers of any device that is capable of supplying a digital audio input to a DAR device must use the most specific Category Code applicable to that particular device. However, digital signal processing or digital signal mixing products in Category Code product group "010XXXXL" shall issue the Category Code for Present A/D converters where all the input signals have the Category Code for a Present A/D converter. Similarly, sampling rate converters in Category Code "0101100L" and digital sound samplers in Category Code "0100010L" shall issue the Category Code for Present A/D converters where the input signal comes from a Present A/D converter.

b. Bit 15 (the "L" Bit):

The L Bit shall be used to identify the generation status of the digital audio input signal as emanating from an "original" source or from a non-original (i.e., first-generation or higher) recording.

1. Case 1—General Case

For all Category Codes (except as explicitly set forth below), the L Bit shall indicate:

Bit 15 = "0" .... First-generation or higher recording

Bit 15 = "1" .... "Original" source, such as a commercially released pre-recorded digital audiogram

2. Case 2—Laser Optical Products

The reverse situation is valid for laser optical products (Category Code 100XXXXL), other than compact disc players compatible with IEC 908 (Category Code 10000000). For laser optical products in Category Code 100XXXXL, the L Bit shall indicate.

Bit 15 = "1" .... First-generation or higher recording

Bit 15 = "0" .... "Original" recording, such as a commercially released pre-recorded compact disc

3. Case 3—Digital Receivers

For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), Bit 15 always shall be set as "0"; except for receivers for Electronic Audio Software Delivery, for which the L Bit shall indicate:

Bit 15 = "0" .... Generation status information transmitted as "original" material

Bit 15 = "1" .... Generation status information transmitted as for non-original material, or no generation status information transmitted

4. Case 4—Digital Signal Mixers

Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 15 = "0" .... One or more of those constituent digital audio input signals over which copyright protection has been asserted is first-generation or higher

Bit 15 = "1" .... All other cases.

5. Exception Case

The L Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (*i.e.*, A/D converters in Category Code 01100XXX) and compact disc players in Category Code 10000000.

PART II. SERIAL COPY MANAGEMENT SYSTEM FOR DAR DEVICES AND NON-PROFESSIONAL MODEL DAT RECORDERS

The intention of SCMS is generally to prevent DAR devices from making second-generation or higher "serial" digital recordings of "original" digital audio material over which copyright protection has been asserted through SCMS. SCMS does not prevent the making of a first-generation recording of such "original" digital audio material. As future technologies permit, SCMS may limit the digital recording by a DAR device of analog audio material over which copyright protection has been asserted to the making of only first-generation digital copies. However, because present technology does not identify whether analog audio material is protected by copyright, SCMS will not prevent the making of first and second-generation digital copies of such material. SCMS will not restrict digital recording of material carrying an indication through SCMS that copyright protection has not been asserted. SCMS does not apply to professional model products as defined under the Act.

A. General Principles for SCMS Implementation in DAR Devices.

To implement the functional characteristics of SCMS in DAR devices, whether presently known or developed in the future, the following conditions must be observed:

1. A digital audio recording medium shall be capable of storing an indication of:

(a) Whether or not copyright protection is being asserted over the audio material being sent via the interface and stored on the DAR medium; and,

(b) Whether or not the generation status of the audio material being sent via the interface and stored on the DAR medium is original.

2. If the digital audio interface format being sent to and read by a DAR device has discrete modes for professional as well as nonprofessional purposes, the DAR device shall distinguish accurately the professional or nonprofessional status of the interface signal.

3. If the interface format has a discrete mode for sending data other than audio material, the DAR device shall distinguish accurately whether or not the interface signal contains audio material.

4. A DAR device capable of receiving and recording digital audio signals shall observe the following rules:

(a) Audio material over which copyright is asserted via SCMS and whose generation status is original is permitted to be recorded. An indication that copyright is asserted over the audio material contained in the signal and that the generation status of the recording is first generation shall be recorded on the media.

(b) Audio material over which copyright is not asserted via SCMS may be recorded, without regard to generation status. An indication that copyright is not asserted shall be recorded on the media.

(c) Audio material over which copyright is asserted via SCMS and whose generation status is not original shall not be recorded.

5. DAR media shall store the copyright and generation status information as described herein during recording in a manner that the information can be accurately read.

6. Devices that are capable of reading original recordings and/or DAR media, and that are capable of sending digital audio signals that can be recorded by a DAR device, shall accurately read the copyright and generation status information from the media and accurately send the information.

7. DAR devices shall not be capable of recording digital audio signals transmitted in a professional digital audio interface format.

8. DAR devices having a nonprofessional digital audio interface shall receive and accurately send the copyright and generation status information.

9. Professional devices that are capable of sending audio information in a nonprofessional digital audio interface format shall send SCMS information as implemented for that format. However, nothing shall prevent professional devices and/or recording professionals engaged in a lawful business from setting SCMS information according to the needs of recording professionals.

10. Digital audio signals that are capable of being recorded by a DAR device but that have no information concerning copyright and/or generation status shall be recorded by the DAR device so that the digital copy is copyright asserted and original generation status.

11. If the signal is capable of being recorded by a DAR device and the interface format requires an indication of the type of device sending the signal via the interface, then the device shall send the most accurate and specific designation applicable to that device; for example, "Category Codes" as set forth in Part I with reference to the IEC 958 nonprofessional interface.

12. Except as may be provided pursuant to Section 1022(b)(4) of Subchapter C of the Act, a DAR device that is capable of converting analog input signals to be recorded in digital format shall indicate that the digital copy is copyright asserted and original generation status.

13. (a) If the digital audio portion of an interface signal format is recordable by a "pre-existing" type of DAR device, *i.e.*, one that was distributed prior to the distribution of the interface signal format, then the signal format shall implement the rules of SCMS so that the pre-existing DAR device will act upon the rules of SCMS applicable to that DAR device.

(b) If a type of DAR device is capable of recording the digital audio portion of signals sent by a pre-existing digital audio interface device, then the DAR device shall implement the rules of SCMS so that the DAR device will act upon the rules of SCMS applicable to the format of that pre-existing digital audio interface device.

(c) If a digital audio interface device is capable of translating a signal from one interface format to another, then the device also shall accurately translate and send the SCMS information.

B. Summary of Mandatory SCMS Specifications for DAT Recorders.

SCMS, to be implemented for DAT machines, requires that a DAT machine must play-back and/or record specific inaudible data in a particular location on a DAT tape. According to IEC documents "IEC 60A(CO)130 Part 1: Digital Audio Tape Cassette System (DAT) Dimensions and Characteristics" and "IEC 60A(CO)136 Part 6: Serial copy management system for consumer audio use DAT recorders", that particular location on the digital audio tape consists of two bits known as "subcode ID6 in the main ID in the main data area" ("ID6").

1. SCMS Operation When Playing a DAT Tape.—With respect to the play-back function, a DAT machine that is connected to a DAT recorder can provide digital audio output signals via a nonprofessional interface. In that circumstance, the DAT play-back machine functions as a digital audio interface device that must provide channel status data conforming to the general principles and specifications set forth in part I. SCMS as implemented for the IEC 958 nonprofessional interface format requires that when a DAT tape is played back, the DAT play-back machine reads the information from ID6 on the tape and then sends the corresponding channel status data (concerning Bit 2 "the C Bit" and Bit 15 "the L Bit"), along with the Category Code for a DAT machine, in its digital audio output signal. The channel status data to be sent in response to the various settings of ID6 are as follows:

1. Where ID6 is set as "00", copyright protection has not been asserted over the material under SCMS. In response to ID6, the digital audio signal output of the DAT will provide the C Bit set as "1" and the L Bit set as "0".

2. Where ID6 is set as "10", copyright protection has been asserted over the material under SCMS and the recording is not "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "0".

3. Where ID6 is set as "11", copyright protection has been asserted over the material under SCMS and the recording is "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "1".

2. SCMS Operation When Recording on DAT Tape.—With respect to the recording function, SCMS governs the circumstances and manner in which a DAT recorder may record a digital audio input signal. A DAT recorder implementing SCMS information being sent in the IEC 958 nonprofessional interface format must be capable of acknowledging the presence or absence of specific channel status information being sent to the DAT recorder via its digital audio input. The DAT recorder then responds to that channel status information by either preventing or permitting the recording of that digital audio input signal. If recording is permitted, the DAT machine records specific codes in ID6 on the tape, so that when the tape is played back, the DAT machine will issue the correct channel status data in its digital audio output signal. The settings of ID6 to be recorded in response to particular IEC 958 channel status bit information are as follows:

1. Where the C Bit of the digital audio input signal is set as "0" (copyright protection asserted), the DAT recorder shall not record the input, except in three circumstances: (A) where the input is original material and the digital audio input signal comes from one of the products on the "Category Code White List" (section D below); (B) where the digital audio input signal contains an undefined Category Code (in which case only one generation of recording is permitted); or, (C) where the digital audio input signal comes from a product with a defined Category Code but the product currently is not capable of transmitting information regarding copyright protection (in which case, two generations of copying are possible). In circumstances (A) and (B) above, the DAT recorder will record "10" in ID6 to prevent further copying. In circumstance (C) above, the DAT recorder will record "11" in ID6 for the first-generation copy.

2. Where the C Bit of the digital audio input signal is set as "1" (no copyright protection asserted or not copyrighted), the DAT recorder will record "00" in ID6, and unlimited generations of copying will be permitted.

3. Where the C Bit of the digital audio input signal fluctuates between "0" and "1" at a rate of between 4–10 Hz, the signal is coming from a compact disc player compatible with IEC 908 (Category Code 10000000) which plays back a compact disc that is not an "original" and that contains material over which copyright protection has been asserted. The DAT recorder shall not record in this circumstance.

4. The condition "01" in ID6 has been assigned no meaning within SCMS. Therefore, to prevent circumvention of SCMS, the DAT recorder shall not record "01" in ID6 on the tape.

C. Mandatory Specifications for Implementing SCMS in DAT Recorders In the IEC 958 Format.

1. Mandatory Standards for Digital Audio Output Signals.—

a. Category Code Bit 15 (the "L" Bit). All non-professional model DAT recorders having a IEC 958 interface shall provide the Category Code "1100000L" in the channel status bits of the IEC 958 digital audio output signal. The status of the L Bit of the Category Code shall be provided in the digital audio output signal of the DAT recorder as follows, in accordance with the status of ID6:

—When ID6 is "00", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is either a first-generation or higher DAT tape recorded from an "original" source, or an "original" commercially released prerecorded DAT tape of material over which copyright protection is not being asserted under SCMS. In either of these cases, the L Bit shall be set as "0", and the complete Category Code would be "11000000".

—When ID6 is "10", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is a first-generation or higher DAT tape recorded from an "original" source (i.e., L Bit="0"). The complete Category Code in this case would be "11000000".

—When ID6 is "11", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is an "original" source, such as a commercially released prerecorded DAT tape (i.e., L Bit="1"). The complete Category Code in this case would be "11000001".

b. Bit 2 (the "C" Bit). All non-professional model DAT recorders having an IEC 958 nonprofessional interface shall provide an output code in the C Bit in the channel status bits of the IEC 958 digital audio output signal. The C Bit shall be applied in the digital audio output signal as follows, in accordance with the status of ID6:

When ID6 is "00", the C Bit shall be set as "1".

When ID6 is "10" or "11", the C Bit shall be set as "0".

2. Mandatory Specifications for Recording Functions.—SCMS with respect to recording functions performed by a nonprofes-

sional model DAT recorder receiving digital audio input signals in the IEC 958 nonprofessional interface format shall be implemented as follows:

1. Digital audio input signals in which the C Bit is set as "0" shall not be recorded, except for the cases specified below in paragraphs 2, 4 and 5.

2. A DAT recorder may record a digital audio input signal in which the C Bit is set as "0", where the Category Code of the signal is listed in the "Category Code White List." The DAT recorder shall record "10" in ID6 on the tape in this case.

3. For digital audio input signals in which the C Bit is set as "1", the DAT recorder shall record "00" in ID6 on the tape except for those cases specified below in paragraphs 4 and 5.

4. For digital audio input signals that contain Category Code information that is not defined in this document, the DAT recorder shall record "10" in ID6, regardless of the status of the C Bit or the L Bit.

5. For digital audio input signals originating from a source identified as an A/D converter with the Category Code "01100XXL", or from other sources such as from A/D converters with the Category Code for "General" ("00000000"), the DAT recorder shall record "11" in ID6, regardless of the status of the C Bit or the L Bit. This requirement shall be applied to digital input signals that do not contain source information of the original signal before digitization, e.g., an A/D converter that does not deliver source information.

6. For digital input signals originating from an A/D converter with the Category Code "01101XXL", which can deliver original source information concerning the C Bit and L Bit even if the source is in analog format, the requirement stated above in paragraph 5 shall not be applied. The "Category Code White List" includes this Category Code.

7. A DAT tape of "original" generation status over which copyright protection has been asserted shall contain "11" in ID6. A DAT tape of "original" generation status over which no copyright protection has been asserted shall contain "00" in ID6.

8. A DAT recorder shall not record digital audio input signals where the C Bit alternates between "0" and "1" at a frequency of between 4 and 10 Hz and the Category Code is for a Compact disc digital audio signal ("10000000"), as in the case of digital audio input signals from recordable or erasable compact discs that are not "original" and that contain material over which copyright protection has been asserted.

9. A non-professional model DAT recorder shall not record digital audio input signals sent from a professional interface, i.e., where channel status Bit 0 is set as "1".

10. The condition "01" in ID6 is not to be used.

11. Category codes and the C Bit included in the channel status information of digital audio input signals being sent to or by a DAT recorder shall not be deleted or modified and shall be monitored continuously and acted upon accordingly.

D. "Category Code White List".

100XXXX0	Laser optical product
010XXXX1	Digital-to-digital converter and signal processing devices
110XXXX1	Magnetic tape and disk based product
001XXXX0 and 0111XXX0	Receivers of digitally encoded audio transmissions with or without video signals
101XXXX1	Musical instruments
01101XX1	Future A/D converter (with status information concerning the C Bit and L Bit)
0001XXX1	Solid state memory based media products
0000011	Experimental products not for commercial sale

PART III. APPLICATION OF SCMS IN DAT RECORDERS IMPLEMENTING THE IEC 958 INTERFACE

The following charts apply and correlate those codes that are mandated under the Act to implement SCMS in non-professional model DAT recorders having an IEC 958 nonprofessional interface, in those situations contemplated by these standards. The columns in each of these charts identify the following information:

The "Signal Source" column describes the type of product sending the digital audio signal to a DAT recorder.

The three columns under the heading "Digital Audio Input Signal," i.e., the signal sent to the DAT recorder, identify the correct channel status information in the C Bit, Category Code Bits 8–14 and the L Bit, respectively, which correspond to each product. (In each case, Bit 0 will be "0" to indicate that the signal is being sent in the IEC 958 nonprofessional interface format, and Bit 1 will be "0" to indicate that the signal consists of audio data).

The next three columns under the heading "DAT Recorder Response" identify the response of the DAT recorder to the corresponding digital audio input signal. The column "ID6" specifies the code that the DAT recorder will record on the tape in ID6 in response to the digital audio input signal. The last two columns set forth the correct channel status information in the C Bit and L Bit that are sent in the digital audio output signal of a DAT recorder in response to the setting of ID6.

Each of the appropriate codes is set forth in the cases described below:

Case 1: Where copyright protection has been asserted over the digital audio input, and the source of the input is "original" material (Only first-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Laser Optical	0	100XXXX	0	10	0	0
D/D converter	0	010XXXX	1	10	0	0
Magnetic prod	0	110XXXX	1	10	0	0
Musical Instrum	0	101XXXX	1	10	0	0
Future A/D conv	0	01101XX	1	10	0	0
Digital Receiver	0	001XXXX	0	10	0	0
Digital Receiver	0	0111XXX	0	10	0	0
Experimental	0	0000001	1	10	0	0
Solid state dev	0	0001XXX	1	10	0	0

Case 2: Where copyright protection has not been asserted over the digital audio input, and the source of the input is "original" material (First-generation and above recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Laser Optical	1	100XXXX	0	00	1	0
D/D converter	1	010XXXX	1	00	1	0
Magnetic prod	1	110XXXX	1	00	1	0
Musical Instrum	1	101XXXX	1	00	1	0
Future A/D conv	1	01101XX	1	00	1	0
Digital Receiver	1	001XXXX	0	00	1	0
Digital Receiver	1	0111XXX	0	00	1	0
Experimental	1	0000001	1	00	1	0
Solid state dev	1	0001XXX	1	00	1	0

Case 3: Where copyright protection has been asserted over the digital audio input, and the source of the input to the DAT recorder is not "original" material (No recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Laser Optical	0	100XXXX	1	—	–	–
D/D converter	0	010XXXX	0	—	–	–
Magnetic prod	0	110XXXX	0	—	–	–
Musical Instrum	0	101XXXX	0	—	–	–
Future A/D conv	0	01101XX	0	—	–	–
Experimental	0	0000001	0	—	–	–
Solid state dev	0	0001XXX	0	—	–	–

Case 4: Where copyright protection has not been asserted over the digital audio input, and the source of the input to the DAT recorder is not "original" material (Second-generation and above recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Laser Optical	1	100XXXX	1	00	1	0
D/D converter	1	010XXXX	0	00	1	0
Magnetic prod	1	110XXXX	0	00	1	0
Musical Instrum	1	101XXXX	0	00	1	0
Future A/D conv	1	01101XX	0	00	1	0
Experimental	1	0000001	0	00	1	0
Solid state dev	1	0001XXX	0	00	1	0

Case 5: Where the digital audio input signal includes Category Code information, but cannot provide information concerning copyright protection of the source (First- and second-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
General	X	0000000	0	11	0	1
Present A/D Con	X	01100XX	X	11	0	1

Case 6: Where the digital input signal does not include a defined Category Code (First-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Undefined	X		X	10	0	0

Case 7: Where copyright protection has been asserted over the digital audio input from a compact disc that is not an "original" by fluctuating the C Bit at a rate between 4–10 Hz (No recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
CD Player	0/1	1000000	X	—	–	–

Case 8: Where the digital signal transmitted to a Digital Receiver does not include information concerning copyright protection (Only first-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Digital Receiver	0	001XXXX	0	10	0	0
Digital Receiver	0	0111XXX	0	10	0	0

Case 9: Where the digital signal transmitted to a receiver for Electronic Audio Software Delivery provides generation status information as if the status were first-generation or higher (No recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Digital Receiver	0	001XXXX	1	—	–	–

Case 9: Where the digital signal transmitted to a receiver for Electronic Audio Software Delivery provides generation status information as if the status were first-generation or higher (No recording permitted):—Continued

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L Bit (Bit 15)	ID6	C Bit (Bit 2)	L Bit (Bit 15)
Digital Receiver	0	0111XXX	1	—	-	-

SEC. 6. REPEAL OF SECTION 5.

Effective upon publication of the Technical Reference Document in the Federal Register pursuant to section 1022(a) of this title—

(a) section 5 of this Act shall be repealed, and

(b) section 1001(14) of this title shall be amended by striking "in section 5 of this Act" and inserting "as such document was published in the Federal Register pursuant to section 1022(a) of this title".

AUTHORITY FOR COMMITTEES TO REPORT

Mr. FORD. Mr. President, I ask unanimous consent that, during the recess/adjournment of the Senate, Senate committees may file reported legislative and executive calendar business on Wednesday, July 15, 1992, from 11 a.m. to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. Wednesday, June 24; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator MCCONNELL recognized for up to 5 minutes; and that at 10 a.m., the Senate resume consideration of Calendar No. 464, S. 2733, a bill to improve the regulation of Government-sponsored enterprises, with the Dodd amendment pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:37 p.m., recessed until Wednesday, June 24, 1992, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate after the recess of the Senate on June 19, 1992, under authority of the order of the Senate of January 3, 1991:

DEPARTMENT OF STATE

JOHN STERN WOLF, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

BROOK HEDGE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE EMMET G. SULLIVAN, ELEVATED.

LEE F. SATTERFIELD, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE ROBERT MCCANCE SCOTT.

Executive nominations received by the Senate June 23, 1992:

DEPARTMENT OF STATE

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

PATRICIA DIAZ DENNIS, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, VICE RICHARD SCHIFTER, RESIGNED.

BOARD FOR INTERNATIONAL BROADCASTING

MALCOLM S. FORBES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1995. (REAPPOINTMENT)

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

NANCY M. DOWDY, OF THE DISTRICT OF COLUMBIA, TO BE SPECIAL REPRESENTATIVE FOR ARMS CONTROL AND DISARMAMENT NEGOTIATIONS, VICE EDWARD L. ROWNY, RESIGNED.

THE JUDICIARY

JAMES J. MCMONAGLE, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE ALICE M. BATCHELDER, ELEVATED.

KATHARINE J. ARMENTROUT, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND VICE NORMAN P. RAMSEY, RETIRED.

UNITED STATES INSTITUTE OF PEACE

CHRISTOPHER H. PHILLIPS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 19, 1993, VICE EVRON M. KIRKPATRICK, RESIGNED.

EXTENSIONS OF REMARKS

THE SILENT EPIDEMIC

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. DURBIN. Mr. Speaker, I commend the article, "Silent Epidemic," to my colleagues.

As we prepare to debate an amendment which will require veterans' hospitals to sell cigarettes to their patients in the name of compassion, we should consider the devastation which tobacco causes.

Dr. Siwek makes the case convincingly that this Federal Government will not address the most serious health threat facing America until we acknowledge the danger of tobacco in our speeches and our votes.

THE SILENT EPIDEMIC

(By Jay Siwek, M.D.)

This column is written as a warning to parents about the biggest health problem threatening their children. This silent epidemic isn't heart disease, cancer or AIDS—it's addiction to tobacco. An estimated 434,000 Americans die each year from diseases linked to tobacco use, more than 1,000 each day. Where do the new tobacco users come from? The answer is simple: our children. To maintain sales, the tobacco industry must rely on more than 1,000 children each day becoming addicted to tobacco.

That is the message of SmokeFree Educational Services, a nonprofit organization that sponsors the SmokeFree America Ad Contest for school-age children. The winning posters, along with some sobering fact about the ravages of tobacco and the industry that promotes it, are collected in the book, "Kids Say don't Smoke: Posters from the SmokeFree Ad Contest" [Workman Publishing, New York, 1991].

Here are some excerpts from the book, with my comments in brackets:

"A smoker who gets throat cancer often has his voice box removed. He's called a laryngectomee. A hole, punctured in his neck, goes right to his lungs so he can breathe. Sometimes, even after losing his voice box to cancer, a laryngectomee will continue to smoke. But he puts [the cigarette] in the hole in his neck because that's the clearest way to his lungs.

"If smoking were merely a habit as tobacco companies insist, a laryngectomee would put the cigarette in his mouth. After all, that's what he's been doing for 20–30 years."

"We go to extraordinary expense to remove asbestos from public buildings. Why not remove tobacco smoke as well? It would cost the taxpayer nothing, and it's the greater hazard." [The death rate of children from smoking is more than 20,000 times greater than their death rate from exposure to asbestos in a school building.]

"Raising the tax on cigarettes is far more than a way to raise money. It's way to save lives." [The United States has some of the lowest prices on cigarettes in the industrialized world. Canadians must pay around $6 for a pack of cigarettes. Higher rates not only deter children from smoking, but they can also help defray the health care costs of diseases brought on by smoking.]

"The tobacco industry denies that its advertising is designed to hook new smokers or target women. Yet according to an article in "World Watch," Philip Morris launched Virginia Slims in Hong Kong, amid much fanfare, when only 1 percent of the women there smoked. Was all that money spent simply to fight for a share of this tiny market?" [As smoking becomes less popular in the United States, the tobacco industry is looking for markets abroad, where restrictions on smoking aren't as prevalent as they are becoming here.]

"More Colombians will die from American tobacco products than Americans will die from Colombian cocaine." [If the "war on drugs" were successfully waged against tobacco, millions more lives would be saved than from the war against illegal drugs.]

"If 800,000 Americans work in the tobacco industry and 400,000 Americans die each year from smoking, then one American has to die for every two tobacco jobs."

"Passive [second-hand] smoking kills about 50,000 Americans a year, as many as died in the entire Vietnam war." [It's hard to comprehend this "body count" during a silent epidemic, but passive smoking is the third leading cause of preventable deaths, after smoking and alcohol abuse.]

"Tobacco executives claim there's no proof smoking kills. Yet three major tobacco companies own life insurance companies, and those life insurance companies . . . charge smokers much higher rates. Why? Because they know that smokers are nearly twice as likely to die in any given year."

"In 1986, lung cancer surpassed breast cancer as the leading cause of cancer deaths in women." [And unlike breast cancer, lung cancer is largely preventable.]

"'I'm going to die someday anyway. Why not from smoking?' Well, would you rather die peacefully in your sleep one night of old age, or years earlier, after a long, agonizing illness?" [Smoking is the top cause of premature death.]

"The tobacco companies claim their $3 billion in annual advertising and promotion isn't aimed at hooking new smokers, just persuading existing ones to switch brands. If that were true, the industry should favor a total ad ban. Halting all promotion and freezing the status quo would increase industry profits by $3 billion annually. Instead, of course, a prime reason for spending that $3 billion is to attract new addicts: kids." [It's no wonder that Joe Camel, the Smooth Character, is as recognizable as Mickey Mouse to children.]

"Auto racing is a nonstop cigarette commercial. Reviewing a videotape of the 1989 Marlboro Grand Prix on NBC, I counted 5,992 visual and verbal mentions of the cigarette brand name and logo in the 90-minute telecast."—Alan Blum, family physician and founder of DOC: Doctors Ought to Care.

(Jay Siwek, a family physician from Georgetown University, practices at the Fort Lincoln Family Medicine Center and Providence Hospital in Northeast Washington.)

BIRD WATCHERS SPEND SUMMERS AT CAMP CHIRICAHUA

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. KOLBE. Mr. Speaker, with summer upon us, children's thoughts turn to baseball, swimming, ice cream, and bird camp. That's right, bird camp. With increasing frequency, young bird watchers are spending their summers at Camp Chiricahua.

About 150 miles southeast of Tucson, Cave Creek Canyon offers the best birding spot in the country. Home to hundreds of species of rare and exotic birds, the canyon hosts thousands of adult bird watchers each year. But Camp Chiricahua gives the future trustees of this spectacular area an opportunity to develop their interest in the sport of bird watching. Campers are also taught to appreciate and respect nature and all her splendor. Good lessons for us all.

I commend to my colleagues a recent article appearing in Sports Illustrated describing the joys of Camp Chiricahua. Earlier this year, the House passed legislation to protect nearby Cave Creek Canyon, and its many attributes including its spectacular array of birds. I am hopeful that the Senate will follow this body's lead and move swiftly to pass the Cave Creek Canyon Protection Act.

STRICTLY FOR THE BIRDERS

(By Downs Matthews)

Each year after school ends, the boys and girls of summer head for sports camps of every kind: baseball, tennis, golf, sailing. Week after week, they strive to master the curveball or the forehand smash or the chip shot or the jibe under the tutelage of master players and coaches.

But for some, whose fields of dreams happen to have birds in them, the difference between a rufous-crowned sparrow and a cactus wren is far more exciting than debating the merits of the squeeze bunt versus the sacrifice fly. With binoculars and field guides in hand, these enthusiasts migrate to Camp Chiricahua—150 miles southeast of Tucson.

Founded in 1986 by Victor Emanuel, a noted ornithologist whose Victor Emanuel Nature Tours are taken by thousands of adult birders each year, Camp Chiricahua offers a single two-week session each summer. Youngsters ages 11 to 17 learn birding under the wing of such masters as Roger Tory Peterson, Kenn Kaufman and Emanuel himself.

Birding, as Emanuel sees it, is the hobby of a lifetime. "Most athletes can remain active in a sport for just a few years," Emanuel points out. "Birding is forever."

Arriving in Tucson on the way to the Chiricahua Mountains, 15 boys and girls are eager to begin their two weeks of intensive

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

birding in an area considered to be one of the best habitats in the world for many species. Flying in from East Lansing, Mich., Dan Chiaravalli and Dan Smyth, both 14, step off the airplane with their binoculars, or "'nocs," raised and immediately scan the blue Arizona sky. "We're really psyched!" Chiaravalli says. For them, the chance to bird with others their age is a rare treat.

"Most young people don't have much interest in birds," Emanuel says. "If you're the only kid in your school who likes to watch birds, you'll lead a lonely life."

"I don't know too many other kids interested in birding where I'm from," says Cooper Scollan, 14, from Carmel, Calif. Matt Weiss, 13, from Miami, agrees. "I know I'm not supposed to let their joking get to me," he says, "but it does."

At Camp Chiricahua, young birders meet others who share an interest in the sport and discover they aren't alone. "I want them to have confidence in birding as a joyful and exciting sport," Emanuel says.

The campers awake at 5:30 a.m. "We get up with the birds," one inevitably says. Jeff Kitchens, 15, from Arlington, Va., announces that he sees the silhouette of a black cardinal. "A juvenile," he insists. Bob Drewes, a camp counselor from San Francisco who teaches herpetology at the California Academy of Sciences, is skeptical. "There's no such thing," Drewes says. Jeff holds his ground. The argument finally engages Peterson, who is probably the best-known birder in the world. Peterson smiles benignly. He supports the kid's camp as the best thing that has happened to birding since he published his first field guide, in 1934. "Maybe it's a Phainopepla," Peterson suggests, naming a shiny black insect-eater. The "black cardinal" returns, this time in good light, balancing easily on an Apache pine limb, resplendent in a coat of gray and rose. "Pyrrhuloxia!" exclaims Emanuel, "the western version of a cardinal." Though wrong about the bird, Jeff beams. "That's a lifer for me," he says with a grin.

All birders keep running life lists of the birds they's seen. With the devotion of baseball buffs recording base hits and runs batted in, the campers note the species they've seen and where and when they were spotted. At night, field notes are transferred to life-list books. At 10 p.m., counselor Barry Lyons, a political science student at the University of Arizona, has to make Dan Smyth stop working on his list and go to bed.

Jeff, with wide-eyed wonder, announces that he has added 10 birds to his life list in one day, bringing it to 254. Matt adds eight birds to a life list of 230. At noon the next day, David Paleias, 15, from New York City, and Brian O'Shea, 15, from Chicago, can't wait until evening to spread out their field notes and begin transferring field sightings to their life lists: Avocet? Check. Cinnamon teal? Check. Brian's list stands at 388. "I like lists," he says.

Emanuel calls a meeting after everyone has arrived. "This is not a tour," he tells the campers. "It is an educational adventure. Campers will learn to identify birds, understand their life zones, and appreciate the environmental role that birds play in nature. There's no birder who is not also an environmentalist in the best sense of the word. That's someone who cares about the world we live in and tries not to harm it." Emanuel offers a quote: "'Nature is the art of God,'" and he tells his campers to "share the work, look after each other, and behave yourselves." Individualists all, pursuing the unusual in a world that discourages nonconformity, the campers nevertheless look as alike as hens' eggs. The uniform of the day is baggy shorts, knee-length T-shirt emblazoned with psychedelic colors, hightop athletic shoes and baseball cap. Even Drewes' daughters, Jilly and Cait, who are 11 and 13, respectively, wear similar unisex garb. Backpacks hold field guides, notebooks and candy bars. From every neck dangles a pair of 'nocs, the sine qua non of the birding fraternity.

One field trip takes the campers south of Tucson, out through rocky hills populated by the elegant saguaro cactus and its teddy-bear-like relative, the cholla.

"I hope we see a roadrunner," Jeff says wistfully. Matt wants an elf owl. Dorian Anderson, 12, from Philadelphia, yearns for a scaled quail. Cait points out a coyote barely visible in the dusty brush. Coyotes are judged to be cool, but they aren't birds. Moments later, Emanuel stops the van he's driving as a roadrunner trots across the road and pauses in a dry wash.

"Thank you, god!" Jeff cries. Someone adds, "We've seen Wile E. Coyote and the Road Runner. Now if Bugs Bunny shows up, I'm outta this theme park."

A Harris's hawk perched on a telephone pole draws a crowd. Fledgling birders vacate the two vans, binoculars poised. Dan Chiaravalli struggles out with a 20 x 60 KOWA spotting scope on a tripod mount. "I spent all my savings on it," he says. He extends the legs, removes the cover and sights the scope—only to find the bird has flown. In deep exasperation, he says to Peterson, "By the time I get ready, it's all over with." From the perspective of his 82 years, Peterson says, "That's the way life is."

The campers arrive at Cave Creek Canyon in the Chiricahuas, which soar close to 7,000 feet above the desert. More than 100 species, and all manner of birders, flock to these mountains.

Eight of North America's 16 species of hummingbirds migrate to southeastern Arizona in the spring and summer to mate, nest and fledge their bee-sized chicks before returning south to beat the onslaught of winter. Scores of dedicated birders have built summer homes in the canyon, where hummingbird watching is a major occupation. The campers join adults seated on lawn chairs and benches that are ranged in rows alongside feeders dangling from a clothesline. Six species of hummingbirds are hovering, sipping sugar water. In hushed tones reminiscent of Wimbledon or Pebble Beach, the campers express their excitement.

"Look! A lucifer!"

"Splendid! Just splendid!"

"The purple gorget! Did you see it?"

"Bright as neon!"

"Watch the broad-tailed go after him!"

"What a battler!"

The tiny birds parry and riposte like fencers, their wings beating too fast for human eyes to follow, before darting away. One amateur ornithologist reports that she has banded 6,000 hummingbirds in five years of working with them.

After parking at a campsite, the campers hike up Cave Creek Canyon, its floor bathed in the yellow light reflected from the towering rhyolite spires aptly named the Cathedral Rocks. They scan the sycamores and Arizona pines for the flash of red and green that signals the presence of a rare elegant trogon. The bird's guttural call has announced its presence, but it remains hidden in the gathering shadows.

Back at camp, Kerry Joseph discovers that life in New York City hasn't prepared his 12-year-old legs for hours of hiking over rough mountain paths. "I'm worn out," he tells Peterson. "Aren't you?"

The Babe Ruth of American birding smiles. "You gotta keep moving, son," he says, "or they'll throw you in a hole."

A CONGRESSIONAL SALUTE TO MAYOR BARBARA J. HAYDEN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a remarkable woman who has served the city of Downey with great distinction, Mayor Barbara J. Hayden. On Tuesday, June 30, 1992, Mayor Hayden will be honored by the Downey City Council as her term as mayor concludes at a Mayoral Transition Ceremony. It is with great pleasure that I bring this woman to your attention.

As a long time resident of Downey, Barbara has been actively involved in civic organizations as well as local agencies. She served on the Downey Health and Environmental Sanitation Committee for 2 years before becoming a 5-year member of the Downey Planning Commission. In 1985, Mayor Hayden began a 2-year term on the Cerritos College School Board. Re-elected in 1987, Barbara remained on the board until her election to the Downey City Council in 1988.

In addition to her commitment and service to the City Council of Downey, Barbara has served on the Committee on Aging, the Los Angeles County Sanitation District, the Independent Cities Association Board of Directors, the Los Angeles County Drainage Area Alliance, and the Private Industry Council. She is also a member of the Assistance League, Republican Women's Group, and the Downey Police and Fire Memorial Trust Foundation.

Barbara's expert guidance and leadership will be missed by the city of Downey. Through her tireless efforts and devotion, Downey has become a city working toward a better future.

Mr. Speaker, my wife, Lee joins me in extending this congressional salute to Mayor Barbara J. Hayden. We wish Barbara, her husband, Robert, and their three children, Robert, Jr., Kathy, and Sally, all the best in the years to come.

TRIBUTE TO DR. GORDON WETMORE

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. LAROCCO. Mr. Speaker, my district is losing an outstanding educator and community leader, in the person of Dr. Gordon Wetmore. While I wish him continuing success and advancement, I know that the people of Nampa, ID, and the students and faculty of Northwest Nazarene College will not soon forget his legacy. I submit for the RECORD this excellent tribute from the June 7 issue of the Nampa Press-Tribune.

WETMORE ALTERED SCHOOL'S IMAGE

Last week, Northwest Nazarene College president, Dr. Gordon Wetmore, announced he will leave his post to accept a position as president of the Nazarene Theological Seminary at Kansas City, Mo.

Wetmore became the eighth president of NNC in 1984. At that time, enrollment at the Nampa school was declining. Last year enrollment increased for the third time in the past 5 years. Another student increase is expected during the 1992-93 school year. For the past two years, Northwest Nazarene College has been rated by *U.S. News & World Report* as one of the top 10 liberal arts colleges in the West.

Under Wetmore's guidance, NNC has implemented a long-range plan to take the school into the 21st century. The plan is designed to revamp the campus to attract more out-of-state students from the "I-5 Corridor," in Washington and Oregon. The centerpiece is the $8 million fine arts building to be constructed on the old Kurtz Park property at the center of the campus.

A lot has happened during the eight years Wetmore has been at NNC, nearly all of it positive. But his major accomplishment may have been the change in the way the community perceives the institution.

Prior to the arrival of Wetmore, many non-Nazarene members of the community had little contact with the school or its leadership. It wasn't that anybody had anything against NNC. It was just that it was more or less an entity unto itself.

Today NNC has a much higher public profile. School representatives have become familiar faces at community functions. Under Wetmore, NNC changed from being "a college located in Nampa," to "Nampa's college."

Gordon Wetmore will be remembered by those who dealt with him during his time at NNC as a genuinely "nice" man who reflects the qualities that the school he led tries to instill in its graduates.

We wish him well as he moves on to new challenges.

IN MEMORY OF CHARLES LEFFLER

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. THOMAS of Wyoming. Mr. Speaker, I enter this statement for the record to commemorate a distinguished and deeply missed Wyoming gentleman. Charles Brown Leffler touched many lives in my State with his charm, gentleness and remarkable ability to give his full time to so many. His lifetime of service and dedication is truly an example for people in my State—indeed across the country—of the grace and fulfillment of balancing a successful career, loving family and active community service. This is a commemoration to a great man who made a difference to so many, not only through those he touched directly but by those who have learned through his example of living.

Charlie Leffler was born April 24, 1932 to Charles and Ruth Leffler. He attended Texas A&M University and served in the U.S. Navy from 1950 to 1954. On August 22, 1959 Charlie married Carol A. Guthrie, a dear, dear lady of enormous strength and talent. Together they are—for love lives on—a wonderful couple, true friends and partners.

After the Navy, Charlie began his career in insurance serving as actuarial director with the Texas Board of Insurance, account executive with the American General Insurance in Fort Worth, Dallas, and Houston and executive director of the Independent Insurance Agents of Houston. In 1977 Charlie and Carol moved to Casper, WY where he served as account executive with the Barnard Insurance Co. Through the years, Charlie followed politics and legislative affairs with a keen interest.

In Wyoming, Charlie was a community leader and quite active in insurance associations. He was the president of the Wyoming Independent Insurance Agents Association and president of the Casper Insurers. He was a member of the Independent Insurance Agents of America, member of the Professional Insurers Association, and member of the Blue Goose International. Charlie was a designated certified insurance counselor, vice chairman of the Wyoming Highway Users Federation, a member of the Casper Chamber of Commerce Government Affairs Committee and legislative chairman for the Wyoming Independent Insurance Agents Association.

Shriners was an integral part of Charlie's life. He was past president of the Casper Shrine Club, member of the Korein Shrine Temple, president of the Casper Order of Jesters, president of the Korein Mount Patrol Unit, secretary/treasurer of the Korein Uniformed Bodies, president of the Casper Consistory Club and hospital chairman of the Casper Shrine Club. He also served as advisory board member of the medical personnel pool in Casper. Charlie was a Republican precinct committeeman and a member of the First United Methodist Church where he served as finance chairman.

Through his long list of involvement it is clear that Charlie loved people. He especially loved children and gave himself to the Shriner's Crippled Children's Hospital.

Mr. Speaker, I would like to thank you for giving me the opportunity to share with all present the attributes of a Wyoming citizen who is truly a gentleman. His presence in my State will be greatly missed. And all who hold Charlie's memory dear will remember him fondly as a great man of quiet, good strength.

TRIBUTE TO EDWARD DUPAY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mr. Edward Dupay for his outstanding competitive and educational contributions in the field of tennis in my 17th District of Ohio.

His talent and dedication have led him to be the Salem Tennis Invitational Champion 3 years consecutively, the Youngstown City Singles and Doubles Champion, the Akron University, the East Liverpool, and the East Palestine Singles Champion, in addition to competing in numerous tennis tournaments in Ohio and western Pennsylvania from 1950 to 1975. He has taught for over 20 years as a tennis pro at the Boardman Athletic Club, the Youngstown Raquet Club, and the Boardman Tennis Center. He is also responsible for organizing the highly competitive local tennis league, has been an adult education instructor for Poland schools, and, along the way, has played a major role in the development of many young athletes.

Mr. Speaker, I ask my colleagues to join me in congratulating Mr. Dupay on his remarkable career as an athlete and a teacher.

SERBIANS REMEMBER HISTORIC DAY IN THEIR FIGHT FOR FREEDOM

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. GEKAS. Mr. Speaker, over 600 years ago, on June 28, the Serbians lost a battle that, if won, could have driven the Turks out of their lives. Instead, in the Battle of Kosovo, the Serbian army was soundly defeated and the great Serbian prince, Lazar, was killed by the Ottoman armies. People of Serbian descent remember this battle every year as Vidovdan.

Even though this day marks the beginning of 500 years of Ottoman control over the people of Serbia, the Serbians are proud of the soldiers who fought in the battle to protect their land. This defeat pulled them together as a nation and gave them the strength to face the great hardships and persecution under Ottoman rule. Their courage helped them overcome tremendous odds in the name of freedom. Eventually in the late 1800's, they joined the Croatians in forming the kingdom of Yugoslavia.

This day has become a religious holiday for Serbians to commemorate the Serbian martyr Czar Lazar, who sacrificed his life for the "Honorable Cross and Golden Liberty".

It is with great pleasure that I join the Serbian people of my district and throughout the world in remembering this historic day in their fight for freedom.

TRIBUTE TO NARCISO MARTINEZ

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to the late Narciso Martinez of San Benito, TX; a friend that will be dearly missed but whose legacy will live on for generations to come.

Born on October 29, 1911, in Reynosa, Tamaulipas, Mexico, Narciso Martinez moved with his family to Paloma, TX, that same year. Narciso began playing the accordion around 1927 and later teamed up with bajo sexto player Santiago Almeda. The collaboration of these two extraordinarily talented musicians led to the establishment of the accordion and the bajo sexto as the two basic instruments of what was to become conjunto music. After several impressive joint musical recordings, Martinez was on his way to becoming one of the most prolific and popular accordion players of his time. Martinez gave life to a new and beautiful form of Mexicano music.

Within our remarkably diverse world, music serves as a common thread that eloquently runs through the fabric of any given community. In the United States, we are a unique and special conglomeration of cultures; cultures proudly represented by an impressive variety of music. The gentle soul of the mestizo, of this conglomeration, is exemplified by the conjunto music created by Narciso Martinez. Conjunto music groups unequivocally succeed by taking this distinctive mestizaje one step further to create a unique blend of northern Mexico and southern Texas, indeed a microcosm of both countries' rich heritage.

Conjuntos can lift your spirit, or make your soul melancholy. We have been given a very special gift by the conjunto artists, such as Narciso Martinez, and other accordion players who lend a beautiful and distinctive sound to this style of music. Hispanics have a common legacy in music, language, gentility, and values. It is a heritage rich in culture and diversity. From our many parts, we have formed the most unique society in the world, and it is best illustrated by the conjunto music which keeps the symmetry alive in our souls.

In October 1991, a community's vision became reality. Named in honor of the pioneer of conjunto music, the Narciso Martinez Cultural Arts Center opened its doors to the community of San Benito, TX. Created to promote and preserve the rich Mexican-American heritage, the center showcases the artwork of community artists who drew their inspiration from life in San Benito. The center features art and music presentations as well as lectures and discussions on the history of the Mexicano community. The center serves to honor the struggles of a community striving for existence. For this very reason, the center was named for the great Narciso Martinez; a man who captures the essence of the philosophy of the artistic center.

Before leaving his legacy of cultural music, in 1983, Martinez received the National Heritage Award, the highest honor ever presented to a Hispanic folk musician. He was also inducted into the Conjunto Hall of Fame. Though Narciso has left us, we will continue to be touched by the beauty and splendor of his music. His legacy will carry on through the ages so that our children and grandchildren can experience the magnificence that is conjunto.

Thank you, Narciso.

RULES, REGULATIONS STRANGLE RETIREMENT PLANS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. EMERSON. Mr. Speaker, over 100,000,000 individuals in this country have an interest in private retirement/pension plans, how they are administered, their soundness and security; and, a lot of folks involved with them have questions and concerns. There seems to be a decline in the number of new plans being created, a fact attributed in significant measure to the complexity of laws and regulations and the cost of administration, the cost of administration being a follow-on to the complexity factor.

A lot of folks are talking about the need for reform and simplification to enhance rather than diminish the efficacy of this important realm of economic security activity.

I commend the following article to the attention of my colleagues. It appeared in yesterday's St. Louis Post Dispatch.

GRIDLOCK: RULES, REGULATIONS STRANGLE RETIREMENT PLANS

(By Robert Sanford)

During 1991 there were 10,064 defined benefit pension plans terminated in the United States, and, at the same time, only 370 new plans were added, a pension/benefit expert said here.

He is James A. Klein of Washington, executive director of the Association of Private Pension and Welfare Plans. He was a speaker at a St. Louis Employee Benefits Institute meeting last week at the Ritz Carlton Hotel.

Such discouraging figures can be attributed in part to the economy, to mergers and to companies going out of business, Klein said, but another factor also applies. It is that laws and regulations that govern the system are complex, cumbersome and costly. Some companies decide that they cannot deal with the administrative costs any longer. The many rules involved amount to a sort of gridlock on the nation's retirement system, he said.

The cumulative effect of legislation in recent years is that rather than encouraging the establishment of new plans to provide for retirement income security, new plan formation has entered a decline, he said.

"The costs affect small companies particularly," he said. "They may decide that they can't afford it. This is ironic because the small-company segment is the only place where job creation is going on these days.

"A survey recently showed that an average employer who wanted to contribute $1,400 per employee to a 401k plan might have to pay as much as $800 an employee just to administer the program. So we're saying that the cost could go up a third just to manage the program. That would include various costs—legal, actuarial, consulting, accounting."

Klein cited an example of complexity. He said that the Tax Reform Act of 1986 contained two lines that stated that tax-qualified pension plans would be allowed only if they were nondiscriminatory in nature, meaning that they were not overly weighted to favor highly compensated employees. Three and a half years later the Internal Revenue Service issued a report to define and explain the two lines. The report is 600 pages long.

"Now, obviously, what is needed is some kind of reform legislation that does not muddy the water more but simply cuts through the existing complexities and makes things simpler," he said. "Our organization, which includes companies that represent more than 100 million employees, has been calling for reform for a number of years. The recent onslaught of incomprehensible pension rules and regulations has contributed to the stagnation in private coverage. The regulatory framework must be refocused and corrections made in this complex environment.

"Will we get reform? There are numerous proposals before Congress. . . . Conventional wisdom has it that there will be no health care reform this year because of the political winds of the election year.

"On the other hand, a lot of congressmen seem to be imperiled this year. There is the so-called Perot factor against incumbents. Maybe the congress members will decide that they should get together and do something, just to prove that they're capable of it."

POTENTIAL BENEFITS OF PRIVATIZING AIR TRAFFIC CONTROL SYSTEMS

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. COX of California. Mr. Speaker, as ranking member on the Government Activities and Transportation Subcommittee, I have conducted several hearings into the safety, cost, and efficiency of the current Government-owned air traffic control system. Several experts and research institutions, including most notably the Reason Foundation in Santa Monica, CA, have testified to the potential benefits of privatizing major portions of the system.

Privatization of Government-owned facilities is neither novel nor untested. The following article, which appeared in the April 27, 1992, issue of Aviation Week & Space Technology, offers an excellent case study.

[From Aviation Week & Space Technology, Apr. 27, 1992]

FOR-PROFIT NEW ZEALAND ATC SYSTEM CUTS COSTS AND INCREASES EFFICIENCY

(By Paul Proctor)

New Zealand's air traffic control system is showing substantial cost savings and increased efficiency four years after the government placed it on a corporate, for-profit footing.

The success could fuel the commercialization of more ATC services worldwide as governments seek ways to cut deficits and free up tax dollars for other purposes.

Airways Corp. of New Zealand now recovers full costs, pays taxes and has generated a total of $30 million in dividends to its sole shareholder—the government—according to John Mooney, the company's commercial group manager. In the four years prior to commercialization, the service posted more than $21 million in deficits.

Safety also has been enhanced through a $50-million airways modernization project. The upgrade, which began in 1988 and was completed last month, originally was estimated to cost the Transport Ministry $124 million.

Key to the transformation was restructuring the organization along commercial lines and negotiating an equitable user-paid fee structure, Mooney said. Although Airways Corp. still is state-owned, it operates as an independent company. Full privatization is expected after the state disposes of more-valuable publicly owned companies such as New Zealand's telephone and electricity generating systems, Mooney said.

Airways Corp. was formed in April, 1987, by New Zealand's Labor government as part of a program to reduce the state's involvement in such deficit-producing businesses as electricity generation, telecommunications and coal mining. Proponents of the plan also believed officials of an independent, profitable ATC system would institute badly needed equipment upgrades the government's general fund could not afford.

A direct-pay system was negotiated with user groups based on a combination of aircraft movements, aircraft weight and distance flown, and recognized ability to pay. The use of navigation aids was built into the program as was the financing of replacements of ATC assets. Private, corporate and recreational users and the military had to pay direct traffic service fees for the first time.

The resulting price structure, introduced in July, 1988, set airways charges at about $1,215 for a Boeing 747 flying from an international destination to Auckland. A Boeing 737 on a 450-km. (280-mi) domestic flight between Auckland and Wellington incurred a fee of $341. Airport landing fees are additional. Overall, international airways fees were reduced by about 50%.

The cost for an aircraft under 2,000 kg. (4,410 lb.) maximum certificated takeoff weight now is $57 per year, plus sales tax, and covers up to 50 landings. Every landing thereafter is charged at $3.67 or $4.60 plus tax, depending on airport location. Multiple practice touch-and-goes at an airfield are charged as only one landing, to encourage pilot proficiency. Billing is based on flight movement details based on controller flight strips.

To counter arguments that the privatized ATC system could charge monopoly prices, Airways Corp. pledged that the percentage of any future price increases will be less than the rate of inflation. Since introducing direct user-pay pricing in July, 1988, Airways Corp. increased fees 6.5% in October, 1990, and 3% in February.

To help keep prices down, a cost-cutting program began in 1988 reducing Airways Corp. expenses by 20%—or $11 million—per year. One of four ATC centers was closed, and its operations were consolidated at a modernized Christ-church area control center. Personnel totals have been reduced to 730 from 1,185, partly due to the transfer of crash-fire-rescue responsibilities and 205 firefighters to individual airports.

Other reductions were achieved through the dismissal or retirement of more than 200 engineers, planners and maintenance personnel. Airport and en route flight information staffing also was decreased substantially.

Aided by the streamlined balance sheet, the airways modernization contract was let in late 1988. A follow-on $16-million navaid upgrade is under way. Both improvement projects were financed through commercial loans, Mooney said.

Despite the major investment in new equipment, the corporation turned a profit of $2.3 million after taxes and extraordinary items in the first nine months of 1991. Revenues totalled $34 million after taxes and extraordinary items in the first nine months of 1991. Revenues totalled $34 million. The goal for corporate return on investment is 9%, but was forecast to reach 11%, in the 12 months ending in March.

Other challenges to the transition included establishing private sector financial and accounting systems as well as accurately forecasting costs and revenues. Management accountability also was introduced. Previously, ATC officials were slow to act on good ideas for fear of making a mistake. Minor decisions frequently were passed up to the minister level to avoid taking responsibility, Mooney said.

Maintaining appropriate staff and salary levels also was simplified. Prior to commercialization, bureaucrats who substantially reduced the size of their departments risked a downgrading of their position, status and salary.

HONORING THE DANE COUNTY DRIVING FORCE

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. KLUG. Mr. Speaker, I rise today to honor the Dane County Driving Force, an antidrunken driving task force in my hometown of Madison, WI, which is saving lives.

Today, at ceremonies in Houston, the task force will receive the "Community Partnership Award" for its outstanding campaign to prevent incidents of drunk driving as part of the National Challenge to Stop Drunk Driving.

I'd like to share the task force's accomplishments with you. Just 4 years ago, accidents involving drunk drivers killed an average of 26 people a year in the Madison/Dane County area. We had the second highest rate of alcohol-related crashes in the State. In 1987, members of the community came together to put a stop to this tragedy. They formed "Driving Force," a community-based task force to address the problem.

In the first 3 years of the program, 400 additional drunk driving arrests were made, and nighttime fatal crashes involving alcohol declined by 60 percent in many high incidence areas. In addition, Driving Force conducted judicial training and created a program to deal with the special problems of repeat offenders.

Driving Force also took on the tragic problem of underage drinking and driving. The task force combined the best of screening and treatment programs with parental involvement to help young people realize the dangers of their actions. Fees collected by violators nearly covered the expense of administering the program.

For all of its heroic efforts to end drunk driving in our community, Dane County Driving Force is one of only seven programs nationwide to be honored at the annual meeting of the U.S. Conference of Mayors today in Texas.

I'd like to commend the Dane County/Madison community for joining together to create such a worthy community project, and I hope the program will become an example for other communities. It has made a difference. It has saved lives. I am proud to share the work of Driving Force with my colleagues in Congress.

THE CITY THAT NEVER SLEEPS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. ACKERMAN. Mr. Speaker, today I would like to submit an article from the New York Times which was written by a remarkable man, Consul General Uri Savir of Israel. The article is a moving and eloquent account of life in the "city that never sleeps"—New York.

ALONE—AND TOGETHER—IN NEW YORK CITY

(By Uri Savir)

Many New Yorkers speak to me of the decline, even the decay, of their city. Yet, four years as an accidental tourist have left me rather unimpressed by their remarks about the sundown of the city that never sleeps.

Even a sheltered diplomat is not unaware of the economic crisis, the social injustice, the cruel roots and consequences of crime. To live in New York is to live through the contradictions of life itself, only with greater force and energy than in any other city in the world. If you love life, you love New York.

As a citizen of the tormented Middle East, who is preparing to return home, I often admire New York's special blend of colors, religions, languages. The multitudes of people force a respect for individuality and privacy. Everybody is a minority member, yet at home. Co-existence is like New York traffic, anarchy with unique rules of the game: drive and let drive.

Collectively, the minorities often find themselves at odds with each other—blacks and Jews, for instance. These two peoples have suffered persecution, yet the bridge between them is shaky.

I have been to fruitful dialogues between them and I have been to Crown Heights. There I met Mayor David Dinkins, the Lubavitcher Rebbe, the Hasidic and black local leaders. Meetings between neighbors provided for no meeting of minds. Hard feelings spread and bitterness sinks in. Like stories in the mosaic, the neighbors don't move—not geographically, and clearly not emotionally.

New Yorkers, more than others, try harder in the bitter competition for success and to avoid the humiliation of failure. Even those who are successful, living on the top of the world, suffer from a fear of heights. They look into the abyss of sudden downfall and are afraid of joining those who have tripped. Only the homeless, to whom New York has developed a sad numbness, seem to pose no threat.

In the race for survival and pursuit of happiness, one never stops. Time, like everything else, is money. A New York phone conversation is the shortest in the world. It is merely a transaction of self-interest. "What can I do for you?" is synonymous with "don't waste my time."

When I innocently responded to an invitation. "We must have lunch sometime," the reaction was total bewilderment. Since then, I have improved my New York English. In an elevator one says, "Hope you have a nice day." The rhetorical wish for a neighbor is, "Hope all is well." To everybody you say, "You're looking good." Sound bites make people feel good and life more efficient. Lip service for a better environment.

In an Irish bar, you can see an elderly lady with a sad expression on her face singing a happy song. The anonymity grants her freedom, the freedom to be miserable, the freedom to be a star for a moment.

The other night, after a glamorous reception at the Pierre, I rushed to a game at Madison Square Garden in my tuxedo. In any other city I would have been "arrested" by the eyes of fellow spectators. In this place no one seems out of place. Everyone is on his own, yet together.

New York is the one place in the world where a stranger feels he belongs, yet he remains anonymous. You don't have to share "your" New York. No one cares, no one is jealous. You can suffer—few will interfere. A togetherness of individuality, a symphony of disharmony, somehow tuned together by the pace of the merry-go-round. More than New York inspires, it energizes to create. For example, the Met, the Met and the Mets.

So while Paris gets to your heart, London to your mind, and Jerusalem to your soul, New York gets into your veins, a lifeline that becomes part of you more than you become part of it. New York has a life of its own, its own pulse, which beats just a bit faster than that of its inhabitants.

CONSIDERATIONS FOR A FINAL NATIONAL ENERGY STRATEGY

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. MCEWEN. Mr. Speaker, following passage of the Comprehensive National Energy Policy Act (H.R. 776) by the House on May 28, 1992, I would urge the conferees to give consideration to four important issues in the area of energy production and electricity transmission:

First, I would urge my House colleagues who will be involved in the conference committee to address the need for stimulating domestic oil and gas exploration and development, including the effects of the moratorium on offshore drilling in U.S. coastal waters on efforts to achieve greater energy independence. In my view, limiting the exploration, and subsequent development, of new U.S. energy sources will in the short run only serve to increase our dependency upon foreign oil.

Second, it is my understanding that the bill also authorizes the Federal Energy Regulatory Commission [FERC] to require transmitting utilities to transmit electricity to wholesale power purchases. Although the bill precludes any order requiring third party transmission directly to retail customers, it would be possible under the bill as presently written for a new wholesale purchaser of electricity to be created solely for the purpose of circumventing the prohibition against mandatory transmission to ultimate customers. Unless this prohibition is strengthened, small commercial and residential consumers served by a transmitting utility might be required to pay high rates and charges, and to subsidize an entity which did not possess economic substance. With this in mind, I urge the conferees to consider the necessity of expressing more clearly the intent of Congress to preclude mandatory transmission access directly to retail customers, as well as in circumstances in which the transmission has been structured as a wholesale transaction for the purpose of circumventing the prohibition against retail wheeling.

Third, it is important to consider that an order by the FERC requiring mandatory transmission service may have an adverse impact on the reliability or costs of service to the customers of the transmitting utility subject to the order. While the House bill, as I understand it, is designed to minimize any such adverse effects and to protect the customers of the transmitting utility, an order requiring transmission of electricity by one utility may affect the reliability of service and costs to consumers of other utilities owning portions of the interstate transmission system, or grid. Therefore, I would urge the conferees to reexamine thoroughly the protective provisions incorporated in the bill to see that consumers of all utilities which may be affected by transmissions service required by the FERC order are properly protected.

Finally, it has come to my attention that H.R. 776 requires that rates and charges for transmission service, provided pursuant to an order of the FERC, be sufficient to compensate the transmitting utility for all prudent costs incurred in connection with such transmission service and any necessary associated services. Although the transmitting utility necessarily provides certain generation-related services such as stand-by generation, which may be utilized in the event the delivery of electricity to the transmitting utility from third-party sources is interrupted, it is my understanding that the bill does not specifically provide for the recovery of the costs of this service. Unless the final legislation clearly specifies that the costs of this stand-by generation service may be recovered from the transmission service customer, transmitting utilities may be faced with costly litigation and may ultimately be denied the right to recover the costs of stand-by generation capacity. With this in mind, I hope the conferees will consider requiring the FERC to consider the cost of stand-by generation service in establishing rates and charges for transmission service.

By resolving these remaining issues, I firmly believe that the Comprehensive National Energy Policy Act will be better able to achieve the enhanced efficiencies in the production and transmission of electricity energy which the Congress desires.

REMEMBERING THE AGNES FLOOD OF 1972

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. KANJORSKI. Mr. Speaker, I rise to commemorate the 20th anniversary of Hurricane Anges this week. On June 23, 1972, sirens sounded across much of my district in Pennsylvania affirming that the valiant effort to contain the surging Susquehanna River had been lost.

Agnes poured 14 trillion gallons of water onto northeastern Pennsylvania causing the Susquehanna River to break from its boundaries and spread a layer of flood water 40 feet deep and 2 miles wide across a densely populated region in the Wyoming Valley. The damage caused by the unyielding rush of water was immense. Sixty-four thousand homes and more than 3,000 small businesses and factories were heavily damaged by flood waters and 3,500 families lost their homes completely. In all, 80,000 families were forced from their homes and approximately 11,000 people lost their jobs as a result of the flood's devastation. Unfortunately, four people lost their lives.

Luzerne County, located in the heart of northeastern Pennsylvania, suffered 69 percent of the total damage caused by Agnes in Pennsylvania. A total of $1.3 billion was assessed in property damage and $300 million in road and bridge damage. Communities were faced with the prospect of rebuilding entire commercial and residential areas.

In the wake of this disaster, which many consider the worst natural disaster in the Nation's history, emerged a determined populace. Residents of this region found courage among the ruins and forged ahead with an undying spirit to rebuild their communities. Agnes may have wasted away their homes and business, but it could not extinguish their desire to live and raise their families in the "Valley with a Heart".

Meeting the challenge of recovery were several citizen action groups such as the Flood Victims Action Council under the leadership of Min Matheson, and the Flood Recovery Task Force, which was chaired by Judge Max Rosenn. These groups were instrumental in the economic and social resurgence of the areas most damaged by the Agnes flood.

I had the honor of contributing to this effort as the legal counsel to the Flood Victims Action Council. While the hard work and determination of local community groups and area citizens played a role in this historic rebuilding of northeastern Pennsylvania, the recovery assistance provided by the Federal Government was truly phenomenal. Through the cooperative efforts of Congressman Dan Flood, State Senator Frank O'Connell, Bill Wilcox, Secretary of the DCA for Pennsylvania working on behalf of Governor Shapp, and Frank Carlucci acting on behalf of President Nixon, the Government rushed approximately $1 billion in aid to the communities of the Wyoming Valley.

Today, on the 20th anniversary, we look back on this trying time in our area's history when nature, in her ultimate power, forced us to our knees. A time when all appeared lost, yet, the heart and courage of a people rose above the raging waters and shined in its finest hour. Our triumph over the tragedy of Hurricane Agnes is a monument in the strength and spirit of the people of the Wyoming Valley.

CONGRATULATIONS TO NATHAN SHATZOFF

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Nathan—Nat—Shatzoff who is receiving the Ronald B. Atlas Award from the New Jersey Tenants Organization.

Nat was born and raised in Manhattan. He moved to Paterson, NJ in 1960, and then to Elmwood Park in the early 1970's. It was in Elmwood Park that Nat began working with the local tenants organization and shortly thereafter, he was introduced to the New Jersey Tenants Organization.

Nat helped lead a successful rent strike in Elmwood Park which saved tenants thousands of dollars in rent increases. He was elected president of the Elmwood Park Tenants Association and served in that position from 1976 to 1981. During this time he initiated successful litigation against a homeowners' referendum to eliminate rent control.

Nat was appointed to the Rent Stabilization Board in Elmwood Park, and eventually served as chairman of the board during his tenure from 1977 through 1981. In late 1981, Nat moved to Hackensack and became involved with the Hackensack Tenants Association. He was appointed to the Hackensack Rent Stabilization Board in 1990. Nat became president of the 101 Prospect Avenue Tenants Association in Hackensack in 1988, and is currently serving in that position.

Nat has been the New Jersey Tenants Organization treasurer since 1987, and has served as secretary of NJTO from 1982 to 1986. He retired from the U.S. Postal Service in 1974 after over 26 years. He and his wife Adele will be celebrating their 50th wedding anniversary in August and have 3 children, Toby, Judy, and Fred.

Mr. Speaker, I am proud to join in paying tribute to Nat Shatzoff. I am sure he will continue to provide invaluable service to his community and truly make a difference in society. I extend my best wishes to him on this most special occasion.

TRIBUTE TO FATHER O'NEILL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. TRAFICANT. Mr. Speaker, it is with great pleasure I rise today before my colleagues to pay tribute to Father O'Neill, pastor of St. Paul the Apostle Parish in New Middletown.

Father O'Neill was born January 17, 1940 in Youngstown. His seminary studies were taken at St. Gregory and Mt. St. Mary of the West. He earned his master's degree in guidance at Xavier University and has also done graduate work in religious studies at the University of San Francisco. Since his ordainment on May 21, 1967, Father O'Neill has been actively involved in community life, from director at Catholic Youth Organization for Stark County to chaplain for athletic teams at Cardinal Mooney High School. Father O'Neill has also served on the Priests Senate and has been a priest team member for Marriage Encounter.

Mr. Speaker, I want to commend Father O'Neill on his accomplishments. His leadership and community involvement are a benefit to all who know him.

INTRODUCTION OF THE INDIAN ECONOMIC GROWTH ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. RICHARDSON. Mr. Speaker, Congress will soon begin consideration of an urban aid package that will provide desperately needed economic opportunities for poverty stricken areas of America. Pervasive poverty, joblessness, and despair threaten to unravel the fabric of the American dream, particularly for Indian tribes—the poorest Americans.

Economic conditions in Indian country are the worst nationwide. The current Indian unemployment rate averages 52 percent and has reached 97 percent in some areas—45 percent of reservation Indians and 22 percent of off-reservation Indians live below the poverty line. In addition, one out of every seven Indian households have annual incomes less than $2,500 and receive some sort of public assistance.

I recently submitted a proposal to the Committee on Ways and Means that will have a tremendous and positive impact on economic development and employment in Indian country. The proposal, which I am introducing today as legislation, is a logical and necessary addition to the urban aid package which will eventually come before the full House.

I am proposing incentives targeted at attracting investment and boosting employment on Indian reservations. Specifically, I propose complimentary tax credits that will spur job-creating economic development on Indian reservations nationwide and provide both short and long term growth: First, an investment tax credit, geared to reservations where unemployment exceeds the national average by at least 300 percent, and second, an employment credit that would provide larger incentives to employers achieving 85 percent Indian employment.

The investment tax credit, targeted at reservations where unemployment is at least three times the national average, would allow a credit of 25 percent of the investment in reservation personal property, in association with a trade or business, 33.3 percent of new reservation construction property, and 33.3 percent of reservation infrastructure investment.

The Indian employment tax credit would equal 10 percent of the wages paid including health care costs during the taxable year and 30 percent in cases where the employer has at least 85 percent Indian employees. The employer would be eligible for the credit for up to and including seven years of employment of the same employee. The credit will only be available for new hires.

According to a recent study by William Stringer, former chief economist for the Senate Budget Committee, these incentives would cost little to the Federal Government in the long run. The study, "Investment and Employment Tax Credits for American Indian Reservations: An Analysis of Benefits and Costs", indicates the revenue loss would be more than made up for by reduced general assistance payments, reduced food stamps, and increased rental payments and FICA payments. In short, economic opportunity will supplant unemployment and Federal assistance.

This proposal has the support of the Navajo Nation, the largest Indian tribe in the country, and the National Congress of American Indians [NCAI] which represents over 140 Indian and Alaskan Native tribes.

Mr. Speaker, as we move forward in our fight against the nagging poverty and staggering unemployment facing our chronically depressed communities, we cannot in good conscience overlook those most in need. I urge my colleagues to support this legislation and make it a part of the urban aid package.

Mr. Speaker, I insert the bill:

H.R. 5468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment and Investment Act of 1992".

SEC. 2. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian Reservation Credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (defining the Energy Credit and the Reforestation Credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian Reservation Credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	**Indian reservation percentage is:**
Reservation personal property	25
New reservation construction property	33⅓
Reservation infrastructure investment	33⅓

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of paragraph (2)(D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation. Examples of property which may be described in this paragraph include roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For the purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—The Indian reservation credit allowed under section 46 for any taxable year shall apply only in the event that the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years; except that, in the case of qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, the Indian unemployment rate required to qualify for the credit may occur at any time during: (A) the earlier of the calendar year in which the taxpayer enters into a binding agreement to make the investment or the 1st calendar year in which the taxpayer has expended at least 10 percent of his required investment and (B) the immediately preceding calendar year. The requisite Indian unemployment rate shall be based upon those reservation Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting ", and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to certain dispositions, etc., of investment credit property), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended to read as follows:

"(3) SPECIAL RULE.—In the case of any energy credit, reforestation credit or Indian reservation credit other than with respect to or expenditure for new reservation construction property—

"(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

"(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2)."

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) and inserting new subparagraph (D) as follows:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "; Indian Reservation Credit."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting in lieu thereof the following:

"Sec. 48. Energy Credit; reforestation credit;
Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

SEC. 3. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the sum of—

"(1) the qualified wages paid or incurred during such taxable year, plus

"(2) qualified employee health insurance costs paid or incurred during such taxable year.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section:

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation, and

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applied with respect to any employee for any taxable year shall be made without regard to subsection (b) of section 1395.

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)), and

"(C) any person who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) WAGES.—For purposes of this section, the term 'wages' has the same meaning as when used in section 51 except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—For purposes of this section—

"(A) all employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section, and

"(B) the credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the qualified wages and qualified health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new section:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after July 1, 1992, with respect to individuals who begin work for the employer after such date.

SANTA ROSA, CA, LAUDED FOR ANTI-DRUNK-DRIVING CRUSADE

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. RIGGS. Mr. Speaker, I rise to recognize the achievements of the elected leaders and citizens of Santa Rosa, CA, a city in my district, in the fight against drunk driving.

The city of Santa Rosa will receive an Inspiration Award from the National City Challenge to Stop Drunk Driving during the annual meeting of the U.S. Conference of Mayors on June 23.

The National City Challenge commends cities at the forefront of the anti-drunk-driving crusade. The challenge encourages cities to develop and implement comprehensive, community-based programs. By applauding and publicizing these programs, the challenge encourages other cities to adopt these model efforts for their own.

The challenge is now in its first year. It is jointly sponsored by the Conference of Mayors and the Century Council, a nonprofit organization dedicated to combating alcohol abuse and misuse. The Century Council is supported by over 190 distillers, vintners, brewers, and wholesalers from across the Nation.

The city of Santa Rosa faced a major problem with drunk driving. Though a relatively small community, it had over a thousand arrests for driving under the influence and five alcohol-related auto fatalities in 1988 alone.

Under the leadership of former mayor Nancy Burton, a broad-based coalition including the police, health professionals, retailers, journalists, teachers, the local tourist industry, restaurants, and wineries jointly founded the responsible hospitality project.

Mayor Burton worked especially hard to get broad participation from commercial establishments. She recognized that the cooperation and participation of bars and restaurants was vital. To their credit, a great many of these establishments joined up, and the training of servers of alcoholic beverages was greatly expanded.

The coalition also worked with Police Chief Sal Rosano to develop a program to track the establishments where those persons stopped for DUI had their last drink. The results of this monitoring led the police to redirect their enforcement and prevention efforts at those establishments that showed up most frequently.

The responsible hospitality project has worked. Last year, for the first time in 5 years, the city had no alcohol-related vehicle fatalities.

The members of the selection committee for the National City Challenge, all recognized experts in the field of drunk driving prevention, said the Santa Rosa program was "full of ideas that can be transported easily to other jurisdictions."

I urge my fellow Members to alert communities in their own districts to the great strides that Santa Rosa was able to make by pulling the community together in a common cause. I hope that Santa Rosa's example will inspire communities throughout the Nation to broaden the attack on drunk driving.

I congratulate the people of Santa Rosa, and I am very pleased that they were singled out by the Conference of Mayors and the Century Council for this award.

TRIBUTE TO NIKOLA TESLA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. GEKAS. Mr. Speaker, I would like to take this opportunity to honor a man often called the forgotten genius, Nikola Tesla. July 10 marks the 136th anniversary of his birth. Mr. Tesla was a brilliant scientist and is considered one of the greatest inventors ever to have lived. Unfortunately, not many people are aware of the extent of Mr. Tesla's work and of how it effects our everyday life. Mr. Tesla, a

Serbian immigrant from Croatia, came to the United States to experience freedom and opportunity. He used this independence to provide the world with many great discoveries.

To express how important Mr. Tesla's discoveries are to the industrialized world, Dr. B.A. Behrend, chairman of the Edison Medal Committee of the American Institute of Electrical Engineers stated, "Were we to seize and to eliminate from our industrial world the result of Mr. Tesla's work, the wheels of industry would cease to turn, our electric trains and cars would stop, our towns would be dark, our mills would be dead and idle. So far reaching is his work that it has become the warp and woof of industry."

One of his most important discoveries was the use of the rotating magnetic field principle as a way to utilize alternating electrical current for power. This led to his finding a way to convert the power of Niagara Falls. He also used the technology to light the Columbian Exposition. Mr. Tesla is credited with inventing the radio, fluorescent lighting, the bladeless turbine, and numerous forerunners of space-age technologies.

Although the word "tesla" is part of the language of electrical science and is considered in the same class as ohm, volt, and watt, many people have forgotten the man behind the word. It is time that we recognize and salute Mr. Tesla, who has provided us with so many important discoveries.

ALLENTOWN, PA, RECEIVES TOP AWARD IN NATIONAL CITY CHALLENGE TO STOP DRUNK DRIVING

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. RITTER. Mr. Speaker, each year, tens of thousands of lives are lost in drunk driving auto crashes, and many thousands more lives are shattered.

Across the Nation, local communities are responding to the drunk driving epidemic in new and innovative ways.

Today, I rise to pay tribute to a community in my district whose efforts have won national recognition: the city of Allentown, PA.

Today, the city of Allentown and its mayor, Joseph S. Daddona, will receive the top award in the first annual National City Challenge to Stop Drunk Driving.

The National City Challenge was established to commend those cities that develop and implement new, effective, community-based programs and to encourage other communities to emulate those efforts.

The National City Challenge is conducted by the U.S. Conference of Mayors and sponsored by the Century Council, a nonprofit organization dedicated to combatting alcohol abuse. The Century Council is funded by over 190 concerned brewers vintners, distillers, and wholesalers.

Several years ago, Allentown had one of the highest rates of alcohol-related crash fatalities in the entire State of Pennsylvania.

Under Mayor Daddona's leadership, Allentown's citizens, government officials, community organizations, educational institutions, and businesses assembled a major public awareness and law enforcement campaign aimed at preventing drunk driving and enforcing the penalties against those who continue to drink and drive.

The project focused on educating high school and college age students, stepping up judicial and law enforcement activities, training retail employers and employees about designated driver programs, and expanding server training for licensed beverage establishments.

During the 4-year period since the program began, the number of drunk driving fatalities in Lehigh County has decreased by 50 percent, and the number of drunk driving arrests has increased nearly 50 percent.

The panel of judges for the National City Challenge, all nationally recognized leaders in the field of drunk driving prevention, said of the Allentown program, "The program's results are convincing.

I believe that with effective political leadership and strong community commitment, what was done in Allentown can be replicated successfully in other communities across the country. I congratulate the city of Allentown and Mayor Daddona, and I thank the U.S. Conference of Mayors and the Century Council for bestowing this honor on a deserving community in my district.

RUST-BELT EMISSIONS CLOUD EARTH SUMMIT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. WOLPE. Mr. Speaker, I rise to call your attention to a Washington Post article of June 2, 1992, regarding industrial energy efficiency. This article is a particularly insightful look into the tremendous importance of increased industrial energy efficiency in our efforts to remain competitive in the global marketplace, and I would ask that the full text of the article appear in the RECORD.

[From the Washington Post, June 2, 1992]

RUST-BELT EMISSIONS CLOUD EARTH SUMMIT

(By Michael Weisskopf)

LORAIN, OH.—Built on the banks of Lake Erie in 1919, the Edgewater power plant is still spinning out electricity from a steam boiler half as efficient as state-of-the-art generators. Power courses through antique transmission lines to the nearby Ford Motor Co. plant, which makes vans from steel forged the old-fashioned way, using three times the energy of new blast furnaces.

Welded, painted and fitted with a motor, the vans are moved down a long assembly line lit brightly as a jeweler's case and strewn with power tools hissing air. A new Ford Econoline rolls out every 60 seconds, built with about twice as much energy as a comparable Japanese vehicle.

Lorain is a long way from Rio de Janeiro. But the way its factories and products affect the global environment will be one of the paramount concerns of the industrialized nations gathering in Brazil Wednesday for the opening of the U.N. Earth Summit.

Unlike the developing nations of the Third World—which have to put economic survival ahead of ecology—the industrialized countries generally agree that they must become more energy-efficient if they are to improve the environment.

But here in the Rust Belt, amid orphan remnants of the Industrial Revolution, old energy habits die hard. Every additional dollop of energy put into the Econoline van means that much more carbon dioxide put into the atmosphere. The most prevalent of the "greenhouse gases" that threaten to turn up the planet's temperature, carbon dioxide is released when oil and natural gas are burned to generate power for factories, homes and vehicles in cities around the world.

Econoline, the nation's best-selling full-sized van, is by no means the least efficiently made U.S. product. But it is typical of the heavy energy consumption—and carbon dioxide bingeing—in U.S. manufacturing. And the way it is produced is illustrative of why many American industries fear strict measures to control global warming and tighten environmental protections.

Energy inefficiency is responsible for a host of problems, including smog, acid rain and forest damage, the ecological costs of coal mining, and oil disasters from the Exxon Valdez spill to leaking "tank farms" in Virginia. But literally above all, it contributes to the threat of global warming, the Earth Summit's hinge issue as representatives of more than 150 nations debate how to develop the planet without destroying it.

Thus the principal challenge facing industrialized nations at Rio is to decide among themselves on a strategy for better management of energy.

No nation has resisted the call more doggedly than the United States, which singlehandedly blocked a tougher treaty sought by the rest of the industrialized world to stabilize carbon dioxide emissions.

U.S. EMISSIONS OF CARBON DIOXIDE

Yet no nation contributes more to the threat. The United States, with less than 5 percent of the world's population, emitted 22 percent of the world's carbon dioxide in 1989, according to the Oak Ridge National Laboratory. The average American used enough energy at home, work and play to emit 5.4 metric tons (one metric ton is about 2,200 pounds), compared to 2.3 metric tons per capita in Japan, 2.9 in western Germany, 1.7 in France and 0.6 in China.

Part of the reason for that difference is a product of the coveted U.S. lifestyle: Americans generally live more comfortably in spacious homes that are much better heated, better cooled and more highly illuminated than the average in even wealthy nations.

And part is geographic: Possessing a quarter of the world's coal reserves, the United States has less need to scrimp. Cheap energy has always been a staple of industry. In addition, the vast U.S. land mass—dwarfing Japan or individual European countries—requires long-distance travel to distribute basic goods and services.

"We're blessed with a tremendous amount of natural resources, and the Japanese aren't," said Murray Weidenbaum, an economics professor at Washington University in St. Louis, "It makes sense to use the resources you have in great abundance."

But much of the disparity in national emissions of carbon dioxide is attributable to waste. According to Amory Lovins, director of the Rocky Mountain Institute in Colorado, an energy think tank, global warming will be "an artifact of the economically inefficient use of resources, especially energy."

A series of international comparisons by the federally funded Lawrence Berkeley Laboratory in California showed that efficiency was responsible for nearly half the difference in U.S. and Japanese uses of energy. When the same activity was compared for energy use, the Japanese consumed 30 percent less per unit of industrial output, 25 percent less for air conditioning and 25 percent less for auto travel.

In Europe, only Norway and Sweden exceed U.S. industrial energy use per unit of output, in large part because they concentrate in the production of energy-intensive aluminum and other basic materials. France, Germany and Britain each consumed 40 percent less energy than the United States for every unit of industrial output in 1988. Even bigger differences occur in auto fuel efficiency. Americans consume about 50 percent more gasoline for every mile traveled than Italian and Danish motorists.

THE BENEFITS OF EFFICIENCY

To understand the environmental benefits of efficiency, consider the Ford Econoline. The energy spent on each van, including the production of steel, generates 10 tons of carbon dioxide, industry experts estimated.

In Japan, producing the same vehicle with less energy would generate about 7 tons of pollution, the experts said. Modern blast furnaces run more efficiently than old coke ovens. Auto plants are equipped with super-efficient motors and laid out to minimize lighting and heat.

The 1973 oil crisis awakened Americans to the value of efficiency. And over the following 10 years, America's per capita use of fuel decreased sharply, despite a population increase of about 20 million and a 30 percent rise in gross national product. By 1987, U.S. industry cut its energy use by a third for every unit of output and U.S. vehicles used a third less gasoline per mile. Still, cars and factories lagged far behind the efficiency of Japanese and European competitors.

"The Japanese and Europeans were always more prepared to meet the world on competitive terms," said Lee Schipper, an energy economist and author of the Lawrence Berkeley studies. "As world trading nations, they can't afford to be wasteful."

No one questions the potential for reducing U.S. energy use and pollution. The Bush administration reported recently that with a few inexpensive measures, industry could offset the growth in energy consumption projected for this decade. More optimistic analyses say that halving energy use is technologically feasible and easily affordable.

But barriers to reform are rooted deeply in the nation's political system. Energy has never been taxed to reflect the full costs of its production and use, including the cleanup of environmental damage and the defense of foreign oil fields, said Eric Hirst, a corporate fellow at the Oak Ridge laboratory. Instead of taxing energy suppliers and consumers, the government passes along those costs in general taxes.

As a result, many analysts believe, energy prices have remained so low that they encourage consumption. By contrast, the high price of European gasoline—bloated by taxes to $4 a gallon in Italy—encourages conservation. Europeans buy more fuel-efficient cars and rely more heavily than Americans on public transportation.

U.S. energy supplies not only escape taxes, but also receive federal subsidies that cover much of their costs and permit them to keep price low. According to the Center for Renewable Resources here, a study of the fiscal 1984 budget found that there were $44 billion worth of such subsidies in the form of tax breaks loans, loan guarantees, research grants and protection from liability. Chief recipients were electric utilities and producers of oil and coal.

The 1986 tax law eliminated some of the breaks. But when the Alliance to Save Energy, a nonprofit research and advocacy group here, recently examined the fiscal 1989 budget, it found that energy suppliers still received tax credits of $75 million for the purchase of new equipment and took $400 million in deductions for the costs of oil and gas exploration. Industry also benefited from $5.5 billion in Energy Department research programs during the 1980s to identify new techniques for producing and cleaning up fossil fuels.

"If we're sending price signals to consumers that energy is cheaper than it really is, we'll be building buildings and plants with less efficiency than we should and we'll be using more fossil fuels than would make sense from an economic point of view," said Mary Beth Zimmerman, the alliance's program manager.

All of which may help to explain what happens in Lorain, a largely blue-collar town of 75,000 people. Located on Lake Erie, within easy reach of Appalachian coal fields, it is a natural hub for heavy industry. Today's lineup of energy-guzzling plants here—construction equipment, steel and auto—makes Lorain a miniature of Cleveland 25 miles to its east and a provincial capital of carbon dioxide.

REMNANTS OF INDUSTRIAL REVOLUTION

Like so many old midwestern towns, it has never fully evolved from the culture of the Industrial Revolution.

Edgewater power plant, a fortress-like structure on the edge of downtown Lorain, began turning coal into electricity just after World War I. Used today in periods of peak demand, it is one of the least efficient U.S. facilities, federal officials say.

Officials of Ohio Edison Co., which runs Edgewater, say that the overall efficiency of their utility compensates for the relatively small output of the old Lorain plant.

But energy specialists said that keeping such plants in service, which is especially common in parts of the country where coal is plentiful, makes little sense if the goal is to economize on the use of the most polluting fuels.

Not far from Edgewater stand great mounds of iron ore mined in Minnesota for the blast furnaces of Ohio. One destination is the Cleveland Works of LTV Steel Corp., the nation's largest manufacturer of flat-rolled sheets used in everything from washing machines to Ford Econoline vans.

Steel mills devour energy and pour out carbon dioxide. But the amount can vary widely depending on the type of process selected to produce steel.

Japanese steelmakers have turned increasingly to new electric-arc furnaces that cut energy needs by two-thirds and halve carbon dioxide emissions.

For LTV, the choice was dictated by old Rust Belt logic. The new furnaces cost 10 times more to operate than blast furnaces that run on cheap coal. Although the company acquired some such new equipment in the 1980's, it stopped running it two years ago because of the expense.

"Customer demands drive our capital investment programs, and they were looking for quality and [low] cost" of steel, said Marty Suhoza, LTV's energy director. "We had to plow it into quality improvements and get whatever energy efficiency we could along the way."

With the new furnaces becoming common in Japan, steelmakers now average 17 million British thermal units (Btu) of energy per ton. In the United States, where 70 percent of steel is still made the old way, 22 million Btu are needed on the average. At LTV, last year's rate was 25 million Btu, which resulted in 3.5 million tons of carbon dioxide from the Cleveland Works alone, based on calculations from LTV's own figures.

Piled into freight cars and trucks, LTV steel is shipped to Ford's stamping plant outside of Cleveland, where it is cut into sheets, stamped and sent to Lorain for assembly into America's favorite full-sized van.

The Lorain plant, a sprawling lakeside complex, consumes more energy every year than many medium-sized cities—most of it in the form of electricity, coal burned to generate steam, and natural gas for certain processes. The assembly line is a mechanical symphony of fans, pumps, blowers and conveyor belts. The Econoline begins as a floor pan put on line by robots and encased in a frame. It is dunked in anti-corrosion baths, treated by spray guns and dried at 350 degrees.

Energy conservation measures have cut consumption by 40 percent per car since 1972. But Ford still uses twice as much energy—and thus looses twice as much carbon dioxide—as the big automakers in Japan do to produce a vehicle. General Motors Corp. is even more consumptive, exceeding Japanese energy intensity threefold, according to company statements.

To explain why American car makers emit more carbon dioxide than their Japanese rivals, it is necessary to follow the flow of power at the Ford plant. The same energy inefficiencies occur throughout much of U.S. industry, which accounts for 27 percent of the nation's total energy consumption.

Most of the electricity used at Ford's Lorain plant goes through hundreds of small motors that power fans and pumps. The standard U-frame motors long used by U.S. automakers are among the most efficient in industry. But a new, super-saver model came on the market in recent years that uses 3 percent less power to perform the same task.

According to Jim Kaman, Ford's energy conservation specialist, the new motors could cut overall energy consumption 20 percent at Lorain, significantly reducing the carbon dioxide emitted by Ohio Edison to generate power for the plant.

More and more Japanese car plants are shifting to the super-efficiency motors. But Ford has not moved beyond general discussions, Kaman said, because of a lag time before savings in electricity bills made possible by the devices would repay their initial cost. "The pie is only so big," Kaman said of the money available for capital investment. "Most funds are going now to build more competitive products to make money so we can have more to spend on efficiency."

Some efficiency, however, is cost-free. For example, Japan limits the energy spent in its auto plants by building them about 20 percent smaller than U.S. facilities.

U.S. INDUSTRY'S "PAYBACK GAP"

The Ford plant here covers 3.4 million square feet, including long unoccupied corridors.

Every inch is brightly lit, ventilated and temperature controlled 16 hours a day. Lighting alone accounts for 15 percent of the plant's electricity consumption.

New lighting technologies offer big savings potential in commercial and residential buildings. Compact fluorescent bulbs, for example, consume 75 percent less electricity than traditional incandescents and last 13 times longer, according to the Rocky Mountain Institute.

Four years ago, Ford began to install high-efficiency lighting at the Lorain plant. After replacing 60 percent of the bulbs, however, it balked at the prices. They were so high that the payback from lower electricity bills would have taken years.

The "payback gap" has emerged as a major obstacle to energy conservation in U.S. industry and the developed world at large. Technology breakthroughs of the past few years have led to the development of high-efficiency industrial equipment, office machines and home improvements from shower heads that cut hot water use in half to double-glazed windows that are nine times more effective in retaining heat.

Taken together, the innovations are considered so promising that some analysts predict a halving of U.S. energy use within a decade and the emergence of a new "green machine" industry to sell American energy efficiency worldwide.

If so, the nation will have to change the habits of centuries. "Energy efficiency is viewed as un-American, something for wimps," said Hirst of Oak Ridge. And yet, "We're in a global economy and are competing with other economies that are a lot smarter about managing their resources."

ACTOR TOM CRUISE HELPS TO OPEN CONGRESSIONAL HIGH SCHOOL ART EXHIBITION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. WEISS. Mr. Speaker, as chairman of the arts caucus, it was my great privilege today to welcome to the Capitol—along with Speaker of the House TOM FOLEY and arts caucus vice chairman, Senator JAMES JEFFORDS—winning high school artists from across the country who participated in an Artistic Discovery, the Congressional High School Art Competition. We were particularly pleased to welcome actor Tom Cruise, who inspired the students with words of sincere encouragement, and also received the Congressional Arts Caucus Award.

Today began the second decade of local high school art competitions sponsored by Members of Congress. For 11 years, these competitions have brought together Members of Congress, talented young people, arts educators, families, and local business, and community leaders. Each year, we in the Capitol are treated to a panorama of outstanding artworks. The thousands of visitors who view these works are simply awed that the art is created by high school students. Each of us are overwhelmed not only by the talent contained in the works, but by the vision and humanity which they express.

Congress can truly be proud of this bipartisan effort to recognize and encourage the arts and education throughout the country. Every student benefits from involvement in the arts, for these programs teach our young people self-expression, understanding, discipline, and creativity.

There are a countless number of people who have worked hard to make an Artistic Discovery such a success. Certainly the 256 Members of Congress and their staffs who participated this year. We are also grateful to George White, the Architect of the Capitol and his staff in facilitating this professional exhibit. Also, we are also grateful to General Motors for providing both resources and guidance for the past 9 years.

Perhaps most importantly, it was a thrill to welcome so many students from across the country and thank the student artists personally for their contributions to American culture. We celebrated them today and their creativity and vision.

We were thrilled and delighted that a very special guest was able to join us, that being Tom Cruise—who flew across the country to pay tribute to this exhibition and to the student artists. We, in turn, paid tribute to Tom Cruise. Tom is simply one of the most gifted and popular actors of this generation. A list of the movies that Tom has appeared in reads like a catalog of America's most striking films: "Born on the Fourth of July", "Days of Thunder," "Rain Man", "The Color of Money," "Risky Business", and his current smash hit, "Far and Away."

Tom has shown a range of talent in these films which is astounding. He has also captured something fundamentally American in his portrayals and has struck a deep chord with audiences in this country and throughout the world.

His devotion to his craft is matched by his dedication to the creative efforts of the next generation of American artists—to young people throughout the Nation. In conjunction with "Far and Away," Tom invited high school students across the country to submit original short stories as part of a contest to promote creativity and literacy. In launching the "Far and Away" competition, he stated:

> The goal of the contest is to encourage the contestants to be creative, to dream. Today's youth and their dreams will mold tomorrow's world, if even on a small scale.

It was particularly appropriate that we presented Tom Cruise with the Congressional Arts Caucus Award at a ceremony that celebrates and encourages the same creativity to which Tom has devoted himself. The award read:

> To Tom Cruise, whose motion picture performances have captured the spirit of American and whose devotion to the creative efforts of the next generation represents the most positive role which artists can play in American society.

On behalf of the more than 280 bipartisan members of the caucus, we were tremendously pleased that Tom was able to be a part of the opening ceremony of the Congressional High School art competition and were proud to present him with the Congressional Arts Caucus Award.

I insert Mr. Cruise's thoughtful comments in receiving the award and in addressing the students in the RECORD:

STATEMENT OF TOM CRUISE

Thank you Congressman Weiss. I'd like to thank Senator Jeffords and the entire Congressional Arts Caucus for the privilege and opportunity to be here today.

We are not here today to celebrate the exemplary work of the Arts Caucus, nor my work as an actor. I'm here, we are all here, to celebrate, to acknowledge, to encourage the outstanding artistic achievement of each and every young artist present today. (Applause).

Artists instill in their work an energy, an elan vital (a life force). This energy acts as a carrier wave for their message. At no time in history has this energy been more needed than now. We face many formidable challenges: the environment, education, the very quality of life on this fragile planet. There are over 23 million functionally illiterate Americans today. A news report yesterday has America slipping from second to fifth in international competitiveness.

This is the time of the artist. It's the artist's dreams and visions that help shape future realities. Historically, it is the artist who leads society. With the challenges we face, this becomes an awesome responsibility and a unique opportunity. This challenge must be taken up.

Recently, I received thousands of stories from young people across the country in a writing contest I sponsored while doing "Far and Away." I was spellbound by what I read: the visions, the dreams, the voyages these young people painted. They were inspiring.

I saw your work last night; and I was deeply struck by your work. It provokes a response. It promotes thought, dialogue. The spark which can ignite a resurgence of life, of hope, a true modern renaissance, you hold in your hand. Keep using it.

Over 150 years ago, a young man, not much older than you, lost his father when he was 8 * * * lost his mother when he was 14. He never lost his dream, he wrote at the age of 22:

> A thing of beauty is a joy forever; its loveliness increases; it will never pass into nothingness.

John Keat's vision lives with us today. Your visions and dreams will live for all time. Share them. Express them. Paint them.

It is very important to an artist when acknowledged by peers. I am honored you thought of me. Your work, your youth, your energy make this very special to me. I thank you.

My sincere thanks to you and the Congressional Arts Caucus for the opportunity to acknowledge your extraordinary talent and vision today. We can all dream a better world; and make a better world. Let's do it!

TRIBUTE TO WANDA TEAGUE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. DUNCAN. Mr. Speaker, Wanda Teague, a very close friend to both me and my late father, passed away in Knoxville on Sunday, June 21.

Wanda was involved in more community activities than I can list here today.

I heard someone say once, "Always give the best in life and the best will come back to you." This was true of Wanda Teague. She gave her best to her family and her many friends, and the love she got back from them was reward enough for her and was very great indeed.

She served the citizens of Knox County ably and well for many years as circuit clerk. She also was one of the key administration members of both Lamar Alexander when he was

Governor of Tennessee and Kyle Testerman when he was mayor of Knoxville.

Wanda was one of the finest women I ever knew. She was kind and helpful to everyone, and I never heard anyone say an unkind word about her. Her honesty and integrity were never questioned.

I told her son, Ralph, by phone after learning of her death that she had certainly not lived her life on the sidelines.

Wanda Teague was a leader—a doer. She was active and involved, always trying to make her community, State, and Nation a better place in which to live.

This country needs more people like Wanda Teague.

I would like to call the attention of my colleagues and other readers of the CONGRESSIONAL RECORD the following articles about Wanda Teague which appeared in the Knoxville News-Sentinel, one this week and two earlier articles devoted to her very successful career.

[From the Knoxville News-Sentinel, June 23, 1992]

WANDA TEAGUE, ACTIVE IN GOP, DIES AT 69

(By Jacquelyn B. Dean)

Wanda Teague, the Republican dynamo who devoted 30 years to public service in local and state government, died Sunday of complications from congestive heart failure at St. Mary's Medical Center. She was 69.

Always gracious and cheerful, Mrs. Teague was an inspiration to those who worked around her.

Former Mayor Kyle Testerman, whom she twice helped elect to office, credited Mrs. Teague with helping dozens of Tennessee politicians.

"She's helped a lot of us. She's been kind of like a second mother to me," Testerman said on the occasion of her retirement in 1987.

Knox County Circuit Court Clerk Lillian Bean, who succeeded Mrs. Teague in the position she held for four terms, put it this way:

"I told her there is no way in the world anyone could fill her shoes. There is no way you could do that, so I decided I would walk in her footsteps.

"(Mrs. Teague) was a wonderful lady, a very positive person, and she did so many great things for the community as well as the Republican Party."

Mrs. Teague's interest in politics was fired by classroom discussions at Central High School, where she credited her principal, Hassie K. Gresham, and Col. Nathan B. (Red) Eubank, history teacher and coach, with teaching what it meant to be American.

For two consecutive terms, Mrs. Teague was president of the Knox County Republican Women's Club. She was president of the Powell Republican Club.

She helped Rep. John Duncan Sr. in his campaign, was campaign manager for former Sen. Howard Baker and state coordinator and national women's campaign manager for President Ronald Reagan's campaign.

Twice she was a delegate to the conference of the National Federation of Republican Women in Washington, D.C.

Mrs. Teague rose from being a complaint clerk at the city garage during Mayor Leonard Rogers' administration to the elected office of Circuit Court clerk in 1966.

Her son, Knox County Commissioner Ralph Teague, said his mother took great pride in the fact that all of her children and their families lived on the family farm in Powell.

"She put up a good fight with her illness lately, and she was really dedicated to the family," he said.

Mrs. Teague was preceded in death by her husband, J.P. Teague, who died in 1969.

In addition to her son, Ralph, and his wife Cynthia Teague, she also leaves a daughter and son-in-law, Janet and Neil Simcox; grandchildren Jud Teague and wife, Cathy; Shawna Simcox, Charley Simcox, Jill Teague and Jana Teague; sister and brother-in-law, Mary and Floyd Bales; and a sister-in-law, Joyce Rasar, all of Knoxville.

The family will receive friends at Stevens Mortuary 7-9 p.m., Tuesday. Graveside services will be at Lynnhurst Cemetery Wednesday at 10:30 a.m. Stevens Mortuary is in charge of arrangements.

[From the Knoxville News-Sentinel, Nov. 23, 1987]

RETIRING PUBLIC SERVANT WANDA TEAGUE LEAVING JOB BEHIND, BUT NOT POLITICS

(By Roger Harris)

Shortly after Christmas, Wanda Teague will walk out of the City County Building and close the door on a 30-year public service career.

She'll head for her farm in Powell, pull up a rocking chair, hug her grandchildren and start doing the things she hasn't had time for in many years.

"I'm going to do some fishing, sit and look at the sunset and just be with my family," Teague said. "I'm a truly lucky person. I count my blessings."

Mayor Kyle Testerman, Teague's boss for the past four years, said he and dozens of other Tennessee politicians are the ones who have been blessed.

"She's helped a lot of us. She's kind of like a second mother to me; she's family," Testerman said. "She's gone through a lot of suffering, but never complains. I love her."

Teague's public service career has taken her from the complaint desk at the city garage to election as Circuit Court clerk as a Republican to the governor's cabinet and back to Knoxville as executive assistant to the mayor.

Courteous, gracious, kind, hard working, cheerful and astute are just a few of the descriptions one hears about Teague the woman; about Teague the politician, they use the same words.

"I've seen a lot of office holders come and go in the 28 years I've been on the bench," said Circuit Court Judge James Haynes, a Democrat. "In my opinion there's not been a better one, a finer one than Wanda Teague when she was clerk of circuit and sessions courts. She's an outstanding person."

Harry Asquith, Knox County delinquent tax attorney who also is a Democrat, calls her the "finest woman in government I've ever known."

Teague, 65, was elected circuit and sessions court clerk four times. Her first election victory came in 1966 when she defeated a Democratic incumbent. Though not the first woman to hold elective office in Knox County, Teague is credited by many local politicians with opening the doors of government to many Knox County women.

For the past four years, Teague has been Testerman's executive assistant. She left a post in Gov. Lamar Alexander's administration to return to Knoxville in 1983 because Testerman needed her.

"Yes, I needed her," Testerman said, "She's been invaluable. She's gracious and kind when dealing with the public and the most knowledgeable person anywhere in this community when it comes to politics. She knows what's going on all over town, and I have never known her to be wrong in predicting how an election would go."

Although retiring at the end of the year, Teague won't leave politics completely behind.

"It wouldn't be me if I didn't have that opportunity to help people," Teague said. "That's the reason I got into politics. I'll still do what I can for people."

She won't be able to leave politics even if she wants to, predicted Knoxville lawyer John King.

"She's reached the point that no matter what her personal intentions are, people interested in a public office or a political career in Knox County are going to want her advice and input," said the politically active King. "She just knows so much. I consider her my mentor."

Teague's interest in politics began when she was a student at Central High School.

"Hassie K. Gresham was principal, and Col. Nathan B. (Red) Eubank was history teacher and coach," Teague said several years ago., "They taught us what it meant to be an American. We were taught we were to participate in government. I could scarcely wait until I was 21 and could vote."

Participate she certainly has.

For two consecutive terms Teague was president of the Knox County Republican Women's Club. She was president of the Powell Republican Club, field representative for former Congresswoman Irene Baker, campaign manager for former Sen. Howard Baker, and state coordinator and national women's campaign manager for President Reagan's campaign.

In 1979, Alexander appointed her assistant commissioner of the Department of Insurance.

Twice she was a delegate to the National Federation of Republican Women's Conference in Washington, D.C.

Although Teague has spent years rubbing shoulders with powerful politicians, she's a down-to-earth woman unaffected by the powers of public office.

"She's handled the billions of calls that come into this office with the utmost courtesy and respect," Testerman said.

"She just plain likes helping people. She respects people," said her son, County Commissioner Ralph Teague.

Wanda Teague has two other grown children, Janet and Jack. A widow since 1969, Teague is close to her children and their families. All of her children have built houses on the family farm.

Her husband was J.P. Teague.

Teague loves to farm—for many years she worked a large garden just because she loved the feel of the soil.

Health problems have forced her to stop gardening, but she still mows the lawn, sitting atop a special riding mower bought by her family.

"I love mowing," she said, "I'd mow everything if I could."

In the often frustrating and vindictive world of politics Teague is noted for being calm and diplomatic no matter how tempted to become angry.

The occasional, "Why, thunder," are the strongest words anyone can recall ever hearing her saying.

"I don't believe I've ever seen her lose her temper," said King, who has worked with Teague in several local and statewide campaigns.

"Oh, she's been a little frustrated at times with the intractable bureaucratic morass," King said, "but it would be totally foreign to her personality to lose her temper.

Before she began her political career, Teague was a successful businesswoman. She ran Wanda's Shoppe, a dress and accessory store in Fountain City, for several years before winning her first term as circuit court clerk.

She said she's always worked and will keep on working even in retirement. She plans to work as a consultant for her son Jack's computer forms business.

Teague brushes aside the compliments of family and peers with a shy smile.

"If the people in Knox County hadn't believed in me, I wouldn't be where I am today," she said.

As A Vital Role, She Votes for Government

A high school graduation gift—a trip to Washington given to Wanda Teague by her mother, Mrs. Rosa Rasar—was in a small way directly responsible for Wanda's being in city government today.

It whetted an already growing interest in the workings of the democratic system. Always a history buff, Wanda was entranced at being in the hub of the country's operation.

In a day when flag waving was a happily acceptable state, walking in paths where statesmen had walked before left a lasting effect on an impressionable high school graduate.

Wanda looked forward to her 21st birthday. She really wanted to vote—to stand up and be counted.

"I have felt it a privilege and a responsibility ever since!"

Mrs. Teague is in her second term as Circuit Court clerk; the last election she ran unopposed. And that winning in 1966 was a maiden try for Wanda—her first venture into the political arena, at age 43.

She had worked in politics—"a necessary means of selection in our governmental system"—before, beginning on the precinct level where she and her husband, the late J. P. Teague, worked as young marrieds. He, too, was concerned with history and government. "It was a shared interest, even when we were both students at Central High School."

A "NATURAL" FOR WOMEN

Before seeking elective office, Wanda was field representative in Knoxville for Congresswoman Irene Baker, who served through the unexpired term of her husband, the late Howard H. Baker Sr.

As an aide to Mrs. Baker, Wanda kept her fingers on the pulse of the area. "My job was to keep in contact with the people, to keep abreast of what was going on and to keep Mrs. Baker informed of those happenings. I kept her office open here." Mrs. Teague also served as city complaints clerk.

"It's a natural—women being in politics," analyzed the Circuit Court clerk. "Women are close to home and children. From where they sit they know there are questions they want answered. Things that must be done if our children are to grow up safely in a world that is sane and orderly.

"So, why should we take a passive role in what happens to our world here at home and in national affairs?" she asked pointedly.

"Politics is a wide open field. It is a worthy endeavor. And women should be involved!"

But how does the average woman get into politics? A woman just can't declare herself a candidate and expect a landslide of votes . . .

"The precinct level," Mrs. Teague is quick to answer. "Both parties need and want workers on the precinct level in all sections of Knox County, and there are political clubs for women in both parties."

MET THE PRESIDENT

Mrs. Teague, herself, served twice as president of the Knoxville Republican Women's Club. She represented the club at a convention in Washington where she had an opportunity to meet some of her party's top political figures, including President Nixon and Barry Goldwater.

In the past mayoral campaign, Wanda served as co-chairman for Mayor Kyle Testerman's forces.

"It is good experience working close to an executive in government on any level. You see the problems that exist, the complexity of them. You become more aware of all sides of an issue. This insight makes you a bit more tolerant. Perhaps if each of us could see the enormity of the problems, the far-reaching impact, we might be able to put ourselves in the position of the ones who have to make the decisions in all levels of government—and be a little more charitable."

Wanda, with the help of her staff of 28 (two-thirds of whom are over 40), runs her office, like a business. Indeed it is that. The office operates on fees with the excess (over operating costs) going to the general funds to be reappropriated to finance county government.

In her term $240,000 was returned to the fund. More than $15,000 a year is being saved by the staff members calling jurist not needed to serve (because the case has been settled out of court) in time to cancel their scheduled appearances. It means late evening calls to reach some, but the office staff takes care of it.

"They have been great", notes their boss." And the seven judges we wait upon in Circuit and Sessions Courts are most cooperative. We are fortunate in this area to have such a good judicial system."

THE MORE, THE MERRIER

Business operation Wanda knew about first hand before she became involved in government employment. She had operated a restaurant in Fountain City and was owner of an infants-and-children shop, called Wanda's, also in Fountain City.

At home, a large colonial house on Greenwell Drive, Powell, Wanda is busy with her children and the garden.

She and her late husband built the house 12 years ago. Much of the house is panelled in timber cut on their acreage. Her house and that of her married son, Ralph, and his wife, Ann, are located on a 50-acre farm.

Wanda's 14-year-old son, Jack, and Ralph take care of the cattle. The large vegetable garden that fills the freezer is her domain.

There are always party-fixings in the freezer, unexpected guests are welcomed warmly. Out comes dinner and dessert for a crowd of daughter Jan's college friends, who sometimes descend from classes at Cleveland Community College without notice, and the hostess isn't even ruffled. If they will stay the weekend, that's even better.

The more the merrier for the Teagues! And a most welcome and very frequent guest is Jud, Wanda's 7-year-old grandson, who is just a hop-skip-and-jump away at his contemporary house next door.

TESTING THE THEORY

Wanda has been plagued by serious illness, but doesn't talk about it. Ask her how she feels and you will get a big smile and a cheerful, "GREAT."

That's her favorite word. Great.

Lately Wanda has been getting a lot of double takes. She has changed her dark locks to blonde. "I have always wanted to do that," she grinned. "They say that blondes have more fun. Now I'm going to find out. . . .

A CONGRESSIONAL SALUTE TO MS. LUANN LUKIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. ANDERSON. Mr. Speaker, on Thursday, June 25, 1992, the San Pedro Peninsula Chamber of Commerce will hold its 87th annual installation banquet. On this very special occasion, I would like to recognize their outgoing auxiliary president, Ms. Luann Lukin.

Luann has been a resident of San Pedro, CA, since 1934. She attended Dana Junior High School, San Pedro High School, Harbor College, and Long Beach City College. Many people know Luann as the proprietor of the Merry-Go-Round Nursery, a business founded in June 1954. Luann has enjoyed a successful career with the nursery, expanding in 1967 to new facilities on Eighth Street.

In addition to her business activities, Luann has been involved with numerous civic activities and organizations. She has been a member of the San Pedro Peninsula Chamber of Commerce for 23 years and a two-term president of the chamber auxiliary. Luann was a past president and officer of the San Pedro Emblem Club, first assistant marshall of the California State Association of Emblem Clubs, a past president of the San Pedro High School Lady Boosters, and secretary to the San Pedro Centennial Picnic. She was chairman of trophies and awards for the San Pedro Christmas Parade and the San Pedro Centennial Picnic. Ms. Lukin is also a member of the Dalmation-American Auxiliary.

Luann's service to the community of San Pedro is admirable and her term as auxiliary president will long be remembered as a time when San Pedro blossomed. Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Ms. Luann Lukin. We wish Luann, her three children, John, Robert, and Judy Richey, her eight grandchildren, and four great-grandchildren all the best in the years to come.

GAYLE SLATE—HELPING DISABLED CHILDREN FOR 13 YEARS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. LEVINE of California. Mr. Speaker, today I rise in honor of a very special and gifted woman, Gayle Slate. On Friday evening, June 26, Gayle will be recognized during Shabbat services at Stephen S. Wise Temple, where she has been a member for many years.

In 1979, Gayle developed a special infant-toddler program for disabled children at the Stephen S. Wise Temple Parenting Center, and began an evening support group for parents of disabled children. By 1982, the program was providing services for over 450 families in the Los Angeles area. The programs were dedicated to enhancing the relationship between parent and child. They provided a place where disabled children could receive necessary professional services and parents could find the much needed support they so deserved.

This world renowned program has helped thousands of families to understand their children's special needs. "Our goal," stated Gayle, "was to help parents discover that their children are more important than their handicaps and to learn to see their children as total children, but with particular problems." These programs have indeed deeply affected the lives of the parents who have been fortunate enough to participate, not only in helping them to understand their children, but also helping them to understand themselves.

As one of the participating parents stated:

> Raising a disabled child is one of the most awesome and heart rendering experiences a parent must endure. The parents of a disabled child must receive indepth support so that the family unit can be reinforced with patience and understanding in order to have the strength to function as a whole individual. We come together in a safe environment to discuss issues that are emotionally laden and thought provoking. The group has helped me to put the pieces of my life back together.

Throughout her years of supporting parents of disabled children, my dear cousin Gayle has enjoyed the love and support of her husband Don, and their children Heidi and Scott, as well as that of the entire Stephen S. Wise Temple congregation. Gayle, who is leaving the Los Angeles area, will be greatly missed by her huge circle of friends and family, all of whom wish her the very best and bless her for the rich legacy she has left behind in her support groups for parents of disabled children.

Therefore I ask my colleagues in the House of Representatives to join me in commending and congratulating Gayle Slate for the magnificent work she has performed in serving these families with special needs.

A TRIBUTE TO MS. CYONGYI PETERFFY—HUNGARIAN POET OF FREEDOM IN TRANSYLVANIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. LANTOS. Mr. Speaker, today I would like to pay tribute to Ms. Cyongyi Peterffy, an esteemed poet from Transylvania who recently published a collection of poems entitled, "Expecting Liberty." A brave and dauntless critic of totalitarianism, she has suffered many years of hardship and persecution under the Ceaucescu regime.

Ms. Peterffy was the subject of repeated harrassment and accusations by the Securitate, secret police, because of her writings. Her works went unpublished, and her teaching career was in constant jeopardy. Nevertheless, she courageously wrote in defiance of Ceaucescu's illegitimate and dictatorial government.

I wish to commend Ms. Peterffy for so passionately articulating the yearning for freedom and democracy of all the people of Central Europe and particularly of the long suffering Hungarian community of Transylvania.

Ms. Peterffy has long worked to teach and encourage tolerance among the feuding neighbors of her community. Her poems in praise of Bishop Laszlo Tokes, a great hero of the Romanian revolution which succeeded in deposing Ceaucescu, are among her best works. Ms. Peterffy's work has gone a long way toward keeping the 1,000-year-old Hungarian culture and literary tradition of Transylvania alive.

Mr. Speaker, on the occasion of the publication of Ms. Peterffy's collection of poems, "Expecting Liberty," I ask that my colleagues join me in paying tribute to her today. She risked all to shine the light of democracy on the dark world of totalitarianism, and her brave work will inspire us for years to come.

TRIBUTE TO DR. JAMES C. LEADINGHAM

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. PERKINS. Mr. Speaker, I would like to take a moment to commend Dr. James C. Leadingham of Ashland, KY.

Today, Dr. Leadingham will be inducted as the 71st president of the American Optometric Association at AOA's 95th Annual Congress in Montreal, Canada. Dr. Leadingham's accomplishments are quite impressive and extend past his field of optometry. Dr. Leadingham, a graduate of the Illinois College of Optometry, was the president-elect of the American Optometric Association this past year, and formerly served on the AOA Board of Trustees. He has served as the president of the Kentucky Optometric Association, the Tri State Optometric Society, and the Eastern Kentucky Optometric Society, as well as serving on the Southern Council of Optometry's board of trustees. In 1985, he was named AOA's Optometrist of the Year and was Kentucky's Optometrist of the Year in 1972 and 1982.

In Kentucky, Dr. Leadingham has served as chair of the State Health Planning Council and the Kentucky Statewide Health Coordinating Council. Additionally, he has been active in civic organizations such as the Jaycees, the Elks, and the YMCA.

I am pleased to join Dr. Leadingham's many friends and colleagues in congratulating him and am quite confident he will serve AOA well.

THE 22D ANNUAL IRISH CELEBRATION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. PALLONE. Mr. Speaker, on Sunday, June 28, 1992, the Garden State Arts Center in Holmdel, NJ, will be the site of the 22d annual Irish Festival.

This year's festival will be a celebration of Irish history, and the celebration will honor the great accomplishment of men and women of Irish descent on both sides of the Atlantic. In particular, Sunday's event will mark the 100th anniversary of Ellis Island. The first immigrant to enter the United States through Ellis Island was an Irish woman by the name of Annie Moore. Her brave journey helped pave the way for millions of other immigrants of all ethnic groups who took the bold step of coming to America, and whose courage has made possible the life that we enjoy today. Joining in this salute to Annie Moore will be a most moving and powerful commemoration of our Nation's immigrant heritage.

Sunday's festival will provide an opportunity to experience the sights and sounds and flavor of Irish culture. Throughout the day, visitors will be able to enjoy traditional Irish singing, dancing, craft exhibits and food. The original "Book of Kells," the first translation of the Bible into Gaelic, will be on exhibit. And what Irish festival would be complete without bag pipes? In this case, more than 300 pipers from the New Jersey-New York-Connecticut tri-State area will be present for what promises to be a joyous Massing of the Pipes.

Americans of Irish descent have certainly made their mark on our society, attaining great success and leadership in every conceivable walk of life and in virtually every region of our Nation. As the Republic of Ireland strives to modernize its economy and become a major force in the European Community, Irish Catholics in the north continue to suffer repression. Earlier this year, I was part of a coalition of Members of this body who fought the extradition of Joseph Patrick Doherty. Sadly, our plea to Attorney General Barr was not heard, and Mr. Doherty was returned to a British prison. While condemning this action, I will continue to insist that American foreign policy take into greater consideration concerns of fairness and human rights. We must stop being a party to or a supporter of Britain's cruel reign over the six countries of the north.

In keeping with the theme of this year's festival and the salute to Annie Moore, I will continue to work for increased opportunities for Irish immigration into the United States. Like people of earlier generations, many of today's young Irish men and women have come to America and enriched us with their talents and energies. I believe we should accord them the welcome and support that they have earned.

I would particularly like to pay tribute to the chairwoman for the Irish Festival, Ms. Patricia Sweeney of Lavallette, NJ. Ms. Sweeney, working with a committee of volunteers from throughout the State of New Jersey, has done a heroic job of organizing an outstanding event, at once informative and entertaining.

The Irish Festival is 1 of 11 such festivals at the Garden State Arts Center this summer, paying tribute to some of the ethnic groups that have enriched our State and our Nation with their presence. Proceeds from the festivals go toward the Garden State Arts Center Cultural Fund, which provides free programs for schoolchildren, senior citizens, the disabled and the economically disadvantaged. I believe that the staff and supporters of the Cultural Fund deserve tremendous credit for their hard work and dedication in behalf of a most worthy cause.

TRIBUTE TO DAN R. MASTROMARCO

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. SCHULZE. Mr. Speaker, I rise today to recognize Dan R. Mastromarco, who, as the principal tax policy spokesman for small business within the Office of Advocacy, U.S. Small Business Administration for more than 5 years, has left to pursue an opportunity in the private sector.

Mr. Mastromarco has been a stalwart advocate for economic growth and entrepreneurial opportunity. As assistant chief counsel for tax policy, he participated with the Ways and Means Committee in some of the most important tax policy debates in recent history.

Through testimony, comment letters, speeches, and articles he has sought to defend small firms against ill-conceived initiatives, both regulatory and legislative. Before my committee, for example, he has helped to organize and define the debate over Federal tax deposit reform—rules so complex they are responsible for the most frequently asserted penalty in the Internal Revenue Code, the failure to file timely deposit taxes. He sought modification of the estate and gift tax rules to be more family firm-oriented; he worked to reform the civil tax penalty system; he worked on the taxpayer bill of rights, to provide taxpayers with fairer representation in the enforcement process; and, Dan enlightened the debate over nonprofit and Government competition with small firms.

Dan also advocated sound, positive initiatives to improve the environment for small firm growth. For example, Dan fervently sought a capital gains differential, and he worked to improve and permanently extent the research and experimentation tax credit, making it available to start-up firms for the first time. Both of these issues are vital to our national prosperity. Dan has also been supportive of efforts to make our international tax system less costly and more competitive along the lines of broad structural changes I have proposed.

Dan Mastromarco successfully applied his knowledge of the intricacies of tax law to small business, and in doing so, helped to bring the essential views of small business to the forefront of tax policy debates. Our Nation's small businesses and the SBA will miss Dan Mastromarco's public service on their behalf.

TRIBUTE TO GENE LAUGHHUNN

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. LAUGHLIN. Mr. Speaker, I rise today to honor a man from the 14th Congressional District; a man who has been very active politically on the grassroots level in Victoria County, and today, June 23, 1992, has been declared Gene Laughhunn Appreciation Day.

If you were to search for a prevalent theme in Mr. Laughhunn's life it would have to be community service. Mr. Laughhunn is a tireless campaign volunteer who very much enjoys the sport of baseball.

He has served as the coordinator of the Victoria Teenage Baseball League for 5 years and was president of the Victoria League of Teenage Baseball.

Mr. Lauthhunn has also served on the Victoria Parks and Recreation Commission and on the State board of directors and Texas Teenage Baseball.

Mr. Laughhunn also enjoys working directly with the Victoria Independent School District and was the recipient of the 1991–92 Education Advocate Award, given by the Victoria Classroom Teachers Association.

In addition to his work with teenagers and his work on the grassroot level with local campaigns, Mr. Laughhunn has always defended the interests of the homeless, the unemployed, the elderly, the weak, and the powerless. His participation in the democratic program was never due to his desire for glory, but due to this desire to help those less fortunate than others.

I rise today to call this body's attention to the principles Mr. Laughhunn espoused, principles we all should, as elected officials, strive to uphold and maintain. Today, on Gene Laughhunn Appreciation Day, I rise to remember we are not here for our glory, but to defend the interests of the homeless, the unemployed, the elderly, the weak, and the powerless.

TRIBUTE TO FATHER LETTAU

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. TRAFICANT. Mr. Speaker, I rise here today to describe a man I have known for years from my 17th Congressional District, a man who stays in the shadows while quietly and competently handling a myriad of tasks.

Mr. Speaker, I rise today to honor Father David Lettau, currently the senior associate pastor at St. Patricks Parish in Youngstown. I have known Father Lettau since high school. Cardinal Mooney High School's first years hosted both myself as a student and Father Lettau, its distinguished assistant principal.

Born November 8, 1927 in Youngstown, Father Dave Lettau attended St. Patrick Elementary School and Ursuline High School. He studied at St. Mary College in Kentucky and at St. Mary in Cleveland. On February 28, 1953, he was ordained and subsequently served as an associate pastor at St. Rose in Girard.

Eventually, he served as pastor of St. Jude in Columbia. Under his innovative guidance, St. Jude's constructed a new church. Father Lattau was also pastor of Regina Coeli in Alliance, and St. James in Warren.

In 1986, Father Lettau slowed down his pace to return to his home parish of St. Patrick as an associate pastor. He has served on the Diocesan Pastoral Council and the Priests Senate; he has taught at Ursuline High School and was a priest consultar for Synod '76 and served on the Council of Conciliation.

Mr. Speaker, Father Lettau is a great man who has given all of his heart and soul to his parishioners. I can't think of a better human being with more kindness and compassion. May God bless him always.

THE MEDICAL AND HEALTH INSURANCE INFORMATION REFORM ACT OF 1992

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. HORTON. Mr. Speaker, today I am introducing legislation, the Medical and Health Information Reform Act of 1992, which will create an electronic network that will greatly reduce the administrative costs associated with health care. This legislation is strongly supported by President Bush and companion legislation is being introduced simultaneously in the Senate by Senator KIT BOND.

Why is this legislation important? Mr. Speaker, today the average hospital bill has more than 50 individual charges and costs $120 to assemble. A typical hospital finance department, whose responsibility it is to sort through all the assembled data, requires dozens of employees, vast resources and office space, all of which add dramatically to the cost of health care in this country.

The legislation I am introducing will produce a system whereby hospital patients receive a smart card, which, when presented at any hospital, can be run through a machine to produce all insurance information of the respective patient. This electronic card system reduces paperwork, increases efficiency, makes health care more user friendly, and offers the potential for dramatic reductions in the more than $60 billion we spend each year on health care administrative costs alone.

In addition, Mr. Speaker, the system this legislation would prompt lays the foundation for an electronic data base of medical information. Such a system would replace today's clipboard and paper with information age technology. At the push of a button on a hand-held computer, a doctor would have access to a patient's full medical history, in addition to information about each particular patient visit or medical problem. The doctor would be able to provide better care more expeditiously and the patient would benefit.

This legislation preempts existing State laws that now require hard copy—paper—storage of medical charts and records. It also creates new Federal standards for the privacy and confidentiality protection of patient medical information.

Mr. Speaker, I want to commend publicly Health and Human Services Secretary Louis Sullivan for his active leadership role in forging support for this landmark legislation. I urge my colleagues to support the bill.

THE NIGHTMARE OF PROTECTING YOURSELF AND YOUR PROPERTY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. DUNCAN. Mr. Speaker, Mike Royko, who has always been a liberal Democrat, makes his points with a sense of humor that makes his columns popular and well-read all over the Nation.

I would like to call this column about a person's right to defend his life and property to the attention of my colleagues and other readers of the RECORD.

We simply cannot condone rioting and looting in this Nation. These are much more serious crimes than some may think, and no one should be making excuses for those who commit senseless and many times violent crimes.

[From the Evening Sun, June 22, 1992]

THE NIGHTMARE OF PROTECTING YOURSELF AND YOUR PROPERTY

(By Mike Royko)

It was closing time in my flower shop, and I had just locked the door and turned out the lights. At least that's the way it happened in this strange dream I had.

Suddenly, there was a loud crash, and several young men came leaping through the front window.

"I'm sorry," I said, "but store hours are over. We open at 9 tomorrow morning, and our Father's Day sale will continue. Three flowers for the price of two. Come back then."

One of the young men said, "You don't understand. We are not here to buy. We are here to loot."

And with that they began biting the bulbs and buds off tulips and roses.

"Excuse me," I said, "but why are you eating my flowers?"

"Idiot," one responded. "Don't you know that the Bulls have won the championship?"

"Ah, so this is a victory celebration."

"Absolutely. We are elated at the great victory. Now, where is your money?"

"Are you planning on eating my money, too?"

"No, we will spend it. And let's have the wristwatch and the ring."

"If I give you my belongings, will you go away?"

"Sure, after we destroy your store and burn down this building with you in it."

"Aha. This is quite a victory celebration."

"Yes, but how many teams repeat? And when they repeat we will burn your house and your family. After we remove the TV and stereo, of course."

"Of course. Waste not, want not. But I'm afraid that I can't cooperate, and I must ask you to leave."

"You don't seem to understand. We are making a social statement. In fact, we are making several social statements."

"Couldn't you just fax them to me instead?"

"No, because a fax would not convey our sense of isolation, frustration and deprivation, which is why we must burn your store. Nor would it reflect our need for male bonding, which we are engaging in. So we regret to say that you must die. Actually, we don't regret it. It's kind of fun."

"I'm sorry, but I must disappoint you. As you can see, I am now holding in my hand a large, automatic fully loaded, repeating weapon, with which I will now mow you down, thus protecting my life, limb, flowers and considerable investment."

"We are appalled at your insensitivity. And we will bring your attitude to the attention of the proper authorities."

"Tattletales," I said.

There followed a series of loud gunshots. And when the smoke cleared, the young men were lying in a lifeless heap.

Then, a man in a tweed jacket stepped through the window and sternly said: "Shame on you. What have you done?"

"Who are you?"

"Don't you read newspapers or watch your TV? I am Professor Horace Manure, urban scientist and noted expert on this sort of thing. Here's my card. Sound bites and one-paragraph quotes available at all hours, seven days a week. Now, why have you shot these lads?"

"Because they were going to burn my place and kill me."

"That's no excuse. They were going to kill you as a social statement, which means they were merely trying to vent their frustrations and anguish."

"And I was just trying to defend life and limb."

"A likely story. What you have done is stifle their efforts at self-expression. You have deprived them of their right to free speech. I explained it all in my book: 'The Tyranny of Dialing 911.' "

Just then, three men in business suits and carrying briefcases stepped in.

"What have you done to our clients?" they said.

"Who are you?"

"We are from the Law Office of the People, and you are in big trouble. Do you wish to make an immediate cash settlement, or will you force us to drag you through the federal court, state court, the municipal court and the basketball court?"

"But I was merely defending life and limb."

"That's what they all say. Did you offer them a chance to use your gun to shoot you first?"

"It didn't occur to me."

"See? Clear violation of Chapter 128, Paragraph 42b. And by locking your door, did you consider that by forcing them to break your window, you placed them in clear danger of cutting themselves on the glass?"

"But I always lock my door."

"Aha—an admitted repeat offender. Here, sign this paper, and we will seize your assets in the morning."

Just then, the police arrived.

"Officers, thank goodness you are here."

They looked at the heap of stiffs.

"Now you've done it," one of the cops said.

"Yes, I defended life and limb."

"You are under arrest."

"For what?"

"For violating the curfew against being in your own place of business during postgame celebrations, there by provoking a nasty incident and making a terrible scene."

They were leading me to the police car, when I saw him. It was * * * Suddenly my wife was shaking me awake and saying: "You are screaming in your sleep. What were you dreaming about?"

In a cold sweat, I said: "Jesse had just arrived."

WHAT DO YOU KNOW? MORE TRUTH ABOUT PRORATIONING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. SCHEUER. Mr. Speaker, last week, our former colleague, Bob Krueger, who is now a member of the Texas Railroad Commission testified against the Markey-Scheuer natural gas prorationing amendment before the Senate Committee on Energy and Natural Resources. Commissioner Krueger stated that he had no intention of using prorationing to restrict gas production in order to raise prices.

Well unfortunately, not everybody views prorationing the same way that Commissioner Krueger does. Even other people at the Texas Railroad Commission think prorationing is or should be used to jack up natural gas prices.

Commission spokesperson, Bill Schaible, while speaking about commission consideration of prorationing last fall, stated,

There's an added emphasis to get something done. I think what is driving the urgency this go-round is the depressed natural gas prices. They have been low enough long enough to cause some producers to start to hurt.

According to Mr. Schaible, Texas was considering changes in its prorationing rules in response to the low price of natural gas.

Even Krueger's fellow Commissioner, James Nugent, has stated that he wants prorationing to go further in. "The commission's task is not over. The new rules are interim rules." Just what plans do you have for prorationing Commissioner Nugent?

When the House passed the Markey-Scheuer amendment, it did the right thing.

LAFAYETTE, LA, RECEIVES TOP AWARD IN THE FIRST NATIONAL CITY CHALLENGE TO STOP DRUNK DRIVING

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. HAYES of Louisiana. Mr. Speaker, my hometown of Lafayette, LA, shares with many large and small American cities a serious problem: Every year, drunken driving takes a devastating toll, killing or injuring hundreds and thousands of our citizens.

Like other communities across the Nation, Lafayette is responding to the plague of drunk driving.

Today, the city of Lafayette and Mayor Dud Lastrapes will receive a top award in the First National City Challenge to stop drunk driving.

The National City Challenge singles out American cities that commit themselves to innovative anti-drunk-driving programs which are community based. These programs are publicized as models for other cities to consider and adapt to meet their own needs.

Lafayette launched its alcohol traffic action campaign [ATAC] nearly 10 years ago to tackler drunk driving through a comprehensive program of law enforcement, prosecution, sentence coordination, and public information. Educating patrons and servers on the designated driver program was an important thrust of ATAC.

The campaign did a lot of outreach to students, too. The first local chapter of Students Against Driving Drunk was formed under the guidance of ATAC.

ATAC has had incredible results. From 1983 to 1992, alcohol-related crashes in Lafayette have decreased 35 percent, and drunk driving arrests have increased 20 percent.

Lafayette's programs has been particularly effective because it has deep roots in the local community. It has provided a credible and effective message and approach that encourages a balance between good times and individual responsibility.

I am very proud that the U.S. Conference of Mayors and the Century Council have chosen to honor Lafayette. For those who may not be aware, the Century Council is a nonprofit organization dedicated to combating alcohol abuse. The council is supported by many companies in the licensed beverage industry. The Century Council is demonstrating, through programs like the National City Challenge, that everyone has an important role to play in combating drunk driving.

Again, my congratulations to Mayor Lastrapes and to the people of Lafayette who have made the alcohol traffic action campaign a model for cities across the Nation.

INTRODUCTION OF LEGISLATION REGARDING THE VESSEL S/V "DRAGON"

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. DONNELLY. Mr. Speaker, today I am introducing legislation to exempt the vessel S/V *Dragon* from restrictions of certain sections of title 46, United States Code, and section 27 of the Merchant Marine Act of 1920.

This legislation would permit the U.S. Coast Guard to issue a certificate of documentation authorizing the vessel S/V *Dragon* to engage in the coastwise trade of the United States not withstanding restrictions placed on the vessel by existing law.

The S/V *Dragon* is a U.S.-flagged vessel which was built in the United States and is owned and operated by a U.S. citizen. However, the S/V *Dragon* is currently restricted from coastwise trade because it was previously held under foreign ownership.

Mr. Speaker, while U.S. law is intended to protect the U.S. shipping and construction industry, I believe that in this particular case it places an unreasonable restriction on the owner of the S/V *Dragon*. The waiver from existing regulations called for in this legislation is not transferable to subsequent owners, and will only permit the current U.S. owner of the vessel to engage in coastwise trade.

I urge my colleagues to support this legislation.

TRIBUTE TO CHARLES GRABIEL

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a special individual, Mr. Charles Grabiel, from Midland, MI. Charles is being honored as the recipient of the 1991 Association for Retarded Citizens, Michigan Volunteer of the Year Award.

Charles has been an active member of the community for many years. He has served on the board of directors of the Midland Intermediate School District, the Association for Retarded Citizens in Midland, and the David Reece Fund. He also served as president of the board of directors for ARC and David Reece Fund.

His involvement with these noble causes has provided leadership and direction for individuals with disabilities throughout the Midland community. As an active member of the ARC, he helped this worthwhile organization receive the support of the Midland County United Way. His contributions also led to the creation of the Midland Center for Independent Living. In addition, during his tenure as president of the David Reece Fund, he initiated the purchase of homes for individuals less able to care for their own needs, which was an expansion from their adult foster care home operation. Today, the David Reece Fund owns seven homes which they lease to handicapped individuals wishing to live independently.

Through his immeasurable commitment and dedication, Charles has become a trusted individual to the friends and families of disabled individuals throughout mid-Michigan. He continues to actively give unselfishly of his time toward the betterment of the community and others.

Mr. Speaker, Charles Grabiel is truly an amazing individual. I know that you will join with me and the members of the Midland community in congratulating Charles on receiving this outstanding award and wishing him continued success in future endeavors.

FITZSIMONS ARMY MEDICAL CENTER—A REGIONAL ASSET

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. SCHAEFER. Mr. Speaker, I am pleased to note that H.R. 5428, the fiscal 1993 military construction appropriations bill, includes funding for the redevelopment of Fitzsimons Army Medical Center, located in Aurora, CO.

This important facility serves as the principal medical installation for over 663,528 active duty and retired military personnel in a 13-State health service region ranging from Michigan to Utah. It is the single most important care facility for the individuals in that region. It also serves the Department of Defense as a preeminent teaching institution in military medicine for service doctors and nurses.

The redesign and reconstruction of Fitzsimons will be beneficial, not only to active duty and retired personnel in that 13-State region, but in a budgetary sense as well. Let me explain why.

An economic analysis of Fitzsimons was produced last year by the Vector Research firm of Ann Arbor, MI. Its analysis considered three different workload scenarios, based on the changing needs of the Department of Defense. Its analysis showed that all three levels of workload at Fitzsimons offer savings relative to not operating the facility. In fact, all three scenarios offer significant enough savings to recoup the cost of new construction within a few years.

This study seems to make a compelling argument—not only for retaining Fitzsimons—but for designing a replacement facility. In fact, it is for this reason that the Army has put Fitzsimons in its 5-year construction plan, and will have completed 30 percent of the design by September 30, 1992, pursuant to the terms of Public Law 102–190, the National Defense Authorization Act for fiscal years 1992–93.

With these facts in mind, I am pleased to support H.R. 5428, and the Fitzsimons Army Medical Center—an asset not only to Colorado, but to a large part of the country.

TRIBUTE TO GLEASON GLOVER

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. SABO. Mr. Speaker, I would like to take this opportunity to honor Mr. Gleason Glover, a constituent and longtime friend of mine, who has recently retired from his position as the president and CEO of the Minneapolis Urban League.

Gleason was born and raised in Newport News, VA. He received a B.A. in sociology from Norfolk State University and his M.S.S.A. from Case Western University. He began his professional career with the Golden Age Center of Cleveland and joined the Cleveland Urban League in 1964. Three years later he joined the Minneapolis Urban League.

Gleason has devoted his entire adult life to helping others. He has been involved in numerous efforts to ensure fairness for minorities and disadvantaged people. In his capacity as director of the Minneapolis Urban League, he was one of the principal designers of the Minneapolis civil rights ordinance. He also helped organize selective buying campaigns against several corporations who used discriminatory hiring practices against blacks, minorities, and women. These campaigns resulted in the creation of several corporate level affirmative action departments.

As a noted national leader in the civil rights movement, he was chosen president of the National Urban League Council of Executives from 1974 to 1976. In this capacity, he was one of the chief spokesmen for the National Urban League and its affiliates.

He has been an educator as well as an activist. Since 1968 he has been an instructor at the Hubert Humphrey Institute for Public Affairs and the Social Science Department of the

University of Minnesota. He has received the NAACP Outstanding Leadership Award and the American Jewish Committee's Community Service Award. He has been honored by the State of Minnesota, the National Alliance of Business, the United Negro College Fund, and many others.

Gleason is now embarking on a new path as he begins to work with the Minneapolis Spokesman, a major newspaper for African-Americans in Minneapolis. As an educator and an activist, Gleason is the perfect person for this job. He will be a breath of fresh air for the news business in my city and I look forward to his influence.

I know my colleagues will join me in congratulating Gleason on his past achievements and wishing him the best of luck in his new endeavors.

A SPECIAL TRIBUTE TO WILLIAM D. BRANON SPECIAL AGENT IN CHARGE, CLEVELAND FBI

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. STOKES. Mr. Speaker, on Thursday, June 25, 1992, colleagues, family, and friends will gather at Brennan's Party Center in Cleveland to pay tribute to William D. Branon who is leaving his post as special agent in charge of the Cleveland office of the Federal Bureau of Investigation. I am pleased to rise today to salute this outstanding individual. I also wish to share with my colleagues some of the highlights of Mr. Branon's career.

William Branon is a 25-year veteran of the FBI. He began his career in 1964 at the FBI Headquarters in Washington, DC. Later he was assigned to the Louisville, KY, and Norfolk, VA, field offices. He left Norfolk to assume supervisory duties at FBI Headquarters in the Planning and Inspection Division. Mr. Branon has also served as assistant special agent in charge of the Richmond, VA, and Albuquerque, NM, field offices.

Since October 1988, William Branon has served as special agent in charge of the Cleveland FBI office. I am pleased to report that during his tenure in Cleveland, his office has developed a reputation as one of the Nation's most effective. In recent years, the Cleveland FBI has ranked near the top in the number of indictments it produces each year. The Cleveland office has also received recognition for a high number of successful drug arrests.

Mr. Speaker, I have worked closely with William Branon and his staff during his stay in Cleveland. He is an individual who is dedicated to the job, conscientious, and at all times a professional. One of his major accomplishments in Cleveland was to establish a task force of African-American leaders to help his office with recruitment of minorities to become FBI agents. This task force also participated in the selection of recipients of the Martin Luther King Recruitment Scholarships.

Mr. Branon is also active in the Cleveland community. He is a member of the board of Cuyahoga County Crime Stoppers, a member of the Ohio Peace Officers Training Council, and the policy board of the Cleveland Federal Executive Board. He and his wife, Stephanie, are the proud parents of two children.

Mr. Speaker, Mr. Branon leaves his post in Cleveland to assume a similar position in the FBI's Chicago office. I join his many friends and colleagues in wishing him well as he takes on this new responsibility. Our community is losing a dedicated law enforcement officer, and my congressional office is losing a good neighbor and friend.

TRIBUTE TO THE DEWITT CLINTON ELEMENTARY SCHOOL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to applaud the students of the Dewitt Clinton Elementary School in Chicago. As a result of their success in the State Junior History Fair in Springfield, IL, they participated in the National History Competition in College Park, MD, on June 13 through 19, 1992.

The Clinton School sent four teams to compete this year. Never before has a school from Illinois sent more than two teams. The teams' projects included: Black migration to Illinois, the contribution of the South Works steel mills to the city of Chicago, Polish immigration to early Chicago, and how different ethnic groups affected dance in Illinois.

The team that presented information on ethnic groups is of particular interest to me. As a Polish-American, I understand the importance of ethnic identity and the contributions of ethnic groups to American society. I am impressed by these student's attention to the fact that the city of Chicago contains communities with strong ethnic identities. Roger's Park, the neighborhood in which the Dewitt Clinton School is located, is a rich, multiethnic community which benefits the students who live there. Their study of ethnicity is enhanced by the community that surrounds them.

I am pleased to recognize the students of the Dewitt Clinton Elementary School for their outstanding academic performance. Their studies in culture and history are an exemplary contribution to Chicago, Illinois, and the Nation. The National History Competition is a tool for learning which goes well beyond the classroom.

I urge my colleagues to join me in saluting the students of the Dewitt Clinton Elementary School. I wish them the best of luck in years to come.

A TRIBUTE TO RABBI JACK LUXEMBURG

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to Rabbi Jack Luxemburg, recipient of the American Jewish Congress Leadership Award. His invaluable leadership will be honored at the annual meeting of the national capital region of the American Jewish Congress on June 18.

Rabbi Jack Luxemburg's pastoral and spiritual leadership of Temple Beth Ami in Rockville, MD has elevated his congregation to local and national prominence. For 5 of his 11 years at Temple Beth Ami, he served as regional president of the national capital region of the American Jewish Congress where he spearheaded efforts to bring this new chapter to a national status. As president, he diligently struggled to secure the civil and political rights of all Americans as a fervent advocate of the Civil Rights Act, the Family and Medical Leave Act and the Religious Freedom Restoration Act. The annual "Congress-to-Congress" Policy Conference, initiated during Rabbi Luxemburg's tenure, where American Jewish Congress members meet with Members of Congress, is a tremendous success. Rabbi Luxemburg also has been actively involved as a member of the Task Force on Bio-Ethics and serves on the national governing council.

For the 11 years he served his congregation at Temple Beth Ami, Rabbi Luxemburg displayed qualities of leadership, dedication, and compassion that raised the community to new heights. I am proud that he resides in the district that I represent in Congress, and I am honored to add my voice to the praise of friends and colleagues who gather to salute him.

TRIBUTE TO M. SGT. JOHN MORELLI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. TRAFICANT. Mr. Speaker, I rise to pay tribute to a man who has served his country well over the years. M. Sgt. John Morelli's military career has spanned several decades to include our Nation's most important conflicts. But it was his last assignment as a guard at the Tomb of the Unknown Soldier that carried the most prestige and honor.

John Morelli began his military career in nearby Arlington when it was nothing more than a large Government agricultural farm. This was in 1940 before the Second World War. After serving in Korea for 1 year, John reenlisted at Fort Myer in the military district of Washington. He was assigned to the elite Company A Division, the honor guard for Washington's state occasions. For this position, he was designated sergeant of the guard for the Tomb of the Unknown Soldier.

Mr. Speaker, as anyone who has been to the Tomb of the Unknown Soldier knows, these guards are the finest the military has to offer based on appearance, discipline, rigor, intelligence, poise, and grace. The solemn pace of the guards as they make their rounds impresses the sanctity of the site. Sergeant Morelli also served to guard the tomb when the Chief Executive visits for a wreath laying. Over the years, John Morelli stood watch while Roosevelt, Truman, Churchill, Eisenhower, Kennedy, and Johnson visited the tomb to pay their respects.

Mr. Speaker, John Morelli has been a officer with the Capitol Hill Police for many years now. He is a professional man with a friendly smile and stern demeanor when needed. After many years of service to his country, M. Sgt. John Morelli is retiring from civil service. He is a man anyone would be proud to call a brother, uncle, father, and most of all, American.

God bless him, I wish him the best.

SUPPORT FOR H.R. 776

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1992

Mr. WILLIAMS. Mr. Speaker, I applaud the passage of H.R. 776, the Comprehensive National Energy Policy Act. While passage of this legislation will not erase the failure of several administrations over the last 20 years to assemble a rational energy policy, it does provide significant guidelines and constraints for sound energy development and use as we move into the 21st century. Montanans and the Nation's security demands protection from foreign oil imports, development of highly efficient and environmentally sensitive new energy technologies, and heightened awareness of global climate-change debates.

Title XIII of this legislation emphasizes the use of our most abundant domestic resource—coal. It does so with attention to the most efficient and environmentally sensitive technology possible. One of the technologies provided continued authorization is magnetohydrodynamics [MHD]. The Senate version of H.R. 776 authorizes an extension of the present proof-of-concept [POC] program. I have written my colleagues on the House Interior Appropriations Subcommittee concerning that requirement.

MHD, for the unlimited, is a multidisciplined technology that promises coal-fired electric power generation near 60-percent efficiency, doubling that if existing plants. It does so while limiting NO_x, SO_x, and particulates emissions to well below expected new source performance standards and with limited water requirements. MHD is one of the few technologies that can help existing or new coal-fire power plants meet Clean Air Act requirements in the 2010 timeframe. As we all worry about global climate change problems, MHD cuts significantly CO_2 emissions from coal burning as part of its efficiency benefit.

The Department of Energy and its Pittsburgh Energy Technology Center should be lauded for operating a national MHD program that has met or exceeded its program and technical goals annually. It has done so with little backup equipment and limited program options due to budget constraints that provided no allowance for annual inflation. Because of this, the present POC program must be continued for at least 1 year to provide the utility and other private sector industry with the assurance of durability, reliability, and performance required of any electric generation systems.

Industry and our universities should also be commended for their performance and persistence in developing the MHD technology. This technology development has taken place all over the Nation, in States like Massachusetts, Mississippi, Montana, California, Tennessee, Pennsylvania, and Illinois. None of the private sector entities involved in this program have component parts that constitute a central piece of the technology providing a rate of return for investment in the near term. Yet companies and universities like the Montana Power Co., TRW, MIT, the University of Tennessee Space Institute, Gilbert/Commonwealth, Montana State University, Mississippi State University, the Montana Technology Cos., Avco Research Lab/Textron, Montana Tech, the MHD Development Corp. and many others have persevered with the opposition of many nonbelievers—both scientific and political.

In response to congressional report language and assuming congressional funding for completion of the POC program, the private sector is now preparing a proposal for DOE's Clean Coal 5 request for proposals. To date they have commitments for nearly 1 million State and private sector dollars for proposal writing. At this early stage they are close to financing a projected 67 to 72-percent private to Federal match on a nearly $700 million project.

Some have been fond of quoting government waste of over $700 million over the last 15 years to develop the MHD technology. However, no other program has complied with increasing statutory requirements for private sector cost sharing. I would also point out that the private sector in a commercial demonstration of the MHD technology will spend a similar amount.

It costs money to develop high-risk but high-payoff energy technologies but the return is in the meeting of high performance requirements for environmental emissions, higher-efficiency use of this Nation's coal reserves, and a durable and reliable coal-fired electric generating technology for the 21st century.

I strongly urge the conferees on H.R. 776 to retain its provisions supporting the MHD technology and commend its review to the rest of the Congress.

SENATE—*Wednesday, June 24, 1992*

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today's prayer will be offered by guest chaplain, the Reverend Delvin D. Elwell, pastor of the First Baptist Church, Hinton, WV.

Dr. Elwell.

PRAYER

The guest chaplain, the Reverend Delvin D. Elwell, the First Baptist Church, Hinton, WV, offered the following prayer:

Our Father, we are grateful for the privilege of living in this great land and for those democratic principles which have made our country great.

We acknowledge that You are a sovereign God and that we in the affairs of life should seek Divine counsel.

May we be reminded that the God who is aware of the sparrow that falls is surely concerned about the legislative procedures that transpire in this great building.

Grant to these Senators wisdom and courage to deal with the complex problems before them and to make appropriate decisions.

In His name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL—LEADERSHIP TIME

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders reserved for their use later in the day?

The PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, this morning there will be a period for morning business to extend until 10 a.m., during which time Senators will be permitted to speak for up to 5 minutes each.

At 10 a.m. the Senate will resume consideration of the pending Government-sponsored enterprises bill, with an amendment by Senator DODD on the pending business. It is my hope that we can complete action on that amendment during the day today and any other amendments, if any, to be offered to the committee substitute, and then to proceed in accordance with the agreement reached governing further amendments and disposition of the bill.

Senators are on notice that there may be rollcall votes during the day today.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER. Leader time was reserved.

RAIL STRIKE

Mr. DOLE. Mr. President, it is no surprise that the first domino has now fallen and that we are now facing a national shutdown of the Nation's rail system.

My understanding of the situation—which is constantly changing—is as follows at this moment:

Just after midnight last night, the International Association of Machinists struck CSX Transportation, one of the largest freight railroads on the east coast.

As we all know, a strike against one railroad affects all of the other carriers. Rail lines interconnect, are shared by the carriers, and safety must be ensured.

The American Railroads Association has said that major freight railroads began clearing their lines early this morning and that by early afternoon, Conrail, Union Pacific, Chicago & Northwestern, Norfolk Southern, Burlington Northern, Santa Fe, and Southern Pacific will all have ceased operations; that is expected as of this afternoon.

I will give an example of how it is affecting our States. Those who think it is not going to affect their States are wrong. There are a lot of innocent people on the sidelines who are not part of management or labor. I will give one example: Beachner Grain in St. Paul, KS, which operates grain elevators in 10 southeast Kansas counties, has 6 out of 15 elevators shutdown this morning because of the strike. This situation is being repeated all over my State, and I suspect every other Member's State in one form or another. It will only get worse as time marches on. I had hoped that by offering my amendment yesterday urging the Congress to take action to forestall a rail strike because of its devastating impact on the country that we could have avoided what has now happened.

I am pleased that the amendment was adopted, but I am surprised that 39 Senators voted against it. I hope that they do not support the shutdown that is occurring and the havoc this situation is starting to wreak on the economy. There are millions of American workers who depend on rail service as their only way to get to their jobs or whose jobs depend on products and supplies transported by rail.

I am told that if the rail shutdown continues, there will be at least 180,000 layoffs within 3 days. For this Senator, that is unacceptable.

This morning, the distinguished chairman of the House Energy and Commerce Committee is holding hearings and I understand that Secretary Card and union and industry representatives will be testifying. I commend the efforts of Chairman DINGELL and the administration and I hope that these efforts will lead to a quick resolution. For those unions and rail negotiators who have opted not to strike in hopes of reaching a settlement shortly, I commend their efforts as well.

And I cannot emphasize enough that it is important that we all work together to quickly resolve this situation. We did it last year when we were dealing with contract disputes involving about 95 percent of the rail work force. Ninety-five percent of the rail work force we dealt with last year.

There is no reason Congress cannot repeat last year's action and deal with the other 5 percent quickly and without any bias toward either management or the railworkers.

It seems to me we have an obligation and the American people are counting on us. It seems to me we need to address the problem and to deal with it very quickly. If everything else fails, then I think we need to serve notice on our colleagues that there will be amendments offered at the earliest opportunity. It is my understanding that Senators KENNEDY and HATCH may be holding hearings sometime today, and we will then be able to determine whether or not additional action is necessary on the floor.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But it is already going to cost millions and millions and millions of dollars; at a time when the economy is starting to recover just a bit, now we are going to put it back again. So I hope we can have a resolution very quickly. It ought to be bipartisan, nonpartisan, no politics involved. But it better be immediate.

The American people are fed up in many ways with the Congress of the United States, and this is our responsibility, not President Bush's. He cannot do a thing. He has done all he can do. He did that in April of this year. So it is now up to Congress. If they cannot reach some settlement, it is up to us to extend a cooling-off period, impose some settlement, or many other options. But it is up to Congress, Congress controlled by the majority party, the Democrat Party. It is up to Congress—Congress—not President Bush.

I do not want to see any of my colleagues on the other side pointing a finger at President Bush next week if this strike continues and starts costing $50, $60, $70, $100 million a day. It is time for action now. It was time for action yesterday. We did not get it yesterday. Let us see if we cannot recoup our losses and try to stem the losses across the country and do something before we leave here today.

Mr. President, I reserve the remainder of my time.

REGARDING THE RAIL STRIKE

Mr. GRASSLEY. Mr. President, I rise today to address my colleagues concerning the current rail strike and impending rail strikes.

An extended rail shutdown could be extremely costly to Iowa business and industry. According to the Iowa Department of Transportation, the loss could run into the millions of dollars every day. A walkout would directly affect five major rail freight carriers in Iowa.

My position concerning potential congressional involvement in these types of labor-management disputes has been consistent. These questions are best decided in the give-and-take of labor-management negotiations. However, should it become a question of national urgency, I would be prepared to support congressional intervention.

And we are faced with a potential national emergency.

In many ways, this is simply a question of jobs. As our Nation's economy is finally getting on its feet after the recession, this would be a horrible blow. Many, many Iowans could be thrown out of work.

I simply cannot stand by and let this occur.

I do not maintain that management is right in this dispute. I do not maintain that labor is right.

I do maintain, however, that many Iowans would suffer should a strike occur. It is for this reason that I urge all of my colleagues in the Senate and the House to move to resolve this matter as soon as possible. This action should take place today.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine [Mr. COHEN].

COUNTERING INDUSTRIAL ESPIONAGE IN THE POST-COLD-WAR ERA

Mr. COHEN. Mr. President, when Russian President Boris Yeltsin addressed a joint session of Congress last week, embracing the principles of democracy and free markets, the final icecaps of the cold war melted, releasing in all of us a sense of joy and exhilaration.

But even as we welcome these dramatic improvements, let us not be lulled into complacency. Our bipolar world has fragmented into a kaleidoscope of parochial interests, alliances, and threats that can change rapidly and unpredictably. Our cold war scope—formerly fixed on one target—is not going to serve us in today's complex geopolitical landscape.

In the economic sphere especially, the competition is fierce and the challenges severe. Our competitors—even our closest allies—do not always play by the rules. Indicative of this is the alarming rate at which foreign governments are spying on U.S. businesses and economic interests. According to the Director of Central Intelligence, Bob Gates, at least 20 nations from Europe, Asia, the Middle East, and Latin America are involved in intelligence activities that are detrimental to our economic interests.

Some of the specific cases are shocking. According to a recent New York Times article by Peter Schweizer, "between 1987 and 1989, French intelligence planted moles in several U.S. companies, including IBM. In the fall of 1991, a French intelligence team attempted to steal 'stealth' technology from Lockheed." Other accounts report that French intelligence units conduct 10 to 15 break-ins every day at large hotels in Paris to copy documents that belong to businessmen, journalists, and diplomats. According to other accounts, the French have been hiding listening devices on Air France flights in order to pick up useful economic information from business travelers.

The French are not alone among our friends who spy on us. Two months ago, rocket scientist Ronald Hoffman began serving a prison sentence for selling strategic defense initiative and rocketry technology for more than $700,000 to four Japanese companies. According to Schweizer, these four companies have vowed to capture 20 percent of the aerospace market by the year 2000.

And in 1991, IBM lost several important European bids after company officials discovered that German intelligence had been eavesdropping on its telecommunications and passing stolen information on to German companies.

These crimes by our friends not only betray our friendship; they cost America jobs. According to IBM Vice President Marshall Phelps, IBM has suffered losses in the billions as a result of espionage being carried out against the company. Foreign intelligence agents are draining our country of its ideas like sap from a tree. For a country that professes to be a fountainhead of scientific knowledge, nothing could be more damaging.

Only recently has our Government begun to look beyond its cold war blinders to respond to this growing threat. We have taken steps to improve our defenses against economic espionage, and the Federal Bureau of Investigation and Central Intelligence Agency deserve credit for stepping up their efforts in this area.

But in many respects we still seem to look out at the world through a diplomatic greenhouse, afraid to lodge criticism at our allies for fear of a return volley that might shatter one of the delicate panes.

There is something to be said for diplomatic cordiality, but we must never be afraid to take a firm stand when our cause is just. We did not win the cold war by appeasing a bankrupt ideology, and we will not win on the economic battlefield by ignoring friends engaging in theft. We must not let our reluctance to offend outweigh our responsibility to defend our Nation's vital interests.

I hope my colleagues will join me in examining this issue in more detail in the months ahead. While we can improve our defenses, it is clear that foreign countries will not be deterred from engaging in economic espionage as long as the rewards outweigh the punishment. It is my hope that the Intelligence Committee and other committees will hold hearings, consult Government and business leaders, and introduce legislation that will enhance our tools to attack this problem head on so that we may protect our Nation's greatest resource—the ingenuity and intellectual resources of the American people.

Mr. President, I ask unanimous consent that I be allowed to insert two articles in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 23, 1992]

OUR THIEVING ALLIES

(By Peter Schweizer)

MCLEAN, VA—If most Americans thought the end of the cold war meant an end to spying, they should think again. Industrial espionage against the U.S. by its friends and allies is on the rise.

John Davitt, the former director of Internal security at the Justice Department, says our allies are increasingly using spy methods "every bit as sophisticated as those of the K.G.B. in order to gain access to American high-tech secrets."

Among the countries most often cited by U.S. intelligence agencies as seeking technological and financial secrets are France, Germany, Japan, South Korea and Israel.

Pierre Marion, the former director of French intelligence, told me this year that in 1981—at the request of President François Mitterrand—he established a branch to spy on U.S. high-technology companies. The branch still exists.

In April, Ronald Hoffman, a rocket scientist in California, was sent to prison for selling Strategic Defense Initiative and rocketry technology to four Japanese companies for more than $700,000 between 1986 and 1990. The four companies, Mitsubishi, Nissan, Ishiawaji-Harima and Toshiba, have pledged to capture 20 percent of the aerospace market by the year 2000.

During the summer of 1991, I.B.M. accused the German intelligence service of eavesdropping on its telecommunications and passing stolen information to German companies. I.B.M. lost several important bids in Europe around this time, possibly because of inside knowledge obtained by its German competitors.

Last year, an Illinois-based aeronautics company, Recon Optical, accused the Israeli Air Force of espionage. An independent arbitration board in New York sided with Recon, and the Israeli Government quietly agreed to pay the company for damages.

Between 1987 and 1989, French intelligence planted moles in several U.S. companies, including I.B.M. In the fall of 1991, a French intelligence team attempted to steal "stealth" technology from Lockheed. Only the Federal Bureau of Investigation's persistence ended these operations.

U.S. trade negotiators complain that our trading partners are increasingly targeting them for "friendly" espionage in the hopes of getting a peek at the U.S. negotiating position. One former negotiator claims he repeatedly found electronic bugs in his room whenever he visited Toyko.

During the cold war, the U.S. was reluctant to discuss friendly spies. "We tended to look the other way," says Herb Meyer, a former special assistant to the Director of Central Intelligence, "they were taking advantage of us while we felt we had a larger interest." But that attitude is changing.

The F.B.I.'s cold war "country criteria list" of enemy countries whose personnel in the U.S. needed close scrutiny was recently replaced by the "New Security Threat List" that encourages bureau agents to go after any intelligence agent, foe or friend, who conducts espionage operations in the U.S. or against U.S. interests overseas.

Although the C.I.A. Director, Robert Gates, has pledged that the U.S. "will not get into the industrial espionage business," his Science and Technology Advisory Panel is quietly discussing the topic. However, Federal economic espionage is unlikely to happen. Because American business culture is dead set against governmental industrial planning, the C.I.A. would not be free to pass any secrets it might obtain to one American company at the expense of its domestic competitors.

The most sensible recourse for the U.S. is to make economic espionage costly to its practitioners. Currently, they face no legal penalties. If a foreign company or country gets caught, it should face stiff, mandatory trade sanctions. As political allies are increasingly viewed as economic rivals, the U.S. must come to grips with this facet of the post-cold-war world.

[From Time magazine, May 28, 1990]

When "Friends" Become Moles

(By Jay Peterzell)

The dangers of Soviet military espionage may be receding, but U.S. security officials are awakening to a spy threat from a different quarter: America's allies. According to U.S. officials, several foreign governments are employing their spy networks to purloin business secrets and give them to private industry. In a case brought to light last week in the French newsmagazine L'Express, U.S. agents found evidence late last year that the French intelligence service Direction Générale de la Sécurité Extérieure had recruited spies in the European branches of IBM, Texas Instruments and other U.S. electronics companies. American officials say DGSE was passing along secrets involving research and marketing to Compagnie des Machines Bull, the struggling computer maker largely owned by the French government.

A joint team of FBI and CIA officials journeyed to Paris to inform the French government that the scheme had been uncovered, and the Gallic moles were promptly fired from the U.S. companies. Bull, which is competing desperately with American rivals for market share in Europe, denies any relationship with DGSE. Last year the company made a legitimate acquisition of U.S. technology when it agreed to purchase Zenith's computer division for $496 million.

U.S. officials say the spy ring was part of a major espionage program run against foreign business executives since the late 1960s by Service 7 of French intelligence. Besides infiltrating American companies, the operation routinely intercepts electronic messages sent by foreign firms. "There's no question that they have been spying on IBM's transatlantic communications and handing the information to Bull for years," charges Robert Courtney, a former IBM security official who advises companies on counterespionage techniques.

Service 7 also conducts an estimated ten to 15 break-ins every day at large hotels in Paris to copy documents left in the rooms by visiting businessmen, journalists and diplomats. These "bag operations" first came to the attention of the U.S. Government in the mid-1980s. One U.S. executive told officials about a trip to Paris during which he had made handwritten notes in the margin of one of his memos. While negotiating a deal with a French businessman, he noticed that the Frenchman had a photocopy of the memo, handwritten notes and all. Asked how he got it, the Parisian sheepishly admitted that a French government official had given it to him. Because of such incidents, U.S. officials began a quiet effort to warn American companies about the need to take special precautions when operating in France.

While France can be blatant, it is by no means unique. "A number of nations friendly to the U.S. have engaged in industrial espionage, collecting information with their intelligence services to support private industry," says Oliver Revell, the FBI's associate deputy director in charge of investigations. Those countries include Britain, West Germany, the Netherlands and Belgium, according to Courtney. The consultant has developed a few tricks for gauging whether foreign spies are eavesdropping on his corporate clients. In one scheme, he instructs his client to transmit a fake cable informing its European office of a price increase. If the client's competitor in that country boosts its price to the level mentioned in the cable, the jig is up. "You just spoof 'em," Courtney says.

Most U.S. corporations could protect their sensitive communications simply by sending them in code. But many companies are reluctant to do this, even though the cost and inconvenience might be minor. One reason may be that the effects of spying are largely invisible. All the company sees is that it has failed to win a contract or two. Meanwhile, its competitor may have clandestinely learned all about its marketing plans, its negotiating strategies and its manufacturing secrets. "American businesses are not really up against some little competitor," observes Noel Machette, a former National Security Agency official who heads a private security firm near Washington. "They're up against the whole intelligence apparatus of other countries. And they're getting their clocks cleaned."

As U.S. national-security planners increasingly focus on American competitiveness, many of them fear that U.S. corporations are operating at a severe disadvantage. America's tradition of keeping Government and business separate tends to minimize opportunities for the kind of intelligence sharing that often occurs in Europe. "I made a big effort to get the intelligence community to support U.S. businesses," recalls Admiral Stansfield Turner, who headed the CIA in the late 1970s. "I was told by CIA professionals that this was not national security." Moreover, it would be hard for the Government to provide information to one U.S. firm and not to another. Yet if sensitive intelligence is shared too widely, it cannot be protected.

One thing the U.S. Government can do is make sure business leaders understand the threat. When the late Walter Deeley was a deputy director at NSA in the early 1980s, he began a hush-hush program in which executives were given clearances and told when foreign intelligence agencies were stealing their secrets. "He considered it a real crusade," a former intelligence official says. "If American business leaders could see some of these intelligence reports, I think they would go bananas and put a lot more effort into protecting their communications."

"It may not be possible to level the playing field [with foreign companies] by sharing intelligence directly" with their U.S. rivals, observes deputy White House science adviser Michelle Van Cleave. "But it should be possible to button up our secrets." That argues for much more use of secret-keeping techniques and far less naiveté on the part of American business as it enters the spy-vs.-spy era of the 1990s.

Mr. COHEN. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Robb). Without objection, it is so ordered.

NATIONAL WIRELESS TELECOMMUNICATIONS MONTH

Mr. BURNS. Mr. President, June has been designated "National Wireless

Telecommunications Month" by the cellular industry, in recognition of the milestone of cellular service reaching every market in America. This accomplishment comes just 8½ years after the first system was turned on, and I would like to take a moment to reflect on what a remarkable achievement this is.

Starting with the activation of the first system in Chicago in October 1983, cellular has grown into a multibillion-dollar service industry in slightly more than 3,000 days. The last of 734 markets in this country saw a system turn on a few days ago, meaning the industry was turning on a market every 4 days.

Never before has such an advanced telecommunications service been rolled out to all of America, not just the big city.

This accomplishment becomes even more remarkable if one considers the long and sorry history of legal and regulatory barriers and obstacles which the cellular industry faced in providing new telecommunications service to the American public. On several occasions, the FCC received thousands of applications for individual markets, delaying the process even more.

Combine these events with the entry of speculators, whose only interest in participating in the cellular lottery was the acquisition of a license they could immediately sell to the highest bidder, the fact this country has nationwide service in so short a period is all the more remarkable. Indeed, I think astonishing is an even better word; just imagine how quickly this industry could have moved with a clear regulatory and legal path. We should not forget this last point when considering the great potential of the next generation of wireless telecommunications services—personal communications services [PCS].

For this reason, Mr. President, I believe it is appropriate that the cellular industry be congratulated for its perseverance and commitment on the occasion of this month's special observance.

THE AUDIO HOME RECORDING ACT

Mr. BURNS. Mr. President, I rise today to express my strong support, as an original cosponsor, for legislation passed last week, S. 1623, the Audio Home Recording Act. This legislation represents a historic compromise between the music and consumer electronics industries and demonstrates private sector ingenuity and the progress that can be made when private sector interests work together to reach a solution.

With enactment of this legislation, everyone in the marketplace will benefit. First, consumers will finally have access to some of the most exciting and innovative technology that the marketplace has to offer—and the music to go along with it.

This bill will also provide a much-needed shot in the arm for America's economy. Consumer electronics companies can get back to the business of making and marketing digital audio equipment and retail stores can now stock the shelves with new digital audio recorders. And songwriters, music publishers, and record companies can continue to produce the world's most popular music, American music, on new digital formats.

Very simply, Mr. President, this bill will create jobs and boost our economy. Several record companies have already announced major business expansions in order to manufacture and produce music on the new digital formats. And, Tandy Corp., the American licensee for digital compact cassette, will be producing this new technology and digital blank medium here in the United States. This translates into more jobs, an improved economy, and a favorable impact on America's balance of trade.

I thank my colleagues for their support of this important legislation and, in particular, applaud the leadership of Senator DECONCINI.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,935,961,408,493.11, as of the close of business on Monday, June 22, 1992.

On a per capita basis, every man, woman, and child owes $15,323.43—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab, to pay the interest alone, comes to $4,511.40 per year.

WE'RE PROUD OF THE BLAZERS

Mr. HATFIELD. Mr. President, a few weeks ago I stood in this Chamber and proclaimed my sincere belief that the Portland Trail Blazers would be crowned champions of the National Basketball Association. Alas, as the Nation knows, this did not come to pass. Portland fell to the Chicago Bulls in an exciting six-game series.

It is clear to anyone who watched the series that the Bulls were a superior team to the Blazers; or at least they were for the six games this season that counted the most.

I have had an opportunity to think about the outcome of the series in recent days and have tried to draw conclusions about why the Blazers were not successful against the Bulls. Granted, the Bulls have Michael Jordan, the greatest player in the world; granted, the Bulls have Scottie Pippen, another Olympian; granted, John Paxon's shooting ability certainly was enhanced by the fact that his older brother, Jim, once played for the Blazers; granted, they played great team defense and shot much better than the Blazers. But there must be other reasons why the Bulls were successful.

Mr. President, the world has not seen the last of great basketball in Portland this year. In addition to the NBA draft being held there on June 24, the Basketball Tournament of the Americas will take place in Portland June 27 to July 5. That will be the debut of the U.S. Olympic team, and there is certain to be much excitement during that tournament. For 2 weeks, Portland will once again become the mecca of the basketball world.

The Portland Trail Blazers had a great season; the loss of the championship should not be seen as failure, only disappointment. After all, 25 other NBA teams wished they could have taken Portland's place and played for the NBA championship. However, it is inevitable that there can be only one champion, and the Bulls retained that title. They were and are a better basketball team.

Which brings me, Mr. President, back to consideration of why the Bulls won. It occurs to me that there must be an Oregon-connected reason for their success. Was it sheer talent alone, I think not. If it is not talent alone, it must be something else; the shoes; it must be the shoes. That's it, Mr. President, the Bulls best players, Jordan and Pippen, wear shoes from an Oregon-based company. I knew there had to be an Oregon connection there somewhere.

Mr. President, I congratulate the Chicago Bulls on being the best basketball team in America, but I also congratulate the Portland Trailblazers and all of their many fans on a wonderful year. It was a great year.

INDONESIAN ATROCITIES CONTINUE IN EAST TIMOR

Mr. PELL. Mr. President, this afternoon the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs will meet to consider the nomination of Ambassador Robert L. Barry to be Ambassador to Indonesia.

Ambassador Barry is a distinguished Foreign Service Officer with a strong record in European affairs. Formerly, he served as Special Adviser for East European Assistance to the Deputy Secretary of State. This will be his first posting to Asia, and Indonesia is a difficult posting.

I hope Ambassador Barry will take with him an understanding of the depth of American outrage about Indonesia's repression of the East Timorese.

Since the massacre last November by Indonesian military forces of at least 75, but probably significantly more, East Timorese who were peacefully demonstrating in Dili, East Timor, relations between the United States and Indonesia have soured. They will continue to worsen in my view as long as Indonesia refuses to recognize the legitimate rights of the East Timorese people.

Last April I was in Indonesia. I asked President Suharto if I could go to East Timor. He refused my request as he has refused the request of international human rights groups and foreign journalists to visit that occupied island.

In the meantime, the Indonesian Government has engaged in an effort to cover up the extent of the massacre while continuing to repress the East Timorese people. I would like to enter into the RECORD a report issued by Asia Watch yesterday entitled "East Timor: The Courts-Martial" that clearly outlines the extent of the Indonesian Government's effort to prevent the world from observing their tyranny.

After the November massacre in which scores died and disappeared, the Indonesian Government arrested the demonstrators. Thirteen are being tried in Dili, five in Indonesia's capital of Jakarta. Those shot at the shootees were arrested on charges of subversion and "inciting hatred." Sentences in many of these cases have already been handed down and they represent in my view an egregious miscarriage of justice: Two East Timorese involved in a demonstration in Jakarta following the November 12 massacre were sentenced to 9 and 10 years in prison. The other three received prison terms from 6 to 30 months.

Three of the thirteen East Timorese jailed in Dili have been sentenced. One was given 6 years, 10 months. Another was sentenced to 5 years and 8 months, and a third was imprisoned yesterday for 15 years.

These were not the people killing. These were the innocents being killed.

What did Indonesia do about the shooters? Nine soldiers and one police officer were tried. The nine were not charged with murder but accused of disobeying orders. The one police officer was charged with assault.

What were their sentences?

They were given from 8 to 18 months.

The United States intends to give Indonesia over $59 million in economic and military assistance in fiscal year 1992. Having just observed the quality of Indonesian justice, I believe we need to review seriously the direction of our aid program.

Recently, Senator WALLOP, Senator LEAHY, Senator DURENBERGER, Senator KERRY, and myself wrote Secretary Baker requesting that the United States make human rights a strong condition of international aid to Indonesia when international donors meet in July under World Bank auspices. I have also written to the U.N. Secretary-general requesting his direct intervention in this conflict to aid its resolution.

I will continue to do all that I can to ensure that this issue is not neglected despite the Indonesian Government's best efforts to keep it obscured from international attention. I trust that Ambassador Barry will convey these strong sentiments to the Indonesian Government.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From Asia Watch, June 23, 1992]

EAST TIMOR: THE COURTS-MARTIAL

Between May 29 and June 6, 1992, nine soldiers and one policeman were tried by military or police courts in Bali for their role in the massacre in East Timor on November 12, 1991 when the Indonesian army opened fire on a crowd of unarmed demonstrators. The trials were open to diplomatic observers and the press; the sentences were light, ranging from eight to eighteen months. The courts-martial do not portray the Indonesian army in a favorable light, but neither do they pierce the secrecy surrounding how the shooting started or what happened to the bodies of those killed. The glimpse they offer into military behavior on November 12 is a carefully managed one, which serves to strengthen the "official version" of events, but even the Indonesian press is openly skeptical of that version. As far as the Indonesian government is concerned, the case against the military is now closed. Asia Watch calls on the international community to continue to press the Indonesian government for a full accounting of military actions before, during and after the demonstration.

BACKGROUND

On November 12, Indonesian troops turned their guns on thousands of East Timorese who had marched from a church on the waterfront of Dili, the capital, to a cemetery in the Santa Cruz area of the city where a supporter of East Timorese independence, Sebastiao Gomes, had been buried two weeks earlier.[1] The Indonesian government initially maintained that only 19 had died; a government commission later raised the death toll to "about 50"; 90 were reported missing; and the number of wounded "exceeded 91."[2] Unofficial estimates put the death toll well over 100, with many of the victims dying of beatings or other abuse suffered after the shooting. To this day, no one knows what happened to the missing, or to the bodies of those killed; only 19 graves were ever officially found.

The courts-martial in Bali of soldiers implicated in the massacre appear to represent the final chapter in the Indonesian government's moves to account for the killings, the last in a series of measures designed to defuse international outrage, but which also strengthened President Suharto's image as a master manipulator and exposed rifts in the Indonesian army. None of the steps taken by the Government appear to have been aimed primarily at uncovering the truth.

The first major step was President Suharto's appointment of a National Commission of Inquiry (Komisi Penyelidik Nasional or KPN) on November 18. Members of the commission were hampered by military obstructionism, the fear of witnesses to come forward to testify and the team's own lack of independence. On December 26, they produced a short "advance report" which blamed the victims but criticized army excesses. The report noted three different versions of how the troops opened fire: troops in anti-riot formation aimed directly into the crowd; shooting started in self-defense after fighting erupted; and the shooting came from unorganized security forces who were neither in proper formation nor proper uniform. It made no attempt to assess the relative validity of the three versions.[3]

The second step was the highly publicized sacking of two senior military commanders on December 28, Major General Sintong Panjaitan, commander of the KODAM IX/Udayana regional military command based in Bali, and Brigadier General Rudolf Warouw, commander of operations (Pangkolakops) in East Timor.

The third step was President Suharto's instruction to the Chief of Staff of the Indonesian Army, Edy Sudradjat, to appoint a Council of Military Honor (*Dewan Kehormatan Militer*) to investigate military behavior on November 12 and recommend appropriate disciplinary action. The Council was in operation from January 2 to February 20, 1992 and on February 27, it issued a press release, announcing that six officers had been disciplined, including three dismissed from the army altogether, two removed from their jobs in the army bureaucracy but kept on active duty, and one temporarily reassigned but kept on active duty.

Although the names of the officers were never made public, the March 14 issue of *Editor* reported that the three "honorably discharged" were probably General Warouw, Colonel Gatot Purwanto, assistant to Warouw for intelligence, and the Sector C commander responsible for Dili, Colonel Binsar Aruan. The officer temporarily removed from his position may be Sintong Panjaitan, now at Harvard University to study business.

The Council release said that eight others, including our officers, would be prosecuted, according to the press release, and five other officers would be further investigated.[4] In fact, the entire Operations Command headed by Warouw was purged, with every single one of the six assistants transferred out of East Timor after the massacre. The commanders of the district-level KODIM and the sub-regional KOREM were also moved out.[5]

The government's failure to move forward with the prosecutions promised in the Council's press release became a new focus of international criticism, particularly as dozens of East Timorese independence supporters were behind bars in Dili and Jakarta, some of them facing subversion charges, for participating in non-violent demonstrations. Most had no access to friends, family or lawyers.[6]

A military spokesman promised in early May that the courts-martial would take place before Indonesia's quinquennial exercise in heavily-controlled parliamentary elections, scheduled for June 9. When they finally began on May 29, the campaign domestically and events in Yugoslavia and Thailand internationally diverted public attention. The verdicts came as something of an

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Footnotes at end of article

anticlimax, in part because the country was otherwise occupied, but also because all those tried were junior, and their testimony contained few revelations.

THE COURTS-MARTIAL

The nine soldiers and one police officer prosecuted can be divided into three groups: five enlisted men who were all based at the KODIM and who allegedly on their own fired on demonstrators; officers associated with Battalion 303 whom the KODIM commander sent to the demonstration and who failed to prevent their men from firing; and two men accused of assaulting wounded demonstrators. The nine soldiers were accused of violating Article 103 of the military code by disobeying or exceeding orders; the police corporal was charged with assault.

All five of the enlisted men tried had been stationed at KODIM 1627. Three of them, First Sergeants Udin Syukur and Aloysius Rani and Master Sergeant Petrus Saul Mada, all testified at their trials that they had been ordered by the KODIM commander, Lieutenant Colonel Wahyu Hidayat, not to leave the KODIM as long as the demonstration was underway, but they disobeyed after an Indonesian officer, Major Gerhan Lantara, and an East Timorese soldier, Private Dominggus, were brought to the KODIM, bleeding from their wounds after having been stabbed by demonstrators. (The stabbing incident occurred early on in what was otherwise a non-violent march.)

Udin took a G–3 rifle; when he returned to the KODIM, it was missing two bullets. He said he fired the rifle after one of the demonstrators threatened him with a knife.[7] Sergeant Rani said he grabbed a weapon and went to the Santa Cruz cemetery by taxi, where he fired on a demonstrator carrying a Fretilin flag. He told the court he had been overcome with emotion after seeing the two wounded soldiers at the KODIM. All three sergeants said they rushed out of the KODIM so quickly that they did not have time to put on their uniforms and arrived at the cemetery in a state of partial dress.

Privates Mateus Maya and Afonso de Jesus were East Timorese stationed at the KODIM who were assigned to drive Major Gerhan to the hospital. They were never at the Santa Cruz cemetery but allegedly fired on demonstrators en route to the hospital.

The five enlisted men were tried in Rindam (Resimen Induk Daerah Militer) Udayana in Tabanan, Bali (see Appendix 1).

The second group consists of three second lieutenants: Sugiman Mursanib (spelled Mursanip in the court documents); John Harlan Aritonang and Handrianus Eddy Sunaryo. Mursanib, who joined the army in 1965, was the head of the social and political section of the KODIM (Kasi Sospol), and under normal circumstances, reported directly to Hidayat, the KODIM commander. The night before the massacre, he had been out all night on "sweeps." He was back at the KODIM in the morning, without having slept, and it was only some 10 minutes after the demonstrators had passed by the KODIM headquarters that Colonel Hidayat ordered him to lead a three-platoon force company totalling 72 men in all from the KODIM to follow and disperse the marchers.[8] Aritonang, who previously had been decorated for capturing a Fretilin leader, Maukalo, and Sunaryo led platoons II and III respectively from Battalion 303; the third platoon was from Brimob 5486.

Without putting on his uniform, Mursanib rushed out; one fault that was cited in his trial was that while the Brimob unit, presumably with some training in riot control, was at the front when the force left the KODIM, Mursanib moved the two army platoons to the front near the cemetery.

It was at the cemetery that Mursanib gave the orders, supposedly to Lieutenant Aritonang, to advance. He in turn was receiving orders via radio from Colonel Binsar Aruan, the now-sacked commander for the Dili area. Both Aritonang and Sunaryo gave orders to their troops to advance, and when they heard firing from other forces at the cemetery, they opened fire too. Aritonang testified that he tried to prevent his men from firing but to no avail. It was later found that six men from his platoon had fired 60 bullets. Sunaryo was faulted for not having recognized that the order from Mursanib was only meant for Aritonang's platoon. Five of his men also opened fire and shot 33 bullets.[9] Aritonang, according to one press account, was cited for failing to give the orders to his troops to get in formation.[10] He was also charged with failing to control his subordinates, as were Sunaryo and Mursanib. The Brimob platoon leader, First Lieutenant (Police) Rudolf A. Rodjo, was not charged.

All three officers in the second group were tried by the Military Court III–4 in Denpasar, Bali.

Two men make up the last group, Lieutenant Yohanes Alexander Penpada, 48, the deputy intelligence officer for KOREM 164, was sentenced to eight months for disobeying orders. He had been assigned to report on how the demonstration developed, but after he learned about the stabbing of Gerhan Lantara, his superior, he testified that he got a ride back to the KOREM and went from there to his home. He picked up his pistol and went back to the cemetery where injured demonstrators were still lying. He said he slapped one on the face, but he denied firing the pistol. Penpada was sentenced to eight months by Military Court III–4.

Police Corporal Marthin Alau, 35, the man who slashed the ear of a demonstrator, has been named in an eyewitness report as having deliberately killed two other demonstrators. Those killings did not come up at his trial. Alau told the court members of his family had been killed by Fretilin. He was sentenced to 17 months in a trial that took place in the regional police headquarters in Bali.

Penpada and Alau were the only two persons indicted for involvement in attacks on demonstrators that took place after the shootings: the KPN report indicated that of the 91 wounded acknowledged as having been taken to the Wira Husada Military hospital, 49 were injured by stabbing or blunt instruments.

WHAT DO THE COURTS-MARTIAL REVEAL?

Taken together, the trial testimonies paint a picture of a sloppy, ill-prepared, ill-informed, poorly disciplined and poorly led army, with some soldiers reacting spontaneously to the stabbing of their colleagues and other apparently panicking amid sounds of shooting at the cemetery.

It is not a pretty picture of the Indonesian armed forces, but it is also a partial and misleading one. One of the eyewitnesses to the massacre testified that troops in dark brown uniforms opened fire methodically. Those uniforms would have been Brimob police, but no Brimob member was indicted. The soldiers from the Battalion 303 platoons testified to firing taking place before and after they themselves stopped shooting. The company led by Lieutenant Mursanib appears to have been one of the two companies sent as reinforcements after it became clear that the demonstration was larger than anyone expected; its dispatch to the scene was clearly a last-minute undertaking. But which troops were already there when Mursanib's men arrived, and why have they not been named or indicted? The June 13 issues of two of the leading newsweeklies in Jakarta, *Tempo* and *Editor* openly raise the question of who the unnamed "uncontrolled forces" (*pasukan liar*) were which were at Santa Cruz when Mursanib and his men arrived.

Even if some spontaneous firing took place after the initial attack, there was no spontaneity about the cover-up afterward, and no new information was produced by the trials about who gave orders to dispose of bodies from Santa Cruz and from the morgue at the military hospital.

The "spontaneous reaction" theory is only one of a number of possible ways of explaining the massacre and not necessarily the most plausible. This is not to assert that the ten men lied; even assuming their testimony was the unvarnished truth, they represent only a very small part of a very complex whole. The question arises as to how these men were singled out for prosecution.

If, as some observers believe, the ten men were tried because they were named in the KPN report (and Asia Watch cannot confirm that they were, since the full report has not been made public), two facts must be kept in mind: most East Timorese were terrified of giving testimony to the KPN, and the local military tried to obstruct the team's investigation. Individuals would have been identified either because East Timorese were willing to name them; because the local military wanted them prosecuted; or because their involvement was too obvious to be ignored.

Shortly after the massacre, Asia Watch obtained an eyewitness account of the stabbing of Private Dominggus, an East Timorese whom a group of demonstrators regarded as having betrayed his own people by serving with the Indonesian army. A similar animosity might have made witnesses testify to the involvement of Mateus Maya, Afonso de Jesus and Marthin Pereira Alau.

Battalion 303 came in for close scrutiny immediately after the massacre and was the first ordered transferred out of Dili, in late November 1991. Colonel Binsar Aruan, with whom the convicted Lieutenant Mursanib was in constant communication at the cemetery, was one of the officers sacked in the aftermath of the killings. Given the prominent presence of 303 soldiers at Santa Cruz, a few key indictments may have been inevitable—and Mursanib was clearly visible in the video footage shown around the world.

The three sergeants at the KODIM who rushed out half-dressed after Gerhan Lantara was brought in bleeding, and the behavior of Lieutenant Penpada in reaction to the wounding of his superior are the core of the spontaneity theory.

A different theory has been put forward by the editors of *Indonesia*, the journal published by Cornell University. In the April 1992 issue, the editors suggest that a local mafia had been established by middle-ranking Indonesian officers who had no real prospect of promotion and every reason to milk East Timor while they could through business deals, speculation and racketeering.[11] The operational commander for East Timor at the time of the massacre, Brigadier General Rudolf Warouw, had embarked on a campaign to clean up corruption in the military shortly after he took office in December 1989, angering the mafia bosses in the process, according to the Cornell analysis. These bosses, working with local Apodeti (pro-integration) supporters had as a major goal the downfall of Warouw and the popular governor of East Timor who supported him, Mario Carrascalao. A key figure in this operation would have been Lieutenant Colonel Prabowo, President Suharto's son-in-law, whose links to Apodeti were well-established. According to this theory, these middle officers working with Apodeti would have had an interest in using the demonstration on November 12 to discredit Warouw and thus leave their business operations intact. Governor Carrascalao himself has suggested that the demonstration was the result of collaboration between these two forces, but both the demonstration and the response, domestic and international, were beyond what the plotters could have imagined. The Cornell analysis stresses the significance of the mass purge of the "all influential officers in the East Timor apparatus, at the Korem level and within Dili itself, striking right at the heart of the mafia . . ."[12]

The prominent role of the KODIM and the indictment of the East Timorese might lend support to this theory, but a more rigorous investigation of KODIM and KOREM commanders, Hidayat and Colonel J.P. Sepang would be necessary to test it. Both have been replaced since the massacre; neither appeared as witnesses at the courts-martial, although Hidayat submitted written testimony.

THE CHARGES AND VERDICTS

The nature of the charges suggest that the investigations of the men involved were not thorough. The indicted men served as witnesses in each other's cases; there were no civilian witnesses called, except in the case of Corporal Alau where the victim whose ear had been slashed appeared at the trial. Even given the reluctance to testify for fear of reprisals, surely a few of the 49 wounded by stabbing or clubbing and afterwards brought to the military hospital might have been able to identify their attackers.

In preparing this report, Asia Watch has not had access to the Indonesian military code. But a comparative perspective from the United States may be instructive. To bring a charge of murder or manslaughter against a soldier in the U.S., there would have to be evidence that the defendant deliberately or through negligence killed a particular victim. Given the way the demonstrators were massed and the lack of witnesses willing to testify, even if the military tribunals had been fair, it might have been difficult to match victims to perpetrators. It is also true that if a platoon leader had been accused of failing to control his subordinates, it is possible that charges would not have been brought against the subordinates.

But a host of lesser charges, ranging from assault with a dangerous weapon to willfully discharging a firearm, could have been brought against soldiers who fired into a crowd in such a way as to have been likely to produce bodily injury or death. If the three non-East Timorese enlisted men who allegedly rushed to the cemetery after seeing Major Lantara wounded had urged each other to go, a charge of conspiracy could have been brought in connection with one of the charges mentioned above. In the U.S., a charge of assault with a deadly weapon in the context of a large demonstration with a perceived threat of violence against security forces could produce a sentence of four years; the maximum would be eight years. Such extrapolations to a different legal system in a radically different political context have admittedly only limited use, but the outrage against the light sentences of eight to eighteen months seems justified. It is also worth noting that no dishonorable discharges would take place in the U.S. without a court-martial. The peremptory dismissal of senior officers without any kind of judicial procedure may be another way of suppressing evidence.

The leniency of the sentences also raises questions about how far the testimony of those wounded was sought in the prosecutions of the military or whether the prosecution made any attempt to establish a linkage between the pro-integrationists who incited a brawl in front of the Motael Church on October 28 and the shooting that occurred in Santa Cruz on November 12. The fact that the ten men indicted lend credence to the "spontaneous reaction" theory may reflect the lack of political will on the part of the military prosecutors (*oditur*) to dig deeper.

TRIALS OF EAST TIMORESE CIVILIANS

The sentences given the soldiers are inevitably being compared with those handed down to East Timorese civilians in Dili and Jakarta. There are 13 trials underway in Dili, five in connection with the Motael Church incident of October 28 and eight in connection with the November 12 demonstration. As of mid-June, only two verdicts had been handed down. Juvencio de Jesus Martins, 30, received a sentence of six years, 10 months for taking part in clandestine meetings of resistance supporters to prepare for the visit of a Portuguese parliamentary delegation. Filomeno da Silva Pereira, 34, was accused of taking part in the same meetings and reproducing a cassette of a speech by East Timorese guerrilla leader Xanana Gusmao. He was given a term of five years and eight months in prison. The sentences requested in the other cases ranged from four years to life.

In a case still in process, Carlos dos Santos Lemos, aged 31, is facing a ten-year sentence for taking photographs during the November 12 demonstration, allegedly on assignment as a journalist for Fretilin. Dos Santos intended to send the photographs to Australia, Portugal and Japan, according to the prosecutor, in order to attract support for the independence movement. Dos Santos is also accused of being a member of the Freilin Executive Committee and as such, taking part in underground meetings to plan the November 12 demonstration. He is being defended by court-appointed lawyer, Ponco Atmono, S.H., a Dili resident.

Five other East Timorese accused of planning or taking part in a demonstration in Jakarta on November 19 to protest the Dili massacre a week earlier already have been sentenced. Two were tried on subversion charges and received sentences of nine and ten years respectively. Three others who took part in the demonstration received terms ranging from six to thirty months. A complete list of those on trial and the sentences sought by the prosecution appears as Appendix 2.

The government's xenophobia and determination to punish those seen as having fuelled the international outcry, evident in the dos Santos case, was also evident in the trials of Fernando Araujo and Joan Freitas da Camara in Jakarta. While both were accused of contacts with Fretilin through the East Timorese students' organization, RENETIL, the judges focused on their contacts with foreign organizations and the fact that they had received donations of money from Australia and England. An Asia Watch report on the Jakarta trials is forthcoming.

CONCLUSIONS

The courts-martial help give the Indonesian government an appearance of even-handedness. Indeed, journalists in Jakarta were speculating in February, just before the Council of Military Honor's press release was issued, that an equal number of civilians and military would be prosecuted. They were right: the five students in Jakarta and eight resistance supporters in Dili due for trial in connection with the November 12 massacre and subsequent protests marched the eight officers and men scheduled for indictment and five others under investigation noted in the Council release. (The police corporal and one of the two East Timorese privates were apparently not included in the Council's formulation.)

But justice is not the same as even-handedness. The fact that any investigation and any courts-martial at all took place is a step forward for the Indonesian government and should be recognized as such, but there has been no real accounting for the deaths and disappearances that took place on November 12. None of those convicted in late May and early June started the shooting; none organized the disposal of bodies or planned the cover-up which stressed the factor of spontaneity. It is difficult to avoid the conclusion that the courts-martial were stage-managed for international consumption, particularly when documents which might shed further light on events in Dili, such as the full KPN report and the full report of the Council of Military Honor, have been kept under wraps.

The Indonesian government should be pressed for a fuller response to the Dili massacre. The July 16 meeting in Paris of a new World Bank-led consortium of donor countries which provide aid to Indonesia is one opportunity to do so; the August meetings of the Decolonization Committee of the United Nations (New York) and the UN Subcommission on the Prevention of Discrimination and Protection of Minorities (Geneva) are two more; and the Non-Aligned Movement summit in September in Jakarta is a fourth. The United Nations meetings would be particularly appropriate fora to press for the release of a confidential report submitted to UN Secretary General Boutros Boutros-Ghali by his personal envoy, Amos Wako, who visited East Timor in February to assess the aftermath of the massacre and wrote what insiders characterize as a blistering critique of the Indonesian government.

Embassies in Jakarta should continue to ask questions about the dead and missing. They should express concern over the cruel and unusual punishment meted out to East Timorese civilians in Jakarta and Dili. They should make it clear to their counterparts in the Indonesian government that they have reservations about the way the courts-martial were conducted, in terms of who was selected for trial and as witnesses. They should strongly urge the publication of the full KPN and Council of Military Honor reports.

The Indonesian press clearly does not believe the official version of what happened on November 12; the skepticism of the international community should be no less.

APPENDIX I.—THE COURTS-MARTIAL

1. Pvt. Mateus Maya: Sentenced to 8 months on May 30, 1992.
2. Pvt. Afonso de Jesus: Sentenced to 8 months on May 30, 1992.
3. 1st Corporal (Police) I.P. Marthin Alau, 35: Sentenced to 17 months.
4. 1st Sgt. Aloysius Rani: Sentenced to 18 months on June 3, 1992.
5. 1st Sgt. Udin Syukur: Sentenced to 18 months on June 3, 1992.
6. 1st Sgt. Petrus Saul Mada: Sentenced to 12 months on June 3, 1992.

7. 2nd Lieut. Sugiman Mursanib, 48: Sentenced to 14 months on June 3, 1992.

8. 2nd Lieut. John Aritonang, 26: Sentenced to 12 months on June 3, 1992.

9. 2nd Lieut. Handrianus Eddy Sunaryo: Sentenced to 12 months on June 5, 1992.

10. 2nd Lieut. Yohanes Alexander Panpada, 48: Sentenced to 8 months.

APPENDIX II.—TRIALS OF EAST TIMORESE CIVILIANS

Name, prosecution request sentence

A. In Jakarta:

1. Fernando de Araujo, 9 years.
2. Joao Freitas da Camara, 10 years.
3. Virgilio da Silva Gutteres, 2 years, 6 mos.
4. Agapito Cardoso, 10 months.
5. Dominggus Bareto, 6 months.

B. In Dili, in connection with November 12:

1. Gregorio da Cunha Saldanha, 29, life.
2. Francisco Miranda Branco, 41, 15 years.
3. Jacinto des Neves Raimundo Alves, 34, 8 years.
4. Filomeno da Silva Pereira, 34, 8 years—5 years, 8 mos.
5. Juvencio de Jesus Martins, 30, 10 years—6 years, 10 mos.
6. Carlos dos Santos Lemos, 31, 10 years.
7. Bonifacio Mago, not yet on trial.
8. Saturnino Da Costa Belo, not yet on trial.

C. In Dili, in connection with October 28:

1. Boby Xavier, 18: 4 years.
2. Joao dos Santos, 23: not yet requested.
3. Aleixo da Silva alias Cobra, 22: 4 years.
4. Jacob da Silva: ?
5. Bonifacio Bareto: ?

For further information: Sidney Jones (212) 972–2258(o), (718) 398–4186(h).

FOOTNOTES

[1] For a full description of events on November 12, see Asia Watch, "East Timor: The November 12 Massacre and Its Aftermath," Vol. 2, No. 26, December 12, 1991.

[2] "Advance Report of the National Commission of Inquiry into 12 November 1991 Incident in Dili," unofficial translation distributed by Indonesian embassy in Washington, December 26, 1991.

[3] See Asia Watch, "Asia Watch Criticizes Commission Report on East Timor," Vol. 4, No. 1, January 3, 1992.

[4] Angkatan Bersenjata Republik Indonesia, Markas Besar, Tentara Nasional Indonesia Angakatan Darat, "Penjelasan Kepala Staf TNI–AD Tentang Hasil Kerja Dewan Kehormatan Militer dan Rencana Tindak Lanjut," February 27, 1992.

[5] Besides Gatot Purwanto and Binsar Aruan, those purged include Assistant for Operations Colonel Dolfi Rondonuwu; Assistant for Logistics Colonel Sutopo; Assistant for Territorial Affairs Colonel Michael Suwito; Assistant for Planning Colonel Tutut Subari; Commander of Korem 164 Colonel J.P. Sepang who was also Deputy Operations Commander under Warouw; and Lieutenant Colonel Wahyu Hidayat of KODIM 1627.

[6] See Asia Watch, "Asia Watch Calls for International Monitors at Trials of East Timorese," Vol. 4, No. 2, January 9, 1992.

[7] "Dua Perwira dan Tiga Bintara ABRI Dihukum dalam Kasus Dili", Kompas, June 4, 1992.

[8] "2 Pama ABRI Dijatuhi Hukuman 26 Bulan Penjara", Sinar Pagi, June 4, 1992 and personal communication from Indonesia.

[9] "Letda SM Dalam Kasus Dili Mulai Dimahmilkan," Suara Karya, June 3, 1992.

[10] "Dua Perwira dan Tiga Bintara ABRI Dihukum dalam Kasus Dili," Kompas, June 4, 1992.

[11] "Current Data on the Indonesian Military Elite," Indonesia, No. 53, April 1992, pp. 6–9.

[12] Ibid, p. 8.

TRIBUTE TO THE SUSQUEHANNA NEIGHBORHOOD ADVISORY COUNCIL

Mr. SPECTER. Mr. President, on Saturday, June 27, 1992, the Susquehanna Advisory Council in Philadelphia, PA, will hold a ceremony to honor volunteers who have contributed their time and efforts to carry out the council's mission of serving low-income residents in its community.

Since 1978, the council has provided a wide range of services, programs, and assistance to improve its north Philadelphia area. Its hardworking and devoted members have furnished food, housing, clothing, and fuel assistance to the least fortunate in their area.

The council, through the leadership of its executive director, Jewel Williams, has endeavored to enrich the life experiences of both young and old with tutorial and recreational services and with diversified counseling services. It has helped young mothers with their infants; it has initiated antidrug projects for youth; it has worked to improve the physical appearance of its environment with cleanups and site improvements.

Its volunteers have exhibited to a great degree the virtue of altruism in trying to improve the lives of those who, for whatever reasons, are struggling to cope with harsh and difficult life situations beyond their control. They truly care about their less fortunate neighbors.

Efforts such as these initiated by the Susquehanna Neighborhood Advisory Council deserve the commendation of all. It exemplifies what is most noble about human beings—the desire to assist those most in need of assistance. As the pundit wisely and accurately put it: "No one stands so tall as when he or she stoops to assist one who has fallen and is in distress."

Therefore, I believe it is fitting that the U.S. Senate take note of the accomplishments of the Susquehanna Neighborhood Advisory Council and its worthy volunteers and congratulate all for their work on this joyous occasion. Following is a list of these outstanding citizens:

Sultan Ahmand, Kendrick Allen, Thurston Alston, Thomas Anderson, Dr. Molefi K. Asante, Rachel Bagby, Lorraine Ballard-Morrell, Henry Blackwell, Rev. Ralph Blanks, Gladys Bond, Mary Jane Bracey, Mrs. Bryant, Charlie Bush, Andrew Carn, Frank Caul, Jason Clark, Darryl Clark, Helen Clowney, Ronald Cuie, Henry DeBernardo, Ted Dennery, Elliott Eberheart, Calvin Gibson, Barbara Grant, Gwendolyn Harris, Corrine Henry, James Huff, Clarence Jackson, Frances Jones, Roxanne Jones, Lu-Ann Kahn, Kentu, Shirley Kitchen, Sam Kuttab, Kevin Lamb, Rose L. Logan, Evelyn Lynch, Thera Martin-Connelley, Eddie McDaniels, Jim McGruther, Elizabeth Morton, Charlie Nimmons, Kenneth R. Norris, Vernon Odon, Dollie Pinckney, Irene Randolph, Sheler Robinson, Ruth L. Robinson, Jayne Scott, John Sims, Marshall Smith, Rev. Robert Taylor, Curtis Thomas, Kay Thompson, Sekou Uhuru, Rev. Repsie M. Warren, Ukee Washington, Rebecca Waters, Rev. Henry Wells, Ronald Williams, George Williams, Georgie Woods, and Jimmy Wright.

THE ROLE OF THE RUSSIAN ARMY IN INDEPENDENT MOLDOVA

Mr. PRESSLER. Mr. President, today I rise to record my strong reservations over considering S. 2532, the Freedom Support Act, on the Senate floor while the situation in the former Soviet Union degenerates into violence. This past weekend over 200 people, including innocent civilians, were killed in independent Moldova. May apparently were killed by Russian soldiers. Additional reports of this nature continue to come to my attention.

The overt involvement of the Russian military and recent statements by Russian leaders supporting military intervention to "support the oppressed Russian minority" are actions that should not be rewarded with generosity by United States taxpayers.

If the violence in Moldova, with the direct participation of the Russian Army, does not end, a precedent will be set for the use of Russian military force in possible conflicts extending into the Baltic States and other areas of the former Soviet Union. Disgruntled military commanders in the Baltic States may turn to aggression in response to demands by the Baltic citizens and governments for Russian troops to leave their territories.

Mr. President, there is an unseemly eagerness in Washington to reward President Boris Yeltsin for his leadership and for his fine speech to Congress last week. The thought is that massive foreign aid can keep him in power against the entrenched Communists in the Russian military and bureaucracy. I commend President Yeltsin's words in support of openness, nonviolence, and peace. Yet, the facts in Moldova tell a different story and harken back to Russian imperialism.

While President Yeltsin has called for mediation of the conflict, he also has warned the Moldovan government: "In this case, we [Russia] must react to defend people and stop the bloodshed. We have the strength to do that." At the same time, the military—including Russian Vice President Aleksandr Rutskoi and the Commander in Chief of the CIS armed forces, Marshal Evgenii Shaposhnikov—have urged action by the military.

Mr. President, the situation would not be as it is today if the Soviet Army, now the Russian Army, had stayed out of the conflict in the beginning. The root cause of this conflict is the illegal presence of the 14th Army of Russia in the territory of independent Moldova. For months, the 14th Army has sold arms to the Communist separatists in Moldova and has overtly declared its support for secession of the Transdniester region of Moldova.

The Russian 14th Amy has worked side by side with the Dniester National Guard to gain control of the Transdniester and invade Bessarabia, the area of Moldova between the Prut and the Dniester Rivers. The Moldovans have been outnumbered greatly in the struggle against both of these well-armed groups.

It is important to note that the leaders of the Dniester Republic supported the hardliners' coup attempt in Moscow last August. They represent Communist orthodoxy. They are not protecting the people of Transdniestria, but are using them as bargaining chips in their game to restore the Soviet Union.

Last year I introduced a resolution supporting the people of Moldova in their struggle for self-determination and independence from the Soviet Union. The Romanian people of Moldova were the fourth group of victims of the Nazi-Soviet pact. The land of Moldova, not composed of the Transdniester region, was seized by the Soviet Red army from Romania in 1940. The Government of Moldova did not choose its current borders. Yet, according to international law, Transdniestria belongs to the Republic of Moldova. It is home to Moldovans, who represent 40 percent of the population, as well as Ukrainians and Russians whose interests also must be taken into account.

Mr. President, I commend the administration for urging the Russian Government to remove the 14th Army. Under no circumstances should Russian troops be stationed in or used in a foreign country intervene in any conflict within that foreign nation. Additionally, I urge an end to the supply of Russian arms to the separatists in the Transdniester.

Finally, the State Department should urge the Russian Government to end immediately the current economic blockade of Moldova. At this time, over 60 percent of natural gas supplies to Moldova have been cut and railway transportation links have been served. Such economic sabotage is a violation of the basic human rights of the people of Moldova. It is also an act of international violence.

Mr. President, I firmly believe that United States assistance efforts should be conditioned upon the cessation of Russian military violations of the sovereignty of its neighbors—both in Moldova and in the Baltic States.

TRIBUTE TO COMMONWEALTH EDISON

Mr. DIXON. Mr. President, on April 13, 1992, the city of Chicago was struck by what many consider its worst physical disaster since the great fire of 1871. A piling, accidentally driven into a long-forgotten underground freight tunnel system, caused a leak that sent 250 million gallons of Chicago River water rushing into the 48-mile-long subterranean network. Water poured into the basements and subbasements of buildings across the city's famed Loop. Tens of thousands of downtown workers were sent home. The potential for a much larger disaster was enormous, yet thanks to the quick, determined action of many dedicated people, not one death or injury resulted.

Today, I want to single out the response of one key organization—Commonwealth Edison Co.—which has been providing electric service to Chicago for 105 years.

At first news of the catastrophe, Edison put its emergency plan into action. The company mobilized a task force of 500 experts from across its northern Illinois territory and told them they would be working 12-hour shifts, around the clock, until the battle was won. Edison crews moved swiftly to disconnect power to buildings in order to prevent rising floodwaters from coming into contact with live electrical equipment. Company engineers worked closely with building operators, updating them, assessing the damage, and estimating how long the outages would last. Another cadre stayed in continual touch with the news media, so the public would have the very latest information.

Sixty-four hours after the first buildings went dark, Edison crews restored service to all locations where the customers' facilities were capable of operating safely. In all, the restoration team logged more than 70,000 individual work hours. Their primary mission had been to ensure public safety by protecting electrical equipment from rising flood waters, then to restore power as quickly as possible. That mission not only was accomplished, but so efficiently that it will not cause an increase in customers' electricity bills.

Therefore, let the record reflect our recognition of Commonwealth Edison's truly outstanding performance in protecting the safety of the citizens of Chicago and restoring normal business activity in the face of an unprecedented crisis. The men and women of Commonwealth Edison merit the recognition of us all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2733, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2733) to improve the regulation of Government-sponsored enterprises.

The Senate resumed consideration of the bill.

Pending:

Riegle Modified Amendment No. 2437, of a perfecting nature.

Dodd Amendment No. 2440 (to Amendment No. 2437), to revise certain provisions of the Securities and Exchange Act of 1934 relating to proxy solicitation rules with respect to partnership rollup transactions.

Mr. DODD. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending matter is the amendment offered by the Senator from Connecticut.

AMENDMENT NO. 2440 TO AMENDMENT NO. 2437

Mr. DODD. Mr. President, the amendment I offered last evening on behalf of myself and the distinguished Senator from Missouri [Mr. BOND] is a proposal which is cosponsored by over 70 Members of this body, along with 17 members of the Banking Committee.

The first question that may occur is why this amendment has been offered here on the floor of the Senate rather than going through the normal committee processes. We tried to move it through committee on two occasions. Under the rues of the Senate, of course, Members can utilize procedures to delay action. And a Member exercised his rights, decided that this piece of legislation is not in the best interests of the country, and has objected to the matter coming forward. As a result, we have been stopped, in a sense, from proceeding in the normal way.

So I have used the opportunity on this particular legislation, given the time of the year when we are going to have very few further opportunities to bring up legislation, to offer this piece of legislation as an amendment to the Government-sponsored enterprises legislation.

Mr. President, this amendment contains the text of the Rollup Reform Act, S. 1423, including a number of modifications that were made as part of the committee print considered by the Banking Committee, as I mentioned a moment ago, on two occasions in the past 2 months. I regret we were unable to move this bill out of the committee. Seventeen members, as I have already mentioned, are cosponsors of the bill. Procedural objections were raised on two occasions when we convened for markup.

So I believe it is appropriate, given the objections in considering the legislation in the committee, to bring it before the full Senate.

The Limited Partnership Rollup Reform Act was introduced almost a year ago. There are now more than 70 Senate cosponsors of this legislation. One of my colleagues has suggested that the number of cosponsors of this measure is meaningless, that the Senators just did not know what they were doing when they cosponsored the legislation.

I think my colleagues cosponsored this bill for the same reason that I drafted it. Senators have received thousands, literally thousands, of letters on this issue. Constituents, not special interests, but small investors in our States have detailed a long record of abuse in limited partnership rollups. They have been ripped off, they are mad and upset about it, and they want some changes made. They have asked for our help, and this bill provides for the protections they have asked for and they need.

Mr. President, the Securities and Exchange Commission has estimated that since 1980, $130 billion in public limited partnerships have been sold to investors in this country. There are an estimated 8 million investors in these partnerships, with an average investment of around $10,000. As small as this may sound, for many of these individuals, the $10,000 or $20,000 that they have invested in these limited partnerships represents a large part of their savings, and in some cases all of their savings.

None of these investors believed they were getting a risk-free return, Mr. President, but promises were made to them about the nature of their investment and the obligations the general partners had to them.

First, these investors were told that they would receive distributions from the partnerships on a periodic basis and that, in a certain period of time, say 8 to 10 years, all of the property of the partnership would be sold. It was promised further that when the partnership was terminated, the limited partners would receive the proceeds from the sale of the remaining property or other assets.

Second, Mr. President, these investors were assured that the general partners had a great incentive to look out for the interests of the limited partners. Because, with the exception of management fees, the general partners could not take out any profits until the limited partners had received their share.

But the assets of many limited partnerships, particularly those invested in real estate, declined in value. The general partners were unable to sell new partnerships, their fee bases declined, and their prospects for taking a profit after paying off the limited partners also declined dramatically. So the general partners decided to change the deals—and there is where the problem occurs. They attempted, successfully in many, many cases, to roll up existing limited partnerships into new corporations or real estate investment trusts in which the rights of investors were not at all what they were in the limited partnerships.

Mr. President, even those who oppose the legislation would admit that there has been a long record of serious abuses in these transactions. There has been confusing and misleading disclosure to investors. One prospectus contained over 700 pages of material so confusing, I might add, that even the Chairman of the SEC said he could not understand it. There have been efforts by the general partners to keep limited partners from communicating with each other to oppose a rollup. Proxy solicitors have been paid commissions for delivering "yes" votes only and were pressuring investors to vote yes.

The general partners structured the deals to award themselves abusively high fees in the rolled up entity. The general partners also structured the deals so that they could take equity positions in the new rolled up entity with no equity contribution on their part whatsoever. There were substantial reductions in the voting rights of investors and increases in the voting rights of the management after the rollup.

There have been further major changes in the business operations investors were promised in the original deals. Managements were barred from engaging in transactions with affiliates in the original limited partnerships. They have restructured the agreements so that they could now make deals with affiliates and pay high fees to those affiliates.

Mr. President, no one has disputed the extent of these abuses. No one has disputed that in most cases the rights of investors are decreased, and decreased substantially as a result of one of these rollups. And the rights of management—I am talking about the voting rights, equity interests, management fees, the ability to engage in affiliate transactions—all of these rights on the part of management are substantially increased. This has happened repeatedly in one rollup deal after another.

Many investors have called me and written saying they have voted against a rollup but have been forced to accept shares in a new entity that they do not want, with the management fee structure that ensures management will be paid first and investors will be paid last; directly contrary to what they were told when they were solicited to invest in the original limited partnership arrangement.

In many of these transactions, Mr. President, the securities issued in the rollup declined 20, 30, or 40 percent more on the first day of trading.

A recent article in Barron's shows losses of 80 and 90 percent or more in the years following certain rollups.

Mr. President, the amendment that we have introduced addressed these problems. Let me describe briefly what it does. The amendment requires complete and understandable disclosure to limited partners and requires a summary of the risks to be in the front of any disclosure documents sent to investors. It gives investors the tools they need to communicate with other limited partners, in order to mount opposition to abusive rollup proposals. It ensures that investors will have more time to consider complicated rollup transactions, 60 days, unless the State provides for a shorter period of time. And the amendment provides or moves the incentive for market professionals to pressure investors to vote in favor of a rollup by prohibiting special compensation for "yes" votes only.

The amendment also directs the NASD and the exchanges to adopt rules of fair practice, to give those shareholders who vote against a rollup an alternative, so they will not be forced into accepting shares in an investment that they never wanted. Under the bill, the NASD and the exchanges also could prevent excessive and abusive fees to management, and could prevent reductions in the voting rights of limited partners in these new rolled up entities.

Now it is true, Mr. President, that the SEC has adopted some of these reforms, but the SEC started moving on its disclosure proposals more than a year after we first alerted SEC to the problems. The SEC has proposed changes in the proxy rules to make it easy for limited partners to communicate with each other, but the SEC has not adopted those rules at this time. I am deeply concerned that those issues may not be resolved before this Congress adjourns.

This legislation, in my view, is needed to ensure that these issues are addressed before Congress goes home for the year. The NASD has been working on rules of fair practice, which it will adopt for its members if this legislation passes. We must have legislation to ensure consistent standards for the NASDAQ market and for the exchanges. We cannot afford to create loopholes here.

Finally, let me say that even the partnership industry is telling us that it wants this legislation. We have worked closely with them, as we have with State regulators, and we now have a bill that business can work with to restructure partnerships that are in trouble, but that protects investors from the abuses we have seen in the past. This legislation is supported by the State securities regulators; the Association of Individual Investors; United Shareholders Association; the National Association of Realtors; the Investment Program Association, and other business and investment groups.

Let me underscore that there is agreement on this legislation both from the investors it seeks to protect and from the industry that would be affected by it. It is good for business, and it is good for investors.

Mr. President, at this point, I would like to submit for the RECORD copies of a number of letters in support of this legislation that have been sent to us. I ask unanimous consent that these letters be printed in the RECORD at this juncture.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INVESTMENT PROGRAM ASSOCIATION,
Washington, DC, May 19, 1992.
Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD: The Investment Program Association supports your bill to regulate the reorganization of limited partnerships and we will continue to work with you and others to see it enacted into law as soon as possible.

As the national trade group for the sponsors and sellers of limited partnerships and other types of direct ownership securities, we have long advocated that measures be taken by the Securities and Exchange Commission, the National Association of Securities Dealers, the national stock exchanges and the Congress to discipline partnership restructurings in a manner fair to both the limited partners and their general partners.

Your bill, S. 1423, is an important step in obtaining that necessary discipline and we applaud your balanced approach.

No well informed person can doubt that our nation's economy, in general, and real estate, in particular, is facing troubled times. The recent bankruptcy filing by Olympia and York points to the difficulties facing even the most experienced in the real estate industry.

There will continue to be a great need to restructure financial arrangements in real estate, as well as in the energy industry. Because both sectors were heavily reliant upon partnership financings, we can anticipate more reorganizations and restructurings of limited partnerships.

While some in Washington have noted that this is an area of law commonly left to the states to develop, the North American Securities Administrators Association, an organization of state securities regulators, and the Investment Program Association have called for action on the federal level to provide for a uniform set of laws and regulations for partnership reorganizations. Unless action such as you propose in S. 1423 is taken at the federal level, general partners and their investors will face an uncertain and possibly conflicting body of laws at the state level.

The Investment Program Association urges the Senate to proceed promptly on its consideration of S. 1423 and we will continue to be a resource to you and your fine staff throughout the deliberations.

Sincerely yours,
CHRISTOPHER L. DAVIS,
President.

INVESTMENT PROGRAM ASSOCIATION MEMBER LIST, MAY 14, 1992

AGS Financial Corp.
Altschuler, Melvoin & Glasser.
America First Companies.
American Finance Group.
American Retirement Villas.
American Stock Transfer & Trust Co.
Anchor National Financial Services, Inc.
Angeles Corporation.
Applied Information Solutions.
August Real Estate Investment, Inc.
The Balcor Company.
Bankers Trust.
Banyan Management Corporation.
Barry A. Soble & Associates.
Boston Bay Capital.
Boston Capital Services, Inc.
The Boston Company.
The Boston Financial Group.
Brown & Wood.
Capital Vectors.
Chase Manhattan Bank.
CIGNA Financial Partners, Inc.
CLR/Fast-Tax.
Clark Financial Corp.
CNL Investment Company.
Con Am Securities, Inc.
Continental Wingate Capital Corp.
Coopers & Lybrand.
C.R.I., Inc.
CSA Financial Corp.
Daniels Printing Company.
Dean Witter Reynolds.
Deloitte & Touche.
DiVall Real Estate Securities Corp.
Edler & Cornicelli.
EIP Capital Corp.
Equity Resources Group.
Ernst & Young.
Financial Network Investment Corp.
First Capital Financial Corporation.
First Financial Corporate Advisors.
Fischbein & Badillo.
The Fox Group.
Franchise Finance Corporation of America.
Franklin Properties, Inc.
Funds Service Corp.
GEMISYS.
Geodyne Resources, Inc.
Graham Resources.
Gruntal & Company, Inc.
Hale & Dorr.
Holmes & Graven.
Hunton & Williams.
ICON Capital Corporation.
IDM Securities.
IDS Financial Services, Inc.
Income Growth Capital, Inc.
JMB Realty Corporation.
Jones International Securities.
Kaye, Scholer, Fierman, Hays & Handler.
Kelley, Drye & Warren.
Kidder, Peabody & Company, Inc.
Krupp Securities.
Kutak Rock & Campbell.
Lassen, Smith, Katenstein & Furlow.
Lepercq Capital Partners.
Liberty Real Estate Corporation.
MAVRICC Management Systems.
McNeil Real Estate Management, Inc.
Merit Capital Corporation.
Merrill Lynch Capital Markets.
Merrill Lynch, Hubbard, Inc.
National Partnership Exchange.
National Partnership Investment Corporation.
National Properties Investors, Inc.
New England Securities Corp.
NYLIFE Securities, Inc.
PLM Investment Management, Inc.
Paine Webber Development.
Paine Webber, Inc.
Paine Webber Properties.
Parker & Parsley Petroleum.
Pegasus Capital Corporation.
Phoenix Leasing Inc.
Polaris Aircraft Leasing.
Price Waterhouse.
Provine & Associates.
Prudential Securities.
Public Storage, Inc.
Rancon Financial Corporation.
Realty Income Corporation.
Reed Smith Shaw & McClay.
Registrar & Transfer Company.
Related Capital Corporation.
Robert A. Stanger & Co.
Robinson Silverman Pearce Aronsohn & Berman.
Rogers & Wells.
Royal Alliance Associates, Inc.
Rubin Baum Levin Constant and Friedman.
Scott & Stringfellow, Inc.
Service Data Corp.
Shareholder Communications Corp.
Shartsis, Friese & Ginsburg.
Shaw, Pittman, Potts & Trowbridge.
Shearson Lehman Hutton.
Shurgard Storage Centers.
Silver Screen Management.
Smith Barney, Harris Upham & Co.
Standard & Poor's Corp.
SunAmerica Securities, Inc.
Swift Energy Company.
T. Rowe Price.
Technology Funding, Inc.
Torchmark Leasing Programs.
Trien, Rosenberg, Felix, Rosenberg, Barr & Weinberg.
W.J. Hoyt & Sons Management Co.
W.P. Carey & Co., Inc.
Water Acquisition & Management Co.
Westin Financial Group, Inc.
The Windsor Corporation.
Zahren Financial Corporation.

AMERICAN ASSOCIATION OF INDIVIDUAL INVESTORS,
Chicago, IL, May 15, 1992.
Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: As chairman of the American Association of Individual Investors, I would like to express my support for S. 1423. I am sure that our 130,000 members, many of whom have been financially hurt by roll-ups, look forward to its passage.

The evidence examined by the committee and the personal experiences of our members, point out the need for such legislation. The bill incorporates the reforms most necessary to prevent future roll-up abuse and I hope it moves forward without changes that would weaken its effectiveness.

This reform is desirable for the investment industry, as well. Without it, public limited partnerships will lose their place as a major means of raising capital in a number of areas important to the economy.

Sincerely,
JAMES B. CLOONAN,
Chairman.

UNITED SHAREHOLDERS ASSOCIATION,
Washington, DC, May 19, 1992.
Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DODD: As president of the United Shareholders Association, a grassroots organization with a membership of 65,000 individual investors nationwide, I am writing to support legislation, S. 1423, to protect investors in limited partnerships against abuses in the "roll-up" process.

The "Limited Partnership Rollup Reform Act," now pending before the Senate Banking Committee, is an urgently needed response to the evidence compiled by the committee of abuses practiced by some roll-up sponsors. The legislation recognizes that an important part of the solution is to provide limited partners with the opportunity for meaningful and informed decision-making. S. 1423 takes a narrowly focused approach to remedy the worst abuses of the roll-up process.

The legislation also recognizes that there are important distinctions between the traditional types of corporate restructuring for which the federal securities laws were originally designed and limited partnership rollups. Given these distinctions, an adjustment of federal regulations is appropriate to restore investor confidence in these limited partnership transactions.

USA supports the key reforms proposed in S. 1423, including: Dissenters' rights; protection of limited partners' voting rights; more comprehensive and clear disclosure to limited partners facing a rollup; more informed decision-making through communication among limited partners, access to limited partner lists and allowing limited partners more time to consider a rollup; independent fairness opinions and appraisals.

The record of abuses uncovered by the Banking Committee and its Securities Subcommittee leaves no doubt that limited partnership rollups are a major problem area for investors today. Swift action on the part of Congress to rectify these abuses is required, and USA respectfully urges the immediate adoption of S. 1423.

Sincerely,

RALPH V. WHITWORTH,
President.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, May 19, 1992.

Hon. CHRISTOPHER DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

SENATOR DODD: I understand that S. 1423, the "Limited Partnership Rollup Reform Act," will be considered on Thursday, May 21st, by the Senate Banking Committee. On behalf of the North American Securities Administrators Association (NASAA),[1] I am pleased to lend the Association's strong support for the reforms contained in the proposed legislation. NASAA respectfully urges you to adopt this initiative and to reject any attempts to weaken the legislation.

The reforms contained in S. 1423 would go a long way toward remedying the pervasive investor abuses now present in the limited partnership roll-up process and would help restore the eroded investor confidence in these markets. Among the key elements of S. 1423 supported by NASAA are:

Clear and specific criteria governing the roll-up transactions in which members of the National Association of Securities Dealers (NASD) may participate and those transactions which would qualify for listing on a national exchange or the National Association of Securities Dealers Automated Quotation (NASDAQ) system, including: (1) rights for dissenting limited partners; (2) prohibitions on "supermajority" voting requirements; and (3) restrictions on increased fees and compensation to general partners sponsoring a roll-up.

Reforms to curb the abusive practices that have developed in the roll-up proxy solicitation process. Among the key reforms supported by NASAA are: (1) more meaningful and understandable disclosure; (2) permissible communication among limited partners and adequate time for review of the roll-up prospectus; and (3) more "fair" fairness opinions.

While the reforms contemplated under S. 1423 would go a long way toward remedying the pervasive abuses now present in the roll-up process, NASAA's view is that the measure could be further fortified through the addition of a provision which would require that an independent committee operating on behalf of limited partners be established in all proposed roll-up transactions. Because of the enormous potential for conflicts of interest on the part of the general partners, there must be some countervailing force in these transactions operating on behalf of the limited partners.

You may be interested to learn that in October 1991, the NASAA membership approved important amendments to existing guidelines which govern the state-level registration of limited partnerships. These amendments were adopted in order to address future abuses in limited partnership roll-ups. Under the new NASAA guideline language, limited partnerships will not be permitted to enter into roll-ups without providing specific protections for investors, including dissenters' rights and access to needed information, such as the list of other limited partners.

It should be recognized that the new NASAA guidelines are strictly prospective in nature, and as such, will only come into play with the state registration of new limited partnerships. In commenting upon the guideline amendment, NASAA president Lewis Brothers observed that, "NASAA's new action will help future limited partners, but not the millions of limited partners who already are out there and endangered by roll-ups. NASAA has done what it can to help limited partners down the road; only Congress can protect those who are in serious jeopardy today."

Mr. Chairman, you and your colleagues are to be commended for your important efforts to explore the very serious investor protection issues that arise in connection with roll-up transactions. Today, almost all roll-ups of public limited partnerships are approved for exchange listing and, therefore, such offerings sidestep state substantive review. The net effect of this process is that individual limited partnerships that had been screened through state investor protection standards are converted literally overnight into investment instruments outside of the ambit of state regulation. In this way, limited partners effectively are stripped of the many and important safeguards required under state review. State securities regulators are gravely concerned that these transactions deprive small investors of the many and important protections afforded to them under state regulation of limited partnerships. Further, federal securities laws and rules as they are applied to roll-ups in no way compensate for the stripping away of these state-level protections.

S. 1423 is a carefully crafted and narrowly drawn package that has as its focus abusive limited partnership roll-ups. The reforms included in the legislation recognize that these transactions are unique and distinct from the traditional corporate restructurings for which the federal securities laws were designed and that additional investor safeguards must be put in place. While many pieces of securities-related legislation that come before the Banking Committee may serve a narrow audience or agenda, it should be recognized by one and all that S. 1423 would provide immediate and urgently needed relief for literally millions of small investors all across this nation. Accordingly, NASAA respectfully urges the swift adoption of S. 1423.

Please contact Maureen Thompson, NASAA's Legislative Adviser, at 703/276–1116 if you have any questions or would like additional information on NASAA's position.

Sincerely,

LEE R. POLSON,
Executive Director.

THE COMMONWEALTH
OF MASSACHUSETTS,
Boston, MA, May 18, 1992.

Mr. MICHAEL STEIN,
Senate Banking Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. STEIN: This letter is in response to your request for a more detailed statement of the position of the North American Securities Administrators Association ("NASAA") and its members on the Limited Partnership Roll-Up Reform Act (S. 1423), which addresses abusive practices in roll-ups and conversions of partnership investment programs.

The Securities Division of the Office of the Secretary of State has received a large number of complaints from individual investors and from financial planners regarding recent roll-ups and conversions of partnership investment programs. These complaints have been unusual in both their number and intensity, with the common theme that investors were being cheated in these transactions.

Among the problems that we have seen in roll-ups and conversions are:

Substantial increases in sponsor fees and removal of fee caps after the transactions are completed (*e.g.*, the Berkshire Realty Company, Inc. roll-up of the Krupp real estate programs resulted in an increase in compensation to Krupp over an 18 month period from $9.8M to $13.7M, a 38% increase);

Substantial extension of the duration of the investment, with many finite life partnerships being changed into indefinite life programs (*e.g.*, the Milestone Properties roll-up of the Concord real estate partnerships converted finite life, self-liquidating partnerships into an infinite life entity; also the Berkshire Realty roll-up);

Systematic removal of protections against sponsor conflicts of interest (*e.g.*, the Hallwood Realty Partners roll-up of the Equitec partnerships stripped away prohibitions on the sponsor selling properties to, or buying properties from, the new program, creating a significant new risk for investors and an ongoing source of conflicts for the sponsor);

Substantial increases in the portion of the program held by the sponsor after the completion of the transaction (*e.g.*, in the Milestone Properties transaction, the original partnerships would have paid no economic benefit to the sponsor upon liquidation (because priority return target for investors had not been achieved), yet the sponsor received a 9% equity interest in the new entity with a book value of $5M);

Limitation of investors' voting rights by means of new, supermajority vote requirements (*e.g.*, the Berkshire Properties, Hallwood Realty, and Milestone Properties roll-ups);

Increases in the allowable level of program borrowing, increasing the risk of the investment (*e.g.*, the Hallwood Realty Partners and the Berkshire Properties roll-ups); and

Very substantial discounts in the market price of the roll-up securities compared to the estimated value of the assets underlying those securities, apparently due to the unattractive fee structures and terms of these entities (*e.g.*, National Realty, L.P., which trades at an 89% discount to net asset value; American Real Estate Partners, which trades at a 63% discount; and Berkshire Realty, which trades at a 47% discount).

The roll-up and conversion transactions about which we have received complaints have been listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ/National Market System. Under Massachusetts law, and under the laws of most other states, such an exchange listing exempts these transactions from state review. Because these transactions are not filed with us, we cannot review them and we cannot require that they include the same protections for investors that we require for partnership investment programs. Recently, Massachusetts and other states have acted through NASAA to adopt standards to make new partnership programs more resistant to abusive roll-ups and conversions. Because the states can act only with respect to newly-formed programs, however, we are unable to protect investors in existing partnership programs. Federal legislation is needed in order to protect these investors.

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[1] In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for the protection of investors and the efficient functioning of the capital markets at the grassroots level.

Despite predictions to the contrary, abusive roll-ups and conversions have not died away. We recently received a detailed letter of complaint from a large financial planning firm regarding the conversion of Hallwood Consolidated Partners (an oil and gas investment program) from partnership to corporate form. This conversion was approved on April 21, 1992. This transaction, which was essentially a single-program roll-up, included the following problems:

1. The original partnership agreement restricted investment to producing oil and gas properties. The by-laws of the new corporation permit exploratory drilling. This substantial change in investment objective significantly increases the risk of the investment. Also, it is likely that many investors for whom an investment in the original production program was suitable would not be appropriate investors for a riskier exploration program.

2. Because the original partnership was designed to be an income-generating investment, the partnership agreement did not permit cash from operations to be used to acquire new properties. The new entity is permitted to reinvest cash from operations in new properties, extending the life of the program and increasing risk. In addition, affiliates of the sponsor will receive acquisition fees in connection with investments in new properties.

3. The sponsor converted a 14% interest in income and a 7% interest in liquidation proceeds of the partnership to a 14% share of the new entity's common stock. This represents a step up in the sponsor's interest at the expense of investors.

4. Upon completion of the conversion, the voting power of the sponsor and affiliates increased from 30% to 40% on issues which require majority approval by investors, greatly increasing the sponsor's effective control of the program.

5. The original partnership included strict limitation on borrowing, and prohibited securing loans with partnership property or production therefrom. In contrast to this, the company is not subject to such restrictions, significantly increasing risk. Also, the company is now able to borrow to fund distributions to investors if cash flow proves insufficient, further increasing the risk of the investment.

6. The partnership included strict, state-mandated limitations on the ability of the partnership to indemnify or exonerate the sponsor. In contrast to this, the company's by-laws allow the sponsor to be extensively exonerated and indemnified. This change increases the risk that investors' funds will be used to indemnify the sponsor, and also represents a significant conflict of interest for the sponsor.

7. Under federal tax law the partnership was not subject to federal or state income taxes; instead each limited partner was taxed on his or her pro rata share of the partnership's taxable income, with losses from the partnership also passing through to the limited partners. In contrast to this structure, the company is subject to state and federal income taxes on its income, and stockholders are subject to federal and state income taxes on distributions of corporate earnings. The company's losses will not pass through to its stockholders. These changes fundamentally alter the nature of the investment as a tax-advantaged vehicle.

8. The costs of the conversion, $1.8M, were borne by the company. Such costs include the payment of $500,000 in fees to Dean Witter ($125,000 if the Conversion had not been approved), and expenses of soliciting consents from and communicating with the limited partners. Even if the conversion had not been completed, all costs and expenses ($1.4M) would have been borne by the partnership.

9. Limited partners of the partnership had no dissenters' rights or other comparable rights in connection with the conversion.

Beside this transaction, we recently learned that there is a rumor in the financial community that a Seattle-based concern, with over $500M in investor funds under its control, is preparing a roll-up of its partnerships. On this basis, we believe that abusive roll-ups will continue as they have in the past unless action is taken to curtail them.

As I reported to the House of Representatives in my testimony on the Limited Partnership Roll-Up Reform Act, roll-ups and conversions are a continuing threat to small investors. We understand that the Act has been characterized in some quarters as a piece of "special interest" legislation that would benefit only a few commercial interests. This is not the case. Limited partnership investment programs were designed for and sold to middle class, retail investors. Over 200,000 investors in Massachusetts alone have invested in these programs, and most of these investments are still outstanding. Because partnership investment programs are so widely held and because roll-ups and conversions have proven to be a continuing area of abuse, these transactions have far-reaching ramifications for small investors. This legislation is needed to protect the interests of these investors and to halt the abuses that we have seen.

Sincerely,

MICHAEL J. CANNOLLY,
Secretary of State.

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, May 20, 1992.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR DODD: On behalf of nearly 750,000 real estate professionals, the National Association of Realtors is pleased to comment on the proposed Limited Partnership Rollup Reform Act.

The National Association of Realtors has long represented real estate investment interests. Our members include, among others, real estate syndicators and limited partners. Because the Association represents such a broad range of real estate interests, we have a strong interest in preserving the credibility of real estate as a viable investment alternative for all market participants. We realize that the rollup issue is not unique to real estate, although many of these partnerships hold real estate assets. We therefore believe that as representatives of the real estate industry it is appropriate for us to comment on the issues of rollup reform.

GENERAL COMMENTS

A confluence of economic events had left many real estate limited partnership sponsors poorly capitalized and managing assets with depressed values. As a result, some general partners have sought consolidation of partnerships through rollups as a means of lowering administrative costs of the partnerships, generating additional capital for the partnerships and offering liquidity to the investors. Due to the severity of the nation's recession and prolonged credit crunch, the National Association of Realtors believes that reorganization is a critical alternative for many real estate limited partnerships. The realities of the marketplace are such that, without some alternatives and changes, some partnerships will fail simply due to lack of capital.

The goal of responsible restructuring should be to offer liquidity and administrative savings to real estate partnerships. Unfortunately, in some cases the costs of restructuring and poorly restructured consolidations, have counteracted any promised benefits. While the Association believes that restructuring should not be prohibited, legislative and regulatory reforms are needed to deal with potential rollup abuses.

Specifically, the National Association of Realtors supports the following provisions included in S. 1423:

Dissenters' rights;

Prohibitions on supermajority voting rights;

The use of plain and understandable disclosure to shareholders; and

More informed communication among limited partners and more time to consider the proposed transaction.

The Association is concerned, however, with the requirement that rollup solicitation materials include the performance data of all comparable rollup transactions. It is unclear whether this requirement refers to all comparable rollups within the market or only to past rollup transactions involving a proposed rollup's sponsor(s). If the requirement is aimed at all comparable rollup transactions, then we believe this may inflict undue burdens on the sponsor(s). If the requirement is aimed at comparable rollups involving the sponsor(s), then we recommend that the language be clarified accordingly.

The National Association of Realtors is pleased to participate in this process, and hopes the observations and suggestions presented in this comment letter are useful in advancing a standard of quality and fairness in connection with limited partnership rollup transactions.

CONCLUSION

The National Association of Realtors appreciates the opportunity to provide comment on proposed rollup reform. We applaud your endeavors to address the rollup issue and the potential areas of abuse that can occur in such transactions.

As an Association representing a wide variety of real estate professionals, we pledge our continued commitment to the issue affecting real estate limited partnerships. We hope our observations and suggestions will enable you to more effectively accomplish your goals.

Sincerely,

STEVE DRIESLER,
Senior Vice President.

INTERNATIONAL ASSOCIATION
FOR FINANCIAL PLANNING,
Atlanta, GA, May 7, 1992.
Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, Committee on Banking, House, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: We understand that your committee will soon be considering S. 1423, the Limited Partnership Roll-up Reform Act. The International Association for Financial Planning (IAFP) strongly supports your efforts to eliminate abusive practices in roll-ups of limited partnerships. You and the other co-sponsors of S. 1423 are to be commended for your commitment to consumer protection.

The IAFP appreciated the opportunity to work with your staff in the development of this legislation. We are pleased that several of our suggestions have been included in this legislation. As the oldest and largest financial planning membership association, we are committed to working for legislation that will benefit the consumer and enhance the professionalism and success of persons committed to the American public achieving its financial objectives.

As you are aware, the Securities and Exchange Commission has issued one new regulation concerning roll-ups of limited partnerships. This regulation addresses many of the problems evidenced by abusive roll-ups; however, it does not provide for an essential element of reform—dissenters' rights. The IAFP believes that provision for dissenters' rights is very important if the individual investor is to be protected from being forced into a business relationship significantly different from that in which he originally invested. Further, the comprehensive rules addressing roll-up abuses currently proposed by the National Association of Securities Dealers only will be put in place if this legislation is adopted.

We believe that limited partnerships should have flexibility in the selection of business forms, including the roll-up option. However, the unfortunate experience has been that many roll-ups have taken advantage of limited partners, many of whom have seen their equity in these investments disappear. This legislation would provide important protection for limited partners, yet permit fairly structured roll-ups to proceed unimpeded.

Therefore, the IAFP is pleased to endorse S. 1423 and urge its swift adoption.

Sincerely,
ROBERT J. OBERST, Sr., Ph.D., CFP,
President.

Mr. DODD. Mr. President, let me emphasize one last point, because there have been some issues raised about whether or not this legislation is needed. It is, in my view, of course, needed because of the slowness of the pace at which the SEC is moving and, frankly, I am fearful that we will leave here without some legislation to underscore the importance of protecting these investors.

Let me make some general observations. Limited partnerships are good investments. I apologize in that I should have said that at the very outset. There are many of these limited partnerships which are very good investments, and people are not being hurt by them at all. They are good investments for people that do not have a great deal of money which they would like to have working for them.

The average investment is around $8,000 to $10,000. That may not seem like much to the high rollers, but for a lot of average citizens who are trying to make their money work for them a bit, limited partnerships have been a good investment tool. The people you are doing business with, if you are involved in these partnerships, by and large are good business people who practice good business procedures in dealing with your money.

Unfortunately, there are those who take advantage of people. Many of these rollups, in my view, have been truly harmful. We are not trying to say with this legislation that if you invest in a limited partnership, you are guaranteed a success story. You are taking a chance, as you are with any investment you make. There is no absolute guarantee. I am not suggesting there ought to be. But I also do not believe that if you go into a limited partnership, that you ought to be taken advantage of unfairly in an abusive rollup transaction.

This legislation, I emphasize, is supported by the partnership industry. Normally, you have the regulators and the Congress and the industry at odds with one another. This legislation is supported by those businesses involved in limited partnerships. They want these changes. They have written to us that this is a good idea, something they would support. It is supported by State regulators. They want it done. They believe it is worthwhile. And those organizations that represent the investors in the country support it. This is one of those rare occasions where investors, the industry, and the regulators believe what we have offered here makes good sense.

The problem is that we have a Member or two who object to it. That certainly is their right to do so. But as a result of this, we have had to delay many, many months on getting this legislation before the committee. And now, of course, we have chosen the route of coming directly to the floor of the U.S. Senate with it. But there are 73 cosponsors on this legislation. It has passed the House already. In fact, in the House, it passed on a consent calendar where there was virtually no debate in opposition.

My hope is that today we will be able to pass this legislation, and make it a part of this particular bill and move on to other matters.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, knowing that the floor managers will oppose this amendment as part of their leadership substitute and will, I assume, move to table, I am not going to enter into the prolonged debate that I would were that not the case. I will have an opportunity, if this amendment should be adopted, to come back after we have dealt with the important pending business, the balanced budget amendment to the Constitution. At that time I can, with a motion such as a motion to recommit, revisit this whole issue. So I am not going to take up the Senate's time this morning with a long discussion. I will have an opportunity to do that later.

Let me first try to explain the problem, and then the parts of this amendment that I support, and then the part of the amendment that I strongly oppose. I would like to outline why I feel so strongly that one of the provisions in this amendment is bad law, that it will hurt American investors, and that it will hurt economic growth.

Here is the problem, Mr. President.

In the mid-eighties we had a very large number of professionals, doctors, lawyers, college professors, enter into limited partnerships. The limited partnership is a vehicle whereby people who have money to invest but who do not have specific expertise can band together and invest funds in a project or an activity in which they do not have to engage in the day-to-day management. Tens of billions of dollars of capital in the American economy have been invested in limited partnerships.

As a college professor at Texas A&M, I was engaged in half a dozen limited partnerships, where people got together, pooled resources, had a general partner who in essence ran the investment, and everybody else put up money and had the ability to make decisions on a majority rule basis.

What happened in America in the mid-eighties is that with inflation collapsing in the early eighties, with a decline in oil prices, with the Tax Reform Act of 1986, a lot of these limited partnerships went bad.

Many of them were highly leveraged with debt. They were based on the acceleration of real estate values. They were based on at least a maintenance of oil prices. In many cases they were based on simply projecting past price changes into the future to develop an expectation,

The net result has been that literally hundreds of thousands of people who invested in limited partnerships, many of them in oil and gas, many of them in real estate in one form or another with the tax change in 1986, with the declining inflation, with declining marginal tax rates that lowered the value of interest deductions, many of these limited partnerships have gotten into deep trouble.

When they have gotten into trouble there have been three options that have been available. In trying to illustrate this whole thing let me take advantage of a little chart. If you are in a limited partnership and the value of the asset declines, you do not have a lot of liquidity in the partnership. But if you want to get out of it, and you have partners that have invested money and they want to get out of this deal, they really have three things they can do.

One is, they can liquidate the partnership. For example, let us say you had 20 doctors that got together, bought a piece of property in a town. They had a limited partnership with a local realtor to buy this property. They believed the value was going to appreciate and they were going to sell it. And so obviously one of the things they can do is go out in the marketplace and sell the property.

There is a second option they can choose. If they did not want to sell the property, because they did not want to take the loss, but some of the members of the limited partnership needed their money out, one of the options they could do would be to incorporate, to give everybody shares in the property as a corporation. They could go through what would be called a partnership reorganization, where they would turn the limited partnership into a little corporation. Each person would be given shares based on their investment, and those shares would sell in the market, and anybody could go out and sell those shares.

One of the things that is going to happen almost immediately if they take that option is that the market price of those shares is going to show what a bad deal this real estate investment was.

Now what happened in the late eighties and in the last 2 years is that a lot of people who followed this path, many in very large limited partnerships, were shocked by the fact that this real estate, principally real estate, oil and gas, other types of investments, had declined in value so much, especially if they had been leveraged with debts, that the assets of these partnerships were almost valueless.

The last option is to sell your interest to a specialty fund, or what is sometimes called a vulture fund, though this, like the real vulture that we see along the highway, this vulture fund was performing a real service. These are people who specialize in going out and looking at troubled partnerships, buying them at a discount, repackaging them, and remarketing. Those are the three options that were available.

What happened is that when people opted for reorganization, and these stocks went on the market, many limited partners were shocked at how low the values were. There were instances where general partners had not given people the full information. Many of these people were not paying attention to their investment. And so the net result was that there were some abuses, and obviously there was great unhappiness.

The Securities and Exchange Commission and the National Association of Securities Dealers have now come in and instituted a series of reforms that say that if limited partnerships are going to be reorganized, then they have to follow a set of procedures to give everybody the facts, to let everybody know when they are going to cast this vote, and they set other limits on the action of the general partnership and the majority to protect everybody's rights. Basically, what the SEC and the National Association of Securities Dealers have done is require more reporting and disclosure to give people the facts.

What has happened during this period is that you have had a number of companies, in fact there is a handful of these vulture funds, but there is one large vulture fund that has become very active politically. What they have done is lobbied for a reform that not only would codify what the Securities and Exchange Commission has done, that not only would codify what the National Association of Securities Dealers has done, but that would in fact legislate changes in the rights of the limited partners. And this is a very important point that I am making in terms of why I think this is a bad amendment.

Let me begin with the provisions of the House bill and then discuss this amendment. What the House bill would do is this: Let us say 20 people entered into a limited partnership, and part of the deal was that we each put up $20,000, and we had an agreement in the contract we signed that said that if the majority of the people decided to take any action to incorporate, sell the asset, to reorganize it, to break it up and sell it, it would be majority rule. We made the investment on that basis.

What the House bill would do in an extraordinary legislative action is it would come in and say that you cannot have majority rule. You may have signed the contract when you made your investment, but the Government knows better than you do. What the House bill does is, it says that if a couple of the limited partners, if a very small number of them, disagreed with the action of the majority, then the majority in order to reorganize the partnership would, for example, have to pay off those few investors.

Let us say you had 20 people that went out and bought a building. What the House bill would say is if you have two people who do not agree with selling the building or do not agree with incorporating, you would have to take a part of a floor of the building and give it to those two people, or you would have to buy them out before the majority could exercise the rights that they were guaranteed when they signed the contract.

Mr. President, that is clearly a breach of contract. What are we doing coming in and saying to people who put up their money, who signed a contract, that were guaranteed majority rule? We are going to come in and say, no, you signed the contract, you put up your money, but we are not going to let you exercise your rights. If there are 2 people out of the 20 who say no, you have to buy them out before you can take your action.

The problem is actually worse than that, because before you can reorganize one of these limited partnerships, you have to notify everybody that you are going to have the vote. Every State has a listing of all the members of their limited partnerships. So what happens is that one of these vulture funds finds out that there is going to be a vote on reorganizing a limited partnership, and they run to the Secretary of State's office, get the list of the people who are limited partners, and buy a couple of them out. And then they are in a position to say: "Hey, you have to pay us or we are not going to let you reorganize."

The final point I want to make is, where do you think the bulk of the political support and the money comes from for making it so that a small minority can block a limited partnership from reorganizing? Remember that with three options that are available, what in essence this bill would do is preclude one of the three for all practical purposes.

Where do you think the basic funding for the political support for this bill is coming from? It comes from the vulture fund.

Basically, you have a situation where a small number of companies and individuals have gotten busy, put together a trade association, sent letters, gone to the media, got television shows on the subject all to eliminate one of the three options that people have in dealing with a financial problem. If that option is eliminated, limited partners either have to go out and sell the building and take a huge loss, or they have to go to the vulture fund.

Mr. President, let me just quickly summarize, and then the Senate can continue with its business.

I think giving people the facts is very important. I strongly support the reporting requirements in the amendment. The Securities and Exchange Commission has said that this is what is needed to be done. They do not want us to take action on this bill that goes any further. They do not oppose enhanced disclosure, because that is what they have done. But the SEC believes that what they have done will deal with the legitimate problems.

But what this bill would do is that it would abrogate contracts that people have entered into legally in arm's length transactions, where they put up their money based on guarantees they had that they would have the ability by majority rule to take action. What this bill does is it takes that power away from them.

In the House it takes it away from them completely. In this bill, it says, OK, if you do not buy out these minority members who disagree with the majority, and you reorganize, you cannot have your stock traded on a national exchange, NASDAQ, American Stock Exchange, New York Stock Exchange. Mr. President, that clearly violates the constitutional rights of these investors.

Finally, I am alarmed by the lobbying effort behind this bill. I have seen a lot of bad bills come through the Congress. It absolutely astounds me that a small number of people, for all practical purposes, a handful of individuals, who want Congress to act to eliminate one of their two basic competitors as a vehicle for responding to somebody else's financial distress, can become organized, can put together a newsletter, can hire a lobbyist who represents a whole bunch of other people and can, in essence, come to Washington and get a law passed that violates contracts and denies people their rights. I am alarmed that such a group can get Congress to enact legislation that denies people the right to use one of the three options that is available to them under current law, so that there are only two options left and the lobbyists are one of the two surviving options.

I feel very strongly about this bill. I think it is well intended by its Senate sponsors. I do not doubt that those who argue for it believe that it is a good idea. But I am alarmed that we are here debating abrogating contracts. I cannot imagine that we are going to tell investors, who invested their money based on a set of guarantees, that we are going to come in and take those rights away from them. It is simply part of a mentality, that tramples on the rights of the citizenry, that I do not understand.

I am alarmed because of the nature of this action, based on good intentions, inserting a harmful provision in an amendment which is otherwise a good amendment. If we were not abrogating contracts, if we were not limiting the ability of people to exercise their freedom, I would have no objection to this amendment.

But I do not understand why, in today's society, two consenting adults have this almost religious aura of the protection of their rights to do anything except to engage in business and create jobs. Anything consenting adults do we defend with a religious zeal, unless they engage in signing a contract or build a building or trying to create jobs. And if they are trying to do that, we feel that we have the right to come in and say to them we are changing the rules of the game right in the middle because we know better than they know.

Mr. President, I hope that this amendment will be tabled. We are dealing with the managers' amendments that are normally noncontroversial, at least in the minds of the committee.

This is a totally different issue. This is an issue that we have not debated yet in committee. I was there ready to offer amendments. We did not have a quorum available to hear the debate and to vote on it. I think this is something that ought to be dealt with separately. I know that many others disagree with that. But this is something I feel very strongly about and that I intend to oppose vigorously if it becomes part of this bill.

I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank the Chair. I will be very brief. I know the Senator from Missouri is waiting to speak and will shortly do so.

I very strongly support this amendment that is being offered by the Senator from Connecticut and the Senator from Missouri. Unfortunately, I cannot support adding it to the managers' amendment, and so that creates a contradiction, in a sense.

But I want to say, just with respect to the substance of the amendment, it has been pointed out I think there are some 71 or 72 cosponsors of the legislation. We do not usually get much higher than that here in a 100-Member body in terms of cosponsorship of an issue.

So I think it validates powerfully the importance of this issue, the very substantial bipartisan consensus that exists with respect to wanting to correct a major problem out there. I think the overwhelming body of evidence is to that effect. And so I want to see this legislation enacted at some point.

The problem that we have and I have with adding it to the managers' amendment is this: We have a custom and a practice in the Banking Committee that when we—the ranking minority member, Senator GARN, and myself—develop a managers' amendment what we do is we attempt to take any item that is coming from either side of the aisle that can properly go into the bill and which constitutes a balance of items that can go as a whole, as a package, as a so-called managers' amendment. And once we have reached that definition and bring a managers' amendment to the floor, we have a practice in which we stand together to support the managers' amendment, and we do not add or subtract from it because of the fact of the very nature of how we put it together.

So that forecloses me in this situation from being able to vote for the Senator's amendment as an addition to the managers' amendment. Were it to be offered at some other time in the bill in a different fashion, not as part of the managers' amendment, then I think that is a different situation, and it certainly would free me up.

So I want to make it very clear that I think on the substance of this amendment what the Senator from Connecticut and the Senator from Missouri and others have supported, including myself, is sound public policy. I regret that I think it is not appropriate to add it here now as part of the managers' amendment under the circumstances that apply and very particularly for myself having put that managers' amendment together with the Senator from Utah, as I have.

So I will be voting to table, although I strongly support the substance of the amendment.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I am pleased to rise to support this amendment to the GSE bill offered by my colleague from Connecticut. As has been noted already, we have tried twice in the Banking Committee to have a markup, discuss, debate, and approve or disapprove the limited partnership rollup measure. Twice we have been unsuccessful. I think this is the right opportunity to raise this important issue because, unfortunately, it appears that this may be our best and only opportunity to discuss, debate, and to vote on this protection for limited partners.

It is essential. It is timely. It is extremely important to many limited investors, limited partnership investors in my State and across the country.

Last year we introduced S. 1423 to help curb the abuses of limited partnership rollups, and last year 300,000 limited partners were rolled up. Proposed rollup transactions have been reduced because of the discussion and debate over this issue and the concerns about it, but the practice is far from over.

There are currently 8 rollup proposals pending at the SEC, potentially affecting some 170,000 investors across this country. This means there are 170,000 people out there who are running scared of being rolled up and consequently made to lose what has been on the average some 63 percent of their investment.

These people are not so-called special interest groups. They are mostly middle-class Americans who have invested in limited partnerships for their retirements, for their children's education, and for other purposes. My State of Missouri has over 163,000 of these limited partners. They each have an average investment of $10,891. That means that Missouri alone has almost $1.8 billion invested in limited partnerships.

These are not trifling numbers we are dealing with. These people need to be protected.

The Missouri commissioner of securities recently wrote to me before the last committee markup and voiced his support for S. 1423. He wrote—and this is from John Perkins, commissioner of securities:

> In my capacity as Commissioner of Securities for the State of Missouri, I am writing to express my support for S. 1423, the "Limited Partnership Rollup Reform Act," now pending before the Senate Banking Committee.
>
> The Committee has compiled convincing evidence that the limited partnership roll-up process is urgently in need of federal overhaul so as to curb abusive practices on the part of some roll-up sponsors and to restore to limited partners the opportunity for meaningful and informed decision-making. It is my view that the solution to this problem may be found in S. 1423. This legislation is a carefully-crafted and narrowly-drawn package that goes straight to the heart of the worst of the current roll-up abuses.
>
> Key provisions of the proposed measure recognize for federal regulatory purposes the important distinctions between roll-up transactions and the more traditional corporate restructurings for which the federal securities laws originally were designed. It is appropriate that adjustments be made to the federal rules and regulations governing the roll-up process—as contained in S. 1423—in order to remedy the pervasive investor abuses in these transactions and to restore investor confidence in these markets.
>
> Specifically, I support the following reforms included in S. 1423:
>
> Dissenters rights;
>
> Prohibitions on "supermajority" voting rights;
>
> Restrictions on increased fees and compensation to the general partners sponsoring the roll-up;
>
> More meaningful and understandable disclosure to limited partners facing a roll-up;
>
> More informed limited partner decision-making through permissible communication among limited partners, access to limited partner lists and more adequate time in which to consider the proposed roll-up; and
>
> Independent fairness opinions and appraisals.
>
> The extensive review conducted by the Banking Committee and its Securities Subcommittee of limited partnership roll-ups has provided abundant documentation as to the abuses suffered by limited partners caught in the cross-fire of these transactions. This is a major problem area today in investing and it cries out strongly and insistently for swift action on the part of Congress. Accordingly, I respectfully urge the swift adoption of all the elements of S. 1423.

The commissioner is not the only person in Missouri from whom I have heard supporting this legislation. A doctor from St. Peters, MO, wrote to me in March this year:

> I personally have had the misfortune to be involved in 2 rollups in which I lost a substantial amount of my investment, even though I voted against the rollups in both instances. I had absolutely no recourse, no way to protect myself. I do not think that general partners should be able to take my investment, make an enormous fee, and reduce the value of my investment by 65 to 80 percent.

A financial planner from Chesterfield, MO, wrote last September:

> Many of my clients have lost literally thousands and thousands of dollars because their limited partnership investments have been rolled up. Even though they voted against their respective rollup, they found they had no choice. The worst yet, is that their partnership had to pay fees for the rollup, which they voted against. Does this seem fair to you?

The answer to that question, very simply, is "No." It does not sound fair to me. I think this rollup reform legislation is essential to protect investors like these from abusive rollups.

The SEC has taken an important first step in beefing up the disclosure requirements, but more needs to be done. Most important, these investors need dissenters' rights and proxy reforms in order to be adequately protected. I believe by implementing this legislation we will be relieving some of the fears of these limited partners, that they have no other choice but to be rolled up.

It has been argued that this legislation would somehow rewrite the terms of the original partnership agreement. Ironically, it has been the attempts by general partners completely to rewrite the original terms of these limited partnership contracts that created the need for this legislation in the first place. These rollup transactions have been a classic bait and switch scam. Investors who made an investment based on one set of terms have ended up with a completely different investment on much different terms after a rollup. Investors who agree to participate in a partnership with one group of assets ended up in a partnership with a completely different set of assets. Investors who agreed to participate in a partnership ending in 7 to 10 years ended up in a partnership that lasts forever. Investors who agreed to a contract which assured general partners would be paid based on the performance of the partnership ended up in a partnership where their general partner got paid first, despite declines in asset values, through the fees connected with the rollup. Investors who agreed to a contract where limited partners had most of the voting power ended up in a partnership where the limited partners had very little—virtually no voting rights at all.

The legislation does not rewrite the terms of the original partnership contract. Indeed, it helps keep the original contract intact.

I have also heard over and over again that the bill mandates dissenters' rights. This is simply not true. The bill requires the exchanges to determine how best to protect the rights of limited partners, including dissenting limited partners. The exchanges may or may not choose to require dissenters' rights as part of its listing standards. It is certainly not mandated by the legislation.

But I want to remind my colleagues that dissenters' rights are available to corporate shareholders in virtually all the States. There is no reason why the exchanges should be foreclosed from providing this protection to investors in limited partnerships.

The national securities exchanges have traditionally used their listing standards to provide a basic level of protection to investors in securities traded on their exchanges. This bill is consistent with that approach, by requiring the exchanges to consider and adopt standards for protecting the rights of investors in limited partnership securities. Indeed, some of the exchanges have already proposed changes to listing standards as the result of abusive rollup transactions.

The SEC has also used its authority under the Federal securities laws to ensure that listing standards protect the rights of investors. For example, the SEC sought to prevent the stock exchanges from permitting transactions that would have reduced the voting rights of existing stockholders even if the transaction was approved by the stockholders. Just as with rollups, those transactions sought to fundamentally rewrite the terms of the original contract between the corporation and its shareholders.

Contrary to what some may believe, I think that future investments in limited partnerships will be stimulated if the limited partners' potential investors know they will have some rights, some recourse in the face of a proposed rollup.

This should not be a controversial issue, Mr. President. The fact that 71 colleagues have sponsored this legislation indicates that there is broad-spread support for this measure.

If anybody has any questions about the need for this legislation, I urge them to do what I have done: Contact the commissioner of securities in your State. Is it a problem in your State? Are there limited partners who are faced with losing a significant portion of their investment and their voting rights by proposed rollup transactions? I think you will find the securities commissioners support it. I think you will find there are significant numbers of limited partnership investors in each of your States who would be adversely affected by rollups, if they are not given some kind of protection.

What we are seeing is a new version of a cram-down in the bankruptcy courts, but this is called a rollup of limited partnership assets. This is our chance to act quickly to put a stop to abusive rollups. The investors need help, and I urge that my colleagues support this amendment and help us enact these basic protections into law.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, I ask unanimous consent that the list of all of our cosponsors, all 73 in the Senate, be printed in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1423 Sponsorship Status, June 23, 1992

DEMOCRATS

Dodd, Riegle, Bryan, Dixon, Graham, Sanford, Sarbanes, Wirth, Kerry, Cranston, Sasser, Shelby, Mikulski, Robb, Leahy, Inouye, Simon, Johnston, Wofford, Lieberman, Levin, Metzenbaum, Fowler, Akaka, Hollings, Pryor, Baucus, Heflin, Kohl, Adams, Gore, Pell, Kerrey, McCain, Harkin, Burdick, Wellstone, Glenn, Bingaman, Breaux, Bentsen, Nunn, Bradley.

REPUBLICANS

Bond, D'Amato, Kassebaum, Domenici, Mack, Brown, Seymour, Cohen, Burns, Smith, Craig, Jeffords, Stevens, Packwood, Lugar, Lott, Coats, Kasten, Symms, Murkowski, Rudman, Warner, Conrad, Grassley, Chafee, Durenberger, Nickles, Danforth, Pressler, Simpson.

Total Senators sponsoring: 73.

Mr. GRAHAM. Mr. President, I wish to add my support for prompt adoption of Senator DODD's amendment to S. 2733 which would facilitate changes to regulations regarding limited partnership rollups.

In a limited partnership reorganization, or rollup, general partners merge several limited partnerships from fixed holdings into exchange-traded infinite life investments. This means that the investment constantly reinvests its proceeds from asset sales, and the limited partners do not receive their portion of the proceeds as originally agreed to. Rollups have been estimated to cause the value of the investment to drop an average of 69 percent.

Often a limited partnership is rolled up with little knowledge or understanding by the limited partners, because the proxy statements are lengthy and confusing, there is no one from whom the investor can seek unbiased advice, and votes may be reduced in value when the rollup is considered by all the partners.

Of the 11 million limited partners nationwide, 8 million are small investors with an average investment of $10,000. I have received hundreds of letters in the last several months from Floridians calling for this reform legislation to be passed by Congress. In Florida alone, there are an estimated 447,920 limited partner investors, with the average investment of $12,322, and an overall investment amount of $1,224,568,994.

As one of over 70 cosponsors in the Senate, I believe it is time to move this legislation which requires early, complete, and understandable disclosure to limited partnership investors solicited in rollup transactions. In addition, this amendment allows communication between investors wishing to oppose a rollup; removes the present incentive for brokers and market professionals to pressure investors into a rollup and provides investors with an alternative to the rollup so that they are not forced into an investment against their wishes.

I am supportive of Senator DODD's amendment and am hopeful of its prompt adoption.

Mr. HARKIN addressed the Chair.

Mr. DODD. Mr. President, let me commend my colleague from Missouri for his statement. It was an excellent statement. He very clearly has identified the issue. I particularly want to pick up on the last comment he made. I think it is worthwhile.

There may be some people here who have not followed this legislation over the last couple of years, but if they are wondering whether or not this is worthwhile, I think the suggestion of the Senator from Missouri is an excellent one: Call you commissioner—or whatever the proper title is in your State for the person responsible for these particular securities regulations—and you will get, I think, a very clear and convincing response.

I might further suggest if you have any questions from the business side, call the people involved in this business. They support it as well; not to mention, of course, the organizations representing investors.

I mentioned earlier the prospectuses that came out. This is one of them, Mr. President. This is 700 pages long. For a $10,000 investment, you are supposed to read and understand what is included here. I realize this may not be the appropriate bill. But as the Senator from Missouri pointed out, we do not have many appropriate bills left, and this is one that is available to us to try and get something done on this legislation.

But talk to the 8 million investors in this country, with the average investment of $10,000, and tell them to look at this and read it and see if they can understand it. Most of them cannot. This is needed legislation.

Unfortunately, we were not able to bring it up under the proper circumstances because the rules of the Senate allow individuals to object. So we are left with this opportunity this morning and my hope is we will adopt it as part of this legislation. The House, almost unanimously supported the legislation. Here is a chance for the Senate to do something.

There are 8 million limited partnership investors across this country. There are about 150,000 in my State alone who are involved in these limited partnerships. There have been tremendous abuses.

My colleague from Texas said there is just a handful of people—special-interest groups—supporting it. Here are some of the letters I have received, literally dozens of them here. I will not ask that they be printed in the RECORD, because it would take too much space.

But this is not just some handful of people. There are literally thousands of people in this country who have lost their life savings. Here is a chance to do something about it. We will not have another chance between now and November, or between now and when we adjourn.

So unfortunately this may go down. We will keep trying, I suppose. But here is a very modest attempt to deal with a piece of legislation that can make a difference.

Mr. President, let me also address the issue of contract rights that was raised by the junior Senator from Texas. This is a red herring, if I ever heard of one. What we are talking about is a new entity here, a rollup. A limited partnership is one thing; a rollup is another. So I want to make sure that people understand what we are talking about is a changed set of circumstances when a rollup occurs.

As a technical and legal matter, Mr. President, we are not touching the original partnership agreement with this legislation. The original partnership agreement remains intact. We are simply saying that when rollup securities are listed on an exchange or on NASDAQ, that they must meet certain standards for protecting limited partners.

We are not touching the limited partnership. But if you want to list on those exchanges, you have to meet certain standards. That is what we are asking. We are saying you do not have a right to list on a national securities exchange or on the NASDAQ unless you can provide certain basic protections for those limited partners.

I also would point out that if you want to focus on the fine print in the limited partnership agreement, which apparently the junior Senator from Texas does not—but if you would look closely at those partnership agreements, it is only fair to say that when the investors bought their original limited partnerships, the offering statement set forth a number of rights for the limited partners that are severely reduced as a result of the rollup that occurs later. Those rights are being abrogated. What about their contract rights? Let me focus on just a few of them, if I can; what investors expected.

They are told they can expect a finite life investment—that after 8 or 10 years, the assets would be sold and the proceeds would be distributed to them. That is changed when that investment ends up in one of these rollups. But I do not hear anyone saying anything about contract rights being changed for the investor in that particular case.

Investors expected that the limited partners would be paid first. The limited partnership agreement said investors would have a priority over the general partners. That is used as one of the attractive features of limited partnerships.

That, of course, gets changed in the rollup. After the rollup, investors no longer get paid first. In most cases, as a result of a rollup, the general partners have been able to take large equity interests and huge fees with no equity investments on their part at all.

Third, Mr. President, investors expected that they would have certain voting rights; that a majority of limited partners would be able to remove the general partner, or to call a meeting to liquidate the partnership. That, of course, is changed when the rollup occurs. But I did not hear my colleague talk about the contract rights being violated once you ended up with this new entity.

Many of these original limited partnerships had very strict prohibitions against conflicts of interest on the part of the general partners. In many rollups, those protections are taken away. And in many of these deals, management is able to engage in transactions with affiliates, with large fees paid to those affiliates. Those are fees that come out of the pockets of the investors.

In fact, in most rollups, it is the general partners whose rights are increased as a result of the rollup, and limited partners have their rights reduced. So you went into the limited partnership with one set of guarantees, but once the partnership is rolled up, you have a different set of rights, and in most cases, the investor is the loser. They are the losers.

All we are trying to do here is to protect against those abuses. That is all. I want to emphasize again, most of these limited partnerships are good investments. Most of these managers do a very fine job. But unfortunately, there are those who abuse the system, and that is what is occurring here. We are just trying to change it.

That is why there are some 73 cosponsors. That is why State securities commissioners support this legislation. That is why the business community does, as well. They know abuses are occurring. They want it changed, as well. They are being hurt by this because there are those who take advantage of innocent people. They get hurt when they are trying to engage in sound business practices, and that is why it is important that we get this done.

Even those investors who vote against a rollup, who make their way through the disclosure documents, weighing 3 or 4 pounds, as I have shown already—here is one of them—even those investors who voted against rollups have had, again and again, bad deals crammed down their throats. That is what this is all about.

Mr. President, I have received hundreds of letters, as my colleagues have, from investors. But none of them have said, "Please, Senator, don't change the law to prevent abusive rollups, because you are changing our contract rights." They have asked us to change the law to protect their rights. They aren't asking for a guaranteed return on their investment, but basic rights.

I say to my colleagues today, do not tell me we are changing the terms of a contract. We are modifying the law a bit to see that investors are protected when the arrangements they originally went into are changed. And that is what a rollup does.

So, Mr. President, I urge the adoption of this amendment. I believe it is a sound amendment. It is one that a lot of work has gone into. We have had long hearings on this. We have been through it twice already in the committee. We have been very patient. We sat around the other day for several hours trying to mark up the bill, but, as the Senator from Texas has a right to do, he demanded that a full quorum be present during a markup.

Now, usually, as a normal practice here, that is not insisted upon because everyone knows how difficult it is to maintain a full quorum during an entire markup. But he has the right to insist upon it, and he insisted upon that right, and we could not keep a quorum in the committee. As a result, we were not able to complete the markup, and that is the reason we are here today because we have no other choice.

I hope, for the 8 million investors in this country, as I said, with an average investment of $8,000 to $10,000—many of them by the way are seniors. It is their only investment, Mr. President. What we are trying to do is to give them some modest protection for that kind of an investment. And here they are expected to understand a 700-page document. You would have to hire a 40-member law firm to read through this to understand it. This is how they get taken to the cleaners; how these deals get jammed down their throats, and they are asked to pay a price. All we are trying to do is give them some modest protection. So I urge the adoption of this amendment.

Mr. President, I yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Connecticut has outlined the procedural situation and what did take place in the Senate Banking Committee. I have been a Member of this body for nearly 18 years, and I certainly fully understand the rules and the rights of my colleagues. But on the other side of that coin is where the chairman and I have been very patient and have tried to put this GSE legislation together for 2 years—2 years we have been patient. We have worked with a lot of different parties to try to craft a bill that would be acceptable and protect some $900 billion in these Government-sponsored enterprises.

As I spoke yesterday in my opening statement about this, although there is not a guarantee of these funds, there are a lot of people who think there is, there is an implicit guarantee, and no one wants a repeat of the S&L crisis. So I do not want anybody to misunderstand that this GSE bill, although a lot of people say, what are GSE's, does not make it any less important. This is a very important bill. I wish it were possible for us to go through and consider the GSE bill on its merits without extraneous amendments.

Now, again, I recognize the rights of my colleagues to offer this amendment, balanced budget amendments, all sorts of other amendments. That is their right under the rules. But I want everybody to understand the importance of this GSE bill and why the chairman and I made an agreement on the managers' amendment that we would resist all amendments to it for that very reason, to protect the integrity of this bill and its importance for $900 billion, to make these enterprises more safe and more sound so, again, we do not have a repeat of the S&L crisis.

So although I agree that there is a need to do something about the rollup situation, I do not disagree with my colleague from Connecticut, I do have some disagreements in substance; there are some changes I would like to see in that bill, and if it came to the floor separately I would try to work some of those changes out, say that I think it could be improved. But under the circumstances of the chairman and I trying to move this GSE bill and now having all sorts of nongermane amendments offered to it, if there is no further debate, I would——

Mr. RIEGLE. If the Senator will yield for 1 minute, I want to add a comment to his and underscore something he said. I want to stress to colleagues the importance of this GSE legislation. As the Senator from Utah has just pointed out, we have $900 billion in outstanding commitments through Freddie Mac and Fannie Mae. What this legislation is designed to do is to strengthen the capital standards that underpin these two massive organizations. We have brought a bill to the floor to do that at the specific direction of the Senate itself, because the Senate earlier passed a sense-of-the-Senate resolution instructing us to take precisely this action, and we have done so.

It has taken us many months because we have held hearings. We have listened to all interested parties. We have considered all points of view. And we have drafted legislation that provides a stronger capital structure for these GSE's, which I think is very important we put in place, particularly so after the experiences we have had in the financial industry generally with banks and savings and loans. We need to have a stronger capital structure in place and a stronger regulatory apparatus in place. We accomplish that in this legislation.

Additionally, there is another very important part of it. We also help direct a large percentage share of this stream of capital in the direction of home mortgages for lower-income people in America. And those are people today who are trying to climb up the economic ladder rung by rung and in many cases are finding it difficult to secure mortgage lending so they can buy a house.

We all know that for people who are trying to get ahead financially, those who finally acquire an asset base, it usually comes in the form of being able to buy a house and begin building equity in home ownership. We increase the share of this flow of capital going to people, particularly in inner city areas.

We know from the problems we have seen in Los Angeles and other places it is very important that we get more of a flow of capital moving into these inner city areas where people can have access to mortgage credit so they can buy homes, become homeowners, and establish an equity stake in that fashion. It makes for stronger, more stable neighborhoods, more secure neighborhoods.

That is the second fundamental purpose to this legislation. We make a measurable increase in the flow of home mortgage capital to lower-income people in this country. They still have to qualify. They still have to meet the other standards. But then they are going to have more access to home mortgage loans.

So the stronger capital standards on the one hand, the greater flow of capital into these neighborhoods that really need more capital investment in terms of home mortgages, these are the two central purposes. Frankly, we ought not to let this legislation go down because there is an effort to try to add to it other proposals that may, in fact, be meritorious in their own right, as clearly I think this amendment is, as I have stated before. But to try to load it now on this legislation I think clearly jeopardizes the likelihood that we can get this legislation passed.

If we do not pass the underlying bill, which we have been charged to do, then I think we leave a greater measure of risk out there in the financial system. Taxpayers, in fact, are on the hook standing behind, if you will, the $900 billion worth of outstanding credit obligations that are there, and we will also forego the opportunity to get some capital and some oxygen down into those inner city areas that desperately need it.

So let us not lose this bill at this point. This is an important piece of legislation that is directly in the public interest.

Mr. DODD. Will my colleague yield?

Mr. RIEGLE. Yes, of course.

Mr. DODD. I appreciate it. I thank both of my colleagues for their patience on this. And I appreciate the difficulty both of the Senators have to operate under as the chairman and ranking minority member of the committee. I want to express my apologies. I would have much preferred to bring this out free standing. I tried, as I think both of my colleagues understand. We had an objection. The full quorum for a committee markup was insisted upon, and, as a result, it was virtually impossible, de facto impossible, for me to move the legislation.

I understand the importance of the GSE legislation. I commend both Senators for it. But I have to tell Senators as well, when I see lender liability, money laundering, RTC statute-of-limitations extension, these are not exactly just GSE related issues. We are dealing with some other issues here, and I appreciate the agreements that get struck, but nonetheless we have legislation with 73 cosponsors, 17 members of the Banking Committee. There are a lot of these proposals here that did not even come close to that kind of support institutionally. Because of one Member, who can exercise his rights, a very important piece of legislation affecting potentially 8 million people in this country and $130 billion of investments—it seems to me something with that level of support, supported by the industry, supported by State regulators, supported across the board, we ought to try to accommodate them.

But I appreciate the difficulty in offering it. I wanted to make the point here that this managers' amendment includes a lot of other issues that are not just GSE matters.

Several Senators addressed the Chair.

Mr. RIEGLE. If I may just for a moment, and then I will yield, the Senator is quite right in what he says. He has been most diligent, along with his cosponsor from Missouri, in pushing the issue through the committee. I have been very supportive of that.

We were denied a quorum at the time that we needed to have one in order to be able to report the bill out, and objection was filed by one Member. So the process was thwarted at that point, notwithstanding the fact there are some 72, 73 cosponsors of the legislation, including myself.

But I have to add in addition to the point I made before, and the point the Senator just made. That we have in this managers' amendment by consent on both sides of the aisle other items that I have not mentioned that I think are absolutely vital. And the extension of the statute of limitations for people who engage in the savings and loan fraud, for example, is a tremendously important provision. That provision is in here.

We have to be very careful that we do not sink this legislation because if we sink the legislation we are going to sink that provision. That is part of the managers' amendment. It is a very, very important and valuable provision in that package.

There are some people who do not want that. There are some people who would like to see that go down. I know the Senator from Connecticut wants it in there, as do I. But there are others who would just as soon find some way to sandbag this whole piece of legislation so that that one item in the managers' amendment goes down the drain.

It needs to be in there. It is in there for a reason. So I think again we have to be very mindful that, under the parliamentary situation we find ourselves in, we run the risk of sending this whole package down the drain, not only the GSE legislation, which is very important in its own right, and the main purpose that we are here, but also other items in the managers' amendment that I think are vital elements of public policy and may be the last chance we will have this session to get them through.

I realize that is the argument that the Senator from Connecticut makes, but there are times when we may be able to accomplish eight objectives simultaneously and not be able to add the ninth without losing all nine. That is the situation that I think we find ourselves in.

There is one other item that is in there, which is very important to the Senator from Connecticut. That is the Presidential Insurance Commission. That is in there, because the Senator argued strongly and persuasively for that. I have supported that. It is in the legislation. If this bill carries on through, that will take effect. And again, the risk we run in terms of possibly losing the entire underlying bill is to lose the managers' amendment in which that item is present, which the Senator from Connecticut is the lead person on.

So I know we are always torn with these conflicting objectives here. But I want to say again that this legislation as a package, as it is now on the floor, is vital public policy. If we lose it all by reaching for one more thing, we will not have gained; we will have lost.

Mr. DODD. Mr. President, I ask unanimous consent that a section-by-section analysis of the Dodd-Bond amendment to S. 2733 relating to limited partnership rollup reform be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

DODD/BOND AMENDMENT TO S. 2733—SECTION-BY-SECTION ANALYSIS OF THE LIMITED PARTNERSHIP ROLLUP REFORM ACT

SECTION 1. SHORT TITLE.

This section sets forth the short title of the Act, the "Limited Partnership Rollup Reform Act of 1992."

SECTION 2. REVISION OF PROXY SOLICITATION RULES AND DISCLOSURE WITH RESPECT TO PARTNERSHIP ROLLUP TRANSACTIONS.

This section adds a new Section 14(h) to the Securities and Exchange Act of 1934 to require that the SEC adopt, pursuant to its existing authority under Sections 14(a) and 14(d) of the Exchange Act, special proxy solicitation and tender offer rules to apply to limited partnership rollup transactions.

Communications among securityholders

New section 14(h)(1)(A)(i) would require the SEC to adopt rules to permit holders of securities in a proposed limited partnership rollup transaction to engage in preliminary communications with other limited partners, for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction. Under the SEC's current proxy rules, limited partners (like security holders generally) may not engage in preliminary communications that constitute a solicitation with more than 10 or more limited partners, unless they file soliciting material with the SEC. The Committee heard testimony that, given the complicated nature of rollup transactions, limited partners have sought to communicate with each other to obtain information and determine whether to oppose a pending rollup. This section would clarify that limited partners may communicate with each other without being in violation of the SEC's proxy solicitation rules. SEC rules relating to fraudulent, deceptive or manipulative acts or practices would continue to apply. This section is not intended to affect the SEC's current rulemaking proceeding relating to communications among corporate shareholders and other security holders, including limited partnership investors. If, at the completion of the SEC's proceeding, security holders are given broader flexibility to communicate with each other, limited partnership investors would enjoy those rights also.

Securityholder lists.

New section 14(h)(1)(B) would require the SEC to adopt rules to require the issuer to provide limited partners involved in a rollup transaction a list of names of other limited partners involved in the proposed transaction. The SEC would determine, by rule, the terms and conditions under which lists would be furnished. This responds to concerns that, in the past, general partners have withheld from limited partners the names of other investors, in order to prevent them from organizing to vote against a rollup transaction. This new section would enable investors to get the information they need in order to communicate concerns related to the proposed partnership rollup transaction to other limited partners. This section is not intended to affect the SEC's pending rulemaking proceeding relating to access to security holder lists by corporate and other security holders, including limited partnership investors.

Differential compensation.

New section 14(h)(1)(C) would require the SEC to adopt rules to prohibit compensating any person soliciting proxies, consents, or authorizations from securities holders concerning a limited partnership rollup transaction: (i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or (ii) if such compensation is contingent on the transaction's approval, disapproval, or completion. This section would address the conflict of interest that arises if a person (for example, a broker-dealer or proxy solicitor) is soliciting proxies and being compensated for the delivery of a specific outcome, generally, approval of the proposed partnership rollup transaction. NASD rules implemented in 1991 prohibit NASD members from accepting compensation based upon the outcome of a transaction. This section would close a potential gap in the NASD rules and apply this prohibition to nonmember proxy solicitors as well.

Full and fair disclosure.

New section 14(h)(1)(D) requires SEC rules related to specific limited partnership rollup disclosure. These provisions generally codify SEC rules promulgated in 1991 requiring clear, concise and comprehensible disclosure in the following areas:

(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed partnership rollup transaction from each of the original limited partnerships;

(ii) the conflicts of interest, if any, of the general partner;

(iii) whether it is expected that there will be a significant difference between the exchange value of the limited partnership and trading price of the securities to be issued in the partnership rollup;

(iv) the valuation of the limited partnership and the method used to determine the value of limited partners' interests to be exchanged for the securities in the partnership rollup transaction;

(v) the differing risks and effects of the transaction for limited partners in different partnerships proposed to be included, and the risks and effects of completing the transaction with less than all partnerships;

(vi) a statement by the general partner as to whether the proposed rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and a description of alternatives to the partnership rollup transaction, such as liquidation;

(vii) any opinion (other than an opinion of counsel), appraisal, or report that is prepared by an outside party and that is materially related to the rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal or report; the method of selection of such party and material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements; and the basis for rendering and methods used in developing the opinion, appraisal or report; and

(viii) such other matters deemed necessary or appropriate by the SEC.

This section also requires that the soliciting material include a clear and concise summary of the limited partnership rollup transaction, with the risks of the transaction set forth prominently in the forepart of the summary.

Minimum offering period.

New section 14(h)(1)(E) provides that SEC rules require that all shareholders have at least sixty calendar days to review a limited partnership rollup transaction disclosure document, unless a lesser period is required under state law. Due to the complex nature of rollup transactions, witnesses testified that solicitation materials and other disclosure documents are lengthy and complicated. The overwhelming majority of those invested in limited partnerships are individual investors, who may need an extended period of time to review and analyze the proposal, communicate concerns, and offer alternatives. This provision gives them additional time in which to conduct their review, unless applicable state law mandates a lesser period of time.

Exemptions.

New section 14(h)(2) would give the SEC broad authority to exempt by rule or order securities, transactions and persons or classes of persons from the requirements imposed pursuant to new section 14(h)(1) and from paragraph 4, which defines limited partnership rollup transactions. It is intended that the SEC use this authority to exempt those transactions that do not involve the potential for abuses of the kind that led to development of the legislation.

Effect on commission authority.

New section 14(h)(3) states that nothing in the bill shall be construed to limit the SEC's authority under subsections (a) or (d) of section 14 of the Exchange Act or any other provision of the securities laws or to preclude the SEC from imposing, under subsection (a) or (d) or any such other provision, a remedy or procedure required to be imposed under this subsection.

Definitions.

Section 14(h)(4)(A) defines the term "limited partnership rollup transaction" to mean a transaction involving the combination or reorganization of limited partnerships, either directly or indirectly, where some or all investors in the limited partnerships receive new securities or securities in another entity, but it provides exceptions for certain kinds of private transactions or other transactions in which the protections of the Act are not called for. In addition, new section 14(h)(4)(b) defines the term "limited partnership rollup transaction" to include the reorganization of a single limited partnership in which some or all investors receive new securities or securities in another entity, if the transaction meets certain specified criteria in the bill.

Transactions involving the combination or reorganization of multiple partnerships.

Transactions involving multiple partnerships defined as "limited partnership rollup transactions" are covered by the bill in Section 14(h)(4)(A), with the exception of the following:

(i) a transaction in which the limited partnership securities already trade on a national securities exchange or on the NASDAQ/National Market System (and, therefore, have met specific listing requirements and can be sold readily on a liquid market);

(ii) a transaction involving issuers that are not required to register or report under section 12 of the Exchange Act both before and after the transaction;

(iii) a transaction in which the securities are not required to be registered or are not registered under the Securities Act of 1933 (for example, private placements, Regulation D offerings, securities issued in bankruptcy proceedings, certain exchange offers);

(iv) a transaction where there will be no significant adverse change to investors in voting rights, the term of existence of the entity, management compensation, or investment objectives; or

(v) a transaction where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

The phrase "directly or indirectly" is intended to make clear that multiple or step transactions that are meant to circumvent the purposes of the legislation would be included in the definition of "limited partnership rollup transaction." However, if one or more partnerships convert to corporate form in full compliance with the legislation, a subsequent unrelated merger of the corporations would not trigger the provisions of the Act.

The reorganization of a single limited partnership.

Transactions involving a single limited partnership meeting the definition of "limited partnership rollup transaction" are covered by the legislation if they meet *all* of the criteria set forth below. These criteria are intended to parallel the exemptions applicable to multiple-partnership transactions.

(i) the securities issued in the transaction are traded on a national securities exchange or on the NASDAQ/National Market System (and, therefore, exempted from state securities registration and review);

(ii) the limited partnership securities are not exchange-traded or traded in the NASDAQ/NMS;

(iii) the issuer is a reporting company under section 12 of the Exchange Act both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act;

(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

(v) investors are not provided an option to retain a security under substantially the same terms and conditions as the original issue.

Exclusion from the definition:

New section 14(h)(5) excludes from the definition of limited partnership rollup a transaction involving a limited partnership or partnerships having an ongoing operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing or refinancing of assets, in accordance with such criteria as the SEC determines appropriate. This exclusion codifies the SEC's exclusion from its rollup disclosure rules of transaction involving partnerships that are not "finite-life" entities. In these kinds of reinvesting partnerships, investors typically expect that the partnership will be an ongoing reinvesting business operation, and have not relied upon the expectation that the partnership would be dissolved within a given period of time and cash distributed to limited partners. This exclusion would apply, for example, to a "clean up" transaction in which partnerships of this nature are converted to corporate form in anticipation of an initial public offering, or a transaction involving an ongoing concern which reinvests proceeds and that is set up as a partnership but is seeking to convert to a corporation or trust.

Schedule for regulations.

This section requires that the SEC adopt regulations within 12 months of the enactment date.

SECTION 3. RULES OF FAIR PRACTICE AND LISTING STANDARDS IN ROLLUP TRANSACTIONS.

Section 3(a). Registered Securities Association Rules.

This section amends Section 15A(b) of the Securities Exchange Act of 1934. It requires that the rules of a national securities association (for example, the NASD) to promote just and equitable principles of trade include rules to prevent members of the association from participating in any limited partnership rollup transaction that does not provide procedures to protecting the rights of limited partners, including—

(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

(B) the right not to have their voting power unfairly reduced or abridged;

(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

"Dissenting limited partner" is defined to mean a holder of a beneficial interest in a limited partnership who votes against the transaction and complies with procedures established by the NASD to assert dissenters rights.

Section 3(b). Listing Standards of National Securities Exchanges.

This section amends Section 6(b) of the Securities Exchange Act of 1934 to prohibit an exchange from listing any securities resulting from a rollup transaction unless such transaction provides for protections for limited partners as set forth in Section 3(a) of the legislation for registered securities associations.

Section 3(c). Standards for Automated Quotation Systems.

This section amends Section 15A(b) of the Securities Exchange Act of 1934 to require that the rules of a national securities association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the SEC as a national market system security resulting from a rollup transaction unless such transaction provides for protections for limited partners as set forth in Section 3(a) for registered securities associations.

Section 3(d). Effect on Existing Authority.

The amendments made by this section shall not limit or preclude the authority of the SEC, a registered securities association, or national securities exchange under the Securities and Exchange Act of 1934 from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

Section 3(e). Effective Date.

The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

Mr. GARN. Mr. President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah to lay on the table the amendment of the Senator from Connecticut. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD], is necessary absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 10, nays 87, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—10

Craig
Dole
Garn
Gorton
Gramm
Mack
Riegle
Symms
Thurmond
Wallop

NAYS—87

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Rudman
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Warner
Wellstone
Wirth
Wofford

NOT VOTING—3

Helms
Roth
Sanford

So the motion to lay on the table the amendment (No. 2440) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 2440) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LENDER LIABILITY PROVISIONS OF MANAGERS' AMENDMENT

Mr. GARN. Mr. President, yesterday I described the lender liability provisions included in the managers' amendment and the need for legislative action despite the recent EPA rule. I ask unanimous consent to include in the RECORD two letters I have received from the FDIC and the RTC on this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, May 21, 1992.

Hon. JAKE GARN,
Ranking Republican Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: The Federal Deposit Insurance Corporation is pleased to comment on your bill, S. 651, in light of the final Environmental Protection Agency regulation on lender liability under Superfund.

We continue to support S. 651 because, although the EPA rule will provide valuable guidance to lenders, it addresses only some of our concerns. Your bill supplements the EPA rule in helping the FDIC to operate in a cost-effective manner and to sell properties. As S. 651 would exempt the FDIC from Superfund liability, provided that we have not caused or contributed to contamination, we would be able to avoid litigation to prove that our actions come within the security interest exemption or the innocent purchaser defense.

In addition, S. 651 addresses our need to market properties by extending our immunity to subsequent purchasers, provided that they meet certain criteria. Without such protection, we might not be able to sell properties affected by contamination to facilitate their clean-up by the private sector. Finally, S. 651 addresses certain issues relating to lawsuits based upon state law and third-party suits for contribution.

Sincerely,

WILLIAM TAYLOR,
Chairman.

RESOLUTION TRUST CORPORATION,
Washington, DC, May 15, 1992.

Hon. JAKE GARN,
Ranking Republican Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your letter regarding your bill, S. 651, on lender liability. Although the final rule recently issued by the Environmental Protection Agency on CERCLA lender liability is quite helpful in clarifying those activities in which the RTC may engage without incurring CERCLA "owner or operator" liability, we remain of the opinion that the most effective protection for the Resolution Trust Corporation lies in legislation.

Consequently, the RTC continues to support enactment of legislation to codify exemptions to and defenses against hazardous substance lender liability.

With best wishes.

Sincerely,

ALBERT V. CASEY,
President and CEO.

AMENDMENT NO. 2437, AS MODIFIED

Mr. RIEGLE. Mr. President, I now urge adoption of the managers' amendment.

The PRESIDING OFFICER. Is there further debate on the managers' amendment?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2441 TO AMENDMENT NO. 2437

(Purpose: To place a temporary moratorium on interstate branching by savings associations)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself and Mr. BUMPERS, proposes an amendment numbered 2441 to amendment No. 2437.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new section:

SEC. . MORATORIUM ON INTERSTATE BRANCHING BY SAVINGS ASSOCIATIONS.

(a) MORATORIUM.—Notwithstanding any other provision of law, no Federal savings association may establish or acquire a branch outside the State in which the Federal savings association has its home office, unless the establishment or acquisition of such branch would have been permitted by law prior to April 9, 1992.

(b) APPLICABILITY.—This section shall apply during the period beginning on the date of enactment of this Act and ending 15 months after such date.

Mr. FORD. Mr. President, I have sent to the desk, along with the distinguished Senator from Arkansas [Mr. BUMPERS], an amendment to provide for a 15-month moratorium on the implementation of recent interstate branching regulations issued by the Office of Thrift Supervision [OTS] for Federal savings associations. These regulations would preempt all State laws—let me underscore that, Mr. President—these regulations would preempt all state laws in this area, and would completely alter the very complex policy debate in the Congress on the issue of interstate branching.

The amendment which Senator BUMPERS and I submit today is offered in the spirit of compromise, so that this legislation may move forward without delay. We would have preferred to have nullified the OTS regulation altogether, by amending existing statutes to assure OTS would respect State laws. OTS has ventured into an area where Congress should ultimately make the policy choices.

However, we are also aware that this is an area which may be revisited by the Congress some time next year. The moratorium gives Congress at least an opportunity to look at the issue without having the status quo so dramatically changed by a regulation. Therefore, we are willing to compromise on a 15-month moratorium, which I understand is acceptable to the chairman of the committee—possibly not the ranking member—in an effort to move things forward.

Let me try to explain how we have come to this point. Last year, during consideration of the banking bill, the Senate adopted my amendment on interstate banking and branching for commercial banks. We did not address thrifts, but only banks. The debate essentially came down to what sort of burden the Congress should put on States in deciding whether or not they wanted interstate banking and branching. My amendment had one approach, and Senator BUMPERS offered another approach through his amendment.

But both amendments left the fundamental decision of whether to allow interstate branching to States. It has always been a State's decision, and should remain so.

It was clear during our debate last year that certain State's rights simply had to be respected. For instance, many States restrict interstate banking activity to the acquisition of existing institutions within their borders. They do not allow out-of-State holding companies to simply come in and set up new branches. They wish to protect the franchise values of their own institutions. Many States also require that only those institutions which have been in existence for more than a certain period—say, 3 years of 5 years, for instance—may be acquired. Other States reserve the right to block interstate acquisitions if it would result in an out-of-State bank holding company controlling more than a certain percentage of banking deposits in that State.

As everyone knows, the interstate branching language adopted last year for banks was dropped in the conference committee when no agreement could be reached on a broader bill. Then, out of nowhere came the Office of Thrift Supervision. Once our debate over banks was out of the way, OTS saw its chance to act on interstate branching for savings and loan institutions. On December 30, 1991—think about this now—on December 30, 1991, OTS proposed an interstate branching rule for thrifts that is such a wild departure from the parameters of the debate in Congress that it should alarm every Senator. The OTS rule is such a dramatic change in our policy that it will fundamentally shift any future debate we may have in this body on interstate banking and branching for banks or thrifts.

The OTS has now expressed its clear intention to preempt State laws in this area. Under the new rule, federally chartered thrifts will be allowed anywhere in the country, regardless of whether State laws permit it and regardless of any reasonable conditions which State law may require.

Senator BUMPERS and I may have differed slightly in our approaches to this issue for banks last fall, but we are absolutely united in our outrage over this new rule for S&L's. I would think any Senator who supported either of our versions would share these views.

The OTS is attempting to railroad through a major policy change which it knew could not pass the Congress, at a time when Congress is not focused on this issue; namely, December 30, 1991. The proposed rule was announced on December 30, between the holidays. It was given only a 30-day comment period; 25 Senators objected to this rule in writing, and requested an extended comment period. This request was ignored. The OTS ignored the written request of 25 Senators. A few weeks later, OTS Director Ryan informed me that they were going forward with the new rule. They waited for the RTC funding bill to run its course, and then on April 9, OTS announced that this rule would become final.

This dramatic shift in policy for S&L's goes well beyond anything which we debated for banks on the floor last year. I believe it is a power grab by OTS of the most blatant kind. I believe it is a power grab that we should put a moratorium on. State chartered thrifts will have every incentive to convert to federally chartered thrifts. And any future debate on this floor relating to banks will not be based on what is the best policy. It will be based on what the thrifts already have. Forget about States rights. Forget about protecting the franchise value of existing institutions in your State. Forget about the system of dual regulation in this country.

Mr. President, the dangers and benefits of interstate branching are still the subject of much debate. States are our laboratories right now on this issue. They are experimenting with the issue, and there are a variety of different schemes in place today. I believe this must be respected. I believe this is the most logical way to approach the issue. It is also the most sound. The wide open solution imposed on the thrift industry by OTS may ultimately prove to be the most unsound.

So the amendment which Senator BUMPERS and I offer today is needed. It merely restores the status quo on this issue. It says federally chartered thrifts can branch interstate, but only if States allow it. This was the law before OTS changed the rules. It should remain the law until Congress has had a chance to fully debate the issue and decide on whether to make major policy changes.

Mr. President, I am pleased the distinguished minority leader, the Senator from Kansas [Mr. DOLE]—this is an amendment he sent to the desk, also. So we find many on both sides of the aisle feel the OTS has gone too far. It is time we decide the policy, and have them carry it out.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I thank the Senator from Kentucky, and I thank the Senator from Utah for letting me proceed for just a moment.

I am delighted the distinguished Senator from Kentucky has offered this amendment which is the same legislation I introduced earlier this month called the Savings Association Interstate Branching Limitation Act of 1992. I know my good friend and colleague from Utah, the ranking Republican on the committee, does not agree with this amendment. But I would say it is an effort, through a 15-month moratorium, to see whether or not this is the right thing to do, and it is a moratorium on the effectiveness of a regulation of the office of thrift supervision which lifts restrictions on nationwide branching for federally chartered thrifts.

My problem with the OTS regulation, aside from some concerns over the alleged benefits of interstate branching as balanced against possible harms, I think is with the process followed by OTS.

On Monday, December 30, 1991, notice of the proposed rulemaking was published in the Federal Register.

To say the least, it did not take a rocket scientist to have predicted that this proposal would generate a lot of interest and controversy.

It also does not take a rocket scientist to figure out that such a difficult and controversial issue should be fully and carefully considered over a period of time before action is taken. Certainly, in my legislative experience, that's the best way to put countervailing arguments to rest and to lend integrity and credibility to the process and the resolution of that process.

Instead, what did the OTS do? They issued a proposed rulemaking during the holidays when Congress is adjourned and everyone is out of town.

Furthermore, they limited the comment period to a mere 30 days, 30 days for a regulation that represents a major departure from prior policies, 30 days for a regulation that ignores States rights to determine thrift branching practices within their own borders.

And perhaps most important, 30 days for a regulation that would open the doors to interstate branching for thrifts when Congress just a few weeks before rejected interstate branching for banks.

The purpose of this legislation is to turn back the clock to provide an opportunity for the process to start all over again. The legislation will restore the pre-OTS regulation status quo such that federally chartered thrifts will only be permitted to branch interstate if allowed under the laws of the affected States for State chartered thrifts, subject to certain exceptions involving the acquisition of a failed or failing thrift.

During the 15-month moratorium period, a full and vigorous debate of the OTS proposal can take place before there is a rush to regulate. This way, whatever the final outcome, there will be assurances that all pro's and con's of the regulation are fully and openly considered.

I think this is a middle-ground approach, though I know it is not supported by the administration in this case, or by all members of the Banking Committee.

So I thank, again, the Senator from Kentucky for his leadership. I am happy to join him in the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. GARN. Mr. President, I do not have any great illusions about the outcome of this vote, but it is not possible for me to explain to this body how disappointed I am in the behavior of the Congress of the United States concerning the financial institutions of this country.

I want to make certain that my colleagues, particularly Senators FORD, BUMPERS, and DOLE, do not take my remarks personally, or as directed at them. Senator BUMPERS and Senator FORD are classmates of mine from the class of 1974, and they are good friends.

But I have lived with moratoriums my entire career. I came to the U.S. Senate in January 1975. I sat in the Banking Committee and listened to the distinguished Senator McIntyre from New Hampshire propose the Financial Institutions Act, to do something about modernizing the banking system of this country. And I supported Senator McIntyre.

The bill was passed, as I remember, in 1976 in the Senate. It was not approved by the House. Again, in 1978, I believe it was passed, and not approved by the House. There is an 18-year record—my entire career in the U.S. Senate is one of a dramatically changing financial institutions system in this country. We do not do business anymore the way we used to in banks, savings and loans, credit unions, the securities business because, if someone has not noticed, if for no other reason, the computer—technology has changed.

You can now make transfers of money anyplace in the world in a few seconds. Despite all that dramatic change in the way we do business, we have some people who still want to say that interstate banking does not exist. It does exist, and it has existed for a long time. As proof of that, I could take a card and go down by the subway right now and draw money out of my bank in Salt Lake City, UT. And everybody has those privileges. So it does exist.

Beyond the issue of technology, interstate branching and banking has existed because of mergers of troubled institutions across State lines; because of States in regional compacts allowing interstate banking and branching, including my own. Anybody who wants to come and operate a bank in Utah, be our guest.

So that is the reality. Interstate banking of banks and thrifts does exist, in reality. Congress, after 18 years, has not been willing to address that issue. So we have outmoded laws.

I am not standing up here saying they should be revised in exactly the way the Senator from Utah thinks they should. There is obvious room for disagreement on that. But to continue to make virtually no changes over the last two decades when I can show statements, and I will not, from John Kennedy, as President, from Richard Nixon, from Gerald Ford, from Jimmy Carter, from Ronald Reagan, all of them having various studies done and Congress having studies commissioned over these two decades and longer, really three decades, that we need to modernize over financial institution system, and Congress has not responded. We simply are unwilling. I happen to agree with the Senator from Kentucky that Congress ought to legislate, that these things should not be being done by regulation, but we will not. So I encourage the regulators to adopt regulations. For years I have told the Fed to adopt regulations in hopes that we would get so angry and say we do not want them to do that so we will finally sit down and legislate and come up with a national plan.

I hope my colleagues will recognize that if State laws are being abrogated or overridden, it is not being done by this regulation. This rule removes an Agency limitation on interstate branching. We passed a law, we passed a statute in the Congress allowing interstate branching of thrifts. We overrode State law years and years ago. Interestingly enough, the regulators put limitations on that law. Now they are removing them. So do not let anybody think that this regulation is overriding State law. It is not. We did that. Congress did that, and not the OTS. The Federal Home Loan Bank Board limited, by regulation, the statute which we passed. So at least let us have that correct for the record. We preempted State law a long time ago. The regulators limited that preemption, and now they are opening it up, which essentially conforms with the original statute that we passed to allow that.

But the usual compromise or amendment—again no criticism of the Senator from Kentucky—is a moratorium. Boy, during my career in the Senate, have I lived with a lot of moratoriums. That is always the thing to do, and I tell the Senator from Kentucky, if I thought the Congress would act in 15 months, that they would actually do something about it, I would not be opposing this amendment. But I have lived through moratorium after moratorium after moratorium, and I know exactly what will happen, as it has happened to me so many times before.

When I was chairman of the Banking Committee, I could recite a whole list of moratoriums. At the end of the moratoriums, "Oh, we have not had time to consider this." We extend the moratorium. Regulation Q on interest rate ceiling was passed, I think, in 1966 was a temporary regulation. It was extended for 16 years. This is our normal mode of operation: Do not confront an issue, do not make a decision, do not legislate; pass a moratorium, delay; we are going to think about it longer. If anybody had told me that I could serve for 18 years in the U.S. Senate and leave with Congress doing so little about this dramatically changed financial marketplace, I could not have believed that Congress could be that irresponsible.

I do not doubt the intentions of the Senator from Kentucky and the Senator from Kansas. They are sincere about what they are trying to do. But I promise them—I will not be here 15 months from now—but I will guarantee them that the motion will be out here to extend the moratorium because we have not yet had time to decided. Is not 30 years long enough? 20 years? 10 years? 5 years? Again, if I thought another 15 months would make a difference, boy, I would say let us just accept the amendment. But why should I believe that Congress will change? Why should I believe that? I have been as much as advocate of States' rights around this body as anybody else, but not nearly as much as I used to be because, if the Federal law had applied to the States' savings and loan institutions in this country, there would not be a thrift crisis, the taxpayers of this country would not be bailing out $150 billion of taxpayers' money, because most peopled do not understand that three-fourths of that entire loss occurred in State-chartered institutions, and three-fourths of that problem of the three-fourths occurred in two States, in Texas and California.

I am not going to sit here and defend the right of California and Texas to rip off the American people for $100 billion, but that is what they have done. That is what has happened. I can hear all about deregulation and how it caused this problem. It certainly did, but not at the Federal level. If the various laws, including Garn-St Germain, had preempted State law, that could not have happened in Texas and California.

Just one example. One of the major problems in this huge loss was direct investments where thrifts could take money and not make loans with collateral, but invest in their own behalf. We all know about the insider deals and the direct investments. It is interesting. Do you know what Federal law allowed a Federal thrift? They could invest 3 percent of their total assets in direct investments. That is all, just 3 percent. But the Texas Legislature, in their wisdom, said, oh, a Texas thrift can invest 40 percent in direct investments, and in California, 100 percent. They did not even have to make a loan, just take depositors' money, insured by the FSLIC, and say, "I think I will build a shopping center. If it goes well, we make the money. It is not coming from a loan."

I suggest there are times when we say to hell with States. I wish we had. I wish we had said to them that this applies to State-chartered institutions and then we could stand up proudly and say the taxpayers are not paying a $150 billion bill. The very least we should have said, which former Chairman Proxmire and I tried several times, is, "OK, we are not going to preempt you, we are not going to apply Federal law to State-chartered institutions, but we are going to tell you, if you do not comply with Federal law, you cannot have Federal insurance." That would not have averted the crisis, but it would not have been a Federal crisis. The States would have had to stand up for their own action.

So as a small city mayor and defender of States rights, I suggest that we cannot blindly always say that the States are right. Some of the State legislatures of this country caused the thrift crisis, but does the American public know that? Oh, no, they think it was Congress. It was not. It simply was not. Federal law would not have allowed the vast majority of those losses to occur because the Federal institutions could not engage in those businesses.

The issue of interstate banking or branching for thrifts or banks is rather interesting as you look at that and you look at the failure of Continental Illinois, one of the big bank failures in this country. We had such wonderful modern banking laws in Illinois that they could not even branch out of Cook County, let alone across State lines. If you examine that failure, it is primarily because of their inability to have a retail business, to have geographical dispersion of their assets. they could not leave Cook County. We still have States that do not allow branching across county lines. We still have Federal laws that prohibit branching across State lines. But by the end of this year, European banks can branch all over Europe. German banks can go to Spain, Spanish banks can go to France, and we keep our system tied down to these little parochial laws that fractionate a system and we wonder why we have problems.

Try to enact interstate branching. It did not make any difference that all the regulators last year said this was a safety and soundness issue; that if there was one thing that we could pass in a banking bill last year that would be most important to limiting the exposure of the FDIC and the fund for the savings and loan, it would be to allow interstate banking. Because a few Members on the House side did not want to agree with that, it came out again.

We had a study by the Federal Reserve which said that increased ability to branch will increase the safety and soundness of our banking system. According to this study:

> The failure rate of banks with branching networks during the recession was much lower than banks with limited branches. Geographic diversification makes it possible for banks to diversify their loan portfolios to a greater extent. This makes banks less subject to swings in regional economies. Bank failures in the 1980's were concentrated in the States with limited branching rights. GAO found that 90 percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching.

How much more evidence do we need?

> Ninety percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching. The GAO found that branching restrictions may make a bank more vulnerable to adverse economic conditions. These banks have less opportunity—

I am still quoting the GAO—

> have less opportunity to diversify risks and are more vulnerable to economic downturns in particular communities.
>
> The CBO recently released a study that concluded nationwide interstate banking would enable banks to increase their geographic and industry diversification. Such diversification would contribute to reducing the probability of bank failure over the business cycle and thereby lead to a more healthy and stable banking system.
>
> Expert witnesses before the Banking Committee testified in favor of interstate branching. Comptroller Bowsher testified in favor of interstate banking. Former Deputy Secretary of Banking Coswell testified when New York permitted branching upstate by New York City banks, small independent banks in the upstate region continued to thrive and local deposits were not drained out of the community. Instead, through increased competition, more and better services have been available to upstate residents.
>
> Robert Litton of the Brookings Institution testified, "It is no accident that most bank failures were concentrated in States with limited branching rights." He also stated that the Nation would have suffered fewer bank failures in the 1980's had we long ago permitted nationwide branching.

It goes on and on and on. If there is frustration in my voice, it should not be a surprise to anybody—18 years, a career in the Senate trying to convince Congress that we need to modernize our banking laws, and we have not. And then I am faced with another moratorium; let us think about it a little longer.

I am almost willing to bet that I could come back 18 years from now and the same debates will be occurring. Some Senator will be offering a moratorium. It will not matter what has happened to the banking system. It will not matter how the foreign banks have taken over, because we are not able to compete. Twenty years ago, 7 out of the 10 largest banks in the world were in the United States. Today 10 out of the 10 largest banks are Japanese. I think our biggest one is 23d or 24th.

They laugh at us. They have modernized their banking laws. They are competitive. We talk about the automobile industry and the difficulties we have there. Well, we, Government, are holding down our financial community in this country, and we are the best; we are the innovator of most of the financial instruments. they copy us. The Japanese used to send a couple hundred people over, and I was flattered when they would say, "Would you come to speak to them." It took me a while to find out what they were doing. They were learning about our financial system. And one of the things they learned is do not have all these restrictions. That is why 10 out of the 10 largest banks in the world are Japanese and control so much money and why they buy so much property in our country.

I did not intend to talk this long, but it goes far beyond just the issue of this amendment, to when are we going to listen. Forget the regulators and their testimony. How about some of these independent witnesses? How about the testimony that we would have had fewer bank failures had Congress been willing to allow modernization of our system?

It is overwhelming and it is clear, and I know of no dissenters that can refute the evidence of the 1980's. It is not a matter of opinion. It is a matter of fact. It is hindsight. It is hindsight that had we enacted some of these provisions 15 or 20 years ago, the size of the banking and S&L problem would have been much less. Had we preempted State law, there virtually would have been no S&L crisis. Or had we at least said fine, you can do anything you want, we are not going to preempt you; we value the dual banking system and we will not—you can do any damned fool thing you want in your State legislature but not with Federal insurance. Be on your own.

The interesting thing of it is, when they get in trouble, some of the State banking institutions, when their own funds go bankrupt, then what do they do? They run to the Senate and House Banking Committee and say, "Bail us out."

I do not know why the Congress of the United States should be responsible for what State legislatures do. I do not understand that concept, that a Texas legislature can allow 40 percent direct investments and California allow 100 percent and Federal law says only 3 percent, and then we pick up the bill for them.

Why? Why do we do that? I just do not understand. It is their bill. It is not ours. Yet every Member of Congress is blamed for the S&L crisis.

They ought to start looking at their State legislatures, particularly in California and Texas, start looking at them and place the blame where it belongs.

So, yes, I am opposed to this amendment. I am opposed to it for one very solid reason. Congress will not act in the next 15 months. If there was some way the Senator from Kentucky could tell me that we would, with all this history I have recounted, that Congress would suddenly decide this is an important policy decision and make a determination on what our financial system ought to look like for the 1990's, not the 1930's, then I would say to the chairman, let us just accept his amendment. Boy, I would be tickled to death if we would resolve this problem in the next 15 months. But a moratorium is not the answer.

I would suggest that not having a moratorium for people who do not want this to be done by a regulator would be more of an incentive to act in the next 15 months. Say we do not like what you are doing, we do not think you should do it. And I agree with that in concept.

We should act. It is our responsibility. We have abrogated our responsibility for two or three decades. It is time we made some policy decisions, whatever they are, even if it is a determination that no, we are not going to allow interstate branching. That is at least a determination. It is not hiding from the issue. It is not dodging the issue.

I suggest that is why the American people are more upset with Congress than any other reason, not what time we close the Senate dining room or what kind of gifts we have or even the House bank scandal. It is that we will not do anything. We will not take action. We will not make decisions. We will not set policy for this country.

So I just do not expect anything to happen with a moratorium. I have been through too many moratoriums and I have been consistent in opposing them because of that knowledge.

So again my remarks are certainly not intended at my good friend from Kentucky, but they are intended to be directed at a Congress that has been unwilling to act and the consequences are there for everybody to see. The evidence is there that interstate branching of banks and S&L's would increase safety and soundness, a geographical dispersion. That is not an opinion. The statistics from the eighties indicate very clearly that what I am saying has taken place.

I will close with that one statistic—in 1987, 90 percent of the bank failures occurred in States with unit banking systems or limited branching. And in the States where they have the ability to diversify and move across geographic lines, the failure rate has been less.

How much more evidence do we need? As I said, hindsight ought to be pretty conclusive. I have not said it specifically, but I would think that everyone understands my position, that I oppose the amendment of the Senator from Kentucky, and I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, many of the things the Senator from Utah has said I would find myself in agreement with, but on this particular issue I am bound by the same understanding on the managers' amendment by which I was bound on the previous amendment by the Senator from Connecticut. Obviously, the Senate will have to work its will on this issue.

So, bound as I am on the managers' amendment, I cannot, regardless of my feelings on a particular proposition, agree, at least so far as my vote is concerned, to put it in the managers' amendment.

But again, on the merits of the issue. I think the weight of the merits is on the side of the Senator from Kentucky in the sense that I think it is important on this issue, as we have attempted to do on the interstate branching of commercial banks, that the Congress be involved.

I think we have an obligation to be involved. I think it is some of the most important decisionmaking that we have to do. The Senator from Utah and I worked diligently to craft a comprehensive banking reform bill that dealt with that issue of interstate branching by commercial banks. We brought it here to the Senate. There was a fight on the floor at that time—the Senator from Kentucky, and the Senator from Arkansas were involved, and there were some differences of opinion. We eventually resolved that.

We reported a bill out of the Senate that had an interstate banking provision in it that I think was sensible, balanced, and fair. We took that into conference, and unfortunately because of objections on the House side we were not able to move to incorporate that in the final version of the bill. I regret that fact. I think that we in fact do need to revisit that issue at a time when it can be done.

The Senator from Utah has said that he does not foresee that happening now, or perhaps even within the 15 month period of the proposed moratorium. I think it needs to be done. I expect it will be done.

It will depend in part on whether we get a new administration or not. Even if we get the same administration, the Bush administration again, they may wish to come back with this issue of changes in the banking system. They certainly said it was a priority before but they have obviously taken it off the priority list at the present time.

But I am convinced that, if we were to get a Clinton administration or a Perot administration, which I think is equally likely if not more likely, then I think these issues will be revisited. They would be revisited in a new context, with a new Treasury Secretary and new proposals on the table. I think we would be able to move through and address the issues of interstate branching, not only by commercial banks but also by the savings and loans.

I must say one experience that I come away with looking back over the last decade is that regulatory discretion and regulatory assertions of authority can really blow up on us. They can be like an exploding cigar, because of the quality of regulators at any given time and the change in market conditions, and changes in State powers. As the Senator from Utah has pointed out, regulators come and go. You get good ones; you get poor ones. You are never certain whether the apparatus is in place, and whether the philosophy that is being followed, or the practices that are being carried out, are adequate to the problems that are out there in that particular regulated area.

Oftentimes the sheer scope and scale of the complexity of these industries as they are operating across 50 States make it very difficult for even a diligent regulatory force to know precisely what it is that is going on.

I assert that was so even in the case of the commercial banking failures, where the deposit insurance system at the end of last year was about $6 or $7 billion under water, and we had to make a $70 billion taxpayer loan to refinance the bank insurance fund. We previously saw the bust in the savings and loan insurance fund—in that instance I do not think at the time even the practitioners in the industry understood the devastating consequences of the buildup of the problems that were going on.

I have yet—I say to my colleague from Utah, and he may have a different experience—to have anybody out of the commercial banking system, a commercial banker, whether one from my State, one from across the country, or anybody representing any of the bank associations or groups of bankers, come to my office ahead of time, anytime, and say: "By the way, we are very concerned that the bank insurance fund is going broke. And we have a most difficult problem with overinvestment in commercial real estate, and prior to that a massive overinvestment in Third World loans; also a big problem in bridge loan financing for leverage buyouts. And we think something ought to be done to correct those problems before they grow to such a size that they impair the entire industry."

I never had a single banker or banker group come in and say that to me, even though they stood to be severely damaged by conditions building up in their own industry.

I only cite that as an aside, because you might figure that if there was a huge systemic problem building up out there, you might get it from the regulators. If the regulators do not come and throw the switch, you might expect that the industry leaders themselves, particularly because they are cross-affiliated in a common insurance fund, would be coming in and blowing the whistle on the excesses in the industry early in time so that the good institutions would not be damaged by the bad ones. But that did not happen.

I must say that I am left with that experience saying that it is very different for me to stand here today and count on the industry itself to come in and be the early tripwire on accumulating problems that are out there, because they have not done it before even though catastrophic problems were looming and building up, nor have I seen the regulators do it sufficiently.

So I am not prepared to propose these decisions on a scale this large in a system that I have seen in recent years has not by itself been able to work properly. So I think on so fundamental a question as interstate branching—whether by commercial banks or thrifts—to address it in law and not by administrative regulation. I think we need to understand the dimensions of it—who qualifies, what the standards are, what is going to be in place with community lending requirements, and things of that kind. That is what we did in the context of the debate on interstate branching by commercial banks.

I might say with the Senator from Utah and myself in the lead, we worked that issue through. We worked it through in the Banking Committee. We worked it through here on the floor with the help of the Senator from Kentucky and others to try to resolve the issue in as fair a way as we could because there are conflicting interests. But on something of this magnitude, I think you need that level of focus and that level of involvement in how the practice is to be established and how the rules of the game are to be laid down, and if they are to be changed how they are to be changed.

I think that kind of debate that occurs here will yield in the end a better answer, and a clearer answer, and a much more clearly articulated national policy in the evolution of financial system policy than if we simply allow a given regulator and a given agency on a given day to lay down a new policy directive and march the system off in that direction without direct participation by Members of the Congress in how the actual law is written.

I think it further needs to be said that the interstate branching issues in the commercial banking system have an important and tandem relationship with how the same issues are to be dealt with in the savings and loan industry. These two industries are different in certain respects. They are not precisely the same, as is well-known by people who would understand this issue. But the treatment of how we undertake to do interstate branching is a live issue with respect to the commercial banking system, and it does have a cross-relationship with what is going to be done with respect to the savings and loan system.

So, while they are separate, they are nevertheless tied together. So there ought to be an effort made to try to understand and cross-relate the policy in these two areas. I think that is a requirement that comes back to us, and that we must undertake to address.

I will say again for the third or the fourth time, we have attempted to do that. The Senator from Utah has been in the lead in that area, and I certainly have. We have drafted provisions as they would relate to the commercial banking system. We brought them through the Banking Committee. We brought them here to the floor. They were debated here. They were settled here; passed by the Senate. We took them to conference with the House. The House was unwilling to take them up.

So we have attempted to discharge that responsibility, and we must continue to do so. But that is different, I say, from taking that responsibility, where I think we properly need to be engaged, over into an administrative agency and dropping it on an administrator, whether it is the head of OTS or whoever, and saying, look, we could not get it sorted out. You do it the way you think is best. On a matter of this size, I come out on the side of saying, no, I am not prepared to do that.

So I am with the Senator from Kentucky on the substance of this issue. But now I want to come back and finish by saying I do not think this ought to go in the managers' amendment. He will understand my thinking on that. He is chairman of the Rules Committee, and when they put a package together within the jurisdiction of that committee, and it is agreed to by the minority and majority members, and they come out and offer it as a managers' amendment—at least, if their practice is similar to ours in the Banking Committee—that creates an understanding that we will support together the managers' amendment. Unless we can agree on adding something or agree on deleting something, we will otherwise stand together against any changes to add or subtract.

We did that before on the Dodd amendment, despite my underlying support for the Dodd amendment. I must do so here. So I will have to be voting to table the amendment of the Senator from Kentucky. But on the substance, I think the amendment is correct. If I were not bound by the managers' amendment, I would vote for it.

Mr. GARN. Mr. President, I would like to respond briefly. The Senator from Michigan referred to me on two or three occasions.

First of all, I say that I, over the years, have heard from a lot of bankers who criticize the Third World loans of the very large banks in this country, and so on; and over and over again, I have heard from bankers who did not like the way things were going. So I am a little surprised if the Senator has not. I speak of the small- and medium-size banks in this country.

I suggest that people realize that the vast majority, 80 to 85 percent, of the banks in this country are well run, well managed, conservatively run, well capitalized, and are in no danger, and have not participated in some of the exotic types of things that the Senator from Michigan was talking about.

Mr. RIEGLE. If the Senator will yield, because I appreciate his point, and I want to clarify the meaning of what I was saying.

I heard individual bankers come in and gripe about the practice of other bankers, whether it was Third World loans, or what have you. I have not had any bankers, or even more important, any banker groups—and there are lots of them—come in and say, "Look, we think there is a looming disaster where the Bank Insurance Fund is going to go broke, because you have these practices out in the industry being carried out by some banks or some bankers that are going to such excess and such extreme that we think they may sink the whole system."

And I simply make the point, because one would assume that people in banking, whose fate was tied to that type of situation, who might see it coming, would be the first ones in to say we think the Bank Insurance Fund is going to go broke unless we get the industry on a different track. Unfortunately, I have had no bankers come in or any banker association groups come in ahead of time and say that they felt there was imminent danger, and the system was going to go broke.

Mr. GARN. I say to the Senator from Michigan that I have, particularly one from Utah, who started contacting me about 14 years ago. So I have had a different experience in that area.

The other thing—and I say it briefly, because I do not see anything Republican or Democratic about this debate, or the problems of the S&L's, and I never have—but to indicate that the administration has lost interest in this, I do not think is accurate. They sent up a bill last year. The Senator and I tried very hard to do something about it. Primarily because of the House of Representatives' unwillingness to go ahead, we did not get the comprehensive banking bill that both of us desired to.

The administration sent it up again this year, and they talked to me many times, and the counsel from Congress has been do not bother to push it because, in an election year, it is not going to happen.

Only one thing might have a small chance of happening—interestate branching. A bipartisan press conference was held by myself, Senator DODD, Nick Brady, the Secretary of the Treasury, and both Republicans and Democrats on the House side, to introduce a bill at the administration's request to do interstate branching.

So I suggest that is fair to say that there undoubtedly will not be any comprehensive action this year. But I certainly do not think it is fair to indicate that it is lack of interest on the part of the administration. We sent up world, including this Senator and everybody else, that it is not going to happen, so do not waste your time, or to indicate, unless there is clairvoyance on the part of my good friend, that Perot and Clinton would have more interest in this than the current President, George Bush, I do not know that, because I have not heard either Clinton or Perot say anything about this issue to indicate their feelings in any way. I have not heard Perot, as a matter of fact, say anything definitive on anything yet. I am anxious to see if the man has any thoughts on a particular subject, other than his populist BS he continues to push.

Mr. SIMON. Mr. President, I rise in support of the amendment. The chairman of the Banking Committee, I think, made an eloquent speech for the amendment. I agree with 95 percent of what he had to say. The last 5 percent, I differ with.

It was not too many months ago we were on this floor debating this very issue, and Congress decided we would leave the question of interstate branching to the States. This is a subject that is serious enough that we should not have an agency just issuing a regulation saying, we are going to have 30 days' comment, and if nothing happens untoward, we are going to go ahead with interstate branching. This is a major decision for the financial institutions of this country. So I object to it on procedural grounds.

Second, Mr. President, my friend from Utah is partially correct when he says State legislators and States did not do their job, and that is the reason for the kind of mess that we have had. There is a little bit of truth to that, but not much.

Basically, deregulation came from the Federal Government, where we permitted savings and loans to go out and loan not just on residential property, but anything they wanted. And then we permitted them to do it not on resale prices but appraised prices. I am pleased to say that when I was in the House of Representatives, I was 1 of 13 to vote against that deregulation.

Third, regarding the deficit that the Presiding Officer, the distinguished Senator from Florida, has been working on, there is no question that the deficit has aggravated the whole situation that we are in. It has caused uncertainty in financial markets.

In the 1960's, the deficit represented 2 percent of net savings in our country. Now we are at the point where it represents about 70 percent of that savings in this country.

And then, finally, the 1986 tax bill, no question about it, added tens of millions of dollars to the savings and loan costs. That was not State legislators that did that. That was not State governments who passed that 1986 tax bill.

Before we move more and more in the direction of bigger and bigger banks, and move away from small thrift institutions, I hope we will take a good, hard look. The reality is, as we move toward a greater and greater concentration, we are going to have a greater and greater concentration not just in thrift institutions, but in the institutions that they make loans to.

Let us just say that Senator GRAHAM is the president of a big bank—and I have good friends in these major banks—but he has a choice of making one loan of $1 million to a major corporation that is in great shape. Let us just say it is General Motors. Or you have the choice of making a hundred loans of $10,000 to small businesses. It clearly saves you a lot of paperwork to make that one big loan, and yet those small businesses are producing 70 percent of the new businesses in the country.

It seems to me the amendment is a sound amendment. I hope it will pass. I hope we will have a moratorium so that we can look at this thing more carefully and not permit a regulatory agency to suddenly make a major decision for the economy of this country.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, at the risk of repeating what was said before I came to the floor, I think it would be instructive to talk about the history of this rule. Just before Congress adjourned last year for the Christmas holidays, we passed a comprehensive banking bill that did not permit interstate branching by banks unless the State in which they chose to branch permitted it. There is a certain States rights issue at stake and there was a great deal of discussion about the role of States in interstate branching. The conference report on the banking bill did not change the law on branching.

We went home for the Christmas holidays, staffers who stay right on top of these things were also out of town, and on December 30, the day before New Year's eve, Timothy Ryan and the Office of Thrift Supervision published notice of a proposed new interstate branching rule for S&L's, and the comment period was only 30 days. Senator FORD, who has been my colleague in this whole thing from the very beginning, and I wrote a letter and 25 Senators signed it. The letter said "As you probably remember, we prohibited banks from doing exactly what you have now decided S&L's ought to have the right to do."

Talk about a midnight pay raise. Here was a midnight rule with only 30 days to comment and the Congress was hardly going to be in session before the 30-day period was over. Mr. Ryan wrote back:

> In developing the proposed amendment, the Office of Thrift Supervision believed that the proposed change would facilitate consolidation and geographical diversification among Federal savings associations, reduce operating cost, increase healthy competition among depository institutions, and improve the quality of services furnished to customers.

He may believe that, but every study of the issue shows the contrary.

The Harvard Business School did a study and they said the study concludes that banks that merge newly acquired institutions have difficulty improving profitability. The banks cut expenses, but those cuts are offset by a loss of business and revenue to competitors.

So here you have the Harvard Business School study saying, "Mr. Ryan, you could not be more wrong."

And who else? Here is a study by the Federal Reserve Bank of Atlanta and what do they say? They conclude that their analysis cannot support the hypothesis that larger bank mergers on average produce significant cost savings.

Mr. Ryan also said in his letter to Members of the Senate: "Fostering greater financial stability for the thrift industry, in turn will decrease risks to the SAIF." That may be true, but what he doesn't explain is how branching will foster greater financial stability. The risk is greater. He also says in this letter that one of the big advantages is an S&L that gets in trouble because of a local downturn in the economy will have the right to branch out in another State where the economy is not down. Mr. President, I say to my colleagues that is the same kind of logic that has cost the American people $150 billion so far in the S&L cleanup. The truth of the matter is if you have a downturn in the local economy and the only way the S&L's can deal with that is to start branching into other States, the worse the economy gets, the riskier their investments get. It is almost on all fours with what we came to know as hot money.

Mr. President, do you remember when the S&L's began to get in trouble that they got in trouble because they were loaning long and borrowing short? They loaned DALE BUMPERS money to buy a home for 5½ percent for 30 years, and then 15 years later suddenly found that the interest rate they were paying their depositors was up to 15 percent. It is hard to make money when you pay 15 percent on deposits and only get 5½ percent on loans.

So what did they do? They started advertising through brokerage firms, "Send us your depositors' money and we will pay you 15 percent or 14 percent, or whatever, on a 30-day certificate of deposit."

What they wanted to do was to be able to turn around and loan that hot money. They hoped that if they got enough deposits a one point spread would be profitable enough to save them from the gigantic spread between their old 5½ percent loans and what they were having to pay for money.

Mr. President, you know what hot money is. That means you have it today and tomorrow you do not. And that just exacerbated the problem.

So here we have the Office of Thrift Supervision in the persona of Timothy Ryan saying, "Let us try it again. We believe we can get it right this time."

Mr. Ryan's February letter to me bordered on being insulting, frankly. We were saying we just passed a bill that did not allow banks to interstate branch and the minute we left town the proposed administrative rule was published.

Mr. President, I sincerely hope that the people in this body are not going to permit this rule to stay in effect. Senator FORD and I introduced a bill to prohibit interstate thrift branching. Senator DOLE shortly thereafter introduced a similar bill, but Senator DOLE did not prohibit branching it; he just put a 15-month moratorium on it.

And so Senator FORD and I are offering an amendment that is almost identical to the Dole proposal for a 15-month moratorium. What is wrong with that. Why should not the Banking Committee of both Houses consider this rule and not allow somebody like the head of OTS, to arbitrarily make a gigantic decision on his own with virtually no input from Congress; why does not the Banking Committee bring him up here so he can tell us all about this rule and how it is going to work?

Mr. President, there are some pretty important organizations in this country that favor the Bumpers-Ford amendment. For example, the National Conference of State Legislatures. That is every State legislature in the country, saying: We favor the Bumpers-Ford amendment.

The Consumer Federation of America: "Vote yes on Senator FORD's amendment to eliminate OTS interstate branching."

The Conference of State Bank Supervisors. That is every State banking supervisor in America. "Dear Senator BUMPERS: The Conference of State Bank Supervisors strongly supports yours and Senator FORD's efforts."

And then there is a letter here from a fairly broadly respected organization, the Independent Bankers Association of America, which is what most of the banks in my State are. "Dear Senator BUMPERS: On behalf of the 6,000 members of the IBAA, I am writing to urge you to support passage of the Bumpers-Ford amendment."

Now, Mr. President, those people are fairly important. They know what branching amounts to. So what I am saying here, Mr. President, is we ought to think very carefully about this. I hope the Senate will support this amendment. All you are doing is saying we are going to postpone this for 15 months, let the Banking Committee hold hearings, and bring Mr. Ryan to testify about this. Let him tell us why he knows so much more than the Harvard Business School knows, and why he knows so much more than the Federal Reserve Bank of Atlanta.

If I were going to run a popcorn stand, I would try to find somebody who is successful in the popcorn business to tell me what to do. If I were Mr. Ryan, I would be talking to people who know something about how the whole S&L bailout crisis came about in the first place. Because it looks to me as if we may very well be starting down the same road.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am a cosponsor of this legislation. I do not know whether I am a cosponsor of the amendment, but I would like to be if I am not, because I do favor the bill.

Mr. FORD. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. FORD. Mr. President, I ask unanimous consent that Senator GRASSLEY be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Senator.

Mr. GRASSLEY. Mr. President, there is nobody in this body that can make the case any better than the Senator from Arkansas just did. I do not pretend to do that or maybe even make any new arguments. But for sure, I do want my colleagues to know that I feel strongly, as the Senator from Arkansas does, about this issue.

But more importantly, as the Senator from Arkansas expressed dismay about how some lowly bureaucrat can frustrate the will of Congress, as is being done through this regulation, it should not surprise him or any other Member of this body that there are bureaucrats downtown that make a career, lifetime career, of Government service, of trying to frustrate the will of the people as expressed through this body by undercutting or stretching to the zenith any sort of discretion that the bureaucracy has in existing law. And this is a perfect example of how this is being done.

So I hope the Senator from Arkansas is not surprised, because this happens all the time. I am only sorry it has happened on this, and so close in time, just 6 months since Congress last expressed its will on this subject. And this will was expressed when the interstate branching was not a part of the banking bill that passed this body last year.

Last fall, Congress made very clear that interstate branching would not be a part of that banking bill. But now we have the Office of Thrift Supervision circumventing that decision.

Without a doubt, they are snubbing, as far as I am concerned, congressional intent. And they did that on December 30, 1991, when OTS introduced such a regulation that would allow interstate branching for savings and loans. They limited the comment period to only 30 days, and during that 30-day period of time, they even ignored a letter of opposition signed by 25 Senators.

I think, Mr. President, that that is outrageous that they would take such action this way, to be completely contrary to what Congress did last year. Of course, that is why I am joining Senator FORD and Senator BUMPERS in cosponsorship of their legislation, and now in this amendment, to place a moratorium on the OTS regulation for these 15 months. The amendment grants more time for us to evaluate this decision, and to give Congress, as well as our States, more time to act.

You see, if the Federal Government permits interstate branching, small banks in our local communities across rural America will suffer, and suffer tremendously. Local citizens' money will be funneled from the branch in the community to the home offices, most often located in some big city far away, unconcerned about the local economy.

As a result, smaller banks that serve as a critical part of the backbone of local communities would be at the mercy of the bigger players, who, by law, could take the money and invest it out of State.

Under the law, before this regulation was forced on the States, the decision of whether to allow interstate branching was left to the sovereignty of each State.

This law permitted branching by federally chartered thrifts only if allowed under the laws of affected States for State-chartered thrifts. Currently, 13 States allow interstate branching under their laws.

So it cannot be said that States might not want to do this. And maybe I might disagree with some of those States doing it, but at least I believe that those States have a better handle, under the laws of those States, on whether or not it has a detrimental impact upon the economy of those States.

Now, the Bush administration argues—and let me say that Senator DOLE, here in this body, takes a different point of view, because he put in one of the first pieces of legislation in this area. And contrary to Senator DOLE's wisdom on this, the Bush administration argues that interstate banking and branching are critical to today's economy.

The administration says that there are too many small banks in the United States, and that a consolidation of services allows for economy of scale. It also argues that consolidation would result in greater efficiency and a lower rate of bank failures.

But I think the evidence speaks to the contrary, because the evidence against interstate branching and banking is very clear. I want to refer to a study—maybe it has already been quoted here. I have not heard all the debate because I have been over there hearing testimony before the POW/MIA Select Committee that I am a member of.

But according to a 1991 study by the Federal Reserve Bank of Minneapolis, very large banks are less profitable than middle-sized ones, and are not necessarily less likely to impose costs on the FDIC.

Moreover, the study challenges the popular belief that the goal of economies of scale is behind the banking industry's consolidation.

In addition, after the Treasury Department issued recommendations in 1991 for interstate branching by banks, a Harvard Business School study found that merging banks did not achieve significant improvements in operating profits relative to other banks during the first 2 years after a merger.

The OTS has proceeded with its proposal, but this body has the power to be the final arbiter, and I believe we should exercise that power. Maybe we are not even exercising that power boldly enough by going along just with a 15-month moratorium here. But, obviously, that moratorium is better than if we do nothing.

So I join many of my colleagues who support legislation to codify the law before this regulatory preemption of State power. Without congressional action, the OTS proposal will critically injure the financial health of many States and lead our national banking system in a dangerous and unhealthy direction.

I urge my colleagues to support the Ford-Bumpers amendment.

I yield the floor.

Mr. FORD. Let me thank my friend from Iowa for his strong support for the position Senators BUMPERS, DOLE, and I have taken.

I want to take just a minute, if I may. I grew up in a family that taught us that our word was our bond. That meant whenever you made a statement you lived up to it. I do not fault my good friend from Michigan, the chairman of the Banking Committee, for keeping his word, saying no amendments on this.

I thank him for saying the weight of the argument under this amendment he would favor. So I would like to have his support. But I want him to know, publicly, I do not fault him for keeping his word. I would fault him if he did not. So I compliment him for that.

The Senator from Utah [Mr. GARN] made an eloquent speech about all the problems and preempting the States and we ought to go tell the States how to run their business and we should have done it a long time ago. Yet he attests to the fact that he is probably one of the strongest States righters on the Senate floor. Those two statements do not jibe, as far as I am concerned.

Let us just look at this managers' amendment that they say they do not want any amendments on. This managers' amendment has become a banking bill. Basically that is what it is. It has provisions on the savings and loan transition rule; on separate capitalization—that has something to do with the stability and financial strength of a savings and loan; insider lending—that is one of the items in this managers' amendment. Executive compensation is in this amendment. Appraisal standards are in this amendment. Truth in savings is in this amendment, as I read it. Lender liability is here.

When we begin to add it all up, money laundering and more, we find that this amendment, I think, is germane to the committee amendment. It is something that fits appropriately. The fact is this managers' amendment has already been amended. It is not going to be a new thing. So this amendment is not out of place, in my opinion, in the managers' amendment. This is a minor moratorium amendment and it is not unreasonable in light of the provisions of the managers' bill.

We have heard here, and I want to reiterate a little bit, that on December 30—you can almost say in darkness—Mr. Ryan put out this regulation, and in 30 day from December 30—Congress was not in session. As Senator BUMPERS said, Senators were not here. Staff members were back home with their families, or here at home with their families for Christmas and the holidays. So this unusual effort to pass this regulation, I think, has to be seen in the light rather than in the darkness.

Twenty-five Senators from both parties sent a letter to Mr. Ryan and asked for an extension of the comment period—that is all—and we were turned down. Then the rule was put out after we had voted on the RTC funding. Not a "i" was changed or "t" was changed, as I read it, from the original rule. After all the comments, nothing was changed. We do not know the input. We do not know who made the decision.

So I think it is important we bring these people to the committee and listen to them tell us why. Maybe we will agree. But one thing is still clear, if the moratorium is agreed to, then the law stays as it is. Those 13 States that allow branching can continue to do that because the States have agreed to it. But this regulation preempts State law, period.

OTS knows very well they could not have obtained this major policy change through specific legislation, even if they only wanted to clarify the 1982 law. Think about it a minute. OTS intentionally—and I underscore intentionally—waited until after Congress had adjourned last year to issue this rule. If Congress knew OTS wanted to go this far, I do not believe it would have approved this new policy during last year's debate.

We have been relying upon OTS' previous interpretation of the 1982 law which respected States rights. That was a pattern. They have respected States rights. Now they are looking at it with disrespect. Somehow or another we have to say that this is not the right way to do it. They have gone around Congress. They have usurped our right to make the policy, to be carried out by the executive, which is the Constitution. So they found a way to do it.

This amendment is not about whether you are for or against interstate branching. In my opinion, it has to be a little bit of States rights. I believe the evidence is mixed on whether interstate branching is all positive or all negative. My colleagues should support this amendment unless they are 100 percent sure that unrestricted interstate branching is a good thing; 100 percent sure that unrestricted interstate branching is a good thing. The OTS based its rule entirely on assumptions and on theory rather than reality.

I believe we should have a little more hard evidence before we exercise this tremendous change as it relates to the rules.

Why does OTS want to take this change after what we have seen in the S&L industry in recent years? Why do they want to move in this direction with a cloud over the situation? It is beyond me to be able to believe that this is done without consideration of major institutions wanting to cross State lines to sap up small savings and loans. And what do they do then? They will transfer that capital out of your State to their home office and the ability of having the local friendly savings and loan people that you have known and dealt with all your life, now to say I have to dial an 800 number to find out if I can make a loan to you. Think about it just a little under those circumstances.

States rights should continue to be respected in this area where we have seen shared State and Federal responsibility for decades. Under the old rules, a Federal thrift could branch interstate if State laws would allow a State-chartered thrift to do so, and this moratorium does not change it. So I believe this is a proper approach.

Mr. President, my friend and colleague from Arkansas, Senator BUMPERS, referred to letters of support of our position: A letter from the Conference of State Bank Supervisors, the National Conference of State Legislatures, the Independent Bankers Association of America, and the Consumer Federation of America. I ask unanimous consent that these four letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONSUMER FEDERATION OF AMERICA,
Washington, DC, June 23, 1992.

GSE BILL—VOTE YES ON SENATOR FORD'S AMENDMENT TO ELIMINATE OTS INTERSTATE BRANCHING

DEAR SENATOR: Today Senator Ford will offer an amendment to end the entry of OTS (Office of Thrift Supervision) into nationwide branch banking. We strongly urge your support.

Director Tim Ryan has written a letter in support of the current OTS bank branching rule claiming it is pro-consumer. When Mr. Ryan testified before the House Banking Committee on this rule, the only consumers he could think of who might be helped are those in rural areas who currently do not have a bank near them at all.

Well, for the other 219 million consumers in this country who do have a bank near them, the OTS bank branching rule is very anticonsumer. It will encourage thrift concentration, elimination of credit to small businesses and consolidation of profits and policy control in the hands of far fewer shareholders. This could result in a very unstable, unsafe thrift system.

Branch banking tends to reduce the availability of consumer services as a result of management operation rather than owner operation.

Support the Ford amendment.

Sincerely,

PEGGY MILLER,
Banking Director.

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, June 9, 1992.

Hon. WENDELL H. FORD,
Russell Senate Office Building, Washington, DC.

Hon. DALE BUMPERS,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS FORD AND BUMPERS: On behalf of the 6,000 members of the Independent Bankers Association of America (IBAA), I am writing in strong support of your efforts to prevent the Office of Thrift Supervision (OTS) from using its regulatory authority to allow unrestricted nationwide branching for thrifts.

This regulatory end-around not only thumbs its nose at Congress, which only months ago chose not to allow interstate branching for commercial banks, but it also preempts state law, denying the states the opportunity to help shape the financial structure within their borders. Furthermore, it ignores several recent studies which cast considerable doubt on the alleged benefits of interstate branching and conclude that in some cases it could actually be harmful.

Finally, any move to provide thrifts with branching authority at this time will create an unlevel playing field with commercial banks. Parity between banks and thrifts is essential to the future stability of the banking industry.

We strongly urge you to aggressively pursue this issue.

Sincerely,

GARY J. KOHN,
Legislative Counsel.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, June 4, 1992.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The National Conference of State Legislatures (NCSL) strongly supports S. 2355, the bill you have sponsored in response to the regulation issued by the Office of Thrift Supervision allowing interstate branching by thrifts. NCSL supports any effort to expedite action on the thrift branching issue by including language similar to the provisions in S. 2355 in any relevant legislation pending on the Senate floor. Congressional action, NCSL believes, is immediately required to roll back the OTS regulation and to reiterate that a savings association may branch interstate only pursuant to the express authorization of state law.

The OTS rule disregards sound principles of bank regulation and congressional policy with respect to interstate branching by financial institutions. It also creates serious problems of state-federal relations. The regulation permits nationwide branching by federal savings associations without regard to state law.

The rule runs counter to the demonstrated congressional policy in the areas of interstate branching by financial institutions. In its last session, Congress rejected proposals to impose nationwide interstate branching. The Office of Thrift Supervision must not now implement by regulation a policy that was explicitly rejected by Congress. The regulation is not consistent with existing law. Both the Senate and the House by overwhelming majorities rejected unrestricted interstate branching for thrifts during their debate of FDICIA.

The rule in any case is bad banking policy. Currently, interstate branching by thrifts is employed in the resolution of failed thrifts. The regulation allows interstate branching either de novo or by acquisition of a healthy institution. This will increase the cost of resolving failed thrifts by decreasing their franchise value. The result will be to increase the cost to taxpayers of the thrift crisis.

Finally and most important from NCSL's perspective, the regulation violates principles of federalism. It seriously undermines the system of dual chartering and regulation for depository institutions. Opponents of the state role in bank regulation are using this rule to eliminate state control over interstate banking and intrastate branching. This raises serious Tenth Amendment issues. As the Supreme Court made clear in the recent case of *Gregory* v. *Ashcroft*, 11 S. Ct. 2395 (1991), where principles of federalism are so involved, state law should not be preempted absent a clear statement by Congress of its intent to preempt.

The National Conference of State Legislatures strongly urges the passage of S. 2355 or any legislation similarly providing for the roll back of the OTS regulation on interstate branching by thrifts.

Sincerely,

WILLIAM T. POUND,
Executive Director,
National Conference of State Legislatures.

CONFERENCE OF STATE
BANK SUPERVISORS,
Washington, DC, June 18, 1992.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The Conference of State Bank Supervisors strongly supports your and Senator Bumper's efforts to amend S.2733, the Government Sponsored Enterprises Act, to restore rationality to savings and loan branching.

On April 8th the Office of Thrift Supervision, in violation of congressional intent and administrative procedure requirements, reversed fifty years of regulatory precedent and completely deregulated geographic expansion by federal savings associations. This new rule included a sweeping preemption of all state laws concerning branching of federal savings and loans.

This new rule flies in the face of recent congressional action regarding interstate branching. At no time during the debate of interstate branching last year did Congress consider any proposal close to the radical deregulation adopted by the OTS. Even the Administration proposal contained numerous restrictions and required a three year phase-in of interstate branching.

In addition, the OTS rule is unsupported by any credible empirical or other evidence that industry consolidation and geographic diversification achieved through interstate branching will enhance safety and soundness, reduce operating costs, increase competition, and improve customer service. Recent studies challenge these assertions, confirming previous admonitions that interstate activities of financial institutions may result in reduction of funds for local lending. Also, these studies found no evidence that mergers significantly reduce expenses. The OTS fails to provide any analysis in response to repeated allegations regarding the impact on those institutions that it purports to help. The OTS is ignoring current and relevant information such as these studies in issuing their branching regulation.

In light of this information, as well as the clear intent of Congress during last year's debate and vote, the Conference of State Bank Supervisors strongly urges the support of your and Senator Bumper's amendment.

We appreciate your efforts and look forward to working with you again.

Sincerely,

JAMES B. WATT,
President and CEO.

Mr. FORD. Mr. President, I do not know whether others wish to speak as relates to this particular amendment. If they do, fine. I would like to ask for the yeas and nays at some point, I say to my friend from Michigan, so that we might have a vote and not delay the action of the Senate as it relates to his particular piece of legislation. I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, let me just say to my colleague from Kentucky, first, I appreciate his kind comment earlier in his remarks.

I know of no other speakers waiting to speak on this issue. I know there are some Senators who, during this debating period, had gone downtown to meetings. So I think we are then ready now if there is no reason to assume that anybody is going to be inconvenienced in that fashion.

I think, otherwise, we are ready to move to table the amendment and have the vote. Let me just enter a quorum call at this time and we will probably proceed with the vote very shortly. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At the request of Mr. RIEGLE, the following statement was ordered to be printed in the RECORD:)

- Mr. SANFORD. Mr. President, no one was more disappointed than I was when Congress failed to pass comprehensive banking legislation last fall. It is the responsibility of the Government to craft laws that promote strong economic activity throughout the country. A strong economy is dependent on a strong banking system. It is no secret that our financial world has changed dramatically over those 50 years.

Allowing interstate branching is the cleanest, most simple step we could take toward updating the banking laws and allowing the industry to become more competitive without adding any additional risk to the system. I believe that the concept of interstate banking and branching is simply good public policy. This is not a new concept—the groundwork has been firmly established. Essentially 48 States currently allow some form of interstate banking activity and 33 of them allow nationwide interstate banking. However, the legal structure currently required under interstate banking vs. interstate branching results in substantial, unnecessary operating costs for the banks.

We recently recapitalized the bank insurance fund with a loan from the taxpayers that is to be paid back by the banks. Considering this, it is beyond me why we are not considering legislation that would allow banks to streamline their operations and operate more efficiently which would in turn save the industry billions of dollars. A portion of these potential savings could help improve bank capital and lessen the risk of additional bank failures to the fund. In addition, competition resulting from interstate activity would subsequently expand consumer choices at better prices and make banking more convenient for customers.

I understand and share my colleagues' concerns over the implementation of such an important policy through regulations rather than statute. However, I am extremely disappointed that the Congress has not yet revisited this vital issue in 1992. Actions by the Office of Thrift Supervision [OTS] have brought this important issue back to the attention of Congress. Again, interstate banking and branching is the cleanest simplest step we can take to improve the condition of the banking industry without adding undue risk to the system. In light of the important economic benefits to be derived from interstate branching, I think it is vital that we consider this issue again before the end of the session.●

Mr. MCCONNELL. Mr. President, I rise today in support of the amendment proposed by Senator FORD and Senator BUMPERS to impose a moratorium on interstate branching of savings associations. This would at least temporarily prevent the Office of Thrift Supervision [OTS] from using its regulatory authority to permit unrestricted interstate branching of Federal savings associations.

Mr. President, I hesitate to oppose interstate branching by Federal savings associations, because I believe that responsible and properly monitored branching will undoubtedly improve the competitiveness and efficiency of our financial industry. However, I do not consider the actions of the OTS as responsible or proper.

In November of last year, the Senate passed legislation that supported a responsible interstate branching measure which honored the rights of all States. Less than 1 month later, however, OTS proposed a rule to permit full interstate branching that steamrolls the rights of all States.

I realize the advantages that responsible branching will provide. In a policy statement, OTS stated that branching will "enable thrifts to diversify geographically their operations and thereby enhance safety and soundness."

I agree that branching will enhance competitiveness and efficiency; however, we can not deny States the right to monitor and regulate financial activity within their boundaries. State regulators can and should provide a critical service as they continue to monitor regional investment trends, bank concentration, community reinvestment levels, and critical economic information.

This legislation does not diminish the intent of OTS regulation, but would prevent the blind and reckless expansion of thrift organizations. As a matter of fact, all but four States already provide for some degree of interstate branching.

This legislation would place a 15-month moratorium on all interstate branching of all federally chartered thrifts. This legislation would permit the interstate branching issue to be studied and carefully evaluated. During the moratorium period the pre-OTS regulatory status quo would be restored.

Mr. President, this legislation will not hamper the ability of thrifts to engage in interstate branching, but would serve to strengthen the thrift industry and therefore, reduce the risk to consumers, State and Federal Government, and the economy. I believe this legislation is right for the people of Kentucky and the Nation as a whole.

I urge all of my colleagues to support this legislation.

Mr. FORD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the Ford-Bumpers-Dole amendment: Senator FOWLER, Senator SIMON, Senator DECONCINI, and Senator KOHL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. RIEGLE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2441. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote

The result was announced—yeas 15, nays 82, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—15

Biden
Bradley
Chafee
Craig
Cranston
D'Amato
Garn
Gorton
Lautenberg
Moynihan
Murkowski
Riegle
Rudman
Seymour
Symms

NAYS—82

Adams
Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NOT VOTING—3

Helms
Roth
Sanford

So the motion to lay on the table the amendment (No. 2441) was rejected

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I understand that the managers of the bill now are willing to accept this amendment by a voice vote. And since we do have the yeas and nays on the amendment itself, I ask unanimous consent the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2441) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor, and it be showed at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. Mr. President, I want to take a moment to explain why I voted against the Graham amendment to the emergency supplemental bill. The emergency supplemental appropriations for disaster assistance for Los Angeles and Chicago, H.R. 5132, will appropriate a total of $1.94 billion in new budget authority. The Small Business Administration and the Federal Emergency Management Agency will receive $497.7 million to be directed to Los Angeles to repair damage from rioting and to Chicago to repair damage from flooding. This funding is contingent upon a Presidential "emergency spending" designation which under the Budget Act, such spending is exempt from the pay-as-you-go requirement.

The Graham amendment linked the emergency supplemental bill for Los Angeles and Chicago to the rescission bill. The Graham amendment provided that the appropriations authorized under the emergency supplemental bill would not become effective until such time as legislation is enacted and becomes effective that rescinds fiscal year 1992 funds in an amount at least equal to the aggregate amount of appropriations authorized under the emergency supplemental bill. In short, if the rescission bill had failed, so did the supplemental. The Graham amendment put the emergency assistance for Los Angeles and other communities in limbo. The necessity of the emergency disaster money was too important; I could not put the future of Los Angeles at risk.

I understand that the collective memory of this body is usually brief. So let me remind my colleagues of the reasons why this legislation was so important. Four short weeks ago, beginning on the evening of April 29, this Nation was plunged into several days of the most destructive and bloody civil unrest in more than a century. And when it was over, Los Angeles looked like a war zone.

The toll from these few short days of pillaging and rioting had been tremendous. There were at least 58 deaths, over 2,300 injuries and over 5,300 structure fire calls. The city of Los Angeles estimated they spent $33 million in extraordinary costs to respond to the rioting. LAPD put in almost 200,000 hours of overtime to respond at a rough cost of $21 million. And that was just the beginning. Local and State officials are still adding up the costs. We saw entire communities go up in flames. Businesses that took years of sweat and hard work to build were destroyed. Livelihoods were destroyed. Property was pillaged. This was the most senseless and mindless looting and killing and burning we have seen in over a century.

The emergency supplemental appropriations bill was a necessary first step. The funding in the bill will go into the FEMA and SBA disaster assistance accounts to help all communities that have experienced disaster this year; And now, Los Angeles. The supplemental appropriations bill was needed to help innocent victims of the Los Angeles riots; the families and shopowners and community residents who have seen their communities and livelihoods torn apart.

Proponents of the Graham amendment argued that both the President and the Congress have proposed numerous rescissions, and that enactment of a rescission bill was imminent, and we ought to tie these two issues together. They argued the funding under this bill should be made contingent on first rescinding an equal or greater amount of funding than has already been enacted.

I understood the Senator from Florida's concerns that the Congress fails to provide adequate funding for FEMA, and I will work with him to see that additional funding is made available. And, surely, out of a budget of $1.5 trillion, we can find $2 billion of wasteful or low-priority spending and eliminate it. But, this amendment was not the correct vehicle to achieve that end. There was no assurance that the Senate, or the House, was going to support the rescissions as proposed by the President and modified by Congress; And this amendment was wrong, at this specific time, because it callously placed needed disaster relief in jeopardy.

In addition, by vetoing the rescission bill, the President would be able, in effect, to veto this emergency supplemental bill simultaneously. We should not set this precedent. Under the Constitution, the President has an option to veto a bill, but only one bill at a time. Approving the Graham amendment would be an abdication of legislative authority by Congress to the executive branch. Without speaking on the merits of either bill, we must, institutionally, insist that the President exercise his veto authority over each bill separately.

I stand for integrity in budgeting and the need for fiscal conservatism. And I stand ready to work toward these goals. I have always stood to reduce Government debt, only by reducing our massive deficit can we free up capital for necessary investments. I support a line-item veto for the President, a balanced budget amendment and a 60-vote supermajority requirement in the Senate on any bill to increase taxes. Mr. President, I endorsed the intent behind this amendment but could not support it as an addition to this particular bill.

Mr. CRANSTON. Mr. President, I am pleased to rise in support of the important legislation before the Senate today. The Federal Housing Enterprises Regulatory Reform Act of 1992 represents a watershed in the life of the housing Government-sponsored enterprises—Fannie Mae and Freddie Mac—and will fundamentally alter the nature and scope of their regulatory environment. This measure represents a bipartisan effort and was unanimously approved by the Banking Committee in April.

While this bill includes a number of important provisions regarding the GSE's, I would like to take a moment to focus on the importance of title V of the bill, which is designed to ensure that these corporations faithfully carry out their public missions and serve the housing needs of low- and moderate-income families.

There is general consensus that Fannie Mae and Freddie Mac efficiently and effectively serve the home ownership needs of the broad middle class. By linking the home mortgage market with domestic and international capital markets and by creating a more competitive market for home mortgages, mortgage interest rates are reduced by some 25 to 50 basis points. Perhaps more importantly, stability across geographic regions is brought to a primary lending market beset by restructuring and turmoil.

Yet there is a growing perception in recent years—among a wide coalition of lenders, builders, tenant advocates, State and local governments and other housing organizations—that Fannie Mae and Freddie Mac are simply not doing enough to serve the housing needs of low- and moderate-income families.

This coalition compared and contrasted the explosive growth of the GSE's in the 1980's with the significant reduction in housing affordability for both low- and moderate-income homeowners and renters during the same period. On the rental side, the gap between the supply of affordable rental housing and the demand of low-income renters grew to an alarming 4.1 million apartments. On the single family side, the Nation experienced a decline in home ownership rates, particularly among young first-time home buyers, for the first time in 50 years.

Other factors have also fueled the growing perception of GSE underperformance. The cutback in Federal housing subsidies and the dismantling of FHA's capacity have left affordable housing actors scrambling to find new partners, particularly partners like Fannie and Freddie, which receive considerable Federal subsidies. The growth of CRA-inspired affordable housing lending has revealed shortcomings in the wholesale, standardized approach of the secondary market. And Fannie and Freddie's own actions—their significant investment in low income housing tax credits as well as their creation of special affordable housing programs—have raised expectations.

Until late last year, the negative perception of GSE performance was based primarily on anecdotal evidence. Staff investigation found a disturbing lack of empirical information on the GSE's business—an information vacuum created primarily by HUD failing to carry out its own regulatory responsibilities throughout the 1980's.

The vacuum has now been partially filled. In October 1991, new data was made available under the expended Home Mortgage Disclosure Act. The new data—relying for the first time on actual borrower income—shows that, in 1990, only 23.5 percent of Fannie's single family business and 24 percent of Freddie's single family business served borrowers with incomes below the area median. The HMDA data totally undercut Fannie and Freddie's persistent claim—using les accurate data involving the purchase price of loans—that over 35 percent of their single family business was devoted to the low- and moderate-income market.

Other HMDA statistics were equally revealing and troubling. Only 2.5 percent of the loans purchased by Fannie Mae in 1990 were in neighborhoods in which 80 percent of the residents were members of minority groups. The comparable percentage for Freddie Mac was 3.6 percent.

Last September the Fair Housing Congress of Southern California issued a jarring report entitled "Taking It to the Bank: Poverty, Race and Credit in Los Angeles." The report's conclusions revealed that financial institutions in Los Angeles do not provide adequate banking services, economic development lending, or affordable housing financing for lower income and minority communities. And the recent and tragic events in south-central Los Angeles highlighted these inadequacies and brought national attention to the need for significant improvements in our ability to provide access to capital and mortgage credit in our central cities.

Against this backdrop, title V of this bill would establish a comprehensive framework of goals, data collection, reporting requirements, and enforcement provisions. In particular, the legislation establishes three annual housing goals that will require the GSE's to increase the proportion of their mortgage purchases benefiting homebuyers and renters whose incomes and location have put them at a disadvantage in housing finance markets. This framework will ensure, for the first time, that the regulator and the Congress have all the information necessary to assess the performance of the housing GSE's.

My strong belief is that the critical combination of this legislation, an effective regulator and a vigilant Congress, will compel Fannie Mae and Freddie Mac to expand their commitment to affordable housing for low- and moderate-income families. It will not solve our affordable housing crisis—only significant increases in Federal housing subsidies can accomplish that. Yet, it will play an important role in ensuring that mortgage credit is increasingly made available to those individuals and for those purposes which for far too long have been ignored by the secondary market.

I urge all my colleagues to support this important piece of legislation. I commend the chairman, the ranking member, and their staffs for developing a balanced legislative product in an exceedingly difficult and complex area.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, while I have the floor, let me indicate that there may be two amendments remaining to be offered from the Republican side. Senator WARNER has one that has to do with disclosing the salaries paid to executives in major, nonprofit private-sector organizations like the United Way, organizations of that kind.

He is not quite ready to proceed, because he is just putting the finishing touches on his amendment. He has indicated to me that he will not take long on the amendment, but that he would like a vote on it. In any event, I just alert Senators to that prospect.

Senator BROWN also has an amendment which I think he intends to offer.

Either of those amendments could be offered at this time. I know of no others that are going to be offered. I really want to wrap up action on the managers' amendment. So I think we are prepared to take up either of those, if the Senators are ready to proceed at this time.

Otherwise, I would be happy to vote on the managers' amendment and hold those items to be brought up later in the bill. I mean, they would have standing later in the bill, as well.

Mr. BROWN. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield

Mr. BROWN. Mr. President, I might say to the distinguished Senator, certainly it is not my intention to hold up deliberations. My amendment would deal with Senator LAUTENBERG's initiative that is included, I believe, in the managers' amendment.

It is on its way over to the floor, and I anticipate it will be available shortly.

Mr. RIEGLE. All right.

Mr. President, as we await either the presentation of the amendment by Senator WARNER or the amendment by Senator BROWN, I am going to suggest, in a moment, if no one else is seeking the floor, the absence of a quorum.

And we will stand by, pending either of those Senators offering amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, Government-sponsored enterprises [GSE's] can pose a significant risk to the taxpayer. The potential exposure approaches $1 trillion. We need to guard against the danger of losses on that scale and I am pleased that legislation, S. 2733, to increase oversight and regulation of the GSE's that support housing lending is before us today.

Fannie Mae and Freddie Mac are healthy today. But both have experienced troubles in the past, although never to the extent that taxpayer funds were lost. The lack of imminent danger is no reason not to act today. In some respects, the sound condition of the GSE's makes this a good time to act because the GSE's are in a good position to adjust to new standards and a new regulatory framework. The GSE's health also gives us time to craft a careful piece of legislation that strikes a sound balance, protecting taxpayers from unreasonable exposure—our first priority in this effort—and ensuring that the GSE's can continue to support housing finance and homeownership.

The committee has worked hard on this legislation. In 1989, we included provisions in FIRREA directing the Treasury Department and the General Accounting Office to study the issue. We also began to hold hearings on the matter during that same year. In seven hearings over a 3-year period, we were able to carefully examine both Treasury's and the GAO's recommendations and consider the full range of issues related to GSE regulation. Our final hearing was held nearly a year ago and many members of the committee have worked since then with the GSE's and housing advocates to develop the consensus legislation before us today.

S. 2733 strikes the necessary balance. The legislation would: Protect taxpayers from losses; Protect the GSE's from the danger of overzealous regulation and punitive sanctions; and encourage greater GSE support for affordable housing.

S. 2733 includes minimum capital standards to establish a cushion between GSE losses and the taxpayer. It also establishes a new regulator—funded by assessments on the GSE's—within HUD to enforce the capital standards. GSE's with significant or critical capital problems can face restrictions on activities or growth, or a conservatorship. The regulator can also use cease and desist proceedings and civil penalties to enforce the capital standards.

The affordable housing provisions are also important and deserve notice. The GSE's are earning large profits today and benefit from an implicit Government guarantee that allows them to borrow at low cost. The public should expect some benefits in return for the risk to the taxpayer should a GSE fail. The public benefits from greater access to housing finance because of the GSE's. But we have an obligation to ensure that those benefits go to all Americans who want, and are able to, purchase a home. Today, the GSE's are not doing as good a job of supporting low-income housing as they could. For example, only 23 percent of the mortgages Fannie Mae purchases are loans to families with incomes below the median. By comparison, 28 percent of all mortgages are lent to those families.

S. 2733 requires GSE's to meet modest goals to purchase mortgages on housing occupied by low- and moderate-income families, and on housing located in central cities and other underserved areas. Regulators would also set an additional affordable housing goal. If a GSE does not meet a goal, it must submit an acceptable plan to meet future goals. If the regulator finds that the GSE is not making a good faith effort to comply with the plan, the regulator can seek fines and a cease and desist order.

I would like to note that the managers' amendment includes a provision I authored that would extend the current 3-year statute of limitations for civil claims filed by the Resolution Trust Corporation [RTC] to 5 years. This provision is identical to one that passed the Senate earlier this year as part of the RTC funding package.

Many people affiliated with S&L's took advantage of the opportunity created by the combination of deregulation and desupervision to enrich themselves and their associates. Some engaged in outright fraud and theft or were negligent in their professional responsibilities, overlooking others' fraudulent activities. Bank and thrift regulators are able to file civil lawsuits against the officers, management, and board of directors of financial institutions, as well as outside professionals—usually lawyers or accountants—who advised a failed institution. Those suits can lead to recovery of losses caused by fraud or negligence.

However, the RTC can only file these suits within 3 years of an institution's failure. This statute of limitations is inadequate given the RTC's current workload. A larger number of thrifts were closed in 1989 and FIRREA's statute of limitations expires for 318 S&L failures this year alone. The clock has already run out for suits related to 222 thrift failures this year. Regulators face deadlines for additional institutions almost every week through the end of the year.

Over the next 3 years, regulators will have to examine the potential for lawsuits related to more than 400 additional thrifts already closed by the RTC. As many as 200 more institutions are expected to be taken over during the next 18 months and 500 more are in financial trouble and may eventually be closed. The enormous volume of this workload limits the Federal Government's ability to pursue all of the cases that should be pursued.

RTC officials recognize the need for a longer statute of limitations. At a March 11th Banking Committee hearing, Bill Roelle—the RTC's chief financial officer—testified "I sure do" when I asked him if he supported my legislation. I also have a letter from Albert Casey, the chief executive officer of the RTC, that supports the provision and ask that it be made part of the RECORD.

We should not allow individuals or businesses that contributed to a bank or thrift failure to escape a lawsuit simply because there was not enough time to develop and pursue a strong case. A longer statute of limitations will help the RTC use its limited resources more efficiently and carefully and increase the recovery to taxpayers from civil suits related to financial institution failures. It will also allow the RTC to reexamine institutions and pursue additional cases that may have been overlooked in the rush to comply with statutes of limitation that have already lapsed.

This is an important and urgently needed provision that should not wait until we provide additional RTC funding at some uncertain future date. I thank the managers for including this important provision in the legislation.

Mr. President, S. 2733 is a sound and reasonable proposal. It protects taxpayers from potential future losses, permits the GSE's to continue to bring needed liquidity to the housing finance market so that loans will be available to home purchasers, and ensures that the public will benefit from the implicit support we give to the housing GSE's. I would like to close my remarks by thanking Senator RIEGLE for his leadership on this legislation, particularly the affordable housing provisions, and urge my colleagues to join me in supporting S. 2733.

Mr. President, as we know, we have all been locked into deep concerns about the S&L crisis. What has happened is that, over the time of that crisis, the statute of limitations is running out on a lot of the individuals who the RTC and others want to bring to the bar of justice on these issues. The Wirth amendment, included in the managers' amendment, extends the statute of limitations.

Mr. RIEGLE. Will the Senator yield?

Mr. WIRTH. Yes.

Mr. RIEGLE. Mr. President, I want to commend the Senator for his efforts over a great length of time in this area. It is a very important part of the managers' amendment, and I am very appreciative of the Senator from Colorado on this issue.

Mr. WIRTH. I thank the Senator from Michigan and the Senator from Utah, who worked with us on this amendment. I know it has caused some controversy, but I think it is the right policy for us to be pursuing, particularly on behalf of the taxpayers in the country, to make sure that those who benefited from ill-gotten gains, we hope, are going to be forced to disgorge that ill-gotten gain. And I hope that will be the result of the Wirth amendment as part of the managers' amendment.

I thank the Senator from Michigan.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. SHELBY. I thank the Chair.

(The remarks of Mr. SHELBY pertaining to the submission of Senate Concurrent Resolution 126 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

AMENDMENT NO. 2442 TO AMENDMENT NO. 2437

(Purpose: To amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations)

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2442 to amendment No. 2437.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Tax Exempt Giving Act of 1992".

SEC. 2. PURPOSE.

The purpose of this Act is to require tax-exempt organizations to provide contributors, upon request, with a disclosure statement containing a full accounting of the organization's income, expenditures, and compensation (including reimbursed expenses) of its highest-paid employees.

SEC. 3. IMPROVED DISCLOSURE TO DONORS BY TAX EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Every organization described in section 501(c)(3), other than religious, which is subject to the requirements of subsection (a) (other than an organization described in clause (ii) or (iii) of section 170(b)(1)(A)) shall—

"(A) advise each contributor of at least $25 of the availability, upon written request, of a disclosure statement described in paragraph (2), and

"(B) shall furnish such statement to such contributor within 30 days of such request.

"(2) DISCLOSURE STATEMENT.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds $100,000.

"(3) PROCESSING FEES.—Any organization furnishing a disclosure statement under this subsection may require that a reasonable fee to cover the actual costs of copying and mailing such statement be included in the written request for such statement."

(b) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—Paragraph (1) of section 6652(c) of the Internal Revenue Code of 1986 (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) DISCLOSURE STATEMENT.—In the case of a failure to comply with the requirements of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements $100 for each day during which such failure continues."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

Mr. WARNER. Mr. President, I am pleased to come before the Senate today to introduce legislation, which, I believe, will strengthen public confidence in tax-exempt giving. In the wake of the startling financial disclosures regarding excessive compensation of high-level executives of certain tax-exempt organizations, notably the United Way, the public has understandably become concerned about donating their hard-earned dollars to tax-exempt organizations. A more detailed knowledge of how the money is to be spent by a tax-exempt organization will help restore their confidence.

Mr. President, all Members of this body, from time to time, have involved themselves and their families in work on behalf of a charitable organization or a tax-exempt organization under 501(c)(3) of our Internal Revenue Code. We do that, together with millions of Americans across our country, in the spirit of trying to help others who are less fortunate than ourselves.

America awakened to a very tragic situation when certain disclosures were made in connection with the highly respected, trusted organization known as the United Way. I shall not go into the details of that case because I am sure they are well known, but it prompted this Senator, and I think many others, to say that the American public—goodhearted, good-natured people, who want to help—is entitled to the basic information necessary for them to make an informed judgment respecting those organizations to which they want to donate their services and perhaps, more importantly, donate their money.

It is for that purpose that I introduce this piece of legislation today. I am going to summarize what it will accomplish and then I will be available to respond to any questions.

If it is the judgment of the managers of this bill, and if procedures regarding the present posture of this bill require that this amendment be laid aside so that other Senators and their staffs may give it more thorough analysis, I will be happy to do that. I wish to accommodate the managers of the bill and my colleagues. I shall, at the appropriate time, ask for a roll call vote.

Now, returning to the legislation itself, there is already under the requirements of the Internal Revenue Code a requirement on the tax-exempt organizations to file with the IRS a form and thereby disclose certain information. But as we all know, we do not go to the IRS. Most of us seek any opportunity possible not to involve ourselves with that agency. But in any event, it places a burden on the individual to go and get that information.

The basic purpose of this legislation is to shift that burden and, at the same time, improve disclosure requirements for tax-exempt organizations. Essentially, the legislation provides that if an individual gives $25 or more—and I felt it necessary to put in some threshold, $25 or more—then he can request of that charity, within 30 days, to mail to him the information they file with the Internal Revenue Service. Current law requires most tax-exempt organizations, including charities, to provide all pertinent information, such as money received and dispersed, assets, liabilities, overhead—including salaries—and more, usually on a Federal 990 form.

My bill also alters in some way the nature of that 990 form as it exists today, such that it can be made simpler, inclusive of more essential information and, frankly, more understandable by the average person who does not in daily life deal with such matters as filling out forms and sending them to the IRS. Mr. President, it is not, and I emphasize not, my intention to create onerous reporting requirements for tax-exempt organizations. In fact, my legislation's requirements should be able to be easily incorporated into the current 990 form, most likely on the first one or two pages.

Mr. President, many may claim that the top executives and the CEO's of tax-exempt organizations should be held to a different and, indeed, a higher standard than persons employed in the private sector, and in many respects that double standard does exist today.

The reality of the situation is that the public perception of a tax-exempt organization is one of a social service organization dedicated to the public good, certainly not a group out to make any personal profit or inordinate gain for its top brass, or to provide them with perquisites of office well beyond what the public thinks is proper for one who has given his or her life to try and direct these organizations.

Thus, compensation considered acceptable, and even commonplace, in the private sector could raise some concern, legitimate concern, if it is received by individuals administering the tax-exempt organizations.

I do not say that they are not entitled to a significant salary. I simply say let the significance and the size of that salary be judged by the donor, to determine whether or not he or she wishes to contribute to that organization.

Further, Mr. President, I do not want donors to only consider the salary of an executive as the bottom line. Rather, I want the public to see executive salaries in comparison to the amount of money the tax-exempt organization is bringing in, how the money is spent, how others in the organization are being paid, and so on. Only when the public has this additional information at their fingertips can they make an informed decision. It is imperative that we should never be subjected to another instance of donors hearing about $463,000 annual salaries, and then withdrawing support or money from tax-exempt organizations because they do not trust the organization to spend their donations as they see fit. The public must have absolute faith and confidence in the group they intend to contribute their hard-earned dollars.

Within the past few days, the Securities and Exchange Commission has issued a series of regulations requiring the private sector to make a greater degree of disclosure, primarily for the benefit of stockholders and others who hold financial interest in those companies and indeed those desiring to invest or otherwise do business with the companies. Why not have a parallel standard for those who work in the tax-exempt area? And I say there should be no distinction. If anything, the distinction should put a greater burden on those working with tax-exempt organizations because they receive the benefit of certain tax exemptions, and I am confident that most of them, the vast majority, can pass very clearly any test of scrutiny required by this legislation.

Let me give you some examples. We are talking about significant sums of money. According to Giving U.S.A., a New York-based magazine, in 1990, the total giving—this is just in the area of charities, not all tax exempts but just in the area of charities which is a subsection of 501(c)(3)—was $122.6 billion. Most of those funds come from individuals, and within that group of individuals, most of them from small donors.

With all the controversy today—and I think it is a good, healthy controversy in America—with all the controversy about high salaries and overhead costs, associated with private sector revelations, I think it is time we have a parallel standard to be imposed on the tax-exempt sector of our country.

What are these CEO's receiving? By way of direct compensation and, indeed, fees, fees that they may receive for other duties not associated with the tax-exempt organization, but in all likelihood, fees that are garnered as a consequence of their participation or office with the tax exempt—many of them receive significant speaking fees—they are able to augment the salary they receive from the tax-exempt organization. But such activities bear a direct relationship in most instances to the responsibilities under the tax-exempt organization.

The public will show their acceptance or, indeed, rejection of the salaries and the working conditions of these tax-exempts very quickly in the form of writing or not writing their checks to these organizations.

Another example. And I turn now to the New York Times which reported a survey of just the United Way chapters located in large cities across this Nation, and their presidents' salaries. Most of them were well over $100,000. In fact, in cities ranging from Atlanta to Cleveland, Los Angeles to New York, the lowest salary was $108,000 and the highest was $243,000.

The average range was $160,000 to $170,000.

Mr. President, my colleagues, maybe they are worth it. I am not here to try to prejudge the credibility of whether those salaries are well earned. Maybe they are entitled to more. All I say is let the public be sufficiently informed so that they can exercise an informed judgment as they write that check or abstain from donating to that organization.

I could throw into that paragraph, of course, the revelations about the first-class flights, limousines, high-priced dinners, vacations. I know of instances where CEO's of many tax-exempts have their vacation villas in warm climates for the winter, and cold climates for other times of the year.

So I think it is about time that the donor be given the full facts. That is the sole purpose of this legislation.

Let me return also to a Wall Street Journal article of March 1992, which contained an article which showed 10 affiliates of the American Cancer Society in States across the country. The average affiliate spent more than 52 percent of its budget on salaries, pensions, overhead, and fringe benefits. Only 16 percent of the typical budget was spent on community services, the end beneficiary of all of these activities. To put it another way, for every $1 spent on services for the community, $6.40 is spent on salaries and overhead; overhead, of course, the cost of raising those funds, was included. The question is maybe that ratio is acceptable to the public, but let them have the facts to be fully informed.

As I see it, Mr. President, one of the main problems is simply that there is not sufficient oversight over tax-exempt organizations and the manner in which they disperse and expend public contributions, spending them for the ultimate beneficiary of the organization as well as for the associated expenses.

Their spending priorities are often not monitored as closely as those in the private sector because of the tradition of hands off: they are tax-exempt, the IRS is looking at them, and we trust our Government, so to speak, to ferret out those instances where there is abuse.

But how well we recognize that the IRS is already overburdened with tasks. They have very few people assigned to monitor the current 990 forms that are currently required and sent to them. I think it is time that we add to the board of directors of the tax-exempts the donors. Let them pull a seat up to the table, so to speak, have full access to the facts, and decide whether or not to write that check. Then, Mr. President, comes I think, the real sad part of this problem, as I see it, and that is the ultimate beneficiary.

The United Way had the most prestigious reputation in this community. As a matter of fact, our institution, the U.S. Senate, participated very actively in supporting this worthy, I might say very worthy, charity through the combined Federal campaign. In my office we actually look forward to making our contributions, to tally our total comparing it with other offices, and seeing how we come out. It was considered a privilege to be that person in the office that year that would be the chairman to solicit funds from among those whom we work with in our office.

Indeed, there was the imprimatur of the U.S. Senate on the United Way because Senate employees, Senate offices, other Senate associates, were utilized for the purpose of collecting these funds. I think most of us, after we have made such contribution as we could, felt good about it in our heart knowing that we were really, truly helping someone that needed that help. Just look at the long list of beneficiaries that are dependent on the United Way.

Now, this year, with this disclosure of their senior executive, how they expended these funds for salaries and other purposes, I do not know what participation will be like here in the Senate and within other Government entities, or what the totals may be. But I am gravely concerned that many of those small organizations, some of whom totally rely on the allocation from the United Way to do their work, will not have the funds they budgeted for this year. And many, many ultimate beneficiaries, sick, disabled, and otherwise, will not be provided for as we had hoped for.

Then there is the separate question—and this legislation covers it—of organizations which are not charitable in nature but are doing work ostensibly for the public good, and receive the benefit of the tax-exempt status of the Internal Revenue Code. There are many persons who have long been curious about just how much do the various CEO's and top-ranking officials of these organizations receive. What is the extent of the purposes of office? How do they handle their expense accounts? This piece of legislation will pull back the curtain and allow the light to come in, and where a light falls truth and indeed honesty I think must spring up.

I am very hopeful that this piece of legislation will receive the strongest endorsement by this Chamber and that in due course it will be well received in the other Chamber and, indeed, in conference, because I think this type of legislation is long overdue. As I said, the SEC is now imposing on the private sector the standards and goals which are comparable to those contained in my bill.

Mr. President, there are other technical parts of the bill. I have spent quite a bit of time figuring out the least onerous manner in which the tax-exempt organization can inform contributors that there is an available disclosure form available at the donor's request. I do not wish to micro-manage the internal workings of the IRS, and therefore I purposely did not write into my legislation specially how the IRS is to implement this. The logical course of action would appear to be as such: Donors would send a contribution to their favorite tax-exempt organization. The organization would then send the donor back an acknowledgment noting the contribution and informing them that there is a disclosure form prepared by the tax-exempt organization which is available.

Further, I do not wish to impose on a particular charitable organization a heavy burden of expense associated with preparing and mailing to donors the required information.

So we are putting in here that those individuals who request the information have to pay a reasonabie fee. I would think no more than a few dollars, and perhaps the tax-exempt organizations may even require a self-addressed, stamped envelope. But we are laying a foundation to start this year with this legislation and perhaps in ensuing years, after we get some experience, we can determine how to improve this.

I have also received questions about my choice of the IRS as the agency who would administer these disclosure requirements. I chose the IRS because they already administer the 990 form. It seemed cost effective not to create yet another bureaucracy, or place responsibility elsewhere in Government, to oversee charitable disclosure when in fact, my legislation's requirements include only a few extra steps above and beyond the current requirements of the current 990. The IRS's role in this is clear; tax-exempt organizations under the Internal Revenue Code and the IRS administers the reporting requirements for tax-exempt organizations.

I am not suggesting that this answers every problem associated with tax-exempt organizations, but I think, I say respectfully, it is a good start. I struggled with how do we deal with the person who gets the piece of literature requesting a donation, and they do not have the facts to really make an informed judgment.

Can all of the potential donors then request of a tax-exempt organization information so that they can prejudge their decision to give or not give?

I was not able to come up with an answer to that. I assure you that, for the balance of my career in this institution, I will work on that and try to improve this legislation. But given the urgency to move forward now, there are some areas which I simply could not resolve. Maybe better minds than mine can figure out a way to not overburden a charity, not subject a charity and tax-exempt organization to a proliferation of inquiries of people who literally want to harass them.

So you have decided to make a contribution, and then thereafter, you can begin to get the information and determine next year whether or not you made the correct judgment. But it is a gimmick of this process.

Maybe during the course of the deliberations of this bill today, and the conference in the House, someone could come up with a solution to that problem. But at the moment, I am trying to make a start so that the persons who decide to give $25 or more to a tax exempt can rest assured that they are going to get back the information, and they can determine that, yes, I did make a proper decision, or I did not, or I can complain, or in some instances, ask for my funds to be returned.

But we have to make a start. And this piece of legislation, I think, is a constructive objective, and a fair way to make that start.

If this bill becomes an act, it will help to clean up their act, that is the ones who may be taking advantage of the system. I am confident most tax-exempt CEO's and their principal assistants are fairly discharging the special trust reposed in them by both the donors and beneficiaries of their good work. They can face the public and disclose with pride and confidence as to how they fulfill their special public trust.

Mr. President, I think I will yield the floor at this time. There may be others who wish to pose questions to me or otherwise discuss this legislation. However, I will at this time ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. WARNER. Mr. President, I wonder if you can get the attention of the managers of the bill and propound the question once again?

Mr. RIEGLE. Mr. President, I was actually listening, but I was also being informed of another problem that we had not foreseen. And that is that we have a message from the Finance Committee that they are very concerned about adding this particular amendment—which falls within their jurisdiction—on this legislation, which falls within the scope of the Banking Committee.

I am told that Senator BENTSEN himself wants to come over and be part of the discussion.

The concern is that if this item goes on this bill in this form, it may very well cause this legislation to be what is called blue-slipped over on the House side, so that it would, in effect, send the legislation down a side track where it would not be able to move as it should. I know that is not the intent of the Senator from Virginia, nor does that accomplish his goal.

So it may very well be that in order to try to find the means by which the proposition he is advancing can in fact take place, that we may want to find a different vehicle, because we do not want to send the Senator's amendment into oblivion or send this bill itself into oblivion.

So I think until we can have a further clarification of that from the Finance Committee, maybe what we ought to do is just—without any prejudice to the amendment—hold it in abeyance to see if we can find an answer to solve these multiple problems

Mr. WARNER. Mr. President, I am most respectful of the manager's request. I readily accede to it. I said by way of preliminary remarks that I would be happy to accommodate the managers and other Senators if they had problems.

I am quite aware of Senator BENTSEN's desire to make sure this is handled in a proper way. I am not fully knowledgeable about all of the blue-slip procedures in the House as relates to tax matters, or matters that relate to the Internal Revenue Code. But I am more than happy to engage in a colloquy with the distinguished chairman of the Finance Committee at such time as he arrives.

If the managers wish to make this the pending business and lay it aside at this time, I would be happy to do that.

Mr. RIEGLE. Mr. President, I am going to take the Senator up on that offer.

Let me further add this for the Senator's consideration: We have an energy bill coming up here within a matter of days, which has been reported out of the Finance Committee, and which would be an appropriate vehicle to carry this amendment.

My guess would be that in that very same fashion in which this amendment will gather support here, it would likewise be able to gather support there. But it would be on a train that would take it to the destination where it needs to go. That may be the avenue that is immediately forthcoming that would serve the Senator's purposes, and not end up in a situation where we would get an unintended consequence.

Mr. WARNER. Mr. President, I am readily agreeable to that. So we will lay this amendment aside until the chairman of the Finance Committee or others wish to address it.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the amendment of the Senator from Virginia be temporarily laid aside, and that the floor be open to other amendments, with the thought in mind that we return to the Senator's amendment at a later time.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2443 TO AMENDMENT NO. 2437

(Purpose: To provide for an effective date for the method of computing liability for certain releases or threatened releases of hazardous materials)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2443 to Amendment No. 2437.

On page 273, after lines 20:

Amend section 1065 by adding the following language to the end of paragraph (f):

"The amendments made by this section shall become effective immediately upon the reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.".

Mr. BROWN. Mr. President, this amendment relates to the Lautenberg amendment, which is included in the managers' amendment offered to this bill. It is a very simple amendment. It simply says that the effectiveness of the Lautenberg section would not become effective until this Congress has reauthorized the Superfund.

The purpose of this is quite straightforward and simple. We ought to, when addressing the question of changing liability under the Superfund, be willing to look at the entire act; that taking it piecemeal, exempting certain parties from liability, is a mistake if we do not take the time to address the entire subject.

I do have an amendment that I would like to offer that addresses the whole question of liability.

Mr. President, I must say that I believe municipalities are treated unfairly under the current Superfund statute. To suggest that volume ought to be the key factor in delineating liability I think is simply plain wrong. The circumstances we find with many of our municipalities is that they have contributed a huge portion of the volume of material that goes into these sites. But they have created a dramatically smaller portion of the hazardous material which caused problems.

To assist our cities' liability, based on their volume alone, is unfair, unreasonable, and I think is a damaging factor with regard to support for this vital cleanup effort.

So I am one who believes, as Senator LAUTENBERG does, that the formula needs changing. I think our municipalities deserve and merit protection and a change in the formula.

Mr. President, the answer is not to change it by itself. The answer is to treat people fairly and evenhandedly and consistently. This, the Lautenberg amendment does not do. All people who deliver waste to a site are not treated fairly or evenhandedly.

The Lautenberg amendment transfers liability between parties to the tune of hundreds of millions of dollars. Let me repeat that, hundreds of millions of dollars of liability are changed under the Lautenberg amendment. That particular amendment has not had the benefit of hearings and markup in the form that it was offered on this floor. The amendment was not available until shortly before it was offered on this floor.

I believe, before you change hundreds of millions of dollars of liability under the Superfund, that ought to be examined thoroughly. And all this amendment says is the Lautenberg amendment becomes effective only when we reauthorize the act. Senator LAUTENBERG, I think, will be holding hearings next year. It has to be reauthorized by 1994. But adopting this amendment on the effective date will give us a chance to look at all the questions in context. There are a lot of questions to look at. Transaction costs for the Superfund liability cleanup sites has seen 88 percent of the cost not to go to cleanup, but costs go to insurance companies and a variety of other litigate matters. In other words, most of the money is simply not being spent to clean up but to debate and litigate the problem. That has to change.

We have to examine the formulas. Some people, who are entirely innocent, who have done nothing wrong, and the product they delivered to waste sites is not the problem that has caused cleanup action, are being found liable under the current act.

We need to deal with the de minimis rule. We need to deal with the allocation with regard to municipalities. I think it is important that we look at all those things and to change the law piecemeal without looking at all of it, I believe, is a great mistake.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROWN. Mr. President, let me clarify, if this amendment is agreed to, the Lautenberg amendment would become effective. This does not eliminate the Lautenberg amendment at all. It simply says that the effective date on the Lautenberg amendment would be effective after the reauthorization. It seems to me that is an appropriate move with the change of liability of this size.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

The Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. Mr. President, I know the Senator from New Jersey, who obviously has a deep interest in this amendment, will want to be heard on it, and I am told he is on his way to the floor. So I think we need to remain in a quorum call until such time as he can arrive and engage the Senator from Colorado.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

(The remarks of Mr. PELL pertaining to the introduction of Senate Joint Resolution 322 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LAUTENBERG. Mr. President, I would ask what the pending business is, please?

The PRESIDING OFFICER. The pending business is the second-degree amendment offered by the Senator from Colorado to the managers' underlying amendment.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, we are here now discussing something that I thought was thoroughly aired only yesterday in about 3 hours of debate in which many opinions were heard, many views on the question of addressing the problems that municipalities and others face when, in fact, they are simply generators or transporters of garbage, trash.

We discussed at length the fact that municipalities and other parties—that is anyone who simply transported or generated trash—ought to be able to be caught in the web of a diversionary tactic. Because, in many cases we are talking about small business people. We are talking about municipalities strapped to the wall by the elimination of programs that used to be available to them, by having to raise taxes that most of their residents cannot afford. By attempting to engage these innocent parties in lawsuits, the polluters have a chance to run their legal bills, to make certain that they do not come to the day of judgment when they ought to, to make certain that as long as they can put it off, drag it out, drag them down, just keep it going—that is the mission.

For many of the communities in my State and in 450 communities across the country, that kind of defense is so burdensome they cannot even begin to fathom how they might handle it.

We know in town after town, in State after State in this country, that communities are doing without things that help them function, protect their citizens. They are laying off law enforcement personnel, fire fighters—that whole scheme of things—closing libraries.

Now, after we have had this extensive debate yesterday, which was resolved in the vote on the floor, and I remind my friend from Colorado the vote was 52 to 44, and it was a vigorous and very spirited debate, we took care of all of the issues. As is the system here, the majority prevailed, and that is the way we hope it will continue to be. The majority won the issue.

Now we are looking at an attempt to waylay that decision by a significant majority of those voting yesterday.

The amendment is opposed, just as was the amendment yesterday, by the United States Conference of Mayors, the National Association of Counties, the American Communities for Cleanup Equity, the Sierra Club, the Natural Resources Defense Council, Clean Water Action, the Environmental Defense Fund, and U.S. PIRG. This amendment ignores all of the work that was done yesterday and the conclusion that was arrived at.

It is time to act to help the local taxpayer and small business person now. This amendment would make our hardhit cities wait until the end of 1995 before taking action. Who knows how many small businesses who simply generate or transport garbage could be bankrupt or have their financial stability seriously impaired by this wait?

Part of the debate yesterday focused on whether or not we ought to wait until the end of the current Superfund authorization period, which again is 1995. And the response was very clear. It said: If we have obvious abuses we ought to deal with them and deal with them now.

So rather than take the chance that these legal costs, cleanup costs, are going to be unfairly shifted to local taxpayers as these suits proliferate over the next 3 years, we ought to get on with confirming what it is that was decided after yesterday's discussion.

We voted last night to keep these provisions as they were. Opponents of the provision argued repeatedly that we ought to wait until reauthorization. But once again, the decision was made.

So I urge we once again reject an argument that would defer the implementation of this amendment that would protect the cities and the innocent transporters from being dragged into lawsuits unjustifiably, in many cases, that cost them legal fees, that place them in jeopardy in terms of their financial well-being; and that we ought to get on with doing what this Senate agreed that we would do yesterday.

Mr. President, I move to table the Brown amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DOMENICI. Mr. President, will the Senator permit me to speak?

Mr. LAUTENBERG. Will the Chair repeat?

The PRESIDING OFFICER. There was not a sufficient second.

Mr. LAUTENBERG. Will the Chair request a show of hands?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LAUTENBERG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The motion to table is nondebatable.

Mr. DOMENICI. Mr. President, I was seeking to speak, and I did not get here in time.

I ask unanimous consent, in spite of the status of the motion I be permitted to speak for no more than 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico, [Mr. DOMENICI] has the floor for up to 5 minutes.

Mr. DOMENICI. Mr. President, I ask if the clerk would advise me when I have spoken 3 minutes so I can yield 2 minutes to the Senator from Colorado.

Mr. President, I rise again to indicate to the Senate what a critical vote this is.

The distinguished Senator from Colorado has put in the effectiveness of this amendment, that is the amendment in the managers' bill changing the Superfund law—he has put it into graphic terms regarding that particular facility in his State. If we change the law, it is going to wreck havoc upon the businesses that are in the lawsuit that are going to have to share in the costs.

I understand the cities, and in particular in the Colorado case, the city there, is faced with the burdens of litigation, of the contingent liabilities that are absolutely enormous in these kinds of cases. But I do not think we ought to cavalierly say it does not really matter what it is going to do to business by taking cities out; let us just do it because, after all, the cities have to tax people and they are hurting.

I repeat, businesses in America, large and small, have to make money. You know, we finally arrived at the point in our history that we cannot stop describing business as it is. If they do not make money they go broke. If they go broke, they do not produce jobs, they do not pay people. So, it seems to me, we ought to treat them both fairly. Cities are important. But they are liable. And they are in lawsuits under the Superfund situation with just the same kind of situation as business.

They are screaming just as business is. They are claiming that they are being sued irresponsibly, just like business is. And I do not believe, with the Senator from Colorado telling us how it is going to hurt businesses that are no more responsible tomorrow than they are today—yet we are going to make them so. Tomorrow they are going to be more responsible—more liable, I should say. They are going to have to pay more because we arbitrarily are going to take out the cities from under this Superfund scheme of liability, which is irrational from the beginning. But now we will make it even worse, but we will say it does not even matter because it is business that is going to pay the bill.

I yield the remainder of my time to the Senator from Colorado.

Mr. LAUTENBERG. Is the Senator asking a unanimous-consent agreement to yield that time?

Mr. DOMENICI. Mr. President, as I understood it I had 5 minutes. I assume that meant 5 minutes under my control. I am yielding part of that time to the Senator from Colorado.

Mr. LAUTENBERG. How much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining. The Chair assumed the 5 minutes would be under the control of the Senator from New Mexico to do with as he wished.

Mr. DOMENICI. I thank the Chair and I thank my friend from New Jersey.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. My intent would be to be concise. My good friend from New Jersey I think has summarized the issue quite well and, I think, fairly. I would merely make two points that deal with, perhaps, details that I think are somewhat different.

The distinguished Senator from New Jersey has indicated we are dealing with municipalities who have not been involved in generating or transporting toxic materials. The amendment does this, including constituent components that may be deemed hazardous substances under this act when they exist apart from municipal waste.

So what is excluded or what will not be counted or available for other liability is the transport of material that is hazardous if handed separately.

So we are not talking about simply benign material here. We are talking about material that would be exempt that is hazardous. And that is what is exempt.

Second, a small item. The suggestion was that this amendment delays until 1995 the effectiveness of the amendment by the Senator from New Jersey. Technically, that is not correct. It delays it until reauthorization.

Let me say to the Senator I understand him using the 1995 date. That is a reasonable assumption to make. But I simply wanted to take this time to assure the Senator that it is my hope we can reauthorize that act quickly, and I want to pledge my support for getting a bill quickly to the floor and dealing with it.

Mr. President, last—and I want to emphasize this—we are dealing with hundreds of millions of dollars of liability being transferred from one party to another. This amendment that is in the managers' amendment was not available even before we got to the floor, even though the distinguished Senator worked on this issue before and had similar amendments available before.

We should not, I believe, be changing liability of enormous proportions without taking the time to look at the overall bill comprehensively. The amendment is very simple: Do we want to transfer hundreds of millions of dollars in liability without looking at the whole amendment? I think we ought to look at it.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the motion to table the amendment offered by the Senator from Colorado.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS] and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—54

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Cohen
Conrad
Cranston
D'Amato
Daschle
Dixon
Dodd
Exon
Fowler
Garn
Glenn
Gore
Harkin
Heflin
Hollings
Inouye
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rudman
Sarbanes
Sasser
Seymour
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—42

Bond
Breaux
Brown
Burns
Byrd
Chafee
Coats
Cochran
Craig
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford

Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Jeffords
Johnston
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Rockefeller
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—4

Baucus
Helms
Roth
Sanford

So the motion to lay on the table the amendment (No. 2443) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I yield now to the Senator from Virginia, who, I think, wants to make a statement.

AMENDMENT NO. 2442

Mr. WARNER. Parliamentary inquiry. Mr. President, the pending business before the Senate at this time, I believe, is the amendment of the Senator from Virginia; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, momentarily, I shall ask unanimous consent that the amendment be withdrawn. Before doing so, I first want to thank the manager of the bill and the distinguished chairman of the Finance Committee, the Senator from Texas, and others who had brought to my attention that there is, in one clause in my amendment, a basis for the allegation that this is a revenue measure and, therefore, it would subject the underlying bill to certain procedural difficulties in the other body. For that purpose, I desire to withdraw my amendment.

Mr. President, I will continue to pursue my objective in this amendment, because I think it is imperative that the American public be given more facts about tax-exempt organizations so they can be better informed as to how their money is expended, and the relationship between the net sum that eventually goes to the ultimate beneficiaries of tax-exempt organizations as it compares with the organization's expenses.

I thank the distinguished chairman of the Finance Committee. He has offered at this time, not to support me, but first to look at it and to have his committee staff work with me to see if, in fact, I can reoffer this legislation on subsequent legislation which is germane to the nature of my amendment.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Virginia for his cooperation on this procedural matter that affects the jurisdiction of the Finance Committee. We will be delighted to work with him to see that we fulfill the procedural questions. Had this been done otherwise, of course, we would have had further problems on the House side. I appreciate the Senator's consideration. I thank the Senator.

Mr. WARNER. I thank the Senator from Texas and the managers.

I ask unanimous consent that my amendment may be withdrawn.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

The amendment (No. 2442) was withdrawn.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am currently awaiting an evaluation of this amendment by two Senators. I do not think I will send it to the desk until I get an evaluation from them. But let me suggest what I am going to try to do. I think that, subject to maybe changing some of my language, the Senate would actually welcome this.

I do not think there is any doubt that this Senate, in the last 2 days, has at least said one thing about the Superfund. I regret that it is before us, but it happens to be, just because a little piece of the Superfund liability is before us. I think what has come out is that this Superfund, with all of its ramifications, is an extremely critical piece of legislation, and that, in fact, the way it is being administered, handled in the courts of law, used or abused by the attorneys who get involved almost from day one, abused by some companies who have learned the tricks of how to get out of this, this law is so complicated and its ramifications so little known that we ought to have some detailed information very soon about just what is going on.

I will wait a while and see what Senator LAUTENBERG thinks about it, and the distinguished majority leader's staff is looking at it. We talked with them for a number of months. Essentially, what we would like to do is to make sure that, in 15 months, we have done three things: We have directed the Administrator of the EPA, by December 31 of 1992, to compile a host of information on sites on the National Priority List [NPL], and the centralizing of information into one computer base. The purpose of doing this is to ensure that any analysis done on the program will pull the same base of information together. Much of this information has already been developed by the agency; some has not. But I do believe that the task can be completed by the end of the year, as mandated in this provision. That would provide a very relevant base of information that is all oranges. It is oranges and oranges, because we put it all on the computer base which is similar.

Second, the amendment charges the General Accounting Office with the task of reviewing all relevant governmental and other studies that have been performed to assess the act and, by July 1 of 1993, provide a report to the Congress evaluating these studies. The purpose of this provision is to have an impartial analysis of the myriad of relevant studies in order to assist Congress when we begin to look at this seriously and in a profound way.

It is my understanding that the GAO, because this has been such a big subject matter of investigation, has developed considerable expertise on the Superfund law and, therefore, I think it is appropriate that we ask them to look at all the myriad of studies—some complimentary, some critical, some in the middle—and give us their assessment of these studies so that this myriad of outside information will be more relevant, because it is understandable.

Third, the amendment would require that the Administrator of the Agency for Toxic Substances and the Disease Registry, with the concurrence of the EPA and in consultation with the National Academy of Science in the National Academy of Engineering, prepare a report to Congress which examines a statistically significant number of sites on the NPL with respect to present and future risks, based on actual exposure data or estimates of data to human health and the environment presented by these sites, not all six of them, but a statistically sound number. Based on that data, the report would look at the costs of remedial measures based on the risks posed and the viable uses of sites after mediation, taking into account the implications of land use policy and the effect of post cleanup liability.

This expert group, working in conjunction with the EPA, would be required to provide a reasonable opportunity for written comments on the report prior to submission to Congress. That part was put in, because even though this is not technically a conclusive kind of action, it was felt that they should keep it open for written comments from whomever and whatever kind of institution would want to make them.

So I am prepared to tell the Senate that we should not be adopting substantive amendments at this time. Instead Congress should be actively seeking information that will be needed for us to make informed reasonable decisions. But since we have opened the door, it would appear to me that it might be even more appropriate to do this in behalf of the country, in behalf of possible victims of hazardous wastes, and in behalf of cities, American business and, yes, I might say we might get a bird's eye view of how the legal community is acting with reference to the Superfund.

With that I ask my friend from New Jersey if he sees any reason that this amendment should not be adopted or, if he has any suggestions for amending it. I certainly would be interested in his observations if he cares to share them with me.

Mr. LAUTENBERG. Mr. President, I thank the Senator from New Mexico for offering us an opportunity to review it, to see whether or not there are any objections or whether we can resolve any differences in some face-to-face discussion.

I would have to ask the Senator from New Mexico whether we could just buy some time here for a little bit and look at it in some more detail. We have just now seen it. The Senator in his remarks did make mention of the fact that there have been a number of studies and there are ongoing requests now that are being reviewed. I would like to see if we can get some kind of consolidated point of view, because as I looked at this, cursorily, what I saw was that there was a request that GAO review other reports that are being developed. And as the good Senator knows I do not know how much time they have or how many requests they have, but I know they are very hard at work.

There is also a reference here to ATSDR. I do not know if they have the money to do this. I would like a little time to make some inquiries and then I will be happy to get back to the Senator. I appreciate the fact that he had not submitted this and we will have a chance to chat together or make a decision a little bit later on.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my friend from New Jersey. Let me just suggest, there is nothing at all about this amendment, from what I can tell, that is in any way biased one way or another.

This is not an indictment of the program or a statement that it is grand and glorious. It merely indicates that there is so much comment coming out on it that one could hardly read the reports, and there is so much discussion that one wonders what is real and what is just scuttlebutt. Therefore, I thought it might be appropriate to bring it all together under the two or three headings that most people are concerned with, and it might shed some real constructive light on it.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I may be permitted to speak as if in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUPREME COURT'S DECISION IN LEE VERSUS WEISMAN

Mr. LIEBERMAN. Mr. President, I am surprised and disappointed by the Supreme Court's decision in the case of *Lee v. Weisman*, which was issued this morning, and I rise to say a few words about it.

Mr. President, throughout my career, both as a lawyer and most recently before coming to the Senate as attorney general for the State of Connecticut, I have argued for a particular broader, less exclusive view of the religion clauses of this first amendment.

In this case, I think the Supreme Court has acted in a way that I feel is not consistent with the dictates of the Constitution or the best interests of United States of America. In the case of *Lee v. Weisman*, a public school graduation ceremony included a brief nondenominational prayer in which God's blessing was asked, thanks to God were offered, and amen was uttered.

Well, the Supreme Court today said no more of that; no more to a practice that is probably older than our Constitution itself. For more than 200 years, students in this country of ours have heard prayers at their graduation ceremonies, and I believe that we are a stronger not a weaker nation as a result of it.

Mr. President, we would do well to remember that our Constitution promises freedom of religion, not freedom from religion, and that is because, as a matter of historical fact, we are a religious nation, founded by people who believed in God and were given sustenance and purpose by that belief; people who freely worshipped God, who in fact invoked the name of the Lord in our Constitution and spoke explicitly of God and the Creator in the Declaration of Independence.

It is very hard to imagine that the people who wrote these great documents that have held us together and given us purpose for now more than two centuries intended that these documents be used to prohibit the mention of God's name in a public school graduation ceremony.

Mr. President, the laws of a society should express the values of that society. To me, one of the great values of American society, which I believe is shared by most all Americans, is a belief in God. Today the Supreme Court puts that widely and deeply held value further outside of our law, and thereby diminishes our society. We suffer from too little mention of God's name in public places, not from too much mention.

Mr. President, we have a long and I think proud tradition of nondenominational prayer being offered in public places—including this Senate itself—which has enriched our lives and made us a more principled nation.

I understand that the Supreme Court, in its decision today, distinguishes between prayer at public schools and prayer in other public places. But I think that a public school graduation is even more like a public ceremony where the Court says that prayer is allowed than it is like a school classroom where the Court says it is not allowed. And I also believe that the students who are graduating will lose much more than they will gain from the prohibition of prayer at their graduation.

Mr. President, we are in fact one nation under God, as our children pledge most every day at their schools. I regret that today's Supreme Court decision will prohibit them from thanking God and asking for God's continued blessings as they graduate from those schools.

I thank the Chair.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that we set aside the pending matter and that I be permitted to proceed for 2 minutes as if in morning business for the purpose of introducing a piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 2888 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2444 TO AMENDMENT NO. 2437

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senators DOLE, SEYMOUR, and NICKLES, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. DOLE, Mr. SEYMOUR, and

Mr. NICKLES proposes an amendment numbered 2444 to Amendment No. 2437.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . NATIONAL ECONOMIC STRATEGY.

(a) It is the sense of the Congress that legislation should not be enacted that would:

(1) increase taxes on the American people and or small and large businesses over four years by at a minimum of $150 billion;

(2) increase taxes by an additional $10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

(3) increase spending for various and sundry domestic programs over the next four years by over $190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

(4) increase Federal spending by nearly $200 billion for health care programs and impose another $100 billion in taxes on employers to partially pay for this spending;

(5) provide for a child tax credit or a middle income tax cut that would add another $45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

(6) increase the Federal deficit and not achieve a balanced budget in this century;

(7) terminate only one Federal program (the honey price support program);

(8) reduce mandatory spending by less than one-half of one percent over the next four years;

(9) reduce defense obligational authority by $90 billion more than currently planned and in addition to the $220 billion of reductions already planned; and

(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

STOP SLOBODAN MILOSEVIC

Mr. D'AMATO. Mr. President, I rise today to call for the coordinated action of the United States, the European Community, and NATO to become involved in what is long overdue: concerted action to stop Slobodan Milosevic from his plan of territorial expansion and genocide for all non-Serbs of Croatia, Bosnia, and Kosovo.

We have seen his work, and it is appalling. And the world stands by almost indifferently wringing its hands while his forces cut down civilians as they stand in line for food. They shell humanitarian aid trucks and they bomb churches. Serbian forces have shown utter disregard for human life and care only to expand the aim of a greater serbia at the expense of the lives of non-Serbs. They even round up non-Serbian residents of cities like Dobrinja and take them away to camps. Just like Adolf Hitler and Saddam Hussein before him, the Butcher of Belgrade must be stopped. The United States, in coordination with the European Community and NATO, must act to put a halt to Milosevic's war against the innocent Bosnians. My colleague, Senator DOLE, support a four-point program to stop the slaughter in Croatia, Bosnia, and Kosovo. I fully support him in this necessary and just effort. It is the only way to stop the killing.

The plan is very similar to that adopted to protect the Kurds from the onslaught of Saddam Hussein. Just as that killer recklessly pursued innocent men, women, and children, Milosevic has done the same. As in Iraq, the plan involves the protection of the civilian population from Serbian forces. It also involves the delivery of all aid and supplies necessary to stop Serbian aggression.

First, the use of NATO forces is long overdue. People are being slaughtered. Peace must be re-established in Bosnia and war must be prevented from spreading to Kosova. Serbian artillerymen sit in the hills above Sarajevo and fire at the civilian population of the city. If need be, air strikes must be carried out to suppress this shelling and allow the people to live in peace. The slaughter must be stopped.

Second, a force must be created to establish air cover for the people of Bosnia. Just as with the Kurds in northern Iraq, the people of Bosnia, Croatia, and even Kosova are right now left wide open to attack from Serbian jets. Air cover must be supplied and air traffic must be monitored to deny the Serbian jets the ability to bomb cities and towns. Milosevic must understand that if his planes take off they will be presumed to be hostile and they will be shot down.

Third, a total economic embargo must be put in place against Serbia and Serbian-controlled territory, allowing nothing in except for humanitarian aid. It must be enforced from both the land and sea. There must be coordination with the surrounding nations of Italy, Austria, Hungary, Romania, Bulgaria, and Greece to implement the embargo. As with Iraq, nothing but humanitarian aid must be allowed into Serbia until Milosevic withdraws his forces back to Serbia.

Finally, the United States, either overtly or covertly, must supply all necessary equipment to the people of Bosnia, Croatia, and Kosova through the port of Trieste, Italy, the closest NATO port, or any other available ports of entry. They must be supplied with all that is necessary to stop Serbian aggression. The killing must end now.

The people of Bosnia must be protected. They must be saved from the onslaught of a dictator committing nothing short of genocide.

Further, Serbian aggression must also be avoided. As I warned 2 weeks ago on the Senate floor, Milosevic's next target is Kosova. He must not be allowed to carry his war of expansion into this beleaguered land.

If we fail to stop the killing now, we will be providing a death sentence for all the non-Serbs of the former Yugoslavia. Milosevic is out of control and he must be stopped. Only through joint United States, European Community, and NATO action can the violence be ended and Milosevic put back in his box.

Mr. President, there is no oil in Bosnia, Croatia, and Kosovo, and it may be that the world powers only act when they see their own economic interests, being disadvantaged. There is something more important than oil, though. There are millions of people whose lives are being threatened. Today one million people have been made homeless or refugees. Tens of thousands, on a daily basis, face bombardment and starvation. Too many others have been killed for no other reason than their ethnic background, or their religion, whether they be Muslims or Catholics.

I have to tell you it is an outrage that it has taken this Nation a year to bring about sanctions against Serbia for its actions against Croatia, Bosnia, Slovenia, and Kosovo. We ought to be ashamed of ourselves. Where is the moral leadership for standing up for what is right? I heard the Deputy Under Secretary of State say Milosevic fooled him. Moreover, why is the peace process in Yugoslavia strictly a European matter? How can we wash our hands of this?

Finally, we have broken diplomatic relations with this killer, a thug, a hard-core Communist. We should have cut off economic aid to what was formerly Yugoslavia and Milosevic a year ago and sent him a clear message. Just like when I came down to the Senate floor in May 1990 and questioned why we were giving aid to Saddam Hussein, you would have thought that I was attacking Mother Teresa. Everybody raced to the floor to take me on: "Oh, we should not stop aid to him," they said. What were we doing providing that killer with economic aid while he was using poison gas against innocent women and children. Now we want to investigate exactly what Iraq got from us.

Let me ask why we stand by now and wring our hands as we watch the pictures of the horrible slaughter of the innocent? We should be ashamed of ourselves. Why do we have NATO? Why do we have tens of thousands of troops there? Why do we not bring together our allies and say, my gosh, we have to provide air cover to insure that his planes do not attack innocent civilians in the cities of Bosnia, Croatia, and Kosovo.

Let us see to it that if we have to knock out his tanks and artillery, with NATO forces, we do it. Let us stand for the human dignity and freedom of the innocent people of Bosnia, Croatia, and Kosovo. Do we only need to have oil and economic interests in a particular land, or can we stand up for what is right? Do we have the courage to do the right thing, not because it is politically popular or do we need a war to bail ourselves out of trouble. There are people who are being slaughtered and as a nation act as if we do not give a damn. That is our problem.

I have to tell you, this is a tragic situation that we have allowed to unfold before us, and we cannot claim that we did not know. There are those who say we allowed the genocide of the Jews to take place because we did not know. Are we going to stand here and say that we do not know now that the innocents are being slaughtered today; that people who seek nothing more than food are being gunned down; that we have ethnic purification taking place—where people being segregated and sent to camps on the basis of what their religion is? This is incredible. We sit by as if nothing is taking place.

I have to tell you, I thought that we had a purpose and a reason for having a strong presence in NATO. And, yes, that it was for our protection, but also for standing up for the rights and the dignity of people throughout this world. I think the people of America care and I would like to see some leadership in this regard. I think it is long overdue. We must stand up for the rights of those who are being oppressed.

I hope we can begin to act now, rather than later. It is already too late for many. But there are many others who desperately need our help.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

(At the request of Mr. RIEGLE, the following statement was ordered printed in the RECORD.)

• Mr. SANFORD. Mr. President, I rise today in support on the Federal Housing Enterprises Regulator Reform Act of 1992. This is a solid piece of legislation. We have worked on this bill for quite some time, and I am pleased that we were able to craft a feasible compromise that will truly overhaul the regulatory structure of Fannie Mae and Freddie Mac.

Fannie Mae and Freddie Mac have played a major role in expanding the supply of mortgage credit. Overall, I have been very pleased with the manner in which these two housing-related Government-sponsored enterprise [GSE] have operated, however, the $900 billion these two GSE's liabilities hold does pose potential financial risk to the taxpayers.

I am particularly pleased with the sound and responsible financial standards contained in this bill. By including capital requirements which require GSE's to maintain capital not only to address the current financial condition of GSE's, but also the potential financial condition of GSE's in periods of adverse economic conditions.

In addition, I am pleased that this legislation includes needed incentives to clarify and ensure that Fannie Mae and Freddie Mac meet the housing missions that are so clearly defined in their charters. It is important that they meet the housing finance needs of low- and moderate-income residents.

This is a strong bill which I am pleased to support. It is my hope that the Senate will move quickly on this important legislation so that it can soon become law.•

AMENDMENT NO. 2445 TO AMENDMENT NO. 2437

(Purpose: To authorize a number of studies of the Comprehensive Environmental Response, Compensation and Liability Act of 1980)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senators MITCHELL, and MURKOWSKI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. MITCHELL, and MURKOWSKI, proposes an amendment numbered 2445 to amendment No. 2437.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the manager's amendment, insert the following new section:

"SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of the United States Environmental Protection Agency shall provide to the Senate Environment and Public Works Committee and the House Energy and Commerce Committee by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established under the Comprehensive Environmental Response Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

"(A) Site name, number, state and total number of operable units;

"(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

"(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

"(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

"(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

"(i) owner/operator;

"(ii) transporter;

"(iii) person that arranged for disposal or treatment;

"(iv) municipality;

"(v) state agency;

"(vi) lender or State or Federal lending agency; or

"(vii) Federal agency;

"(viii) any other entity; and

"(ix) that portion of the site that cannot be attributed to any potentially responsible party including dollar amount and volumetric share.

"(F) Site classification;

"(G) Whether the facility is still in operation;

"(H) Number of Records of Decision to be issued;

"(I) Description of elements of removal and/or remedial action.

"(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

"(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through de minimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance.

"(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

"(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

"(N) Description of settlement and enforcement activities;

"(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

"(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the Report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a Report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(c)(1) No later than September 30, 1993, the Administrator of EPA, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of Land use policy at such sites and the effect of post-clean-up liability on future uses.

"(4) The Administrator of the United States Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the report as part of the submission to the Congress.".

The PRESIDING OFFICER. The Chair advises that the amendment is not in order at this time.

Mr. DOMENICI. I understand.

Mr. President, I ask unanimous consent that the previous Domenici-Dole amendment that was pending be set aside temporarily for the purpose of considering this amendment, after which we return to the previous amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I explained this amendment in some detail earlier in the afternoon. Since that time, a few changes have been made. They are more or less technical in nature. That has brought some bipartisan support.

Mr. President, this provision amends the Superfund law. It is this Senator's belief that this is the Superfund amendment that should be part of this bill—not the amendment offered by the Senator from New Jersey and voted on by this body yesterday.

My amendment is quite simple, despite its length. It mandates a number of studies to be done on the Superfund Program over the next 15 months in order to gather relevant information prior to a comprehensive reauthorization.

The amendment has three parts.

First, the Administrator of the EPA by December 31, 1992, is charged with compiling a host of information on sites on the National Priorities List [NPL] and centralizing this information into a computer base. The purpose of doing this is to ensure that any analyses done on the program all pull from the same base of information. Much of this information has already been developed by the agency, some has not. But I do believe that the task can be completed by the end of the year, as mandated by this provision.

Second, the amendment charges the General Accounting Office with the task of reviewing all relevant governmental and other studies that have been performed to assess the act and by July 1, 1993, provide a report to the Congress, evaluating each study. The purpose of this provision is to have an impartial analysis of every relevant study in order to assist the Congress when we begin the reauthorization process. It is my understanding that the GAO has considerable expertise on the Superfund law and is an appropriate agency to perform such a review.

Third, the amendment requires that the Administrator of the Agency for Toxic Substances and Disease Registry [ATSDR]—with the concurrence of EPA and in consultation with the National Academy of Sciences and the National Academy of Engineering—prepare a report to the Congress which examines a statistically significant number of sites on the NPL with respect to present and future risks based on actual exposure data or estimates to human health and the environment presented by each site.

Based on that data, the report would look at the costs of remedial measures based on the risks posed and the viable uses of sites after remediation has been completed, taking into account the implications of land use policy and the effect of post-clean-up liability. ATSDR and EPA would be required to provide a reasonable opportunity for written comments on the report prior to its submission to the Congress.

Mr. President, I think yesterday's debate focused this body on the fact that there are serious problems with the Superfund Program. I am not prepared to tell you what the solution is to these problems.

But I am prepared to tell you that we should not be adopting substantive amendments at this time. Instead, the Congress should be actively seeking the information that will be needed for us to make informed, reasonable decisions on the future of this program when we begin the reauthorization process next year.

I urge my colleagues to carefully consider what is the best and most responsible approach that should be taken.

Might I say to the majority leader, I want to get right off this and back to the status that we had before my request. But I am told that Senator CHAFEE wants to look at this amendment. He is the ranking Republican on the committee. I would like to put in a quorum call while I seek concurrence from the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2445, AS MODIFIED, TO AMENDMENT NO. 2437

Mr. DOMENICI. Mr. President, I send to the desk a modified amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2445), as modified, is as follows:

At the appropriate place in the manager's amendment, insert the following new section:

SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of United States Environmental Protection Agency shall provide to the Congress by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established under the Comprehensive Environmental Response, Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

"(A) Site name, number, state and total number of operable units;

"(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

"(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

"(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

"(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

"(i) owner/operator;

"(ii) transporter;

"(iii) person that arranged for disposal or treatment;

"(iv) municipality;

"(v) state agency;

"(vi) lender or State or Federal lending agency; or

"(vii) Federal agency;

"(viii) any other entity and

"(ix) that portion of the site that cannot be attributed to any potentially responsible party. Including the dollar amount and volumetric share.

"(F) Site classification;

"(G) Whether the facility is still in operation;

"(H) Number of Records of Decision to be issued;

"(I) Description of elements of removal and/or remedial action.

"(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

"(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume, and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through de minimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance.

"(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

"(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

"(N) Description of settlement and enforcement activities;

"(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

"(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the Report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(3) In submitting the report the Administrator shall include a summary of the costs including preparing the report.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(c)(1) No later than September 30, 1993, the Administrator of EPA, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of land use policy at such sites and the effect of post-clean-up liability on future uses.

"(4) The Administrator of the United States Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the report as part of the submission to the Congress.".

Mr. DOMENICI. Mr. President, I think I have completed my discussion of this amendment, other than to note that this amendment now adds one item. It does charge the Environmental Protection Agency with an estimate of this study's cost which Senator CHAFEE thought was a good idea. Otherwise, it is exactly as I heretofore described it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. RIEGLE. Mr. President, let me say we are prepared as managers of the amendment to accept the amendment with the modification.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 2445), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I shall suggest the absence of a quorum.

Mr. RIEGLE. Mr. President, before the Senator does, if I may say, it is our understanding now that we have finished work on the managers' amendment. If so, what I would like to try to do is to be able to act upon the managers' amendment. That leaves the bill itself open to amendment for any other purposes anybody wants to offer, but I think we have wrapped up the substantive items that relate to that.

Mr. DOMENICI. Mr. President, might I say to my friend from Michigan, we are close to that. What we are waiting for is the majority leader and me to enter into an agreement with reference to a debate on the amendment that I have offered and we will take care of that in a moment and then we will be finished.

Mr. RIEGLE. Very good.

Mr. DOMENICI. But for now I think we will have a quorum call.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent to speak as if morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PRAYER AT GRADUATION

Mr. COATS. Mr. President, it is deeply disappointing that the Supreme Court has forbidden the mention of God in public school graduations. They have chosen to continue on a path that threatens religious expression, and denies our history.

When the Supreme Court decided its landmark school prayer case in 1963, Abington versus Schempp, two dissenting Justices warned that "Unilateral devotion to the concept of neutrality can lead to * * * not simply noninterference and noninvolvement with the religious which the constitution demands, but a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious."

No phrase could more accurately capture the decision handed down today—"A brooding and pervasive devotion to the secular." It denies the central role of religion in our public life. And it further reinterprets the separation of church and State to forbid the accommodation of religion in our society.

This ruling says, in essence, that our children must be carefully protected by government from even hearing the name of God at a public ceremony. But this simply cannot be justified from the facts of our heritage. Religion was intended to play an important part in America's public life—not to favor any sect, but to affirm our traditions and beliefs, and to assert the source of all our liberties. America has a history of religious accommodation, not secular hostility, from our beginnings to our recent past.

George Washington said in his Farewell Address:

> Of all the dispositions and habits that lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these firmest props of the duties of men and citizens.

Justice William O. Douglas, the great libertarian, writing in 1952 in Zorach versus Clauson, argued:

> We are a religious people whose institutions presuppose a supreme being. When the State * * * cooperates with religious authorities, it follows the best in our traditions. To hold that it may not, would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who believe.

Religion is not just part of the practice of our Nation, it is part of the theory of our founding. When public institutions are systematically stripped of religious influence and symbols we deny our history. When we accept a rigid separation between church and state, both, in Russell Kirk's words, "Rot separately, in separate tombs."

When all reference to religion is omitted from our public life, we have declared off-limits the expression of people's deepest motivations and highest beliefs. An appeal to any authority is permitted, except this one. G.K. Chesterton described this as "a taboo of tact or convention, whereby we are free to say that a man does this or that because of his nationality, or his profession, or his place or residence, or his hobby, but not because of his creed about the very cosmos in which he lives."

Columnist Joseph Sobran makes the point:

> The prevailing notion is that the state should be neutral as to religious, and furthermore, that the best way to be neutral is to avoid all mention of it. By this sort of logic, nudism is the best compromise among different styles of dress. This version of pluralism amounts to theological nudism.

We do not serve our children by shielding them from the mention of God in a public ceremony—covering their ears like secular Victorians, fearful of corruption. There is a difference between religious indoctrination, and the simple acknowledgement of the Creator. The Court seems to have lost the ability to make that distinction.

No one benefits from a naked public square—a public life scrubbed of the sacred. Religious people lose important rights, we are disconnected from our history, and our Nation is ultimately impoverished.

Mr. President, I yield the floor and I note that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

IN SUPPORT OF THE DODD AMENDMENT TO ELIMINATE ABUSES IN PARTNERSHIP "ROLL-UPS"

Ms. MIKULSKI. Mr. President, I want to speak today in support of Senator DODD'S legislation to curb abuses in investments called partnership rollups. I was one of the first cosponsors of this bill, and I am glad to see that the great majority of the Senate has come to realize the urgent need for this legislation.

A limited partnership rollup does not mean a lot to most Americans. But some people in Maryland know what it is—and they found out the hard way. They saw their hard-earned savings disappear so that a couple go-go boys could make large fees. And these fees were paid despite the fact that Marylanders and thousands of American investors were losing millions of dollars in savings.

One Marylander came into my office to tell me her story. She is a widow who invested her husband's life insurance settlement in a way she thought was safe and conservative. And, after a couple years of a pretty good investment, she heard that her managers wanted to try something new—a rollup.

She had heard about rollups—that they cost investors 70 percent of their investments on average. She did not want her investment rolled-up, but there was not much she could do about it. Old rules and regulations prevented her from getting in touch with other investors, and prevented her from pulling her money out, even if she did not want to change her investment! Instead, she was faced with risking her savings and financial security because some hot-shot partners and lawyers wanted to risk her and other limited partners' money.

It is wrong to stand by and let dishonest managers cheat good-faith investors because of loopholes in the law, and it's time to do something about it. That is why I am glad to see Senator DODD'S bill come up before the Senate. And why I am glad to cast my vote to get this passed and put into law very soon.

This amendment takes some important and overdue steps to give investors their rights back. It allows for more communication among investors, and allows them to organize to protect their investments. It also makes very important changes to equalize the power balance so that every investor has a fair say in what is done with their money.

Americans need this legislation, and I commend Senator DODD for leading the charge to get it passed. I am proud to join him and cast my vote for fairness to investors.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOMENICI's amendment be withdrawn;

That the Senate then proceed to vote immediately without any intervening action or debate on the Riegle-Garn amendment No. 2437;

That upon disposition of that managers' amendment, Senator DOMENICI be recognized to offer an amendment on which there be 30 minutes for debate, the first 10 minutes and the last 10 minutes of which be under the control of Senator DOMENICI, the middle 10 minutes of which be under the control of Senator SASSER;

At the conclusion of that debate or the yielding back of time, Senator DOMENICI will withdraw his amendment;

That once that amendment is withdrawn, Senator SASSER be recognized to offer an amendment, on which there be 30 minutes of debate, the first 10 minutes of which and the last 10 minutes of which be under Senator SASSER's control, and the middle 10 minutes of which be under Senator DOMENICI's control; at the conclusion of that debate or the yielding back of time, Senator SASSER will withdraw his amendment;

That upon the withdrawal of the Sasser amendment, Senator NICKLES be recognized to offer is substitute amendment on the balanced budget constitutional amendment;

That immediately after it is offered, Senator BYRD be recognized to offer two amendments to Senator NICKLES' amendment.

That no further amendments or motions be in order for the remainder of the day, and when the Senate resumes consideration of the bill tomorrow, Senator NICKLES be recognized to speak for up to 2 hours.

At the conclusion or yielding back of his time, Senator BYRD be recognized to speak.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I would like now to announce to the Senate an understanding that I believe is fair and which has been agreed to by the Republican leader with respect to the order in which the Senate will consider the balanced budget amendment and amendments thereto. I hope that all Senators will work within the terms of this understanding. The understanding is as follows:

Pursuant to the unanimous-consent agreement just approved, Senator NICKLES will offer a substitute amendment. Senator BYRD will then offer the next two amendments, in order, to the Nickles substitute.

At a time tomorrow to be agreed on by the majority leader and the Republican leader, Senator DOLE will be recognized to offer a perfecting amendment to the Nickles substitute.

After a reasonable time to review that amendment, and at a time mutually agreed upon by the two leaders, Senator BYRD will be recognized to offer an amendment to Senator DOLE's perfecting amendment. That would then fill up the right side of the so-called amendment tree.

After a reasonable time to review this amendment, and at a time mutually agreed upon by the two leaders, Senator DOLE will be recognized to offer a perfecting amendment to the text proposed to be stricken by the Nickles amendment. After a reasonable time to review this amendment, and at a time mutually agreed upon by the two leaders, Senator BYRD will be recognized to offer an amendment to Senator DOLE's amendment. This would fill up both sides of the amendment tree, and thus the amendment process, except for the available motion to recommit, and amendments thereto, which are not addressed by this understanding.

Although this understanding does not address a motion to recommit, I have requested and received from Senator DOLE his assurance that if a Republican Senator intends to make a motion to recommit, I will be notified in advance so that I will then be able to exercise my right under the rules to offer the two available amendments to that motion to recommit. I have given Senator DOLE my assurance that if a Democratic Senator intends to make a motion to recommit, Senator DOLE will be notified in advance.

Since a formal consent agreement could not now be agreed upon, we are proceeding under this informal understanding. However, Senator DOLE and I hope and expect that Senators on both sides of the aisle will honor this understanding.

Mr. President, I invite the comment of Senator DOLE to affirm the accuracy of what I said, or if it is not accurate to so state.

Mr. DOLE. The majority leader is correct. I wonder if we might modify it where it reads "Senator NICKLES," could it be "or his designee," or "Senator DOLE or his designee" be recognized, and that would not necessitate my being on the floor all that time?

Otherwise, according to the understanding we have had with reference to motions to recommit, the majority leader is correct. If there is any motion to recommit on this side, I assume we would notify him in advance, and if that slips through, we would put in an immediate quorum call after the motion to recommit is sent to the desk, and you could preserve your right, without being on the floor every minute. The same would be true, as the Republican leader, I would not have the same right of recognition as the majority leader.

Mr. MITCHELL. I have no objection to the modification stated by Senator DOLE.

The PRESIDING OFFICER. Without objection—

Mr. EXON. Reserving the right to object, I would like to make an inquiry.

As I understand the unanimous-consent agreement proposed by the majority leader, it provides for a sense-of-the-Senate matter to be introduced by someone from that side of the aisle, critical of or questioning the national economic plan announced by Governor Clinton, a candidate for President of the United States; and following that, there will be a half-hour for someone on this side of the aisle, the majority leader or someone else, to make some sense-of-the-Senate resolution regarding the economic plan of the President of the United States, and then both of those amendments of sense-of-the-Senate resolutions would be withdrawn; is that correct?

Mr. MITCHELL. That is correct.

Mr. EXON. Well, I shall not object, Mr. Leader, but it seems to me that going through these kinds of exercises and shams is further evidence of what this Senator has been talking about and complaining about for the last several days now, with regard to the fact that, among other things, we seem to work overtime around here making the U.S. Senate something more than I think most of us would like it to be, and that is a serious discussion and debate of the issues that confront the country.

So I shall not object, because at least the only constructive thing that I view for the amendment offered by that side of the aisle, which is critical, as I understand it, of Governor Clinton, and one on our side of the aisle, which is critical of the President, is more and more of an exercise in partisan politics that has this organization bound up to the place that it is almost beginning to be unworkable, if not unbearable.

The only good thing about it is that, for whatever reason that I am not sure I fully understand, there has been an agreement to limit the ceilings, and I suspect from that standpoint we are beginning to make some progress, even though it is, in my opinion, thinly disguised.

So I shall not formally object to the unanimous-consent request, but I do strenuously object to the lack of progress on the many matters that face this Nation. I yield the floor.

The PRESIDING OFFICER. The previous order is modified, as requested by the Senator from Kansas.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to respond to my colleague and explain the circumstances which led to the propounding of this agreement. Earlier today, Senator DOMENICI offered an amendment which deals with the national economic strategy proposal. He has a right to offer the amendment under the rules of the Senate.

I asked him to withdraw the amendment and to permit us to proceed to the consideration of the balanced budget amendment. He indicated that he still wished to proceed with the amendment.

I advised him that if he proceeded with that amendment, obviously, there would have to be counteramendment on this side to permit the case to be made from both sides. I would be very happy if both amendments were withdrawn without any debate; but a Senator has a right to offer an amendment and has a right to debate the amendment.

Senator DOMENICI has that right. Therefore, I then requested, in view of his statement that he insisted on going forward, as is his right, that we agree to an orderly consideration of it and limiting the time in the fashion so described. I believe I have accurately recounted my conversations with the distinguished Senator from New Mexico.

I will be glad to yield to the Senator from Tennessee, if he wishes, or to the Republican leader.

Mr. DOLE. Can I ask one nonrelated question? In the event that tomorrow we should receive from the House some legislation dealing with the work stoppage and the railroads, would it be the majority leader's intention to interrupt whatever we are doing to take care of that matter?

Mr. MITCHELL. Yes. But, obviously, I would consult with the distinguished Republican leader and the chairmen of the relevant Senate committees before making any decision in that regard, as is my usual practice.

Mr. DOLE. I would hope that my colleagues on this side and the other side, if they are in the midst of a big debate on this issue, would have an understanding that if in fact there was an agreement to take up legislation, that they would let us do that.

Mr. MITCHELL. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am delighted the Senator from Nebraska has not left the floor, because I would like to explain my version. I have the greatest respect for the Senator. We serve on the Budget Committee. I think he knows what we want to do.

Frankly, Mr. President, I do not think the Senator from New Mexico when he offered this proposal this afternoon was being silly. I regret that appears to the Senator that is the case. I actually believe in all honesty having read so much about this magnificent plan, I thought we ought to take a look at it. Frankly, we did.

So we put down his basic component and we thought we ought to ask the Senate of the United States today to look at it. I found myself in the position, because of the parliamentary processes here even though I have the right to offer the amendment, clearly my amendment was not going to be voted on for a long time, if ever.

I would like the Senator to know that is the case. I did not plan it this way. The rights are to fill the other tree. The trees are going to be filled and I was going to be left waiting.

I offered it in good faith. I am going to talk about it in good faith. I think there are things we ought to discuss. I intend to do that expeditiously and, in the meantime, the time was used to rearrange the debate that would have occurred on the balanced constitutional amendment so that everybody would not have to do those procedural things but they would be agreeing to them in advance. That is what took the additional time.

To the extent that is a burden on the Senator from Nebraska, I apologize. But, frankly, by the time I am finished with my 20 minutes this evening, I hope the Senate will at least concur that the Senator from New Mexico was serious and felt that while we were debating a constitutional amendment to balance the budget of the United States that an approach by a serious candidate claiming to be an economic revival plan that will get us the balanced budget, someday, that idea served an opportunity to present it.

That is all I am going to do, and I am only going to take 20 minutes and 10 minutes in rebuttal of theirs. That is the extent of time I will use.

I thank the Senator for listening.

Mr. MITCHELL. Mr. President, I yield to the Senator from Tennessee.

Mr. SASSER. I thank the Senator for yielding.

Frankly, I agree with what my distinguished friend from Nebraska has said here on the floor this evening. Here we are wasting time in the Senate this evening discussing in a partisan way the economic plan advanced by Governor Clinton, and tit for tat, we on our side will then discuss the economic program or lack of economic program of the President's budget.

All this comes on top of an exercise advanced by some on the other side of the aisle calling for a constitutional amendment to balance the budget that everyone knows is dead as a doornail for this year. So we are simply engaging in the same type of empty rhetoric, the same type of transparent partisanship that has so turned the American people off with both parties.

As a matter of fact, someone said in jest earlier this evening we ought to be debating Mr. Perot's economic plan. Of course, we do not know that it is. He has not offered it. I do not anticipate that he will offer one.

But it would make just as much sense, I think, to be debating his economic program or lack thereof than the ritual we will be going through this evening and beginning tomorrow, going on day after day after day, on this whole question of balancing the Federal budget by constitutional amendment, something that will not become a reality this year, something we all know, something the principal sponsor, Senator SIMON, acknowledged when the balanced budget initiative was defeated on the House floor.

But we will continue on down this track and just see what develops. What will develop is, as my friend from Nebraska has pointed out, a continued erosion of confidence in the leadership of the country, because we are not seriously addressing the issues that are important to the American people.

Mr. MITCHELL. Mr. President, I thank my colleagues.

Mr. President, has the agreement been approved?

The PRESIDING OFFICER. The agreement has been approved.

Mr. SEYMOUR addressed the Chair.

Mr. MITCHELL. Mr. President, I will now announce that there will be no further votes this evening.

Mr. President, I would like to get the agreement—obviously, we are in the debate, so I would like to get the agreement going so that the time that is used now will come off the time that is in the debate.

Mr. SEYMOUR. It is my understanding that section 515 of the bill prohibits the Director from disclosing to the public information provided by the enterprises that the Director determines to be proprietary. What types of information does this legislation contemplate would be treated as proprietary?

Mr. GARN. As a general matter, courts have construed various types of business information to be proprietary if it might cause competitive or financial harm to the company.

While the legislation contemplates that the Director will determine what information is proprietary consistent with current legal precedents applicable to other companies, section 515 is intended to protect especially information relating to pricing and fees. If one of the enterprises learned of the other's pricing and fee strategy, it would create an extraordinary competitive disadvantage.

Maintaining competition between Fannie Mae and Freddie Mac is essential because there are only two GSE's involved in mortgage finance. Congress created two GSE's expressly for the purpose of ensuring competition. This competition has resulted in lowering prices and enhancing efficiency to the housing finance market, which ultimately benefits homeowners and renters.

Mr. SEYMOUR. So, if I understand the Senator correctly, section 515 should ensure that information on pricing, fees and other key aspects of business strategy will be considered proprietary and therefore protected from disclosure to the public.

Mr. GARN. That is correct. By including this provision in the legislation, it was intended that the Director protect from public disclosure a broad range of information that might impair competition between these two GSE's.

Mr. D'AMATO. Under section 102 of the legislation, it is the primary duty of the Director to ensure that the enterprises are adequately capitalized and operating safely. Section 103 authorizes the Director to issue regulations concerning the financial health and security of the enterprises. What authority is provided to the Director under this legislation to enable the Director to carry out his responsibilities under these two provisions?

Mr. GARN. Titles II and III of this bill provide a comprehensive regulatory framework to ensure that the enterprises are adequately capitalized and operating safely. Title II sets forth specific capital standards designed to ensure that the enterprises are adequately capitalized. Specifically, section 202 sets forth the minimum capital level for each enterprise, which is fixed in the legislation. Section 201 requires the Director to establish, by regulation, risk-based capital standards in accordance with various assumptions and parameters relating to interest rate and credit risk. Under the legislation, enterprises that meet both the minimum and risk-based capital standards are adequately capitalized. In addition, title II provides the Director with a range of discretionary supervisory actions that can be taken to remedy a decline in capital below the levels set in the legislation.

Title III of the bill provides the Director with a complete set of enforcement powers necessary to ensure that the enterprises are operating safely. Title III authorizes the Director to take various enforcement actions, including the issuance of cease and desist orders and the imposition of civil money penalties.

The legislation contemplates that the express capital requirements and supervisory tools provided to the Director will be sufficient to ensure that the enterprises are adequately capitalized and operating safely. Of course, we fully expect the Director to promptly notify Congress of any additional regulatory authority that may become necessary to carry out the duties of the Director under the act.

Mr. D'AMATO. If I understand the Senator correctly, section 102 requiring the Director to ensure that the enterprises are adequately capitalized and operating safely does not provide some broad grant of authority apart from the express authorities granted under the bill. Am I therefore correct in concluding that if, for example, the Director determined that the minimum capital standards specified in the legislation were not sufficient to ensure the health and security of the enterprises, the Director would be required to recommend that the legislation be modified to change these capital standards?

Mr. GARN. That is correct. The legislation reflects the judgment of the Congress that minimum capital standards specified in the legislation along with the risk-based capital standards to be promulgated by the Director by regulation are sufficient to ensure that the enterprises are adequately capitalized. The Director is not authorized to change these standards in the absence of a change in the legislation.

Mr. D'AMATO. I noted that section 103 was amended on the floor as part of the managers' amendment to permit the Director to issue regulations concerning the financial health and security of the enterprises, including the establishment of capital standards. What was the effect of this amendment?

Mr. GARN. This was a technical amendment to the legislation intended to clarify that the Director had the exclusive authority to issue those regulations required by the act relating to the health and security of the enterprises. The amendment made clear that regulations relating to health and security included the capital standards. For example, under the minimum capital standards the Director is required to determine the amount of capital that the enterprises must maintain relating to certain off-balance-sheet obligations not otherwise expressly addressed in the minimum capital standard. Prior to the technical amendment, the legislation only mentioned the Director's authority to issue regulations under the risk-based capital standards. The amendment made clear that the Director has authority to issue required regulations with respect to the minimum capital standards as well. However, the amendment does not authorize the Director to issue any regulations to establish capital standards other than as expressly provided in the legislation.

Mr. D'AMATO. I thank the Senator from Utah for that clarification.

Mr. DOMENICI. Could the Senator from California have a minute?

The PRESIDING OFFICER. Under the previous order, amendment No. 2444 is withdrawn and the question occurs on the managers' amendment No. 2437, as previously amended.

The amendment (No. 2444) was withdrawn.

The amendment (No. 2437), as amended, was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thought the majority leader was going to ask for a minute for the Senator from California who was seeking recognition before we got on to this. It is not on my amendment. He wanted to speak and he was seeking recognition.

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the previous order, the Senator from California be recognized to address the Senate for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SEYMOUR. I thank the distinguished Senator.

Mr. President, I had asked to be recognized because I wanted to object to the unanimous-consent agreement. I wanted the opportunity to respond to the distinguished Senator from Tennessee and the Senator from Nebraska relative to their comments about this debate over a balanced budget amendment and their belief that this debate is a waste of time.

I want to set the record straight, Mr. President, and remind my colleagues that this debate, pertaining to a balanced budget amendment, and the desire to vote on this measure began last Tuesday. And it began in earnest, because it was important business to the American people. And, therefore, an important matter to be taken up by the U.S. Senate.

We all know, and even I know the short time I have been here, who runs this place. It is the majority party that occupies the opposite side of the aisle. And the truth of the matter is they just do not want a vote on this measure. So if they are frustrated by the fact that the debate is alive, and considered silly by the Senator from Nebraska, then so be it. All we want is to bring it up for a vote, but we know from the unanimous-consent agreement that, in fact, we will probably not even get that vote.

So I think we ought to be consistent, and not hyprocritical, and realize why this important measure will not be considered.

Mr. MITCHELL. Mr. President, I ask unanimous consent for 1 minute to respond to that.

Mr. SARBANES. Absolutely.

Mr. MITCHELL. Mr. President, time after time after time in this Senate, the Senator from California has joined other Senators in preventing the Senate from voting on legislation which a majority of the Senate favors—comprehensive crime legislation being the most recent example.

Is there any sense of fairness in the Senator from California exercising his rights under the rule to prevent votes from occurring on important issues time after time after time and then suggesting as he just has that there is something wrong with other Senators who use the same rules for the same purpose and the same effect? It is a suggestion of a double standard the Senator from California wants to use the rules when they operate to his favor, but then wants to deny to other Senators the right to the same rules when it is not to his favor. And the rules will apply to all Senators in the same way.

Just as the Senator from California has been able to join with a minority of Senators in preventing the Senate from voting on comprehensive crime legislation, which a majority of the Senate favors, which has passed the House, so also Senators can exercise the same rules on other issues. The rules apply to everyone, the same rules apply the same way to everyone.

Mr. SEYMOUR. Will the majority yield?

Mr. MITCHELL. Certainly.

Mr. SEYMOUR. With all due respect, I do not find any fault whatsoever with the application of the rules. What I was speaking to is the admonishment from the Senators from Tennessee and Nebraska that we are wasting our time. I was merely speaking that the application of the rules, with all due respect, the majority leader is in charge. He determines the rules. He sets the agenda. We can only react to that. If, in fact, we would have had this out of the way with all due respect, we would have had this out of the way last week in probably 1 day, had we been able to merely debate the constitutional amendment to balance the budget and bring it to a simple vote.

Mr. MITCHELL. Mr. President, of all the comments I have heard on the Senate floor, this does not make any sense, the statement that I, the majority leader, make the rules, takes the cake.

Mr. SARBANES. Sure does.

Mr. MITCHELL. I do not make the rules. I assure the Senator if I did make the rules, the Senate would operate in a much different fashion than it has.

And, secondly, I point out again the same rules have been used by the Senator from California to prevent a vote on the crime bill. Why will not the Senator from California join us in permitting the vote on the comprehensive crime bill that he has worked so hard to delay and to prevent the vote on?

Mr. SEYMOUR. That is because it is not the same crime bill we in fact voted on.

Mr. MITCHELL. I see. Now it is a different bill.

Mr. SEYMOUR. Indeed, it is.

Mr. MITCHELL. I yielded the minute out of courtesy, but I just wanted to set the record straight.

I would like to let Senator DOMENICI get going with his debate.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Is the comprehensive crime bill to which the majority leader referred the one that contained significant financial assistance for the Nation's police forces in order to enable them to address the crime problem across the country?

Mr. MITCHELL. Yes, it is.

Mr. SARBANES. It is the very one that police departments all across America are supporting?

Mr. MITCHELL. The police departments all across America are supporting it, yes.

Mr. DOMENICI. Will the majority leader yield on that point?

Mr. MITCHELL. I yield to the Senator.

Mr. DOMENICI. Someone on that side of the aisle has made the point on this crime bill that they are providing money for law enforcement people, policemen who walk the beats of America. That is an absolute joke. Whatever billions of dollars are in there, it is authorized, not appropriated. And you do not even need a new authorization because we have not even put the money in for law enforcement that is already authorized.

The last time I raised this point, the distinguished chairman, Senator BIDEN, sat down and did not even answer me because that is true. So the good Senator from Maryland does not have to make that point tonight. They cannot say they are for law enforcement and the President is not, when they cut his law enforcement budget by $171 million this year. They gave him less than he asked for.

Mr. MITCHELL. Mr. President, we will give the Senator from Delaware [Mr. BIDEN] a chance to respond.

Mr. DOMENICI. That is fine. I will give him some of my time.

Mr. MITCHELL. I would like to ask that this agreement now begin and let the debate commence.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair. I just want to say in jest to the majority leader that when he suggested that he did not make the rules, some of us—we did not say it very loud—but some of us were saying we are very pleased that you do not.

Mr. MITCHELL. You might inform the Senator from California.

Mr. DOMENICI. He merely meant that you interpret the rules. That is really what he meant.

AMENDMENT NO. 2446

Mr. DOMENICI. Mr. President, pursuant to the order, I send an amendment to the desk for myself, Senator DOLE, Senator SEYMOUR, and Senator NICKLES; and, while I am asking for its immediate consideration, it is understood that we will follow the unanimous-consent agreement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. DOLE, Mr. SEYMOUR, and Mr. NICKLES, proposes an amendment numbered 2446.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . NATIONAL ECONOMIC STRATEGY.

(a) It is the sense of the Congress that legislation should not be enacted that would:

(1) increase taxes on the American people and on small and large businesses over 4 years by a minimum of $150 billion;

(2) increase taxes by an additional $10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

(3) increase spending for various and sundry domestic programs over the next four years by over $190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

(4) increase Federal spending by nearly $200 billion for health care programs and impose another $100 billion in taxes on employers to partially pay for this spending;

(5) provide for a child tax credit or a middle-income tax cut that would add another $45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

(6) increase the Federal deficit and not achieve a balanced budget in this century;

(7) terminate only one Federal program (the honey price support program);

(8) reduce mandatory spending by less than one-half of one percent over the next four years;

(9) reduce defense obligational authority by $90 billion more than currently planned and in addition to the $220 billion of reductions already planned; and

(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes of my time and ask that the time clerk advise me through the Chair when I have used that.

Mr. President, I would not be here today offering this amendment on behalf of myself and the distinguished minority leader and others if Governor Clinton, the Democratic nominee for President of the United States, had not made such a big thing about having an economic game plan to rescue and save America, and if he had not indicated that the Congress of the United States, when he was President, would pass that plan in 100 days.

Now, Mr. President, I just wanted the U.S. Senate to know, since we must say one good thing about this plan, Governor Clinton and his advisers at least put forth a plan. So let us put that up and give him a very big star as we do to our good students. He submitted a written plan. But, beyond that, any indication that this plan is going to balance the budget of the United States, that it is going to provide for economic growth and vitality, is indeed a people-oriented budget, is absolutely a sham.

Now, for starters, let me suggest it is not a coincidence, Mr. President, and fellow Senators, that this plan covers only 4 years. Guess why it is 4 years? Because if you look at the current fiscal policy of the Nation you will find that those are the very best 4 years for the deficits of the United States, believe it or not. If he did not submit any plan for recovery, this budget would come down of its own under current policy to a low in 1996 to about $200 million. We are currently at about $350 billion, so he can right off the bat claim that he has cut the budget. The truth of the matter is, not one penny would get cut.

Now, having said that, there is nothing in any law that says you should get a 4-year budget. In fact, the law requires 5-year budgets. And if he would have just submitted a budget covering the fifth year, he would have to show the deficit going back up in the fifth year and then up some more in the sixth year and up some more in the seventh year. So it was selective so he could make it look like he really did something, when most of the reduction was automatic, occurring because we are no longer bailing out the S&L's and because an economic recovery was occurring. Point No. 1.

Second point: Let us read from the resolution that I sent to the desk. Does anyone believe that raising taxes $150 billion on businesses, large and small, and on the American people is going to cause this economy to grow and prosper? And it does not matter how much he says he is only going to get the top 2 percent of the taxpayers. It is now understood that those are small businessmen, sole proprietorships, subchapter S corporations, and they put all of their business profits in taxes. So you will be cutting the very people you want to add vitality to the American economy. Point No. 2.

Point No. 3: $10 billion on business, small and large, by way of a 1.5-percent payroll tax for some kind of training and education program. That is $160 billion in taxes. And then, lo and behold, as best as I can read it, there is $190 billion in loosely defined new programs to "put America back to work"—$190 billion in new programs.

Now, some of these programs are good. WIC is increased. Head Start is increased. But there is $190 billion new spending in 4 years. In the first year, it exceeds $50 billion in new expenditures that will be added to the deficit.

Fourth, I looked at it as diligently as I could with reference to health care reform. If I read it right, the health care reform program is one of those that is saying pay or play. If I understand it correctly, without any details, that is a $200 billion health care program and it would impose $100 billion in new taxes, and nothing in this budget as to where you would pick up the difference.

Fifth, a child tax credit or middle-income tax credit. It is diminished some over the previous declaration, but that is $45 billion in reduced taxes——

Mr. President, I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Forty-five billion dollars and nobody pays for it. No pay-as-you-go. Just $45 billion in tax cuts.

Actually, the Federal budget deficit is increased over 5 years and there is nothing in it that even gets you close to a balanced budget into the next century.

Then we find the real, real tough stuff in this budget. The only program I can find that is terminated is the good old honey price support program. He found that. It is terminated. It is the only one I find.

He reduces the mandatory expenditures, the non-Social Security entitlement programs, just get this, Mr. President, only one-half of 1 percent, $4.4 billion over 4 years, out of the entitlements and mandatory programs and he is going to fix our budget deficit problem. Absolutely incredible.

That alone sends this budget deficit plan, this economic recovery plan, into the ash heap of dead on arrival. Since every time one of the President's came up, it was dead on arrival, I thought that I would let everybody in this institution vote on whether this was dead on arrival even before it was ever presented. And I believe, if we would have a vote, it would be dead on arrival, because I do not believe the Democratic Senators would vote for this plan as the economic recovery plan of this Nation. All it really reduces is defense, and $90 billion out of defense.

Then I might close these opening remarks by saying there is a big asterisk. Senators will remember the asterisk of 1981. This one has one for unspecified administrative cuts, work force reduction, line-item veto of pork barrel projects—that is $10 billion—Federal agency energy conservation, freeze consultants, university projects, a big asterisk, takes care of the savings.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOMENICI. Mr. President, I yield myself 1 additional minute.

Now, Mr. President, I truly intended not to make this a game. We have already voted on the President's budget. We have a new budget that the Congress put in place. But if they would like to talk about it, they are welcome.

The truth of the matter is this would have been an opportunity to have a real debate about an economic game plan that will not work, that truly is as deceptive as it could be. Yet, it is being pronounced and announced as the great economic savior plan.

How much time do I have on my first 10 minutes?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. DOMENICI. Was that 2½ or 3½?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. DOMENICI. I yield the 2½ minutes to the Senator from California.

Mr. SEYMOUR. Mr. President, I commend the distinguished Senator from New Mexico for taking the mask off the largest tax increase that the American taxpayers will have seen in this century. What we have here is a proposal to raise $150 billion in taxes, spend $75 billion of that—that is half of it—and then claim savings for the remaining half. When will we ever learn that by raising taxes, you cannot create jobs?

We are going to be debating soon a constitutional amendment to balance the budget. What does this plan do to balance the budget? It does not even try. It does not even pretend to suggest we are going to have a balanced budget. As a matter of fact, after 4 years of "want to be elected President Clinton," what we will have is a deficit of somewhere between $75 and $141 billion.

So one more time we have a Democratic tax-and-spend proposal. Business really has not changed. They really have not gotten the message.

Mr. President, I yield the remainder of my time.

Mr. DOMENICI. I yield the remainder of my time to Senator DOLE.

The PRESIDING OFFICER (Mr. BRYAN). The Republican leader.

Mr. DOLE. I will wait for the next time. But it is my understanding the majority leader would have no objection if, at this moment, Senator SEYMOUR sends up the Nickles amendments, and then Senator BYRD is recognized.

The PRESIDING OFFICER. Without objection, the Senator from California is recognized.

AMENDMENT NO. 2447

(Purpose: To propose an amendment to the Constitution of the United States to require that the budget of the United States be in balance unless three-fifths of the whole of each House of Congress shall provide by law for a specific excess of outlays over receipts and to require that any bill to increase revenues must be approve by a majority of the whole number of each House)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. NICKLES, for himself and Mr. SEYMOUR, proposes an amendment numbered 2447.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BYRD. Mr. President, I object. It is a very short amendment. Let him read it.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"'ARTICLE —

"'SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"'SECTION 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"'SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"'SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"'SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"'SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"'SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principle.

"'SECTION 8. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after its ratification, whichever is later.'".

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. SEYMOUR. Mr. President, will the distinguished Senator from West Virginia yield to add a cosponsor?

Mr. BYRD. Yes; I will yield.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. SEYMOUR. Mr. President, I ask unanimous consent——

Mr. BYRD. No, I am recognized. I yield to him.

Mr. SEYMOUR. I thank the Senator for yielding.

Mr. President, I ask unanimous consent to add Senator PHIL GRAMM from Texas as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

AMENDMENT NO. 2448 TO AMENDMENT NO. 2447

(Purpose: To require the President to submit by September 2, 1992, a 5-year plan to balance the budget not later than September 30, 1998)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2448 to amendment No. 2447.

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

The Senate finds that—

(1) the President's 1993 budget estimates that the deficit for fiscal year 1992 will be $449,125,000,000;

(2) the national debt as of June 18, 1992 was $3,835,251,000,000;

(3) it is estimated in the President's budget supplement for fiscal year 1993 that the national debt subject to the statutory limit will be—

(A) $4,513,229,000,000 for fiscal year 1993;
(B) $4,856,863,000,000 for fiscal year 1994;
(C) $5,201,542,000,000 for fiscal year 1995;
(D) $5,549,928,000,000 for fiscal year 1996; and
(E) $5,917,713,000,000 for fiscal year 1997;

(4) no President since 1980 has submitted a balanced budget for the budget year to Congress; and

(5) the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

SEC. 2. BALANCED BUDGET PLAN.

(a) PRESIDENT'S PLAN.—The President shall submit not later than September 2, 1992, a 5-year deficit reduction plan, using the economic and technical assumptions contained in the President's 1993 budget, to balance the budget by September 30, 1998.

(b) ELEMENTS OF PLAN.—The plan shall consist of—

(1) reductions in discretionary spending including domestic, defense, and international spending;

(2) reductions in, and controls on, entitlement and other mandatory spending; and

(3) increases in revenues.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, does the order provide for the Senator from West Virginia to amend his own amendment without asking for the yeas and nays on the amendment first?

The PRESIDING OFFICER. The Senator is correct. That is in effect by unanimous consent.

AMENDMENT NO. 2449 TO AMENDMENT 2448

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2449 to Amendment No. 2448.

Mr. BYRD. Mr. President, it is a rather lengthy amendment. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the regular order, the Senator from New Mexico has 1 minute left of the original 10 minutes allocated to him. The Senator from Tennessee [Mr. SASSER] has the following 10 minutes; the 10 minutes thereafter, constituting 30 minutes, allocated and returned to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if Senator SASSER would object if I use 2 minutes off of my final 10 minutes and give that to Senator DOLE along with the minute I have.

Mr. SASSER. I have no objection.

The PRESIDING OFFICER. Without objection, the order will be modified as requested.

Mr. DOMENICI. The Senator gets 3 minutes and I have 8 in rebuttal.

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, there is no question about it, there is a recognition now that growth is the key to lower budget deficits and a healthy American economy. I certainly share the views expressed by the distinguished Senator from New Mexico [Mr. DOMENICI] that economic growth can help us reduce the deficit, but I think, as we get into this debate, that the old, worn-out tax-and-spend policies are not going to increase economic growth.

Some may call this putting people first, but the American people know this plan puts taxes first and economic growth last. One thing we do not need—and I notice it was repeated in the amendment just sent to the desk—is increased revenues. I do not know people demanding higher taxes, higher payroll taxes or higher corporate taxes. Enough is enough. The American people are demanding paychecks, not higher taxes. They know as well as any of us, increasing taxes results in more spending and bigger deficits. Some folks will tell you they are gong after the rich, the super rich, the fat cats on Wall Street, but we went through that debate when we passed the luxury tax, which we are now trying to repeal. You end up hitting the guy on Main Street: workers, employers, small business men, and small business women.

Almost any economist will tell you that our country's deficit is one of the biggest drags on our economy. In fact, those same economists would tell you that nothing would spark economic growth like a balanced budget. But, slashing the deficit is going to take discipline, hard decisions, tough votes and not empty promises. We need the discipline to bite the bullet on new spending, the discipline to take a good, hard look at entitlement programs, and, most importantly, the discipline to resist hitting up the American public for yet another tax increase.

It seems to me that Congress is going to have to bear some responsibility. We cannot make vague promises about health care costs—as made in the so-called Clinton plan—without at least identifying some costs. You cannot support expensive white elephant defense projects while promising to cut pork barrel spending. You cannot put people back to work by slapping more mandates on business men and women across America.

So it seems to me there is only so long you can continue saying, "Bill me later," especially when the bills are going to go to someone else: Our children, our grandchildren, and future generations.

I think the Senator from New Mexico has shown that the Clinton plan, is full of holes. It is going to cost a lot of money. There is not much reduction in spending, but big increases in taxes.

I think this is a worthwhile debate. The Members of the Senate should know in advance there is going to be a lot of debate about this. In fact, this is only a kickoff of what I hope is a debate, not only on the Clinton plan, but the Perot plan, the Bush plan, and all the plans, so that the American people will have a better understanding of what may lie ahead in the decade.

The PRESIDING OFFICER. The Chair informs the Republican leader that the 3 minutes allocated has expired.

Under the previous order, the Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. I thank the Chair, and I ask the distinguished occupant of the chair to advise me when I have utilized 5 minutes.

Mr. President, it has not escaped the attention of this Senator that this afternoon, at the Office of Management and Budget, the Director of that office summoned the press into his presence and began the same type of criticism of the Clinton economic program that we are hearing on the floor this evening.

It is my view that this is a coordinated political effort to discredit the only economic package that has been offered by the three candidates running for President. At least my good friend from New Mexico does give Governor Clinton credit for having offered a package. That is more than we can say for the President of the United States at this juncture and certainly more than we can say for the other candidate. But I think we clearly see what the strategy will be in this campaign, and that is what this exercise on the floor of the U.S. Senate is all about this evening.

I had occasion to watch a television program a Sunday or two ago that is hosted by one of the most eminent Washington correspondents, Mr. Bob Schieffer, of CBS News, and he is now hosting a program called Face the Nation, and, I might say, he does an outstanding job with it.

On this particular morning, Mr. Schieffer had on that program the Chairman of the Republican National Committee, Mr. Rich Bond. And, also, he had on that program Mr. Charles Black, a Republican political consultant, who is a leading person in President Bush's reelection campaign.

I was struck by the fact that for almost 30 minutes, all you heard out of either of these two individuals were critical, destructive statements leveled against both Governor Clinton and the other candidate, Mr. Ross Perot. At no time did we hear on that program any offering of a positive platform or positive program for the country that was to be offered by the President of the United States.

So I think what we are seeing here is the opening gun, perhaps, on the floor of the U.S. Senate in a campaign which will be characterized principally by criticism, by negative comment, and with little or no positive proposals on the part of the present occupant of the White House.

Once again, we are back with the old song: "They want to raise your taxes." That seems to be the battle cry of every campaign, and we might even in this one get into the question once again of "read my lips." I think we all remember that one: "Read my lips." Maybe we will recycle that one for the campaign of 1992 from the campaign of 1988 on the part of the present occupant of the White House.

What kind of taxes or revenues are being proposed by Governor Clinton? One, he proposes to increase taxes on millionaires, the so-called millionaires tax that passed this body and passed the House of Representatives and was vetoed by the President of the United States.

Let me show you, if I may, Mr. President, and share with my colleagues, the tax policy of the Reagan-Bush years and why there needs to be some redressment of the tax inequities that were built into their tax policy. I am indebted to my distinguished friend from Maryland, the chairman of the Joint Economic Committee, for sharing this particular chart with me. You will note that from 1980 to 1989, during the Reagan-Bush years, that pretax income for upper income groups rose from $300,000 to $560,000. But look at the Federal, total Federal taxes that same group was paying during that period of time. The amount of taxes they paid remained constant while their income was going up dramatically. Their pretax income went up 78 percent. Their Federal taxes were up 34 percent. Their after tax income up 102 percent.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SASSER. I will be pleased to yield to my friend on that point.

Mr. SARBANES. Mr. President, there is a very important point that needs to be made here because the other side of the aisle is constantly asserting that the rich are paying more taxes, the very wealthy. This is the top 1 percent in income.

Mr. President, I want to say right at the outset that that is correct. As this chart shows, for the top 1 percent, their total Federal taxes rose from $112,000 to $150,000 between 1977 and 1989. But, Mr. President, their income rose by a much greater degree. In other words, they are paying somewhat more taxes but they have gotten much, much, much more income.

Now, the logical extreme of this is if one person had all the income and paid all the taxes—and that is the direction in which we are moving in this country—their income rose from $315,000 to $560,000, an increase of $245,000, their taxes rose by $38,000, and the balance was an increase in after-tax income.

So people say, oh, well, the very wealthy are paying more in taxes. Yes, they are. But the reason they are doing it is because they are getting so much more in income, and in fact their income growth at 78 percent is more than double their tax growth. So their after-tax income has doubled, and that is what has taken place over the decade of the 1980's.

Mr. SASSER. I thank the Senator from Maryland for his comments.

Just let me share this chart with my distinguished friend from Maryland and other colleagues.

In 1981, the Reagan-Bush administration proposed a massive tax cut to trigger the so-called supply side theory, or supply side economic program.

Look at what has happened in the years since then. Between 1982 and 1989, the total revenue loss was $1.4 trillion. Between 1982 and 1991, $2 trillion in revenues had been lost as a result of that tax cut.

Mr. President, when you lay that tax cut down side by side with the massive increases in defense spending during the same period, then you see why the Federal debt has tripled under the stewardship, or lack of stewardship of Mr. Reagan and Mr. Bush over the past 12 years.

Mr. SARBANES. Will the Senator yield.

Mr. SASSER. I am pleased to yield to my friend from Maryland.

Mr. SARBANES. Mr. President, first of all, I want to make the point that Governor Clinton's proposal called for very significant curtailment of spending. The tax proposals he called for were an increase of taxes on the very wealthy, the top 2 percent, and the closing of certain corporate tax loopholes, including corporate deductions limiting them at $1 million for chief executive officers, ending the incentives for opening plants overseas——

The PRESIDING OFFICER. The Chair will inform the Senator from Maryland——

Mr. SARBANES. And tax avoidance by foreign corporations.

The PRESIDING OFFICER. The time has expired.

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for 8 minutes.

Mr. DOMENICI. Mr. President, I yield myself 4 minutes.

Mr. President, first I want to talk just for a minute on the President's budget. They indicate that it has not been submitted. Actually, if you look at the President's next 4 years, I just want to remind the Senate that the President in this document reduces the actual spending of the Federal Government, the deficit reduction, including his mandatory cap and other items, $16, $44, $77, $106 billion, for a total of $243 billion in deficit reductions. And that is already provided for in detail.

I would submit that the Governor of Arkansas submitted his plan. It is about yea thick. I repeat, it had one program cut, and that was the honey bee subsidy program.

We will talk about the President's budget later, but I want to talk about the Clinton proposal.

Let me go through it again. First, everyone should understand that if we did nothing, the Federal deficit that he is operating off of would come down dramatically from where it is to $200 billion in the fourth year of the next President. So if you did nothing to reducing the deficit, the point of it is, it starts up again dramatically and reaches $500 and $600 billion a few years thereafter. So we picked the 4 best years.

Second, no matter how you coat it, $150 billion in new taxes. No matter how you color it, there is an increase in domestic spending of $190 billion. No matter how you cut it, the big reductions are in defense spending, $90 billion more than the $220 billion proposed by the President—more than anyone, except two Democratic Senators, has dared recommend with reference to cutting defense.

Overall, you add another $1 trillion to the deficit. And in the process there is some claim that magically you are entitled to the good old rosy economic scenario.

So in addition to having a big asterisk, and I just described that one, with a whole bunch of cuts that you just cannot understand, the rosy scenario is added. Somehow or another, when you elect this man President, the economy is going to start to grow and you get five-tenths of a percent more growth than the CBO or OMB. And obviously, if you are fortunate enough to get that and get it right off the bat, you will reduce the deficit substantially without cutting anything.

So when you add it all up, I came to the floor today intending to provide the Senate and, to the extent possible, the American people and, to the extent possible, Governor Clinton and his advisers an opportunity to tell it like it is. This is no budget reduction or budget deficit plan. It is a plan to spend more money and, albeit for good causes, to raise taxes, to create some incentives that are supposed to cause everything to work and to reduce defense dramatically and when you are finished with that you somehow or another have this people-oriented budget.

Now, I want to close with one last rebuttal on the charts which we have seen so many times. Let me suggest, who would not take today the American economy of 1983, or 1984, or 1985, or 1986, or 1987. The truth is you can put up all those charts you want about the Reagan years, what happened to taxes. We did not redistribute the wealth. We did not set about like they always do, saying let us take from the rich and give it to somebody else. We cut taxes across the board and, believe it or not, 20 million new jobs, a $1.6 trillion increase in the gross national product. We grew by the size of West Germany. Frankly, I think the Americans would welcome that kind of era back any day, any time.

This Clinton budget will not come close to producing the kind of prosperity that existed in that time. Little by little, in the ensuing months, we will talk about all the other negative claims of that era, most of which are untrue, and for the most part, the economics of that era were positive for the American people. We will have a chance to talk about that later.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DOMENICI. I wonder if they might let me add to my 10 minutes at the end because I am missing a Senator who wants to speak. If you do not care to, I will use my time up now. I wanted to add 3 minutes to the 10 minutes of rebuttal. It will give you 3 if you would like it.

Mr. SASSER. Does the Senator want to add 3 minutes to the end?

Mr. DOMENICI. I would like to tack it onto the next 10 minutes that I have. So the next 10 minutes would be 13, so I could yield part of it to another Senator.

Mr. SASSER. That is satisfactory.

Mr. DOMENICI. I yield back the time now.

Mr. SARBANES. And take 3 minutes additional in the next debate?

Mr. DOMENICI. I do not have any objection. The other side is getting 3 minutes more than we are, but that is all right.

The PRESIDING OFFICER. Without objection, it is the Chair's understanding that the Senator from New Mexico reserved 3 additional minutes for the next series of debates related to the amendment to be offered, and that the Senator from Tennessee [Mr. SASSER] will have an additional 3 minutes time heretofore allocated to him.

Mr. DOMENICI. Mr. President, the Senator has arrived. I withdraw my request, and yield 3 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, some might think it is a tall order to describe Bill Clinton's economic program in 3 minutes but it is an easy task.

Bill Clinton committed to the Nation's mayors $220 billion worth of new spending over the next 5 years. If you take that commitment and add it to the built-in growth in the Federal budget that he would face if he becomes President, there are two things you can say about his program.

First, under the commitments he has made, the first year of a Clinton Presidency will witness the largest dollar increase in Federal spending in American history.

Second, the program he outlined to raise taxes would not only be the largest tax increase in the history of the Nation, but 67 percent of that tax increase would fall not on John Vanderbilt Du Pont, but it would fall on Joe Brown and Son, hardware store, I repeat, 67 percent of his proposed tax increases would fall not on rich people, but on small independent businesses and family farms, many of whom use subchapter S of the IRS Code to allow them to file taxes as an individual.

So you can sum it all up very simply as this: We are used to tax-and-spend Democrats, but Clinton has broken the mold. He promises to spend more in a shorter period of time than any President in America history has ever spent, and he promises to tax more in a shorter period of time than any President in American history has ever promised.

So if we want more taxes and more spending at a level unprecedented in the history of the country, Bill Clinton has told us that he is the one for the job.

I do not want the largest increase in Federal spending in American history in 1993. I do not want the largest tax increase in American history in 1993. I especially do not want tax increases that fall on small independent businesses and family farmers—67 cents out of every dollar Bill Clinton would take would be from small independent businesses and family farmers.

I am against those things. I think the American people are against them. This is an interesting program, not terribly well developed. But I think when people understand it, Bill Clinton is not going to be elected President of the United States.

I reserve the remainder of my time.

The PRESIDING OFFICER. The time allocated to the Senator from New Mexico has expired, and the Senator is recognized for the purpose of withdrawing his amendment.

Mr. DOMENICI. I withdraw the amendment as previously agreed to.

The amendment (No. 2446) was withdrawn.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for the purpose of offering an amendment, and the Chair understands the time constraints previously agreed to. The Senator from Tennessee is recognized for 10 minutes, and the Senator from New Mexico is recognized, and the Senator from Tennessee is recognized for rebuttal.

AMENDMENT NO. 2450

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee, [Mr. SASSER] proposes an amendment numbered 2450.

At the appropriate place insert the following:

"SEC. . PRESIDENT'S BUDGET.

"(a) It is the sense of the Congress that the Bush budget should not be enacted as it:

"(1) fails to invest in human or physical infrastructure which is critical to increased productivity and economic growth;

"(2) offers no plan to deal with health care costs or access;

"(3) allows the national debt to increase to $5.918 trillion by 1997;

"(4) leaves a budget deficit of $303.6 billion by 1997;

"(5) proposes a revenue hemorrhaging capital gains tax cut for the same wealthy Americans who benefited from the misguided policies of the 1980's;

"(6) reduces defense spending by only $26 billion from 1992 through 1997 and spends a total of $1.4 trillion over the next five years, despite the collapse of the Soviet Union;

"(7) offers no plan for converting our defense industry and personnel to a civilian economy;

"(8) cuts medical care to the elderly and raises the hospital insurance tax, for a total of $22 billion in savings; and

"(9) relies on a dubious accounting gimmick to claim $38 billion in false savings.".

Mr. SASSER. Mr. President, it is stated in our sense-of-the-Senate resolution—I ask the distinguished Presiding Officer to advise me when I have 5 minutes remaining—that the budget offered this year by President Bush frankly proposes virtually nothing to get this economy moving again.

As a direct result it leaves the on-budget deficit at some $300 billion even by fiscal year 1997.

My friend from New Mexico was talking a moment ago about the great performance of the 1980's, the Reagan years. I would be willing to go back to the Reagan years. Anything is better than the economic stagnation that this Nation has experienced over the last 3½ years under the economic programs and domestic programs of the Bush administration.

Let me give my colleagues an example of what I am talking about. This administration, the Bush administration, has had the worst economic record of any administration since the Second World War; indeed, the worst economic record of any administration since that of Herbert Hoover.

Let us just look at the economic growth records of Presidents beginning with Harry Truman, following the Second World War. Let us look at the average annual real per capita GNP growth, or growth in the gross national product divided by the number of people. That growth in GNP divided by the population is what gives you an idea of the increase in the standard of living of our people.

The highest growth period occurred during the administration of Lyndon Johnson, 3.4 percent; next was President John Fitzgerald Kennedy, 3.3 percent; next was Harry Truman, 2 percent; Ronald Reagan came in at 1.8 percent; Jimmy Carter and Richard Nixon both at 1.6 percent; Gerald Ford at less than 1 percent, seven-tenths of 1 percent; President Eisenhower's 8 years came in with very slight economic growth, two-tenths of 1 percent; and look at George Herbert Bush. There is an actual decline in real GNP growth during the 4 years of his administration of three-tenths of 1 percent. That is the first time that has happened in any administration since that of Herbert Hoover.

So no wonder this President's favorable rating in the polls is sagging and going through the floor, the lowest of any incumbent President in recent memory.

We have also seen an explosion in the Federal deficit during the years that President Bush and his administration have been in office. We see no hope in the future on the horizon under the proposals, budgetary proposals, being offered, and the economic proposals, or lack thereof, of this administration. We see no hope in the future that this terrible, lackluster economic record is going to be reversed.

Mr. President, there are a number of Senators on the floor, and I do not wish to take up an undue amount of time.

I see my friend from Maryland here and also the distinguished Senator from Iowa. I would be pleased to yield to the distinguished Senator from Maryland 3 minutes at this time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 minutes.

Mr. SARBANES. Mr. President, I thank you very much, and I thank the chairman of the Budget Committee.

This is a very important chart, because it shows that under President Bush is the only time in the entire post-World War II period that an average annual real per capita GNP growth has been negative. That has not happened with any other President, from Truman through Reagan. But it has been negative under Bush. It really underscores the point about the President's sensitivity and understanding of the economy.

On June 4 of this year, the President held a nationally televised press conference in the evening. In the course of that press conference, he said, "I think about the economy." He was responding to questions that 70 percent of the American people thought the economy was getting worse. The President said, "I think it is getting better. I think the economy is improving." This was on Thursday evening.

On Friday morning, the next morning, the Bureau of Labor Statistics reported the monthly unemployment figure, and it went to 7½ percent, the monthly unemployment figure. The night before, the President is saying: well, 70 percent of the American people think the economy is getting worse, but I know it is getting better.

The next morning we get a figure, and it has jumped to 7½ percent. That is the highest monthly unemployment figure in this recession—the highest.

This recession started in June 1990, 2 years ago. The unemployment figure was 5.3 percent, and it has risen over this period of time and is now up at 7.5 percent. The long-term unemployed, people unemployed 27 weeks or longer, has risen from 600,000 people to almost 2 million.

Yet, the President is now threatening to veto an extension of the unemployment insurance bill. He is threatening a veto. He vetoed it last fall. This is what is happening to long-term unemployed, people out of work for 27 weeks or longer. It has risen now to almost 2 million people. Yet, the President holds this press conference the day before, the evening before these figures are announced, and tells the American people that the economy is getting better.

Whatever criticism you may make about Governor Clinton's economic program, the fact is that he is concerned about this unemployment problem, and he wants to put the American people to work, and jobs are at the center of this proposal.

We have all this screaming and moaning on the other side and, of course, they want to portray it in a certain way and paint it in a certain light. They are screaming about the taxes on the top 2 percent of the population. Do not let corporations take deductions for paying more than a million dollars in salary to the chief executive officer.

And the incentives in the Tax Code for opening plants overseas prevent tax avoidance by foreign corporations. What is the basis of protecting that sort of thing? Tax avoidance by foreign corporations; incentives to open plants overseas; take deductions for paying over $1 million to the CEO's; protect the top 2 percent of the income population, who have gotten such a disproportionate benefit through the 1980's.

Of course, there has been a redistribution of wealth. There has been a redistribution of wealth to the very top of the income scale. And the middle-income and working people are the ones who have paid the price.

But the biggest price they are paying is a President who tells us the economy is getting better, when the unemployment rate has now gone to the highest level in the course of this recession, at 7½ percent; when the long-term unemployed has risen from 600,000 to almost 2 million people.

The PRESIDING OFFICER. The Chair informs the Senator that the time allocated has expired.

Under the previous order, the Senator from New Mexico is recognized for a period of 10 minutes.

Mr. DOMENICI. I yield 4 minutes to the Senator from Texas.

Mr. GRAMM. I want to make two points, Mr. President.

First of all, our dear colleagues on the left, who are criticizing the President and praising Governor Clinton, are really praising a proposal by Governor Clinton to put Americans to work by increasing Government spending by $220 billion and by raising taxes, so that the Government can become a more dominant force in the American economy.

Our colleagues on the left here must feel very much alone tonight, because only in Havana, Cuba, and North Korea do we have any other organized political discussion on the face of the Earth where people still get up and argue that government is the answer to every problem. Eastern Europe, the Russian Republics, Albania, Central America have all rejected the Clinton policy and yet, our colleagues here on the Democratic side of the aisle still believe that if Government will just tax more and spend more, we will reach economic health.

The second point I want to make is, what is this nonprogram that the President supposedly has that has failed?

Well, let me just read some of the things that the President has proposed to try to put Americans back to work, which our colleagues here on the Democratic side of the aisle have prevented from becoming the law of the land.

The President has proposed cutting the capital gains tax rate to encourage people to invest in creating new jobs in America. Never in the 20th century have we cut the capital gains tax rate and not put more Americans to work. The President proposed a 15-percent credit for new investment. Congress refused to adopt it.

The President has proposed a permanent 20-percent tax credit for research and experimentation. The Congress has refused to adopt it.

The President proposed lowering the alternative minimum tax, extending the targeted job tax credit, adopting enterprise zones to use the same free enterprise system they are trying to use to rebuild Eastern Europe in our own cities. Our colleagues are willing to allow free enterprise to work in Eastern Europe. They simply reject it for the cities in the United States.

The President proposed to give the peace dividend back to working families by raising the child care deduction by $500. Our colleagues want the Government to spend it believing that the Government can do a better job of investing in the future of the American families. The President proposed penalty-free withdrawals from IRA's, for medical care, for home purchase, for educational needs. Congress has rejected those proposals.

The President has proposed that we restore the doubling of the adoption deduction to encourage people to adopt children. The President has proposed numerous changes related to health care. In fact, we have tried many times to deal with the exploding liability problem that faces American business, all of our schools, and all of our health care, but a filibuster on the Democratic side of the aisle has prevented us from dealing with this problem.

So Mr. President——

Mr. CONRAD. Mr. President, will the Senator yield for a question?

Mr. GRAMM. I do not yield, because I only have 4 minutes.

Mr. President, President Bush has an economic program, but the Congress has refused to debate it and to adopt it. In those areas where the President has had unilateral power under the Constitution in foreign policy and defense policy, areas where he also has not had the support of the Democrats in Congress, he has been able to produce miracles. But without support for his domestic policies, Congress has stopped similar results at home.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

The Senator from California is recognized for 2 minutes.

Mr. SEYMOUR. Thank you, Mr. President. I extend my thanks to the distinguished Senator from New Mexico.

Mr. President, there is one thing that I will agree on with my colleagues on the other side of the aisle, that this economy is the pits, unemployment is too high, and we must do something about it. That is why we are here tonight, to debate what measures are best for this country. What I have been proposing is to cut taxes. I think that is one way to create jobs. Whether it is a reduction in the capital gains tax, whether it is a first-time home buyers tax credit of $5,000, whether it is a use of the investment tax credit, we want to cut taxes.

I think that by leaving dollars in the taxpayers' pockets, the private sector is better able to create jobs and spur economic growth than the Federal Government.

My friends on the opposite side of the aisle believe the opposite. They believe the way to encourage economic growth and jobs is by taking more money out of people's pockets and recycling those dollars back out through failed Government programs.

So the choice is simple. Either we can talk on one hand about want-to-be-President Bill Clinton's proposal which consists of raising taxes $150 billion, continued deficits even after his first 4-year term and continuation of pouring money into wasteful Government programs. Or, we can take the alternative approach of cutting taxes, and leaving those tax dollars in the hands of the citizens of this country, the entrepreneurs of this country, who I believe are better equipped and know better how to create jobs.

The PRESIDING OFFICER. The Senator has used the 2 minutes allocated to him.

The Senator from New Mexico is recognized for the balance of his time.

Mr. DOMENICI. Mr. President, might I first answer some remarks made by my friend from Maryland. He put up a chart that shows that unemployment went up while the President, the day before, was talking about the economy improving.

The Senator from Maryland is a very distinguished Senator in terms of economic matters and he knows full well that every economist in the United States will verify that during that period of time, that quarter that the President was talking about, the American economy grew. As a matter of fact, that very quarter the American economy grew at over 2 percent, approaching 2½ percent, and that is what the President was talking about. To stand up there and say that he was intentionally deceiving the public when he was telling the truth, and the unemployment increase that occurred, all economists will say occurred while the American economy was growing and improving.

Mr. SARBANES. Will the Senator yield?

Mr. DOMENICI. I do not have enough time.

Mr. SARBANES. Since he used my name.

Mr. DOMENICI. I do not have time. I only have 4 minutes.

Mr. SARBANES. If the Senator is going to make outrageous——

Mr. DOMENICI. I did not.

Mr. SARBANES. He ought to give me an opportunity to respond.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. DOMENICI. When I finish here I will yield. They have 10 minutes to answer. I am sure they will yield to the Senator from Maryland.

Mr. President, I want to make a couple remarks I think the American people ought to hear. You know we are talking about America today as it she is in some tremendous strait of doldrums, that we are worse off than anyone in the World. We constantly talk as if we were as good as this or that. Let me tell you right now, today the American people have the highest standards of living in the World. I am sure many Americans would not believe that, because the other side has been telling them for months on end how bad we are. Highest standard of living in the World. Productivity of our manufacturing workers and manufacturing business, highest in the World. You would think from what has been said that the Japanese have us beat. Already we are dead. As a matter of fact, the problem is they are catching up but we are still the highest.

How about how many Americans are working? We talk about unemployment—117,600,000 American men and women got up yesterday and went to work. In proportion to our population, the highest number of any country in the World.

Guess how many businesses in the United States are owned by women as of 2 years ago? Today 4.8 million women own businesses in America, up 45 percent in one decade. Now we talk about the wage gap between men and women. It was closed by 70 percent in the decade that they get up and whine and wimp about which was so terrible for the American people. And we can go on and on.

What we are really talking about tonight in essence is will a game plan by the Democratic nominee, Gov. Bill Clinton, improve American's livelihood, their standards of living, their status in the World, or will it do nothing but increase the deficit and spend more money?

I choose to say that unequivocally that plan is not a plan to cut the deficit of the United States which the other side has been saying is the most important thing we ought to do. It will not cut the deficit. It will add to the deficit, the largest new spending by the Government ever. It will increase taxes. And, as I see it, the current America which leads the World in exports—that is another surprising one; everybody would talk about we are out of it—we are the leading exporter in the World. I submit adopt the Clinton plan and instead of those positives remaining they will start going the other way.

Mr. President, I ask unanimous consent to print in the RECORD an article from Policy Bites entitled, "Is U.S. Income Inequality Really Growing?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Policy Bites, June 1992]

IS U.S. INCOME INEQUALITY REALLY GROWING

(By Isabel V. Sawhill and Mark Condon)

It is widely believed that U.S. incomes have become more unequal since the early 1970s. This conclusion is based on studies by the Ways and Means Committee, the Congressional Budget Office, a variety of think tanks, and countless academics. Each has used Census data on incomes to measure how different income groups have fared over the past decade or two.

Liberal politicians cite these studies as evidence that American society is becoming more stratified, that the rich are getting richer and the poor poorer. Conservatives respond that these analyses are flawed—arguing that they fail to recognize the tremendous individual mobility hidden within the averages.

This debate on what has been happening to the distribution of income is not new. At issue is not just the facts but how to interpret the facts. Here we seek to clarify the debate by looking at data on a sample of individuals whose incomes were tracked between 1967 and 1986. Based on our analysis to date, the story is as follows:

1. If we rank all the jobs or other income-producing opportunities in society from highest to lowest, we find a growing gap between the top and the bottom. The rewards for success or good fortune have gotten larger and the penalties for failure or bad luck have grown correspondingly.

2. When society's reward structure is highly unequal it puts a big premium on individual income mobility. As long as there is a lot of mobility, an unequal reward structure is not necessarily a problem. If there is little mobility, then it is. Individual mobility in the United States falls somewhere between "a lot" and "a little." Many people do move from one income stratum to another. When one follows individuals rather than statistical groups defined by income, one finds that, on average, the rich got a little richer and the poor got much richer over both the decades for which we have data.

3. Lifetime incomes may still be getting more unequal, however. If the reward structure is getting more unequal, lifetime incomes are going to be more unequal unless growing wage inequality is offset by more mobility between jobs or other income-earning opportunities. We find no evidence that individual mobility increased between the 1970s and the 1980s.

THINKING ABOUT FAIRNESS

Joseph Schumpeter, a famous economic historian, once likened the distribution of income to rooms in a hotel—always full but of different people. In a hotel in which all the rooms are alike it doesn't matter which one you occupy. But in most hotels, as in most societies, some rooms are exceedingly luxurious, others are quite shabby, and which room you end up in matters a lot. Fairness requires that you have an opportunity to change rooms. For example, if you started our occupying a shabby room when you were young but graduated to increasingly more luxurious rooms as you got older, this could be considered perfectly fair. Or if everyone took turns spending a few nights in the room with the bedbugs and the lousy mattress, no one would complain. Over a sufficiently long period of time (say, a lifetime) everyone's experience would be the same. But, if the best rooms were always reserved for the privileged few and the shabby ones for the unfortunate many, some might question the fairness of the arrangements. What about the hotel we call the U.S. economy?

HOW INEQUALITY IS USUALLY MEASURED

To measure inequality, the U.S. Census Bureau each year looks at the hotel registry to see how many people are occupying each type of room. It ranks all families by their annual incomes from highest to lowest and sorts them into statistical groups. The 20 percent of all families with the lowest incomes are called the bottom quintile, the next 20 percent of families are called the second quintile, and so on . . . until all families are sorted into one of five quintiles. Later this year, the Census will re-rank all these families (as well as any new ones) according to their 1991 incomes. To test whether economic inequality has risen, the average income of each quintile in 1990 will be compared to the average income of that same quintile in 1991, even though each quintile may now contain a different set of individuals. These are the kinds of calculations that have been used to conclude that "the rich are getting richer and the poor poorer" over the last decade or two.

We need other data to track the process of who is changing rooms or quintiles. The University of Michigan's Panel Study of Income Dynamics (PSID) has followed a representative group of households since 1967. From this survey, we have selected all individuals, ages 25 to 54, in two years, 1967 and 1977, and then calculated what happened to their incomes over the subsequent decade (1967–76 and 1977–86, respectively).

THE HOTEL NOW HAS A GREATER VARIETY OF ROOMS

If, following the standard method of measuring inequality, we rank all these PSID individuals into income quintiles in each year and then calculate the percentage increase in average income for each quintile, we get a similar pattern to what one sees in Census data. Like the Census data, the PSID data suggest that after growing between 1967 and 1976, the average income of the bottom quintile declined between 1977 and 1986. In both periods, the average income of the top quintile grew rapidly.

What has caused this growth in income inequality as conventionally measured? Most analyses have shown that the main cause is the growing inequality of earnings. Although the tax system is a little less progressive than it was in the past and the safety net somewhat frayed, these changes have not been as important as the increasing gap between the wages of higher-paid and lower-paid workers.

Put simply, the economy now offers people jobs that vary more widely in terms of quality and pay. The economy increasingly resembles a hotel with luxury suites for some and substandard rooms for others, rather than a roadside motel with rooms of uniform quality. The less equal distribution of earnings, in turn, appears to be related to technological changes and international competition, which have put a high premium on education and experience. The rewards for both have been increasing since the late 1970s. Unless income mobility has increased in ways that offset these structural changes in the economy, lifetime earnings may becomes increasingly unequal.

PEOPLE SWAP ROOMS OFTEN

Individual mobility in the United States is substantial (Table 1). The white cells in the table show the proportions who did not change quintiles. For example, the number in the top left hand cell of the table represents the proportion (11.2/20 or 56 percent) of individuals in the bottom quintile in 1967 who were still in that quintile in 1976.

In both decades, some three out of five adults changed income quintiles. A little less than half the members of the bottom quintile moved up into a higher quintile, and about half the members of the top quintile fell out of that quintile. In both periods, more than two-thirds of those who started out in the middle quintile had moved up or down into a different quintile by the end of the period.

If mobility between income classes is a glass that is half full, it is also half empty. A little more than half the occupants of the bottom quintile had not risen out of that quintile ten years later, and half of the occupants of the top quintile remained there ten years later.

Nonetheless, the mobility that did occur ensured that over both decades, on average, the poor (here defined as those in the bottom quintile at the beginning of each decade) grew much richer, by 72–77 percent. The rich (defined as those in the top quintile at the beginning of the decade) grew a little richer, by 5–6 percent. (See Table 2).

These figures will not surprise the experts. Any significant mobility should lead to the same pattern. People who start at the bottom have nowhere to move but up, and are likely to do so as they become older, gain work seniority, and earn higher incomes. People who start at the top, some of whom may be there because of temporary sources of income like capital gains, have nowhere to go but down. This pattern, however, may be surprising to the general public, which has been led to believe that the poor were literally getting poorer over the last decade or two, and that the incomes of the rich were skyrocketing. This is simply not true.

PEOPLE DO NOT SWAP ROOMS MORE OFTEN THAN IN THE PAST

While mobility was substantial in both periods, U.S. mobility has not been increasing over time (see Table 1 again). In fact, there is little discernible trend in mobility at all. The slight changes between decades are too small to be meaningful, and depend to some extent on the age limitations of our sample.

The absence of any upward trend in income mobility suggests to us that lifetime incomes are becoming more unequal. The reasoning is straightforward. The bad jobs in our economy are now paying less in real terms than they did in the early 1970s and the people who hold them aren't moving out of them with any more frequency than before. We can expect their lifetime incomes to be lower than those of people who held these jobs in the past.

The good jobs in our economy are now paying a lot more than they used to and the people who hold them don't appear to be moving out of them with any more frequency than before. Their lifetime incomes will be a lot higher than the lifetime incomes of their earlier counterparts. The result, then, of higher pay at the top and lower pay at the bottom is greater lifetime income inequality.

To partially test this hypothesis, we averaged the total income of each individual in our sample over two ten-year periods, 1967–76 and 1977–86, and then ranked all individuals into five quintiles in both periods (Table 3). By averaging income over a ten-year period, we take account of each person's mobility over that period and get a more permanent measure of income. Looked at over a 10-year period, the average person had a family income of $46,260 in the first decade and $52,125 in the second decade. In the second period, however, there was greater inequality. This finding suggests that lifetime incomes are becoming more unequal. So, while the annual income distributions may mislead the public about how much mobility occurs, they do accurately reflect an increase in inequality in the U.S.

A ROOM OF ONE'S OWN IS NOT NECESSARILY A ROOM WITH A VIEW

While many individuals swap rooms over time, the degree of mobility in the U.S. economy is not sufficient to ensure everyone a room with a view. Although the poor can "make it" in America, and the wealthy can plummet from their perches, these events are neither very common nor more likely to occur today than in the 1970s.

Indeed, since the rooms at the top have an increasingly nice view, while the ones at the bottom have deteriorated, some will conclude that the hotel we call the U.S. economy has become a more class-stratified place to live. Others will argue that the lure of a better view is what induces people to try to change rooms in the first place.

Whether the notion of class is half full or half empty depends on your perspective.

TABLE 1.—DISTRIBUTION OF INDIVIDUALS IN FINAL YEAR BY QUINTILE LOCATION IN STARTING YEAR

Family income quintile in 1967	Family income quintile in 1976					
	Bottom	Second	Third	Fourth	Top	All
Bottom	11.2	5.2	2.0	1.3	0.3	20.0
Second	4.1	6.0	5.0	3.0	1.7	19.8
Third	2.5	4.2	6.0	4.9	2.4	20.1
Fourth	1.3	2.9	4.7	5.9	5.2	20.0
Top	0.9	1.8	2.1	4.8	10.4	20.0
All	20.0	20.0	19.9	20.0	20.0	100.0

Family income quintile in 1977	Family income quintile in 1986					
	Bottom	Second	Third	Fourth	Top	All
Bottom	10.6	5.0	2.2	1.3	0.8	20.0
Second	4.3	6.0	5.1	2.9	1.7	20.1
Third	2.9	3.8	5.9	4.8	2.6	20.0
Fourth	1.0	2.9	4.3	6.8	5.0	20.0
Top	1.2	2.2	2.5	4.1	10.0	20.0
All	20.0	20.0	20.0	20.0	20.0	100.0

Note.—Sample limited to adults, ages 25 to 54 in starting year.

Source: Urban Institute.

TABLE 2.—AVERAGE FAMILY INCOMES OF INDIVIDUALS BY THEIR QUINTILE POSITION IN STARTING YEAR (1991 DOLLARS.)

Quintile	Average family income of:		Percent change
	1967 quantile members in 1967	1967 quintile members in 1976	
Bottom	$14,544	25,082	72
Second	26,979	41,018	52
Third	35,900	48,492	35
Fourth	46,115	57,839	25
Top	72,772	76,915	6
All	39,262	49,869	27

Quintile	Average family income of:		Percent change
	1977 quantile members in 1977	1977 quintile members in 1986	
Bottom	$15,853	27,998	77
Second	31,340	43,041	37
Third	43,297	51,796	20
Fourth	57,486	63,314	10
Top	92,531	97,140	5
All	48,101	56,658	18

Source: Urban Institute

Note.—Sample eliminated to adults, ages 25 to 54 in starting year.

TABLE 3.—REAL FAMILY INCOMES OF INDIVIDUALS AVERAGE OVER 10 YEARS (1991 DOLLARS.)

Quintile	Average annual family income.		Percent change
	1967–76	1977–86	
Bottom	$18,293	18,579	2
Second	32,785	34,084	4
Third	42,636	46,082	8
Fourth	54,100	60,594	12
Top	83,486	101,286	21
All	46,260	52,125	13

Source: Urban Institute

Note.—Sample eliminated to adults, ages 25 to 54 in starting year.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. Mr. President, a number of Senators wished to speak. I yield to the Senator from Maryland 30 seconds, 3 minutes to my friend from Iowa, 2 minutes to my distinguished colleague from Michigan, and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 30 seconds.

Mr. SARBANES. Mr. President, I appreciate it.

I did not at any point say that the President was intentionally misleading the American people when he said on Thursday night he thought the economy was getting better, and on Friday morning we had the highest unemployment rate reported in the course of this recession.

In fact, my own interpretation is that the President really does not understand or feel what is going on across the country. That is not intentional deception; that is the failure of the President to understand what working Americans are coming up against.

The fact of the matter is that we are in a jobs recession.

The PRESIDING OFFICER. The 30 seconds have expired.

Mr. SARBANES. Will the Senator yield 30 additional seconds?

Mr. DOMENICI. I yield 30 additional seconds.

The PRESIDING OFFICER. The Senator is yielded 30 additional seconds.

Mr. SARBANES. I make this point. We are in a jobs recession. The President needs to recognize it; refused to do it all last year; would not recognize we are in a recession—oh, no, there is no problem, no problem. Meanwhile people out there out of work. Nine and a half million. Another 6.5 million working part time want to work full time. In previous recoveries coming out of the trough the economy has gone at this rate and restored within the first 13 months all the jobs that have been lost.

This is what has happened in this recession. We are simply not coming out of it. And the unemployment rate is at 7½ percent and the President does not understand it.

The PRESIDING OFFICER. The additional 30 seconds allocated to the Senator has expired.

Under the previous order, the Chair's understanding is that 3 minutes were allocated to the Senator from Iowa.

Mr. HARKIN. Mr. President, it is fairly obvious now that the plan put forward by Governor Clinton certainly flushed the foxes out of the hole this time. But the American people are not going to be outfoxed again by all this talk about big government and tax and spend, because the American people have the record.

My friends on the right everyone got up in support. They all supported the Bush economic program over the last 3½ years. We do not have to read their lips, Mr. President. We can read the record. There it is under the Bush administration. They said the American economy has grown less than 1 percent a year, the lowest growth since Herbert Hoover; 9.9 million Americans out of work.

Mr. Bush when he ran for President in 1988 said he was going to create 30 million jobs. Do you know how many he created—500,000. He is only 29½ million short.

Now, the real wages of American workers have dropped 9 percent below the level of 1979. Yet the income of the top 1 percent of America has gone up 77 percent.

Governor Clinton's program is put people first; the Republicans program is put wealthy people first. That is the difference, Mr. President. And the American people know it.

The minority leader earlier this evening got on the floor and he said that the American people are demanding paychecks. Amen, brother. They sure are. But they are not demanding paychecks that pay them 9 percent less than what they made in 1979 and not demanding minimum wage deadend paychecks. They want paychecks where they can raise their families, educate the kids, and buy a home and a car. That is what they want, not the kind of jobs that Mr. Bush has given them, minimum wage, deadend jobs.

The number of people who filed for bankruptcy last year was 1 million, one of the highest.

What this plan is of Governor Clinton is a bold investment plan for the future to invest in infrastructure, physical infrastructure, human infrastructure.

Yes, Mr. President, this is not a trickle-down economic plan. It is not vodoo economics. It is percolate up, invest in the people, build the base of America, get America back to work again.

The economic plan of George Herbert Walker Bush, Mr. President, is the economic equivalent of unconditional surrender to our economic competitors around the world.

This plan of Governor Clinton's is a bold investment plan. Yes, it is change; and yes, it is future oriented.

You know, I always knew the conservatives did not want to change, Mr.

President. But my friends on the right have now given new meaning to the word conservative: Stand pat; do nothing; cover your heads, and hope for the best. That is the Bush economic program.

The American people are not going to stand pat. They are not going to cover their heads.

This is what we need, Mr. President, a bold plan to change this country; the Clinton program, to invest in our people in America.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, this debate, I think, makes it clear. We are hearing the same rehash of the old supply side economics that created this terrible problem in the country that we have now.

It is very simple. Our friends on the other side are in here tonight protecting their wealthy friends, who got all the big tax cuts during the 1980's. And the theory was: Give the wealthy people the tax cuts. They will spend it. It will trickle down, and eventually get down somewhere in the bottom and create jobs for other people.

It did not work. Now, we have massive unemployment in this country. We have engineers out of work, driving taxicabs, if they can find a job. There are teachers who want to teach; there are no jobs in teaching for them.

We have a terrible problem in the country, and now the Bush administration wants to take this supply side nonsense worldwide. So now they have an economic plan for every country in the world except this one. They have one for Mexico; they have one for the old Soviet Union. They are going to be in here in a few days asking for money to help the old Soviet Union create jobs over there. We have one for Communist China. We have one for Kuwait. They have a supply side plan for all the rest of the countries in the world, but no jobs plan for America.

And America is sick and fed up with that kind of a situation. That is why we are going to get a new President elected this year; we are going to see that happen. But when they come in here now, preaching that same old line, protecting again their wealthy friends that have all these huge tax cuts, now they want to turn it around.

You know, the President—I do not think he has any sense of what is really happening in America today. We have unemployment in this country at 7½ percent. We are short 14½ million jobs on this chart from what the President himself promised just 3½ years ago.

So we have to have a change. We have to have a new President. We have to have an economic plan for this country, and we have to have a President who is going to be a President not just for the rest of the world, but a President for America.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield 2 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Tennessee.

Let me just say, for sheer hypocrisy, the other side has done it again. To criticize the Clinton plan on adding debt, when we have a record in this administration that is unparalleled in the world history of adding debt, takes the cake.

Mr. President, this President has sent us a plan to add $1.8 trillion to the national debt over the next 5 years. That is after they have already increased the debt over fourfold during the Reagan-Bush administration.

And now they say send us a plan. And the plan they have sent adds $1.8 trillion to the national debt. The record of the other side is very clear. It is the three D's: Debt, deficits, and decline. Add $1.8 trillion to the debt; have the biggest deficits ever in the history of this country—$400 billion this year; and decline, Mr. President, no economic growth during the Bush administration. None. No productivity growth in this administration. None.

That is a record of debt, deficits, and decline, Mr. President. And if we are going to have an argument and debate about economic policy, let it begin and let it begin now.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. 1 minute.

Mr. SASSER. Mr. President, just let me make a point here, again. I think it is well worth making.

The administration and this President promised, when he took office, that he would create 15 million new jobs. The 15 million new jobs are represented here on this chart by the blue line.

Let us look at performance versus promises. Of the 15 million new jobs that he promised, look at what we have represented by the yellow as actual jobs. It is the worst economic performance of any President since Herbert Hoover.

Now, we sent this President a growth and economic recovery plan. And I say to my friend from Texas—and I am sorry he left the floor—it contained six out of the seven economic recovery proposals that the President himself had proposed.

But the President vetoed that plan, and he vetoed it for one reason, and one reason only: Because it raised taxes on the top 1 percent of the American people, the multimillionaires who have profited during the decade of the 1980's. And he ignored the fact that it gave a tax cut to the remaining 99 percent of the taxpayers. He vetoed his own economic recovery plan because it increased taxes on his millionaire buddies.

Mr. SARBANES. Will the Senator yield?

The plan would have given the growth incentive and given the middle-income people a tax break; would it not?

Mr. SASSER. Yes.

Mr. SARBANES. Paid for by the taxes on the very rich?

Mr. SASSER. Yes.

The PRESIDING OFFICER. The time of the Senator has now expired.

Mr. SASSER. Mr. President, I now withdraw the amendment that had previously been offered on behalf of myself, Senator MITCHELL, Senator SARBANES, and Senator RIEGLE.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2450) was withdrawn.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO ALFRED FITT

Mr. SASSER. Mr. President, I rise today to pay tribute to one of the founding staff members of the Congressional Budget Office, Alfred B. Fitt, CBO's first and only general counsel since the office was established in 1975. Later this year, Alfred will retire after a lifetime of public service.

Alfred Fitt began his public career in 1954 as legal adviser to the Governor of Michigan. From 1960 to 1961, he was staff counsel for the Senate Judiciary Subcommittee on Administrative Practice and Procedure. In 1961, Mr. Fitt was chief counsel for Project Tightrope, a study of FAA regulatory and enforcement procedures. He served as Deputy Under Secretary—Manpower—for the Army until 1963, when he became Deputy Assistant Secretary of Defense—Civil Rights. For the next few years, 1964 to 1967, Alfred served as General Counsel of the Army, where he also had policy and budget responsibility for the Corps of Engineers' civil works program. From 1967 to 1969, he was Assistant Secretary of Defense—Manpower. Alfred Fitt then left Federal service for 6 years to serve as special adviser for the office of the president at Yale University, where his work was chiefly concerned with Federal policy affecting higher education.

Alfred was among a handful of experts whom Alice Rivlin consulted when she was appointed the first Director of the Congressional Budget Office. His background in defense and education issues, plus his legal experience, enable Mr. Fitt to provide valuable advice and counsel to Dr. Rivlin as she organized CBO and laid out its work agenda. Alfred was instrumental in setting in place the appropriate guidelines and procedures for the nonpartisan office that provided a solid foundation for its work. He also served as a capable internal reviewer of policy analyses produced by the agency. When the Balanced Budget and Emergency Deficit Control Act was enacted in 1985, Alfred provided a steady stream of useful legal advice on how to implement the complex procedures for controlling the budget.

Alfred Fitt was supervisor for the first several reports in an annual CBO series on options for reducing the deficit. These compilations of alternative ways of raising revenue or reducing spending have become CBO's most widely circulated reports and have provided the ingredients for numerous deficit reduction proposals. In the 1984 edition, Fitt's introductory chapter opined prophetically that the "Government is on a course for which history provides no charts."

Over the 17 years that he has been with the Congressional Budget Office, Alfred has been the source of wise counsel to three Directors and two Acting Directors. As a key member of the senior management staff, Alfred can be proud of his contributions to making CBO the respected institution it is today. The appreciation we feel for the work of CBO is due in no small part to his efforts. At a time when much cynicism abounds concerning public servants, it is refreshing to recognize an individual of Alfred Fitt's stature, who, by personal commitment and education, has contributed to the strengthening of public service.

Mr. President, I wish Alfred all the best in his retirement. He deserves the gratitude of us all.

Mr. DOMENICI. Mr. President, if the Senator has no objection, I wish to associate myself with his remarks.

The CBO is a nonpartisan body, and the general counsel has done an admirable job.

MORNING BUSINESS

NATIONAL TEACHERS HALL OF FAME

Mrs. KASSEBAUM. Mr. President, Emporia State University in Emporia, KS, is the home of the National Teachers Hall of Fame. With its establishment, we can now pay special tribute to one of the world's most important professions.

The vision for the Hall of Fame came about as a joint project of Emporia State University, the ESU Alumni Association, and the city of Emporia. Since organizers began working on the project in 1988, the Hall of Fame has received the support and endorsement of national organizations such as the National Education Association, the American Federation of Teachers, and the National Parent Teachers Association. The project encompasses three components: a museum and exhibition center; an education study and conference center; and a teacher recognition program.

It is the teacher recognition program that I laud today. On June 20, the National Teachers Hall of Fame inducted the first 5 teachers. They are a group of remarkable individuals of diverse talents and interests. There is much they have in common, however—dedication to academic excellence and an enthusiasm for introducing their students to the thrilling adventures that await the curious mind. Each new school year, each new class is the opportunity to reach out and guide, to provide the setting where the difficult becomes understandable, the irrelevant gains meaning. All these fine individuals are involved in education on many different fronts, have active roles in academic organizations, and have already received many awards. With the National Teachers Hall of Fame, the very best of the best can be honored, and it is a pleasure to introduce them to you.

For Sheryl Abshire of Lake Charles, LA, teaching is a passion, "not an art or science." She views her mission as providing the opportunity where students can learn and experiment, gaining confidence for the independent journeys they will take throughout their lives. Mrs. Abshire has combined her love of teaching with today's technology, and her electronic bulletin board is widely used by students, teachers, and administrators. In addition, her students have produced, filmed, and directed the award-winning channel 7 "Kids News." She inspires other to share her vision.

Anna Alfiero of Norwichtown, CT, has been a teacher for 30 years. From childhood on, she has wanted to be a teacher and she, too, is an inspiration to students and colleagues alike. Never has excellence in science and math been more important than it is today, and that is what Mrs. Alfiero teaches—science and math and excellence. Her students worked together on science projects long before collaborative efforts were in vogue. They also receive daily stock market information so they can learn about economics and investment. Her thrill is in having her students say, "I got it," for that is the information they will need for tomorrow. Mrs. Alfiero describes "the art of teaching as ordinary people creating an extraordinary work of art—a human masterpiece." That may be her belief, but Mrs. Alfiero is anything but ordinary.

Helen Case, a former Kansas Teacher of the Year from El Dorado, KS, retired in 1973 after 45 years in the classroom. Becoming a doctor was her first career choice, but she did not have the opportunity to pursue that goal. Teaching may have been her second choice, but Miss Case, nevertheless, equates it with the medical profession. Where doctors heal bodies and minds, teachers take those minds and bodies "and give them the tools needed to face the society which they inherited." It comes as no surprise, then, to learn that Miss Case was a teacher of history, social science, and citizenship, and her students were prepared for the society they inherited through mock Congresses, national conventions, elections, and remote broadcasts. The truly dedicated teacher never really retires, and Miss Case proves that daily by remaining just as active, involved, and informed as she was throughout her teaching days.

From Detroit, MI, is Shirley Cunningham Naples, another retired teacher. She termed her first class as "the best in Wilson School"; she rated her last as "the best in the universe." These evaluations are typical of the enthusiasm and devotion she brought to her work. Her formula for success was simple—begin each school year by telling her pupils that they were the best, that they would achieve the highest test scores, that they would behave better than the rest of the student body—and that they would have fun in the process. Her job was teaching; theirs was learning. The success of her formula can be found in her students' high test scores and awards in writing, art, and math.

In the course of his career, Joseph Stafford York of Memphis, TN, has worn several different hats. He was first a minister when he realized his true calling was in the classroom. He later went into medical administration only to discover the pull of the classroom too strong to resist. Happily, that is where you will find Mr. York today. He believes his students have "a right to a teacher who believes in them and in himself," and his influence on them has been great and lasting. In addition to teaching in junior and senior high, Mr. York tutors teachers preparing for the National Teachers Exam and graduate entrance exams; he tutors children in the community; and he teaches evening classes at area universities and the regional State prison. Where others may call him a teacher of English, he considers himself a teacher of children, a distinction that has made Mr. York the highly motivated and effective teacher he is today.

Graham Greene once observed that "there is always one moment of children when the door opens and lets the future in." Fortunate, indeed, are the students who found these caring and dedicated teachers awaiting them at the classroom door. The freshman class of the National Teachers Hall of Fame has set the standard of excellence against which all future classes will be measured.

CREDIT AVAILABILITY AND REGULATORY RELIEF ACT OF 1992—MESSAGE FROM THE PRESIDENT—PM 253

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Credit Availability and Regulatory Relief Act of 1992." This proposed legislation will enhance the availability of credit in the economy by reducing regulatory burdens on depository institutions. Also transmitted is a section-by-section analysis.

The regulatory burden on the Nation's financial intermediaries has reached a level that imposes unacceptable costs on the economy as a whole. Needless regulations restrict credit, slowing economic growth and job creation. Excessive costs weaken financial institutions, exposing the taxpayer to the risk of loss. Rigid supervisory formulas distort business decisions and discourage banks, thrifts, and credit unions from pursuing their core lending activities. In 1991, the Nation's banks spent an estimated $10.7 billion on regulatory compliance, or over 59 percent of the system's entire annual profit. We cannot allow this unnecessary and oppressive burden to continue weighing down the consumer and business lending that will fuel economic recovery.

The Credit Availability and Regulatory Relief Act of 1992 reduces or eliminates a wide range of these unnecessary financial institution costs. Among the significant changes that would be made by the bill are:

—Elimination of the requirement that banking agencies develop detailed "micromanagement" regulations for every aspect of an institution's managerial and operational conduct, from the compensation of employees to the ratio of market value to book value of an institution's stock;

—Enactment of a statutory requirement that the regulations of the various Federal banking agencies be as uniform as possible, to avoid the complexity, inconsistencies, and comparative distortions that result from widely varying regulatory practices;

—Reduction of audit costs, by returning auditors to their traditional function of investigating the accuracy of depository institution financial statements and eliminating the costly and misguided expansion of their role over legal and managerial matters;

—Alleviation of the significant paperwork burden imposed by the Community Reinvestment Act on small, rural depository institutions *without* exempting such institutions from the substantive requirements to satisfy the credit needs of their entire communities—coupled with creation of incentives for institutions to reach higher levels of compliance by streamlining expansion procedures for institutions with outstanding Community Reinvestment Act ratings; and

—Elimination of the requirement that the Federal Reserve write detailed "bright line" regulations on the amounts of credit that one depository can extend to another, thus retaining the Federal Reserve's existing flexibility to supervise the payments system without unduly inhibiting correspondent banking relationships.

These changes, and the others made by the bill, will result in significant reductions to the administrative costs of depository institutions—costs that are currently passed on to borrowers in the form of restricted credit and higher priced loans.

I would like to emphasize that none of the bill's provisions will compromise in any way the safety and soundness of the financial system. The legislation makes no changes to those elements of the Administration's proposed supervisory reforms that the Congress did adopt last year. All existing capital standards will remain in force and will be neither weakened nor modified by the proposed legislation; the "prompt corrective action" framework mandating swift regulatory responses to developing institutional problems will remain unchanged; and bank regulators will continue to have exceptionally tough enforcement powers.

The legislation I am transmitting to you today is a broad and responsible solution to one of the major problems facing our financial system. The financial industry, the economy, and the public generally will benefit from enactment of this regulatory relief. I therefore urge the Congress to give high priority to the passage of the Administration's reforms.

GEORGE BUSH.

THE WHITE HOUSE, *June 24, 1992*.

MESSAGES FROM THE HOUSE

At 11:40 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5055. An act to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes.

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 2507) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building," and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building";

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities; and

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for school operations costs of Bureau-funded schools.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5055. An act to authorize appropriations for the Coast Guard for fiscal year 1992, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution, previously received from the House of Representatives for concurrence, was ordered to be placed on the calendar:

H. Con. Res. 192. A concurrent resolution to establish a Joint Committee on the Organization of the Congress.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that on today, June 24, 1992, he had signed the following enrolled bills and joint resolution previously signed by the Speaker of the House:

S. 250. An act to establish national voter registration procedures for Federal elections, and for other purposes;

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration; and

H.J. Res. 470. Joint resolution to designate the month of September 1992 as "National Spina Bifida Awareness Month."

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 24, 1992, he had presented to the President of the United States the following enrolled bills:

S. 250. An act to establish national voter registration procedures for Federal elections, and for other purposes; and

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3462. A communication from the Chairman of the National Commission on Libraries and Information Science, transmitting, pursuant to law, a report on a violation of the Antideficiency Act by the White House Conference on Library and Information Services; to the Committee on Appropriations.

EC-3463. A communication from the Deputy Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on the Air-Launched Cruise Missile Flight Data Transmitter plan implementation for fiscal years 1992 and 1993; to the Committee on Armed Services.

EC-3464. A communication from the Assistant Secretary of Energy (Environmental Restoration and Waste Management), transmitting, pursuant to law, notice of submission of a Five-Year Plan on the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy; to the Committee on Armed Services.

EC-3465. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the President of the United States' determination that the People's Republic of Angola has ceased to be a Marxist-Leninist country; to the Committee on Banking, Housing, and Urban Affairs.

EC-3466. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on HUD's Five-Year Energy Efficiency Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC-3467. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to improve the management and efficiency of the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3468. A communication from the Acting Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on the progress on developing and certifying the traffic alert and collision avoidance system; to the Committee on Commerce, Science, and Transportation.

EC-3469. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Secretary of Commerce for the fiscal year ending September 30, 1991; to the Committee on Commerce, Science, and Transportation.

EC-3470. A communication from the Acting Adminstrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on the FAA's progress in providing sensitive drug-related information to Federal, State, and local law enforcement agencies engaged in drug interdiction; to the Committee on Commerce, Science, and Transportation.

EC-3471. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Department of the Interior covering the Outer Continental Shelf Natural Gas and Oil Leasing and Production Program for fiscal year 1991; to the Committee on Energy and Natural Resources.

EC-3472. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3473. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Department of Energy's civilian radioactive waste management program; to the Committee on Energy and Natural Resources.

EC-3474. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the North Carolina Striped Bass Conservation Act; to the Committee on Environment and Public Works.

EC-3475. A communication from the Senior Vice President of the Federal Intermediate Credit Bank of Jackson, transmitting, the annual report on pension plans for calendar year 1991; to the Committee on Governmental Affairs.

EC-3476. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Inspector General covering the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3477. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Department of Commerce on final action for inspector General audits for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3478. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General of the Appalachian Regional Commission for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3479. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the semiannual report of the Inspector General of the Federal Trade Commission for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3480. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the audit report register of the GSA for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3481. A communication from the Acting Director of the Peace Corps of the United States, transmitting, pursuant to law, the semi-annual report of the Peace Corps' Inspector General for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3482. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Labor for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3483. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Pension Benefit Guaranty Corporation's Office of the Inspector General for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3484. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Inspector General of the National Labor Relations Board for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3485. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on Management Decisions and Final Actions of the Inspector General Audit Recommendations for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3486. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Commerce for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3487. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the activities of the Office of Management and Budget under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-3488. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Funding Priority—Special Studies Program"; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WELLSTONE:

S. 2886. A bill to support the development of local and regional democratic institutions in the independent states of the former Soviet Union; to the Committee on Foreign Relations.

By Mr. McCONNELL (for himself, Mr. GRASSLEY, and Mrs. KASSEBAUM):

S. 2887. A bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children; to the Committee on Finance.

By Mr. EXON:

S. 2888. A bill to amend title XVIII of the Social Security Act to provide for guidelines clarifying the reclassification of one rural area to another rural area for purposes of determining reimbursement rates to hospitals under medicare; to the Committee on Finance.

By Mr. BOREN:

S. 2889. A bill to repeal section 5505 of title 38, United States Code; to the Committee on Veterans Affairs.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 2890. A bill to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. BOND, Mr. GARN, Mr. GRASSLEY, and Mr. MCCAIN):

S. 2891. A bill to authorize the Administrator of the Environmental Protection Agency to establish a program to provide career training through the hazardous substance research center program of the Environmental Protection Agency to qualified military personnel and qualified Department of Energy personnel to enable such individuals to acquire proficiency in hazardous and radioactive waste management, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL:

S.J. Res. 322. A joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of the office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

By Mr. SIMON:

S.J. Res. 323. A joint resolution designating October 30, 1992, as "Refugee Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SHELBY (for himself, Mr. DOLE, and Mr. SIMON):

S. Con. Res. 126. A concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 2886. A bill to support the development of local and regional democratic institutions in the independent states of the former Soviet Union; to the Committee on Foreign Relations.

INTERNATIONAL LOCAL GOVERNMENT EXCHANGE ACT

• Mr. WELLSTONE. Mr. President, last week we heard Russian Federation President Boris Yeltsin promise that his democratic reforms were moving forward, and that the success of those reforms depends upon critical assistance from the West. Along with many of my colleagues, I have been deeply impressed by his commitment to reform. Even in the face of pressing domestic needs, many of us have indicated our consistent support for helping his government and the Russian people establish a democratic polity and strong democratic traditions because we believe such democratization is in our national interest.

In anticipation of the upcoming debate on aid to the independent republics of the former Soviet Union, I am today introducing legislation to authorize a comprehensive 5-year, people-to-people exchange program designed to help the republics build strong, vital democratic institutions of local and regional governance. Establishing democratic local governments throughout the republics that are responsive to local problems is critical to the democratic transformation of the republics. The success of their efforts to democratize their systems of government and privatize their economies will depend in large part on the willingness of their diverse regional and local governments to stay in the Federation, maintain peaceful relations, and develop solutions to local problems and concerns.

Last December, I traveled to the former Soviet Union to assess firsthand a key period in its political and economic transformation. During that visit, I attended a conference on federalism sponsored by the Foundation for Social and Political Research in Moscow, which included parliamentarians and other public officials from the various Republics, and experts and prominent scholars from all over the world, committed to establishing a workable system of federal government there rooted in and responsive to local needs. Almost without exception, the Russian officials expressed a strong desire for extensive consultations with knowledgeable and experienced administrators from the West who could help them to develop a democratic polity and establish democratic institutions. They especially underscored their need to develop expertise both to deal with the everyday problems confronting local and regional governments and to manage the dramatic changes that will flow from the establishment of autonomous and democratic institutions of local government.

This legislation, the provisions of which I hope will be incorporated into the Freedom Support Act, would establish an international exchange program for public officials and public administrators from all levels of State and local government, under the aegis of an agency assigned by the President to carry out this mission. While I have designed the bill to give the president flexibility in executing the program, I believe the program would complement similar public official, media, business and other exchange programs already being undertaken by the United States Information Agency [USIA], and I would expect this program to be administered by USIA as well.

While my proposal establishes an international exchange program for public administrators to be administered by the United States Information Agency or another agency designated by the President, it will depend on contractor support from such organizations as the National Governors' Association, the National Association of Counties, the United States Conference of Mayors, and the National Academy of Public Administration.

These, and similar organizations, can mobilize the most able and experienced of America's State and local officials to provide training and other technical assistance to their counterparts in the former U.S.S.R. National associations of State and local officials are well-suited to help build democratic regional and local governments and to develop mechanisms to promote intergovernmental and inter-ethnic cooperation. They have experience in carrying out the kind of assistance activities proposed in my amendment. They operate extensive technical training programs for their memberships, and many of them have in the last year been inundated with requests for such technical assistance from the Republics. In discussions I have held with representatives of these groups, they have indicated strong interest in participating in a program similar to that outlined in my legislation.

I urge my colleagues to join me as cosponsors of this legislation, and to support this proposal when I offer it as an amendment to the Freedom Support Act later this week. I ask unanimous consent that a copy of the bill and several letters of endorsement for this proposal be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Local Government Exchange Act of 1992".

SEC. 2. FINDINGS; POLICY.

The Congress finds that—

(1) the independent states of the former Soviet Union have requested the assistance of American Federal, State, and local officials in making the transition from Communist political systems and centrally planned economies to democratic societies based on local and regional self-government;

(2) the United States is well-positioned, because of its long democratic heritage and traditions, to make a substantial contribution to a transition of the independent states of the former Soviet Union to a more democratic polity and to democratic institutions by building on current technical and talent assistance programs with the newly independent republics of the former Soviet Union;

(3) it is in the immediate economic and national security interests of the United States to ensure the peaceful, orderly, and successful transformation of such states into fully democratic societies;

(4) provision by the United States of the requested assistance would promote development of a democratic polity and would help establish democratic institutions responsive to the needs of the people, particularly in the localities and regions of the independent states of the former Soviet Union;

(5) establishment of democratic local and regional governance that fosters the development of a decentralized market economy and preserves local autonomy and minority rights is essential in order to prevent the destabilization of the independent states of the former Soviet Union by serious economic and political deterioration or by interethnic tensions;

(6) such states have an educated labor force and the capability for productive economies, but they lack many of the basic organizations, institutions, skills, attitudes, and traditions of civil society on which democracy must ultimately rest;

(7) traditional United States foreign assistance programs and mechanisms are inadequate for responding to this new challenge because they are not designed to mobilize the practical expertise of the American people or to target and deliver practical assistance at the grassroots level in the widely divergent societies of the region;

(8) there is great willingness on the part of United States citizens to offer hands-on, person-to-person training, advice, support, and technical assistance to the peoples of the independent states of the former Soviet Union;

(9) State and local government officials in the United States can provide a vast pool of skills, talents, and experience which may be drawn upon to meet these urgent needs for democratic ideas and institutions;

(10) direct grassroots, people-to-people exchanges are the most appropriate means of ensuring that the rapid yet uneven evolution of social and political change will be responsive to the desires of the people of the independent states of the former Soviet Union;

(11) such exchanges can assist in the establishment of democratic regional and local governments where they do not now exist, and can assist existing local and regional governments to develop laws, policies, administrative and judicial procedures, regulatory competence, broad-based tax systems and effective service delivery mechanisms; and

(12) participants in such exchanges can work with national, regional and local officials to encourage intergovernmental cooperation through the establishment of laws, regulatory regimes, institutions, and channels of communication among government officials at all levels.

SEC. 3. STATEMENT OF PURPOSE.

The purpose of this Act is to facilitate the establishment of—

(1) legitimate, democratically elected local and regional governments throughout the independent states of the former Soviet Union that will be able to provide for self-governance and the full range of efficient and equitable public services and management practices expected of such governments in a free society;

(2) cooperative intergovernmental relations between and among the independent states of the former Soviet Union and among its regional and local governments that will provide effectively for such common needs as economic development, intermodal transportation, environmental protection, and joint service provision;

(3) permanent governmental and nongovernmental institutions throughout the independent states of the former Soviet Union that will provide continuing training, research, and development with respect to local and regional governance and intergovernmental cooperation; and

(4) ongoing ties of assistance and friendship between the officials and institutions of State and local governments in the United States and the independent states of the former Soviet Union.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "eligible organization" means—

(A) any organization of elected or appointed State, local, or regional governmental officials determined by the agency administering section 5 to have the capacity to engage in educational and technical assistance exchanges in public administration; or

(B) any private, nonprofit organization having expertise in public administration and experience in providing training or technical assistance; and

(2) the term "independent states of the former Soviet Union" includes the following states that formerly were part of the Soviet Union: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

SEC. 5. AUTHORITY.

(a) IN GENERAL.—(1) The President, acting through such agency as he may designate, is authorized to establish a program for technical assistance in local and regional self-government to the independent states of the former Soviet Union to carry out the purposes of this Act.

(2) Of the amounts authorized to be appropriated, an appropriate amount should be made available for necessary administrative expenses by the implementing agency.

(b) GRANTS.—In providing assistance under subsection (a), the President shall, subject to the availability of appropriations, make grants to eligible organizations to cover the travel and administrative expenses incurred by such organizations in conducting—

(1) an assessment of the need by any independent state of the former Soviet Union for fiscal, legal, and technical expertise at the local and regional level; and

(2) training of local and regional governmental officials in democratic institution-building and public administration.

(c) LIMITATION.—Funding for visits authorized under this section may not exceed 6 months duration.

(d) PRIORITY FOR CERTAIN ELIGIBLE ORGANIZATIONS.—In awarding grants under subsection (b), the President shall give priority to applications for grants from any of the following organizations:

(1) United States Advisory Commission on Intergovernmental Relations (ACIR).

(2) National Governors' Association (NGA).

(3) National Conference of State Legislatures (NCSL).

(4) Council of State Governments (CSG).

(5) National Association of Counties (NACO).

(6) United States Conference of Mayors (USCM).

(7) National League of Cities (NCL).

(8) National Association of Towns and Townships (NATaT).

(9) International City Management Association (ICMA).

(10) National Academy of Public Administration (NAPA).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated pursuant to subsection (a) are authorized to remain available until expended.

SEC. 7. TERMINATION.

This Act shall terminate 5 years after its date of enactment.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, June 22, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR WELLSTONE: On behalf of the National Conference of State Legislatures, I am writing to express our support for your amendment to S. 2532, the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, that will enable state and local government organizations to assist and facilitate the establishment of stable, democratic-elected local and regional governments in the independent states of the former Soviet Union. We strongly endorse the amendment's goals of fostering such institutions through educational and technical assistance exchanges. NCSL greatly appreciates your leadership in recognizing that state and local government officials can contribute greatly to the development of democratic institutions in the Commonwealth of Independent States (CIS).

Exchanges of public officials as envisioned in your amendment supplement a growing interest among emerging democracies in understanding how American state and local governments operate. In fact, the number of official international delegations requesting briefings on state legislative operations has tripled in many state capitols in recent years. NCSL has seen first hand how these new democracies are looking at states as role models in addressing their problems of legislative management, intergovernmental relations, and a lack of legalistic traditions. The independent states of the former Soviet Union must clearly solve these same problems and U.S. public organizations, such as NCSL, have the experience and expertise to provide the technical training so badly needed by the local and subnational governments within the CIS.

NCSL, for example, has considerable experience with international visitors and international exchanges. We also routinely provide for our members specialized training programs regarding a wide range of legislative and management issues. Equally important, NCSL and state legislators are keenly interested in providing whatever assistance the former Soviet Union may require and our organization is committed to organizing a long-term coordinated assistance program. We are convinced that international exchange programs are one of the most inexpensive, yet effective, means of promoting personal contacts, providing technical assistance, and transferring ideas. However, the financial resources NCSL has available for such exchanges are very limited and our ability to respond to requests for assistance from CIS officials has been hampered. Only with the help of the federal government can we operate the type of exchange program that we believe is so urgently needed. Therefore, passage of your amendment is vital to state and local government organizations' ability to bring the ideals of democracy to the former Soviet Union.

Again, thank you for your leadership in this most critical issue. Please contact NCSL if we can ever be of assistance.

Sincerely,

PAUL BUD BURKE,
Senate President, Kansas,
President, NCSL.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, June 22, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR WELLSTONE: The U.S. Conference of Mayors is writing in support of a regional and local democracy initiative in the former Soviet Union.

There is a strong need for technical assistance to establish and develop democratically elected regional and local governments in the former Soviet Union, to build professional and responsive leaders and systems to address regional and local public administration, and to foster cooperative intergovernmental relations between and among the national, regional and local governments.

The U.S. Conference of Mayors is one of many national organizations of elected American officials which have been approached again and again to provide technical assistance to the former Soviet Union at the local level.

The U.S. Conference of Mayors has tremendous resources for such an initiative in the over 1,000 mayors represented by The U.S. Conference of Mayors. The Conference is prepared to work with other national organizations to provide a long-term coordinated technical assistance program.

We believe that by working in cooperation with other national organizations of elected American officials and experts on public administration we can provide a much more comprehensive initiative than by working separately. However, we cannot do it alone. We need the expertise and resources of the American government to carry out an effective and successful program.

The U.S. Conference of Mayors strongly supports efforts to incorporate the expertise our mayors have to offer in a consortium such as that provided for in your legislation. We look forward to working with you and the Administration in securing appropriate funding for future efforts to democratize local governments in the former Soviet Union.

We believe that in the area of foreign assistance, this program deserves high priority.

Sincerely,

RAYMOND L. FLYNN,
President,
Mayor of Boston.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, June 22, 1992.

Hon. PAUL D. WELLSTONE,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR WELLSTONE: The National Association of Counties (NACo) is writing in support of a regional and local democracy initiative in the former Soviet Union.

There is a strong need for technical assistance to establish and develop democratically elected regional and local governments in the former Soviet Union, to build professional and responsive leaders and systems to address regional and local public administration, and to foster cooperative intergovernmental relations between and among the national, regional and local governments.

NACo is one of many national organizations of elected American officials which have been approached again and again to provide technical assistance to the former Soviet Union at the local level. NACo has tremendous resources for such an initiative in the thousands of local elected officials who make up NACo. NACo is prepared to work with other national organizations to provide a long-term coordinated technical assistance program.

We believe that by working in cooperation with other national organizations of elected American officials and experts on public administration we can provide a much more comprehensive initiative than by working separately. However, we cannot do it alone. We need the expertise and resources of the American government to carry out an effective and successful program.

We believe that in the area of foreign assistance, this program deserves high priority.

LARRY E. NAAKE,
Executive Director.

NATIONAL ACADEMY OF
PUBLIC ADMINISTRATION,
Washington, DC, June 19, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR WELLSTONE: I am writing in response to a request from your office regarding the Academy's interest in the proposed "International Local Government Exchange Act of 1992."

The consortium of organizations identified as priority grant recipients constitute a considerable and substantial force for addressing the basic challenges of governance in the emerging democracies of the former Soviet Union. I have enclosed materials about the National Academy which explain its capacity and commitment to assisting the republics of the former Soviet Union.

Significant social, political and economic advances in the former Soviet Union will entail technical assistance by Western Nations in the training and development of elected officials, appointed officials and civil servants at all levels of government as well as the training of pools of potential personnel in the fields of governance, public management and administration. In order to respond to problems relating to community economic development, there is a need to enlarge the scale of education and training in the form of direct support for activities in the areas of governance and public sector institutional capacity building. The proposed legislation is focused to provide this desperately needed assistance.

The National Academy is frequently called upon by foreign governments to aid them in reforming the basic tasks of governance: diagnosis of public problems, policy formulation and decision making, practical implementation and accountability. Our assistance efforts aim to help foreign governments develop the institutional capacity to carry out the basic tasks of governance, by integrating external organizations (including political parties, media, special interest groups, civic and non-profit organizations, and universities) into the policy process of a democratic government.

Neither democratic governance nor economic reform can be achieved without competent publicly responsive regional and municipal governments. There is little history of decentralized governance in the former republics. Regional and municipal governments were principally administrative appendages of the central government in Moscow. This prohibited regional and municipal governments from communicating with each other, let alone collectively addressing matters of mutual interest.

The task in providing technical assistance is to help build at every level of government professional, sustainable institutional capacity which can operate within a democratic context. That is what we understand to be the principal aim of the "International Local Government Exchange Act of 1992."

I hope this provides you with the information you need regarding our interest in providing technical assistance to the republics of the former Soviet Union.

Sincerely,

R. SCOTT FOSLER,
President.

THE NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

The National Academy of Public Administration is a compelling force for renewing the capacity and improving the performance of public institutions in a time of change. The Academy is exceptionally well-qualified to address fundamental challenges associated with our system of governance and its various subsystems. It is uniquely and strategically positioned to facilitate the complex deliberations required to lay out and develop practical solutions for consideration by the U.S. government and those in the CIS.

The Academy's outstanding assets are its:

Timely, and noble mission, embodied in its congressional charter—the only such charter granted to an analysis and research organization since 1863—requiring the Academy to respond to requests for assistance from government agencies at all levels and, on its own initiative, to seek ways to improve governance. The Academy's congressional charter provides a motivating responsibility, legitimacy and prestige, and access to leadership and points of action.

Distinguished membership—400 plus Fellows—leaders in the public, private, and nonprofit sectors who are chosen by current Fellows through a secret nomination and ballot process based on exemplary and sustained contributions to public service or scholarship at all levels of government and over the full range of policy and management issues facing the nation. The Academy's fellowship includes current and former members of Congress, cabinet members, federal executives, state and local legislators, governors, mayors, local public managers, policy analysts, and university-based political scientists, economists and other scholars. Taken as a whole, the Academy's membership embodies a wide range of talents and backgrounds, including a commitment to professionalism, public values, high respect, and a capacity for renewal.

Strategic, highly visible position at the crossroads of the levels of the federal system, public and private sectors, and major domestic and international policy issues. This position makes it nonpartisan, i.e., disinterested regarding any one perspective or position.

Orientation to action—practical management concerns—and knowledge—the full range of basic, applied, and management-oriented scholarship. The Academy's work is concerned with the intersection between policy and process. It brings to that intersection considerable experience in constructing and reconstructing institutional arrangements and in building, allocating, and reallocating public resources.

Extensive outreach activities, making it a "do tank" as well as a think tank. This involves consultation with government agencies and other organizations, direct links to policy makers and managers, education, and training programs.

Organization, including its institutional structure based on the talents of its 400 members; its standing panels and other ongoing activities on the public service, executive management, the international system, the federal system, and ethics; as well as professional staff who are themselves practitioners and scholars of public administration.

Track record of over 300 projects and other accomplishments, including reports congressional testimony, informal advice, and membership resolutions, all of which are designed to improve government at all levels. Some of the Academy's recent and current projects related to the contemporary challenges of governance are listed in Appendix B.

Ongoing commitment to improving government. The Academy itself is part of the nation's capacity to govern.

In sum, the Academy is a national resource.

Looking forward, this resource reflects a considerable and substantial force for addressing the basic challenges of governance in emerging democracies. The Academy can be a focal point for building the relationships and structures required for the meaningful and focused set of dialogues necessary to ask the appropriate questions and seek answers to them. The Academy has the ability to get the right people together to consider and analyze the issues, design recommendations to address those issues, and to get that knowledge disseminated quickly into channels where it can be acted upon.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 22, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATOR WELLSTONE: This letter is to express support for your proposed legislation, the International Local Government Exchange Act of 1992. United States Governors increasingly are asked to play a role in assisting emerging democracies around the world, especially in Eastern Europe and the former Soviet Union. I appreciate your efforts to emphasize the need for development of local democratic institutions within the overall U.S. aid package.

Republic, oblast, and city officials are seeking technical expertise in a vast array of areas related to the design and implementation of public policies and programs. States represent the best source of expertise in key areas such as budgeting, taxation, infrastructure development, education, employment and training, public-private partnerships, and intergovernmental relationships and responsibilities. In addition, there is a strongly expressed desire by Russian/CIS private entrepreneurs and businesses to establish contacts with American companies. We believe that public initiatives resulting from states' assistance will provide additional trade opportunities for U.S. companies.

That is why NGA is working with and on behalf of states to develop activities that will link American states and subnational governments within the republics. Background information on state and NGA activities is attached.

We also have demonstrated an interest in working with other national organizations to undertake a more comprehensive technical assistance effort. Obviously, we cannot do it alone. But with guidance and assistance from the federal government, our efforts can make a significant contribution in shaping the democratic institutions of the newly independent republics. We stand ready to work with you and other members of Congress, as well as the Administration, to proceed on these initiatives.

Sincerely,

RAYMOND C. SCHEPPACH.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 2, 1992.

STATES ACTIVE IN THE NEWLY INDEPENDENT REPUBLICS

SUMMARY

During the past two years, ten Governors have traveled to the former Soviet Union as its breakup has created numerous opportunities for improving trade, political, and cultural relations between states and the newly independent republics. States are undertaking a variety of initiatives to promote closer relations and assist the republics in moving toward democracy and free markets. State activities—a sampling of which follows—have included trade promotion, as well as cultural exchange and humanitarian assistance. Federal legislation is being considered to address military security concerns, and to expand trade assistance and support for democratization efforts.

BACKGROUND

Although the Soviet Union ceased to exist in 1991, the government structures in the independent republics and the relationships between the republics are still emerging. In mid-December 1991, representatives of the Russian Federation, Ukraine, and Belarus approved an agreement that established a Commonwealth of Independent States. The agreement provides for central control over the military and for coordination of economic and foreign policy. Kazakhstan, Kirghizia, Tajikistan, Uzbekistan, Armenia, Azerbaijan, Moldavia, and Turkmania soon joined. The republic of Georgia has not joined the commonwealth. The Baltic states of Lithuania, Latvia, and Estonia, which established their independence much earlier, have no plans to join.

While there have been initiatives to transfer government assets to private interests and to decontrol prices, shortages of food and medicine have impeded progress. Numerous reforms have been instituted in connection with the republics' interest in attaining membership in the International Monetary Fund and the World Bank.

These financial and tax reforms will allow them to qualify for the organizations' aid and allow for access to programs to help stabilize their currency. However, while the republic governments have attempted to make it easier for foreign businesses to invest, there are still disincentives. For example, Russia recently established a 60-percent tax on all income of any foreign business representatives living and working in the Russian Federation for more than 180 days. Even though progress on market reforms and democratization has been slow, states have become more active in pursuing trade promotion and foreign relations initiatives with the former Soviet Union.

STATE INITIATIVES

States have taken a number of different approaches to developing closer relations with the newly independent republics. Among other efforts, states have sponsored trade missions, targeted the republics for trade promotion efforts, developed cultural programs to foster better relations, and participated in humanitarian assistance programs.

Trade Missions.—Over the last two years, ten Governors have traveled to what is now the former Soviet Union. Many more delegations were led by other state officials. The visits have focused primarily on exploring trade opportunities, although most trips also had non-trade components such as technical assistance or educational exchange agreements.

Focusing on Key Industries.—Some states have targeted specific sectors of trade to promote with newly independent republics. For example, Minnesota, New Jersey, Virginia, and Wisconsin are emphasizing both pollution control and medical equipment sectors. Virginia sees potential for telecommunications firms. Illinois is concentrating on machine tools and metal working, automotive parts, and telecommunications. Kansas has given priority to agricultural products and commodities, transportation services, and grain handling and storage. Georgia is focusing on agriculture and food processing. Oklahoma is concentrating on the oil and gas industry. Indiana sees opportunities for its housing industry.

Formal Relationships.—Some states have targeted specific republics or regions for promoting overall trade. Minnesota has developed ties with Russia, Belarus, and Kazakhstan; Kansas and Wyoming have focused on Russia; Colorado has concentrated on Russia and Uzbekistan; and Idaho is developing a relationship with Kirghizia.

Five states have signed formal sister-state agreements:

Alaska and the Khabarovak region.
Georgia and the Republic of Georgia.
Illinois and the Russian Federation.
Iowa and the Stavropol region.
Vermont and the Kareli region.

The number of sister-state relationships is expected to grow in the immediate future. In addition to state-level agreements, there is a vast network of sister cities involving all the republics and twenty-seven states, according to Sister Cities International. Many other states—including California, Colorado, Idaho, Indiana, Maryland, New York, and Rhode Island—have entered into other types of specialized agreements. These agreements have initiated cultural exchanges, educational exchanges, technical assistance projects, and governmental exchanges.

A number of states, such as Illinois, Maryland, New Jersey, New York, and Rhode Island, have helped organize and facilitate visits of official and business delegations from the republics. State government officials often play a role in these visits by helping explain the workings of U.S. sub-central government, the democratic process, and the free market system.

Promoting Private Initiative.—States also are helping with private initiatives with the newly independent republics. For example, international trade offices in Michigan and Arkansas are providing assistance and acting as referral agencies for the numerous private trade and cultural program efforts that already exist in their states.

The Russian Winter Campaign is an example of states working with private groups to provide humanitarian assistance to the republics. Arkansas, Georgia, Idaho, Oklahoma, Pennsylvania, Utah, and Wisconsin have participated in this project, which was designed to generate 100 to 150 tons of food and medicine during the winter from each state. An initiative of the non-profit International Foreign Policy Association, the program arranges transportation and assists in the distribution of these supplies to designated cities and institutions. The campaign will continue its efforts until September 1992.

States such as Idaho, Maryland, and Washington are working with the Fund for Democracy and Development, a private nonprofit group that provides logistics support for transportation of food, medicines, and other goods to the commonwealth republics and the Republic of Georgia.

OTHER STATE-RELATED ACTIVITIES

Ten national associations of state and local government officials are exploring a collective initiative that would establish a network of technical assistance activities aimed at helping republic and oblast officials with problems of governance. Such a project might include Governors, mayors, legislators, county executives, and others assisting counterparts in the republics with matters such as planning, budgeting, and management. The project is being developed in cooperation with the U.S. Advisory Commission on Intergovernmental Relations. The initiative resulted from a visit to Moscow in December 1991 of a delegation of federal, state, and local officials to discuss federalism. Missouri Governor John Ashcroft, NGA Chairman was a member of that delegation which met with numerous Russian officials.

Other groups of state and local officials are developing similar projects. For example, state agriculture commissioners and land grant university officials are reviewing a proposal to promote agriculture-based pairings of states and oblasts. These pairings would promote activities ranging from farmer-to-farmer exchanges to agribusiness and food distribution technical assistance. Colorado Governor Roy Romer and Iowa Governor Terry Branstad recently sent out a letter to all Governors explaining the proposal and announcing a conference to consider the proposal in Colorado in July.

FEDERAL ACTION

Congress has held numerous hearings on aid to the region. Earlier this year, the President authorized an emergency airlift effort along with other aid efforts. He also submitted to Congress legislation outlining his proposal for humanitarian assistance and other initiatives. He has called it the Freedom Support Act of 1992 (Freedom for Russia and Emerging Eurasian Democracies and Open Markets). The bill, S. 2532, was introduced by request on April 7th by Sen. Claiborne Pell (D-RI). It would do the following:

Support emergency humanitarian aid;

Facilitate demilitarization and nuclear power safety issues;

Extend the provisions of the Support for East European Democracy (SEED) Act of 1989 to the former Soviet Union;

Expand democratization efforts, including the establishment of "America Houses" to share information about American history, government, and culture;

Extend federal credit guarantees and programs;

Allow waiver of restrictions on imports from the republics and further ease export control restrictions; and

Provide for an expanded American presence in the region through organizations such as the Peace Corps and the Citizens Democracy Corps.

G–7 Plan.—The legislation would implement the U.S. role in the Group of Seven (G–7) industrialized countries' aid initiative. The G–7 plan is a $24 billion aid packages that would provide $4.5 billion in International Monetary Fund (IMF) and World Bank aid, $2.5 billion in debt deferral, $11 billion in bilateral aid, and $6 billion for a special IMF currency stabilization fund for the ruble.

NGA POLICIES AND ACTIVITIES

The NGA policy on the Soviet Union and Eastern Europe (H-4.6, adopted July 1990) recognizes the profound changes that have taken place. It urges the United States to take a strong role in helping these newly independent republics to democratize and to develop free markets. Toward that end, the policy takes the following positions.

Barriers to trade with the newly independent republics should be removed provided that human rights initiatives are sustained.

The United States should advocate a policy of open lands to the people of the newly independent republics (that is, individuals should have the ability to move about freely within the host country).

The U.S. government should increase U.S. and Foreign Commercial Service efforts to expand trade with the newly independent republics and with Central and Eastern Europe.

States should take steps to promote contact with the newly independent republics and Central and Eastern European countries. States can do this through both trade activities and cultural, business, and educational exchanges. States also should consider providing technical assistance in such areas as environmental protection, health care, energy policy, and government policy development and planning.

NGA has participated in a number of projects to foster interaction between states and the newly independent republics. In April 1991, NGA helped coordinate a visit to the United States by a delegation of cabinet officials and regional Governors from the Russian Federation. In November 1991, Colorado Governor Roy Romer and Delaware Governor Michael Castle led a mission cosponsored by NGA and the Western Governors' Association. The purpose of the mission was to assess the possibility of a new initiative between states and republics, emphasizing trade development and technical assistance. The delegation visited Moscow and the city of Tashkent in Uzbekistan. During the 1992 NGA Winter Meeting, the Governors met with Ambassador Robert Strauss to explore means by which the Governors could support the transition in the Commonwealth of Independent States to a democratic government and free market economy.

NGA currently is exploring the possibility of establishing an office in Moscow on a trial basis to further the Governor's objectives in promoting trade. The major goal of the project would be to work with state trade programs in helping U.S. businesses establish trade relationships with entities in the republics. The office might also act as a referral for technical assistance efforts between states and republics.

CONCLUSION

States are fostering a variety of economic, cultural, and political connections with the newly independent republics. With the emergence of separate republics and the advent of the Commonwealth of Independent States, these activities are expanding and accelerating. The economic reforms and other liberalizations underway will allow even greater opportunities for state projects in the region.

SAMPLING OF STATE ACTIVITIES WITH THE NEW REPUBLICS

The following are some examples of activities States are pursuing to develop better relations with the newly independent republics.

Alaska.—Because of its proximity to the Russian Far East, Alaska hosts an increasing number of Russian visitors each year. Alaska has many exchange programs with republic regions and organizations. The programs are varied and include exchanges of medical specialists, government employees, scientists, and environmental specialists. Alaska also has concluded a number of cooperative agreements with republic regions on educational, scientific, environmental, and transportation projects. In the area of trade promotion, Alaska is encouraging trade in such sectors as telecommunications, heavy equipment, and transportation. The State also has encouraged joint ventures such as mining, environmental planning and management, and health services.

Arkansas.—The Arkansas university system has several exchange programs. There is a teacher and student exchange program with the Moscow Pedagogical Institute. Also, there is a joint program with the chamber of commerce that allows professors to visit Moscow for two-to-three-week periods to teach business courses.

California.—California reached a memorandum of understanding with: the Russian Republic in April 1991. In accordance with the agreement, California is promoting commercial ties through increased trade, including cooperation and assistance in agricultural and industrial production; science and educational exchanges; tours of artistic groups and contacts between leaders in culture and the arts; and cooperative efforts in the areas of tourism and environmental protection. California also is promoting local ties, and there are currently twelve sister-city relationships between California and cities in the newly independent republics. California also has a very active relationship with the republics in the academic sector. The University of California, University of Southern California, Stanford, and others have faculty and student exchange programs, cooperative research efforts, business and economics technical assistance, and athletic exchanges.

Colorado.—Colorado is creating exchange programs and providing technical assistance in areas such as agriculture, education, government, and economic development. In January 1991, Colorado formalized its efforts by signing a Protocol of Cooperation with the Russian Republic, which pledged cooperation and collaboration for projects in business, education, and culture. One such project is the University of Colorado's International Center for Public Administration and Policy in Denver and in Moscow, which was created to provide education and training to assist with the transition to democracy and free markets. Another example is the Governor's Soviet Task Force composed of business and education leaders; the task force was created to counsel the Governor on business and economic issues relating to the newly independent republics. The State also encourages private sector organizations such as the Colorado Soviet Trade Association which is composed of businesses interested in increasing trade with the republics.

Georgia.—Georgia promotes a range of trade and foreign relations initiatives with the former Soviet Union. One aspect of this effort is promotion of exchange linkages and technical assistance projects between Georgia universities and organizations in the newly independent republics. For example, Georgia State University is involved with the Russian republic; the University of Georgia has developed projects with Ukraine and Lithuania; and Fort Valley State College is working with Uzbekistan. In addition, several universities have been involved in assistance projects and exchanges with Georgia's sister state, the republic of Georgia.

Idaho.—Idaho has formulated a joint statement with the republic of Kirghizia, which is expected to lead to a sister-state agreement. Idaho-Kirghizia projects under consideration include joint venture promotion, personnel and cultural exchanges, and technical assistance projects. University ties already exist: the University of Idaho has cooperative agreements or memoranda of understanding with seven institutions of higher education in the newly independent republics. Also, Idaho potato growers are working with federal groups to donate food for future USDA shipments.

Illinois.—Illinois has a sister-state agreement with the Russian republic. The state works with the Russian Association for Foreign Economic Cooperation for Medium and Small Businesses and the US-USSR Trade and Economic Council to promote business activity with the newly independent republics. The state's International Business division assists delegations from the republics, and received a delegation of four Russian Governors in January. In 1991, the division was successful in facilitating several joint ventures between Illinois and the Commonwealth of Independent States.

Indiana.—In December 1991, Indiana reached an agreement with the Moscow oblast to assist them in democratization and with making a transition to a market economy. The state is working closely with oblast officials to set up technical assistance projects, governmental and academic exchanges, and educational linkages in connection with the agreement. In this effort, Indiana is working with the Indiana-Soviet Trade Consortium, a not-for-profit group of Indiana businesses interested in improving relations with the republics. Under the agreement, there will be two joint Indiana state-Moscow oblast committees with members appointed by the Governor and the chairman of the oblast. The committees will assist with the strategic planning necessary for market and democratic reforms. As part of the agreement, the Moscow oblast will purchase from Indiana companies goods and services that are at least equal to the services Indiana provides through the agreement. A compensation committee will determine the details of the purchases. Indiana has already begun one particular assistance project: they are helping the oblast in defining the oblast-Russian republic relationship by furnishing oblast officials with information on federal-state relationships in the United States and on U.S. state constitutions.

Iowa.—In 1987, Iowa established a sister-state agreement with the Stavropol region in the Russian republic. It was the first such agreement between a state and a region in the former Soviet Union. Since then, Iowa implemented a number of programs to foster business and cultural ties with the republics. Iowa established the International Development Foundation, a public-private organization, in the fall of 1990 to assist the Soviet Union and Eastern Europe in the development of democracies, free markets, and international trade. One of the foundation's projects is an agreement to establish two agribusiness centers in Russia and Ukraine. The purpose of the project is twofold: first, to introduce market-oriented agricultural business practices; and second, to promote long-term trade and commercial ties. The centers will introduce U.S. technology and agribusiness skills to help improve Russian and Ukrainian food production, processing, and distribution. The program will be conducted by the Iowa State University faculty and by members of the U.S. agribusiness community, who will provide equipment, technology, and technical advice. For their part, Russia and Ukraine will assume domestic costs associated with the center and will administer participation in the program. Also, Iowa is participating in the creation of an electronic network that will provide information about U.S., Russian, and Ukrainian agribusiness firms in order to facilitate commercial contacts and information exchange. Other foundation projects include exchanges of state legislators and the establishment of sister hospitals and other medical community connections.

Maryland.—Maryland concluded agreements of Friendly Partnership and Cooperation with Russia and Lithuania to promote official government connections, promote trade, and educational exchanges. Also, the Maryland/Eastern European People's Program (MEEPP) promotes programs for technical assistance, training, scholarship, and education opportunities between the people of Maryland and the republics. MEEPP is a cooperative effort of the University of Maryland, Johns Hopkins University, the Maryland business community, the not-for-profit sector, and various state agencies. MEEPP projects with the newly independent republics include educational exchanges, an East-West Technology Center at the University of Maryland, technical assistance with environmental projects, cultural exchanges, and the Baltics-Maryland Partnership, which provides a wide variety of assistance to the Baltic states.

New Jersey.—The Governor and the state international trade office have been active in hosting delegations from the newly independent republics. They have hosted groups from Moldavia, Ukraine, Belarus, Lithuania, and Russia. These meetings have led to exchanges on legal affairs, trucking operations, and food packaging/processing technology. A meeting with Ukraine officials resulted in a major dairy and food processing project with a New Jersey commercial refrigeration company.

New York.—New York concluded an International Partnership Program agreement with Lithuania in 1991. Under the program, the state will offer technical assistance in economic restructuring, small business development, trade and investment promotion, science, education, and culture. Initiatives are still in the planning stages, but one aspect of the program has already begun. A Technology Transfer Center was opened and expanded in a Lithuanian college. The center was developed with the assistance of the State University of New York, which will eventually provide training and technical support for international industrial development activities. An exchange program of professors is already underway. Another aspect of the program is technical assistance. New York officials have briefed and provided assistance to Lithuanian officials in the areas of policy development and regulation of finance and banking.

Oklahoma.—In October 1991, Governor David Walters, one of the first U.S. officials to visit the former Soviet Union after the August coup, led a delegation of oil and gas industry leaders on a mission to Moscow, St. Petersburg, and Tbilisi in an effort to gauge economic opportunities for Oklahoma companies. As a result of the trip, several Oklahoma oil and gas companies have reached agreements with republic enterprises to produce energy resources. Oklahoma also has provided humanitarian assistance to the republics including 120 tons of food and medical supplies as well as sending specialized firefighting equipment to Southeastern Uzbekistan to fight catastrophic oil well fires. Governor Walters played an active role this past winter in encouraging other states to participate in humanitarian assistance efforts. Currently Governor Walter's office is collecting outdated but still safe and effective pharmaceutical products from hospitals and manufacturers in the United States to send to health providers in the republics. The state also is helping private efforts to host republic delegations for educational, cultural, business, humanitarian, and technical assistance purposes. Oklahoma's higher education institutions have been active in providing assistance. Among other projects, Oklahoma City University was the first U.S. university selected to train former Soviet military executives in economic theory and practice through classes and internships with local Oklahoma businesses. The Center for International Trade Development at Oklahoma State University set up one of the few live interactive video-conferences between U.S. citizens and business leaders and decision-makers in Moscow. The University of Tulsa will initiate an MBA program at the Zelenograd Technological Institute for the Fall 1992 semester.

Rhode Island.—Rhode Island's Department of Economic Development signed an agreement with Murmansk, a port city in the Russian republic, to promote trade. The program includes cooperation and exchanges in shipping, industry and manufacturing, and science and technology. The Department of Economic Development has hosted several trade delegations from the Russian Republic interested in promoting ties with Rhode Island businesses and improving trade between the ports of Providence and Murmansk.

Wisconsin.—Wisconsin expects that there will be numerous trade opportunities in sectors in which their state is very competitive: dairy products/processing, environmental regulations and monitoring systems, medical equipment, and factory automation. To promote cultural and educational contacts, Wisconsin is encouraging sister-city relationships; five already have been established.

This information was collected as part of an NGA survey of states conducted December 1991 through May 1992. NGA gratefully acknowledges the effort and cooperation of those states who responded.

THE COUNCIL OF
STATE GOVERNMENTS, LEXINGTON, KY,
June 23, 1992.

Hon. PAUL D. WELLSTONE,
U.S. Senate, Senate Hart Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: The Council of State Governments is writing in support of your efforts to aid in the development of local and regional public administration programs in the former Soviet Union.

The need for such programs is great. Strong local and regional democratic government institutions are necessary to ensure the stability of emerging democracies around the world. Technical assistance from the United States in this area, combined with general and specific assistance in other areas, is necessary to smooth the transition of the states of the former Soviet Union from authoritarianism to democracy.

The Council of State Governments (CSG) is frequently approached to lend our expertise to the development and implementation of such programs. CSG has vast resources and experience at its disposal and is prepared to work in coordination with other national organizations to implement and maintain a long-term technical assistance program in the former Soviet Union.

While CSG and other national organizations possess broad expertise and experience, we cannot go it alone. Guidance and assistance from the federal government will be necessary for a successful democratic institution building program. CSG remains willing and eager to work with you and other Members of Congress, the administration and other national organizations as this important undertaking moves forward.

Sincerely,

Daniel M. Sprague,
Executive Director.•

By Mr. EXON:

S. 2888. A bill to amend title XVIII of the Social Security Act to provide for guidelines clarifying the reclassification of one rural area to another rural area for purposes of determining reimbursement rates to hospitals under Medicare; to the Committee on Finance.

ADJACENCY REQUIREMENT FOR RURAL HOSPITALS

Mr. EXON. Mr. President, today, I am introducing legislation to eliminate the adjacency requirements for rural hospitals wishing to reclassify to another rural area.

Currently the law requires that hospitals must be within 35 miles and in an adjacent county before they can reclassify to a metropolitan statistical area or another rural area. My bill retains the 35-mile restriction, but does not require that the hospitals be in neighboring counties to reclassify.

The changes in hospital costs do not stop at county lines. Eliminating the adjacency requirements can result in increasing a hospital's diagnostic related group payments. This is significant, especially in rural areas where they are fighting for every dollar and competing with neighboring hospitals for personnel.

In Nebraska, hospitals which are within 35 miles of Kansas, Colorado, South Dakota, Iowa, Missouri, or Wyoming have to compete for personnel because Nebraska's reimbursement rates are lower. For people living in rural areas, 35 miles is not a great distance to drive to get higher pay. Rural hospitals have enough strikes against them without competing on an unlevel playing field with other rural hospitals in neighboring counties.

While this bill is no panacea for rural hospitals, it allows a few rural hospitals to be reimbursed more equitably for the same services with their close neighbors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF MEDICARE GUIDELINES ON RECLASSIFYING ONE RURAL AREA TO ANOTHER RURAL AREA.

(a) In General.—Section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)) is amended by adding at the end the following new subparagraph:

"(G) In promulgating or enforcing the guidelines or regulations under this paragraph, the Secretary shall provide, in determining whether a county in which a hospital is located should be reclassified from one rural area to another rural area under this paragraph, that the borders of such rural areas need not be contiguous as long as the rural areas are within 35 miles of proximity to one another.".

(b) Effective Date.—The amendment made by this section shall apply with respect to reclassifications occurring on or after October 1, 1992.

By Mr. BOREN:

S. 2889. A bill to repeal section 5505 of title 38, United States Code; to the Committee on Veterans' Affairs.

REPEAL OF LIMITATION ON PAYMENT OF COMPENSATION

• Mr. BOREN. Mr. President, I am introducing a bill today to remedy a grave injustice caused by the Omnibus Budget Reconciliation Act of 1990. I supported the bill because I believe that a balanced budget must be a top priority for Congress and the administration. I also believe we can achieve that objective through reasonable and humane reductions and reallocations of spending. But one provision of the 1990 budget agreement was neither reasonable not humane.

The Veterans' Administration was directed to discontinue benefits to any incompetent veteran who has an estate of $25,000. When the estate goes below $10,000, the payments may start again.

We seem unwilling or unable to contain cost of living increases to Social Security recipients, Federal and military retirees, but we stop benefits to those veterans who have been determined incapable of supporting their families and conducting their own affairs.

In February of this year, I was pleased to learn that a Federal district court had granted a preliminary injunction in a class action in which the Disabled American Veterans challenged the constitutionality of this measure. Now I find that the U.S. Court of Appeals has vacated the injunction and it will require legislation to remove this ban on benefits to veterans who cannot fight their own battles and frequently cannot because they were fighting a battle for us.

The only excuse I have heard for including this provision is that apparently there has been some indication of misuse of these funds by guardians or fiduciaries. Mr. President, I think it would be possible to uncover some degree of waste, fraud and abuse in most Federal programs. At the same time, I am very sure that we would also agree that dismantling these programs is not the answer. I venture to say that for every abuse of this program, there have been hundreds of veterans and their families unfairly impacted because of the cessation of these payments.

As soon as the payments to incompetent veterans stopped, I was contacted by a few Oklahomans whose stories need to be heard and are, I suspect, quite typical. For instance, one incompetent Oklahoma veteran's condition has been unchanged since World War II when he was injured in a parachuting accident during a mission. His sister brought him home from an institution and started paying for his needs and banking the VA benefits so there would be money to take care of her brother after she died. Another Oklahoma father brought his son, who was injured during the Vietnam era, home for the same reason. Yes, those estates are over $25,000 but were giving caring family members some peace of mind.

Mr. President, our annual deficits are an estimated $400 billion a year. We will borrow 25 cents of every dollar we spend next year. The fiscal year 1993 interest and deposit insurance requests total more than the Defense budget request. We may save $125 million a year from those of the 13,500 incompetent veterans whose estates are more than $25,000. Were they selected because they cannot fight back? All the payments to individuals are more than 40 percent of the total budget, yet we ask these few, unfortunate veterans and their families to sacrifice. In my view, it says that the Congress and the administration only has the courage to find savings from Americans who cannot defend themselves. I welcome the cosponsorship of my colleagues and I hope for immediate action to right this wrong.•

By Mr. DOLE (for himself and Mrs. Kassebaum):

S. 2890. A bill to provide for the establishment of the Civil Rights in Education: Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

CIVIL RIGHTS IN EDUCATION: BROWN VERSUS BOARD OF EDUCATION NATIONAL HISTORIC SITE

Mr. DOLE. Mr. President, today I am introducing a bill to preserve one of the two schools involved in the Brown versus Board of Education case—the landmark U.S. Supreme Court decision that brought an end to legal segregation in public education. Joining me to sponsor the Civil Rights in Education National Historic Act of 1992 is my distinguished colleague from Kansas, Senator Kassebaum. In addition, a companion bill will soon be introduced in the House.

THE BROWN VERSUS BOARD CASE

In 1951, Oliver Brown and 12 other parents attempted to enroll their children in what was then the all-white Sumner Elementary School. When Linda Brown and the other children were denied admission and told to attend the all-black school, Monroe Elementary, Lawyers John and Charles Scott initiated the legal action that became one of the most important civil rights case in American history: Brown versus Board of Education.

All of those who played a role in advancing the case wanted a nation where schoolchildren—and all people—were not divided by race. They wanted a nation that built bridges and not walls. The plaintiffs and their lawyers believed that the Constitution provided equal access to education, and the Supreme Court confirmed their belief when in 1954 the decision was sent down declaring segregation illegal.

WHY THE STUDY WAS REQUESTED

Over the years since the Brown decision, the two schools have met very different fates. The Sumner school continues to be used by the city of Topeka as a school and it remains in good condition. The Monroe School, unfortunately, has fallen on hard times since its sale to a developer. At one point, there was even talk of tearing it down.

After hearing of these plans, Cheryl Brown-Henderson, president of the Brown Foundation, contacted the Kansas delegation to ask our help in protecting the school. As a first step, the delegation asked the Secretary of Interior to designate the Monroe School a national historic landmark. The Sumner School had already received this designation several years earlier, so the application for the Monroe School was readily approved by Secretary Lujan.

The Kansas congressional delegation then requested that the National Park Service research the feasibility of preserving the Monroe School as an interpretive center for the landmark Brown versus Board of Education case. Our goal was not only to preserve the structure, but to make sure the important story of the Brown case would not be lost to future generations.

THE FEASIBILITY STUDY

The Park Service thoroughly examined the impact of the case on American history, the interpretation of the site, and the full range of management alternatives. The study team also looked at a number of related properties and held a public meeting to gather the community's viewpoints.

After 2 years of research, the Park Service concluded that both the Monroe School and the Sumner School are of national significance. The Park Service states, "the location of both schools in Topeka and the quality of education they provided to Linda Brown and the other plaintiffs in the case, were material to the finding of the Supreme Court in the Brown decision." And furthermore that, "the Sumner Elementary School and the Monroe Elementary School symbolize both the harsh reality of discrimination permitted by the Plessy versus Ferguson decision in 1986 and the promise of equality embodied in the 14th amendment to the constitution that was realized after 1954."

In addition, the property was found to be of sufficient size and configuration to afford adequate resource protection and provide appropriate space for facilities. The park service believes the site is both suitable and feasible for development as a national historic site.

MANAGEMENT ALTERNATIVES

The study offered four management alternatives: no action, national historic site status, management of the site by the Brown Foundation, or management by some other private group.

After reviewing the study and speaking with the community, I believe the best way to preserve the school and offer a thorough interpretation of the case is to manage the Monroe School as a national historic site.

According to the feasibility study, the park service has no other site in its system tied to "constitutional law" of the same magnitude as the Monroe School. In my opinion, it is important to preserve the school in order to remember and learn from our Nation's sad history of segregation.

CONCLUSION

I recently attended the dedication of the Monroe School as a national historic landmark and was touched by the outpouring of interest and support from the community. In 1954, Kansans were deeply involved in the case—in fact, the language that the Supreme Court used to discuss the effects of segregation was drafted by the First District Court of Kansas. The large turnout for the landmark dedication ceremony demonstrates the people in my State's strong ties to this case and their support for representation of the school.

I feel strongly that the lessons from the Brown versus Board of Education case should never be forgotten and I look forward to the day when the Monroe School will once again be a place of learning.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights in Education: Brown versus Board of Education National Historic Site Act of 1992."

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Civil Rights in Education: Brown versus Board National Historic Site as established in Section 4.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) The Supreme Court, in 1954, ruled that the earlier 1896 Supreme Court decision in Plessy versus Ferguson that permitted segregation of races in elementary schools violated the fourteenth amendment to the U.S. Constitution, which guarantees all citizens equal protection under the law.

(2) In the 1954 proceedings, Oliver brown and twelve other plaintiffs successfully challenged an 1879 Kansas law that had been patterned after the law in question in Plessy versus Ferguson after the Topeka, Kansas, Board of Education refused to enroll Mr. Brown's daughter, Linda.

(3) Sumner Elementary, the all-white school that refused to enroll Linda Brown, and Monroe Elementary, the segregated school she was forced to attend, have subsequently been designated National Historic Landmarks in recognition of their national significance.

(4) Sumner Elementary, an active school, is administered by the Topeka Board of Education; Monroe Elementary, closed in 1975 due to declining enrollment, is privately owned and stands vacant.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the places that contributed materially to the landmark U.S. Supreme Court decision that brought an end to segregation in public education; and

(2) to interpret the integral role of the Brown v. Board of Education case in the civil rights movement.

(3) to assist in the preservation and interpretation of related resources within the city of Topeka that further the understanding of the civil rights movement.

SEC. 4. ESTABLISHMENT OF THE CIVIL RIGHTS IN EDUCATION: BROWN V. BOARD OF EDUCATION NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is hereby established as a unit of the National Park System the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas.

(b) DESCRIPTION.—The historic site shall consist of the Monroe Elementary School site in the City of Topeka, Shawnee County, Kansas, as generally depicted on a map entitled "Civil Rights in Education: Brown v. Board of Education National Historic Site," numbered Appendix A and dated June 1992. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. PROPERTY ACQUISITION.

The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in section 4(b). Any property owned by the States of Kansas or any political subdivision thereof may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site. Provided, however, the Secretary may not acquire such personal property without the consent of the owner.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666).

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with private as well as public agencies, organizations, and institutions in furtherance of the purposes of this Act.

(c) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after funds are made available, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1.25 million to carry out the purposes of this Act including land acquisition and initial development.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleague from Kansas in cosponsoring the Civil Rights in Education: Brown versus Board of Education National Historic Site Act.

Kansans know well the story of Linda Brown and her struggle in the early 1950's to attend Sumner Elementary School, the all-white school located three blocks from her parents' home. Denied admission to Sumner solely because she was black, she was forced to make the daily 24-block trek from her home in central Topeka to Monroe Elementary, the city's nearest black school.

Today, these facts seem reprehensible. But, it took a group of angry and determined parents, including Linda Brown's, to say the system was wrong. They went to court believing that separate education facilities for blacks and whites were inherently unequal; and in 1954, they convinced the entire United States Supreme Court.

The case, Brown versus Board of Education of Topeka, was a landmark in our country's civil rights movement, and it began because a Topeka school girl was not allowed to enroll in one school and forced to attend another.

The legislation we introduce today will designate the Monroe School, the all-black school attended by Linda Brown, as a National Historic Site. It will enable the National Park Service to preserve this building and use it to put into context the impact this decision has had on the civil rights movement and black history. No other site in the National Park System commemorates this important historic theme.

Mr. President, creation of the Civil Rights in Education National Historic Site will be an important reminder of the inequalities that existed in the separate but equal school systems prior to 1954. In designating the Monroe School as a national historic site, we will also honor those who played key roles in the Supreme Court's Brown versus Board of Education decision. They had the courage to step forward and correct inequity. In doing so, they not only helped create a fairer educational system but a basic principle of justice.

By Mr. DOLE (for himself, Mr. BOND, Mr. GARN, Mr. GRASSLEY, and Mr. MCCAIN):

S. 2891. A bill to authorize the Administrator of the Environmental Protection Agency to establish a program to provide career training through the hazardous substance research center program of the Environmental Protection Agency to qualified military personnel and qualified Department of Energy personnel to enable such individuals to acquire proficiency in hazardous and radioactive waste management, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL SCIENCE EDUCATION ACT

Mr. DOLE. Mr. President, I am pleased to introduce the environmental science education bill.

The purpose of this legislation is to prepare men and women for the task of cleaning up our Nation's environmental problems. It is not a cure-all to the problem, but it is a positive step forward. By establishing programs in universities throughout the Nation in the environmental sciences today, we can ensure that a highly trained cadre of environmental professionals will be on the job in the shortest possible time—and time is the thing that we are running out of.

The environmental cleanup of our Nation is a complex and difficult task that will take decades to complete. Adding to the environmental problems are the radioactive sites that must be made safe. In my view, these are problems that we should confront now, or we will have to pay for later.

One of the major obstacles in the cleanup problem is that we do not have enough people trained in the environmental sciences. Federal and State agencies have determined that there is a serious shortfall of scientists, engineers, and technicians in the environmental disciplines. This shortfall of professionals is also a problem in the private sector. Technical talent in the design and implementation of environmental concerns hinders the cleanup process and the construction of new environmentally safe facilities.

This bill will harness the prior training of the men and women within the Departments of Defense and Energy that have prior hands-on training in environmental problems and provide them with the academic education necessary to become experts in the field. The environmental science education programs would be established in the current EPA university hazardous research centers. This consortium of universities spans the Nation and allows the opportunity to use the wealth of information and expertise of information and expertise of the research centers.

Mr. President, environmental safety is a national priority. We can continue to talk about it, or spend more money on litigating it, or we can act now. In my view, the environmental science education bill is a positive step toward solving the problem, and ensuring that we will hand over to future generations a safe and environmentally healthy nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "hazardous substance research centers" means the hazardous substances research centers described in section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)). Such term shall include the Hazardous Substance Research Center for Federal Regions VII and VIII, located at Kansas State University in Manhattan, Kansas, the Northeast Hazardous Substance Research Center located at the New Jersey Institute of Technology, the Great Lakes and Mid-Atlantic Hazardous Substance Research Center located at the University of Michigan, the Hazardous Substance Research Center of the South and Southwest located at Louisiana State University, and the Western Region Hazardous Substance Research Center located at Stanford University.

(3) The term "hazardous waste" means—

(A) waste listed as hazardous waste pursuant to subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

(B) radioactive waste; and

(C) mixed waste.

(4) The term "mixed waste" means waste that contains a mixture of waste described in subparagraphs (A) and (B) of paragraph (3).

(5) The term "qualified individuals" means qualified military personnel and qualified Department of Energy personnel.

(6) The term "qualified Department of Energy personnel" means individuals who, during the 5-year period preceding the date of the enactment of this Act, have been employed by the Department of Energy and have been involved in the production of nuclear weapons, and whose employment at the Department of Energy during such 5-year period was scheduled for termination as a result of a significant reduction or modification in the programs or projects of the Department of Energy. Such term shall not include any employee who terminates employment by taking early retirement or who otherwise voluntarily terminates employment.

(7) The term "qualified military personnel" means members and former members of the Armed Forces of the United States who have training in site remediation, site characterization, waste management, waste reduction, recycling, engineering, or positions related to environmental engineering or

basic sciences (including training for management positions). Such term shall not include any former member of the Armed Forces whose service in the Armed Forces was terminated by dismissal (in the case of a former officer) or by discharge with a dishonorable discharge or a bad conduct discharge (in the case of a former enlisted member).

(8) The term "radioactive waste" means solid, liquid, or gaseous material that contains radionuclides regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) of negligible economic value (considering the cost of recovery).

SEC. 2. EDUCATION AND TRAINING PROGRAM.

(a) In General.—

(1) Establishment of program.—

(A) In general.—Not later than 3 months after the date of the enactment of this Act, the Administrator, in consultation with the Secretaries of Energy and Defense, shall establish an education and training program for qualified individuals to enable such individuals to acquire career training in environmental engineering or environmental sciences in fields related to hazardous waste management and cleanup.

(B) Development of academic program.—In carrying out the program, the Administrator, in consultation with the Secretaries of Energy and Defense, shall develop and implement an academic program for qualified individuals at institutions of higher education at both undergraduate and graduate levels, and which may lead to the awarding of an academic degree or a certification that is supplemental to an academic degree.

(2) Program activities.—

(A) In general.—The program established pursuant to paragraph (1) may include educational activities and training related to—

(i) site remediation;

(ii) site characterization;

(iii) hazardous waste management (including such specialized activities and training relating specifically to radioactive waste as the Administrator determines to be appropriate);

(iv) hazardous waste reduction (including such specialized activities and training relating specifically to radioactive waste as the Administrator determines to be appropriate);

(v) recycling;

(vi) process and materials engineering;

(vii) training for positions related to environmental engineering or environmental sciences (including training for management positions); and

(viii) environmental engineering, with respect to the construction of facilities to address the items described in clauses (i) through (vii).

(B) Educational activities.—The program established pursuant to paragraph (1) shall include educational activities designed for personnel participating in a program to achieve specialization in the following fields:

(i) Earth sciences.

(ii) Chemistry.

(iii) Environmental engineering.

(iv) Statistics.

(v) Toxicology.

(vi) Industrial hygiene.

(vii) Health physics.

(viii) Education management.

(ix) Any other field that the Administrator determines to be appropriate.

(b) Grant Program.—

(1) In general.—From the amounts made available under subsection (c), the Administrator shall award grants to the hazardous substance research centers to pay the Federal share of carrying out the development and implementation of the academic program described in subsection (a).

(2) Grant awards.—The Federal share of each grant awarded under this subsection shall be 100 percent.

(c) Funding.—

(1) Environmental protection agency.—

(A) In general.—Subject to the limitation described in subparagraph (B), 50 percent of the cost of carrying out this section shall be funded from amounts made available for fiscal year 1993 to the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) Limitation.—The limitation described in this subparagraph is that not more than 1 percent of the amounts made available for fiscal year 1993 to the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) may be used to carry out this section.

(2) Department of defense.—

(A) In general.—Subject to the limitation described in subparagraph (B), 25 percent of the cost of carrying out this section shall be funded from amounts appropriated for fiscal year 1993 to the Defense Environmental Restoration Account.

(B) Limitation.—The limitation described in this subparagraph is that not more than 1 percent of the amounts appropriated for fiscal year 1993 to the Defense Environmental Restoration Account may be used to carry out this section.

(C) Transfer.—The Secretary of Defense shall transfer an amount determined in accordance with subparagraphs (A) and (B) to the Environmental Protection Agency, pursuant to the authority granted the Secretary under section 2703 of title 10, United States Code.

(3) Department of energy.—

(A) In general.—Subject to the limitation described in subparagraph (B), 25 percent of the cost of carrying out this section shall be funded from amounts appropriated for fiscal year 1993 to the Department of Energy for the purpose of environmental cleanup.

(B) Limitation.—The limitation described in this subparagraph is that not more than 1 percent of the amounts appropriated for fiscal year 1993 to the Department of Energy may be used to carry out this section.

(C) Transfer.—The Secretary of Energy shall transfer an amount determined in accordance with subparagraphs (A) and (B) to the Environmental Protection Agency.

By Mr. PELL:

S.J. Res. 322. Joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of Office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO COMMENCEMENT OF THE TERMS OF THE OFFICE OF PRESIDENT, VICE PRESIDENT, AND MEMBERS OF CONGRESS

Mr. PELL. Mr. President, today I am introducing a joint resolution to amend the Constitution to advance the date for the inauguration of the President. Currently, the inauguration date is January 20, a date set by the 20th amendment to the Constitution in 1933. My resolution would advance the inauguration date to the 10th of December.

The reasons for my pursuing this proposal are straightforward: The time between the election of the President and his or her assumption of office is simply too long, entirely unnecessary, and potentially dangerous and destabilizing. By taking this simple step, we can avoid the potential pitfalls that encumber a prolonged transition period within the executive branch without compromising the means by which the transfer of power occurs in our country in any way.

In looking at whether or not the current Presidential inauguration date should be retained, it is useful to look at the history of its setting. Since the adoption of the Constitution, there have been two different dates set for the inauguration of the President: March 4 and January 20. The original March 4 date was set as a result of that day happening to be "the first Wednesday in March" following the adoption by the Continental Congress in 1788 of an act commencing the proceeding of the Government of the United States under the newly ratified Constitution.

The inaugural date remained on March 4, until 1933 when, following ratification of the 20th amendment to the Constitution, the date was moved from March 4 to January 20. The motivation behind changing the date then was largely the same as the motivation for my proposing the change now: There was no advantage and potentially many problems with a delayed inauguration and advances in vote-counting technology and transportation had rendered unnecessary the long interim between November and March.

Today, further technological advances enable election results to be determined within hours of the closing of polling stations and travel to the Nation's Capital is, at most, a 2-day affair from the most distant parts of our country. Accordingly, the potential for updating our Presidential transition process by advancing the inaugural date, and thereby reducing the potential risks inherent if such a process is protracted, is not limited by technological capability.

What are the potential risks of a delayed inauguration and what advantages would result from the establishment of an earlier date? First, one of the chief risks is the potential for confusion by both domestic and foreign governments over whom appropriately speaks for the Federal Government of the United States during the current 2½-month hiatus between our Presidential election and inauguration. Currently, this interim is nothing but a near-paralysis of government in both domestic and foreign affairs. In domestic affairs, policy decisions or the implementation of programs which may be crucial to the well-being of the country are either on hold during this period or are rushed into place against the desires of the newly elected administration. Similarly, foreign governments generally defer dealing with outgoing administrations or, even worse, hasten to make arrangements that a newly enfranchised President might not countenance. There is no reason to run these risks because of an outdated determination of the Presidential inauguration date.

Second, another compelling reason for advancing the inaugural date is that the earlier date would permit the incoming President time to submit to Congress his or her own budget for the following fiscal year instead of submitting revisions and amendments to a budget prepared by the outgoing administration. It makes little sense that we have this built-in duplication of effort and expense. In addition, an earlier inaugural date would provide a President with a much better opportunity to seek revisions in the budget for the current fiscal year, thereby providing the chance for the quicker transition to the policies upon which the incoming President was elected to office.

Third, because of the length of time between election day and the beginning of the new Presidential and congressional terms, so-called lame-duck sessions occur during which legislators vote on and shape legislation even though they have either chosen not to run for reelection or were just defeated at the polls for another term. Likewise, executive branch agencies and officials take actions which will have an effect far beyond the time when the outgoing administration leaves office. These lame-duck sessions are dangerous to the democratic process and an unnecessary opportunity for mischief within our system of government.

Finally, I believe the American people, having gone through a Presidential selection process that now extends for months, if not years, at a time, want to see their elected choice in office and implementing his or her proposed policies as soon as possible. There is no reason for the length of delay that we currently have between the election of our President and his or her assumption of office.

My joint resolution is quite simple. It proposes moving the inaugural date for the President from January 20 to December 10. To accomplish this, it is necessary to move the commencement of the terms of Members of Congress as well, as the House of Representatives plays a role in verifying the results of the electoral college and indeed may choose the President should a single candidate not have a majority of electoral votes. Therefore, my resolution would move the date for the commencement of congressional terms from January 3 to December 1. This would allow ample time for the members of the electoral college to meet and vote following the election and for the House of Representatives to carry out their role in the Presidential selection process.

My proposal for advancing the inauguration is not new. I first introduced similar legislation in 1981 and hearings were held on this issue in 1984. While the hearing record shows that testimony was largely in favor of moving the inaugural date, the proposal was never presented to the full Senate. I believe that the time is appropriate for consideration of this legislation once again given the heightened scrutiny afforded the Presidential selection process during this election year.

Indeed, this year's Presidential election looks as if it will be atypical in the sense that there is the very real possibility that a single candidate may not emerge from election day with the necessary electoral votes required to win the Presidency. I believe that the advancement of the inaugural date would be especially beneficial in such a scenario. Not only would the confusion over whom could authoritatively speak for the National Government be greater than normal, but the current 2½ month interval would provide enormous and perhaps irresistible potential for mischief and closed-door negotiations in the courting and lobbying of votes from the Members of the House of Representatives. A shorter transition period would reduce the opportunity in such a situation for the undesirable result of a President assuming power as the result of insider dealmaking.

Indeed, the unusual dynamics of this year's Presidential election has sparked renewed debate over other aspects of the process by which we choose our Chief Executive. Some have called for moving election day to a Saturday in an effort to increase voter participation and others have called for an abolishment of the current electoral college system and replacing it with a modified version of the electoral college or a direct popular vote. My resolution does not address these issues which are complex and steeped in politics. Rather, it would make a simple, straightforward, commonsense change in the Presidential transition process; one that would improve the system with few or no drawbacks. I sincerely hope that the Senate will give its full consideration to this joint resolution.

By Mr. SIMON:

S.J. Res. 323. Joint resolution designating October 30, 1992, as "Refugee Day"; to the Committee on the Judiciary.

REFUGEE DAY

• Mr. SIMON. Mr. President, I rise today to introduce a joint resolution to designate October 30, 1992, as "National Refugee Day." The United States has consistently been a leader in the world community to expand efforts to help the needy population of refugees. Furthermore, refugees and immigrants who have come to the United States have been great assets to the Nation. The resolution I introduce today honors the courage and determination of refugees throughout the world and their contributions to this society.

The current global climate requires that the United States continue to be a leader in refugee affairs. In the past decade, the plight of refugees worldwide has been worsening as the world refugee population has more than doubled, from 7.3 million to 16 million. The fall of the Soviet Union and the rise of new states present new challenges as well. The aftermath of the Persian Gulf war also contributes to the increase in the number of refugees worldwide. One-third of the refugee population is found in Africa where the host countries have the weakest infrastructure and are the least able to sustain such large numbers of destitute people in flight. At no time has strong leadership by the United States been more necessary.

The different cultural backgrounds that others bring to our shores provide an opportunity for cultural enrichment. We are a nation founded on the dreams and toils of immigrants, and immigrants continue to add to the vitality and diversity of America. Our Nation has served as a beacon to those who flee persecution, and it must remain so.

As a nation of immigrants, we possess a deep understanding of and sympathy for the plight of the 16 million refugees in the world. Obviously, we cannot admit them all, but we must continue our historic commitment to resettlement and regional assistance. We must not only assist those fleeing tyranny and persecution, but we must also work to overcome these conditions. This resolution commemorates the continuing struggles of refugees and the need for active leadership by the United States. I am pleased to sponsor this joint resolution, at the request of the Department of State, to set aside this one day, October 30, to honor the contributions that refugees make every day to America.•

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 1372

At the request of Mr. GORE, the names of the Senator from Virginia

[Mr. WARNER] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2134

At the request of Mr. NUNN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. BURDICK], the Senator from Nevada [Mr. BRYAN], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. GLENN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee.

S. 2244

At the request of Mr. THURMOND, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Maine [Mr. COHEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. MCCAIN], the Senator from Florida [Mr. GRAHAM], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2321

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2321, a bill to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes.

S. 2387

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start Programs, to expand the Job Corps Program, and for other purposes.

S. 2389

At the request of Mr. BRADLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate.

S. 2553

At the request of Mr. INOUYE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the trust fund under the act, and for other purposes.

S. 2667

At the request of Mr. HEFLIN, the names of the Senator from California [Mr. SEYMOUR], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2773

At the request of Mr. DANFORTH, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 2773, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring tax provisions, and for other purposes.

S. 2777

At the request of Mr. BRADLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2777, a bill to finance an educational exchange program with the independent states of the former Soviet Union and the Baltic States, to authorize the admission to the United States of certain scientists of the former Soviet Union and Baltic States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2839

At the request of Mr. SHELBY, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2839, a bill to prohibit the transfer under foreign assistance or military sales programs of construction or fire equipment from Department of Defense stocks.

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. INOUYE], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. LEVIN], the Senator from Utah [Mr. GARN], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 241, designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Connecticut [Mr. DODD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. NUNN], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 270

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 270, a joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day."

SENATE JOINT RESOLUTION 281

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 281, a joint resolution designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week."

SENATE JOINT RESOLUTION 287

At the request of Mr. SIMON, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Michigan [Mr. RIEGLE], the Senator from Maryland [Mr. SARBANES], the Senator from Idaho [Mr. SYMMS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 287, a joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 301

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 301, a joint resolution designating July 2, 1992, as "National Literacy Day."

SENATE JOINT RESOLUTION 303

At the request of Mr. PELL, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Joint Resolution 303, a joint resolution to designate October 1992 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. GORTON, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 312, a joint resolution proposing an amendment to the Constitution to provide for a runoff election for the offices of the President and Vice President of the United States if no candidate receives a majority of the electoral college.

SENATE CONCURRENT RESOLUTION 126—RELATING TO EQUITABLE MENTAL HEALTH CARE BENEFITS

Mr. SHELBY (for himself, Mr. DOLE, and Mr. SIMON) proposed the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 126

Whereas mental illness and substance abuse disorders are prevalent throughout our society;

Whereas approximately 19 percent of the adult population in the United States suffers from a diagnosable mental illness or a substance abuse disorder within any 6-month period;

Whereas mental illness and substance abuse disorders can strike at any point during a person's lifetime;

Whereas 12 percent of Americans under the age of 18, or approximately 7,500,000 children and adolescents, suffer from some type of mental illness or emotional disorder;

Whereas ⅘ of children in need of mental health care do not receive services, resulting in significant costs to society as these children become adults;

Whereas approximately ⅓ of homeless people suffer from a mental illness and approximately 40 percent of homeless people suffer from a substance abuse disorder;

Whereas there are more Americans with a serious mental illness in prisons and street shelters than in hospitals;

Whereas the incidence of mental illness and mental health problems is very costly both to the individual with a mental disorder and to society as a whole;

Whereas mental illness and substance abuse disorders are devastating to the lives of those afflicted, as there exists a direct and close relationship between mental health and overall well-being;

Whereas American businesses lose over $100,000,000,000 per year due to lost productivity of employees because of substance abuse and mental illness;

Whereas annual direct costs of treatment for mental illness and substance abuse disorders are estimated at $68,000,000,000 and annual indirect costs due to lost productivity, lost employment, vehicular accidents, criminal activity, and social welfare programs are estimated to be approximately $250,000,000,000;

Whereas significant progress has been made within the last 10 years in research into the causes and treatments of mental illnesses, and many such illnesses are now treatable;

Whereas 77 percent or more of clinically depressed people were significantly better after receiving psychotherapy than their counterparts who did not receive treatment;

Whereas pharmacologic intervention for schizophrenia and bipolar disorders can dramatically reduce the rehospitalization rate for those afflicted with these disorders, improving the ability of such individuals to live productively in the community;

Whereas the success rate for the treatment of panic disorders is between 70 percent and 90 percent;

Whereas significant numbers of persons with mental illness in the United States find it difficult, if not impossible, to secure needed health care;

Whereas only approximately 20 percent of those in need of mental health services actually receive them;

Whereas mental health care is treated differently from care for other health conditions in both public and private financing systems;

Whereas 99 percent of insured individuals and their families have private health coverage for some inpatient mental health treatment, but only 37 percent have coverage that is equivalent to their coverage for other illnesses;

Whereas many private insurance programs continue to discriminate against individuals who suffer from mental illness or substance abuse disorders;

Whereas public insurance programs continue to discriminate against individuals who suffer from mental illness or substance abuse disorders, as evidenced by the fact that the Medicare program has a 50 percent copayment requirement for mental health care services but only a 20 percent copayment requirement for all other services; and

Whereas businesses, consumers, and Federal and State governments are already paying for mental health care for the uninsured and underinsured in an inefficient and inequitable manner, resulting in much unnecessary pain and suffering for those afflicted with mental disorders as well for their families: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that any legislation passed by the Congress to address the ongoing and unmet health care needs of the American people must include benefits covering medically and psychologically necessary treatments for mental disorders which are equitable and comparable to benefits offered for any other illness.

Mr. SHELBY. Mr. President, you have heard the old saying; an ounce of prevention is worth a pound of cure. American businesses lose over $100 billion per year in lost productivity because of employee mental illnesses or substance abuse. Each year we spend in this country approximately $68 billion for the treatment of substance abuse and mental disorders. Yet, Mr. President, only 20 percent of the population in need of mental health services receive such treatments. This number includes the four-fifths of all children in need of such treatment who never receive it. The resulting cost to society of this untreated population in lost productivity, judicial and incarceration expenses, and social welfare expenditures is a staggering $250 billion.

Mr. President, there has been a tremendous volume of health care legislation introduced during this Congress. I believe that most Members of Congress, including myself, are committed to some form of national health care reform. However, when we consider such reforms, we should not neglect the very real problems and costs of mental illnesses. Both our private and public health care payment systems fail to treat mental disorders and substance abuse as substantial medical and societal problems. But if we in Congress are serious about addressing the gaps in our health care system and containing the costs of health care, then I believe that we must remember to address the deficiency of mental health treatment access. Preventative medicine lowers long-term health care costs. We all know that. Mental health treatment is no less a type of preventative medicine.

Certainly, Mr. President, wider access to such care under any national health care reform is essential for offsetting the overall cost to society of the neglect of mental health needs. To pay now for inpatient or outpatient treatment for a child suffering from a mental disorder is a small price to pay when compared to the cost of maintaining this child in prison when he reaches adulthood.

Presently, Mr. President, many private insurers require substantially higher deductibles for mental health services. Simultaneously, private insurers provide coverage for mental disorders at substantially lower levels than coverage levels for other illnesses. Only 37 percent of private insuranceholders have mental health coverage equal to their coverage for other health treatments.

Our public health insurance system rates mental illness at the same level of reduced concern as does our private insurance system. The Medicare copayment is 50 percent for mental health care services. This rate is 30 percent higher than the standard 20-percent copayment for other treatments.

Therefore, Mr. President, when we speak of an insurance gap, we cannot leave out the lack of access to mental health treatments. Approximately 19 percent of the adult population of this country suffers from a diagnosable mental illness or substance abuse problem within any 6-month period. Yet, only a fifth of these individuals receive treatment. If we consider that more Americans with mental illness are in street shelters or prisons than are in hospitals then, Mr. President, I believe we see the results of this gap in its starkest reality.

We cannot neglect this problem in the coming debate on health care. If we continue to view health care deficiencies solely in terms of traditional medical treatment categories, then we will miss an opportunity to spare our society, our people, the huge social expenditures that result from the failure to intercept and treat mental disorders.

For this reason, Mr. President, I am submitting a concurrent resolution that expresses the sense of the Senate that the present gaps in mental health care coverage and access be addressed in any future health care legislation passed by Congress, and that such legislation treat mental illness as a condition comparable to other illnesses. If we address this problem now, we can reap untold savings in the future. I ask that my colleagues join me in support of this concurrent resolution.

AMENDMENTS SUBMITTED

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

FORD (AND OTHERS) AMENDMENT NO. 2441

Mr. FORD (for himself Mr. BUMPERS, Mr. DOLE, Mr. GRASSLEY, Mr. HARKIN, Mr. FOWLER, Mr. SIMON, Mr. DECONCINI, and Mr. KOHL) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill (S. 2733) to improve the regulation of Government-sponsored enterprises, as follows:

At the end of the amendment, add the following new section:

SEC. . MORATORIUM ON INTERSTATE BRANCHING BY SAVINGS ASSOCIATIONS.

(a) MORATORIUM.—Notwithstanding any other provision of law, no Federal savings association may establish or acquire a branch outside the State in which the Federal savings association has its home office, unless the establishment or acquisition of such branch would have been permitted by law prior to April 9, 1992.

(b) APPLICABILITY.—This section shall apply during the period beginning on the date of enactment of this Act and ending 15 months after such date.

WARNER AMENDMENT NO. 2442

Mr. WARNER proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Tax Exempt Giving Act of 1992".

SEC. 2. PURPOSE.

The purpose of this Act is to require tax exempt organizations to provide contributors, upon request, with a disclosure statement containing a full accounting of the organization's income, expenditures, and compensation (including reimbursed expenses) of its highest-paid employees.

SEC. 3. IMPROVED DISCLOSURE TO DONORS BY TAX EXEMPT TABLE ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Every organization described in section 501(c)(3), other than religions, which is subject to the requirements of subsection (a) (other than an organization described in clause (ii) or (iii) of section 170(b)(1)(A)) shall—

"(A) advise each contributor of at least $25 of the availability, upon written request, of a disclosure statement described in paragraph (2), and

"(B) shall furnish such statement to such contributor within 30 days of such request.

"(2) DISCLOSURE STATEMENT.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds $100,000.

"(3) PROCESSING FEES.—Any organization furnishing a disclosure statement under this subsection may require that a reasonable fee to cover the actual costs of copying and mailing such statement be included in the written request for such statement."

"(b) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—Paragraph (1) of section 6652(c) of the Internal Revenue Code of 1986 (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) DISCLOSURE STATEMENT.—In the case of a failure to comply with the requirements of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements $100 for each day during which such failure continues."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

BROWN AMENDMENT NO. 2443

Mr. BROWN proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

On page 273, after line 20, amend section 1065 by adding the following language to the end of paragraph (f):

"The amendments made by this section shall become effective immediately upon the reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.".

DOMENICI (AND OTHERS) AMENDMENT NO. 2444

Mr. DOMENICI (for himself, Mr. DOLE, Mr. SEYMOUR, and Mr. NICKLES) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place insert the following:

SEC. —. NATIONAL ECONOMIC STRATEGY.

(a) It is the sense of the Congress that legislation should not be enacted that would:

(1) increase taxes on the American people and on small and large businesses over four years by at a minimum of $150 billion;

(2) increases taxes by an additional $10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

(3) increase spending for various and sundry domestic programs over the next four years by over $190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

(4) increase Federal spending by nearly $200 billion for health care programs and impose another $100 billion in taxes on employers to partially pay for this spending;

(5) provide for a child tax credit or a middle-income tax cut that would add another $45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

(6) increase the Federal deficit and not achieve a balanced budget in this century;

(7) terminate only one Federal program (the honey price support program);

(8) reduce mandatory spending by less than one-half of one percent over the next four years;

(9) reduce defense obligational authority by $90 billion more than currently planned and in addition to the $220 billion of reductions already planned; and

(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

DOMENICI (AND OTHERS) AMENDMENT NO. 2445

Mr. DOMENICI (for himself, Mr. MITCHELL, and Mr. MURKOWSKI) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place in the manager's amendment, insert the following new section:

"SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of United States Environmental Protection Agency shall provide to the Senate Environment and Public Works Committee and the House Energy and Commerce Committee by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established under the Comprehensive Environmental Response Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

"(A) Site name, number, state and total number of operable units;

"(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

"(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

"(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

"(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

"(i) owner/operator;

"(ii) transporter;

"(iii) person that arranged for disposal or treatment;

"(iv) municipality;

"(v) state agency;

"(vi) lender or State or Federal lending agency; or

"(vi) Federal agency;

"(vii) any other entity; and

"(viii) that portion of the site that cannot be attributed to any potentially responsible party including dollar amount and volumetric share.

"(F) Site classification;

"(G) Whether the facility is still in operation;

"(H) Number of Records of Decision to be issued;

"(I) Description of elements of removal and/or remedial action.

"(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

"(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through deminimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance.

"(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

"(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

"(N) Description of settlement and enforcement activities;

"(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

"(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the Report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a Report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(C)(1) No later than September 30, 1993, the Administrator of EP, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of Land use policy at such sites and the effect of post-clean-up liability on future uses.

"(4) The Administrator of the United States Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the report as part of the submission to the Congress.".

DOMENICI (AND OTHERS) AMENDMENT NO. 2446

Mr. DOMENICI (for himself, Mr. DOLE, and Mr. SEYMOUR) proposed an amendment to the bill S. 2733, supra, as follows:

At the appropriate place insert the following:

"SEC. . NATIONAL ECONOMIC STRATEGY.

"(a) It is the sense of the Congress that legislation should not be enacted that would:

"(1) increase taxes on the American people and on small and large businesses over four years by at a minimum of $150 billion;

"(2) increase taxes by an additional $10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

"(3) increase spending for various and sundry domestic programs over the next four years by over $190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

"(4) increase Federal spending by nearly $200 billion for health care programs and impose another $100 billion in taxes on employers to partially pay for this spending;

"(5) provide for a child tax credit or a middle-income tax cut that would add another $45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

"(6) increase the Federal deficit and not achieve a balanced budget in this century;

"(7) terminate only one Federal program (the honey price support program);

"(8) reduce mandatory spending by less than one-half of one percent over the next four years;

"(9) reduce defense obligational authority by $90 billion more than currently planned and in addition to the $220 billion of reductions already planned; and

"(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

NICKLES (AND OTHERS) AMENDMENT NO. 2447

Mr. SEYMOUR (for Mr. NICKLES, for himself, Mr. SEYMOUR, and Mr. GRAMM) proposed an amendment to the bill S. 2733, supra, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"'ARTICLE —

"'SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"'SECTION 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"'SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"'SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"'SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"'SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"'SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principle.

"'SECTION 8. This article shall take effect beginning with fiscal year 1988 or with the second fiscal year beginning after its ratification, whichever is later.'".

BYRD AMENDMENT NO. 2448

Mr. BYRD proposed an amendment to amendment No. 2447 proposed by Mr. NICKLES (and others) to the bill S. 2733, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

The Senate finds that—

(1) the President's 1993 budget estimates that the deficit for fiscal year 1992 will be $449,125,000,000;

(2) the national debt as of June 18, 1992 was $3,835,251,000,000;

(3) it is estimated in the President's budget supplement for fiscal year 1993 that the national debt subject to the statutory limit will be—

(A) $4,513,229,000,000 for fiscal year 1993;
(B) $4,856,863,000,000 for fiscal year 1994;
(C) $5,201,542,000,000 for fiscal year 1995;
(D) $5,549,928,000,000 for fiscal year 1996; and
(E) $5,917,713,000,000 for fiscal year 1997;

(4) no President since 1980 has submitted a balanced budget for the budget year to Congress; and

(5) the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

SEC. 2. BALANCED BUDGET PLAN.

(a) PRESIDENT'S PLAN.—The President shall submit not later than September 2, 1992, a 5-year deficit reduction plan, using the economic and technical assumption contained in the President's 1993 budget, to balance the budget by September 30, 1998.

(b) ELEMENTS OF PLAN.—The Plan shall consist of—

(1) reductions in discretionary spending including domestic, defense, and international spending;

(2) reductions in, and controls on, entitlement and other mandatory spending; and

(3) increases in revenues.

BYRD AMENDMENT NO. 2449

Mr. BYRD proposed an amendment to amendment No. 2448 proposed by him to amendment No. 2447 proposed by Mr. NICKLES (and others to the bill S. 2733, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

The Senate finds that—

(1) the President's 1993 budget estimates that the deficit for fiscal year 1992 will be $449,125,000,000;

(2) the national debt as of June 18, 1992 was $3,835,251,000,000;

(3) it is estimated in the President's budget supplement for fiscal year 1993 that the national debt subject to the statutory limit will be—

(A) $4,513,229,000,000 for fiscal year 1993;
(B) $4,856,863,000,000 for fiscal year 1994;
(C) $5,201,542,000,000 for fiscal year 1995;
(D) $5,549,928,000,000 for fiscal year 1996; and
(E) $5,917,713,000,000 for fiscal year 1997;

(4) no President since 1980 has submitted a balanced budget for the budget year to Congress; and

(5) the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

SEC. 2. BALANCED BUDGET PLAN.

(a) PRESIDENT'S PLAN.—The President shall submit not later than September 1, 1992, a 5-year deficit reduction plan, using the economic and technical assumptions contained in the President's 1993 budget, to balance the budget by September 30, 1998.

(b) ELEMENTS OF PLAN.—The plan shall consist of—

(1) reductions in discretionary spending including domestic, defense, and international spending;

(2) reductions in, and controls on, entitlement and other mandatory spending; and

(3) increases in revenues.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Housing Enterprises Regulatory Reform Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Effective date.

TITLE I—SUPERVISION AND REGULATION OF THE ENTERPRISES

Sec. 101. Establishment of the Office of Federal Housing Enterprise Oversight.
Sec. 102. Duties of Director.
Sec. 103. Authority of Director.
Sec. 104. Personnel.
Sec. 105. Funding.
Sec. 106. Information, records, and meetings.
Sec. 107. Regulations.
Sec. 108. Savings provision.
Sec. 109. Annual report of the Director.
Sec. 110. Financial reports and examinations.
Sec. 111. Equal opportunity in solicitation of contracts.
Sec. 112. Conforming amendment.
Sec. 113. Amendment to Department of Housing and Urban Development Act.
Sec. 114. Protection of confidential information.
Sec. 115. Limitation on subsequent employment.
Sec. 116. Protecting taxpayers against liability for the enterprises.

TITLE II—REQUIRED CAPITAL LEVELS FOR THE ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

Sec. 201. Risk-based capital levels.
Sec. 202. Minimum capital levels.
Sec. 203. Critical capital levels.
Sec. 204. Capital classifications.
Sec. 205. Supervisory actions applicable to enterprises.
Sec. 206. Changes in the classification of an enterprise in connection with a capital restoration plan.
Sec. 207. Mandatory appointment of conservator for critically undercapitalized enterprises.
Sec. 208. Capital restoration plans.
Sec. 209. Notice and hearing.
Sec. 210. Judicial review of Director action.
Sec. 211. Ratings.
Sec. 212. Capital.

TITLE III—ENFORCEMENT PROVISIONS

Sec. 301. Cease-and-desist proceedings.
Sec. 302. Temporary cease-and-desist orders.
Sec. 303. Hearings and judicial review.
Sec. 304. Jurisdiction and enforcement.
Sec. 305. Civil money penalties.
Sec. 306. Notice under this title after separation from service.
Sec. 307. Private rights of action.
Sec. 308. Subpoena power.
Sec. 309. Public disclosure of final orders and agreements.

TITLE IV—CONSERVATORSHIP

Sec. 401. Appointment of conservator.
Sec. 402. Powers of a conservator.
Sec. 403. Termination of conservatorship.
Sec. 404. Liability protection.
Sec. 405. Enforcement of contracts.

TITLE V—HOUSING

Sec. 501. General authority.
Sec. 502. Low- and moderate-income housing goal.
Sec. 503. Special affordable housing goal.
Sec. 504. Central city, rural area, and other underserved areas housing goal.
Sec. 505. Other requirements.
Sec. 506. Monitoring compliance with housing goals.
Sec. 507. Data collection and reporting requirements for the enterprises.
Sec. 508. Annual report of the Director.
Sec. 509. Compliance.
Sec. 510. Advisory council.
Sec. 511. Geographic distribution.
Sec. 512. Multifamily mortgage activities.
Sec. 513. Board of Directors qualifications.
Sec. 514. Fair housing.
Sec. 515. Prohibition on public disclosure of proprietary information.

TITLE VI—CHARTER ACT AMENDMENTS

Sec. 601. Amendments to the Federal National Mortgage Association Charter Act.
Sec. 602. Amendments to the Federal Home Loan Mortgage Corporation Act.

TITLE VII—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

Sec. 701. Primacy of financial safety and soundness for Federal Housing Finance Board.
Sec. 702. Study regarding Federal Home Loan Bank System.
Sec. 703. Reports of Federal Home Loan Banks.
Sec. 704. Reports of Federal Home Loan Bank members.
Sec. 705. Full-time status of FHFB members.

TITLE VIII—STUDY OF NATIONAL CONSUMER COOPERATIVE BANK

Sec. 801. Study of National Consumer Cooperative Bank.

TITLE IX—MISCELLANEOUS

Subtitle A—Miscellaneous

Sec. 901. Privatization study.
Sec. 902. Housing assistance in Jefferson County, Texas.
Sec. 903. Applicability of shelter plus care.
Sec. 904. Adjustable rate mortgage caps.
Sec. 905. Community development authority of banks.

Subtitle B—Presidential Insurance Commission

Sec. 911. Short title.
Sec. 912. Findings.
Sec. 913. Establishment.
Sec. 914. Duties of the Commission.
Sec. 915. Membership and compensation.
Sec. 916. Powers of Commission.
Sec. 917. Staff of Commission; experts and consultants.
Sec. 918. Report.
Sec. 919. Termination.
Sec. 920. Authorization of appropriations.

Subtitle C—Secondary Market for Commercial Mortgage Loans

Sec. 921. Short title.
Sec. 922. Purpose.
Sec. 923. Findings.
Sec. 924. Study by the Treasury, CBO, and SEC.
Sec. 925. Report and study by the RTC.

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (as set forth in section 301 of the Federal National Mortgage Association Charter Act and section 301 of the Federal Home Loan Mortgage Corporation Act), and the Federal Home Loan Banks have important public purposes;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public purposes is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) given their current operating procedures, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation pose a low financial risk to the Federal Government;

(4) the securities issued by such enterprises are not backed by the full faith and credit of the United States;

(5) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(6) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness is the primary mission of the Federal Housing Finance Board.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AFFILIATE.—Except as provided by the Director, the term "affiliate" means any entity that controls, is controlled by, or is under common control with an enterprise.

(2) CAPITAL DISTRIBUTION.—

(A) IN GENERAL.—The term "capital distribution" means—

(i) a dividend or other distribution in cash or in kind made with respect to any shares of or other ownership interest in an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) a payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; or

(iii) a transaction that the Director determines by order or regulation to be in substance the distribution of capital.

(B) EXCEPTION.—A payment made by an enterprise to repurchase its shares for the purpose of fulfilling an enterprise obligation under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code shall not be considered a capital distribution.

(3) DIRECTOR.—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(4) ENTERPRISE.—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(5) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(6) LOW INCOME.—The term "low income" means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; or

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(7) MODERATE INCOME.—The term "moderate income" means—

(A) in the case of owner-occupied units, income not in excess of area median income; or

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(8) MORTGAGE PURCHASES.—The term "mortgage purchases" includes mortgages purchased for portfolio or securitization.

(9) NEW PROGRAM.—The term "new program" means any product or program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from products or programs that have been approved under this Act or that were approved or engaged in by an enterprise before the effective date of this Act, or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of products or programs above limits expressly contained in any prior approval.

(10) OFFICE.—The term "Office" means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(11) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 4. EFFECTIVE DATE.

Except where otherwise specified, the effective date of this Act shall be the date of the initial appointment of the Director.

TITLE I—SUPERVISION AND REGULATION OF THE ENTERPRISES

SEC. 101. ESTABLISHMENT OF THE OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the Department of Housing and Urban Development an Office of Federal Housing Enterprise Oversight.

(b) DIRECTOR.—

(1) IN GENERAL.—The Office shall be under the management of a Director who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—

(A) are citizens of the United States,

(B) have a demonstrated understanding of financial management or oversight, and

(C) have a demonstrated understanding of mortgage security markets and housing finance.

(2) LIMITATION.—An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 18-month period preceding the nomination of such individual.

(3) COMPENSATION.—The Director shall be compensated as prescribed in section 5313 of title 5, United States Code.

(4) TERM.—The Director shall be appointed for a term of 5 years.

(5) VACANCY.—A vacancy in the position of Director shall be filled in the same manner as the original appointment.

(6) SERVICE AFTER THE END OF THE TERM.—A Director may serve after the expiration of the term for which the Director was appointed until a successor has been appointed.

(c) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of enactment of this Act.

SEC. 102. DUTIES OF DIRECTOR.

(a) PRIMARY DUTY.—The primary duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely in accordance with this Act and the charter Acts.

(b) OTHER DUTIES.—The Director shall also ensure that the enterprises carry out the public purposes of their respective charter Acts.

SEC. 103. AUTHORITY OF DIRECTOR.

(a) AUTHORITY EXCLUSIVE OF THE SECRETARY.—The Director is authorized, without the review or approval of the Secretary, to—

(1) issue regulations concerning the financial health and security of the enterprises, including the establishment of capital standards;

(2) develop and propose to the Secretary any other regulations necessary and proper to carry out this Act and ensure that the purposes of the charter Acts are accomplished;

(3) establish annual budgets, financial reports, and annual assessments for the costs of the Office;

(4) examine each enterprise's financial and operating condition;

(5) determine capital levels of the enterprises;

(6) undertake administrative and enforcement actions under this Act;

(7) appoint conservators for the enterprises;

(8) monitor and enforce compliance with housing goals under this Act;

(9) conduct research and financial analysis;

(10) submit annual and other reports required under this Act;

(11) perform such other functions as are necessary to carry out this Act and ensure that the purposes of the charter Acts are accomplished.

(b) AUTHORITY SUBJECT TO THE SECRETARY'S REVIEW.—Except as provided in subsection (a), the Director may issue any regulations necessary to carry out this Act and ensure that the purposes of the charter Acts are accomplished, including regulations—

(1) concerning the housing finance missions of the enterprises, including the affordable housing and other housing provisions under title V of this Act; and

(2) to establish and monitor compliance with fair lending requirements;

subject to the Secretary's review and approval.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(d) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—The Director is not required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress any recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

(e) APPROVAL OF NEW PROGRAMS.—

(1) IN GENERAL.—The introduction of a new program by an enterprise pursuant to its charter Act shall be subject to prior approval by both the Secretary and the Director, except as provided in paragraph (5).

(2) APPROVAL PROCEDURE.—Not later than 45 days after submission of the request for approval of a new program or notice under paragraph (5)(A), the Secretary and the Director shall approve the new program or transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report explaining why the new program has not been approved. The 45-day period may be extended for one additional 15-day period if the Secretary or the Director

requests additional information from the enterprise, but the 45-day period may not be extended for any other reason. If the Secretary and the Director fail to transmit the report within the 45-day period or 60-day period, as the case may be, the enterprise may proceed as if the new program had been approved.

(3) APPROVAL BY THE DIRECTOR.—

(A) IN GENERAL.—The Director shall approve a new program unless the Director determines that the program would risk significant deterioration of the financial condition of the enterprise.

(B) UNDERCAPITALIZED INSTITUTIONS.—If an enterprise is undercapitalized, the Director shall approve a new program only if the Director determines that the program will likely improve or not worsen the financial and capital condition of the enterprise.

(4) APPROVAL BY THE SECRETARY.—The Secretary shall approve a new program unless the Secretary determines that the program is not authorized by the relevant charter Act or would have a deleterious effect on housing finance.

(5) SPECIAL APPROVAL PROCEDURE FOR AN ADEQUATELY CAPITALIZED ENTERPRISE.—

(A) NOTICE.—If an adequately capitalized enterprise plans to introduce a new program, it shall submit a written notice to the Secretary and the Director.

(B) APPROVAL BY THE DIRECTOR.—A new program submitted by an enterprise in accordance with subparagraph (A) shall not be subject to approval by the Director.

(C) APPROVAL BY THE SECRETARY.—Within 20 business days after submission of the notice, the new program shall be deemed approved unless the Secretary determines that there is a substantial probability that the program is not authorized by the relevant charter Act or would have a deleterious effect on housing finance, in which case the Secretary shall inform the enterprise, by written notice, that the new program has not been approved under this paragraph, and the procedures of paragraph (2) shall apply.

(D) EFFECTIVE DATE.—This paragraph shall become effective on the date final regulations establishing the risk-based capital test are issued under section 201(e).

(E) TRANSITION PERIOD.—For the purposes of this paragraph, the capital classification of an enterprise shall be determined without regard to section 204(c).

(6) HEARING.—If the Secretary or the Director does not approve a new program, the Secretary or the Director, as the case may be, shall provide the enterprise with a timely opportunity to review and supplement the administrative record in an administrative hearing.

SEC. 104. PERSONNEL.

(a) IN GENERAL.—

(1) DIRECTOR'S POWERS.—The Director may appoint and fix the compensation of employees and agents necessary to carry out the functions of the Director and the Office.

(2) COMPENSATION.—

(A) EXCLUSION FROM GENERAL SCHEDULE PAY RATES.—Employees other than the Director may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(B) COMPARABILITY OF COMPENSATION WITH FEDERAL BANK REGULATORY AGENCIES.—In fixing and directing compensation under paragraph (1), the Director shall consult with, and maintain comparability with compensation at, the Federal bank regulatory agencies.

(b) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who—

(A) are citizens of the United States,

(B) have a demonstrated understanding of financial management or oversight, and

(C) have a demonstrated understanding of mortgage security markets and housing finance.

(2) LIMITATION.—An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 18-month period immediately preceding the nomination of such individual.

(3) POWERS, FUNCTIONS, AND DUTIES.—The Deputy Director shall—

(A) have such powers, functions, and duties as the Director shall prescribe, and

(B) serve as acting Director in the event of the death, resignation, sickness, or absence of the Director, until the return of the Director or the appointment of a successor under section 101.

(c) FEDERAL AGENCIES.—

(1) IN GENERAL.—With the consent of any executive agency, independent agency, or department, the Director may use information, services, staff, and facilities of such agency or department on a reimbursable basis, in carrying out the duties of the Office.

(2) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(d) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(e) EQUAL OPPORTUNITY REPORT.—Not later than 180 days after the effective date of this Act, the Director shall submit to the Congress a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director may determine to be appropriate to carry out such programs.

SEC. 105. FUNDING.

(a) ANNUAL ASSESSMENT.—The Director shall levy an annual assessment on the enterprises sufficient to pay for the estimated expenses of the Office.

(b) ALLOCATION OF ANNUAL ASSESSMENT TO THE ENTERPRISES.—

(1) AMOUNT OF PAYMENT.—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually on September 1 and March 1 of each year.

(3) DEFINITION.—For the purpose of this section, the term "total assets" means the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) RECEIPTS FROM ANNUAL ASSESSMENTS AND THE SPECIAL ASSESSMENT.—Office receipts derived from the annual assessments and the special assessment levied upon the enterprises pursuant to subsection (f)—

(1) shall be available to the Director for expenses necessary to carry out the responsibilities of the Director relating to the enterprises;

(2) shall be used by the Director to pay the expenses necessary to carry out the responsibilities of the Director relating to the enterprises; and

(d) DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION AND ENFORCEMENT.—The semiannual payments made pursuant to subsection (b) by any enterprise that is not adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation and enforcement.

(e) SURPLUS.—If any amount paid by an enterprise remains unspent at the end of any semiannual period, such amount shall be deducted from the annual assessment required to be paid by that enterprise for the following semiannual period.

(f) INITIAL SPECIAL ASSESSMENT.—The Director shall levy on the enterprises an initial special assessment, allocated pursuant to subsection (b)(1), to cover the startup costs of the Office, including space modifications, capital equipment, supplies, recruitment, and activities of the Office in the first year. Each enterprise shall pay its portion of the initial special assessment no later than 10 days after the date the assessment is made.

(g) BUDGET AND FINANCIAL REPORTS FOR THE OFFICE.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall provide to the Secretary and the Director of the Office of Management and Budget a copy of the Office's financial operating plans and forecasts.

(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter, the Director shall submit to the Secretary and the Director of the Office of Management and Budget a copy of the report of the results of the Office's operations during such period.

(3) VIEWS OF THE SECRETARY.—On an annual basis the Secretary shall provide the Congress with comments on the plans, forecasts, and reports required under this subsection.

(4) INCLUSION IN THE PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this subsection shall be included in the Budget of the United States in the appropriate form, and in the Department's congressional justifications for each fiscal year in a form determined by the Secretary.

(5) AUDIT.—

(A) IN GENERAL.—The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to or used by the Office shall be made available to the Comptroller General.

(B) FREQUENCY.—Audits shall be conducted annually for the first 2 years following the effective date of this Act and as appropriate thereafter.

SEC. 106. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code, the Office and the Department of Housing and Urban Development shall, with respect to activities under this Act, be considered agencies responsible for the regulation or supervision of financial institutions.

SEC. 107. REGULATIONS.

In promulgating regulations relating to the financial health and security of an enterprise, the Director shall—

(1) consult in the development of such regulations with the Secretary, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System; and

(2) provide copies of proposed regulations to the Secretary, the Secretary of the Treasury, and the Chairman of the Board of Governors of the Federal Reserve System for their review and comment, which comments shall be in writing and made a part of the record.

SEC. 108. SAVINGS PROVISION.

Any rule or regulation promulgated prior to the effective date of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain valid unless they are modified, terminated, superseded, set aside, or revoked by operation of law or in accordance with law.

SEC. 109. ANNUAL REPORT OF THE DIRECTOR.

Not later than June 15 of each year, the Director shall submit to the Secretary and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written report which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this Act;

(2) a description of the financial condition of each enterprise, including the results and conclusions of the annual examinations of the enterprises;

(3) an assessment, in accordance with section 508, of the extent to which each enterprise is achieving its public purposes; and

(4) any recommendations for legislation.

SEC. 110. FINANCIAL REPORTS AND EXAMINATIONS.

(a) FINANCIAL REPORTS.—

(1) IN GENERAL.—Each enterprise shall provide to the Director annual and quarterly reports of financial condition and operations which shall be in such form, contain such information, and be made on such dates, as the Director may require.

(2) CONTENTS OF ANNUAL REPORT.—Each annual report shall include—

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Director may require; and

(C) a report signed by the enterprise's chief executive officer and chief accounting or financial officer, that assesses, as of the end of the enterprise's most recent fiscal year—

(i) the effectiveness of the enterprise's internal control structure and procedures; and

(ii) the enterprise's compliance with designated safety and soundness laws.

(3) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

(A) AUDITS REQUIRED.—Each enterprise shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(B) SCOPE OF AUDIT.—In conducting an audit under this subsection, an independent public accountant shall determine and report on whether the financial statements—

(i) are presented fairly in accordance with generally accepted accounting principles; and

(ii) to the extent determined necessary by the Director, comply with such other disclosure requirements as may be imposed under paragraph (2)(B).

(4) CERTIFICATION OF QUARTERLY REPORTS.—

(A) DECLARATION.—Quarterly reports shall contain a declaration by an officer designated by the board of directors of the enterprise to make such declaration that the report is true and correct to the best of his or her knowledge and belief.

(B) ATTESTATION.—The correctness of the quarterly report shall be attested by the signatures of at least 3 of the directors of the enterprise other than the officer making the declaration required by paragraph (4)(A). Such attestation shall include a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(5) REVIEW OF AUDITS.—The Director, or at the request of the Director or any Member of Congress, the Comptroller General of the United States, may review any audit of a financial statement conducted under this subsection. Upon request of the Director or the Comptroller General, an enterprise and its auditor shall provide all books, accounts, financial records, reports, files, workpapers, and property that the Director or the Comptroller General considers necessary to the performance of any review under this subsection.

(6) ADDITIONAL AND SPECIAL REPORTS.—The Director may require additional reports from an enterprise, in such form and containing such information as the Director may prescribe, on dates fixed by the Director, and may require special reports from an enterprise whenever, in the Director's judgment, such reports are necessary for the Director to carry out the purposes of this Act.

(b) EXAMINATIONS.—

(1) FREQUENCY OF EXAMINATIONS.—The Director shall conduct a full-scope, on-site examination of each enterprise whenever the Director determines that an examination is necessary, but not less than once every 12 months, to determine the condition of the enterprise and for the purpose of ensuring its financial health and security.

(2) EXAMINERS.—The Director is authorized to contract with any Federal banking agency for the services of examiners and to reimburse such agency for the cost of providing the examiners.

(3) TECHNICAL EXPERTS.—The Director is authorized to contract for the services of such technical experts as the Director determines necessary and appropriate to provide temporary or periodic technical assistance in an examination.

(4) POWER AND DUTY OF EXAMINERS.—Each examiner shall make a full and detailed report to the Director of the financial condition of the enterprise examined.

(5) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to the same obligations and penalties as are applicable to examiners employed by the Federal Reserve banks.

(6) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with any investigation, examination of an enterprise, or administrative proceeding, the Director shall have the authorities conferred by section 308.

(7) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(A) IN GENERAL.—The Director may cause any record, paper, or document to be copied or photographed, in a manner that complies with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(B) DEEMED AS ORIGINALS.—Such copies or photographs, shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies.

(C) PRESERVATION.—Any such photograph or copy shall be preserved as the Director shall prescribe, and the original may be destroyed.

SEC. 111. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—The enterprises shall establish a minority outreach program to ensure inclusion, to the maximum extent possible, of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services, in contracts entered into by the enterprises with such persons or business, public and private, in order to perform the functions authorized under any law applicable to the enterprises.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, each enterprise shall submit to the Congress and to the Director a report describing the actions taken by the enterprise pursuant to subsection (a).

SEC. 112. CONFORMING AMENDMENT.

Section 5313 of title 5, United States Code, is amended by inserting at the end the following:

"Director of the Office of Federal Housing Enterprise Oversight.".

SEC. 113. AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office with any function or program administered by the Secretary.".

SEC. 114. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "a consultant to the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

SEC. 115. LIMITATION ON SUBSEQUENT EMPLOYMENT.

(a) IN GENERAL.—Neither the Director nor a former officer or employee of the Office may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

(b) APPLICABILITY.—The limitation contained in subsection (a) applies only to any former officer or employee who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS-15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 116. PROTECTING TAXPAYERS AGAINST LIABILITY FOR THE ENTERPRISES.

Nothing in this Act shall be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation or the Federal National Mortgage

Association, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, and nothing in this Act shall be construed as implying that either enterprise or its securities are backed by the full faith and credit of the United States.

SEC. 117. ANNUAL LITIGATION REPORT.

Not later than March 15 of each year, the Attorney General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written report which shall set forth for the preceding calendar year the number of requests by the Director to the Attorney General to conduct litigation pursuant to section 516 of title 28 of the United States Code and the status thereof, including—

(1) the total number of requests by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to those requests that resulted in the commencement of litigation—

(A) the number of days between the date of the Director's request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation;

(5) with respect to those requests that did not result in the commencement of litigation, a list of principal reasons thereof and the number of requests for which each reason is applicable; and

(6) a reconciliation showing the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

SEC. 118. PROHIBITING EXCESSIVE COMPENSATION.

(a) IN GENERAL.—The Director shall prohibit an enterprise from providing excessive compensation to any executive officer.

(b) SETTING COMPENSATION PROHIBITED.—In carrying out subsection (a), the Director shall not set a specific level or range of compensation.

(c) DEFINITIONS.—For purposes of this section:

(1) COMPENSATION.—

(A) IN GENERAL.—The term "compensation" includes any payment of money or provision of any other thing of value in consideration of employment.

(B) FUTURE PAYMENT OR PROVISION.—The Director shall value any future payment or provision (including any payment or provision relating to the termination of employment) by calculating the present value of the projected cost of the payment or provision.

(2) EXCESSIVE.—An executive officer's compensation is "excessive" if it is unreasonable or disproportionate to the services actually performed by the executive officer, in view of—

(A) the enterprise's financial condition, including the extent to which the enterprise exceeds or falls below its minimum capital level;

(B) compensation practices at comparable publicly held financial institutions;

(C) any fraudulent act or omission, breach of fiduciary duty, or insider abuse by the executive officer with regard to the enterprise; and

(D) other factors that the Director determines to be relevant.

TITLE II—REQUIRED CAPITAL LEVELS FOR THE ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

SEC. 201. RISK-BASED CAPITAL LEVELS.

(a) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test which shall require each enterprise to maintain positive capital during a 10-year period (the "stress period") in which the following circumstances are assumed to occur:

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for the industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (the "benchmark regional experience"), experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration, as determined by the Director.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year yield in patterns and for durations that are within the range of historical experience and are judged reasonable by the Director but must result by the 5th year of the stress period in patterns of yields with respect to maturities that are consistent with average patterns over periods of not less than 2 years as established by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director, the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under section 201(e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the

basis of available information, to be most consistent with the stress period.

(c) RISK-BASED CAPITAL LEVEL.—For purposes of this title, the risk-based capital level for an enterprise shall be 130 percent of the amount of capital required to meet the risk-based capital test.

(d) DEFINITIONS.—For purposes of this section:

(1) SEASONING.—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of comparable or superior quality).

(2) TYPE OF MORTGAGE PRODUCT.—The term "type of mortgage product" means a classification of 1 or more mortgage products, as established by the Director, that have similar characteristics based on the set of characteristics set forth in the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) IN GENERAL.—The Director shall issue final regulations establishing the risk-based capital test not later than 18 months after the effective date of this Act. Such regulations shall be effective when issued.

(2) CONTENTS.—Such regulations shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates).

(3) APPLICATION.—The regulations and any accompanying orders or guidelines shall be sufficiently specific to enable each enterprise to apply the test to that enterprise in the same manner as the Director, and to enable the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Director of the Congressional Budget Office, the Comptroller General of the United States, the Director of the Office of Management and Budget, or a consultant to the Office to apply the test in the same manner as the Director.

(4) CONFIDENTIALITY OF INFORMATION.—Any person or agency described in paragraph (3) that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall make available to the public copies of any statistical model used to implement the risk-based capital test under this section. The Director may charge a reasonable fee for any copy of a statistical model.

SEC. 202. MINIMUM CAPITAL LEVELS.

(a) IN GENERAL.—The minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 6 months to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

(b) TRANSITION.—Notwithstanding subsection (a), until the expiration of the 18-month period beginning on the date of enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 1 year to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

SEC. 203. CRITICAL CAPITAL LEVELS.

The critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 6 months to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

SEC. 204. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—The Director shall classify an enterprise according to the following categories:

(1) ADEQUATELY CAPITALIZED.—An enterprise shall be classified as "adequately capitalized" if the enterprise meets or exceeds both its risk-based capital level and its minimum capital level.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as "undercapitalized" if it is not adequately capitalized.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as "significantly undercapitalized" if the enterprise does not meet or exceed its minimum capital level.

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as "critically undercapitalized" if it does not meet its critical capital level.

(b) QUARTERLY CLASSIFICATION.—The Director shall classify an enterprise not less than quarterly. The first such classification shall be made within 3 months after the effective date of this Act.

(c) IMPLEMENTATION.—Notwithstanding subsection (a), an enterprise shall be classified as adequately capitalized until 1 year after the regulations are first issued under section 201(e), if the enterprise meets or exceeds the applicable minimum capital level.

SEC. 205. SUPERVISORY ACTIONS APPLICABLE TO ENTERPRISES.

(a) SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.—

(1) CAPITAL RESTORATION PLAN.—An undercapitalized enterprise shall submit to the Director and implement a capital restoration plan.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—An undercapitalized enterprise that is not significantly undercapitalized shall make no capital distribution that would result in the enterprise being classified as significantly undercapitalized.

(b) ADDITIONAL SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.—

(1) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(A) PRIOR APPROVAL.—A significantly undercapitalized enterprise shall make no capital distribution that would result in the enterprise being classified as critically undercapitalized. A significantly undercapitalized enterprise may make any other capital distribution only with the prior approval of the Director.

(B) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by a significantly undercapitalized enterprise only if the Director determines that the payment—

(i) will enhance the ability of the enterprise promptly to meet the risk-based capital level and the minimum capital level for the enterprise,

(ii) will contribute to the long-term financial health and security of the enterprise, or

(iii) is otherwise in the public interest.

(2) DISCRETIONARY SUPERVISORY ACTIONS.—

(A) IN GENERAL.—The Director may by order take any of the following actions with respect to a significantly undercapitalized enterprise:

(i) Limit any increase in, or order the reduction of, any obligations of the enterprise.

(ii) Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(iii) Require the enterprise to raise new capital.

(iv) Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(v) Appoint a conservator for the enterprise if the Director determines that the capital of the enterprise is below its minimum level and that alternative remedies are not satisfactory to restore the enterprise's capital.

(B) APPOINTMENT OF CONSERVATOR.—

(i) AUTHORITY.—Title IV, except subsections (a), (b), and (c) of section 401, shall govern any conservatorship resulting from an appointment pursuant to subparagraph (A)(v).

(ii) NOTICE AND HEARING.—The appointment of a conservator under subparagraph (A)(v) shall be subject to the notice and hearing provisions set forth in section 209.

(c) EFFECTIVE DATE.—This section shall take effect when the first classifications are made under section 204(b).

SEC. 206. CHANGES IN THE CLASSIFICATION OF AN ENTERPRISE IN CONNECTION WITH A CAPITAL RESTORATION PLAN.

(a) IN GENERAL.—The Director may by order—

(1) classify an undercapitalized enterprise as significantly undercapitalized, or

(2) classify a significantly undercapitalized enterprise as critically undercapitalized, upon the occurrence of an event described in subsection (b).

(b) REASONS FOR THE CHANGE IN CLASSIFICATION.—Subsection (a) shall apply if—

(1) the enterprise does not submit or resubmit a capital restoration plan that is substantially in compliance with section 208,

(2) the Director has not approved a capital restoration plan submitted by the enterprise and the enterprise's opportunities for resubmission of a capital restoration plan have expired, or

(3) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

SEC. 207. MANDATORY APPOINTMENT OF CONSERVATOR FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) APPOINTMENT.—If the Director determines that an enterprise is critically undercapitalized, the Director shall appoint a conservator for the enterprise not later than 30 days after providing notice and an opportunity for a hearing pursuant to section 209, unless the Director determines, with the concurrence of the Secretary of the Treasury, that the public interest is better served by other action. Title IV, except subsections (a), (b), and (c) of section 401, shall govern any conservatorship resulting from an appointment under this section.

(b) EFFECTIVE DATE.—This section shall take effect when the first quarterly classifications are made under section 204(b).

SEC. 208. CAPITAL RESTORATION PLANS.

(a) CONTENTS.—A capital restoration plan submitted under this title shall—

(1) be a feasible plan for the enterprise that would likely enable it to become adequately capitalized;

(2) describe the actions that the enterprise will take to become adequately capitalized;

(3) establish a schedule for completing the actions set forth in the capital restoration plan;

(4) specify the types and levels of activities in which the enterprise will engage during the term of the capital restoration plan; and

(5) describe the actions that the enterprise will take to comply with any supervisory requirements imposed under this title.

(b) DEADLINES FOR SUBMISSION.—A capital restoration plan must be submitted to the Director not more than 45 days after the Director has notified the enterprise in writing that a plan is required. The Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and shall be for a specified period of time.

(c) APPROVAL.—The Director shall approve or disapprove each capital restoration plan not later than 45 days after submission. The Director may extend such period for an additional 15 days. The Director shall provide written notice of the decision to any enterprise submitting a plan. If the Director disapproves the plan, the Director shall provide to the enterprise the reasons for such disapproval in writing.

(d) RESUBMISSION.—If the initial capital restoration plan submitted by the enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

SEC. 209. NOTICE AND HEARING.

(a) NOTICE.—Before making a capital classification or taking a discretionary supervisory action under this title, the Director shall provide written notice of the proposed classification or action to the enterprise, stating the reasons for the classification or action, and shall provide the enterprise with a timely opportunity to review and supplement the administrative record in an administrative hearing.

(b) NOTICE TO CONGRESS.—After making a capital classification or taking a discretionary supervisory action under this title, the Director shall provide written notice to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 210. JUDICIAL REVIEW OF DIRECTOR ACTION.

(a) JURISDICTION.—

(1) FILING OF PETITION.—An enterprise that is the subject of a capital classification or discretionary supervisory action pursuant to this title, other than the appointment of a conservator, may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's classification or action, a written petition requesting that the order of the Director be modified, terminated, or set aside.

(2) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to hear a petition filed pursuant to this subsection.

(b) UNAVAILABILITY OF STAY.—With respect to a classification or discretionary supervisory action by the Director with regard to a significantly undercapitalized enterprise or an action that results in the classification of an enterprise as significantly undercapitalized or critically undercapitalized, the court shall not have jurisdiction to stay, enjoin, or otherwise delay such classification or action taken by the Director pending judicial review of the action.

(c) LIMITATION ON JURISDICTION.—Notwithstanding any other provision of law, no court other than the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this title or to review, modify, suspend, terminate, or set aside such classification or action.

SEC. 211. RATINGS.

(a) RATING.—Not later than 1 year after the effective date of this Act, the Director shall, for each enterprise, contract with 2 nationally recognized statistical rating organizations—

(1) to assess the likelihood that the enterprise will not be able to meet its obligations from its own resources with an assumption that there is no recourse to any implicit Government guarantee and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the enterprise as frequently as the Director determines is appropriate, but not less than annually.

(b) COMMENTS.—The Director shall submit comments to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any difference between the evaluation of the rating organizations and that of the Office, with special attention to capital adequacy.

(c) DEFINITION.—For the purposes of this section, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers.

SEC. 212. CAPITAL.

(a) DEFINITION.—The term "capital" shall be defined by the Director by regulation and—

(1) shall include, in accordance with generally accepted accounting principles—

(A) the par or stated value of outstanding common stock;

(B) the par or stated value of outstanding perpetual, noncumulative preferred stock;

(C) paid-in capital;

(D) retained earnings; and

(E) other equity instruments that the Director determines are appropriate; and

(2) for the purposes of section 201, may also include such other amounts that the Director determines are available to absorb losses subject to any limitation prescribed by the Director, and shall include loss reserves established in accordance with generally accepted accounting principles.

(b) EXCLUSION.—As defined by the Director, the term "capital" shall exclude any amounts that an enterprise could be required to pay, at the option of investors, to retire capital instruments.

TITLE III—ENFORCEMENT PROVISIONS

SEC. 301. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve upon an enterprise or any director or executive officer a notice of charges if, in the opinion of the Director, the enterprise, director, or executive officer—

(1) is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, director, or executive officer will engage in conduct that, if continued, would be likely to cause or result in a material depletion of the enterprise's capital; or

(2) is violating or has violated, or the Director has reasonable cause to believe that the enterprise, director, or executive officer will violate—

(A) any provision of this Act or the enterprise's charter Act or any order, rule, or regulation thereunder;

(B) any condition imposed in writing by the Director pursuant to the Director's authority under this Act or a charter Act in connection with the approval of any application or other request by the enterprise required by this Act or a charter Act; or

(C) any written agreement entered into with the Director.

(b) Exception for Adequately Capitalized Enterprises.—The Director may serve a notice of charges or issue an order upon an enterprise, a director, or an executive officer for any conduct or violation that relates to the financial health or security of an enterprise that is adequately capitalized only if the Director determines that—

(1) the conduct or violation threatens to cause a significant depletion of the enterprise's capital; or

(2) the conduct or violation may result in the issuance of an order described in subsection (d)(1).

(c) Procedure.—

(1) Notice of charges.—Any notice of charges shall contain a statement of the facts constituting the alleged conduct or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue.

(2) Date of hearing.—Such hearing shall be held not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the hearing officer at the request of any party served.

(3) Failure to appear constitutes consent.—Unless the party served appears at the hearing personally or by a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) Issuance of order.—In the event of consent by the party, or if, upon the record made at any such hearing, the Director finds that any conduct or violation specified in the notice of charges has been established, the Director may issue and serve upon such party an order requiring the party to cease and desist from such conduct or violation and to take affirmative action to correct the conditions resulting from any such conduct or violation.

(5) Effective date of order.—A cease-and-desist order shall become effective 30 days after service (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to the extent that it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

(d) Affirmative Action To Correct Conditions Resulting From Violations or Practices.—The authority under this section or section 302 to issue any order that requires a party to take affirmative action includes the authority—

(1) to require a director or executive officer to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 305(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the disposition of any asset;

(5) to require the rescission of agreements or contracts;

(6) to require the employment of qualified officers or employees (who may be subject to approval by the Director); and

(7) to require the taking of such other action as the Director determines appropriate.

(e) Authority To Limit Activities.—The authority under this section or section 302 to issue an order includes the authority to place limitations on the activities or functions of the enterprise, or any director or executive officer.

(f) Certain Orders May Contain Capital Classification.—The authority under this section or section 302 to issue an order includes the authority to—

(1) classify the enterprise as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) classify the enterprise as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; or

(3) classify the enterprise as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized;

if the Director determines that the enterprise is engaging or has engaged in conduct not approved by the Director or a violation, that may result in a rapid depletion of the capital of the enterprise.

SEC. 302. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) Grounds for Issuance; Scope.—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, director, or executive officer pursuant to section 301, or the continuation thereof, is likely—

(1) to cause insolvency;

(2) to cause a significant depletion of the capital of the enterprise; or

(3) otherwise to cause irreparable harm to the enterprise,

prior to the completion of the proceedings conducted pursuant to section 301(c), the Director may issue a temporary order requiring the enterprise, or any director or executive officer, to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 301(d).

(b) Incomplete or Inaccurate Records.—If a notice of charges served under section 301(a) specifies on the basis of particular facts and circumstances that the enterprise's books and records are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of that enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(1) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(2) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 301.

(c) Effective Date of Order.—An order issued pursuant to this section shall—

(1) become effective upon service upon the party and shall remain effective unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d),

(2) shall be enforceable pending the completion of the proceedings pursuant to such notice, and

(3) shall remain effective until the Director dismisses the charges specified in such notice or until superseded by a cease-and-desist order issued pursuant to section 301.

(d) Judicial Review.—Not later than 10 days after a party has been served with a temporary cease-and-desist order pursuant to this section, the party may petition the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings.

(e) Enforcement.—In the case of a violation or a threatened violation of a temporary order issued pursuant to this section, the Director may apply to the United States District Court for the District of Columbia for an injunction to enforce such order.

SEC. 303. HEARINGS AND JUDICIAL REVIEW.

(a) Hearing.—Any hearing provided for in this title shall be on the record and held in the District of Columbia.

(b) Decision by the Director.—Not later than 90 days after the Director has notified the parties that the case has been submitted for final decision, the Director shall render the decision and shall issue and serve upon each party a copy of the order. The Director may modify an order prior to the filing of the record for judicial review.

(c) Judicial Review.—A party may obtain a review of an order issued under this title, except section 302, by filing in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service, a written petition seeking to modify, terminate, or set aside such order.

SEC. 304. JURISDICTION AND ENFORCEMENT.

(a) Application for Enforcement.—The Director may apply to the United States District Court for the District of Columbia for the enforcement of any order issued under title II or this title, and such court shall have jurisdiction and power to order and require compliance with such order.

(b) Limitation on Jurisdiction.—Except as otherwise permitted by section 210 or in this title, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice, order, or penalty under title II or this title, or to review, modify, suspend, terminate, or set aside any such notice, order, or penalty.

SEC. 305. CIVIL MONEY PENALTIES.

(a) In General.—The Director may impose a civil money penalty on an enterprise, director, or executive officer that—

(1) violates any provision of this Act or the enterprise's charter Act or regulation thereunder,

(2) violates any final order or temporary order issued pursuant to section 205, 206, 301, or 302,

(3) violates any condition imposed in writing by the Director pursuant to the authority under this Act or a charter Act, in connection with the approval of an application or other request by an enterprise required by law,

(4) violates any written agreement between an enterprise and the Director, or

(5) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) Amount of Penalty.—

(1) First tier.—

(A) In general.—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (4) of subsection (a). The amount of a civil penalty under this subparagraph shall be determined in light of the facts and circumstances, but shall not exceed $5,000 for each day that a violation continues.

(B) Exception.—The amount of a civil penalty for a failure to make a good faith effort to comply with an approved housing plan under section 509 shall not exceed $10,000.

(2) SECOND TIER.—The Director may impose a penalty on an enterprise, executive officer, or director in an amount not to exceed $10,000 for an officer or director, or $25,000 for an enterprise, for each day that such violation or conduct continues, if the Director finds that the violation or conduct described in subsection (a)—

(A) is part of a pattern of misconduct, or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) THIRD TIER.—The Director may impose a penalty on an enterprise, executive officer, or director in an amount not to exceed $100,000 for an officer or director, or $1,000,000 for an enterprise, for each day that such violation or conduct continues, if the Director finds that the violation or conduct described in subsection (a) was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) ASSESSMENT.—

(1) WRITTEN NOTICE.—Any penalty imposed under this section may be assessed and collected by the Director by written notice.

(2) PROHIBITION AGAINST REIMBURSEMENT OR INDEMNIFICATION.—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(3) FINALITY OF ASSESSMENT.—If a hearing is not requested pursuant to subsection (f), the penalty assessment contained in a written notice shall constitute a final and unappealable order.

(d) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Director may compromise, modify, or remit any penalty assessed under this section.

(e) MITIGATING FACTORS.—In determining the amount of any penalty under this section, the Director shall take into account the appropriateness of the penalty with respect to—

(1) the financial resources and good faith of the enterprise, director, or executive officer charged;

(2) the gravity of the violation;

(3) the history of previous violations; and

(4) such other matters as justice may require.

(f) HEARING.—A party against whom a penalty is assessed under this section shall be afforded a hearing if the party submits a request for such hearing not later than 20 days after the issuance of the notice of assessment.

(g) COLLECTION.—

(1) REFERRAL.—If the enterprise, director, or executive officer fails to pay a penalty that has become final, the Director may recover the amount assessed by filing an action in the United States District Court for the District of Columbia.

(2) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In an action to collect the amount assessed, the validity and appropriateness of the penalty shall not be subject to review.

(h) DEPOSIT.—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(i) APPLICABILITY.—This section shall apply only to conduct, a failure, a breach, or a violation that occurs on or after the effective date of this Act.

SEC. 306. NOTICE UNDER THIS TITLE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this title against any such director or executive officer, if such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceased to be associated with the enterprise.

SEC. 307. PRIVATE RIGHTS OF ACTION.

Nothing in this Act creates a private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impairs any existing private right of action under other applicable law.

SEC. 308. SUBPOENA POWER.

(a) POWERS.—In the course of, or in connection with, any examination, administrative proceeding, claim, or investigation under this Act, the Director may—

(1) administer oaths and affirmations,

(2) take testimony under oath, and

(3) issue, revoke, quash, or modify subpoenas issued by the Director.

(b) JURISDICTION.—The attendance of witnesses and the production of documents provided for in this section may be required from any place subject to the jurisdiction of the United States at any designated place where such examination or proceeding is being conducted.

(c) ENFORCEMENT.—The Director, in examining an enterprise, or any party to proceedings under this title may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this section.

(d) FEES AND EXPENSES.—A witness subpoenaed under this section shall be paid the same fees that are paid witnesses in the district courts of the United States. A court having jurisdiction of a proceeding under this section may allow to any such witness such reasonable expenses and attorneys' fees as it determines just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

SEC. 309. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this title and that has become final in accordance with section 303; and

(3) any modification to or termination of any final order made public pursuant to this paragraph.

(b) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any administrative enforcement hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by the Director under this title or any other law.

(f) DISCLOSURES TO CONGRESS.—No provision of this section shall be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

TITLE IV—CONSERVATORSHIP

SEC. 401. APPOINTMENT OF CONSERVATOR.

(a) APPOINTMENT.—The Director may, after determining that alternative remedial actions are not satisfactory, appoint a conservator to take possession and control of an enterprise, whenever the Director determines that—

(1) the enterprise is in an unsafe or unsound condition to transact business, and the unsafe or unsound condition threatens the ability of the enterprise to continue as a viable concern or threatens to cause the depletion of substantially all of the capital of the enterprise;

(2) the enterprise has concealed or is concealing its books, papers, records, or assets, or has refused or is refusing to submit its books, papers, records, or affairs for inspection to any examiner or any lawful agent of the Director; or

(3) the enterprise has willfully violated or is willfully violating a cease-and-desist order which has become final.

(b) APPOINTMENT BY CONSENT.—The Director may appoint a conservator to take possession and control of an enterprise if the enterprise, by resolution of a majority of its board of directors or shareholders, consents to the appointment.

(c) NOTICE AND HEARING.—

(1) IN GENERAL.—Before appointing a conservator pursuant to subsection (a), the Director shall provide written notice to the enterprise of the basis for the Director's proposed action and shall provide the enterprise with an opportunity for a hearing on the record.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may appoint a conservator without providing notice or a hearing to the enterprise, if the Director determines, pending completion of the proceedings under paragraph (1), that the conduct or violation by the enterprise is likely to—

(A) cause insolvency of the enterprise;

(B) cause a significant depletion of the capital of the enterprise; or

(C) otherwise cause irreparable harm to the enterprise;

prior to the completion of such proceedings.

(d) QUALIFICATIONS OF CONSERVATOR.—The conservator may be—

(1) the Director, or

(2) any person, that—

(A) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest, and

(B) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(e) Judicial Review.—

(1) In general.—Not later than 20 days after the initial appointment of a conservator pursuant to this section, the enterprise may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon consideration of the record, shall dismiss the action to terminate the appointment of the conservator or shall direct the Director to terminate the appointment of the conservator. If the conservator was appointed pursuant to subsection (c)(2), the court shall make such determination on the merits.

(2) Consensual appointments.—A consensual appointment of a conservator under subsection (b) is not subject to judicial review.

(3) Limitation on remedies.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of, a conservator.

(f) Replacement of Conservator.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement is not subject to judicial review and shall not affect the enterprise's right under subsection (d) to obtain judicial review of the Director's original decision to appoint a conservator.

SEC. 402. POWERS OF A CONSERVATOR.

(a) Powers.—

(1) In general.—A conservator has all the powers of the directors and officers of the enterprise unless the Director, in the order of appointment, limits the conservator's authority. In addition, a conservator has all the powers of shareholders that relate to the management of the enterprise, including the power to elect directors.

(2) Additional power.—A conservator has the power to avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(3) Stay.—Not later than 45 days after appointment or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any action or proceeding to which the conservator or the enterprise is or may become a party, be stayed for a period not to exceed 45 days after the request.

(b) Expenses.—All expenses of a conservatorship shall be paid by the enterprise and shall be a lien upon the enterprise which shall have priority over any other lien.

SEC. 403. TERMINATION OF CONSERVATORSHIP.

(a) In General.—At any time the Director determines that it may safely be done and that it would be in the public interest, the Director may terminate a conservatorship subject to such terms, conditions, and limitations as the Director may prescribe by written order.

(b) Enforcement as Final Cease-and-Desist Order.—Any terms, conditions, and limitations that the Director may prescribe under subsection (a) shall be enforceable under the provisions of section 304, to the same extent as an order issued pursuant to section 301 which has become final.

(c) Judicial Review.—Not later than 20 days after the date of the termination of the conservatorship or the imposition of an order under subsection (a), whichever is later, an enterprise may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the order.

SEC. 404. LIABILITY PROTECTION.

(a) Federal Agency and Employees.—In a case in which the conservator is the Director, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the conservator's liability for acts or omissions performed in the course of the duties and responsibilities of the conservatorship.

(b) Other Conservators.—In a case in which the conservator is not the Director, the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or intentional tortious conduct.

(c) Indemnification.—The Director shall have authority to indemnify the conservator on such terms as the Director determines proper.

SEC. 405. ENFORCEMENT OF CONTRACTS.

(a) In General.—A conservator may enforce any contract described in subsection (b), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(b) Contracts Enforceable.—If the Director—

(1) determines that the continued enforceability of a class of contracts is necessary to the achievement of the conservator's purpose; and

(2) specifically describes that class of contracts in a regulation or order issued for the purpose of this section;

any contract that is within that class of contracts is enforceable under subsection (a).

(c) Applicability.—This section and the regulation or order issued under this section shall apply to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

TITLE V—HOUSING

SEC. 501. GENERAL AUTHORITY.

(a) In General.—The Director shall establish, by regulation, housing goals for each enterprise. The housing goals shall include a low- and moderate-income housing goal, a special affordable housing goal, and a central city, rural area, and other underserved areas housing goal. The Director shall implement this title in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) Adjustment of Housing Goals.—Except as otherwise set forth in this Act, the Director may, from year to year, adjust any housing goal established under this title.

(c) Compliance With Housing Goals.—Any mortgage purchased by an enterprise shall simultaneously contribute to the achievement of each housing goal established under this title for which the mortgage purchase qualifies.

SEC. 502. LOW- AND MODERATE-INCOME HOUSING GOAL.

(a) In General.—The Director shall establish an annual goal for the purchase of mortgages secured by housing for low- and moderate-income families.

(b) Transition Rule.—

(1) In general.—During the transition period, an interim target for low- and moderate-income mortgage purchases for each enterprise is established at 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) Achievement of the interim target for low- and moderate-income mortgage purchases.—During the transition period, the Director shall establish separate annual goals for each enterprise, the achievement of which would require, to the extent feasible, that—

(A) each enterprise improve its performance relative to the interim target, annually; and

(B) in the case of an enterprise that does not meet the interim target, the enterprise be prepared to meet the interim target in subsequent years.

(3) Definition.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(c) Factors To Be Applied by the Director.—In establishing the housing goal for an enterprise under this section, the Director shall take into account—

(1) appropriate economic, housing, and demographic data,

(2) the performance and effort of the enterprise toward achieving the goals in prior calendar years,

(3) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market,

(4) national housing needs,

(5) the ability of the enterprise to lead the industry in making mortgage credit available for low- and moderate-income families, and

(6) the need to maintain the sound financial condition of the enterprise.

(d) Use of Borrower and Tenant Income.—

(1) In general.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) Affordability.—For the purpose of paragraph (1)(B)(ii), a rent level is affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

SEC. 503. SPECIAL AFFORDABLE HOUSING GOAL.

(a) Establishment of Special Affordable Housing Goal.—

(1) In general.—The Director shall establish an annual special affordable housing goal under this section that is not less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) Standards.—In establishing an enterprise's special affordable housing goal, the Director shall take into account—

(A) data submitted to the Director in connection with the special affordable housing goal for previous years,

(B) the performance and effort of the enterprise toward achieving the special affordable housing goal in prior calendar years,

(C) national housing needs within the income categories set forth in this section,

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income families, and

(E) the need to maintain the sound financial condition of the enterprise.

(b) Transition Rules.—

(1) Federal National Mortgage Association mortgage purchases for the transition period.—During the transition period, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than $2,000,000,000, with one-half of such purchases directed to 1-to-4 family housing and one-half to multifamily housing.

(2) Federal home loan mortgage corporation mortgage purchases for the transition period.—During the transition period, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than $1,500,000,000, with one-half of such purchases directed to 1-to-4 family housing and one-half to multifamily housing.

(3) Income characteristics for transition period mortgage purchases.—

(A) Multifamily mortgages.—Purchases of multifamily housing mortgages under paragraphs (1) and (2) shall be directed in the following proportions:

(i) 45 percent for multifamily housing affordable to families whose incomes do not exceed 80 percent of the median income for the area; and

(ii) 55 percent for multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to families whose incomes do not exceed 60 percent of the median income for the area.

(B) Single family mortgages.—Purchases of 1-to-4 family housing mortgages under paragraphs (1) and (2) shall be directed in the following proportions:

(i) 45 percent for mortgages for families whose incomes do not exceed 80 percent of the median income for the area and who live in census tracts in which the median income does not exceed 80 percent of the area median; and

(ii) 55 percent for mortgages for families whose incomes do not exceed 60 percent of the median income for the area.

(C) Compliance with special affordable housing goals.—Only the portion of multifamily housing mortgage purchases by an enterprise that are attributable to units affordable to families whose incomes do not exceed 80 percent of the median income for the area shall be credited toward compliance with the special affordable housing goals set forth in subparagraph (A)(ii).

(4) Definition.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(c) Use of Borrower and Tenant Income.—

(1) In general.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on—

(A) in the case of an owner-occupied dwelling the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income families, where the data referred to in clause (i) are not available.

(2) Affordability.—For the purpose of paragraph (1)(B)(ii), a rent level is affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

SEC. 504. CENTRAL CITY, RURAL AREA, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) In General.—The Director shall establish an annual goal for the purchase of mortgages secured by housing located in central cities, rural areas, and other underserved areas.

(b) Transition Rule.—

(1) In general.—During the transition period, an interim target for purchases of mortgages by each enterprise secured by housing located in central cities is established at 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) Achievement of the interim target for central city mortgage purchases.—During the transition period, the Director shall establish separate annual goals for each enterprise, the achievement of which would require, to the extent feasible, that—

(A) each enterprise improve its performance relative to the interim target, annually; and

(B) in the case of an enterprise that does not meet the interim target, such enterprise be prepared to meet the interim target in subsequent years.

(3) Definitions.—

(A) Transition period.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(B) Central city.—As used in this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(c) Factors To Be Applied by the Director.—In establishing the housing goal for an enterprise under this section, the Director shall take into account—

(1) appropriate economic, housing, and demographic data,

(2) the performance and effort of the enterprise toward achieving the goals established under this section in prior calendar years,

(3) the size of the central city, rural area, and other underserved areas conventional mortgage market relative to the size of the overall conventional mortgage market,

(4) national urban needs,

(5) the ability of the enterprise to lead the industry in making mortgage credit available throughout the Nation, including central cities, rural areas, and other underserved areas, and

(6) the need to maintain the sound financial condition of the enterprise.

(d) Location of Properties.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on the location of the properties securing mortgages purchased by each enterprise.

SEC. 505. OTHER REQUIREMENTS.

To meet the low- and moderate-income housing goal under section 502, the special affordable housing goal under section 503, and the central city, rural area, and other underserved areas housing goal under section 504, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) help primary lenders make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions in meeting their obligations under the Community Reinvestment Act of 1977,

that include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

SEC. 506. MONITORING COMPLIANCE WITH HOUSING GOALS.

(a) In General.—The Director shall establish guidelines to measure the extent of compliance with the housing goals established under this title. The guidelines may assign full credit, partial credit, or no credit toward compliance with the housing goals to different categories of mortgage purchase activities depending upon such criteria as the Director deems appropriate.

(b) Special Affordable Housing Goals.—

(1) Activities that shall receive full credit toward compliance with goals.—The Director shall give full credit toward compliance with the special affordable housing goals to the following activities:

(A) The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or other Federal agency; and

(ii) participation of an enterprise substantially enhances the affordability of the housing securing such mortgages.

(B) The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet the special affordable housing goals; and

(ii) such purchases or refinancings support additional lending for housing serving low-income families.

(C) The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans are—

(i) not guaranteed by the agencies themselves or other Federal agencies; and

(ii) made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers.

(2) Exclusion.—No credit toward compliance with the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of existing enterprise portfolios.

SEC. 507. DATA COLLECTION AND REPORTING REQUIREMENTS FOR THE ENTERPRISES.

(a) Single Family Data.—

(1) In general.—Each enterprise shall collect, maintain, and provide to the Director, in a useful form, data relating to its single family mortgages. Such data shall include—

(A) the income, census tract location, race, and gender of mortgagors;

(B) the loan-to-value ratios of purchased mortgages at the time of origination;

(C) whether a particular mortgage purchased is newly originated or seasoned;

(D) the number of units (1-to-4 family) and whether they are owner-occupied; and

(E) other characteristics deemed appropriate by the Director, to the extent practicable.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The data required to be collected under this subsection shall cover single family mortgages purchased after the date determined by the Director, but not later than December 31, 1992.

(B) SEASONED MORTGAGES.—For mortgages purchased after the date referred to in subsection (a) but originated before that date, only data available to the enterprise is required to be collected under this subsection.

(b) MULTIFAMILY DATA.—

(1) IN GENERAL.—Each enterprise shall collect, maintain, and provide to the Director, in a useful form, data relating to its multifamily housing mortgages. Such data shall include—

(A) census tract location,

(B) tenant income levels and characteristics (to the extent practicable),

(C) rent levels,

(D) mortgage characteristics (such as number of units financed per mortgage and size of loans),

(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives),

(F) use of funds (such as new construction, rehabilitation, refinancing),

(G) type of originating institution, and

(H) other information deemed appropriate by the Director, to the extent practicable.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The data required to be collected under this subsection shall cover multifamily mortgages purchased after the date determined by the Director, but not later than December 31, 1992.

(B) SEASONED MORTGAGES.—For mortgages purchased after the date referred to in subparagraph (A) but originated before that date, only data available to the enterprise is required to be collected under this subsection.

(c) PUBLIC ACCESS TO DATA.—

(1) IN GENERAL.—The Director shall make the data required by subsections (a) and (b) available to the public in useful forms, including forms accessible by computers.

(2) ACCESS.—

(A) PROPRIETARY DATA.—The Director may not make available to the public data that the Director determines are proprietary pursuant to section 515.

(B) EXCEPTION.—The Director shall not restrict access to the data provided in accordance with subsection (a)(1)(A).

(3) FEES.—The Director may charge reasonable fees to cover the cost of making the data available to the public.

(d) ANNUAL REPORT.—

(1) IN GENERAL.—Each enterprise shall submit to the Congress and the Director a report on its activities under this title.

(2) CONTENTS.—The report referred to in paragraph (1) shall—

(A) include in aggregate form and by appropriate category, the dollar volume and number of mortgages purchased for owner-occupied and rental properties related to each of the annual housing goals;

(B) include in aggregate form and by appropriate category, the number of families served, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (based on availability of information), the characteristics of the census tracts, and the geographic distribution of the housing financed;

(C) include the extent to which the mortgages purchased by the enterprise have been used in conjunction with public subsidy programs under Federal law;

(D) include the proportion of single family mortgages purchased that have been made to first-time homebuyers, as soon as providing such data is practicable and identify any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

(E) include in aggregate form and by appropriate category the data reported under subsection (a)(1)(B);

(F) level of securitization versus portfolio activity;

(G) assess the underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

(H) describe trends in both the primary and secondary multifamily markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by each enterprise, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by each enterprise, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

(J) describe in the aggregate its seller servicer network, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

(K) describe the activities undertaken with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how its activities support the objectives of local comprehensive housing affordability strategies; and

(L) contain any other information deemed relevant by the Director.

(3) AVAILABILITY OF REPORTS.—

(A) IN GENERAL.—Each enterprise shall make the reports under this subsection available to the public at the principal and regional offices of the enterprise.

(B) EXCLUSION OF PROPRIETARY DATA.—Information that is contained in any report that the Director has determined is proprietary shall be subject to the provisions of section 515.

SEC. 508. ANNUAL REPORT OF THE DIRECTOR.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 507(d), the Director shall submit a report, as part of its report under section 109 of this Act, on the extent to which each enterprise is achieving the specified annual goals and general purposes established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess each enterprise's compliance with the central city, rural area, and other underserved areas housing goal and to show levels of business in central cities, rural areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Director;

(2) aggregate and analyze data on income to assess each enterprise's compliance with the low and moderate and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken and could undertake regarding underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures to promote and expand the annual goals specified under sections 502, 503, and 504, as well as the general purposes established by law;

(5) review trends in both the primary and secondary multifamily markets, describing—

(A) the availability of mortgage credit and liquidity; and

(B) the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken with respect to originators found to violate fair lending procedures.

SEC. 509. COMPLIANCE.

(a) IN GENERAL.—The Director shall monitor and enforce compliance with the goals established under sections 502, 503, and 504.

(b) NOTICE AND HEARING.—If the Director determines that an enterprise has failed to meet, or that there is a substantial probability that an enterprise will fail to meet, any goal established under section 502, 503, or 504, the Director shall provide written notice to the enterprise and an opportunity to review and supplement the administrative record at an administrative hearing.

(c) HOUSING PLANS.—

(1) PLAN REQUIRED.—If the Director finds, after any hearing pursuant to subsection (b), that the achievement of the housing goal was feasible, after consideration of market and economic conditions, the Director shall require the enterprise to submit a housing plan for approval by the Director.

(2) CONTENTS.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next succeeding calendar year; or

(B) in a case when the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of that year.

The plan shall contain sufficient specificity to enable the Director to monitor compliance periodically.

(3) DEADLINES FOR SUBMISSION.—The Director shall establish a deadline for submission of a housing plan that is not more than 45 days after the enterprise is notified in writing that a plan is required. The Director may extend the deadline for a specified period of time.

(4) APPROVAL.—The Director shall approve or disapprove a plan within 30 days. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the relevant charter act and this Act and other applicable law and regulation. The Director may extend the period for approval or disapproval for an additional 30 days.

(5) DISAPPROVAL.—If the housing plan initially submitted by the enterprise is disapproved, the Director shall provide written notice of the reasons therefor, and shall require the enterprise to submit, with a rea-

sonable period of time, but not more than 30 days unless the Director determines that a longer period is in the public interest, an amended housing plan acceptable to the Director.

(6) HEARING.—If the Director disapproves a housing plan, the Director shall provide the enterprise with an opportunity to review and supplement the administrative record in an administrative hearing.

(d) ENFORCEMENT.—

(1) IN GENERAL.—If the Director determines that an enterprise has failed to make a good faith effort to comply with an approved housing plan, the Director—

(A) may, under section 301, issue and serve upon the enterprise an order to comply with the housing plan; and

(B) may, under section 305, assess and collect from the enterprise a civil penalty.

(2) LIMITATION.—The Director shall not, for failure to comply with an approved housing plan—

(A) issue any order under section 301, except as described in paragraph (1)(A); or

(B) assess any civil penalty under section 305, except as described in paragraph (1)(B).

(3) ADDITIONAL TRANSITION PERIOD LIMITATION.—The Director shall take no actions described in paragraph (1) during the 2-year period following the date of enactment of this Act unless the Director determines that the enterprise has blatantly disregarded an approved housing plan.

(e) TRANSITION PERIOD REPORTS AND HEARINGS.—

(1) REPORTS.—Within 45 days of the establishment of any housing goals required by this title during the 2-year period following the date of enactment, each enterprise shall submit to the Director, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the actions the enterprise plans to take in order to meet such goals.

(2) HEARINGS.—Not later than 45 days after the submission of a report under paragraph (1), the chief executive officers of the enterprises shall, if requested, appear before each committee referred to in paragraph (2) to explain the proposed actions described in their respective plans.

(f) AUDIT POWERS.—The Director or the Comptroller General of the United States, at the request of the Director or any Member of Congress, is authorized to examine records and audit reports to the extent necessary to assess compliance with—

(1) the goals established under sections 502, 503, and 504,

(2) any other goals established by the Director to achieve the charter purposes of an enterprise, and

(3) any housing plan approved under this section.

SEC. 510. ADVISORY COUNCIL.

(a) IN GENERAL.—Not later than 4 months after the date of enactment of this Act, each enterprise shall appoint an Affordable Housing Advisory Council to advise it regarding possible methods for promoting affordable housing for low- and moderate-income families.

(b) MEMBERSHIP.—Each Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.

SEC. 511. GEOGRAPHIC DISTRIBUTION.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by inserting before paragraph (5), as redesignated, the following:

"(4) promote access to mortgage credit throughout the Nation (including central cities and rural areas) by increasing the liquidity of mortgage investments, including facilitating credit secured by mortgages to secondary market participants, and improving the distribution of investment capital available for residential mortgage financing; and".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) to promote access to mortgage credit throughout the Nation (including central cities and rural areas) by increasing the liquidity of mortgage investments, including facilitating credit secured by mortgages to secondary market participants, and improving the distribution of investment capital available for residential mortgage financing.".

SEC. 512. MULTIFAMILY MORTGAGE ACTIVITIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential".

SEC. 513. BOARD OF DIRECTORS QUALIFICATIONS.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—

(1) MEMBER WITH A DEMONSTRATED COMMITMENT TO LOW-INCOME HOUSING.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting in the second sentence after "lending industry," the following: "at least one person who has demonstrated a career commitment to the provision of housing for low-income households,".

(2) APPLICABILITY.—The amendment made by subsection (a)(1) shall apply to the annual appointments made by the President of members to the Board of Directors of the Federal National Mortgage Association that occur after the date of the enactment of this Act.

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—

(1) MEMBER WITH A DEMONSTRATED COMMITMENT TO LOW-INCOME HOUSING.—Section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by inserting in the second sentence after "lending industry," the following: "at least 1 person who has demonstrated a career commitment to the provision of housing for low-income households,".

(2) APPLICABILITY.—The amendment made by subsection (b)(1) shall apply to the annual appointments made by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occur after the date of the enactment of this Act.

SEC. 514. FAIR HOUSING.

The Director shall—

(1) subject to the Secretary's general authority to enforce the Fair Housing Act, by regulation prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) subject to the Secretary's general authority to enforce the Fair Housing Act, by regulation require each enterprise to have single family mortgage and multifamily mortgage underwriting and appraisal guidelines that prohibit the use of lending criteria or the exercise of lending policies by mortgage lenders that sell mortgages to the enterprise, that have the effect of discriminating on the basis of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(3) by regulation, require an enterprise to submit certain data to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act or the Equal Credit Opportunity Act;

(4) periodically review and comment on each enterprise's underwriting and appraisal guidelines;

(5) seek information from other regulatory and enforcement agencies regarding violations by lenders of the laws referred in paragraph (3) and make that information available to enterprises; and

(6) direct an enterprise to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against those lenders that have in a final adjudication or an administrative hearing on the record in accordance with subchapter II of chapter 5 of title 5, United States Code, been found to have engaged in discriminatory lending practices in violation of this subsection, the Fair Housing Act, or the Equal Credit Opportunity Act.

SEC. 515. PROHIBITION ON PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—The Director may determine, by regulation or order, information that will be accorded treatment as proprietary information. The Director shall not provide public access to, or disclose to the public, information required to be submitted by an enterprise under section 507 that the Director determines is proprietary.

(b) EFFECTIVE DATE OF ORDER.—Any order issued under subsection (a) shall not become effective until 10 days after its issuance.

(c) NONDISCLOSURE PENDING CONSIDERATION.—Nothing in this section authorizes the disclosure to, or examination of data by, the public or a representative of any person or agency, pending the issuance of a final decision under this section.

TITLE VI—CHARTER ACT AMENDMENTS

SEC. 601. AMENDMENTS TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) REMOVAL AUTHORITY OF THE PRESIDENT.—Section 308(b) of the Federal National

Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended in the third sentence after "any such" by inserting "appointed".

(b) GAO AUDITS.—The first sentence of section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended to read as follows: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.".

(c) CONSTRUCTION.—Section 309(i) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended to read as follows:

"(i) CONSTRUCTION.—The powers conferred on the corporation by this title shall be exercised in accordance with the goals and purposes of the Federal Housing Enterprises Regulatory Reform Act of 1992. If the provisions of this title conflict with the provisions of the Federal Housing Enterprises Regulatory Reform Act of 1992, the provisions of that Act shall control.".

(d) CAPITALIZATION.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FEES AND EARNINGS.—

"(1) FEES AND CHARGES.—The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) EARNINGS; GENERAL SURPLUS.—All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.";

(3) by striking subsection (c) and inserting the following new subsection:

"(c) DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the corporation may make such capital distributions as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) ADEQUATE CAPITALIZATION REQUIRED.—The corporation may not make any capital distributions that would decrease the capital of the corporation, as such term is defined under section 212 of the Federal Housing Enterprises Regulatory Reform Act of 1992 to an amount less than that sufficient to be classified as adequately capitalized under section 204 of such Act, without prior written approval of the Director of the Office of Federal Housing Enterprise Oversight."; and

(4) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions,"; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation".

(e) RATIO OF OBLIGATIONS.—

(1) IN GENERAL.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(A) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(B) in subsection (e), by striking the fourth sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect when the first classifications are made under section 204(b).

(f) ASSESSMENTS FOR THE OFFICE OF SECONDARY MARKET OVERSIGHT.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting after "section 309(g)" the following: "of this Act and section 105 of the Federal Housing Enterprises Regulatory Reform Act of 1992".

(g) COMPENSATION.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in positions in comparable publicly held financial institutions involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Congress on—

"(i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses,

"(ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and

"(iii) the comparability of the corporation's financial performance with the performance of other similar businesses.

The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) The corporation may not enter into any agreement to provide any payment of money or other thing of value in connection with the termination of employment of any executive officer of the corporation, unless such agreement is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight. Any such payment made pursuant to any agreement entered into between July 24, 1991, and the date of enactment of the Federal Housing Enterprises Regulatory Reform Act of 1992 may be cancelled unless such agreement is approved by the Director. The Director may not approve any such agreement unless the Director determines that the benefits provided under the agreement are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after July 24, 1991, to any such agreement entered into on or before such date shall be considered entering into an agreement.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 3 of the Federal Housing Enterprises Regulatory Reform Act of 1992.".

(h) GENERAL REGULATORY POWERS.—Section 309(h) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(h)) is repealed.

(i) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(j) APPROVAL.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)) is amended—

(1) in paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,"; and

(2) in paragraphs (3) and (4), by striking ", with the approval of the Secretary of Housing and Urban Development,".

SEC. 602. AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is repealed.

(b) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(c) CONSTRUCTION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended by adding at the end the following subsection:

"(h) CONSTRUCTION.—The powers conferred by this title on the Corporation shall be exercised in accordance with the goals and purposes of the Federal Housing Enterprises Regulatory Reform Act of 1992. If the provisions of this title conflict with the provisions of the Federal Housing Enterprises Regulatory Reform Act of 1992, the provisions of that Act shall control.".

(d) GAO AUDITS.—The first sentence of section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended to read as follows: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.".

(e) POWERS OF THE CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second and third sentences.

(f) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: ", except that any appointed member may be removed from office by the President for good cause".

(g) GENERAL REGULATORY POWERS.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended—

(1) by striking paragraphs (1) and (2);

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the Corporation may make such capital distributions as may be declared by the Board of Directors.

"(B) The Corporation may not make any capital distributions that would decrease the capital of the Corporation (as such term is defined in section 212 of the Federal Housing Enterprises Regulatory Reform Act of 1992) to an amount less than that sufficient to be classified as adequately capitalized under section 204 of such Act, without prior written approval of the Director of the Office of Federal Housing Enterprise Oversight."; and

(3) by striking paragraphs (4), (6), (7), and (8).

(h) RATIO OF CAPITAL AND OBLIGATIONS.—Effective upon the first classification made under section 204(b), section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended by striking paragraph (5).

(i) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in positions in comparable publicly held financial institutions involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (i)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(i)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Congress on—

"(A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses,

"(B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and

"(C) the comparability of the Corporation's financial performance with the performance of other similar businesses.

The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(2) Notwithstanding the first sentence of subsection (c), the Corporation may not enter into any agreement to provide any payment of money or other thing of value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight. Any such payment made pursuant to any agreement entered into between July 24, 1991, and the date of enactment of the Federal Housing Enterprises Regulatory Reform Act of 1992 may be cancelled unless such agreement is approved by the Director. The Director may not approve any such agreement unless the Director determines that the benefits provided under the agreement are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after July 24, 1991, to any such agreement entered into on or before such date shall be considered entering into an agreement.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 3 of the Federal Housing Enterprises Regulatory Reform Act of 1992.".

(j) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) in subsection (a)(1), by striking "The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.";

(2) in subsection (a)(2)—

(A) in the first sentence, by striking "nonvoting common stock and the"; and

(B) by striking the last sentence; and

(3) by striking subsections (b), (c), and (d).

(k) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence.

(2) in the second sentence, by striking ", and the servicing" and all that follows through the end of the sentence and inserting a period.

(l) DEFINITION OF "RESIDENTIAL MORTGAGE".—Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended in the third sentence by striking "made" and all that follows through "305(a)(1)" and inserting "or purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

TITLE VII—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

SEC. 701. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

SEC. 702. STUDY REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study regarding the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The appropriate relationship between the capital standards for the Federal Home Loan Banks and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The appropriate relationship between the capital standards for federally insured depository institutions and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, especially with regard to similar kinds of on-balance sheet and off-balance sheet assets and obligations.

(4) The advantages and disadvantages of expanding the credit products and services of the Federal Home Loan Banks, including a determination of the desirability of—

(A) the purchase by Federal Home Loan Banks of housing-related assets from member institutions, and

(B) the provision by Federal Home Loan Banks of credit enhancements and other products to members in addition to advances.

(5) The advantages and disadvantages of expanding eligible collateral for advances by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the Federal Home Loan Bank System in housing finance.

(7) The advantages and disadvantages of further measures to increase membership in, and increase the profitability of, the Federal Home Loan Bank System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the advance limit imposed on Federal Home Loan Banks to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, the Bank Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this Act and the enterprises' charters.

(b) REPORTS.—Not later than 9 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Congress a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall submit to the Congress any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section the term "housing-related assets" means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 703. REPORTS OF FEDERAL HOME LOAN BANKS.

Not later than 9 months after the date of enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Congress a report of the directors' evaluation of the costs and benefits of consolidation of the Federal Home Loan Bank System.

SEC. 704. REPORTS OF FEDERAL HOME LOAN BANK MEMBERS.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall elect 2 persons who are officers or directors of stockholder institutions of the Federal Home Loan Bank to serve on a panel to be called the "Study Committee".

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics listed in section 702(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 9 months after the date of enactment of this Act, the Study Committee shall submit a report to the Congress, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 705. FULL-TIME STATUS OF FHFB MEMBERS.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) BOARD STATUS.—All directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis beginning on January 1, 1994.".

SEC. 706. EXCEPTION TO REQUIREMENTS FOR ADVANCES UNDER THE FEDERAL HOME LOAN BANK ACT.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following:

"(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.".

TITLE VIII—STUDY OF NATIONAL CONSUMER COOPERATIVE BANK

SEC. 801. STUDY OF NATIONAL CONSUMER COOPERATIVE BANK.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of—

(1) the extent to which the National Consumer Cooperative Bank has achieved its statutory purposes as set forth in the National Consumer Cooperative Bank Act (12 U.S.C. 3001 et seq.) (hereafter in this title referred to as the "Bank Act"); and

(2) the financial safety and soundness of the activities of the Bank and its affiliates.

(b) SPECIFIC REQUIREMENTS.—In conducting the study, the Comptroller General shall examine and evaluate—

(1) the degrees and types of risks that are undertaken by the Bank in the course of its and its affiliates' operations, including credit risk, interest rate risk, management and operational risk, and business risk;

(2) the actual level of risk that exists with respect to the Bank and its affiliates, which shall take account of the volume of debt securities issued by the Bank to the Secretary of the Treasury;

(3) the appropriateness of establishing a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates, including the application of capital standards to the Bank;

(4) the costs and benefits to the public from establishment of a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates, and the impact of such a structure on the capability of the Bank to carry out its purposes under law and the Bank's viability, including the ability of the Bank to obtain funding in the private capital markets;

(5) the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of the Bank and its affiliates and the financial risks associated with such activities;

(6) the extent to which the Bank has served all types of its eligible borrowers, including consumer cooperatives, self-help cooperatives, and cooperatives serving low-income families;

(7) the extent to which the Bank directly or indirectly has provided technical assistance to all types of its eligible borrowers;

(8) whether the benefit to the Bank of below-market rates of interest on the debt issued by the Bank to the Secretary of the Treasury was utilized and allocated in a manner consistent with the Bank Act;

(9) whether the Bank's compensation of its executive officers has been excessive;

(10) whether the manner in which the Bank has allocated voting rights to its eligible borrowers has conformed with the Bank Act;

(11) whether the Bank otherwise has acted in a manner consistent with the achievement of its purposes and mission under the Bank Act; and

(12) whether the purposes and mission of the Bank under the Bank Act should be modified in light of any changes in the availability to the Bank's eligible borrowers of credit from sources other than the Bank, changes in the economy, and other factors.

(c) PREPARATION OF REPORT.—In conducting the study required by this section, among other matters, the Comptroller General shall take account of—

(1) the examination reports on the Bank prepared by the Farm Credit Administration;

(2) any audits of the Bank by the Comptroller General;

(3) the annual reports of the Bank to the Congress and the annual and quarterly reports and registration statements filed by the Bank with the Securities and Exchange Commission;

(4) any written communications of any kind of the Farm Credit Administration or the Comptroller General to the Congress with respect to the Bank or its affiliates;

(5) the examination reports on the Bank or its affiliates prepared by the Office of Thrift Supervision or the appropriate official of the State of Ohio; and

(6) the views of interested members of the public, including eligible borrowers from the Bank.

(d) REPORT TO CONGRESS.—Within 6 months after enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall set forth—

(1) the results of the study under this section;

(2) any recommendations of the Comptroller General with respect to—

(A) the establishment of a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates;

(B) the appropriate capital standards for the Bank; and

(C) the appropriate regulatory agency for the Bank;

(3) any recommendations of the Comptroller General with respect to—

(A) the manner in which the Bank is carrying out its purposes and mission under the Bank Act;

(B) whether the Bank's purposes and mission under the Bank Act should be changed; and

(C) whether the Bank Act should be otherwise amended; and

(4) any recommendations and opinions of the Secretary of the Treasury regarding the report and, to the extent that the recommendations and views of such officers or agencies differ from the recommendations and opinions of the Comptroller General, any recommendations and opinions of the Farm Credit Administration and the Office of Thrift Supervision regarding the report.

(e) CONSULTATION AND COOPERATION WITH OTHER AGENCIES.—The Comptroller General shall determine the structure and methodology of the study under this section in consultation with the Secretary of the Treasury, the Farm Credit Administration, the Director of the Office of Thrift Supervision, and the Bank.

(f) ACCESS TO RELEVANT INFORMATION.—The Bank shall provide or cause to be provided full and prompt access to the Comptroller General to the books and records of the Bank and any affiliate of the Bank and shall promptly provide or cause to be provided any other information requested by the Comptroller General. Any information provided by the Bank or any affiliate of the Bank to the Comptroller General that concerns customer relationships and that is confidential in nature shall be retained in confidence by the Comptroller General and shall not be disclosed to the public. In conducting the study under this section, the Comptroller General may request information from, or the assistance of, any department or agency of the Federal Government or of the State of Ohio that is or was authorized by law to examine or supervise any activities of the Bank or any affiliate of the Bank.

TITLE IX—MISCELLANEOUS

Subtitle A—Miscellaneous

SEC. 901. PRIVATIZATION STUDY.

(a) IN GENERAL.—The Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall conduct a study of the desirability and feasibility of eliminating the Federal sponsorship of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) SPECIFIC REQUIREMENTS.—In conducting the study, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall consider and evaluate—

(1) the legal requirements of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the costs to the enterprises if such Federal sponsorship were removed;

(2) the cost of capital to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation with the removal of Federal sponsorship;

(3) the costs to home ownership and the impact on housing affordability and availability of the removal of Federal sponsorship;

(4) the level of competition which might be available in the private sector with the removal of Federal sponsorship;

(5) the potential effect on the cost and availability of residential housing finance of the enactment of bank reforms that would enable banks to enter the securities business;

(6) whether increased amounts of core capital would be necessary with the removal of Federal sponsorship;

(7) the impact of removal of Federal sponsorship upon the secondary market for residential loans and the liquidity of such loans;

(8) the impact of removal of Federal sponsorship upon the risk weighting of assets of insured depository institutions; and

(9) any other factor which the Comptroller General of the United States, the Director of the Congressional Budget Office, or the Secretary of the Treasury deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) REPORT TO CONGRESS.—Within 2 years after the date of enactment of this Act, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall set forth—

(1) a summary of the findings under this section;

(2) recommendations to the Congress on the removal of Federal sponsorship, if deemed to be feasible and desirable, which shall include suggestions for an appropriate time frame in which to withdraw Federal sponsorship.

(d) VIEWS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—

(1) CONSIDERATION OF VIEWS.—In conducting the study under this section, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may report directly to the Congress on the enterprises' own analysis of the desirability and feasibility of the removal of Federal sponsorship.

SEC. 902. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas.".

SEC. 903. APPLICABILITY OF SHELTER PLUS CARE.

Section 811 of the Cranston-Gonzalez Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) in subsection (b), by striking "private,"; and

(2) in paragraphs (5) and (6) of subsection (k), by striking "private" each place it appears.

SEC. 904. ADJUSTABLE RATE MORTGAGE CAPS.

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any home purchase or other consumer loan".

SEC. 905. COMMUNITY DEVELOPMENT AUTHORITY OF BANKS.

(a) NATIONAL BANKS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end the following new paragraph:

"ELEVENTH.—To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund.".

(b) STATE MEMBER BANKS.—Section 9 of the Federal Reserve Act (12 U.S.C. 321-338) is amended by adding at the end the following new paragraph:

"State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board of Governors shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized.

"In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 906. SENSE OF THE SENATE.

(a) FINDINGS.—The Congress finds that—

(1) the two housing Government-sponsored enterprises, the Federal National Mortgage Association (hereafter in this section referred to as "Fannie Mae") and the Federal Home Loan Mortgage Corporation (hereafter in this section referred to as "Freddie Mac") have issued or guaranteed nearly $900,000,000,000 of securities which are currently outstanding;

(2) Fannie Mae and Freddie Mac are privately owned, profitmaking enterprises whose securities are viewed by investors as having an implicit Federal guarantee;

(3) investor perception of a Federal guarantee, as the savings and loan crisis demonstrates, removes market discipline, reduces incentives to maintain strong capital positions, and distorts financial decisions;

(4) the outstanding obligations of Fannie Mae and Freddie Mac exceed those in the entire savings and loan industry;

(5) the existing regulatory structure and oversight of the Fannie Mae and Freddie Mac has been inadequate;

(6) history has shown that a regulator charged with protecting taxpayer dollars must be independent of other policymaking entities;

(7) this Act takes concrete steps to establish safety and soundness regulation of Fannie Mae and Freddie Mac;

(8) this Act creates an independent regulatory office, the Office of Federal Housing Enterprise Oversight, in the Department of Housing and Urban Development; and

(9) the independence of the Office cannot be compromised without impairing the ability of the regulator to ensure that the Fannie Mae and Freddie Mac are adequately capitalized and operating safely.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any final Government-sponsored enterprise legislation should make it clear that the independence of the regulator overseeing the safety and soundness of Fannie Mae and Freddie Mac should not be compromised.

SEC. 907. 4-MONTH EXTENSION OF TRANSITION RULE FOR SEPARATE CAPITALIZATION OF SAVINGS ASSOCIATIONS' SUBSIDIARIES.

Section 5(t)(5)(D)(ii) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(t)(5)(D)(ii)) is amended—

(1) by striking "June 30, 1992" and inserting "October 31, 1992"; and

(2) by striking "July 1, 1992" and inserting "November 1, 1992".

SEC. 908. CREDIT CARD SALES.

(a) IN GENERAL.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

(b) INTERIM DEFINITION OF UNDERCAPITALIZATION.—During the period beginning on the date of enactment of this Act and ending on the effective date of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an insured depository institution is undercapitalized for purposes of section 11(e)(14) of the Federal Deposit Insurance Act (as added by subsection (a) of this section), if it does not comply with any currently applicable minimum capital standard prescribed by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

SEC. 909. REAL ESTATE APPRAISAL AMENDMENT.

Section 1113 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) THRESHOLD LEVEL.—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.".

SEC. 910. EXTENSION OF CIVIL STATUTE OF LIMITATIONS.

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

SEC. 911. AGGREGATE LIMITS ON INSIDER LENDING.

Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)) is amended by adding at the end the following new subparagraph:

"(D) EXTENSIONS OF CREDIT SECURED BY FEDERAL OBLIGATIONS EXCLUDED.—For purposes of this paragraph, the term 'extension of credit' does not include an extension of credit fully secured by—

"(i) an obligation of the United States; or

"(ii) an obligation with respect to which the United States fully guarantees the payment of principal and interest.".

SEC. 912. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) is amended—

(1) in subsection (d), by adding at the end the following: "An appropriate Federal banking agency may not prescribe standards or regulations under subsection (a), (b), or (c) that set a specific level or range of compensation for officers, directors, or employees of insured depository institutions."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 913. TRUTH IN SAVINGS ACT AMENDMENTS.

(a) TIMING OF CERTAIN DISCLOSURES.—Section 266 of the Truth in Savings Act (12 U.S.C. 4305) is amended—

(1) by striking subsection (a)(3), and inserting the following:

"(3) provided to a depositor, in the case of a time deposit that is renewable at maturity without notice from the depositor and that has a period of maturity of 2 years or more, not later than 15 days before the date of maturity."; and

(2) by inserting after subsection (e) the following new subsection:

"(f) DISCLOSURES FOR RENEWAL OF CERTAIN ACCOUNTS.—

"(1) RENEWAL NOTICE.—A renewal notice shall be provided to the depositor with respect to a time deposit that has a maturity period greater than 1 month and less than 2 years that is renewable at maturity without notice from the depositor, as follows—

"(A) with respect to a time deposit that has a period of maturity of more than 3 months, but less than 2 years, not later than 15 days before the date of maturity; and

"(B) with respect to a time deposit that has a period of maturity of more than 1 month, but less than 3 months, not later than such time as the Board determines by regulation to be appropriate, in accordance with the purposes of this Act.

"(2) CONTENTS OF NOTICE.—A renewal notice required under this subsection shall state—

"(A) the maturity date of the expiring time deposit;

"(B) the maturity date or the term of the renewed time deposit;

"(C) any penalty for early withdrawal;

"(D) any change to the terms or conditions of the time deposit adverse to the customer, unless a notice under subsection (c) has been provided to the account holder;

"(E) the date on which the annual percentage yield and simple rate of interest will be determined; and

"(F) a telephone number to obtain the annual percentage yield and simple rate of interest that will be paid when the account is renewed.

"(3) RENEWAL OF SHORT-TERM TIME DEPOSITS.—With respect to a time deposit that has a period of maturity of 1 month or less and that is renewable at maturity without notice from the depositor, the Board may, by regulation, require that a notice be provided to an account holder at such time and containing such information as the Board determines appropriate, in accordance with the purposes of this Act.".

(b) ON-PREMISES DISPLAYS.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) DISCLOSURE REQUIRED FOR ON-PREMISE DISPLAYS.—

"(1) IN GENERAL.—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest that is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) DEFINITION.—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.".

(c) EFFECTIVE DATE.—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking "6" and inserting "9".

Beginning with page 143, line 18, strike through page 155, line 14, and insert the following:

Subtitle B—Presidential Insurance Commission

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Presidential Insurance Commission Act of 1992".

SEC. 922. FINDINGS.

The Congress finds that—

(1) the property and casualty insurance, life insurance, health insurance, and reinsurance industries play a major and vital role in the capital formation and lending in the United States economy;

(2) at the end of 1989, life and health and property and casualty insurers combined controlled just under $1,800,000,000,000 in assets invested in the United States;

(3) these insurer assets represented slightly less than 18 percent of the financial assets of all non-governmental financial intermediaries in the United States;

(4) of total United States assets, insurers controlled—

(A) 50.7 percent of all United States held corporate and foreign bonds;

(B) 32.1 percent of all tax-exempt bonds;

(C) 13.8 percent of United States Treasury securities;

(D) 18.2 percent of Federal agency securities;

(E) 12.2 percent of mortgages;

(F) 14.7 percent of corporate equities;

(G) 10.3 percent of open market paper; and

(H) 12 percent of all other United States assets; and

(5) a Presidential commission should be established to carry out the duties described in section 924.

SEC. 923. ESTABLISHMENT.

There is established a Presidential Commission on Insurance (hereafter in this subtitle referred to as the "Commission").

SEC. 924. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) REPORT.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 928.

SEC. 925. MEMBERSHIP AND COMPENSATION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom has expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

(c) CONSULTATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall consult with—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Chairperson of the Federal Deposit Insurance Corporation; and

(3) the Chairman of the Securities and Exchange Commission,

with respect to all financial and other matters within their respective jurisdictions that are under consideration by the Commission.

(d) ELIGIBILITY.—No member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government may be appointed to be a member of the Commission pursuant to paragraph (9) of subsection (a).

(e) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission appointed pursuant to subsection (a)(9) shall be compensated at a rate equal to the annual rate of basic pay for GS–18 of the General Schedule.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL OF ACTIONS.—All recommendations and reports of the Commission required by this subtitle shall be approved only by a majority vote of a quorum of the Commission.

(h) CHAIRPERSON.—The President shall select 1 member appointed pursuant to subsection (a)(9) to serve as the Chairperson of the Commission.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 926. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may—

(1) hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate; and

(2) administer oaths or affirmations to witnesses appearing before the Commission,

for the purpose of carrying out this subtitle.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subtitle.

(c) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) CONFIDENTIALITY.—Information obtained under this section which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Commission determines that the withholding thereof is contrary to the national interest. The provisions of the preceding sentence shall not apply to the publication or disclosure of data that are aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(4) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(5) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(6) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this subtitle.

SEC. 927. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS–18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 928. REPORT.

Not later than May 31, 1993, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 924.

SEC. 929. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the report required by section 928.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 to carry out the purposes of this subtitle.

Subtitle C—Secondary Market for Commercial Mortgage and Small Business Loans

SEC. 931. SHORT TITLE.

This subtitle may be cited as the "Secondary Market for Commercial Real Estate Mortgage and Small Business Loans Act of 1992".

SEC. 932. PURPOSE.

The purpose of this subtitle is to enable the Congress to gain an understanding of legal, regulatory, and market-based impediments to developing a secondary market for commercial real estate mortgage loans and loans to small businesses.

SEC. 933. FINDINGS.

The Congress finds that—

(1) the secondary market for residential real estate mortgage loans has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage loan prices across the country;

(2) an active and liquid secondary market for commercial real estate mortgage and small business loans has not developed despite the apparent benefits for lenders and homeowners in the residential market and the potential benefits to lenders and borrowers on the commercial market;

(3) a major impediment to the creation of a secondary market for commercial real estate mortgages and small business loans is the lack of standardization in such mortgages, including loan documents, underwriting, loan terms, credit enhancement, security product design and packaging, and ratings; and

(4) standardization of commercial real estate mortgage and small business loans and the elimination of legal and regulatory barriers would enhance the development of a broader, more liquid secondary market for commercial real estate mortgage and small business loans through private sector initiatives and resources.

SEC. 934. SECONDARY MARKET FOR COMMERCIAL MORTGAGE AND SMALL BUSINESS LOANS.

(a) STUDY AND REPORT BY THE TREASURY, THE CBO, AND THE SEC.—

(1) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential costs and benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for commercial real estate mortgage loans and loans to

small businesses, including equipment and working capital loans. The study shall include consideration of—

(A) market perceptions and the reasons for the slow development of a secondary market for commercial real estate mortgage loans and loans to small businesses;

(B) the acquisition, development, and construction phases of the commercial real estate market;

(C) any means to standardize loan documents and underwriting for loans relating to retail, office space, and other segments of the commercial real estate market and for loans to small businesses;

(D) the probable effects of the development of a secondary market for commercial real estate mortgage loans and loans to small businesses on financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(E) legal and regulatory barriers that may be impeding the development of a secondary market for commercial real estate mortgage loans and loans to small businesses;

(F) the risks posed by investments in commercial mortgage loans or related products and loans to small businesses; and

(G) the structure and effect of Federal loan guarantees and, if recommended, publicly supported credit enhancement.

(2) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation and regulatory actions to facilitate the development of a secondary market for commercial real estate mortgage loans and loans to small businesses.

(b) Study and Report by the RTC.—

(1) Study.—The chief executive officer of the Resolution Trust Corporation (hereafter in this subtitle referred to as the "RTC") shall conduct a study that focuses on—

(A) efforts by the RTC to standardize its disposition methods;

(B) the success of the RTC in marketing its commercial mortgage loan-backed securities; and

(C) the impact of the RTC's programs on the commercial real estate mortgage loan and small business loan secondary market.

(2) Report.—Not later than 6 months after the date of enactment of this Act, the chief executive officer of the RTC shall transmit a report to the Congress on the impact of its commercial real estate loan securitization program. Such report shall also contain the results of the study under paragraph (1).

Subtitle D—Asset Conservation and Deposit Insurance Protection

SEC. 941. SHORT TITLE.

This subtitle may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1992".

SEC. 942. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA Amendments.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) Liability Limitations.—

"(1) In general.—The liability of an insured depository institution or other lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or lender by a removal, remedial, or other response action undertaken by another party.

"(2) Safe harbor.—An insured depository institution or other lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A) of this Act or section 9003(h)(9) of the Solid Waste Disposal Act, based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the property before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of an extension of credit (or in the contract relating thereto), covenants, warranties, or other terms and conditions that relate to compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires cleanup of the property prior to, during, or upon the expiration of the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies that may be available under applicable law for the breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) Actual Benefit.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) Exclusion.—Notwithstanding subsection (a), but subject to the provisions of section 107(d), a depository institution or lender that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a), may be liable for removal, remedial, or other response action pertaining to that release.

"(d) Environmental Assessments.—

"(1) Depository institutions.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments as may be appropriate under the circumstances, in order to account for the levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) Lenders.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for exclusions or different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) Final regulations.—Final regulations required to be promulgated pursuant to paragraphs (1) and (2) shall be issued not later than 180 days after the date of enactment of this section.

"(e) Definitions.—For purposes of this section, the following definitions shall apply:

"(1) Property acquired through foreclosure.—The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or other lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or other lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its interest. Property is not acquired through foreclosure if the insured depository institution or lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) Lender.—The term 'lender' means—

"(A) a person (other than an insured depository institution) that—

"(i) makes a bona fide extension of credit to a nonaffiliated party; and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

and the successors and assigns of such person;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases loans (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

‘‘(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to nonaffiliated parties.

‘‘(3) FIDUCIARY CAPACITY.—The term ‘fiduciary capacity’ means acting for the benefit of a nonaffiliated person as a bona fide—

‘‘(A) trustee;

‘‘(B) executor;

‘‘(C) administrator;

‘‘(D) custodian;

‘‘(E) guardian of estates;

‘‘(F) receiver;

‘‘(G) conservator;

‘‘(H) committee of estates of lunatics; or

‘‘(I) any similar capacity.

‘‘(4) EXTENSION OF CREDIT.—The term ‘extension of credit’ includes a lease finance transaction—

‘‘(A) in which the lessor does not initially select the leased property and does not during the lease term control the daily operations or maintenance of the property; or

‘‘(B) which conforms with regulations issued by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) or the appropriate State banking regulatory authority.

‘‘(5) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

‘‘(A) a federally insured credit union;

‘‘(B) a bank or association chartered under the Farm Credit Act of 1971; and

‘‘(C) a leasing or trust company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

‘‘(6) RELEASE.—The term ‘release’ has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

‘‘(7) HAZARDOUS SUBSTANCE.—The term ‘hazardous substance’ has the same meaning as in section 101(14).

‘‘(8) SECURITY INTEREST.—The term ‘security interest’ includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

‘‘(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.

‘‘(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment.’’.

(b) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) by redesignating section 39 (as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as section 42;

(2) by redesignating section 40 (as added by section 151(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as section 43; and

(3) by adding at the end the following new section:

‘‘SEC. 44. ASSET CONSERVATION.

‘‘(a) GOVERNMENTAL ENTITIES.—

‘‘(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

‘‘(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

‘‘(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

‘‘(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

‘‘(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency’s interest in the asset giving rise to such liability. Nothing in this section shall be construed to prevent a Federal banking or lending agency from agreeing with a State to transfer property to such State in lieu of any liability that might otherwise be imposed under State law.

‘‘(3) LIMITATION.—Notwithstanding paragraph (1), and subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a Federal banking or lending agency that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1), may be liable for removal, remedial, or other response action pertaining to that release.

‘‘(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

‘‘(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

‘‘(B) is or was affiliated with or related to a party described in subparagraph (A);

‘‘(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

‘‘(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

‘‘(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

‘‘(b) LIEN EXEMPTION.—Notwithstanding any other provision of law, any property held by a subsequent purchaser referred to in subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

‘‘(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

‘‘(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

‘‘(1) FEDERAL BANKING OR LENDING AGENCY.—The term ‘Federal banking or lending agency’ means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents.

‘‘(2) HAZARDOUS SUBSTANCE.—The term ‘hazardous substance’ has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

‘‘(3) RELEASE.—The term ‘release’ has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

‘‘(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.’’.

Subtitle E—Limitations on Liability

SEC. 951. DIRECTORS NOT LIABLE FOR ACQUIESCING IN CONSERVATORSHIP, RECEIVERSHIP, OR SUPERVISORY ACQUISITION OR COMBINATION.

(a) LIABILITY.—During the period beginning on the date of enactment of this Act and ending on December 19, 1992, the members of the board of directors of an insured depository institution shall not be liable to the institution’s shareholders or creditors for acquiescing in or consenting in good faith to—

(1) the appointment of the Resolution Trust Corporation or the Federal Deposit Insurance Corporation as conservator or receiver for that institution; or

(2) the acquisition of the institution by a depository institution holding company, or the combination of the institution with another insured depository institution if the appropriate Federal banking agency has—

(A) requested the institution, in writing, to be acquired or to combine; and

(B) notified the institution that 1 or more grounds exist for appointing a conservator or receiver for the institution.

(b) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "depository institution holding company", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 952. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(A) by redesignating subsection (o) (as added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2354)) as subsection (p); and

(B) by adding at the end the following:

"(q) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this subtitle.

SEC. 953. AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978.

Section 6(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3104(c)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

TITLE X—MONEY LAUNDERING

SEC. 1001. SHORT TITLE.

This title may be cited as the "Financial Institutions Enforcement Improvements Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 1011. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Office of the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Office of the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Office of the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pre- termination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the bank, Federal branch, or Federal agency maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the bank or its holding company. If the institution is a Federal branch or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978) of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller of the Currency shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director of the Office of Thrift Supervision a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director of the Office of Thrift Supervision shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a preter- mination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director of the Office of Thrift Supervision may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Office of Thrift Supervision shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director of the Office of Thrift Supervision, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the savings association or its holding company. The Office of Thrift Supervision shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TITLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRE-TERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be any losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 1012. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; TERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(u) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection."

SEC. 1013. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution-affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove such party from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution. A copy of such notice shall also be served upon the depository institution.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution-affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 1014. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 1015. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 1016. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following:

"(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary,

"(B) any State agency,

"(C) any State branch which is not an insured branch,

"(D) any State commercial lending subsidiary, or

"(E) any director or senior executive officer of any such foreign bank, agency, branch, or subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any offense under section 1956, 1957, or 1960 of title 18, United States Code, or punishable under section 5322 of title 31, United States Code.

"(C) SENIOR EXECUTIVE OFFICERS.—The term 'senior executive officers' has the meaning given to such term by the Board pursuant to section 32(f) of the Federal Deposit Insurance Act.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 1021. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By January 1, 1993, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in subparagraphs (H) through (Y) of section 5312(a)(2) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate State financial institution supervisory agencies for supervisory purposes.".

(b) CIVIL PENALTY.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following paragraph:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5327. Identification of financial institutions.".

SEC. 1022. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to—

"(1) the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws;

"(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims and the award of compensation to informers with respect to such forfeitures;

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 1023. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 1024. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 1025. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

(a) IN GENERAL.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following paragraph:

"(2) TRANSFERS OF FUNDS.—

"(A) IN GENERAL.—Before October 1, 1992, the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') in consultation with State banking departments shall jointly prescribe such final regulations as may be appropriate to require insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks, or other similar instruments to maintain records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks, or similar instruments;

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

(b) CONFORMING AMENDMENTS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in the first sentence of subsection (c), by striking "the Secretary shall" and inserting "the regulations prescribed under subsection (b) shall";

(2) in subsection (d), by striking "regulations of the Secretary" and inserting "regulations issued under subsection (b)";

(3) in subsection (e), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require";

(4) in subsection (f), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require"; and

(5) in subsection (g), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require".

SEC. 1026. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 1027. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or the regulations thereunder" after "section 5313(a)" each place it appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require financial institutions to report suspicious transactions relevant to possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution that voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(1) the development of internal policies, procedures, and controls,

"(2) the designation of a compliance officer,

"(3) an ongoing employee training program, and

"(4) an independent audit function to test programs.

The Secretary may promulgate minimum standards for such programs.".

SEC. 1028. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General, the Chairman of the Board of Governors of the Federal Reserve System, and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 1029. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested agencies, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally, would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts. Such guidelines, if issued, shall reflect the standards for anti-money laundering programs issued under section 5318(h) of title 31, United States Code.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

SEC. 1030. ANTI-MONEY LAUNDERING TRAINING TEAM.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

(b) AUTHORIZATION.—There is authorized to be appropriated not more than $1,000,000 to carry out this section.

SEC. 1031. MONEY LAUNDERING REPORTING REQUIREMENTS.

(a) OBJECTIVE.—The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions. The President shall report annually to Congress on bilateral and multilateral efforts to meet this objective. This report shall be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961.

(b) CONTENTS OF REPORT.—The report shall include—

(1) information on bilateral and multilateral initiatives pursued by the Department of State, the Department of Justice, and the Department of the Treasury, and other Government agencies, individually or collectively, to achieve the anti-money laundering objective of the United States;

(2) information on relevant bilateral agreements and on the actions of international organizations and groups;

(3) information on the countries which have ratified the United Nations Convention

on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted by governments and organizations to implement the money laundering provisions of the United Nations Convention, the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and similar declarations;

(4) information on the extent to which each major drug producing and drug transit country, as specified in section 481 of the Foreign Assistance Act of 1961, and each additional country that has been determined by the Department of the Treasury, the Department of Justice, the Department of State, and the Office of National Drug Control Policy, in consultation, to be significant in the fight against money laundering—

(A) has adequate mechanisms to exchange financial records in narcotics money laundering and narcotics-related investigations and proceedings; and

(B) has adopted laws, regulations, and administrative measures considered necessary to prevent and detect narcotics-related money laundering, including whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including large currency transactions;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets; and

(vi) addressed the problem of international transportation of illegal-source currency and monetary instruments;

(5) details of significant instances of noncooperation with the United States in narcotics-related money laundering and other narcotics-related cases; and

(6) a summary of initiatives taken by the United States or any international organization, including the imposition of sanctions, with respect to any country based on that country's actions with respect to narcotics-related money laundering matters.

(c) SPECIFICITY OF REPORT.—The report should be in sufficient detail to assure the Congress that concerned agencies—

(1) are pursuing a common strategy with respect to achieving international cooperation against money laundering which includes a summary of United States objectives on a country-by-country basis; and

(2) have agreed upon approaches and responsibilities for implementation of the strategy, not limited to the conduct of negotiations to achieve treaties and agreements.

Subtitle C—Money Laundering Improvements

SEC. 1041. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. 1042. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture.".

(b) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 1043. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding at the end the following:

"985. Administrative subpoenas.".

SEC. 1044. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 1045. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 1046. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:

"(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 1047. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 1048. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 1049. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 1050. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 1051. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 1052. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 1053. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. 1054. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c),".

SEC. 1055. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) IN GENERAL.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) RETROACTIVE APPLICATION.—All amendments to the civil forfeiture statute, section 981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 1056. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1057. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 1058. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates".

Subtitle D—Reports and Miscellaneous

SEC. 1061. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act (12 U.S.C. 3415). The study shall also include analysis of the effect of allowing nondepository licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1062. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

"(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATOR, INFORMANTS, AND WITNESSES.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, informants, or witnesses, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators, informants, or witnesses; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of the this Act, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

SEC. 1063. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1064. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(t) AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.—

"(1) IN GENERAL.—A covered agency does not waive any privilege applicable to any information by transferring that information to or permitting that information to be used by—

"(A) any other covered agency, in any capacity; or

"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED AGENCY.—The term 'covered agency' means any of the following:

"(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.".

SEC. 1065. ADDITIONAL DEFINITIONS.

(a) CERCLA AMENDMENTS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding the following new paragraphs at the end thereof:

"(39) The term 'municipal solid waste' means all waste materials generated by households, including single and multiple residences, hotels and motels, and office buildings. The term also includes trash generated by commercial, institutional, and industrial sources when the physical and chemical state, composition, and toxicity of such materials are essentially the same as waste normally generated by households, or when such waste materials, regardless of when generated, would be considered conditionally exempt generator waste under section 3001(d) of the Solid Waste Disposal Act because it was generated in a total quantity of 100 kilograms or less during a calendar month. The term 'municipal solid waste' includes all constituent components of municipal solid waste, including constituent components that may be deemed hazardous substances under this Act when they exist apart from municipal solid waste. Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, and household hazardous waste (such as painting, cleaning, gardening, and automotive supplies). The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(40) The term 'sewage sludge' refers to any solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste waters at or by a publicly-owned treatment works, subject to the limitations of section 113(m) of this Act.

"(41) The term 'municipality' means any political subdivision of a State and may include cities, counties, towns, townships, boroughs, parishes, school districts, sanitation districts, water districts, and other local governmental entities. The term also includes any natural person acting in his or her official capacity as an official, employee, or agent of a municipality.".

(b) CONTRIBUTION ACTIONS; RIGHT-OF-WAY.—Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(m) CONTRIBUTION ACTIONS FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No municipality or other person shall be liable to any person other than the United States for claims of contribution under this section or for other response costs or damages under this Act for acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(n) PUBLIC RIGHT-OF-WAY.—In no event shall a municipality incur liability under this Act for the acts of owning or maintaining a public right-of-way over which hazardous substances are transported, or of granting a business license to a private party for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. For the purposes of this subsection, 'public right-of-way' includes, but is not limited to, roads, streets, flood control channels, or other public transportation routes, and pipelines used as a conduit for sewage or other liquid or semiliquid discharges.".

(c) SETTLEMENTS; FUTURE DISPOSAL PRACTICES.—Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(n) SETTLEMENTS FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE OR SEWAGE SLUDGE.—

"(1) ELIGIBLE PERSONS.—This subsection applies to any person against whom an administrative or judicial action is brought, or to whom notice is given of potential liability under this Act, for acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(2) OFFER OF SETTLEMENTS; MORATORIUM.—Eligible persons under this subsection may offer to settle their potential liability with the President by stating in writing their ability and willingness to settle their potential liability in accordance with this subsection. Upon receipt of such offer to settle, neither the President nor any other party shall take further administrative or judicial action against the eligible person for relevant acts or omissions addressed in the settlement offer.

"(3) TIMING.—Eligible persons may tender offers under this subsection within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action, or within 180 days after a record of decision is issued for the portion of the response action that is the subject of the person's settlement offer, whichever is later. If the President notifies an eligible person that he or she may be a potentially responsible party, no further administrative or judicial action may be taken by any party for 120 days against such person.

"(4) EXPEDITED FINAL SETTLEMENT.—The President shall make every effort to reach final settlements as promptly as possible under this subsection and such settlements shall—

"(A) allocate to all acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge that may create liability under this Act a total of no more than 4 percent of the total response costs: *Provided, however*, That the President shall reduce this percentage when the presence of municipal solid waste or sewage sludge is not significant at the facility;

"(B) require an eligible person under this subsection to pay only for his or her equitable share of the maximum 4 percent portion of response costs described in subparagraph (A);

"(C) limit an eligible person's payments based on such person's inability to pay;

"(D) permit an eligible person to provide services in lieu of money and to be credited at market rates for such services;

"(E) consider the degree to which a publicly owned treatment works has promoted the beneficial reuse of sewage sludge through land application when the basis of liability arises from acts or omissions related to sewage sludge taken 36 months after the date of enactment of this Act or thereafter; and

"(F) be reached even in the event that an eligible person may be liable under sections 107(a)(1) or 107(a)(2) of this Act or for acts or omissions related to substances other than municipal solid waste or sewage sludge.

"(5) COVENANT NOT TO SUE.—The President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under this subsection unless such a covenant would be inconsistent with the public interest as determined under subsection (f) of this section.

"(6) EFFECT OF AGREEMENT.—A person that has resolved his or her liability to the United States under this subsection shall not be liable for claims of contribution or for other response costs or damages under this Act regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

"(7) DE MINIMIS SETTLEMENTS.—Nothing in this subsection shall alter or diminish a person's right or ability to reach a settlement with the President under subsection (g) of this section.

"(o) FUTURE DISPOSAL PRACTICES.—Eligible persons may assert the provisions of section 122(n) regarding acts or omissions taken 36 months after the date of enactment of this Act or thereafter only under the following circumstances:

"(1) if the acts or omissions relate to municipal solid waste and the eligible person is a municipality, a qualified household hazardous waste collection program must have been operating while the relevant acts or omissions took place; or

"(2) if the acts or omissions relate to sewage sludge and the eligible person is an operator of a publicly owned treatment works, a qualified publicly owned treatment works must have been operating while the relevant acts or omissions took place.

"(3) The term 'qualified household hazardous waste collection program' means a program that includes—

"(A) at least semiannual, well-publicized collections at conveniently located collection points with an intended goal of participation by ten percent of community households;

"(B) a public education program that identifies both hazardous household products and safer substitutes (source reduction);

"(C) efforts to collect hazardous waste from conditionally exempt generators under section 3001(d) of the Solid Waste Disposal Act (because they generated a total quantity of 100 kilograms or less during a calendar month), with an intended goal of collecting wastes from twenty percent of such generators doing business within the jurisdiction of the municipality; and

"(D) a comprehensive plan, which may include regional compacts or joint ventures, that outlines how the program will be accomplished.

"(4) A person that operates a 'qualified household hazardous waste collection program' and collects hazardous waste from conditionally exempt generators under section 3001(d) of the Solid Waste Disposal Act must dispose of such waste at a hazardous waste treatment, storage or disposal facility with a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925), but such person is otherwise deemed to be handling only household waste under the Solid Waste Disposal Act when it operates a qualified household hazardous waste collection program.

"(5) Nothing in this Act shall prohibit a municipality from charging fees to persons whose waste is accepted during household hazardous waste collections, or shall prohibit a municipality from refusing to accept waste that the municipality believes is being disposed of in violation of the Solid Waste Disposal Act.

"(6) The term 'qualified publicly owned treatment works' means a publicly owned treatment works that complies with section 405 of the Federal Water Pollution Control Act (33 U.S.C. 1345).

"(7) The President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under this subsection. Minor instances of noncompliance that are not environmentally significant do not render a household hazardous waste collection program or publicly owned treatment works unqualified under this subsection.

"(8) If the President determines that a household hazardous waste collection program is not qualified, the limitations imposed by this subsection on the assertion of the provisions of section 122(n) shall apply, but only with regard to the municipal solid waste disposed of during the period of disqualification.

"(9) If a municipality is notified by the President or by a State with a program approved under section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)) that its publicly owned treatment works is not in compliance with the requirements of paragraph (6) of this subsection, and if such noncompliance is not remedied within twelve months, the limitations imposed by this subsection on the assertion of the provisions of section 122(n) shall apply, but only with regard to the sewage sludge generated or disposed of during the period of noncompliance.".

(d) AMOUNT OF HAZARDOUS WASTE.—Section 122 (g)(1)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the following sentence at the end thereof: "The amount of hazardous substances in municipal solid waste and sewage sludge shall refer to the quantity of hazardous substances which are constituents within municipal solid waste and sewage sludge, not the overall quantity of municipal solid waste and sewage sludge.".

(e) CONSTRUCTION.—Nothing in this section shall modify the meaning or interpretation of the Solid Waste Disposal Act.

(f) APPLICABILITY.—The amendments to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 made by this section shall apply to each municipality and other person against whom administrative or judicial action has been commenced before the effective date of this Act, unless a final court judgment has been rendered against such municipality or other person or final court approval of a settlement agreement including such municipality or other person as a party has been granted. If a final court judgment has been rendered or court-approved settlement agreement has been reached that does not resolve all contested issues, such amendments shall apply to all contested issues not expressly resolved by such court judgment or settlement agreement.

Subtitle E—Counterfeit Deterrence Act of 1992

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

SEC. 1072. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 1073. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the

Secretary of the Treasury, shall be fined not more than $50,000 or imprisoned not more than 20 years, or both.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device:

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) Chapter Analysis.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 1074. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1), by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums).";

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

SEC. . MORATORIUM ON INTERSTATE BRANCHING BY SAVINGS ASSOCIATIONS.

(a) Moratorium.—Notwithstanding any other provision of law, no Federal savings association may establish or acquire a branch outside the State in which the Federal savings association has its home office, unless the establishment or acquisition of such branch would have been permitted by law prior to April 9, 1992.

(b) Applicability.—This section shall apply during the period beginning on the date of enactment of this Act and ending 15 months after such date.

It is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight, tonight, since the economic ramifications of such a strike are devastating to the country, and congressional action could prevent that economic damage.

TITLE _____—LIMITED PARTNERSHIP ROLLUP REFORM

SEC. _____01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. _____02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) Amendment.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) Proxy Solicitations and Tender Offers in Connection With Limited Partnership Rollup Transactions.—

"(1) Proxy rules to contain special provisions.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination,

except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forepart thereof.

"(2) Exemptions.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) Effect on commission authority.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) Definition.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited partnerships receive new securities or securities in another entity, other than a transaction—

"(i) in which—

"(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

"(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

"(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

"(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

"(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

"(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

"(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

"(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC. _____03. RULES OF FAIR PRACTICE IN ROLL-UP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by adding at the end the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

"(9) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

"(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

"SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of United States Environmental Protection Agency shall provide to the Congress by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established where the Comprehensive Environmental Response, Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

(A) Site name, number, state and total number of operable units;

(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

(i) owner/operator;

(ii) transporter;

(iii) person that arranged for disposal or treatment;

(iv) municipality;

(v) State agency;

(vi) lender or State or Federal lending agency; or

(vii) Federal agency; any other entity and

(viii) that portion of the site that cannot be attributed to any potentially responsible party. Including the dollar amount and volumetric share.

(F) Site classification;

(G) Whether the facility is still in operation;

(H) Number of Records of Decision to be issued;

(I) Description of elements of removal and/or remedial action.

(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through de minimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance;

(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

(N) Description of settlement and enforcement activities;

(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(3) In submitting the report the Administrator shall include a summary of the costs incurred in preparing the report.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(c)(1) No later than September 30, 1993, the Administrator of EPA, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of land use policy at such sites and the effect of post-cleanup liability on future uses.

"(4) The Administrator of the U.S. Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the Report as part of the submission to the Congress."

SASSER AMENDMENT NO. 2450

Mr. SASSER proposed an amendment to amendment No. 2437 proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place insert the following:

"SEC. . PRESIDENT'S BUDGET.

"(a) It is the sense of the Congress that the Bush budget should not be enacted as it:

"(1) fails to invest in human or physical infrastructure which is critical to increased productivity and economic growth;

"(2) offers no plan to deal with health care costs or access;

"(3) allows the national debt to increase to $5.918 trillion by 1997;

"(4) leaves a budget deficit of $303.6 billion by 1997;

"(5) proposes a revenue hemorrhaging capital gains tax cut for the same wealthy Americans who benefited from the misguided policies of the 1980's;

"(6) reduces defense spending by only $26 billion from 1992 through 1997 and spends a total of $1.4 trillion over the next five years, despite the collapse of the Soviet Union;

"(7) offers no plan for converting our defense industry and personnel to a civilian economy;

"(8) cuts medical care to the elderly and raises the hospital insurance tax, for a total of $22 billion in savings; and

"(9) relies on a dubious accounting gimmick to claim $38 billion in false savings.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a joint hearing has been scheduled before the Committee on Energy and Natural Resources and the Subcommittee on Energy and Water Development of the Committee on Appropriations.

The purpose of the hearing is to receive testimony on the superconducting super collider.

The hearing will take place on Tuesday, June 30, 1992, at 9:30 a.m. in room SH–216 of the Hart Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Attention: Paul Barnett.

For further information, please contact Paul Barnett of the committee staff at 202–224–7569.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on cosmetic standards and pesticide use on fruits and vegetables on Thursday, July 2, 1992, at 9:30 a.m., in SR–332. Senator WYCHE FOWLER will preside.

For further information please contact Woody Vaughan of the Agriculture Committee staff at X4–5207.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 24, 1992, to receive testimony on S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 24, 1992, at 10 a.m. for a hearing on the health care crisis: human impact of abuses by health insurers.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 24, 1992, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSUMER

Mr. CONRAD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 24, 1992, at 10 a.m. on S. 2232—automobile labeling.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 24, at 2:30 p.m. to hold ambassadorial nominations hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS.

Mr. CONRAD. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Wednesday, June 24 at 9:30 a.m. In room 216 of the Senate Hart Office Building to examine the accounting process of the Department of Defense in regard to Americans missing in Southeast Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CONRAD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on committee prints of bills relating to veterans' compensation (S. 2322), dependency and indemnity compensation (S. 2323), homeless veterans (S. 2512), education benefits (S. 2647), Native American veterans' home loan education benefits (S. 2528), employment and training (S. 2515), and health care (S. 2575), incorporating provisions from S. 2575, S. 2740, S. 2372, and S. 1424), and the fiscal year 1993 medical construction project-approval resolution. The markup will be held on June 24, 1992, at 10 a.m. in room 418 of the Russell Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 24, 1992, at 9 a.m., for an executive session on pending business.

AGENDA

1. S. 2060, Orphan Drug Amendments.
2. S. 2141, Long-term Care Insurance Improvement and Accountability Act.
3. S. 25, Freedom of Choice Act.
4. Nominations:

To be Commissioner of Education Statistics, Department of Education: Emerson J. Elliott, of Virginia.

To be Chief Financial Officer, Department of Education; William Dean Hansen, of Idaho.

To be Assistant Secretary for Policy and Planning, Department of Education; Bruno Victor Manno, of Ohio.

To be a member of the National Commission on Libraries and Information Science: Shirley Gray Adamovich, of New York.

To be a member of the National Science Board, National Science Foundation; F. Albert Cotton, of Texas; Charles E. Hess, of California; and James L. Powell, of Pennsylvania.

Routine List of Public Health Service Corps (list numbers 945, 946 and 961).

Matters not reached or completed will be continued in executive session on Wednesday, July 1, 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BETTY FAKE, MEDICAL MISSIONARY

• Mr. COHEN. Mr. President, as the ranking member of the Special Committee on Aging, it gives me great pleasure to share with my colleagues the story of an extraordinary older American with an extraordinary mission.

Betty Fake is a registered nurse, who lives in Lewiston in my home State of Maine. Following the death of her husband, Mrs. Fake revived her girlhood dream of becoming a medical missionary—a dream that would take her to remote regions of the Earth to care for the sick and the impoverished.

With the sponsorship of a church missionary group, Mrs. Fake has volunteered her own time and money over the years to assist other missionaries in bringing medical care and supplies to communities in Appalachia, India, and the Philippines, that do not regularly have access to a doctor or nurse.

As an older American, Mrs. Fake has set the example for senior citizens who desire to put their time and energies toward volunteer work in their own communities or in projects reaching out to communities across the globe.

Carol Coultas recently profiled Mrs. Fake and the missions she has gone on in an article in the Maine, Sunday, Telegram. I would like to enter the text of the article into the RECORD, and I hope that my colleagues will be inspired to read Mrs. Fake's story.

The article follows:

POVERTY SPOTS LURE LEWISTON NURSE

(By Carol A. Coultas)

LEWISTON.—As a young girl growing up in Connecticut, Betty Fake decided she wanted to be a medical missionary. More than 50 years later, she got her chance.

"I guess you're never too old to fulfill a dream," she said, smiling from an easy chair in her sunny Central Avenue apartment in Lewiston. But her desire to deliver health care to the poor was set aside first by World War II, then marriage and four children. Her husband's death in 1982 prompted her to reexamine her life and revive her dream.

A registered nurse, Fake uses her own money to visit poor regions of the world to dispense medical care. Since 1987, she has seen her dream played out in the valleys of Appalachia, the arid plains of India and the verdant mountains of the Philippines.

"Some days we would see between 300 and 400 people at a time," she said of her time in the Philippines. "A lot of what we saw, we couldn't do anything about . . . most of it was a result of malnourishment . . . but we did what we could."

Fake makes her trips under the auspices of the United Methodist Church's Short-term Volunteers in Missions program. The church identifies areas of need and assembles a group, but participants pay their own transportation and room and board once they get to their destination.

Fake began her volunteer mission work in 1987 when she spent a summer deep in the mountains of Appalachia. Nurses in a local hospital hadn't had a vacation in over two years, because there was no money to put for substitutes. Fake spent her time working in the hospital and riding on an ambulance, as well as making day trips to little towns where she performed a myriad of medical services.

Next she went to India for three weeks, where she saw medical condition in hospitals and clinics "that were like ours in the 1930s and 1940s."

In 1989 and again this February she went to the Philippines where she helped administer care to people in isolated regions.

Most of the medical attention Fake delivers is restricted by the supplies she can buy and bring with her. Before setting out on a trip, she packs as much rash ointment, bandages, antiseptic, thermometers, vitamins, blood pressure cuffs and aspirin as she can manage. It's not much of an arsenal against diseases such as tuberculosis, but it gets people out to receive rudimentary care.

"In the Philippines, we would go into a tiny village and someone would put a table and couple of chairs right in the middle of the street and everyone would come to see us," she said of the traveling medical clinic.

During her first trip to the Philippines the group she was with brought $4,000 worth of prescription drugs that were confiscated at customs. The group had to pay a $100 bribe (down from $1,000 initially, she said) to reclaim the drugs.

Another time, she recounts, the Rotary Club International sent enough polio vaccine to India to immunize every child in the country. But medical workers couldn't get parents to bring their children for the immunization because of mistrust of medical professionals.

"In India, there are still a lot of medicine men in the villages," she said. "People go there first when they're sick, then to the white people's hospital after the disease has progressed.

"Of course often the person dies and that spreads rumors that hospitals kill people."

In the Philippines she accompanied a young man to a hospital after he dropped a cement mixer on his toe. He spent all day waiting to be examined. When he finally saw the doctor, the physician removed some of the injured toenail and sent him home with a bill that was more than a day's pay.

While lack of medical technology, poor accessibility and cultural ignorance all play a part in preventing the sick from regaining their health, Fake said far and away the worst problem she encountered was one of a lack of nutrition.

Slash-and-burn practices in India have turned much of that country's farmland into desert, making food difficult to grow and requiring more expensive imports. In the Philippines, the diet consists mainly of dried fish and rice with little or no dairy products.

Even in the U.S., people don't eat well. She said in Appalachia, lard is sold in huge drums and people use it to cook almost everything.

Historically these mountain people grew their own food in backyard gardens. But a way of life has changed. Nearly 80 percent of the people Fake assisted during her time there were welfare recipients and bought their food rather than growing it. The result was a lot of poorly fed people who were passing their bad eating habits on to the next generation.

"I saw a lot of 2- and 3-year-olds running around with sodas," she said.

The effects of poverty were most evident on children, no matter where she went. In fact the sight of malnourished children with swollen bellies was so distressing, after her visit to India, Fake said she wasn't going to participate on any other missions. She returned to Lewiston and her job conducting physical exams for insurance companies, hoping her church and volunteer activities would satisfy her.

But complacency doesn't sit well with Fake. A woman of deep religious convictions, she says she feels an obligation to give back some of the blessings of her life to others less fortunate.

"I'm not content to be the usual over-60 widow," she said. "My desire, my motivation is oriented in my faith because I believe that we need to take care of our sisters and brothers."

She said once she replenishes her bank account (each trip cost approximately $2,000), she'll see where the next opportunity crops up for her expertise.

"As long as I'm physically able, when the opportunity arises and I have the money, I'm likely to go."•

PEORIA WEATHERS AN ECONOMIC STORM

• Mr. SIMON. Mr. President, from the barbershops and health clubs to the banks and bowling alleys, there is a new spirit evident on the faces of Peorians these days.

The devastation of a decade-long recession, the harm done to Peoria's exports by Federal deficits, and two agonizing labor disputes have put Peoria to the test.

Mr. President, Peoria has risen to the challenge.

Peoria was listed in U.S. News & World Report 2 years ago as one of the boomtowns of the United States. This quiet midwestern city of 113,000 people has done its share of bleeding from these economic wounds these past few years, but unlike many other rust belt communities, Peoria is on a remarkable rebound.

Much of this is happening not because of, but in spite of flawed Federal policies that have done great damage to our industrial base. When our manufacturing sector is harmed, high-skill jobs are lost, and many Peorians have put on hold their visions of a better life. We know this is a year of political discontent, and such cynicism and anger is thriving in middle America, including Peoria, for these reasons and many others.

Peoria's efforts to adjust and to prepare for the 21st century is instructive. Writer Thomas Edsall recently offered a snapshot of Peoria's experience.

Mr. President, I ask that a June 20 article about Peoria from the Washington Post be printed in the RECORD.

The article follows:

[From the Washington Post, June 20, 1992]

IN PEORIA, WHAT "PLAYS" IS POLITICAL ANXIETY, DISCONTENT

(By Thomas B. Edsall)

PEORIA, IL.—Over the last 15 years, Ray Thomasson watched as thousands of less senior co-workers had their jobs eliminated at the Caterpillar Inc. tractor plant here. When he went on strike last fall, his employer for virtually his entire working life threatened to replace him and every other skilled worker by hiring men and women right off the street. And his union, the once-powerful United Auto Workers of America, could not stand up for him, capitulating to Caterpillar in April after a bitter five-month walkout.

"The labor movement don't have a leg to stand on. We are at the mercy of the company," said Thomasson. "It's kind of scary."

Thomasson, 49, has so far survived what has been a devastating upheaval for another generation of workers in Peoria who went to work after high school in the 1970s fully expecting the security of a home, boat and summer place on the lake in a city where hard work was always rewarded with good pay.

The experience has changed him politically but also left him more than a little confused. "I was born a Democrat and raised a Democrat," he said, "but for the last 15 years I've been voting Republican." Now, he is more inclined to vote Democratic, but worries about a party that supports abortion and gay rights.

Four years later, the themes of the 1988 campaign—Willie Horton, the death penalty and the American Civil Liberties Union—still echo for Thomasson, undermining his inclination to return to the party of his childhood, even one committed to passing legislation barring the kind of full-scale replacement worker policies that Caterpillar threatened to use to break the UAW strike.

In both his anxiety and his ambivalence, Thomasson reflects the effects that years of economic turbulence have had in changing the thinking of the voters and leaders of Peoria. Here in the city once so secure as a bastion of middle American values that "Will it play in Peoria?" became a litmus test for conventionality, the forces of globalized economic competition, racial division and the growing disparities between rich and poor have combined with devastating consequences for the traditional middle class.

Unlike Detroit, the economic upheaval has not left Peoria bleeding and wounded, a casualty of the world marketplace. Instead, like some other cities in the industrial heartland, such as Akron and Pittsburgh, where the collapse of the rubber and steel industries produced local depressions almost matching the 1930s, Peoria in general is emerging from the depths of a collapse.

But there is no doubt about the toll the 1980s exacted: The bottom fell out of the real estate market, unemployment at one point approached 20 percent, bankruptcies hit 2,300 in 1984 and hundreds of people abandoned their homes, decimating some of the city's oldest working-class neighborhoods.

During the 1980s, the Democratic Party, which did not emerge as a force even during the Great Depression of the 1930s, began to show some muscle, winning county-wide seats, but that movement appears to have slackened. In a number of contests in the 1980s, the city's congressman, Rep. Robert H. Michel, the House Republican leader, was hard pressed by a Democratic challenger, but in 1990, Michel won with 98 percent of the vote.

The seeming return to Republican hegemony does not, however, reflect the growing political anxiety and confusion emerging in part from the radical changes the city has undergone. The anxiety has created a clear opening for the independent presidential candidacy of Ross Perot, who, though still a shadowy unknown, appeals to persons of a range of ideological stripes on the notion that perhaps a tough, successful businessman is what is needed to restore direction and purpose to a government that seems to undermine the very goals it is supposed to enhance.

From 1980 to 1990, Peoria's population fell from 124,157 to 113,852. The number of whites fell from 101,447 to 86,852, while the number of blacks grew from 20,467 to 23,692, with modest growth among a scattering of other groups. In a matter of just 13 years, the number of manufacturing jobs in the area fell from 53,550 in 1978 to 32,000 in 1991. In their place have sprung up a growing number of jobs in the medical and academic communities, and in other service industries filled by workers with much higher skills who have moved to an affluent suburbia that has grown within city boundaries on the north side of town.

The division between rich and poor is most visible in the city's schools.

"We don't have the middle group any more," said John M. Strand, Peoria's superintendent of schools. "What we've got is an unusual school system which in the past 10 years has gone from a predominantly white and a combination of working- and middle-class professional families" to a system increasingly bifurcated by income and, in part, by race.

On the one side, he said, there are students from "middle-class professional families, black or white, and they are headed off into college preparatory programs," and on the other side are youngsters whose family income is low enough to qualify for free federal lunches. "The number of minority students has more than doubled, and the number of low-income students has more than doubled," each from about 20 to 45 percent, he said.

As manufacturing employment nose-dived, the school system lost students from families making "$30,000 . . . $40,000 a year . . . solid B and C students . . . [who] don't have higher aspirations as far as college or graduate schools, but they are the sort of basic, solid citizens that every school depends on," Strand said.

Just as the disparity in income has increased, so has the gap in test scores. "You get a bunch of kids in the 80th percentile and a bunch of kids at the 30th percentile. It averages out to 55, but in fact there are very few kids at that level," he said. "We have an inner-city school system and a suburban system in one school system."

In the face of increasing economic and class polarization, the one message that came through in interviews with a wide variety of city residents is the sense that the federal government has failed to do anything to stop this process and that the programs associated with it are in fact doing harm to those who need help.

The lightning rod for this discontent is welfare, which is widely seen as compounding misery by undercutting initiative and institutionalizing dependency. But voters and officials contend failure is endemic in programs ranging from trade policy to corporate tax subsidies.

For example, if welfare is viewed as the financial underpinning for lack of productivity, then the city's three major public housing projects—Taft, Harrison and Warner—are seen as creating isolated concentrations of the black poor, making all the more intractable the problems of the underclass. In a city desegregated by federal and state law, "the biggest segregated area" left in the city is the federally financed public housing projects, said Strand.

Gordon Gilomen, a 45-year-old mechanic who is active in citywide parent-teacher organizations, is more specific in blaming welfare.

"I think the welfare was the worst thing that happened to poor people," he said. "I think there is nothing wrong with helping a person who gets themselves in a bind somehow. I think the attitude of the lower class, of the low economic people, has been affected by welfare. I think they see it as a free ride, and it is."

Gilomen does not blame the recipients, as much as the system itself. "You can't expect anyone to say, 'I've got to work at McDonalds and it's going to cost me $75 a week [in lost benefits], and I'm going to lose my medical.' They are not stupid enough to do that. If we are stupid enough to pay them not to [work], what kind of message does that send?"

This anger at the welfare system was voiced in even stronger terms by Nathaniel R. LeDoux, a conservative 56-year-old black city councilman who moved here from Louisiana in 1968.

"We put a great deal of emphasis on the downtrodden, but we went too far. . . . And there developed an attitude in this country of, 'I believe the world owes me something.' Those people who suffered the most were the least educated. Those blacks who were prepared and ready for integration, and I consider myself one of those, we prospered. Those people who were not prepared became even less well-off because they became crippled by a system that said, 'I will take care of you.'"

The sense that government is part of the problem and not the solution has helped changed the thinking of David Koehler, once a rocksolid liberal.

Ordained by the United Church of Christ, Koehler's first ministry was with Cesar Chavez's farm workers' union. He came here as a community organizer for Friendship House in the near Northside, a section of the city that has borne the brunt of a host of social change, absorbing the poor evicted by urban renewal, the mentally ill released from hospitals and migrant workers forced out of their camps.

"It's when people become disenfranchised and when they are not empowered to be part of the process that they basically give up," he said. Do government programs disenfranchise? he was asked. "I think that is a proven fact with how we have dealt with housing policy and welfare—and welfare both with the poor and the subsidies we provide to industry."

Under the existing partisan structure, Koehler, argued, "We have put together policies and programs that have not been nuturing to that set of family values we should be promoting. Welfare is a good example; we set up a system that basically we break up the family . . . we break down families among the very people we were 'trying to help'. . . . We have to see that there is responsibility all the way from the top bastion of power all the way to the bottom, and responsibility first and foremost means how do I account for my personal actions."

A similar skepticism about traditional liberal approaches showed not only in Koehler's changing views, but in the weakness of Democratic loyalties among Caterpillar workers.

Harold Hundt, who has put in 23½ years at Caterpillar, agrees with Thomasson that if a presidential candidate is "for gay rights and abortion, and was steadfast in that area, I probably would not vote for him, even if he were a Democrat."

John R. Backes Jr., a tool grinder with 18 years seniority at Caterpillar, is a firm Democrat who has no problem with gay rights and believes that in the case of abortion, the government does not "need to be telling people what to do with their lives."

But Arkansas Gov. Bill Clinton, he said, "scares me," and the prospect that Clinton might pick Jesse L. Jackson as a running mate—an improbable development widely seen as a real possibility among voters here—"would probably sink him. He might have to [pick Jackson, under pressure from blacks] and then it would hurt him. I'm not a bigot, but there are a lot of them out there, and a lot of them are Democrats. I don't think Jackson has the qualifications."

Yet even as the Caterpillar workers express their suspicion at liberal solutions, other members of their community direct criticism back at them.

LeDoux is more conservative than many of those interviewed here—a conservatism that helped get him elected citywide in this overwhelmingly white community—and he shares with much of the electorate a belief that the kind of criticisms that are leveled at welfare are applicable to a much broader range of issues facing the city and the nation.

"The notion that people now feel the world owes them something extends to the labor community, the unions. . . . I see the same mentality with Lee Iacocca who thinks he ought to be paid millions of dollars when he runs a company that loses money. It's not just limited to poor people, it's pervasive throughout our society."•

THE SALVATION ARMY

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable philanthropic organization which has provided thousands of volunteers who aid in addressing many of the needs of the Kansas City, MO, community. I am referring to an organization familiar to you all—the Salvation Army.

The Salvation Army has served Kansas Citians for the past 105 years. The traditional programs and more innovative services that the Salvation Army has delivered to victims of crisis or hard economic times cannot be matched. The mobile feeding canteen has served more than 350,000 meals to hungry Kansas Citians on the streets and provided shelter for more than 600 families in the Emergency Lodge.

The Salvation Army also provides programs which aid clients in becoming financially independent citizens, the employment counseling, parenting classes, and budget and financial management training provided are important in helping individuals back on their feet. Responding to increased incidents of crime against children, the Salvation Army founded the Children's Shelter. Assisting our children must be a priority and I commend the Salvation Army for their efforts in raising awareness as well as addressing the many problems our children and families face.

Mr. President, the staff and volunteers of the Salvation Army and the community of Kansas City have worked hard to acquire their new divisional headquarters. I join them in their celebration of the new headquarters. The people of Kansas City are extremely fortunate to have such an active and innovative Salvation Army.•

HAITIAN REFUGEES

• Mr. RIEGLE. Mr. President, I rise to express my support for legislation introduced by Senator KENNEDY, S. 2826, which would halt the Bush administration's forced repatriation of Haitian refugees. President Bush's policy is unjust and must be reversed.

After the ousting of former President Duvalier in 1986, Haiti enjoyed its first real opportunity for democracy. In December 1990, clergy member Jean-Bertrand Aristide was elected President, winning over 67 percent of the popular vote. Seven months later on the night of September 29, 1991, a savage military coup overthrew his democratically elected government. In its place now sits an illegal, oppressive regime headed by Joseph Nerette, considered by many to be a puppet of the Haitian armed forces.

Numerous civilians have testified to Amnesty International that violence is directed at the heart of Haiti's grassroots infrastructure—church groups, literacy programs, public media, and small business cooperatives. Individual citizens have been terrorized by arrests and public executions. In fact, reports indicate that within 6 months of the coup, 2,000 were killed by the Army, 500 by torture, and 6,000 were wounded by gunfire.

Faced with violence, both targeted and random, as well as the lowest standard of living in the Western Hemisphere, many Haitians have fled their country by sea for America's shores. For several months, Haitians were taken to the U.S. Naval base at Guantanamo Bay, Cuba until their claims for refugee status could be resolved. Approximately one-third have been able to make a preliminary showing that they were the object of a specific threat of violence.

Today, however, Haitians do not even have the opportunity to make a case for political asylum. On May 24, President Bush, in a reversal of earlier policy, ordered the Coast Guard to return all Haitian nationals intercepted at sea to their country without allowing them to apply for asylum. The Coast Guard now leaves the dangerously overcrowded boats to fend off the perils of the high seas without assistance. The administration also decided to close the Guantanamo Bay refugee center which has been sheltering Haitians and processing their petitions for political asylum. This policy change must not be allowed to stand.

The 1951 Geneva Convention states that no country "shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened. * * *" This determination cannot be made through a Coast Guard bullhorn in the open sea. Despite international agreement and other policies which have afforded protection to similarly afflicted groups, the President continues to return Haitians fleeing persecution.

Four months ago, I joined others in Congress calling on the President to suspend the deportation of Haitian refugees. But the deportations are continuing to this day, and President Bush still clings to his belief that, despite the brutal conditions they face, Haitians are fleeing simply to find better economic opportunities.

Mr. President, in 1939, the Roosevelt administration returned to Germany a ship filled with Jews escaping Hitler's death camps. Let us not make that mistake again. Haitian boat people merit the same protection as other refugees. I strongly support Senator KENNEDY's legislation to halt the forced repatriation of Haitian nationals and urge the Senate to act quickly to pass this measure.•

HOMECOMING FOR TERRY ANDERSON

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Terry Anderson and to make note of a homecoming that we, as Americans, have waited a very long time for. This weekend something very special is happening in upstate New York. Terry Anderson returns to the place he called home while growing up: Batavia, NY. He will be welcomed by friends and family, dignitaries and supporters.

Batavia and its people have waited patiently for the return of their most famous former citizen for over half a decade. They have waited through six long winters to share in his joy and happiness. They will recognize him not as a journalist but as a family member and friend, and most importantly, a free man.

Terry Anderson taught us how much to value our freedom over the many years of his captivity. He taught us the true definition of courage, compassion, and strength. Peggy Say, his sister, showed us how much effort and sacrifice was needed to keep him in our memories and prayers.

Just over 6 months ago, we were touched when we heard of Terry's release. He had the distinction of being the last American hostage held in Lebanon. Let us hope that with Terry's release we are able to say that it is the beginning of a new era. Let us hope that he will become known as the last American hostage ever held in Lebanon. Terry taught us much and for that we are thankful.

I read an article a number of months ago about Karen Sloan, a fellow AP colleague of Terry's, and what she did to keep the memory of Terry fresh in her mind. She wore a bracelet with the inscription "Terry A. Anderson" and in tiny letters "Hebrew 13:3." The reason that it stuck with me was because of what Hebrew 13:3 says: "Remember the prisoners as if chained with them, and those who are mistreated, since you yourselves are also in the body."

For the past 6 years we have done our best to remember Terry and work for his release. We have used these 6 long years to remember, to hope, and to pray. William Ahearn, AP executive editor, kept his own vigil. He kept track of the days that Terry was in captivity on the wall of the AP cafeteria. When he was released on December 4, 1991, Ahearn toasted Terry, took the numbers off the sign and tucked them into his pocket. This was his form of tribute and remembrance for Terry. This weekend we all will rejoice and revel in his freedom and what he has to offer us as a Nation and as a people.

Lastly, I would like to make it known that my deep-felt prayers and thoughts are with Terry Anderson and his family and friends at this joyous time in their lives, just as they were in the darker times. Now it is time for Terry to celebrate with his wife and with his daughter, whom he met only 6 short months ago, and with the rest of his family.

Terry has taught us a great deal about the American spirit, but more importantly, he has shown us what the human spirit is all about. Terry has acted as a mirror and shown us what being an American is all about. Let us pay close attention to what Terry has to offer us, and I am sure that we will learn something about ourselves. This weekend I will think of Terry, a great American, indeed a great New Yorker, who is today a free man and has come home.•

THE 10TH ANNIVERSARY OF THE DEATH OF VINCENT CHIN

• Mr. CRANSTON. Mr. President, nearly 10 years ago, Vincent Chin, an Asian-American of Chinese descent, was tragically beaten to death.

The circumstances of Vincent Chin's death shocked the Nation and raised the public's awareness about hate crimes against Asian-Americans. On the eve of his wedding, Vincent Chin met with friends at a Detroit bar. While at the bar, he was harassed by two unemployed autoworkers who called him "Jap" and blamed him for the plight of the American auto industry. They chased Vincent, then beat him to death with a bat.

Asian-Americans have been victims of hate crimes from the time they stepped foot in the United States. In the 1800's, political parties adopted anti-Chinese platforms, organizations formed on anti-Chinese bases and the media promoted anti-Chinese sentiments. Chinese were massacred in Los Angeles, San Francisco, and Chico, CA. Later, Japanese and Filipinos became targets of anti-Asian sentiment.

Unfortunately, the legacy of violence against Asian-Americans continues. Indeed, a February 1992 report by the U.S. Commission on Civil Rights found that Asian-Americans are often victims of violence. The killings of Vincent Chin in 1982, Navorze Mody in 1987, Jim (Ming Hai) Loo in 1989, and Hung Troung in 1990 and the Stockton schoolyard massacre in 1989 of five Southeast Asian children are a few recent cases of violent crimes against Asians.

Much of this violence is attributable to cultural misunderstandings, resentment, frustration, and the model minority stereotype that exacerbates tensions between Asians and non-Asians. Certainly, some Asian-Americans have made great strides in American society; however, many Asian-Americans face the myriad of problems currently plaguing millions of other Americans such as unemployment, poverty, teenage pregnancy, high school dropout rates, drug abuse, and AIDS, just to name a few. The model minority stereotype serves only to obscure these pressing concerns and fosters tensions between Asians and non-Asians.

Today, communities all over the country are remembering Vincent Chin in their effort to raise the level of awareness about hate crimes. As we remember the circumstances of Vincent Chin's death, we should recognize what divides us as a society, overcome these obstacles, and build a community of understanding and respect between all races.

Nine years ago on June 21, 1983, in observance of the first international day of remembrance for Vincent Chin, I spoke on the Senate floor and reminded my colleagues that—

> * * * (S)seeking adequate punishment of Vincent Chin's persecutors is not enough.
>
> We must continue to seek a just society for all Asian-Americans and indeed for all our people.
>
> We will not fulfill our national commitment until all are treated equally before the law, and until each has equal opportunity, regardless of color, gender, religion or handicaps, ethnic or national origin, to participate fully in our Nation's economic, social and political processes.

Mr. President, we have much work left to do.

Mr. President, I ask that an article which appeared in the Washington Post yesterday describing some problems facing Asian-Americans appear in the RECORD.

The article follows:

[From the Washington Post, June 22, 1992]

MYTH OF MODEL MINORITY HAUNTS ASIAN AMERICANS

(By Al Kamen)

LOS ANGELES.—The images are familiar: Armed with little more than a will to succeed, they open stores where no other entrepreneur will venture. They streak to the top in the technical worlds of computers and mathematics. Their workers are the most dedicated and tireless, their children are the smartest. They are wealthy and self-sufficient.

This is the widespread view of Asian Americans, often hailed as the nation's "model minority." But there are other Asian Americans, many of them first-generation immigrants, many American-born, whose lives belie the stereotype of the nation's fastest growing minority group.

Living in bare, boarding-house rooms in "Chinatowns" here and elsewhere, sleeping in parking lots in "Little Tokyos," dropping out of school and losing jobs, there are those in the Asian-American community who have failed to make it into the American mainstream. And while there are many Asian Americans with incomes far above the U.S. median, many also fall far below it.

The model-minority stereotype is "a seductive and attractive proposition" that reinforces the American dream, said Ki-Tack Chun in a recent U.S. Civil Rights Commission report on Asian Americans. But it also has "damaging consequences," he said, because it causes people to ignore the real problems facing Asian Americans.

The "mythology" of success "has been an enormous disservice to Asian Americans who find this characterization does not at all reflect their own experience," said Grace Yun, visiting professor of Asian-American studies at Wesleyan University. "Because of this image, the needs of many Asian Americans who are poor, homeless, drug abusers or school dropouts are not even being identified, much less met."

Critics say the stereotype not only ignores the plight of those who don't fit, it overstates the achievements of Asian Americans glossing over huge differences within a group of people who come from more than two dozen countries and include Asian Indian professionals and Vietnamese peasants.

Worse, they say, it exposes Asian Americans to resentment and racial hostility and exacts a heavy toll in the stress it places on many, especially students, who can't live up to those high expectations.

Advocates and scholars concede that many Asian Americans, including recent immigrants, have done very well economically. Median household income for Asian Americans is 18 percent higher than that of whites, according to 1990 census data, double that of blacks and 70 percent higher than Hispanic household income. Some Asian-American groups, such as the long-established Japanese, enjoy incomes as much as one-third higher than the national average.

But incomes of the more recently arrived Southeast Asians are 35 percent lower than the national average. The welfare rate for Vietnamese families in 1980 was 28.1 percent, according to census data, higher than that for blacks or Hispanics. In California, where 40 percent of all Asian Americans live, 14.3 percent were living in poverty in 1990, compared to a white rate of 9.1 percent, and a rate of 21.1 percent for blacks and 21.6 percent for Hispanics.

Even the perception of higher family incomes for some Asian Americans may be "an artifact created by Asian Americans' concentration in high cost-of-living areas [and] the larger number of workers in many Asian American families," according to the U.S. Civil Rights Commission report.

Asian-American advocates argue that poverty is substantial not just among recent immigrants, but even within the more affluent groups—the 1.6 million Chinese, 800,000 Koreans and 800,000 Asian Indians. Those three groups all had higher median household incomes than non-Hispanic whites, according to 1980 data, the latest available, yet each group also had higher poverty rates than the national average.

More record research indicates that the 1990 census data will show an even higher level of poverty for both Southeast Asians and for Asians as a whole, according to Sharon M. Lee, professor of sociology at the University of Richmond.

Asian-American poverty is readily apparent, activists say, for anyone who looks more closely.

INCREASE IN HOMELESSNESS

Los Angeles' bustling Chinatown seems a picture of prosperity—tourists and local residents crowd the sidewalks at lunchtime, sampling the colorful imported goods and exotic foods in brightly lit stores and restaurants.

But tucked away above the businesses there is another reality: Hundreds of elderly Chinese live in gloomy squalor in dilapidated boarding houses, sharing dingy communal bathrooms and kitchens.

One elderly couple, Hus Zai Huang, 87, and his wife, Rui Chan Wen, 86, came here from China eight years ago to be near their five children, all of whom immigrated to California in the last 25 years. One son lives in a nearby suburb, the other children live in the San Francisco area.

Their tiny, second-floor room is lit by a single bare bulb dangling from the ceiling. The landlord intends to tear down the deteriorating building. The communal kitchen has been closed as a fire hazard; the communal bathrooms leak. The Huangs and 30 other elderly Chinese tenants, living on welfare and almost all unable to speak English, are terrified they will have nowhere to go.

Even so, the Huangs don't regret leaving China. "Of course America is better," Huang said. "We are talking about a communist country. At least here I have a room. In China we never had enough to wear." The communists, his wife said, "took everything we had away. They took all our money, we had no clothes."

"If you kick us out, Huang said, "we will have nowhere to go." He said his son's family could not take them in if they were evicted. "They have no place for us to stay. He's put a waiter in a restaurant. He rents his apartment."

Even among the Japanese Americans, the wealthiest Asian-American group, there is a small but increasing number of homeless people. A Little Tokyo social service agency here is helping almost 200 people find places to stay, up from only 19 cases five years ago. "We feel this is just the tip of the iceberg," said Shauna Y. Ito, who runs the agency's homeless preservation program.

Ito's clients face the prospect of life on the streets for the same reasons as other people: joblessness, drug abuse, psychiatric problems and other ills.

Larry Alzumi, a 43-year-old cab driver who was born in Massachusetts, lost his savings, more than $10,000, and his apartment in a five-month gambling binge while on vacation in Las Vegas last winter. Ichiko Nishita, a 67-year-old widow who came here 31 years ago, lost her job after she injured her ankle in a fall and then couldn't pay her rent or find a place she could afford.

California-born Masao Kaname, 55, an unemployed welder, spent a month last winter sleeping in a parking lot, going to the Central Union Mission for free meals.

Kaname, whose family lost a farm during the internment of Japanese Americans during World War II, said he knew most people, even other Japanese Americans, would find his situation unusual. "There were a whole lot of people sleeping out there" on the lot, he said, but he didn't think there were any other Japanese Americans.

A small, wiry man with a thin mustache, graying hair and faded tattoos on his arms, Kaname said he only had himself to blame. "I had good jobs and good opportunities . . . but I've been taking dope—heroin and different kinds of dope—since I was 20. That was my downfall."

Japanese-American poverty is "unseen," and largely unreported, activists say, because that group was dispersed around the country after World War II.

THE EFFECT OF THE MYTHOLOGY

Some Asian-American scholars and activists say excessive focus on Asian-American success by the U.S. majority—and inattention to Asian-American failure—is intentional.

"There is a need for the myth," said Ronald Takaki, professor of ethnic studies at the University of California at Berkeley. "Here is a society that is very nervous about the black underclass and gloomy about the economy."

"These are tough economic times," he said, so "you need a model minority to reassure people, they need to be told the American dream still works . . . 'look at these immigrants, they can still do it.'"

The emphasis on success extends to education. While there is no doubt a great number of Asian Americans do very well in school, activists say their situation is also wrongly mythologized.

"Many of the Asian-Pacific American whiz kids' seen at elite schools are the progeny of educated elites from Korea or other Asian countries," Nash said. "There are many working-class and poverty-level Asian-Pacific American youngsters doing as poorly as their non-Asian peer in inner city schools due to lack of books, teachers and so forth. This fact does not get trumpeted in the media because it is easier to blame the African-American and Hispanic victims of our failing urban schools . . . then to address the real learning needs of all youngsters, including Asian-Pacific American."

Chun and others said the success model is at times insulting and condescending, especially when an Asian-American small grocery store owner is hailed as a great success where a similarly well-educated white would be thought of as a failure. A substantial number of highly educated Asian immigrants have gone backward in status and even living conditions in this country, Chun said.

A recent study of Korean grocers in New York found 78 percent had graduated from college in Korea, and that most had started their businesses mainly with personnel savings. An earlier survey here had similar results.

Won Se Kim and his wife, Sook Hee Kim, were hardly illiterate peasants fleeing poverty or refugees from political oppression when they came here from Korea. The Kims said they came because they thought the United States offered better business opportunities for them and better educational opportunities for their children.

The Kims were an upper-middle-class family in Seoul when they decided to leave in early 1987. Both had master's degrees, his in mathematics and her in biology. Won Se Kim was vice principal of the best high school in Korea, one attended by the children of the elite. Sook Hee Kim also taught there.

But they felt opportunities would be better for their three children in the United States than in the crowded Korean peninsula. They sold their home and cashed in their pensions, raising $120,000 to invest in this country. Neither spoke much English—they don't even now—but running a dry cleaning establishment doesn't require a broad vocabulary. The family, working 14 hours a day, six days a week without vacations for five years, has been able to earn about $50,000 a year, they said.

That was more than they were earning in Korea, "but we're working much harder here," said Sook Hee Kim, and their house in suburban Los Angeles is scarcely different from the one they sold in Korea."

Still, despite the looting of their cleaners during the recent riot, they say they do not regret their decision to leave. And they believe their children's educational opportunities have improved. One daughter, 27, is a pharmacist, another is graduating from the University of Southern California and a son is studying engineering at California Polytechnic.

"My mom says there's nothing she can do abut it, she has no choice."

J.H. Chang, a pharmacist who emigrated from Korea in 1971, believes some of the problems he is having with his 17-year-old daughter, a chronic runaway, may be part of the price immigrants pay to succeed. Chang and his wife both worked long hours—he at a drug store, she at a laundry—and could not afford child care for their daughter when she was just starting elementary school across the street from their home. The kindergartner spent hours alone waiting for her parents to come home. "I know that's against the law but we had to do it," Chang said. "Maybe that time alone triggered something in her."

The troubles started during junior high school, he said, and have continued since. She was arrested not long ago for shoplifting a coat. She was kicked out of a Catholic high school. Every time she has run away, Chang has tracked her down.

Chang, who says he is still groping for a way to handle his daughter's behavior, believes he may have pushed her too hard to excel.

"She doesn't understand that she's Korean, she thinks she's American. I tell her 'Look in the mirror. Your eyes are not blue, your hair is not blonde.' She's a little Oriental lady, that is the handicap. I tell her you have to work harder than anyone else to overcome the handicap." Chang said. His daughter sees well-to-do whites and "thinks her life is going to be just like that. It's not. . . . There are many qualified Koreans who have gone to the finest schools there and here who can't find a job," he said.

The stress placed on Asian-American students to live up to society's expectations is cited by activists as a contributing factor to an increase in suicides among Asian-American youth.

Elizabeth Gong-Guy, a clinical psychologist at the University of California at Los Angeles, said Asian-American students increasingly have "enormous self-esteem problems" because they have bought "the model minority myth. They feel defective—it really is a problem. They've bought it, their parents bought it." As a result, she sees distressed Asian-American students seeking counseling help "because their grade averages are only 3.2 instead of 3.9."

Other kids want to do well to get jobs," Gong-Guy said, but some Asian-American students "feel they are the standard-bearer for their group, they feel they are serving as a model for their group or their community or their culture. It's really remarkable how it is personalized and turned into a pathology." Gong-Guy said she has not seen any "lessening of the pressure for success" from first- to second-generation immigrants. "The pressure is enormous."

PORTRAIT OF ASIAN-AMERICANS

[Income, poverty and language]

	Median family income as fraction of U.S. overall median	Poverty rate	Percentage who do not speak English well
Indochinese Asians:			
Laotian	.26	67.2	69
Hmong	.26	65.5	63
Cambodian	.45	46.9	59
Vietnamese	.65	33.5	38
Thai	.97	13.4	12
Other Asians:			
Korean	1.03	12.5	24
Indonesian	1.06	15.2	6
Pakistani	1.08	10.5	10
Chinese	1.13	10.5	23
Filipino	1.19	6.2	6
Asian Indian	1.25	10.6	5
Japanese	1.37	4.2	9
All Asian Americans	1.19	10.3	15
All Americans	1.00	9.6	4.4

Note.—Data are from 1980.

Source: U.S. Census Bureau, Population Reference Bureau.•

THE KAHLA LANSING CHILD PROTECTION ACT

• Mr. DIXON. Mr. President, I have spoken often throughout my career on the need to protect our Nation's children from crime, abuse and neglect. I have introduced and/or cosponsored numerous bills on the subject. I am proud of my efforts to protect our children from the act of international parental child abduction, and have successfully fought to make it a higher priority of the State Department.

I am particularly pleased with legislation I introduced in November 1991 entitled, "The Kahla Lansing Child Protection Act," otherwise referred to as S. 2065. Senators CONRAD, D'AMATO, SEYMOUR, and MCCAIN have cosponsored this legislation, which is intended to provide tougher penalties for repeat child molesters through an authorization of Federal criminal jurisdiction over child molestation committed by an individual with a prior conviction for the same offense.

Kahla Lansing was a lovely 6-year-old girl from Spring Valley, IL, who one bright September day, was coaxed into the car of a man who had driven into town looking to kidnap a child. Kahla was driven to a granary in Iowa, where she was sexually assaulted and strangled.

Her brutal death shocked the good people of Spring Valley and surrounding communities. Theirs is a typical small town, where one's children have always been able to walk to the park, or run to the store, or roller skate in the street safely. Her murder shattered the idea such crimes cannot happen in small town America. Worse, Mr. President, her murder shattered a family and community who are still struggling to come to terms with the circumstances of her death.

The accused in this case had a record of convictions for sexual assault. He was convicted in Texas some years back on two counts of sexual assault. At that time he was sentenced to 10 years in prison on each count, to be served concurrently. He actually spent less than 3 months in jail.

It was upon his release from a Texas jail that he proceeded to drive his way north, stopping in Galesburg, IL, where he is suspected of having molested a child, and Spring Valley, where he brutally ended Kahla Lansing's life.

Had he spent the full term of his sentence in jail, Kahla Lansing would be alive. He did not spend his full term in jail. He did not even spend half of his sentence behind bars. He spent less than 5 percent of his sentence in jail, Mr. President.

Is that just?

I hope to enact the Kahla Lansing Child Protection Act prior to the end of this session. Her death must not be in vain. Our children must be given all the protections of the law appropriate. We owe them, and Kahla, no less.

I ask that an article from the June 21, 1992, Chicago Tribune be inserted at this point in the RECORD.

The article follows:

TOWN STILL SHAKEN BY GIRL'S KILLING—FIRST GRADER'S DEATH CARVES A LASTING IMPRESSION IN ALL

(By Matt Murray)

SPRING VALLEY, IL.—Memories of 6-year-old Kahla Lansing surfaced unexpectedly throughout the past year at Lincoln School.

"Every now and then, out of the clear blue, a student would raise his or her hand and say, 'I want to talk about Kahla,'" said James Narczewski, the school's principal and mayor of this quiet northwestern Illinois town of 5,200. "So it was up to the teacher to step back and talk about it. Not to cut them off. But she'd set a time limit, like, "We'll talk about it for five minutes and then we'll get back to math.

"The questions were along the line of, "Why did God let this happen? 'Why did it happen to Kahla? When is she coming back?"

It was one of many signs that the kidnapping and murder last fall of Kahla, a blond 1st grader at Lincoln School, remained fresh in the minds of residents even as the months passed.

"This case will never be forgotten," said Marc Bernabei, the Bureau County state's attorney and a Spring Valley resident. "We will never, ever forget what happened in this case. All of us feel like we've lost one of our own children."

At the time of her death, Kahla was known for her love of Barbie dolls and cats, and her deep feelings for her father, Robert, who had been killed in a car accident two years earlier.

She was kidnapped from the street near her home on Sept. 28, after roller-skating with friends. Her disappearance sparked a massive investigation and search, involving dozens of police officers from several agencies and hundreds of volunteers.

Nervous parents, accustomed to thinking their small town was safe, began driving their kids to and from school and keeping them inside the house the rest of the time. Children complained of nightmares and showed signs of depression.

After two weeks, the investigation led to the arrest of a drifter, Jeffrey Rissley, of Benton Harbor, Mich, who told police he had kidnapped Kahla at random while cruising through the town, 100 miles southwest of Chicago, on U.S. Highway 6. He told police he took her to an abandoned granary in eastern Iowa, where her body was found two weeks later.

Apparently, investigators, said, Rissley lured Kahal into his truck by offering a soft drink, then drove with her for about an hour before leaving town. Rissley told police the girl asked him to be her daddy.

An autopsy showed Kahla had been sexually assaulted and strangled with the cord of an electric blanket.

Residents were shocked at the brutality of the crime. Some said it was better to know what had happened to Kahla than to always wonder about her disappearance.

But as the months have passed, residents have learned that knowledge of Kahla's fate, Rissley's arrest and the subsequent funeral have not closed the book on the case.

"It'll never be closed," said Police Chief Doug Bernabei, who is the state's attorney's brother and the chief investigator in the case. "Kahla will always have an impact on this town forever and forever and forever."

As resident Candyee Wolsfeld, 36, put it: "Our children have been permanently affected. When they grow up and someone asks them what's the most significant thing that happened in their youth, this is what they will talk about."

Concerned for her children, Wolsfeld, a close friend of Kahla's mother, Susan Ballerin, established a neighborhood watch program and brought the McGruff crime watch program to town. Ballerin has helped in the programs, but declined to be interviewed for this story.

In the neighborhood watch program, residents on foot or in car patrols keep watch over neighbors' homes during vacations. In the McGruff program, residents are screened, and if they check out, their homes are offered as "safe houses," where kids can come if they need a safe place. So far, there are 55 "safe houses."

In the last few months, several memorials have been set up to honor Kahla. A room for children who are victims or witnesses to crimes has been opened at the Bureau County Courthouse and dubbed "Kahla's Room." A Kahla Lansing Memorial Award will be awarded every fall to a resident who has worked to protect the children of Spring Valley and Bureau County. The recipient's name will be added to a plaque in City Hall.

In April, the Lincoln School took a $5,000 donation in Kahla's name from the local electric company and bought a gigantic green-and-black jungle gym, featuring a chain ladder, two slides and monkey bars.

"Kahla would like this," Narczewski said. "It's kind of a nice way to remember her."

The town's feelings of vulnerability intensified in February when Lee Adams, a man who had lived in town for several years, allegedly stabbed to death his 9-month-old son, Justin.

Adams since has been committed to a mental health center, where he will stay until he is declared fit to stand trial.

"It's been an incredible year," Marc Bernabei said. "This is very, very unusual. Murders are very, very rare around here. Or at least they used to be."

Since his arrest for Kahla's murder, Rissley has been in the Bureau County Jail in nearby Princeton. He had been awaiting trial on charges of first-degree murder and aggravated kidnapping.

Police say Rissley, 29 has been passive and well-behaved. Most of the time, he has been kept in isolation. He keeps a Bible, by his bed, according to Bureau County Sheriff's Chief Deputy John Thompson.

A few weeks ago, Rissley tried to hang himself, but he was cut down by sheriff's deputies, Thompson said. Police also discovered that he apparently had dug out several of the blocks in his cell wall, in an effort to escape, Thompson said.

Many in town are still angry that Rissley had claimed, in pleading innocent, that Kahla had been the victim of a cult killing.

On June 11, 10 days before his trial was to start, the case took a surprising turn. Rissley appeared at a hastily arranged hearing, where he reversed his plea, admitting to the crime. A sentencing hearing is scheduled on Aug. 17, and prosecutor Bernabei has said he intends to pursue the death penalty.

"At least we've got the answers," said police chief Doug Bernabei. "His guilty plea starts us toward the end of this trauma for the community. It's the first of the major steps."

The most tangible reminder of the crime lies across the Illinois River, a few miles from Spring Valley in a corner of the Granville Cemetery.

Some grass has started to grow at the spot where Kahla Lansing is buried, but much dirt remains exposed, and the outline of the grave remains clear. A red and blue pinwheel sticks out of the ground, twirling in the breeze. Cloth pink roses and green clover are placed at the head of the grave.

A Barbie doll sits in front of the large, gray, granite tombstone. A smaller Barbie reclines on an edge of the stone, next to a ceramic kitten. At the left, a wooden cross is placed in the ground; at the right, a green wreath adorned with several kitten stickers that are starting to peel off.

Beloved Kahla Jean Lansing, the tombstone reads, Then:

Gentle and pure.
Innocent and kind.
Cherished and loved.
A princess.
An architect.
A skater.
A star.

May 17, 1985–Sept. 29, 1991.

Kahla Lansing is buried next to her father.●

SALUTE TO LEE ZENI

● Mr. SARBANES. Mr. President, on June 30, Mr. Lee Zeni, an outstanding public servant will retire from the Interstate Commission on the Potomac River Basin [ICPRB] where he has served our Nation and State with distinction as executive director for 5 years. I congratulate Lee on his retirement and thank him for his many years of distinguished public service.

The ICPRB was established by Congress in 1940 as a factfinding and coordinating agency dedicated to eliminating pollution in the Potomac River. Its success has involved coordination with literally dozens of State and Federal agencies as well as the public. Mr. Zeni has made extraordinary progress in bringing these groups together and coordinating their efforts to clean the Potomac's waters. During his tenure the Commission has taken on new challenges including the regional Chesapeake Bay cleanup effort, one of the ICPRB's most urgent and important programs.

Mr. Zeni also helped initiate another cleanup effort—that of the Anacostia River. As executive director, Mr. Zeni had to educate the public, encourage citizen participation, and improve the habitat of the watershed's living resources. This was a critical part of the multiagency effort to clean up the other important river running through our Nation's Capital.

One of Mr. Zeni's most visionary projects has been the restoration of the north branch of the Potomac River to a world class trout fishery. This project will provide economic development through restoration. Mr. Zeni believes that if water quality is restored on this wild and scenic stretch of the Potomac River, trout can flourish; and a vigorous trout fishery will draw fishermen from across the Nation to the north branch to hook trophy-size fish amid beautiful mountain scenery.

Mr. Zeni's achievements as Executive Director of the Interstate Commission of the Potomac River Basin have earned him recognition and respect in the District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, and the Federal Government. It is my firm belief that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens. Lee's distinguished career as Executive Director of the Interstate Commission on the Potomac River Basin meets and exceeds the best traditions of this service.

Mr. President, I commend Lee Zeni, whose career could serve as an example to thousands of young people interested in serving their Government and passing on to future generations a cleaner and better environment.•

THE 1992 DUCK STAMP CONTEST

• Mr. LAUTENBERG. Mr. President, many people who aren't familiar with New Jersey would be surprised to learn that our State boasts many extremely active and ongoing wildlife management and preservation programs. Hundreds of thousands of acres have been set aside by Government agencies and nonprofit groups.

Because we are a small and densely populated State, these special pristine areas and the wildlife that inhabit them are precious to New Jerseyans. In fact, one of the few contribution checkoffs on our tax form is for a special fund for wildlife protection.

That is why we are so proud that an artist from our State, Mr. Joe Hautman, of Jackson, is the winner of the U.S. Fish and Wildlife Service 1992 Duck Stamp Contest. Since 1934, the Federal Duck Stamp Program has generated over $400 million to acquire 4 million wetland acres. In addition to being a collectors item, duck stamps have gained national attention as all waterfowl hunters are required to purchase these stamps.

This year's duck stamp features a spectacled eider. This is a large Arctic duck indigenous only to Alaska. Mr. Hautman's drawing shows the spectacled eider soaring gracefully just above the ocean while other waterfowl glide over the waves below. The spectacular mountains of Alaska serve as a backdrop for the painting. Each year, the program selects different species of ducks that are eligible for the contest. By 2002, all 42 species of North American waterfowl will be represented on these stamps.

Mr. President, I would like to congratulate Mr. Hautman for his participation in this innovative conservation program. There were over 585 entries in this year's Duck Stamp Contest and the selection of his drawing is an honor.•

FORGOING OPPORTUNITIES IN VIETNAM

• Mr. SIMON. Mr. President, recently I saw a letter to President Bush dated May 7, 1992, saying that we are following the wrong course in Vietnam. Our trade embargo has long outlived whatever utility it may have had, and we should stop wasting time and end the embargo now.

While the administration has laid out a roadmap for normalization of ties with Vietnam, I remain unpersuaded that lifting the embargo now will have an adverse impact. It is clear that American businesses are unduly suffering because our economic embargo against Vietnam is still in place, 18 years after the Paris peace accords were signed.

Lifting the embargo does not mean that we will immediately restore relations with Vietnam. That Government must still satisfy all of our inquiries into missing United States servicemen from the Vietnam conflict and respect international standards of basic human rights. Although there has been some movement on MIA's, Vietnam must continue its progress on both fronts. By lifting our embargo we will encourage additional steps on the part of Vietnam. And we will not be giving up any leverage we now have in voting for loans in the multilateral development banks or through our annual most-favored-nation approval process. It is a mystery to me how the Bush administration can promote trade with the People's Republic of China and insist on MFN for Beijing in the name of moderating that Government's brutal domestic and international actions, while at the same time deny that the same policy toward Vietnam would have any positive impact.

American companies like Caterpillar, in my own State, are eager to enter the Vietnamese market, but they lose out to companies based outside the United States with each day that our trade embargo is in place.

At this point, I would like to have a letter inserted into the CONGRESSIONAL RECORD to President Bush from Caterpillar and nine other American companies asking for reduced restrictions on commercial activity in Vietnam.

The letter follows:

MAY 7, 1992.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: As corporate members of the United States-Vietnam Trade Council, we would like to congratulate you on the very successful trip to Vietnam by Assistant Secretary of State for East Asian and Pacfic Affairs, Dr. Richard Solomon, and his delegation last month. We understand great strides were made towards resolving the humanitarian issues lingering from the Vietnam War, the last major obstacle to normalizing relations with Vietnam. We applaud the steps towards normalization the United States has taken in response.

We hope you will now begin to address the concerns of the U.S. business community and reduce the restrictions on commercial activity in Vietnam. We see no inherent conflict between these two American interests, as we would hope that an increase in the number of Americans with independent government and private contacts in Vietnam could augment official efforts on behalf of the U.S. military personnel still missing in action.

The United States economic sanctions with respect to Vietnam have become unilateral, with our allies and trade partners investing heavily and trading vigorously. Accordingly, the effect of the American embargo is not to deny Vietnam access to western technology and financing, but rather to penalize U.S. companies to the benefit of our foreign competitors. The United States is rapidly losing ground and is forfeiting to foreign competition a market where we could have a competitive edge.

In view of this, we would like to encourage you to accelerate the lifting of economic restrictions on business transactions with Vietnam and allow American companies and individuals to freely enter this growing market.

We would like to meet with you or members of your staff to discuss the matter further.

Sincerely,

Caterpillar Inc., Boeing Commercial Airplanes, American International Group, Hunt Oil Company, Amoco Production Company, Windmere Corporation, Chevron Overseas Petroleum, Inc., Phillips Petroleum Company, Coudert Brothers, United Technologies Corporation.•

HONORING GRAY'S CHILD DEVELOPMENT CENTERS

• Mr. KASTEN. Mr. President, I rise today to honor the outstanding efforts of the Gray family of Milwaukee and their successful business, Gray's Child Development Center, Inc.

Mrs. Bessie Gray, the company president, started her business almost 20 years ago in the living room of her own home. With a full-time job as housewife and mother of nine, Mrs. Gray opened her home to assist other families and to help make ends meet for her own family.

Today, nearly two decades later, the 3 Gray's Child Development Centers in Milwaukee provide care for about 300 children and employ almost 100 people.

The Gray's have recently consolidated many of their centers at the former Sisters of Sorrowful Mother Convent in northeast Milwaukee, where Mrs. Gray now employs seven of her children—Wanda, Felicia, Tammy, Claudia, LaSonia, Mark, and Zachary—along with several in-laws and cousins, and her husband, Percy, who supervises the grounds. This is truly a family business. Together they provide high-quality child care for Milwaukee families who rely on their services.

The Gray's will soon celebrate their first anniversary at their new northeast location and will commemorate the 20th anniversary of their business next January. The road to success was not always smooth and easy for Bessie Gray and her family, but because of their dedication and commitment, Mrs. Bessie Gray and her family grasped the American dream and made a positive difference for Milwaukee.

I ask all my colleagues to join me in saluting the entire Gray family, and all their employees, for the terrific job they are doing in providing a very valuable service to the Milwaukee community.•

S. 2327, PERTAINING TO THE NATIONAL SCHOOL LUNCH ACT

• Mr. HATFIELD. Mr. President, on March 10, 1992, I introduced S. 2327, a bill designed to suspend implementation of review regulations, known as the Coordinated Review Effort or CRE, proposed by the Department of Agriculture for the National School Lunch Act. While it is generally preferable to allow the regulatory process to run its course, I introduced this legislation because of my belief that the needs of hungry children take precedence over the bureaucratic needs of the Federal Government and my concern that the proposed regulations would expect too much too soon from a program already overburdened by paperwork.

I am pleased to confirm for my colleagues, particularly the 32 Senators who cosponsored S. 2327, that the American School Food Service Association and USDA have reached agreement on the implementation of these regulations. Thus, legislative action by Congress is not necessary at this time.

As I understand the final agreement, the Department intends to publish interim Coordinated Review Effort regulations by September 1, 1992, and implementation is to occur no sooner than January 1, 1993. I look forward to reviewing the published regulations and to monitoring the success of their implementation in 1993. I will ask that a letter from the American School Food Service Association and a draft of the CRE regulation agreement appear in the RECORD at the conclusion of my remarks.

Mr. President, I want to commend USDA officials, particularly those at the Food and Nutrition Services office, and representatives of the American School Fund Service Association for their perseverance and willingness to reach an amicable resolution to this issue that is of such basic importance to so many children across this country. I would also like to encourage ASFSA and USDA in their commitment to continue to meet periodically to discuss this issue.

I am not alone in my view that a comprehensive reevaluation of the School Lunch Program is necessary. My friend from Maine, the distinguished majority leader, Senator MITCHELL, accompanied by Senator LEAHY, has introduced legislation calling for the Secretary of Agriculture to conduct a study on the options for instituting income-blind, universal-type school lunch and breakfast programs. While I continue to have reservations about proposals to give the program universal coverage due to fiscal concerns, this type of comprehensive inquiry will be beneficial in uncovering problems that may hinder the School Lunch Program from achieving its primary goal: feeding hungry children.

I ask that the letter to which I earlier referred and a draft of the CRE regulation agreement be printed in the RECORD.

The material follows:

AMERICAN SCHOOL FOOD
SERVICE ASSOCIATION,
Alexandria, VA, June 24, 1992.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: On behalf of the American School Food Service Association, I would like to express our deep appreciation to you for your support and leadership on the CRE issue. The American School Food Service Association and the Department of Agriculture have agreed to a series of changes in the "final" CRE regulation. A list of the changes is attached.

The Department of Agriculture has announced that it will implement these changes by promulgating interim regulations no later than September 1, 1992. Further, so that school foodservice administrators will have time to comment on the interim regulations and to fully absorb these changes, the implementation date for the new system will be no earlier than January 1, 1993—or later if the interim regulations are not published by October 1, 1992.

While it is unfortunate that it took H.R. 4338 and S. 2327 to move this issue forward, we feel it best to resolve this matter without legislation if at all possible. The changes agreed to by the Department of Agriculture greatly improve the CRE system, and we have agreed to meet periodically to discuss CRE implementation. We thank USDA for the time and effort they put into this issue. We, therefore, respectfully suggest that the Congress not move forward with the CRE legislation now that the regulatory process is back on track.

Thank you again for your support and for your responsiveness to our concerns.

With best regards,

Sincerely,

SUE GREIG, R.D.,
President.

CHILD NUTRITION DIVISION

Issues	Action
Coordinated review effort (CRE) issues:	
Abbreviated Review of Applications: Amend the regulations to allow State agencies to evaluate the certification process by reviewing a sample of applications in accordance with procedures to be established by FNS.	Regulatory
Witholding of Payments: Limit withholding of payments to critical areas which exceed the review threshold(s) on a follow-up review. Withholding for general areas and for critical areas which fall below the threshold would be at the discretion of the State agency.	Do.
Fiscal Action: On a first review, fiscal action for errors of certification, issuing benefits and updating eligibility status would be for the review period only; provided corrective action occurs.	Do.
Increased Disregard: Allow State agencies to disregard any overpayment resulting from reviews or audits if the total, in any fiscal year, does not exceed $500 in a small school food authority and $750 in a large school food authority.	Do.
Administrative Appeal: Develop an administrative appeal procedure similar to the procedure established for the Child and Adult Care Food Program.	Do.
Alternative Review Cycle: Re-evaluate the duration of the review cycle by July, 1994 based on operational experience gained in the first and second year of the initial 4-year cycle.	Do.
School Selection Criteria: Limit the number of residential child care institutions to be reviewed to the minimum number specified on Table A.	Do.
Simplified Review of Benefit Issuance: Develop a review procedure which allows State agencies to test benefit issuance by reviewing a sample of benefit issuance actions when few or no errors are found.	Policy
Current Applications: Allow State agencies the option of reviewing free and reduced price applications effective for the review period (as required in Coordinated Review) or of reviewing the applications effective for the day of review.	Regulatory
Underclaims/Overclaims: Allow monthly underclaims to offset monthly overclaims to the extent that overclaims are reduced.	Policy
Simplified Review Form: Limit the complexity of review through a simplified review form.	Do.
Additional CRE issues:	
January 1 Implementation: Remove the July 1, 1992 effective date for the CRE. Establish a mandatory effective date of January 1, 1993 or a date 90 days after publication of the interim regulation, whichever is later.	Regulatory
Withholding Payment: The State agency may, at its discretion, reduce the amount withheld from a school food authority which fails to take corrective action by as much as 50% when it is determined to be in the best interest of the program. To withhold less than 50 percent would require the concurrence of FNS.	Do.
Review Cycle: Clarify that a State agency may establish a review schedule that accommodates the State agency's special circumstances; provided that all school food authorities are reviewed within the 4 year review cycle. Clarify that State agencies may count any CRE reviews conducted prior to the mandatory effective date towards meeting the requirements of the first review cycle.	Preamble
Fiscal action: Clarify that State agencies are required to base fiscal action on accurate local data, to the extent it is available. Use of projections based on State or national percentage should be the last resort when calculating fiscal action.	Do.

Source: Food and Nutrition Service, USDA.•

SYMBIOTECH, INC.

• Mr. DODD. Mr. President, recently I had the pleasure of paying a visit to SymBiotech, Inc., a small high-technology research firm in Wallingford, CT. SymBiotech was started just 5 years ago, but it has already become a small business success story.

From its humble beginnings as a two-man basement operation, SymBiotech has grown to an eight-person research firm with experience in a variety of fields, such as biochemistry, medical technology, chemical engineering and environmental technologies. Under the able leadership of cofounders Robert Coughlin and Edward M. Davis, Symbiotech has managed to secure nearly a dozen grants under the Small Business Innovation Research Program, for everything from biodegration of heavy hydrocarbons to miniaturized liquid extraction for drug assays.

Mr. President, SymBiotech is a perfect example of the importance of supporting small manufacturers and research firms around the country. In fact, companies of 20 employees or more are responsible for a large majority of the economy's growth—and their contribution to the Nation's technology base cannot be measured in dollars.

Many of these companies, like SymBiotech, are supported by the Small Business Innovation Research Program, or SBIR. Under the SBIR program, each Federal agency is required to devote 1.25 percent of its budget for grants to small businesses that pursue innovative research. During the last fiscal year, SBIR provided almost $500 million in grants to small firms, including $18 million in grants to companies in Connecticut.

Since it acts as a set-aside within funds that have already been budgeted, the SBIR Program has virtually no impact on the budget. In my view, SymBiotech is a perfect example of why we should support an increase in the SBIR set-aside—and why we must rededicate ourselves during these difficult economic times to the assistance of small businesses everywhere.

Mr. President, the coming decline in our defense budget poses a great threat to workers and communities in many regions of our country. If we are to retain our high-technology industrial base and our skilled work force during this transitional period, it is programs like the Small Business Innovation Research Program that must play a role. And it is companies like SymBiotech, Inc., which will lead the way.●

ORDER FOR SEQUENTIAL REFERRAL

Mr. CONRAD. Mr. President, I ask unanimous consent that Calendar No. 387, S. 1581, the Technology Transfer Improvements Act of 1991, be sequentially referred to the Committee on the Judiciary until July 31, 1992, further that if the Judiciary Committee has not reported the measure by that time, it then be automatically discharged and returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—HOUSE CONCURRENT RESOLUTION 192

Mr. CONRAD. Mr. President, I ask unanimous consent that House Concurrent Resolution 192, a concurrent resolution on the organization of Congress be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

REREFERRAL OF A BILL—S. 2834

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 2834, relating to the John J. Williams Post Office, and that the bill be rereferred to the Government Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Thursday, June 25; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; that immediately following the Chair's announcement, the following Senators be recognized in the order listed and for the time limits specified: Senator REID for up to 15 minutes; Senator BIDEN for up to 1¼ hours; Senators ADAMS and LEAHY for up to 10 minutes each; Senator PRYOR for up to 20 minutes; Senator RUDMAN for up to 5 minutes; and Senator SIMPSON, or his designee, for up to 10 minutes; that at 11 a.m., the Senate resume the pending business; and that Senator NICKLES than be recognized for the time periods specified under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. CONRAD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:13 p.m., recessed until Thursday, June 25, 1992, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, June 24, 1992*

The House met at 10 a.m.

The Reverend Dr. Karl K. Stegall, First United Methodist Church, Montgomery, AL, offered the following prayer:

Almighty God, judge of all nations, we offer Thee our heartfelt thanks today for the good land which we have inherited. We praise Thee for all of the noble souls who in their day and generation did give themselves to the call of liberty and freedom, counting their own lives not dear, but giving all devotion to establish a land in the fear of the Lord. More especially today, we pray for all Members of this House of Representatives. Enlarge their vision, increase their wisdom, and purify their motives. Let them always remember that they serve a public trust beyond personal gain or glory. May they lead us in the way of righteousness as they acknowledge their dependence upon Thee. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause I, rule I, the Journal stands approved.

Mr. GOSS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 130, not voting 38, as follows:

[Roll No. 221]

YEAS—266

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCurdy
McDermott
McHugh
McMillen (MD)
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schulze
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Waters
Waxman
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—130

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Gradison
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Klug
Kolbe
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nussle
Oxley
Paxon
Penny
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—38

Alexander
Bonior
Collins (MI)
Coughlin
Davis
Dymally
Edwards (OK)
Engel
Flake
Ford (MI)
Gaydos
Gillmor
Hansen
Hefner
Hertel
Hunter
Jones (GA)
Kolter
McCloskey
McCrery
McGrath
McNulty
Mfume
Morella
Nagle
Neal (NC)
Pastor
Ray
Sanders
Savage
Schumer
Serrano
Thomas (GA)
Traxler
Washington
Weiss
Wheat
Whitten

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. DANNEMEYER] come forward and lead the House in the Pledge of Allegiance.

Mr. DANNEMEYER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME OF DR. KARL K. STEGALL

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. DICKINSON. Mr. Speaker, it is my special privilege to welcome to this House a very dear friend and an unwavering source of personal inspiration, the Reverend Karl K. Stegall—pastor of the First United Methodist Church of Montgomery, AL.

Through the years, my wife and I have been touched by Karl's dedication to the Lord and his compassion to aid his fellow man. This dedication is certainly evidenced by his exemplary record of charitable and volunteer service.

An outstanding member of the clergy in Alabama, Karl has played an active role in many local community service organizations, including leadership positions with the Family Guidance Center, the Montgomery Habitat for Humanity, the Montgomery Area Council on Aging, and the Montgomery United Way.

He was a member of Leadership Montgomery's Class of 1991, and has served as past president of the Montgomery Ministerial Union.

Equally impressive has been his participation in church affairs, including serving as a delegate to the World Methodist Council in 1982; treasurer of United Methodist Communications; and, contributing articles for the Upper Room, the Christian Advocate, and other publications.

Karl sits on the advisory board of Huntingdon College in Montgomery, and has served on the board of trustees of Birmingham Southern College.

A native of Sumter County, AL, and a recipient of educational degrees from the University of Alabama, Auburn University, Emory University, and Birmingham Southern College, Dr. Karl Stegall is a clear reflection of Christian wisdom.

I know that I am joined by the entire House in expressing gratitude for his insightful message this morning.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution, and concurrent resolution of the House of the following titles:

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, MA; as the "Silvio O. Conte Federal Building", and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, MO, as the "L. Douglas Abram Federal Building";

H.R. 3711. An act to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes;

H.R. 4548. An act to authorize contributions to U.N. peacekeeping activities;

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools; and

H. Con. Res. 331. Concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby.

The message also announced that the Senate had passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1623. An act to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes;

S.J. Res. 221. Joint resolution providing for the appointment of Hanna Holborn Gray as a citizen regent of the Smithsonian Institution;

S.J. Res. 259. Joint resolution providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 275. Joint resolution providing for the appointment of Wesley Samuel Williams, Jr., as a citizen regent of Board of Regents of the Smithsonian Institution; and

S. Con. Res. 112. Concurrent resolution to authorize printing of "Thomas Jefferson's Manual of Parliamentary Practice," as prepared by the Office of the Secretary of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5260. An act to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5260), "An act to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. PACKWOOD, and Mr. DOLE, to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 23, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 6:55 p.m. on Tuesday, June 23, 1992, and said to contain H.R. 2507, the "National Institutes of Health Revitalization Amendments of 1992," and a veto message thereon.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–349)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2507, the "National Institutes of Health Revitalization Amendments of 1992," which would extend and amend biomedical research authorities of the National Institutes of Health (NIH).

Before discussing the flaws of H.R. 2507, I must clarify two misperceptions. First, H.R. 2507 is not necessary to assure that Federal spending continue for biomedical research, or for research related to any disease, disorder, or condition. Second, H.R. 2507 is not necessary to increase support for research targeted at women's health needs. Great progress is being made in the area of women's health under the valued leadership of the first female director of the NIH.

H.R. 2507 is unacceptable to me on almost every ground: ethical, fiscal, administrative, philosophical, and legal. I repeatedly warned the Congress of this at each stage of the legislative process. The bill's provisions permitting the use of tissue from induced abortions for federally funded transplantation research involving human subjects are inconsistent with our Nation's deeply held beliefs. Moreover, it is clear that this legislation would be counterproductive to the attainment of our Nation's health research objectives.

H.R. 2507 is objectionable because it would lift the current moratorium on the use of Federal funds for fetal tissue transplantation research where the tissue is obtained from induced abortions. Let it be clear: This is not a moratorium on research. It is only a moratorium on the use of one source of tissue for that research. I believe this moratorium is important in order to prevent taxpayer funds from being used for research that many Americans find morally repugnant and because of its potential for promoting and legitimatizing abortion.

My Administration is strongly committed to pursuing research to find cures and treatments for such disorders as Parkinson's disease, diabetes, and Alzheimer's disease that have been held out as areas where fetal tissue research might be pursued. Fetal tissue transplantation research relating to these disorders can proceed without relying on tissue from induced abortions. Medical experts at the Department of Health and Human Services have assured me that ectopic pregnancies and spontaneous abortions provide sufficient and suitable tissue to meet anticipated research needs. Therefore, on May 19, 1992, I issued an Executive order establishing a fetal tissue bank that will collect tissue from these sources so as to meet the needs of the research community. The bank will provide tissue directly to scientists for their research. This approval truly represents the pro-research and ethical alternative that will allow this research to go forward without relying on a source of tissue that many find to be morally objectionable.

H.R. 2507 also contains fiscally irresponsible authorization levels. The total cost of the provisions in this legislation could exceed the FY 1993 Budget I presented to the Congress by $3.2 billion. It is exceedingly unlikely, if not impossible, that the Congress can fund the programs contained in H.R. 2507 while complying with the requirements of the Budget Enforcement Act. That being the case, the expectations that this bill will create are unreasonable. Those who suffer from the many diseases and disorders that are the subject of this unrealistic legislation will be sadly disappointed.

H.R. 2507 is also objectionable because its provisions regarding the appointment of "Ethics Advisory Boards" are inconsistent with the Appointments Clause of the Constitution. H.R. 2507 would effectively give these boards unilateral authority to make decisions concerning major research initiatives. As a policy matter, these decisions should be made by the President's chief officer on health issues: The Secretary of Health and Human Services. More fundamentally, however, the Appointments Clause requires that officers vested with this type of power be appointed by the President by and with the advice and consent of the Senate. Instead, H.R. 2507 provides that they are to be appointed by the Secretary of Health and Human Services and then purports to circumscribe the discretion of the appointing authority by imposing various requirements concerning the boards' composition. H.R. 2507's provisions regarding the Scientific and Technical Board on Biomedical and Behavioral Research Facilities and the Office of Research on Women's Health likewise raise Appointments Clause problems.

In addition, H.R. 2057 contains reporting requirements that impair the separation of powers. For example, the bill would require the Director of the National Cancer Institute to submit to specified committees of the Congress the original plan, and any revisions to that plan, regarding certain cancer research. This requirement to submit to the Congress what is in essence a draft plan without the prior review and approval of the executive branch clearly interferes with the deliberative process of the executive branch. The internal workings of the executive branch should be just that—internal. To require the executive branch to display each step in its deliberative process to the Congress would destroy my ability to speak as the single voice of a unitary executive.

I am also troubled by the increasingly frequent imposition of reporting requirements. H.R. 2507 imposes a significant number of new reporting requirements on an executive branch that already suffers under the burden of literally thousands of such requirements. Last October, I noted that "taken together such reports put a heavy burden on the reporting agencies at a time of scarce resources." Thus, I called for "an effort to minimize reporting requirements, both in terms of the number and frequency of reports that must be submitted, as well as the level of detail required," Bills such as H.R. 2507 move us in the opposite direction.

For these reasons, I am returning H.R. 2507 without my approval, and I ask the Congress to adopt a simple extension of those appropriations authorizations for the National Institutes of Health that need to be extended.

GEORGE BUSH.

THE WHITE HOUSE, *June 23, 1992.*

□ 1030

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from California [Mr. WAXMAN] for 1 hour.

Mr. WAXMAN. Madam Speaker, under the customary operations of the House, I yield half of that time to the gentleman from California [Mr. DANNEMEYER].

Madam Speaker, I yield myself 3 minutes.

The SPEAKER pro tempore (Mrs. MINK). The gentleman from California [Mr. WAXMAN] is recognized for 3 minutes.

Mr. WAXMAN. Madam Speaker, I want to be brief, because there are many Members who want to speak on this question.

This legislation is about many things. It is about creating a new program for breast cancer research, the disease that will strike 1 out of 9 American women and will kill 40,000 American women this year. It is about creating a new program for prostate cancer research, the leading cause of cancer in men and the second leading cause of cancer deaths in men. It is about extending programs in heart research, the No. 1 cause of death in the United States. It is about research on aging, on children's vaccines, on osteoporosis, on AIDS, on infertility, on ovarian cancer. It is about the health of America.

But the major point of debate in this bill is the provision regarding fetal-tissue transplantation research. This research is promising for treatment of Parkinson's disease, Alzheimer's, diabetes, spinal cord injury, genetic diseases, and even birth defects.

The bill would reverse the ban that has been placed on Federal funding for such research. It would implement the safeguards recommended by the Reagan-appointed review panel, and it would prohibit the sale of fetal tissue and prohibit the donation of tissue for a specific person.

This is not about whether abortion is legal or not. It is about what happens after an abortion, whether the tissue from an abortion may be used to save another life or simply thrown away.

This bill will not cause more abortions. Women simply do not have abortions in order to donate to research. There is no evidence of it after 4½ years of debate and our review of other research projects around the world.

The President vetoed this bill. He said it is not necessary to increase support for research targeted at women's health needs. He said those needs are already being met. But the fact is no research initiatives in this area were ever begun before this legislation. He said that fetal tissue transplantation research is inconsistent with our Nation's deeply held beliefs. Well, our Nation deeply believes that we should not ignore those people who have Parkinson's and diabetes and Alzheimer's—diseases that may be cured if we allow this research to go forward.

The President of the United States says that research that we are proposing go forward is morally repugnant to many Americans. Well, I find it morally repugnant to tell people with these dreaded diseases that finding a cure for those diseases may be too controversial and it is better to take the tissue of fetuses and throw them in the trash.

Madam Speaker, we are going to have a discussion of this issue, and I hope at the end we will pass this bill notwithstanding the President's veto.

This is research, and we should support research and not follow the shortsighted politics that the President has sought to pursue.

Madam Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, this bill grew like Topsy. When it left the House, it authorized some $4.3 billion. When it came back from the conference what do you know, $7.3 billion, $3 billion over the President's request for fiscal year 1993.

If we want to know why spending is out of control, this is a prime example.

I really do not understand what the motivation is behind expanding the regulation that now exists regarding fetal tissue, because the regulation that the administration now supports, which I support, permits tissue from ectopic and spontaneous abortions to be used for research purposes.

Dr. Mason, the head of the U.S. Public Health Service, recently, in an excellent op-ed piece, on the fetal-tissue bank, pointed out that from these two sources we can receive tissue from some 100,000 ectopic pregnancies and 750,000 spontaneous abortions. We have 500 samples of tissue from the ectopic and 1,500 from spontaneous, a total of 2,000 sources of tissue that can be used for research.

Dr. Mason says that this quantity is sufficient to satisfy the needs of research as presently planned or contemplated, because in the last 30 years they have had 60 experimental fetal-tissue transplants to humans. In other words, the available supply from these two sources is sufficient to meet the need that has existed for the purpose of eliminating or finding cures for now incurable diseases.

There is no need to have the availability of tissue from induced abortions, and the rationale for that is, I think, supplied by the quote from a person today that supports the whole concept of abortion on demand, a feminist by definition, when she said:

> There is a tendency of reproductive technologies in which women become the resources whose bodies are mined for scientific gold, whose body becomes raw material. We are also concerned that women themselves do not become handmaidens for medical procedure transplants.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

□ 1040

Ms. SLAUGHTER. Madam Speaker, the women of America have been dealt a harsh blow. When the President vetoed the NIH reauthorization bill yesterday, he as much as admitted his administration's indifference to the life and death issues which plague women.

To the grieving daughter who wonders if she will soon develop breast cancer because the disease just claimed the life of her mother, the President's veto says, "I don't care."

To the young woman dying of ovarian cancer who might have the hope of living if only scientists knew how to detect the cancer in its earliest stages, the President's veto says, "I don't care."

The Director of NIH, Dr. Bernadine Healy herself, used to say: "Women's health [at NIH] has always taken a back seat." Well, today we women who thought we would venture to take a step forward were put back in our place. The administration says women's health research is unnecessary. They prefer to focus their energies and their rhetoric on some ambiguous notion of family values; but when are they going to realize that American women are at the heart of every American family?

When are they going to realize that a healthy family needs a healthy mother, healthy sisters, and healthy daughters? And, how long must American women—whose very own tax dollars pay for the health research undertaken by NIH—wait for the administration to wake up and pay attention to the health issues they care about?

We will wait no longer. Too many women's lives have been cut short. I will vote today to override the President's veto of the NIH reauthorization. I hope my colleagues will listen to the pleas of the women they represent and join me in this vote to reaffirm the priority of women's health in this country. America's women will be watching and will hold us to account.

Mr. DANNEMEYER. Madam Speaker, I yield 3 minutes to my colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Madam Speaker, Dr. C. Everett Koop, the highly distinguished former Surgeon General, fully concurs with, supports and endorses the President's decision to establish a fetal-tissue bank to test the efficacy of such research and to do it in an ethical way.

To the best of my knowledge, there is a clear consensus that the President's fetal-tissue bank raises no ethical concerns whatsoever.

On the other hand, the research on unborn babies authorized in the NIH bill raises serious moral and ethical issues that cannot be ignored or brushed aside.

Sadly, in the legislation rightly vetoed by the President, unborn children are dehumanized, victimized, and maligned. These vulnerable and helpless victims are reduced to the status of guinea pig, of property to be exploited for their organs and brain tissue. To say that these babies are not treated with respect or dignity would be the understatement of the year.

Let me again remind Members that if this flawed legislation becomes law, a close collaborative relationship between abortion mills and the research community would be established. Abortionists who make money by cruelly cutting and dismembering healthy baby girls and boys would now find additional rationalization for plying their deadly craft. Establishing a federally subsidized program whereby baby brains and other body parts obtained in this way are provided to researchers, makes researchers—and us—accessories to acts of medical child abuse. There is little doubt that Federal funding would serve to both legitimize and facilitate this unethical practice.

If you want to get a clear picture of what a vote to override the veto will subsidize with taxpayers funds, consider this account of fetal brain tissue extraction, the brave new world embraced by this legislation, from the June 1989 issue of Archives of Neurology:

> Two methods to collect fetal material were used. With the first method, a plastic cannula connected to a 60 ml syringe was inserted into the uterus. Under ultrasound guidance, the opening of the cannula was directed to the fetal head. Suction was applied, and the fetus was slowly aspirated and fragmented into the cannula. Alternatively, a similar low-pressure vacuum aspiration technique (regulated by a vacuum pump), but without ultrasound guidance and using a metal cannula, was employed.

You may be shocked to learn that one member of the research team that conducted these hideous brain stealing experiments included one of the NIH Advisory Board panelists, Dr. Barry Hoffer of the University of Colorado, who was among those who voted to overturn the administration's moratorium on fetal tissue research from induced abortion.

It is outrageous that ultrasound imaging—a marvelous diagnostic tool used to detect certain anomalies in unborn kids and to measure fetal growth—is being misused to discover the whereabouts of a baby's brain in order to destroy the baby in a way that is most likely to yield usable baby brain tissue.

If you think this kind of cruel research is ethical, applying suction to the skulls of helpless infants—your vote is to overturn the President's veto.

But it seems to me that we would not treat our pet dog or cat with the same cruelty, indifference, irreverence and insensitivity afforded unborn children in this legislation.

Let me note, Madam Speaker, that the issue today that Members are objecting to is not women's health- or cancer-related research. To tangibly underscore my commitment to cancer research, I have introduced H.R. 5340. H.R. 5340 would provide $2.2 billion for cancer research with $325 million for breast cancer research, and $75 million for ovarian and cervical cancers. The legislation has already been cosponsored by 33 Members of Congress.

I deeply regret that abortion has been inappropriately included in the NIH reauthorization bill and hope that Members will again vote against the legislation and uphold the President's veto. We can then move on worthwhile legislation to authorize important funding for the NIH and cancer-related research.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN], an important member of the subcommittee.

Mr. WYDEN. Madam Speaker, I thank the gentleman for yielding this time.

Madam Speaker, when so many American families are being battered by Alzheimer's, Parkinson's, and diabetes, it is wrong to take their chance for a better life by voting to protect this veto.

The issue is not primarily one of a shortage of tissue, as our colleague, the gentleman from California [Mr. DANNEMEYER] has said. The issue is Federal funding and the evidence shows that if the Federal Government does not fund this research, it just will not get done. The Federal ban on transplantation research has had a chilling effect on all research in this country, even that done with private dollars.

I met on Saturday in Portland with representatives of the Alzheimer's Association, the Parkinson's Society, and others. They talked passionately about the need to this veto. They made it clear to me that we have a choice. We can go with an undocumented, unproven theory, that fetal transplant research might promote abortions, or we can vote to override and support proven, documented evidence that this research can help save lives.

Vote to override.

Mr. DANNEMEYER. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Madam Speaker, I rise in strong support of the President's veto of the conference report on H.R. 2507, the National Institutes of Health Revitalization Amendments of 1992. The bill is seriously flawed in every respect and is irresponsible from a fiscal and management viewpoint.

Madam Speaker, I have four reasons for supporting the President's veto on this bill. Individually, each of these reasons is compelling; the combination of all four is overwhelming.

First and foremost, the conference report represents deficit spending at its worst. It authorizes spending of an estimated $3 billion above the President's fiscal year 1993 budget request and the House passed bill. We need to remember that when the House originally passed the bill it cost $4.3 billion; the conference report then upped the ante to $7.3 billion. Members who voted for the balanced budget amendment, as well as those who pledged to find alternative means of addressing the deficit, cannot possibly vote to override the President's veto in good conscience.

Second, the conference report includes provisions that five individuals—who are accountable to no one—unprecedented power over the HHS Secretary. The Secretary is required to appoint an ethics advisory board comprised of private citizens whenever he declines to fund research on ethical grounds. The decision of these individuals could then overrule objections by the Secretary and the President. Thus, these new boards would have unilateral authority to make important decisions concerning major research initiatives. While this provision is usually discussed in the context of fetal transplantation, it has much wider implications—a point which has tended to get lost in the emotion of this debate. This provision clearly violates the appointments clause of the Constitution. It is blatantly unconstitutional.

Third, the conference report is weighed down with a new construction program for universities authorizing spending of $100 million. This is not new money; it will have to come out of exiting research dollars—in real terms it will mean the loss of 400 research grants per year. This $100 million is in addition to the $1 billion in indirect costs for the maintenance, renovation, and replacement of university owned facilities that the Federal Government already pays.

Finally, H.R. 2507 authorizes the NIH to purchase 300 acres of land in the State of Maryland for a satellite campus. This provision is pork barrel, plain and simple. It was never the subject of hearings or any type of serious scrutiny. The administration letter correctly points out that this provision confers special benefits to a single geographic location.

I urge my colleagues to join me in voting to sustain the President's determination that this bill represents bad policy, inappropriate scientific judgment, and total fiscal irresponsibility.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHEUER], a member of our subcommittee.

Mr. SCHEUER. Madam Speaker, the President's veto of the NIH Revitalization Act is a tragic abuse of his veto power. Here is a President, acting on behalf of a tiny, adamant minority, who vetoes literally life-giving legislation for ideological reasons.

The central issue of this bill is the lifting of the ban on federally funded research on fetal tissue transplants. It has been seized upon by a small number of those in the pro-life community who are not satisfied with banning the use of Federal funds to pay for abortions for poor women, for family counseling by U.S. physicians, or for providing population planning assistance to developing countries around the world.

Madam Speaker, fetal tissue transplant research should have nothing to do with the abortion debate. It has to do with saving the lives of tens of millions of people.

The fetal tissue issue touches almost everybody, because all of us know someone who could be cured by the miracle of transplanting this regenerative tissue, which is otherwise discarded, into living human beings.

I have a 24-year-old staff member who's mother is stricken with Parkinson's disease. This morning, when he heard of the veto, he told me:

> You know, my Mom has had Parkinson's for 17 years. Her one hope these last few years has been for progress in fetal tissue transplant research. But the last two Presidents have made it a political issue, holding her hostage to the abortion debate while her chances of responding to such a transplant grow dimmer and dimmer. How can the President play ideology on an issue that is not a question of right or wrong but one of life and death?

H.R. 2507 also requires that women and minorities be included in clinical research studies. History has repeatedly shown that women have been treated as second-class citizens in business, education, and social relations. Health care has proven to be no exception.

Studies of the treatment of heart disease have revealed that women are treated less aggressively than men and there is very little data available on the effectiveness of heart disease treatment on women.

Under H.R. 2507, researchers will no longer assume that women are just like men, and will begin to examine the differences in the treatment of disease that ultimately will expand the knowledge necessary to extend the lives of women in this country.

This bill would authorize $400 million for research on breast and ovarian cancers, as well as $30 million for State cancer registries. The President's budget provides absolutely no money for research on these types of cancers.

By vetoing this bill, the President is saying that women are not worth the hassle or the expense to be saved from life threatening diseases. He is telling the tens of millions of citizens suffering from the ravages of Parkinson's and Alzheimer's that they must continue suffering. He is sending a frightful message to this country, and the House must take the initiative to prevent this flawed decisionmaking to become a death warrant for millions of people of this Nation.

Madam Speaker, for the sake of everyone who could benefit from H.R. 2507, I urge my colleagues to override this veto. It's truly a pro-life vote that, whatever you may think about abortion, is a worthy one to cast.

Mr. DANNEMEYER. Madam Speaker, I yield 4 minutes to my colleague, the gentleman from Georgia [Mr. GINGRICH].

□ 1050

Mr. GINGRICH. I thank the gentleman for yielding this time to me.

Madam Speaker, I want to say categorically that there should be no discrimination against women and minorities with respect to inclusion in clinical research studies. This is certainly the Bush administration's position. Dr. Bernadine Healy, the Director of the National Institutes of Health, created the women's health initiative at NIH. This study is one of the largest and most ambitious studies of specific health problems facing women ever attempted.

However, as Dr. Healy stated in a letter section 131 of this conference report would have grave implications for this clinical study. Why? Because the conference report creates a Federal mandate for a quota system of minorities and women as subjects in clinical studies at the NIH. This legislation requires that women and members of minority groups be included in all clinical research projects. The statute specifically states that the additional, and possibly prohibitive costs, of including minorities and women in a research project cannot be a permissible consideration for exclusion of these individuals from a study.

In addition, the statute specifically dictates to the highly trained scientific researcher the type of methodology and statistical analysis he or she should use in designing the study. The legislation mandates that every project is designed and carried out in a manner that provides for a valid statistical analysis of whether the variables being tested in the study affect women and members of minority groups differently than other subjects. This would have the effect of multiplying the sample size and cost for any given clinical study by a factor of at least 5 to 10, depending upon the study. I am sure that our world class biomedical scientists will be shocked to learn that Congress is now directly interfering with the design and analysis of their complicated research projects.

Take a look at how this mandate is going to affect research in the real world. Biostatisticians at the NIH were asked to look at how the quota requirement of this legislation would affect the women's health initiative.

Madam Speaker, I want to place in the RECORD the letters from Dr. Healy, Dr. Sullivan, and from Dr. Harlan and Dr. Pinn, with a set of charts to which I will refer.

[Slides not reproducible in the RECORD]

This first board shows the current study design of the women's health initiative. The dietary intervention trial in postmenopausal women has a sample case of 48,000 women. This study is determining whether a low fat diet reduces the incidence of breast and colon cancer in postmenopausal women. Women are randomly assigned to a control group or an experimental group where they receive special dietary counseling concerning fat consumption. The sample size of 48,000 assures that statistical differences between the groups can be detected. The cost of this study is $26 million per year.

Here is what biostatisticians at the Center for Disease Prevention and the Office of Research on Women's Health at NIH have determined the study would look like under the quota requirement of this legislation. To meet the minority mandate of statistically valid samples we now have five ethnic groups, each of 48,000 women. The statisticians have determined that the total sample size would have to be 240,000 for a cost of $130 million per year.

Let me repeat that—this study would cost $130 million—five times the amount of the current study. And the sample size 240,000 would make it one of the largest clinical studies of all time. And since the bill says that cost cannot be a consideration in determining the research design. NIH will be forced to accept this result. As a result, significantly fewer research studies will be funded. In fact, if this study was conducted under the requirements of this act, the annual cost of this single study would greatly exceed the total 10-year cost of the entire women's health initiative.

Let me quote from a letter from Dr. Bernadine Healy, to Secretary Sullivan, concerning the effect of this research mandate on the women's health initiative.

> I strongly endorse the need for representation of women and minorities in clinical research. * * * However, the requirement embodied in H.R. 2507 would have grave implications for clinical research.
>
> The mandatory design of all NIH clinical trials to include representative populations for each ethnic group will greatly limit our ability to conduct the large number of clinical studies on many different diseases and necessitate the conduct of only a few very large trials on a smaller number of diseases.

Finally, I would like to quote from a letter I received from Secretary Sullivan concerning this provision:

> Of critical concern is section 131 of this bill, which—while well intentioned—is unacceptable and unworkable on scientific grounds * * * Such an inflexible requirement could in fact jeopardize the initiation of NIH clinical trials, including the very trials that would provide data relevant to women's health.

This one example demonstrates that this provision of the legislation, while well intentioned, is totally unrealistic in the real world. The bottom line effect of this provision is that biomedical research will be stifled—under current law five studies could be conducted for the price of one under the conference report. Mr. Speaker, this alone is reason enough to sustain the President's veto of the conference report.

The material referred to is as follows:

PUBLIC HEALTH SERVICE,
NATIONAL INSTITUTES OF HEALTH
Bethesda, MD, May 28, 1992.

Hon. LOUIS W. SULLIVAN,
Secretary of Health and Human Services, Washington, DC.

DEAR SECRETARY SULLIVAN: I am writing to alert you to the impact on clinical research that would occur if the Clinical Research Equity Act contained in Title 1, Subtitle B of H.R. 2507, the National Institutes of Health (NIH) Revitalization Amendments of 1992 was enacted.

As you know, I strongly endorse the need for representation of women and minorities in clinical research. I believe that the NIH is making great strides to insure their appropriate inclusion. However, the requirement embodied in H.R. 2507 would have grave implications for clinical research. It specifies that, "the NIH Director shall ensure that the project is designed and carried out in a manner sufficient to provide a valid analysis of whether the variables being tested in the research affect women or minorities differently than other research subjects." This would have the effect of multiplying the sample size for any given group by a factor of at least 5 to 10, depending upon the study. A clinical study comprising both men and women would need an approximate tenfold increase in size to test for differential affects by gender and ethnicity.

This requirement would affect the design of all clinical studies despite the fact that no important differences in effect across race/ethnic groups are expected for most clinical questions. Where differences would have been expected, the study design including sample size would be altered to provide for reliable group analysis. Paradoxically, the excessive costs this Act demands could hamper planned investigations of racial/ethnic differences that have already been identified.

For example, the Dietary Intervention Trial of the Women's Health Initiative already requires the inclusion of 48,000 women at a cost of $26 million a year for fourteen years. This study is intended to determine if a reduction in dietary fat will have an impact on the incidence of breast and colon cancer in post-menopausal women. If it were necessary to answer the questions of the Dietary Intervention Trial in 5 ethnic groups, the number of women required would be 5 × 48,000 or 240,000, and the cost would be approximately $130 million per year for fourteen years. If conducted under the requirements of this Act, the annual cost of this single study would greatly exceed the annual cost of the entire Women's Health Initiative and all of its attendant trials.

In planning clinical trials, NIH investigators strive to answer health questions which affect the entire population irrespective of ethnicity. The structure of a clinical trail allows us to generalize the results of the trial to other people with characteristics similar to those who entered the trial. When it is suspected that there may be differences among ethnic groups, NIH scientists will continue to conduct trials to determine those differences. However, the mandatory design of all NIH clinical trials to include representative populations for each ethnic group will greatly limit our ability to conduct the larger number of clinical studies on many different diseases and necessitate the conduct of a only a few very large trials on a smaller number of diseases.

This information must be seriously considered do to the fact that it would greatly hamper our ability to conduct clinical research.

Sincerely yours,
BERNADINA HEALY, M.D.

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, May 20, 1992.

Hon. NEWT GINGRICH,
House of Representatives,
Washington, DC.

DEAR NEWT: This is in further response to our mutual concern about the peer review provisions contained in the conference agreement on H.R. 2507, the NIH Reauthorization Act of 1991.

Of critical concern is Section 133 of this bill, which—while well intentioned—is unacceptable and unworkable on scientific grounds. This section would require that a large percentage of the clinical trials conducted or supported by the NIH assess gender and racial differences in treatments under elevation even in the absence of a scientific reason to suspect that such differences exist. Such an inflexible requirement could in fact jeopardize the initiation of NIH clinical trials, including the very trials that would provide valuable data relevant to women's health.

As you know, the conference agreement on H.R. 2507 contains a number of other unacceptable provisions previously addressed by the Administration. These provisions are discussed more fully in the attached Statement of Administration Policy.

Sincerely,

LOUIS W. SULLIVAN, M.D.

PUBLIC HEALTH SERVICE,
NATIONAL INSTITUTES OF HEALTH,
Bethesda, MD, May 27, 1992.

To: Bernadine Healy, M.D., Director, NIH.
From: Associate Director for Disease Prevention.
Subject: NIH Reauthorization Legislation

The purpose of this memorandum is to alert you to the potential impact on clinical research of proposed Clinical Research Equity (Title 1, Subtitle B) of the NIH Reauthorization Legislation.

Women and minorities should be included in clinical research studies and attention should be directed to insuring their inclusion and we all endorse the need for their representation. However, the following requirement has grave implications for clinical research. It specifies that, "the NIH Director shall ensure that the project is designed and carried out in a manner sufficient to provide a valid analysis of whether the variables being tested in the research affect women or minorities differently than other research subjects." As specified, this would have the effect of multiplying the required sample sizes for clinical trials and epidemiological studies. The sample sizes for observational and interventional studies are based on providing adequate power to reliably detect estimated differences in effect. If the differences must be detected for each group the total sample needed would be multiplied by factors of 5 or 10. Assuming 5 minority groups, a single gender study such as the Women's Health Initiative would need 5 times the current estimated size of 50,000 women to reliably detect differential responses of each race/ethnic group. A clinical study comprising both men and women would need approximately tenfold increase in size to test for differential effects by gender and ethnicity.

This requirement would affect the design of all clinical studies despite the fact that no important differences in effect across race/ethnic groups are expected for most clinical questions. Where differences would have been expected, the study design including sample size has been altered to provide for reliable group analysis.

This provision would have a stultifying effect on clinical research and paradoxically could hamper planned investigation of racial/ethnic differences that have been identified. As the sample size increases severalfold, issues of feasibility, availability of all groups within a particular geographic region and cost are similarly multiplied. Researchers in some geographic areas may not have adequate numbers of certain minority groups available. Several studies are under way or being planned to explore differences in disease risk or treatment response in a particular racial/ethnic group (e.g. hypertension in African Americans). Would these studies be required to increase the sample size so as to include other groups? This could actually impede scientific investigation of important differences.

In summary, the provision would profoundly and adversely affect the conduct of clinical research, however well intentioned it may be.

WILLIAM R. HARLAN, M.D.,
Associate Director for Disease Prevention.
VIVIAN W. PINN, M.D.,
Director, Office of Research on Women's Health.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, I must say I am very angry about the prior presentation and the fact that the gentleman would not yield to any of the Congresswomen on the floor, because that is the heart of what this issue is about. This issue is about the fact they have always told us it was cheaper to keep women out of research because we were more chemically complex.

Yes, it may cost more to put women in this bill, but let me tell you what it would cost if you do not put women in this bill. We know, we know there have been absolutely no heart disease studies on women, and we know on and on and on and on, and the whole reason that the director has this study and is pushing for this study is to make up for the years of leaving women out of these studies.

Now, if the gentleman from Georgia [Mr. GINGRICH] wants to stand up and call this a quota bill, listen, he sees quotas in the clouds. I want to tell you that women are paying their quota of this research. They have been paying equally into this research, and they have been left out of it because we have been told we are more complex.

Listen, we are not only more complex, we are more politically sophisticated. This is finally putting us in, and we are getting tired of being left out and we are tired of seeing deaths and people's lives being played with.

I must say please vote to override, not because I say so but because we have 35 groups saying so and many, many biological researchers saying so.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MINK). The Chair would advise our guests in the gallery that they are not permitted to express an opinion either way on the material and matters being discussed on the floor.

Mr. DANNEMEYER. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Madam Speaker, as a father of three daughters out of our five offspring and four granddaughters out of eight grandchildren, I would like to associate myself with our Republican whip's remarks and change the focus back to abortion, if I could.

My coach on this issue is my wife. She is watching the debate. She has just sent a little message from the Cloakroom, and I would like to tell you what my wife asked me to point out.

The last issue of Life magazine 1 or 2 months ago that handled this whole abortion issue has doctors or their assistants running down the hall with a note pad, asking a woman who is about to go in for a late abortion to sign the release so that they can get at her baby before it is completely dead and strip away all the various body parts.

As my wife says, if they want the skin for burn research because it is human skin, how is it that it is not human life that we are talking about here with the human skin?

I remember vividly a team of doctors from the United States went over to Chernobyl to try to rescue these heroic Soviet firemen, went right into the radioactive cauldron itself, the helicopter pilots dumping sand on the radioactive exploding reactor. They wanted bone marrow to put injections right into the spines and their bone marrow trying to save them. There were six severely injured firemen and helicopter crews. The American doctors were saying, "Get us more late-term abortions, more abortions, we need more material to work with." They saved nobody.

A major university in New York City and another one in Los Angeles have been dealing with this type of research for years, getting the latest abortions they possibly can. They do not want a little zyglot, they do not want a 12-week-old baby, they want well-developed fetuses. The more liver tissue, the more brain tissue, the more bone marrow the better. And they saved no one to date.

In Sweden, taking brain matter right out of the baby's head in the womb directly into some patient to extend life, pathetic, pathetic.

Vote to sustain the President's veto, vote for life.

Mr. WAXMAN. Madam Speaker, I am pleased to yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, I am shocked at the antiwomen remarks of the Republican whip, and I associate myself with the remarks of my colleague, the gentlewoman from Colorado [Mrs. SCHROEDER].

Let me tell you, if we are for family values in this Chamber, we need to override this veto. Rightwing ideology blinded this President to compassion and common sense, and we must now muster a supermajority to fight the far right.

It is not compassion to find a cure for Parkinson's and diabetes and Alzheimer's? Is it not common sense to proceed with science as long as we know we can protect against encouraging abortion? Yes, it is common sense and compassion to allow for fetal tissue research.

It is cruel, it is cruel to stop it.

□ 1100

Madam Speaker, let me read part of a letter from a woman whose father is suffering from Parkinson's, and I would ask my colleague, the gentleman from California, to listen to her words.

BETHESDA, MD, *June 15, 1992*.

Hon. BARBARA BOXER,
House of Representatives, Washington, DC.

DEAR BARBARA: This letter is about my father and his heroic battle with Parkinson's disease, which he may well lose.

My father was first diagnosed as having Parkinson's disease 15 years ago. At first the medication he took was effective to control most of the symptoms, so that life was not very different from the way it used to be. My father was active in his law practice, taught Intellectual Property law as an Adjunct Professor of Law at Brooklyn Law School, and enjoyed playing tennis, especially singles several hours a week. We would often play together and he would invariably beat my brothers and myself with sheer persistence and it was real fun. Throughout these early years life was pretty normal and Parkinson's was hardly the subject of conversation.

Then this ravaging disease began to take its toll, slowly but surely. At first my father began manifesting difficulties in running and this extended to walking as well. For no reason at all he would suddenly fall, usually on his knees, in order to protect his body and when this occurred on the tennis court or elsewhere, he would immediately get up and continue whatever activity he was involved in as if nothing had happened. He would keep falling, get up and ignore the difficulty.

Then he began to have involuntary movements (not tremors) of the arms, legs and neck called dyskenesia. At first they were slight and infrequent, but have now become much more severe and nearly continuous to the point where it causes enormous discomfort. He cannot sit through a movie, a play, a concert or the opera, which he loves, without endless perspiration, so that at the end of the performance he is totally drenched through and through with perspiration. None of these problems, however, led him to discontinue his professional activities. He continues to drive to his office five days a week, 9:00 to 5:00, although his output has been considerably reduced. As his legs kept giving way, the knee caps were taking the brunt of the impact and this led my father to use knee pads to protect his knees. He lives in constant fear of being seriously injured as a result of a fall as happened to Morris Udall. His speech, which is an important part of his life, being a lawyer and being a person who lives to engage in discussions with his friends and his family, began to become affected. As time went by the situation became more aggravated. His walking became a real problem before he took his first dosage of medication and the pain of the trauma began to show in his eyes and face. Whenever I look at photographs taken over the years, I can see the gradual increase of pain in his face and his eyes. But he never complained. Not once have I heard him complain.

These days it is often difficult to understand him when he speaks because of the low energy level, the stuttering and stammering which I know affect him very deeply. He was a man who always had a deep, resonant, articulate voice. He was a terrific public speaker as demonstrated when he served on the Board of Education. As a result of his speech problems he withdraws from participation more often than not. It is painful for me and my family to witness this deterioration.

Because of his tendency to fall without warning, it is not possible for him to lift, hug and hold Sam, and his other grandchildren and this is what pains him the most. Reluctantly, he bought a cane to assist him in walking and his grandchildren now recognize his presence when they see the cane. He is the grandpa with the cane. His deterioration seems to be increasing more rapidly as time goes by.

There is one area, however, which has given him hope and that is the recent success shown by fetal tissue transplant into the brain. We discussed this surgery ever since it was first disclosed back in 1988 and whenever we did my father's face would change and his eyes would light up since for the first time there seemed to be a possibility of seriously reducing or eliminating the devastating effects of the disease. But this was not to be. President Reagan overruled his own Commission's recommendation and instituted a ban on use of fetal tissue for research. This was a terrible blow for all of us. For four years the research has been virtually halted depriving my father and millions like him of a chance for a more meaningful life. It was felt, however, when Bush was elected in 1989, that he would take a more compassionate view of the situation and reverse the ban. This, too, was not to happen under pressure of the right-to-life movement.

I don't understand how a minority in this country can rule and play God with the lives of millions of sufferers of Parkinson's, Alzheimers, diabetes and other diseases with the blessing of the President of the United States. The argument offered by the proponents of the ban is that lifting the ban would encourage abortions. This is an insult to the women of the country. There is absolutely no evidence to support this argument. What is plain is that so long as abortion is legal, as many as half a million fetuses a year are discarded into the garbage, instead of being used to save a life or improve the quality of life. The ban is clearly an anti-life measure and Bush's actions are incomprehensible, especially in light of the reversal of so many prior proponents of the ban, such as Otis Bowen and Senator Strom Thurmond, whose daughter has diabetes and who can be helped by the fetal research.

The most recent effort to remove the ban on use of fetal tissue for research has been most encouraging, especially in the Senate where it passed by an overwhelming majority and where it can override Bush's expected veto. The bigger problem is in the House, and there the original vote on lifting the ban was somewhat short of the necessary ⅔. Reversing the ban represents the only glimmer of hope for my father and others like him.

I want to express my appreciation to you for the strong and unwavering support you have given to this effort to enable fetal research to proceed.

I also plead with you to exert whatever influence you may have on those Representatives who voted to support the ban, so that the veto may be overridden in the House as well and provide an additional point of light in all our lives.

Sincerely yours,

CLAIRE LITTMAN.

Madam Speaker, these words are moving, and these words are correct. Where are our family values when we turn away from the real enemies that face our families, the diseases that take away our loved ones one painful day at a time?

Please, please, override this veto in the name of family values, compassion and common sense.

Mr. WAXMAN. Madam Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Madam Speaker, I rise in full support of the override of this veto to lay to rest once and for all that this position taken by most people in this country is not the real pro-life issue, and I urge support for the override.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Madam Speaker, President Bush and opponents of this bill refuse to understand the choice this measure represents. How sad that they would characterize it as a referendum on abortion. It is not. Rather, this legislation would end a misguided and tragic policy that blocks vital research into cures for diabetes, Parkinson's and Alzheimer's disease.

The bill forthrightly addresses transplantation issues and the implications for abortion. It specifically prevents the possibility of encouraging abortions. The decision to donate fetal tissue must be separate from the decision to abort. Fetal tissue may not be directed to a specific donor, nor may it be sold or purchased.

I find it sad and depressing that opponents of this bill choose to ignore responsible voices in the pro-life community who support fetal tissue research including President Reagan's Secretary of HHS, Dr. Otis Bowen, who know that this bill is neither pro-choice nor pro-life—it is pro-science. Rather, opponents blindly oppose research that gives hope to millions of Americans with potentially curable diseases.

Madam Speaker, abortion is legal in this country. By this veto the President will not stop women from having abortions. But he will prevent researchers from finding cures for deadly diseases. I urge the Members to override this ignorant, misguided veto.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Speaker, I thank the gentleman from California [Mr. WAXMAN] for yielding this time to me.

Madam Speaker, many of our colleagues will address the important initiatives that are contained in this legislation, important initiatives for biomedical research. I just want to address my remarks to some of our colleagues who may be undecided on this issue. I say to them that we make hundreds of votes each year. None of them possesses the power that this vote gives us today, the power to make a drastic difference in the lives of the American people in caring for their loved ones and finding cures for some of their illnesses. I say to our colleagues who are thinking about this legislation to pay attention to the professional judgment recommendations of the scientific and medical community, many of whom wrote to President Bush saying, as biomedical researchers, they can attest to the dearth of reliable information regarding women's health issues, and they urge us to redress this historical oversight referred to by the gentlewoman from Colorado [Mrs. SCHROEDER] earlier.

I say to my colleagues who may be in doubt on this legislation, "Think of what power you hold in your hand. Give the benefit of the doubt to the American people whose loved ones are suffering and who look to us for hope. How can you be so sure that you are right when the scientific and medical communities disagree with you?"

I say to my colleagues, "Think about it."

Madam Speaker, I rise in strong support of the motion to enact the National Institutes of Health [NIH] revitalization amendments over the President's objections.

The narrow issue before the House is whether to lift the current administration-imposed prohibition against fetal tissue transplantation research. New advances in research involving the transplantation of healthy fetal tissue hold promise for the treatment and cure of many diseases such as Alzheimer's disease, Parkinson's disease, diabetes, and even AIDS.

Today's vote is about hope. We have the opportunity to save or significantly improve quality of life for millions of Americans who would benefit from this research. We have the opportunity to give hope to the families and loved ones of those suffering with these tragic diseases.

Unfortunately, President Bush has made a political commitment to a group of antiabortion extremists to support them even when they are clearly wrong. We cannot let extremism win this debate. Too many lives depend on the outcome of this vote. I strongly urge my colleagues to vote for hope—vote to override the President's veto.

Mr. DANNEMEYER. Madam Speaker, I yield 30 seconds to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Madam Speaker, this is important, to get this in the RECORD, because of the last three speakers, two on that side and one on this. There was a letter from Linda Gorash, assistant professor, child psychiatry and pediatrics, University of Pittsburgh, in response to the article of the gentleman from California [Mr. WAXMAN] last month, "Research that could save lives."

The article entitled "The Failure of Fetal Transplants" is as follows:

> First, no evidence of a reduction of Parkinson Disease symptoms due to implanted fetal cells has been demonstrated from animal model work or from patients undergoing this drastic procedure. A review published in the Journal of Neurology concludes "There is simply no evidence to prove that either clinical or experimental Parkinsonism in primates is specifically cured by transplantation of tissue into the brain. * * * The irreversible tragedy is the death and damage to many patients and their families produced by the extravagance of the transplantation fad."
>
> Second, contrary to Rep. Waxman's claims, the living tissue is taken from a living fetus. The 1989 Archives of Neurology published the most detailed description of this procedure, outlining that an unborn baby's brain must be selectively sucked out by a tube inserted in the mother's womb to ensure that the living fetal brain cells are harvested in fresh transplantable condition. This process kills the fetus, who is then aborted.
>
> Human fetal brain tissue transplantation fails to meet minimum standards of either effectiveness or ethical medical practice.

Mr. WAXMAN. Madam Speaker, I yield myself 30 seconds simply to reply to the fact that this research does not work yet because the research has been stopped. But among those who want this research and want this bill to pass are the Parkinson's Action Network, the Parkinson's Disease Foundation, and the Parkinson's Support Groups of America. They do not want this research stopped because of some theoretical argument that more women are going to get abortions in order to have fetal tissue research.

Madam Speaker, that is nonsense. Everyone knows it is nonsense. Let us get the research going so we can see if it will work.

Mr. DANNEMEYER. Madam Speaker, I yield myself 30 seconds at this point to respond to my colleague, the gentleman from California [Mr. WAXMAN]. I am quoting now from Olle Lindvall who wrote last year:

> Although animal experimental data are very promising and clinical trials have given encouraging results, it must be underscored that there exists at present no treatment for Parkinson's disease based on intracerebral transplantation.
>
> It is important that patients and relatives are informed that this research is still at the experimental stage, and that widespread clinical trials with transplantation in Parkinson's disease are not warranted at this time.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Madam Speaker, this veto message is unbelievable and is proof of how out of touch with the American people is the White House. The message says:

> H.R. 2507 is not necessary to increase support for research targeted at women's health needs * * * and also contains fiscally irresponsible authorization levels.

This from a President who submitted to the Congress a proposed budget that is $400 billion out of whack.

The President says, "* * * this legislation would be counterproductive to the attainment of our Nation's health research objectives."

Gobbledygook.

This President who promised to be kinder and gentler would condemn the American people to be prisoners of rightwing religious zealots fixated on women's reproductive organs.

Let this House indeed support saving human life. Let us override this outrageous veto.

Mr. DANNEMEYER. Madam Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Madam Speaker, I am not a rightwing religious zealot, but I do rise in support of the President's veto of this measure and against the move to override the veto.

On May 28, when the bill was debated, it was clear the President would veto it in its present form, and, if I may borrow the language of medicine, the bill that passed the House was flawed in its diagnosis and its prescription. President Bush has given a second opinion, and I am inclined to abide by his view as the better one.

The various flaws in the bill in its current form are substantive, budgetary, and constitutional, and it left the President no choice but to exercise his constitutional power to veto. Among the flaws is a spending level of an estimated $3 billion above the President's fiscal 1993 budget request and $1 billion above the original amount approved by the House. Now this is at a time when a lot of people around here are trying to parade under the guise of, "Let's hold spending down, keep it in check." So much for consistency.

Madam Speaker, also included in the bill is an authorization of $100 million for what are basically pork-barrel construction projects for various universities. This morning's Washington Post carried a story of a little-known college in the Allegheny foothills which was recently selected for $41 million in Federal research projects, a windfall almost three times its $14 million annual budget.

□ 1110

That comes under a different bill, but it is the same kind of thing that is happening also in this particular measure. And I know, because I once served as the ranking member on the Appropriations Subcommittee that funds these activities.

This special interest money will come out of existing research dollars, resulting in the loss of 400 research grants per year.

Another shortcoming of the bill is the requirement for an ethics advisory board that can overrule objections by the Secretary of Health and Human Services and the President. And this is clearly, on its face, constitutionally flawed.

And, of course, there is disagreement about fundamental questions of bioethical concern.

Madam Speaker, we are all supporters of the National Institutes of Health, but support for NIH, in a general sense, is not enough. NIH, as a tax-dollar-supported institution, is not outside and does not transcend the ordinary but often vital policy questions we in government must ask.

I believe that under the current leadership of Dr. Healy, NIH has the potential of entering the 21st century on a basis of sound policy, supported by responsible Government guidelines. But we in the Congress must first be willing to address the questions the President has raised in his veto message, and that is why I would urge my colleagues to support the President's veto and then let us do what is right for NIH.

Mr. WAXMAN. Madam Speaker, I yield 2 minutes and 30 seconds to the distinguished gentleman from Massachusetts [Mr. EARLY], a member of the Committee on Appropriations that deals with the HHS budget.

Mr. EARLY. Madam Speaker, I rise on two specific points about why we should override the President's veto.

First of all, the President says that he is vetoing it on ethical grounds. He suggests that we can use fetal tissue from ectopic pregnancies or miscarriages for this research. The courts decide; the courts decide whether abortion is legal or not.

I stand here as one who is opposed to abortion. If it costs me an election, so be it.

I want to talk to this House about gene therapy. The committee heard testimony that gene therapy has been performed; it is not solely research. Within the last 6 months there has been a successful gene transfer. Also, in cystic fibrosis, again with gene therapy, by the end of this year, I hope that NIH will have a gene therapy treatment for cystic fibrosis. Although it does not involve fetal tissue transplantation, the point is the principle of gene transfer. However, fetal tissue research is necessary for other research and for other potential therapies.

In this particular bill, with regard to juvenile diabetes, with fetal tissue transplantation we may save the eyesight of young people. With regard to Alzheimer's, we may extend compassionately the life of senior citizens. With regard to Parkinson's, with fetal tissue transfer we can save lives.

With regard to the second point of this veto, and why it should be overridden, I hear Republican after Republican saying that it is too much money. The President said $3.2 billion. Last week this House voted $38.4 billion for research, development, and testing of new weapons. My gosh, do we know how much we spend at NIH?

Last year we spent $8.9 billion. The cold war is over. We have to make some adjustments, some changes.

Not one Republican voted to take down the firewalls that would let us transfer from defense to domestic programs; $8.9 billion, the Republicans say it is too much for NIH. Yet we spent $38.4 billion for defense RDT&E. We spend $36 billion for intelligence gathering by the CIA annually, and we say it is not enough money.

I plead with this House, the American people want us to do some things differently. They want some performance. Too much of what we do is partisan. Democrats versus Republicans. It is wrong.

This particular bill is progressive. It is good. I am opposed to abortion as vehemently as any Member in this House. I think it is the taking of human life. But this bill is imaginative and constructive.

We should override this veto, demonstrating the independence of the Congress and restore the quality and the prestige of the Congress.

Mr. DANNEMEYER. Madam Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Madam Speaker, abortion proponents have been disingenuous from the beginning of this debate, and they are disingenuous now. In an attempt to sway pro-life votes and allow the taxpayers' dollars to support research on fetal tissue from induced abortion, they made several arguments. For example: "There are safeguards in this bill." Well, it is debatable as to whether the so-called safeguards would have served their intended purpose in the first place, but for those among my colleagues who believed this—look again. They are gone. These safeguards, meager as they were in the House-passed bill, were weakened in the conference report. Women will no longer sign a statement that their decision to abort is unrelated to their decision to donate fetal tissue. Another example: "Untold numbers of people wit diseases such as Parkinson's will benefit from this research." this statement amounts to a cruel hoax for those who are suffering from this debilitating disease. According to a premier researcher in this subject area, Olle Lindvall, one of the pioneers of fetal tissue transplantation research,

> [T]his research is still at the experimental stage, and widespread clinical trials with transplantation in Parkinson's disease are not warranted at this time.

We should not be raising false hope in those who are desperate for a cure in order to promote abortion—particularly when the research already permitted by NIH—that is, tissue from ectopic pregnancies and spontaneous abortions—more than fills the research needs in this country.

What is this hoax about—solidifying abortion on demand in this country, and nothing more. Vote "no" on the veto override.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Madam Speaker, I rise today in strong support of the veto override of the NIH reauthorization bill. We need this investment and commitment to prevent death and disability for millions of Americans.

This commitment includes making fetal tissue available to researchers to treat and cure debilitating diseases like diabetes, Parkinson's and Alzheimer's. The bill contains ethical safeguards to prevent any potential abuses of the use of this tissue, requires written informed consent from women donating the tissue, and prohibits its sale or purchase.

H.R. 2507 also contains the seed money to provide hope, improved treatments, and, ultimately, a cure, for those stricken with diseases such as breast and prostate cancer, osteoporosis, and multiple sclerosis. Scientific breakthroughs to these diseases don't occur magically overnight. They begin here at the funding stages, on this floor, today, with this bill.

Before I conclude, I would like to acknowledge the contributions made by Dr. Bernadine Healy to improve the health care of women. Many people have been vocal in their opposition to Dr. Healy. She has been an advocate and a real leader in implementing fundamental changes at the NIH, including those advocated by the congressional caucus for women's issues, such as the establishment of the Office of Research for Women's Health and the women's health initiative to fill in the lacking research gaps for midlife and older women. With Dr. Healy at the helm, women's health research at the NIH has finally been brought out of the Dark Ages. We will all be the benefactors.

I urge my colleagues to support these efforts and the override of the administration's veto today.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Madam Speaker, this country does not need more money for B–2 bombers, star wars and the military. But it does need significantly more funding for research into long neglected women's health needs into the epidemic of breast cancer, ovarian cancer and research into all kinds of cancer, that killer disease which is afflicting 1 out of 3 Americans. And that is what this legislation is all about.

Madam Speaker, in my State of Vermont the citizens of our State, led mostly by women, are demanding that the Federal Government play a greater role in the prevention and treatment of cancer. In this legislation, vetoed by the President, is the 1992 Cancer Registry's Amendment Act, a nationwide system of uniform statewide registrys which will enable each State to collect uniform data on those afflicted with cancer, including age, residence, occupation, stage of disease and treatment.

□ 1120

This bill was hailed by Dr. Healy of Sloan-Kettering Memorial Cancer Center as the major cancer weapon our Nation needs most. Madam Speaker, let us pass this legislation and give hope to Americans in fighting disease.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Madam Speaker, once again, my colleagues and I stand here on the floor of the House to debate a bill, the merits of which have already been roundly hailed. I am appalled that the President would condemn such a vital piece of legislation—a bill that funds all of the facilities and research programs of the Institutes of Health—on the basis of one issue alone.

Not only has publicly funded research been placed in jeopardy due to a single concern of the President, but the issue in question—whether research on the transplantation of fetal tissue should be funded by the Government—has been dismissed by the scientific community.

The shred of logic that somehow we will promote abortions by permitting the use of fetal tissue in experimental treatment of life-threatening conditions has been overwhelmingly rejected by both Houses of Congress and researchers alike. The bill contains strong safeguards against abuse—safeguards that do not currently exist in the private sector where research is ongoing. Once and for all: the NIH bill is not about abortion.

Madam Speaker, this is an important day for research, but it is especially important for women's health research. Women have historically been left out of clinical trials, such as the effects of aspirin on heart disease, the leading cause of death in the country. In other instances, women have been treated without any regard for the overall effect on their health—such as estrogen treatment for menopause without study of the effects of estrogen on cardiovascular and cancer risks. There has never been a focused clinical effort at NIH to examine gynocological conditions. This bill addresses these and many other critical women's health needs.

Like many of my colleagues, I was disappointed and angered to read Dr. Bernadine Healy's letter urging a veto because "the section on women's health is unnecessary." It is an affront to see these indispensable provisions used as a scapegoat in the absence of any valid cause for a veto. Apparently, Dr. Healy thinks that, for example, making the Office of Women's Health Research permanent is unnecessary; she must think that requiring the inclusion of women in clinical trials is unnecessary. Her veto recommendation is particularly outrageous, given the recent favorable press she has received for her leadership on women's health.

Madam Speaker, this is yet another sad example of governance by veto. I urge my colleagues to override this veto and support women's health and crucial research programs.

Mr. WAXMAN. Madam Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Madam Speaker, I rise in support of overriding the President's veto. I want to say first off that it is about time that we have adequate research dollars for female-dominated diseases. Breast cancer is afflicting 1 out of 9 women. It is an epidemic in this country, and we have gotten peanuts for research. As a matter of fact, I want to tell the gentleman from Georgia, who complained that we are mandating that women and minorities be included in clinical trials, that prior to this bill they have only been included in 13 percent of all the clinical trials. Even when they did research on breast cancer, they had a man, men that they were examining for breast cancer, and only less than one-tenth of 1 percent of men get breast cancer. That is how outrageous it is with respect to research.

We want to find a cure for breast cancer that devastates the American family. We want to find early detection for ovarian cancer.

I want the Members to ask their daughters, and how would the Members like it if their daughters find out they have the symptoms for ovarian cancer, and frankly, when a person finds those symptoms, they have a very high risk of death because there is no early screening for ovarian cancer. Why? Because there has been very little research done in that area. If we give our wonderful scientists the $75 million to find that early detection, then I think we will find a chance to save the life, yes, the life of that individual.

What about osteoporosis, which afflicts older women especially? It has devastated, and we have not found a cure for that at all. The list goes on to prostate cancer, which is an epidemic for men.

I want to say something about the fetal tissue issue. I am convinced, and I happen to stand here thinking and believing that 1.7 million abortions are far too many in this country, and we ought to start with education and to deal with that issue, but this is not the bill that deals with that issue, and we know that. I think there are ethical standards that have been screened out with the committee, and I urge them to work with the administration on this issue.

Let us support the overriding of the President's veto. It is the pro-life thing to do.

Mr. DANNEMEYER. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Madam Speaker, I rise in strong support of the President's veto of the conference report to H.R. 2507—the National Institutes of Health revitalization amendments.

This Nation is facing a budget deficit of approximately $360 billion this year. And here we are being asked to pass a massive bill that will add substantially to this country's debt.

Madam Speaker, when this bill originally passed the House, the total authorization was $238 million above the President's budget. It now is a staggering $3.1 billion above the President's budget. Let me repeat that—a whopping $3.1 billion over the President's budget. We simply cannot allow this to continue.

The bill specifically authorizes appropriations that are $1.2 billion above the President's fiscal year 1993 budget. The total reaches $3.1 billion when the HHS estimate of $1.9 billion to purchase 300 acres of land for an NIH satellite campus and to renovate facilities is included.

Madam Speaker, passing this bill would add $3 billion to the budget deficit and says to the American people that Congress is not at all serious about balancing the budget. I challenge my colleagues to show the American people that we can be responsible and do our jobs without a constitutional amendment.

When we were debating the passage of this conference report, arguments were made that the authorization levels in this bill are irrelevant, because the Appropriations Committee sets the ultimate funding levels for all programs. Although it is a truism, that under our system, the appropriators have the final word on expenditures, it is the authorizing committees that draw the map which guides the Appropriations Committee on how moneys should be spent. Therefore, this conference report provides the guidance on the limits and direction of future funding at NIH. To say that this legislation is irrelevant because the appropriators have the final word, would, if taken literally, mean that all authorizing legislation is irrelevant. Madam Speaker, that is the type of thinking that has contributed to the budget mess that we are currently in.

I urge my colleagues to support the President's veto.

Mr. WAXMAN. Madam Speaker, I yield 3½ minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Madam Speaker, a few weeks ago after we approved the NIH bill we were a few votes shy of override strength. As I was walking back to my office, I was pretty discouraged and disappointed. Then, I ran into Rev. Guy Walden.

As many of you know, Guy is a pro-life Baptist minister, and though he vehemently opposes abortion, personal experience led him to be a strong supporter of fetal tissue research. After losing two children to a rare genetic defect known as Hurler's syndrome, testing revealed that this same birth defect threatened to rob him and his pregnant wife of yet another child.

The Walden's knew it would take a miracle to save their child from deformity and an early, certain death—and with a fetal tissue transplant they found that miracle.

When I spoke to Reverend Walden after that vote, he urged me to look—not at how many votes we were short—but rather at how far we have come. We were able to get many Members to move beyond the rhetoric, and study the facts and substance and hope of this research. Based on the facts, we were able to convince many Members that it is critical to lift the ban.

We have come a long way.

The former Secretary of HHS under President Ronald Reagan, Dr. Otis Bowen, joined our efforts in actively urging the administration to overturn the ban. Recently, a bipartisan group consisting of three former heads of NIH issued a plea to the President to heed the recommendations of the 1988 Reagan pro-life panel that said that this research should go forward.

In fact, we have made progress with the administration. In agreeing to establish a fetal tissue bank, they have at least recognized the value of this research.

But, as the former heads of the NIH said in their letter to the President, that is not enough.

Madam Speaker, a few years ago, a number of people and organizations were alarmed and opposed the prospect of using in vitro fertilization to create a new life. But, for many Americans—like my own brother and sister-in-law—this research did not result in some scary, shady scene out of a grade B movie. Instead, it resulted in a loving, healthy baby girl. New hope, new life.

All of us have known someone who has been impacted by cancer, a paralyzing spinal cord injury, diabetes, Alzheimer's, Parkinson's, or Lou Gehrig's disease. Let's not wait another year for the cure. Let's, instead, truly race for the cure.

Has it already been too long for us to have forgotten the ravages of polio that used this same research for a cure?

By establishing a fetal-tissue bank using tissue only from spontaneous abortions and miscarriages, the administration chose to take a course contrary to the wishes of nearly every major disease and public health group in America. They chose to take a course contrary to many of our Nation's leading researchers in this area. If we fail in our override attempt, the burden of proof will be on this administration.

I disagree with the administration on this issue. But, I hope for the sake of millions of Americans struck by the devastating diseases for which this research holds hope, that the administration is not just paying lip-service to our Nation's researchers. I hope that our researchers will truly be provided with the means to achieve a goal that I know every Member of this institution supports: an end to so many people's suffering and early deaths—a chance for hope, a chance for life.

At some point elected officials and political people must admit that though we are political animals, politics should not dictate or deter the progress of important scientific research. Of couse it's necessary to carefully weigh this progress with legitimate, ethical concerns. But, what is not necessary—and is in fact dangerous—is to hamstring our Nation's researchers because of unfounded fears and political games.

I urge my colleagues to vote to override the President's veto on the NIH bill.

□ 1130

Mr. DANNEMEYER. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Madam Speaker, I rise today to stand with the President and say we must stand against things that are wrong and evil in this country. And I stand as strongly as anyone could ever stand in support of the unborn of this country.

I want to say a word or two about what I have heard, that we are missing the money for experimentation on cancer and the other items. Let us take the $300 million that we are going to buy 300 acres of land with, and let us instead put that in experimentation. It is ridiculous to stand up here and try to argue to the American people that we are going to lift our standards in Congress, but yet we are willing to compromise and take $300 million of money that could be spent for research and use it to buy 300 acres of land in Maryland.

Let us get ahold of things. Let us get ahold of the budget of this country. Let us put it in perspective. Let us spend our dollars where they count the most, and buying 300 acres of land at $1 million an acre is not spending money wisely.

But I also stand strongly in support of the unborn. To tell me that we have a living being in a mother's womb and we are going to go in with needles and take tissue from that unborn child to use for research, or to try to find a fountain of youth, is wrong. We have the tissue, and I have a letter from C. Everett Koop that says that he stands with the President. I think he is a very respected former Surgeon General.

I just have to say that it is time in this country that we realize the morals of our Nation are at stake and where we go as a country is at stake. And I think it is very important that we realize that the unborn are living beings, and somewhere we declare them to be living beings to where we can protect them as much as we would to give consent to give one of our own organs for research.

It makes me sick just to hear the arguments over and over to where we try to put the blame here and put the blame there. It is time we realize the importance of the dollars we spend and where these dollars go, and let us put them where they will count the most.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Madam Speaker, I have heard my colleagues refer to the fact that our budget is out of control, and I agree, let us put the dollars where they can really work.

I urge my colleagues to override this veto. Do we realize that if we do not override this veto we are jeopardizing $325 million for breast cancer research, $72 million for prostate cancer research, $15 million for a new childhood vaccine initiative, $500 million for the National Institute on Aging.

I urge my colleagues, those who care about families, think about your wives, think about your daughters, think about those families that are being destroyed because they cannot find a solution to these health problems.

I got a letter, Madam Speaker, from one of my dear friends who said to me with regard to fetal tissue research:

> Please, please support this bill. My daughter can control the disease with insulin. However, as diabetes progresses, without fetal tissue research she would face heart disease and amputation.

Think of all of this when we think of the value, my colleagues, and vote for this override.

Mr. DANNEMEYER. Madam Speaker, I yield myself 1 minute.

Madam Speaker, the claim has been made here today in this debate that somehow the sustaining of this veto will interfere with research on woman in America. Nothing could be further from the truth.

Dr. Bernadine Healy, in a letter dated May 28, 1992, addressed to Dr. Sullivan, head of HHS, made very clear that the dietary intervention trial of the women's health initiative already requires the inclusion of 48,000 women at a cost of $26 million a year for 14 years. If as a result of this legislation that investigation has to be expanded to include five ethnic groups, that would result in a 5 by 48,000 multiplication, or 240,000, and the cost would be approximately $130 million per year for 14 years.

Dr. Healy goes on to point out that in expanding to include the five ethnic groups it would threaten the very fiscal ability of this investigation to take place, and for this reason I think this veto should be sustained.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlewoman from Connecticut, [Ms. DELAURO].

Ms. DELAURO. Madam Speaker, the administration's veto of the NIH authorization is a blow to the thousands of men, women, and children who would benefit from this vital legislation. Once again, the administration has demonstrated its narrow-minded approach and its lack of concern for women's health, for those suffering from Alzheimer's disease, diabetes, Parkinson's syndrome, childhood diseases, and AIDS. Once again the American people have been forced to watch progress halted by an administration more concerned about politics than with public health.

This bill is not politics. This bill is a commitment to life.

I am a survivor of ovarian cancer. Thirty-nine percent of the women in this Nation who contact ovarian cancer survive. I was diagnosed accidentally. This is wrong. Men, women, and children in this Nation should not survive by accident. We need this research.

So I urge my colleagues not to be sidetracked by politics and to please vote for this override and vote for life today.

Mr. DANNEMEYER. Madam Speaker, I yield the balance of our time to my colleague, the gentleman from Illinois [Mr. HYDE].

The SPEAKER pro tempore (Mrs. MINK). The gentleman from Illinois [Mr. HYDE] is recognized for 6 minutes.

Mr. HYDE. Madam Speaker, I have the highest respect for everybody on that side of the aisle who has spoken so passionately and so sincerely for this research. And indeed, I share with them the commitment that this research go on. I would be the last person in the world to not want research to proceed.

But what we have heard today is what is called by logicians the fallacy of the false alternative. We have heard that if this fetal research with induced abortions is not permitted to go on, Alzheimer's Hurler's syndrome, diabetes, Parkinson's disease, and even breast cancer research will be harmed. That is nonsense. That is just not true.

Now I listened to my colleagues and I ask them to listen to me. It is not an either/or situation. All of this research which is necessary, and essential, and humane, and compassionate will go forward, but we do not need the perverseness of having induced abortions provide involuntarily for organ donations.

□ 1140

We do not need to reduce unborn children to commodities, or to things, or to chattels.

Now, the calculated effort—and it is a calculated effort—to distort the President's veto into an antiwoman position is utterly contemptible. Parkinson's disease, Alzheimer's, diabetes are not women's diseases. They are people diseases, and we all get them. We all can get cancer, and the statement that the President is somehow antiwoman in vetoing in defense of unborn children—over half of whom are female—is perverse. It is just perverse. It is the use of politics in a situation which ought to transcend politics.

Now, the learned Governor from Arkansas last night issued a statement and referred to the President's veto of this bill as an "ugly bow to the far right." Well, let me suggest to the learned Governor of Arkansas that the Southern Baptist Conference supports the President's veto, and if they are the far right, I would like to know; the U.S. Catholic Conference, I wish they were more conservative, and they are not on the right side of the political spectrum yet, they support the President's veto.

But what is important to know is many, many distinguished researchers support the President's veto and tell us there is enough fetal material from ectopic pregnancies and from spontaneous abortions to provide the material to go forward with this research, and setting up the fetal-tissue bank is worth a try. So let us go with it, and let us see if it can work. I am not talking about people who depend on the Government for their paycheck. Dr. C. Everett Koop, the former Surgeon General, supports the President and by agreement of the gentleman from California, he was one of the best Surgeons General we have ever had, I dare say. Does the gentleman from California [Mr. WAXMAN] agree with me?

Mr. WAXMAN. Madam Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. WAXMAN. Madam Speaker, he is certainly a fine, distinguished man.

But let me ask the gentleman this: If the fetal tissue that is in this tissue bank, because it is diseased——

Mr. HYDE. No. It is not diseased.

Mr. WAXMAN. Wait a second. Listen to me. If because it is diseased, if it turns out it is not sufficient, would the gentleman support allowing fetal tissue from elected abortions to be used for this research to save lives of people with these diseases?

Mr. HYDE. Reclaiming my time, I will tell the gentleman that under no circumstances may you exterminate an innocent human life for any cause whatsoever except to save another life.

Mr. WAXMAN. We are talking about a life that is gone, the same as a human being whose life is gone whose organs can be transplanted.

Mr. HYDE. I am telling you that Dr. C. Everett Koop supports the President's veto. He supports the tissue bank which will permit the research to go forward which we have heard is so essential but not just people working for the Government; Georgetown University researchers, University of California at Los Angeles researchers, Case Western, University of Southern California, University of Tennessee, University of Cincinnati, North Carolina, there are plenty of distinguished researchers who say we do not need induced abortions to do this research.

I suggest to my friend from California that the tissue in the fetal bank will not be diseased. Not every spontaneous abortion aborts because of disease, and most ectopic pregnancies are not diseased.

There have been only 60 transplants in 5 years, 60. We are going to get, we are told by the scientists, enough for 2,000 fetal transplants in this bank in a central registry.

We can have our research. We can have this research without having to harvest the bodies of unborn babies whose abortions were deliberately performed.

The most serious consequence of using induced abortion to provide fetal material is the degrading of people to chattels, making them things. Our cultural insensitivity, that was taken care of, I thought, in 1861 when slaves were emancipated as full human beings of considerable worth but not commodities.

So I am suggesting to you the problem of research can be solved. We can have our cake and eat it, too. This is not my opinion nor the opinion of some rightwing groups. This is the opinion of many distinguished surgeons, and doctors, and researchers, and I think we ought to listen to them.

Mrs. SCHROEDER. Madam Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I wanted to say that Secretary Bowen under Ronald Reagan who put the ban into effect now says it should be lifted. I think that is very important.

Mr. HYDE. Secretary Bowen was never much of a pro-lifer. He was never much of a pro-lifer.

Mr. WAXMAN. Madam Speaker, it is frustrating for us who want to speak on this issue when, on the Republican side, they would not yield to a single Republican who supported our position. The gentleman from Illinois [Mr. HYDE] himself personally took 6 minutes. We only had to slice the time up, because we had 20 speakers on our side, into 30 seconds, with 1-minute intervals.

Madam Speaker, I yield 1 minute to the gentlewoman from Maine [Ms. SNOWE] to have an opportunity to speak on this issue that otherwise might not be accorded to her.

Ms. SNOWE. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, Members of the House, I rise in support of the motion to override the President's veto on the

National Institutes of Health conference report.

I sincerely regret the fact that the President has decided to veto this very important legislation, but I hope that that will not stand in the way of Congress' commitment and the demonstration of that commitment to women in this country.

Today is our last opportunity to demonstrate our commitment to women. This legislation, contrary to what has been said here today, is laden with significant provisions that are designed to help women in this country, giving hope to thousands of women who suffer from breast, ovarian, and cervical cancer, osteoporosis.

It is no exaggeration to tell you your vote today may determine their fate.

Madam Speaker, the women's health provisions contained in this bill are long overdue. We should have rectified these grave injustices over many decades.

The fact is many women's lives would have been saved had we brought gender equity to women's health research in this country. The time for excuses is over. Before you today is the most significant bill regarding women's health in the history of this country.

Mr. WAXMAN. Madam Speaker, I yield 30 seconds to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Madam Speaker, I strongly support the override of the President's veto of H.R. 2507, the NIH Revitalization Amendments of 1992.

There are many important provisions of this bill, but today I want to address the issue of fetal tissue transplant research, speaking from my perspective as chairman of the Human Resources and Intergovernmental Relations Subcommittee, which has oversight jurisdiction of HHS.

More than 1 month ago, I wrote to Secretary Sullivan asking for all documents that support the administration's plan for a fetal tissue bank. We all know that this plan was proposed by the President in order to justify his veto of this bill.

Day after day, week after week, Secretary Sullivan's staff promised to send us these documents, which were to provide evidence as to why the administration believes the fetal tissue bank can work. As of this moment, we still have not received a single page of any kind of evidence that this tissue bank will work. Where's the beef, Mr. President? I must reluctantly conclude that there is no evidence this tissue bank plan can work.

It is up to us to say to the victims of Alzheimer's, Parkinson's, juvenile diabetes, AIDS, and other diseases that we, the Congress, will not allow politics to interfere with this crucially needed research. We must regain the trust of the American people by showing that we care what happens to them. We must override this veto.

Mr. WAXMAN. Madam Speaker, I yield 30 seconds to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Madam Speaker, I urge my colleagues to vote to override the President's veto of the NIH reauthorization bill. This bill has been vetoed primarily because it lifts the ban on fetal tissue research.

Fetal tissue research has already led to a number of medical advances and is very promising in fighting diseases ranging from Alzheimer's and Parkinson's disease to juvenile diabetes and leukemia. The legislation includes important safeguards to ensure that any future research is conducted in an ethical manner. For example, fetal tissue could not be sold nor could donations be targeted to any particular individual. As a result of these protections, ethical concerns have been addressed. A fetal tissue bank, as proposed by the administration, is simply not adequate. Countless researchers and other experts have expressed their view that ectopic pregnancies and spontaneous abortions will not produce enough transplantable tissue to meet the needs of researchers. Indeed, in 1988, a panel established by President Reagan recommended that the research be allowed by an overwhelming vote of 18 to 3. The recommendations of the panel were then endorsed unanimously by the advisory panel to the NIH Director. Former Reagan Secretary of Health and Human Services Otis Bowen also supported lifting the ban on fetal tissue research. In regard to the establishment of a fetal tissue bank, he stated:

> A bank of tissue from miscarriages and ectopic pregnancies is medically unworkable and will be unable to provide tissue free from infections and genetic defects. Such tissue has always been unaffected by the ban, but the problems of quality and availability are so insurmountable that research has come to a halt. This political compromise will produce no scientific results.

The women's health provisions in this bill have also been labeled as highly intrusive and unnecessary. This is a shocking assertion in view of the enormous gaps in women's health research and the long history of neglect of women's health concerns in the research establishment.

Madam Speaker, the women's health provisions are critical. We have seen progress made at NIH; however, we have no guarantees that this progress will continue under future NIH Directors. Many provisions of the Women's Health Equity Act are part of the bill, such as the requirement that women and minorities are represented in clinical trials. Funding for breast and ovarian cancer, osteoporosis, and other women's diseases is increased, and the Office of Research on Women's Health is permanently authorized. These provisions and others in the bill will help to assure that this history of neglect of women's health will not be allowed to continue in the future. We have a long way to go to fill the many remaining gaps, but this bill is a very important beginning.

Madam Speaker, this bill is critical to the health of millions of Americans. I urge my colleagues to join me in voting to override the veto.

Mr. WAXMAN. Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Madam Speaker, I rise in opposition to the President's veto.

Mr. WAXMAN. Madam Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Madam Speaker, I rise in full support of the amendment to override the President's veto.

Madam Speaker, we should have known that the education/environment President could not care less about being the research President. Just as his performance in Rio showed us that he has no interest in the environment, his veto of the H.R. 2507 has shown us that President Bush is not serious about the environment, education or research. The National Institutes of Health legislation that Mr. Bush vetoed yesterday might have helped researchers find treatments for many diseases including diabetes, Parkinson's and Azheimer's disease.

Instead Mr. Bush decided to play election year politics playing to the far right by claiming that fetal tissue research was morally repugnant. Well, Madam Speaker, I find it morally repugnant to not have any concern for people suffering from diseases for which there is today no cure but that could possibly be found in the future through fetal research. I find it morally repugnant for the Government not to be responding to ways to cure diseases facing its populace. I and millions of other Americans are outraged by our President's lack of understanding of the gravity of this issue and of his veto of the NIH legislation.

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Mr. WAXMAN. Madam Speaker, I yield myself the balance of our time.

The decision by the President to veto this bill was a decision based on pure politics. But it is not cheap politics, because it is going to cost lives. It is going to eliminate hope. It is going to cause millions of American families grief and suffering. It will affect the elderly people in the prime of their lives, and children who are yet unborn who will not have a chance to have genetic defects corrected.

The decision to ignore these people, I think, is one that can only occur in an election year and should never occur in a country that cares about its own people.

I say to my Republican friends: do not vote with the President simply because you are Republicans. This is a bipartisan matter. Vote for this bill because it is the right thing to pass. It is right to put into law programs for research, for hope, and for saving lives.

Madam Speaker, I ask for an "aye" vote for the legislation.

Mr. SANDERS. Madam Speaker, I rise in strong support of the National Institutes of Health reauthorization bill and urge my colleagues to vote to override yet another veto of President Bush.

This country, Madam Speaker, does not need more B–2 bombers, more funding for star wars, or for research into nuclear weapons development. But it does need significantly more funding for research into long-neglected women's health needs—into the epidemic of breast cancer, ovarian cancer, and research into all other kinds of cancer—that killer disease which will afflict one out of three Americans.

Madam Speaker, in my State of Vermont the citizens of our State, led mostly by women, are demanding that the Federal Government play an increased role in the prevention and treatment of cancer. In our State, for example, as in much of New England, breast cancer is at epidemic proportion, with a mortality rate far higher than in other areas of the country.

In this legislation, vetoed by the President, is the 1992 Cancer Registries Amendment Act—a bill which I introduced in the House and Senator PATRICK LEAHY of Vermont introduced in the Senate. This bill would create a nationwide system of uniform statewide cancer registries which will enable each State to collect uniform data on those afflicted with cancer, including age, residence, occupation, stage of disease and treatment. This legislation was hailed by Dr. John Healey of Sloan-Kettering Memorial Cancer Center, in a major article in this month's Reader's Digest, as "the cancer weapon America needs most." This legislation, strongly endorsed by the American Cancer Society, the congressional women's caucus, and many other cancer organizations, also contains funds to study why New England and the Mid-Atlantic States have higher breast cancer mortality rates than elsewhere in the country.

Madam Speaker, let us get our national priorities right. Let us override this Presidential veto and give hope to millions of American families who are struggling with terrible diseases that modern research has the capability of curing.

Ms. WATERS. Madam Speaker, at a time when this Nation is recognizing that the women of this country have been excluded, denied, and dismissed in all of our institutions, and when many well-meaning citizens are attempting to correct this at every level, public policy polls reflect the desire for this change, it is amazing that the President does not get it, does not understand, is not tuned in. He simply has little or no idea, no vision for leading us in a real manner on this issue.

It is amazing that in 1992 the President would veto a bill that would encourage the kind of research that would save women's lives. It has been well documented that women have been left out of every major clinical trial and missing from every important cohort study.

The Office for Research on Women's Health needs to be made permanent to help save women's lives. Not my life, or the lives of the other women in Congress, but the lives of your mothers, sisters, wives, daughters, and granddaughters. And to save the lives of the women close to the President, too.

I am amazed that the President does not have this understanding. Given that he is simply out of the loop when it comes to being in touch with what is important to the American people, let us not be forced to send women to an earlier death, simply because they are women.

I urge my colleagues to support the veto override of H.R. 2507.

Mr. ABERCROMBIE. Madam Speaker, I rise today to express my opposition to yesterday's veto by President Bush of H.R. 2507, the National Institutes of Health [NIH] Reauthorization Act. This single action by the President is an abomination to the people of the United States, and I strongly urge my colleagues to vote with me in overriding this veto.

As we all know, President Bush constantly criticizes Congress for being influenced by special interest groups but this veto demonstrates that he is the one held hostage by a special interest group. I do not understand why President Bush does not have the courage to do what is best for our country. The President may be able to use this veto to appease some members of the anti-choice movement but this is not nor has it ever been an abortion bill. Rather this important piece of legislation is a life-enhancement bill.

In 1988, the Reagan administration placed a moratorium on Federal funding for transplant research involving fetal tissue obtained from induced abortions pending a study by an NIH advisory committee. Later in that same year, two separate NIH advisory committees recommended that the research be allowed as long as the Federal Government included specific provisions to ensure that women do not have abortions in order to supply fetal tissue. However, the Bush administration has continued to impose the ban indefinitely. I am amazed that President Bush has decided that it is more important to put the politics over people's lives.

I know I am not the first Member of Congress to inform the President that the authors of H.R. 2507, including my distinguished colleague from California, Mr. WAXMAN, in response to these specific concerns raised by the NIH advisory committees, made sure that the bill contains the necessary ethical safeguards. Also, various health organizations have contacted me and stated that fetal tissue research is vital and may lead to a cure for Parkinson's disease, diabetes, and Alzheimer's disease. I cannot turn my back to these people.

As important as the issue of fetal tissue research may be, this is only a portion of a bill that authorizes Federal funds for the National Cancer Institute—with specific language included for breast, gynecological, and prostate cancer research—the National Heart, Lung, and Blood Institute, and the National Institute of Aging to name just a few. Also, this bill includes language that mandates the inclusion of women and minorities as subjects in clinical research.

This is truly a life-saving bill, and I urge my colleagues to vote with me to overturn the President's veto.

Mr. HOAGLAND. Madam Speaker, I want to express my support for H.R. 2507, a bill to extend several of the National Institutes of Health [NIH] as we consider today President Bush's veto of this important bill. A major reason I support H.R. 2507 is that it elevates attention to women's health.

Women's health care has been given the back seat for far too long. Men have dominated the health research agenda and most physicians have been men. Many women have to make important decisions about their health and well-being with inadequate information.

Women have some unique needs particularly those related to reproductive health. Most women spend 90 percent of their lives trying either to postpone or avoid giving birth. And as women age, their reproductive health care needs evolve.

One in nine women will develop breast cancer in her lifetime, up from only 1 in 20 in 1961. Seventy percent of these women have no known risk factors for the disease.

Heart disease is the leading killer of American women. American women have a one in two chance of developing a heart ailment.

And contrary to the assumption that AIDS is a gay men's illness, women are the fastest growing group infected with the virus.

This is unacceptable.

H.R. 2507 addresses women's health needs in several ways. The bill expands research on breast cancer and other reproductive cancers. These are diseases that are killing hundreds of thousands of women each year, and we need much more basic information if we are ever to prevent or successfully treat these cancers.

The bill permanently establishes the Office for Research on Women's Health at NIH and requires inclusion of women in clinical research trials. No longer will women be excluded from studies unless there is a good scientific reason to exclude them.

H.R. 2507 expands research on osteoporosis, a disease that disproportionately affects women and is a major cause of chronic disability in the elderly. Osteoporosis affects 24 million Americans and results in $10 billion in associated health care costs.

H.R. 2507 would begin to correct many years of neglect. I urge my colleagues to support the bill in the interest of bringing hope and good health to millions of American women.

Mr. KOSTMAYER. Madam Speaker, yesterday, the President vetoed legislation which held the hope of life for millions of Americans. This legislation overturned the administration's ill-conceived ban on the use of fetal tissue in scientific research. The scientific community is united in its belief that the use of fetal tissue for scientific research may hold a cure for Alzheimer's disease, leukemia, Parkinson's disease, and diabetes. Even the administration's scientific advisory panel has recommended the Government's sponsorship of fetal research. Yet the President has decided to continue to enforce this ban which will slow or even halt the discovery of treatments and cures for life threatening diseases.

Madam Speaker, this is pro-life legislation. It will allow the continuation and expansion of lifesaving research. This legislation will not encourage abortions because the ethical requirements in this legislation would prevent such action. Instead, lifting the moratorium will save lives for those suffering from devastating diseases. Politics must not stand in the way of potentially lifesaving research.

Today, I will be voting to restore hope for millions of Americans. I encourage all of my colleagues to join me in overriding the President's veto.

Mrs. MINK. Madam Speaker, I come to this well today with great dismay that we must once again ask this body to override President Bush's veto of a bill that is vital to the future of American women.

The NIH reauthorization bill includes the most comprehensive women's health initiative ever to pass this Congress. But once again, the President has chosen to play politics with the lives of millions of women across this Nation. Women who are suffering from breast cancer or crippled by osteoporosis. Those who are diagnosed with heart disease but have no proper treatment because research and clinical trials have primarily included men. Women who suffer from ovarian cancer, two-thirds of whom will die because there is no early detection test for this disease. These are the women who will suffer if the NIH reauthorization bill is not enacted into law.

Madam Speaker, for over a century, the women of this Nation have suffered from neglect by the medical establishment and the lack of Federal funds for research on women's health needs. For the last decade many women and men in this body have put tremendous effort into correcting these inequities. But now as we are right on the very brink of approving the largest increase for women's health research it is being snatched away before our very eyes.

The women of this country deserve better. We deserve the chance to be part of the health research that is conducted with Federal funds, we deserve a chance to participate in clinical trials, we deserve a chance to lead healthy and fulfilling lives.

By voting to sustain the President's veto you will be denying women of these rights. I urge my colleagues, do not get caught in this political web, in issues that are being used to detract from the central purpose in this bill which is the future health of the citizens of this country, both men and women.

Vote "aye" to override the veto of the NIH reauthorization bill.

Mr. FAZIO. Madam Speaker, I rise in support of overriding the President's veto of H.R. 2507, the bill that will reauthorize funding for the National Institutes of Health [NIH].

The President says that he vetoed H.R. 2507 because he does not support the provisions that overturn the ban on fetal tissue research. This ban went into effect in 1988, when the Reagan administration barred funding of research performed on transplanted fetal tissue obtained through induced abortions. The research was prohibited—supposedly temporarily—pending recommendations of an NIH advisory committee.

Needless to say, 4 years later, we find ourselves still stifled by the Reagan ban, in spite of the fact that this very same Reagan-appointed advisory committee determined that this research is acceptable, so long as ethical guidelines are developed. We find ourselves still stifled by the Reagan ban even though Dr. Otis Bowen, who was Reagan's Secretary of Health and Human Services and who originally ordered the ban back in 1988, has now come out of retirement to say that the ban should have been lifted years ago.

The President is ignoring the fact that fetal tissue research holds tremendous promise for a number of incurable diseases and conditions, including Parkinson's disease, diabetes, Alzheimer's disease, and epilepsy, as well as for the prevention of birth defects. Doctors have found that, if fetal tissue is transplanted into a diseased or disabled part of a patient's body—such as the brain of a Parkinson's disease victim—the fetal tissue cells may begin to function as units of the patient's disabled organ, causing the patient's health to improve. Unlike adult cells, transplanted fetal cells are not rejected by the patient's body. There are people whose lives are unalterably changed by the impact of fetal tissue research—adults and children—both born and unborn—whose lives are extended due to fetal tissue transplants.

H.R. 2507 now lifts the ban on fetal tissue research, and the President is using his opposition to this research to attempt to justify his rejection of the overall bill. By doing this, however, the President is completely disregarding the far-reaching importance and impact of H.R. 2507. He has chosen to ignore the fact that—if H.R. 2507 is enacted—it will enable America's top scientists and researchers to continue the crucial research that will lead to the new knowledge necessary for preventing, detecting, diagnosing, and treating disease and disability.

H.R. 2507 includes a provision enabling all States to set up cancer registries—for all cancers—operating under uniform standards. It establishes the first congressional program targeted specifically at breast cancer prevention and cure and increases research on the causes and prevention of breast cancer, ovarian cancer and other cancers of the female reproductive system. H.R. 2507 contains an amendment that increases research and prevention programs in prostate cancer, a disease that is diagnosed in 132,000 American men every year.

We have to support NIH research. We cannot afford not to invest in the kind of critical research that H.R. 2507 authorizes, because it is such an important part of the foundation of our health care system. The life-saving research at the NIH has already resulted in decreases in both heart disease and stroke mortality in Americans of all ages. It has already produced immunizations against the infectious diseases that threaten our children.

American families are being overwhelmed by the financial and emotional strain that results when a child, parent, or spouse—any loved one—is stricken with diabetes or heart disease or Alzheimer's or a stroke. I have received numerous letters and phone calls from such families in my district—the families who have a stake in the work of the NIH. If we do not override this veto, we will be turning our backs on these families—on Americans whose hopes hinge on the discovery of a cure for juvenile diabetes, for cancer, for kidney disease, for arthritis.

If we do not override this veto, we will be walking away from the opportunity to make an up-front investment in the health of our people. With health care costs escalating, this investment is one of the best ways we have of preventing the costly treatment that too often follows when serious illness strikes. If an ounce of prevention is really worth a pound of cure, it makes good common sense to pass this bill now so that we can get on with the business of tackling the major health care reform challenges that are before us.

Madam Speaker, I once more acknowledge the efforts of Chairman WAXMAN and the members and staff of his subcommittee in bringing this bill to the floor. I do not see how we have any choice other than to support these efforts by overriding this veto. This is not a partisan issue. It is a health care issue that revolves around a better understanding of both the aging process and the lifestyle practices that affect our health. A vote for H.R. 2507 is an investment in the quality of life for all Americans.

Mr. LIGHTFOOT. Madam Speaker, I rise in support of the President's veto of the National Institutes of Health Amendments of 1992. There are many concepts embodied in this bill which I support. For example, I strongly support the notion that our Nation's health care efforts must focus more on research and care for health problems and their effects on women. For too long, the unique health care needs of women have not gotten the proper attention they deserve. In a society in which slightly over half the population are women, this is not an acceptable situation. Look at the price we have paid for this oversight.

Almost as many women have died from breast cancer as the total number of combat deaths in Vietnam. Women account for half of all heart disease-related deaths. Yet, for example, a major clinical trial examining the effect of aspirin on heart disease did not include women. Also, women make up about half of all alcohol-dependent Americans. However, less than 10 percent of the money spent on research at the National Institute of Alcohol and Alcohol Abuse is spent on problems unique to female alcoholics.

In my State of Iowa, more women than men die of heart disease, Alzheimer's disease, circulatory diseases, and certain forms of diabetes. To exclude women from research or delay research on women's health problems for no substantive scientific reason beyond inconvenience is highly objectionable. We must do more to encourage and push NIH to implement the policy of research inclusion for which it first voiced support in 1986. I look forward to working with the administration and other Members of the Congress to include more women in medical research.

However, I cannot support overriding the President's veto of this conference report. As you know, Madam Speaker, the total cost of the provisions of this conference report exceed the President's request by $3 billion. The administration has consistently supported increased funding for NIH. Certainly, we cannot afford to regress in our efforts to combat the spectrum of health problems confronting our Nation. However, we all remember clearly the tremendous struggle the House went through just a couple of weeks ago over the balanced budget amendment. While there was significant disagreement about amending the Constitution, there was universal agreement on one thing: We must take drastic steps if we are ever going to get the deficit under control. Now is simply not the time to increase spending by such a huge amount even though the programs involved are worthy.

Also, the conference report contains almost $2 billion in spending for construction. This is not money for critical health care research—it is pure pork barrel spending. This $2 billion accounts for much of the increase over the President's request. Finally, I oppose language in the report which would permit the use of fetal tissue from induced abortions for transplantation and research. While I believe we most certainly need to do more to make scientific research more open to women and other minorities, I still have serious reservations about this measure. I regret worthy intentions have been linked to unacceptable measures. For these reasons, I must support the President on this matter.

Mrs. COLLINS of Michigan. Madam Speaker, I rise to support the vote on overriding the President's veto of H.R. 2507, the reauthorization of the National Institutes of Health. This is a strong bill and it deserves enactment.

Among the strengths of this legislation are provisions establishing the Office of Women's Health Research and in other ways including women in clinical trials. After the introduction of this measure, the NIH copied it by setting up just such an office and is now claiming this legislation is no longer necessary. I say this legislation is even more necessary than it was before. Without it, the work of the Office of Women's Health Research will be wihout the support of a congressional mandate and, hence, be subject to the whims of the President, of Dr. Barbara Healy, the present Director of NIH, and of others in the administration.

This vetoed legislation also requires the inclusion of women and peoples of color, when appropriate, in the samples gathered and tested by the researchers funded by the Institutes. This will address the terrible and even life-threatening imbalance suffered when the only subjects for whom information is available are all from a single ethnic and gender group—white males.

There are those who, for their own political gain, choose to confuse supporting fetal tissue research with supporting abortion. There are suitable provisions contained in this bill to prevent any encouragement of those seeking or performing abortions to increase their activities in that area. With those provisos in place, there will be no moral difference between donating tissue from an already aborted fetus and donating organs. Neither would be done for financial gain, neither would encourage death or killing, both would save lives. This emotional hyperbole is a waste of time and resources.

I urge my colleagues to join with me in overturning this veto.

Mr. JOHNSON of Texas. Madam Speaker, it's not just a fetal tissue problem.

You know—this is just another example of Congress' inability to come to terms with its runaway spending.

There is no way we will ever balance the budget if Congress keeps spending money like there's no tomorrow. Tomorrow is now.

Somewhere, somehow it must stop.

With a $4 trillion debt, now is not the time to authorize $550 million to renovate buildings. Let's start using some common sense—and let's start now.

Vote to sustain the President's veto.

Mrs. VUCANOVICH. Madam Speaker, I rise today in opposition to the efforts to override the President's veto on H.R. 2507.

The Congress has developed a recipe for a witches brew. Take one cup of good intentions and worthwhile programs, one cup of feasible ideas, but add a pinch of fetal tissue provisions and what do you get? Disaster. That is what we have today.

The NIH bill is full of good programs—women's health programs, cancer programs, AIDS programs—all needed to help the people of our Nation. But this body continues to create disaster, by turning good legislation into fatal legislation. Fatal for the unborn children of our Nation, our future citizens.

Madam Speaker, the President has done a wise thing by vetoing this legislation and I will support this action. I want to support the veto and my constituents want me to do it. Let me share with you a letter I received from a woman in Las Vegas in my State of Nevada. It reads:

> Thank you for your vote against fetal issue for research experimentation. We need to do all we can to make abortions less advantageous, we must do everything possible to not encourage the use of aborted babies. * * * I am 51 years old and could possibly benefit from findings of studies of Alzheimer's et cetera. However, I would not want my life spared, or even discomforts eased, if it took the life of an infant. I would rather be disabled or dead.

Madam Speaker, as a breast cancer survivor, I know what it is like to be thinking about death. It is extremely scary. But like this constituent, I could not live with the guilt of having killed an unborn child to save my own life. Luckily, we do now have an alternative.

The President has established a fetal tissue research bank. This bank is supported by Dr. C. Everett Koop, the former Surgeon General; as well as the Secretary of HHS Louis Sulivan, the Director of NIH Dr. Bernadine Healy, and the Assistant Secretary of the Public Health Service Dr. James Mason. Outside of the Federal Government, researchers from UCLA, Georgetown, the University of North Carolina at Chapel Hill, and the Universities of Southern California have all stated their support for this proposal. This proposal will work. We have already seen promising results in treating Hurlers syndrome with such tissues. We must continue to use this untapped source of normal viable fetal tissue.

Madam Speaker, let's work together to enact the worthy provisions of this legislation. Let's support the funding for research on breast, ovarian, and other cancers; diabetes, heart, and other devastating diseases. Let's stress the importance of the participation of women in medical research. But we must not pass disaster. We don't want it and our constituents certainly don't want it. I urge my colleagues to vote "no" on the NIH veto override and urge them to wait for legislation which will benefit all generations, living and future.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 271, nays 156, not voting 8, as follows:

[Roll No. 222]

YEAS—271

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Pickett
Pickle
Porter
Price
Pursell
Rangel
Ravenel
Reed
Richardson
Ridge
Riggs
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (CA)

Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NAYS—156

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Clinger
Coble
Combest
Costello
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
de la Garza
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fields
Fish
Gallegly
Gaydos
Gekas
Gingrich
Goodling
Goss
Grandy
Gunderson
Hall (OH)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kolter
Kyl
LaFalce
Lagomarsino
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Martin
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Mollohan
Moorhead
Murphy
Myers
Nichols
Nowak
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Poshard
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Skelton
Smith (NJ)
Smith (OR)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Bonior
Edwards (OK)
Engel
Flake
Hefner
Jones (GA)
McNulty
Schumer

□ 1213

The Clerk announced the following pairs:

On this vote.

Mr. Jones of Georgia and Mr. Flake for, with Mr. Edwards of Oklahoma against.

Mr. RAMSTAD changed his vote from "yea" to "nay."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill was referred to the Committee on Energy and Commerce.

The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, I was attending my son's graduation and missed rollcall vote 222, on the veto override of H.R. 2507, the National Institutes of Health authorization. Had I been present, I would have voted "aye".

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4318

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that my name be withdrawn from the sponsorship of the bill, H.R. 4318.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON TRANSPORTATION AND HAZARDOUS MATERIALS AND COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE ON TODAY AND BALANCE OF THE WEEK

Mr. SWIFT. Mr. Speaker, I ask that the Subcommittee on Transportation and Hazardous Materials and the full Committee on Energy and Commerce be permitted to sit during proceedings of the House under the 5-minute rule today and subsequent days of this week.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Tuesday, June 23, 1992:

Senate 2703. An act to authorize the President to appoint Gen. Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

AGREEMENT BETWEEN REPUBLIC OF ESTONIA AND THE UNITED STATES CONCERNING FISHERIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 102–349)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94–265; 16 U.S.C. 1801, *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Estonia Concerning Fisheries off the Coasts of the United States, with annex, signed at Washington on June 1, 1992. The agreement constitutes a governing international fishery agreement within the requirements of section 201(c) of the Act.

Fishing industry interests of the United States have urged prompt implementation of this agreement to take advantage of opportunities for seasonal cooperative fishing ventures.

GEORGE BUSH.

THE WHITE HOUSE, *June 23, 1992.*

PROVIDING FOR CONSIDERATION OF H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 499 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 499

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5427) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes. The first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendment printed in section 2 shall be considered as adopted in the House and in the Committee of the Whole. No other amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Unless otherwise provided in this resolution, amendments shall be considered in the order and manner specified in the report except that an amendment in the form of a limitation or retrenchment shall remain subject to the provisions of clauses 2(c) and 2(d) of rule XXI. Unless otherwise specified in the report, each amendment may be offered only by the named proponent or a designee, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Any time specified in the report for debate on an amendment shall be equally divided and controlled by the proponent and an opponent. All points of order under clause 2 of rule XXI against the amendments in the report numbered 1 and 9 are waived. When the Committee rises and reports the bill to the House with such amendments as may have been adopted, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. The amendment considered as adopted in the House and in the Committee of the Whole is as follows:

On page 34, strike line 17, beginning with "Notwithstanding" through line 20, ending with "amounts" and insert in lieu thereof "Amounts".

On page 34, insert on line 3 after "use" the following: ": *Provided*, That no such amounts may be transferred before the date of the enactment of an Act authorizing the use of funds for that purpose."

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

□ 1220

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 499 provides for the consideration of H.R. 5427, the legislative branch appropriations bill for 1993. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee.

The resolution waives all points of order against the bill for failure to comply with clause 2 of rule XXI. This provision prohibits unauthorized appropriations or legislative provisions in general appropriation bills. In addition, the resolution waives all points of order against the bill for failure to comply with clause 6 of rule XXI. This clause prohibits reappropriations in general appropriation bills.

The resolution provides that upon its adoption the amendment printed in section 2 of the rule is considered as having been adopted in the House and the Committee of the Whole. This amendment would prohibit the transfer of funds from the Library of Congress to the Architect of the Capitol until subsequent authorizing legislation is enacted.

The rule also provides that only those amendments printed in the report of the Committee on Rules will be in order. The amendments may be considered only in the order and manner specified, except that limitation amendments must be considered under the procedures set out in clauses 2 (c) and (d) of rule XXI. These provisions require the motion to rise be defeated before a limitation amendment is in order. The rule also provides that the amendments in the report are not subject to amendment nor to a demand for a division of the question.

The rule waives clause 2 of rule XXI against the Swett-Klug amendment, amendment No. 1, and against the Walsh-Roberts amendment, amendment No. 9. Finally, the rule provides for one motion to recommit.

Mr. Speaker, this rule will allow the House to consider H.R. 5427, the legislative branch appropriations bill for 1993. The bill would appropriate a total of $1.8 billion, of which approximately $1.075 billion would support directly the operations of the House of Representatives and House-Senate joint items. The remaining $733.5 million would fund the operations of other Government agencies, including the Library of Congress, the General Accounting Office, the Government Printing Office, and the Copyright Royalty Tribunal.

Mr. Speaker, this is a fiscally responsible bill any way you look at it. The total appropriated is just under $20 million below last year's appropriations. Overall outlays, which have direct impact on the Federal deficit, will be reduced by $104 million under last year for the agencies covered by the bill, which is 5.7 percent under fiscal 1992 outlays currently projected by the Congressional Budget Office. Moreover, the total recommended in this bill is $295.4 million below the President's budget request—a reduction of 14 percent.

The bill makes deep cuts that will hit every area of legislative operations including: a hiring freeze; a $27 million cut in mailing costs; a $6.2 million reduction in congressional printing costs; an $8.2 million cut in maintenance and repairs; a $4.5 million cut for House supplies and materials; a $1.2 million reduction in police costs; and a freeze of the Congressional Research Service and all joint committees at last year's level.

Mr. Speaker, since 1978 the legislative branch budget has increased less per year than the consumer price index. By contrast, funds for the executive branch have grown at a rate 41-percent higher than the legislative branch. The bill does not include any previously appropriated but unspent funds and contains more cuts than in any other year in the history of the legislative branch appropriations bill.

Mr. Speaker, House Resolution 499 is a carefully crafted rule that will expedite consideration of this important legislation. I urge my colleagues to support the rule and the bill.

I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I am opposed to the rule because it restricts what is traditionally an open process.

I rise in opposition to this rule because it does not waive points of order against all amendments.

Specifically, the Gekas amendment, which would close the grandfather clause loophole and prohibit converting excess campaign funds for personal use, is denied such protection.

If enacted, the amendment would allow us to treat those Members elected before 1980 the same as all others—precluded from converting campaign money to personal use. Members would have the opportunity to donate the money to charity, support other political candidates, or return the funding to their contributors. Any remaining funding would be returned to the Treasury.

This is a responsible and badly needed amendment which I strongly endorse. Why should we be denied the opportunity to eliminate this dubious practice? To accept this rule is to condone being stripped of our rights as Members of this House.

Without protection from points of order for all amendments, we are confronted with what I call a modified gag rule.

I deplore this rule, and I urge its defeat.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am ashamed to have to say that if I were to assign a grade to this rule, I would give it a D or an F; a D for deceit, and an F for fraud.

Mr. Speaker, Members of this House are being deceived and defrauded when they are being told that this is somehow a fair rule that makes in order 11 amendments.

Now, either intentionally or unintentionally, we were tricked upstairs in the Committee on Rules during the rush to report this rule to the floor. We assumed in good faith that amendments made in order under this draft rule were given the necessary protection against points of order, as they always are. That is how we have always operated around here. So we concentrated our efforts on offering motions to make in order some 14 other Republican amendments that had been left out of this rule.

It was only after this rule was filed and the House had adjourned that we discovered that half of the amendments made in order were not properly protected, and are, therefore, vulnerable to points of order. That's 5 out of the 11 amendments. And one other amendment must go through the procedural hoops of defeating the motion to rise if it is to be offered at all.

In short, Mr. Speaker, we are not talking about 11 amendments that can be offered on this floor today. We are talking about just 5 out of 32 that were filed. Only five may come to an actual vote.

Mr. Speaker, what kind of goings on is this?

Mr. Speaker, I think it is disingenuous for the Committee on Rules to lead Members to believe their amendments have been made in order and then fail to give them the proper protection.

Members, especially newer Members around here, have a tough time, as does the press upstairs and the American people watching this charade, in understanding the Committee on Rules' manipulations as it is. This rule deserves the contempt and scorn of this House on that basis alone.

But on top of that, of the 14 Republican amendments not included in this rule, 10 were legitimate cutting amendments that would be allowed under a normal appropriations amendment process, just like we had last year. Nothing happened. The place did not fall apart last year. But for no good reason, they were excluded from this rule this year.

Mr. Speaker, this rule is an insult to every Member of this House and an abdication of the constitutional powers of the Congress. It must be defeated if we have any pride and any respect left for this institution.

This is the first time in my 14 years in this body, and, to the best we can determine, the first time in history, that the Committee on Rules has recommended limiting the amendment process on a legislative branch appropriations bill. And today the Committee on Rules may consider reporting a similar rule for the foreign operations appropriations bill, the fourth such rule for that bill. The committee is meeting upstairs on that right now.

Mr. Speaker, every once in a while I think we would do well to take a step back and consider just what the Framers of our Constitution had in mind and just how much we have departed from their original intent.

With that in mind, Mr. Speaker, let me read just briefly from Federalist No. 58 by James Madison:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining redress of every grievance and for carrying into effect every just and salutary measure.

Mr. Speaker, I would ask my colleagues to seriously consider those words from one of our Founders in the context of this rule. Here we are, dealing with one of our 13 regular appropriations bills, exercising one of the most important constitutional powers we have: The power of the purse. And we are being asked by the Committee on Rules to limit that power, to restrict ourselves, to in effect disarm ourselves of what Madison referred to as our "most complete and effectual weapon."

Mr. Speaker, I just cannot imagine my colleagues engaging in this kind of unilateral disarmament, any more than I can imagine the President giving up his powers as Commander in Chief. The power of the purse is one which has been wielded by both parties and members of all ideological persuasions to effect policy change in the administration.

Mr. Speaker, the power of the purse should be just as applicable when it comes to the spending policies of this Congress as it is to the spending policies of the executive branch. Is this to be another instance in which we exempt ourselves from the same scrutiny we inflict on others? I would hope not. Lord knows we are not "Simon Pure" around here.

Mr. Speaker, last week when I learned that the Committee on Rules was requiring the advance filing of amendments to both the legislative branch and foreign operations appropriations bills, I wrote to the Speaker and urged that you reverse what I called this ill-conceived precedent.

□ 1230

I went on in that letter to observe that a similar restriction on a rule last year on the foreign operations bill set off a storm of protest in this House that led to a meeting in your office.

What initially came out of that meeting, Mr. Speaker, was an olive branch from you on the issue of restrictive rules and our minority right to recommit. I am afraid that the only thing we are left with from that olive branch today is the shaft, Mr. Speaker, because that is what we have been getting over and over again from the majority this year.

Mr. Speaker, it is not unreasonable to ask that this House follow the regular order on appropriations bills. It has worked for over 200 years. Yes; 200 years.

I would point out that I am not asking for a special rule to make in order nongermane amendments or legislative or unauthorized provisions.

While the majority does regularly report those kinds of amendments, all I am asking for is an open rule that is provided for under standing rules. I am simply asking for a return to the regular amendment process. There is not a great deal of political mischief that can be done with such simple amendments, contrary to what the Speaker seems to think. If there is anything political about this whole process it is the majority's imposition of an unfair rule that arbitrarily restricts the amendment process for the purpose of protecting the majority's turf. That should not be any more exempt from fiscal scrutiny than the military construction bill that was on the floor yesterday. And that process worked fine under an open rule.

In conclusion, Mr. Speaker, I hope this House will be infused with a fresh sense of historical, constitutional, and fiscal purpose by voting down the previous question on this rule so that we can substitute an open rule, which we are entitled to.

To support this rule is to abdicate the most important power we have as Members of the first branch of Government, our power over the purse strings of this Government. Once we lose that, I think we have forfeited the most sacred trust placed in our hands by the people who sent us here.

Mr. Speaker, enough is enough is enough is enough is enough. We need to defeat the previous question and pass a rule that will allow an open amendment process so we can make cutting amendments or adding amendments as provided for under the standing rules of this House.

Mr. Speaker, I include for the RECORD a copy of the letter to which I referred and a document entitled "Restrictive Rules on Appropriations Bills, 95th–102nd Congresses."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 18, 1992.

The Speaker,
U.S.House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to strongly protest announced plans to restrict amendments on the Legislative Branch and Foreign Operations Appropriations Bills.

As you will recall, last year at this time a furor was provoked in the House over a rule limiting amendments to the foreign operations bill. As we noted at the time, it was virtually unprecedented to prevent Members from offering simple cutting amendments under an open amendment process. And that is virtually all they are left with given existing rules against legislating and authorizing on appropriations bill, and give the fact that most bills are already up against their budget allocation spending ceilings. Cutting amendments are not too complicated to deal with under an open amendment process.

To further restrict the rights of Members by requiring the pre-filing of amendments with the Rules Committee, and thereby giving it the right to pick and choose which to make in order, severely cripples the legislative process and our most fundamental prerogative under the Constitution to appropriate money and exercise the powers of the purse string.

I strongly urge you and your majority leadership to reconsider and reverse this ill-conceived precedent, especially if, as it appears, it is being applied selectively. Congress already has lost enough of this prerogative without its consciously trying to further dilute its most fundamental prerogative to appropriate and control government spending.

Sincerely yours,
GERALD B. SOLOMON,
Member of Congress.

RESTRICTIVE RULES ON APPROPRIATIONS BILLS, 95TH–102ND CONGRESSES

95TH CONGRESS

Four restrictive rules were granted on regular appropriations bill: H. Res. 664 on H.R. 7932, the Legislative Branch Appropriations bill, permitting open amendment process except only one specified amendment on the subject of Congressional pay; H. Res. 1236 on H.R. 12928, Public Works Appropriations, prohibiting amendments only in one specified area; H. Res. 1220 on H.R. 12929, Labor-HEW Appropriations, making in order only two amendments to the abortion section; and H. Res. 1230 on H.R. 12932, Interior, prohibiting amendments that would make the availability of appropriations contingent on enactment of the relevant authorizations.

96TH CONGRESS

One restrictive rule, H. Res. 335, was granted on a regular appropriation bill, H.R. 4389, Labor-HEW Appropriations, permitting only two amendments to the section on abortion.

97TH CONGRESS

No restrictive rules were granted on a regular appropriation bill.

98TH CONGRESS

No restrictive rules were granted on a regular appropriations bill.

99TH CONGRESS

One restrictive rule (H. Res. 481) was granted on a regular appropriations bill: H.R. 5052, the Military Construction Appropriations bill, but it did not affect the regular amendment process—only a new title relating to Contra Aid.

100TH CONGRESS

One restrictive rule (H. Res. 457) was granted on a regular appropriations bill, H.R. 4637, the Foreign Operations Appropriations bill, permitting only 18 amendments printed in the Rules Committee report (11 Republican and 7 Democrat).

101ST CONGRESS

One restrictive rule (H. Res. 425) was granted on a regular appropriations bill, H.R. 5114, the Foreign Operations Appropriations bill, permitting only 11 amendments printed in the Rules Committee report (8 Democrat and 3 Republican).

102ND CONGRESS, (FIRST SESSION)

One restrictive rule (H. Res. 177) was granted on a regular appropriations bill, H.R. 2621, Foreign Operations Appropriations, permitting only 11 amendments (6 Democrat and 5 Republican).

[Note: The above data does not include rules for continuing resolutions (CRs).]

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

I normally do not pay much attention to those wild accusations like were just made about the Committee on Rules, but I do think that someone must stand up and remind the gentleman, and he is a very bright guy, one of the brightest guys in this body, a good friend of mine, but he very well knows, because he was in the Committee on Rules, that there were 32 amendments that were submitted. Five were withdrawn, 2 submitted late, and that we allowed 12 under the rule.

I understand that some of those are subject to a point of order, but there are several that are not. And of those 12, 10 are Republican amendments and 2 were Democratic amendments.

My colleagues may disagree with the rule, and they may disagree with what the rule allows us to consider. But I really do think it is quite unfair, and the gentleman does not do himself much favor in the eyes of the rest of the House when he so unfairly, in my opinion, criticizes the Committee on Rules, not just criticizing what it is doing but criticizing it personally.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would say to the gentleman, who I have a great deal of respect for, there is one thing I am very proud of. If the gentleman reads the Almanac of Politics and the Congressional Quarterly, they quote two things about me in there, and they say that "Gerry Solomon does not take cheap shots, that he is recognized on both sides of the aisle for that."

But when I get exercised over what happened up there yesterday, my good friend, when I read the rule, which states that all points of order under clause 2 are waived for amendments 1 and 9, that is just unprecedented, my good friend, and the gentleman knows it.

It normally would say amendments 1 through 9. We did not ask the gentleman to read the whole rule. We did not ask to take up the time. We expected good faith explanations of the bill. That did not appear on the attachment.

The gentleman knows it. That is why we are so concerned on this side of the aisle.

Mr. DERRICK. Mr. Speaker, let me just say this, that I will stand by my original statement, that I think the gentleman does not do himself any justice of the person that he is, nor does he do the committee on which he serves, when I think he is so unfairly critical in a very personal way of the Committee on Rules.

Mr. Speaker, I yield 4 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I thank the gentleman for yielding time to me.

This legislative branch appropriations bill is brought to us today by a subcommittee that is headed by two of the people in the House that I most respect: the gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. LEWIS]. They have done, I believe, good work.

It has been mentioned thus far in the debate on the resolution that cuts, significant cuts are to be made in the way we spend money to run the legislative branch of our Government. I do not want to overstate the magnitude of those cuts, but indeed, if this bill is adopted, just as it is before us today, we will spend roughly $20 million less in 1993 to run the legislative branch of our Government than we are spending in 1992.

Some would argue that $20 million is not a lot of money, but I would say it is a lot better than spending $20 million more or $200 million more or $2 billion more.

For us to be realistic, I think it is important that we remember, we are not going to balance the budget by cutting spending in this bill. We could zero this bill out entirely. We could zero out each of the 12 appropriation bills that deal with domestic discretionary spending entirely. Or, alternatively, we could elect to eliminate entirely the Defense appropriations bill, and by doing any one of those alone, we will not have eliminated our budget deficit. We will still have a significant budget deficit, unless we also address runaway entitlement program spending that is outside the jurisdiction of the appropriations committee.

Again, the cuts that will be offered in amendments here today are not of a magnitude that will make an appreciable difference in the size of our budget deficit. What is important is that we demonstrate some leadership by example and tighten our belts in the legislative branch of our government.

Of the 30 or so amendments that were requested to be made to this bill, some have merit. Some are dubious, and some are what the gentleman from Wisconsin [Mr. OBEY] refers to as "posing for political holy pictures."

Having said that, though, I am not comfortable with our effectively limiting the ability of Members to offer as few as six amendments to this bill by adopting the rule now before us. I am happy to stand with the gentleman from California [Mr. FAZIO] and with others to argue, to speak against amendments that have no merit and to defeat them, as we should. I am happy for us to limit the amount of time that can be allotted to discuss an amendment, 5 minutes, 10 minutes, whatever, to get them over and out of the way, particularly those that are not meritorious.

I do not believe we should be limiting the number of amendments that can be offered to this bill as severely as this rule, in reality, limits them.

My leadership of this House, a leadership that I helped to elect, worked hard 2 weeks ago to defeat the balanced budget amendment that I had worked on for 7 years.

We debated it, had a fair fight. Those of us who supported the amendment believed its adoption and ratification would lead to reducing our budget deficit in the years ahead. When the votes were counted, though, we lost.

Now my same leadership seems to be inclined to limit amendments to spending bills. I do not know how, on the one hand, we can say we do not need an amendment to the Constitution that requires the President to propose a balanced budget, and makes it more difficult for the Congress to unbalance the budget, and, then having defeated that constitutional amendment, to limit the amendments that can be offered to this spending bill or, frankly, to other spending bills.

I do not believe this is the kind of precedent that we want to set. It certainly is not a precedent that I am comfortable in setting.

I will oppose this rule as a result. One of the amendments that is not going to be made in order today is an amendment that would have been offered by the gentleman from Louisiana [Mr. HOLLOWAY]. That amendment would have limited, or reduced somewhat, the amount of money that we spend on committees around here.

☐ 1240

Everybody in this Chamber knows that we have too many committees, too many standing committees, too many select committees, and too many subcommittees of those committees. As a result, we walk all over one another's turf, we get in the way, we hinder the operation of our people's business. Yet, we are not going to have a chance to vote for that amendment today, or against others which deserve to be defeated. I think that is a shame, and I would urge the defeat of this rule.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. LEWIS], who is the ranking member of the Legislative Subcommittee of the Committee on Appropriations.

Mr. LEWIS of California. Mr. Speaker, I rise in strong opposition to this rule. It is important for the Members to know that we are establishing a precedent here that could indeed undermine a longstanding pattern relative to appropriations bills. When those bills come to the floor we are spending the people's money. If we ever want to get a handle on our budget deficit we have to have access to every item of expenditure, for indeed, the people's dollars are involved.

In this case, I would urge even more intently that it is a mistake to suggest that we ought to have a closed rule. I do not recall a time in which the Committee on Rules produced a bill in which they made amendments in order that in turn were not protected; that is, they were subject to points of order, on the one hand, while on the other hand that same Committee on Rules made the decision to not approve amendments that fully qualify in terms of normal amendments to an appropriations bill.

The amendment offered by the gentleman from Louisiana [Mr. HOLLOWAY] that involved dollar reductions dealing with select committees, the amendment by the gentleman from Florida [Mr. STEARNS] that would do the same, the amendment by the gentleman from Pennsylvania [Mr. SANTORUM] dealing with mail, not made available for consideration under this bill, when they would be fully qualified. So it is a closed rule establishing a process whereby that could become the pattern for all Appropriations Committees' bills.

Most importantly, with this Appropriations Subcommittee report, it deals with expenditures for the Members' body. This is the people's body first, but the Members work and run this operation. Certainly they ought to be able to speak to the question of how we appropriate funds for those various activities. To limit the subcommittee report of the Committee on Appropriations in this fashion by way of this rule indeed is almost an insult to the committee process.

Indeed, in my judgment, the Committee on Rules ought to think very carefully about what they are bringing to the floor today. If this becomes the first step to a series of limited rules on appropriations bills, we will have changed the direction of the appropriations process. The leadership may be undermining our capacity to get a handle on our deficit.

Mr. DERRICK. Mr. Speaker, I have one request time, and I reserve the right to close debate.

Mr. SOLOMON. Mr. Speaker, I yield 3½ minutes to the gentleman from Kansas [Mr. ROBERTS], who is a member of the Subcommittee on Personnel and Police of the Committee on House Administration.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first I want to thank the Committee on Rules for the three amendments that were made in order that I will offer when we get to that process, but I want to talk about the one amendment that was exceedingly important that was denied. In this regard I want to associate myself with the remarks of my colleague, the gentleman from California [Mr. LEWIS], who made some very excellent statements as to the purpose here.

We had an amendment, "we" meaning the gentleman from Michigan [Mr. UPTON] and myself, which would have reduced the official mail allowance to a more realistic appropriation level all members know that we would not have forced any Members to cut their current mailing practices. This amendment would have done a very simple thing. We would have reduced the account from $53 million, $53 million, to $41 million. Why? Because in the off-year, not the year of election, the last time around we only spent $31 million. Now we have programmed in $53 million? Our amendment would have cut it to $41 million and had a $10 million cushion.

What we are seeing here is the use of the franking appropriation as a bank to use for other purposes. It is not right.

Mr. UPTON. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I am delighted to yield to the gentleman from Michigan, my cosponsor.

Mr. UPTON. Mr. Speaker, if the gentleman will remember, last year he and I both introduced and battled an amendment to reduce franking costs last year that, unfortunately, we lost by 20 votes. It would have cut franking by $20 million last year.

I would ask the gentleman from Kansas, what happened to that $20 million that we failed to cut last year?

Mr. ROBERTS. The gentleman is exactly right. We would have reduced the franking allowance from $80 million to $59 million, so consequently we had about $20 to $21 million that was reprogrammed. When we considered the emergency supplemental bill, that was used as an offset. That went to the Treasury. All that money that was supposed to go for the mailing costs, it went to the Treasury as an offset for some programs that we wanted to fund around here.

Mr. UPTON. If the gentleman will continue to yield, in other words, we were arguing that we made tough choices when we battled the constitutional amendment to balance the budget a couple of weeks ago, and in essence, those moneys that we tried to cut and we tried to offer with the gentleman's amendment today, in essence it is just going to go for something else, is that correct?

Mr. ROBERTS. Last year it was $20 million used to offset some cost in the supplemental. This year it will be $12 million. It will be reprogrammed, doubtlessly, for what program I know not. There will be no hearings, there will be a decision by the subcommittee.

This is exactly the kind of thing most Members in this body object to. We ought to have a mailing account that is used for mail, not as a bank for some other kind of reprogrammed fund. The gentleman is entirely correct.

Mr. UPTON. If the gentleman will continue to yield, if I might ask the gentleman from New York [Mr. SOLOMON], is it his recollection that, as we have debated the legislative appropriation bill every year, that we have had amendments that have been offered to reduce the franking costs?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say that many of the amendments that were denied this year were allowed last year under a fair procedure.

Mr. ROBERTS. If I could make the statement, it was under the legislative appropriations bill that we capped the mailing cost, that we made it public and we provided the current mail allowance. This was the vehicle for reform. Now it is not the vehicle for reform, and why Members should vote against this rule. If they vote for the rule, they are voting for $12 million more than they need on mailing to be reprogrammed somewhere else. It is not right.

Mr. SOLOMON. Mr. Speaker, I assume that if the majority does have speakers that come on the floor, they would enlighten us. In the meantime, I will assume they only have one speaker.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, there are a number of reasons why Members should not vote for this particular rule. First of all, it is a flawed rule. The self-enacting provision that they put in the rule, they drafted it wrong. The whole thing ends up making the bill into gibberish, so if Members vote for this rule, it is a flawed rule that they did not even write right when they sent it down here late last night.

Second, this is by far the single most fraudulent rule I have seen in this Congress since I have been here. Let me tell the Members why it is a fraud. It is a fraud first of all because it denies Members their basic right to strike spending from bills. This is something which we can bet will become a precedent. We can bet the Committee on Rules will be back here with other rules on other appropriations bills designed to stop spending, and in this case, allows spending to go forward.

Then they have the audacity, the audacity to come to the floor and claim that they made a lot of particular amendments in order, amendments like the Santorum amendment on the Capitol Buildings account, or the Gekas amendment on the grandfather clause, or the Smith amendment on funding of legislative branch overheads. They claim they made those in order. However, they did not give them a waiver, so therefore, they are subject to points of order.

To put those in this rule is a fraud. It is a phony, just like this entire rule is a fraud. It is a phony. The Committee on Rules knew when they were writing this bill or writing this rule that it was a fraud and it was a phony.

Then to have people come to the floor and to describe it as fair to the minority, "We gave you amendments, these are something that we have given you," let me tell the Members, giving us this as they strip us of our rights is nothing. It is like when the people in the South some years ago, I would say to the gentleman from South Carolina [Mr. DERRICK], were stripped of their rights but were told how nice it was that "We give you a hovel to live down behind the plantation house." It is a little like when people in Germany, in Nazi Germany, were stripped of their rights and told how nice it was that they were given someplace to live in a concentration camp. That is the same kind of petty despotism which is represented in this rule.

□ 1250

I am convinced, now having seen this rule, that what we have in the Rules Committee are a group of petty despots who will take nearly any stance that is needed in order to preserve the dictatorship that is evolving in this House of Representatives. They are willing to do anything to enforce the politics of this House.

In this particular case, the bill before us is a bill designed to increase the spending of the House. It is a bill designed to protect the perks and to protect the privileges of the House. And what do we have, we have the first rule in the history that I know of, at least in the history that I have been here, that prevents us from stopping the spending, that prevents particular amendments.

For example, we had a 1-percent across-the-board cut in the bill that was brought before us yesterday. Guess what this rule prevents? It prevents the gentleman from Florida [Mr. STEARNS] from offering a 2-percent across-the-board cut. Is that not something? We can have a 1-percent across-the-board cut when it comes to military construction, but we cannot have a 2-percent across-the-board cut in this bill, no. You know, we cannot treat ourselves the way we treat other accounts. Or how about the franked mail. We prevent franked mail from being cut.

This is an absolutely despotic rule. It ought to be rejected overwhelmingly.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume and I will take just a moment here with this spirited criticism of the Rules Committee and say that the gentleman who just spoke very well knows that there is a motion to recommit in there, that he can include across-the-board cuts, he can include all of the other cuts that he particularly wants.

I had occasion to visit in the part of Pennsylvania that the distinguished gentleman represents, and I enjoyed it very much. I found some of the finest people in the world. And I really do regret that you find it necessary to compare my part of the United States with Nazi Germany. I mean I think it is just horrible. I have been up here a long time and I do not think I have ever had anyone who showed so little respect for a part of the country.

Mr. WALKER. If the gentleman will yield, I did not compare his part of the country. I compared two different times when in his part of the country, before the Civil War when there was slavery, when people were told that somehow they were being treated nicely on the plantation. I also compared that to the situation in Nazi Germany and this rule to Nazi Germany where people were also denied their rights, and then told how well they were being treated in the concentration camps. That is what I was referring to. I did not compare.

Mr. DERRICK. I will take back the balance of my time. My interpretation of what you said and I think most people who were listening would understand that what you really meant is you were comparing my part of the country with Nazi Germany, and I resent it.

Mr. WALKER. If the gentleman will yield, that is not what the gentleman said.

Mr. SOLOMON. Mr. Speaker, let me just say that the next Governor of the State of Delaware, a good Democrat who is a fiscal conservative, I think, spoke to this unfair rule.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman from yielding me the time.

At first blush I should be grateful that the Gekas amendment was made in order by the Rules Committee. But on a second glance, and after real inspection of the rule, I would rather it go down with the previous question than to accord the privilege of arguing on a Gekas amendment that will be subject to points of order.

The Gekas amendment will go a long way toward reform of this body and to raise the self-esteem of this body in the eyes of the public. And I want very much to argue that point of order that is sure to be raised to show the germaneness of it, to show the legislative capability of it. But I would rather forgo all of that if indeed this rule is permitted to stand which treats everything else so unfairly.

I will vote against the previous question.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL], chairman of the porkbusters task force.

Mr. FAWELL. Mr. Speaker, this rule obviously sets a brand new order. Those of us who have been standing up now and then and suggesting, we hope in the best of ways, that cuts are in order, are frustrated to suddenly have this new precedent set forth which requires that we must trek up to the Rules Committee in order to offer such amendments. With all due respect to that body, they represent the leadership, the same leadership that killed the balanced budget amendment and professed that Congress had the will to be able to do something about controlling government spending. And as a practical matter, what this rule says to the ordinary Members of this body who do not hold titles that are outstanding and so forth, but who want to play a part in the appropriations process—this rule says that such rank and file Members are not going to really be able to play a role. We are now going to have a filter of correct political thinking which we will have to be able to bypass.

To me this is just atrocious when you have this kind of action taking place. After all that we have gone through, and at the very time when I thought the appropriations process was opening up to where members on the Appropriations Committee were recognizing that other Members did have things to say of merit, then to slam the door like this and close the open rule, words fail me. I hope that the body will get together and for once just vote down the darn rule.

Mr. Speaker, this rule sets a new order. No longer can Members present an amendment at any time during the debate on an appropriation bill. Members now must get prior approval from the Rules Committee to present an amendment affecting—of all appropriation bills—the legislative appropriation bill.

If the leadership of the House does not want an amendment to be presented on the floor of the House, it simply will not be presented. This is the same leadership that killed the balanced budget amendment because they said it did not make the tough decisions to cut spending.

Well * * * here was your first chance to make a tough decision. And what is leadership's response? Muzzle the Members of the House on the floor. Put them through the filter of correct political thinking. Especially those who are not members of the appropriations committee so they cannot cut the money Congress spends on itself.

By limiting amendments, leadership is saying in effect: "Trust us, we know best how appropriations should be cut."

Mr. Speaker, the $4 trillion national debt, the one-half trillion dollars of new debt this year, the $300 billion we must spend this year to pay interest on the national debt; the 23 years in which Congress has failed to balance a budget; all has come about to a great extent because of appropriation bills. The debt fiasco did not mysteriously appear overnight. Now, I grant you the Presidents who have been in office over the past 23 years are just as guilty as the appropriators in bringing about this fiscal mess.

But, muzzling the individual Members of this Congress especially now—smacks of an imperialism by the elite group that rules this House. This is the first time in my 8 years here that we've been thus muzzled on appropriation bills. It's the first time we have been denied the open rule right to present amendments to an appropriation bill. Most of us ordinary Members do not have important titles. But I can tell you that this body is in great need of advice from wherever it can get it when it comes to setting budgets and appropriating money.

In short, Mr. Speaker, this rule coming on the heels of the defeat of the balanced budget amendment, sets terrible precedent. It illustrates a disdain of the taxpayers of this Nation and, indeed, of their representatives in this House. One may not like some of the amendments which were to be or might be offered if the rule were open. I would not have voted for all of them. But, I respectfully submit that any Member should have a right to present them, especially under the dire financial circumstances which fact this Nation.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, again the House of Representatives hits an alltime low. Here we are, all of us who are back home running for reelection saying we are for reform, we are going to change this place, we are going to put a new face on this place, yes, we are out here running saying we are going to do great things, but when the time comes to put up, where are we? This is a put-up vote.

Those of you in the gallery, back in your offices, Members back home, this is a put-up vote. You cannot go back and say you are for reform in this institution. You cannot go back home and say that we are going to cut this, and we are going to put our house in order unless you vote "no" on this rule.

This is a put-up vote. This is one that counts. This is one that will be recorded as to whether you want to reform this institution, cut the waste and abuse that goes on here, put a new face on this institution and move forward. This is the vote right here on this rule, because if you do not allow it, then all of these amendments, good amendments that would have been allowed under any other circumstances on an appropriation bill, we are not going to get a chance to vote on them. This is the vote.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio, Mr. BOEHNER.

Mr. BOEHNER. Mr. Speaker, this institution today is under indictment by the American people. The need for reform is clear.

Last week this House, by an almost unanimous vote, voted to put in a committee to look at institutional reform. We cloak ourselves every day lately in this bipartisan need for reform of the House. One such reform that we need is this business of sending closed rules to this floor.

People in America think that we have democracy in America and we have democracy in this House. The fact is that we do not. We only debate, and we only vote on what the Democrat leadership of this Congress will allow us to consider, to debate, and to vote on.

If I had been allowed to offer an amendment today that I had offered in committee, we would have stopped the practice of allowing Members to buy voter lists in order to target their political junk mail into the districts. I though we were elected to represent all of the people in our districts. But under this closed rule, I am not allowed to offer my amendment.

The only alternative I have is to vote against this rule and to try to bring an open rule to this floor.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in strong opposition to this grossly unfair and undemocratic rule.

Just 1 short week ago, the Members of this House were honored to hear the words of Russian President Boris Yeltsin. President Yeltsin made a number of promises to the Congress and the people of the United States. He promised that the days of a political party which dominated its opponents, closed off debates, bent the rules of every process it contrived to its advantage, and lied about its actions would never return to his country.

They were courageous words, but they were not just words. We have seen actions that legitimate these promises. They represent a true commitment that government will never again trample over democracy in that country.

Remembering that speech, I feel more betrayed than ever by the actions of the leadership and the majority on the Rules Committee in violating all precedent and closing the rule on this appropriations bill. This closed rule shows that the normal rules which are supposed to govern our activity are being rendered more meaningless by the day. We are on the verge of a tyranny of the majority in this House—the body that is supposed to ensure the rights of every American.

Monday, I went before the Rules Committee and presented an amendment for a simple 2-percent across-the-board cut in the legislative branch appropriations bill. The amendment met all the rules of germaneness and in no way attempted to legislate on this appropriation. In fact, a nearly identical amendment was offered by my colleague, the gentleman from Minnesota [Mr. PENNY], 2 years ago, accepted and approved by a wide margin on the floor of the House. Just yesterday, an across-the-board 1-percent cut was allowed and approved on the military construction appropriation.

How, by any reasonable reading of the rules, could anything have changed since yesterday?

The simple answer is that nothing has changed accept the will of the leadership of this House. They express contempt for the full membership of this House by their closed rule on this amendment and contempt for the taxpayers of this country.

This House would have been enriched by the opportunity to consider an alternative funding level for this bill. However, that has not been allowed. I hope all Members of this House who are concerned with free and open debate and the rights of all Members should oppose this unprecedented closed rule.

□ 1300

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I strenuously oppose the rule.

A few weeks ago, the Committee on Rules took the unusual step of banning TV from their hearings, claiming that the topic was too technical for the American public to understand.

Yesterday that same committee tossed aside an amendment by a 9-to-4 party-line vote, I am told—tossed aside an amendment, supported by some 60 of our colleagues, designed to save hundreds of taxpayer dollars every year by limiting the special allowance privileges that we afford former Speakers to just 3 years. That action was indefensible, and I can well understand where the majority party did not want the manipulation that was going on being viewed by the people across this country on TV.

This House, not the 13 members of the Committee on Rules or the majority party of the Committee on Rules, is charged with the responsibility of making the budgetary decisions.

The majority party control of the Committee on Rules has overstepped its bounds, denying us the opportunity to do our job. Only 18 percent of the American public now approve of the way this Congress is going about its business.

Can you blame the vast majority who think we are failing?

The refusal by the Committee on Rules to allow reasonable money-saving amendments to reach this floor is a very clear example of a problem.

A few majority party Members have usurped most of the power and are arrogantly refusing to do what is right. The American people elected 435 of us to manage the Nation's budget. If the majority on the Rules Committee continue to bypass that mandate, then perhaps voters may bypass them.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. GINGRICH], the distinguished whip.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman, my friend from New York, for yielding me this time.

Mr. Speaker, you know, this is really a tragic vote. One week after Boris Yeltsin came to this Chamber to talk about freedom, we have a petty legislative tyranny which, first of all, proposes a rule in which 6 of the 11 amendments in order are, in fact, subject either to a point of order or a procedural defeat and cannot be offered, and then there are 14 amendments that would cut, that are not in order.

If you vote "yes" on this rule, here is what you are voting to kill: "yes" vote kills an effort to reduce committee funding by $1.4 million; a "yes" vote kills prohibiting the free distribution of CBO publications except to public libraries, thereby saving money; a "yes" vote kills a reduction of CBO expenses and salaries by $2,265,000; a "yes" vote kills a cut of 30 percent for salaries and expenses at the Joint Committee on Printing; a "yes" vote kills an effort to stop funding being used to buy voter registration lists with taxpayer money; a "yes" vote kills an effort to prevent the use of House money in a Speaker's contingency fund beyond the current year; a "yes" vote kills an effort to cut the spending on former Speakers by limiting them to 3 years of taxpayer subsidies; a "yes" vote kills a 5-percent cut in funding and expenses of standing committees, special and select; a "yes" vote kills a new section which would limit budget authority of this act to $1,670,000,000, the amount in fiscal year 1991. That is killed, that effort to limit spending would be killed, by a "yes" vote. A "yes" vote kills an effort to cut the Postmaster's budget by 50 percent. A "yes" vote kills a reduction in the official mailing allowance by $12 million. A "yes" vote kills a reduction in funds for franked mail by $21 million, and a "yes" vote kills a 2-percent across-the-board cut.

So do not think you can come in here and have a free procedural vote that nobody will know about, because the truth is that the Democratic leadership deliberately shaped a dictatorial rule to block 14 amendments that would cut spending.

Two weeks after telling us they were against a constitutional amendment to require a balanced budget because we need courage now, they designed a rule to block any effort to show courage now. So they do not want to cut spending in the future with a balanced budget amendment, and they do not want to cut spending in the present with 14 amendments which they made out of order.

Anyone who votes "yes" on this rule ought to expect to go back home for the rest of this year and explain why on each of these amendments you voted with a machine to protect the machine to block the cuts to ensure the perks, to keep the American people from having an up-and-down vote.

Let me say finally, to make in order amendments which are subject to a point of order is a peculiarly cynical thing.

Mr. SOLOMON. Mr. Speaker, I yield the remainder of our time to the most distinguished gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Mr. Speaker, may I first compliment the distinguished whip for the manner in which he laid out for us what the real issue is here today and the frustration, again, on our side that we do not have an open rule.

Earlier this day I dissuaded Members from opposing a unanimous-consent request for one of our distinguished committees to meet during 5-minute consideration of this bill, because we have very important business to attend to in that committee, but it would have served as leverage built on yesterday's objections to what is going on here today.

The case has to be made, as it was made yesterday under parliamentary tactics and procedures. Frankly, when you are in the box that we are put in we have no alternative but to resort to that kind of machination from time to time.

I, obviously, rise in opposition to the rule. The Democrat majority is setting a bad precedent today by restricting amendment to an appropriation bill. It is a sad day, again, for this House, for our country, when the majority party fears amendments and, therefore, restricts the rights of a minority or any Member on the majority side to offer them. And then one wonders why the public holds the Congress in such contempt?

Where is the danger or the harm, the sting in offering cutting amendments to appropriation bills? If someone wanted to cut the funds of the minority leader, I would gladly stand here and defend my office budget. I think I could do it in good conscience and, yes, I think I could offer you some turnback of that budget.

I am just saying that when I was on the Committee on Appropriations and we brought a bill to the floor, I supported the bill as far as I could, sometimes against cutting amendments from my own party. Other times I joined in attempts to cut or even led the way.

I find it outrageous for the majority party to say in their attempts to defeat the balanced budget amendment that the House did not really need that mechanism to show its fiscal discipline, and then turn around and restrict the right of any Member to cut an appropriation bill.

We have a thing around here called a Holman rule. There is a two-step process around here. We authorize spending, and then we appropriate. If we in the Committee on Appropriations found a challenge to the Holman rule, we exercised our right in those days to say the gentleman is violating that rule; you cannot legislate on an appropriation bill. You are here to cut spending. In those good old days, in my junior years around here, either, both parties, appointed conservative Members to the Committee on Appropriations, because they had the guts to say, "We are not going to appropriate every dime authorized. We are going to shave it down in line with what you can justify the spending for."

What we are getting away from here is giving Members the free opportunity in a normal appropriation process to simply express their will, and if you make a good case, you will carry it. If you make a bad case, you get voted down.

There are some of these amendments today I can support. Some of them I might very well have to raise reservations to, they are too far. I know even the one on the GAO, which I have got all sorts of problems with, I will make the argument at the appropriate time that perhaps a 20 to 30-percent cut is too much.

But give the Members an opportunity to express their will, and let us not be so doggone afraid even in our own administration of our own body so that we can stand up here in good conscience when the time comes and make a case for or against the kind of spending that has to take place.

I think it is outrageous. I would ask my colleagues to vote down the previous question. Let us have an open rule.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of our time.

□ 1310

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a legislative body. I think what the people of this country want as much as anything, and they have expressed it time and time again in polls that are taken throughout the country, is for us to operate in some orderly manner and accomplish our business. Of course, that is the purpose by and large, or one of the purposes, of the Rules Committee is to structure rules to allow for the representation to the House of bills, in this particular case of appropriations, so that Members will have an opportunity, maybe not to exercise every single option that they think may be necessary, but a reasonable number of options to get done with our business and then proceed on to the next matter that is before us.

The rule that is before us is a fair rule. There were 32 amendments submitted to the Rules Committee.

Now, obviously, anyone knows that we cannot consider 32 amendments on this bill. We would be here for a month trying to do it. So it is left up to the Rules Committee in its judgment to try working with the minority to shape this so that we may accomplish the business of the House. That is what the Rules Committee did.

Of these amendments, 5 were withdrawn, 2 were submitted late, so that brings us down to 25 amendments there for serious consideration. Of those, 12 were allowed under the rule.

Now, I concede that some of those are subject to points of order and that could possibly result in their not being considered.

Ten are Republican amendments and two are Democratic amendments. That does not sound to me like the majority is taking any unfair advantage of the minority.

As we consider that, we need to also consider that this bill has been worked down, down, down before it ever came to the floor of the House. It is 5.7 percent under 1992 fiscal outlays, 5.7 percent. That is a lot more than we cut the Defense budget. That is a lot more than we cut other things that I do not hear any particular complaints about.

Mr. Speaker, this is a responsible bill. The total appropriated is $20 million below last year's appropriations. Overall outlays which have direct impact on the Federal deficit will be reduced by $104 million under last year for the agencies covered by this bill.

Moreover, the total recommended in this bill is $295.4 million below the President's budget request, $295.4 million below the President's request.

This bill is coming to the floor 14 percent less than what the President of the United States requested.

The bill contains a hiring freeze; a $27 million cut in mailing costs; a $6.2 million reduction in congressional printing costs; an $8.2 million cut in maintenance and repairs; a $4.5 million cut for House supplies and materials; and a $1.2 million reduction in police costs.

There is also a freeze of the Congressional Research Service and all joint committees at last year's levels.

All of these cuts have already been made resulting in a bill that is 14 percent less then what the President of the United States asked that we pass.

This is a fair rule. I have already said that of the 12 amendments that are allowed, 10 are Republican amendments, 2 are Democratic amendments.

But in addition to that, the rule provides for a motion to recommit, and under that motion to recommit the minority can put in whatever their heart desires. They can put across-the-board **cuts. They can do away with the Print**ing Office. They can do away with franking, whatever they want to do, and give this House an opportunity to vote on those matters.

So I suggest to you that this is a good rule. It is a fair rule and also the bill which we are going to ask you to consider is also a fair bill that cuts back.

If the amendment of the gentleman from New Hampshire [Mr. SWETT] passes which does away with the so-called slush fund business, it will be an over 6-percent cut.

Mr. Speaker, it is a fair bill, it is a fair rule, and I ask that you support it.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. GIBBONS). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 171, not voting 9, as follows:

[Roll No. 223]

YEAS—254

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—171

Allard
Allen
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley

Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Panetta
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

Bonior
Hefner
Holloway
Jones (GA)
McNulty
Savage
Schumer
Solarz
Washington

□ 1335

Mr. HORTON and Mr. DICKINSON changed their vote from "yea" to "nay."

Mr. CAMPBELL of Colorado changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GIBBONS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DERRICK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 179, not voting 11, as follows:

[Roll No. 224]

AYES—244

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Blackwell
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickett
Pickle
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—179

Allard
Allen
Archer
Armey
Atkins
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bruce
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Costello
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Panetta
Patterson
Paxon
Peterson (MN)
Petri
Porter
Poshard
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bonior
Gilchrest
Hefner
Jones (GA)
McEwen
McNulty
Savage
Schumer
Stark
Traxler
Walker

□ 1352

Mr. HORTON changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5427, and that I may include tabular and extraneous material and charts.

The SPEAKER pro tempore (Mr. GIBBONS). Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

The SPEAKER pro tempore (Mr. GIBBONS). Pursuant to House Resolution 499 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5427.

□ 1353

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, with Mr. DONNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from California [Mr. FAZIO] will be recognized for 30 minutes and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure to present H.R. 5427, the legislative branch appropriations bill for fiscal year 1993 to the House of Representatives. It is a pleasure in the sense that there is a certain amount of satisfaction in producing legislation that we think all the Members of the House can be proud of and support. It is also a fact that today we take up what some Members, I think the gentleman from California [Mr. LEWIS], my ranking Republican friend, has referred to as a process of self-flagellation.

There will be an awful lot of purple prose and partisan rhetoric, but when all is looked at in greater clarity, I think the House can be proud of the product it takes up today to vote on.

There is not going to be a carnival of amendments because of the rule. A number of them will not be in order, but there will be a number that, I think, are important and need to be debated and determined up or down.

I do not intend to go into every detail of the bill today. The report and the bill have been available for several days. I know that many Members and staff have gone over it very thoroughly.

But before we begin I do want to thank very heartily each member of the Subcommittee on Legislative.

First of all, the gentleman from California [Mr. LEWIS], my good friend, the ranking member who has worked very closely with us, perhaps more closely than ever before and yet obviously is not, as a representative and a stalwart member of the minority, completely satisfied with our product. But he is diligent. He is a friend, beyond everything else, and I want to thank him for his willingness to continue in this thankless task that he shares with me. There is nothing in this subcommittee's work that helps any Member at home in their district. So I want to say to my friends, the gentleman from Florida [Mr. SMITH], who has served with us for one term and is leaving, and the gentleman from Michigan [Mr. TRAXLER], my good friend who is leaving, and the gentleman from Florida [Mr. LEHMAN], who has also served just one term with this subcommittee and is leaving, how much I appreciate their interest and willingness to serve with us.

I want to thank the gentleman from Wisconsin [Mr. OBEY], who is, as we all know, one of those few Members who really puts it on the line for the Legislative Branch year in and year out, and the gentleman from Pennsylvania [Mr. MURTHA], who is also a stalwart friend of all on this committee, as well as the gentleman from Illinois [Mr. PORTER] and the gentlewoman from Nevada [Mrs. VUCANOVICH].

The gentleman from Illinois [Mr. PORTER] is one who is always helping us and does in many ways. And the gentlewoman from Nevada [Mrs. VUCANOVICH], who is a stalwart and regular attendee, gives us a voice we need to hear.

And obviously, the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Pennsylvania [Mr. MCDADE] as well, ex officio members of the subcommittee. We always work very closely with the Committee on House Administration, and I want to express my appreciation to the members and leadership of the committee, primarily the chairman, the gentleman from North Carolina [Mr. ROSE], the gentleman from California [Mr. THOMAS], and particularly the ranking minority member of that committee, the gentleman from California [Mr. THOMAS], who has cooperated with us on several issues today; the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Kansas [Mr. ROBERTS], both the chair and ranking member of the Subcommittee on Personnel and Police. As well should be mentioned the gentleman from Missouri [Mr. CLAY] and the gentleman from Nebraska [Mr. BARRETT], chairman and ranking member of the Subcommittee on Libraries and Memorials; and also our dear friend and former chairman, the gentleman from Illinois [Mr. ANNUNZIO] and the ranking member, the gentleman from Oklahoma [Mr. EDWARDS] on the Subcommittee on Procurement and Printing.

I think everyone here understands that despite the controversy that surrounds this bill, and it has always struck me that we can spend just a few minutes on the Defense Appropriations bill and yet hours and hours on the legislative branch bill, we are really and truly just a small part of the total budget picture. But we are one-third of the Federal system under the Constitution.

We enact laws, and we conduct oversight over the application of laws, while the executive, of course, spends the money and executes the programs, and the judiciary interprets and upholds the laws of the land.

Our spending is only about $^{16}/_{100}$ of 1 percent of the entire Federal budget, and yet our activities are very significant and include not only the House and the Senate but significant support agencies such as the Architect of the Capitol, the Congressional Budget Office, the Office of Technology Assessment, and the Congressional Research Service.

There is also the agency that ferrets out waste, fraud and abuse and conducts financial audits of government programs, the GAO, the General Accounting Office, which will come under a proposed cut this afternoon, which I hope will be defeated.

We also have the Government Printing Office, the Library of Congress, of course, which serves by far the public much greater than the Congress itself, and the Copyright Royalty Tribunal. There are several smaller programs within our bill that we must mention: the very important Copyright Office, which is significant for many creative interests in our country; the Books for the Blind and Physically Handicapped Program; and the very important program, the Depository Library Program.

Members do not realize that we have local libraries in the Library of Congress budget more than the total budget for the Library itself.

□ 1400

That is an important point to make. Every year we fail to make it, and I am glad this year it has been cited.

Our bill, the bill we bring today, is $1.8 billion in budget authority for fiscal year 1993. That is a reduction of $19.9 million under the budget authority enacted and available in fiscal year 1992—a 1.1-percent reduction under a hard freeze.

These figures do not include Senate items which will, of course, be added when the bill goes over to the other body.

The budget request was $2.1 billion. It has been reduced by $300 million. That is a 14-percent reduction under the detailed requests submitted in the President's budget, submitted, of course, by the legislative branch agencies to the executive and passed through to us.

The key component in our overall effort to control deficits, in this case, as in all other appropriations bills, is outlays, actual payments and expenditures. When we appropriate, we only enact spending or budget authority. That is authority to obligate Federal payments for the expenditure of Government funds. So we also score our appropriation bills to measure what the actual expenditures or outlays will be as a result of the spending authority in the bill.

This $1.8 billion in spending authority is estimated to spend out $1.5 billion in actual dollar outlays in fiscal year 1993. That $1.5 billion is over $90 million less than the comparable dollar outlay enacted in last year's spending bill, and that is a very significant and important 5.6-percent reduction.

When total outlays are added up, this bill and the entire legislative branch of government will spend $1.7 billion ($1,718,447,000) in fiscal year 1993.

That is $104 million ($103,904,000) less than the current year—a reduction of 5.7-percent under 1992 spending for legislative agencies of the Federal Government.

I also want to indicate that under the Budget Act, our 602(b) allocation to the subcommittee was to be $2.343 billion. We are $534 million under that target, and once the Senate funds are added, we will be $20 million below that 602(b) target for budget authority.

We did a similar analysis on our outlay target. Our calculation is that the bill is about $92 million under the 602(b) outlay ceiling. If we can hold that level in conference with the other body, that will be a further contribution to deficit reduction. It goes beyond the budget summit agreement.

I would like to, at this point, present some graphic illustrations of legislative branch resources.

CHARTS 1 AND 2

Charts 1 and 2 compare legislative spending to the executive branch over the past 15 years, in constant dollars.

[Charts not reproducible in the RECORD.]

Chart 1 shows executive spending up from $1.1 trillion to $1.5 trillion.

Legislative spending down from $2.4 billion to $2.3 billion.

House spending up from $0.6 billion to $0.7 billion.

Chart 2 clearly shows the trends.

Executive spending trending upward at about 2.3 percent per year in real increases.

Legislative and House spending are virtually flat lines—no growth.

Chart 3 is a bar graph.

It shows the general government function—the administrative costs of operating the executive branch—growing at an annual rate of 7.6 percent in actual dollars.

Legislative spending is growing at 5.4 percent.

The CPI-urban index is up 5.5 percent per year.

Executive administrative costs have been growing almost 40 percent faster than CPI during this period of time.

Legislative costs are falling below the cost necessary just to maintain our current service level.

Chart 4 tells the story of chart 3 in recent times.

Since 1991, the legislative budget has grown by a total of 4.8 percent.

During that same time period, and based on the fiscal year 1993 requests included in the President's budget:

OMB will have grown by 12.7 percent.

The White House policy operation will have grown by 14.3 percent.

The average Cabinet department's administration will have grown by 18.4 percent.

And the Federal judiciary will have grown by 34 percent.

Chart 5 reflects employment statistics which reach pretty much the same conclusion:

The gap between Executive branch and Legislative employment is widening.

This trend began in the early to mid-80's and is continuing.

House staff has remained about the same during that period.

While we are on this subject, charts 6 and 7 show some interesting things about the mix of House staff since my first year as Chairman of this Subcommittee.

The three staff components, Members staff, committee staff, and other staff which is primarily our administrative support (office supply doorkeepers, floor staff, and so forth) have remained about the same.

There is a slight increase in Member's staff—but very minimal.

Chart 8 is a reflection of what we all know. It is a pie chart of all the ingredients of the legislative appropriations bill.

It tells us that 67 percent of our budget is for personnel.

Computers, telecommunications, electronic printing and the like account for 23 percent.

All other is 10 percent.

In other words, the entire legislative branch budget is primarily the salaries of the staff and the objects they need to do their jobs—telephone, personal computers, a desk, a chair and so forth.

Chart 9 shows how much our budgets depend upon having enough to pay staff an adequate salary.

The average Federal employee who earned $34,000 at the start of this year will be budgeted in fiscal 1992 at $42,948 to include the January 1992 COLA increase, a modest merit or longevity increase, and retirement benefits.

That "average" employee will be earning $36,172 at the end of this year after the COLA and merit increase.

That average employee will probably be eligible for next January's 3.7 percent COLA and another merit or longevity increase during the year.

That means the 1993 appropriation would have to be $45,392 to pay total compensation.

That's 5.69 percent over the amounts appropriated this year.

But we have applied a hard freeze—and then some—to our overall budget.

This normal salary progression for our employees, which is the situation throughout the government, has been totally ignored by the hard freeze proponents.

CHART 10—MAIL

Finally, we have some good news—a chart which shows how reform saves us money.

We reformed the use of congressional mail in 1991—the Fazio/Frenzel franking amendments.

These reforms have resulted in dramatic savings—over $100 million in just three years—as shown in this chart.

The red lines since 1990 are what mail costs would have been under the old rules—based on CRS and Postal Service projections.

The blue lines since 1990 show that actual costs have been or are currently being estimated.

The savings is $101 million.

That's savings we have either rescinded or did not have to appropriate.

As I have pointed out, the bill contains $19.9 million less than the current fiscal year 1992 appropriation. That decrease under the current level can be explained by its four components:

An addition $39 million is required for the current payroll of about 28,700 employees and the January 1993 COLA. Vacant positions were not funded, and we were not able to fund longevity or merit increases, or any promotions. To the extent those items cannot be cut back, they will be absorbed by the agencies.

We have to provide an additional $2.3 million for unavoidable price level increases, such as already negotiated building rentals. Over $1.3 million of the $2.3 million is for electrical and other utility bills which are based on public utility rates.

□ 1410

A net reduction of $53.9 million is necessary for workload items. Reduction required because of our 602(b) budget target and the requirement to pay our 1993 COLA and utility costs.

Some workload items were increases, others decreases. Overall there is a net decrease of $53.9 million.

There were some essential increases:

Library of Congress arrearage project	$3,200,000
Reading machines for blind and handicapped	960,000
LOC secondary storage facility	3,200,000
Depository libraries	2,000,000

The decreases required to meet target:

	Millions
Mail (net decrease under 1992 bill)	$27
Police overtime and salaries	1.2
Position and base reductions	24
Congressional printing	6.2
House supplies and materials	4.5

Finally, there is a net reduction of $8.2 million in equipment, alterations, maintenance, and repairs. As in workload items, a reduction is required to meet the budget target and the obligation to pay our 1993 employee COLA and utility costs.

There are a few repair, renovation, and equipment items that cannot be deferred. In the Architect's budget alone, we denied over $33 million in projects. But a few things have to be done:

St. Cecelia's day care center	$180,000
Elevator and escalator repair	1,000,000
Capitol dome drainage improvement	500,000
Plumbing and roof repair in the Capitol	1,100,000
Sidewalk and road repairs	425,000
Asbestos removal and renovation at GAO building (continuing project)	2,000,000

We have allowed $704.6 million for the operations of the House. This will cover the current payroll plus the January 1993 COLA. Since we are reducing the overall appropriation for the House by $9 million, the COLA increase will be absorbed by reductions in other expenses such as equipment, mail, printing, and computer costs.

The bill allows $79.5 million for joint items, including the Capitol Police, the joint committees of House and Senate, the guide service, and the attending physician. All the joint committees were frozen; we have cut back on police costs by $1.2 million.

There is $114.3 million for the Architect of the Capitol. That's a reduction of $10.3 million below 1992. In addition to the one-time projects that we were able to eliminate because they were funded last year, we had to reduce cyclical maintenance by $16.4 million.

I want to point out that Palm House at the Botanic Garden—the glass enclosed central portion of the building—had to come down because it has been found to be structurally unsafe. We don't have the funds for the reconstruction, although we have provided authority for private donations. In this bill, we are authorizing up to $500,000 from other project savings to do part of the design work for the conservatory renovation; $56.6 million is allowed for the Congressional Research Service, a freeze of last year's appropriation.

For the Library of Congress—non-CRS part—$249.5 million is allowed and authority to spend another $24.2 million in receipts. We allowed the $3.2 million requested for the arrearage project, $3.2 million for a facility to begin storing an overflow of the general and special collections, and sufficient funds for the talking books for the blind and physically handicapped. We have also released sufficient funds to continue research and development of book deacidification chemistry.

We have frozen the Government Printing Office at $118.7 million, last year's level. We have reduced last year's congressional printing reimbursement by $2 million in order to allocate more to the depository library program for the distribution of Government documents. As far as we are concerned, that is mostly a subsidy to the executive branch whose agencies should be paying for the cost of distributing their publications to our Nation's libraries.

For the General Accounting Office there is $442 million, plus $1.2 million in building rental collections are allowed. That's a $5.5 million reduction overall at GAO, and will force a hiring freeze—perhaps some reductions in force. All this while we see executive branch inspectors general budget requests up by anywhere from 4 to 25 percent.

Of the 255 new permanent positions requested, we allowed three which are paid for by copyright licensing receipts.

We have calculated that the restrictive funding in this bill will cause a reduction of 2,345 positions under the number now authorized.

Most agencies have already instituted a hiring freeze.

There are several provisions in the bill, most of which have been contained in previous bills. These provisions are mostly housekeeping in nature, and facilitate the operations of the House and our support agencies. We have added some additional franking reforms. One will repeal the outmoded two-page limitation on newsletters. Another will rescind the authority to send mass mailings outside our congressional districts.

To summarize, since 1978; the Consumer Price Index has increased 5.5 percent per year, on average; the legislative bill is up 5.4 percent per year. That is a decline in real terms. On the other hand, the executive branch budget is up 7.5 percent per year, that is a 41-percent higher rate of growth than the legislative budget.

Since 1981 when I became chairman of the Legislative Subcommittee; the legislative bill has gone up 5.7 percent per year. While the General Government functions, the administrative costs of running the executive branch, has grown 7 percent per year.

This is easily the most fiscally stringent legislative appropriations bill presented to the House in memory—maybe even in history.

It is necessary for us to set the example—show the way to fiscal balance.

I think every Member of the House has good reason to vote "aye" on final passage.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, initially I presumed I would be rising to suggest that this was a very tight budget, but after watching that introduction by my chairman, I wonder if we should not be a little tighter on my bill relative to the account that we apply to charts.

Having said that, ladies and gentlemen of the House, this is as we all know a very, very difficult year for those of us considering appropriation bills, that in no small part because the country is focusing in a very special way upon the amount of taxpayer dollars that we choose to expend here, and that in no small part is a reflection of the reality that our economy is in difficult straits and people clearly recognize that if we are going to turn around our economy, impact in a positive way the job market out there, we must begin in a serious fashion to do more than just talk about the national deficit.

The deficit this year alone is anticipated to be somewhere in the neighborhood of $400 billion. It is very clear to all of us that we must take a serious look at every appropriation bill in order to make certain that we are making our contribution through that process to reducing this ever-growing national debt.

This bill is a relatively small bill compared to the other 12 in the appropriations process. It represents something less than $2 billion, but it is that appropriation bill whereby we fund the activities of the House of Representatives and related agencies.

A tough bill in a tough year. Mr. Chairman suggested that it had been a great pleasure for he and I to work together over the years. Indeed, we have enjoyed our own relationship working on this committee. On the other hand, being a considerable privilege carrying the bill is another thing entirely, for the Members do focus on the legislative branch in a very special way, and they understand these appropriations as well as any of the bills that come before us. Because of that, some very careful attention is paid to the details of this bill. We find ourselves often with amendments to cut specifics after the committee has done its work.

This year I believe we see the culmination of a series of years efforts to develop a pattern of reducing spending within the legislative branch. It is important that the public know that this is more than just money to finance our staff. Within this bill we fund the Botanical Gardens and the Library of Congress. For example, the Library of Congress is appropriated $248 million, and probably somewhere in the neighborhood of 70 percent of that money has little to do directly with the Congress, but rather is of service to the public in general. We fund the General Accounting Office and the Government Printing Office, among other things.

The bill we have before Members, as I suggested, is a reflection of a pattern and effort to cut back spending over a period of years. Between 1988 and this appropriation year, the expenses available for expenditures available for mail, for example, on the part of Members will have been reduced by a full 50 percent. There has been a significant effort made by us to reduce the volume of mail and the dollars available for that mailing which is unsolicited mail to our constituents throughout the country.

The official expenses of the Members have been cut by almost 5 percent, a consistent effort to reduce the tendency to grow in all of our Government agencies, including this one, the legislative branch.

So I am very pleased to bring to the membership today a bill that we consider to be a very tight bill. It is some 5.6 or 5.7 percent below actual outlays of the current year. Indeed, it will reflect some $90 million of savings.

I might say to the Members, and I might also share with any of our staff members who might be watching by way of C-SPAN or otherwise, that this bill very much reflects a problem that we had not very long ago, just a few weeks ago, within the Legislative Branch Subcommittee where we reprogrammed some money, some $8 million of money, from one account to another. We did so because otherwise between now and the end of the fiscal year individual Members would have had to lay off employees because of a lack of availability of funds within that staff account. Members would have had to literally layoff one to as many as four members in some cases of their staffs because funding was so tight within that legislation.

So this is a tight bill, and I think all of the Members as well as their staffs should focus upon the reality that as this bill goes forward, next year should we have that sort of difficulty we may not be able to solve the problem by way of reprogramming.

Let me suggest that there is another item within the bill that Members should pay careful attention to. Some 3 years ago there was language put into the legislative branch bill that would allow moneys that were unexpended to remain until expended. Some Members suggested that a slush fund that might be made avaiable for the exercise of some of the leadership within the House to carry forth their will. Regardless of how one would define its potential use, this bill provides language that eliminates the potential for that kind of long-term accumulation. The bill will allow moneys that are a part of the authorization for the current year that is involved to be held in account for 3 years, until all bills are paid, but not in an unending accumulation of capital within this legislative branch bill.

☐ 1420

Mr. Chairman and Members, this is a very tight bill. I urge the Members to consider it seriously, and at the end of the day, I hope that we will have their support.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield 4 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to engage in a colloquy with the distinguished gentleman from California, the chairman of the Committee on Legislative Branch Appropriations and the distinguished gentleman from Virginia.

Mr. Chairman, it has come to my attention that the Library of Congress is about to accept a grant of $500,000 a year for 3 years from the Japan Foundation's Center for Global Partnership which is funded by the Government of Japan through the Japanese Diet. The purpose of the grant is to expand the Library's collection of difficult to obtain information concerning recent developments in Japan, to establish a Library collecting facility in Tokyo, and to establish a Japan documentation center in the Library of Congress. This idea of the Library of Congress accepting major money donations from foreign governments is of recent vintage. In fact this gift was preceded in 1991 when the Library of Congress accepted $1 million from the Government of Korea.

Though I do not disagree that the Library should augment its Japan collection, I object strenuously to the Library's apparent new policy of accepting major funding that comes directly from a foreign government, or any instrumentality of that foreign government. These gifts could be used as a means of influencing the type of information that is made available to the American public or to pressure the Library to avoid presenting any negative information on the country making the donation. Nor do I agree with the recent policy of the Library to depend for a growing share of its activities on sources of foreign funding to build collections and exhibitions. There must be a clear policy that this Library is owned and paid for by the citizens of the United States.

Mr. WOLF. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I am happy to yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I agree with Ms. KAPTUR. The Library and its collections belong to the people of the United States and the procedure of allowing the Library of Congress to accept private gifts of this type, from foreign sources, could compromise the integrity and objectivity of the collections process.

Ms. KAPTUR. I, therefore, request that at a minimum, the American public have a mechanism in place so that the Congress can monitor these foreign gifts to the Library. Thus I request that the Librarian of Congress, not later than December 31 of each year, shall submit to the Congress, with respect to the preceding fiscal year, a report of all foreign gifts on funds accepted by the Library, together with a statement of all conditions placed on such gifts.

Further, the Librarian of Congress, not later than 60 days following enactment of this bill and not later than December 31 of each year, shall submit to the Congress, with respect to the preceding fiscal year, a report of the annual increase in donations by country from which the gifts are accepted, spanning a 10-year time period beginning in 1982, to show the trend in foreign gift giving.

Mr. FAZIO. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I am happy to yield to the gentleman from California.

Mr. FAZIO. I recognize the increase in foreign gifts to the Library of Congress by foreign governments and other sources and agree that it would be good to have a mechanism in place to monitor foreign gifts received by the Library of Congress. I agree that this should be reported by the Librarian to the Congress. I will attempt to include this matter in the conference agreement with the Senate. In the meantime, I would like to submit for the record a letter from the Librarian of Congress of June 20, 1992, agreeing to provide a report annually on funds from foreign sources received by the Library of Congress.

THE LIBRARIAN OF CONGRESS,
Washington, DC, June 20, 1992.

Hon. VIC FAZIO,
Chairman, Subcommittee on Legislative Branch, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In light of concerns raised over the Library's acceptance of gifts from foreign governments and foreign-owned entities, I want to assure you that I am willing to report on an annual basis to the Congress on the purpose, amounts and use of gifts from foreign governments and foreign corporations.

Under 2 U.S.C. Sec. 160, I am authorized to accept gifts in the interest of the Library, its collections, or its services. Under 2 U.S.C. Sec. 156, I am already required to obtain formal approval of the Joint Committee on the Library as well as the Library's Trust Fund Board for gifts to the trust fund, and must report annually on gifts received.

If there are additional concerns and would like to discuss the matter, please contact me at your earliest convenience.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

Ms. KAPTUR. Mr. Chairman, I thank the Chairman very much for his assistance.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING] for purposes of engaging in a colloquy with the chairman of the subcommittee.

Mr. GOODLING. Mr. Chairman, as you are aware, the Library of Congress has notified the National Park Service that the loan agreement for the Library's drafts of Lincoln's Gettysburg Address will be terminated. As you know, the two drafts in the custody of the Library of Congress have been loaned to the Gettysburg National Military Park for exhibit since 1979. The Gettysburg National Military Park has met every protective requirement specified by the Library of Congress which has also praised the high standards and innovative techniques used to display this important document. Many of us believe Gettysburg is the most appropriate location for the display of these historic documents and do not believe the loan arrangement should be terminated.

As the chairman knows, this issue is currently being addressed by the Joint Committee on the Library which has jurisdiction over such matters. I am confident that the joint committee will be able to resolve this situation, but it was not able to arrive at a resolution before this bill was approved for floor consideration today.

It is my understanding the chairman and the committee are also committed to securing an equitable resolution to this issue consistent with past congressional action, which served to allow millions of Americans who visit Gettysburg the opportunity to view this historic and inspirational document. Is it correct that the committee will address this issue during the future conference committee with the Senate?

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from California.

Mr. FAZIO. The gentleman from Pennsylvania is correct. The committee has been informed that the Joint Committee on the Library has been asked to review this matter. If the joint committee agrees that an accommodation should be reached which continues to allow the public to view them at Gettysburg we will try to accommodate the needs of the gentleman and the Joint Committee on the Library when the bill is considered in conference.

Mr. GOODLING. I thank the gentleman for his assurance.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY] for a colloquy.

Mr. KENNEDY. Mr. Chairman, first of all, let me thank and commend the chairman of the committee for work that he has done on behalf of all of the citizens of our country with regard to energy conservation.

Mr. Chairman, as you know, I was in the energy business in Massachusetts before I came to Congress. One of the many businesses I started was an energy conservation company.

In my view, there is no reason why our Capitol can't be a model of energy efficient. There are a number of demand-side management measures which could be implemented to make our Capitol more energy efficient and save the taxpayers millions of dollars in energy costs over the next decade.

The Architect of the Capitol, for example, could work with energy service companies, which would in turn work with Pepco, to implement conservation projects here at the Capitol. In addition to saving energy, these companies could implement shared-savings contracts and receive rebates directly from Pepco. These savings could be used to reduce the capital costs of conservation improvements—and the need for direct appropriations—by anywhere from 30 to 50 percent.

A preliminary survey of the potential for savings indicates a capital investment of $7 million could yield annual savings of up to $3 million.

I ask the gentleman from California (Mr. FAZIO), does he agree that the Architect of the Capitol should be directed to request Pepco to develop an energy management proposal for the Capitol?

□1430

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. Certainly, I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, the gentleman from Massachusetts is absolutely correct that substantial savings can be achieved through the type of cost-shared investments in conservation improvements he has outlined. The gentleman from Massachusetts has for years urged, and the committee had directed, the Architect to develop plans for conservation improvements throughout the Capitol complex, and I agree with the suggestion of the gentleman that the Architect of the Capitol should be directed to ask Pepco to develop an energy management proposal to identify cost-effective energy conservation improvements for those buildings subject to his jurisdiction.

The gentleman from Illinois [Mr. PORTER] and members of the subcommittee have been working long and hard on this for years, but the opportunity to get upfront capital to finance this project totally from nonappropriated funds, does make it important that the Architect of the Capitol work on this issue diligently during this fiscal year.

I appreciate the gentleman bringing it to our attention.

Mr. KENNEDY. Mr. Chairman, I thank the gentleman.

Mr. LEWIS of California. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I commend my chairman, the gentleman from California, my ranking member, the gentleman from California also and members of the subcommittee and the staff for the efficient work and generally good bill that has been produced.

Mr. Chairman, I want to join my colleagues on this side of the aisle in condemning the rule that prevents Members from offering certain amendments. At times the majority acts unreasonably and unconscionably to restrict the debate and the possibility of reform, and Mr. Chairman, this is clearly one of those times.

Mr. Chairman, turning to the specifics of this bill, I would like to point out that when we talk congressional reform, we must look not only at ferreting out wasteful practices, but that reform includes promoting new, innovative and positive developments. In this regard, I am particularly proud of several of the commitments made in this legislation.

I am pleased that the Architect of the Capitol, the Government Printing Office, and the Joint Committee on Printing have all addressed the concerns of the subcommittee by joining in recognizing the importance that we place on meeting environmental responsibilities.

The Architect's recycling program is now being fully implemented and will soon be operational in all offices. Also, by direction of this subcommittee, the Architect will begin the installation of energy efficient lighting for the garages and exit lights. We can save as much as 35 percent of the energy costs that we currently incur as a result of this innovation.

I commend my chairman for his strong support of these initiatives.

These two initiatives are important too, because they force us to appreciate the demands that present and new environmental legislation place on municipalities and private companies. We will learn firsthand what it means to participate and be part of the solution, rather than watching from the sidelines. No reform of this body is more important than to force us to follow the same rules we make for others.

This is what the Congressional Accountability Act, which I have cosponsored, is all about.

Another area where the subcommittee has broken new ground is in working with the Government Printing Office to ensure that the Government is purchasing, to the greatest degree possible, recycled paper with a postconsumer waste content. Mr. Speaker, the chairman of the Joint Committee on Printing has been very helpful in coordinating our efforts to increase the GPO's use of such paper and deserves the commendation of the Members of this body for his leadership. In this regard I note particularly the Joint Committee's collaboration with the Government Printing Office to test the use of postconsumer waste recycled paper for IRS documents. All Members should be proud of these accomplishments as we continue to push the edge of the envelope with respect to our duty to more efficiently and sustainably utilize our resources, both physical and financial.

Mr. Speaker, a number of amendments did survive the rule and will be offered to this legislation today. I will support some, and I will oppose others. As a member of the minority it is an understatement to say that I am not entirely pleased with the way this body is run. I do not think that the legislative appropriations bill is the most appropriate place to offer some of these amendments, but unfortunately there is little choice. For the legislative branch, unlike other areas of Government, is not subject to regular authorizing legislation. Highway programs, the National Institutes of Health, the Department of Defense, and all other Federal activities are subject to regular authorization. Thus, policy matters related to these functions may be addressed through the authorization process on a regular basis. This is not the situation with the legislative branch. Authorization for most policies and practices is essentially permanent and subject only to discretionary and occasional change. Thus Members view this bill as the only chance they have to vent their frustration with many aspects of legislative operations policy. This is why a restrictive rule is an unfair rule.

In many areas of Government, Congress has failed to exercise its responsibility to conduct oversight. Congressional oversight might have prevented the S&L debacle, the HUD scandal, and the late uncovering of an "M" account at the Air Force, to name just a few examples. So too, better oversight of the House might have avoided the bank and post office scandals. What is needed in this body is a clear commitment to oversight—to making things work better regardless of party label or ideology. We took a step in this direction with adoption of the reform resolution a few months ago, but we need to buttress that effort with a continuing commitment to actually running things better. Such a commitment would render many of today's amendments unnecessary. Indeed, many of the amendments would not be offered if Congress did not today stand in disrepute as a result of its oversight failures.

Mr. Speaker, having a finance office that promptly processes vouchers is not a partisan issue, its a matter of common sense. So is having a bank that reconciles people's balances and disallows overdrafts, a food service that keeps proper books, an auditing and accounting system that tracks small expenditures, a post office that focuses on effective mail delivery, and a GAO that makes intellectual integrity its watchword. In short, insisting that the operations of the legislative branch are conducted efficiently, properly, legally and appropriately is not a partisan or ideological matter, but simply a question of common sense. These issues have become partisan and ideological because of the majority's failure to exercise oversight over a period of many years. Unless those who are in charge—the majority party—are willing to relinquish the patronage jobs and political advantage, the attacks upon this institution will continue and amendments such as some of those being offered today will continue to proliferate.

Mr. FAZIO. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5427, the legislative branch appropriations bill. This is the third of the 13 appropriation bills that have been brought to the House.

This bill provides for about $1.8 billion in discretionary budget authority and $1.8 billion in discretionary outlays.

I want to point out to the House that this is $534 million in budget authority and $551 million in estimated outlays less than the 602(b) subdivision that was provided for the subcommittee.

Obviously, these committees have to make very tough decisions as they deal with what are increasingly restricted spending levels that have been provided pursuant to the budget agreement and pursuant to the budget resolution.

I want to commend the chairman and the ranking member for the kind of decisions that they have had to make in this bill and for bringing this bill to the House in a timely fashion.

I just want to urge Members to look at the tough decisions that have been made, and the fact that this bill is well below the outlay levels that were established and the budget outlay levels that were established by the budget resolution, and for that reason urge support for the bill on final passage.

I rise in support of H.R. 5427, the legislative branch appropriations bill for fiscal year 1993. This is the third of the 13 annual appropriations bills.

The bill provides $1,809 billion in discretionary budget authority and $1,841 billion in discretionary outlays. This is $534 million in budget authority and $551 million in estimated outlays less than the 602(b) subdivisions for this subcommittee. In keeping with tradition, Senate items are excluded from the House bill.

I commend the chairman and ranking member of this subcommittee for bringing this bill to the House in a timely fashion.

As chairman of the Budget Committee, I will inform the House of the status of all appropriations bills compared with their 602(b) subdivision as they are considered on the House floor.

I look forward to working with the appropriations committee on its remaining bills.

COMMITTEE ON THE BUDGET,
Washington, DC, June 22, 1992.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 5427, the Legislative Branch Appropriations Bill for Fiscal Year 1993, scheduled to be considered on Tuesday, June 23rd, subject to a rule being adopted.

This is the second of the thirteen annual appropriations bills for Fiscal Year 1993. The bill is $534 million in budget authority and $551 million in outlays below the 692(b) subdivisions for this subcommittee. The bill is 1.1% in budget authority and 5.7% in outlays below the Fiscal Year 1992 Appropriations Act. In keeping with tradition, Senate items are excluded from the House bill.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

Factsheet

H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS BILL FOR FISCAL YEAR 1993 (H. REPT. 102-579)

The House Appropriations Committee reported the Legislative Branch Appropriations Bill for Fiscal Year 1993 on Thursday, June 18, 1992. This bill is scheduled to be considered by the full House on Tuesday, June 23, 1992.

COMPARISON TO THE 602(b) SUBDIVISION

COMPARISON TO DOMESTIC SPENDING ALLOCATION

The bill provides $1,809 million of discretionary budget authority, $534 million less than the Appropriations 602(b) subdivision for this subcommittee. The bill is $551 million under the subdivision total for estimated discretionary outlays. In keeping with tradition, Senate items are excluded from the House bill. A comparison of the bill with the funding subdivisions follows:

[In millions of dollars]

	Legislative Branch Appropriations Bill		Appropriations Committee 602(b) Subdivision		Bill Over (+)/ Under (−) Committee 602(b) Subdivision	
	BA	O	BA	O	BA	O
Discretionary	1,809	1,841	2,343	2,392	−534	−551
Mandatory[1]	88	88	88	88		
Total	1,897	1,929	2,431	2,480	−534	−551

[1] Conforms to the Budget Resolution estimates for existing law.
BA = New budget authority
O = Estimated outlays

Following are major program highlights for the Legislative Branch Appropriations Bill for fiscal year 1993, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
House of Representatives, salaries and expenses	704	599
Congressional Budget Office (CBO)	23	20
GPO—Congressional printing and binding	90	88
Congressional Research Service	56	51
Library of Congress, salaries and expenses	193	140
General Accounting Office (GAO)	442	386

The House Appropriations Committee filed the Committee's subdivision of budget authority and outlays on June 11, 1992. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-529, the conference report to accompany H. Con. Res. 287, Concurrent Resolution on the Budget for Fiscal Year 1993, as adopted by the Congress on May 21, 1992.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, here we are with a legislative appropriations bill which will provide over $2 billion, just for the operation of the Congress.

If there is anyplace Congress can and should do more spending, even symbolically, it is with spending on ourselves.

Two billion dollars, 32,000 employees, 274 committees and subcommittees, untold numbers of task forces, caucuses and congressional bureaucracies; spending on Congress, like the Congress itself, in my judgment is out of control. It is proof of how out of touch this body is that so few of us seem to think that $2 billion is maybe a little bit too much.

I feel that we could exercise a little more restraint, even though I do acknowledge the fact that we have at least started on the road to a little more fiscal responsibility, just not far enough.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, this House debated the military construction budget yesterday. One Member said the way to cut construction costs by an additional 1 percent was to cut overhead.

Today's congressional appropriation is all overhead. Unlike the military construction budget, this bill does not provide housing for America's soldiers. Unlike the Coast Guard, this bill does not save 13 people a day. It does not carry the mail, does not patrol the parks, does not clean up hazardous waste.

This bill provides the overhead of the U.S. Government. It is time overhead was cut.

The committee claims that the cost of congressional operations has been restrained—it has hardly gone up at all since 1978, will be the contention.

The cost of congressional operations should be down. We deal in paper. And with advances in computers, the cost of pushing paper should be down.

Mr. Chairman, important programs, programs that deliver services to the American people, programs that build roads, defend our shores, and save the children are all going to be cut.

Mr. Chairman, before we do that, let us cut the overhead of this Government. Let us cut it now, and let us cut it severely. We are looking at a $400 billion deficit, a deficit that I believe the gentleman from California [Mr. PANETTA] was so concerned about, as we all were, and yet many voted against the balanced budget amendment.

I heard then plea after plea, "Let us get serious. Let us cut the budget."

Yes, I admit this committee has made an attempt. Yes, I see the cuts. Yes, I see the percentage cuts. I am not questioning that. I think, though, because we are dealing with overhead, we could significantly cut more.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

□ 1440

Mr. SANTORUM. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me first start by congratulating the chairman and the ranking member. When someone does good things, I am not the first to deny that they have, and there are some good things that were done here in this bill and I want to congratulate them for doing so. They eliminated the no-year funding provision, which was something I went to the floor and spoke about a few months ago. That is now no longer in the bill, and I commend them for that. They did make some reduction in some of the accounts. Again, I commend them for that. They started in the right direction.

But I would be remiss if I did not say that I do not think we have gone quite far enough when it comes to many of these accounts, which frankly are overfunded even at this austere level that has been talked about on the floor.

One area which I think is probably the most bloated is the franking account. Now, I went to the Committee on Rules 2 days ago and asked for an amendment to reduce the franking account down to the same level, actually $2 million above the level that we as a Congress spent in 1991. Remember, this appropriation is for 1993. So this would be a similar year, an off-year election. I wanted to come in with a number that was basically the same number as we spent 2 years ago. There would be no reason, as I understand, why anyone, any new Member of Congress or any Member of Congress who came back, who would want to spend that much more. Yet we are appropriating over $20 million more in that account than what was spend in 1991. There is no reason for that. The only reason I can think of is we would like to have some money sort of laying around just in case we need to reprogram it for one desire or another out of the hands and out of the watchful eye of the public and out of the control of the people here in the Congress making the decisions today; but in the control of the Subcommittee on Legislative Appropriations. I just think that is wrong. I think that gets away from accountability. It gets to the kinds of things that I think the people in America are tired of. We should have these things out in the open being discussed.

Another thing I was disappointed in, and I would get to the rule a little later, unlike all the other bills that I suspect we will be seeing a lot of across-the-board cuts in appropriations. We have seen them offered by the Democratic side of the aisle here for the last couple of bills. We have seen those offered by the Democratic side of the aisle as across-the-board cuts. Yet, unfortunately, under the rule, we do not have any across-the-board cuts. In fact, of the amendments made in order by the Committee on Rules, only four of them actually reduce spending. Over 15 were offered. No across-the-board cuts were made.

I should stand up here and I should be very happy because two of the three amendments that I offered in the Committee on Rules were accepted. The only point is the amendments that were made in order are subject to a point of order and they did not waive that.

So, I suspect, and I hope that I am wrong, when I get up to offer my amendment on the floor, that the gentleman from California will not rise and make a point of order and will allow me, as was, I am sure, the intent of the Committee on Rules, will allow me to stand up and offer what was made in order by the Committee on Rules, and that is to do a study on space in the House here in the Capitol and the House office buildings.

Mr. LEWIS of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding this time to me because I was just up discussing with the parliamentarian something which happened as a result of the rule. That is that because of the process we have used here, we have now adopted language on page 34, "provided" language, which goes to section 305 of the bill, which, as I understand it, cannot be discussed, cannot be amended, will not even be read by the Clerk later on today as we are reading through the bill, but yet it changes materially the section 305 into something that is completely nonsensical in nature. There is absolutely no way we ought to be providing for "that no amounts may be transferred before the date of enactment of the act authorizing the use of funds for that purpose," when the whole section goes to the question of "no part of any appropriation of this act or any other act shall be used for acquisition."

Now, you know, we have managed now to become a laughingstock with some of the bills we have. You now have language here which is totally nonsensical and the House is going to be asked to act upon it because we cannot even do something to correct it or amend it on the House floor.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, there was a clerical error made in submitting that amendment to the Committee on Rules, which could be easily corrected if the gentleman would allow a unanimous consent request in the full House when we complete the work of this bill.

I appreciate the gentleman's very close reading of the bill. He has found a technical mistake that certainly, hopefully everyone will allow to be fixed when the time comes. It just puts the language of section 306 in compliance with the authorizing committee's purpose. Their amendment requires a minor technical adjustment.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume, to say that indeed we will watch with care the way the gentleman handles the procedural process of amendments before us, approved by the Committee on Rules, to see whether he exercises points of order to eliminate discussion, before we make a decision regarding such things as a unanimous-consent request.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman.

Mr. FAZIO. I thank the gentleman for yielding.

I think, in general, I am prepared to allow some discussion before I do move to terminate. But I do think that would also require some on your side to cooperate in other procedural ways as we proceed through the bill.

Mr. LEWIS of California. We are beginning to find that this is a process of termination around here.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think it is fascinating. We are supposed to allow them to clean up the bill by unanimous consent when in fact what they have done is stripped the minority of our ability to strike sections of the bill that we thought were completely within our rights to deal with. And I would tell the gentleman I do not think this should be done by unanimous consent. It is the kind of thing which is precisely why we should not operate in this kind of a manner. I am told, for example, that under this process we cannot move to strike the last word, even. That has been taken away from us as well. We cannot even debate these matters. That privilege has been taken away not only on this side but on the other side.

Mr. FAZIO. If the gentleman would yield, the gentleman has always been a staunch defender of the authorizing committees throughout this career here. I have heard him speak on the energy and water bill just the other day. All we are trying to do is accommodate the authorizing committee here. They submitted some language that was not perfect. We certainly would like to fix it. But if the gentleman wishes to object, we certainly would have to find another time and place to do it.

Mr. WALKER. As the gentleman knows, this could have been corrected easily if they would allow us to go by the regular process instead of this process.

The CHAIRMAN. The gentleman from California [Mr. LEWIS] controls the time at this point.

Mr. LEWIS of California. Mr. Chairman, the gentleman from Pennsylvania is making a very important point. It is very clear that we have a precedent here insofar as the rules are concerned, whereby the majority appears to plan to use the Committee on Rules to limit debate and amendments on appropriations bills, a precedent that is most unusual and indeed could have a very big impact upon the direction of the national economy.

But by way of closing, Mr. Chairman, let me suggest I very much have appreciated the support I have had from Members on my side of the aisle on this committee, where we do the very difficult work of appropriating moneys for the workings of the House. The gentleman from Illinois [Mr. PORTER] and the gentlewoman from Nevada [Mrs. VUCANOVICH] have been extremely helpful Members, and I appreciate their assistance.

Beyond that, as my chairman indicated earlier, we have very fine staff on both sides of the aisle who are fully cooperative in a bipartisan sense.

I have very much appreciated my chairman's willingness to be responsive to our efforts to cut back the spending on this bill, for indeed if we are going to set an example for the country, the first place to begin to set that example is in the appropriations for the legislative branch itself.

Mr. Chairman, I reserve the balance of my time.

Mr. CRANE. Mr. Chairman, for the record I want to register my disgust with the Democratic leadrship of this House for the manner in which it limited amendments to the legislative branch appropriations bill for fiscal year 1993. I do not understand why the Democrats would choose to limit the ability of Members of Congress to offer amendments to this bill, when historically the bill has had an open amendment process and when the American people are begging us to clean up our own house.

The effort to restrict our ability to offer amendments, particularly amendments to cut spending, is also a rather hypocritical act when one considers the recent debate that occurred on the floor of the House. Not too long ago this Chamber defeated a constitutional amendment mandating a balanced budget amid the pleas and cries of many Members that it was unnecessary. It was argued that, despite this body's propensity to endlessly spend taxpayer dollars, it was not necessary to cement fiscal responsibility into law because Congress already has the ability and, more importantly, the desire to practice safe legislating on their own, without any tampering with the Constitution. That was the argument made by many of my colleagues and today I am calling them on their promise. This is, as they say, the day of reckoning—an opportune time to demonstrate to the American people the commitment and dedication this body has to providing a better future for our grandchildren than the one currently promised them under a $4 trillion black cloud of debt. Indeed, what better way to start than by cutting spending that directly affects us—the budget for Congress.

There was a lot of talk on the floor 2 weeks ago about the necessity of balancing the budget, cutting spending, and reducing the deficit. Well, the American people have heard enough talk. Understandably so, they want some action. Today, I challenge my colleagues to help restore the credibility of this institution by voting with a thought to the future of our country. We have a unique opportunity today to convince our constituency, and ourselves, that we can produce a balanced budget and we can curb the Federal Government's runaway spending. Let's not blow this opportunity with more hot air. I say to my colleagues who voted against the balanced budget amendment while confessing that Congress can and will cut spending without a constitutional mandate, "Go ahead, make my day!"

Mr. RAMSTAD. Mr. Chairman, I rise in opposition to H.R. 5427, the legislative branch appropriations bill for fiscal year 1993.

Mr. Chairman, 2 weeks ago, the House rejected four different proposals to add a balanced budget amendment to the Constitution. Opponents argued that courage on the part of Congress—not a constitutional amendment—was necessary to balance the budget.

I agree with them in one respect: It will take courage to balance the budget. And today, Congress had an excellent opportunity to display this courage by reducing its own spending in this bill. Yet, once again, it failed to do so.

Earlier this week, I offered an amendment before the Rules Committee to reduce the bill's spending to the level passed by the House for fiscal year 1991. This amendment would have cut spending for congressional operations by 7.6 percent, a savings of more than $138 million for the taxpayers.

Why fiscal year 1991 levels?

Like many of you, I have listened to our colleagues on the Appropriations Committee argue that the spending level of H.R. 5427 falls below the appropriations level for fiscal year 1992.

What our colleagues do not mention is that their 1992 baseline of $1.829 billion is the result of significant increases put in by Congress. As you will see, the process by which these funds were added is not only fiscally irresponsible, but confusing as well.

On October 20, 1990, the House passed a $1.671 billion appropriations bill for fiscal year 1991. The conferees then added another $70 million, a 4.2 percent increase over what the House had already approved for the needs of itself and other legislative agencies.

Then, for fiscal year 1992, Congress tacked on an additional $88 million, a 5.1 percent increase over the previous year's appropriations. These increases led to the $1.829 billion we are spending this year, a full $158 million more than the House originally determined it needed for fiscal year 1991.

And what have these additional funds gotten us over the last 20 months?

Continued failure to balance the Federal budget. Ethics problems. The inability to pass economic growth legislation. No wonder the voters are angry.

It's time to redeem ourselves—not through vague proposals on budget reform, but through sound fiscal policy. And where better to start than with this body?

While a $138 million reduction may seem like a drop in the bucket compared to a $400 billion deficit and a $4 trillion national debt, it would have been a sign to the American people that Congress is ready to begin balancing the budget.

I'm disappointed to see that once again, Congress has refused to do that. Our children and grandchildren deserve better.

I urge my colleagues to vote against the bill.

Mr. McDADE. Mr. Chairman, the legislative branch bill is the third fiscal year 1993 appropriations bill before the House this year. This bill makes clear that the Budget Enforcement Act of 1990 does impact the appropriations process.

It has imposed considerable discipline; spending constraints are real and they are difficult.

Mr. Chairman, I take this opportunity to commend the chairman and the ranking minority member of this subcommittee. Theirs is a thankless task, and one which has little positive impact back home in their districts.

They have worked diligently to craft a tight bill.

This is the only appropriation bill which funds one of the three branches of the Federal Government in its entirety and, only for that branch of Government. The funding for that branch, the people's branch, amounts to 0.16 percent of the entire Federal budget and totals $1.8 billion for fiscal year 1993.

It contains $1.1 billion, or 59 percent, for the actual operations of the Congress, excluding Senate items and, $733.5 million, or 41 percent, for functions of other agencies such as the Library of Congress, the Government Printing Office, the General Accounting Office, and the Botanic Garden which are not specifically related to Congress.

The total appropriation provided in this bill, $1.8 billion, represents a $295.4 million, or 14-percent, reduction to the budget request. The bill is under last year's level by $20 million in budget authority and $90 million, or 5.6 percent, in outlays. It is under the 602(b) allocation.

Mr. Chairman, this bill holds the line.

The subcommittee had difficult decisions to make and they did so as a team. The committee has reported a balanced, fair, and disciplined bill.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 5427, the legislative branch appropriations bill.

We have begun our annual exercise in self-flagellation—consideration of the legislative branch appropriation bill. Over the next few hours we will undoubtedly be treated to some amendments intended solely to cripple this institution's ability to operate. Others, perhaps, may be offered in an attempt to embarrass this House and its leadership. In recent years some Members have used this bill to try to score political points at the expense of the House. I hope this will not be the case again this year.

The Committee on Appropriations has brought us a good bill, and I want to commend the work of Chairman FAZIO, ranking member LEWIS, and the members of the Subcommittee on the Legislative Branch who each year face the thankless task of developing this legislation.

This is the leanest legislative branch bill I can remember in my 28 years in the House. This bill is not a current-services bill, that is, a freeze with adjustments for inflation. It is not even a hard freeze. It is a real cut as far as the House is concerned. As reported, this bill appropriates 18 percent less than has been requested for fiscal year 1993 and 1 percent less than was appropriated last year.

These cuts are spread across the board, at least as far as the majority is concerned. I notice the Speaker's office is cut by more than 6 percent below last year's level. The majority leader's office is cut by more than 11 percent. The minority leader's office is cut by about 3 percent. Official mail costs are slashed. Virtually every other House account is frozen at last year's level. As a committee chairman who has to deal with these cuts, I know this bill will cause some pain.

I am concerned, however, that in our efforts to demonstrate to our constituents that we are fiscally responsible we will impair our ability to operate and to oversee the executive branch. If we adopt some of the amendments which have been noticed, we could shoot ourselves in the foot.

Some, particularly on the other side of the aisle, may want to impair our ability to conduct effective oversight. From a partisan standpoint that is understandable. It was the Democratic Congress that exposed executive branch scandals such as Watergate, Iran-Contra, the HUD scandal, and the savings and loan debacle. But it is the responsibility of the Congress to oversee the executive branch, and it would be irresponsible to adopt amendments which impair our ability to meet that responsibility.

An example of such an amendment is one that may be offered to cut the General Accounting Office's [GAO] budget by 25 percent. This amendment would gut GAO's ability to serve as the investigative arm of the Congress. I intend to speak against that amendment later, but I have always been impressed by the impartiality and professionalism of GAO. When I chaired the Committee on Post Office and Civil Service, GAO investigators unearthed the inappropriate financial relationships between top Presidential advisers, Mr. Deaver and Mr. Meese, and the Chairman of the Postal Service Board of Governors whose appointment, coincidentally, had been recommended by Mr. Deaver. It was GAO which examined the sweetheart contract Ross Perot entered into with the Postal Service, a contract which virtually guaranteed that Mr. Perot's company would have a monopoly on Postal Service business. That contract was nullified when the full details of the contract became public.

With respect to programs under the jurisdiction of the Education and Labor Committee, the GAO, during fiscal years 1989 through 1992, issued 94 reports, prepared 44 pieces of congressional testimony, and documented savings of over $800 million. During this period, GAO's work contributed significantly to our legislative and oversight activities and resulted in savings and improvements in the Departments of Education and Labor.

My colleagues, this is a good bill. Support Chairman FAZIO. Oppose those amendments which hinder Congress' ability to do its job. And, vote for the bill.

Mrs. VUCANOVICH. Mr. Chairman, as a member of the Legislative Branch Subcommittee I rise in support of H.R. 5427. It is a privilege to serve with such distinguished members as our chairman, VIC FAZIO, and the ranking member, JERRY LEWIS. I would like to commend them for their hard work on this bill. This is always a controversial piece of legislation and this year is no exception in light of the recent wave of Congress bashing. VIC and JERRY have worked hard to bring a fair and balanced bill to the floor.

Mr. Chairman, we approved $1.8 billion in spending, which does not include money for the Senate. This represents a 5.7-percent reduction in outlays from fiscal year 1992 and a 1.1-percent reduction in budget authority. With this bill we are showing that, in this time of tight budgets, we are tightening our own belts and reducing the money spent on congressional operations. We are setting an example for the other branches and rightfully so.

This is, by its very nature, a difficult debate. I would like to point out, however, that the $53 million appropriated for franked mail represents a one-third reduction from the $80 million that was initially approved for fiscal year 1992. The bill also includes language that would prohibit House Members from sending franked mass mailings outside their districts.

The fiscal 1993 appropriation for House salaries and expenses, which include committees and personal staffs, is set at $704.4 million, compared with $713.5 million in fiscal year 1992.

The GAO's budget was cut by $500,000 to $442.2 million. Although this is a step in the right direction, I am in favor of efforts to reduce this budget even further.

The only significant increase is for the Library of Congress. This is due to the fact that the Library is in the midst of a massive computer cataloging program.

Mr. Chairman, I know that this is an easy bill to criticize but we must provide adequate funding for the efficient operations of the House. A lot of hard work, on both sides, has gone into this bill and I urge passage of H.R. 5427.

Mr. GAYDOS. Mr. Chairman, I rise in strong support of the legislative branch appropriations bill for fiscal year 1993. This bill is a fiscally responsible piece of legislation which will limit the potential for growth in legislative branch expenditures. It is the product of a very rational and systematic process of reviewing in detail every budget request from the entities comprising the legislative branch. The bill, as skillfully crafted by the Subcommittee on Legislative Branch Appropriations, prudently balances the demand for fiscal restraint in the expenditure of public funds with the critical need for the legislative branch to discharge its responsibilities in an effective manner. Consequently, I commend the chairman of the subcommittee, Mr. FAZIO, the ranking minority member, Mr. LEWIS, and the members of the subcommittee for their hard and thoughtful work.

The recommended total new budget authority for fiscal year 1993 is $19,875,000 below the total amount available for fiscal year 1992. Furthermore, the recommended total amount for fiscal year 1993 is $295,400,000 less than the sum total of all the budget requests from the respective legislative branch entities. In effect, the total of all the requests was cut by 14 percent. Thus, the recommended total appropriation for fiscal year 1993 is very reasonable and in fact, it reflects a tough bill. In the end, the subcommittee has presented to the House a true product of fiscal restraint and prudence.

In terms of understanding the relationship of the pending appropriations bill with the legislative branch budgets approved over the past several years, the committee report is very instructive. Since 1978, a year in which legislative branch operations stabilized, the legislative branch budget has remained approximately the same in real terms. As the report indicates:

> The average growth since 1978 has been 5.4 percent per year, as compared with 5.5 percent for price levels measured by the Consumer Price Index. Congressional operations, title I of the bill (and adding the budget estimates for the Senate), also have been restrained, growing at only 5.7 percent annually. During the same period, the executive branch has averaged a 7.6-percent annual rate of growth, an increase in real dollars at an annual rate of 41 percent higher than the legislative budget.

Finally, I strongly urge my colleagues to support this very restrained bill. It is a very responsible allocation of Federal funds. In particular, I would recommend against supporting any indiscriminate across-the-board cut. Approval of such a cut would seriously negate the careful judgments made by the Appropriations Subcommittee during its meticulous budget review process. In fact, the adoption of such an amendment would impair the process itself and it would lead to unforeseen consequences. It would be a defeat for the House's effort to apportion its funds in a fiscally responsible manner.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in frustration at the treatment of the minority party and for the business-as-usual attitude that shows itself in the funding levels in this bill. The rule under which the bill is being debated shows that the Democrats are not willing to make those tough choices that they spoke so fondly of just a few weeks ago. Amendments that would make tough budget choices were not allowed to be offered on the floor by the Democrat-controlled Rules Committee.

Of the amendments that were allowed, there are a few I would like to discuss. I am pleased to support the Swett amendment to rescind $6.1 million in unused 1991 appropriations. The existence of the contingency fund is yet another example of House procedures with which the public is outraged. The contingency fund typifies the fiscal irresponsibility of the Democratic Party which has controlled Congress for the last umpteen years. If Congress does not spend the money it was appropriated, the money should be returned to the Treasury. It should not be left in some contingency account to fund projects not subject to congressional review and at the discretion of certain Members. Along with the return of this money to the Treasury, I would have liked to see the funds applied toward Federal deficit reduction. Unfortunately, this amendment was not allowed by the Rules Committee.

I also support the Thomas of California amendment. I am a cosponsor of legislation that would prohibit Members from sending mass mailings outside of their district. Passage of similar language in this bill will support the movement to reform the franking system and deter franking abuses.

I will not, however, support the Roberts/Walsh amendment to prohibit Members from using clerk hire and official expense funds to support legislative service organizations [LSO]. I believe that LSO's are very worthwhile organizations. Without the support of their members they would not exist. LSO's provide valuable information on floor action and analysis of legislation. If generated by individual offices, this work would consume an inordinant amount of time and would leave little time to pursue other projects. If LSO's did not produce work valued by the membership, Members would not join them. In my opinion, a prohibition on the use of Members' funds, such as proposed by this amendment, is not necessary.

In the end, however, I will not support this bill. It provides funds for a bloated Congress. The rule denied Members the opportunity to make tough budget choices now. Many necessary amendments which could have improved the bill were not allowed under the rule. I cannot support a bill which I believe continues business as usual when my constituents are crying out for change and a reduction in Federal spending.

Mr. FAZIO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment printed in section 2 of House Resolution 499 is considered and adopted.

Pursuant to the rule, no other amendment shall be in order except those amendments printed in House Report 102-609. Unless otherwise specified in the rule, amendments shall be considered in the order and manner specified, shall be offered only by the Member specified, or his designee, shall be considered as read, and shall not be subject to amendment or to a demand for a division of the question. An amendment in the form of a limitation or retrenchment shall remain subject to the provisions of clauses 2(c) and 2(d) of rule XXI. Debate time for each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

The Clerk will read.

The Clerk read as follows:

H.R. 5427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

□ 1450

Mr. FAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 17, line 16, be considered as read, printed in the RECORD, and open to amendment at any point.

Mr. WALKER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. SWETT

Mr. SWETT. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SWETT: Page 2, after line 5, insert the following:

SALARIES AND EXPENSES (PRIOR YEARS)

(RESCISSION)

Of the funds appropriated in the Legislative Branch Appropriations Act, 1991, for the House of Representatives under the heading "SALARIES AND EXPENSES", there is rescinded a total of $6,775,642.83, in the amounts specified for the following headings and accounts:

(1) "HOUSE LEADERSHIP OFFICES," $308,988.51, as follows: (A) "Office of the Speaker", $17,647.07; (B) "Office of the Majority Floor Leader", $36,233.46; (C) "Office of the Minority Floor Leader", $183,097.26; (D) "Office of the Majority Whip", $61,579.53; and (E) "Office of the Minority Whip", $10,431.19.

(2) "COMMITTEE ON THE BUDGET (STUDIES)", $8,261.37.

(3) "STANDING COMMITTEES, SPECIAL AND SELECT", $2,171,051.63.

(4) "ALLOWANCES AND EXPENSES", $2,592,737.63, as follows: (A) "Official Expenses of Members", $2,196,821.48; (B) "supplies, materials, administrative costs and Federal tort claims", $3,108.30; (C) "net expenses of purchase, lease and maintenance of office equipment", $292,766.95; and (D) "stenographic reporting of committee hearings", $100,040.90.

(5) "COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)", $955,144.83.

(6) "OFFICIAL MAIL COSTS", $41,210.33.

(7) "SALARIES, OFFICERS AND EMPLOYEES", $698,248.53, as follows: (A) "Office of the Postmaster", $1,000.53; (B) "Office of the Parliamentarian", $119,087.71; (C) "for salaries and expenses of the Office of the Historian", $54,324.08; (D) "for salaries and expenses of the Office of the Legislative Counsel of the House", $198,559.05; (E) "six minority employees", $85,315.44; (F) "the House Democratic Steering Committee and Caucus", $123,537.90; (G) "the House Republican Conference", $94,273.55; and (H) "other authorized employees", $22,150.27.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Hampshire [Mr. SWETT] is recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. LEWIS of California. Mr. Chairman, although I do not rise in opposition to the amendment offered by the gentleman from New Hampshire [Mr. SWETT], I ask unanimous consent to be recognized for 15 minutes in support of this popular amendment, and I will allocate that time to the Members on my side of the aisle.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me state my support of H.R. 5427 and commend the chairman and ranking member for their fine work. In a year of tight fiscal budgets, the reductions achieved in this bill, which make it less than budgets of all previous years since 1977, clearly indicate that Congress is moving in the right direction. However, I hope that we can help make this bill even better.

Mr. Chairman, the amendment that I am offering to the legislative branch appropriations bill today will rescind all known, unexpended balances from the fiscal year 1991 appropriation for the House of Representatives, which is a sum of approximately $6.8 million. These funds were previously appropriated for the use of the House leadership offices, House committees, Member offices, and other House of Representatives' accounts. Under our amendment, these remaining unused funds will be returned to the U.S. Treasury and will not be reprogrammed or used for other congressional purposes.

I would like to acknowledge the support of Mr. DORGAN of North Dakota, Mrs. BOXER of California, Mr. GLICKMAN of Kansas, Mr. PENNY of Minnesota, and Mr. KLUG of Wisconsin in cosponsoring this amendment to the legislative appropriations bill.

From the beginning of my short career as a public servant and Member of this House, it has been evident to me that our greatest task is to increase the fiscal responsibility of the Federal Government.

Occasionally Members have the opportunity to demonstrate a commitment to fiscal responsibility through voting on bills that involve vast sums of money by significantly altering the way executive agencies operate and by attempting to adopt an amendment to the Constitution calling for a balanced budget.

Mr. Chairman, this amendment might not be considered such a grand piece of legislation. It returns a modest amount to the Treasury. It will not solve the national debt. But while $6.8 million may not be large in comparison to the amounts we often consider in this House, it is an important step in the right direction. Rather than simply reallocating these unexpended funds, we are returning them to the Treasury. The principle is very important.

It is my hope, Mr. Chairman, that this amendment will mark a beginning in the exercise of greater fiscal responsibility on the part of all of us in the Congress. This past year, one of the ways that I tried to do this was by keeping a firm commitment I made to my constituents in the 2d Congressional District of New Hampshire not to abuse my franked mail allowance. Last year I returned over two-thirds of my franked mail allowance to the Clerk of the House.

I believe that each one of us in the Congress has the responsibility to exercise greater care in our stewardship of the public funds we are allocated. We must demonstrate to the American people that we can be careful, responsible managers who wisely guard the taxpayers' dollars entrusted to us. Rescinding this $6.8 million is a modest step toward greater fiscal responsibility in Congress. It demonstrates the right attitude. It puts us on the right track. It shows that Congress can get by with less, that Congress can manage public funds more efficiently. This is the direction we must continue to follow.

As the internationally renowned architect, Miles Van der Rohe, once said, "Less is more." If we can do more with less, than we truly accomplish a great deal in rebuilding the confidence of the American people in our democratic form of government.

I urge my colleagues to join me in supporting this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield 15 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, there is a fundamental principle involved in this amendment that everyone in my district in Wisconsin clearly understands, and that is:

> When you sit down at the kitchen table at the end of the month over a cup of coffee to write out checks for your bills, the goal for everyone is to have some cash left over to stick into a savings account.

Mr. Chairman, many of us, when we were elected, took that same principle to heart, so, as the year went on, we did not spend every nickle and dime and every buck at our disposal, we did not spend it on staff, or mailing, or stationery. We tried to bank some of it only to discover that the money we thought was being returned to Treasury oftentimes could be reprogrammed and then spent elsewhere.

This amendment offered today will return nearly $7 million to the Treasury. This money from the 1991 legislative appropriations budget will be used to reduce the deficit instead of being tucked away in some rather mysterious contingency fund.

Mr. Chairman, I would like to thank in particular my freshman classmate, the gentleman from Pennsylvania [Mr. SANTORUM], who has taken the lead in recent weeks in pointing out the potential for abuse in any kind of legislative slush fund, and I would also like to thank the gentleman from New Hampshire [Mr. SWETT], my colleague, and also the gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. LEWIS] who agreed with our arguments and who made the case to their colleagues on the legislative appropriations committee that legislative reprogramming should be substantially cut back, although I, like many of the speakers on this side of the aisle, think it should be eliminated altogether and in the future be totally banned.

Mr. Chairman, I yield such time as he may consume to the ranking member of the Subcommittee on Legislative of the Committee on Appropriations, the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, by way of the courtesy of the Chair, I rise to express my support for the work of our two colleagues on this amendment. The amendment would rescind almost $7 million from the legislative branch appropriations bill, moneys that remain from the 1991 year. It is our best guesstimate that we can within reason rescind at this point as much money from our bill as possible from the 1990 year and 1991 year to the Treasury rather than accumulating over time into a larger fund available for legislative branch reprogramming purposes. It is an effort in another way to demonstrate that within the legislative branch appropriations bill we are not just tightening our belts. We indeed are attempting to demonstrate that across the board in our appropriations bills this year there will be a major effort to cut back spending and, thereby, impact the national debt.

□ 1500

With that, I want to express my appreciation to my two colleagues, and I certainly appreciate them yielding me this time.

Mr. KLUG. Mr. Chairman, I yield 4 minutes to my distinguished freshman colleague, the gentleman from Pennsylvania [Mr. SANTORUM], who has been a leader on this entire issue.

Mr. SANTORUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to give a little overview of where this money is coming from and how we arrived at this $6 million figure.

At the end of 1991 my understanding was that left over, in other words, money in the legislative accounts that was unused in 1991 as of September 30, which is the end of our fiscal year, was approximately $46 million.

Now, Mr. Chairman, let me step back. I think sometime this winter we rescinded $20 million of that $46 million, so we went down to $26 million being left over. We took $20 million and rescinded that funding from the franking account.

We are now today rescinding another $6 million, which leaves about $20 million.

You may ask what happened to this $20 million? Some very legitimate things happened. There were bills that were not submitted by the September 30 deadline that we had to pay. A lot of those bills were in, and, unfortunately, some of this money was reprogrammed.

What is reprogramming? Well, let us say you have some money here in the Post Office account and you do not necessarily have any reason to spend it there because there are no unpaid bills, so you decide you want to spend it over here in the office equipment account. So you, with a little sleight of hand, the chairman of the appropriations subcommittee, in consultation with the ranking member, decides we are going to spend this money somewhere else for some other purpose that nobody in this House has agreed to spend it on.

That is what I call the contingency funds of the House.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I knew the gentleman would yield, because it is important to have some dialog on this issue.

I certainly appreciate the understanding of the gentleman from Pennsylvania [Mr. SANTORUM], increasing understanding, I might add, of how this works.

Mr. SANTORUM. Mr. Chairman, I am learning.

Mr. FAZIO. I think the gentleman is to be commended for this studious approach to this. I know the gentleman has been working with staff and the CRS and others.

The only point I would like to make though is that the reprogramming authority here actually provides for more accountability than exists often in the executive branch.

In many areas the sorts of transfers that the gentleman from California [Mr. LEWIS] and I agreed to make here, from one account to another, are not even brought to Congress when they occur in the executive branch. So we really are providing more oversight. I think we have to remember that all these things that we have reprogrammed for are authorized. They are totally appropriated based on law that is standing in existence.

For example, the reprogramming we agreed to last week on the clerk hire funds which will allow Members to keep faith with their employees through the end of the fiscal year is very important, and not sleight of hand. It is simply part of the process that we have to use to have the flexibility to do our job. It is the same sort of thing that is done in the private sector and the executive branch in order to expedite their operations and to deal with unforeseen requirements.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I was going to suggest to the gentleman from Pennsylvania [Mr. SANTORUM] that one day it is conceivable that my chairman's party might have the presidency. Then the gentleman from Pennsylvania [Mr. SANTORUM] and I can make all these examples about the administration.

Mr. SANTORUM. Mr. Chairman, reclaiming my time, what I would say is while we might be somewhat more accountable while the subcommittee makes these decisions, my feeling is if we are going to be doing reprogramming, No. 1, we should limit it, and I think we have done that by elimination of the no-year funding; and, two, it should be a much more open process and inform the Members generally speaking as to what is going on so the public has the right to know that.

Mr. Chairman, that is the reason I have gotten up on the floor and at times harangued on this issue. I think we are seeing some sanity being brought to the process.

I want to commend the gentlemen for doing this and commend the gentleman from Wisconsin [Mr. KLUG] and the gentleman from New Hampshire [Mr. SWETT] for eliminating whatever money was left over for 1991. I look forward next year to getting rid of the leftover funds from 1992.

Mr. SWETT. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise in support of the Swett-Penny-Dorgan-Klug-Boxer amendment to the fiscal year 1993 Legislative Branch Appropriations Act, to rescind funds appropriated but not spent in Member's office accounts in fiscal 1991. The $6.8 million rescinded by this amendment will be returned to the Treasury for deficit reduction. I commend the gentleman from New Hampshire for his leadership in offering this amendment and I also want to thank Chairman VIC FAZIO for producing a bill that is both below the budget cap and a 5.7-percent reduction from current-year spending levels.

The underlying bill before us, H.R. 5427, will result in a hiring freeze in the House, a $27 million cut in mail costs, a $6.2 million reduction in congressional printing costs, a $8.2 million cut in maintenance and repairs, a $4.5 million cut for House supplies and materials, a $1.2 million reduction in police costs, a spending freeze for the Congressional Research Service and all joint committees at current-year levels to just name a few of the reductions contained in this measure. This year's bill contains more cuts than any other year in the history of legislative branch appropriations.

The Swett-Penny-Dorgan-Klug-Boxer amendment eliminates what has been called no-year funds that are appropriated in one fiscal year but are authorized to be spent in subsequent years. Some Members, myself included, have consistently turned back a portion of our office budget. Our intent was to save the taxpayers money—not to have these savings spent elsewhere. Many of us have rightfully charged that no-year accounts have turned into a slush fund from which projects around the House are funded, often without authorization or specific appropriation. For the information of Members, this fiscal year 1993 legislative branch bill allows no such fund.

In addition, I believe a reorganization of the Congress is in order—including a reduction in the number of committees. I will be working to implement these reforms in the next Congress. Clearly, at that point, additional budget savings can be achieved. In the meantime, I am pleased with our recent decision to freeze current-year committee budgets and with this proposal for nearly a 6-percent cut in next year's legislative funding. I feel these are steps in the right direction. I commend the leadership for working with those of us who have advocated cuts in the legislative budget.

I urge the adoption of the amendment, and I again commend Mr. SWETT and Chairman FAZIO for their work on this measure.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I think this is a good amendment that we should all support. The bill before us to which this is an amendment makes great strides by eliminating no-year funding, which did give rise to the so-called slush fund which is, I think, of great concern to many people throughout this country. I am delighted to know that we are going back toward the fixed year appropriations.

Mr. Chairman, I also like this amendment because we will be able to return to the General Treasury for purposes of deficit reduction nearly $7 million, which, although small in terms of the overall size of the budget, is definitely a step in the right direction.

I wish that we could go beyond what this amendment proposes and get a performance audit of all accounts of the House of Representatives, and I would like to scrutinize more closely the Architect of the Capitol account, but those issues will remain for another day.

Today we have a chance to take this small step in the right direction, and I would urge support for the amendment.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I rise today to support the amendment offered by my colleagues and friends, the gentleman from Wisconsin [Mr. KLUG] and the gentleman from New Hampshire [Mr. SWETT]. I think this is certainly a worthwhile contribution they make today.

I also rise to congratulate the gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. LEWIS], who have made some important contributions in terms of changing the direction of this legislation. It does not go as far as I would like to see it go, but it is at least a step in the right direction.

Mr. Chairman, my colleague, the gentleman from Pennsylvania [Mr. SANTORUM], previously discussed contingency funds and the whole issue of reprogramming. We are reducing the contingent funds here. We are down to about $20 million. With what the committee did to eliminate no-year funding, the ability of contingent funds to continue to build can no longer occur.

When it comes to reprogramming of those funds, I think that all of us realize reprogramming is important. You are going to have changes in the budget that occur during the year, and certainly there is going to be an effort and need to change funds around.

What I and others would like to see in a reform mode is to see that reprogramming efforts are done in a more formal way, in a more open way, so that Members of this House have some idea why we are reprogramming money and for what purpose it is going to be used.

In addition, one of the other areas that I think a lot of us believe strongly in is that we ought to have performance audits, so that Members of this Congress who sit here and vote for this money can actually see where this money is going. Because with reprogramming, as it is done today, and with the lack of performance audits, many of us have no idea how funds that this Congress appropriates are actually being used.

□ 1510

So again, I rise to thank my colleagues and support their amendment. It is a worthwhile amendment, deserves an "aye" vote.

Mr. SWETT. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to commend him and the gentleman from Wisconsin [Mr. KLUG] for offering this amendment today.

This is not, I guess, in the whole scope of things, an enormous amount of money, roughly $7 million. And added to the $20 million, to which this bill comes to us today, below 1992 spending, it is certainly another step in the right direction.

The bill amounts to a rescission, a rescission. And we may recall under current law, the President, when he signs an appropriations bill, can send a rescission message to the Congress. And after 45 days, if we have not taken action on that rescission, the rescission effectively goes away.

There are some of us who believe that the Congress should be compelled to vote on Presidential rescissions, to be able to defeat them with a simple majority, but that we would have to vote on that rescission.

This, in effect, is an attempt to do something along those lines. I commend the gentleman from New Hampshire [Mr. SWETT] for his inviting us to take that step, and my hope is that maybe we will consider taking a bolder step and to consider the way we have written the 1974 Budget Act, which requires us to vote on all Presidential rescissions.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], who led the fight to try to do this last year.

Mr. STEARNS. Mr. Chairman, I want to thank the gentleman for yielding time to me.

It is a pleasure to rise in support of the amendment offered by the gentleman from New Hampshire and the gentleman from Wisconsin. I would like to point out that this amendment is quite similar to the amendment offered by the gentleman from Pennsylvania [Mr. SANTORUM] last year. This amendment will rescind a total of $6.8 million from the funds appropriated for our salaries and expense accounts. I support this amendment because it has been a longtime coming.

The House leadership had made a practice of transferring unspent moneys into various accounts without the approval or even awareness of other members.

This amendment demonstrates a willingness by this body to move toward increased openness and accountability. The House leadership deserves praise for admitting the existence of discretionary funds and helping target those funds toward deficit reduction.

Mr. Chairman, in the past many members thought amendments like this were not important to the American people—that they were overlooked.

Well, in my district that is not so. Just last April a letter appeared in the Gainesville Sun from a gentleman calling for the elimination of discretionary funds in the U.S. House of Representatives. He believed the House should lead the deficit reduction charge by example.

The vote on this amendment will send a message to the American people about both the House and their individual representative.

A "yes" vote tells them the House will operate itself openly and honestly. A "no" vote signals a return the secrecy and deception of years past.

Again, I praise the House leadership for allowing this important amendment offered by the gentleman from New Hampshire and the gentleman from Wisconsin to the floor.

Mr. Chairman, I strongly urge my colleagues to support it.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to my fellow freshman classmate, the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding time to me. I compliment his efforts and those of the gentleman from New Hampshire [Mr. SWETT].

I think this is a very, very important amendment because it puts the House on record as being serious about eliminating the practice of reprogramming unexpended funds. It establishes a precedent for, actually an incentive for the House itself to conserve and to spend the taxpayer dollar wisely.

Until the present and until this amendment there has been no incentive for Members of the House to underexpend their authorized budget because in reality, when that occurred, and that is the situation for a goodly number of Members of Congress, those funds, rather than being returned to the Treasury or, in this instance, with this amendment, rather than going directly toward deficit reduction, went instead into a slush fund or a contingency fund controlled by a handful of Members of the House, the entrenched Democratic leadership, for spending as they saw fit.

So I compliment the authors of this amendment. It is a very important and timely one. Furthermore, it sets a good example of belt tightening for the American public as we enter into the coming debate on how to balance the Federal budget and how to bring Federal outlays, Federal Government outlays into line with Federal revenues.

Mr. SWETT. Mr. Chairman, I yield the remaining 7 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding time to me.

I simply want to say with this rescission we will be, as I think some have already said, completely eliminating all the carryover funds from the 1991 fiscal year that have not been legally obligated. We are taking every penny, every "Tim Penny," down to the end.

The additional rescission, however, should be added to the amount that was already cut in this bill. So in addition to the $19.9 million, which the committee has reduced below the fiscal 1992 level, we will now be adding an additional, $6.8 million, bringing the total to $26.6 million below the current year. And therefore, adding to the amount we had already cut in this bill, we will now be reducing this bill by 1.5 percent in budget authority. And we anticipate, based on the way in which rescissions have been scored by CBO and OMB, an overall reduction in 6.1 percent of actual outlays, well over the budget resolution assumption.

I simply wanted to say, however, that there have been a number of comments about slush funds and nefarious activity in the process of reprogramming and also some concerns expressed that if Members underfund their allowances, Member allowances for staff or clerk hire or for office expenses or for postage, that somehow that money is not being saved and is, therefore, being made available to powerful entrenched leaders of Congress.

I think it is important to say this. We estimate that there will be many Members who do not utilize all their office accounts. The gentleman from Kentucky [Mr. NATCHER], our friend over here, the acting chairman of the committee, has a reputation for diligence and prudence in the way he handles his office account. He is but one example of a person that allows us to authorize at one level and then in this committee appropriate at a much lower level all of these accounts because we fully appreciate that Members will not fully expend all that they are allowed to expend.

So to the degree that Members choose not to spend their clerk hire, it remains in the Treasury. It never comes to Congress. It is never drawn down upon. So the difference between what we are allowed to spend and what we do spend is calculated across the board, not on an office-by-office basis.

We do not line item Members' offices in the bill. We aggregate all the offices. So I want to assure the Members who have not spent all their funds that they have contributed to allowing large sums of money to remain in the Treasury, not to come here to be reprogrammed in some manner.

The reason this issue has become visible is because in 1991 and 1992, we had no-year funding. To be blunt, the reason no-year funding was included for things other than capital outlay, which is normally the case, even in this bill, is because we had a very difficult time with our postage. Members were voting to cut postage on the floor, knowing full-well that those amendments had no effect and Members continued to mail.

Some of the greatest mailers were the first to vote to cut on the floor. So what we did was provide flexibility, which now that we have a cap on how much Members can spend on mail, is no longer necessary.

The gentleman from Pennsylvania [Mr. SANTORUM] mentioned the 1992 bill. That will be the last bill in which these kinds of accounts continue to have no-year funding in them. And we will be just as diligent to rescind money we do not need in 1992 as we have been in 1991. But the reprogramming process, which the gentleman from California [Mr. LEWIS] and I work together on in a bipartisan way, which we had, by the way, placed in the RECORD and talked about on the floor so that there are no questions as to the validity of those requests and the way we have responded to them, will continue when appropriate, when it appears that we will unfortunately be short in some area where we misestimated.

□ 1520

I can remember a few years ago in the first year of the FERS retirement system, we had many new employees who went into that program, and the formula given to us by the administration was flawed. That generated additional funds. We reprogrammed those funds to telecommunications, made purchases of switches and telephone equipment which since then has saved us tens of millions of dollars.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to my friend, the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I must say that it is important to point out the fact, the reality, that there is a tendency to focus on this bill, and I have described it as self-flagellation, and it is a reality that some of those individuals, not all but some of those individuals who are here quickest to cut by way of amendment are the very individuals who spend every dime in their account.

Having said that, we have begun a very important process here, for we are saving millions of dollars by way of this amendment. We have a very tight bill to begin with, and one of our former esteemed colleagues was heard to say that "a dollar here, a dollar there, $1 million here, $1 million there, adds up to a lot of money eventually."

Mr. FAZIO. I appreciate the gentleman's comments. I would simply say to those who appeared in the well today, I welcome their in-depth appreciation of this bill. There are so many through the years who have been so critical without half the information. Sometimes a little bit of knowledge can often be misused, and I am hopeful that Members who now have a greater understanding of this process would admit that there has been no nefarious activity here, nothing done that would be, by any Member's estimate, an inappropriate reprogramming.

While I said earlier that the administration is very often held to a much looser standard in this regard, I will continue to work with my colleague, the gentleman from California [Mr. LEWIS]. There will never be a day in which we have a reprogramming which cannot be agreed to on both sides of the aisle. If it cannot be agreed to, we will bring it to the floor and have the Members vote on it. It is the only way for us to proceed. It is a practical and I think a time-honored way to do that.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. Yes, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I noticed when I went through the reprogramming account that the gentleman published in the RECORD the other day that it was $314,000 that was spent to remodel the former Document Room for I think his Steering and Policy Committee.

I would ask the gentleman, who made the decision that $314,000 should be used for that purpose?

Mr. FAZIO. The decision is made by the Architect of the Capitol and submitted to the committee. The gentleman from California [Mr. LEWIS] and I review the recommendations of the Architect when it falls into the purview of the Architect of the Capitol.

Mr. WALKER. So the gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. LEWIS] signed off for the House on that particular project, is that right?

Mr. FAZIO. That is correct, after, I must say, some lengthy discussion, and I know in the case of the gentleman from California [Mr. LEWIS], some concrete conversation with the gentleman from Illinois [Mr. MICHEL]. I have some additional remarks which I will insert here that provide additional classification.

THERE IS NO SLUSH FUND

Mr. Chairman, about this time each year, and every other year at election time, we begin hearing about a so-called slush fund—or a Speaker's slush fund. Well, there is no slush fund—not in this bill—nor elsewhere that I know of in the House of Representatives.

One of the common descriptions of this mystical allegation goes like this:

> A Member's current clerk hire allowance is $537,480. If the Member does not pay all that out in salaries, then some say the unused funds go into the "Speaker's slush fund." That's pure rhetoric, of course, and it is just not the case.

In the first place, we do not appropriate sufficient funds for all Members to spend the clerk-hire allowance, including the transfers they are allowed to make. If we did, we would have to appropriate $276.1 million into that account.

But this bill only appropriates $228.3 million for that purpose. That's because we know many Members will not spend their full allowances. We have many frugal Members, and the committee does not believe in full funding any account. We only fund what we believe is necessary.

So we have saved $48 million.

That $48 million is not in a slush fund. We did not appropriate it. It doesn't transfer into the drawing account at the Treasury. Those Members who do not spend their ceilings can correctly say that they are saving real dollars. They are entitled to use the maximum allocation, but choose not to.

If we didn't appropriate it, it can't be spent—that's the law. So the Speaker—the leader—the whip—the Clerk—the doorkeeper—cannot spend it.

Now let me refer to a related matter, because it is part of the misunderstanding.

There are areas within the bill where the committee retains authority to transfer funds from areas where a surplus may exist to an area where a deficit may occur because of unforeseen circumstances or because of an underestimated requirement.

That is prudent fiscal management. There is nothing sinister—or underhanded—or even unusual about this practice. This reprogramming tool is practiced in every agency of the Government and in every corporation in America. It is good business sense to allow some flexibility in a budget plan and to provide a procedure for making that flexibility as efficient as possible.

For example, in fiscal year 1990, the House Postmaster was beginning to run a backlog in delivering mail to Members' offices—many of you remember that.

Well, the committee used the transfer authority to add $44,000 to the Postmaster for overtime and additional help. Later on we provided emergency funds to hire 40 temporary mail handlers to alleviate the problem.

Back in 1987, we transferred $12 million—that's by far the largest transfer that we have ever approved other than one in 1989 because of an accounting change—from the employee benefit account to our telephone payment account. We had the surplus because that was the first full year of the new FERS retirement program and the formula given to us by OPM to use in figuring the funding need, produced an amount that was much larger than the actual cost.

The $12 million telephone payment was for two new switches and to purchase new telephone instruments. And because of that investment, we have saved tens of millions of dollars. That was a wise reallocation of savings.

This year, we have transferred from savings the funds necessary to pay for the increased salaries made possible by the $50,000 increase in clerk-hire authorization.

We have published every transfer we have made since 1987 in the CONGRESSIONAL RECORD, or in hearings, and released the details to the press.

These are normal funding shifts within a salary and expense appropriation. They are legal, they are prudent and necessary, and they facilitate the operations of the House.

Finally, Mr. Chairman, there is one other area that may impinge on this discussion. I don't want to belabor the point, but I do want to lay out the facts and put this misleading and persistent slush fund fairy tale to rest.

We have a line item in this bill: Supplies, materials, administrative costs, and Federal tort claims within the account for allowances and expenses. That account totals about $19.1 million. The kinds of items charged against that account are centralized telephone services, computer costs, office supplies, wall calendars, and so forth. These are expense items for the House in general, our administrative offices, committees, leadership offices, and so forth. There are procedures in place that are followed to ensure that every expenditure from this account is authorized—is legal—and is cost-effective. The Committee on House Administration is the watchdog of this account. And they are our housekeeping agency. I don't see how anyone could justly criticize the necessity to have that type of account for an organization of over 11,000 people, with many offices in all 50 States, and with an annual budget of over $704 million.

There is no slush fund. There is prudent flexibility—and appropriate management oversight.

RETURNING UNUSED FUNDS

I think each Member who does not spend the allowance for clerk salaries or the allowance for office expenses is perfectly entitled to say those funds were saved.

If a Member spends up to the allowance limit for that Member, those expenditures would have to be charged against an appropriation account and the Treasury would issue a check to cover the expenditures made under the allowance.

If the full allowance is not spent, the funds are "saved" in the sense they do not have to be charged against any spending authority in the U.S. Treasury.

No matter how you look at it, if the Member does not spend all the allowance—there are savings to that extent. And the Member is entitled to make that claim.

There is some confusion here between these clerk hire and office expense allowances and the appropriations authority which is necessary to allow the U.S. Treasury to issue payment on an expenditure from the allowance.

It is the House Administration Committee that sets the allowance.

It is the legislative appropriations bill that actually enacts legal authority for the Treasury to issue checks for legal obligations against these allowances.

Let me take a simple example to illustrate the point.

The House Administration Committee sets an allowance of $100 for Member X.

The appropriations bill does not contain an amount designated for Member X. Instead we have estimated overall what all Members will consume under that allowance.

Because the Appropriations Committee knows the average Member X, or Y, or Z, will probably not spend the entire $100—the average Member is frugal—we will only put an average for each Member of $90 in the appropriations bill in total for clerk hire.

Now, we have not reduced the allowance—Member X can still spend the $100—that is the legal allowance.

The Appropriations Committee thinks only $90 will be spent.

If Member X spends $90—that Member can certainly claim to have saved $10. But no money can be returned, because the $10 is not appropriated.

If the Member spends only $80—then $10 is saved in the appropriations bill and $20 is saved from the allowance.

That Member can claim a savings to the Treasury of $20—because that certainly was the allowance—$20 more than spent.

But we can't turn back that $20. We never appropriated it to begin with. We do have $10 more than what we estimated would be spent.

But there is another consideration here.

Under the rules of the House Administration Committee, Member X can transfer that $20, or $10, or $5 or whatever is left over from the clerk-hire allowance to the office expense allowance—for more office supplies, district office rent, telephone charges, computer equipment, and the like.

If that happens and, just as we underfund the clerk-hire allowance, the appropriations bill had only provided $90 for the office account appropriations, that appropriation is now underfunded by whatever amount the Member transferred from the clerk-hire account.

If Member X transfers the entire $20, we are now short $30 in the appropriation provided for official expenses of members—the $100 allowance plus the $20 transfer less the $90 on average we appropriate for the office accounts of all Members.

So the $10 the Member did not spend under the amount appropriated is needed to transfer to the office account allowance, under the committee's transfer authority, and now we are still $20 short in that account because we now need a total of $120 to pay member X's office allowance entitlement. That shortage will probably be made up by other Members who may underspend their office accounts, or the committee will have to find savings in other House accounts to transfer into this account, or the House Administration Committee will have to reduce the allowance.

I know this is a complex accounting procedure—and one which is not well understood. But it is one that facilitates the administration of House accounts.

The bottom line is that Member X can justifiably claim a savings if the allowance is not spent out.

That money cannot be turned back specifically because it may be needed if there is a net transfer by Members out of the clerk-hire allowances to office expenses or the mail allowance—and we never appropriate the full amount of the allowance anyway.

To the extent there is money left over in the overall clerk-hire appropriation or the office account appropriation at the conclusion of the fiscal year's accounting—that money will lapse. It will stay in the Treasury and be used for general deficit reduction.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise today in support of the amendment offered by Mr. SWETT, myself, and others. In each of the appropriations bills to reach the floor this session, I have supported reasonable reductions in spending. I believe the bill setting spending levels for our own operations in Congress should not be exempt from this same scrutiny. All this amendment proposes is that $6.8 million in unspent money be returned to the Treasury rather than carried over into future budgets.

The general approach of formulating budgets in this town has been to take last year's budget, increase it by some factor and assume this as the new baseline. We often speak of cuts when we have only slowed the rate of increase. We have had a model of infinite growth and unlimited resources for the budget. When the economy is not growing, this model just doesn't work. Accordingly, we must adjust our approach to reflect this reality. One way to do this is by cutting Federal overhead costs.

It's important to understand the context in which this appropriations bill was developed. Between 1979 and 1989 these changes in Federal employment took place: executive branch employment has increased by 8 percent, judicial branch employment increased by 69 percent, while legislative branch employment decreased by 5 percent.

At these levels, cutting the legislative branch payroll in half would save as much as cutting the executive branch by less than 1 percent. But this doesn't excuse us from dealing with the issue of spending in the legislative branch.

Passage of the amendment offered by Mr. SWETT, myself, Mrs. BOXER, Mr. PENNY, Mr. GLICKMAN and Mr. KLUG will bring funding in this bill to more than 6 percent under last year's level and 14 percent under the Presidents' budget request. That's responsible budgeting and a model for other appropriations bills we will consider.

My intent is not to throw stones or otherwise disparage the work or the fine staff people doing the work here on Capitol Hill. What I am doing is taking a stand to try to change the road we are on. It does mean that there should be few sacred cows in discussing how to get the deficit under control—and that includes our own house.

If this money hasn't been needed before, we should do the right thing and return it to the Treasury for reconsideration in light of other priorities, and there certainly are plenty of other needs. We expect to deobligate about $150 million in unspent funds in the foreign operations appropriations bill. We should do likewise with our own funding bill. This approach is part of an overall effort, as recommended by the Democratic Caucus Task Force on Government Waste, to cut overhead costs.

"Hard choices and tough decisions" are phrases heard often on the Hill these days. This is another one, but not the last. I urge you to support this amendment.

The CHAIRMAN. All time for debate on the amendment has expired. The question is on the amendment offered by the gentleman from New Hampshire [Mr. SWETT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SWETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 426, noes 0, not voting 8, as follows:

[Roll No. 225]

AYES—426

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
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NOES—0

NOT VOTING—8

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Schumer
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□ 1544

Messrs. GINGRICH, MORRISON, SMITH of Florida, LEWIS of Georgia, SAVAGE, and HAYES of Illinois changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The next amendment in order will be offered by the gentleman from Kansas [Mr. ROBERTS].

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, as provided by the rule, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROBERTS: Page 2, strike out line 3 through line 5.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Kansas will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as provided by the rule, I have an amendment to strike all funding, $210,000 for the mileage for Members account.

As I described this amendment yesterday in the Rules Committee, I view this as a simple housekeeping provision. One I wish Chairman FAZIO and Congressman LEWIS could accept without a vote.

The mileage for Members account was created in the 1800's when the House of Representatives was more a citizens body. Members were not full-time "professional" representatives of their congressional districts, rather part-time legislators. The sessions of Congress were much shorter and representatives held full-time professional positions and occupations outside of Congress.

The mileage for Members' allowance was set up to pay individuals by the mile they traveled to come at the beginning of a session and again at the end of the session. Members commonly did not travel back and forth to the district during the session and this payment based upon miles was considered fair since traveling was much slower—for some it would take days to return home.

The mileage for Members account has remained and has allowed Members distant from their congressional districts to obtain a windfall on their travel to and from the district at the beginning and end of a session. The payment by mileage has become outdated with air travel and the creation of an official expense allowance [OEA] account for Members office operation. The OEA pays for official travel that occurs throughout the year. It is based upon the cost of the ticket/travel—not a mileage payment. This "true cost" reimbursement is more accurate and does not create a reimbursement in excess of what the Member actually paid to return home.

I am supportive of any system to repay Members for their actual travel costs. However, this account still allows Members to be paid beyond their expenses.

I would urge my colleagues to assist me in simply ending this outdated and confusing system for repayment.

□ 1550

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I am delighted to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I want to express my appreciation to the gentleman from breaking with tradition and asking that this amendment be included. I certainly want to associate myself with the remarks the gentleman has made.

This has been the law since 1866. It is totally unnecessary and antiquated for Members to travel back and forth during the intervening years.

Mr. Chairman, I am in support of the amendment.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. ROBERTS].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $704,409,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $5,561,000, including: Office of the Speaker, $1,383,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $994,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,348,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $1,095,000, including $5,000 for official expenses of the Majority Whip and not to exceed $405,830, for the Chief Deputy Majority Whip; and Office of the Minority Whip, $741,000, including $5,000 for official expenses of the Minority Whip and not to exceed $97,330, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of official and representative duties, $228,313,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $70,950,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $389,000.

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $57,900,000.

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE INFORMATION SYSTEMS

For salaries, expenses and temporary personal services of House Information Systems, under the direction of the Committee on House Administration, $22,885,000, of which $8,139,000 is provided herein: *Provided*, That House Information Systems is authorized to receive reimbursement for services provided from Members and Officers of the House of Representatives and other Governmental entities and such reimbursement shall be deposited in the Treasury for credit to this account: *Provided further*, That amounts so credited for fiscal year 1992 and not obligated shall be available for obligation in fiscal year 1993.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $222,737,000, including: Official Expenses of Members, $78,545,000; supplies, materials, administrative costs and Federal tort claims, $19,116,000; net expenses of purchase, lease and maintenance of office equipment, $4,427,000; furniture and furnishings, $1,720,000; stenographic reporting of committee hearings, $1,055,000; reemployed annuitants reimbursements, $1,039,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $116,203,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $632,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $6,631,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $53,011,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law,

$50,778,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $22,354,000; Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,369,000; Office of the Doorkeeper, including overtime, as authorized by law, $10,750,000; Office of the Postmaster, $4,079,000; Office of the Chaplain, $123,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $854,000; for salaries and expenses of the Office of the Historian, $310,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,403,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,155,000; six minority employees, $735,000; the House Democratic Steering and Policy Committee and the Democratic Caucus, $1,461,000; the House Republican Conference, $1,461,000; and other authorized employees, $1,724,000.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Amounts appropriated for any fiscal year for the House of Representatives under the heading "ALLOWANCES AND EXPENSES" may be transferred among the various categories of allowances and expenses under such heading, upon approval of the Committee on Appropriations of the House of Representatives.

(b) Amounts appropriated for any fiscal year for the House of Representatives under the heading "SALARIES, OFFICERS AND EMPLOYEES" may be transferred among the various offices and activities under such heading, upon approval of the Committee on Appropriations of the House of Representatives.

(c)(1) Amounts appropriated for any fiscal year for the House of Representatives under the headings specified in paragraph (2) may be transferred among such headings, upon approval of the Committee on Appropriations of the House of Representatives.

(2) The headings referred to in paragraph (1) are "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "STANDING COMMITTEES, SPECIAL AND SELECT", "HOUSE INFORMATION SYSTEMS", "ALLOWANCES AND EXPENSES", "OFFICIAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES".

SEC. 102. The provisions of H. Res. 199, approved April 1, 1991, establishing 114 civilian support positions for the Capitol Police with respect to the House of Representatives, shall be the permanent law with respect thereto.

SEC. 103. (a) Upon the transfer of any function to the Director of Non-legislative and Financial Services or the Office of General Counsel by reason of the House Administrative Reform Resolution of 1992, and upon the commencement of operation of the Office of Inspector General, the applicable amounts appropriated by the Legislative Branch Appropriations Act, 1992, or by this Act for the purposes specified in subsection (b) shall be available to the Director, the Office of General Counsel, and the Office of Inspector General for the carrying out of such function or operation, upon the approval of the Committee on Appropriations of the House of Representatives.

(b) The purposes referred to in subsection (a) are (1) salaries and expenses of the House of Representatives under the headings "ALLOWANCES AND EXPENSES" and "SALARIES, OFFICERS AND EMPLOYEES", and (2) joint items under the heading "CAPITOL GUIDE SERVICE".

SEC. 104. (a) There is established a subaccount in the appropriation account for salaries and expenses of the House of Representatives for the deposit of fees received from Members and officers of the House of Representatives for services provided to such Members and officers by the Office of the Attending Physician. The amounts so deposited shall be available, subject to appropriation, for the operations of the Office of the Attending Physician.

(b) This section shall take effect at the beginning of the first month after the month in which this Act is enacted.

JOINT ITEMS

For joint committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,020,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,391,000.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,759,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) $973,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,509,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $62,852,000, of which $31,000,500 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $31,851,500 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police vehicles, including two-way police radio equipment; and contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, expenses associated with the implementation of the Capitol Police Employee Assistance Program, including but not limited to professional referrals, and expenses associated with the awards program not to exceed $2,000, expenses associated with the relocation of instructor/liaison personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $2,029,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1993 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

ADMINISTRATIVE PROVISION

SEC. 105. Of the amounts appropriated for fiscal year 1993 for "Capitol Police Board", "Capitol Police," such amounts as may be necessary may be transferred between the headings "Salaries", and "General expenses", upon approval of the Committees on Appropriations of the Senate and House of Representatives.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,644,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $292,000, to be disbursed by the Secretary of the Senate.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92–484), including official reception and representation expenses (not to exceed $3,500 from the Trust Fund), and expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those expenses necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, and 42 U.S.C. 1395w–1, $21,025,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92–484, except that funds shall be available for the assessment required by Public Law 96–151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or shall be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $22,542,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $8,286,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $50,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; purchase and installation of security systems which are approved by the Capitol Police Board, as authorized by House Concurrent Resolution 550, Ninety-Second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $300,000; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $23,515,000, of which $4,245,000 shall remain available until expended: *Provided*, That of the funds to remain available until expended, $1,328,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,256,000.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $32,387,000, of which $2,940,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office; and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $32,088,000, of which $665,000 shall remain available until expended: *Provided*, That not to exceed $3,200,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1993.

ADMINISTRATIVE PROVISION

SEC. 106. There is established in the Treasury a revolving fund for the House of Representatives gymnasium. The Architect of the Capitol shall deposit in the fund such amounts as the Architect may receive as gymnasium dues or assessments from Members of the House of Representatives and other authorized users of the gymnasium. The amounts so deposited shall be available for obligation by the Architect for expenses of the gymnasium.

Mr. FAZIO (during the reading). Mr. Chairman, in order to expedite the business of the House, once again I ask unanimous consent that the bill through page 17, line 16, be considered as read, printed in the RECORD, and open to amendment at any point, and I urge the gentleman from Pennsylvania [Mr. WALKER] to please indulge us at this time with this request.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading.

AMENDMENT OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANTORUM: Page 17, after line 16, insert the following new section:

SEC. 107. (a) Not later than November 1, 1992, the Committee on House Administration shall submit to the House of Representatives a report that identifies for each room and other space (including parking) that is currently or may be used in all House Office Buildings the following:

(1) Occupant by Members, committee, or support organization.

(2) Square footage for each space.

(3) Number of persons occupying the space.

(4) Member, committee, or legislative support organization affiliation for each person occupying the space.

(5) Use of space—Member office, committee activities, storage, for example.

(b) The report shall provide the specific information described in subsection (a) and analyze the information by Member, committee, and support organization.

(c) All Members, employees, and support personnel of the House of Representatives are asked to give their full support to this study by answering questions and providing information in a timely manner.

(d) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Congressional Research Service, and other agencies of the legislative branch.

(e) Notwithstanding any law, rule, or other authority, there shall be paid from the House Office Buildings account of the House of Representatives such sums, not to exceed $50,000 as may be necessary for completion of the report.

Mr. FAZIO. Mr. Chairman, I reserve a point of order on the amendment, and would ask the gentleman to explain the amendment over perhaps the next 5 minutes.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order against the amendment.

Under the rule, the gentleman from Pennsylvania [Mr. SANTORUM] will be recognized for 10 minutes, and a member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, my amendment deals with an authorization of $50,000 for the Capitol Building account for a space audit of the parts of the U.S. Capitol Building which is controlled by the House.

In the time I have been here, as the gentleman from California [Mr. FAZIO] has said, I have been diligently trying to find out how this institution is run, as the gentleman has so graciously admitted that we are learning.

One of the things I would like to be learning is how the space is allocated here, and if so, if it is done I am sure in a bipartisan fashion.

One of the things that we cannot find out is how that is done. We have talked to the Architect of the Capitol and requested some accounting as to how space is divided here in the Capitol Building, and we have been told that information is not available.

We were, however, given a blueprint of the Capitol and if we wanted to go around and ask the different offices what space belongs to what, that was our ability to do so.

I thing that is certainly not the best way to conduct business.

Again, it is a matter of being open and fair with the American public as to how this institution is managed, how this institution is run, and I think this is an important part of it.

I think one of the most important parts of a space study would be not only to see what space is allocated to whatever membership or whatever party, but also I think you will find out that there probably are a lot of safety violations and code violations here in the Capitol Building, and in the next amendment that we will deal with I will talk about this also over in the House Office Buildings.

One of the things that we have been able to find out in discussing this matter is from I believe it is the Deputy District of Columbia Fire Chief, who basically says that they do not really come in here and inspect this place. Gosh knows what they will find. This is a potential firetrap.

So not only is this amendment put forward to find out where the space is allocated, but also when the space is analyzed whether it is safe for Members and the general public who at times occupy this building, whether it is in a safe manner for them to be in this place under the current conditions.

So in the name of openness toward how this institution is run and also in the name of safety, I stand here asking that this amendment be allowed to be made in order and that the point of order not be offered.

I only can harken to the comments made by the gentleman from California that these amendments, of which I am the first, are endangered. Since we are so conscious and concerned about endangered species, this being the first one on the list today, I would hope that the gentleman from California will have as much in his heart for the Endangered Species Act as he does for this endangered amendment.

POINT OF ORDER

Mr. FAZIO. Mr. Chairman, continuing my reservation, of a point of order, I would indicate to the gentleman from Pennsylvania that if he knew my district, my love of endangered species is much tempered, so I would have to say that it would be appropriate at this time to point out to the Members that this is under the rules of the House within the purview of the Speaker.

So, Mr. Chairman, I must make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill.

☐ 1600

Therefore it violates clause 2 of rule XXI. The rule states in pertinent part, "No amendment to an appropriation bill shall be in order if changing existing law."

The amendment not only gives affirmative direction and effect, it imposes additional duties and modifies existing powers and duties.

So I must ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. SANTORUM] wish to be heard on the point of order?

Mr. SANTORUM. No, Mr. Chairman, I do not.

The CHAIRMAN (Mr. DONNELLY). The Chair will rule that the amendment clearly is authorization on an appropriation bill, and the point of order is sustained.

AMENDMENT OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Chairman, I offer an amendment made in order by the rule.

The Clerk read as follows:

Amendment offered by Mr. SANTORUM:

Page 17, after line 16, insert the following new section:

SEC. 107. (a) Not later than November 1, 1992, the Committee on House Administration shall submit to the House of Representatives a report that identifies for each room and other space (including parking) that is currently or may be used in all House controlled space in the Capitol complex, the following:

(1) Occupant by Member, committee, or support organization.

(2) Square footage for each space.

(3) Number of persons occupying the space.

(4) Member, committee, or legislative support organization affiliation for each person occupying the space.

(5) Use of space—Member office, committee activities, storage, for example.

(b) the report shall provide the specific information described in subsection (a) and analyze the information by Member, committee, and support organization.

(c) All Members, employees, and support personnel of the House of Representatives are asked to give their full support to this study by answering questions and providing information in a timely manner.

(d) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Congressional Research Service, and other agencies of the legislative branch.

(e) Notwithstanding any law, rule, or other authority, there shall be paid from the Capitol Buildings account of the Architect of the Capitol such sums, not to exceed $50,000 as may be necessary for completion of the report.

Mr. FAZIO. Mr. Chairman, I must rise again to reserve a point of order on the gentleman's amendment, and of course I would ask the gentleman to explain it.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order against the amendment of the gentleman from Pennsylvania [Mr. SANTORUM].

The gentleman from Pennsylvania [Mr. SANTORUM] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

Mr. SANTORUM. Mr. Chairman, this amendment is similar to the previous amendment in that it authorizes a study for the House office buildings across the street. Again, I would just make the same points as to what space has been allocated. Looking around my office as I did this morning for the various cords and contraptions that are hooked up in a modern day technologically advanced House of Representatives, in buildings which were not built for that purpose, I think a study of the space and safety in this House is absolutely required. I would hope—and I anticipate that the gentleman is going to object and make a point of order on this—I would hope that while this particular amendment is not offered, like my amendment last which was stricken, that I hope that next time we come around for this legislative appropriations bill there will be such a study done, not only to determine what space is allocated to Members but also determine whether we are in fact inhabiting the space it is safe for us to inhabit.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. SANTORUM. I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. I thank the gentleman for yielding.

I understand a point of order will be raised. I understand this is within the purview of the Speaker. I also understand that that is part of the problem.

Mr. Chairman, I am sentenced to continue whatever existence I have here in regards to the privilege I have of serving my district, to the Longworth Building. The sometimes powerful House Agriculture Committee meets on the third floor and I am one of those Members who believes in attending all the subcommittee and committee hearings. So that is where I live. It has taken me six terms to get to the first floor.

Mr. FAZIO and I have discussed repeatedly the need for what we call a new and modern elevator system, so we could go to and from. I keep in shape in the Longworth Building by going up and down the stairs.

One of the real pressure points, one of the real frustrations, is to go around the Longworth Building and see what space is alloted to Members, more especially new Members. And we are going to have at least 125, some say 150; they are going to come to this body, to this Congress, and they are going to be shocked to find out that they will be crammed into 2 small rooms with the amount of staff and not enough room to really work.

My point is we should not have to spend $50,000 to do an office space study. It should be done. And I can also say, when you ask the Architect—and I have the utmost respect for George White and his staff—there is no way that you can find out who occupies what.

Then you get these sudden occurrences where one Member all of a sudden found a palatial suite on the fifth floor of Longworth and the nurse was then transferred to another area. Or one Member, through the room drawing, was not permitted to have a room and so we had to exchange a room with a powerful committee chairman.

That is just not the right procedure. So it is not only a matter of safety, it is not only a matter of convenience for a new Member, it is let Members have enough space to at least conduct their business.

I know I am treading on some thin ice here, but several committee chairmen have suite after suite for receptions. I used to walk by when I was a member, when I worked for my predecessor, and saw LSO's occupying office space, one person in the room, filing on their fingernails, and I wondered why we were forced to live in two small offices.

Mr. Chairman, this is not right. The gentleman from Pennsylvania [Mr. SANTORUM] is accurate, the gentleman is pertinent, and it is a shame we do not make this in order. We do not need the $50,000. It ought to be an open procedure. I would encourage my friend from California to withdraw the point of order and let us at least have a study of where the current offices are and where offices actually should be.

I thank the gentleman.

Mr. FAZIO. Mr. Chairman, continuing on my reservation, I might add that I have worked closely with the gentleman from Kansas [Mr. ROBERTS], and I would like to say it is important for the House Office Buildings Commission to meet and agree to the elevator improvements that need to be made in the Cannon and Longworth Buildings. In fact, we were not in a position to fund them this year financially or legally as a result of the fact that the commission has not met and approved them. They are very important to the efficiency and productivity of Members who are in those two buildings.

I think the proper approach the gentleman should take would be to go to the committees of jurisdiction, I believe that would be the Committee on House Administration and the Committee on Public Works' Subcommittee on Public Buildings. I think the gentleman may have a point, but I must at this point, given the time in which it is submitted to me, insist on my point of order, which would be the same point I made on the last one.

Mr. SANTORUM. Mr. Chairman, if the gentleman would yield, is the gentleman saying that when I go to the Committee on House Administration, I go there with his support?

Mr. FAZIO. I think a study on the House office buildings would be worth looking at. I am not exactly sure how it should be conducted. But I certainly think there is a bipartisan benefit to that.

Mr. SANTORUM. As the chairman of the Committee on House Administration is sitting directly behind the gentleman, I would hope that he pays attention to that, and I wish that when I do come with this amendment, he will make it part of the legislation.

POINT OF ORDER

Mr. FAZIO. I must at this time, Mr. Chairman, insist on my point of order, because it proposes to change existing law and constitutes legislation in an appropriation bill and therefore violates clause 2 of Rule XXI.

The rule states in pertinent part:

> No amendment to a general appropriation bill shall be in order if changing existing law. * * *

The amendment:

First, gives affirmative direction in effect;

Second, imposes additional duties; and

Third, modifies existing powers and duties.

I ask for a ruling from the Chair.

The CHAIRMAN (Mr. DONNELLY). Does the gentleman from Pennsylvania [Mr. SANTORUM] wish to be heard on the point of order?

The gentleman does not wish to be heard on the point of order.

The Chair shall rule that, clearly, this amendment is legislation on an appropriation bill, and the point of order is sustained.

Mr. FAZIO. Mr. Chairman, I wish once again to try to expedite matters for the Members today, particularly because I know that we could go right to the amendment which the gentleman from California [Mr. COX] is going to offer, if we could receive unanimous consent that the bill, through page 28, line 19, could be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WALKER. I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The clerk read as follows:

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $56,583,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $89,591,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1993".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,906,000: *Provided*, That effective upon enactment of this Act, such amount, not exceeding $500,000, deemed necessary for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden may be transferred to the Botanic Garden appropriation from among the various Architect of the Capitol appropriations, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

ADMINISTRATIVE PROVISION

SEC. 201. Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), not more than $6,000,000 shall be accepted and not more than $6,000,000 of the amounts accepted shall be available for obligation by the Architect of the Capitol for constructing, equipping, and maintaining the National Garden.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $200,073,000, of which not more than $7,500,000 shall be derived from collections credited to this appropriation during fiscal year 1993 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,500,000: *Provided further*, That of the total amount appropriated, $7,669,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That, notwithstanding the provisions of 2 U.S.C. 150, as amended, $303,000 is to be available to support the catalog cards service: *Provided further*, That, of the total amount appropriated, $3,186,000 is to remain available until expended for the rental and outfitting for a warehouse and book storage facility away from Capitol Hill.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $26,040,000, of which not more than $14,500,000 shall be derived from collections credited to this appropriation during fiscal year 1993 under 17 U.S.C. 708(c), and not more than $2,217,000 shall be derived from collections during fiscal year 1993 under 17 U.S.C. 111(d)(2), 116(c)(1), 119(b)(2), and 1013: *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $16,717,000: *Provided further*, That $200,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $43,144,000, of which $10,377,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $4,490,000.

ADMINISTRATIVE PROVISIONS

SEC. 202. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $175,690, of which $54,800 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 203. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 204. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 205. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 206. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $9,733,000, of which $860,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $911,000, of which $781,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,082,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $120,000: *Provided further*, That funds, not to exceed $2,000,000, from current year appropriations are authorized for producing and disseminating Congressional Serial Sets and other related Congressional/non-Congressional publications for 1989 and 1990 to depository and other designated libraries.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of passenger motor vehicles not to exceed a fleet of twelve: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 4,950 workyears: *Provided further*, That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15, nor to any employee involved in the in-house production of printing and binding: *Provided further*, That expenses for attendance at meetings shall not exceed $75,000.

ADMINISTRATIVE PROVISION

SEC. 207. (a) Section 206 of the Legislative Branch Appropriations Act, 1991 (44 U.S.C. 501 note) shall not apply with respect to funds appropriated for fiscal year 1993.

(b)(1) None of the funds appropriated for fiscal year 1993 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including forms, CD–ROM's, and map/chart products), unless such procurement is by or through the Government Printing Office.

(2) Paragraph (1) does not apply to (A) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, cannot be provided by the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (C) printing from commercial sources that is specifically authorized by law.

(3) As used in this subsection, the term "printing" means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and CD–ROM replication, and the end items of such processes.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $442,167,000: *Provided*, That not more than $1,200,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1993: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That, notwithstanding any other provision of law, $2,191,000 of this appropriation shall be available for the planning, administering, receiving, sponsoring and such other expenses as the Comptroller General deems necessary to represent the United States as host of the 1992 triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI): *Provided further*, That the General Accounting Office is authorized to solicit and accept contributions to be held in trust, which shall be available without fiscal year limitation, not to exceed $20,000, for any purpose related to the 1992 triennial Congress.

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AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Cox of California: Page 29, line 19, strike "$442,167,000" and insert "$333,333,000".

The CHAIRMAN. Under the rule, the gentleman from California [Mr. COX] is recognized for 20 minutes in support of his amendment and a Member in opposition will be recognized for 20 minutes.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I rise as a 4-year member of the Committee on Government Operations and as the Republican cochairman of the congressional Grace caucus, which is dedicated to enacting into law the cost-saving recommendations of the Grace Commission.

Mr. Chairman, the purpose of this amendment is to fund one part of our congressional staff, the General Accounting Office, at one-third of a billion dollars annually. It is this Member's view that one-third of a billion dollars for this one part of our congressional staff is ample for the General Accounting Office to continue to do the work that we require of it.

As a consequence of my amendment, Mr. Chairman, the General Accounting Office will have a 50-percent funding increase over fiscal year 1980. In 1980, the General Accounting Office received $204 million. The current request is for the General Accounting Office to receive a number far more than double that, $442 million. From fiscal 1990 to fiscal 1991, the budget for this part of our congressional staff was increased 14 percent; from fiscal year 1991 to fiscal year 1992, another 8 percent. This was largely passed through to staff salary increases—to pay raises for our congressional staff—so that the average cost per position at the GAO increased in 1991 by 7½ percent, and in 1992, by 7.8 percent.

Mr. Chairman, it is time that we get our deficit under control, and certainly spending on Congress itself needs to be looked at from the standpoint of reducing overhead.

Mr. Chairman, out there in America there is not much constituency for increased congressional spending on itself. I have received phone calls, letters, and post cards from my constituents asking for increased spending on a variety of subjects, on health, on education, on science, on the environment, even on defense. But never, Mr. Chairman, have I received a single request for more spending on congressional staff.

OVERALL BUDGET

	GAO budget	Percent change (over previous year)
Year:		
1980	$204,000,000	
1985	299,000,000	
1988	330,000,000	7 percent increase.
1989	346,000,000	5 percent increase.
1990	358,000,000	3 percent increase.
1991	409,000,000	14 percent increase.
1992	443,000,000	8 percent increase.
1993 (request)	442,000,000	

The Cox amendment would reduce the GAO budget to $333 million—essentially, a return to the FY 1988 budget.

COMPARATIVE SIZE OF GAO

GAO budget accounts for one-quarter of legislative branch.

GAO staff of 5,062 represents one-quarter of all legislative branch staff—that's almost 10 GAO staffers for every Member of Congress.

GAO budget is eight times the size of the Congressional Research Service's budget, nearly 10 times the size of the budget of the Office of Management and Budget, and 21 times the size of the Congressional Budget Office's budget.

WORKLOAD

Year:	*Percent*
	Percent
1969	[1]10
1980	35
1985	57
1991	80

[1] Percent of GAO reports initiated by Congress.

DETAILEES

	No. of detailees	Cost to taxpayers
Year:		
1988	117	$3,500,000
1989	143	4,300,000
1990	172	5,300,000
1991		

INDEPENDENCE OF THE GAO

As recently as 20 years ago, the GAO initiated most of its own studies. For instance, in 1969, only 10 percent of GAO's reports were in response to congressional requests. That number grew to 35 percent by 1980, and to 57 percent by 1985. Today, Congressional requests account for fully 80 percent of GAO's workload. The dramatic increase over the last 20 years in congressional demands on GAO has left the agency with less time and fewer resources to spend on self-initiated work.

Combined with the fact that GAO's staff has a low turnover rate—GAO has a retention rate of 94%—there is good reason to believe that GAO has—perhaps not through any fault of its own—become an agency staffed by career bureaucrats and beholden to the majority: A Democratic lap dog instead of a congressional watchdog.

The professionalism and independence of the GAO is essential to its credibility and effectiveness.

Even the liberal Washington Post recognizes the importance of maintaining the integrity and independence of the GAO:

"But the suggestion that the agency is less than independent in its approach and that its studies tilt in the direction of its congressional masters is heard often enough to warrant a closer look. . . ." (July 10, 1991, editorial).

What's more, Harry Havens, one of GAO's 11 assistant comptroller generals, has even publicly acknowledged that GAO's close ties to Congressional Democrats "could pose significant risks to the credibility" of the watchdog agency. (July 30, 1990, New York *Times*).

Democrat Senator Harry Reid, chairman of the Subcommittee on Legislative Appropriations, thinks that GAO already has a credibility gap: "Maybe your work isn't as good as it used to be . . . I rarely find anybody anymore that respects your work." (quoted in February 13, 1992 Roll Call).

GAO's handling of the House bank scandal highlights just how cozy the relationship between the Congress and the supposedly independent GAO really has become. Prior to

1977, the GAO always cited specifics in its reports on the House bank with regard to overdrafts and check-kiting. All this changed in 1977, when GAO audits of the House bank became public. After that, overdrafts didn't play nearly as large a part in the GAO reports, largely because GAO auditors were persuaded by Democratic leaders to remove the documentation in a made-to-order audit.

DETAILEES

1988: 117, at a cost of $3.5 million to GAO.

1989: 143, at a cost of $4.3 million to GAO.

1990: 172, at a cost of $5.3 million to GAO.

Of 1990's 172 detailees, only one was approved for the Republicans. The Energy and Commerce Committee alone had 33 detailees, and the Committee on Government Operations had 26 detailees—more than the committee's entire minority staff of 17 persons. This large number of detailees has given the majority a huge advantage in investigative manpower.

While the GAO has taken steps in the past year to improve this situation—now, for instance, the authorization of a detailee is subject to the approval of both majority and minority—Republicans are still essentially excluded from all but the final stages of the detailing process.

GAO'S "MEASURABLE FINANCIAL SAVINGS"

In this year's debate, a number of Democrat chairmen—Dingell, Conyers, Synar, Fazio—made the argument that the GAO has served the public well by saving taxpayers billions of "real dollars" each year in government waste, fraud, and abuse.

Exactly how much of this "savings" is actually, and directly, the result of GAO's actions? While Democrats and Republicans certainly agree that there really is a lot of government waste—e.g., $600 toilet seats at the Pentagon—there is good reason to suspect that GAO's $33.8 billion in measurable savings is inaccurate and misleading.

It is helpful to break down some of the larger items that comprise the $33.8 billion.

The largest single item is $8.6 billion—that's 25 percent of the total savings—which, according to GAO, represents the amount which Congress "saved" by not enacting legislation to increase Social Security benefits for "notch" babies.

Two points need to be made: (1) This "cost-avoidance" does not constitute real savings—any more than a decision by the Congress not to give every taxpayer a million-dollar rebate would save the government money. (2) It is presumptive—not to mention misleading—for GAO to claim credit for such savings. The same is true of most of GAO's measurable savings. Two other big-ticket items in the $33.8 billion are: $4.3 billion in savings for restructuring the B-2 Bomber program; $4 billion in savings for scrutinizing Defense Department budget requests.

GAO claims full credit for these savings—cuts which Congress would certainly have made anyhow.

Mr. Chairman, I yield such time as he may consume to the distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, and my colleagues, I rise to make several points here with respect to the amendment of the gentleman from California [Mr. COX]. I'm not altogether sure I am wedded to the amount that he would like to cut from this bill, but there are several pertinent points that ought to be made with respect to the General Accounting Office.

Mr. Chairman, we tend to think of partisanship as a problem of our time. But more than 2,000 years ago a keen observer of political reality has this to say: "The partisan, when he is engaged in a dispute, cares nothing about the rights of the question, but is anxious only to convince his hearers of his own assertions."

These words, Mr. Chairman, remind us of the recurring problem in political affairs when partisanship, a form of advocacy, substitutes for, or is disguised as, objectivity. That problem is at the heart of our debate today.

When the General Accounting Office was created in 1921, it was meant to be a nonpartisan arm of the Congress. Back then the Congress realized that, in order to be effective, the GAO must maintain its credibility. In order to maintain its credibility, the GAO must be nonpartisan. Unfortunately, over the last several years, the partisan nature of GAO has compromised its credibility and, thus, has limited its effectiveness.

We on the Republican side, quite frankly, do not believe much of what the GAO is telling us, and we have ample reason for this distrust.

I will say early on, when I was on the Committee on Appropriations for those 20 years, we relied heavily on GAO. I subscribed then to the fact that they did a marvelous job for us. They gave us hard, cold, fast figures. We did not subscribe to them all the time because we had to insert the political element. But their basic fundamental work was what they were designed to do in assisting the Congress.

However, Mr. Chairman, they have gone afield from that. There are plenty of examples where the GAO revealed its partisanship relationship with the Democrat majority.

There was the botched GAO report on the BCCI scandal which neglected to mention the important role of prominent Democrats. There was the refusal of the GAO to allow Republican Members knowledge of a preliminary October Surprise investigation. And, of course, there is the problem of detailees.

The Government Operations Committee has a total of 26 detailees from the GAO at a cost of $854,000. The entire Republican staff of the Committee on Government Operations is only 17, with a budget of $269,000.

Mr. Chairman, that is the kind of thing we are talking about here. GAO is not meant to be an adjunct wing of the Democrat majority, but that is what it has become, and that is why the time for reform of the GAO has also come.

In making mention of the detailees and the numbers, it is a way, in more recent years, to kind of shield the cost of what some of our committee staffs are actually costing the taxpayers. Instead of being charged up in the legislative appropriations bill directly as a cost of Members' staff and allowance, and committee structure, it is hidden, through detailees from the General Accounting Office.

So, in a sense the gentleman is certainly correct in raising the question as he does. I am not altogether sure the amount he has in mind cutting here is the appropriate amount. I will say Mr. Bowsher happens to have been my recommendation as the Comptroller General, and at the given time he has done a marvelous job in recruiting people to the cause. A good measure of the increase in costs are increases in mandated salary and benefits. The number of employees, quite frankly, have not changed all that much in that particular shop.

I do not want to be found guilty in supporting any kind of amendment that is going to do the Congress a disservice in getting at the facts and appropriate figures. I want to give them the tools to work with.

However, Mr. Chairman, I say to my colleagues, "In view of the comments that I have made up to this juncture, you get the general impression that I'm not all that happy about how events have unfolded, and maybe a nick here, a little nick there, and some reminder will get us the kind of results and reform that we're looking for."

Mr. Chairman, I appreciate the gentleman from California [Mr. COX] having yielded this time to me so that I could make this point, and maybe we will have an opportunity to engage in dialog later on in the debate.

Mr. FAZIO. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. WOLPE], chairman of the Subcommittee on Investigations and Oversight of the Committee on Science, Space, and Technology.

Mr. WOLPE. Mr. Chairman, I rise in strong opposition to the amendment to cut the appropriation for the General Accounting Office.

As the chairman of the Investigations and Oversight Subcommittee of the Committee on Science, Space, and Technology, I have been examining the management practices of civilian research and development agencies—primarily the Department of Energy and NASA. In just the last 9 months, GAO has sent me 10 reports and has testified before my subcommittee on numerous occasions. In my opinion, GAO has provided high-quality, accurate, and balanced analysis, including many recommendations for correcting costly management problems.

For example, GAO has helped us to identify opportunities to improve the negotiation and administration of procurement contracts at NASA to better protect the interests of the American taxpayer. As a result of GAO's work in this area, we should be able to avoid another fiasco like the Hubble telescope where the taxpayer got stuck with a billion dollar satellite that does not perform to specification.

And I would emphasize that NASA itself has benefited from GAO's work, agreeing to implement most of GAO's recommendations in recent years.

Let me give you another example. We asked GAO to examine the Department of Energy's accounting system to determine how the Department tracked obligations to its numerous contractors. GAO discovered that there is over $2 billion rattling around inside the DOE complex, and that DOE has no system in place to account for these funds. GAO found that this previously obligated—but uncommitted—money is not even considered when DOE prepares its annual budget proposal.

As a result of GAO's work on this issue, the fiscal 1993 energy and water appropriation bill that passed the House last week was reduced by $187 million. Let's put that number in perspective. The amendment before us would cut GAO funding by about $110 million. But the work that GAO did for our subcommittee alone on just one job has resulted in savings of $187 million in the next fiscal year.

And I would add that the DOE controller has embraced GAO's recommended changes to its accounting system, and GAO's work will lead to even greater savings in the years ahead.

This amendment is clearly penny-wise and pound-foolish. Such a deep cut in GAO's funding will curtail Congress' ability to conduct aggressive oversight of the Federal bureaucracy. And I submit that curtailing congressional oversight—not saving money—may in fact be the motive behind this amendment. I have always adopted a nonpartisan approach to congressional oversight. I feel that we, as Members of Congress, have an institutional and constitutional responsibility to ensure that the programs and activities that we fund are carried out in an effective and efficient manner.

But some Members on the other side of the aisle seem intent upon curtailing such efforts. This situation drips with irony.

When Ronald Reagan rode into town in 1981, the Federal bureaucracy was the enemy, and the battlecry of the Republican party was waste, fraud, and abuse.

How things have changed in 12 years. The Republican party has controlled the executive branch for so long it has become the apologist for the Federal bureaucracy and the waste, fraud, and abuse that it generates. That is what this amendment is all about.

Supporters of this amendment feebly claim that it will save money. That is dead wrong. If you restrict the ability of the General Accounting Office to do its job, you will actually cost the taxpayers money. If passed, this amendment would not protect the interests of the taxpayer, it would protect the interests of the Federal bureaucracy.

If you support waste, fraud, and abuse, you should vote "yes" on the Cox amendment, because that is the effect of this amendment. If you believe that the American people deserve to have an effective watchdog agency keeping an eye on how the Federal bureaucracy spends our tax dollars, you should vote "no" on the Cox amendment.

It is as simple as that. I urge that this ill-conceived amendment be defeated.

□ 1620

Mr. COX of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleague, the gentleman from Michigan [Mr. WOLPE], has made a valid point, which is that on many occasions the General Accounting Office does high-quality work.

That is not what this is all about. Most Americans are literally stunned to find out it costs $2.3 billion to pay for the Congress itself; that 535 men and women comprising the House and Senate spend $2.3 billion to run their own operation.

Now, we can talk a lot about the House bank and the House post office, or trying to save money by cutting off the House gym. But most of us know that it is not where the money is.

We have to look at how Congress finances its overhead, its own staff. Without question, the largest single amount is buried over at the General Accounting Office, one-quarter of the entire legislative budget, one-third of all legislative staff.

How big is GAO? Well, OMB has 600-some people. GAO has over 5,000 people.

Just by way of comparison, the international organization, the OECD, that does economic analysis for the world's 27 industrial countries, has a total staff of 1,800 people. Now, imagine, there are over 5,000 people at the General Accounting Office. I think we can scale that back substantially, and still do the job that Congress requires of itself.

This one part of our congressional staff, as I mentioned, is now seeking this year $442 million, nearly one-half of $1 billion. My amendment will fund it at one-third of $1 billion. That is ample.

Ross Perot is abroad in the land right now telling people we have got to come to Washington, DC, and balance the budget and cut spending.

If we are not willing to cut spending on our own staff, my colleagues, we are not going to cut it anywhere.

The distinguished Republican leader mentioned that the impartiality of recent General Accounting Office reports has been questioned. There was a recent article in the American Spectator headlined "There Is No Accounting for Congress." The subheadline was, "Especially if GAO Is Cooking the Numbers."

In the opening of the article our colleague from the other body, Senator KIT BOND, is quoted as saying, "With the GAO you can get anything you want." There is a little illustration here of Alice's Restaurant, depicting "The Alice's Restaurant of the Legislative Branch, the General Accounting Office."

That is because increasingly Congress itself is directing the results and conclusions of GAO reports. In 1969, 10 percent of the General Accounting Office's reports were initiated by Congress. By 1991 that had risen to 90 percent.

Literally, GAO is the staff of Congress. Literally, GAO is being driven by congressional committees. In fact, GAO has so many staff that it actually loans them to congressional committees.

Between 100 and 200 members of GAO's staff at any given time are detailed to congressional committees, working for the committee chairmen there, at a cost annually of between $4 and $5 million.

As a result of the increasing amount of money and staff at GAO, the place is running, I am sad to say, out of control. Some of GAO's reports are good and some are not.

My Democratic colleagues will be objecting, I believe, on the ground that if you are against fraud, waste, and abuse, you have got to have the GAO. I have seen a "Dear Colleague" sent around that says if you support waste, fraud, and abuse, you should vote "yes" on the Cox amendment.

Well, frankly, in 1921, when the General Accounting Office was started, its mission was to end fraud, waste, and abuse. Now it has become a one-half billion dollar bureaucracy in and of itself.

My mission is simply this: Cut the overhead, get the staff under control. One-third of $1 billion for this part of our staff is absolutely ample.

Mr. Chairman, let me add that the impartiality of the General Accounting Office, which has been called into question because of the direction of conclusions and the directions of reports by committee chairs, is something that we could get around if we had an authentically impartial auditing agency do these reports.

I checked with Price Waterhouse, the highly respected accounting firm. I asked them:

> How much does it cost to do all of your audits nationwide, with 110 offices, and over 9,000 professionals for all of your tens of thousands of clients in America?

The answer was: $357 million.

Now, we are about to spend $442 million in this bill on the General Accounting Office. In other words, we could supplant *all* of Price

Waterhouse's clients across America, and hire Price Waterhouse full-time to do this, and *still* save nearly $100 million—precisely the amount that I would like to save by this amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. COX of California. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank my colleague for yielding. I want to acknowledge that to me the gentleman is an invaluable member of the Committee on Government Operations. He has not been here an awfully long time to read back some of the reports and accomplishments.

But I would say to the gentleman that in all fairness to this debate, can the gentleman not remember anything in which, through the GAO, we have done a good job? Do you not have a list of things that even with this amount of money that the gentleman feels is too much, have they not accomplished anything?

Mr. Chairman, let us be honest about it. Is this an attempt to really cut out oversight in the Congress and cripple us in this very important area of work, or does the gentleman just not know any better?

Mr. COX of California. Mr. Chairman, I appreciate the question put to me by my distinguished chairman, and I will say this, that one-third of $1 billion is an extraordinary amount of money to do the kind of work that we need from our congressional staff. I believe it is important for us to have staff for this purpose, but I also believe that one-third of $1 billion is ample for this purpose.

The CHAIRMAN. The Chair would advise that the gentleman from California [Mr. COX] has 6 minutes remaining, and the gentleman from California [Mr. FAZIO] has 17 minutes remaining.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA], the chairman of the Subcommittee on Defense of the Committee on Appropriations.

Mr. MURTHA. Mr. Chairman, let me just say this: That your Subcommittee on Defense of the Committee on Appropriations handles more money than any country in the world except for three countries, and we rely on the GAO substantially to make recommendations to us many times about where we can make savings. Some of those recommendations we do not take. Some of those we argue with.

☐ 1630

Some of them we are critical of, but one *Seawolf* submarine costs more than the operation of the entire Congress. As a matter of fact, when we look at the amount of money that Congress spends, the amount of money that Congress saves through the agencies, we save enough to fund the entire Congress.

In our bill this year, Members will find us reducing the spending in the Defense Department by about $4 billion. The reason we are reducing that is a combination of hearings that we have held, a combination of recommendations from other committees, and it is bipartisan in the support of the recommendations we get. And we will reduce their spending, and GAO has played an absolutely essential role in reducing the spending in the committee that I chair.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I think the gentleman's testimony is so important here. Here is a chairman of a committee that is taking the hit on GAO effectiveness and efficiency and is testifying in its favor. I wish that there were more chairmen like the gentleman that would speak up for it under those kind of adverse circumstances.

I commend the gentleman in the well.

Mr. MURTHA. Mr. Chairman, I do not think that there is anyone that gives us more help in reducing inefficiency and ineffectiveness than the GAO. I would urge the Members to defeat this amendment.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I rise in opposition to the amendment and in total support of the comments of the gentleman from Pennsylvania a little bit earlier.

Mr. Chairman, I rise in opposition to the amendment. I realize a certain controversy has surrounded the GAO in recent years. But that's not bad. It's good. The problem with GAO over the years has been the blandness of its reports. Thank goodness, it's emerging from that cocoon. If we pass this amendment, we will drive it back into its cocoon.

As well, we would deprive it of the resources needed to do its day-to-day business—which is ferreting out waste. Mr. Chairman, my committee is one of the main consumers of GAO products. We could not do our work without the GAO. It provides a reservoir of talent and knowledge. Its staff is a force multiplier for the Congress. The Armed Services Committee has a limited professional staff. Without the skills and staff available from the GAO to poke around the Pentagon we would literally be at the mercy of that building and its 24,000 staffers.

If we are ever to have any hope of balancing the budget, we must cut outlays. And the GAO is the best tool we have for finding the biggest cuts that do the least damage. To ax the chief agency engaged in the war on waste is hardly a reasonable way to go.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I rise in total opposition to this amendment, which is totally misguided.

GAO assistance to the Foreign Affairs Committee has been invaluable, as has GAO assistance to every phase of congressional oversight.

Without GAO, we might not have been able to get a handle on the management practices at UNESCO and other international organizations. GAO's work has greatly enhanced the extent to which we can be confident that U.S. contributions to these organizations are being put to good use.

GAO provides the committee information that is extremely important in structuring our foreign aid programs. To take just one small example, GAO's 1990 report on how United States-provided military equipment and supplies were being used in Somalia, and how the then-Somalian Government's military forces had devastated cities in the north, led us to substantially cut assistance to that government.

In a more general vein, GAO's work is vital to House oversight on AID operations. In large part, we know the areas that need attention through the work of GAO. It is through the work of GAO that we are able to get some sorely needed improvements.

GAO's evaluation of the Bigeye binary chemical bomb program made an extremely important contribution to the bilateral chemical weapons agreement between the United States and Russia. The weapon was canceled, saving the taxpayers some $1.6 billion and, just as important, paving the way to a possible worldwide ban on chemical weapons. GAO's documentation proved there were technical flaws in the Bigeye system.

Without this body of work, which demonstrated great persistence in the face of severe criticism by the Department of Defense, Congress would never have learned about the problems. These efforts proved to be a crucial factor in the formulation of U.S. chemical weapons policy.

We have to see to it that this superb organization that has been developed over the years under successive Comptrollers General remains strong. It would be foolish to damage a resource so vital to us in carrying out our legislative and oversight responsibilities.

Mr. COX of California. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding time to me. I do not know if this is totally misguided or partially misguided, but let me talk about something at the GAO that has not been discussed. That is, the fact that they are self-starting, self-appointed, and act in some cases like Moses coming down from the legislative mountain.

About 5 or 6 years ago, the GAO walked into the Department of Agriculture, talked to Secretary Lyng and said, "How would you like a study? We would like to do a study on the possible restructuring of the USDA."

That is an ongoing issue that those of us in the Committee on Agriculture would like to see accomplished almost every session. And so some 13 studies later, no Member of Congress asked for this, no real suggestion of fraud, waste, and abuse, but 13 studies later, we have a bunch of recommendations that basically are not factual. What the GAO has said, if we cut X number of farm program offices out there, we are going to save XX amount of money. They did not realize that three offices were really colocated in one office. They did not realize what happens in regards to lease situations.

Let us at least make it factual. Let us at least bring this under some kind of control here in terms of the self-appointed GAO.

Mr. COX of California. Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan [Mr. CONYERS], chairman of the oversight committee for the GAO.

Mr. CONYERS. Mr. Chairman, this is an incredible amendment. For a person on this committee to be alleging that we are spending money on ourselves and on our own staffs is so misguided that it begs the question.

We are talking about the GAO. We do not get the benefit. That is not our staff. They are run by a professional who is recommended and nominated by the minority leader in the House of Representatives, sir. I do not hear anybody calling for his head over there. If he is so darn partisan, why do my colleagues do not get rid of him?

My problem is, they do not hit hard enough. But that is not what we are here for.

Tell me how we are going to oversight a budget of $1.5 trillion with a measly $300 million budget and then we start talking about cutting. Nobody said a word about waste, fraud, and abuse, which is supposed to be the guideline. Nobody says anything about waste, fraud, and abuse like it does not happen, like we are not saving any money.

No, let us let the administration run its own ship with as little oversight from the House of Representatives as possible. That is what we are about here, and we are doing it, ironically, on the eve of the anniversary of Watergate.

Be ashamed, you guys, be ashamed.

The gentleman from New York [Mr. HORTON] and I have been working ourselves to the bone trying to save money.

Listen to what we are doing. This is not rhetoric. GAO recommendations to restructure the B-2 bomber contributed to budget reductions of $1.2 billion in fiscal 1991. GAO, the Federal Aviation Administration reissued a contract on computer modernization, saving $1 billion. GAO discovered universities overbilling the Federal Government, tens of millions of dollars.

Ask the gentleman from Michigan [Mr. DINGELL]. It goes on and on. Vote this thing down.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HORTON], the ranking Republican member of the same committee.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have serious concerns about the General Accounting Office. GAO's detailee policy bothers me greatly. I am troubled by what I view as inconsistency in the quality of some of its work. But GAO is a large, complex organization. It is not perfect. It can stand improvement and review.

Last week I shared my concerns about GAO with Comptroller General Bowsher and Deputy Comptroller General Socolar in a continuing dialogue and effort to get some changes where changes are appropriate. Mr. Bowsher and Mr. Socolar are responding to concerns I have raised and to concerns others have raised. At their direction, GAO is conducting its own internal review.

In addition, it is seeking to put in place a peer review program to assess fully all of its operations, define deficiencies, correct those that are identified, and hence, improve the quality of work that the GAO provides to the Congress and the American people. Those actions make sense.

A funding cut of 25 percent, however, does not make sense. And it is not reasonable. On the contrary, it would be crippling to GAO, and it is not my intention nor desire to cripple the General Accounting Office.

Just to point out, a reduction in force to achieve a cut of this magnitude requires the separation of a large number of staff to cover the expenses of the RIF itself. A reduction in force which will permit GAO to operate within a budget of $333 million will require the separation of approximately half of GAO's 5,000 employees. They will have to close at least 6 of their 13 regional offices and both of their overseas offices, thereby eliminating approximately 700 employees.

This would drastically limit GAO's unique onsite investigative capabilities and severely impact the watchdog presence throughout the Government operations.

They would also have to terminate 1,800 employees in an agencywide reduction.

Do not throw the baby out with the bathwater. I oppose the amendment and urge my colleagues to vote against it.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in strong opposition to amendment No. 5 which is designated as the "Cox of California" amendment to cut the appropriation for the General Accounting Office from slightly over $442 million to slightly more than $333 million. This politically motivated cut of the GAO is equivalent to about a 25-percent reduction in funds.

In discussions with the GAO leadership, I understand that this cut would result in a reduction in force at the GAO of over 1,800 people, plus a furlough of other persons at the agency from its present level of just over 5,000 people. This reduction sum is caused because in order to conduct a RIF the agency has to take into consideration under current law severance pay and annual leave, which is always substantial. In addition, because of the requirements of law regarding veterans' preference, grade level, and longevity, and the related so-called bumping rights of employees, such a RIF will undoubtedly affect many people at the lower end of the GAO pay scale—most of which are probably women and minorities. In this recession, I find it hard to believe that the Republicans want to increase the unemployment rolls even more and that they want to target minorities.

Mr. Chairman, this is a draconian effort designed to make the General Accounting Office ineffective. The proponents want to weaken how the GAO conducts its functions, including the handling of bid protests for the benefit of many businesses who regularly bid for contracts with the Government.

This is not an effort to save money or make our Government lean and mean. It is a deliberate effort to transfer the GAO into a think tank and make it ineffective as an independent investigative arm of the Congress.

I am concerned that all too often the GAO performs such think tank functions and disregards its vigorous investigative duties. The recent line-item veto report is an example of that problem. That clearly must be stopped by the present leadership of the GAO.

The GAO has been doing this work for many, many years under many Presidents. I recall that during the tenures of President Johnson and Nixon in the White House, many executive branch agencies used to refer to the GAO as "God's awful office." They were fearful of any investigation by the GAO into the legality of an agency's actions, into waste and fraud, and into the question of whether or not the agency was in fact carrying out the statutory requirements of the Congress and the President. I am not sure that fear exist today. It will most certainly not exist with this severe cut.

Few in the executive branch have ever had good words for the GAO, but most of us know from long years of experience that such an investigative agency—not a think tank—is absolutely essential if we are to have a fair and effective Government of laws, not of men.

The GAO has saved the taxpayers money. For instance:

In the case of Environmental Protection Agency, the GAO helped to identify tens of millions of dollars in unallowable or questionable costs with EPA's Superfund contracts.

In the case of universities, the GAO helped identify tens of millions of dollars of unallowable or questionable costs at many of our well-known universities across the country.

In the case of the Department of Energy, the GAO is in the process of finding millions of dollars in unallowable and questionable costs in regards to DOE's weapons facilities contracts.

In the case of the Department of Defense, GAO's recommendations to restructure the B-2 Bomber Program contributed to budget reductions of $1.2 billion in fiscal year 1991 and an average reduction of $4 billion in each of the next 3 years.

On the basis of GAO work, the Congress and Treasury made changes to the Tax-Exempt Bond Program to ensure that financed projects better served low-income renters.

The GAO helped identify abuses in the $100 billion merged surplus accounts governmentwide. The merge surplus account was immediately eliminated, withdrawing $67 billion in spending authority.

These are only some of the GAO accomplishments that save public funds. There are many more listed at the end of my remarks.

The Cox amendment, however, would strip GAO's effectiveness in these and other areas and will give the executive branch—under Bush, Clinton, or Perot—the freedom to act without fear of intensive investigation by this agency. Waste, fraud, and abuse, and disregard of law will result. None of that is in the public interest, but it is in the interest of the executive branch which is controlled by the Republicans. They clearly do not want such oversight. They do not want to spend money which will protect taxpayer funds. They do not want GAO to uncover their misdeeds.

I stress that the GAO and its staff are not employees of the House. As to the issue of GAO details, that is an old story that was addressed last year. These people help us conduct oversight. The administration and our Republican colleagues don't like that.

I strongly urge that my colleagues in the House, particularly my Democratic colleagues, join me in ringing opposition to this draconian cut. I urge support for the committee's bill.

□ 1640

Mr. Chairman, this amendment is an outrage. A similar amendment was defeated last year. This is burning our seed corn. What the author of this amendment and those who support it are seeking to do is to simply terminate auditing and investigations of the excutive branch. They are going to cut the number of GAO auditors almost 35 percent. That means the work which is done by GAO and the Congress to halt thievery, rascality, waste, and abuse of the taxpayers' money will cease, because we are going to be terminating 1,800 out of 5,000 employees who are out chasing these scoundrels, criminals and wrongdoers.

If the Members do not want to know where wrongdoing is going on in the Government, vote for the amendment. It is a great amendment, if that is what they want. If the Members want to see if the taxpayers and the public interest and public money is protected, then at all costs vote against this amendment.

This is not an amendment which an intelligent person would vote for. This is an amendment which would be the delight of a thief, a scoundrel, a knave, or a person who is trying to rip off the taxpayers. As I said this is an outrageous amendment. It should be voted down unanimously. What it does is terminate the ability of the Government to protect the taxpayers and to halt wrongdoing. I urge my colleagues to vote overwhelmingly against this abominable amendment.

GAO SAVINGS—INDIRECT COSTS

UNIVERSITIES

GAO helped identify tens of millions of dollars in unallowable or questioned costs at universities across the country.

GAO exposed the fact that the contracting agencies have allowed universities to recoup extra allowable costs through unfair allocation formulas—totaling hundreds of millions of dollars.

EPA

GAO helped identify tens of millions of dollars in unallowable or questioned costs with EPA's Superfund contracts.

DOE

GAO is in the process of finding millions of dollars in unallowable or questioned costs with DOE's weapons facilities contracts.

ENVIRONMENTAL PROTECTION AGENCY

GAO helped demonstrate that the EPA has systematically ignored good contract management practices costing the agency tens of millions, and possibly hundreds of millions, in waste, fraud and abuse annually. GAO will be the lead witness at the July 8th hearing on contract abuse at EPA.

DEPARTMENT OF DEFENSE

For the past number of years, GAO has helped identify billions in abuses at DOD, including defective pricing, mischarging, overpricing, and unallowable or unreasonable charges. Contractors reviewed include General Dynamics, TRW, Northrop, Bell/Textron, and Lockheed. Programs include DDG-51, C/17, Apache, C-5B, F-16, HARM, and B-1.

"M" ACCOUNTS

GAO helped identify abuses in the $100 billion "M" and merged surplus accounts government-wide. The merged surplus account was immediately eliminated, withdrawing $67 billion in spending authority. The agencies were given three years to audit and reestablish valid needs for the "M" accounts. Much of the budget authority in the "M" accounts has been given up.

GAO ACCOMPLISHMENT RELATED TO WORK REQUESTED BY REPRESENTATIVE JOHN DINGELL

Number	Title	Amount
HRD-90-16	Defeating proposals to raise Medicare reimbursement of health maintenance of organizations (HMO's).	$340,000,000
HRD-89-18	Reduction in Medicare payments for clinical laboratory services.	169,000,000
RCED-88-12	Increased fees from hydropower licensees.	5,061,500
RCED-87-25	Parachute Creek Shale Oil project	500,000,000
Total measurable financial benefit.		1,014,061,500

Number	Title
HRD-91-02	Enactment of P.L. 101-354 Establishing a Program of Grants to States to Carry Out Programs to Screen Women For Breast and Cervical Cancer as a Preventive Health Measure.
HRD-91-04	The Congress provided States Additional Time to Implement the Requirements of the State Comprehensive Mental Health Services Plan Act of 1986.
HRD-91-05	Passage of the Trauma Care Systems Planning and Development Act.
HRD-91-06	Mental Health Services Grant Formula Change.
HRD-91-07	Emergency Medical Services State Planning Grants Formula Change.
RCED-91-38	DOT Corrective Actions Concerning Hazardous Materials Enforcement
GGD-90-24	SEC Directed the New York Stock Exchange to Review the Applicability of Its Rule 390 to After Hours Trading.
RCED-90-05	Strengthening of EPA's Procedures for Preventing Conflicts of Interest Under Superfund Contracts.
RCED-90-68	DOE Revised Its Earnings Limitation Agreement to Prevent Martin Marietta From Unfairly Benefiting From Operation of DOE Research and Production Facilities.
RCED-90-69	DOE Reviewed Field Office Orders to Ensure That They Are Consistent With DOE-wide Work-For-Others Requirements.
RCED-90-71	DOE Headquarters Directed All Field Heads to Ensure That Work-For-Others Agreements Contain Required Clauses and Certifications.
RCED-90-72	DOE Directed Field Unit Heads to Ensure That Written Determinations and Certifications Are Performed for Non-DOE Projects.
RCED-90-73	DOE Has Taken Action to Fully Recover Personnel Costs Associated With Its Work-For-Others Projects.
RCED-90-74	DOE Evaluated the Appropriateness of a Contractor's Work-For-Others and Assigned a Headquarters Group to Oversee the Contractor's Work.
GGD-89-08	Stronger Measures to Detect Insider Trading.
HRD-89-03	New Grant Formula for the Alcohol, Drug Abuse, and Mental Health Block Grant.
HRD-89-05	Enhancing Enforcement for the Alcohol, Drug Abuse, and Mental Health Block Grant Set-Aside Provisions.
RCED-89-01	FERC Has Enhanced Fish Protection By Improving Coordination With State and Federal Agencies.
RCED-89-02	DOE Reevaluated Its Need for Oil Firms Records.
RCED-89-03	FERC Has Taken Action to Facilitate Development of Comprehensive River Basin Plans.
RCED-89-04	FERC Has Improved Timeliness of Responses to Investigative Reports.
RCED-89-05	Liability Protection for a Nuclear Plant Accident.
RCED-89-06	FERC Has Improved Its Monitoring of Hydroelectric Projects' Compliance With Federal Requirements.
RCED-89-26	The Bonneville Power Administration Performed Further Analysis to Justify Expanding the Northwest-Southwest Intertie.
RCED-89-32	DOT Improved Measurement of Its Investigations Division Workload.
RCED-89-38	Improved Coordination In Assessing Pesticide Benefits.
RCED-89-54	DOT Mandated to Improve Gray Market Vehicle Program.
RCED-89-57	The Federal Railroad Administration Took Actions to Improve Accident and Injury Reporting.
HRD-88-23	Medicare Statutes Amended to Clarify That Government Sponsored Health Plans Pay Before Medicare.
RCED-88-21	Improvements in EPA's Internal Controls for Managing Air Regulation Dockets.
RCED-88-39	Improvements in EPA's Procurement Regulations.
RCED-88-40	Improvements in EPA's Planning, Budgeting, and Reviewing Research.
HRD-87-01	Improved Distribution of Block Grant Funds.
RCED-87-06	Safe Disposal of Federally Generated Hazardous Waste.
RCED-87-28	DOE Has Improved Its Long Term Settlement Process for Oil Pricing Violations.
RCED-87-32	DOE Corrected Errors in Fund Allocation to States.
RCED-87-34	DOE Notified Oil Firms of Recordkeeping Needs.
RCED-87-35	Improved DOE Oversight of Energy Systems' Conflict of Interest Procedures and Acquisitions From Affiliates.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. SYNAR) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1643

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

The Committee resumed its sitting.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I am in opposition to the amendment and in support of the stirring oratory of the chairman of the Committee on Energy and Commerce.

Mr. Chairman, this past spring, Mr. WOLPE and I held a hearing on the Department of Energy's budget. We found that the Department had been engaging in an accounting gimmick that let them label some funds as obligated when in fact they were not. As much as $2 billion in fiscal year 1991 had escaped scrutiny by either OMB or Congress through this trick.

Though Chairman WOLPE and I, and the staff of our Investigations and Oversight Subcommittee, worked hard on this issue, the lion's share of the credit must go to the General Accounting Office. It was GAO that brought this issue to Mr. WOLPE and I. GAO did excellent work and testified before my Subcommittee on the House Science, Space, and Technology Committee. That day we had not just the rare privilege of hearing from GAO, but also hearing from the Department of Energy's chief financial officer that the Department substantially agreed with GAO's findings and even thanked them for their work.

The work done by GAO and our subcommittee will directly save the American taxpayer $182 million in fiscal year 1993. I want to laud Chairman BEVILL and Mr. MYERS for taking this issue seriously and for cutting the DOE budget request to reflect their assessment of DOE's excess funds. This represents real deficit reduction through real budget savings won through aggressive oversight.

But there are other benefits in the future. The national energy strategy bill passed by the House included a requirement that I wrote with Mr. WOLPE that the Department of Energy report to Congress on these grey area obligated funds so that future budget requests can be adjusted accordingly. Savings that will result from this measure could exceed a billion dollars.

Today, we will be asked to cut the GAO budget for fiscal year 1993 by $110 million. This is a classic example of being penny wise and pound foolish. In one hearing, GAO saved more money for our taxpayers than the amendment we will vote on would do. But is there anyone in this body who believes that if we cut the GAO by 25 percent they would be able to do that kind of work for us? Is there anyone, on either side of the aisle, who believes that a Perot Presidency would not warrant very aggressive GAO work?

Some members are mad at GAO because they feel certain reports have been politically tainted. Some members are mad, on my side of the aisle, because they fear that GAO will be used to embarrass the administration. Occasionally they will; despite being a loyal Bush man, I would be the first to concede that there have been rare occasions when the administration has made mistakes. But remember that our Founding Fathers intended the executive branch to be watched by the legislative—that is what our institutional checks and balances are all about. GAO is our best watchdog and the amendment that will be offered today threatens to pull its teeth. I hope you will join me in opposing that amendment.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, I am in opposition to this amendment, and would associate myself with the gentleman from New York [Mr. HORTON]. The GAO does outstanding work. Yes, it can do better. Let us not use this amendment to shoot the messenger.

Mr. Chairman, I rise in opposition to the amendment.

The GAO, like all organizations, can be improved. Unfortunately, the Cox amendment would decimate GAO instead of proposing constructive ways to improve the institution. GAO responds to all kind of requests. The quality of its products varies. Some are very good; some are OK, and some are poor. I know that. But over the years, the GAO has done some excellent work for me as an individual Member—particularly on the "M" accounts, the 5-year defense program budget mismatch, the A-12, to name a few. The savings to the taxpayers on these three issues alone is in the tens of billion of dollars. Without GAO it would not have happened.

Mr. Chairman, I cannot support an amendment that would destroy an organization that plays an important role in the congressional oversight process.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, let me just say the gentleman from California [Mr. COX] has made some good points, and I hope the majority listens carefully to the concerns of our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Having said that, the fact of the matter is that what this amendment does is cut out the heart of congressional oversight. If there is any responsibility constitutionally given to the Congress of the United States, it is oversight. If there is any great failure of the last 20 years in American public life, it has been that congressional oversight has been too lax, not too vigorous.

Let me just give an example of the import of the GAO in banking.

In the late 1980's the only credible agency in Washington, DC, on banking matters was the General Accounting Office. It developed a way of looking at international lending, a way of looking at savings and loans, that led to massive reform in the Federal Deposit Insurance System which saved dozens if not hundreds of millions, if not billions of dollars. The effects as well as the cost of GAO oversight has to be understood.

I do not personally know what the right level of funding for the GAO is, but I do know if we toy with the General Accounting Office, we will be potentially giving a green light in some instances to thievery, but more generally, to lack of programmatic oversight, responsibility for which the Constitution of the United States of America posits most pointedly in this legislative body. For that reason I would urge defeat of the amendment before us.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, for more years than I can count the GAO has been the Government auditors, and they have an essential function here, but in recent years they have become more important in that they have become our overseers, our field investigators, our policy analysts, our eyes and ears inside the Government. The message they bring us is not always pleasant, it is not always well received, and I will be the first to admit it is not always well done. I have not been satisfied sometimes with their work.

But to pass this amendment is to penalize the GAO for trying to do its job as well as it possibly can. It is to shoot the messenger in the foot.

In addition to being spiteful, this amendment is shortsighted, because what we spend on GAO is not spent and lost and consumed and forgotten; it yields a stream of earnings and savings each year. I could take the Members, if I had the time, through the defense authorization bill and cite chapter and verse when GAO alerted us to savings.

Cutting the General Accounting Office from $442 to $333 million is not an efficiency measure, it is an emasculation. It will weaken one of the strongest arms of the Congress, and we should not do it.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, the House Committee on Interior and Insular Affairs, which I have the privilege of chairing, has jurisdiction over billions of dollars of royalties and rents and payments that are due the American people from the rent of their public lands, their coastal areas, and their resources. Yet we find out that those who would rent those lands, those who would extract the resources, fail every year to pay the American people what they are due through a series of schemes, criminal activity, outright fraud, mismanagement. Time and again the American people are not given those rewards.

The shortage of the GAO is not the work product of the GAO, it is the inability and unwillingness of this Congress and the administration to invoke their recommendations. But to say that we will do away with this level of funding for the GAO, that we would slash it, according to Mr. Cox's amendment, is to endorse that criminal activity, that fraud, those schemes that deprive the American people of their due royalties, of their due rent for the use of their public lands. It is billions of dollars a year.

Without the GAO, that type of mismanagement would continue to exist, because there would be no way in which we would find out about it but for the GAO.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER], the next ranking member of the Committee on Government Operations on the Republican side.

Mr. CLINGER. Mr. Chairman, I must rise in opposition to the amendment. As a colleague serving with the gentleman from California [Mr. COX] on the Committee on Government Operations, I share his frustration with GAO's operations, and believe me, I share some of that same frustration. However, this amendment, in my view, is draconian in nature and really would completely debilitate GAO. I am convinced this amendment would only serve to make things worse, not better, and in turn our sense of frustration and dissatisfaction would only grow worse.

I met with the Comptroller General recently and had a very frank and candid discussion with him. I expressed to him my concerns. I am hearing from my colleagues concerns about the integrity of GAO reports and investigations, maintenance of a bipartisan relationship with Members and staff, and the use of GAS detailees as professional staff.

My particular peeve with GAO concerns the use of detailees. This is a thorn in the side of myself and many others, especially those of us on this side of the aisle. In fiscal year 1991 there were 26 detailees assigned to the Committee on Government Operations alone, where they in effect worked primarily as additional members of majority staff.

To put this in perspective, for the same year there were only 17 minority professional staff members.

Despite this, Mr. Chairman, I must say that this amendment would in fact gut the GAO, which does provide very valuable service to the entire Congress.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California [Mr. COX] to reduce funding levels for the General Accounting Office.

As chairman of the Subcommittee on Census, I have worked closely with the GAO. In my opinion, GAO continues to conduct thorough audits and investigations and to produce balanced and useful reports. Their work adheres to the highest standards of objectivity and professionalism. The work of GAO enhances greatly the work we do here in Congress.

The decennial census is the largest peacetime undertaking of the Federal Government. In terms of oversight, it represents one of the most difficult, concrete, and complex accounting problems imaginable. GAO's efforts to monitor, analyze, and evaluate the census as it unfolded were superb.

GAO monitored progress and reported to the subcommittee even as the census took place. GAO staff at the Census Bureau and around the country monitored census operations on a daily basis.

The subcommittee's close oversight of the 1990 census—including planning, preparation, execution, and evaluation—would not have been complete without that real time auditing approach. Early in the census, for example, the Census Bureau had real problems with its management information system, as well as severe staff shortages. GAO was able to alert the subcommittee so that corrective action could be taken in a timely manner.

GAO also was the first to inform the subcommittee that the census was collecting high rates of surrogate data, which raised concerns about the quality of the count. Without GAO and needed financial and personnel, the quality of oversight—and the census itself—surely would have been damaged.

I think all of my subcommittee colleagues—Democrats and Republicans—would agree that GAO developed and reported its findings with objectivity and fairness. GAO worked closely with staff from both sides to meet all our information needs. GAO recently reported to the subcommittee on the fundamental changes that are needed for the 2000 census. Even now GAO has identified ways to save hundreds of millions of dollars over the next decade, and to improve the quality of the census numbers.

I want to ensure that the next census is more accurate and economical than the last one. Reducing GAO's budget won't help us do that. It might save us a few dollars today, but in the long run it will cost us much more.

□ 1650

Mr. COX of California. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman I rise in support of this amendment, which saves taxpayers $109 million by reducing funding for the General Accounting Office of the Congress.

Spending on the General Accounting Office has ballooned by 80 percent in just the last 10 years alone. The GAO now has 5,000 employees and 16 regional offices around the country and overseas.

The GAO even serves as a back door means of augmenting committee staff. The GAO is spending $4 million this year alone providing House and Senate committees with 170 additional employees.

I know some members may contend that this money is well spent, because it seeks to eliminate waste and fraud in Government. I only wish that were true. Sadly, the General Accounting Office's work has taken on a partisan cast that has undermined its credibility. It's reports all too often are crafted to support the leadership's legislative goals.

For example, when the House leaders proposed legislation to implement a system of socialized medicine such as Canada has, the GAO compliantly produced a report lauding Canadian medicine. Only later do we find out the report conveniently neglected to mention the massive tax increases that would be required to finance the system.

When the leadership felt the heat of the House bank scandal, they commissioned a GAO audit of the White House to divert attention away from a major scandal.

This amendment still allows the GAO $333 million for fiscal year 1993. That should be more than enough to root out waste and fraud—more than enough, that is if the agency devotes its time to genuine investigations rather than partisan activities.

Mr. FAZIO. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California. In recent months the General Accounting Office has come under some criticism and our distinguished minority leader has underscored some of those problems. I must say that the GAO I have heard described is not the one with which I have become familiar during my many years on the Post Office and Civil Service Committee. GAO's work has contributed directly to our committee's evaluation of the problems of the census and to its efforts to improve the economy and efficiency of the Postal Service and the Federal civilian work force—three of the committee's primary areas of responsibility.

Mr. Chairman, the 1990 census was marked by significant controversy and litigation. Concerns about the accuracy and completeness of the count will not be resolved for years to come. Yet throughout the controversy, GAO has provided the committee with reliable and timely analysis of what was happening and why. By giving us a clearer analysis of the situation, GAO has enabled us to focus and improve upon the quality of our oversight. Moreover, GAO is continuing to assist the committee by pointing out the changes that will be needed for a less troubled, cost-effective census in 2000.

GAO's Postal Service audit site includes fewer than 10 people, yet we have always found their work to be of great value in helping our committee oversee the Postal Service. For example, at our opening oversight hearing on May 12 of this year, GAO representatives discussed the results of their perceptive and well-documented analysis of the Postal Service's automation program. They helped understand the ways in which postal service has failed so far to bring postal costs under control.

Finally, GAO has reported to us many times on the pay, benefits, and management of the Federal civilian work force. It has helped us determine just how well the executive branch is handling work force diversity issues and implementing merit system principles and regulations involving equal employment opportunity. It has identified opportunities to save money on Federal Employees Health Benefits Programs. Most recently, it examined programs run at the Department of Defense and OPM for assisting DOD employees displaced by DOD's downsizing efforts, identified problems, and helped us ensure that these employees are treated fairly.

In summary, Mr. Chairman, the work the GAO has done for the Post Office and Civil Service Committee convince me that GAO's budget should be viewed not as a cost, but as an important investment in making Government work better. Its clear-eyed examination of how programs operate, and its objective reports of its findings make our legislative and oversight activities that much more effective.

Now more than ever, when we must redouble our efforts to ensure that the American people's tax dollars are well spent, our investment in GAO is one that we cannot afford to cut.

Mr. FAZIO. Mr. Chairman, I yield ½ minute to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, I rise to oppose the amendment also.

I want to call the Congress, attention to the waste of time sometimes we go through in this process. If we really want to structure the U.S. Government and straighten it out, and eventually balance the budget, it seems to me the only way this Congress can do it is if we force the executive branch to put managerial skills in place as private industry has to accomplish this. Without the General Accounting Office we literally disarm the Congress to force the Executive to do this.

One little part that we are talking about here, millions of dollars, the Congress spends $26 million a year to travel; the White House, that my subcommittee happens to be investigating, spends $150 million, six times as much. Without the benefit of examination by the General Accounting Office we could never get these facts, because to my knowledge and from the representations from the White House, nobody down there knows what it really costs to operate that function.

Mr. COX of California. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the Cox amendment to reduce the Government Accounting Office allocation by one-third. The GAO seemingly has so many employees, that the agency is able to loan a great many of these employees to Congress.

It is no secret that many Members on my side of the aisle feel that the GAO has become nothing but an ideological advocacy organization of the majority party here in Congress; a distant cousin of the unbiased investigatory agency it was set up to be.

However, whether or not this characterization is true is not my point here. The point is this, with so many detailees being utilized by committee and subcommittee chairmen—the same Members who hold GAO reports as the linchpin of their arguments—the appearance of impropriety is indefensible.

At worst, the GAO is guilty of the charges of bias. At best, the GAO is susceptible to these charges. Either way, their credibility is negatively affected.

Mr. Chairman, congressional committee assignments for detailees have become nothing more than an employment pool. In my estimation, it is highly suspect that the steady stream of reports published by the GAO at the behest of certain chairmen are diametrically opposed to academic, industry, and independent reports on the same topic, using the same data.

When the topic is public land use, it is impossible to quantify multiple-use impact without the infusion of land use philosophy. Obviously, western and eastern land use philosophy differs.

There is no question that the GAO has from time to time provided this body with pertinent important information by uncovering abuses of the taxpayer.

However, I am concerned that the GAO has lost its once credible name, and has degenerated into a tool of certain committee chairman to craft and package an explanation for a predetermined answer.

I urge my colleagues support for the Cox amendment. Let us here today send a message to the GAO, and help them pull out of this tailspin into no credibility.

Mr. COX of California. Mr. Chairman, I yield myself my remaining 1 minute.

Mr. Chairman, I said at the outset of this debate that there is no lobby in America for increased spending on congressional staff. Evidently I was wrong, because for a great part of this debate we have heard from that lobby.

From my efforts to seek to control congressional spending I have even been called a scoundrel, a knave and a thief—by one of my colleagues who voted against the balanced budget amendment.

But the facts are these:

As a result of my amendment this one part of our congressional staff, the GAO, will be frozen at 1988 levels, one-third of a billion dollars. Right now the GAO's budget is 18 times that of the Congressional Research Service. It is 10 times that of the Office of Management and Budget. It is 21 times that of the Congressional Budget Office. It has received increases from 1990 to 1992 of 22 percent. And its cost is more than the cost of all of the management and financial audits nationwide performed by Price Waterhouse.

Mr. Chairman, the GAO is saddled with too much overhead. It costs too much, and it is not independent.

I urge my colleagues to vote yes on the Cox amendment.

M. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California [Mr. COX].

This amendment strikes at the heart of Congress' ability to oversee the executive branch. It would emasculate our investigative arm, the General Accounting Office [GAO]. GAO has been instrumental in enabling the Committee on Education and Labor to pursue savings and improvements in the Departments of Labor and Education. For example:

Over $700 million in financial benefits were realized in programs providing financial assistance to postsecondary students—the Pell grant and guaranteed student loan programs. These financial benefits consisted of: First, $140 million in reduced Federal expenditures when legislation was enacted requiring that Pell grant recipients have a high school diploma; second, $305 million in increased defaulted student loan collections due to the extension of the Internal Revenue Service's income tax refund offset programs; and third, $279 million captured in guaranty agencies' reserves in excess of their needs.

Funding for the Job Training Partnership Act [JTPA] was reduced by $13.8 million in fiscal year 1990 to reinforce GAO's finding that local programs were entering into contracts for excessive on-the-job training to place participants into low skill jobs.

As a result of GAO's work concerning the employment conditions of foreign workers brought into the United States to harvest sugarcane, the largest user of this labor revamped certain aspects of its contract with the workers to improve the accountability of workers' wage deductions.

On the basis of GAO briefings, testimonies, and a report on the Carl D. Perkins Vocational Education Act, the Congress made major revisions to the act, such as improving allocation of program funds.

Using information from GAO reports on the limited extent of advance notice provided by employers to workers concerning plant closings, legislation was enacted requiring large employers to provide 60 days advance notice to workers in the event of a plant closing or mass layoff.

Based in part on GAO reports and testimony, Congress raised the maximum penalties for violations of workplace safety and health regulations and child labor laws.

The GAO report on legislative and administrative options for improving workers' safety and health led to the first comprehensive reexamination of OSHA's authorizing legislation in its 20-year history. Both the Senate and the House legislators drew heavily on the options GAO identified, incorporating most of them in H.R. 3160, the Comprehensive Occupational Safety and Health Act.

Vote "no" on this amendment. It deserves to be defeated.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment.

We have, in the executive budget requests, significant increases for the administration's junk yard dogs, the inspectors general. At Agriculture, the IG budget is up by 7.1 percent; at Commerce, 19.7 percent; at the Education Department, it is up by over 20 percent. The departmental IG's go up all over the Government, while we have reduced GAO by $5.5 million in total resources below the current year. They are the junk yard dog of the entire Government, and we have placed very stringent controls on their budget.

Reducing GAO's budget to $333,333,000 would require GAO to undergo a large-scale reduction in force. This would have a devastating impact on GAO's ability to perform its mission. A reduction in force to achieve a cut of this magnitude requires the separation of an inordinate number of staff to cover the expenses of the RIF itself. A reduction in force which will permit GAO to operate within a budget of $333 million will require the separation of approximately half of GAO's 5,000 employees. GAO will have to: Close at least six of its 13 regional offices and both of its overseas offices, thereby eliminating approximately 700 employees. This would: drastically limit GAO's unique on site investigative capability, and severely impact the watchdog presence throughout Government operations.

They would have to terminate 1,800 employees in an agencywide reduction in force in addition to regional and overseas office closings. Such action will materially reduce our subject matter expertise in specific areas where GAO has built outstanding capability over many years because of bumping provisions many employees will be involuntarily moved into areas where they have little or no subject matter knowledge resulting in an unstable job management situation.

This would devastate years of concentrated effort designed to provide a more representative and diverse work force. Because a RIF is driven by seniority and veterans preference, minorities and women will be affected the most. It would also severely impact GAO's ability to develop a high-quality work force for the future. A RIF of this magnitude will force out developing staff first and eliminate hiring for the foreseeable future. This will result in a significant loss of state-of-the-art skills and technological capabilities necessary to effectively address increasingly technical and complex issues facing the Congress.

Also, higher paid people would be placed in positions where they will be performing lower level work. This is due to saved pay provisions of RIF regulations which require that an employee reassigned to a lower level job retain his/her current pay. This will adversely impact morale and will result in spending more than necessary to get the work done. This will create perhaps years of minimal productivity while people are being reassigned and retrained for their new positions.

A reduction of this magnitude will limit GAO's effectiveness in conducting legislative oversight of misconduct and abuse in the executive branch and will deny the Congress the kind of reliable information needed when we consider such issues as: Weapons acquisition; health care; banking legislation; environmental and hazardous waste issues; and financial management issues.

GAO's work has saved the taxpayers billions of dollars. In these tight budget times to cripple the agency is penny wise but pound foolish.

Mr. Chairman, I yield my final 1 minute to the gentleman from Oklahoma [Mr. SYNAR], a well-known oversight junkie.

□ 1700

Mr. SYNAR. Mr. Chairman, my colleagues, let us be honest about this debate. This is not a debate about congressional staff. The General Accounting Office is an independent agency. This is not a debate about saving money.

The General Accounting Office's budget is one-sixth of 1 percent of the Department of Defense's budget. In fact, any one of a dozen investigations that they will conduct this year will more than pay for the budget that they are doing.

What this debate is about is an administration and executive branch and the President that want less oversight over the consistent mismanagement of billions of dollars within the administration.

If we could point to one success story in government, it is the General Accounting Office. If we could point to one agency where we get the best bang for the buck, it is the General Accounting Office.

In 1991 alone they will return $33 billion to the people of this country. By my calculations, that is $82 back for every $1 invested.

If you are committed to the proposition that we should run government like a business, reject the Cox amendment.

Mr. PICKLE. Mr. Chairman, the oversight subcommittee has had a very active agenda over the last number of years and we have been supported in our efforts by the work of the General Accounting Office. We call on GAO when we can't get the information we need from an agency—for whatever reason—sometimes the agency itself just hasn't collected the information. We also call on GAO when we need an assessment of the information, independent of the agency.

Over the years, we have gotten what we asked for. GAO has provided the data and the independent analysis that allowed us to give the taxpayers more value for their tax dollar. We have used GAO's information to get the Customs Service to spend its money more wisely—whether for overtime pay or managing seized property. A year never goes by that we don't use some GAO analysis to make it easier for taxpayers to deal with IRS. And working with GAO, we have improved the operations of the Internal Revenue Service so that enforcement resources are focused where they ought to be. Similarly, GAO has continuously provided us information on the status of the Resolution Trust Corporation's operations so we can continuously focus on whether RTC is doing a good job resolving the multi-billion-dollar savings and loan disaster. Whether it's protecting employees' pensions or making sure that dead people don't get Social Security checks, GAO is our source of reliable information. It all comes back to one thing. When we need to know what's going on in an agency to see if they're operating effectively, we depend on the GAO to get us that information.

MONEY LAUNDERING

The subcommittee on oversight has been working to make the Department of the Treasury programs more effective in addressing money laundering and related Federal tax evasion. GAO-developed information showed us the income tax compliance of individuals transacting business with more than $10,000 in cash. Similarly, GAO's input was important in understanding the activities of the Treasury's Office of Financial Enforcement and IRS to ensure that financial institutions comply with the reporting requirements of the Bank Secrecy Act.

IRS ACCOUNTS RECEIVABLE

The oversight subcommittee, with information and analysis provided by GAO, has embarked on a multiyear effort to encourage IRS to collect taxes owed the Government. The IRS accounts receivable inventory exceeds $110 billion. At the subcommittee's last hearing on this topic, GAO presented the results of an analysis of Federal contractors who also owe Federal income taxes. GAO had a number of recommendations as to how IRS could use Government money—in the form of Federal contract payments—to collect the taxes these companies owed. These recommendations will save us money. GAO gave us the same kind of helpful information last year on IRS' largest accounts and accounts of Federal agencies for employment taxes. It was GAO that recommended that the Treasury Department simplify the payroll deposit rules that cause so many small businesses to owe delinquent employment taxes—a step that Treasury recently took.

IRS' BUDGET AND TAX FILING SEASON

Each year the subcommittee on oversight reviews carefully the Internal Revenue Service's plans for the coming year—as embodied in the administration's budget request. The subcommittee also pays careful attention to how well IRS helps taxpayers file their tax returns and processes them upon receipt. The subcommittee relies heavily on the independent investigation and analysis provided by GAO. When GAO said IRS was not answering the telephone calls very accurately, IRS at first was not convinced. After GAO worked with IRS to develop its own test of the calls, IRS became convinced and worked to improve its accuracy rate.

GAO has had some success in improving the quality of IRS correspondence. This year the subcommittee has asked GAO to see whether the notices are going to the right addresses and whether the many forms and publications that taxpayers rely on are in fact accurate. GAO's work in all these areas results in better tax administration in this country; but, even more importantly, GAO's work makes it easier for taxpayers to deal with IRS.

Mr. HUTTO. Mr. Chairman, those of us involved in overseeing this Nation's military readiness—and I chair the subcommittee of that name—have had frequent opportunities to take the measure of GAO. Are its people knowledgeable and consistently objective? Are their reports accurate and informative? Does their work make our work more effective? Based on the many times my colleagues and I have called upon GAO for information and analysis, I would answer yes—wholeheartedly—to each of these questions.

Four examples are worth offering:

The Defense business operation fund will have sales in fiscal year 1993 of about $81 billion. GAO has helped the committee and its staff better understand how this huge and complex undertaking is run. With GAO findings in hand, we were able to cut DOD's fiscal year 1993 budget request for the fund by $2 billion—without in any way damaging our military readiness.

Over the past couple of years, an enormous opportunity to save money has become apparent: DOD simply has to do a better job of inventory management. At our request, GAO continues to produce a growing body of work on DOD's inventory management problems. Not only have these GAO studies allowed the committee to effect budget savings of hundreds of millions of dollars, but have led DOD itself to save billions more by improving its inventory management practices.

GAO has also looked into various aspects of the drawdown of forces in Europe. Among other things, GAO identified significant problems in the lengthy process of returning facilities to the German Government—problems that could ultimately lead to increased claims against the United States. Acting on these findings, we directed DOD to negotiate milestones with the Germans for the return of the facilities. In addition, GAO examined the effect of the drawdown both on the troops involved and on installations here in the States should the pace of the drawdown increase.

Among other things, Operation Desert Storm put to the test the readiness and training of our Active and Reserve Forces. At our request, GAO studied the issue intensively, demonstrating that, contrary to what DOD has asserted, reserves have an important role to play in any future contingency.

These are, of course, just four examples drawn from a long list of contributions that GAO has made to our committee. We expect it will make many more. It's worth noting, however, that GAO has not just impressed those of us who oversee DOD programs, but has impressed DOD as well. Through sheer thoroughness and a genuine understanding of defense issues and practices, GAO has convinced the Pentagon to make changes that have saved enormous sums of money without impairing the readiness of our forces. There is no stronger argument, in my mind, for continuing to give GAO the resources it needs to continue fulfilling the mission we have assigned it.

Mr. VENTO. Mr. Chairman, I strongly oppose this amendment, and must take issue with those who have accused the General Accounting Office of producing reports that are inaccurate or biased.

In recent years, to assist the Subcommittee on National Parks and Public Lands with oversight of the management of grazing on public rangelands, I have asked the General Accounting Office to review particular aspects of the range management programs of the Bureau of Land Management and the Forest Service. The results of those reviews have been the subject of a series of GAO reports.

These reports have played an important role in congressional deliberations about range management, including the committee's action on the BLM reauthorization bill last year.

Earlier this year, Resource Concepts, Inc., a Nevada-based consulting firm, submitted a paper very critical of three GAO reports, including two prepared at my request, that the firm described as "lacking in both technical accuracy and objectivity."

Because of the seriousness of these criticisms, I asked the General Accounting Office to respond to them, and GAO has submitted a point-by-point response.

On May 12, the Assistant Comptroller General testified about this response, and also about two recent GAO reports, prepared at my request, dealing with grazing on public lands in hot desert areas of the Southwest and with BLM's monitoring of grazing activities and the extent to which data from such monitoring is used in actual grazing-management decisions.

In my opinion, the testimony of the General Accounting Office effectively rebutted the criticisms of their reports made by the Nevada firm.

I have only the highest regard for the professionalism of the staff of the General Accounting Office and for the quality of their work. I am firmly convinced that those claiming that the GAO is biased or that their grazing or other land-management reports are not of high quality are attempting to shoot the messenger because of their dislike of the message.

For the information of Members, I attach the May 12 testimony of Assistant Comptroller General J. Dexter Peach in response to the Nevada firm's critique and concerning the other GAO reports recently submitted at my request.

Furthermore the GAO has been instrumental in monitoring the status of the savings and loan bailout progress. The GAO has prepared numerous reports concerning the cost, administration, and information system. These issues are costing the taxpayer billions of dollars and the success of the Congress in our oversight role is directly related to the quality of such reports.

As an appointed task force chairman for a short period without paid committee staff, I would have been unable to do a credible job without the professional quality work effort of the GAO. The administration, the Resolution Trust Corporation [RTC] is the major beneficiary to such reports, and GAO expertise. They rely as much as we to test ideas and gain insights into what works. Hopefully the GAO will not be co-opted in the process by such cooperation. This amendment should be strongly opposed.

[From the General Accounting Office—testimony before the Subcommittee on National Parks and Public Lands, Committee on Interior and Insular Affairs]

RANGELAND MANAGEMENT

(Statement of J. Dexter Peach, Assistant Comptroller General, Resources, Community, and Economic Development Division)

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss our most recent work addressing the management of the nation's public rangeland. As you requested, my remarks today focus primarily on three recently issued GAO products—(1) our May 4, 1992, response to you and 16 Senators assessing a January 1992 critique of three GAO reports on rangeland management by a Nevada consulting firm,[1]

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[1] *Rangeland Management: Assessment of Nevada Consulting Firm's Critique of Three GAO Reports* (GAO/RCED-92-178R, May 4, 1992).

(2) our February 1992 report on rangeland monitoring by the Interior Department's Bureau of Land Management (BLM),[2] and (3) our November 1991 report on BLM's management of livestock grazing activity in the so-called "hot deserts" of the American Southwest.[3] Before describing the findings contained in these reports, however, I believe it would be useful to provide some perspective on the ongoing rangeland management debate and the role of our work in that debate.

BACKGROUND ON THE PUBLIC RANGELAND MANAGEMENT DEBATE

Although the impact of livestock grazing on the nation's nearly 270 million acres of public rangeland has been debated for decades, the controversy has intensified in recent years and months. On the one hand, conservationists have increasingly emphasized the adverse effects of livestock grazing on the land's condition as well as on its productivity for other uses and its preservation for future generations. On the other hand, livestock interests have strengthened their position in defense of longstanding claims to the control and use of the land. Some have taken the position that grazing on federal land is not a privilege but rather a property right comparable to water rights and mineral rights.

In administering grazing activity on public rangeland, the two land management agencies—BLM and the Agriculture Department's Forest Service—are charged with steering a course of balanced stewardship in accordance with the principles of multiple use and sustained yield set forth in the Federal Land Policy and Management Act of 1976 and the National Forest Management Act of 1976, and reaffirmed by the Public Rangelands Improvement Act of 1978. Over the years, we have issued a number of reports and testimonies where we expressed the view that the agencies' performance can be improved. (See app. I for a list of Related GAO Products.) In particular, we have expressed the need for (1) more aggressive enforcement of livestock trespass regulations, (2) more comprehensive data on land conditions and trends, (3) improved performance in fulfilling resource management planning mandates, and (4) greater progress in restoring damaged riparian areas. In each of these reports, however, we have also recognized that resource constraints have substantially hampered the agencies' ability to carry out their responsibilities.

While the land management agencies have, on the whole, reacted favorably to our reports, various interest groups have criticized our work. According to certain livestock interests, our findings have "played into the hands" of those interested in discrediting livestock grazing on the public land. At the same time, others have claimed that our work has not gone far enough in exposing the damage caused by grazing. This criticism from both sides tends to provide support to the independence of our work and the value of our reports in providing decisionmakers with objective information based on sound analyses.

RESPONSE TO NEVADA CONSULTING FIRM'S CRITIQUE

The most visible criticism of our public rangeland work to date is a January 1992 report *A Technical Review of U.S. General Accounting Office Rangeland Management and Public Rangelands Reports 1988–1990* by a Nevada consulting firm critiquing three GAO rangeland management reports issued between June 1988 and August 1990.[4] As we demonstrate in our overall and point-by-point responses to the consulting firm's report, the consulting firm's critique is not valid. After careful review, we are confident that our work was performed with due professional care consistent with generally accepted government auditing standards and that our findings are well supported, our conclusions flow logically from the facts, and our recommendations offer reasonable suggestions for addressing the problems we identified.

In its critique, the consulting firm made a number of specific charges with respect to each of the three GAO reports. Our written response thoroughly addresses each of these charges. In addition, the consulting firm highlighted several criticisms for special emphasis.

With respect to our report on declining and overstocked grazing allotments, the consulting firm claimed that we created an unduly negative picture of rangeland conditions and placed undue emphasis on livestock overgrazing as a cause of declining conditions. We disagree. Our report fully disclosed the amount of land in each land condition category and the amount of land that was declining, stable, or improving. Our report then focused on the grazing allotments that were declining and/or overgrazed because (1) our analysis of range managers' responses demonstrated that overgrazing was the most prevalent cause of declining rangeland conditions; (2) overgrazing can seriously, even permanently, damage the land; and (3) overgrazing is a problem that the agencies can address.

Regarding our report on riparian area restoration, the consulting firm asserted that we prepared our report on the basis of selective, unverified anecdotal information that led us to overstate the magnitude of riparian area restoration needs. This assertion is inconsistent with the facts. Our review included field visits and analysis of a large portion of the riparian restoration projects that had been undertaken at that time. Furthermore, we did not limit our review to an examination of individual projects. To verify that our findings were representative of conditions on public land throughout the West, we examined available agency riparian condition inventory data and interviewed agency experts. This work showed that tens of thousands of miles of riparian areas on public rangeland in the West are in need of restoration.

Regarding our report on the federal wild horse program, the consulting firm asserted that we did not bring to light inadequacies in program management because we focused on problems relating to livestock grazing. We disagree with this assertion. Our report included a substantial discussion of management problems associated with program elements that have no relationship to livestock grazing, including the wild horse adoption program, wild horse sanctuary operations, and the prison halter training program. We devoted substantially more discussion to these issues than to the comparative effects of wild horses and domestic livestock on range conditions. We discussed livestock grazing in our report because during our work it became clear that unsatisfactory range conditions cannot be widely improved by concentrating on wild horse management alone.

While we believe our reports stand on their own merits, it is important to note that a number of others have issued reports or reached conclusions similar to those we presented. These include those by or for Interior's Inspector General, Board of Land Appeals, Wild Horse and Burro Advisory Board, Fish and Wildlife Service, and National Fish and Wildlife Foundation; the Environmental Protection Agency; the President's Council on Environmental Quality; and the Bonneville Power Administration. The State of Nevada's Department of Wildlife has also commented favorably on the quality of our work.

Likewise, both BLM and the Forest Service have recognized the need to address the issues raised in our reports and are taking actions to implement many of our recommendations. For example, in following up on our report on declining and overstocked allotments, the Forest Service has found that nearly one out of every four grazing allotments in its six western regions is considered to be in a declining condition and/or overstocked—a level that is consistent with the data cited in our report—and has developed a detailed action plan for addressing the problem allotments. Similarly, in a December 11, 1991, letter to GAO, the Director of BLM characterized our report on riparian area management as "one of GAO's more comprehensive and expert studies of a very relevant issue."

In contrast to our reports, the consulting firm's critique contains little factual data to substantiate its assertions. Instead, the critique misrepresents our reports' findings to support its positions and challenges the manner in which we presented the facts and the implications we drew from them.

REPORT ON BLM'S RANGELAND MONITORING

Our February 1992 report followed up on the recommendations in our June 1988 report on declining and overstocked grazing allotments. Both reports pointed out that monitoring of allotment conditions is a key component of BLM's grazing management responsibilities. Monitoring on a continuous basis is needed to ensure that existing grazing levels and practices are consistent with the land's ability to sustain the activity. If monitoring indicates that overgrazing is occurring, BLM managers are responsible for reducing authorized grazing to a sustainable level. Under current BLM policy, all grazing level adjustment are required to be based on monitoring data accumulated over several years. In accordance with this policy, BLM established a 5-year time frame-beginning with the issuance of the relevant grazing environmental impact statement—to conduct the necessary monitoring and implement a grazing decision establishing an appropriate grazing level for each allotment. At the time of our review, this deadline had passed on about 14,500 of BLM's 22,500 allotments.

Our review of BLM's performance showed that BLM had completed the required monitoring and issued a decision on appropriate grazing levels for only about 20 percent of the 14,500 allotments covered by environmental impact statements issued more than 5 years ago. It had not monitored about 7,200 allotments at all. For the allotments that it had monitored, it had generally not analyzed the data and decided on the appropriate grazing levels.

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[2] *Rangeland Management: Interior's Monitoring Has Fallen Short of Agency Requirements* (GAO/RCED–92–51, Feb. 24, 1992).

[3] *Rangeland Management: BLM's Hot Desert Grazing Program Merits Reconsideration* (GAO/RCED–92–12, Nov. 26, 1991).

[4] See *Rangeland Management: More Emphasis Needed on Declining and Overstocked Grazing Allotments* (GAO/RCED–88–80, June 10, 1988), *Public Rangelands: Some Riparian Areas Restored but Widespread Improvement Will Be Slow* (GAO/RCED–88–105, June 30, 1988), and *Rangeland Management: Improvements Needed in Federal Wild Horse Program* (GAO/RCED–90–110, Aug. 20, 1990).

Our May 1991 report on the Forest Service's monitoring performance presented strikingly similar findings.[5] Our findings in these two reports as well as those in a number of other GAO reports on both BLM's and the Forest Service's range management programs are linked by a common thread: the performance weaknesses we have observed are in large measure a result of resource constraints; the agencies do not have sufficient staffing and funding to perform all the management tasks necessary to effectively administer the current level of grazing activity. If the agencies' performance is to be demonstrably improved, our reports concluded that a better balance between the level of grazing activity and the resources available to administer it is needed.

In this context, our February 1992 report asked the Congress to consider (1) reducing the scope of the existing grazing program or (2) funding an increase in BLM's range management resources. Among the options for offsetting the additional required appropriations would be to increase federal grazing fees.

GRAZING ON BLM LAND IN THE HOT DESERTS

In our November 1991 report on grazing activity on the public land in the hot deserts of the Southwest, we reached a similar conclusion.[6] Livestock grazing occurs on almost 20 million acres of BLM land in America's hot deserts—some of the most unproductive, yet environmental fragile, land in the country. We found that current livestock grazing activity risks long-term environmental damage while generating minimal economic benefits and grazing fee revenues that are not sufficient to provide for adequate management. We found evidence of damage caused by livestock grazing on BLM land as well as evidence of livestock grazing's adverse impact on several species. Some damaged land may take decades to recover if it recovers at all.

We also found that BLM lacks the staff resources needed to collect and evaluate data measuring the impact of livestock grazing on many desert allotments. Without these data, BLM is not in a position to assess livestock usage of desert allotments and change usage as needed. Overall, because livestock grazing on BLM's hot desert land poses a high risk to the environment and costs more to manage than it returns to the federal government, we questioned the merits of the activity as it is currently conducted. Our report offered several options for the Congress to consider if it chooses to alter the program. Consistent with our more recent report on rangeland monitoring, these options include providing BLM with more resources or reducing the scope of desert grazing activity.

Mr. Chairman, this concludes my prepared statement. At this time, I would like to submit for the record a copy of our response to the Nevada consulting firm's critique as well as our reports on BLM allotment monitoring and management of hot desert grazing activity. I would also be pleased to respond to any questions you or members of the Subcommittee may have.

APPENDIX I: RELATED GAO PRODUCTS

Rangeland Management: BLM's Hot Desert Grazing Program Merits Reconsideration (GAO/RCED-92-12, Nov. 26, 1991).

Rangeland Management: Comparison of Rangeland Condition Reports (GAO/RCED-91-191, July 18, 1991).

Rangeland Management: Current Formula Keeps Grazing Fees Low (GAO/RCED-91-185BR, June 11, 1991).

Public Land Management: Attention to Wildlife is Limited (GAO/RCED-91-64, Mar. 7, 1991).

Rangeland Management: BLM Efforts to Prevent Unauthorized Livestock Grazing Need Strengthening (GAO/RCED-91-17, Dec. 7, 1990).

Public Lands: Limited Progress in Resource Management Planning (GAO/RCED-90-225, Sept. 27, 1990).

Rangeland Management: Improvements Needed in Federal Wild Horse Program (GAO/RCED-90-110, Aug. 20, 1990).

California Desert: Planned Wildlife Protection and Enhancement Objectives Not Achieved (GAO/RCED-89-171, June 23, 1989).

Public Rangelands: Some Riparian Areas Restored but Widespread Improvement Will Be Slow (GAO/RCED-88-105, June 30, 1988).

Rangeland Management: More Emphasis Needed on Declining and Overstocked Grazing Allotments (GAO/RCED-88-80, June 10, 1988).

Rangeland Management: Grazing Lease Arrangements of Bureau of Land Management Permittees (GAO/RCED-86-168BR, May 30, 1986).

Public Land Management: Issues Related to the Reauthorization of the Bureau of Land Management (GAO/T-RCED-91-20, Mar. 12, 1991).

Management of the Public Lands by the Bureau of Land Management and the U.S. Forest Service (GAO/T-RCED-90-24, Feb. 6, 1990).

Shortfalls in BLM's Management of Wildlife Habitat in the California Desert Conservation Area (GAO/T-RCED-90-1, Oct. 2, 1989).

Change in Approach Needed to Improve the Bureau of Land Management's Oversight of Public Lands (GAO/T-RCED-89-23, Apr. 11, 1989).

Management of Public Rangelands by the Bureau of Land Management GAO/T-RCED-88-58, Aug. 2, 1988).

Restoring Degraded Riparian Areas on Western Rangelands (GAO/T-RCED-88-20, Mar. 1, 1988).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. COX].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COX of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 292, not voting 8, as follows:

[Roll No. 226]

AYES—134

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Erdreich
Ewing
Fawell
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gekas
Gillmor
Gingrich
Goodling
Goss
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Santorum
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wylie
Zeliff
Zimmer

NOES—292

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta

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[5] See *Rangeland Management: Forest Service Not Enforcing Needed Monitoring of Grazing Allotments* (GAO/RCED-91-148, May 16, 1991).

[6] The "hot deserts" encompass the Mojave, Sonoran, and Chihshuan deserts. BLM manages land in these deserts in portions of California, Nevada, Utah, Arizona, and New Mexico.

Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—8

Bonior
Dymally
Hefner
Jones (GA)
Lowery (CA)
McNulty
Schumer
Traxler

□ 1722

Messrs. NAGLE, MFUME, TALLON, LENT, and STENHOLM changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

(c) This section shall apply with respect to fiscal years beginning after September 30, 1992.

Amendment considered as adopted in the House and in the Committee of the Whole, pursuant to section 2 of House Resolution 499:

On page 34, strike line 17, beginning with "Notwithstanding" through line 20, ending with "amounts" and insert in lieu thereof "Amounts".

On page 34, insert on line 3 after "use" the following: ": *Provided*, That no such amounts may be transferred before the date of the enactment of an Act authorizing the use of funds for that purpose".

SEC. 306. Notwithstanding any other provision of law, and subject to approval by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, amounts may be transferred from the appropriation "Library of Congress, Salaries and expenses" to the appropriation "Architect of the Capitol, Library buildings and grounds, Structural and mechanical care" for the purpose of purchase, rental, lease, or other agreement, of storage and warehouse space for use by the Library of Congress during fiscal year 1993, and to incur incidental expenses in connection with such use.

SEC. 307. The amounts deposited in the account established by section 312(d)(1)) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)) shall be available for salaries and expenses of the House of Representatives Child Care Center without fiscal year limitation, subject to the approval of the Committee on Appropriations of the House of Representatives.

SEC. 308. (a) Section 316(a) of the Legislative Branch Appropriations Act, 1990 as so redesignated by section 311(h)(3) of the Legislative Branch Appropriations Act, 1991 (39 U.S.C. 3210 note) is amended—

(1) in the matter before paragraph (1), by striking out "or a Member of the House of Representatives"; and

(2) in paragraphs (1) and (2), by striking out "or Member" each place it appears.

(b) The amendments made by subsection (a) shall take effect on October 1, 1992.

SEC. 309. (a) Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7), by striking out "of the Member, except" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "from which the Member was elected."; and

(2) in subsection (d)(1), by striking out "delivery—" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "delivery within that area constituting the congressional district or State from which the Member was elected.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1992.

AMENDMENT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. THOMAS of California.

Page 35, line 22, strike out "October 1, 1992" and insert in lieu thereof "the date of the enactment of this Act".

The CHAIRMAN. Under the rule, the gentleman from California [Mr. THOMAS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, section 309 of the Legislative Appropriations Act of 1993 is, in essence, H.R. 4104, which I introduced along with a number of cosponsors on January 22. On January 28 the bill was jointly referred to the Committees on Post Office and Civil Service and House Administration. This bill sought to deny Members franked mass mailings to people who are outside their congressional districts and to prohibit House allowances paying for such mailings.

The committees of jurisdiction would not consider the bill in the orderly process of legislative hearings. On April 8, on a motion to recommit to conference, this House, using the content of H.R. 4104 as its vehicle, voted 408 to 8 for the provision in front of us.

The specific amendment that is offered changes the October 1, 1992, effective date, which I believe to have been a clerical error by staff establishing a boilerplate October 1 date for each of these provisions. The amendment would restore to the agreement, as I understand it, in the Legislative Appropriations Subcommittee, to "date of enactment."

The amendment changes October 1, 1992, to "date of enactment." We have already delayed too long. This makes it possible as soon as possible from a statutory point of view.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the chairman of the subcommittee, the gentleman from California, [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. I just wanted to indicate that it is my understanding of the Thomas amendment is that in changing the effective date of the section, it does not attempt to be retroactive, or to create some period of uncertainty about the law. That is, the Thomas amendment will take effect on the date of enactment of this bill into law, and will not change the law retroactively, nor make the law uncertain in the period until that effective date.

There may be Members who have not yet mailed their annual questionnaires and similar mailings. They will want the law to be clear as to what they can or cannot do as of a particular date, and will not want to be in an uncertain area about what the law provides or whether the law is changing on them retroactively.

For this reason I am glad the Thomas amendment would make a clear change, drawing a bright line, prospectively rather than retroactively, effective on the date of enactment of this bill.

Is that correct?

Mr. THOMAS of California. That is correct. Members have been mailing on borrowed time long enough, and this does provide a date specific, a date certain, whenever it passes.

Mr. FAZIO. If the gentleman would yield further, I am pleased that we can finally put into effect something we voted on twice during the session.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTON], who has from the very beginning shared concern about this portion of the law.

□ 1730

Mr. BARTON of Texas. Mr. Chairman, I rise in support of the amendment of the gentleman from California [Mr. THOMAS]. This is a very good amendment. I want to commend the gentleman for continuing to raise this issue.

Mr. Chairman, it is fairly straightforward. Every Member of Congress, as a Member, has a right to mail mass mailings to his existing congressional district, to stay in touch with those constituents. This is an honorable practice, the traditional practice. In redistricting years, unfortunately, we have adopted the practice of allowing Members to mail outside their existing districts, and in my opinion that is a taxpayer financed, indirect way to campaign at taxpayer expense.

The gentleman from California [Mr. THOMAS] has tried continually to end that practice. He has succeeded in getting this in the campaign finance bill that is going nowhere. He has succeeded in getting it into this bill that is going into law, and what this amendment does is set a date certain.

The paragraph that is in the pending bill says: October. Well, Mr. Chairman, that is too late. We are not going to save any money. By October we are near the election in November, so we would basically continue to mail outside the district up until the election. This amendment says July 15, I believe, or when the bill becomes law, and that has real teeth.

So, Mr. Chairman, I think we should support it. I think we should end the somewhat hypocritical practice of mailing outside our districts for no other reason than to get higher I.D., and we should begin to practice what we preach, which is fiscal accountability and real reform.

I thank the gentleman from California [Mr. THOMAS] for offering this amendment and urge its adoption.

Mr. THOMAS of California. Mr. Chairman, just briefly in closing, the amendment does say date of enactment, but I want to put the Members on notice that section 2 of the bill directs the Committee on House Administration to administratively refuse to pay for those mass mailings that are outside the district, and at the next full meeting of the Committee on House Administration I will seek a date certain of mid-July, July 15, so that we can end this practice even sooner than waiting for this statute to become law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. THOMAS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 2, not voting 15, as follows:

[Roll No. 227]

AYES—417

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz

Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)

Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh

Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—2

Rahall
Washington

NOT VOTING—15

Ackerman
Alexander
Bonior
Brooks
Dymally

English
Gaydos
Hefner
Hyde
Jones (GA)

McNulty
Olin
Schumer
Traxler
Waxman

□ 1753

Mr. DWYER of New Jersey changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 310. Effective November 5, 1990, section 106(a) of Public Law 101–520 is amended by striking out "(a) The" and inserting in lieu thereof "Section 9 of the".

SEC. 311. No part of any appropriation contained in this Act shall be used to carry out the provisions of subsections (b)(1) and (b)(3) of section 5 of Public Law 100–480, approved October 7, 1988, as those provisions relate to interior security of the Federal Judiciary Building.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GEKAS: PAGE 36, AFTER LINE 5, INSERT THE FOLLOWING NEW SECTION:

SEC. 312. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking out "may be" the first place it appears and all that follows through the end of the section and inserting in lieu thereof "shall, when the individual ceases to hold Federal office, as determined by the individual—

"(1) be submitted to the Secretary of the Treasury for deposit in the Treasury as miscellaneous receipts;

"(2) be contributed to any organization described in section 170(c) of the Internal Revenue Code of 1986;

"(3) be returned to the persons who made the contributions;

"(4) be transferred without limitation to any national, State, or local committee of any political party; or

"(5) be contributed to an authorized committee of a candidate for Federal, State, or local office, within the limits provided for by law.".

Mr. FAZIO. Mr. Chairman, I reserve a point of order on the gentleman's amendment and wish that he would explain it to the Members.

The CHAIRMAN. The gentleman from California reserves a point of order on the amendment.

The gentleman from Pennsylvania [Mr. GEKAS] is recognized for 10 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I many consume.

Mr. Chairman, at a moment in the history of the Congress of the United States when esteem by the public is at its lowest ebb, when reform is the key word of the day, I offer this amendment to this legislation to help restore some of the integrity which we have so fleetingly lost in this Chamber.

Mr. Chairman, my amendment would end the life of the grandfather clause which protects those individuals who, having become Members before 1980 and who will retire before 1993, to prohibit them from converting the unused campaign funds to their personal use.

The amendment would provide that those individuals would have a perfect right to return the money to the contributors, to forward it to some charity of their choosing, to give it to some political entity dear to their hearts, but under no circumstances to convert it to one's personal use. These funds were contributed for a specific purpose, Mr. Chairman, to aid that individual in attaining a political office. And it should be used for those purposes primarily or for those purposes that are as close to that as possible when someone retires with unused campaign funds.

This legislation, the main legislation has several items in it, Mr. Chairman. The gentleman from California and others will agree that the bill has provisions in it which go to the reform of this institution: the mailings, the fees, the gym, et cetera. If any one of those provisions would have been the one to be offered here in the form of an amendment, we are wondering would the gentleman from California be reserving a point of order.

In other words, Mr. Chairman, this amendment of mine fits perfectly into the pattern, that the bill itself is legislating in an appropriations bill to accomplish those measures of reform. That is why I am asking that in the final analysis that the Chair rule that this amendment is in order.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard on his point of order?

Mr. FAZIO. Mr. Chairman, I would simply say that the Committee on Rules has made distinctions between those which they protected and which they did not. This clearly is not in the protected category, and I would indicate to the chairman that while many, many Members of this body are not at all affected by the grandfather clause and while many who are covered by it have made public their decision not to exercise it or have, by their decision to seek reelection, made themselves ineligible to utilize it, it is important that we keep faith with the Ethics Reform Act which was passed overwhelmingly in this body several years ago.

Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI.

□ 1800

Mr. GEKAS. Mr. Chairman, a point of parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. GEKAS] wish to be heard on the point of order?

Mr. GEKAS. Yes, Mr. Chairman, I do. Is there time available to debate the point of order undertaken by the gentleman?

The CHAIRMAN. Within the Chair's discretion, the gentleman is recognized to debate the point of order.

Mr. GEKAS. Mr. Chairman, the point of order that has been exercised is the one to which I made my previous remarks, that it is legislating, if I am correct, that it is legislating in an appropriations bill. If that is the stem of the point of order, then I submit, again, for the record, that standing alone, any one of a dozen provisions in this legislative appropriations bill that is before us, had it exchanged places with me and with this amendment, would be subject to the same point of order.

The inquiry that I want to make is if indeed any part of the bill, standing alone, would be subject to this point of order, would not mine then be in order?

The CHAIRMAN. The Chair will respond that the rule waived certain points of order against provisions in the bill, but not against all amendments, and the rule was adopted by the House. The Chair is prepared to rule.

Mr. GEKAS. I understand. I made a point of parliamentary inquiry.

The CHAIRMAN. The Chair will continue that the rule did not exempt this amendment from a point of order.

Does any other Member wish to be heard on the point of order?

Mr. WALKER. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, if I understand correctly, the rule did in fact allow certain amendments to be brought forward on the floor. The rule specifically named amendments. It seems to me that what the gentleman from California [Mr. FAZIO] wishes to do is now step in and suggest that what the Committee on Rules put forward in terms of the specific amendments do not constitute appropriate amendments on the floor because of its legislating in an appropriations bill.

On the other hand, the committee did say, I think the language was "amendments 1 and 9." Some could put an interpretation on that, that that meant the entire scope of the amendments that were listed in the bill, of amendments 1 through 9. I think that of the gentleman from Pennsylvania [Mr. GEKAS] is one of those amendments, and therefore does deserve the protection that was accorded by the rule, and it should be allowed to be made in order.

It seems to me that the intent here was, if I understood the Committee on Rules when they were on the floor earlier, was that these amendments were all to be considered on the floor. It was clear to me that the gentleman from South Carolina [Mr. DERRICK], who brought the rule to the floor, said over and over again that they were allowing 11 amendments to be offered. He specifically made reference to the fact of the amendments brought to the floor, that 11 were set aside for consideration on the floor. Then there is a specific clause in there that relates to these specific amendments.

As I say, there are two interpretations. One interpretation is that it means only amendment 1 and amendment 9. However, when the staff of the Committee on Rules on our side originally read that rule, they believed, based upon what they had heard in the Committee on Rules, that it meant all nine of the amendments.

It is evidently the contention of the gentleman that instead, only two of the amendments of those nine are being offered. So it seems to me the Chairman has a ruling here. The Chairman has to rule whether or not all nine amendments were protected, or whether only two of the nine were protected. The Chairman has to rule based upon, then, what the gentleman from South Carolina [Mr. DERRICK] represented on the floor earlier today, and the representation of the gentleman from South Carolina who brought the rule to the floor earlier today was that all 11 of the amendments were supposed to be considered by the House.

Therefore, one assumes that this one through nine was in fact an entire scope of amendments, not just two.

The CHAIRMAN. The Chair will respond. The Chair is constrained by the language of the resolution adopted by the House, line 25, "All points of order under clause 2 of rule XXI against amendments in the report numbered 1 and 9 are waived."

The Chair is prepared to rule on the point of order of the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I would insist on my point of order. I appreciate the Chair's use of the word "and."

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, a further parliamentary inquiry. Maybe I did not make myself clear. I believe this requires a ruling by the Chair preliminary to the point of order that has been fashioned by the gentleman from California [Mr. FAZIO].

What my parliamentary inquiry is, is if this amendment of mine parallels in purpose and in scope and even in language a paragraph already in as part of the bill, where the bill is patently an appropriation bill, and yet there are legislative provisions in that bill, either my bill is in order or the entire bill is out of order.

The CHAIRMAN. The Chair would again respond that the Chair is constrained by the adoption of the rule earlier today by the House on which only certain points of order against amendments 1 and 9 were waived.

Mr. GEKAS. As a point of parliamentary inquiry, is the Chair saying to me that the rule as fashioned overrules any further consideration of the content of the rule?

The CHAIRMAN. The Chair has earlier ruled twice during consideration of amendments in the Committee of the Whole that two other amendments which were offered by a different gentleman from Pennsylvania were in fact legislation on an appropriation bill in violation of the rules of the House, and were not given waivers by the rule that was adopted by the House.

The Chair is restrained by the rule that was adopted by the House.

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] insist on his point of order?

Mr. FAZIO. Yes, Mr. Chairman, I certainly do.

The CHAIRMAN [Mr. DONNELLY]. The gentleman from California makes the point of order that the amendment offered by the gentleman from Pennsylvania violates clause 2 of rule XXI by proposing legislation on a general appropriation bill.

The gentleman's amendment simply and directly amends the Federal Election Campaign Act of 1971. As such it proposes legislation and does not merely perfect provisions in the bill.

The point of order is sustained.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry. I think the Chair just ruled this violates clause 2 of rule XX. I know of no violation of clause 2 of rule XX that would be involved here.

The CHAIRMAN. The Chair would respond. The Chair said rule XXI.

Mr. WALKER. I believe the Chair said rule XX.

The CHAIRMAN. The Chair is ruling under rule XXI.

Mr. WALKER. I thank the Chair for that direction. That does make it a little easier to understand.

Mr. GEKAS. Mr. Chairman, ordinarily I would entertain thoughts of appealing this ruling. However, I am constrained to put on the record that as a lawyer and as a Member of this House, I do believe that the Chair's ruling is within the parameters of propriety. However, I still believe that the point that I made about an amendment paralleling provisions in the bill makes it in order. I will not appeal the ruling of the Chair.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102-609.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . Each appropriation made by this Act (other than for official mail costs, official expenses of Members, and standing committees, special and select) is hereby reduced by an amount equal to 10 percent of the portion of such appropriation that is provided for in object classifications 21 (travel and transportation of persons), 22 (transportation of things), 23 (rental payments, communications, utilities, and miscellaneous charges), 24 (printing and reproduction), 25 (other services), and 26 (supplies and materials).

Mr. FAZIO. Mr. Chairman, I reserve a point of order on the gentleman's amendment, and look forward to his explanation.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 10 minutes, and a Member opposed to the amendment will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the point of this amendment is to cut overhead spending within the legislative branch of the Government by 10 percent, and by overhead spending, I am talking about such items as travel, supplies, and printing. These are common sense cuts. We are not talking about one person losing his job, we are not talking about cutting one program. What we are talking about is saving the American taxpayer $43 million.

Mr. Chairman, over the last 20 years Government spending in the overhead category has increased at almost twice the inflation rate. It now has swollen to the point where overhead spending comprises almost one-third of the Federal budget.

To my knowledge, it has never been specifically targeted before, never been scrutinized before, and that is what this amendment attempts to do.

Mr. Chairman, there is grassroots support for this amendment. It has been endorsed by the Citizens Against Government Waste, and the National Taxpayers Union as well.

□ 1810

Mr. Chairman, my intent is to over the course of the summer offer a number of similar amendments to other appropriation bills. But I think it is important to start with the legislative appropriation bill in order for us to set an example. This House will have more credibility if we seek to control our own Government overhead costs before we seek to control the costs say of the executive branch.

This amendment, Mr. Chairman, to explain how it works, reduces the overhead spending by 10 percent in six object classifications. And what I am talking about here is a cumulative total.

Notice what we do is give Federal managers flexibility and say to them that in the overall six categories you have to cut 10 percent of your overhead spending. You can choose. You might decide to cut more than 10 percent in one category, such as travel. You might decide to cut less in another category, such as printing. But overall, in a cumulative total of the overhead spending, you must cut 10 percent.

It seems inconceivable to me, Mr. Chairman, that we cannot say to a Federal manager, for example, that you can take 9 trips this year but you cannot take 10 like you took last year. As I say, these are common sense cuts that deserve to be supported.

More than that, Mr. Chairman, we are overdue to scrutinize overhead spending within the Government. The national budget has reached as far as overhead spending goes almost $300 billion, and it seems to me that businesses, private sector businesses often times cut 10 percent. And we have talked to a number of them randomly in the Fortune 500, and if private sector businesses can cut 10 percent routinely from overhead costs, then cannot just once the Federal Government cut that 10 percent as well, and cannot the Federal Government just once be as efficient as the private sector.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I am happy to yield to my colleague, the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding. I simply would like to indicate that I believe his amendment is on the right track.

I was part of a task force in the Democratic Caucus which was chaired by Congressman BYRON DORGAN, and we in fact made the recommendation which had earlier been made by investigative agencies that we go after these administrative accounts throughout the Federal bureaucracy. And our assessment was that we could easily find about 10 percent to cut in all of these accounts throughout the departments and agencies.

And I think the gentleman is correct to suggest that we could do the same here on Capitol Hill as a way of setting an example, and I would commend him for the amendment and indicate my support. Congressman DORGAN has indicated to me his support for the gentleman's amendment as well.

Mr. SMITH of Texas. I thank my colleague for his support and appreciate his comments.

Mr. Chairman, let me continue to say that this 10-percent overhead cut that I referred to in my amendment does not include Members' official expenses or their franking accounts. In point of fact, they are exempted by my amendment because the appropriation subcommittee has already cut these categories by 19 percent.

Also, committee accounts are frozen, and the result of their being frozen is a 10 percent cut in overhead costs as well, and that is why those particular categories are exempt from my amendment.

The amendment does cover joint and other legislative branch, other agencies, and as I say, if we cut their overhead 10 percent cumulatively we will save the American taxpayers $43 million.

Once again, Mr. Chairman, these are common sense cuts. They are practical, they are realistic, and they provide us with opportunities to reduce Government overhead costs.

I would like to again thank Members for the support that I have received on this idea of offering this amendment. A resolution cutting overhead costs 10 percent was introduced last year. It has received the support of 68 of my colleagues. It has bipartisan support, and I assume this amendment will as well.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard on the point of order.

Mr. FAZIO. Mr. Chairman, I simply would say, as I indicated in my opening remarks, given the fact that it costs 5.7 percent per employee in order to just keep pace with benefits and longevity increases and cost-of-living adjustments, and given the fact that we are not providing anything like that to that 67 percent of our bill, we will be eating into the overhead in order to make it possible for people to be employed.

Mr. Chairman, most importantly, I wanted to indicate that I must make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill, and therefore violates clause 2 of rule XXI.

The CHAIRMAN. Does the gentleman from Texas [Mr. SMITH] desire to be heard on the point of order?

Mr. SMITH of Texas. Mr. Chairman, I would like to be heard against the point of order.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. SMITH of Texas. Mr. Chairman, first of all I would like to say to my colleague from California that I appreciate the efforts that he has made in trying to get to his overhead costs, and I certainly applaud him and appreciate the work he is doing. My point here is that with my amendment we can get to those overhead costs in a direct fashion. We would not have to get it in an indirect fashion that my colleague just described, trying to squeeze those overhead costs, sort of coming in the back door.

Mr. Chairman, the point of order before the House raises significant and important questions regarding House precedents.

And I ask the Chair's indulgence and I ask my friend from California's indulgence so that I may address specifically those precedents as they apply to my amendment.

Questions I intend to address are whether the amendment legislates issues of alleged vagueness, and whether the reduction is speculative.

First, the amendment before the House does not legislate.

The amendment conforms to and rests upon Federal appropriations and budget law.

It would require officials to assume no new duties and responsibilities.

A fiction that there might attach some new duty or responsibility can only be sustained in the dark, by barring the mind's door against the existence and operation of these laws.

Then the illusion would seem to be that the House has before it a one-dimensional snapshot of legislative branch budget.

The legal and practical reality is that it has a hologram, a three-dimensional body of budgetary law, clear and certain, known to all those that have a responsibility and a duty to implement the 1993 legislative budget.

Included within the body of law which underpins this legal reality are numerous decisions of the Comptroller General including: 35 Comp. Gen. 306, 308 (1955); 28 Comp. Gen. 296, 298 (1948); 26 Comp. Gen. 545, 547 (1947); 23 Comp. Gen. 547 (1917); B–125935.

This body of law gives legal and binding status to budget accounts such as object classes.

They establish the legal framework within which Federal appropriations are controlled and implemented.

They are definite.

There is only one budget, one law, and one set of budget data.

And the data is readily available to all.

Members may leave this Chamber and pick up in H–218 of the Capitol a precise, detailed listing of each account referenced in the amendment for each organization within the scope of this amendment.

The Legislative Appropriations Subcommittee has published this data in official House document number 50–979.

Every legislative branch official responsible for obligating funds and managing official expenses is or should be familiar with the object classes cited in the amendment.

They can quickly identify for anyone what the balance is in each account.

For it to be otherwise, we would have to admit to the American public that legislative branch officials are conducting the people's business wholly outside Federal appropriations law and without dutiful oversight of the requirements of the Anti-Deficiency Act which prohibits the obligation of taxpayer moneys without an appropriation by the Congress.

Further, each Member in this Chamber gets a monthly statement of his or her expenditures. The Speaker and each member of the leadership, the Parliamentarian and each and every other office that is responsible for managing expenditures in these accounts has similar reports.

Those statements directly reference the object classes identified in my amendment.

My amendment does nothing to repeal or alter the legal structure within which we in the legislative branch conduct our financial business on behalf of the American people.

Does the amendment require new duties and responsibilities?

No.

The amendment is self executing.

Each financial administrator in the legislative branch will, upon adoption of my amendment, know with a quick glance at the identified accounts, what reduction he or she is to take.

As noted previously, law has created a three-dimensional budget that by our fiscal laws includes clear, uniform accounts including certain object classes.

The 1993 budget numbers in those accounts are definite and knowable, and—upon enactment of the bill—require that certain duties and accountabilities be met.

There is no leeway for discretion in deciding what amount is available in any given account.

My amendment requires: No new management responsibilities; No new personnel; No changes in job descriptions; No change in organization policy and procedure manuals and; No new oversight functions either by this body or legislative branch personnel.

Only by assuming that we are not governed by the appropriation laws that are imposed on every executive and judicial branch department, can this body close its eyes to its responsibility to act on a question of whether to reduce its own costs.

To sustain the argument that this amendment legislates, the House must first deny the existence of fiscal law and then rule that the amendment before the House would either change or add to that body of non-existent law.

Therefore, I would first ask the Chair to rule that my amendment does not legislate.

Second, should the Chair rule that my amendment is legislation, I submit that it falls within the protections of the Holman rule.

Under House precedents, unless an amendment proposes legislation which will retrench an expenditure with definite certainty, it is not in order under the Holman rule.

House precedents require that the reduction must be certain, not speculative.

> SEC. 5.2 To come within the purview of the Holman rule, it must affirmatively appear that a proposition, if adopted, will retrench expenditures as a definite result, not as a probable or possible contingency.

The decision is based on a 1940 ruling.

In that instance, a member offered an amendment which stated in part "that the provisions of this Act shall not apply to a sale of bituminous coal for the exclusive use of the United States or of any State or Territory of the United States. * * *"

During debate on a point of order raised to the offering of the amendment, the sponsor confessed in part:

> About 35,000,000 tons of coal will be used, and it will cost the Federal, State, and city governments approximately $3,850,000.

On the facts, that precedent is readily differentiated from those concerning the amendment before the House today.

The sponsor conceded that an exact amount of the retrenchment was uncertain.

Elements in the amendment equation were outside the control of Federal officials.

It was based on estimates of coal usage.

In the present amendment, the budget requests are precise and certain, and upon enactment, binding.

In this 1940 precedent, the Chair directed attention to Cannon's Procedure in the House of Representatives which provides in part:

> * * * a retrenchment conjectural or speculative in its application, or requiring further legislation to effectuate, is not admissible.
>
> The reduction * * * must appear as a certain and necessary result and not as a probable or possible contingency.

Mr. Chairman, the reduction in my amendment is not conjectural or speculative.

The accounts and the amounts in those accounts in the budget before the House are as a matter of law and legislative branch administrative practice precise, definite, and allow for no discretion in being ascertained.

House adoption of my amendment can have by law and related administrative practices but one result.

By appropriations law the amendment effectively is self enacting.

No discretion is either called for or permissible.

Cannon's Procedure in the House of Representatives notes further:

> It must affirmatively appear upon the face of the bill that the proposition, if enacted, will retrench expenditures.

Cannon's goes on to elaborate:

> A retrenchment of expenditure relied upon to bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill must be apparent from its terms,* * *.

Mr. Chairman, I submit to you and my colleagues that the terms of my amendment affirmatively establish that the proposition, when enacted, will retrench expenditures.

The term object class and the object classes for travel and other similar expenditures are terms established in Federal appropriations law and administrative practices.

They are uniformly recognized throughout the legislative branch and the Federal Government by officials charged with controlling the obligation of taxpayer dollars.

As the House acts on the appropriation measure before it, it is bound as a matter both of common sense and law to adopt and accept the terms clearly established and recognized in Federal appropriations law.

The argument that the terms of my amendment do not "affirmatively" appear upon their face to retrench expenditures is to argue that the House is not to recognize and accept appropriation law terms when acting on spending measures.

If not these terms and legal requirements, then what terms?

An objection has been raised and sustained in the past when it was contended that one could not look at the bill and the given amendment and tell whether the amendment would reduce expenditures.

That is not the case in the present situation.

It is a mistake of fact and a mistake in law to assume that the exact figures in the object classes are "estimates", that they are not certain as a matter of law.

They unequivocally are certain.

This body has enacted the very laws that make that the case.

To illustrate, such numbers are readily available in the 1993 legislative branch budget, which will become binding upon being signed into law, consider that $4,020,000 is to be appropriated for the Joint Economic Committee.

Spending in object classes 21 through 26 for the Joint Economic Committee totals $160,000.

And upon adoption, my amendment reduces that by 10 percent or $16,000.

That is a 0.4-percent reduction.

For every appropriation in the legislative branch budget the same certain, definite dollar amounts are readily available and are, as a matter of law, incorporated into the bill we will enact.

It may interest the Members to know that the overall reduction for the House is 2 percent.

Mr. Chairman, I ask that my amendment be ruled in order.

□ 1820

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard further on the point of order?

Mr. FAZIO. Mr. Chairman, may I be heard briefly to further reiterate my request for a point of order against the amendment on the grounds that it violates clause 2 of rule XXI.

The President's budget does provide backup material to some accounts in this bill, breaking down the budget requests by object class categories to help us come up with a recommendation. However, the President's budget does not include such detail for all accounts in this bill, so the first problem is there are no official object class breakdowns for some of the accounts in this bill.

But more important, even if we had all of the object class estimates, there is no direct correlation between the appropriation line items in the bill, which are broader accounts, and the budget backup material that is provided to the committee.

Mr. Chairman, there is simply no way of correlating the amounts in the bill back to each and every object class named in the amendment. No such object class dollar amounts are included in this bill.

Quite simply, the gentleman's amendment is defective, because there is no starting point from which to cut. It is impossible to implement this or to know how much, if any, would be saved under this amendment.

I, therefore, submit that it does not qualify as a retrenchment under the rule, and I would be greatly relieved if the Chair would rule at this time.

The CHAIRMAN. Does the gentleman from Texas [Mr. SMITH] wish to be heard further?

Mr. SMITH of Texas. Mr. Chairman, I would like to respond briefly to my colleague's comments.

The first point I would like to make, and to reply to the comments of my friend, the gentleman from California, that the categories that the amendment references are incorporated into the act by law and are, frankly, all known to every single individual who administers it. No additional research is necessary.

My colleague from California wondered whether I would be able to come up with the exact figures the cuts would entail. I will be happy to share these figures with him in as much detail as he would like. For example, under the legislative appropriations title I, the House of Representatives, we exempted the official expenses of the mail and the committees; the cuts would amount to $3,253,000, or a 4-percent cut. Under joint items, for example, a 10-percent cut would amount to $21,725,000, or a 6-percent cut. Under other agencies, the total cuts would be $18,916,000, or 3 percent, and the total under title I of legislative appropriations would be $43,894,000, or an overall cut of 2 percent.

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard further under the point of order?

Mr. FAZIO. Mr. Chairman, I would be happy if the Chair would just simply rule, if he would.

The CHAIRMAN. Does the gentleman from Texas [Mr. SMITH] wish to be heard further?

Mr. SMITH of Texas. No, Mr. Chairman.

The CHAIRMAN (Mr. DONNELLY). The Chair is prepared to rule.

The gentleman from California makes a point of order that the amendment offered by the gentleman from Texas violates clause 2 of rule XXI by legislating on a general appropriation bill.

The Chair is guided by the precedent of May 17, 1951. That ruling is recorded in "Deschler's Precedents" at volume 8, chapter 26, section 506:

> "An amendment to an appropriation bill providing for percentage reduction in accounts carried in the bill to be computed by applying percentages to the corresponding estimates in the President's budget was held to be legislation and not in order under the Holman rule inasmuch as no reduction was shown on its face, and any reduction thereunder would be speculative."

The Chair noticed that in the gentleman's response to the point of order he did not make mention of that May 17, 1951, precedent.

So, based on that precedent, the point of order is sustained.

□ 1830

The CHAIRMAN. It is now in order to consider amendment No. 9. For what purpose does the gentleman from Kansas rise?

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROBERTS:

Page 36, after line 5, insert the following new section:

SEC. 312. None of the funds made available by this Act may be used for any expense of a legislative service organization.

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes, and the gentleman from California [Mr. FAZIO], who is in opposition, will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment offered by myself and Mr. WALSH of New York.

First, let me disabuse Members as to what we are trying to accomplish. This is not an attempt to do away with, eliminate or perjure the intent of legislative service organization or caucuses. It is what I would call, a reform effort to prevent yet another House scandal or at the very least practices and relationships that should not continue.

The time has come to make, to force the House to face a difficult decision, one we have avoided in the past and one that is crying out to be addressed. As I stated before the Rules Committee yesterday, I feel this problem is an accident waiting to happen and if we fail to address it, we should be charged with leaving the scene of an accident.

And, like so many business as usual practices around here, I know it is difficult to step back and take action you may not think warrented or action that would be contrary to your personal interest. And, I know many worry about what lurks behind the banner of reform and the law of unintended effects or for that matter the intent of amendments like this one.

Again, we are not trying to outlaw LSO's, some 92 congressional member organizations exist in the Congress today without using taxpayer funds and comingling staff and activities with special interest institutes.

What are LSO's?

Legislative service organizations are voluntary groups in which members may join. What makes them unique is their ability to pool members' official funds—official expense allowance and clerk hire moneys—to hire staff, acquire Hill office space and conduct full-time legislative operations. They form themselves into a special interest committee on Capitol Hill. They are not unique to one party and one political sector.

This ability to gather and use official funds makes them unique compared to other informal congressional caucuses and organizations.

LSO's support and serve a legislative purpose for Members. Many provide research, information and other support activities for their members. Many do their mission well and this amendment is not meant accuse them all of inappropriate activities.

RULES AND REGULATIONS

LSO's and the ability of the House Administration Committee to regulate them has long been a major concern. Since instituting reforms in 1982—brought on by detailed reports by the Better Government Association regarding congressional caucuses being awash with corporate funds—the House Administration Committee has struggled to apply vague regulations and rules for legislative service organizations. It was thought in 1982 the only way to clean up the House's past indiscretions was to create a system totally dependent on taxpayer funds for these caucuses. However, the result has been the opposite.

The 1982 regulations attempted to end the infusion and intermingling of private, special interest moneys into congressional caucuses. The true result was the creation of private funded institutes closely related to these caucuses and outside the scope of many House rules and regulations—simple rules that currently apply to every Member and committee office.

In realizing the errors that had been made with establishing these organizations, the House Administration Committee quickly imposed ceiling the number of organizations that could be allowed LSO status. Today that artificial limit remains at 30—with dozens of the other official caucuses petitioning the committee to be granted LSO status. The committee has continually argued that once reforms of current LSO rules have taken place, these dozens of organizations petitioning for LSO status would be considered.

Over that last 10 years, the House Administration Committee has created four bipartisan task forces to review the practices of LSO's. Three task forces came back to the committee with a series of recommendations that have gone without implementations and the violations they have found have simply gone unaddressed.

I served on two of these task forces and a task force has been created in the 102d Congress that is chaired by Mr. GEJDENSON and Mr. WALSH is representing the Republicans.

SOME OF THE PROBLEMS

In summary, these are some of the abuses that have occurred and will continue to occur until the House acts;

First, the accountability of spending by LSO's is severely lacking. This allows LSO's to spend taxpayer funds for items forbidden in Members' and committee offices. In addition, these LSO's are not required to be audited.

Second, the creation of LSO's in 1982 lead to the creation of several privately funded, affiliated foundations. This relationship has lead to a commingling of private and public funds.

Third, staff between LSO's and private institutes are commonly shared. This allows private, corporate interests to fund an inside individual or contact to obtain inside-the-Hill information.

Fourth, House rules do not cover LSO's regarding nepotism, dual employment by staff between LSO's and private foundations—and even PAC's. This has lead to flagrant abuses that would not be allowed in Members' or committee offices.

Fifth, LSO's are able to overcharge Members' official expense allowance and clerk hire to create huge surpluses.

Sixth, LSO's are duplicative of the current committee structure. They use the limited resources, funding, and space that could be used by Member and committee staff.

PAST EFFORTS FOR REFORM

For years, I have been one of those advocating the simple extension of House rules to bring these organizations under the complete rules of the House. Now, after working on this issue for 8 years, I feel the time has come for a final solution. This has gone on for too long and now it is too late to separate the good from the bad.

Simply, I feel the issues regarding LSO's have grown beyond control. For that reason, I have coauthored this amendment. In fact, my colleagues should all be aware, that should these organizations wish to continue, should this amendment pass, nothing would forbid these organizations from being operated out of a Member's office or transferred to a private institute or organization off the Hill.

Mr. FAZIO. Mr. Chairman, I am happy to yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON], a member of the Committee on House Administration.

Mr. GEJDENSON. Mr. Chairman, this is simply a bad amendment. It is an amendment that would force us to duplicate the efforts that Members can achieve collectively individually. So if your State is interested in a transition of northern industrial States, those of us who are members of the Northeast-Midwest Coalition, you cannot do that work together anymore. You have got to hire 435 of these staff people.

If you think energy is an important issue and ought to be part of the future of this country, you cannot work together on energy. You have to do it individually, hiring all your staff individually and duplicating these efforts.

It seems to me that this is simply a bad idea. It ignores the work that we are doing in the House Administration Committee. We have proposals that will work their way to the floor shortly, I believe, that will deal with accounting of GAO reviews, the GAO by the way that they wanted to do away with a little while ago, another organization that saves us money.

It seems to me mind-boggling that people come to the floor with proposals that would actually drive up the cost of doing business and complicate the efforts of Members trying to achieve legislative goals. In the crisis of energy that we are in today, it would be a disaster to do away with this. There are reasonable things to do. This is not a reasonable action.

Mr. ROBERTS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. WALSH], the coauthor of the amendment.

Mr. WALSH. Mr. Chairman, I thank my distinguished colleague, the gentleman from Kansas, for his leadership on this issue.

I, too, am a member of the Committee on House Administration and have been for the past 3 years. I do not have the depth or breadth of experience that my colleague, the gentleman from Kansas does, but I have been at this issue now for some time.

It seems to me that it needs attention and it needs the attention of this House now. It has dragged on far too long.

Over the last several years many Members have come to the Committee on House Administration and to the legislative appropriations asking for increases in their clerk hire accounts, the ability to pay their staffs a proper wage and to provide the constituent services that they need to provide.

□ 1840

One of the reasons that they cite in needing more money is that they need more money to be members of legislative services organizations. Why would they need that? Because businesses and other organizations back home are putting pressure on them to join these organizations.

The implication is if you do not join them, you are not protecting that industry, you are not protecting your own constituency, not protecting your own turf.

So there is pressure there. Taxpayers' money is being used for these special-interest caucuses. Make no mistake about it, these are special interests; outside interests are setting the agenda to aid these industries.

There is nothing wrong with industry taking an interest in what is happening legislatively, but the fact is that we are using taxpayers' money commingled with private industry money to set agendas that benefit these businesses.

Using taxpayer funds to further the interests of these groups is a conflict of interest. Caucuses are allowed to do things that Members of Congress are not allowed to do.

We are forbidden by our ethics laws; for example, spouses of Members may be hired by legislative service organizations through these commingled funds. We cannot do that, and we should not. We should not be able to hire our family members to work on congressional payrolls. It is a conflict of interest.

Also, gifts are purchased, meals, travel, promoting these interests, they are all allowed under these rules that have been established to allow for legislative service organizations.

There is a gentleman who, as many of you know is no longer here, our former colleague, the gentleman from Minnesota, Mr. Frenzel, who termed this "gaming the system." That is what we are doing, gaming the system, getting around the rules.

Caucuses have grown like crazy over the last 20 years. They place huge demands on our clerk hire funds, on our staffs, on our time and on space in these buildings. We are all working in cramped space, at least the junior Members are. We need additional space. This would free up space.

All of our great civil rights laws, our impoundment laws, tax laws have been passed without the aid of legislative service organizations. They are a relatively new occurrence in the great history of this Nation. For 200 years we have survived without LSO's. Now we have 30 of them over the past 10 years.

We do not need them.

In the past 10 years there have been four task forces implemented studying LSO's. Yet not one single recommendation from these task forces has been implemented.

As Members, we have other ways of getting this specialized information. The Dow Jones Report, the Hoover Institute, the Council of Governments, the Brookings Foundation, Heritage Foundation, all of these organizations provide us with the information we need.

Our Government, my colleagues, is simply too big. We had a $400 billion deficit last year; we will have a larger deficit this year.

This is one way, one small way that we can scale back the size of Government. We have had a committee structure that served this Nation well for 200 years. Now we are overlaying more committees on it.

People say, "Why don't you go after the select committees?" Maybe we should. But you are never going to start to scale down the committee structure until you get at the superstructure of nonofficial legislative organizations such as LSO's.

We do not need another layer of bureaucracy.

Americans are urging us to change the way we do business, to change and retrench and downsize Government. This is a painless way to scale down on the size of our huge congressional budget. This is an opportunity to vote for change, not to vote for change for change's sake but for reform.

Does this save money? By its very nature, no, it does not. It gives us one less place to spend taxpayers' money, however.

Many people might consider that a benefit.

If you are for change, if you are for reform, if you are for smaller Government, I would urge you to support the Roberts-Walsh amendment. Join us and vote to end the use of taxpayers' money to fund special-interest caucuses.

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

I would like to take a short amount of time to respond to the gentleman from Connecticut [Mr. GEJDENSON] who spoke in behalf of the Environmental and Energy Study Conference, which I understand is an LSO. In 1985 we had something started called Environmental and Energy Study Institute. So, in fact, the caucus is hooked up in a relationship with that institute. Four Senators serve on its board. Its annual budget is about $1.5 million, and comes mostly from foundations.

If you look at the spreadsheet with regard to the expenses, you have shared staff with the caucus and with the institute. It is that relationship where there is a potential problem.

There are some transportation costs here that would have to be vouchered to the House Administration Committee if you were a Member office or if you were a committee staffer. It is that kind of procedure that I think we should establish also for the caucus.

I am not trying to perjure the energy caucus; I am not trying to perjure the Energy Study Institute. Doubtlessly they do valuable research and briefings for Members and staff. But with $1.5 million, why do we have to use clerk hire? Why do we have to use official expenses and have shared staff? We could do it without this.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. I thank the gentleman for yielding this time.

Mr. Chairman, I must rise to state my strong opposition to the amendment to prohibit the use of official funds for legislative service organizations.

The intent is clear—to eliminate legislative service organizations and a Member's right to belong to them. Frankly, I am perplexed by the motivation behind this amendment. Caucuses provide bona fide legislative services which assist Members in serving constituents, in gaining specific and useful information on issues, and in being able to share common interests and purposes with other Members.

For instance, the arts caucus—of which I am chair—monitors every type of cultural legislation and reports to its Members weekly on issues ranging from copyright to appropriations to trade issues to technological innovations in cultural industries.

Furthermore, it is particularly ironic that these amendments are being offered immediately following the opening ceremony of the Congressional High School Art Exhibition. This activity, which brought to the Capitol young student artists, and their families from all over the country and garnered the support and participation of 256 House offices from every region and both parties, is the finest example of the activity which an informal legislative caucus can promote.

For those of us who utilize the caucuses to serve our constituents and see the hard work that can make a congressional high school art competition possible and that can monitor cultural legislation so effectively, I ask that my colleagues vote against these amendments and to do so resoundingly.

Mr. Chairman, I must say that with all of the red-herrings about spouses, I know of two spouses in the caucuses. The one case where the male Member's spouse happens not to be a member of the arts caucus, deliberately from the very beginning, so there is no conflict. Second, one of the spouses had the job before the marriage took place. So this is just a lot of hogwash and distortion.

Mr. FAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I rise in opposition to this amendment.

This amendment would prohibit the use of Members' clerk hire and official expense accounts to fund legislative service organizations. This amendment does nothing to reduce spending by this institution. On the contrary, it would forbid the efficiencies inherent in pooling resources to meet our legislative needs.

Legislative service organizations allow Members access to analysis and information in areas in which they and their constituencies share common interests. In many cases these organizations help us break through partisanship and work together to find common ground.

This amendment would further limit the ability of this institution to provide an equal and independent check on the vast resources of the executive branch. The argument that the information and services provided by LSO's are duplicated outside of Congress only exacerbates concerns about the influence of special interests. LSO's are legislative organizations whose sole purpose is to assist their members.

In the case of the Sunbelt caucus, for instance, a small staff provides valuable information and service to a large number of Members. The regional perspective provided by the Sunbelt caucus encourages Members to broaden their outlook and lessens the tendency toward narrow parochialism.

Mr. Chairman, if each Member of the Sunbelt caucus assigned one staffer to do the work provided by the caucus, it would cost an additional $2 million in staff salaries and benefits. Certainly there are concerns about accountability in LSO operations, and the Committee on House Administration is already considering proposals to improve the system. But the destructive, scorched earth attack of this amendment on this otherwise efficient use of our resources is outrageous.

I urge my colleagues to vote against this amendment.

Mr. FAZIO. Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, there has been a lot of talk, there has been a lot of talk about commingling of bad information here. As chairman of the Environmental Study Conference, let me respond very briefly to my colleague and say that, simply put, there are no employees at the EESC, the LSO who are working for the institute or foundation. Indeed, there are totally separate books. I have been cochair of this organization for 4 years and not affiliated with the institute. Indeed, the ties that are there are growing steadily, steadily apart. Mr. Chairman, I resent that wrong information.

It is this kind of information or misinformation we have been faced with.

I would like to ask my colleague, the gentleman from Texas [Mr. DELAY] if he would yield for a colloquy.

Mr. Chairman, the gentleman from Texas [Mr. DELAY] has chaired the largest Republican organization in the House other than the Republican conference itself. I would ask Mr. DELAY whether his staff contacted the minority staff of the Committee on House Administration to determine problems they found with LSO management.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, yes, the staff director participated in a meeting some weeks ago which included the minority staff of the House Administration Committee and, in particular, the staff responsible to the authors of this amendment. At the time, he and other LSO directors asked repeatedly for evidence of impropriety or even the appearance of impropriety. While we cannot say that LSO's are 100 percent pure, we can say that when those who have made allegations were put on the spot, they were unable to produce any specifics. They, in fact, conceded in that meeting, and I use their own words, that 99 percent of LSO expenditures are not questionable. While that leaves open 1 percent, they could produce no specifics of even any indication of impropriety.

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They further stated that, while they had carefully and repeatedly reviewed the quarterly filings of LSO's, they had not at any time contacted any LSO to indicate that they felt a reported expenditure was questionable, nor had they urged that the committee or the majority staff make any such contact. To my knowledge they have at no time asked for a formal or open hearing for consideration of any such charges, nor have they filed a report or in any way reduced to writing any specific allegations or evidence to support such allegations.

Mr. WISE. Mr. Chairman, I thank the gentleman from Texas [Mr. DELAY], and, as chair of the Democratic Study Group, he and I preside over approximately 90 percent of the House in terms of membership. We have found the same pattern. Our staff director found the same thing out in his inquiries.

Mr. Chairman, this has been innuendo of the worst order. It concerns me because indeed LSO's save money for the taxpayers. The $700 that is paid for the energy, enviornmental energy, study conference, the money that is subscribed to the Democratic Study Group or the Republican Study Committee, is a savings to the taxpayer because it means we do not have to have one or two $25,000 legislative assistants. Indeed, if this amendment passes and each person has to then come back for another legislative assistant, it will double the amount the taxpayers are paying, not reduce.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I tend to agree with the gentleman from Kansas [Mr. ROBERTS] in that we need accountability and we need to be able to do some of the reforms that he is talking about to make sure that everything is up and aboveboard in this House as it concerns LSO's. But this is not the amendment that does it.

My colleagues, this eliminates. No such funds can be used to go to LSO's. It eliminates all LSO's.

The Republican Study Committee will end if this becomes law. The Republcan Study Committee has an excellent dedicated staff that does a lot of things for Members as they pool their resources: research, and they write bills and amendments. It supports our offices in moving these bills. It helps develop strategies that affect this legislation. It helps us put together coalitions and outside groups.

Mr. Chairman, the worst thing that a minority could do is to eliminate the ability to pool our resources. The majority has huge staffs. The only way we have any opportunity to equal that staff is to be able to pool our resources so that we can advance our positions. This is a very cost-effective way of fighting the battles that we are all trying to fight. We put together outside coalitions, and we do not commingle funds, and we try to put together strategies that will advance what we are trying to do.

We should make sure that LSO's are accountable, and we should write amendments that would make them accountable, but we should not in our own Texas firm bite off our nose to spite our face. We must oppose the Roberts-Walsh amendment because it is in our best interests, so that we can pool our resources.

Mr. WISE. Mr. Chairman, I thank the gentleman from Texas [Mr. DELAY].

Mr. Chairman, this is a true cost savings and reduces the Members' ability to choose. I would argue defeat of this amendment.

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me urge my colleague, the gentleman from West Virginia [Mr. WISE], and my colleague, the gentleman from Texas [Mr. DELAY], to keep calm. The RSC is not going to end. What happens is we have regular appropriations for the Republican conference, regular appropriations for the DSG, and the DSG then is an LSO. So, they have twice the amount of funding. As a matter of fact, the DSG runs a surplus of about half a million.

That is not my intent. It would not take 1 minute for the leadership around here to extend appropriations to the very legitimate arms of both parties. But here I notice in the spreadsheet for the RSC, my own party, my own minority: travel, $157, no voucher approval. We have 32 consultants, $27,000. Nobody, no Member, can do that. I say to my colleagues, "If you have a committee staff consultant, it has to be approved by the House Administration Committee." Thirty-two consultants, $27,000; transfer from unusual accounts, $100,000; video, travel, all these expenditures here, and I say to my colleagues, "You can't do it if you're a Member; you can't do it if you're a committee staffer or a committee." All I am suggesting is we take the taxpayers' funds out and members or the related institutes can certainly fund this.

I used to be a member of the arts caucus. It is not hogwash. As a matter of fact, I was the one that talked the executive director into having Larry Gatlin in terms of a performance. I figured country western was art, just like other artistic events. Now I got off the caucus, but, while we are at it, we have $250 for a Tiffany's gift. What is that? We have $2,717 for food and beverage. I say to my colleagues, "You can't do that as a Member," and with the Art Institute, the Arts Caucus Institute which does fine work, and I am for it in regards to that particular kind of effort, let them fund it, or individual Members can fund it.

I am a member of a 176-member rural health care coalition. We do not spend any LSO funds. Ninety-two congressional organizations exists. They do not use taxpayer money. They sure will if we don't reform this. Forty of them are standing in the wings.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise as vice chair of the Congressional Black Caucus in opposition to the amendment offered by the gentleman from New York and urge my colleagues to vote overwhelmingly against it.

Legislative service organizations, [LSO's] perform an invaluable service for Members of this body who have common interests and seek to pursue common policy agendas. The Congressional Black Caucus has sought to promote an agenda of equity and fairness for African-Americans across the country. Without the unified voice of the Black Caucus I have to doubt that such an agenda would be much more difficult to promote. The Congressional Black Caucus, for example, was instrumental in the passage of the Civil Rights Act which the President signed, in promoting sanctions against South

Africa, and in leading the fight for disadvantaged business contract set asides. These are not special interests, Mr. Chairman, but policies which go to the very heart of what this country is all about and have a broad base of support.

Save for a few LSO's which serve party interests, the vast majority of these organizations are bipartisan in both membership and in the scope of their interests. They are not political grist mills, but legitimate research organizations which assist in analyzing and promoting legislation of mutual importance to its Members, and to the citizens of our Nation. The funds for LSO's come directly from the Members own clerk/hire account, the fund which, as we all know, pays for staff salaries. Membership is strictly voluntary, so if Members want to join none or all LSO's, they are free to do as they please. Important groups such as the caucus on women's issues—which has been at the forefront of major legislation passed by Congress—the Northeast-Midwest Congressional Coalition, and even the Republican study committee, will all be eliminated if this amendment is adopted.

If we are not going to use official funds for LSO's, Mr. Chairman, then who are we going to turn to. Are we going to solicit funds from Exxon, or from General Motors, or Citicorp to run our LSO's? Aren't these the very same special interests that we have been trying to eliminate from the legislative process? Inviting such private interests so closely into the legislative process will not serve the greater good of the House, but rather the narrow, personal interests of the corporate donors.

Further, Mr. Chairman, if the goal of those who are proposing this amendment is to cut congressional staffs, then I would suggest, quite frankly, that LSO's should be allowed to flourish. Without the valuable services provided by such groups to Members, myself included, we would have to hire even more new staffers in our personal offices to keep track of important legislation. LSO's, in fact, are a perfect example of economies of scale at its best. A small membership fee for Members to several LSO's can take the place of one or even two full-time staff persons in a personal office.

Finally, Mr. Chairman, eliminating funding for LSO's will hurt many groups in society who can't afford their own high-paid lobbyist to argue their cause. The Congressional Black Caucus, the Hispanic Caucus, and the Women's Caucus, to name just a few, all represent groups of Americans who have traditionally been among the most disenfranchised and had little if any say at all in our legislative process. These Americans need a voice to guard their concerns and LSO's serve in that role.

I am certainly aware that all Federal departments, including the Congress, will have to be placed under a microscope this year to look for wasteful spending. But the hard work of Mr. FAZIO and my colleagues on the Appropriations Committee has already produced a very fiscally responsible bill, which is, in fact, $104 million in total outlays under last year's bill.

Mr. Chairman, if it ain't broke, don't fix it, and clearly LSO's have served this body well. This amendment is a spending cut simply for the sake of saying that we cut spending, without really being thought through.

I urge my colleagues to reject this amendment.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, today, we are considering an amendment offered by the gentleman from Kansas [Mr. ROBERTS], that would effectively eliminate all legislative service organizations.

I understand the gentleman's strong concerns and share his view that we need to require greater accountability in the way these organizations are funded.

I also understand that the gentleman was not given the option to propose reforms, and chose this avenue to make a point that needs to be made.

As cochair of the Northeast-Midwest Coalition, I must oppose this amendment, but I want to add my voice to those who support greater accountability in the way these organizations are funded.

I can only speak from my experience with the coalition and tell you that it performs a valuable function.

Membership in the coalition is voluntarily, and it must earn the respect of its members to be successful.

Our coalition has produced sound legislative initiatives in many areas including trade, the environment and energy, in response to our region's particular needs.

The coalition also provides a bipartisan analysis from a regional perspective.

Based on my experience with the coalition, I believe we must set high standards in order to have credibility, not only with our members, but with the public we serve.

Our coalition is audited annually by the GAO and submits quarterly statements to the Clerk of the House.

I would urge my colleagues who chair each of these legislative service organizations to request an annual GAO audit and to support meaningful reforms with an emphasis on accountability.

I reluctantly oppose the amendment offered by the gentleman from Kansas today but I strongly support his efforts to set a higher standard for the operations of these organizations.

Mr. CHAIRMAN. We must require credibility not only for our Members, but for the American people, who deserve to know that this money is being wisely spent.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, as chairman of the congressional Hispanic caucus, I must rise in strong opposition to the Walsh-Roberts amendment to abolish legislative service organizations [LSO's].

This amendment would make it more difficult for Hispanic and other minority communities to have its voice heard in Congress.

Nearly 1 in 11 Americans is Hispanic.

And yet, only 1 in 40 voting Members of the House is Hispanic.

There are no Hispanic Senators.

Thus, there are precious few Members of Congress who have first hand knowledge of the experiences and concerns of the Nation's 24 million Hispanics.

We have worked to overcome the challenges of being few in number.

But to be successful, we must have a forum and the staff to support our efforts.

The congressional Hispanic caucus serves that purpose.

Through the caucus, we are able to pool our resources to research and follow issues of importance—not only to our districts—but of importance to all Hispanics.

I urge my colleagues to oppose the Walsh amendment.

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Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I urge my colleagues to oppose the Walsh-Roberts amendment. The effect of this amendment would be to eliminate all legislative services organizations [LSO's]—organizations such as the arms control and foreign policy caucus, the congressional caucus for women's issues, the environmental and energy study conference, the Democratic study group and the Republican study committee.

The argument has been made that this amendment would save money. In fact, it would have no effect because it would simply prohibit Members from using their office resources for LSO's; it would not reduce Members' accounts in any way.

LSO's actually save the taxpayers money by allowing Members to pool their resources, rather than hiring separate staff to provide this research. LSO's must file quarterly reports and operate only through the voluntary support of Members. If they fail to produce, Members will not join them.

LSO's provide a number of opportunities that would not otherwise be available to Members. Organizations such as the congressional caucus for women's issues, and the Black and Hispanic Caucuses represent individuals who have been underrepresented in Congress and in policymaking decisions. Other LSO's such as the arms control and foreign policy caucus and the environmental and energy study conference take a comprehensive approach to these policy areas that are divided among many subcommittees. They also provide Members with an opportunity to become more deeply involved in issues that are not within the jurisdiction of the committees on which they serve.

LSO's also play an important role in providing independent analyses of upcoming votes. They are critical in providing information on votes at times when committee members and staff are overwhelmed with requests and are unable to quickly respond to questions about an imminent vote. This is particularly important to Republican Members; because most LSO's are bipartisan, their staffs are often more accessible to minority Members and help to overcome the deficit of Republican committee staff.

Almost 90 percent of House Members belong to one or more LSO's. These organizations have made substantial contributions to this House and have made us better legislators. I strongly urge my colleagues to oppose the Walsh-Roberts amendment.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. Mr. Chairman, as most Members, I belong to several caucuses that provide our offices with important and timely information on issues that help our constituents. For this reason, I oppose this amendment.

It is not going to save us any money. In fact, it is probably going to be expensive in the long run, as Members will have to draw upon other resources for both gathering and disseminating information. Furthermore, it denies Members the right to utilize their own resources in a manner they deem to be priorities.

My staff, which is already limited due to mandates on size, cannot replace the information resources provided by legislative support organizations.

For example, I belong to the congressional Sun Belt caucus, which is a bipartisan coalition of Members from the South and Southwest. This caucus serves to inform and educate Members and staff on the regional impacts of legislation and administration regulations. No other organization would be able to give me this perspective without the partisan biases or special interest concerns which often come from groups outside of the Congress.

We must remember that LSO's are congressional offices providing support to Members in their official duties.

Mr. Chairman, I urge my colleagues to vote against this amendment and look for real solutions to reducing the cost of operating this institution.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the amendment. We are a better House, a better legislative body, because of the LSO's. I know that I am a better Member of Congress because of these organizations.

I have had the opportunity through the organizations that they are trying to do away with through this amendment to meet with Nobel Prize winners, great authors, musicians, and scientists, that I could not possibly have had the opportunity to talk to, to learn from.

What we do here so often is to go to our districts, come back, go to committees, go to our districts, and come back. We should take every opportunity to enlarge ourselves. These LSO's, for no cost, we are using our own money, we are sacrificing the money from our offices to have them. They are worth double, treble, quadruple what we put into them.

Mr. Chairman, defeat this amendment.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, sometimes it is contended that a given approach is penny wise and pound foolish. Here there is no pretense at being penny wise, it is simply pound foolish.

The amendment before us does not raise an issue of how much money is spent, but how money is used. LSO's are all about professionalizing Congress. To get rid of them is all about deprofessionalizing this body.

By way of example, I would like to comment briefly upon four LSO's that have provided extraordinary service to this body: the arts caucus, with their wonderful updates for Members; the Environmental Energy Study Conference, with timely, well-written, nonpartisan, two-sided briefs; the Northeast-Midwest Coalition, that has worked so hard on regional issues and the Canadian free trade proposal; and, finally, the bipartisan, bicameral arms control and foreign policy caucus, that has brought Members such educative speakers as Ambassador Dobrynin, Willy Brandt, Carlos Fuentes, Marrock Goulding, Jean-Bertrand Aristide, and IAEA Director Hans Blix.

Mr. Chairman, let me just conclude by noting that Sam Rayburn was famous for receiving letters from constituents and responding succinctly, "Dear so and so, you may well be right." What the caucuses are all about is giving Members a chance to provide substantive perspectives to constituents. This is not just about how time is spent in Congress; it is how we respond to the people we are elected to represent.

Finally, at the risk of overstating, let me suggest that the public has properly concluded that this body is too caught up with partisan wrangling. The caucuses are a way to bring us together in a nonpartisan, professional way. It would be a thoughtless mistake to get rid of these institutions.

The gentleman from Kansas [Mr. ROBERTS] is undoubtedly correct that there has been an abuse or two in LSO's, but by and large my experience is that some of the most dedicated and committed people in the legislative branch serve the Congress and public at large through legislative service organizations. Their service should be honored, not capriciously challenged.

The CHAIRMAN. The gentleman from Kansas [Mr. ROBERTS] has 9 minutes remaining, and the gentleman from California [Mr. FAZIO] has 7 minutes remaining.

Mr. ROBERTS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I really asked for this minute only to say that the gentleman has presented this amendment by way of really stimulating this debate, which is a needed and overdue debate. I do not believe this is intentioned to wipe out all of the LSO's, but rather to get the House to focus upon where we are going with LSO's.

Mr. Chairman, even though we may be attached to our individual LSO, I can point to an example like the tourism caucus myself. But we do need to get a handle on the rapid expansion of these LSO's. There are 92 outside of those funded by House funds. We really need to take a look at what the implications are of that expansion.

I would urge my chairman, for example, to perhaps join me in asking GAO to evaluate this policy direction, and indeed to perhaps perform a regular kind of audit of the public moneys that are involved here, for indeed we do not know how these moneys are being effectively used.

If we control it directly, if it is in our office, why should we not at least know what is happening outside of our office. That sort of review is justified, I think it is important, and what the gentleman from Kansas [Mr. ROBERTS] is about here.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment. I want to concur with what the previous speaker said about accountability. However, I do think it is unfair to suggest that the LSO's are not accountable, because they are accountable. If the gentleman knows of any kind of problem, then the gentleman should recommend some changes in the committee process.

Mr. Chairman, I want to say one thing about underrepresented groups, like the women in Congress. There are 31 women out of 535 people. Most of us have banded together in a group which was founded about 16 years ago when I was a freshman Member called the women's issues caucus.

I think we have, in the area of health, for example, saved a lot of lives because we have banded together in a bipartisan way and insisted that we have areas such as mammography coverage and so on. We could not have done that if we had not convened together.

Mr. Chairman, I think this amendment should be defeated.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER], a member of our subcommittee.

Mr. PORTER. Mr. Chairman, I rise in opposition to this amendment. I understand the frustration of the gentlemen which has led him to offer it. Apparently, three studies of legislative service organizations have been conducted, those studies have recommended a number of changes, and the recommendations have not been acted on by the authorizing committee.

But this is a killer amendment, Mr. Chairman, ending all LSO activity in the House.

Mr. Chairman, I speak as cochairman of an LSO of which I am very proud, the congressional human rights caucus. The human rights caucus, 200 Members strong, has saved thousands of lives, stopped and prevented torture, insisted on fair trials, fought against oppression, and supported the rule of law everywhere in the world.

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A killer amendment is no way to achieve the objectives of the gentleman. I would hope the Members would defeat this amendment, would take to heart the concerns expressed by the authors of the amendment and give them the respect and the attention that they deserve.

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

I would like to associate myself with the remarks of the gentlewoman from Ohio. That may seem a little strange because of where I am coming from on this amendment, but she mentioned the women's caucus. If all caucuses would be run as well as the women's caucus, we would not have near the problems that we have.

Their account is only $131,000; $75,000 of that is for staff. And it simply makes my point. They have $27,000 in terms of a surplus. We cannot do that as Members or a committee staff. But for $75,000, with as much interest as we have in the women's issues and the fine work that they do, these people could be simply taken over by an individual Member. In the rural health care coalition, I designate one of my staff members to be paid by me, not by shifting some Member's clerk-hire or allowance to some kind of a caucus. And so I want to congratulate the gentlewoman from Ohio in regards to the women's caucus.

But, I would remind her that she and I and Mr. Bates signed a recommendation going to the chairman of the Committee on House Administration back in 1988, the second task force we served on. And we recommend 8 reforms in regards to LSO's where we do have problems. I quote from the report:

> File a monthly activity and expenditure report, a single, standard amount for dues, dues paid from the clerk-hire allowance and the official expenses allowance of Members should be the sole source of LSO funding.

Then we would not have the commingling with all the foundations. There were five more recommendations.

Someone mentioned the Sun Belt caucus. They raised $75,000 from individual corporations. That is the kind of commingling that we should not do.

I am not opposed to the women's caucus. They do fine work. They are an example. But these recommendations were not acted on. Four task forces were not acted on. They disappear into a black hole after it goes to the chairman of the Committee on House Administration, and then to the leadership.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, why did the gentleman not offer that as an amendment, those eight recommendations we made?

Mr. ROBERTS. Mr. Chairman, reclaiming my time, I think the gentlewoman's suggestion was very pertinent. We tried that and were going to say no funds could be expended until these recommendations made by the task force were actually put into effect. They told us we would be legislating on an appropriations bill, and then what do we do with the 92 other congressional organizations that want to become LSO's? That is the problem.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding time to me, just to say a couple of words with respect to a coalition that I have been privileged to chair for a number of years with the gentleman from New Jersey Congressman DEAN GALLO, presently and earlier with the gentleman from New York Congressman FRANK HORTON, the Northeast-Midwest Coalition.

This amendment is an incredibly destructive amendment that is being offered before us. The Northeast-Midwest Congressional Coalition, speaking just of that particular service organization, is audited annually by the GAO.

The coalition only survives if it performs to the satisfaction of its members. Membership is fully voluntary. The only source of funding is the members' clerk-hire and official expense accounts.

There are few institutions that have the capability of transcending the partisan divisions within this Congress. The Northeast-Midwest Congressional Coalition is one of those institutions, enabling us to work together across partisan lines in the solution of regional problems.

To have an amendment that would essentially eliminate all LSO's would do a great disservice to this institution.

Mr. ROBERTS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are not trying to eliminate LSO's.

We are trying to prevent yet another House scandal.

The intent and purpose of LSO's are good in theory but in practice, they are an accident waiting to happen and be reported.

Now, for all of my colleagues who are standing forth in the well and saying that the LSO's do an outstanding job, I agree with them in part, in theory.

But in practice of some, it is simply not the thing that we should be doing. LSO's can hire and do hire the relatives of Members. We cannot. LSO's can spend official taxpayer funds on dinners, receptions, travel, gifts, petty cash, consultants. We cannot.

LSO's share staff with private associations and institutes. We cannot. LSO's have and continue to overcharge Members' official expense allowance and clerk-hire. These yearly overcharges and surpluses, a half a million dollars for one, have gone unaccounted for in several years. Where have these funds gone? Nobody knows.

Members must submit timely vouchers for every expense before being reimbursed. All of us do that. LSO's spend the money first, then they submit a quarterly report.

Gridlock in a Congress spinning its wheels with 30 LSO's, 122 congressional Member organizations, 300 committees. It is no wonder that the committee structure does not work.

Most Members complain about office space and limited funds.

We spend $4.26 million on LSO's. If we are not going to save that money Members can spend that money for approved expenses. But, Members can do this without the clerk-hire and without the office accounts.

Four, four House administration task forces have reviewed the problems associated with LSO's over the last 10 years. Every task force reported and recommended reforms for accountability and oversight. None of the recommendations have been implemented.

Finally, we are not outlawing LSO's, as I have said. Ninety-two congressional Member organizations exist today in the House, without using taxpayer funds and commingling with special interests, institutes, associations, and foundations.

In 1970, there were four congressional Member organizations and a proud and disciplined structure of committees. We got something done. Today there are 122.

The time has come to reverse the course, end the abuse, and prevent the next congressional headache.

The press is aware of all of the abuses. They will be published. The time has come to end this abuse. Vote for Roberts-Walsh.

Mr. Chairman, I yield back the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe that the gentleman from New York and the gentleman from Kansas have brought an important issue before the body. I think it has been fully debated with a great deal of flourish and compassion, particularly from the gentleman from Kansas.

I do believe that by his own drafting of this amendment, he signals that he is more interested in making a point than making law. I do believe that some good will come of it. I am sure some additional attention will be paid.

If there are abuses, they may well be rooted out. But I think it is pretty clear that this amendment is Draconian, and it would eliminate in fact all of the LSO's, regardless of whether or not there have been abuses attendant to any of their activities.

So at this point, Mr. Chairman, I would simply urge opposition to the amendment.

Mr. TOWNS. Mr. Chairman, I rise in opposition to this amendment with a sense of great disappointment and disillusionment in those who would seek to discredit and misrepresent the actions of their colleagues to bring diversified representation to the Congress of the United States.

Mr. Chairman, we stand in this well, a mere 8 weeks in the afterburn of Los Angeles—to tell little black children who search for role models at every moment of their lives that this Congress does not want them to have a Congressional Black Caucus to raise their horizons to new heights. My colleagues across the aisle would have us say to every one of the more than 7,000 black elected officials who have organized at the national level into caucuses fashioned after the Congressional Black Caucus—we now believe the CBC is unnecessary. To every major African and Caribbean head of state—each of which has sought the audience, advocacy, and support of the Congressional Black Caucus—by this action—you say we, the black Members of Congress, are irrelevant to the legislative process.

I am saddened that the proponents of this measure would argue that there is duplicity in the existence of LSO's—for I do not know of any other entity that authors a Congressional Black Caucus alternative budget to place before this body—a courageous new vision of the responsibility of governance and fiscal compassion.

Mr. Chairman, my colleagues and I take this attack seriously and personally. It is for us a question of race and rights. We must not allow this travesty to be visited upon our Congress. We cannot allow the destruction of the very entities which are for some the options of last resort for fair representation. This caucus—which was founded more than 20 years ago to represent the needs and dreams of millions who reside not only in our districts, but in every corner of this Nation—has been called on to be a conscience in this body.

In the entire history of this nation, only 72 African-Americans have been elected to the Senate and the House of Representatives. And now in the memory of Hiram Revels, Adam Clayton Powell, Barbara Jordan, Mickey Leland, and Shirley Chisholm—I ask that you vote no.

I will not today, nor will my colleagues, allow the desecration of their legacy—the abridgement of our right to convene as a body on behalf of those we serve. There is a Congressional Black Caucus because there is a need for our presence—now more than ever. This amendment is an affront to every minority and female Member of the Congress and it must be defeated.

Mr. GREEN of New York. Mr. Chairman, as a former two-term chairman of the Environmental and Energy Study Conference, and a member of its executive committee since 1983, I rise in strong opposition to the Walsh-Roberts amendments.

I am very proud of the services the Study Conference provides. The 300 of us in the House who are Study Conference members and the 90 Senators who subscribe have views spanning the spectrum on environmental, energy, and natural resources issues. Yet all of us rely on the Study Conference's objective analysis of the issues before us. The Conference does not take positions on issues.

The Study Conference has played a vital role in congressional debate since its founding 17 years ago. The Conference is likely to be even more important to us in the years to come.

Since we began addressing environmental problems in the 1970's, we have made significant progress in cleaning up pollution. Yet, as our technological capabilities and our knowledge have increased, we have discovered that the problems we face are ever more complex. New concerns have emerged that are global in scope.

These challenges will require increased understanding and all the ingenuity we can muster.

As we face these complexities, the Study Conference, which has served as our primary vehicle for discussion and dissemination of information on these issues, will be invaluable.

I also take pride in the Study Conference's record of fiscal accountability. Each year, the Conference's officers request and receive an audit of the Study Conference's books from the General Accounting Office.

We all agree that the taxpayer's money must be spent in the most cost-effective way. That is exactly what the Study Conference helps us do. Rather than each of us individually developing the information we need on these issues, the Conference's small staff serves nearly 400 offices.

This is an economy of scale any management expert would applaud, certainly not something we mistakenly should be moving to eliminate.

Based on this excellent example of the importance of legislative service organizations to Congress, I urge my colleagues to vote in opposition to the Walsh-Roberts amendment.

Mr. FAZIO. Mr. Chairman, caucuses were formed to fulfill needs Members felt were not otherwise being met. Overall, LSO's have not only acted responsibly, they have strengthened the House and enabled Members to more effectively carry out their official duties.

The allegation that these groups are somehow undermining or impeding the legislative process by fragmenting decision making or conflicting what the committee system is without foundation. No evidence has been produced to substantiate these charges.

The truth, of course, is just the opposite. Rather than being a detriment, the legislative groups provide essential research and legislative services to Members in a more cost-effective manner than Member of committee offices can support. Caucuses are operated efficiently—otherwise the marketplace for their information services would not continue to exist. And if a Member is unhappy with a LSO work product or budget, he or she can simply withdraw their membership.

I understand that an administration subcommittee staff investigation, at this preliminary stage, indicates that caucuses are extremely conscientious about following rules and regulations which currently exist and that the perceived problems that have come to light are clearly the result of the lack of more comprehensive guidelines and standards.

For example, it appears that the LSO quarterly report has no uniform reporting standards—some LSO's report gross payroll, others net payroll. Some utilize a cash basis of accounting, others use an accrual basis. Disbursement categories are subjectively recorded. I am informed, however, that all expenditures are well documented by LSO's.

In reference to caucuses and their relationship to a 501(c)(3) organization, we are told that only 3 LSO's, out of 31, share employees with an outside organization. I have heard of no violations of the Ethics in Government Act. All the shared employees reportedly maintain documented schedules and timesheets—and no other tangible resources are shared.

Based upon this current review, I understand there will be recommendations that would place LSO's under the Clerk of the House for their financial activities, draft new regulations clearly stating approved expenditure activities, and require that LSO executive director file annual financial disclosure statements.

One should not turn too easily to the abolishment of LSO's as a panacea to real or perceived problems. Eliminating LSO's would increase the costs Members will incur to receive information and research associated with their legislative and representational duties and effectively preclude the association of Members along regional, ideological, State delegation, or other interest prevalent since the early days of the Republic.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. ROBERTS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROBERTS. Mr. Chairman, on that it would seem to me that the House has indicated its will. Therefore, I will not ask for a recorded vote.

Mr. CLAY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. CLAY. Mr. Chairman, I withdraw my point of order, and I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

□ 1920

The CHAIRMAN. It is now in order to consider amendment No. 10, printed in House Report 102-609.

AMENDMENT OFFERED BY MR. ALLEN

Mr. ALLEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ALLEN: At the appropriate place in the bill, insert the following new section:

SEC. . (a) Effective beginning on the date of the enactment of this Act, no vacancy in any elevator operator position for automatic elevators in the House of Representatives wing of the Capitol or the House of Representatives office buildings may be filled.

(b) Effective at the end of the first pay period ending more than 2 years after the date of the enactment of this Act, all elevator operator positions for automatic elevators in the House of Representatives wing of the Capitol and the House of Representatives office buildings are abolished.

Mr. FAZIO. Mr. Chairman, I reserve a point of order on the amendment offered by the gentleman from Virginia [Mr. ALLEN].

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order on the amendment.

Under the rule, the gentleman from Virginia [Mr. ALLEN] will be recognized for 10 minutes in support of his amendment, and a member opposed will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I yield myself such time as I may consume.

As Congress debates congressional perks that allow Members privileges that normal people do not enjoy, we must show some leadership. In the name of fiscal responsibility, I have brought to the floor an amendment which would, over a period of 2 years, eliminate elevator operator positions in automatic elevators.

Currently, the House employs 11 elevator operator positions at the annual cost of $154,000 according to figures from the Clerk of the House. I am not the first Member to recognize this unnecessary, wasteful spending. I do want to make clear that many of the people who run the automatic elevators are friendly, courteous, and helpful employees. However, when trying to cut spending, such positions are not essential.

The American people are fed up with a Congress which constantly demonstrates its lack of accountability. It is ludicrous to pay operators to run automatic elevators. As a Member of this body, I know Members of Congress are capable of pushing the buttons for themselves.

In fact, the body on the other side of the Capitol, the Senate, has survived without elevator operators for almost a decade.

Every year thousands of Americans come to visit their Representatives in their Nation's Capitol. What is one of the first things they see? Elevator operators. Frivolous spending habits don't sit well in the Seventh District of Virginia, and I expect most constituencies would find this perk and privilege ridiculous.

Many Members will use the excuse of time restraints during votes. I would ask those Members to remember that there are elevators set aside exclusively for Members to ensure that votes are not missed, and I would point out that you do not get from floor to floor any quicker with someone else pushing the buttons for you. And we are allowed at least 15 minutes to get to a vote.

My amendment would not cause the immediate dismissal of the elevator operators. These are people who need jobs like many other Americans today. Rather, I suggest they find necessary, productive positions within Congress on the private sector.

My amendment would state that over the next 2 years, no vacancy in any elevator operator position for automatic elevators may be filled. We will eliminate the positions through attrition. However, effective at the end of the first pay period ending more than 2 years after the date of enactment of this act, all elevator operator positions for automatic elevators would be abolished.

I ask that you join me and cast a vote for fiscal responsibility, and against more wasteful and unnecessary spending habits.

And, finally, to the possible objectors, I say please be responsible and accountable. If you favor elevator operators to run automatic elevators, have the guts and integrity to go on record for or against. Do not hide from accountability to the people by invoking unfair parliamentary gimmicks to avoid responsibility. Let's be forthright leaders.

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield for a question?

Mr. ALLEN. Yes, I will yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Chairman, I thank the gentleman from Virginia for yielding to me.

I would ask the gentleman, he is not putting elevator operators down, is he? I worked my way through college operating an elevator in a one-story building.

Mr. ALLEN. As I said to the gentleman, he obviously learned a lot, but probably learned some bad habits as well.

I would say to the gentleman that the elevator operators, many we have are very friendly, courteous, helpful individuals. The question is not whether these are solid folks and whether they can learn something. I do not know what the gentleman would want them to learn from some of this cast of characters. Nevertheless, they are not necessary. The other body does not have them. I think we can get by without those positions.

Mr. Chairman, I reserve the balance of my time.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] insist on his point of order?

Mr. FAZIO. Mr. Chairman, I just want to congratulate the gentleman from Virginia on the eloquence with which he presented the annual elevator operator amendment. Alas, I must say it was drafted in such a manner as to make it possible for me to make a point of order against the amendment, because it proposes to change existing law, and constitutes legislation in an appropriations bill, and therefore it violates clause 2 of rule XXI.

The rule states, in pertinent part, that "no amendment to a general appropriations bill shall be in order if changing existing law." This amendment gives affirmative direction and in effect modifies existing powers and duties, and is operative beyond the fiscal year for which the appropriation applies, so despite my congratulations to the author and the fact that I will include some remarks in the RECORD to rebut some of his comments, I must ask that the rule that would emanate from the Chair would be against his being allowed to present the amendment.

The CHAIRMAN. Does the gentleman from Virginia [Mr. ALLEN] wish to be heard on the point of order?

Mr. ALLEN. Yes, Mr. Chairman, I do. I would say that we always are legislating in appropriations bills. This sets a policy of appropriations that I do not think we need to make. I realize I will be taking the stairs more often than the elevators in presenting this amendment, but I would respectfully suggest that the point of order is not well taken.

The CHAIRMAN (Mr. DONNELLY). The Chair is prepared to rule.

The gentleman from California [Mr. FAZIO] makes a point of order that the amendment offered by the gentleman from Virginia [Mr. ALLEN] violates clause 2 of rule XXI by proposing legislation on a general appropriations bill. The amendment is clearly legislating on an appropriation bill, and the point of order is sustained.

PREFERENTIAL MOTION OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. WALKER moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes in support of his motion.

Mr. WALKER. Mr. Chairman, the reason for using the privileged motion is because under the process in which we are operating, we are not allowed to strike the last word and thereby get a little bit of time.

I did want to reflect a little bit on the process that we have moved to since we adopted the rule earlier today. Earlier today when the rule came up we were told this was not a fraudulent process, that in fact Members were going to be given their rights to offer all the amendments. We were told earlier today that this was going to be an open process.

The fact is that what we have seen in the course of today is exactly as we described it. Members were stripped of their rights to offer motions to strike and thereby were not given the ability to reduce spending in the bill.

There were several amendments that would have been in order under a regular, open rule that did not come up today because they were prevented by the rule. Moreover, we were told when the rule was adopted that there would be 11 amendments permitted under the rule, that the majority had been extremely generous in what they had decided to do.

The fact is, of those 11 amendments, most of them have been stricken under points of order, and it is particularly problematic to note that many of those points of order were raised by the chairman of the subcommittee himself.

□ 1930

So, when we described the process today earlier as fraudulent, it has been a truly fraudulent process. Members were denied their right to offer entirely appropriate amendments.

Here is the problem, Mr. Chairman. Tomorrow we are going to get another of these rules. This rule is not just an aberration, it is in fact the beginning of a trend. Tomorrow we are going to have another closed rule on the bill. When it comes to foreign aid spending, we are now going to find out that we cannot offer amendments to reduce foreign aid spending either, that that is going to come out here protected.

My guess is that we may have other bills that will come in under protected status before the year is over, and that by next year these will serve as precedents, and the whole appropriations process will be shut down, as the other debate processes in the House have been shut down.

That would be a tragedy of untold proportions, and we are seeing the trend begin to move in that direction. We are in fact operating under a very bad process here. The process has proven to be exactly as it was feared earlier today.

With that, I yield back the balance of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The preferential motion was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Legislative Branch Appropriations Act, 1993".

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROBERTS: Page 36, after line 5, insert the following new section:

SEC. 312. None of the funds made available by this Act may be used with respect to construction of any additional gymnasium or other physical fitness facility in the House Office Buildings.

Mr. FAZIO. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Does the gentleman from Pennsylvania insist on his point of order?

Mr. WALKER. I do insist on my point of order, Mr. Chairman.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question.

Mr. WALKER. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The Chair has already sustained the point of order. The gentleman is too late.

The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 228]

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr

Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans

Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn

Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1952

The CHAIRMAN. Four hundred fourteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. FAZIO. Mr. Chairman, I ask unanimous consent to proceed for 2 minutes in order to engage in a colloquy with my friend, the gentleman from Kansas [Mr. ROBERTS].

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FAZIO. Mr. Chairman, I yield to my friend, the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, the preferential motion to rise prevented me from offering an amendment.

Mr. Chairman, the amendment I am offering simply prevents the funds being appropriated in this bill to be used for the construction of a new gymnasium or fitness facility. This amendment simply inoculates the fiscal year 1993 legislative branch appropriations bill from potential reprogramming or spending for this rumored project.

During consideration of the fiscal year 1992 legislative branch appropriations bill, $1 million was provided to finish room B–106 of the Cannon Building. This appropriation followed the reprogramming of $1.1 million of fiscal year 1991 moneys to repair the space beneath the Cannon stairway and begin the finishing of this same space. After carefully reviewing this project and discussing it with various senior staff and Members, it seemed that funds were going to be spent for a rumored new gym facility.

In fiscal year 1991, $25,000 was appropriated to conduct a study on the feasibility of a staff gym. The study was to be conducted by the Architect. The results of this study have never been made public and the questions of feasibility, cost, need, and location all have yet to be answered.

This language simply prevents this project moving forward this next fiscal year to allow full study and consideration of the Architect's findings—if they are ever made available.

As Chairman FAZIO and I discussed in a colloquy last year, before any project to construct a new gym facility should go forward, careful scrutiny, public hearings, and other actions to ensure full public disclosure should occur. This is still to occur.

I urge my colleagues to support my simple amendment.

I would have preferred my amendment to have been considered, but the gentleman's motion to rise, the preferential motion to rise, prevented the amendment.

Would the gentleman from California assure me that this project will not continue until the scrutiny has taken place?

Mr. FAZIO. Mr. Chairman, certainly there is no funding in this bill for any such development of any kind of staff gym, and I concur with the premise of the gentleman that if that decision is to be made, it should be done openly with hearings and the Members should be on record to that extent.

I do want to point out 1.2 million Federal workers are currently eligible to exercise at 653 Federal exercise facilities, most of which were created during the 1980's; but the point is if we are going to do here for our workers what other Federal employees have available to them, it ought to be done on the record. It ought to be done publicly and we all ought to be committed to it, or at least have a chance to register our opposition to it.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield further?

Mr. FAZIO. I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for his contribution. It is very similar to the colloquy we had last year.

I think we have sent a strong message to the leadership and the powers that be and the one particular individual who wants this gym.

Mr. FAZIO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. WALKER] for a recorded vote.

Does the gentleman from Pennsylvania insist on his demand?

Mr. WALKER. I am tempted to ask for tellers, Mr. Chairman, but I will not.

Mr. Chairman, I withdraw my demand for a recorded vote.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. DONNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, pursuant to House Resolution 499, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them engross.

The amendments were agreed to.

□ 2000

The SPEAKER pro tempore (Mr. GEPHARDT). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LIGHTFOOT. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will read.

The Clerk read as follows:

Mr. LIGHTFOOT moves to recommit the bill H.R. 5427 to the Committee on Appropriations with instructions to report back the same forthwith with the following amendments:

On page 2, line 8, strike "$704,409,000" and insert "$699,109,000".

On page 5, line 16, strike "$53,011,000" and insert "$47,711,000".

Mr. LIGHTFOOT (during the reading). Mr. Speaker, I ask unanimous consent the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LIGHTFOOT] is recognized for 5 minutes.

Mr. LIGHTFOOT. I thank the Speaker.

Mr. Speaker, a lot of people today are enamored with the so-called Perot phenomenon. I think basically what we get to is that Mr. Perot has tied into what a great many Americans feel, that the country is more important than politics.

As a result, today we have seen a very disturbing development, with our closed rule that was approved for this appropriation bill. I think it was very unfortunate that the Committee on Rules refused to allow an amendment requested by my colleague from Michigan, Mr. UPTON, the gentleman from Kansas [Mr. ROBERTS], to reduce the official House office mail allowance. Nor were any similar amendments permitted under the rule.

The closed rule on the spending bill is a direct slap in the face of the American taxpayers. It effectively puts a muzzle on us.

I think with this motion to recommit we have the opportunity to demonstrate that we can put the country ahead of politics and both sides can get together and agree on something.

Mr. Speaker, my motion to recommit contains instructions to report the bill back to the House with an amendment to reduce the House franking privileges by approximately 10 percent, roughly $5.3 million. It is a workable and realistic cut which I believe many of my colleagues will support.

Why similar amendments could not be permitted during today's debate is puzzling. But in today's fiscal climate, I think Congress must demonstrate a commitment to reform and to look at more budget austerity. If we are not willing to make sacrifices in order to set an example for fiscal accountability, how can we expect the American people to support reductions in other areas of the Federal budget?

Roughly 2 weeks ago the House of Representatives failed to approve a balanced budget amendment to the Constitution. How many more times will we demonstrate to the American people we cannot be fiscally responsible?

If we fail to pass this modest cut, we demonstrate clearly why we need a balanced budget amendment. We must demonstrate we are willing to make difficult choices and we must demonstrate we are willing to stop protecting the perks which we are accused of having. We must demonstrate to the people that we are opening up the functioning of the House to the light of day.

As my colleagues testified before the Committee on Rules the 1991 fiscal year, the House spent $31 million on mail. The $41.7 million figure I am proposing is still a healthy increase over fiscal year 1991. The recission package approved recently included a rescission of $20 million in franking expenses and it demonstrates that a growing number of Members have the willingness to cut our mailing allowances.

Mr. Speaker, I urge my colleagues to support the motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

Mr. FAZIO. I thank the Speaker.

Mr. Speaker, I had intended, of course, to strenuously object to this provision being offered by the gentleman from Iowa. But the gentleman from California has so effectively worked the floor on this matter that I think my chances of prevailing are very limited.

Given the fact that we have had a long day here, with increasingly good feeling despite the difficulty we had over the rule, I think it would be appropriate if I at this point indicate to my colleagues that I will not object to the motion to recommit and would ask that it could be promptly passed so we could finish the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LIGHTFOOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 376, noes 45, not voting 13, as follows:

[Roll No. 229]

AYES—376

Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dicks
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fawell
Feighan
Fields
Fish
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Sanders
Sangmeister
Santorum

Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weldon
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—45

Abercrombie
Blackwell
Bustamante
Clay
Collins (IL)
Collins (MI)
Conyers
DeFazio
Dellums
Dingell
Dymally
Fascell
Fazio
Flake
Foglietta
Gonzalez
Guarini
Hayes (IL)
Jones (NC)
Lehman (FL)
Levine (CA)
Lewis (GA)
McDermott
Nagle
Olin
Owens (NY)
Payne (NJ)
Perkins
Pickett
Rangel
Roe
Rose
Roybal
Savage
Serrano
Smith (FL)
Stokes
Synar
Towns
Unsoeld
Visclosky
Washington
Waters
Weiss
Wheat

NOT VOTING—13

Ackerman
Alexander
Bonior
Dickinson
Hefner
Hyde
Jones (GA)
McNulty
Schumer
Tallon
Traxler
Wilson
Wolf

□ 2021

Mr. NAGLE changed his vote from "aye" to "no."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. FAZIO. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 5427, back to the House with an amendment.

The SPEAKER pro tempore (Mr. GEPHARDT). The Clerk will report the amendment.

The Clerk read as follows:

Amendment: On page 2, line 8, strike "$704,409,000" and insert "$699,109,000".

On page 5, line 16, strike "$53,011,000" and insert $47,711,000".

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 143, not voting 12, as follows:

[Roll No. 230]

AYES—279

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Serrano
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOES—143

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Bliley
Boehner
Boxer
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Moorhead
Murphy
Myers
Nagle
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Petri
Pickett
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Sharp
Shaw
Shays
Slattery
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Ackerman
Alexander
Bonior
Hefner
Hyde
Jones (GA)
McDade
McNulty
Schumer
Tallon
Traxler
Wilson

□ 2033

Mr. SLATTERY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO AUTHORIZE THE CLERK TO MAKE CONFORMING CORRECTIONS IN ENGROSSMENT OF H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS, 1993

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 5427), the Clerk be directed to conform the line references in the amendment printed in section 2 of House Resolution 499 to the calendar print of the bill.

The Clerk would correct the references to line numbers in the instructions of the amendment as follows: First, strike out "line 17" and insert in lieu thereof "line 5"; second, strike out "line 20" and insert in lieu thereof "line 8"; and third, strike out "line 3" and insert in lieu thereof "line 16".

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, is this the problem that was created by the rule, which some of us regard as fraudulent, that brought the bill to the floor?

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, this was a problem created in the rule by a technical error made by the authorizing committee when it submitted language to the committee.

Mr. WALKER. Mr. Speaker, that is the gentleman's interpretation. I have mine.

Mr. FAZIO. Mr. Speaker, if the gentleman would continue to yield, I do understand the gentleman's interpretation would always be at odds with mine.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REPORT ON RESOLUTION, HOUSE RESOLUTION 500, WAIVING A REQUIREMENT AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-613) on the resolution (H. Res. 500) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5368, FOREIGN OPERATIONS APPROPRIATIONS ACT, 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-614) on the resolution (H. Res. 501) providing for the consideration of the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CREDIT AVAILABILITY AND REGULATORY RELIEF ACT OF 1992—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Credit Availability and Regulatory Relief Act of 1992." This proposed legislation will enhance the availability of credit in the economy by reducing regulatory burdens on depository institutions. Also transmitted is a section-by-section analysis.

The regulatory burden on the Nation's financial intermediaries has reached a level that imposes unacceptable costs on the economy as a whole. Needless regulations restrict credit, slowing economic growth and job creation. Excessive costs weaken financial institutions, exposing the taxpayer to the risk of loss. Rigid supervisory formulas distort business decisions and discourage banks, thrifts, and credit unions from pursuing their core lending activities. In 1991, the Nation's banks spent an estimated $10.7 billion on regulatory compliance, or over 59 percent of the system's entire annual profit. We cannot allow this unnecessary and oppressive burden to continue weighing down the consumer and business lending that will fuel economic recovery.

The Credit Availability and Regulatory Relief Act of 1992 reduces or eliminates a wide range of these unnecessary financial institution costs. Among the significant changes that would be made by the bill are:

—Elimination of the requirement that banking agencies develop detailed "micromanagement" regulations for every aspect of an institution's managerial and operational conduct, from the compensation of employees to the ratio of market value to book value of an institution's stock;

—Enactment of a statutory requirement that regulations of the various Federal banking agencies be as uniform as possible, to avoid the complexity, inconsistencies, and comparative distortions that result from widely varying regulatory practices;

—Reduction of audit costs, by returning auditors to their traditional function of investigating the accuracy of depository institution financial statements and eliminating the costly and misguided expansion of their role over legal and managerial matters;

—Alleviation of the significant paperwork burden imposed by the Community Reinvestment Act on small, rural depository institutions without exempting such institutions from the substantive requirements to satisfy the credit needs of their entire communities—coupled with creation of incentives for institutions to reach higher levels of compliance by streamlining expansion procedures for institutions with outstanding Community Reinvestment Act ratings; and

—Elimination of the requirement that the Federal Reserve write detailed "bright line" regulations on the amounts of credit that one depository can extend to another, thus retaining the Federal Reserve's existing flexibility to supervise the payments system without unduly inhibiting correspondent banking relationships.

These changes, and the others made by the bill, will result in significant reductions to the administrative costs of depository institutions—costs that are currently passed on to borrowers in the form of restricted credit and higher priced loans.

I would like to emphasize that none of the bill's provisions will compromise in any way the safety and soundness of the financial system. The legislation makes no changes to those elements of the Administration's proposed supervisory reforms that the Congress did adopt last year. All existing capital standards will remain in force and will be neither weakened nor modified by the proposed legislation; the "prompt corrective action" framework mandating swift regulatory responses to developing institutional problems will remain unchanged; and bank regulators will continue to have exceptionally tough enforcement powers.

The legislation I am transmitting to you today is a broad and responsible solution to one of the major problems facing our financial system. The financial industry, the economy, and the public generally will benefit from enactment of this regulatory relief. I therefore urge the Congress to give high priority to the passage of the Administration's reforms.

GEORGE BUSH.

THE WHITE HOUSE, *June 24, 1992.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that he will receive requests for special orders from both sides and then hear 1-minute requests.

FORMER SPEAKER GIFT OR BAGGAGE?

(Mr. GOSS asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, Christmas, 1970, the House of Representatives gave the retiring Speaker of the House an unprecedented retirement gift—an office, staff and stamps to "conclude his official duties". Mr. Gross of Iowa said it best:

> A Speaker of the House is not elected by the voting taxpayers of the Nation. Therefore, the Nation, as such, owes him nothing merely by reason of the fact that he was a Speaker * * * I predict that if this resolution could be submitted to all the taxpayers of the Nation for rejection or approval it would be sunk without a trace.

Now 22 years later we have three former Speakers receiving this gift at a cost to the taxpayers of hundreds of thousands of dollars a year. We tried to give our colleagues a chance to reject or approve these open-ended benefits for former Speakers—but the majority party on the Rules Committee made the decision for them, the wrong decision, by refusing to allow an amendment that would limit those benefits to come to the floor. What a disgrace. The American people should know about this. After all, they are going to pay.

DICTATORIAL RULES IN THE HOUSE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, something needs to be said about the operation of the House today. It smells to high heaven. I am embarrassed to admit that I did not speak against the dictatorial rule this morning, and then the absolutely dishonest handling of what little chances we Republicans had in amending the bill.

My understanding is that we changed 200 years of customs in not having an open rule. How many of the Members can remember Adolf Hitler in his early days where, if anyone had stood up to him, we could have saved millions of lives, but no one stood up. The time to fight for our rights is now.

EGYPT UNFAIR TO AMERICAN BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, the Great Lakes Dredge and Dock Co., a Chicago-based firm and one of the largest dredging companies in the world, was the apparent low bidder on two of four solicitations on the Suez Canal.

The authority threw the bids out and offered a second, expanded solicitation. Once again, Great Lakes Dredge and Dock Co., was the apparent low bidder. I might note that Great Lakes which also has an office in my district—is the only U.S. company participating in this bidding process.

I learned today that rather than award the contract, the Egyptians have requested Great Lakes to retender a new bid by June 27. Why? Because now the Japanese and Belgiums have had the benefit of learning Great Lakes offer.

Obviously, this is a technique to browbeat competitors and is a sham of the closed bid process.

This treatment of an American company by Egypt is unacceptable and should be unacceptable to every Member of the House. The United States annually sends $2.1 billion in economic and military aid to Egypt, and has forgiven more than $7 billion owed approaching well over $50 billion in total.

When the foreign operations appropriations bill comes before this body for consideration tomorrow, we must remember how Egypt has repeatedly attempted to prevent a United States company from doing business there.

MARGARET CAMERON AND THE PROCESS OF SELF-GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk today about Margaret Cameron and the process of self-government. Margaret Cameron is a fascinating woman that I met last Saturday night in Vinings, GA. She is 82 years old. She was selected in 1988 as "Mrs. Cobb County," described as a "grandmotherly, vivacious woman," and she told me a fascinating story, at 82 years of age.

She had worked at Lockheed, retired in her late sixties, and has been active, president of the Lockheed Recreation Club, serves as chief cook for the American Legion, works for the American Cancer Society, works with the veterans at the Veteran's Administration hospital, works at Open Gate, a home for battered children, and she told me the following.

At 82 years of age, she works 4 hours a day at the Piccadilly Cafeteria, because she wants to stay active. She wants to stay busy. She needs the money a little bit, but she really does it because she loves to be with people, she loves to serve others, she loves to be part of her community.

She told me about the process of working with Meals on Wheels, in her mid to late seventies. Already retired for a decade, she would go out every day, serve food to people in the Meals on Wheels Program. She said:

> I had to quit. I found myself going to houses where there were people who were able-bodied, doing nothing, glad for me to drop by and give them the food. We had children and grandchildren who were in the habit of hoping somebody would show up with food.

She said:

> I got so depressed at their lack of commitment, their lack of enthusiasm, their lack of involvement, that I simply could not take the depression of trying to cope with people who would not try to help themselves and would not try to get ahead.

It was fascinating. In fact, I promised her I would tell President Bush her story, because she said:

> Until we get back to an America where everybody is in the habit of working and everybody is in the habit of serving others and everybody is in the habit of being a citizen, we are never again going to be healthy as a country.

I promised her I would tell the President her story, and I did, on Monday.

□ 2050

I could not help but think all day yesterday and all day today about Margaret Cameron and her vision, a fair, honest, decent, kind, works hard, is frugal by nature, believes it ought to live within its means, goes to its local civic organizations and expects honesty and accountability, believes things ought to be aboveboard, and the kind of total, utter baloney that has gone on in this room for the last 2 days. And I thought it is no wonder that the Margaret Camerons are looking at Ross Perot, looking at anything to break up this city because, frankly, what happened in this room, the U.S. House of Representatives in the last 2 days is so appalling, so frustrating, so perverting to the process of a free society that it is no wonder the American people are sick of it and want change.

The proposition was simple. The U.S. Congress has an obligation to pay for itself. It is a big institution, House and Senate, Library of Congress, Congressional Budget Office, Congressional Research Service, General Accounting Office, lots of pieces. And so it has to pay for itself. It has grown enormously over the last 30 years, gotten dramatically more expensive, and so it has to pay for itself.

Now 2 weeks ago the Democratic leadership said they were opposed to a constitutional amendment to require a balanced budget because we needed courage now, we needed discipline now, we needed to cut spending now. And so they did not want to pass a constitutional amendment to require a balanced budget in the future, because they were going to do something now.

So what happened this week? Their pork barrel, their perquisites, their personnel, their spending came to the floor. With an opportunity to have discipline now? Oh, no. With an opportunity to cut now? Oh, no.

Instead, what they set up was a game to cheat the Margaret Camerons of representation, a game to make sure that the taxpayers would never see the tough amendments, that they would never have the up or down votes in cutting spending, that we would never really scrutinize how the House does business. And frankly, it is very, very disturbing.

My good friend, BOB WALKER of Pennsylvania, began yesterday trying to make the point, citing from a very important manual, Jefferson's Manual, which was prepared by Thomas Jefferson for his own guidance as President of the Senate when he was Vice President from 1797 to 1801.

In 1937, the House by a rule which still exists provided that the provisions of the manual should govern the House in all cases to which they are applicable. The manual is very important because the key to civilization, the difference between talking about shooting cops and living in a civilized society where the police protect, the difference between working hard to improve our life and looting your neighborhood, the difference between voting in a free election and being dominated by a mob or a secret police is the rule of law. The rule of law matters. The concept of rules matter. It matters particularly if you are the minority, whether you are a racial minority, whether you are cultural minority, whether you are an ethnic minority, whether you are a religious minority, or whether you are a political minority. The rules are all that stand between you and tyranny.

This is how Jefferson began the manual, quoting from page 117 actually because the Constitution precedes the beginning of Jefferson's Manual. He says:

> SEC. I.—IMPORTANCE OF ADHERING TO RULES.
>
> Mr. Onslow, the ablest among the Speaker of the House of Commons, used to say "It was a maxim he had often heard when he was a young man, from old and experienced Members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power."

Jefferson goes on to say:

> So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities.
>
> And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

What is Jefferson saying? Look at the words he uses, "wantonness of power is but too often apt to suggest to large and successful majorities."

The last election to elect a Republican Speaker was 40 years ago. For 38 years the Democrats have run the House. There is not a single Member of the elected leadership of the Democratic Party who has ever served in the minority. They have no understanding of the importance of the rule of law. They have no understanding of the importance of the rules. They have no sense of what it is like to be in a minority.

Furthermore, Jefferson describes the caprice of the Speaker or captiousness of the Members. What is he saying? He is saying that every citizen in America deserves for their Member to have rights on this floor, that representative government requires that every Member have a chance to offer amendments, that every Member have a chance to be heard, that every Member, whether they are representing Margaret Cameron in Vinings, GA, or they are representing someone else in Pennsylvania with Mr. WALKER, or someone else in Washington State with Mr. MILLER, but wherever they are those American citizens deserve to know that their representatives will have a fair and equal chance to effect the will of their constituency.

Let me say that in the last 2 days the tyranny of the majority blocked that fair and equal chance.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Jefferson uses a couple of other words there that I also think are important. Jefferson said in the manual that what you need in a House is order, decency and regularity. That is what we have lost in the last 2 days, and I am afraid it has been building up for some time.

There is no order any longer when in fact the Chair is often used to protect Members who violate the order all of the time. We have often had situations on the House floor here during the 1-minutes when Members have made absolutely outrageous statements about the President of the United States, totally out of order in the House, and the Chair has not protected the business of order. That has become a regular practice. There is little order left that the majority preserves anymore, unless it is something where they are affected, and then all of a sudden order becomes something which is important to them, only to protect themselves.

There is no decency left. We so often find that what we are told one day is withdrawn the next. Literally Members of our leadership have been lied to on what will happen at some point in the future. Decency is long since gone.

And what we now see in actions of the last 2 days is that there is no regularity, that a longstanding tradition of this House is that on appropriation bills you were assured of at least a motion to strike, you were assured, as we came with more and more closed rules that stopped us from acting appropriately on bills during the authorization process, that at the very least when we finally got to appropriations we would have the ability to strike spending out of the bill that was going for things which we regarded as unacceptable. Now the ability to strike spending is being taken away from the Members. Not only was it taken away in the legislative appropriations bill, but tomorrow there will be another rule brought to the floor, and that will take it away from the Members on the foreign aid bill. So what we find is that the House is more and more becoming a place where there is no regularity.

So the rules process is being used against the minority, and on a day-to-day basis. And I would think that this should become very much of a concern to the Members of the majority party.

□ 2100

They are comfortable, so long as they are in the majority, but, good heavens, some of them may find themselves in a minority position at some point. They may find themselves opposed to something that their party is doing, and they will find out the rules have been stripped away from them as well.

This is the road toward despotism. It is the kind of legislative dictatorship we have seen arise in Europe on occasions within this century in very, very disturbing ways. We ought not let it happen here. We ought to, as the House of Representatives, decide to go back to Jefferson's Manual to stop the wantonness of power of large majorities and to bring order, decency, and regularity back to our processes.

I thank the gentleman for yielding.

Mr. GINGRICH. Mr. Speaker, I yield to my colleague, the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, what we have seen the last day, of course, involved the denial of the right to make motions for specific cuts in the appropriations bill for this Congress. As a result, issues relating to Legislative appropriations were not discussed, were not voted on, the taxpayer was frustrated, and my colleague, the gentleman from Pennsylvania [Mr. SANTORUM], is going to talk more about this.

Now, tomorrow, and this is why I come to the floor tonight, we have a foreign operations bill. The same practice is being followed, the same practice.

A rule has come forth that, instead of allowing major amendments to that bill, makes only four in order, two of which are not going to be offered, so in the whole foreign operations bill it appears there will be two amendments, and with all deference to the authors, these are very narrow amendments.

Now, what were the amendments that they would not allow to be voted on? I headed up a task force of House Republicans in the Committee on the Budget trying to come up with some reforms in foreign operations. My colleague, the gentleman from Pennsylvania [Mr. SANTORUM], joined me; others were involved, the gentleman from Ohio [Mr. KASICH], the gentleman from Texas [Mr. DELAY], the gentleman from Pennsylvania [Mr. RIDGE]. We approached this not with the idea of gutting foreign aid, because we all believe there is a purpose for foreign aid in terms of American security, preserving peace, helping trade, preserving human rights. We approached this from the idea of trying to prune and reform foreign aid, because we recognized that in this country not only do you have the traditional isolationist opposition to foreign aid, more and more groups that have supported foreign aid are growing critical, taxpayer groups, environmental groups, poverty relief groups.

We had before the Committee on Rules two very simple amendments. One amendment would have saved over $1 billion by doing away with the increase in the capital contribution to the World Bank and its officiates in this bill. This is the World Bank that has rushed ahead with loans to countries such as China, a dictatorship, a leading beneficiary of World Bank loans, rushed ahead with loans for environmentally destructive projects such as the dam in India that has displaced 90,000 people, rushed ahead with loans to government statist businesses when the world is turning to free enterprise, and this is the World Bank that refuses to give information to this Congress on its specific doings.

Even if our amendment had been adopted, would this have crippled the World Bank operations? Oh, no; no; no; no. The Treasury Department has advised me in a letter that just based on the refloat with the existing capital contributions that they could have increased their loans next year.

Our amendment, though, would have eliminated the increase. We were not even allowed. We were not allowed under the rule to bring this to the floor, a major issue in foreign aid, a message that might well, if this Congress had adopted the amendment, transformed our foreign aid program and sent a message to the World Bank and put the World Bank on the proper course. Not allowed to us.

We had an amendment on the Asian Development Bank to reduce the capital increase there. The Asian Development Bank, you will remember, was set up because the West was capital rich and Asia was capital poor. Now we have a situation, Japan, Taiwan, Singapore; Asia is not capital poor, at least in the Pacific rim. So we proposed eliminating the increase, just the increase. Denied.

Finally, we had an amendment relating to AID, the Agency for International Development, the main agency administering our foreign aid, an agency that has been wracked by scandal, numerous indictments the last year, cursed with over-administration, and one commission after another has found that out, focused on big capital projects rather than helping promote free enterprise or alleviate poverty. And here we had an amendment that said, "Wait a minute, do not increase your administrative budget, do not add more offices. Let us at least freeze the administrative budget of AID." I think we should have cut it 10 percent.

We had an amendment in that regard, too. But I would have been happy if they had even allowed an amendment in the Committee on Rules, a Republican amendment, to freeze AID administration, to the saving of scores of millions of dollars. Denied. We cannot vote on this in the House.

I will tell you something: What we have done, what the Democratic leadership has done, make no mistake about it, in frustrating the desire to reform foreign aid by this rule, they may well be ensuring the defeat of the foreign operations bill, something I think would be unfortunate, because, as I said at the beginning, I believe foreign aid has a proper place in American foreign policy.

But this is what happens when you try to cut off debate. This is what happens when you try to cut off the right for Republicans to make amendments.

It is ironic, because we have had, you mentioned, my distinguished colleague, the gentleman from Georgia, you mentioned the balanced budget amendment that we voted on a couple of weeks ago, and how the majority said, "Oh, we do not need the amendment. We should just go ahead now with deficit reduction, show the courage." Of course, the now comes first on Legislative appropriations; tomorrow on foreign operations. We are not going to have the chance to show the courage.

But there is another constitutional amendment that comes into play. You hear all this discussion about the line-item veto. Remember? Should the President be given the line-item veto? The opponents say, "Oh, no. Do not give the President the line-item veto. This is a legislative function. We should be able to prune and revise and improve legislation."

What is happening? Our ability to affect line items in appropriation bills, which they have denied the President, they are now denying to the Congress.

So I join in this special order. I hope the majority will take another look at this issue, go back to the system that existed previously, allow major substantive amendments on appropriations bills. I certainly hope they do it on the Foreign Operations bill, because this is one Congressman who strongly supports foreign assistance but understands that if it is going to retain the support of the American people, there have to be reforms.

I thank my colleague for yielding.

Mr. GINGRICH. Mr. Speaker, let me comment, if I might for just a moment, about my good friend, the gentleman from Washington State, who is a member of the Committee on Foreign Affairs, has done tremendous work on reforming foreign aid, and understands that we need to modernize our foreign aid program.

Because I want to make very clear to our colleagues and to those who may be watching or may read later, that the principle is very simple. The Democratic majority is going to attempt tomorrow to pass a closed rule to prevent any Member, Democrat or Republican, from offering spending cuts on foreign aid including reforms which would certainly pass, because if they are allowed on the floor of the House, they are so obvious, so clearcut that the outrage, the abuse and the waste is so indefensible that they would pass.

So in order to avoid, on foreign aid, allowing us to make foreign aid more efficient, the Democratic majority is prepared to try to pass a rule which will force us to vote yes or no on inefficiency, waste, abuse, obsolete performances, bad bureaucracies, and dumb programs.

□ 2110

Now, I am going to do everything, I can to make sure that every Republican tomorrow votes against the rule. I am going to challenge every Democrat who has to go home later and say, "Oh, I'm really concerned about spending."

How can you possibly vote to kill every amendment except two that would cut spending, and then go home and with any sense of honesty, any sense of integrity, pretend that you care about cutting spending?

As I was talking about Margaret Cameron who works, 82 years of age, 4 hours a day at the Piccadilly Cafeteria, you know, the money she earns matters. It is not much, but it is real, and to be told that Congressman MILLER of Washington State cannot defend the money of his hard-working workers, that he cannot defend the money paid in taxes in Seattle, that he cannot decide whether or not to offer an amendment to an Asian development bank that made sense 20 years ago and makes no sense today, I think it is an outrage and a legislative tyranny and it is totally wrong.

Mr. SANTORUM. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding to me.

It is a privilege to join in a special order of this nature because I think it does point to some of the serious problems facing this House.

I would like to pick up on some of the points that my colleague, the gentleman from Washington [Mr. MILLER] was talking about, and first compliment the gentleman for just an outstanding job. I have had the privilege of working with the gentleman from Washington [Mr. MILLER] on the Budget Committee now for 1½ years. When we started on this project, JOHN MILLER, JOHN KASICH, TOM DELAY, and I, a year ago, we were convinced after sitting through another budget resolution, mindless as JOHN used the term, mindless across-the-board reductions in the budget are just that mindless and we should do better in proposing some responsible alternatives, and the gentleman from Washington [Mr. MILLER] as well as the three others came out with some very solid proposals, many of which have been adopted in other areas; but the proposal of the gentleman from Washington [Mr. MILLER] on foreign aid is not only a good idea, and from everything I have seen, I have met with people from the administration to people all over, people who have interests in the foreign aid bill, people here in the Congress, I have not met anyone who thinks this is a bad idea. I have not met one person, talked to one person when we presented this who said that this is foolish, this makes no sense, this is wrong. Everyone said, well, yes, these are obvious reforms. These are things that we need to do. You are absolutely right.

We offered these amendments in the Budget Committee, the gentleman from Washington [Mr. MILLER] did. Everyone sat there and said, well, you know, these are not bad amendments, but this is not the place to do it because you do not want to do these specific things in the Budget Committee.

So we said OK, fine. We will wait until the Appropriation Committee comes around.

Now we are being told by the Rules Committee, well, this is not the place to do it. Wait for the authorizing bill.

Well, as you know, we have been waiting 2 years for an authorizing bill and we may never have another authorizing bill in my lifetime. I do not know.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, at one point today the authorizing committee was talking about folding their bill into the foreign operations appropriations bill and doing it without amendment on the floor, that they were going to do it as a motion to recommit.

We finally talked them out of that ridiculous notion, but at one point you were going to have the authorization bill taken away from you, too.

Mr. GINGRICH. By the way, would the gentleman just mention the size of the bill?

Mr. WALKER. Yes, it was 650 pages that we were going to do with 10 minutes of debate.

Mr. GINGRICH. Would the gentleman repeat that. Was it 650 pages?

Mr. WALKER. Six hundred fifty pages.

Mr. GINGRICH. Sixty hundred fifty pages of foreign aid authorization without a single amendment to be dumped on to the Foreign Operations bill to pay for it, where they do not want to let amendments, either.

We just celebrated with Yeltsin the spirit of democracy a week ago today.

But go ahead, I yield to my friend, the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Speaker, I just want to say that the work that is done here, we may have objections on the their side saying, well, this is some hatched-up idea, that we are just trying to mindlessly cut. This is not. This has been something we have been circulating around this Hill for over a year. We have had discussions, as the gentleman from Washington [Mr. MILLER] said, with environmental groups, to poverty groups, people who are interested in specific programs. No one has come forward and given us any substantive argument as to why these reforms should not be made, except for the fact that, well, this is not the place to do it.

Mr. MILLER of Washington. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Speaker, I thank my colleague for his kind words.

Obviously, our package included more than the amendments that we referred to. It included changes in the Food For Peace Program, but that is in the agriculture bill.

Obviously, we would have liked to put through an AID reorganization bill, but we are not allowed to do that, so the only opportunity we have is certain amendments in the appropriations bill.

I thank my colleagues from Pennsylvania and Georgia, their eloquence on this issue is fully justified. My colleague, the gentleman from Pennsylvania [Mr. SANTORUM] has not only worked hard on this foreign aid reform, but I know that he has worked very hard in taking the lead on some of the amendments, some of the proposals to cut spending in the legislative branch that we were not allowed to offer today. I think we should go through some of those.

Mr. SANTORUM. Mr. Speaker, I appreciate that, and I would be happy to do that.

I would just like to give sort of a scorecard of what has been going on here. Two days ago I appeared before the Rules Committee before this nefarious activity began. I believe there were 27 amendments that were offered to the Rules Committee. By my count, of these 27 amendments, 3 were offered by Democratic Members——

Mr. MILLER of Washington. This was on the legislative branch appropriations?

Mr. SANTORUM. Legislative appropriations, this was on Monday and yesterday.

Three were offered by Democrat Members. Twenty-four were offered by Republican Members; ultimately as a result of points of order that were not waived, et cetera, actually only five amendments were allowed to be voted on the floor of the House. Of those five amendments, all three of the Democrats were allowed and two of the Republicans. So the Democrats went 3 for 3 in the Rules Committee and the Republicans went 2 for 24.

I do not know in what sport you can compete and do 2 for 24 and stay in the league very long, but that is exactly what we are being penalized with.

We were allowed to offer two amendments to the bill here. I went to the Rules Committee and asked to have three amendments made in order, two of which would be subject to a point of order. One was what the gentleman from Pennsylvania [Mr. WALKER] referred to as a striking amendment. A striking amendment is simply taking the number that is in the appropriations bill and reducing it, striking it to a lower figure. That is what I attempted to do. That is in order under every appropriations bill. Maybe the gentleman from Pennsylvania or the gentleman from Georgia can help me on this, because I have limited experience with appropriations bills.

But in your recollection, can you ever recall an appropriations bill where you did not have the right to strike here on the floor?

Mr. GINGRICH. I think there have been two in modern times.

Mr. WALKER. I am told this has happened on a couple other occasions on the foreign operations bill. When it comes to foreign aid, we seem to have a growing pattern here of not allowing this on foreign aid, but now it is beginning to slop over into other areas, and obviously hit legislation.

Mr. SANTORUM. To the gentleman's knowledge, it has never happened on a legislative appropriations bill?

Mr. WALKER. Well, I think this is the first time in history that this happened on a legislative appropriations bill. It shows what Congress believes the public thinks about itself.

Mr. SANTORUM. I am very interested in the gentleman's opinion on why he thinks this is going on. We had offered to the Rules Committee 27 amendments. I reviewed all 27 amendments. None of them would be considered by anybody as draconian cuts. There were no meat axes taken to the legislative appropriations bill. There were some amendments, two of which were mine, which were clearly subject to points of order here on the floor which were legislation on appropriations bills.

My excuse for that, frankly, is that we do not have an authorization bill that we can legislate on here as Members concerning our own body, and this is our only opportunity, but I can accept the fact that under the general rules of the House, legislation on appropriations bills is not Hoyle.

Mr. WALKER. Except that they permitted it on a couple amendments that they favored.

Mr. SANTORUM. Well, that is correct, they did. They waived them in the amendments they favor. That is correct.

But I would not even expect that, but what I would expect is the opportunity for the one amendment that I had in order which was to strike the franking account to be made in order, and yet of these 27 amendments, 15 were to strike. Some of them were duplicative. I think there were three amendments to cut the franking account.

Of these 15 amendments to strike, none of them were bad, I mean, as far as deep cuts that were going to cripple programs, yet none of them were allowed—well, two or three were allowed to be offered.

What possible reason, because it certainly could not have been the fear of any of these passing, because had they all passed, with the possible exception of the GAO, in which we had the debate because it was probably the deepest of all the cuts, so they allowed us one deep cut that they knew would have trouble passing; but with the exception of that, what possible reason could there be that they are fighting us?

Mr. GINGRICH. Let me give the gentleman a very simple reason. It has nothing to do directly with legislative appropriations, although that is the center of their party empire.

The fact is, as liberal Democrats have become less and less popular, as it has become less and less defensible in public to prop up the welfare state and prop up the elitist counterculture and prop up the bureaucracy and prop up the pork barrel, they simply cheat by rigging the game.

☐ 2120

It is like a contest in which, as we get better, as more Americans decide that broadly conservative values are right, they set up a new scorecard. Imagine a baseball game in which if you are a liberal Democrat, a foul ball is a homerun. If you are a Republican, a homerun is an out. That is literally, when we talk about the rules so that everybody back home can understand, this is how badly rigged this room is today. After 38 years of Democratic Party one-power rule, they routinely rig the game. The Rules Committee comes in and says we will now structure it so that this will happen.

Mr. SANTORUM. But this is a party that has a 102-vote majority on the floor of the House.

Mr. GINGRICH. Right; and I think that is part of it. Lord Acton warned that power tends to corrupt and absolute power corrupts absolutely.

What you have is a Rules Committee which, for all practical purposes, has absolute power on behalf of the Speaker.

So in the terms of a fair rule, it is a corrupted process. They walk in and say, "We have a liberal Democrat who wants to offer an amendment. Of course, it will be made in order so that they can go back to their constituency and claim that they got something done." We have, as the gentleman pointed out, 24 Republican amendments. Why would we make them in order? I mean they may be good ideas, they may be terrific ideas on foreign aid, they may improve the system, they might improve health care, they might improve the welfare system, they might improve policing. But after all, they do not fit the liberal welfare state. The public employee unions did not approve them, the trial lawyers did not approve them, the left-wing activists did not approve them.

Mr. SANTORUM. I guess my point is if you have a 102-member majority on the floor of the House, why won't you let them do it?

Mr. GINGRICH. I will explain one more second, and then I will be glad to yield.

Because they are so out of touch with America that if we had 2 weeks of open rules where we could force votes on amendments, we are so much closer to the values of the American people than the liberal Democrats that we would win most amendments. We would simply beat their majority because their average Member would come in here and say, "Let me understand this. I get to vote with the big cities, the labor unions, the trial lawyers, and the left-wing activists. Or I can vote with the other 80 percent of America. I think I will get reelected by voting with the other 80 percent of America." They would literally lose control of the place because they would not be able to put their votes up here where they are recorded on the wall.

They knew, the Democratic leadership knew if they allowed the gentleman's amendment to be in order, it was going to pass. They know that on amendment after amendment, cutting spending in 1992 is popular.

The American people are sick of being told they have always got to pay more taxes to Washington.

They just saw Governor Clinton promising to raise taxes. That is why he is at 24 percent in the polls.

So the American people, if they had 10 or 12 votes in 1 day or that average liberal Democrat had to vote for more spending, and indefensible spending—as you know, some of those amendments you could not have explained back home. So they said, "We have an idea, we won't let anybody vote. We won't let anybody know." All you got to do is get through one vote, give the Speaker and the Democratic majority total power of the rules and we will protect you from yourselves.

So they all hid behind the rules.

I yield to the gentleman from Pennsylvania.

Mr. WALKER. I just want to point out to the gentleman that that was confirmed to me by a couple of Democrats who came up to me, just talked to me on the floor today and were expressing some sympathy with the positions that I have been articulating out here, and said there are a number of Democrats who are very disturbed with what they see as a developing pattern here, that they really do believe that their rights are being stripped away from them as individual Members, too, and they are very disturbed that they are becoming a part of a kind of despotism that worries them.

They said the reason why it is happening is because there are too many Members on their side who do not want to cast tough votes. So therefore rather than being caught in a whipsaw between their leadership and with the folks back home, they have decided that despotism is better than democracy and they are perfectly willing to shut down the operations as a way of preventing themselves from having to cast votes that at some point someone might call them for in a political context.

You know the problem with that is that is exactly the way democracy gets lost. People who have so much fear, who fear for their own personal security to the point that they will deny themselves their rights and deny others' rights, and that is exactly what is happening in the House.

Mr. SANTORUM. I asked the question of the gentleman from Georgia because I wanted to elicit a response from him. But he hit exactly on the word that I think is apropos here, and that is the word "fear." There is an intense amount of fear here of the people in this body have for the American public. They are afraid, they are afraid to let the system work and to be exposed perhaps for doing what is not in the best interests of America.

So in that fear of upsetting the voters back home and not getting reelected, that fear drives you to very irrational behavior, in my opinion, very irrational behavior, as a legislative body.

Mr. GINGRICH. I yield to the gentleman from Washington.

Mr. MILLER of Washington. I thank the gentleman for yielding. I think maybe we should review for those who are listening and watching this what the bills are that we are talking about here.

Every year we have 13 appropriation bills that come to the floor. These are the bills that spend the money that the taxpayers pay out. This is the most important function of the Congress, to pass and decide on the appropriations bills.

Now, if you have a situation such as took place today on the appropriation bill for the legislative branch, where major amendments are prohibited from being offered, if you have a situation which apparently will be the case tomorrow on the foreign operations, the foreign aid bill, where major amendments will not even be allowed to see the light of day, Republicans are denied the right to make amendments, if that pattern is followed through the 13 appropriation bills, what is going to happen?

Well, of course, we are going to end up with appropriations bills that are larger, we are going to end up with appropriation bills that have more nonsensical provisions that could have been removed with amendments, we are going to end up with appropriation bills that just continue the status quo in every section of Government instead of allowing the possibility of change, reform, of rejuvenation.

This is I think what is going on, my colleagues, today in this House. I do not know if any of you would like to comment on that, whether you agree or disagree with me on this appropriations process.

Mr. GINGRICH. Let me comment for a second. Let me say that truly if visitors when they came to the Capitol, in order to understand what Mr. MILLER of Washington just stated, if they would go look at the appropriations. They are all tiny, they are all hidden away. None of them is susceptible to cameras. I do not know whether C-SPAN ever films an appropriations markup.

Then go upstairs and look at the Committee on Rules, where they kicked out C-SPAN yesterday because they did not want the country to watch what the Democratic leadership was doing.

So you have hidden away tiny rooms all over the Capitol where the money gets spent and then you have hidden away up here a tiny room where the rules get shaped.

Then they come to the floor and they try to rush the bill through before the American people can see what happened. So billions of dollars can get to the floor, get gaveled through by the auctioneers with special interests and get sent off without anybody ever having seen exactly what is involved.

Then we wonder why are the American people so outraged? How could they not be, given this kind of behavior?

I yield to my friend from Iowa.

Mr. NUSSLE. I would just respond to my friend, the gentleman from Washington [Mr. MILLER] that I think at least the way I always understood it, learning it in school before I came here as a freshman Member this past year, I always learned that the appropriations process was a period of time where we set the priorities for the country, where we as Representatives decide what is important. Unfortunately, most of the priorities are tied to money and therefore our priorities are determined in appropriation bills. But be that as it may, that is when we set the priorities for the country.

What I have also learned in talking to people, whether it is in the Chat & Chew Cafe in Thornton, IA, when I was talking to a number of farmers, or whether it is at a town meeting, my constituents tell me they are very frustrated because they do not see us setting the true priorities for the country. They see us crisis-managing every issue that comes up. They see us not setting the priorities in terms of issues but setting the priorities in terms of our own personal reelection and political future.

One of the frustrations I have had, and it was heightened by what Congressman SANTORUM was talking about in the closed rule, is that we do not have the opportunity in this body to have the great debate, we really do not.

□ 2130

We really do not, and, during the debate on the balanced budget, the very brief debate that we were all allowed to have on the balanced budget, I mentioned what I thought we need here in this body is some strategic planning, some ability for us to get together as Representatives, do the job we were paid to do and set priorities for the country. It is unfortunate that we have so many other commitments that it is very difficult to do that.

I think what it is going to take, and a Democrat Member, senior Member, the gentleman from Kentucky [Mr. MAZZOLI], agreed with me on this, and I was kind of surprised to hear it; he said to me, and I made the same statement, that we ought to make it mandatory that Members of Congress come into this room, and let us lock the doors, and let us start talking. Let us start having that great debate again because, Mr. Speaker, when I say to a constituent back home in Iowa that health care is an important issue, they no longer believe me, or any other Representative that stands up and says that health care is an important issue, because for the last 25 years politicians, candidates, Congressmen, Senators, Presidents have stood before the American people and said that this is important, that I have a plan, that I have an issue, and yet every single year we fail to get the job done.

So, Mr. Speaker, it is no wonder at the end of a period of time like that that they are looking for change, that they are looking for reform, and my answer to all of this, and trying to answer the question of the gentleman from Pennsylvania [Mr. SANTORUM] of why and what needs to be done, is that the only way for us to regain, I believe, the trust, earn back the trust, of the American people is to change the way we do business here.

Part of that is open rule, changing the way that we debated the bill today, the bill that determined how we were going to set up the structure of the House of Representatives, but also the way we set priorities in this country and in this House of Representatives.

Mr. Speaker, we do not have that opportunity. Very few times in my brief time here in the House have I had that kind of debate. I have had better debates at church council meetings back in Manchester, IA. I have had better debates with farmers over coffee at 7 o'clock in the morning in a cafe in Independence, IA.

Mr. MILLER of Washington. Mr. Speaker, if the gentleman will permit me, they do not adopt a rule in that cafe; do they, that prevents the gentleman from bringing up a major subject or——

Mr. NUSSLE. Exactly. That is exactly how it works. They will say, as my colleague knows, "What's important for us to discuss today? Health care?" Or, as my colleague knows, "What's important to discuss today? Budget deficits?" And, Mr. Speaker, they throw it up as a jump ball, and people get to jump in whether they are a freshman Member from Pennsylvania, or a senior Member from Georgia, or wherever they are from. They have the opportunity; maybe not quite as senior as they would like it to be, but they get the opportunity to jump in.

Mr. GINGRICH. It is the gray hair.

Mr. NUSSLE. I understand, but I say to my colleagues, "You get the opportunity to jump in, to have your piece, to say what's on your mind, to represent the woman that Congressman GINGRICH is talking about or the farmers from Thornton, IA, that I represent. You have that ability."

Mr. Speaker, we are not given that ability today, and I would make the case that we do not work hard enough.

Mr. WALKER. Mr. Speaker, I just want to point out to the gentleman, if he would yield, that just up until a few years ago we did have the chance to have those kinds of debates in the House.

We used to proceed under a process known as the 5-minute rule where any Member in the course of debate simply got up and got 5 minutes of time, and they could yield during their 5 minutes, and then, at the end of their 5 minutes, they could get additional time, if need be, to have debate.

And I say to my colleagues, "You know, we had real discussions on the floor. We didn't have somebody getting up under a structured period of time where they have been yielded a couple of minutes, and they hurry to get their speech in, and then you have some other disconnected speech given, and then someone else gets up and gives a disconnected speech. You had real discussion. You had real debate on the floor."

Sometimes the debates got quite intense, but, as my colleagues know, they formulated policy, and out of that we even derived amendments. Good heavens. We even had some amendments written on the floor based on what people heard in debate, and we got bills corrected through that.

Today, under the structured process, we cannot have those debates anymore, and so we have lost something very precious in this body. We have lost the ability of Members to interact in a way that actually begins to develop policies and even ends up in some cases changing legislation. Today we operate purely under structure. There is no debate that is meaningful.

No wonder no one shows up, because no one is saying anything worth hearing anyhow, and we have lost something very, very important, and we have lost it because the Democrats got to the point that they could no longer sustain themselves in debate. They lost their confidence. They felt as though they were losing those debates, and so what they have ended up doing was closing down the process so they no longer had to face questions, and it is a real shame because we have lost the most precious thing the House had going for it, and that was it was the single most important debating place in the world.

Mr. GINGRICH. Let me, if I might, just say that anybody who has heard the gentleman from Illinois [Mr. MICHEL], the Republican leader, talk about what it was like to serve under Sam Rayburn and what it was like to have the House as a legislative body writing legislation in a free and open way with every Member, Republican, Democrat, liberal, conservative, freshman, senior, every Member able to participate in the legislative process; if we listen to Congressman MICHEL's description of what a legislative body is like, and then we look at the petty tyranny of the modern Democrat majority, and we look at the kind of legislative dictatorship that is gradually establishing this, there is an astounding difference in the style of the two systems.

I yield to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. So that basically these decisions by the Committee on Rules to not allow the offering of amendments to major appropriations bills, this is a recent Rules Committee practice; is that what the gentleman from Georgia [Mr. GINGRICH] and the gentleman from Pennsylvania [Mr. WALKER], my colleagues, are saying?

Mr. GINGRICH. To the best of my knowledge on domestic spending this is the first time in the history of the House, but I may be wrong.

Mr. WALKER. Absolutely. This is very recent development. This whole idea of closed rules being the way in which we govern the House is a very recent development.

Mr. SANTORUM. My understanding was that I remember taking the floor of the House maybe a month or two ago, and I said, and I had gotten information from the Committee on Rules that every rule, and I think it was sometime in May, that every rule up to May had been a closed rule, every rule on every bill that came before the House.

Mr. MILLER of Washington. This year?

Mr. WALKER. This year.

Mr. SANTORUM. This year, starting on January 1, 1992.

Mr. WALKER. It used to be that closed rules were a very unusual practice. Only a handful of rules would come to the floor that were closed. Sometimes they had waivers in them, sometimes there were little changes, but for the most part we debated on the House floor under open rules.

Now well over half the rules that are passed are closed rules, which means; No. 1, that we do not get to offer amendments when the rule is closed, but it also structures the debate like I was talking about before. Not only did we get amendments, but the amendments we did get today were limited to 20 minutes or 30 minutes divided half to each side.

Mr. Speaker, they say that that is in the name of efficiency. Well, what happens in the efficiency then is that the time gets allocated in little bits and pieces, and nobody gets a chance to make a very articulate statement. No one gets a chance to really participate well in that kind of structure. So, we really end up with a debate that almost is indiscernible, and it is a terrible, terrible process, and it is very recent in its application in the House. We have only gone to this within the last three or four Congresses. That is when the trend really began.

I had great hopes when Speaker FOLEY came in following Speaker Wright that we would have some changes in this regard. The gentleman from Washington [Mr. FOLEY] had always been a man, when he debated on the House floor, who was one of the most articulate people they had. He was someone who could handle himself well in debate. He was fun to debate because he always handled himself so well.

Mr. Speaker, I thought we would get back to those kinds of debates. I am sorry to say we have not. Instead we have moved ever more down the road toward closed debates, and we are heading rapidly, I am afraid, toward no debate.

Mr. GINGRICH. Let me draw a parallel for just a second because I find what I have lived through recently is so extraordinary.

As the whip, Mr. Speaker, I have been allowed to escort Vaclav Havel, poet-playwright-President of Czechoslovakia. He came here. In one of his comments he said in October, he said he was imprisoned in December. They offered him the Presidency. So, that was real change.

We escorted Lech Walesa, a man who climbed over the wall to get back into the shipyard in Gdansk in a police state when he could have been shot to join the strikers. He is now the President of Poland.

We had Violeta Chamorro whose husband died at the beginning of the Communist revolution in Nicaragua, and she is now the President of Nicaragua.

Last week we had Boris Yeltsin, a man who showed enormous courage, stood on a tank and faced down the threat of a coup, risked his life and is the first freely elected President of Russia ever in the history of the human race.

Mr. Speaker, I find it fascinating that all of these people come to us and say, "Freedom is important. Freedom matters. What you Americans have taught us is essential."

□ 2140

The President of Germany came and said, "You know, America is like the story of Sleeping Beauty. America is the prince who brings the kiss of freedom and opportunity to the sleeping princesses of the world."

They come to this Chamber where for over 200 years free people have argued and debated and voted. And yet week by week, month by month, the democratic despotism of the Democratic Party closes the Rules Committee down more, closes the procedures down more, builds a wall of secrecy on legislation behind which its timid Members can hide. So they run in. They hope that procedural votes do not count.

I listed today every cut that would have been offered, and I said I will go to any district in this country and debate any Democratic incumbent. If you voted for that rule today, you voted to kill 15 spending cut amendments, and you had better have the courage to go back home and be honest about it. Because I think many of us are prepared to come into any district and say this is what that vote meant. That vote killed 15 spending cut amendments on the legislative bill, and here is what they would have been.

Now we are going to have a chance tomorrow. They are going to bring the foreign aid bill in. I mean, what madness? If there is any bill that needs to be improved so we can pass it, and I am a strong supporter of foreign assistance, and I have worked closely with the Bush administration to get a bill through, and I believe we need to do things, and I promised President Yeltsin that I would work with him to try to help him, but to be told by the Democratic majority that we cannot improve the foreign aid bill, we cannot cut out the waste, we cannot reform the procedures, we cannot change the things that are obsolete, that we have to throw away and waste the money of the American people because the Democratic Party and its Rules Committee will not allow us to offer amendments?

I will do everything I can to defeat that rule tomorrow, and I will do everything I can for the rest of this year to drive home in every district of every Member who votes yes that that is a rule to strangle the democratic process in America and to guarantee that your money is wasted overseas. Because I want to have a clean, good, modern, reformed foreign aid program that we can defend back home when we vote for it. And the process of the Democratic Party in this House blocked that kind of reform.

I will be glad to yield to my friend from Pennsylvania.

Mr. SANTORUM. I appreciate your comments, and I would say that back home Congress is not very popular and legislative appropriations would not be very popular, but foreign aid is not very popular either. And to have us come to the floor of the House, and two things that the American people are saying is, "Listen: you guys are living too fat and high on the hog and we need to trim you guys back, and say oh, no, we are only going to allow limited amendments on that."

The other thing I hear, and I am sure we all hear in all our districts, is, "Quit giving all this money that we don't have any accounting for, that we just keep giving all this money away to all these governments all over the place for things that we don't even—and take care of ourselves here at home."

Well, on that bill too we are not going to have a chance to make any reforms or to pare back any spending there. No, we are going to get whatever the Rules Committee decides and jams down our throats.

Now, I do not understand. Any group of people who have any semblance of touch with what is being said in America, who realize the phenomenon of Perot, and say, "Well, on two things that the American people really do not want to spend a lot of money on, we are not going to allow this body to debate that."

That, to me, is incredulous to me, that a leadership can allow that to occur, especially when you have amendments out there, as the gentleman from Washington is offering, that are good solid amendments that would improve the entire process. But yet that is what is going to happen.

Mr. GINGRICH. Let me just say, to be candid, the way that America changes itself and renews itself is called an election. Jefferson said every generation is allowed a revolution. He meant by that at the polls, an election.

Lincoln in his first inaugural said the American people have every right to a revolution, and the place you get it at is a ballot box.

You, my good friend from Pennsylvania, defeated an incumbent. You know what it is like to run against somebody who has been in Washington.

Can you imagine a Member going home in October and saying oh, yes, I voted to kill every amendment on legislative appropriations, I voted to kill every amendment on foreign aid, I voted to kill every amendment, and you go down the list, and not have the American people say, "You have just lost your mind. What do you mean, you won't allow amendments?" Because that means that a Member who votes for a closed rule has to be prepared to defend every item of the bill. Because they are saying with that closed rule, this bill is so perfect it does not need to be improved.

I will be glad to yield to my friend.

Mr. NUSSLE. Well, let me ask, because this has been bothering me for some days now, because the people are upset, and, as you said, the way that we effect changes is an election.

But my concern is, and I would ask this in the form of a question, what do you say to the people that are thinking of staying home? Basically throwing up their hands and saying one person cannot make a difference? I cannot make a difference, whether it is in my town, whether it is in my county, whether it is in my State, whether it is going on in Congress, I cannot make a difference in effecting open rules.

I mean, I hear these people on the floor of the House talking about open rules and legislative appropriations. I do not understand that. I understand some commonsense type things, but I am thinking of staying home, because I don't hear anybody talking my language. I don't hear anybody setting the priorities for the country. I don't hear anybody deciding what is important to me as a I sit on my couch watching this at home.

What do you say to a person who is thinking of staying home this fall, and maybe not providing that revolution in the form of an election?

Mr. GINGRICH. I simply say to them, remember the words of George Bernard Shaw, who said, "All that is required for evil men to succeed is for good men to do nothing."

Every decent, hardworking, honest American who stays home makes it easier for the pork barrel, for the professional politicians, for the insiders, for the ripoff artists, for the people who do not want the American people to vote.

So I say to every American citizen, I do not know of any year in my lifetime where it is more important for you to pay attention to the issues, to register, and to vote.

CUT FOREIGN AID ASSISTANCE COMPLETELY

The SPEAKER pro tempore (Mr. WISE). Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I ask unanimous consent that in order to save a few dollars for the taxpayers, that my remarks not be included in the RECORD.

The SPEAKER pro tempore. The Chair declines to entertain that.

Mr. GINGRICH. I do not think you can ask that.

Mr. TAYLOR of Mississippi. Sure you can. You can ask unanimous consent for anything.

The SPEAKER pro tempore. The Chair declines to entertain the request.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would also like to ask unanimous consent, in an effort to save a few dollars for the taxpayers, I would like to dismiss the staff.

The SPEAKER pro tempore The Chair also declines to entertain that request. The gentleman may proceed for 5 minutes.

Mr. TAYLOR of Mississippi. Thank you, Mr. Speaker.

Mr. Speaker, tomorrow the House of Representatives will vote on the foreign aid appropriations bill for 1993. It is approximately $15 billion. I would like to remind the American people that the budget submitted by President Bush and the budget that will apparently be passed by Congress will be about $399 billion in deficit this year.

So what the House will debate tomorrow is whether or not we as a nation will borrow money, one-third of which that money will come from Japanese and German lending institutions, so that we can give it away in foreign aid.

I would like to remind the citizens that I have the privilege of representing some of the world's greatest shipbuilders in south Mississippi. The shipbuilders throughout our country have had a tough decade. We have lost 300,000 shipbuilding jobs in the past decade, mostly since President Reagan recommended, and unfortunately this Congress approved, a reduction and actually the elimination of the subsidies for building ships in this country.

It is my understanding that next week President Bush will recommend and I certainly hope Congress will not accept a provision that will allow U.S. taxpayers' dollars to be used to purchase ships overseas, and then those ships will get an operating subsidy paid for by the taxpayers of America.

The point that I am trying to make, sir, is that there seems to be a bias against Americans in this country. A few weeks ago the administration submitted to the Committee on Merchant Marines and Fisheries, of which I am a member, a provision to charge license applications in our country. If what is called a jackup oil rig has the American flag, it is American made, an American crew on board, the cost of that license would be approximately $6,000. If a foreign flag vessel sought the same license, it would be $10,000.

There has come a time in our Nation, and that time is now, to start looking out for Americans. It is senseless to spend $15 billion on foreign aid.

I have just heard a number of my colleagues offer regrets that they could not offer amendments tomorrow. I have one better solution: vote the bill down.

☐ 2150

Let us not have any window dressing. Let us not reduce it by 5 percent, 10 percent, 20 percent and go home and say, "Look what I saved you."

If we want to save the taxpayers some money, let us cut out the entire foreign aid authorization and appropriation and save the $15 billion.

I would additionally like to remind the gentlemen that later on in this session, I hope, there will be a bill come out of the Committee on Armed Services, Foreign Operations Committee that will reverse the practice where 5 nations get first crack at surplus equipment from the Department of Defense.

I say they get first crack at it because before your county supervisor, your county commissioner, your city councilman, or your mayor can ask for a surplus piece of equipment, five countries have the opportunity to decide whether or not they want it. And if they want it, the taxpayers of America will have to pay to have it repaired, pay to have it crated, pay to have it shipped on the vessel of their choice to the place of their choice in their country. Again, another bias against Americans at a time when our cities and counties are so desperate for cash.

And lastly, Mr. Speaker, I regret that it is the ruling of the Chair not to allow that my remarks not be included. Obviously, there are a lot of people around this country with VCR machines. Obviously, a tape of these proceedings is being made. The purpose of this lady being here today taking down my remarks is superfluous.

The cost of the CONGRESSIONAL RECORD is over $400 for every 8 minutes of speeches. You gentlemen in your eloquence a few minutes ago cost the taxpayers approximately $7,000. That does not include the cost of having the staff here.

I have no problem with Members addressing the American public. As a matter of fact, I think that is a very important part of our job. But I do not think it should ever be done under the guise that we are addressing the House. The House is obviously not here. The House has gone home. It is almost 10 o'clock at night. If the Members choose to address the people of America, then let us make a room available in the Capitol with a television camera and if C-SPAN or come other network chooses to record this at no cost to the taxpayers, then let us show it. But let us not spend $7,000 an hour for people to go on television at the taxpayers' expense. It is just not fair; $7,000, incidentally, is a heck of a lot of money in Mississippi. Every 5 hours of this debate would pave another mile of street. Every 5 hours of it would buy a backhoe or a bulldozer for some community somewhere in our country. If we are really sincere about saving money, let us change the practice of special orders as we now know it. Allow the overworked staff to go home at some reasonable hour during the day.

One of the reasons they are paid pretty well is because they have to work crazy hours. These special orders go on all night. Let us see to it that if the networks think these speeches are worth covering, they cover them at their expense, but not the taxpayers of the United States of America, the same people who tomorrow will be asked to shell out $15 billion in foreign aid.

A FURTHER DISCUSSION ON SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WISE). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, that was a fascinating discourse we just heard from the gentleman from Mississippi, who has, in the course of his remarks, suggested that we eliminate the special order time, which, of course, is another time when the minority gets to control a little bit of time in which they could debate. This gentleman wants to shut that down.

The gentleman also, as I understand it, wants to shut down keeping a record of the proceedings of the House of Representatives, that he does not think we should have a CONGRESSIONAL RECORD any more. That is almost unbelievable.

One of the most important things that the American people need to have as we proceed legislatively is a record of what we said. That record is what allows agencies of the Government to decide what was meant when Congress did these things. And it is absolutely fundamental to the process to have a written record of what goes in the U.S. Congress.

The very idea that the gentleman would propose that not only should we begin to shut down the debate but, having shut down the debate of the House of Representatives, as his leadership is doing consistently and which he consistently supports on the rules, then he proposes that we do not keep a record of what we are doing here. It absolutely boggles the mind that we should have that kind of attitude.

I think once again it demonstrates how far out of touch the Democrats in the House are becoming. This forum is one in which Members get to express a variety of viewpoints. It is time that is not wasted in this gentleman's opinion. It is time, since the earliest days of Congress, that Members had had to do it. But long before there was television, there were special orders. Long before C-SPAN began to cover the Chamber, there were special orders of Members coming out here and expressing their opinion on issues of importance at that time.

There is no reason why it should not continue. And to suggest that somehow this is time that should be taken away from the Congress, I think would be a terrible mistake.

Others on his side have proposed it. It has always been on the idea of cost. It is amazing, however, that costs do not seem to bother them when we have a legislative appropriations bill on the floor today where we are trying to cut out real waste and abuse. We would not allow an amendment on the floor today where we are building a new gym, but what we will do is we will stop printing the CONGRESSIONAL RECORD and stop Members from having debate time.

I think it is just absolutely unbelievable.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I agree with the gentleman 100 percent. I would say to the gentleman who just spoke previous to you, who voted against allowing amendments to be offered here to cut the legislative appropriations, who voted against that to allow us to bring to the floor amendments to cut the legislative appropriations bill, now stands up and says that we should not have the right, because I was only given during the rule 1 minute, actually, yes, 1 minute to discuss why my opposition to the rule. And what he is saying, "Well, that is all you get. We are going to tell you how much time you get. You get that much and no more. And if you want to come out here and explain in the RECORD why you oppose a certain thing that goes on here, that should not be printed. That should not be recorded because you don't count. You don't count here. I tell you what you can say and when you can say it, but if you want to come up here and have time to explain in the RECORD why you opposed a certain rule because you were only given 1 minute, and in some cases not given any time at all, then that should not count."

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, in response to the remarks of the gentleman from Pennsylvania [Mr. SANTORUM], obviously the gentleman is new. But if he had spent a little time on the floor, he would understand that when Members go up and speak, even for 1 minute in the beginning, they ask for permission to revise and extend their remarks. My proposal would not affect that at all.

Mr. WALKER. Mr. Speaker, let me say to the gentleman, I do not ask to revise and extend my remarks. I allow my remarks that I make on the floor to stand as they are spoken. I think the revision/extension remarks, if you want to know something, that is an abuse. It is that. It is the ability of Members to change their remarks over what they said.

I think that is an abuse of the CONGRESSIONAL RECORD.

We actually have Members that have taken their remarks and gone 180 degrees different from what they actually spoke on the House floor.

Mr. TAYLOR of Mississippi. Mr. Speaker, we are not in total agreement on that. The gentleman did not see me ask to revise and extend my remarks. I do not do so. The only time was during the Persian Gulf war debate, when I felt like because of the limited amount of time that I was given, I would like to have my whole thoughts included in the RECORD, as did many other Members.

Mr. WALKER. Mr. Speaker, I do not speak in those instances.

Mr. TAYLOR of Mississippi. Once again, to the gentleman from Pennsylvania [Mr. SANTORUM], you would understand that the opportunity is there to have your remarks included in the RECORD during every debate. Unanimous consent time is given for Members just to include their remarks they have not spoken.

AMERICANS MISSING IN ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I am going to talk about Americans missing in action from World War II, from the Korean war, from the very hot, bloody and vicious four decades of the cold war, and American prisoners and missing from the Vietnam war.

□ 2220

Mr. HUNTER. Mr. Speaker, will the gentleman yield, before he takes off here with his time?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank my eloquent friend, the gentleman from California [Mr. DORNAN] for yielding, and I just want to say to him that we appreciate his leadership on the POW–MIA issue, and the fact that he invented, so to speak, the "Missing in Action" bracelet, and also that he is a co-chair of the House task force, the Republican Task Force on Prisoners of War and Missing in Action.

I want to thank the gentleman for his many, many years of efforts in this area, and for all of the efforts he is going to undertake in the near future.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for his kind remarks in my opening here.

I just want to say something about my friend, the gentleman from Mississippi [Mr. TAYLOR]. He just left the floor. I hope he is still in the cloakroom, by way of prologue about what I am going to say.

I am going to talk a little bit about the Doolittle Raiders. We passed the 50th anniversary on April 18 with maybe only 2 minutes' reference in this Chamber, because of the bizarre circumstances and rules we operate under now; the Bataan death march, the 50th anniversary was April 9, just a brief mention on this floor: Corregidor fell 50 years ago May 5, a brief mention on this floor; the Battle of Coral Sea, the 4th through the 8th of May, bracketing the fall of Corregidor.

We were winning something, at least a stalemate in the Coral Sea, stopping the Japanese from actually taking one of the world's largest islands, New Guinea. Then this month, on June 4, actually the 3d through the 7th, was the Battle of Midway, the greatest naval engagement in the history of mankind, turned the whole war. I have only been able to briefly mention it 2 minutes here during this month in 1-minutes. In other words, I have waited 4 months for this precious opportunity to talk about our prisoners of war and to mention some of these heroes from past conflicts.

Again, I say, the gentleman from Mississippi [Mr. TAYLOR] is a friend. He is a conservative Democrat. We need all of those we can get. But in a chance to rip off a little glory around here as a conservative, to save a few dollars, he has picked the wrong cause to attack, the special orders.

Unfortunately, I truly believe if he were in the minority, and he is a minority in the majority, if he were in the Republican minority on this floor he would never try to steal from ourselves this precious few moments at the end of the day that we have to communicate with the American public. Is it rule XVIII that we are not supposed to read anything on the floor of this Chamber without unanimous consent? We allow that rule to be abused pretty regularly in our 1-minutes at the beginning of the day.

It confounds me that people cannot get up at least for half of that 1 minute, for 30 seconds, and get their chin up, look up in the gallery and talk to these six cameras that are also suppressed and controlled around here, where they have to pan an empty Chamber at night, although 1 million, 1 million taxpaying citizens, Mr. Speaker, are watching this Chamber and tracking this fascinating debate that just went on here.

We act, through the rudeness of the Speaker's control of the cameras, as though nobody is listening except a handful of people on the House floor. I hope, I would say to the gentleman from Mississippi [Mr. TAYLOR], and we will have a little chat in either his cloakroom or mine, that the gentleman will reconsider his thrifty but misguided cause to try and take away from a frustrated minority a chance to spend a few moments out here on the floor and talk to our fellow citizens and fellow taxpayers.

I want to discuss ever so briefly, given the heroism and the loss of life involved, our Doolittle Raiders, our courageous men and women; women, lot of Army nurses called "angels" by the men that they ministered to death, and some of them that they took through their imprisonment at Santo Tomas and other camps in Manila, actually got them alive through the war, our angels of Corregidor, our angels of Bataan, and the heroes of the Battle of Midway, including some that were prisoner that we did not even know about that were tragically executed as the country was listening to the euphoria of this great naval victory.

Then I want to close the loop and come back to our lost POW's from U-2 flights, from other reconnaissance flights, like Strategic Command RB-47 Stratojets that were lost around the periphery of the evil empire, which Yeltsin, standing up there in this splendid hall right at that historic spot where Churchill has stood, where the Marquis de Lafayette in another Chamber just near this had stood, where MacArthur has stood, where people from like Roosevelt and Eisenhower and Ronald Reagan have given the stirring State of the Union addresses, at that historic spot Mr. Yeltsin, the first elected person in the Soviet Union, as he put it, in a thousand years, and that is putting something in very special historical context, he used the word "evil" in reference to the system in which he was born and has lived all of his life up until his election. He also called it an "empire" several times.

Now the people that used to object to those two words on the other side of the aisle, they have to hear it from the first elected President of the newly constituted, reconstituted nation of Russia.

I just talked to my brother, Don, on the phone. He said the L.A. Times says there is compelling evidence on this POW situation in the Soviet Union. Maybe we will never know. That is why I want to start out talking about World War II and some instances of heroes' death with no medals awarded, no commander alive, no NCO, no sergeant, no chief petty officer, no commander, no captain able to write home to the families with stirring words inspired by brothers under arms, watching a young man die and writing to the parents to say the debt of eternal gratitude that the country will owe to them; men who die alone, shriveled up in a prenatal position, their heroism known only to God and to their family members who preceded them to their eternal reward.

First, the Bataan death march on Corregidor. I have just finished reading a book simply called "Bataan" which ends with the story of the death march. Fifty years later in this modern age, even as we look at the ghastly shelling and destruction of the Bosnian city of Sarajevo, it is hard to conceive of people bayonetting helpless, skinny prisoners suffering malnutrition on one-quarter rations for the last 2 months of the defense of the Bataan Peninsula, to think of their captors bayoneting them to death because they held a man's head up as he drank stagnant water by the side of that road from Bataan up the peninsula to Camp O'Donnell, or Camp Cabanatuan, to leave people who are wounded in the middle of the road and watch trucks run over them, and if somebody moves out to help the prisoner off the road, he is bayoneted to death.

The Bataan death march is something I wish we would teach in our schools. It is only 50 years ago last April. President Ronald Reagan said in his stirring last words on national television that his greatest fear for our country is that we were betraying our young people by forgetting the history of our country, forgetting the men and women who, for three centuries before our independence was declared, two centuries and 16 years since as of this month, next month, the men and women who gave their lives on the frontiers and in combat all over the world for liberty, for ourselves and for other countries, that we are forgetting this history.

After "Bataan" I picked up this book, "Corregidor, the End of the Line." What a testimony of heroic strength. The gentleman from California, Mr. DUNCAN HUNTER, is still on the floor, my friend, the Member from San Diego. He just read a few passages from this sitting up there, and said, "The middle class of this country is absolutely unbelievable. They served so willingly and so selflessly."

The prisoners taken at the time and on "The Rock," the small tadpole-shaped island of Corregidor, hundreds of them died on what they called hell ships where they were being taken to Yokahama to be shipped off to slave labor in Japan and in the mines of Manchuria and China, coal mines, living days below the ground, dying of all sorts of diseases associated with malnutrition and with freezing temperatures, day after day, in ragged clothes. The very uniforms they were captured in years before were still the only shreds of cloth on their bodies.

The differences here with Corregidor and Bataan is that we won the Second World War. My own term is "We walked the battlefields, looking for the MIA's." We had our unknown soldiers, very few of them, but we were able to account for most of the people and the thousands that ended up blown to bits, atomized, by artillery fire or plane crashes or lost at sea or in the jungle. We still find planes in the high mountain jungles of New Guinea, and bring their remains back to the central investigative lab in Hawaii and identify some of them after half a century.

Most of the MIA's we were able to reconcile because we won the war. Out of that victory came, in the Japanese and German archives, some stunning, heartrending stories of men who were tortured to death and we never knew it until after the war was over; prisoners, brutally murdered in cold blood.

But there was an exception: Our allies, the Russians, under Stalin, did not give us a full accounting of men in camps, German camps, that the Russians had liberated. They liberated in round figures about 25,000 American men, and by their own admission, out of the mouths of their new President, Mr. Yeltsin, they only returned about 24,500. Who were these 500 American citizens held behind?

□ 2210

Well, they were the people with names, to use names of people I have served with, like Zablocki or Derwinski, Members that I have served with in this House. Ed Derwinski is Ukrainian descent. He is our great Secretary of Veterans Affairs, and a man with a name like Ed Derwinski would have been held back. Anybody with a Russian, or Ukrainian surname, or a German surname, they would be held back. They were in that 500.

What happened to them there in what that great combat Russian captain, Solzhenitsyn, this brilliant reclusive writer in the title of the book that first made him known to the West, gulag, Russian word for prison camp, archipelago, Solzhenitsyn's gripping words to compare these camps in Siberia to little islands in the Pacific, they were islands unreachable, through the tundra, frozen soil, impenetrable forests that go on for hundreds and hundreds of miles, the gulag camps were like lost islands. But a prisoner on an island might catch the attention of a passing freighter. But how do you escape from a gulag camp in the middle of Siberia? All totalitarian governments, Hanoi, Pyongyang, North Korea, the Nazis, the Gestapo, the SS, the GRU, Russian army intelligence service, the KGB, or before it the NVD or NKVD, or the dreaded Cheka run by the Polish killer, Derginski. All of these people, these killers, they keep efficient records.

It is amazing. Look at under Saddam Hussein, his killers trying to genocide the Kurdish people. Now they add the gruesome ingredient of videotape, videotape of the torture and the assassination, the drugging and then the torture of the Kurdish leaders, and the mass graves, the dumping of them in graves. We have now gotten all of the tons, literally, physically tons of paperwork of Saddam Hussein's evil work that is now in the archives in this city being slowly researched to compile the death toll of the Kurdish people. It may be over 100,000, 200,000, maybe more, a quarter of a million of them killed just in the last decade.

So there are records in the Soviet Union, somewhere, that we can get access to, we hope, if Mr. Yeltsin keeps his word, although he does not have control obviously over the man that I sat across the table from at one of the KGB's three headquarters in Moscow last February, Yeugeniy Primakov, the head of the now split KGB. He is head of the foreign service, the spying operation. It is fully manned and operating out there. I do not know where they get the payroll money, but they are still spying on countries all around the world. And Mr. Primakov kind of dismissed in a discursive and rude way, and he said,

> You tell me who your agents were placed high in the KGB, and I'll tell you who we placed on Capitol Hill on your staff, and I'll tell you about the Rosenbergs, and about Alger Hiss, and about prisoners from World War II, and prisoners maybe from Vietnam and Korea.

Well, he is back in the papers now. Four months later he is in the papers today saying, "Hey, we've looked and we can't find anything." No, no, that is a lying statement. They have not looked thoroughly. The records are there and they can find them on whether or not we are ever going to know where the unnamed graves are of these 500 Americans from World War II.

Now before I come to the cold war and to Korea and Vietnam, let me tell you why I believe this is what DUKE CUNNINGHAM, our fellow California Congressman from San Diego has said it was. He said it is a matter of the heart, not just the brain, the intellectual curiosity to tie up the loose ends and see if you can identify what happened to heroes serving our country as civilians, agents in the CIA, or as men and women in uniform. In this case it is mostly all men. It is a matter of the heart.

SAM JOHNSON, who spent almost 7 years in captivity in North Vietnam, because he was a natural leader, and had flown with the Air Force Thunderbirds, and he was a squadron leader, and he resisted. He was the leader of the resistance, and they tortured these men, they would break them, and then as soon as they regained their health and got their spirit back, they would take command again, tapping up one another with their special, simple squared-off code, leaving out the letter "K," using "C" for both the "K" and the "C" sound. They would tap people up on that little 5-by-5 chart until they got so fast that they were faster than Morse code. They would say, "It's SAM JOHNSON. He's got his health back. He's back on line. He's commander again."

Then they would find out about it and torture him again, and finally because he was called, with 11 others, hardheaded, actually 7 leaders and 4 who had tried escape attempts, although nobody was out for more than a day on their own, they put these 11, 9 senior commanders and Coaker, and McKnight, Navy officer and Air Force officer who had escaped overnight, they put them in a little prison called Alcatraz. And there were 11 of them. Robbie Riser was supposed to go there, my former squadron commander. He was so ill an sick from the horrendous torture that they just left him to rot in the cell, or he would have been in there too. Jeremiah Denton who served for 6 years in the U.S. Senate, the Senator from Alabama, and Jim Stockdale was in there, selected by Ross Perot to be his temporary Vice-Presidential running mate. I do not know why anybody would suggest that James Bond Stockdale was anything but a permanent wing man in any operation. But these heroes were there in Alcatraz, SAM JOHNSON, I remember from Texas, among them.

I asked him today in a press conference as we kicked off this yet new task force, four of us, and DUNCAN HUNTER still on the House floor, myself, SAM JOHNSON, highly decorated as I said, not just a POW hero but a combat air leader, and DUKE CUNNINGHAM, the first ace in the Vietnam War, one of only two, and he made it a few months before the Air Force's Steve Ritchie. And DUKE CUNNINGHAM and SAM AND DUNCAN and I stood there, and I just brought up because he is such a humble man, and he reminds me of the kind of men that fought at the Alamo, and I pointed out and I said, Correct me if I am wrong, SAM, but wasn't one of the prisoners, Ron Stoltz, the young air Force captain in the film, "Hanoi Hilton," the character that is so hardheaded that they put in the single, solitary cell by the pig sty, that character was drawn after Ron Stoltz, and he was one of these fellows with the natural sense of humor that we wish was in every unit, who keeps the morale up, who never stops the practical jokes against the enemy captors, and finally his health started to go downhill. Then finally after 4 years of solitary confinement, most of these men in this self-name camp, Alcatraz, away from the main prison, like the Plantation, or Hanoi Hilton, as the 10 were being put back after the San Te raid into the regular prison population, Ron Stoltz was left behind and eventually died. His remains have come back and I think he is buried at Arlington, and as he and the other prisoners were about to leave he knew that he was going to be held back, probably to his death. And he took the broom that he would sweep up the yard with occasionally, and he tapped out with their own tap code, he tapped out, "Tell my wife I love her. Say goodbye to everybody." And then the most common expression used, just three letters, "G" for God, "B" for bless, and the letter "U" for you, "God bless you," and he tapped that out at each cell door, the other 10 cells, and he was never seen again by his compatriots from Alcatraz.

There are other men that died under circumstances like Ron Stoltz whose remains we have not gotten back from Vietnam, and there are careful Gestapo, Nazi, KGB Communist records kept in Hanoi that they still hold back from us to solve the fate of all of these men, men like Earl Coble who was beaten so severely by these three Cubans sent to teach the Vietnamese how to torture. Airman Coble was beaten actually insensate, into a catatonic state, and was taken away and died somewhere alone, shriveled up in that prenatal position where you go into when you are all alone, and you think your country and your friends have forsaken you, and you are going in and out of delirium. His remains were returned at some point during this agonizing 20 years this coming January that they slowly, the Communist government in Hanoi have given us these remains, slowly to keep the family members on what SAM JOHNSON today called a roller coaster ride. It is a fairly good metaphor. If you picture a roller coaster with only that first ride, the one where your nerves are built up with the click, click, click, and then you take the biggest dive of all, and imagine a roller coaster with nothing but that first ride, 100 of them over the last decade and a half, up and down, the family members up and down, their stomach being wrenched up and down, on again, off again.

□ 2220

When Mr. Yeltsin came here and announced that there may yet be live Americans somewhere in that Gulag prison camp system, I saw one, and I do not know whether she was a wife or a mother, probably a wife, because all of us have matured into middle age who were young when the Vietnam war started in earnest in 1963, and she said, "What did I think when I heard this?" She said just one thing, and she burst into tears as she said, "Oh, no, not again." That means over the top and down the gut-wrenching drop in the roller coaster ride that our Government has done, I do not think, a complete job to relieve this suffering of the family members.

So let me go back to from Corregidor, a few weeks before Corregidor fell on May 6, 16 Army Air Corps light bombers, B-25's named after the incomparable Billy Mitchell. They were loaded onto the deck of the *Hornet* which was to serve successfully in the Battle of Midway just 2 months later, less than 2 months later, and the *Hornet* sailed with its sister carrier the *Enterprise* out into the rough winter waters of the North Pacific and launched the 16 B-25's with precisely 5 men on each airplane, 80 heroes, led by a young lieutenant colonel who was nationally famous for civilian flying as well as military flying, the first man to fly on instruments in weather, first man to do an outside loop. I have still yet to do one of those.

An incredible man, just alive now at 95 years of age, still spry, retired in Carmel, CA, and just a true living legend. For all I know, he is listening tonight. I hope so. He does follow the Congress and has given money humbling a lot of us, some of us who have run for office.

Jimmy Doolittle was No. 1 airplane off.

Two months ago on the reenactment of these B-25's leaving a carrier on the U.S.S. *Ranger* out of San Diego, I got to meet the pilot of the new No. 2 airplane, and I cannot believe how young and vigorous this gentleman looks, Travis Hoover. Travis Hoover took off in the No. 2 airplane. The No. 7 went off, and I met the navigator; the Ruptured Duck, piloted by Ted Lawson, who was portrayed poignantly by Van Johnson in the movie that made Van Johnson a star, "Thirty Seconds Over Tokyo." Somebody hit the flap switch, and their flaps were up, and they are supposed to be down to give them lift, and they were the plane that we see on the blurred newsreel films to this day that dipped off the end of the carrier that everybody thought was going into the dark North Pacific Ocean, and it climbed out, and that was No. 7, the Ruptured Duck.

Then there were two other planes that took off that afternoon. It took 2 hours to get them all airborne, with kind of romantic World War II names. There was the "Bat out of Hell." They were the last airplane off, No. 16. And there was the "Green Hornet."

These two crews were the unluckiest out of all 16 crews in the 80 men that hit about eight targets in Imperial Japan and even bombed central Tokyo near the Emperor Hirohito's palace, and to put the young Emperor in jeopardy just disgraced the whole military and changed all the war plans of that country, and made them decide that they would have to provoke the United States fleet within a few weeks and attack us at Midway, so the Doolittle raid was really the beginning of the Miracle at Midway.

Back to these two crews, to tie it into my prisoner-of-war theme tonight. I read from an article from one of these magazines, the style of historical journals that have been published for the last 10 years in America, all copying the great American Heritage hardcover that has been around all of my adult life. This one is American History, beautifully written articles.

Here is the one, and the cover story is from the March-April issue of the Doolittle raid. The story is called "Against All Odds."

I pick it up at the point of the "Bat out of Hell." Fortune turned its back on the crew of plane No. 16, "Bat out of Hell." After flying for over 13 hours, approaching the coast of China now, 200 miles into China, pilot William Farrow ordered his men to jump, put the plane on autopilot, and all came down in Japanese-held territory.

By the morning, the five flyers, Farrow, his copilot Robert Hite, navigator George Barr, bombardier Jacob DeShazer, and engineer-gunner, and each plane there was only one enlisted man, the engineer for the aircraft, the crew chief, and he also functioned usually as the tail gunner, Sgt. Harold Spatz. They were all prisoners.

Four of the B-25's, out of the 16, made forced landings in the water or attempting to land on the beach like the "Ruptured Duck" along the China coast. For example, Travis Hoover, who I met on the deck of the *Ranger* this last April, his bomber ran out of fuel near Japanese-held territory. His flight engineer-gunner, Douglas Radney, suggested over the intercom that, "We ought to stick together." So instead of ordering his crew to bail out, Travis Hoover belly-landed the B-25 on a hillside rice paddy. The crew members emerged unhurt, and after Hoover set fire to the bomber to destroy anything of use to the Japanese, they scrambled toward the west up into the hills.

Now comes the other unlucky plane, the "Green Hornet," piloted by Dean Hallmark. It sputtered. Its two engines failed 4 minutes short of the Chinese coast. Lieutenant Hallmark brought the plane down and ditched in the stormy sea. He did not want his men bailing out at night into the dark waters.

The impact tore off one wing, and the plane cartwheeled. Hallmark smashed completely through the windshield. After 4 hours in high waves, Hallmark, his copilot, Robert Meader, and navigator, Chase Nielsen, made it to the shore, cut, bleeding, and utterly exhausted. Two of their men had died, killed in action, bombardier, William Dieter, killed after action, and flight engineer-gunner, Donald FitzMorris. They had been seriously injured in the crash, lost their strength and drowned. Their bodies later washed ashore.

Local Chinese fishermen tried to hide the survivors. Three days later the Japanese soldiers captured all three of the living men, and their ordeal was just beginning. These were the only eight that the Japanese were to capture, the whole crew of the "Bat out of Hell" and the pilot, navigator, and the bombardier, not the bombardier, the copilot of the "Green Hornet."

Now, here is something that I had not known, and I thought I knew the full story of the Doolittle raid. The Japanese killed maybe as many as 10,000 Chinese in retribution for this raid, because Chinese had helped these men, as is shown in that classic film "Thirty Seconds over Tokyo." They leveled whole villages.

They would wrap fathers in blankets soaked in kerosene and make the wife set fire to the father of the family, making the children and the wife watch.

One hundred thousand Japanese troops descended on this area, shot, bayoneted, raped, drowned, and beheaded Chinese civilians and soldiers in numbers estimated in the tens of thousands. It was their way of warning the Chinese against helping American flyers in the future.

Now, here is what happened in the epilogue to the Tokyo raid. It was bitter. The Japanese held these eight men, and they would make them pay man by man. They moved the survivors of the "Green Hornet" and the "Bat out of Hell" to Tokyo; there, handcuffed and legcuffed, the flyers were placed in the hands of the Kempei Tai, the Japanese Army's military police who knew how to make a man wonder whether his life was worth living.

The interrogators beat the prisoners. They shouted the same questions at them over and over, "Where did you come from? Are you army soldiers? Why were you in China?" All this time they knew that they were Doolittle Raiders.

One of them, a survivor who is still alive today, navigator Chase Nielsen, said, "All I would tell them was, 'Lieutenant Chase J. Nielsen, 0419938.' They would smash me in the face again." He turns out to be the only survivor of the "Green Hornet."

The Japanese interrogators stretched Hallmark on a rack. They put bamboo poles behind copilot Hite's knees, and they forced him to squat, and they would jump up and down on his thighs in front. They suspended Nielsen by handcuffs from a peg on the wall, so that his toes were just off the floor. They bound wet towels over the mouths and noses of the eight flyers. These are prisoners of war, unknown to us in America at this point.

□ 2230

They nearly suffocated. They placed pencils between their fingers and crushed their fingers together. The soldiers stretched the men out on the floor, forced them to swallow water until they drowned and then they would jump on their stomachs, as many as five guards worked over each prisoner at a time.

The torture continued for more than 3 weeks. Resisting, the fliers told their interrogators that their planes had come from the Pacific Island, from China, from the Aleutians.

I was blindfolded, recalled DeShazer. I think he is still with us. They hit me. They asked me, how do you pronounce the letters *Hornet*? Who was Doolittle? How long is the deck of an aircraft carrier? And they beat me again.

Then one day the soldiers brought in the maps and charts obtained from the wreckage of the B-25. They had tortured the men in order to corroborate what they had known all along, that the B-25's had taken off from the U.S.S. *Hornet*.

Then they lived in miserable solitary confinement. Then some of them were put together and now it is August 28. The Americans are taken into a small courtroom where they underwent a mock trial. The 50th anniversary of this is coming up this August. A mock trial before Japanese officers. Pilot Hallmark lay on a stretcher. Barr was too weak to stand. The trial lasted 20 minutes. The judge read the verdict. The prisoners asked what their sentences were. The interpreter would not tell them. Unknown to the fliers, all had been condemned to death.

On October 14, Lieutenant Hallmark, Lieutenant Farrow and Sergeant Spatz were taken into a room one by one and they were told they would be executed the next day. The officers said they could write letters to their families.

What they did was execute the pilot of each airplane, and out of the eight, everyone was an officer except for Harold Spatz, the only enlisted man—why they did this, no one knows, but they executed the two officers and the one single enlisted man they had.

Twenty-three-year-old pilot Bill Farrow wrote in part to his mother in Darlington, SC:

> Mom, just remember that God will make everything right and that I will see you again in the hereafter.

To his father and mother in Robert Lee, TX, Dean Hallmark said:

> Try to stand up under this and pray. I don't know how to end this letter except by sending you all of my love.

Twenty-one-year-old Harold Spatz, Sergeant Spatz, wrote to his father in Lebo, KS. When I showed this to DUNCAN HUNTER here, this was the point where he looked up at me and said, "The middle class of our country is amazing."

That does not mean there were not some heroic young men born into privilege who understood the Latin expression "Noblesse Oblige" and that went to privileged schools. Some went to West Point and Annapolis and also went into battle leading some of these incredible middle-class kids that fight most of our wars and fill most of the combat slots.

Harold Spatz wrote:

> Dad, I want you to know I died fighting like a soldier. My clothes are all I have of any value. I give them to you, and Dad, I want you to know I love you. May God bless you.

The letters were not sent. After the war they were found in Japanese military files. The prison officials had just never sent them.

God is merciful that the parents did know their sons' last words.

On October 15, 1942, a black limousine entered the First Cemetery, that is its name, the First Cemetery grounds outside of Shanghai. Lieutenant Farrow, Lieutenant Hallmark, and Sergeant Spatz—if I were on a television show I would ask the camera to zoom in on this. Here is a picture of Sergeant Spatz after months of torture. His eyes are just too big black circles. He is still wearing his original uniform that he put on clean on the aircraft carrier that April morning the day before the raid. He is wearing his now very popular A-2 leather flight jacket. Amazing.

Here is a shot of the whole crew of the *Bat Out of Hell*. Sergeant Spatz does not look too bad here. Next to him is his pilot, two of those five to be executed.

October 15, they are taken into this cemetery. Prison guards marched the men to three small wooden crosses situated 20 feet apart. These were not Christian crosses to mark graves, although the men probably thought that. They were to be a rack to tie them to. The three Americans were made to kneel with their backs against the crosses. The guards removed their handcuffs, tied the prisoners' wrists backward to the crosspieces. They wrapped the upper portions of the men's faces with a white cloth, marking black x's just above their noses. A six-man firing squad took positions 20 feet in front of the Americans. At the count, they pulled the triggers. There was no need to fire a second time. Only two riflemen per prisoner, not very merciful.

The next day the other five Americans were led into a courtroom. The presiding officer read a long statement that they had been found guilty of bombing schools, hospitals. They tortured them until they got confessions of machine gunning civilians; but the Emperor had commuted their death sentences to life in prison.

Now, what happened to the remaining five prisoners? This was only known because four survived.

The prisoners drifted many nights into dreamlike states. They invented mind games, just like our prisoners in Hanoi.

Nielsen built a house in his mind brick by brick. This is what many of the prisoners did in the Hanoi prison system.

DeShazer wrote poems on an imaginary blackboard, racked by dysentery.

The copilot of Bat Out of Hell grew weaker. Then he contracted beri-beri. Excuse me. I want to get these actual details correct.

Meder is the copilot of the Green Hornet plane.

He grows weaker and weaker, gets beri-beri.

In a rare exercise period, Meder asked his navigator, Chase Nielsen, to pray for him.

On December 1, 1943, four of the five prisoners heard hammering. They were building a coffin. The next day at the same time they were escorted into Meder's cell. His body lay in a wooden coffin and a Bible the captors had mercifully given the men to trade with one another was on its lid.

Amid the encircling gloom of their cells, the men tried to find inner light.

Hite asked the chief guard for a Bible. Each of us, he recalls, read through the King James version for Lt. Bob Meder. It was passed from one cell to another from then on and it kept our spirits alive.

The thing that is sad about this is that the other four prisoners who died, we might not ever have known these stories. How many stories like this unfolded in the Gulag camps of the Soviet Union with prisoners from the Korean war?

Here is a list that I got from Senator BOB SMITH yesterday. This is a list that was given to the Senate Select Committee on Prisoners and held secret all these months while we ran it through every possible check. It was a list of 536 names which were described by the Russians as United States prisoners from the Korean war who were interrogated by the Soviets, some of whom were then sent to the not-too-tender mercies of the Chinese prison system, many of them never to be heard of again.

The reason these names were not released in February is that Senator KERRY, Democrat of Massachusetts, cochairman with BOB SMITH, the vice chairman, BOB SMITH of New Hampshire, they ran it through several steps.

One, they ran it against the American Battle Monuments Commission which has listed from the Korean war 8,182 missing men.

Then step 2. They gave it to the Archives of the United States and ran it against all the names of prisoners and missing from the Korean war in our U.S. Archives.

Then they compared the list from step one and two, and then step three they went to the Defense Department and they checked it against all the MIA, KIA, remains not recovered, captured, died of wounds, or injuries while in captivity, remains not recovered. A lot of that is by assumption.

According to the list from Russia, all these individuals actually survived their incidents and survived in captivity to be interrogated. Some of them were returned from captivity. That is step four that is going on as I speak here where we are going to try to find American POW's from the Korean war who got home, who are alive now, retiring or working throughout our country to say, do you recall being interrogated by the Russians? Were you flown for hours? Did you go to a Russian location? Did you go to Vladivostok, or somewhere beyond Manchuria on the Russia border?

The names that were survived every list are fascinating. Sgt. James H. Duncan, Army 1st Lt. Crenshaw H. Holt, Army Priv. Ralph E. King, U.S. Air Force S. Sgt. Clifford H. Mast, Mitchell C. Thomas, another Army Second Lieutenant. These names survived every check and cross-check and we are trying to find out from the Defense Department now what they think happened to these men. Just take Sergeant Duncan. He may have successfully bailed out and then been captured. His wife and children resided in Miami, FL, as of 1961. That is 31 years ago.

□ 2240

The 5-year-old child would now be 36. If you are watching the proceedings of the House floor tonight, we would like to hear from you.

Here again to emphasize this most ghastly of all military fates, to die as a prisoner like my closest friend in the Air Force, Dave Herlocker. In fact, he is dead. He was a prisoner in Laos for 5 years. Here is the date he went down on my bracelet, May 18, 1965, first F-105 Thunderchief pilot to get hit in Laos or North Vietnam. A known prisoner into 1970. What happened to Dave? What happened to the recon pilot, father of 5 children, Charlie Shelton? Charlie was shot down just 20 days before Dave in an unarmed reconnaissance aircraft. Charlie Shelton was kept in a cave with Dave at several points, and reportedly Charlie escaped twice and was shot both times, survived those wounds. Charlie's wife, a dear friend of mine and Marianne's, worked this issue for 25 years and then shot herself a year ago, October 4. She gave up the ghost, tried to rejoin Charlie, I guess.

What happened to Charlie Shelton? He is still carried as a colonel, a POW. The one POW who is on the books.

She got a full colonel's pay every month. So obviously she was not needing for money. She was a lost loyal wife of a quarter-century, trying to find the guy she had dedicated her life to.

Now his colonel's pay goes back, the children do not get that, but the children have not given up hope. One of them is a Catholic Franciscan priest, who was a tiny little boy when his dad went down.

Here is what I learned reading, again, American History magazine. This time it is the July/August issue. It is an incredible story at Midway. I knew about the story about Ens. George Gay, the sole survivor of Commander Walgren's torpedo squadron No. 8 off the *Hornet*, that same *Hornet*. These same men who watched in awe as the B-25's took off to attack Tokyo. The entire torpedo squadron was on the deck along with the Dauntless scout bomber pilots and the F-4 Wildcats. They did not know that they themselves had less than a few weeks to live because the entire squadron except for George Gay, Ensign Gay, was wiped out. Gay was the only man who made it through the Zero fighter cover for the four Japanese carriers, the only man who made it through the flack batteries on the sides of the carriers, he actually overflew the *Ekagi*, I think, and got his torpedo off. But our weapons were not the best in those days. Our torpedoes were failing. All over the Pacific our torpedoes would be shot off by our submarines, get direct hits and not explode. So his torpedo did not get a hit. Ensign Gay stayed in the middle of the fire this whole battle. He described the burning Japanese carriers as a living hell, blow torches, flaming blow torches. When he was taken back to Midway to the hospital, Admiral Nimitz flew up from Hawaii, himself, to visit Gay. Gay kept telling Admiral Nimitz he was so shocked as this then-4-star admiral, eventually 5-star admiral, would come to visit him in the hospital.

He said, "I kept telling him, 'Admiral, you can forget about those three carriers. I saw them sink with my own eyes.'" He did not realize that the *Hiryu* was also sunk a few days later, the afternoon of June 4, 1942. Here are his exact words as the carriers nearest to him blazed red hot with flames and burned like a blow torch.

Well, I knew that George Gay story. That was in comic books and newspapers. He went on a war bond tour and went back into combat missions, as did George Bush, who went back after his second bailout and ditching and flew 10 more combat missions, to come up to 58. These were remarkable men who would keep going back into combat. I knew all about that story, but I did not know there was another sole survivor that we know of from the *Yorktown*'s torpedo planes. They lost 10 of 12, and the torpedo squadron No. 8 from the *Hornet* lost 15 of the 15. The VT-3 from the *Yorktown* lost 10 of 12. One of them that went in, a young pilot, Ens. Wesley Osmus, his back seater was killed by a Japanese Zero, his radioman/gunner, Benjamin Dotson, Jr., of North Carolina, simple family from the heartland of America. Ensign Osmus was from Chicago. He had been assigned to torpedo squadron 3 just before the ship sortied out from Pearl Harbor on May 30. He ends up trying to get away from the carrier action, he goes into the water. He is swimming around in the ocean and a historic Japanese ship, a destroyer, the *Arashi*, the *Arashi* was the destroyer that one of the great heroes of the Battle of Midway, one of the Dauntless dive bomber squadron pilots, Wade McCloskey, picked up by the *Arashi* within minutes of its plucking Osmus out of the ocean. He picks up the *Arashi*, which then full speed ahead sails to the north to try to rejoin the Japanese fleet. And it is by following the *Arashi* from the scene of the failed, tragically poignant failed torpedo bomber 3 squadron was decimated. Thirty-five airplanes shot down out of the 41 from the *Yorktown*, *Enterprise*, and *Hornet*. He follows the *Arashi* with Ensign Osmus on board, and it leads him right to the carriers. Then our dive bomber pilots begin to go in and destroy the four major carriers that had attacked Pearl Harbor. The other two that had attacked Pearl Harbor, the smaller ones, were up in the Aleutians and we got them later that same year. But these were the four major carriers, the *Akagi*, the *Kaga*, the *Soryu*, and then the *Hiryu* later that evening after its planes had crippled and mortally wounded the Yorktown, which went down 3 days later, on June 7.

So here is Osmus on board the *Arashi*. What happens to him? He is a prisoner in the midst of a pitched battle. Ensign Osmus was obviously under great duress. As the *Arashi* closed with the main force where the three carriers were now engulfed in flames from the torpedo bomber attacks, the flier may have concluded that the Japanese were no longer in a position to retaliate against the U.S. fleet. The magazine assumes that he decided to cooperate because in the Japanese records after the war, here was Ensign Osmus giving away information. I have to assume that he was tortured.

After several hours' confinement in a cabin aboard the *Arashi*, the young pilot was taken in the early evening to the stern of the ship where a senior petty officer named Kohachi Kondo, tries to execute him with a fire ax. Badly wounded, in mortal pain, clinging to the ship's railing, probably with Kondo standing there watching him suffer, as the blood drains out of his body and he loses his strength, he slips from the railing and falls into the ocean, which sealed his fate, probably, except for some men who drowned at sea, was the last American to die in the Battle of Midway.

We lost some on the explosions on the *Yorktown* over the next 2 days, the men trying to get it back underway.

But let us say the last aircrew certainly to die except for two others that meet an even more horrendous fate. Although the high-flying dive bombers that followed the torpedo planes into action against the carriers did not encounter resistance from Zeros as they began their attacks, all the Japanese carrier firepower had been pulled down to the naval battle below. So it gave the Dauntless dive bombers an unimpeded attack on the carriers. The *Enterprise*, were the first dive bombers to roll in, 33 of them, they began successful bombing runs. But they lost 18 aircraft. I had not known this until I read this article.

I did not know that the Dauntless lost so many. Eighteen out of 33.

One of the dive bombers lost in the action, after he hit his target, was Ens. Frank O'Flaherty. His crewman, Bruno Gaido, Bruno Peter Gaido, had been a squadron mechanic who distinguished himself during the early action in the Marshall Islands and had been promoted to aviation machinists mate 1st class for his courage. Young Lieutenant O'Flaherty—excuse me, I keep promoting these guys, and they are all ensigns in their first year of flying duty. Ensign O'Flaherty managed to place some distance between his plane and the Japanese fleet before being forced to land in the sea.

□ 2250

Although both he and Gaido sustained head wounds in the ditching, possibly when they hit the water they managed to inflate their life raft and climb into it. Unfortunately the two air crewmen had landed in the path of the retreating Japanese strike force, now heading home with their tail between their legs having lost one cruiser and all four of their carriers. It was late in the afternoon, so it is still June 4, and one of the Japanese cruisers, lookout, on the *Nagara*, spotted the men in their life raft. They should have done what George Gay did, let his life raft go, hide in the water under a piece of black oil cloth that he shaped into a V to look like wreckage, and he would peep through it at the burning carriers so he was lucky enough. Thirty hours in the water, to be picked up by a PBY, a patrol bomber, the next day, but these men were pretty observable in their yellow life rafts, so the Japanese heaved to drag them on board. The commander of the destroyer that picked him up, the *Makigumo*, *M-a-k-i-g-u-m-o*, their officers on board the ship were directed, and they found this in the Japanese files, to interrogate the prisoners to ascertain the enemy's situation and then dispose of them suitably, an ominous command. The ill-fated airmen were treated by a Japanese doctor, Itihiro Pakano, and then questioned by Lieutenant Katsumata. He died later in the war. Finance officer spoke English.

During this period the *Makigumo* futilely attempted, along with other ships in the force, to defend the fleet's remaining, carrier *Hiryu*. Now imagine this, three Japanese carriers had turned into floating blow torches exploding all of their planes caught on the deck with their full load, switching from torpedoes, to high explosives, to go back and make a second wave attack, which they never did, on the installations in Midway, and this young, dauntless pilot and his backseat gunner, they helped to blow up the three carriers, and now they are on board a destroyer, trying to defend with its guns the successful United States Navy attack by the *Yorktown* pilots on the last Japanese carrier, the *Hiryu*. The destroyer's executive officer, Lieutenant Takashi Moroshi, later joined in the interrogation, that is, torture, during which Katsumata menaced the Americans with his sheath knife so the Japanese, unlike the Germans, never bragged about torture, but, when they say they are menacing with a sheath knife, believe me, that is just the beginning. Although neither flyer had ever been to Midway Island, their captors succeeded in obtaining considerable intelligence from them regarding the strength and disposition of Marine, Naval and Air Forces on the strategic island, and this magazine, I am sorry to say, speculates that the exact motivation for the two U.S. aviators to yield this information to their captors remains unknown.

No, it does not. They were tortured. Young Naval officers, after just having blown up aircraft carriers, knowing that they won the battle, they are not going to cop out without undergoing serious torture, as in the case of Ensign Osmus. The American captors may have thought that providing apparently useless information, considering the destruction of the carriers that they witnessed, would save their lives. Sadly this did not happen. A *Makigumo* officer on the destroyer testified after the war that Commander Fujita, the destroyer's commanding officer, told his fellow officers, "I don't want to shoot them or kill them with a sword. We got them from the sea. Let's throw them back into it."

Four to six days had passed, so it may be now June 10. By this time the entire 48 United States; only had Continental 48 then, are celebrating this incredible Navy victory that from that moment turned the entire war in the Pacific, even though the landings at Guadalcanal were months away. That was August 7, the landing November 20 of the—43 was a year and a half away on the island of Tarawa, but this was the turning point, greatest naval battle in history.

They took these men, blindfolded them, bound them with ropes, took them up on the deck, tied weighted fuel cans preparatory to throwing them overboard, but contrary to Fujita's wishes, numerous crewmen witnessed, and I am not Japan-bashing here. This was a nation won by war lords, and their young enlisted men had enough honor that the officers did not want the enlisted men to see this dishonorable treatment of helpless prisoners of war, so they stopped and took them back to their torture cabin, and then, when it was dark, late that night, O'Faherty and Bruno Peter Gaido again were brought on deck, and this time their cold-blooded murder was carried out most likely by petty officers named Kanda, Nakasawa and Sato. I will give all those names to our recorders here.

All these three petty officers were killed during the war. The destroyer *Makigumo* itself sank in 1943 after hitting a mine off Guadalcanal. Yes, Katsumata and Takano also died during the war, but Lieutenant Namba, the *Makigumo*'s engineering officer, testified that Commander Fujita told him he had been reprimanded by his superiors for killing American prisoners of war. That is interesting since the Bataan Death March was going on at this time, or a few weeks before, and they killed thousands.

As in the case of Osmus' death, unfortunately nobody was ever brought to trial for this wanton murder of helpless prisoners. Later in the war the U.S. Navy named destroyers after Osmus and O'Flaherty and posthumously awarded both pilots the Navy Cross. Gaido posthumously received the Distinguished Flying Cross. At this point I have to apologize for the Navy that I love because that was a little bit of elitism, the Navy man, the enlisted man, does not get his ship named after him, and he ends up with the DFC and not the Navy Cross. If I had the power, I would have given a posthumous Navy Cross to Bruno Gaido and named a destroyer after him, the next one to come off the shipyards anywhere in this country.

Given the number of downed U.S. planes in the midst of the enemy fleet, other Americans may also have survived long enough to suffer the same fate as Ensigns Osmus and O'Flaherty, and Petty Officer/Machinist, Aviation Machinist, Gaido. If so, their final hours are lost to history.

When I read those words: "Their final hours are lost to history" it comes to my mind immediately Vietnam, cold war, Korea, and this POW issue that Mr. Yeltsin has brought so horribly, poignantly back into focus in our country which creates again this hellish, psychological torture roller coaster ride for all the prisoners' families. No, not again.

As my colleagues know, over here in Langley, VA, is the big magnificent headquarters for our Central Intelligence Agency. In the beautiful marble foyer, it is a big open hallway, and up on the wall are the names of all the CIA men that have given what Lincoln called the full measure of devotion in acquiring intelligence during this very rough cold war, and some of the names up there might be known to my colleagues.

Dick Welsh. He was outed by a Notre Dame graduate. His name mercifully escapes me. The slime is living in Hawaii or Cuba now, but this man who disgraced his Catholic upbringing dumped his faith and went over to the enemy side. He put in a magazine that the CIA station chief in Athens was Richard Welsh. He was blown up, murdered, within the month. That was a publication in this short-lived, traitorous magazine called—I do not know what it was called. That name is up there with a Gold Star, Richard Welsh, but there are some stars up there with no names, just a blank space, and a few months ago I said to our excellent Director of the Central Intelligence Agency, Bob Gates, I said, "Please, Bob, put the men's names up there." I mean every time I have asked over my 15 years of service here they say to me, "Well, we have got ongoing operations in those countries."

I say, "For example, you mean these men were killed in Hungary? We still have operations in Hungary, so 40 years later a compromise to those operations?"

Well, Hungary is a free country now. So with all the East European countries. Maybe if it was a U-2 pilot that went down in China, that name cannot be released.

Director Gates said to me, "OK, Congressman. I'm going to see if we can't start to release these names."

Do my colleagues know that these men all have posthumous, highest decorations, from the Central Intelligence Agency, and there are wives who may be gone to heaven by now or are in their fifties, sixties, seventies. Their moms and dads, if they are alive, are maybe in their seventies, eighties, nineties. The family members, the children now in their early thirties, forties, fifties, do not know the heroic circumstances of the deaths of these great CIA agents that helped to win the cold war.

That is what we mean when we say the cold war, these and the reconnaissance pilots, other people scarfed up around the fringe of the evil empire; did they die alone like these men? Are we going to find KGB records where we can know the final agonizing hours of these men who gave the full measure of devotion and died alone in some stinking gulag cell or maybe in Lubijank Prison itself?

□ 2300

That is why the four of us in this Chamber and the other Commission members like JOHN MILLER, who spoke so beautifully earlier about the process going awry here, and BOB SMITH, and Senator KERREY over in the other body, that is why we have to see this thing through to its proper conclusion, even, Mr. Speaker, if it means bringing home small boxes of heroes' bones from unmarked graves, identifying them by dental charts from 40 or 50 years ago, and giving these men a hero's internment at Arlington or their hometown cemeteries.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RIDGE (at the request of Mr. MICHEL), for June 23, on account of personal reasons.

Mr. HYDE (at the request of Mr. MICHEL), from 5:30 p.m. today, on account of family medical reasons.

Mr. MCNULTY (at the request of Mr. GEPHARDT), for June 23 and today, on account of important family matters.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 60 minutes each day, on June 29 and 30, and July 1.

Mr. WALKER, for 60 minutes each day, on today and June 25.

Mr. RIGGS, for 60 minutes, on June 25.

Mr. DOOLITTLE, for 60 minutes, today.

Mr. COLEMAN of Missouri, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. MCDADE, for 60 minutes, on August 3.

Mr. BEREUTER, for 5 minutes, today.

Mr. FRANKS of Connecticut, for 5 minutes, today.

Mr. KYL, for 5 minutes, today.

Mr. BALLENGER, for 5 minutes, today.

Mr. SANTORUM, for 60 minutes, today.

Mr. NUSSLE, for 60 minutes, today.

Mr. HASTERT, for 60 minutes each day, on today and June 25, 26, 29, and 30, and July 1 and 2.

Mr. GOSS, for 60 minutes, on June 30.

Mr. WELDON, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, on June 29.

(The following Members (at the request of Mr. TAYLOR of Mississippi) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. MURTHA, for 60 minutes, on August 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. LENT.
Mr. LIGHTFOOT.
Mr. KYL.
Mr. DUNCAN.
Mr. MORRISON.
Mr. WELDON.
Mr. ZIMMER in two instances.
Mr. HANCOCK.
Mr. GILMAN.
Mr. COX of California.

(The following Members (at the request of Mr. TAYLOR of Mississippi) and to include extraneous matter:)

Mr. LIPINSKI.
Mr. TRAFICANT in two instances.
Mr. TORRICELLI.
Mr. ORTIZ.
Mr. ACKERMAN.
Mr. WISE.
Mr. LANTOS.
Mr. KANJORSKI.
Mr. WOLPE.
Mr. WILLIAMS.
Mr. LEVINE of California.
Mr. RICHARDSON.
Mr. SABO.
Mr. WEISS.
Mr. SCHEUER.
Mr. LAUGHLIN.
Mr. VENTO.
Mr. HAMILTON.
Mr. MOODY.
Mr. REED.
Mr. TOWNS.
Mr. HOCHBRUECKNER in two instances.
Mr. SERRANO.
Mr. DOWNEY.
Mr. SLATTERY.
Mr. DYMALLY.
Mr. ASPIN.
Mr. GLICKMAN.

SENATE JOINT RESOLUTIONS AND CONCURRENT RESOLUTION REFERRED

Joint resolutions and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 221. Joint resolution providing for the appointment of Hanna Holborn Gray as a citizen regent of the Smithsonian Institution; to the Committee on House Administration.

S.J. Res. 259. Joint resolution providing for the appointment of Barber B. Conable, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S.J. Res. 275. Joint resolution providing for the appointment of Wesley Samuel Williams, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S. Con. Res. 112. Concurrent resolution to authorize printing of "Thomas Jefferson's Manual of Parliamentary Practice", as prepared by the Office of the Secretary of the Senate; to the Committee on House Administration.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ROSE. from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal building", and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building";

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities; and

H.J. Res. 509. Joint resolution to entend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 1 minute p.m.) the House adjourned until tomorrow, Thursday, June 25, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3808. A letter from the Secretary of Education, transmitting notice of final funding priority—Technology, Educational Media, and Materials for Individuals with Disabilities Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3809. A letter from the Secretary of Health and Human Services, transmitting the Annual Sudden Infant Death Syndrome [SIDS] Research Program Report; to the Committee on Energy and Commerce.

3810. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Richard H. Solomon, of Maryland, to be Ambassador to the Republic of the Philippines, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3811. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3812. A letter from the Secretary of the Treasury, transmitting the Secretary's semiannual report, covering the period October 1, 1991 through March 31, 1992, pursuant to Public Law 95–452, section 5(b), (102 Stat. 2526); to the Committee on Government Operations.

3813. A letter from the Secretary of Defense, transmitting the Department's semiannual report to Congress on audit, inspection, and investigative activities for the 6-month period ending March 31, 1992, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3814. A letter from the Secretary of Education, transmitting the sixth semiannual report to Congress on audit follow-up, covering the period from October 1, 1991 through March 31, 1992, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3815. A letter from the Assistant Vice President (Human Resources), Western Farm Credit Bank, transmitting the fiscal year 1991 annual pension plan report of the Western Farm Credit Bank, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3816. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3817. A letter from the Secretary, Department of Transportation, transmitting the annual report to Congress on transportation security, pursuant to Public Law 101–604, section 102(a) (104 Stat. 3068); to the Committee on Public Works and Transportation.

3818. A letter from the Secretary of Health and Human Services, transmitting the Secretary's report on the operation of utilization and quality control peer review organizations for fiscal year 1989, pursuant to 42 U.S.C. 1320c–10; jointly, to the Committees on Energy and Commerce and Ways and Means.

3819. A letter from the Secretary of the Treasury, Director of Office of Management and Budget, transmitting a draft of proposed legislation entitled, "Federal Credit and Debt Management Act of 1992"; jointly, to the Committees on the Judiciary and Ways and Means.

3820. A letter from the National Oceanic and Atmospheric Administration, transmitting a copy of the report "Review of FY 1993 Agency Requests for Appropriations to Support Marine Pollution Research, Development, and Monitoring Programs," pursuant to 33 U.S.C. 1703(a); jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

3821. A letter from the Secretary of Transportation, transmitting the Secretary's determination that Ezeiza International Airport [EZE], Buenos Aires, Argentina, was not maintaining and administering effective security measures; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 4438. A bill to designate the Federal building located at 501 West Ocean Boulevard in Long Beach, CA, as the "Glenn M. Anderson Federal Building" (Rept. 102–611). Referred to the House Calendar.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5222. A bill to designate the Federal building and U.S. courthouse located at 204 South Main Street in South Bend, IN, as the "Robert A. Grant Federal Building and United States Courthouse" (Rept. 102–612). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 500. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 102–613). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 501. Resolution providing for consideration of the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes (Rept. 102–614). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COX of California (for himself and Mr. HUNTER):

H.R. 5473. A bill to authorize a land exchange involving the Cleveland National Forest, CA, and a corresponding boundary adjustment for the forest, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EDWARDS of Oklahoma:

H.R. 5474. A bill to amend the Trade Act of 1974 to require the U.S. Trade Representative to restrict the importation into the United States of goods and services from nations that do not maintain open markets to U.S. goods and services, do not refrain from government subsidies or other intrusive trade practices with respect to goods and services exported to the United States from such nation, and do not extend reciprocal treatment to goods and services exported from the United States to such nation; to the Committee on Ways and Means.

By Mr. HUGHES (for himself, Mr. MOORHEAD, Mrs. SCHROEDER, Mr. FRANK of Massachusetts, Mr. BOUCHER, Mr. COBLE, Mr. FISH, and Mr. SENSENBRENNER):

H.R. 5475. A bill providing policies with respect to approval of bills providing for patent term extensions, and to extend certain patents; to the Committee on the Judiciary.

By Mr. LAFALCE (for himself, Mr. NOWAK, Mr. PAXON, Mr. HOUGHTON, Mr. HORTON, and Mr. MCHUGH):

H.R. 5476. A bill to provide for the minting of coins to commemorate the World University Games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MORAN:

H.R. 5477. A bill to amend title 13, United States Code, to require that the population characteristics reflected in interim data collected by the Secretary of Commerce between decennial censuses include data relating to urban, rural, below-poverty, and farming populations; to the Committee on Post Office and Civil Service.

By Mr. MORAN (for himself, Mr. SHAW, Mr. THOMAS of Georgia, Mr. MCCURDY, Mr. HEFNER, Mr. BILIRAKIS, Mr. LAUGHLIN, Mrs. LLOYD, Mr. MONTGOMERY, Mr. GOSS, Mr. RAY, Mr. SPENCE, Mr. SISISKY, Mr. HAYES of Louisiana, Mr. BROWDER, Mr. PETERSON of Florida, Mr. FROST, Mr. CRAMER, Mr. HARRIS, Mr. SPRATT, Mr. BACCHUS, Mrs. PATTERSON, Mr. ORTIZ, Mr. JENKINS, Mr. COLORADO, and Mr. GEREN of Texas):

H.R. 5478. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Post Office and Civil Service.

By Mr. MORAN:

H.R. 5479. A bill to designate the facility of the U.S. Postal Service located at 1100 Wythe Street in Alexander, VA, as the "Helen Day United States Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. MORRISON:

H.R. 5480. A bill to authorize the Secretary of Agriculture to convey certain real property in the Wenatchee National Forest, Washington, to the Public Utility District No. 1 of Chelan County, WA, in exchange for other real property; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR:

H.R. 5481. A bill to amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties; to the Committee on Public Works and Transportation.

By Mr. OWENS of New York:

H.R. 5482. A bill to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes; to the Committee on Education and Labor.

H.R. 5483. A bill to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; to the Committee on Education and Labor.

By Mr. SLATTERY:

H.R. 5484. A bill to provide for the establishment of the Civil Rights in Education: Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 5485. A bill to amend the Internal Revenue Code of 1986 to disallow any deduction for amounts paid or incurred for certain prescription-related advertisements, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMAS of Georgia (for himself, Mr. JONES of North Carolina, Mr. SCHULZE, and Mr. LEHMAN of California):

H.R. 5486. A bill to clarify the law enforcement authority of law enforcement officers of the U.S. Fish and Wildlife Service; to the Committee on Merchant Marine and Fisheries.

By Mr. HAYES of Louisiana:

H.J. Res. 514. Joint resolution to encourage a national policy enhancing commercial financial liquidity for the promotion of a speedy and robust economic recovery; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HEFLEY:

H. Res. 502. Resolution to amend the rules of the House of Representatives to provide for reform of the House of Representatives, and for other purposes; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 371: Mr. Gilchrest.

H.R. 1077: Mr. Taylor of North Carolina.

H.R. 1134: Mr. Bustamante.

H.R. 1200: Mr. Hamilton, Mr. Bereuter, and Mr. Wilson.

H.R. 1246: Mr. Vento.

H.R. 1321: Mr. Frost, Ms. Norton, and Mr. Perkins.

H.R. 1623: Mr. Lehman of California.

H.R. 1753: Mr. Visclosky.

H.R. 1900: Mr. Coble and Mr. Towns.

H.R. 2164: Mr. Barnard and Mr. Hastert.

H.R. 2200: Mr. Gingrich.

H.R. 2223: Mr. Moody and Mr. McHugh.

H.R. 2580: Mr. Bonior, Mr. Oberstar, and Mr. Rangel.

H.R. 2862: Mr. Skeen, Mr. McCollum, Mr. Schiff, and Mr. Zeliff.

H.R. 3026: Mr. Studds.

H.R. 3221: Mr. Myers of Indiana, Mr. McCurdy, Mr. Jacobs, and Mr. Bustamante, Mr. Boehner, Mr. Johnston of Florida, Mr. Smith of Texas, Mr. McEwen, Mr. James, Mr. Jones of Georgia, Mr. Rohrabacher, and Mr. Luken.

H.R. 3441: Mr. Combest.

H.R. 3462: Mr. Peterson of Minnesota, Mr. Kildee, Mr. Weldon, Mr. Miller of California, Mr. Thomas of Georgia, and Mr. Lewis of Georgia.

H.R. 3626: Mr. Sabo.

H.R. 3627: Mr. Olver.

H.R. 3939: Mr. Torricelli and Mr. Campbell of Colorado.

H.R. 3967: Mr. Combest.

H.R. 4099: Mr. DeLay.

H.R. 4109: Mr. Mollohan.

H.R. 4208: Mrs. Unsoeld.

H.R. 4214: Mr. Owens of New York, Mr. Lagomarsino, Mrs. Lowey of New York, Mr. Geren of Texas, and Mr. Williams.

H.R. 4229: Mr. Bustamante.

H.R. 4275: Mr. Downey and Mr. Crane.

H.R. 4305: Mr. Lagomarsino.

H.R. 4399: Mr. Mavroules.

H.R. 4418: Mr. Frost, Mr. McMillen of Maryland, Mr. Packard, and Mr. Horton.

H.R. 4427: Mr. Machtley.

H.R. 4493: Mr. Fish.

H.R. 4564: Mr. Fields.

H.R. 4700: Mr. Bustamante, Mr. Zeliff, and Mr. Feighan.

H.R. 4724: Mr. Aspin, Mr. Borski, Mr. Browder, Mr. Neal of North Carolina. Mr. Pickett, and Mr. Tallon.

H.R. 4754: Mr. Bustamante.

H.R. 4839: Mr. Peterson of Minnesota.

H.R. 4846: Ms. Pelosi, Mr. Lipinski, Mr. Bunning, Mr. Hayes of Illinois, Mr. Towns, and Mr. Weldon.

H.R. 4897: Mr. Riggs.

H.R. 5026: Mr. Perkins and Mr. Bereuter.

H.R. 5090: Mr. Oxley, Mr. Gallo, and Mr. Zeliff.

H.R. 5209: Mr. Lehman of California.

H.R. 5237: Mr. Hancock and Mr. Skelton.

H.R. 5258: Mr. Hobson, Mr. Kolbe, Mr. Lagomarsino, Mr. Machtley, Mr. Miller of Ohio, Mr. Upton, Mr. Weldon, Mr. Blackwell, Mr. Bilbray, Mr. Engel, Mr. Jefferson, Mr. Dorgan of North Dakota, Mr. Frost, Mrs. Kennelly, Mr. Lancaster, Mr. Peterson of Minnesota, and Mr. Reed.

H.R. 5294: Mr. Synar.

H.R. 5307: Mr. Ireland, Mr. Tallon, Mr. Frost, Mr. Lancaster, Mr. Johnston of Florida, and Mr. Ray.

H.R. 5316: Mr. Morrison.

H.R. 5320: Mr. Kolter.

H.R. 5323: Mr. Horton and Mr. Frost.

H.R. 5360: Mr. Jefferson.

H.R. 5378: Mr. Wheat.

H.R. 5385: Mr. Frank of Massachusetts, Mr. Kleczka, Mr. Lipinski, and Mr. Frost.

H.R. 5405: Mr. Peterson of Minnesota, Mr. Smith of Florida, Mr. Johnson of South Dakota, and Mr. Bilirakis.

H.R. 5421: Mr. Barrett and Mr. Ritter.

H.R. 5424: Mrs. Morella, Mr. Owens of Utah, Ms. Pelosi, Mr. Sikorski, Mr. Beilenson, Mr. Blackwell, Mr. Feighan, Mr. Scheuer, and Mrs. Unsoeld.

H.J. Res. 122: Mr. Rogers.

H.J. Res. 336: Mr. Bustamante.

H.J. Res. 399: Mr. Johnson of South Dakota and Mr. Bateman.

H.J. Res. 415: Mr. Nagle, Mr. Chapman, Mr. McDade, Mr. Ritter, Mr. Poshard, Mr. Taylor of Mississippi, and Mr. DeFazio.

H.J. Res. 440: Mr. Bustamante, Ms. DeLauro, Mr. Hayes of Illinois, Mr. Horton, Mr. LaFalce, Mr. Moakley, Mr. Neal of North Carolina, and Mr. Peterson of Minnesota.

H.J. Res. 450: Mr. Hayes of Illinois, Mr. Parker, Mr. Hunter, Mr. Clement, Ms. DeLauro, Mr. Erdreich, Mr. McCandless, Mr. Kanjorski, Mr. Bilirakis, and Mr. Kolter.

H.J. Res. 455: Mr. Slattery, Ms. Norton, Mr. Dellums, Mr. Mavroules, Mr. Orton, and Mr. Frost.

H.J. Res. 461: Mr. Traficant, Mr. Feighan, and Mr. Levine of California.

H.J. Res. 476: Mr. Johnson of South Dakota.

H.J. Res. 483: Mr. Frost, Mr. Guarini, and Mr. McCandless.

H.J. Res. 486: Mr. Kennedy, Mr. Matsui, Mr. Payne of New Jersey, Mr. Owens of Utah, Mr. Carr, Mr. Huckaby, Mr. de Lugo, Mrs. Byron, Mr. Hall of Ohio, Mrs. Collins of Illinois, Mr. Valentine, Mrs. Lowey of New York, Mr. DeFazio, Ms. DeLauro, Mr. Poshard, Mr. Moorhead, Mr. Alexander, Mr. Anderson, and Mr. Machtley.

H.J. Res. 489: Mr. Matsui, Mr. Staggers, Mr. Archer, Mr. Thomas of Georgia, Mr. Coleman of Texas, Mr. Pickle, Mr. Miller of Washington, Mrs. Unsoeld, Mr. McMillen of Maryland, Mr. Neal of Massachusetts, Mr. Volkmer, Mr. Kopetski, and Mr. Upton.

H.J. Res. 493: Mr. Spratt, Mr. Bustamante, Mrs. Meyers of Kansas, Mr. Torricelli, Mr. Gunderson, Mr. McNulty, Mr. Roe, and Mr. Neal of North Carolina.

H.J. Res. 508: Mr. Towns, Mrs. Meyers of Kansas, Mr. Lagomarsino, Mr. Swett, Mr. Foglietta, Mr. Lehman of Florida, Mr. Mfume, Ms. DeLauro, Ms. Molinari, and Mr. Hayes of Illinois.

H. Con. Res. 179: Mr. Vander Jagt.

H. Con. Res. 246: Mr. Lancaster, Mr. Tauzin, and Mr. Carr.

H. Con. Res. 307: Mr. Bustamante.

H. Con. Res. 335: Mr. McCollum.

H. Res. 297: Ms. DeLauro.

H. Res. 388: Mr. Engel, Mr. Green of New York, and Mr. Bustamante.

H. Res. 415: Mr. Murphy, Mr. McCollum, Mr. Borski, Mr. Ackerman, Mr. Weiss, Mr. McDade, and Mr. Regula.

H. Res. 417: Mr. Roe and Mr. Bustamante.

H. Res. 472: Mr. Zeliff, Mr. Allen, and Mr. Crane.

EXTENSIONS OF REMARKS

TURKEY'S IMPORTANT NEW ROLE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. MOODY. Mr. Speaker, as many of you know, I have undertaken over the past many months in a series of speeches and "Dear Colleague" letters to raise issues that I believe should be of interest to all who are following the unfolding events in and around the former Soviet Republics of Central Asia.

Today I would like to share with the House two recent items. The first is a letter to the Washington Post on June 23, 1992, from Ambassador Nuzhet Kandemir of the Republic of Turkey regarding Turkey's rising concerns over the hostilities between Armenia and Azerbaijan. Specifically, the Turkish Ambassador raises several valid criticisms of a recent Post story that ignored the military aggression by Armenian forces against Azerbaijan.

And second, in order to appreciate the context and to provide background for Turkey's broad interest in this matter, and in the newly emerging Turkic-speaking nations of Central Asia, I am also attaching an article from the Los Angeles Times of May 19, 1992, entitled "Turkey Emerges as West's Influential Bridge to East."

I urge Members to consider these two articles carefully. The United States has a strong political, trade and security interest in strengthening, and supporting democratic institutions and government structures in these emerging countries. Largely Muslim and predominantly Turkic-speaking peoples from Bulgaria to Kirghizistan and beyond will look to Turkey and the United States for inspiration, or—if we fail to respond—to the radical and antidemocratic doctrines of fundamentalist, theocratic regimes like Iran or politico-terrorist states like Libya and Syria.

[From the Washington Post, June 23, 1992]

ARMENIA'S "NAKED AGGRESSION"

It is interesting that the slant of the June 10 news story on the Azeri-Armenian conflict was decidedly pro-Armenian. Previous Post articles on the conflict were much more balanced, whereas this one was inaccurate to the point of misrepresentation.

For instance, the bunker that the Armenian militiamen in the story are occupying was not only dug by Azerbaijanis, it lies within the borders of Azerbaijan—on Mil Hill to be precise. Thus when the "housewife" militiaman says, "It is our land down there," she is reiterating the expansionist policies that brought Armenian forces into Azerbaijan and keep them there.

The place names that the author cites—Nakhichevan, Nagorno-Karabagh, Shusha and Khojaly—as having become battle cries, "with hundreds dead on both sides and tens of thousands of refugees," all lie within Azeri territory. I might add that Khojaly and Shusha were the scenes of indescribable atrocities inflicted on the Azeris by the Armenians. Pictures of this appeared in most major American media, including The Post.

The author never points this out. Nor does she bother to explain how the Armenian aggression into Nakhichevan and Azerbaijan contravenes every principle of international law and order. She does not mention the outcry in the Conference on Security and Cooperation in Europe, NATO and the European Community against it. Indeed, the United States, Germany and other world powers have repeatedly called upon the Armenian leadership to stop its naked aggression against a country unable, at this time, to defend itself.

Yet the article seems to condone Armenia's grabbing land by force from a neighbor undergoing a difficult political transformation, and portrays sympathetically the Armenian militia volunteers occupying Azerbaijan.

The article also includes, without noting their controversial nature, the allegations that the Armenians were the subject of genocide under the Ottoman Empire. I have written to The Post several times outlining the position of scholars specializing in Ottoman studies. These scholars contend that 2 million Turks and several hundred thousand Armenians fell victim to the Armenian-initiated civil war during World War I through famine, epidemics and intercommunal violence. For seven decades, the Armenians have chosen to portray that tragedy as unique to them. Now some are attempting to portray the Armenian Republic's lust for Azeri lands as somehow justifiable. It is not.

NUZHET KANDEMIR,
Ambassador,
Republic of Turkey.

WASHINGTON.

[From the Los Angeles Times, May 19, 1992]

TURKEY EMERGES AS WEST'S INFLUENTIAL BRIDGE TO EAST

(By William D. Montalbano)

ANKARA, TURKEY.—It is an adventuresome, historic spring for Turkey. The prime minister, the national airline, diplomats, businessmen, Big Bird and the Cookie Monster have all been dispatched on voyages of exploration to uncharted lands of Central Asia.

Turkey is shaking off decades of Cold War aloofness, emerging as a new regional power at a volatile and busy international crossroads.

It is testing new muscles in direct competition with Iran and China for friends and customers across a broad swath of awakening Central Asia.

There are questions about the dollars-and-cents benefits for Turkey. But for a still-poor nation sprung from the ruins of an empire, the new role swells national pride.

From the sidelines, the United States and Western Europe applaud the growing Turkish shadow, which also newly extends into the Balkans and the Middle East.

Medetkan Sherimkulov, agape at the glitter of a swirling hotel lobby here, is a man of these new Turkic times. He looks Chinese but turns out to be the affable chairman of the Supreme Soviet of the Republic of Kyrgyzstan, a poor, remote and newly independent shard of the former Soviet Union.

Kyrgyzstan has 4.4 million people, a 640-mile border with China, an official language and alphabet imposed for 70 years from Moscow, development needs uncounted—and a long-lost friend in the West with whom to share new dreams.

"The Turks are our brothers," Sherimkulov said. "We share the same blood, the same religion and the same language. This is the motherland. It can help us in all things."

Sherimkulov had come to the Turkish capital at the head of an official delegation looking for all-in-the-family economic help and to enroll bright Kyrgyz students on scholarships at Turkish universities. In independence, Kyrgyzstan and its neighbors want an alternative to dominance by Russia.

A pleased if somewhat bemused beneficiary of the collapse of the Soviet Empire, Turkey is embarked on a full-court press to extend its influence east and west to Turkic lands and communities so long cut off from Western influences.

For decades the eastern flank of NATO, Turkey suddenly offers the West the prospect of a relatively sturdy bridge eastward to little-known, volatile, unstable new nations hungry for change. But its spreading of the gospel of Western political and economic values to the East also improves Turkey's standing in the West; there this valued American ally is seeking membership in the European Community.

In five Islamic former Soviet republics extending in a long and lonely arc from the Caspian Sea to the Chinese border, there are Turkic majorities: Azerbaijan, Turkmenistan, Uzbekistan, Kazakhstan and Kyrgyzstan. There is also a 30-percent Turkic minority in Tajikistan, where the majority speaks a Persian-related language and the Turkish-Iranian struggle for influence is particularly marked.

Turkey, a republic sprung from the remains of the Ottoman Empire, spent decades studiously ignoring neighborhood spats. But it emerged as a major allied player in last year's Gulf War. Since the collapse of communism, it has bulked large in Bulgaria, where there is a strong Turkish minority, and farther west, where brother Muslims look for Turkish support from Albania and Bosnia-Herzegovina.

More than 1,000 Turkish businessmen have set up shop in Romania. Turkish construction teams are building roads, airports and hospitals from the Persian Gulf north into Russia. Some 3 million Turkish workers live in Western Europe, half of them in Germany.

Nationalists claim proudly that, counting the Central Asians, there are about 140 million Turks, including 15 million in Iran and 13 million in China. Almost 60 million of them are in the republics of Central Asia; double-locked in remote hinterlands and in sterile Soviet communism for seven decades, they are belatedly entering this century. They are in a hurry to get with the program—computers to stereos, jeans to jets.

Who better to lead the way than long-lost cousins who settled in what is now Turkey after migrations that began a millennium ago in those same Asian steppes that are now so anxious for development?

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Seen from Central Asian eyes so long forbidden to peer beyond Moscow, brawny Turkey is everything they are not—but might like to be.

It is the world's only democratic, secular Muslim state, a dynamic workshop for rapid modernization in the context of a booming freemarket economy.

"The star of history is shining for the Turkish people. We do not have pan-Turkic aspirations. But this region is the land of our forefathers. What is wrong in saying that?" observed Prime Minister Suleyman Demirel during a blueribbon tour of the former Soviet, Central Asian republics with government officials and Turkish businessmen.

As his tour ended recently, Demirel had promised $1 billion in food aid and export guarantees. At least 10,000 high school and college students from the republics will go to school in Turkey at government expense. Turkish schools, businesses, state corporations and the Foreign Ministry will train teachers, bankers, accountants and diplomats.

It will soon be easier, and cheaper, to get in and out of Central Asia from Istanbul than Moscow—if it isn't already. State-owned Turkish Airlines (THY) is busily establishing scheduled service to a suddenly alluring East that has been a blank spot on Turkish maps for centuries. Twice-weekly flights are scheduled to begin this month to Tashkent and Alma-Ata, the capitals of Uzbekistan and Kazakhstan; THY service will double to four flights a week to Baku, the capital of Azerbaijan.

A regional framework of governmental cooperation is also emerging. Demirel recently urged other Islamic countries to admit the new Turkic republics as members of an economic cooperative group. Last week, Demirel, Iranian President Hashemi Rafsanjani and Pakistani leaders attended a summit of Central Asian states in the Turkmen capital of Ashgabat (formerly Ashkabad) to discuss regional issues and approve construction of a new rail line along the route of the ancient Silk Road.

In June, Demirel will host the foundation of the Black Sea Economic Cooperation Region, which will include many of Turkey's disparate neighbors, including Greece, Russia, Armenia and Azerbaijan. In the fall, Demirel will preside at the first Turkic summit.

"My head is spinning . . . I am full of excitement," Demirel said as he returned from republics that seemed genuinely glad to see him. "This Turkish world has opened unimaginable opportunities. . . . The Soviet Union has been dissolved in one sense, but not in another. The empire has fallen. Nothing has replaced it. But what we saw there is a Turkish world, at least in people's intentions."

Perhaps the most powerful, certainly the most audacious, of Turkey's calling cards to the East is television. The new Ayrasya channel, beamed by satellite, is accessible to 96 percent of viewers in Central Asia with existing antennas. Transmissions that began this month will provide more than 50 hours a week of broadcast to each of the Central Asia republics, according to Sedat Orsel, deputy general director of Turkish National Television.

Programming—from Sesame Street news to Brazilian soap operas to sports and feature films—will all be in Turkish, a common tongue spoken with many variations in the republics.

In another two years, Orsel says, Turkish-owned satellites will not only transmit television signals but also provide direct links to the West for telecommunications, most of which is now routed through Moscow.

The U.S. government may sublease time on the current Turkish-controlled satellite circuits for its own television programming to Central Asia, according to the U.S. embassy here.

Some of the programs on the new Turkish network, which can also be seen throughout Western Europe, carry subtitles in the Latin-based alphabet that Turkey uses. That, simple as ABC, is part of the competition with Iran.

In Soviet times, the Turkic republics learned the Cyrillic alphabet to go with their imported Russian. Now, each of them must decide to remain with Russia's Cyrillic, or, more likely, agree on a new written alphabet. Roman or Arabic. With a flood of secondhand Turkish typewriters and new textbooks reinforcing the Ayrasya broadcasts. Azerbaijan and Turkmenistan have already decided to spell like the Turks. The rest are expected to follow suit, with the possible exception of Tajikistan.

"Seventy years is a long time. They don't know anything about the West. Television is an open window to our society and values. In two years, all Turks will understand one another." said Orsel, architect of the $10-million project to launch the satellite transmission.

In the 19th Century, agents of European powers and Russia vied for influence in Central Asia in what was known as The Great Game. Today, the key players are regional: the Iranians, who, like conservative Saudis, have mostly money and religious orthodoxy to offer the new Islamic republics; Islamic Pakistan; and the two Asian giants—China, and, of course, Russia.

Among the contestants, Turkey's blood ties, and its unique political and economic track record in the past decade, give it a leg up, at least in the Turkish view.

"These people have come out of totalitarianism, and after being cut off for decades, they want to open to the modern world. Unless they are disappointed in what they find, I don't think they would buy Iranian-type fundamentalism," said Seyfi Tashan, director of the Foreign Policy Institute at Hacettepe University here.

Indeed, the Central Asian republics, like Islamic lands in the Balkans, all say their goal is intergration with the international community as secular and democratic states—just like mother-brother Turkey.

"We will become a regional power, but a soft power," Tashan said. "It is not any question of becoming a fireman, but of helping to solve regional problems, and teaching our model to the rest of our neighborhood."

In the sudden enthusiasm, there are some cautions voices. Turkish big business is not as enamored of economic prospects in the East as some of the thousands of smaller firms seeking a piece of perhaps distant profits.

"Integration of the Turkic world is more psychological than real. The Turkic republics are not strong economically. They have nothing to sell us; their industry is backward and integrated with Russia," said Ertugrul Ozkok, editor of the mass circulation newspaper Hurriyet. "Maybe Turkey is the model not so much because it is Turkey, but because it is the way west."

For all of its public optimism, the Turkish government must also have private reservations about stability of the region. Demirel had to cancel a stop in Tajikistan because of unrest there. And not even the most ebullient of Central Asian politicians can be sure that either democracy or free market economics will take root.

In the view of the Western powers, that is all the more reason Turkey is to be encouraged in playing East. "Instability in that region requires a new and novel approach. Turkey is close to the Central Asian states of the former Soviet Union, and if Turkey is not the critical country in the region, then it's going to be Iran," French Foreign Minister Roland Dumas observed.

Dumas spoke during a meeting of European Community foreign ministers in Portugal earlier this month. The session's theme was closer ties with Turkey, France and Britain particularly support the emergence of Turkey as a regional power.

France's President Francois Mitterrand was a recent visitor to Ankara, followed soon thereafter by British Foreign Secretary Douglas Hurd, who said Britain will use its upcoming term as EC president to propose a special relationship with Turkey "comparable to that between the EC and the United States or Japan."

That is music to Turkish ears.

A country of 57 million whose per capita income is still less than $3,000 and whose international image still suffers a tarnished human rights reputation as an aftermath of its military rule in the early 1980s, Turkey desperately wants to be accepted as a full-fledged partner in Europe.

The Turkish government, and its supporters in Europe, are betting that a giant step east may also ultimately prove the decisive step west for a key country-in-the-middle.

REPRESENTATIVE LENT ANNOUNCES RETIREMENT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. LENT. Mr. Speaker, for the past 22 years, it has been my honor and privilege to serve the residents of Long Island as the Representative of the Fourth Congressional District of New York. During that time, I have had the opportunity to attain positions of leadership that allowed me to play an instrumental role in the crafting of our Nation's laws.

So much has changed since I, as a young attorney from New York, first arrived here in our Nation's Capital. Now a proud grandfather, I've watched my children grow and mature into fine men and women. I've served under five Presidents and countless other leaders whose service has earned them a place in history. The Berlin wall, that symbol of Communist oppression, has been torn down and the people of Eastern Europe and the former Soviet Union are struggling to come out from under the yoke of oppression into the sunshine of freedom.

But despite the differences, many of the problems we faced then still plague us today. The riots of the 1960's, which seemed such a distant memory, have returned to the streets of Los Angeles. America continues to be dependent on foreign sources of oil. Government spending continues to rage out of control, while the American people continue to be overburdened by excessive taxation and regulation. And in all that time, the Democratic

Party has controlled the House of Representatives; not one Republican has served as chairman of a House committee or subcommittee since I arrived 22 years ago.

A quick look through today's papers will reveal several stories about the disdain, distrust and anger felt by the American people toward their Congress, as well as commentaries that contend that we have lost our way, betrayed by ineffective leadership. Allow me to disagree. Our Government may not win any contest for producing legislation quickly, and it may be true that the quality of our laws is sometimes lacking, but I have seen first hand the construction of that delicate mosaic known as compromise, where leaders of differing views have come together, giving a little and getting a little, so that society as a whole may be bettered. The National Energy Policy (H.R. 776) we recently crafted is an example of the give-and-take this body is capably of achieving.

It has been my privilege to serve in the Congress of the United States and to have played a small part in achieving compromise between the Democratic House and the Republican administration. And although serving in the minority is often exasperating, I believe that in my 22 years, I have been able to make a positive contribution.

However, in recent weeks the vagaries and uncertainties of the redistricting process have caused me to consider my own future. Although I believe that I would win reelection in my newly configured district, under either the plan approved by the Federal court or that which was enacted by the State legislature, I have nevertheless concluded, after many hours of soul-searching and consultation with family and friends, that the time has come to move on to new challenges and to pursue new goals.

Therefore, I am announcing that I will not seek election to a 12th term in Congress.

A change in Congress is healthy, for it provides a fresh perspective derived from the experience and expertise of its newest Members.

As for my personal plans, having spent 30 years—almost half my lifetime—in public service, I look forward to a new and fulfilling career in the private sector. Hopefully, my next career will not involve 7-day workweeks or the stress and frustration which can characterize a minority Member's life in the House of Representatives.

Although I have found the vast majority of the men and women who serve in the House to be dedicated, hard working and honest public servants, the sad fact is that Congress is currently held in very low esteem by the American people. This would not be true if everyone could see the U.S. Congress that I have known. The furor over the House bank obscures the legislation that ensures cost of living adjustment for more than 36 million of our senior citizens. Worry by some over reserved parking spaces at National Airport diverts attention away from the millions of Americans who received guaranteed student loans so that they could obtain a college education. And stories abound on the cost of the House gymnasium while none are reminding the American people that the billions of dollars spent to project American military power and to protect American interests abroad have resulted in a world much safer today than it was just a decade ago.

But, I guess, that just wouldn't sell newspapers or bring in advertising revenues for the evening news.

The task before Congress has never been greater. After decades of winning the war of ideas waged against the Soviet Empire, it is time to turn our attention toward winning the peace for America and all her people, and to recognize the responsibility that comes as a result of our victory. Though we may at times be distracted by scandal and partisan rhetoric, I remain confident that those men and women chosen to serve in this body are capable of tackling our common problems, and will exert their every effort toward ensuring that the America we leave to the care of our children is as good or better than the one that was left to us.

In closing I want to acknowledge my special gratitude to the finest personal staff any Member of Congress could have, and to the wonderful people who serve on the Republican staffs of the Energy and Commerce and Merchant Marine Committees. These fine people have given me—and my constituents—their dedication and loyal service for many years, as have those who so ably staff the House floor. To my wife, Barbara, I give my love for her guidance, understanding, and patience. My thanks for their loving support also goes to my stepmother, Pat Lent, and my three children: Norman, Barbara and Thomas. To my colleagues, I offer my gratitude and affection for your professionalism and friendship. And to the voters of Nassau County, who for 30 years offered their trust and support, I thank you for granting me the opportunity to serve in this Chamber—this Institution—that I love so much.

A former Speaker of the House, Henry Clay, once said:

> Regardless of what other endeavors we as individuals may go on to pursue, election to the people's House is the capstone of our careers. There is no more important calling than serving in the people's House.

I couldn't have said it better myself.

May God bless the U.S. Congress and the people chosen to serve here.

EXCELLENCE IN GERMAN SCHOLARSHIP

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, today I rise to honor the outstanding achievements of Erika Carley from Sound Beach in the First Congressional District on Long Island, NY. I am pleased to recognize Ms. Carley for being selected as a recipient of the Daimer-Benz "Award of Excellence" for her academic honors.

Ms. Carley, one of only 80 North American high school students to be honored with this prestigious award, was selected from an applicant pool of over 260,000 students from 3,092 high schools.

The Award of Excellence designed to express German solidarity with the United States is granted on a competitive basis to students who have demonstrated excellence in German studies. Along with the award, recipients are given the opportunity to experience Germany firsthand. Ms. Carley, along with the other recipients, will fly to Stuttgart, Germany, where over a 3-week period, the students will visit various automobile, aerospace, and electronic facilities, tour Berlin, and live with a host family to experience everyday life in Germany.

In an increasingly interdependent world of nations, the opportunity for young people to engage in a program like this creates a great investment in our future. Ms. Carley, and the other selected students, will be given the opportunity to gain a better understanding of Germany and our world as a whole. Our future lies with young people like Erika, and I am sure her experiences in Germany will be both rewarding and memorable.

I would like to extend my congratulations to all of the recipients of this prestigious award, especially Ms. Carley and her family. I would also like to send my best wishes to Erika in what I am sure will be a promising future, in whatever endeavors she pursues.

HAPPY 100TH BIRTHDAY TO MRS. ARLINE R. BROWE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mrs. Arline R. Browe of Bristol, on the celebration of her 100th birthday.

Mrs. Browe currently resides in the Rhode Island Veterans Home as she is a veteran of World War I. During World War I, she served as a first class yeoman in the Navy from March 1917 to July 1919. Since being discharged from the Navy, Arline has lived in Rhode Island and for a brief period of time taught stenography at Childs Business School in Newport. In addition to her service to her country, Arline has been a devoted wife and mother. Her son, Gerald, also resides in Rhode Island.

It is a great pleasure for me to join with Arline's many friends and family in wishing her a very happy birthday with more healthy and happy years to come.

SALUTE TO STANLEY AND BARBARA BROOKS SMOYER

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. ZIMMER. Mr. Speaker, I rise today to salute Stanley and Barbara Brooks Smoyer, distinguished residents of Princeton, NJ. Stanley and Barbara will be honored by the National Conference of Christians and Jews at its humanitarian awards dinner in Princeton on June 25. The Smoyers are examples of Americans whose entire lives have been dedicated to serving their fellow citizens however they can.

Partners for over 50 years, Stanley and Barbara have given of their time and resources to a wide ranging array of noteworthy causes and organizations. Barbara has been an active member of the NAACP Legal Defense Fund, the Princeton Youth Fund, the League of Women Voters, and many other civic organizations. She was a founding member of Recording for the Blind, Friends of Corner House, Friends of Princeton Open Space and Friends of Princeton Recreation. She has served as a member of the Princeton Township Committee, vice president of the New Jersey Federation of Republican Women, and delegate to the 1972 Republican National Convention.

Stanley has served as a member of the Princeton Joint Civil Rights Commission, a board member and honorary trustee of the Princeton Area United Way, a member of the New Jersey Citizens Committee on Municipal Government, past president of the Princeton Republican Club, and trustee and vice-president of the Princeton Area Foundation. Stanley and Barbara have been honored in the past as Princeton Citizens of the Year and by the Mercer County Republican Committee as honored Republicans of the Year. We now honor the Smoyers for their dedication to the crucial mission of the National Conference of Christians and Jews. The humanitarian awards which they will receive are a fitting tribute to these two people who have exerted so much effort to eliminate prejudice and discrimination.

Mr. Speaker, we can all learn something from the Smoyers about fighting the prejudice and discrimination in our society. Having known Stanley and Barbara for many years and having had a chance to witness many of their contributions firsthand, I would like to extend my personal congratulations to the Smoyers and encourage others to follow their fine example.

TRIBUTE TO DR. GERALD CHRISTENSON

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. VENTO. Mr. Speaker, I would like to bring to my colleagues attention the retirement of a dedicated public official and friend in Minnesota. Gerald Christenson has committed his career to bettering the lives of Minnesotans for nearly four decades. From his early career as a high school teacher through his tenure as the chancellor of the Minnesota community college system, Jerry has been a tireless advocate for improving education and educational opportunities for all citizens. Among the positions that Gerry has served are State planning director, commissioner of finance, and administrative assistant to my predecessor, Congressman Karth.

It was in the field of education, after a 5-year stint as State planning director, that Jerry made his greatest contribution, putting to practice his forward-looking concepts about Minnesota's policy path. From 1975 to 1979, Jerry served as vice president of Metropolitan State University, an institution whose mission is to serve the needs of non traditional students. As vice president, Jerry supervised all units of the university below the level of the president.

From 1983 to his retirement this year, Jerry has served as chancellor of the Minnesota community college system. As the CEO of the Minnesota community college system, Dr. Christenson directed the operation of 21 campuses with a total enrollment of over 56,000 students, 4,000 employees, and annual budget of $150 million.

Early during his tenure as chancellor, Gerald Christenson often took the time to share his goals. At that time he laid out his vision for the future of the community college system. Crucial to his plan was an aggressive effort by the colleges to reach out and serve those who have not been served in the past. Those efforts have been overwhelmingly successful. Under Gerald Christenson's leadership, enrollment in the community colleges has increased by 50 percent, the number of minority students tripled and services to nontraditional students were vastly expanded.

Dr. Gerald Christenson has left a lasting mark on Minnesota with his leadership. Through his efforts, access to and the quality of Minnesota education has been increased. This legacy is not his only legacy. Dr. Gerald Christenson's commitment to improving the quality of life in Minnesota is now being carried forward by the Christenson family, including two who have served in my office as interns and have gone on to serve as professionals in state and local government service. Their accomplishments today and tomorrow will continue to reflect the significant legacy of Dr. Gerald Christenson and his wonderful spouse, Pearl, a strong source of support and inspiration.

I would call my colleagues attention to a recent editorial in the Minneapolis Star Tribune in recognition of Gerald Christenson.

[From the Minneapolis Star Tribune, May 29, 1992]

IN PRAISE OF GERALD CHRISTENSON

Community College Chancellor Gerald Christenson, who will retire next month, stands out among public servants on several scores. He's able, so much so that he's held high posts in state and federal government for much of his adult life. Yet he never lost the common tough of a Litchfield gas station manager's son—and never flagged in his efforts to better the lives of ordinary Minnesotans.

Christenson's resume is long enough for several lifetimes. He's been legislative auditor, a state university vice president, a top legislative and congressional aide, state planning director, state finance commissioner, a federal youth program director and a high school teacher and administrator. That was all before becoming community college chancellor in 1983, at age 53, and leading that system to a 50-percent enrollment growth by throwing its doors open to nontraditional students, notably to older students trying to escape poverty.

It's telling that Christenson's imprint ranges from the complexity of the 1971 overhaul of state and local financial relationships to the refreshingly simple "try college free" program, funded by the Alliss Educational Foundation, that lets Minnesotans without a degree and over age 25 take one community college course at no cost.

It's also telling that Christenson has asked that contributions to his retirement dinner next Thursday in Bloomington be used for a new scholarship for community college students. Called the Chancellor Christenson Scholarship for Courage, the award is to be based on both academic effort and "courage in overcoming obstacles to achieving a college education."

THE EARTH SUMMIT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 24, 1992, into the CONGRESSIONAL RECORD:

THE EARTH SUMMIT

Earlier this month the leaders of 178 countries attended the Earth Summit in Rio de Janeiro, Brazil to address the environmental challenges facing the world today. The Earth Summit covered a range of issues, including global environmental degradation, cost-sharing for environmental protection, and strategies for sustainable economic growth, especially in poor countries. The conference, the largest gathering of national leaders in history, focused new international attention on environmental problems, but it also showed the difficulty of arriving at consensus on solutions.

THE CHALLENGES

Over the last 20 years, the world's population has increased 66 percent, to 5.3 billion, while economic output has nearly doubled. This has placed enormous strains on the environment. Every country today faces problems with air, water, and ground pollution. Ozone depletion and global warming may pose widespread public health risks. Some scientists fear the extinction of perhaps a quarter of the world's plant and animal species in the next 50 years, which could affect the quality of human life.

Industrialized countries have taken steps to improve environmental quality within and directly across borders. However, they have been reluctant to confront global environmental problems even though they use most of the world's resources and are responsible for most of its pollution. Developing countries face different challenges. Many have emphasized economic development to meet the needs of their fast-growing populations. They often argue that environmental protection is a luxury they cannot afford.

A central issue during the Earth Summit was how to pay for the environmental problems caused by industrialization. Developing countries want rich countries to provide generous financial and technical assistance for their efforts to protect the environment. Advanced industrial countries say they cannot afford what developing countries say is needed and they want to retain influence over how any assistance is distributed.

CONFERENCE OUTCOME

The conference produced several important results. First, the Convention on Biological Diversity requires nations to inventory plants and wildlife and develop plans to protect endangered species. Countries must also share research, profits, and technology with nations whose "genetic resources" they use.

President Bush decided not to sign this convention despite widespread support. He said that the treaty failed to provide adequate protection for the discoveries of U.S. biotechnology companies.

Second, a global climate treaty recommends reducing emissions of "greenhouse gases," such as carbon dioxide and methane, that are thought to be responsible for global warming. The U.S. signed the treaty but only after target dates for reducing carbon dioxide emissions were deleted.

Third, the conferees signed several nonbinding resolutions, including a set of principles for environmentally sustainable economic development; "Agenda 21," a detailed action plan that covered all of the environmental issues considered during the summit; and a statement on reducing destruction of world forests. The conferees also established a commission on sustainable development to monitor implementation of and financing for the summit's decisions.

Fourth, wealthier countries pledged new aid to assist developing countries with environmental protection, though not on the scale sought by some. Japan promised to give $7 billion over five years, a 50-percent increase over current levels. The U.S. already provides about $500 million a year in environmental aid, and plans to increase that figure to around $700 million. The European Community pledged $4 billion over several years.

ANALYSIS

The summit's achievements were few and fell short of the original goals. Major financial pledges were not made, and tough environmental controls were not imposed. Critical issues like drought, water pollution, and population control were largely neglected. The principal organizer of the meeting called the outcome "an agreement without sufficient commitment." No one would claim that this summit put the world on the path to sustainable development.

Even so, the meeting marked the emergence of the environment as a key international policy issue. The summit stirred debate on problems that have not gotten much attention before. While the summit may not make a major difference in the short term, it may set some strong forces in motion, and may change the way the world approaches economic growth and the environment. It demonstrated that the world's governments must work together to deal effectively with environmental concerns. Moreover, I think the summit give just a glimpse of how global diplomacy can work now that the Cold War is over. It showed that the U.N. remains the key international institution for addressing transnational challenges.

AMERICA'S ROLE

The President is correct when he says that the U.S. has done much to clean up its air and water and protect endangered species. It has traditionally set the standard for environmental protection. At the summit the U.S. and other industrialized countries made the legitimate argument that environmental treaties should not give the poor countries the right to determine how much money industrialized countries should contribute to environmental protection and how assistance should be distributed.

Yet, the Bush Administration's foot-dragging in Rio allowed other major industrial countries to take the lead and to upstage it with stronger environmental commitments. The U.S. found itself isolated and forfeited its leadership role. Europe and Japan view protecting the environment as a challenge that will over time strengthen their economies, create jobs and sustain valuable resources. The U.S. tends to view the environmental protection measures as a threat to jobs.

The Rio conference showed that no other country is willing to take aggressive steps without top-level U.S. participation. It showed that international action on the environment is likely to succeed when the U.S. strongly backs it but founder when we oppose it or sit on the sidelines. Yet, the consequence of abdicating leadership on an international issue is that one loses influence over decision-making. If we fail to exercise vigorous leadership, others will make decisions for us, on the environment and on other issues of vital interest to us.

DAVIS-BACON NEVER MET JIM CROW—IF THEY HAD, THEY WOULDN'T HAVE BEEN FRIENDS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. TOWNS. Mr. Speaker, I want to alert my colleagues to an editorial which appeared in the May 22 edition of the Wall Street Journal. The editorial diminished the import and need for the Davis-Bacon Act. The act has been a boon to historically disadvantaged minorities and women discriminated against in the construction industry. There are efforts underway to repeal Davis-Bacon. I felt compelled to offer a rebuttal to the editorial based upon its misguided premises and erroneous conclusions. The editorial espoused an opinion that the Davis-Bacon Act serves as a disincentive to construction companies to hire and train minorities. It was also argued that this program was formulated by Jim Crow proponents to economically oppress minorities and women. I encourage my colleagues to review the act and uphold the banner of equity by thwarting all efforts to overturn this statute. The following is my response to the Wall Street Journal:

On May 22, 1992, The Wall Street Journal published an editorial entitled "Davis-Bacon Meets Jim Crow", which called for the repeal of the Davis-Bacon Act because it supposedly discriminates against minorities and women seeking employment in the construction industry. The contention is totally wrong.

Today, minorities and women are threatened with the loss of many of the economic and social gains realized in previous decades. Ironically, those who lead this assault invariably seek to justify their actions by claiming to act in the interest of the minorities and women who will be most harmed. In truth, the attack on minority and female advancement is rooted solely in economic self-interest. The assault on the Davis-Bacon Act is a case in point.

The editorial calls for the repeal of a law which protects the wages of all construction workers, including minorities and women. The Journal editorial attempts to justify repeal of Davis-Bacon by asserting that reducing the wages of minority and female workers is somehow in their interests. The editorial proceeds to claim that the "costs" of Davis-Bacon hurt inner-cities the most because they prohibit contractors from employing local workers who need to learn job skills.

The truth is, minority and female workers have entered the construction industry in increasing numbers over the past fifteen years. Because they are often the newest members of the industry, they are particularly vulnerable to wage-cutting practices the Davis-Bacon Act is designed to prohibit. Norman Hill, president of the A. Philip Randolph Institute, has characterized women and minority workers as "particularly vulnerable to exploitation such as the Davis-Bacon Act of 1931 is designed to prohibit."

With all due respect to the Wall Street Journal, there are distinguished African-American Members of Congress who strongly support the Davis-Bacon Act. Representatives Bill Clay (D-Mo) has aptly described the protections all workers—regardless of race—derive from the Davis-Bacon Act when he stated that, "The average non-union construction worker subject to the Davis-Bacon Act earns $14,000 a year. The average union worker earns $17,000 a year under the Davis-Bacon Act. It is not just morally reprehensible, but logically ludicrous, to believe that reducing these meager incomes of construction workers even further will somehow reduce the budget deficit. [Repeal of the Davis-Bacon Act] will undoubtedly have the effect of increasing the profits of a few employers, but it does so at the expense of both workers and taxpayers."

Former Congressman Parren Mitchell (D-MD) observed that "I have served on the House Small Business Committee for 15 years, and I have chaired the subcommittee that dealt with minority business for the last five years. In that total of 15 years, I have never received one single complaint from any minority business with regard to Davis-Bacon, not one. I hear about them in terms of capital; I hear about them in terms of everything else, but I have not received one complaint from a single minority business with regard to Davis-Bacon."

There are numerous shocking examples of the exploitation of minority workers even in the face of Davis-Bacon violations. Typical is one situation described by a Department of Labor official involving an "Arkansas contractor . . . found owing over $7,000 in back wages to employees. Payrolls were falsified to show compliance . . . . The employees were all black and are another example of a group exploited by an unscrupulous employer."

Just like the Wall Street Journal, many opponents of the Davis-Bacon Act attempt to characterize the issue in the context of union versus non-union workers, and argue the statute's only supporter is organized labor. This is clearly not true. Non-union workers are perhaps in greater need of this protection because they cannot turn to a union for protection. African-Americans, Hispanic, Native American and other minority workers, as well as women and young workers especially need the Davis-Bacon Act. For this reason the NAACP, the National Women's Political Caucus, the Navaho Tribal Council, and the Mexican-American Unity Council have all endorsed the Davis-Bacon Act.

The Wall Street Journal's perspective on history is equally as flawed as its feeble efforts to address the concerns of minorities and women. Senator James Davis was Secretary of Labor during the presidential administrations of Harding, Coolidge, and Hoover. In 1930, he was elected to the Senate as a Republican from Pennsylvania. Congressman Robert Bacon was a Republican from upstate New York. And the Davis-Bacon Act was signed into law by President Hoover on March 3, 1931. The success of Davis-Bacon in protecting workers from discriminatory practices constitutes a strong rationale for its continued existence.

Given former President Reagan's anti-union philosophy, even he, the standard bearer of conservative ideals had no qualms with Davis-Bacon, and did not support repeal of the law. If he offered no dissent, it is hard to fathom how anyone could draw a correlation between a law enacted to uphold workers' rights, and racist Jim Crow policies which abrogated individuals' rights. To suggest that the law is a product of "Jim Crow" racists is unfair and completely inaccurate.

The Wall Street Journal's concern for the employment opportunities of minorities and women is inconsistent and hypocritical. Where was comparable concern when the publication published more than one-half dozen editorials opposing the civil rights bills of 1990 and 1991; combined with consistently negative coverage of the proposed legislation? I believe the Wall Street Journal should be forthright and declare its real intentions regarding proposals involving repeal of the Davis-Bacon Act. Expressing the opinion that the law is rooted in racist philosophy and impairs contractor's abilities to hire local workers is a gross misrepresentation of fact.

The decision to run the editorial exceeded the boundaries of reason. The editorial disserved the framers of the Davis-Bacon Act, minorities alleged to be aggrieved by the restrictive designs of the law, and ultimately the many readers of the publication who give credence to the veracity of editorials opinions that appear in the publication. The issue, and the readers of the paper deserved better.

Edolphus "Ed" Towns (D-NY) represents the Eleventh Congressional District, and is chairman of the Congressional Black Caucus.

CIVIL RIGHTS IN EDUCATION: BROWN VERSUS BOARD OF EDUCATION NATIONAL HISTORIC SITE ACT OF 1992

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. SLATTERY. Mr. Speaker, I am honored to introduce a bill which would authorize the National Park Service [NPS] to establish a national historic site commemorating civil rights in education, and in particular, highlighting the significance of the 1954 landmark U.S. Supreme Court case, Brown versus Board of Education.

The legislation would authorize the NPS to purchase the Monroe Elementary School, located in Topeka, KS, and operate it as a national historic site. Monroe School, which is no longer being used by the Topeka school district, gained historic significance during the landmark Brown versus Board of Education school desegregation case. Linda Brown, the plaintiff in the case, was forced to attend Monroe, which at the time was an all-black school, instead of Sumner School, which was located closer to her home but had all-white enrollment.

The purpose of the site will be to interpret the nationally significant events associated with the Brown case, in which the Supreme Court concluded that separate educational facilities are inherently unequal, thus effectively denying the legal basis for segregation in 21 States with segregated school rooms and starting a revolution in the legal status of African Americans that continues to this day. Establishing the Monroe School as a national historic site will help all Americans to understand the integral role of the Brown case in the civil rights movement.

Monroe School was designated as a national historic landmark in November, 1991. That designation placed the school on the National Register of Historic Places and made it possible for the NPS to conduct a study to determine the school's eligibility for inclusion in the National Park System. National historic landmarks are afforded some protection but are not directly maintained or administered by the NPS.

I commend my colleagues, Representative DAN GLICKMAN and Representative JAN MEYERS, for joining me as original cosponsors of this bill and wish to acknowledge the Brown Foundation and Cheryl Brown Henderson for their work on this project. This legislation was also introduced today by Senators BOB DOLE and NANCY KASSEBAUM in the Senate.

Monroe School stands as a physical reminder of one of the most important court cases in our Nation's history. It should be preserved and developed as a monument to progress in the area of civil rights and as a constant reminder of how much remains to be done. I urge my colleagues to join me as cosponsors in this effort.

CONTRACT FREIGHTERS, INC. RECEIVES PRESIDENT'S "E" AWARD FOR EXCELLENCE

HON. MEL HANCOCK

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. HANCOCK. Mr. Speaker, today I rise and bring to the attention of my colleagues the remarkable achievement of Contract Freighters, Inc., of Joplin, MO, who today received the President's "E" Award for Excellence. Contract Freighters is the first and only trucking company to receive the "E" award that is given to companies that provide outstanding creative marketing and promotional services made available to, and used by, exporters in the development and expansion of export markets. Only 42 companies qualified for an "E" award in 1991.

Glenn Brown, president of Contract Freighters, Inc., received the award today from our distinguished colleague, the senior Senator from the State of Missouri, Senator JOHN DANFORTH, the ranking Republican on the Senate's Commerce, Science, and Transportation Committee, who presented the award on behalf of President George Bush.

To qualify for an "E" award, a company must demonstrate a substantial increase in the volume of exports over a 4 year period. Those exports should constitute a significant portion of total sales and/or be materially in excess of the industry's average. A company should also demonstrate breakthroughs in especially competitive markets or open new markets.

In 1986, Contract Freighters, Inc.'s export revenues were $4.6 million and accounted for 6.37 percent of total revenues. In 1990, export revenues were $27.6 million and accounted for 23.24 percent of total revenues. In 1991, export revenues were $30 million and accounted for 22.35 percent of total revenues. Everyday, Contract Freighters, Inc. has over 900 trailers in Mexico, serving United States, Canadian, and Mexico customers with top quality service transported on all air-ride suspension trailers to protect a customer's valuable freight.

During this time of economic uncertainty, we can all be proud of the remarkable achievements of Contract Freighters, Inc. Contract Freighters, Inc. helps our American manufacturers to be competitive in the global marketplace by transporting made in America products into the heart of Canada and Mexico. I am confident that Contract Freighters, Inc. will continue to be trail blazers and innovators by providing service to where U.S. products need to contract freighters.

FREEDOM FROM GOVERNMENT COMPETITION

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. DUNCAN. Mr. Speaker, on March 11, I introduced H.R. 4430, the Freedom from Government Competition Act. This bill is designed to encourage the Federal Government to use private contractors whenever possible and to discourage Government agencies from performing activities that are commercial in nature. It is a bill which attempts to help small businesses which are being greatly harmed by competition from our own Federal Government. This bill has since been cosponsored by more than 30 of our colleagues from both sides of the aisle.

Recently, syndicated columnist George Will wrote a particularly insightful commentary on the subject of privatization. He noted that the process of relying on the private sector for goods and services that have previously been provided by Government has become a routine policy option.

While that may be true at the State and local level, Congress has been slow to grasp the privatization option for Federal activities. There are thousands of Federal employees engaged in hundreds of Federal activities that are commercial in nature. Regrettably, there is no active governmentwide system in place today to review these activities for potential transfer to the private sector.

I commend Mr. Will's column from the June 14 edition of the Washington Post to the attention of my colleagues and invite additional cosponsors to H.R. 4430.

[From the Washington Post, June 14, 1992]

TURN TOWARD THE PRIVATE SECTOR

(By George F. Will)

Selling the Brooklyn Bridge no longer seems like such a joke, not with serious public officials interested in selling, and sophisticated investors interested in buying or leasing such things as Los Angeles International Airport and the Massachusetts Turnpike. Privatization—of bridges, tunnels, water systems, prisons, sanitation services, bus systems, the towing of abandoned vehicles, janitorial services in public buildings and much more—is now a routine policy option rather than a libertarian's fantasy.

Los Angeles, which operates four airports, may not do what Britain did in 1987 with its major airports; sell them. New Jersey and Maryland may not privatize Newark and Baltimore-Washington airports, and Massachusetts may not encourage the American Trucking Association's interest in buying the Massachusetts Turnpike. But all these plausible ideas have been discussed and are not novel in a world in which $49 billion worth of state-owned assets were privatized in 1991 alone.

The 14-mile toll road now being privately built between Dulles Airport and Leesburg in Northern Virginia is in the American tradition. Prior to 1800, nearly two-thirds of all corporations founded in America were for building private toll roads. Between 1800 and 1830, private investors powered the construction of 10,000 miles of turnpikes. Relative to the economy of those years, that was a construction effort larger than the Interstate Highway System.

Today there are four entwined reasons for privatizing what have been government activities: to raise cash, to improve the performance of government generally, to improve the performance of the particular institutions and to improve the citizenry.

What government could not use an infusion of cash from the sale of assets? What government might not work better if it concentrated on fewer tasks? Allowing private investors to own and charge tolls on roads, bridges and tunnels cuts public maintenance costs and infrastructure investment needs and puts those assets on the tax rolls.

Yale, which lost its previous president to major league baseball, is losing its current president to entrepreneur Chris Whittle's Edison Project. It envisions creating private, for profit primary and secondary schools for 100,000 pupils by 1996, and for millions eventually. The public education lobby is as appalled about this as any sclerotic semi-monopoly would be about the appearance of competition, but Whittle is just one facet of the turn toward the private sector.

Baltimore is contracting with a Minneapolis firm to run nine of Baltimore's 159 public schools. The venture will cost the city no more than what was being spent on those schools anyway ($26.1 million), but the private firm expects to make a profit and improve pupil performance.

Michael Barone, author of The Almanac of American Politics, notes that New York City's Catholic schools, with their central bureaucracy of 35 people, are out-performing the public schools with their 20,000 central bureaucrats, and he predicts that much of the politics of the 1990s will be struggles "to reform those parts of the public sector that patently aren't functioning."

A pioneer of such politics was Margaret Thatcher. More than two-thirds of the industrial assets owned by the British state when she became prime minister in 1979 have been sold or are scheduled for sale. The government has netted 33 billion pounds, and 900,000 public jobs have become private.

When Thatcher sold a million publicly owned houses, thereby raising the house-owning percentage of the population from 52 to 66, her primary purpose was not the slimming of the stats (although that was a sufficient reason for doing it). She wanted to improve the policy by broadening and deepening Britain's character as a "property-owning democracy." Her reasoning, which echoed America's Founders, was that social stability and prudence are enhanced when more and more people have a tangible stake in the system.

Her use of privatization to nurture democratic virtue included selling many state-owned industries—British Petroleum, British Aerospace, British Gas, British Airways, Jaguar, Rolls-Royce, the national telephone network, electricity and water authorities, among others. State-owned British Steel was costing taxpayers a billion pounds a year. By 1989-90, it was private and made 733 million pounds.

The sale of shares in previously state-owned enterprises is one reason for this emblematic fact: During Thatcher's years, the number of British people owning shares in industries surpassed the number of trade union members. Another emblem of her success was an eruption of colors: the front doors of now-privately owned homes were painted by owners interested in maintenance and individuality.

In America, privatization is part of our tradition of institutional diversity. Concern about government's cost and competence has vastly expanded the range of policies that are discussable. That is the good news amid the welter of bad news about government.

THE WORLD UNIVERSITY GAMES COMMEMORATIVE COIN ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. LAFALCE. Mr. Speaker, today I, and other members of the western New York delegation, are introducing legislation authorizing the Treasury to strike a coin to commemorate the World University Games, which will be held in Buffalo in July 1993.

Buffalo and the United States are honored to be hosting this very important and prestigious athletic event. The World University Games are second in importance only to the Olympics in international amateur athletic competition, and are expected to draw the participation of 121 nations and over 7,000 athletes. The games date back to 1923, but this will be the first time that the games will be held in the United States. I am delighted that Buffalo was chosen to be the first American city to host these games.

For the United States, the World University Games will be an opportunity to host thousands of visitors from around the globe, to share with them the culture, cuisine, and good will of the citizens of New York and the United States, and to show the world the beauty of western New York.

For the world, these games are an expression of good will among all people. The games continue a long heritage associated with amateur sports competition—the heritage of peaceful competition and cooperation that had its beginnings in ancient Greece. The World University Games, which originated as separate Western and Eastern European contests, today is a unified international event. The games therefore symbolize the end of the cold war and the advent of a more peaceful world. In the early 1980's, the Olympics was boycotted first by one superpower and then the other; today, it is possible to speak of a world community free of the ideological tensions that have divided East from West.

For the amateur athletes of this country and of the world, the World University Games will present an opportunity not only to compete against the best athletes in the region, or in the country, but to compete against the best athletes in the world. There is no greater challenge.

The purpose of this legislation is not only to commemorate the 1993 World University Games and all that it represents, but also to raise money to support this kind of international amateur athletic competition. Proceeds from the sale of the coin would help underwrite the cost of sponsoring the games. I would therefore urge my colleagues to support the games by cosponsoring this legislation. The text of the bill follows:

TRIBUTE TO EVELYN DUBROW

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute to one of the great torch bearers of the liberal tradition in America—Evelyn Dubrow. The June 27 National Convention Banquet of Americans for Democratic Action [ADA] will highlight the contributions of Evy Dubrow whom ADA has called America's most indefatigable lobbyist for the labor and liberal agenda. Indefatigable she has indeed been for more than half a century going back to her World War II era activities, first as a journalist and then as an official of the New Jersey Textile Workers Union of America. She has a lifelong commitment to the people who toil in the workshops to produce the clothing most Americans wear. She has been on the frontlines fighting for their rights as a lobbyist for the International Lady Garment Workers Union [ILGWU]. But her arc of concern stretches much further to embrace all who need a champion in the corridors of power.

It is fitting that the ADA honor Evy who was one of the organization's founders, its director of organizations and State director of its powerful New York chapter. Evy Dubrow has been a mentor to several generations of liberal activists, a legendary figure who helped to shape and push forward progressive legislation, and to rally opposition to those who would turn back the clock of social progress in this country. A recital of some of the awards and citations she has received attests to the breadth of her concerns and of the people whose lives she has affected.

The Opportunities Industrialization Centers of America [OIC] awarded her its Legislative Government Award. Evy's contribution to consumers rights have been recognized by the National Consumers League which gave her its Trumpeter Award complementing her receipt of the first annual New York Consumer Assembly Award. The Consumer Federation of America conferred upon her its Distinguished Service Award for "outstanding work on behalf of elderly citizens." The Hispanic Labor Committee cited her "for promoting full potentiality to working people." The list goes on and on. It includes awards from the Women's Equity Action League, the Women in Government Relations, the Women's Legal Defense Fund, the Girl's Clubs of America, the National Urban Coalition, the National Farmer's Union, the National Council of Jewish Women, the United National Association of the United States of America, the ILGWU Florida Retirees Clubs. This year she received the Ellis Island Medal of Honor.

Evy's clout has been recognized by the Ladies' Home Journal which in 1971 listed her as one of America's 75 most important women. The Washington Business Review in its June 21, 1982, issue named her one of Washington's top 10 lobbyists. The Washington Dossier Magazine in January 1985 named Evy one of Washington's "Mighty 500—1984's Potentates of Power and Influence."

I am proud to add my homage to this remarkable woman by entering these remarks into the CONGRESSIONAL RECORD. I am sure that all of my colleagues regardless of their political philosophy will join me in saluting one of the most dedicated Americans of our time—Evelyn Dubrow.

A SALUTE TO FIREFIGHTERS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. ASPIN. Mr. Speaker, I rise today to pay tribute to Wisconsin's firefighters and all the firefighters in our Nation.

All of us have either witnessed or personally experienced the devastation of fire. But no one knows better than our firefighters how dangerous, unpredictable, and devastating fire can be. Every year, we lose $10 billion in property to fires—homes that people have worked hard to build, pets, and family pictures and heirlooms that can never be replaced. Most tragically, we lose 6,000 men, women, and children to fires each year. If it weren't for our firefighters we would lose tens of thousands more lives.

Firefighters have one of the most dangerous jobs in our Nation. Every time they go into a fire to save someone they risk their lives. But we citizens, who live and work in our communities, can reduce that risk by following fire safety regulations in our schools, our workplaces, and our homes. If we can get all Americans to fully understand the tragic consequences of fires they would take fire safety rules more seriously. After all, it's a lot easier to prevent a fire than to control a fire once it starts.

Congress is beginning to understand the importance of fire prevention. Just last week, the House Banking Committee approved the Benjamin Franklin Memorial Fire Service Bill of Rights of which I am a cosponsor. This measure would use the profits from the sale of silver and gold coins honoring Ben Franklin to promote burn injury research and fund fire safety education projects. Moreover, profits from the sale of the coins will fund scholarships for the children of fallen firefighters and college courses for students studying fire sciences. Now the House Science, Space, and Technology Committee is considering this bill. I urge my colleagues on this committee to act quickly so that the full House will be able to vote on this important measure soon.

We in Congress also recognize the sacrifices that the millions of professional and volunteer firefighters make each year. Seven years ago, I introduced legislation declaring October 8 National Firefighters' Day. Fortunately, we have had the support in Congress to establish National Firefighters' Day every year since. Dedicating this day is a first step toward making the public aware of the sacrifices of firefighters, and toward promoting fire safety in Wisconsin and throughout the Nation.

This special day also helps folks realize that fire men and women do much more than fight flames. As our Nation's defense against natural disaster and chaos, firefighters rescue workers trapped in collapsed mines, firefighters save people from floods, and their ambulance teams provide medical attention to people injured on our highways. Most recently, the riots in Los Angeles emphasized the importance of firefighters in our society. Los Angeles' firefighters battled over 600 fires and risked their lives for days to help save homes and businesses from the ravages of arsonists. I was shocked and disgusted to learn that the lives of these brave men and women were not only threatened by fires, but also by looters and gang members who attacked them. These criminals must be brought to justice.

Firefighters are dedicated public servants who are committed to helping their neighbors and their friends in times of need. They are also the leaders in our communities, civic organizations, and places of worship. They are great role models for our kids. Our firefighters make our towns and cities a true community. For all of their courage, their strength, their selflessness, and their dedication, I thank each and every one of them.

VIOLENCE IN SOUTH AFRICA

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mrs. KENNELLY. Mr. Speaker, I want to express my deep dismay about the deteriorating situation in South Africa. The June 18 massacre of at least 40 people in the Boipatong township outside Johannesburg, was the worst single incident of township violence since January 1991 when 38 mourners were killed during a funeral vigil in Sebokeng. The death toll in township violence over the last 9 days has soared to over 120.

What makes last week's incident particularly appalling is its indiscriminate quality. Those killed were not political rivals, as in the Sebokeng massacre—they were in the wrong place at the wrong time. Sad to say, even when assailants in township violence are charged, they end up not paying the cost. Overlooked as a result of the Boipatong massacre was the decision of a court of Friday, June 19, to dismiss charges against the seven accused of the Sebokeng massacre because of sloppy police work and prosecution.

Witnesses at Boipatong claim that Zulu supporters of the Inkatha Freedom Party, who were working with the South African police, were responsible for the massacre. Rivalry between the Inkatha Party and the African National Congress [ANC] is not new; it is long-standing, and increasingly, deadly. The Government of South Africa has admitted secretly financing Inkatha in the past, though it denies allegations that it uses Inkatha to foment violence in the townships.

As a result of the Boipatong massacre, the negotiations between the ANC and the Government toward a compromise that will transform South Africa have been halted by the ANC until the Government meets a set of conditions that will help to restore trust. The ANC called on the Government to disband the special police units, prosecute the state security personnel involved in violence, phase out workers' hostels, many of which are seen as military bases for Inkatha, and ban the carrying of cultural weapons favored by Zulus. The Government must do all it can to restore trust. The ANC's demands are not unreasonable; it asks that the conditions set over a year ago for beginning the talks be implemented. Restoration of trust is essential if the talks are to resume; the alternative is further, vastly escalated violence.

No one wants to see South Africa degenerate into civil war. Nelson Mandela and President de Klerk do not want to see South Africa degenerate into civil war. But as the New York Times noted in a June 22 article, neither Mandela nor de Klerk fully control their followers; nor do they accept full responsibility for the things done in their names, As a result, the violence continues.

This latest turn of events in South Africa is tragic. President de Klerk has hinted that he might reimpose a state of emergency, which was a key concession that allowed the talks with the ANC to begin. Reimposition of a state of emergency could doom those talks.

It is not clear that the gulf between the ANC and the Government of South Africa can be breached. Until mid-May, the talks glossed over the fundamental differences separating the parties—a desire for power-sharing that would allow veto power for the white minority versus majority rule whereby the party winning the elections governs the country. Perhaps what President de Klerk wants is to co-opt the ANC into a transition government where they would share the responsibility for government, but not fully share the power—an "interim arrangement that could become interminable," as the New York Times calls it.

But regardless of these fundamental differences, nothing can be accomplished toward a solution to South Africa's trauma if the parties are not talking. The violence must end. Blacks must stop killing blacks, White security police must stop killing blacks. Any Government complicity or incitement to violence must end.

Secretary of State Baker has called for a resumption of negotiations. I add my voice to this call, and I urge the President to add his voice, too. The progress that has been made so far is due, at least in part, to concerted world pressure. This is not the time to turn our backs on South Africa and ignore what has happened. We must speak out against the violence. We must urge the Government of South Africa to do all it can to restore trust and we must urge resumption of the negotiations.

Mr. Speaker, I would like to submit for the RECORD, a copy of a June 23, 1992, editorial in the Hartford Courant, which accurately describes the serious situation in South Africa.

SOUTH AFRICA: THE TRUCE UNRAVELS

"White man is Satan," said the home-made placard waving above the crowd as South African President F.W. de Klerk visited Boipatong on Saturday. Only last March, white South Africans had voted overwhelmingly for the president's plans to dismantle apartheid.

South Africa, it seemed then, was on track. African National Congress leader Nelson Mandela had met with his longtime rival, Zulu leader Mangosuthu Buthelesi, and a reconciliation of the country's two most powerful black leaders seemed possible. Most important, Mr. Mandela was participating in talks with the government on a constitution that would enfranchise the black majority.

Then came the Boipatong massacre last Wednesday, in which 39 people, including women and children, were killed by Zulus. People in the township have said the attackers were delivered to the scene by white police officers, who shot at those who tried to flee. After Mr. de Klerk was chased from the township on Saturday, police fired into a crowd. Three people reportedly were killed.

Accusing the de Klerk regime of "murdering our people," Mr. Mandela has broken off the talks. The fragile consensus-building between black and white leaders is on the verge of collapse.

The new relationship between Mr. Mandela's ANC and the de Klerk government was almost miraculous. Like a whirlwind love affair, it masked deep-seated incompatibilities. Both men were negotiating while trying to control extremist elements in their own movements. Both were trying to give enough hope, quickly enough, to constituencies hobbled by ignorance and years of violent enmity between the races.

Mr. Mandela must convince a brutalized, inadequately educated generation of young black South Africans to sit still and trust diplomacy. Worsening living conditions have not helped.

For Mr. de Klerk, it's one thing to bring his political allies to the negotiating table with Mr. Mandela it's quite another to reeducate an entire legion of footsoldiers accustomed to keeping order with terror with divisiveness.

In the townships, it's still the black constituents of the ANC vs. the Zulu followers of Inkatha and the white-dominated police. Weapons are everywhere; fear is everywhere; violence is endemic. In Boipatong township, a Los Angeles riot's worth of deaths happens every week.

It's now testing time for both leaders, particularly for Mr. de Klerk. He still has much to prove if black South Africans are to have any confidence in negotiations with his government. He must propose constitutional changes that will give the black majority a real say—not just a symbolic vote with the white minority retaining veto power.

He must also change his attitude toward the realities of the townships. His reaction, when told of fears that police had abetted the massacre: "I reject that allegation with utter contempt."

Police complicity in violence by Inkatha members against ANC followers has been credibly documented. Mr. de Klerk must take these allegations seriously, investigate them thoroughly and be prepared to be ruthless with police who inspire such violence. He faces the alternative that South Africa could descend into anarchy.

TRIBUTE TO DON G. FONTANA UPON HIS RETIREMENT

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. COX of California. Mr. Speaker, it is an honor to rise and pay tribute to one of Orange County's truly outstanding citizens, Mr. Don G. Fontana. Mr. Fontana, minister of music of the St. Andrew's Presbyterian Church in Newport Beach, CA, has announced his retirement after more than 40 years of service. As Mr. Fontana begins a new phase of his life with this announcement, his contributions to God and his community serve as an inspiration to all of us.

Mr. Fontana is an accomplished choral conductor and musician, and he has shared his gift with the people of Orange County since he began his career as an organist for the First Baptist Church in 1948. Since that time, Mr. Fontana has enlightened numerous congregations with his musical talent.

Mr. Fontana served with distinction as minister of music at the world renowned Crystal Cathedral in Garden Grove, CA. He has also participated in numerous other noteworthy endeavors. He is president of Lyndon Music, a group that shares music through seminars, publishing, and radio and television productions. He is a member of the American Society of Composers, Authors and Publishers [ASCAP], and the American Choral Director's Association [ACDA]. Mr. Fontana also served as California state president of the distinguished Choral Conductors Guild.

Mr. Fontana has sought to share his gift with aspiring young musicians as an Adjunct Professor of Music at Biola University in La Mirada, CA. He is also welcomed as a great lecturer at universities and seminaries nationwide.

Mr. Speaker, it is clear that Mr. Fontana's contributions over the years characterize the American spirit of hard work and dedication. I know that Mr. Fontana will continue to give of himself throughout his retirement both to God and to his community. It is with great pleasure that I bring Don Fontana's accomplishments to the attention of the Congress of the United States and the American people, and offer my thanks to him on the eve of his retirement for his years of service.

INTRODUCING LEGISLATION TO DESIGNATE THE HELEN L. DAY POST OFFICE FACILITY

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. MORAN. Mr. Speaker, today, I rise to introduce legislation designating the post office facility at 1100 Wythe Street in Alexandria, VA as the Helen L. Day Post Office Facility.

Mrs. Helen Day was a community activist in Alexandria for over 50 years. She taught in Alexandria's public schools for 46 years and was a dedicated member of her church. She demonstrated a rare sense of commitment and responsibility to the community by working in more than 20 community organizations. Among her many other accomplishments, Helen Day was a longtime leader of the Girl Scouts, founder of the Hopkins House, and secretary for the Council of Social Agencies. Mrs. Day was also involved with the Alexandria Community YWCA and served on several panels for the United Way.

I am honored to have had the opportunity to work closely with Helen during my tenure as mayor of Alexandria and member of the Alexandria City Council. Through this association, I have witnessed the impact of her charity on the city of Alexandria and the community.

Recently, Mrs. Day passed away. While we are all saddened by the loss of this great lady, we should not allow the memory of her enthusiasm and joy of life to fade.

To preserve the memory of Helen Day for those of us who knew her and worked with her, and for those who may not have been touched by her vibrancy, I have introduced a bill to rename her home post office. I hope this post office will serve as a beacon for what we can accomplish if we work together as a community.

LEGAL OPINION SHOWS ADMINISTRATION WRONG ON PALAU COMPACT MODIFICATIONS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. DE LUGO. Mr. Speaker, a legal opinion by our research service indicates that the administration was wrong when it told the leaders of the trust territory of Palau that modifying a future status arrangement as they had suggested could invalidate the existing funding for it.

The Library of Congress opinion, which I will include in the RECORD with this statement, says that the proposed compact of free association with these western Pacific islands can be modified without jeopardizing the funds already appropriated.

The administration had assumed that the compact could not be modified without risking a substantial sacrifice of the funds as a basis for declining to work out modifications that Palau's leaders said are needed to obtain Palau's approval of the status proposal.

It thought that the legislation that would be required to approve the modifications would cause the Congress to take back much money now available for the compact because of Budget Act constraints.

I said at the time that the administration's "contentions in this regard will cause unrealistic fears" and noted that its statements did not speak for the Congress. The legal opinion I am sharing now explains why they were in error and not an official U.S. position.

Mr. Speaker, as you know, the Federal Government has authorized the free association arrangement to be put into effect through a law that I sponsored. The money involved has been appropriated.

As you also know, Palau has not approved the compact in seven referenda to date. Its leaders told the Insular and International Affairs Subcommittee and the administration over a year ago that they did not think that it could be approved "as is."

In doing so, they asked that Federal representatives work with them to overcome problems that have prevented Palau's approval, stressing they were not seeking more money, their proposals were negotiable, and they would seek their people's approval of a modified compact before formal United States approval of the modifications.

The bipartisan reaction in the Interior and Insular Affairs Committee, which has jurisdiction over trust territory matters, was that modifications should be negotiated based on Palau's proposals.

The administration finally responded a couple of months ago. It declined to work out compact modifications, citing alleged budget problems that the Congressional Research Service says do not exist. It tried to force Palau to approve the current compact proposal.

It has backed up its position with not-so-subtle intimidation and subverted a consensus for approving the compact with modifications. It has failed to live up to our obligation to develop the territory into a self-governing status based on the wishes of the people.

This has misled most Palauans to believe that they have no real alternative other than to approve free association as worked out so far. Many have begun a process to do so; others have reservations.

If this effort does not succeed, the administration will have needlessly set back the prospects for resolving Palau's future status as well as dishonored our commitment to self-determination.

The Library of Congress opinion shows that this risk and approach need not be taken and that compact modifications can be considered. Approval of the compact with modifications should be made possible.

The opinion reads as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC.

To: House Committee on Interior and Insular Affairs, Subcommittee on Insular and International Affairs.

From: American Law Division.

Subject: Whether Any Modification of the Compact of Free Association Between the United States and Palau Would Encounter a Problem Under the Budget Enforcement Act or Invalidate Funding That Has Been Appropriated for the Compact.

This memorandum responds to an inquiry, transmitted by Jeffrey Farrow and Virginia Sablan, regarding whether any modification of the Compact of Free Association Between the United States and Palau would encounter a problem under the Budget Enforcement Act, title XIII of P.L. 101-508 (1990), or invalidate funding that has been appropriated for the Compact. The United States approved the Compact in P.L. 99-658 (1986), as amended by P.L. 101-219 (1989). See 48 U.S.C. §1691 nt., for the texts of P.L. 99-658, which incorporated the Compact in title II, and P.L. 101-219.

The Compact has not taken effect because Palau has not approved it under its constitutional processes. See section 411 of the Compact and section 101 of P.L. 101-219.

Section 101(c)(1) of P.L. 99-658 requires that an amendment or change to any part of the Compact must be effected by new legislation in Congress.

In article I, title II of the Compact, entitled "Grant Assistance," the United States agreed to advance to Palau various amounts for grant programs. Significantly, the United States in section 211(f) of the Compact, for example, agreed to give $66 million to Palau on the effective date of the Compact and an additional $4 million during the third year after the effective date to create a fund to be invested by the government of Palau. This subsection directed the governments of Palau and the United States to enter into a separate agreement, to come into effect simultaneously with the Compact, setting out provisions for investing, managing, and reviewing the fund to allow for an agreed minimum annual distribution from its accrued principal and interest commencing on the effective date of the Compact for fifty years. See H. Doc. 193, 99th Cong., 2d Sess. 225-243 (1986), for the Agreement Relating to Economic Assistance under Section 211(f). The objective was to produce an average annual distribution of $15 million commencing on the fifteenth anniversary of the Compact for thirty-five years.

In the Urgent Supplemental Appropriations Act, Fiscal Year 1986, P.L. 99-349 (1986), Congress enacted a permanent, indefinite appropriation. It stated that "for grants and necessary expenses" as provided in sections 211-217 and 231 of the Compact of Free Association "all sums that are or may be required in this and subsequent years are appropriated, and shall be drawn from the Treasury, as authorized by title I of the Compact of Free Association of 1985 (Public Law 99-239), and as may be authorized upon the enactment of S.J. Res. 325 [the Senate version of the bill that was enacted as P.L. 99-658] or similar legislation: * * *"

Section 236 of the Compact pledged the full faith and credit of the United States for the full payment of amounts specified in article I of title II of the Compact and made this obligation enforceable in the United States Claims Court.

Because of this permanent, indefinite appropriation and pledge of full faith and credit, Compact funding is treated as direct or mandatory in the Budget Enforcement Act (BEA). The BEA subjects such spending to a "pay-as-you-go" discipline designed to assure that any legislation enacted after the date of enactment of the BEA which affects spending or receipts and increases the deficit will trigger an offsetting sequestration in nonexempt accounts. Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177 (1985), as amended by section 13101(a) of the BEA, 2 U.S.C. §902(a). Funding under the Compact itself is exempt from sequestration. Section 205(g) of P.L. 99-177, as amended by section 13101(c) of the BEA, 2 U.S.C. §905(c), and 104(f) of the Compact.

The pay-as-you-go discipline applies to three elements: legislation (1) must affect direct spending, (2) must have been enacted after the date of enactment of the BEA, and (3) must increase the deficit.

The first question is whether any legislation to modify the Compact, which, it is understood, must be effected by legislation, would encounter a problem under the Budget Enforcement Act. To state that any modification would encounter a problem does not appear accurate because it overstates the legal effect of the BEA. A modification not affecting direct spending, for example, would not appear to encounter a problem with the pay-as-you-go discipline of the BEA. Likewise, a modification that would not increase the deficit, even though it would affect direct spending, would not appear to encounter a problem.

The second question is whether any modification legislation would invalidate funding already appropriated for the Compact. The permanent, indefinite appropriation in P.L. 99-349 made funds available as authorized primarily by P.L. 99-685, as amended by P.L. 101-219 (section 103 of P.L. 99-658 repealed title V of P.L. 99-239, in which the Congress approved in principle the Compact of Free Association with Palau because the approval in P.L. 99-658 superseded it).

Those statutes and the Compact appeared to condition availability of funds from P.L. 99-349 on the Compact taking effect, an event that cannot occur until Palau gives its approval under its constitutional processes. Until the Compact takes effect, it appears that any of its terms, including the pledges of economic assistance, can be modified. As a practical matter, whether any particular bill to modify the Compact would in fact invalidate or jeopardize funding would appear to depend upon whether introducing such legislation would cause the parties to renegotiate those pledges.

Appropriations for Palau that are not conditioned on the Compact taking effect would not appear to be invalidated or jeopardized by proposals to modify the Compact. The $17,651,000 appropriation for operations of the government of Palau made available in the Department of Interior and Related Agencies Appropriations Act, Fiscal Year 1992, P.L. 102-154 (1991), for example, would not appear to be affected by such proposals.

THOMAS J. NICOLA,
Legislative Attorney.

CIVIL RIGHTS IN EDUCATION: BROWN VERSUS BOARD OF EDUCATION NATIONAL HISTORIC SITE

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. GLICKMAN. Mr. Speaker, the 14th amendment to the Constitution:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

From those words, written in 1787 by 55 farsighted constitutional delegates, springs the American notion of equality.

One hundred sixty-seven years later, in a court decision arising from a case brought by a 32-year-old welder from Topeka, KS, would take those 52 words and ignite a new revolution in America. A revolution in the legal status of African-Americans in this country. A revolution that is not nearly over.

In 1954, the Supreme Court ruled that "separate educational facilities are inherently unequal." The Brown versus Board of Education case established that segregation was a violation of the 14th amendment and was unconstitutional.

In 1992, the revolution continues—and we still have a long battle before us. The races are polarized. Too many people resist trying to understand one another. But, we can understand each other. And, we will understand each other.

History will play an important role in bringing us all together. That is why today, Representatives Slattery, Meyers, and I have introduced legislation designating the Monroe Elementary School in Topeka, KS, as a national historic site. I am proud to present this legislation as a powerful reminder of the struggle for equality in America.

Linda Brown was forced to attend the Monroe Elementary School in 1949 despite its 2 mile distance from her home because the school nearer her home, Sumner Elementary School, admitted only white children. Only after her father, Oliver Brown, courageously challenged this gross inequity, did he win one of the most significant and historic Supreme Court cases in the country. The social, ideological, and historical impact of the ruling in Brown versus Board of Education of Topeka cannot be overestimated.

I urge my colleagues to support this legislation and to think of Oliver Brown, Linda Brown, and everyone else who had a hand in the Brown case, and think about the sacrifices they made based on their idea of what the 14th amendment stands for. We should remember their courage. We should seek to find the courage within ourselves to reach out our hands to one another. If the struggle for equality is ever going to end, we are all going to have to try a little harder.

DAVID BRODY: A FORCE TO BE REMEMBERED ALWAYS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. HOYER. Mr. Speaker, it is with great pleasure that I rise today to recognize the 76th birthday of a friend to many in Congress, Mr. David Brody. Mr. Brody has provided an abundance of wisdom and instruction over the years in his position as Washington representative of the Anti-Defamation League and, although Mr. Brody retired in February 1989, his presence is still felt on the Hill.

David Brody began his career as an attorney for the Department of Agriculture, upon graduation from Columbia University Law School in 1940. After 9 years of service at the Department, he moved onto B'nai B'rith's Anti-Defamation League, where he dedicated 40 years to the cause of Israeli freedom and liberty for all people.

Mr. Brody was known as the 101st Senator during his time as the ADL Washington representative. His success as a lobbyist was due to his ability to communicate with people regardless of their opinion or affiliation. Popularity and effectiveness have warranted him the vast respect of the Members of Congress.

Mr. Brody was often sought after because of his extensive knowledge of various issues. He never limited himself to the issues which he considered favorable. He is as knowledgeable on issues to which he is opposed as to those which he is in favor. This unobstructed approach has earned him the reputation of formidable enemy and charitable friend.

Mr. Speaker, it is with pleasure that I remember Mr. Brody's warmth and generosity on the celebration of his birthday. It is the perfect opportunity to reflect upon the enormous amount of good judgment and information he has provided us over the years. His intelligence and personality will never be forgotten around the Hill.

A CONGRESSIONAL SALUTE TO MS. DELORES BACUS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. ANDERSON. Mr. Speaker, on Friday, June 26, 1992 the Downey Chamber of Commerce will hold its annual Installation Dinner Dance. That evening will mark the end of Ms. Delores Bacus' distinguished term as president of the chamber. It is my pleasure to bring this remarkable woman to your attention.

Delores' term as president was a full and ambitious one. While in office, Delores guided the chamber toward many innovative programs that will continue to benefit the city of Downey long after her term as president has expired. During her tenure, Delores was responsible for offering credit union service to chamber member businesses, establishing a pharmacy discount program for chamber member businesses, and automating the chamber office. Working closely with a local school, Warren High, Delores created Business Encounter Day, where teachers spend a day participating in business activities. Under Ms. Bacus' expert leadership, the Downey Chamber of Commerce expanded their Career Day Program, inviting 90 business professionals to share their career experiences with the students from Warren High School. In addition, Ms. Bacus implemented a "Shop Downey" campaign and a monthly luncheon program with the chamber to discuss relevant business issues facing the community. Delores also served as a host to a golf tournament that raised funds for the Association for Retarded Citizens.

Mr. Speaker, the Downey Chamber of Commerce will miss this vital personality and leader. Ms. Bacus has devoted countless hours and much of her energy to making Downey a better place to live and work. As the chamber looks to the future with the installation of Carmen Vinyard as its new president, it is with the knowledge that new programs will be built on the solid foundation provided by Ms. Delores Bacus.

My wife, Lee, joins me in extending this congressional salute to Ms. Delores Bacus. We wish Delores all the best in the years to come.

BICENTENNIAL OF WARWICK, NY, POST OFFICE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. GILMAN. Mr. Speaker, I am pleased to take this opportunity to inform our colleagues that the U.S. Post Office in Warwick, NY, is about to celebrate its 200th anniversary of continuous service.

The town of Warwick, at that time a heavily rural area, was formed in 1790. Although most of the residents of Warwick were farmers, the need for a post office soon became apparent. Although less than a year had transpired since our Federal Constitution went into effect, the people of Warwick were impressed with the admonition in article I, section 8, authorizing Congress "to establish Post Offices and Post Roads," as well as the first amendment in the yet to be adopted Bill of Rights affording citizens the right to "redress grievances." Accordingly, 103 good townspeople of Warwick petitioned Congress to establish a post office to service their fledgling community.

On June 30, 1792, this request was granted. On that day, the Warwick Post Office began operations, under the guidance of Postmaster John Smith.

At the time, the Warwick Post Office was only the third to be established in Orange County, the earlier post offices being those in Goshen and Montgomery, NY.

As the town of Warwick grew throughout the subsequent two centuries, so too did the post office serving the area grow. Rural delivery service, which too many of us today forget was a radical innovation when it was first proposed in the early years of this century, was established by the Warwick Post Office in 1920. It proved to be so popular that it was expanded to a second route in 1925. These two rural delivery routes sufficed until the early 1960's, when the growth of the central village in Warwick had become so great that the establishment of city delivery was warranted. This city delivery has thrived in Warwick since 1963.

Today, the Warwick Post Office, located on Main Street in Warwick, manages six city delivery routes and six rural routes. Although the town of Warwick still contains some of the richest and most productive farmland to be found anywhere within these United States, the community has diversified greatly over the past 200 years. The town of Warwick is now home to residents in all walks of life including those who commute from this beautiful countryside to places of employment all throughout the Metropolitan New York area. Over 6,000 patrons enjoy the fine service provided by the outstanding employees who work under the inspired leadership of Postmaster John Mattinson. Our Warwick postmen and postwomen travel over 250 miles a day to bring cheerful and efficient service to these postal patrons.

Mr. Speaker, we will be commemorating the 200th anniversary of the Warwick Post Office on June 30. As ranking minority member on the House Post Office and Civil Service Committee, I am proud to have such a post office in my own congressional district which has served as an inspiration to other post offices throughout our Nation for 200 years, with the promise of continued fine service in the years ahead.

THE FINAL TRUTH ABOUT PRORATIONING, FOR NOW

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. SCHEUER. Mr. Speaker, last month, Congressman ED MARKEY and I sponsored an amendment to the comprehensive energy legislation, H.R. 776, on the floor regarding the standards for the regulation of natural gas production by the States. A number of our colleagues from natural gas producing States complained that we did not understand the legitimate prevention of waste and protection of property rights bases for recent changes in the producing States' natural gas production regulation laws.

Mr. MARKEY and I argued that those recent changes by the producing States in their so-called natural gas prorationing regulations were intended to restrict supply and raise price. This we were told by our colleagues from the producing States and also now by the Bush Department of Energy is just not true.

Well, I would like to add some background facts on the motivation of the natural gas producing States. The following statements clearly and plainly indicate that a principal reason for recent changes and proposed changes in the natural gas production regulations of producing States are to increase prices:

"Sixty years ago, a sharp drop in the price of oil led Oklahoma Governor William H. 'Alfalfa Bill' Murray to call out the National Guard to turn off the flow from about 3,100 wells to help push prices back up.

'That's what we need today—someone with enough backbone and guts to say we're not going to take it any more,' Oklahoma Corporation Commission Chairman Bob Hopkins said Thursday."

Source: Bob Vandewater, "Natural Gas Industry Looks for Price Boost," The Sunday Oklahoman, June 30, 1991, at Business Section, p. 1.

"During the Summer of 1991, gas fuel prices sank to the lowest level in many years, below the cost of replacement, simply because of over supply in the field.

Those who profit from the over supply and result in distress price are the gas traders, the interstate pipelines, and the Eastern consumers . . .

No one state can unilaterally overcome the distressed prices resulting from seasonal over supply. No state would want to impose production restrictions, and then see the market move to another state with no improvement in field prices. For this reason, the gas producing states of the Southwest are in close cooperation in these efforts to address the problem of over supply and low field prices."

Source: Letter from Charles Nesbitt, Secretary of Energy of the State of Oklahoma, to Oklahoma State Representative Grover Campbell, Oct. 22, 1991.

"Tipro's (Texas Independent Producers Royalty Owners) intent is to raise natural gas prices. However, to do that, Texas will have to have support from other major suppliers. Oklahoma is prepared to introduce legislation changing the gas production rules if Texas does, Martin said."

Source: Tom Stewart-Gordon, "Texas Producers Pushing New Gas Proration Rules," The Oil Daily, Sep. 10, 1991, at p. 1.

"'The industry is getting sick and tired of the nose dive in pricing that's been occurring since last year.' Says Julian Martin, Executive Director of the Texas Independent Producers and Royalty Owners Association."

Source: Lynn Garner, "Gas Prorationing Plans Boosted By Independence," The Oil Daily, Sep. 11, 1991, at p. 1.

"While the questions in the call for comments deal largely with transportation issues, the object is to help raise the well head price of natural gas in Oklahoma."

Source: Tom Stewart-Gordon, "Oklahoma Sets Complete Review of State's Natural Gas Industry," The Oil Daily, Sep. 27, 1991, at p. 1.

"Asked whether restricting supply wouldn't have the inevitable result of raising prices, Nesbitt responded that it was intended to level them and to stop some producers from selling their gas at prices that undercut the market.

'You can call it price fixing if you want to,' he said. 'Down here, we call it fairness.'"

Source: Robert Barton, "Oklahoma Eyes Gas 'Fairness' Others 'Can Call It Price Fixing,'" Natural Gas Week, Nov. 11, 1991, at p. 1.

"As for that disciplined approach, Pickens predicted Texas regulators will soon implement a prorationing system to curtail production and push up prices."

Source: Jeff Adams, "Texas Squeeze Will Boost Gas Prices," Calgary Herald, Nov. 27, 1991, at B6.

"It would also help boost gas prices at the wellhead, which are wallowing in 10 to 15 years lows, much to the producing segment's chagrin."

Source: Lynn Garner, "Oklahoma Producers Lobby For Prorationing (And Higher Prices)," The Oil Daily, Dec. 17, 1991, at p. 3.

"Debate by natural gas industry officials Tuesday at the Governor's Energy Conference over whether Oklahoma should tighten limits on gas production may have provided a preview of what will occur in the 1992 Legislature.

That issue, stemming from problems created by nagging low prices, is expected to be dumped squarely in the lap of lawmakers when their new legislative session begins in February."

Source: Bob Vandewater, "Gas Limits Fight Hints At Future," The Daily Oklahoman, Dec. 18, 1991, Business Section, at p. 21.

"Proposals in Oklahoma to tighten production limits for natural gas wells might boost wellhead prices as much as 50c per thousand cubic feet (Mcf), some cash hungry independent producers say."

Source: Bob Vandewater, "Producers Debate Risk, Rewards of Cutting Back Gas Production," The Oil Daily, Dec. 26, 1991, at p. 5.

"The collapse of natural gas prices has Oklahoma's independent producers seeking help from an institution they traditionally despise: the government.

Sooner lawmakers will be asked next month to consider a measure that could lead to new limits on natural gas production, bolstering its price and perhaps keeping some smaller producers afloat."

Source: Arnold Hamilton, "Unnatural Liaison, Oklahoma Gas Woes Forcing Producers to Seek Legislation," The Dallas Morning News, Jan. 22, 1992, Business Section, at p. 1.

"Ironically, Olson said, today's problems can be blamed on the industry itself, which, after asking for the past four years to operate under free market rules, now wants relief from the low prices that market forces have created.

Source: Robert Barton, "Analysts Say Prorationing Plan Shows Frustration In Industry," Natural Gas Week, Jan. 13, 1992, at p. 13.

"Last week, the TRC Proposed to substitute its own judgment for the marketplace, to tweak the gas production proration systems so that the price will rise."

Source: John Jennrich, "Chow Time At Jim Bob Lena's Proration Pitstop," Natural Gas Week, Jan. 13, 1992, at p. 2.

"While officials in other gas producing states weren't as sure last week just how a decision by the Texas Railroad Commission (TRC) to move ahead on prorationing might affect allowables systems in their states, they all agreed on one thing—the TRC action was designed to drive up prices."

'You can say what you want to, that's what it's for,' said Oklahoma Energy Secretary Charles Nesbitt, who thinks raising prices is such a good idea that he'd like to see his state follow Texas's lead.

'This is exactly what we were hoping the State of Texas would do, because it demonstrates that Texas is as concerned about the low prices of natural gas, which stems from simple over supply,' he said.

'The idea behind all of this is to reduce allowables and drive up prices' said John R. Aldridge, Director of Engineering for the Office of Conservation at the Louisiana Department of Natural Resources."

Source: Robert Barton, "Other States See Texas Move As Motivated Purely by Price," National Gas Week, Jan. 13, 1992, at p. 1.

"Faced with the prospect that Oklahoma spot gas prices which have slipped below $1.00 per 1,000 cubic feet, could fall to 65 cents this summer, a growing number of independents are asking the state legislature for help in the form of greater gas production prorationing."

Source: Tom Stewart-Gordon, "Oklahoma Seeks To Join Texas In Cutting Natural Gas Output," The Oil Daily, Jan. 30, 1992, at p. 1.

"The current quota system, which is designed to keep individual producers from flooding the market and hammering prices, hasn't worked because loopholes allow for too much over production, independent producers say. They hope the new rules will tighten production and help bolster pricing."

Source: Michael Douglas, "Gas Producing Slashing Supplies, Fight Low Price," Houston Business Journal, Feb. 24, 1992, Section 1 at p. 1.

"'When the smoke is fanned away, it comes down to the fact gas prices are low and they hope this new rule will provide a quick fix,' says John Nabors of Trans-America Natural Gas."

Source: "Texas Railroad Commission To Open Hearings On Proposed Gas Prorationing," The Oil Daily, Feb. 25, 1992, at p. 2.

"The Senate passed a bill Tuesday supporters hope will drive up the price of natural gas by limiting production."

Source: "Senate Bill Limits Natural Gas Production," Tulsa World, Feb. 26, 1992, Section B at p. 1.

"The proposed rule changes are designed to eliminate waste and protect correlative rights, the Railroad Commission's brief contends, although most in attendance translate that goal to achieving higher prices for Texas gas."

Source: Tom Stewart-Gordon, "Prorationing Debate Divides Texas Natural Gas Producers," The Oil Daily, February 27, 1992, at p. 1.

"Plans currently under consideration by the Texas Railroad Commission and the Oklahoma legislature which supporters hope will raise gas prices will probably not do much to increase production or reserves, if history is to be believed."

Source: Tom Stewart-Gordon, "Prorationing Efforts Unlikely To Boost Natural Gas Reserves Or Production Levels In Texas Oklahoma," The Oil Daily, Feb. 28, 1992, at p. 1.

"Those in favor of setting production limits, or prorationing, note that tinkering with the free market could be risky. But given the unseasonably low gas prices, last month Louisiana Natural Gas averaged $1.01 per thousand cubic feet—producers say they're desperate enough to try anything . . .

"Those who favor setting limits on a producer's output believe it could help even out the supply and demand imbalance and thereby drive up natural gas prices."

Source: "State Examines Pros and Cons of Production Caps On Natural Gas," New Orleans City Business, Mar. 9, 1992, Section 1 at p. 6.

"Now some producers want state governments to limit production to raise prices. It sounds like something on the order of an OPEC for natural gas."

Source: Editorial Comment, "Natural Gas Cartel? Not Exactly," New Orleans Times Picayune, Mar. 22, 1992.

"Thus comes the proposal to reduce production 'allowables' set by the Texas Railroad Commission. Proposals known as Rule 29 and the Interim Measures, aimed at decreasing the state's natural gas output, are before the Commission. The clear hope is that by tightening supplies and forcing up prices the industry will be rescued . . .

"The idea of reducing production in hopes of driving up prices has an undeniable populist appeal."

Source: Editorial Comment, "Natural Gas Dilemma, No Solution for State To Lower Production Allowables," Houston, Texas Chronicle, Mar. 24, 1992.

"The U.S. Natural Gas Industry took its fist step toward what critics say could become a domestic cartel when Oklahoma Governor David Walters yesterday signed into law a bill curbing current production by as much as 50%."

Source: Robert Johnson, "Oklahoma Law Curbs Output of Natural Gas," The Wall Street Journal, Mar. 25, 1992, at p. C22.

"Legislation to curtail production from hundreds of the state's biggest natural gas wells took effect Tuesday when Governor David Walters signed a bill that he said 'attacks the supply side problems' that have led to low prices for Oklahoma Gas.

"Oklahoma becomes the first of the top gas producing states to implement measurers to tighten gas production in response to a supply and demand balance that last month drove gas prices to their lowest levels since the 1970s."

Source: Bob Vandewater, "State Limits Gas Output, Walters Signs Proration Measure," The Daily Oklahoman, Mar. 25, 1992, at p. 1.

"The Texas Railroad Commission is considering a proposal to limit production of natural gas in Texas to help bolster prices."

Source: Editorial Comment, "Change Carefully, Raising Natural Gas Prices Has Two Sides," Fort Worth Texas Morning Star-Telegram, Mar. 25, 1992.

"A bill to restrict Oklahoma Natural Gas Production, for conservation and possible profit, was signed into law Tuesday by Governor David Walters."

Source: Lou Anne Wolfe, "Governor Signs Natural Gas Prorationing Bill," The Journal Record, Mar. 25, 1992.

"At the same time, a new Oklahoma law that could raise the price of natural gas by tightening seasonal production limits is improving morale at many of the state's independent energy companies."

Source: Christopher Ryan, "Gas Price Rise Brings Some Firms Back, Prorationing Law Boosts Morale," The Tulsa Tribune, Mar. 27, 1992, at p. 6C.

"Edwards is the only state official to acknowledge that the purpose of prorationing is to raise natural gas prices."

Source: Tom Stewart-Gordon, "Gas Prorationing Facing Strong Opposition In Louisiana," The Oil Daily, Apr. 2, 1992 at p. 1.

"Edwards said that prices in Oklahoma have risen 10c/Mcf since the state began limiting production. A higher price for gas would raise state revenues, which would offset the higher price industry would pay for gas, Edwards said. He said the effect on residential customers would not be noticeable."

Source: Mary Judice, "Edwards Expect Big Battle In Louisiana Over Prorationing," Natural Gas Week, Apr. 6, 1992, at p. 3.

"At the heart of today's challenge is the price of natural gas * * * the spiraling decline of natural gas prices is forcing many independent producers to scale back operations * * *

So what to do? That question poses a puzzling problem for the Texas Railroad Commission. The state's three Railroad Commissioners—Lena Guerrero, Jim Nugent and Bob Krueger—are deliberating whether or not to set new production limits for Texas natural gas.

Those who favor restricting 'allowables,' as the industry refers to monthly production levels, argue that when supplies are reduced, supply and demand will be placed in equilibrium. At that point, one may expect to see a rise in the price of natural gas, or at least greater stability in price levels."

Source: Editorial Comment, "Natural Gas, Railroad Commission Should Trim Production Level," The Dallas Morning News, Apr. 6, 1992.

"Now comes Oklahoma's prorationing law. Soon may come similar laws in Texas and Louisiana. The states say they're promoting conservation, a legitimate aim of prorationing. But everyone has heard the pitch: Markets aren't working so states must act to restore prices to healthy levels."

Source: Editorial, "Bogeyman Don't Set Oil And Gas Prices," Oil & Gas Journal, Apr. 6, 1992, at p. 19.

"Spot market prices for April rose 16 cents to $1.33/MMBTU according to the Natural Gas Clearinghouse, which reflects an increase in March mid-month prices, market reaction to widely reported shut-ins by producers, and concerns about the impact of prorationing proposals in various producing states."

Source: "Clearinghouse Prices Rise 16 Cents In April," Natural Gas Intelligence, Apr. 6, 1992.

"Changes in prorationing formulas adopted in Oklahoma and contemplated in Texas and Louisiana will better match production to demand, according to analyst Daniel Tulis and Yves Siegel. They also said gas prices could be propped up in the summer with prorationing in the three states, which accounted for 47% of the country's production in 1990."

Source: "Prorationing Talk Has Producer Stock Looking Up," Gas Daily, Apr. 8, 1992.

"'There is no doubt about it,' said one source. 'There is less supply in Oklahoma.' Based on what's happened to Oklahoma prices, he predicts gas prices will jump to $2.00 if Texas adopts prorationing."

Source: "Price Bite Catches Okla. Intrastate By Surprise," Gas Daily, Apr. 23, 1992.

"Secretary Watkins also criticized as interference with free markets a move by the State of Oklahoma to curtail production of natural gas. Last month, Oklahoma passed a law that would curb current natural gas production by as much as 50%, a move which producers hope will result in higher wellhead prices. Texas and Louisiana regulators and legislators have been considering similar actions.

'We're hoping that market interference can be avoided, despite the grave situation facing the industry,' said Secretary Watkins."

Source: Suzanne McGee, "Watkins Says House Energy Measure Could Spark Recommendation For Veto," The Wall Street Journal, Apr. 15, 1992, at p. A8.

"'Something fundamentally different is occurring in the gas markets, in part because of prorationing,' said an experienced trader whose firm only went into the gas pit a year ago."

Source: "Futures Continue To Surge As June Nears Close," Gas Daily, May 20, 1992, at p. 1.

"In addition, they say, as long as one well is producing, it forces others in the same formation to produce, rather than shut in, or risk having the gas drained from beneath them. This further drives down price by forcing more gas onto the flood market . . .

Consequently, they say, that purchasers are doing the allocating and they are buying the absolutely cheapest gas."

Source: "State Legislature, Senate Committee Endorses Seasonal Natural Gas Proration, Present Law Leads To Market Over Supply, Low Prices Supporters Say," The Oklahoma Energy/Environment Report.

"Under current market conditions, Stripe said, Oklahoma Natural Gas is leaving the state at nearly all-time low prices."

Source: "State Legislature, Seasonal Natural Gas Proration Bill Passes Senate, Bill Preserves Resources For Future Generations, Supporters Say," The Oklahoma Energy/Environment Report.

I urge my colleagues to bear in mind the time honored adage that a rose by any other name is still a rose. Similarly, they can call it prorationing, streamlining production regulation, preventing waste or protecting property rights, but let's not be fooled, the recent actions of Texas and Oklahoma have a very transparent purpose—restrict natural gas supply to raise price.

The amendment adopted by this House last month to H.R. 776 is intended to put a stop to this kind of gimmickry. Traditional state regulation of natural gas production to prevent waste and protect property rights is explicitly allowed by the language now included in H.R. 776. Impermissible State regulation is only that which has the substantial purpose or effect of generally restricting gas production and raising the general price level of natural gas.

If the recent actions of the producing States are, in fact, only intended to prevent waste and protect property rights, then H.R. 776 has no effect whatever on those State regulations.

If, on the other hand, they are price raising schemes in a fancy bureaucratic disguise, they should be and are prohibited. It's that simple.

When the House passed the Markey-Scheuer amendment, it did the right thing.

TRIBUTE TO TERRY ANDERSON

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Ms. SLAUGHTER of New York. Mr. Speaker, the tattered yellow ribbons, which have lined the streets of Batavia, NY, for more than 6 years will finally be replaced by streamers of red, white, and blue; for this weekend, the people of Batavia will celebrate a hero's homecoming.

Terry Anderson grew up in Batavia. He came there with his family as a small boy. He left as an aspiring journalist. And, he returns an American hero.

Terry Anderson suffered 6½ long years in captivity in Lebanon. Through each of those 2,454 days he spent locked in a dark cell, he was remembered by the people he grew up with, the people who called him their neighbor and their friend. In Batavia, the hope for Terry's freedom was kept very much alive. On birthdays and anniversaries, the townspeople would gather for prayer services, and candlelit ceremonies. Church bells pealed as the passing days turned to months and then to years. Swarms of yellow ribbons tied to trees, lamp posts, mailboxes, and street signs weathered 6 harsh winters. Schoolchildren who never knew Terry penciled loving remembrances in the hope that their messages would reach Terry and give him strength.

The town which faithfully kept vigil while their native son was held captive overseas gathers together this weekend to embrace the man they held in their prayers these many years. He is a man who other hostages credit with giving them the strength to endure and the will to survive. He is a man who was robbed of 6½ years of his life and can find room in his heart to forgive his captors. As his devoted sister Peggy Say has told us, "He is a legend in the world of hostages and the yardstick by which all Americans should measure themselves."

Mr. Speaker, I pay tribute today to Terry Anderson and his great courage, dignity and charity. His strength of spirit is inspiration to all the world. And, I salute the people of Batavia whom I am proud to represent in Congress. The loving, stubborn vigilance of the Batavia community kept hope alive and was rewarded on December 4, 1991, when Terry finally walked free and was reunited with his family.

I will be in Batavia for the celebrations this weekend, and I will bring one simple message. "Welcome home, Terry. We love you."

TRIBUTE TO CLUB DE BODEGUEROS Y AMIGOS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. SERRANO. Mr. Speaker, I rise today to recognize Club de Bodegueros y Amigos—the Club of Grocery Store Owners and Friends—in New York City. This unique organization was formed to support our local Hispanic grocery store owners and provide them with a forum in which to discuss and solve common concerns.

Club de Bodegueros y Amigos provides a wide range of services to its members. Numerous workshops and seminars are offered to educate store owners concerning aspects of their business about which some might not be familiar and to inform them about developments which might have an effect on their market. Legal and financial assistance is available to members of Club de Bodegueros y Amigos. Members are entitled to a free legal consultation and should they need further legal help, legal fees are reasonable or discounted. Members can receive help with their accounting and taxes. Advice with regard to insurance, refrigerator maintenance, and pest control, among many other areas, is yet another service provided to members of Club de Bodegueros y Amigos.

This exceptional club is an outstanding example of what can be achieved when a community pools its resources in order to provide assistance to those who need it. By working together, we can help and encourage one another, thereby ensuring the continued harmony and success of our communities. Mr. Speaker, please join me in applauding the efforts of Club de Bodegueros y Amigos and wishing this organization continued success as it assists the Hispanic grocery store owners of New York City.

TRIBUTE TO ROCK HILL, SC, FOR FUTURE PLANNING

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. SPRATT. Mr. Speaker, the largest city in my district, Rock Hill, SC, has been named by the U.S. Conference of Mayors as one of the top five small cities in America which are doing the most to become a better place to live.

The reason Rock Hill is a great place to live is because its citizens and leaders are planning for their future. In the 1980's, when textile mill after textile mill slammed its doors, Rock Hill's economy was bleak.

But city leaders and citizens shouldered the responsibility for getting their city's economy back on track. In 1988, more than 200 citizens gave hundreds of hours of their time to serve on task forces charged with deciding how to make their city a better place to live.

From that, a very unique plan emerged—a 10-year strategic plan called "Empowering the Vision." It is unusual because it brought together seven institutions who until then had operated independently, and who now are working toward common goals.

Those institutions are the city of Rock Hill, York County, Rock Hill Economic Development Corp., Rock Hill School District, Winthrop University, York Technical College and Rock Hill Area Chamber of Commerce.

The plan focuses on projects to be completed by each of those entities from 1990 to 2000 in six theme areas: education, business, arts and culture, utilities and transportation, gardens and greenways, and historic preservation.

The independent panel of judges for the Livability Awards program noted that Empowering the Vision's detail puts it years ahead of most cities. The judges also called the plan "a strong model of an exceptionally effective city planning process, characterized by ambitious cooperation and partnership."

I'd like to commend the citizens and leadership of Rock Hill for finding an innovative way to aggregate resources in this time of scarce funding. Their willingness to work together to plan for orderly growth means that Rock Hill will remain a unique, livable and progressive place now and for generations to come.

A TESTIMONY OF DEVOTION AND DEDICATION—GRAND OPENING OF WEST DEAL, NJ SYNAGOGUE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. PALLONE. Mr. Speaker, Sunday, June 28, 1992, will mark a very special occasion in the life of the good people of Congregation Magen David in West Deal, NJ. This Sunday will witness the grand opening of a new synagogue for this tight-knit congregation. The story of the congregation's formation and growth is a testimony to the dedication and devotion of its leaders and all of its members.

The story began in 1976 when Mr. Joe Betesh bought a home in the oceanfront community of Deal. Mr. Betesh convinced the builders, who were having trouble selling all of the new homes, that, if they built a synagogue, more residents would be attracted to the area. Under the leadership of Mr. Charles E. Cohen, the congregation's first president, and Mr. Morris E. Cohen, one of its founders, with the assistance of Mr. Michael Gohar and Mr. Larry Ansell, the congregation eventually found a home in West Deal. From those beginnings, the congregation has grown to include some 175 families.

The new synagogue was completed in the space of 9 months. It was designed by an in-house architect, Mr. Ken Hinsel, and interior designer Ms. Stacy Greenberg. Many other members of the congregation have been involved in the planning, funding and construction of the new synagogue. Mr. Charles Saka, the current president, has been a particularly effective supporter and fundraiser for the congregation.

Mr. Speaker, it is a pleasure to pay tribute to Congregation Magen David on this auspicious occasion. Under the leadership of Rabbi Ezra Labaton, a graduate of the Yeshiva University of New York, I am confident that Congregation Magen David will continue to grow and prosper for many years to come.

HONORING MELVIN HARRISON, PATHFINDERS AWARD NOMINEE

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. KYL. Mr. Speaker, it is with great pleasure that I rise today to commend Mr. Melvin Harrison from Chinle, AZ on his nomination for a Pathfinders Award. Mr. Harrison is one of only 131 outstanding individuals from across America who have been nominated for Pathfinders Awards in recognition of their unique and vital contributions to the national fight against HIV infection and AIDS.

Mr. Harrison was nominated for this award by National Partners, a consortium of 18 nationally recognized organizations, because of his personal commitment to HIV/AIDS education and prevention. Mr. Harrison is the founder of the Central Navajo AIDS Coalition in Chinle, AZ. As a result of his direct involvement in the delivery of AIDS prevention services on the Navajo Indian Reservation, there now exists among the Navajos a more comprehensive awareness of HIV/AIDS.

I would like to join National Partners in saluting Melvin Harrison and his invaluable contribution to the fight against HIV/AIDS.

RECOGNITION OF THE 1991-92 COSMOS UNDER-14 SOCCER TEAM OF JACKSON, MS

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the "people's Chamber" to speak in honor of the fantastic accomplishments of the 1991–1992 Cosmos Under-14 Soccer Team of Jackson, MS.

The Cosmos are the first black youth soccer team in the State of Mississippi to win a league championship, a division championship, and an invitational tournament. They are also the first black youth soccer team in the Nation to win an interstate invitational tournament and a State championship. In a span of 7 years from 1986 to 1992 the Cosmos had an overall record of 157 wins, 13 defeats, and 9 ties for an overall winning percentage of 92 percent. During the regular season their 101 wins and 3 losses earned them a winning percentage of 97 percent. They have won six league championships, four division championships, two State invitational tournaments, and two State championships.

The names of these talented and hard-working young men are Jason Robinson, Monte Cornelius, Kwesi Skinner, Jamian Jackson, Frank Mickens, Elbert McGowan, Brian Reynolds, Jonothan Phillips, Reginald Burns, Graham Williams, Cory Thigpen, Cedric Pendleton, Charles Jackson, Andre Denman, and Joseph Webster. They were led by their head coach Dr. Ivory Phillips and assistant coaches Frank Mickens, Jacob Byas, Neal Robinson, and Curtis Pendleton.

Probably the greatest achievement of this special team was not their record, but how they presented themselves on the field as good sportsmen. That is what really separates this team from the rest. So I would like to congratulate the Cosmos for their outstanding performances on and off the field. They are a unique group of individuals who deserve every honor that they have gained. I want to wish the players and their coaches continued success not only in soccer but also in their everyday lives.

TRIBUTE TO CARLTON C. BROWNELL ON HIS 75TH BIRTHDAY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mr. Carlton C. Brownell of Little Compton, on the celebration of his 75th birthday.

Mr. Brownell has dedicated himself as curator and executive director of the Little Compton Historical Society for the past 37 years. In this capacity, he fully organized and directed the restoration of the Wilbor House whose beautifully finished interior is home to the Little Compton Historical Society. Carlton has also contributed to the preservation of several fascinating and timeless landmarks in the Little Compton community. In addition, Carlton's commitment and efforts as researcher, author, and editor of a variety of publications, have spread the word about the many architectural treasures in Little Compton, nationwide.

It is a great pleasure for me to join with Carlton's many friends and family in wishing him a very happy birthday with more healthy and happy years to come.

TRIBUTE TO CHARLES H. CUNNINGHAM

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. WELDON. Mr. Speaker, I rise today to recognize the outstanding community service of Charles H. Cunningham. Mr. Cunningham has served as grand knight of the Knights of Columbus, Council 590, in the township of Springfield for the past 2 years.

Mr. Cunningham has faithfully served the Knights since September 21, 1976. Mr. Cunningham receive his forth degree in April 1984 and became grand knight in 1990.

While serving as grand knight, Mr. Cunningham has received letters of commendation from each branch of the Armed Forces, including a commendation from Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, for his efforts in coordinating a ceremony honoring the men and women who were killed in Operation Desert Storm. In addition, Mr. Cunningham was commended by Federal, State, county, and city law enforcement agencies for sponsoring a memorial ceremony honoring police officers killed in the line of duty, as well as his sponsorship of the annual Law-Armed Forces Day.

Mr. Cunningham has also been instrumental in charitable work, raising funds for institutions like the Deborah Hospital and Shriners Burn Center for Crippled Children. He was also a major supporter of the Most Holy Trinity Chapel Restoration Program Fund at the U.S. Military Academy, West Point, NY.

Mr. Cunningham received the Knights of Columbus' State Recognition Award and was commended by his Excellency, Rev. Thomas V. Daily, bishop of Brooklyn, NY, and supreme chaplin, Knights of Columbus, for the many patriotic, charitable, and humanitarian programs he instituted.

Charles H. Cunningham has proven himself to be an outstanding leader both in the Knights of Columbus and in the community. It is with great pleasure that I congratulate him for the positive impact he has had on the members of Council 590 and the entire Delaware County community.

TRIBUTE TO DAWN SULLIVAN

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. REED. Mr. Speaker, I rise today to pay tribute to the memory of Dawn Sullivan, director of the Department of Human Services who died last week at the age of 47 after a tragic illness.

Dawn Sullivan dedicated her life as a champion in the field of human and social services in Rhode Island. As a young man, I grew up in the same neighborhood of Cranston with Dawn Sullivan. A few years my senior, I watched with respect, admiration and pride as Dawn Sullivan made a career as a dedicated professional committed to improving the quality of life for those in our community.

From her work with Dorcas Place Parent Literacy Center, the Rhode Island Rape Crisis Center, the Salvation Army, the Rhode Island Advisory Commission on Women, Dawn Sullivan has touched the lives of many. Sadly, her career culminated just prior to her illness when she was appointed director of the RI Department of Human Services.

Her compassion, commitment, dedication and boundless energy graced us during her brief life and will inspire and sustain us as we move forward and rededicate ourselves to follow her example of providing for those in need.

Rhode Island will greatly miss here compassionate nature, her professionalism and leadership. We are all diminished by her passing. I join with her family, friends, colleagues and the entire community in pausing to pay tribute to a remarkable woman and an outstanding public servant.

CONGRATULATIONS TO GILL C. JOB

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Gill C. Job as he is honored at a testimonial dinner by the Bergen County Democratic and Republican Parties.

Born in Bergen County, Gill has been a resident of Allendale for over 40 years. He was first elected to the Allendale Board of Education in 1941 at the age of 24. Reelected in 1942, he resigned to enter the U.S. Army.

Gill was elected to the Republican County Committee in 1946 and served as chairman of the 1st District Republican County Committee in 1949. In 1950 he was elected to the New Jersey State Legislature.

Gill served as under sheriff for 1 year in 1951. He served as deputy surrogate for 6 years and was then elected surrogate in November 1957, and reelected in 1962 and 1967. He was denied renomination by the Republican Party for a fourth term in 1972, and was elected on the Democratic ticket by a plurality of 60,000 votes. He was then reelected in 1977 and 1982 and again in 1987 for his seventh 5-year term.

Gill has served 3 terms as president of the Bergen County Men's Republican Club as well as past president of the Bergen County Federation of Holy Name Societies, trustee of Guardian Angel RC Church, member of Allendale American Legion Post 204 and Mahwah Lodge 1941 B.P.O.E. He also served as president of the County Officers Association as well as section chief of the surrogate section.

Gill is a graduate of Kutztown State in Pennsylvania where he graduated with highest honors being on the deans list for the entire 4 years with an average of 93.5. He was also an outstanding athlete playing both football and baseball.

After over 50 years in public service—Gill is being tendered a testimonial dinner to recognize him for all his efforts. Mr. Speaker, I am proud to join in paying tribute to Gill Job. I am sure he will continue to provide invaluable service to this community and truly make a difference in society. I extend my best wishes to him on this most special occasion.

OVERTURN PRESIDENT BUSH'S VETO

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. DOWNEY. Mr. Speaker, several weeks ago I heard from two of my constituents on Long Island—two sisters who had recently ended a long and painful chapter in their lives. Their father had finally died of Alzheimer's disease, and emotionally they wrote, that his death had finally come as a blessing. They had watched their father, once a strong and independent man, become a confused, frail, dependent invalid. They wrote to me that even though he survived for many years, the person they had once known left them years ago. These women implored me to do all that I can to ensure that their children do not have to watch the same thing happen to them.

We have before us today an opportunity to do just that, to ensure that promising fetal tissue research continues, research which may hold the cure for such debilitating diseases as Alzheimers, Parkinson, AIDS, and diabetes. For decades, researchers have used fetal tissue in biomedical research. Many major vaccines now in use, including those for polio and rubella, were developed using fetal tissue research. Fetal tissue research continues to show great promise for the treatment of a number of devastating illnesses.

By vetoing the National Institutes of Health reauthorization bill, President Bush has virtually put a standstill to this invaluable research. He stated that such research is "inconsistent with our Nation's deeply held beliefs," and that such research is "morally repugnant." I disagree. On the contrary, I would counter that it is morally wrong to deny the millions of Americans who are suffering from Parkinson, Alzheimers, diabetes, AIDS, or many other serious illnesses the potential cure that this research promises. What I find to be even more disturbing, is that because of his opposition to the fetal tissue research provision, the President's veto also denies countless Americans vital health services and research that is provided by the National Institutes of Health.

I implore my colleagues in the House to join together and overturn President Bush's veto.

DR. JOSE R. GONZALEZ OF PUERTO RICO SELECTED FOR PRESIDENTIAL COMMISSION

HON. ANTONIO J. COLORADO

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. COLORADO. Mr. Speaker, I rise today to pay tribute to a distinguished educator from the Commonwealth of Puerto Rico who has just been appointed by President Bush as a member of the President's Advisory Commission on Educational Excellence for Hispanic Americans.

As the White House pointed out in a June 15 statement announcing the Presidential appointment of Dr. Jose R. Gonzalez, this is a new position. As such, it is a single honor not only for Dr. Gonzalez but also for the 3.6 million U.S. citizens in Puerto Rico, whom I represent in the Congress. It is also an honor for Inter American University of Puerto Rico, of which Dr. Gonzalez is its distinguished president.

The accomplishments of Dr. Gonzalez are far too numerous and varied to mention in great detail, Mr. Speaker, but let me just point out that his experience has covered the whole spectrum of higher education in Puerto Rico. Since 1990, Dr. Gonzalez has served as president of Inter American University in San Juan, where earlier he had been vice president for academic affairs from 1985 to 1990, and before that, associate vice president for academic affairs from 1980, to 1985.

From 1979 to 1980 Dr. Gonzalez served as consultant in academic planning to the president of the University of Puerto Rico and director of the university's division of educational development on the medical sciences campus. Since 1960, he has also held a number of other positions at the University of Puerto Rico, from which he was graduated in 1955. Dr. Gonzalez went on to get his graduate degree from the School of Public Health at the University of Puerto Rico in 1957 and his Ph.D. in public health and education in 1967 from the University of North Carolina at Chapel Hill.

Dr. Gonzalez entered the United States Army in 1951 and served for 18 months in Germany.

Mr. Speaker, I know that you and the rest of my colleagues in the House join me in saluting Dr. Gonzalez for adding yet another illustrious accomplishment to what is already a lengthy and distinguished career record. President Bush wisely chose a man of proven competence and integrity for this new position, and the President's Commission on Educational Excellence for Hispanic Americans will be a better organization because of Dr. Jose R. Gonzalez' presence and contributions.

IN RECOGNITION OF JACK ZAIFMAN

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. ZIMMER. Mr. Speaker, I rise today in recognition of Jack Zaifman, who is being honored as Man of the Year by the Trenton Lodge of the B'nai B'rith. Jack has been active in the American Jewish community for more than 40 years and is a well-respected businessman, devoted husband, and father of four children.

Jack Zaifman's life has been nothing short of inspirational. A youth in war-ravaged Europe, Jack witnessed first-hand the horrors of the Holocaust. As he was dying of typhus, Jack was saved by two members of the German Luftwaffe. Not surprisingly, this left a lasting impression; all mankind had not lost its decency and humanity.

Mr. Speaker, Jack Zaifman has spoken to tens of thousands of students and conveyed his message that there is—and must be—hope when all appears hopeless. I salute Jack for all his efforts and wish him and his family well as he is honored on June 28.

IN RECOGNITION OF THE EAST END SEAPORT AND MARINE FOUNDATION

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay honor to the East End Seaport and Marine Historical Foundation, located in Greenport, NY. This organization has as its honorable mission the preservation, restoration, and recognition of the marine and seaport history of eastern Long Island.

The East End Seaport and Marine Foundation recognizes the value and importance of the past, in particular, the rich maritime history that is such an integral part of Long Island's heritage. The beauty of the project is that it is a true community effort, with East Enders willing to contribute not only memorabilia, but also their time and money.

The initial project to which the historical foundation dedicated itself, was the restoration of the Long Beach Bar "Bug" Lighthouse, at the entrance to Peconic Bay. Lighthouses were an integral part of the growth and strength of Long Island's early economic history. However, the shift from a water-based economy and commerce to one comprised of road, rail, and air meant a reduction in the use of lighthouses. In most cases, historical lighthouses throughout the nation were sold, abandoned or even demolished. Through the efforts of the East End Seaport and Marine Historical Foundation, the citizens of Long Island organized to save a part of their precious maritime and cultural history.

The restoration and preservation of the East End's rich fishing and navigation history is expected to continue with the opening of the foundation's East End Seaport Maritime Museum on June 27, 1992. The Museum and its exhibits, ranging from a turn-of-the-century fishing exhibit to a sea life aquarium, will be housed in the newly renovated Greenport railroad station. Day-long festivities will take place, including visits from tall ships *Lady Maryland,* the *Sylvania Bell,* and the *Quinnipiack.* In addition, a Coast Guard vessel will be available for tours. It should prove to be a memorable day in the life of the East End's marine and seaport history.

As the Congressman for this district and a native Long Islander, I am honored to recognize this foundation, which makes such a valuable contribution to its community with the restoration and preservation of local maritime history. The fruits of its efforts are priceless. I applaud the selflessness and commitment of this community to preserve the rich history of Eastern Long Island for generations to come.

LAND TRANSFER BETWEEN U.S. FOREST SERVICE AND CHELAN COUNTY PUBLIC UTILITY DISTRICT

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1992

Mr. MORRISON. Mr. Speaker, I am introducing a bill to authorize the Secretary of Agriculture to transfer a sewage system owned by the Lake Wenatchee Ranger District of the Wenatchee National Forest in Washington State to the Chelan County Public Utility District. This transfer would complete the takeover of the system by the utility district, which currently operates the facilities under a permit from the Forest Service, and allow the utility district to improve and expand the facility to meet the needs of Lake Wenatchee residents.

The only sewage system in the area is located at the Lake Wenatchee Ranger District office, and it does not yet serve all area residents. Currently, the sewage of the shoreline residents of Lake Wenatchee is dumped, via septic systems, into the Lake Wenatchee water table, and the damage to the lake is becoming ever more apparent.

Both the Forest Service and the utility district agree that the utility district must acquire the land on which the facilities are located in order to expand and operate the system properly. In exchange, the Forest Service will receive land of equal value from the utility district. Once these properties are exchanged, the utility district will undertake the needed expansion with the goal of attaching all willing residents at Lake Wenatchee to the system, thereby improving the quality of life on the lake for everyone.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 25, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine how new technologies can reduce greenhouse warming, deforestation, resource depletion, water and air pollution, and other environmental problems.

SR–253

Governmental Affairs

Government Information and Regulation Subcommittee

To hold hearings to examine preparation for the next census.

SD–342

10:00 a.m.

Foreign Relations

To continue hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102–20), focusing on defense implications and military views.

SD–419

10:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to review the report from the Council on Competitiveness entitled "Capital Choices: Changing the Way America Invests in Industry."

SD–538

JUNE 30

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on S. 2538, to establish a comprehensive program to ensure the safety of fish products intended for human consumption and sold in interstate commerce.

SR–253

Foreign Relations

To resume open and to hold closed (S–407, Capitol) hearings on the Treaty Between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992 (Treaty Doc. 102–20), focusing on intelligence community views.

S–116, Capitol

Veterans' Affairs

To hold hearings to examine the needs of women veterans who were sexually abused during service.

SD–G50

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

SR–236

2:00 p.m.

Judiciary

To hold oversight hearings on the activities and programs of the Department of Justice.

SD–226

2:30 p.m.

Finance

Health for Families and the Uninsured Subcommittee

To hold hearings to examine ways to improve health care services for persons who live far from doctors and treatment centers, focusing on S. 773, to increase access to primary health care service programs for medically underserved populations, and S. 1227, to provide affordable health care to all Americans.

SD–215

JULY 1

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on mobile communications.

SR–253

10:00 a.m.

Foreign Relations

To continue hearings on the Treaty Between the U.S. and USSR on the Reduction and Limitation of Strategic Offensive Arms (The Start Treaty), signed in Moscow on July 31, 1991, and Protocol thereto dated May 23, 1992

(Treaty Doc. 102–20), focusing on implementation of the treaty.
SD–419

1:00 p.m.
Select on Intelligence
Closed business meeting, to mark up proposed legislation authorizing funds for fiscal year 1993 for intelligence activities.
SH–219

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1096, to authorize funds for fiscal years 1992 through 1995 for programs, functions, and activities of the Bureau of Land Management, Department of the Interior.
SD–366

JULY 2

9:30 a.m.
Select on Indian Affairs
Business meeting, to mark up S. 2044, to assist Native Americans in assuring the survival and continuing vitality of their languages, S. 1687, to increase the capacity of Indian tribal governments for waste management on Indian lands, and S. 2836, to promote economic development on Indian reservations by making loans to States and to assist States in constructing roads on Indian reservations; to be followed by an oversight hearing on fractionated heirships, Indian probate, oil and gas royalty management, land consolidation demonstration programs, and management of Indian trust funds.
SR–485

Joint Economic
To hold hearings to examine the employment-unemployment situation for June.
SD–628

10:00 a.m.
Foreign Relations
Business meeting, to consider the Treaty between the U.S. and the USSR on the Reduction and Limitation of Strategic Offensive Arms, signed in Moscow on July 31, 1991 (START Treaty), and Protocol thereto dated May 23, 1992 (Treaty Doc. 102–20), Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, with annex (North Pacific Salmon Treaty) (Treaty Doc. 102–30), and pending nominations.
SD–419

Veterans' Affairs
To hold hearings on S. 2028, to revise title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs.
SH–216

2:30 p.m.
Select on Indian Affairs
To hold hearings on the proposed Buy Indian Act Amendments.
SR–485

JULY 21

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to establish a National Indian Policy Research Institute.
SR–485

2:30 p.m.
Select on Indian Affairs
To hold hearings on S. 2746, to extend the purposes of the Overseas Private Investment Corporation to include American Indian Tribes and Alaska Natives.
SR–485

JULY 22

9:30 a.m.
Rules and Administration
To hold hearings on S. 2748, to authorize the Library of Congress to provide certain information products and services.
SR–301

10:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to veterans housing and the Court of Veterans Appeals.
SR–418

2:30 p.m.
Select on Indian Affairs
To hold hearings on the proposed Yavapai-Prescott Water Rights Settlement Act, and the Ft. Mojave Water Use Act.
SR–485

JULY 23

9:30 a.m.
Rules and Administration
To hold joint hearings with the Committee on House Administration on S. 2813 and H.R. 2772, bills to establish in the Government Printing Office a single point of online public access to a wide range of Federal databases containing public information stored electronically.
SR–301

Select on Indian Affairs
To hold hearings on S. 2833, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States and various other issues pertaining to the Crow Indian Reservation.
SR–485

AUGUST 4

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 2617, to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes.
SR–485

AUGUST 5

10:00 a.m.
Veterans' Affairs
Business meeting, to consider pending calendar business.
SR–418

AUGUST 12

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on Indian trust fund management.
SR–485